



HUMAN  
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## BASHED UP

Family Violence in Papua New Guinea



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## **Family Violence in Papua New Guinea**

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## Map of Papua New Guinea and Surrounding Region





## Summary

“I went to the police 17 times,” said Jenella, age 39, who has survived more than 2 decades of spousal abuse. Recently, she said, she had been desperately seeking help. “I went every week for the last month,” she said. “They said this is a domestic problem. They just told my husband not to do it again.”

Jenella married at age 14 and has 7 children, ranging in age from 2 to 23 years old. Her husband was abusive from the beginning of the marriage in 1990, but the violence escalated after he took a second wife in 1997. Jenella’s husband shattered her left arm that year, leaving it covered in scars from reconstructive surgery with metal pins. She also has scars on her head where her husband’s second wife hacked her with a knife. When Human Rights Watch interviewed Jenella in June 2015, her right arm was bandaged—her husband had broken it the previous month.

After unsuccessfully seeking police intervention 17 times, Jenella is losing hope that her husband will ever be arrested. “I brought my husband to the police station and the police said, ‘You have so many kids—you should go back and not do this again.’ I wanted them to put him in jail for one or two years.” She says her husband was never arrested and the police never discussed the possibility of a protection order with her. Her husband stays with her and their children occasionally, but spends most of his time with his other wife.

Jenella struggles physically and financially to care for their children. “So far I have two bones broken,” she said. “It’s very hard for me to find food for the kids and send them to school.”

Family violence in Papua New Guinea is an emergency. Women across the country are enduring brutal attacks from their partners, as often officials neglect survivors' needs for safety, services, and justice. Civil society groups are providing life-saving assistance, and the government has taken initial steps to combat this violence. But far more needs to be done.

This report uses the term “family violence” because it is a broad term that encompasses relationships that may or may not be based on marriage or between people who live together. The report and its recommendations focus primarily on violence against women by male partners; they do not examine the experience of people who have survived other forms of family violence, including violence committed against male or same-sex partners, or children, or other family members.

“He bashed me up,” survivors of family violence often told Human Rights Watch, using a term so common that it carries little sense of shock or outrage. The precise number of women who experience violence at the hands of a partner is unknown, as the government does not systematically monitor the issue. The most comprehensive survey to date was published over three decades ago in 1992, and it found that family violence occurred in more than two-thirds of households. Activists say the violence remains pervasive today. In a 2013 study on Bougainville, an autonomous region of Papua New Guinea that endured a 10 year conflict, 80 percent of men who had ever had a partner reported that they had perpetrated physical and/or sexual violence against a partner.

In 2013, Papua New Guinea passed a new law, the Family Protection Act (FPA), which makes family violence a crime, punishable by up to two years in prison and/or a fine of nearly US\$2,000. The law also aims to make it easier for victims of family violence to get protection orders and services. Yet two years later, the FPA has not been implemented. The government is still drafting implementing regulations, and officials say these must be finished before the FPA can be implemented, even though national law includes no such requirement.

Yet there are some signs of progress. The adoption of the Family Protection Act in 2013 made for a breakthrough in public awareness about the problem, and the law could be transformative if it is fully implemented across the country. The government has also worked, with support from donors and nongovernmental organizations (NGOs), to

establish Family and Sexual Violence Units (FSVUs) in police stations and Family Support Centres (FSCs) in hospitals, designed to make these institutions more accessible to and supportive of victims of family violence. A new “referral pathway” aims to provide better access to services for victims of violence by ensuring that wherever a victim goes to seek help, she is then linked to a full range of assistance. The government is in the process of developing a strategy for handling gender-based violence, which should focus greater government attention on protecting women, and the government has also pledged to establish a national human rights commission. The parliament in August 2015 launched an inquiry into causes of and solutions for violence against women and children. A new hotline was set up to refer survivors of family and sexual violence to services. And a growing network of activists—many of them also survivors of family violence—are bringing help to some of the most remote areas of the country.

But there is so much more to do—and meanwhile, so many lives are being devastated.

Human Rights Watch investigated Papua New Guinea’s response to family violence through interviews with survivors of domestic violence, service providers, police, activists, and international donors and advisors in June 2015. This report recognizes some progress, but also documents stark problems with the government’s response, including with respect to offering protection and services, investigating and prosecuting cases, and penalizing perpetrators.

Police rarely take family violence seriously, say advocates and observers and the women Human Rights Watch interviewed. They too often refuse to pursue investigations or arrest people who commit family violence, even in cases where the violence is severe, including attempted murder, serious physical harm, and repeated rape. Sometimes police tell victims it’s a “family matter” and send them away. Or they refuse to do anything until they have a medical report, rather than gathering evidence provided by the victim in front of them, often with visible wounds. They sometimes demand money, often “for fuel,” from victims before taking any action. Often they simply ignore cases that occur in rural areas, where there is little government presence and where police might have to travel long distances to conduct investigations, telling victims it is their responsibility to bring the perpetrator to the police station.

When police do get involved in family violence cases they typically mandate mediation for the couples involved, in contrast with international best practices, which highly encourage arrest and prosecution. Even in the new Family and Sexual Violence Units, the usual approach is for police officers to sit a survivor down with the attacker and hammer out an agreement in which the attacker promises to stop being violent, and perhaps to pay some compensation. This happens even when there is clear evidence that a serious crime has been committed. It happens when the victim does not believe that the attacker will stop the abuse. It happens when the attacks continue between mediation sessions and the victim tells the police that the attacks are continuing. It happens even when the victim tells the police she wants the attacker to be prosecuted and imprisoned.

Survivors of violence face difficulty securing protection orders. Police often fail to tell survivors about protection orders or refer them to court to seek one in cases where they would have been appropriate. Survivors who do seek protection orders often encounter delays and costly fees in the courts.

When cases of family violence make it to court at all, they usually end up in village courts, which mediate and adjudicate family matters with the goal of reconciliation, not district courts where serious crimes are prosecuted. In village courts, prosecution—and accountability—is not on the table.

There is a dire lack of services for people requiring assistance after suffering family violence. Most areas have no safe houses, and no area has enough. Most counseling focuses on reconciling the survivor with her abusive partner. Qualified psychosocial counselors are all but nonexistent. Case management is rarely provided. Legal aid is almost entirely absent.

The result is that women who seek help may see little change in the violence. “My husband continued bashing me,” a woman named Kere in the Highlands told Human Rights Watch. He promised to stop in the presence of police officers, she said, but continued to beat her when they got home. “He was hitting me between counseling sessions.”

Other barriers can also keep women from seeking help or halt them in the process. Women who reach out for help are often asked to pay fees for orders of protection, health care, and

the release of health records to law enforcement, or even to pay the police for fuel and lunch money to travel to a remote area.

Many women have little or no income of their own and can feed their children only with the support of their breadwinning—and abusive—partners. Women often fear sending an abusive partner to prison, as it would mean the loss of his income, and they and their children cannot survive without the financial support. Fathers often fail to support their children financially after a separation, and courts rarely enforce maintenance orders. The government offers no financial assistance to survivors of family violence, even those with dependent children. Many women stay in abusive relationships, or even try to get abusive husbands who have abandoned them to return, simply because the alternative is that their children go hungry. Others stay because they fear losing custody of their children, as they have little ability to seek and enforce custody through the courts.

Harmful practices including polygamy, the payment of bride price, and attacks on people—often women—accused of sorcery continue unchecked. A man's marriage to a second wife often precipitates abuse of the first. Bride price sends a message that women are property, and cuts women off from their family's help, as custom dictates that bride price must be repaid if the wife leaves her husband—even in the event of abuse, and many families cannot afford to return the funds. Sorcery accusations all too often become a form of family violence, with abusive husbands threatening or using sorcery accusations to silence and control women. All three practices reinforce discriminatory gender norms.

There's a lot of work to do. Papua New Guinea is failing to meet its obligations under international law to protect women and girls from discrimination and family violence. In 1995, Papua New Guinea ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which calls on states to take a number of measures to prevent and prohibit discrimination on the basis of sex, including by private actors, so as to ensure women's full enjoyment of their human rights. The CEDAW Committee has stated that “[f]amily violence is one of the most insidious forms of violence against women” and may be considered a violation of the convention, whether committed by state or private actors.

The CEDAW Committee has specifically called on states to combat domestic violence. It has called for implementation of laws on domestic violence, for provision of services to

protect and support survivors, and training of state officials, including judicial and law enforcement personnel, to properly enforce such measures. Moreover, it clearly recommends that states establish or support services for survivors of domestic violence, including in rural or isolated areas.

Papua New Guinea is a lower-middle-income country with a booming economy, thanks in large part to exploitation of the country's bountiful natural resources. Some of the needed reforms, such as providing services to victims, cost money, and Papua New Guinea can afford to provide these services.

Other reforms, such as changing the ways police and courts respond to family violence, require shifting the attitudes of public officials. This is hard, but not impossible. It requires the government to take responsibility for telling law enforcement and justice officials—and the public—how these systems are expected to respond to family violence. The government should give victims an effective mechanism for complaints if they are not treated appropriately, and hold law enforcement and justice officials accountable with real consequences when they fail to meet their duty to aid victims.

The government needs to lead the work to end family violence in Papua New Guinea. At present, much of the leadership on this issue comes from activists outside of government and from international organizations and donors. While these actors have critical roles to play, family violence cannot be systemically tackled without full engagement and leadership from the government.

Donors are playing a less important role as Papua New Guinea's economic situation has improved, but Papua New Guinea remains the largest aid recipient among the countries of Oceania. Australia plays an outsize role in Papua New Guinea, providing over 70 percent of the country's total overseas development aid. Law and justice reform has been a priority for Australia in Papua New Guinea, with a significant proportion of Australia's assistance going to that sector, including work specifically focused on preventing and responding to family violence.

New Zealand, Japan, and the United States are other key bilateral donors. The European Union provides 12 percent of the country's development aid and provides some support for survivors of family violence. The Asia Development Bank, the Global Fund to Fight AIDS,

Tuberculosis and Malaria, and the World Bank, among other international institutions, also invest significant funds in Papua New Guinea. All of these donors and institutions can do more to urge and assist the government to improve the response to family violence.

The government of Papua New Guinea aspires to solidify the country's role as a Pacific powerhouse, with by far the largest population in the region, a growing economy, and a starring role as the host of international events including the 2018 Asia Pacific Economic Cooperation summit. Media coverage of the country's disturbing track record on family violence has been an obstacle to the positive image the government is working to convey. The government and its partners are making efforts, and have an opportunity to improve that image. But creating real change in the experience of victims of family violence has only begun, and there is much more that the government should do to fulfil its obligations to victims of family violence.

# Key Recommendations

## To the Government of Papua New Guinea

- Issue implementing regulations and ensure that the Family Protection Act (FPA) is implemented immediately throughout the country.
- Undertake ongoing public awareness campaigns throughout the country and in a variety of languages and media, explaining that family violence is a crime and what remedies and protections are available.
- Require police to fully and effectively investigate family violence cases, regardless of the location of the offense or the suspect.
- Establish a pro-arrest policy for such cases, as per the UN Office on Drugs and Crime and the UN Women guidance.
- Require healthcare providers to screen all patients to determine whether they have been the victims of family violence, collect and document all evidence of family violence, refer victims of family violence to services and law enforcement, and provide medical care and medical reports free of charge in cases of family violence.
- Establish adequately staffed and resourced Family and Sexual Violence Units in all major police stations, refer all victims of family violence to these units, and provide transport for survivors to the units.
- Monitor the handling of family violence cases by district courts, and establish policies that make prosecution the default approach in family violence cases.
- Ensure that village courts refer all cases involving indictable criminal offenses to district courts and train village court officials to implement the FPA.
- Ensure availability of adequate shelter, psychosocial, legal, health, and other services for survivors of domestic violence, including in rural areas.
- Establish a system to provide a financial safety net for survivors of family violence who require assistance to meet their family's basic needs, including those who become indigent due to a separation from an abusive partner.

## To International Donors and Institutions

- Publicly and privately urge the government of Papua New Guinea to undertake the reforms recommended above.
- Assist the government in developing policies and programs that will prevent and provide accountability for family violence and assist survivors of violence.
- Continue and expand support for reforms and services assisting survivors of family violence, especially funding for local NGOs, legal aid, and activists.

## Methodology

This report is primarily based on research conducted in Papua New Guinea in June 2015, with additional interviews with experts conducted by phone and in other countries between February and July 2015. Two female Human Rights Watch researchers carried out 46 interviews, including 27 interviews with survivors of family violence, including 2 children.

Interviews with survivors of family violence were conducted in both Central Province and the Highlands Region. These regions were chosen because they represent a mix of urban and rural locations, and because experts suggested that the Highlands Region is an area where family violence is of particular concern.

The interviews with survivors of violence were conducted either in English or local languages through a female interpreter. All interviewees were advised of the purpose of the research and how the information would be used. They were advised of the voluntary nature of the interview and that they could refuse to be interviewed, refuse to answer any question, and terminate the interview at any point. The majority of interviews were recorded, with the interviewees' consent, for later reference; all interviewees were given the choice to refuse having the interview recorded. The interviews were conducted with only the interviewee, translator, and Human Rights Watch researcher present, except in a small number of cases when the interviewee's very young child or children were present at the interviewee's request. All interviewees were already connected with local NGO representatives who have some capacity to assist with obtaining legal, medical, and social services where needed.

Additional interviews with local officials, activists, NGO workers, and representatives of international organizations provided context and information about policy and law relevant to family violence. These interviews were conducted in both Central Province and the Highlands Region.

Human Rights Watch visited and conducted interviews in a safe house, a village court, and the Family and Sexual Violence unit of a police station, among other places.

Human Rights Watch made several requests in June 2015 for meetings with justice and law enforcement officials, which were not granted. We shared our findings with the government and requested data and information through a letter to Prime Minister Peter O’Neill sent in August 2015. The letter was copied to the government ministries and institutions that are the focus of recommendations of this report; a copy is included in Appendix A. At the time of publication, Human Rights Watch had not received any response to the letter.

The names of the survivors of violence have all been changed to pseudonyms to protect their privacy. The names of police officers, safe house workers, activists, funders, advisors, and service providers have all been withheld to protect their ability to continue to work in an extremely sensitive climate. We also withheld interview locations and other identifying information upon request.

Human Rights Watch makes no statistical claims based on these interviews regarding the prevalence of family violence against women in Papua New Guinea. Human Rights Watch researchers interviewed a relatively small number of family violence survivors who do not constitute a statistically representative (probability) sample of women in Papua New Guinea. However, the research does shed valuable light on systemic problems in the response to family violence. The interviews took place in a range of settings and involved interviewees who had never had contact with one another, and yet reported similar experiences. Together with information provided by organizations and experts that serve hundreds of family violence survivors every year, the interviews suggest that the problems may be widespread.

This report uses the term “family violence” because it is a broad term that encompasses relationships that may or may not be based on marriage or between people who live together. We acknowledge, however, that this report and its recommendations focus primarily on violence against women by male partners, and do not examine the experience of people who have survived other forms of “family violence,” including violence committed against male or same-sex partners, or children or other family members.

The exchange rate at the time of the research was US\$1 = 2.75 Papua New Guinea kina; this rate has been used for conversions in the text, which have been rounded to the nearest dollar.

Some interviewees, particularly among experts interviewed, expressed frustration with what they see as a pattern of foreigners making brief visits to Papua New Guinea to look at issues of violence against women, then leaving and emphasizing only negative aspects without acknowledging the hard work being done and the extent to which change is happening. In drafting this report and planning follow-up, we have tried to be sensitive to this view and include a fair depiction of efforts being made by the Papua New Guinea government and others to address family violence, as well as the challenges that remain.

# I. Background

Papua New Guinea has a booming economy, a role as a major power in the Pacific, and a rich variety of cultural traditions. It also struggles, however, with corruption and a lack of government presence in many remote areas. While Papua New Guinea's improved economic circumstances have provided the government with greater financial resources, foreign donors, especially Australia, continue to play an important role in helping to drive—and finance—reform.

## Geographic, Social, and Economic Context

Papua New Guinea's geography, diversity, traditions, and natural resources pose both challenges and opportunities for its efforts to combat family violence.

Papua New Guinea's diversity and traditions can enable creativity in combatting family violence, but can also pose a barrier to justice and services. Among its population of about 7.6 million people, over 800 languages are spoken.<sup>1</sup> The country's rugged terrain and hundreds of islands mean that many communities are isolated from all government presence. Village courts, whose role in handling family violence is described throughout this report, may be the most accessible venue for survivors to seek help, yet their responses sometimes conflict with Papua New Guinea's family violence law. Traditions that negatively affect women, including the payment of bride price, polygamy, and beliefs in sorcery, vary dramatically from one region to another.

Papua New Guinea's economy—and the government's budget—have grown dramatically in recent years, boosting it to the status of a low-middle income country. The country's gross domestic product (GDP) per capita increased from US\$798 in 2005 to \$2,105 in 2013.<sup>2</sup> The total GDP increased over that same period from \$4.9 billion to \$15.4 billion.<sup>3</sup> Government revenue has also increased dramatically, rising from 6.8 billion kina (\$2.5 billion) to an

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<sup>1</sup> The Commonwealth, "Papua New Guinea," <http://thecommonwealth.org/our-member-countries/papua-new-guinea> (accessed July 23, 2015).

<sup>2</sup> World Bank, "Papua New Guinea, GDP per capita (current US\$)," <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD/countries/PG?display=graph> (accessed August 7, 2015).

<sup>3</sup> World Bank, "Papua New Guinea, GDP (current US\$)," <http://data.worldbank.org/indicator/NY.GDP.MKTP.CD/countries/PG?display=graph> (accessed August 7, 2015).

estimated 10.3 billion kina (\$3.7 billion) in just 2 years, from 2011 to 2013.<sup>4</sup> This growth stems from a number of factors, but primarily from natural resource exploitation.<sup>5</sup> This newfound wealth has brought benefits, but also a variety of harms. Human Rights Watch has documented problems associated with some extractive industry projects, such as rape, ill health, and environmental degradation.<sup>6</sup> The government has set ambitious development goals, including becoming one of the top 50 countries in the United Nations Human Development Index by 2050; the country is presently ranked 157 out of 187.<sup>7</sup> These plans are laid out in a government document called Vision 2050.<sup>8</sup>

The country plays a dominant role in the Pacific due to its size and economic power. More than 75 percent of the population of the Pacific Island countries lives in Papua New Guinea.<sup>9</sup> In 2018, Papua New Guinea will receive world leaders as host of the Asia Pacific Economic Cooperation (APEC) summit, cementing the image of Papua New Guinea as the powerhouse of the Pacific.<sup>10</sup>

Yet poor governance has undermined progress. Papua New Guinea ranked 145 out of 174 on the Transparency International corruption perceptions index in 2014.<sup>11</sup> “In the last five years, things have progressed by leaps and bounds in terms of institutional structures being put in place,” an official with an international organization told Human Rights

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<sup>4</sup> Minister for Treasury of Papua New Guinea, “VOLUME 2 (Part 1-A) 2013, Recurrent Budget Estimates of Revenue and Expenditure for National Government Departments, Growing Our Future, ‘Empowering our People for Inclusive and Sustainable Growth’ for the year ending 31st December 2013,” [http://www.treasury.gov.pg/html/national\\_budget/files/2013/budget\\_documents/Volume2/V2P1a.pdf](http://www.treasury.gov.pg/html/national_budget/files/2013/budget_documents/Volume2/V2P1a.pdf) (accessed August 7, 2015), p. 8.

<sup>5</sup> World Bank, “Papua New Guinea, Overview,” <http://www.worldbank.org/en/country/png/overview> (accessed August 7, 2015).

<sup>6</sup> For example, Human Rights Watch, “Gold’s Costly Dividend: Human Rights Impacts of Papua New Guinea’s Porgera Gold Mine,” February 2011, <http://www.hrw.org/sites/default/files/reports/pngo211webwcover.pdf>.

<sup>7</sup> United Nations Development Programme, “Table 1: Human Development Index and its components,” <http://hdr.undp.org/en/content/table-1-human-development-index-and-its-components> (accessed July 27, 2015).

<sup>8</sup> The Independent State of Papua New Guinea, “Papua New Guinea Vision 2050,” [http://www.treasury.gov.pg/html/publications/files/pub\\_files/2011/2011.png.vision.2050.pdf](http://www.treasury.gov.pg/html/publications/files/pub_files/2011/2011.png.vision.2050.pdf) (accessed July 24, 2015). Vision 2050 has been criticized for insufficient attention to gender inequality; “The grand plan of the government for 2030 and 2050 barely touches violence against women issues,” one expert told Human Rights Watch. Human Rights Watch. Interview with official of a UN organization, name withheld, Central Province, June 22, 2015.

<sup>9</sup> United Nations Population Fund (UNFPA), “Population and Development Profiles: Pacific Island Countries,” April 2014, [http://countryoffice.unfpa.org/pacific/drive/web\\_\\_140414\\_UNFPAPopulationandDevelopmentProfiles-PacificSub-RegionExtendedv1LRv2.pdf](http://countryoffice.unfpa.org/pacific/drive/web__140414_UNFPAPopulationandDevelopmentProfiles-PacificSub-RegionExtendedv1LRv2.pdf) (accessed July 24, 2015), p. 4.

<sup>10</sup> Rowan Callick, “Coup for PNG as ‘least liveable’ city to host 2018 APEC summit,” *The Australian*, October 10, 2013, <http://www.theaustralian.com.au/national-affairs/foreign-affairs/coup-for-png-as-least-liveable-city-to-host-2018-apec-summit/story-fn59nm2j-1226735720143> (accessed July 24, 2015).

<sup>11</sup> Transparency International, “Corruption Perceptions Index 2014: Results,” <http://www.transparency.org/cpi2014/results> (accessed July 24, 2015).

Watch. “But [government] functioning is a work in progress.”<sup>12</sup> Papua New Guinea is expected to fail to achieve any Millennium Development Goals, a set of key development goals governments pledged to meet by 2015, which some observers—and the government itself—blame at least partially on governance problems.<sup>13</sup>

## Family Violence: Prevalence and Law Reforms

Though statistical estimates of the prevalence of family violence are outdated by decades or address only parts of the country, service providers and activists from all major regions confirm that many families experience violence, with devastating consequences.

Advocates and experts focusing on family violence led an effort to bring about legal reform and provide better services for survivors. The result was the groundbreaking 2013 Family Protection Act.

### *Prevalence of Family Violence and Limits of Data Collection*

Damning stories about the high prevalence of violence against women, and government failures to protect women from this violence, have often made headlines in Papua New Guinea. Yet there are significant shortcomings in how the government collects data on violence against women, and in particular on family violence. There is no structure in place for compiling standardized nationwide data on violence against women through mechanisms like crime victimization surveys or statistics on reported crimes.<sup>14</sup>

There is an urgent need for up-to-date, nationally representative data on violence against women and family violence. Perhaps the most comprehensive survey on intimate-partner violence was published over 30 years ago by the Papua New Guinea Law Reform Commission in 1992, and covers data collected from 1982-1986 in 16 provinces and

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<sup>12</sup> Human Rights Watch interview with an official with an international organization, name withheld, Central Province, June 22, 2015.

<sup>13</sup> United Nations Development Programme, “Papua New Guinea reckons with unmet development goals,” May 27, 2015, [http://www.pg.undp.org/content/papua\\_new\\_guinea/en/home/presscenter/pressreleases/2015/05/27/papua-new-guinea-reckons-with-unmet-development-goals.html](http://www.pg.undp.org/content/papua_new_guinea/en/home/presscenter/pressreleases/2015/05/27/papua-new-guinea-reckons-with-unmet-development-goals.html) (accessed July 24, 2015). Department of National Planning and Monitoring, “Millennium Development Goals Second National Progress Comprehensive Report for Papua New Guinea 2010,” [http://www.pg.undp.org/content/dam/papua\\_new\\_guinea/docs/MDG/UNDP\\_PG\\_MDG%20Comprehensive%20Report%202010.pdf](http://www.pg.undp.org/content/dam/papua_new_guinea/docs/MDG/UNDP_PG_MDG%20Comprehensive%20Report%202010.pdf) (accessed August 7, 2015), p. 22-23.

<sup>14</sup> Human Rights Watch interview with an official with an international organization, name withheld, Central Province, June 22, 2015.

involving interviews with more than 2,000 women and men. That survey concluded that more than two-thirds of families in the country experienced domestic violence.<sup>15</sup>

Later studies reinforce this finding, but none were broad enough in scope to establish the national prevalence of family violence. For example, Margit Gangster-Creidler published a study in 2010 based on interviews with 200 women in 4 provinces using a World Health Organization survey instrument focused on health impacts of intimate-partner violence. The respondents in the Gangster-Creidler study reported similar levels of abuse to those estimated by the Law Reform Commission, but the study is not nationally representative.<sup>16</sup>

A 2013 UN study focused only on Bougainville, an autonomous region of Papua New Guinea that endured a conflict between 1988 and 1998. This study found that in Bougainville, 80 percent of men who had ever had a partner reported that they had perpetrated physical and/or sexual intimate partner violence in their lifetime. Sixty-two percent of the Bougainville men interviewed reported that they had perpetrated rape against a female partner or non-partner.<sup>17</sup> “He bashed me up,” survivors of family violence in Papua New Guinea often told Human Rights Watch, using a term that seems so common as to carry little sense of shock or outrage.

A number of the women interviewed by Human Rights Watch had also been victims of child marriage, the marriage of children below the age of 18, in conflict with the evolving consensus in international law that 18 should be the minimum age of marriage. Child marriage remains legal under Papua New Guinea law.<sup>18</sup> According to the United Nations

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<sup>15</sup> Papua New Guinea Law Reform Commission, “Final Report on Domestic Violence, Report no. 14,” 1992, [http://www.paclii.org/pg/LRC/REP\\_14.htm](http://www.paclii.org/pg/LRC/REP_14.htm) (accessed July 23, 2015), chapter 4.

<sup>16</sup> Margit Gangster-Creidler, “Gender-Based Violence and the impact on Women’s Health and Well-being in PNG,” *Contemporary PNG Studies*, vol. 13, November 2010, [http://archive.org/stream/Ganster/Ganster\\_djvu.txt](http://archive.org/stream/Ganster/Ganster_djvu.txt) (accessed July 23, 2015).

<sup>17</sup> United Nations (multiple agencies), “Why Do Some Men Use Violence Against Women and How Can We Prevent it? Quantitative Findings from the United Nations Multi-Country Study on Men and Violence in Asia and the Pacific,” Sept. 2013, <http://www.partners4prevention.org/sites/default/files/resources/p4p-report.pdf> (accessed July 24, 2015), p. 40.

<sup>18</sup> The country’s 1986 Marriage Act sets the age of marriage at 16 for girls and 18 for men, and permits marriage of girls as young as 14 and boys as young as 16 with the authorization of a judge or magistrate (art. 7), which is inconsistent with international standards. The Committee on the Rights of the Child (CRC Committee) has taken a clear position that 18 should be the minimum age for marriage, regardless of parental consent. See, for example, CRC Committee, General Comment No. 4, Adolescent Health and Development in the Context of the Convention on the Rights of the Child, (Thirty-third session, 2003), para. 20. There is an evolving consensus in international law that 18 should be the minimum age for marriage. There have been recent efforts to reform the law to ban child marriage. Michael Walsh, “PNG anti-child marriage bill expected to pass,” ABC, June 1, 2015, <http://www.abc.net.au/news/2015-06-01/png-anti-child-marriage-bill-expected-to-pass/6510548> (accessed August 10, 2015).

Children's Fund (UNICEF), in the period from 2005 to 2013, 21 percent of women age 20 to 24 in Papua New Guinea had married or were in a union before the age of 18 and 2 percent had married or were in a union before the age of 15.<sup>19</sup> While child marriage in itself may be a form of family violence, when marriage of children is arranged by their family members, research also demonstrates a strong correlation between earlier marriage and greater risk of experiencing spousal violence.<sup>20</sup>

There is also no central system of tracking agencies' response to such violence. There is no coordinated national data collection for hospitals, police, prosecutors, courts, or other agencies working with family violence victims. One expert said that efforts to document the outcomes of the justice system have been largely anecdotal, and while data is being collected by the police Family and Sexual Violence Units and the hospital Family Support Centres, it is not centralized and compiled nationally.<sup>21</sup>

### *The Family Protection Act*

Before 2013, Papua New Guinea law did not include specific provisions on family violence.<sup>22</sup> Abuses committed within the family, including marital rape, were subject to prosecution if they violated existing criminal laws, but the police, prosecutors, and courts rarely invoked those laws to prosecute perpetrators of family violence. When the police and courts did get involved, they typically addressed cases solely through mediation and compensation. Activists felt that a stronger and more specific law was needed to compel a tougher response from law enforcement. After years of effort, activists won a victory in September 2013, when the Papua New Guinea parliament passed the Family Protection Act.

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<sup>19</sup> United Nations Children's Fund, "State of the World's Children 2015 Country Statistical Tables," [http://www.data.unicef.org/corecode/uploads/document6/uploaded\\_pdfs/corecode/SOWC\\_2015\\_all-countries-update\\_214.xlsx](http://www.data.unicef.org/corecode/uploads/document6/uploaded_pdfs/corecode/SOWC_2015_all-countries-update_214.xlsx) (accessed August 25, 2015).

<sup>20</sup> A study across 7 countries found that girls who married before the age of 15 were more likely to experience spousal abuse than women who married after 25. This correlation was clear in all 7 countries, but there was significant variation between countries in the extent to which early marriage was linked to greater risk of spousal violence. For example, in India and the Dominican Republic, the 2 countries with the strongest correlation, women who married before age 15 were more than 3 times more likely to have experienced spousal abuse in the previous 12 months than women who had married over age 25 (17.3 percent versus 4.4 percent in the Dominican Republic, and 13.6 percent versus 4.2 percent in India). Sunita Kishor and Kiersten Johnson, "Profiling Domestic Violence: A Multi-Country Study," Measure DHS+ ORC Macro, <http://dhsprogram.com/pubs/pdf/od31/od31.pdf> (accessed January 13, 2015), p. 29.

<sup>21</sup> Human Rights Watch interview with a staff member from an international organization, name withheld, Central Province, June 23, 2015.

<sup>22</sup> United Nations (multiple agencies), "Why Do Some Men Use Violence Against Women and How Can We Prevent it? Quantitative Findings from the United Nations Multi-Country Study on Men and Violence in Asia and the Pacific," September 2013, <http://www.partners4prevention.org/sites/default/files/resources/p4p-report.pdf> (accessed July 24, 2015), p. 10.

The FPA represents a fundamental change in how the government sees its responsibility to hold family violence perpetrators accountable and to keep victims safe. It makes domestic violence a crime and prescribes a sentence of a fine up to 5,000 kina (\$1,818) or 2 years in prison or both.<sup>23</sup>

The law seeks to end the cultural practice of resolving family violence cases exclusively through compensation, stating that paying compensation in accordance with custom is not a defense.<sup>24</sup>

The FPA contains a relatively broad definition of “domestic violence,” covering most of the elements recommended by the United Nations. Article 5(1) defines domestic violence as any of the following acts against a family member: assault (whether or not there is evidence of physical injury); psychological abuse, harassment, or intimidation; sexual abuse; stalking; behaving in an indecent or offensive manner; damaging property; or threatening to do any of these things. It does not specifically address economic violence, as recommended under the UN Handbook for Legislation on Violence against Women.<sup>25</sup>

In terms of who constitutes a “family member,” the FPA takes a relatively broad approach. It defines “spouse of a person” as an individual of the opposite sex to the person who: 1) is or has been married to the person; 2) although not married to the person is living or has lived with the person in a “marriage-like relationship”; or 3) is a biological parent of a child with the person whether or not they have been married or have lived together.<sup>26</sup> “Family member” is defined as including: a spouse of the person; a child of any age of the person or the person’s spouse; a parent of the person or the person’s spouse; a grandparent; a brother or sister of the person or the person’s spouse; or “any other person who is treated by the spouse as a family member.”<sup>27</sup>

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<sup>23</sup> Papua New Guinea Family Protection Act 2013, art. 6.

<sup>24</sup> *Ibid.*, art. 6.

<sup>25</sup> UN Women, “Handbook for Legislation on Violence Against Women,” 2012, [http://www.unwomen.org/~media/headquarters/attachments/sections/library/publications/2012/12/unw\\_legislation-handbook%20pdf.pdf](http://www.unwomen.org/~media/headquarters/attachments/sections/library/publications/2012/12/unw_legislation-handbook%20pdf.pdf) (accessed August 7, 2015), section 3.4.2.

<sup>26</sup> Family Protection Act, art. 2. Two important gaps in the FPA in terms of what types of partners are covered by its definition of spouse are: 1) same sex partners; and 2) partners who are unmarried, do not have biological children together, and have not lived together.

<sup>27</sup> *Ibid.*

Family protection orders are a vital tool strengthened by the FPA. District courts already had the power to issue both interim and longer-term protection orders in family violence cases, but the FPA should help make it easier for victims of family violence to obtain these orders and should ensure greater consistency in how the courts handle such requests.<sup>28</sup> The FPA provides for both interim protection orders, which are shorter-term and can be issued without a hearing, and “regular” protection orders, which are longer-term and are issued after a hearing.

The FPA establishes flexible procedures for obtaining protection orders. The order must be free of charge, a representative of the complainant can seek the order, and the request for the order can be made orally.<sup>29</sup> Conditions of the orders can range from complete exclusion of the defendant from the family home to permitting the defendant to continue living with the complainant but requiring the defendant to refrain from abuse.<sup>30</sup> Other conditions relate to prohibiting communication, refraining from destroying property, and compelling counseling or mediation.

Interim protection orders are by their nature short-term and intended to respond to immediate danger to survivors. The FPA balances the need for emergency protection with the rights of defendants by limiting the duration of these orders and enabling the defendant to apply for the order to be varied or revoked.<sup>31</sup> Interim protection orders can be issued by either district courts or village courts. They can be valid for up to 30 days, and renewable once for an additional 30 days.

Regular protection orders are longer term, and there is a higher procedural and due process bar for obtaining them. Protection orders can be valid for up to two years, but if the duration is not specified, the default is six months.<sup>32</sup> These protection orders are to be issued only after a hearing, but if the defendant was served process and had reasonable notice of the hearing and still fails to appear, the hearing can proceed in his absence.<sup>33</sup>

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<sup>28</sup> See District Courts of Papua New Guinea, Practice Directions: Family and Sexual Violence Protection Order Rules, January 2009, [http://www.magisterialservices.gov.pg/PracticeDirections/Protection\\_Order\\_Rules.pdf](http://www.magisterialservices.gov.pg/PracticeDirections/Protection_Order_Rules.pdf) (accessed August 13, 2015).

<sup>29</sup> *Ibid.*, arts. 7, 12, 17, 25.

<sup>30</sup> *Ibid.*, arts. 7-10.

<sup>31</sup> *Ibid.*, arts. 14 and 24.

<sup>32</sup> *Ibid.*, art. 19.

<sup>33</sup> *Ibid.*, art. 17.

If a defendant breaches either type of order, he or she can face a fine of 10,000 kina (\$3,636), imprisonment for up to 3 years, or both.<sup>34</sup> Courts may also order the defendant to compensate the complainant “in accordance with custom or otherwise” if the survivor suffered injury, damage to property, or financial loss.<sup>35</sup>

In March 2014, the speaker of parliament certified the Family Protection Act, which brought it into force.<sup>36</sup> In August 2014, the government reported regarding the FPA that, “Regulations were drafted and underwent consultations. They are now in the process of being finalized.”<sup>37</sup>

However, at the time of writing, the government was still in the process of developing these implementing regulations, and officials were not yet enforcing the FPA.<sup>38</sup> The government confirmed that this is the case in correspondence with Human Rights Watch in June 2015:

The FPA is in force however, it has not been implemented because it is subject to the finalisation of the Regulations. The draft Regulation has been finalised in consultation with the Magisterial Services... [W]e are awaiting feedback from two of the stakeholders... The development of the action plan is also underway...The next step is finalising the Draft Regulation and have it before the Cabinet to endorse for the Office of Legislative Counsel to give clearance and also develop a training package for stakeholders in conjunction with relevant stakeholders, PALJP [Papua New Guinea-Australia Law and Justice Partnership] and the FSVAC [The Family and Sexual Violence Action Committee]. This is expected to be done in the third quarter of 2015.<sup>39</sup>

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<sup>34</sup> Ibid., arts. 12, 14, 19, 20.

<sup>35</sup> Ibid., arts. 11, 21.

<sup>36</sup> Coalition for Change, “Family Protection Act 2013,” <http://cfcpng.org/family-protection-act-2013/> (accessed August 13, 2015).

<sup>37</sup> Department for Community Development, “Papua New Guinea National Review on the Implementation of the Beijing Declaration and the Platform for Action and the Outcomes of the 23rd Special Session of the General Assembly,” August 2014, [http://www.unescapsdd.org/files/documents/Beijing20\\_national\\_review\\_PNG.pdf](http://www.unescapsdd.org/files/documents/Beijing20_national_review_PNG.pdf), p. 22. (accessed August 31, 2015).

<sup>38</sup> Human Rights Watch interview with an international advisor working with the Papua New Guinea justice system, name withheld, Central Province, July 24, 2015.

<sup>39</sup> Human Rights Watch correspondence with a senior representative of the Papua New Guinea Department of Justice and Attorney General, June 29, 2015, on file with author.

While the Act says that the Head of State and National Executive Council “may” issue regulations prescribing methods to carry out the act, it does not make enforcement of the law conditional upon the existence or passage of such regulations.<sup>40</sup> Nonetheless, some officials and experts assert that the regulations are mandatory before implementation. At the very least, the regulations will be helpful to officials responsible for enforcing the law. Police officers at a Family and Sexual Violence Unit told Human Rights Watch, “We have never used the FPA. We can’t use the FPA without information on how to charge someone under it. No one sent any info to us on it.”<sup>41</sup>

In the absence of enforcement of the FPA, activists and women in abusive relationships continue to call for tougher laws on family violence. “We should have some law where it [the government] can take seriously the violence and then we can see that the penalty [abusers] face will be great and then they will stop the violence,” an activist in the Highlands told Human Rights Watch. “We need a stronger law.”<sup>42</sup>

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<sup>40</sup> Family Protection Act, art. 16.

<sup>41</sup> Human Rights Watch interview with FSVU officer, name withheld, Highlands, June 26, 2015.

<sup>42</sup> Human Rights Watch interview with activist (name withheld), Highlands, June 27, 2015.

## II. Progress in Addressing Family Violence

In addition to passing the Family Protection Act (FPA), Papua New Guinea established Family and Sexual Violence Units in some police stations and Family Support Centres in hospitals. The government is working with civil society on an evolving referral pathway system. Papua New Guinea has also taken initial steps toward establishing a national human rights commission, which could play a role in combatting family violence. In addition, the government—with major support and advice from international agencies and civil society—is drafting a new national strategy on how it will prevent and respond to gender-based violence. Another promising sign is a parliamentary inquiry, by the Referral Committee on Health and Family Welfare, which brought parliamentarians to eight provincial centers in August and September 2015 to gather evidence about the causes of and solutions for violence against women and children.<sup>43</sup>

For all the serious problems described in this report, the overall picture is one of gradual progress on family violence. A local activist described the change in the last two to three years as “a sea change.”<sup>44</sup> Another said, “It’s improving for women ... Now we have people in the village who have networks of police, hospitals, and [government] community development [offices]. Now violence in the village is getting slow.”<sup>45</sup> An international expert acknowledged gaps, but also important progress: “The referral path is working, in terms of police getting women to shelters,” she said. “There’s a reasonable understanding of what services exist and what they do. I’m amazed by how much things have improved.”<sup>46</sup>

Survivors of family violence sometimes echoed this view. “I was so surprised to see the FSVU [Family and Sexual Violence Unit at the police station] and the unit [specifically for survivors of family violence] at the hospital,” said Lani, a survivor Human Rights Watch interviewed in a safe house. “That’s really good. On the media I saw that wife-bashing is a crime and you can get help. It said there is a safe place. In the past we didn’t have such

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<sup>43</sup> National Parliament of Papua New Guinea, “Parliamentary inquiry into violence against women and children in Papua New Guinea,” advertisement, *Post-Courier*, August 17, 2015.

<sup>44</sup> Human Rights Watch interview with lawyer, name withheld, Central Province, June 24, 2015.

<sup>45</sup> Human Rights Watch interview with activist, name withheld, Highlands, June 27, 2015.

<sup>46</sup> Human Rights Watch interview with international expert, name withheld, Central Province, June 23, 2015.

things. I see the government is really supporting us now. Before there were no services like that—our mothers were really suffering.”<sup>47</sup>

While these are all vital measures, implementation challenges remain as described in Chapter III.

## Family and Sexual Violence Units in Police Stations

With funding and assistance from international agencies and donors, officials have established 17 specialized Family and Sexual Violence Units in police stations since 2007.<sup>48</sup> These units, which countries around the world increasingly use to assist victims of gender-based violence, are meant to make police more accessible, especially to women, and to facilitate referrals to medical, legal, and other services.

The director of a safe house in Papua New Guinea said the units have been effective. “Cases are taken seriously and the women are assisted,” she said. “At other police stations it varies a lot.”<sup>49</sup>

## Family Support Centres in Hospitals

Fifteen hospitals, with encouragement from the government and technical and financial assistance from international donors, have established Family Support Centres designed specifically to assist patients who seek medical care as a result of family violence.<sup>50</sup> The centers are designed to not only provide urgent and comprehensive medical care, including emergency contraception and treatment to reduce the risk of sexually transmitted infections, but also to offer emergency counseling and link survivors to legal assistance and the justice system.<sup>51</sup> They also, where necessary, provide a safe place to

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<sup>47</sup> Human Rights Watch interview with Lani, Central Province, June 24, 2015.

<sup>48</sup> “Papua New Guinea National Review on the Implementation of the Beijing Declaration and the Platform for Action and the Outcomes of the 23rd Special Session of the General Assembly,” p. 23.

<sup>49</sup> Human Rights Watch interview with safe house director, name withheld, Central Province, June 22, 2015.

<sup>50</sup> Papua New Guinea Department of Health, “Guidelines for PHA/Hospital Management establishing hospital-based Family Support Centres,” 2013, [https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=oCCUQFjAAahUKEwjyu-u79p7HAhUPWdsKHWRDuo&url=http%3A%2F%2Fwww.msf.org.au%2Ffileadmin%2Fspecialfeatures%2FFSC\\_Guideline\\_MO\\_C\\_Final.pdf&ei=-s\\_IVfLWCY-y7Qbl1rvQDg&usq=AFQjCNH-IRRDj6Mb\\_YrbNVOITsjNUBVbMg&sig2=Ifa1YeUyBEEBvFdeBRUy\\_g](https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=oCCUQFjAAahUKEwjyu-u79p7HAhUPWdsKHWRDuo&url=http%3A%2F%2Fwww.msf.org.au%2Ffileadmin%2Fspecialfeatures%2FFSC_Guideline_MO_C_Final.pdf&ei=-s_IVfLWCY-y7Qbl1rvQDg&usq=AFQjCNH-IRRDj6Mb_YrbNVOITsjNUBVbMg&sig2=Ifa1YeUyBEEBvFdeBRUy_g) (accessed August 10, 2015), p. 3.

<sup>51</sup> Ibid.

stay for one night for a survivor in crisis.<sup>52</sup> The centers provide free treatment, and their number is expanding.<sup>53</sup>

## Hotline

In August 2015, a hotline was established to provide “counseling, information, guidance, and referrals for care at local services” to survivors of family and sexual violence.<sup>54</sup>

Operated by ChildFund, the hotline is funded by the government of New Zealand, as well as charitable donations. It operates 12 hours a day, 7 days a week.<sup>55</sup>

## Referral Pathway

Police units, hospital centers, and safe houses (run by nongovernmental organizations, described in Chapter II) are all part of a “referral pathway” officials have implemented across urban areas, albeit “inconsistently and intermittently,” according to one observer.<sup>56</sup> This formalized “pathway” is designed to ensure that a survivor who seeks assistance through any outlet—police, a hospital, a safe house—will, through that service provider, be linked with all other necessary services.<sup>57</sup> Activists and service providers who spoke to Human Rights Watch often mentioned the referral pathway as an important innovation that had improved their ability to assist survivors. In rural areas, lack of services, police, and hospitals means that this “pathway” does not exist.<sup>58</sup>

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<sup>52</sup> “Papua New Guinea National Review on the Implementation of the Beijing Declaration and the Platform for Action and the Outcomes of the 23rd Special Session of the General Assembly,” p. 21.

<sup>53</sup> Human Rights Watch interview with an official with an international organization, name withheld, Central Province, June 22, 2015; Human Rights Watch interview with a representative of an aid organization working on human rights issues, name withheld, Central Province, June 23, 2015.

<sup>54</sup> Reuters, “Free domestic violence hotline launches in Papua New Guinea,” August 19, 2015, <http://www.reuters.com/article/2015/08/19/us-papua-women-hotline-idUSKCN0QO1MS20150819> (accessed August 31, 2015).

<sup>55</sup> Ibid.

<sup>56</sup> Human Rights Watch correspondence with legal expert, name withheld, on file with author, August 31, 2015.

<sup>57</sup> Human Rights Watch interview with service provider, Highlands, June 25, 2015.

<sup>58</sup> Ibid.

## Plans for a National Human Rights Commission

The Papua New Guinea government agreed in 2007 to establish a national human rights commission.<sup>59</sup> A draft bill that would have established the commission was prepared in 2008 but has yet to go to the parliament.<sup>60</sup> This commission could play an important role in connecting family violence survivors with assistance, and also in holding officials accountable if they fail to implement the FPA or carry out other duties related to family violence.

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<sup>59</sup> UN Human Rights Council, Working Group on the Universal Periodic Review, National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1--Papua New GuineaA/HRC/WG.6/11/PNG/1, May 2-13, 2011,

[http://lib.ohchr.org/HRBodies/UPR/Documents/session11/PG/A\\_HRC\\_WG.6\\_11\\_PNG\\_1\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/session11/PG/A_HRC_WG.6_11_PNG_1_E.pdf) (accessed July 28, 2015), para. 36.

<sup>60</sup> Amnesty International, "Violence against women, sorcery-related killings and forced evictions: Submission to the UN Universal Periodic Review," May 2011,

[https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&cad=rja&uact=8&ved=oCDoQFjAEahUKEwjpKfLUmpfHAhUGvBQKHWNFA2U&url=https%3A%2F%2Fwww.amnesty.org%2Fdownload%2FDocuments%2F36000%2Fas340052010en.pdf&ei=MMTEVem5Hlb4UuOKjagG&usg=AFQjCNFHZbYw4jYyKeq9vEdeiuSoy\\_3OQw&sig2=I5J4Jpx3zIBjMXRRMFogNw](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&cad=rja&uact=8&ved=oCDoQFjAEahUKEwjpKfLUmpfHAhUGvBQKHWNFA2U&url=https%3A%2F%2Fwww.amnesty.org%2Fdownload%2FDocuments%2F36000%2Fas340052010en.pdf&ei=MMTEVem5Hlb4UuOKjagG&usg=AFQjCNFHZbYw4jYyKeq9vEdeiuSoy_3OQw&sig2=I5J4Jpx3zIBjMXRRMFogNw) (accessed August 7, 2015), p. 3; Human Rights Watch interview with representative of international organization, June 24, 2015.

### III. Barriers to Services, Protection, and Justice

The law about violence against women is not strong enough, so men take advantage.... The government is too far away from me.

—Survivor of family violence in the Highlands, June 2015<sup>61</sup>

Survivors of family violence face daunting obstacles to seeking services, protection, and justice. Women interviewed by Human Rights Watch described a range of barriers, including lack of information, geographic barriers, insufficient government presence, a shortage of safe houses, inappropriate “counseling and mediation,” absence of case management, and lack of legal representation. Survivors also described police and court system failings. Activists and survivors told Human Rights Watch that harmful practices in some communities, including polygamy, bride price, and sorcery accusations, fuel violence and impede survivors from getting help. Many of the survivors Human Rights Watch interviewed were constrained by their economic dependence on their abuser, and fear that fleeing their abuser would result in harm to their children.

#### Lack of Information and Awareness

Experts in Papua New Guinea had mixed views about whether information about the Family Protection Act (FPA) and about services, protection, and justice are reaching those who need it. Some say awareness is growing, in part because of the publicity surrounding the FPA’s adoption, and this is a deterrent to violence. Many say that the government should put far more effort into raising awareness and providing information.

“There is more awareness because the government made a law [the FPA],” a service provider told Human Rights Watch. “We used to have men hanging on our gate banging on it. Now they know that wife-bashing is a crime.”

On the other hand, many experts say that even where services do exist, people experiencing violence are often unaware of the available resources. Several women told Human Rights Watch that they found their way to help through the most serendipitous of

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<sup>61</sup> Human Rights Watch interview with Isa, Highlands, June 27, 2015.

circumstances—through a conversation at a bus stop, or thanks to the help of someone on the side of the road.

Lack of awareness of the family violence law and services is particularly acute in isolated rural areas. “Many women go through this process I am facing—and violence,” an activist and survivor told Human Rights Watch. “Awareness needs to reach remote areas. They don’t know where to go.”<sup>62</sup>

The problem is not only limited to rural areas, however. Even in Port Moresby, the capital, Human Rights Watch interviewed a number of women who reached help only through coincidences, luck, or the kindness of strangers.

“The first time I left, I met a worker from [a safe house] at the bus stop,” said Grace, age 44, who fled her home after her husband raped and beat her. “I had blood all over my face. She took me to [a safe house].”<sup>63</sup>

Alice had a similar experience. She had fled her home after a fight with her abusive husband’s other wife, as she anticipated retaliation from her husband. After two weeks she ventured back to her home to collect her belongings, and was hiding between cars on the side of the road when a stranger came to help.<sup>64</sup> “There was a woman selling cold water and ice blocks on the side of the road,” Alice said. “She told me about [the safe house].”

Lack of information about shelter and other services can prolong exposure to violence. “If I had known that it existed I would have left earlier,” Mari told Human Rights Watch, speaking about the safe house where she was interviewed. “One of my sisters was bashed up by her husband and my auntie took her here—that’s how I heard about this place.” Mari had been married for 23 years, facing her husband’s abuse the whole time, but she had never left before. A month before the interview, she decided to leave. “I got up very early. I got to the police station at 6 a.m. and waited until 3 p.m. I told them my life was at risk.” She told the police the name of the safe house and eventually they took her there.<sup>65</sup>

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<sup>62</sup> Human Rights Watch interview with activist, name withheld, Highlands, June 25, 2015.

<sup>63</sup> Human Rights Watch interview with Grace, Central Province, June 24, 2015.

<sup>64</sup> Human Rights Watch interview with Alice, Central Province, June 24, 2015.

<sup>65</sup> Human Rights Watch interview with Mari, Central Province, June 24, 2015.

Some government agencies, including the Ministry for Religion, Youth and Community Development, are doing outreach to inform people that family violence is illegal and how survivors of family violence can get help. But it is clear that far more needs to be done by the government to raise awareness. Human Rights Watch asked the government to outline any current and future measures to raise public awareness, but at the time of publication had not received a response. Yet service providers and survivors told Human Rights Watch of specific instances when government efforts to raise awareness led directly to help for survivors, showing that this outreach can be critical.

“A [Family Support Centre] worker came to do a presentation at the school where I taught,” Jayla, age 36 and a mother of 3, told Human Rights Watch. Jayla’s husband beat her throughout their 14-year marriage. The hospital worker who did the presentation in late 2014 gave Jayla her business card. “I hid the card in my folder. I had it for five months then I called her,” Jayla said. Jayla finally called on a day when her husband became furious and beat her and the children with a sword. “I had scars and cuts and bruises,” Jayla said. “I decided to call the [center] and asked them to help me. They sent a bus [for me] but my husband sent it back. I waited until the next morning when he went to work and then went to the [center].” Hospital workers brought Jayla to a safe house.<sup>66</sup>

Several activists suggested that there had been progress in terms of awareness of and greater willingness to use protection orders. “IPOs [interim protection orders] are easier to get now, and there is more awareness and demand for them,” a service provider told Human Rights Watch. “When I first began [this work], women would say no to an IPO, they said they’d resolve it themselves. Now they walk in and say, ‘I want an IPO.’”<sup>67</sup> The government should work to make all members of the public aware of what protection orders are and how they can be obtained, and should ensure quick implementation of the provisions of the FPA designed to make it easier to obtain a protection order.

## Geographic Barriers and Limited Government Presence

Women in rural areas in Papua New Guinea face severe barriers to services, protection, and justice, in part due to the limited government presence in these areas and also to

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<sup>66</sup> Human Rights Watch interview with Jayla, Central Province, June 24, 2015.

<sup>67</sup> Human Rights Watch interview with director of a safe house, name withheld, Central Province, June 23, 2015.

transportation challenges. Rural women may literally be trapped hours or days away from any form of assistance.

A defining feature of Papua New Guinea is the inaccessibility of many parts of the country, in part due to the mountainous terrain and difficulty of reaching some 600 islands. There is limited government presence in many areas. There are no roads from Port Moresby to most other regions of the country, and only 3.5 percent of the country's roads are paved.<sup>68</sup> Eighty-five percent of the population lives in rural areas, and only seven percent of the population is connected to the electric grid and piped water supplies.<sup>69</sup> As one expert told Human Rights Watch, in explaining the obstacles women face in receiving help for family violence, "The nearest court may be a three-day walk away."<sup>70</sup>

"People are very isolated from the government—tens of thousands of them [are]," an NGO worker told Human Rights Watch. "Police are only in the center."<sup>71</sup> The government needs to do much more to ensure that people in all parts of the country have easy access to police, courts, and other government services.

### *Shortage of Safe Houses*

Survivors of family violence need safe houses where they can seek shelter in an emergency. The Council of Europe offers one example of how the numbers might look in its recommendation that, "In member states where shelters are the predominant/only form of service provision, there should be one place per 10,000 population.... There should be at least one specialist violence against women shelter in every province/region."<sup>72</sup> By this math, Papua New Guinea should have at least 700 safe house beds for women fleeing family violence, and at least one shelter in each of the country's 22 province-level divisions.

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<sup>68</sup> The Commonwealth, "Papua New Guinea," <http://thecommonwealth.org/our-member-countries/papua-new-guinea> (accessed July 23, 2015).

<sup>69</sup> United Nations Development Programme, "The Future We Want: Voices from the People of Papua New Guinea," May 2013, [http://www.pg.undp.org/content/dam/papua\\_new\\_guinea/docs/MDG/UNDP\\_PG\\_The%20future%20We%20Want%202015.pdf](http://www.pg.undp.org/content/dam/papua_new_guinea/docs/MDG/UNDP_PG_The%20future%20We%20Want%202015.pdf) (accessed June 23, 2015), p. 12.

<sup>70</sup> Human Rights Watch interview with international justice expert, Central Province, June 23, 2015.

<sup>71</sup> Human Rights Watch interview with official from an NGO, Highlands, June 25, 2015.

<sup>72</sup> Council of Europe, "Combating violence against women: minimum standards for support services," September 2008, <http://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-CONF%282007%29Study%20rev.en.pdf>, p. 38.

Papua New Guinea is home to a small but gradually growing number of private “safe houses” which shelter and assist women fleeing family violence, but many areas of the country have no safe houses. There are no government-operated safe houses, and the government does not fund, regulate, or monitor private safe houses, or track safe house capacity or usage.<sup>73</sup> Activists, safe house workers, police officers, and service providers report that there are far too few safe houses to serve the number of women seeking shelter.

The capital, Port Moresby, is home to at least five safe houses, all operated by faith-based Christian organizations, some with funding from international donors. Port Moresby has more spots in safe houses than anywhere else in the country—but still the number of beds is insufficient to meet demand.

Many other provinces have no safe houses at all. “There are no safe houses in rural areas,” an activist said. “Local officials have nowhere to refer victims. Sometimes victims sleep in police stations.” Another activist in the Highlands said that family violence survivors sometimes stay at churches when they flee their abusers.<sup>74</sup> Language barriers, cultural differences, the need for support from family and community networks, and transportation difficulties make it unrealistic to expect survivors of family violence to travel long distances—for example to the capital—for shelter and other services.<sup>75</sup>

Even in areas where safe houses do exist, experts say the capacity of safe houses is not adequate. An international expert described the current system of safe houses as insufficient.<sup>76</sup> “Given the lack of beds, it is hard to find space,” the expert said. “Police and the FSCs [hospitals] all make referrals—there’s not enough space.”<sup>77</sup>

Safe houses are typically set up to house women for a maximum of a few weeks. During this time, survivors and abusers (often wife and husband) often go through couples

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<sup>73</sup> Human Rights Watch interview with international expert, name withheld, Central Province, June 23, 2015.

<sup>74</sup> Human Rights Watch interview with NGO worker, name withheld, Highlands, June 25, 2015.

<sup>75</sup> Human Rights Watch interview with an activist, name withheld, Central Province, June 22, 2015.

<sup>76</sup> Human Rights Watch interview with international expert, name withheld, Central Province, June 23, 2015.

<sup>77</sup> As serious as the safe house shortage is for women, for children the situation is worse. While most safe houses permit women admitted to safe houses to bring their children with them, when children are themselves the victims of violence and need a shelter bed independent of their mother, there are at present no beds anywhere in the country for them. One safe house in Port Moresby has plans to make available a small number of beds for children in coming months, but there is an urgent need for a nationwide network of beds—and services—for children who need shelter from abuse.

counseling aimed at reconciliation, in many cases facilitated by safe house staff. In some cases, workers at the safe house assist the woman to seek an interim order of protection that would prohibit violence and outline the consequences of a violation. “Two to six or eight weeks should be long enough to get an order,” a safe house director told Human Rights Watch. “They have to leave as soon as they get the order.”<sup>78</sup>

The focus in the safe houses on couples counseling with the aim of reconciliation can be a problem for women who wish to leave their partners. While some survivors may want such counseling, and counseling may help prevent further abuse, domestic violence is often chronic and cyclical, and pressure to reconcile through counseling may ignore this reality. Some survivors of abuse may need counseling and support as they decide to leave their abusers. Survivors who are certain they want to leave their abusers have no need for couples counseling, but may need other forms of psychosocial counseling the safe houses do not provide. “The goal of their counseling is always reconciliation [of spouses],” an international expert told Human Rights Watch, suggesting that this may in part result from the view of some staff in faith-based organizations that “marriage is sacred” even when the relationship is abusive.<sup>79</sup>

Grace, age 44 and a mother of 7, is an example of a survivor who repeatedly fled to a safe house and underwent couples counseling with her abuser, only to return home to further abuse. After 24 years of marriage, she fled her husband for the first time in 2014. Grace stayed at a safe house for six weeks and underwent counseling there with her husband. “I decided to go back to him because of the children,” she said. She said that she had wanted a protection order before going home, but the safe house had not helped her to get one. The abuse started anew. “He raped me again. He locked me in a room on Thursday and Friday. Then I managed to get away.” After three days, Grace ran away again, and this time was moved to a different safe house where she stayed for several months, she said. She again went through couples counseling with her husband and returned home without a protection order. He abused her again, and she fled for a third time to a safe house where Human Rights Watch interviewed her. This time, she said, she was not going through counseling and she wanted a protection order. “I want to stay away from my

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<sup>78</sup> Human Rights Watch interview with safe house director, name withheld, Central Province, June 22, 2015.

<sup>79</sup> Human Rights Watch interview with a representative of an aid organization working on violence against women, name withheld, Central Province, June 23, 2015.

husband,” she said. “I want to take him to court and get him kept away. I’m going to find a job and get my own home so I can get my children back.”<sup>80</sup>

Several survivors and experts said that safe houses should improve their communication with current and former residents and other agencies, including by liaising more closely with courts about the status of applications for orders of protection, as well as following up with survivors after they leave safe houses. “They could do a better job of keeping women informed about what is happening,” said one woman staying at a safe house. “We don’t know. All we are told is at the last minute to go and see someone [for services or a protection order], there’s no plan or big picture.”<sup>81</sup> Experts also told Human Rights Watch that safe houses often lack capacity to follow up with former residents, even when a survivor returns to a violent partner. In the absence of other government case management services, this effort by safe house staff is vital.<sup>82</sup>

The religious ethos of the faith-based safe houses can also pose challenges for women who are not Christians or are not religious. Human Rights Watch interviewed Sera, whose religion-related dietary restrictions placed her in the untenable position of relying on her abusive husband to bring her meals at the safe house. The safe house did not have meals appropriate to her religious needs. In spite of this, and some discomfort she expressed about the regular prayer sessions in the safe house, Sera was full of gratitude for the safe house and its staff. “I like this place and I like the workers,” she said. “I enjoy staying here—they are very kind and caring.”<sup>83</sup>

There is an urgent need for the government to establish or fund safe houses across the country, and to ensure through oversight that the services provided through safe houses are comprehensive and appropriate. Papua New Guinea has the financial capacity to invest in this. As one international observer put it, “If you can organize the Pacific Games, you can organize safe houses—but they don’t.”<sup>84</sup> Another international worker said the government should fund, regulate, and monitor safe houses because the houses perform a

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<sup>80</sup> Human Rights Watch interview with Grace, Central Province, June 24, 2015.

<sup>81</sup> Human Rights Watch interview with Ruth, Central Province, June 24, 2015.

<sup>82</sup> Human Rights Watch interview with international expert, name withheld, Central Province, June 23, 2015.

<sup>83</sup> Human Rights Watch interview with Sera, Central Province, June 25, 2015.

<sup>84</sup> Human Rights Watch interview with an official from an international organization, name withheld, Central Province, June 23, 2015.

basic government function of protecting victims of crimes from harm. “Safe houses should have visits from ministries,” the expert said.<sup>85</sup>

In spite of the need for expanded and enhanced safe house services, a number of experts and activists remarked on the dedication of people running safe houses, who do extremely difficult work with few resources amid an avalanche of need.

## Lack of Psychosocial Counseling and Case Management

Survivors facing difficult decisions about their safety and relationships have little help from government agencies. There is a severe shortage of professionals who could offer psychosocial counseling for survivors who do not wish to reconcile with their abusers.

Experts and activists working to help domestic violence survivors told Human Rights Watch that there are almost no case-management services for domestic violence survivors, and the few that exist are provided by NGOs through support from international donors.<sup>86</sup> The lack of case management by government agencies mostly leaves survivors to their own devices to navigate such logistical challenges as seeking family protection orders, arranging for hospitals to release medical reports to the police, and convincing the police to follow up on complaints.

There is virtually no individual psychosocial counseling for survivors of family violence in Papua New Guinea. In a 2014 submission to the UN on a strategy for combating gender-based violence, the government wrote that “there are only three qualified counselors in PNG and no mechanism for supervising the counseling service. Civil society organizations are trying to introduce counseling training...”<sup>87</sup>

While Family and Sexual Violence Units within police stations and safe houses both provide what they call “counseling,” this is primarily short-term couples counseling or

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<sup>85</sup> Human Rights Watch interview with international expert, name withheld, Central Province, June 23, 2015.

<sup>86</sup> For example, Australia in 2014 provided a three-year grant of AUS\$3 million for the establishment of a center in Papua New Guinea’s second-largest city, Lae, to establish a case management center for “victims of extreme violence.” Helen Davidson, “Australia pledges \$3m for Papua New Guinea centre for victims of violence,” *Guardian*, February 7, 2014, <http://www.theguardian.com/world/2014/feb/07/australia-pledges-3m-for-papua-new-guinea-centre-for-victims-of-violence> (accessed August 10, 2015).

<sup>87</sup> “Papua New Guinea National Review on the Implementation of the Beijing Declaration and the Platform for Action and the Outcomes of the 23rd Special Session of the General Assembly,” p. 3.

mediation, with the goal of reconciling couples. It is not psychotherapeutic or psychosocial counseling that might support survivors in addressing their own trauma and recovery. “There is no counseling in Papua New Guinea,” an activist told Human Rights Watch. “There is no awareness about the cycle of violence.”<sup>88</sup> In addition to dramatically expanding access to safe houses, the government should also work quickly to expand access to psychotherapeutic and psychosocial counseling by qualified counselors for women both in and outside of safe houses with a focus solely on meeting women’s needs, not automatically promoting reconciliation.

## Weak Law Enforcement Response

Victims of violence face multiple barriers to even getting the attention of law enforcement. Lawyers and activists who help survivors file complaints or IPO applications said that once police are involved in a case, they almost always try to resolve it solely through couples counseling or mediation, aiming to get the abuser to promise future good behavior. Often, they fail to even tell survivors about the option of seeking a family protection order. When attackers are arrested, they are often freed immediately on bail.

The reluctance of police to pursue arrest and prosecution in even the most serious cases of family violence is out of line with international standards developed by the UN Office on Drugs and Crime (UNODC) and UN Women, both of which recommend a “pro-arrest” approach to family violence cases.<sup>89</sup> UNODC guidelines from 2014 on “Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women,” makes the following recommendation to states:

Consider establishing pro-arrest policies, which highly encourage officers to make an arrest in cases of domestic violence while at the same time leaving some discretion with them. These policies should require a written report on the reasons when the policy is not followed. Pro-arrest policies should be part of a coordinated multi-agency approach in order to ensure that the victim will not be disempowered by the policy.<sup>90</sup>

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<sup>88</sup> Human Rights Watch interview with an activist, name withheld, Central Province, June 22, 2015.

<sup>89</sup> United Nations Office on Drugs and Crime, “Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women,” 2014, p. 65; UN Women, “Handbook for legislation on violence against women,” 2012, p. 36.

<sup>90</sup> United Nations Office on Drugs and Crime, “Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women,” 2014, p. 65.

While the Family and Sexual Violence Units within police stations have improved the police response to family violence, even these units have significant shortcomings.

### *General Police Response*

Where Family and Sexual Violence Units do not exist, victims of family violence deal with police officers from the Criminal Investigations Division, who are less likely to have awareness and training to handle family violence cases.<sup>91</sup> Experts and survivors said the result is sometimes that police officers fail to register family violence complaints, make appropriate referrals, investigate cases, and classify them with the appropriate level of gravity. “A lot of cases fail because of [criminal investigations officers filing] low or no charges,” an activist told Human Rights Watch.<sup>92</sup>

Negative experiences with, and perceptions of, the police may deter victims of family violence from seeking help. “People’s first reaction is not to call the police,” an official with an international organization said. “Rule of law and public confidence in the police is very low.”<sup>93</sup>

Jenella, a 39-year-old mother of 7, tried 17 times to get the police to help her in instances of family violence, and the police failed her every time. Jenella said she married at age 14 and her husband immediately started to abuse her. The violence worsened after her husband took a second wife. Her husband broke both her arms at different times, and the second wife attacked Jenella’s head with a knife. “All 17 times I went to the police, my husband said ‘I have no friends to look after the kids and I want to say sorry to my wife.’ And the police normally release him.” Jenella said no police officers ever mentioned the possibility of seeking an interim order of protection, even though three of her visits were to a Family and Sexual Violence Unit. “I thought they would arrest him. They just told my husband not to do it again.”<sup>94</sup>

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<sup>91</sup> Victims of sexual offenses may have their cases assigned to the specialized police Sexual Offenses Squad (SOS), which handles sex crimes, regardless of whether or not the perpetrator and victim are related.

<sup>92</sup> Human Rights Watch interview with an activist, name withheld, Central Province, June 22, 2015.

<sup>93</sup> Human Rights Watch interview with an official with an international organization, name withheld, Central Province, June 22, 2015.

<sup>94</sup> Human Rights Watch interview with Jenella, Highlands, June 27, 2015.

Florence, a 47-year old mother of one, went to the police twice, once when her husband tried to break her neck, and again when he threw a bottle and stone at her, causing head wounds and leaving her with scars. On the second occasion, the police arrested her husband, but both times the police sent her to a village court to seek mediation and compensation rather than pursuing a criminal investigation and charges in district court.<sup>95</sup> “The police say it’s a domestic problem—go to village court,” said Florence.

One group of victims of family violence face even greater difficulties getting assistance from the police: partners of police officers. Human Rights Watch interviewed several survivors of family violence whose partners were police officers, and they reported a near total unwillingness by police to assist them. Ruth, age 29, sought police help after her police officer husband threw a rock that split open her head. “Some of the lower police, they didn’t understand. One said, ‘He’s police. He’s one of us. We can’t arrest him. Go see the commander himself.’” She did go to the commander, who told her to go to the hospital, she said. The commander said he would only arrest her husband if she had a medical report. When Human Rights Watch interviewed Ruth, she was trying to get a copy of the medical report to take to the police.<sup>96</sup>

Alice, a mother of four, said her police officer husband became abusive several months after they married in 2011, when she began working outside the home. She lost her office job after he repeatedly disrupted her workplace by showing up unexpectedly and assaulting her there. In an incident in 2013, he dragged her behind a car, hit her with a car jack, and hit her on the head with the butt of his service pistol. She went to the police three times in 2012 and again after the attack in 2013. She said that the first three times, police officers did not take her complaint and instead called her husband. They took a complaint the fourth time, but never arrested him. “After that I thought, I can’t get help. I was just helpless,” said Alice, showing Human Rights Watch visible scars on her arms and face. “I even went to his supervisor and asked them to take his weapon,” she said. Alice said that her husband’s supervisor promised to speak with him, but she does not believe he ever did. “At times I just feel, gosh, that’s the end of the world for me,” she said.<sup>97</sup>

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<sup>95</sup> Human Rights Watch interview with Florence, Highlands, June 27, 2015.

<sup>96</sup> Human Rights Watch interview with Ruth, Central Province, June 24, 2015.

<sup>97</sup> Human Rights Watch interview with Alice, Central Province, June 24, 2015.

Activists and service providers were at pains to emphasize that some police officers respond effectively to family violence cases. “It depends from one province to another, whether police help,” an activist said. “Sometimes police are wonderful.”<sup>98</sup> Service providers’ frustration with the majority of police officers can mean that the few officers who develop a good reputation for assisting victims can be swamped with work. The director of a safe house told Human Rights Watch, “We only work with one or two trusted police. They are very busy, so it can be slow to file for the interim protective order.”<sup>99</sup>

### *Family and Sexual Violence Units in Police Stations*

Family and Sexual Violence Units are playing an important role in making the police more accessible and responsive to victims of family violence. But much more needs to be done to ensure that the units are available and prepared to help victims access a full range of protections and services.

Experts pointed out that the units are a work in progress. “There are only seven functioning,” an expert on gender with an international organization told Human Rights Watch. “Others exist, but they are not functioning.”<sup>100</sup>

Some of the units have insufficient staffing or other problems with capacity and responsiveness. An activist in the Highlands told Human Rights Watch that the local Family and Sexual Violence Unit had only three staff members. “They need to be bigger to arrest the perpetrators,” the activist said.<sup>101</sup> An international official said, “Sometimes there is no one at the desk. And sometimes people are turned away.”<sup>102</sup> When Human Rights Watch visited one unit, 13 people were waiting in line to be seen.

Lani, age 34, went to her local Family and Sexual Violence Unit after an attack in which her husband ripped her shirt and pants off in public, and chased her in his car, apparently trying to run her over. She ran, almost naked, until she saw a woman she knew who helped

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<sup>98</sup> Human Rights Watch interview with an activist, name withheld, Central Province, June 22, 2015.

<sup>99</sup> Human Rights Watch interview with safe house director, name withheld, Central Province, June 22, 2015.

<sup>100</sup> Human Rights Watch interview with an expert on gender with an international organization, name withheld, Central Province, June 23, 2015.

<sup>101</sup> Human Rights Watch interview with activist, name withheld, Highlands, June 25, 2015.

<sup>102</sup> Human Rights Watch interview with an official with an international organization, name withheld, Central Province, June 22, 2015.

her hail a police car. The police took her and her husband to the Family and Sexual Violence Unit, but there was no one there to receive them. “There were no staff at the FSVU from 8 till 11 a.m.,” Lani said. “At 12, I asked the regular police to help.” Officers arrested her husband. They dropped Lani off at a safe house, and promised to return to take her statement, but failed to return. A staff member from the safe house called the police station and learned that Lani’s husband had been released on bail.<sup>103</sup>

Some police officers staffing Family and Sexual Violence Units have stalled their investigations until survivors provide paperwork to document their injuries. Elsie, a 32-year-old mother of 3, for example, said that several months earlier, after her husband punched her and knocked out four teeth, officers of the special unit said they would not pursue her case until she brought them a medical report. While hospitals with Family Support Centres are supposed to provide services to victims of family violence for free, other medical facilities seem to have widely varying practices regarding provision of medical records. “I didn’t get the report from the hospital because I didn’t have any money,” Elsie said. “The report cost 300 kina [\$109].” Elsie says she told the officers of the Family and Sexual Violence Unit that she couldn’t afford the hospital report, yet they refused to do anything without it. Elsie is still living with her husband, and does not have an interim order of protection. “He beats me every time he gets drunk—so many times,” she said.<sup>104</sup>

Activists and survivors told Human Rights Watch that staff of the Family and Sexual Violence Units often fail to investigate allegations of family violence, citing a lack of fuel, vehicles, and other resources. Katherine told Human Rights Watch that her husband had injured her severely. “He came to me and asked for sex. I said no, because I was very tired. He accused me of having sex with others. About 2 or 3 a.m. he got a hot stick from the fire and he put it in my vagina.” An activist who Katherine knows who lives in the same village took her to the Family and Sexual Violence Unit of a police station, but Katherine said the police officers there did little. “They said they don’t have the car to arrest him,” she said. “I went there two times. I spent two days waiting for the police. I am not happy with the police.” Katherine has not applied for an interim order of protection because she was told

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<sup>103</sup> Human Rights Watch interview with Lani, Central Province, June 24, 2015.

<sup>104</sup> Human Rights Watch interview with Elsie, Highlands, June 27, 2015.

by police that she would have to pay a court fee of 50 kina (\$18). The NGO promised to pay this fee for her, but said it would have to wait until after new funds arrived.<sup>105</sup>

An officer at a Family and Sexual Violence Unit in the Highlands told Human Rights Watch that three or four times a year, the unit's staff travel to an area so remote it is off the road network—but only for sorcery cases, not more typical family violence cases. Representatives of this unit said they had handled 4 sorcery cases and more than 600 other cases—mostly domestic violence cases—over the past year. They said they would make trips to remote areas only if an NGO provides them money for fuel and lunch.<sup>106</sup> While travel to remote areas of the country can be challenging, it is feasible. The government should make it clear to police officers that they must travel wherever necessary to investigate crimes and arrest perpetrators. The government also should ensure that police have sufficient resources to do so, and prohibit police from demanding that crime victims and NGOs pay them money for fuel and meals.

When Human Rights Watch interviewed the staff of a Family and Sexual Violence Unit, the police officers said their approach to resolving cases was offering couples counseling with the aim of reconciling the couple. This approach typically encourages women to return to abusive partners, after the abuser assures her that he will stop being violent. This provides no accountability for crimes abusers committed, jeopardizes women's safety, and may conflict with survivors' wishes.

Kere said her husband beat her repeatedly, and she went to a Family and Sexual Violence Unit after one assault led to a serious head injury. "They arrested him and sent us both to counseling with the sergeant of the [unit]," said Kere. "We met twice [for counseling]. Nothing happened. My husband continued bashing me. In the presence of the police he agreed to stop, but in the home there was no change. He was hitting me between counseling sessions. I told the police he was still hitting me. They warned him that they would take him to court if he didn't stop."<sup>107</sup> Kere she said she specifically asked the

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<sup>105</sup> Human Rights Watch interview with Katherine, Highlands, June 26, 2015.

<sup>106</sup> Human Rights Watch interview with FSVU Family and Sexual Violence Unit police officer, name withheld, Highlands, June 26, 2015.

<sup>107</sup> Human Rights Watch interview with Kere, Highlands, June 26, 2015.

officers of the special unit to help her get an interim order of protection. “They said they were too busy,” she told Human Rights Watch.<sup>108</sup>

The staff members of Family and Sexual Violence Units interviewed for this report assured Human Rights Watch that they follow up with victims of family violence who return to live with their abusers following counseling. “We call them up,” said one officer. “We give them one or two weeks and then again after one month and then call to check [how they are].”<sup>109</sup> That may happen at times, but many survivors Human Rights Watch interviewed complained of a lack of follow up by police.

Officers at Family and Sexual Violence Units should inform survivors that they have the right to request a family protection order, and help them to apply. But survivors and activists said staff of the units often neglect this responsibility. Violet, a mother of four, said she had to fight to convince officers of the special unit to help her get an interim order of protection even after returning repeatedly to complain that her husband had raped her. “He has continued to force me to have sex with him,” Violet said. To Violet’s frustration, the police at the unit suggested mediation instead of helping her initiate an application for an interim order of protection. “I didn’t want mediation. I told them, ‘It’s been years and I did not speak out.... He won’t stop.’ [The officer] gave me time. I came back in the morning and I said it happened just the night before. Three times I went back there to persuade her in one day.” Finally a local activist intervened, and the police officers helped Violet to get an interim protection order. Still, police officers made no move to arrest her husband.<sup>110</sup>

Tabitha, a mother of five, endured an attack the Family and Sexual Violence Unit told her they considered to be an attempted murder, she told Human Rights Watch. Then Tabitha and her husband underwent mediation by police officers. Thirty-six hours later, she returned home to her husband, the 10 stitches she’d received to her head after the attack just beginning to heal. No one at the special unit suggested Tabitha seek an interim order of protection, she said. The best they offered was a suggestion that she return again if the violence recurred. “If he bashes you, come straight to us,” Tabitha said the officers told her. For the moment, “He is behaving,” she said.<sup>111</sup>

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<sup>108</sup> Ibid.

<sup>109</sup> Human Rights Watch interview with Family and Sexual Violence Unit staff member, name withheld, June 26, 2015.

<sup>110</sup> Human Rights Watch interview with Violet, Highlands, June 25, 2015.

<sup>111</sup> Human Rights Watch interview with Tabitha, Highlands, June 26, 2015.

The staff of a Family and Sexual Violence Unit in the Highlands told Human Rights Watch in June that their unit had successfully obtained 15 interim orders of protection out of the more than 600 cases of family violence they handled the previous calendar year, and only 2 orders of protection so far in 2015. The officers in the unit seemed to see protection orders as an exceptional tool to be used only in rare cases. “If a case is very serious, we assess after counseling whether he will continue [to engage in violence] and then get an IPO [interim protection order] when we think the perpetrator won’t change,” the officer said.<sup>112</sup> The officer told Human Rights Watch that they would like to refer more cases for protection orders, but are discouraged from doing so by delays victims encounter in the court.<sup>113</sup>

Every victim of family violence should be informed about protection orders, encouraged to seek one, and given assistance in doing so.

## Court System Problems

[I]t will be up to the magistrates—in both village and district courts—to implement [the FPA]. Their attitude needs to change—many just can’t comprehend that women need to be protected from their husbands.

—Lawyer who represents victims of violence, Central Province, June 2015<sup>114</sup>

District courts, which deal with criminal and civil matters, and village courts, which adjudicate local disputes, both have specific competencies under the Family Protection Act. Once the FPA is implemented, both will be able to issue interim protection orders. District courts can also issue long-term protection orders, and, working with prosecutors, handle criminal cases involving domestic violence offenses.

The following sections illustrate the experience of survivors and activists who have sought protection and remedies for family violence through village and district courts. These accounts reveal a reluctance to pursue criminal prosecution in some cases of domestic violence, and a need for clearer policies on such prosecutions. In developing such

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<sup>112</sup> Human Rights Watch interview with Family and Sexual Violence Unit officer, name withheld, Highlands, June 26, 2015.

<sup>113</sup> Ibid.

<sup>114</sup> Human Rights Watch interview with lawyer, name withheld, Central Province, June 24, 2015.

policies, the government should refer to the UNODC recommendation on “pro-prosecution” policies, which it describes as follows:

In cases of violence against women, consider establishing pro-prosecution policies, which means where there is probable cause to believe that a crime has occurred, that prosecution is likely but not mandatory. The policy should include an oversight component, such as requiring a written report on the reasons when the policy is not followed and review by a superior. Pro-prosecution policies should be implemented with training, and be part of a coordinated and multiagency approach.<sup>115</sup>

### *Village Courts*

Papua New Guinea has a system of about 1,600 village courts, which exist under the authority of the Village Courts Act of 1989 and constitute the main source of justice in much of the country.<sup>116</sup> Their magistrates and staff receive government-paid salaries and the government issues standards for their procedures. Village courts have the authority to make decisions in local matters, including family disputes over bride price or custody of the children of unmarried parents and parents married by custom, and they also hear cases involving nonviolent, low-level criminal offenses.<sup>117</sup> Village Court decisions can be appealed to magistrates in the district court system.<sup>118</sup> After a decision by a village court, the same matter cannot be tried in district court or any other jurisdiction, unless it is an indictable offense.<sup>119</sup> People in rural areas are much more likely to have had contact with village courts than with district courts, or with other government agencies, and village courts are often the only recourse for survivors of domestic violence. “Village court is usually the only court people can access,” a village court magistrate said. “They really don’t know about district court.”<sup>120</sup> An activist told Human Rights Watch, “The village court is their only link with the government.”<sup>121</sup> Yet the village court may be ill-equipped to help

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<sup>115</sup> United Nations Office on Drugs and Crime, “Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women,” 2014, p. 76.

<sup>116</sup> Human Rights Watch interview with international justice expert, name withheld, Central Province, June 23, 2015.

<sup>117</sup> Village Court Act, arts. 41-48.

<sup>118</sup> Village Courts Act of 1989, art. 86.

<sup>119</sup> *Ibid.*, art. 96(7).

<sup>120</sup> Human Rights Watch interview with village court magistrate, name withheld, Highlands, June 26, 2015.

<sup>121</sup> Human Rights Watch interview with an official with an international organization, name withheld, Central Province, June 22, 2015.

victims of family violence, whose cases involve serious crimes more appropriately adjudicated in criminal court.

Once the FPA is implemented, village courts will gain the authority to issue interim protective orders. Village courts already have the power to issue “preventive orders”—orders requiring an individual or individuals to cease disruptive behavior—in cases where “a dispute may cause a breach of the peace.”<sup>122</sup> These orders are permitted—and are sometimes used—in family violence cases.<sup>123</sup>

Village courts do not, however, have jurisdiction to handle domestic violence as a criminal matter. The Village Courts Act sets out a limited number of criminal offenses that these courts can handle, and domestic violence is not among them. “Village courts are not supposed to have jurisdiction over violent crimes,” an international justice expert told Human Rights Watch.<sup>124</sup>

Nonetheless, survivors and experts told Human Rights Watch that in some cases, village magistrates have intervened after incidents of family violence, sometimes demanding that abusers pay compensation.<sup>125</sup> Village courts are so integrated into the community that its officials may know of a crime even without a formal report. “I didn’t go to the village court—the magistrate came to me,” said Isa. The magistrate came after Isa’s husband knocked out her bottom three front teeth and broke her hand. There was no formal hearing, but after the magistrate intervened, Isa’s husband paid her 200 kina (\$72) in compensation, killed five chickens, and said he was sorry. The intervention proved effective. “The magistrate said ‘The next time you hit her we will take you to the law.’ After that he stopped hitting me.”<sup>126</sup>

The Village Courts Act explicitly mandates mediation, pledging to “encourage communities to use peaceful customary mediation and conflict resolution processes, wherever possible, before resorting to Village Court proceedings; and...to ensure the use of mediation by

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<sup>122</sup> Village Courts Act, art. 51.

<sup>123</sup> Village Courts (Amendment) Act, 2014, art 25; email correspondence with legal expert, name withheld, on file with author, August 31, 2015.

<sup>124</sup> Human Rights Watch interview with international justice expert, name withheld, Central Province, June 23, 2015.

<sup>125</sup> Human Rights Watch interview with international justice expert, name withheld, Central Province, June 23, 2015.

<sup>126</sup> Human Rights Watch interview with Isa, Highlands, June 27, 2015.

Village Courts in the settlement of all disputes, wherever possible.”<sup>127</sup> A village court magistrate told Human Rights Watch, “Our goal is no winner and no loser. Both parties have to agree to village court jurisdiction. A common resolution would be that the perpetrator has to apologize to the whole family of the victim and also pay compensation to her family, for example kill a pig.”<sup>128</sup> While this approach is appropriate for some kinds of disputes, it is insufficient and inappropriate for the kind of accountability needed in cases of family violence.<sup>129</sup> Moreover, compensation may not even go to the victim, an activist explained. “The woman’s family might demand compensation and then send her back even if she doesn’t want to go.”<sup>130</sup>

Police officers sometimes use a referral to village court to derail a complainant who is seeking a criminal investigation and prosecution. Florence asked the police for help twice after serious assaults by her husband. Both times, the police sent her to village court. On the first occasion, Florence said, “He was drunk. He held my neck—trying to break my neck.” The village court ordered Florence’s husband to compensate her with 2 pigs and 500 kina (\$182). Then her husband threw a bottle and a rock at her, leaving her with scars on her cheek and lip. This time the police arrested him, but referred the case to village court again. The village court ordered her husband to pay another 500 kina and said that they would set him free once he did so; otherwise he would serve jail time. His brother paid the fine, and he was released. “I was not happy,” Florence said. “When they throw stones in our face, they mean to kill us.”<sup>131</sup>

Village courts are supposed to be readily accessible to community members. However, Human Rights Watch heard conflicting reports about whether women seeking help from village courts are obliged to pay fees, even if unofficial. “In village courts the cost is quite high,” an activist explained. “You have to pay to register, for a summons, for the decision...

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<sup>127</sup> Village Courts (Amendment) Act of 2014, art. 3.

<sup>128</sup> Human Rights Watch interview with village court magistrate, Highlands, June 26, 2015.

<sup>129</sup> Appointing female magistrates is one strategy some experts pointed to for improving how village courts treat female survivors of family violence. A 2014 amendment to the Village Courts Act added the requirement that among nominees for the position of magistrate in a newly-formed village court, “one of whom, so far as practicable, must be a woman.” This is in the context of the government having approved a total of eleven 11 salaried positions for each village court. Human Rights Watch interview with legal expert, name withheld, Central Province, June 24, 2015.

<sup>130</sup> Human Rights Watch interview with activist, name withheld, Central Province, June 22, 2015.

<sup>131</sup> Human Rights Watch interview with Florence, Highlands, June 27, 2015.

It might be 10, 20, 50 kina, or a thousand (\$4, \$7, \$18 or \$364)—each court decides the amount from the clouds.”<sup>132</sup>

Experts and activists said that greater monitoring of the village courts is needed, beyond the appeals and reviews set out in the Village Courts Act. “There should be annual inspections of village courts by the provincial government,” an international expert working on justice reform told Human Rights Watch. “But this doesn’t happen.”<sup>133</sup>

Others recommended more systematic training of village magistrates on how to handle family violence, especially as the FPA allows them to issue interim protection orders. The government is working with aid organizations to develop training to accompany the implementation of the FPA, including amending the existing training curriculum for village courts. A new effort to train village court staff on topics including family violence began in 2014 and has so far reached six provinces plus Bougainville, with some indications that it has improved handling of family violence cases.<sup>134</sup> But additional training will be required once the government adopts regulations to implement the FPA, and so far international actors, and not the government, have been training the staff of village courts, creating an uneven landscape where not all village courts receive training.<sup>135</sup> “There are lots of provinces with no support,” an international justice reform advisor told Human Rights Watch.<sup>136</sup>

### *District Courts and Protection Orders*

Police would arrest him and he would bail himself out and come to court and then he got a fine. The fine was 300 kina (\$109) each time. This happened three times. I thought this kind of man should go to jail. When he goes to jail, I’ll be happy.

—Shannon, domestic violence survivor, June 2015<sup>137</sup>

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<sup>132</sup> Human Rights Watch interview with an activist, name withheld, Central Province, June 22, 2015.

<sup>133</sup> Human Rights Watch interview with international justice expert, name withheld, Central Province, June 23, 2015.

<sup>134</sup> Human Rights Watch email correspondence with legal expert, name withheld, on file with author, August 31, 2015.

<sup>135</sup> Human Rights Watch interview with international justice expert, name withheld, Central Province, June 23, 2015.

<sup>136</sup> Human Rights Watch interview with international justice expert, name withheld, Central Province, June 23, 2015.

<sup>137</sup> Human Rights Watch interview with Shannon, Highlands, June 26, 2015.

District courts, spread among Papua New Guinea's 89 districts, are responsible for hearing matters of family violence.<sup>138</sup> They handle criminal prosecutions, requests for family protection orders, divorce proceedings, and related matters.

District courts currently and under the FPA have the power to issue both interim and longer-term protection orders.<sup>139</sup> Village courts only have authority to issue interim protection orders, and only once the FPA is implemented. Under the FPA, interim and regular protection orders are referred to together as "family protection orders."

Human Rights Watch interviewed survivors who had received both interim and regular-protection orders from district courts. Some had positive experiences with the process and the outcomes. Violet, for example, got an interim protection order from a district court because her husband repeatedly raped and beat her. The police explained it to him, Violet said, but still her husband questioned the purpose of the order. "I told him, 'You are not going to jail now, but this is discipline so that we live together as a family in a good home,'" Violet told Human Rights Watch. "I explained, 'If you breach it, you will go to jail.' So he has tried to learn and improve his ways. Slowly he is changing." She said her husband has slammed doors and cursed, but has not hit her for months, since the court issued the protection order.<sup>140</sup>

"The order made me feel that I am free," said Shannon, a survivor of abuse who obtained a two-year protection order from a district court after she and her husband had divorced, because she feared that "he would come back and fight with me and try to kill me." The order specified that Shannon's ex-husband could not come within 10 meters of her, and if he wanted to see their children he had to make arrangements beforehand. After the order was issued, Shannon said, "My husband was afraid and never came to the house."<sup>141</sup>

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<sup>138</sup> Commonwealth Governance, "Local Government of Papua New Guinea," [http://www.commonwealthgovernance.org/countries/pacific/papua\\_new\\_guinea/local-government/](http://www.commonwealthgovernance.org/countries/pacific/papua_new_guinea/local-government/) (accessed August 13, 2015). Papua New Guinea has only one specialized family court, which is in Port Moresby. Human Rights Watch interview with international expert, name withheld, Central Province, June 23, 2015.

<sup>139</sup> District Courts of Papua New Guinea, Practice Directions: Family and Sexual Violence Protection Order Rules, January 2009, [http://www.magisterialservices.gov.pg/PracticeDirections/Protection\\_Order\\_Rules.pdf](http://www.magisterialservices.gov.pg/PracticeDirections/Protection_Order_Rules.pdf) (accessed August 13, 2015).

<sup>140</sup> Human Rights Watch interview with Violet, Highlands, June 25, 2015.

<sup>141</sup> Human Rights Watch interview with Shannon, Highlands, June 26, 2015.

Yet not all survivors of family violence had good experiences with how district courts handle requests for protection orders. Some women told Human Rights Watch that they wanted interim protection orders but could not afford the court fees involved. Under the FPA, “no fee or charges are payable to a court in relation to the making of an application for a family protection order.”<sup>142</sup> District court practice directions also state that no application fee is required for a protection order.<sup>143</sup> But at present, at least some survivors are encountering demands for fees from district courts. Katherine sought an interim protection order after her husband raped her, but police told her that the district court would charge a fee. An NGO offered to pay it, but needed her to wait until funds became available. Katherine went to stay with her parents, afraid her husband would kill her.<sup>144</sup>

Experts also described poor coordination and delays in district courts, making it difficult to obtain a protection order. One expert described a situation where officers of a Family and Sexual Violence Unit sent a woman to a district court, only for the court to refer her back to the same special police unit.<sup>145</sup> Such missteps can cost valuable time when women are at extreme risk of further violence. “Getting an IPO [interim protection order] is supposed to take two days, but it takes four to six weeks,” a safe house director told Human Rights Watch. “We let women stay until they get it.”

District courts should also handle criminal prosecutions of family violence cases. However, experts and activists said that very few family violence cases result in prosecution, and even fewer result in conviction and imprisonment. A police officer with a Family and Sexual Violence Unit in the Highlands told Human Rights Watch that of the more than 600 family violence cases her unit handled in 2014, there were only 30 prosecutions. “They are people who never came for counseling,” the officer explained, as the unit typically does not refer cases for prosecution when the abusers appear for couples counseling. Out of those 30 cases, the officer said that only 15 people were actually convicted and served prison time, with sentences ranging from 3 months to 3 years. “Mostly we counsel them and send them home,” the officer said.<sup>146</sup>

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<sup>142</sup> Family Protection Act, art. 25.

<sup>143</sup> District Courts of Papua New Guinea, Practice Directions: Family and Sexual Violence Protection Order Rules, January 2009, [http://www.magisterialservices.gov.pg/PracticeDirections/Protection\\_Order\\_Rules.pdf](http://www.magisterialservices.gov.pg/PracticeDirections/Protection_Order_Rules.pdf) (accessed August 13, 2015).

<sup>144</sup> Human Rights Watch interview with Katherine, Highlands, June 26, 2015.

<sup>145</sup> Human Rights Watch interview with legal expert, name withheld, Central Province, June 24, 2015.

<sup>146</sup> Human Rights Watch interview with FSVU officer, name withheld, Highlands, June 26, 2015.

Police working at this Family and Sexual Violence Unit said they were frustrated with what they saw as a failure by the courts and prosecutors to take family violence seriously, as abusers received no or light sentences. “We’ve complained and asked the magistrates to be tougher,” an officer said. “The prosecutors don’t deal with cases very effectively. Penalties are not strong enough.”<sup>147</sup>

Despite these critiques, most of the activists Human Rights Watch interviewed felt that there has been some improvement in the willingness of prosecutors and courts to be tough on family violence. “People are being prosecuted and convicted,” an activist in the Highlands said.<sup>148</sup> Media reports suggest that improved police work has increased the number of cases that move forward to trial.<sup>149</sup> Human Rights Watch requested government data on prosecutions and convictions in family violence cases, but at this writing, the government had not responded.

## Lack of Legal Assistance

There is very little access to free legal aid in Papua New Guinea. One source of assistance is the Public Solicitor’s Office, which operates in 19 provinces but has sometimes only 1 or 2 lawyers per office.<sup>150</sup> This office prioritizes assisting indigent criminal defendants, and thus has limited ability to take other types of cases.<sup>151</sup> Another is a small, donor-funded NGO in Port Moresby, the Papua New Guinea Development Law Association, which employs four lawyers. A representative of an international organization told Human Rights Watch, “Most people [facing family violence] would need legal aid. There is some legal aid provided by law students or through pro bono by law firms, but it needs to be a service provided by the state.”<sup>152</sup>

The director of one safe house said that her program used to have a lawyer to work with the clients, and this made it possible to get interim orders of protection within four days.

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<sup>147</sup> Human Rights Watch interview with FSVU officer, name withheld, Highlands, June 26, 2015.

<sup>148</sup> Human Rights Watch interview with activist, name withheld, Highlands, June 25, 2015.

<sup>149</sup> Liam Cochrane, “Papua New Guinea’s rates of violence at ‘pandemic’ levels, Australian Federal Police officer says,” *ABC*, February 19, 2015, <http://www.abc.net.au/news/2015-02-19/png-facing-a-domestic-violence-pandemic-afp-officer-says/6150064> (accessed July 24, 2015).

<sup>150</sup> Human Rights Watch interview with an expert on legal aid, name withheld, Central Province, June 24, 2015.

<sup>151</sup> Human Rights Watch interview with an expert on legal aid, name withheld, Central Province, June 24, 2015.

<sup>152</sup> Human Rights Watch interview with staff member of an international organization, name withheld, Central Province, June 23, 2015.

Unfortunately, the donor supporting these legal services ended the funding, and the wait time for an order of protection is now weeks.<sup>153</sup>

Without legal assistance, survivors may be in the dark about the status of protection order applications and investigations and prosecutions, and they may not know what to do if they confront delays. Alice, for example, who fled her abusive police officer husband, said she is frustrated because after seven weeks in a safe house, she is still waiting to receive an interim protection order and she has no idea when she will receive it. “Most ladies since I came here went back with their husbands because it was taking too long” to get a protection order, she said.<sup>154</sup>

“I need legal advice,” said Lani, age 34 and the mother of 4 children ranging from 1 to 12-years-old. “My husband is a very smart guy and I’m going to battle with him and legally I will be defeated.” When police rescued Lani in the middle of an attack by her husband several weeks earlier, she ended up in a safe house in Central Province, where Human Rights Watch interviewed her; her children were still with her husband. She was hoping to get an interim protection order and expecting that once she had one she would feel secure enough to leave the safe house, return to her job, and get her children back, but was feeling confused by the process. “I don’t know how to do any of these things,” she said.<sup>155</sup>

“They live with it,” a legal expert told Human Rights Watch, when asked what happens to victims of family violence who don’t manage to find legal aid. There’s another option too, the expert said: “They end up in village courts,” where lawyers are specifically prohibited.<sup>156</sup>

Survivors of domestic violence also often need legal assistance with civil matters should they decide to leave the abusive partner, including help to obtain child custody and child support payments.

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<sup>153</sup> Human Rights Watch interview with safe house director, name withheld, Central Province, June 22, 2015.

<sup>154</sup> Human Rights Watch interview with Alice, Central Province, June 24, 2015.

<sup>155</sup> Human Rights Watch interview with Lani, Central Province, June 24, 2015.

<sup>156</sup> Human Rights Watch interview with legal expert, name withheld, Central Province, June 24, 2015. Village Courts Act of 1989, art. 80.

While international human rights law does not require that governments provide free legal assistance to survivors of crime, there is increasing recognition that this is an important practice. UNODC guidelines on criminal justice response to violence against women recommend provision of free legal aid to survivors who are unable to pay.<sup>157</sup> In a 2012 resolution on elimination of violence against women, the UN General Assembly urged member states to ensure that female survivors of violence are provided necessary legal representation as part of ensuring their full access to both civil and criminal justice systems.<sup>158</sup>

## Economic Dependence on Abusers

Survivors fear that if they complain, they will lose financial support from their husband's income and not be able to pay for school, fees, food, etcetera —Activist and survivor, Central Province, June 22, 2015<sup>159</sup>

Economic dependence keeps many survivors of family violence, especially women, trapped in relationships with their abusers. However, in spite of the fact that the government of Papua New Guinea, as a low-middle income country, increasingly has financial resources, there is no safety net for family violence survivors who need financial support.

Activists and safe house representatives said their clients often hesitate to seek remedies for family violence due to financial dependence on abusers. “Women drop the cases because of financial fears,” an activist explained. “Most women are not employed. If their community doesn't support them they can't go ahead [with pursuing accountability for abuse].”<sup>160</sup> Referring to land as the major family asset in rural areas, one activist said, “The land belongs to the man—how can you leave?”<sup>161</sup> Another activist in the Highlands said,

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<sup>157</sup> United Nations Office on Drugs and Crime, *Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women* (New York: April, 2014), [http://www.unodc.org/documents/justice-and-prison-reform/Strengthening\\_Crime\\_Prevention\\_and\\_Criminal\\_Justice\\_Responses\\_to\\_Violence\\_against\\_Women.pdf](http://www.unodc.org/documents/justice-and-prison-reform/Strengthening_Crime_Prevention_and_Criminal_Justice_Responses_to_Violence_against_Women.pdf) (accessed March 12, 2014), p. 68.

<sup>158</sup> United Nations General Assembly, Resolution 67/144, Intensification of efforts to eliminate all forms of violence against women, A/RES/67/144, December 20, 2012, [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/67/144&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/67/144&Lang=E) (accessed March 15, 2015), paras. 18(h), 18t.

<sup>159</sup> Human Rights Watch interview with an activist, name withheld, Central Province, June 22, 2015.

<sup>160</sup> Human Rights Watch interview with an activist, name withheld, Central Province, June 22, 2015.

<sup>161</sup> Human Rights Watch interview with an activist, name withheld, Central Province, June 22, 2015.

“They [police] can arrest the men but often women say there’s no one to provide food for the house. The women want to give their husbands a chance, because otherwise, who will feed the kids?”<sup>162</sup>

Survivors echoed this concern in interviews with Human Rights Watch. Tabitha, who has five children, started to pursue a case after her husband beat her on the head with a baton and nearly killed her. But rather than pressing for his arrest, she agreed to undergo mediation with him at a Family and Sexual Violence Unit. He had a white-collar job, and was the breadwinner for the family. He ended up paying a fine, and the criminal charges were dropped, she said. Tabitha told Human Rights Watch that she was too financially dependent on him to pursue any other option.<sup>163</sup>

Some women said they had left their employment when they got married and had children, only to struggle with finding work after leaving their abusive husbands. “I am looking now for work,” said Sera, a mother of 2, who had recently left her abusive husband and had been out of the work force for 10 years. She hoped to earn enough money to establish a home separate from her husband where her children could at least visit, if not live. She hoped the safe house where she was staying could help her find work and a home. “They haven’t promised to help,” she said. “But I don’t have any [other] person to help.”<sup>164</sup>

Several women said their husbands abused them for years and then took other wives and abandoned them. They told Human Rights Watch that their financial situation was so dire that they wanted their abusive husbands to return to them. Jenella’s husband broke both of her arms, and spends most of his time with his other wife. Jenella is struggling to care for their 7 children, ages 2 to 23. “It is very hard for me to find food for the kids. It’s very hard for me to look after the kids and send them to school,” she said. Jenella’s husband convinced police not to arrest him by arguing that he needed to support his children, but then did not in fact support them, she said. She said she hopes he will return to the family, stop the abuse, and provide financial support.<sup>165</sup>

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<sup>162</sup> Human Rights Watch interview with activist, name withheld, Highlands, June 25, 2015.

<sup>163</sup> Human Rights Watch interview with Tabitha, Highlands, June 26, 2015.

<sup>164</sup> Human Rights Watch interview with Sera, Central Province, June 24, 2015.

<sup>165</sup> Human Rights Watch interview with Jenella, Highlands, June 27, 2015.

Rose, age 30, has 3 children between ages 5 and 11 and lives in Highlands. Her abusive husband left her for another wife five years earlier. Rose showed Human Rights Watch researchers multiple scars she said came from him stabbing her. Rose went to court seeking maintenance for her children after her husband abandoned the family, but he ripped up the summons and ran away. Rose said the magistrate tried to get the police to arrest her husband but he ran away and they did not pursue him further. She had to travel long distances to get to court—so she gave up. “The kids have only one set of clothes and they don’t always have lunch so they don’t always go to school,” she said. Without maintenance from her husband, she now hopes that he will come back and stay with her and support their children.<sup>166</sup>

Fear of financial vulnerability may encourage women, if they seek help at all, to remain in the village court system, where there is no risk of loss of income from the attacker spending time in prison. “Women have to worry about their children. The man is the breadwinner, so usually they come to village court,” a village court magistrate said.<sup>167</sup>

Survivors of family violence can seek assistance from the Department of Community Development in obtaining child maintenance payments from their children’s fathers. Courts can order such maintenance regardless of whether there is a formal marital relationship between the parents.<sup>168</sup> However, none of the women Human Rights Watch interviewed had succeeded in receiving such maintenance. Even if women receive a court order granting maintenance, they may find that their husbands ignore the order with impunity, or simply do not have money to pay. “I went to district court and they ordered my husband to give me maintenance,” said Shannon, a divorced mother of five. “But he wasn’t working, so I didn’t get anything.”<sup>169</sup>

The government is currently drafting a social protection act that would provide greater assistance to vulnerable people. The draft law focuses solely on the elderly and people with disabilities, however, and the government has rejected requests by activists to expand it to include women who have survived family violence.<sup>170</sup>

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<sup>166</sup> Human Rights Watch interview with Rose, Highlands, June 27, 2015.

<sup>167</sup> Human Rights Watch interview with village court magistrate, name withheld, Highlands, June 26, 2015.

<sup>168</sup> Papua New Guinea Magistrate’s Manual, Chapter 16, Family and Children’s Matters in Magistrates Court, <http://www.paclii.org/pg/Manuals/Magistrates/Part4Chap16.htm> (accessed July 28, 2015).

<sup>169</sup> Human Rights Watch interview with Shannon, Highlands, June 26, 2015.

<sup>170</sup> Human Rights Watch interview with an activist, name withheld, Central Province, June 22, 2015.

## Fears of Losing Custody of Children

Fear of losing custody of children can be another barrier to survivors of family violence seeking help. “In theory, custody depends on the best interests of the child,” a legal expert said. “But in reality, there is a perception that children should be with their father.”<sup>171</sup>

“I was worried about my children, so I just decided to stay,” said Mari, a mother of five in Central Province. Mari’s husband was abusive from the beginning of their marriage in 1991, and was later abusive to their children throughout the couple’s 23 years of marriage. In 2004, he took another wife, who he moved into the house he already shared with Mari. When Human Rights Watch interviewed Mari, she had decided to leave her husband, and was in a safe house, but all but one of her children remained with their father. “I don’t know where to go from here,” she said. “I am asking for help. I need a job so I can look after my children. I don’t have a place to go.”<sup>172</sup>

Some women hesitated to get family protection orders out of fear of losing custody, though such orders should have nothing to do with child custody, and in fact courts can name other at-risk family members in the orders.<sup>173</sup> “I want my kids back first,” said Regina, age 21 and mother of 2 young children in Central Province, explaining why she had not sought an interim order of protection. The children remained with their father when Regina fled his abuse and went to a safe house. “I’m very worried about my children,” she said.<sup>174</sup>

## Harmful Practices

In some communities in Papua New Guinea there are harmful, discriminatory practices that both contribute to family violence and impede survivors from seeking help. These include the practices of polygamy, bride price, and accusations of sorcery.

### *Polygamy*

Women interviewed by Human Rights Watch cited polygamy as a key factor in the family violence they had endured, often because a husband’s plan to take a second wife led to arguments with the first wife that erupted into violence. “Before that, he was never violent,

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<sup>171</sup> Human Rights Watch interview with legal expert, name withheld, Central Province, June 24, 2015.

<sup>172</sup> Human Rights Watch interview with Mari, Central Province, June 24, 2015.

<sup>173</sup> Family Protection Act, art. 16.

<sup>174</sup> Human Rights Watch interview with Regina, Central Province, June 24, 2015.

but when he wanted a second wife, he always came and beat me,” said Jacinta, age 35, who has been married for 15 years and whose husband took a second wife earlier in 2015. Jacinta had a large scar across her cheek and another on her shoulder, both of which she said came from attacks by her husband in the last three months.<sup>175</sup>

Although polygamy has traditionally been practiced in many of Papua New Guinea’s communities, a 2014 amendment to the country’s civil registration law outlawed the practice, stating, “A person who practices bigamous or polyandrous relationship is guilty of an offence.”<sup>176</sup>

This reform has been welcomed by activists working to combat violence against women, but there will be significant challenges in enforcing it, especially in remote areas where many customary marriages are not formalized and registered.<sup>177</sup> “Only a few marry formally—they are usually married informally,” an activist in the Highlands said.<sup>178</sup> The new law also made registration of marriage mandatory.<sup>179</sup>

Village courts do not consistently apply the 2014 law outlawing polygamy. A village court magistrate told Human Rights Watch in June 2015 that his court recognizes the validity of polygamous marriages. “We issue a 1,000 kina [US\$364] fine for adultery,” he said. “We are balancing both custom and the laws. At first when the man courts the other woman it is adultery; after he pays the fine, it is polygamy.”<sup>180</sup>

### *Bride Price*

In many parts of Papua New Guinea, it is traditional for a man to pay a “bride price” to the family of the woman (or sometimes girl) he wishes to marry.<sup>181</sup> Tradition often dictates that the woman then leaves her parents and moves to her in-laws’ village or town at the time of marriage, whereas the man remains with his parents’ after marriage. “Parents want bride

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<sup>175</sup> Human Rights Watch interview with Jacinta, Highlands, June 27, 2015.

<sup>176</sup> Civil Registration (Amendment) Act 2014, section 9.

<sup>177</sup> Catherine Wilson, “Outlawing Polygamy to Combat Gender Inequalities, Domestic Violence in Papua New Guinea,” *IPS News*, July 28, 2014, <http://www.ipsnews.net/2014/07/outlawing-polygamy-to-combat-gender-inequalities-domestic-violence-in-papua-new-guinea/> (accessed July 28, 2015).

<sup>178</sup> Human Rights Watch interview with activist, name withheld, Highlands, June 26, 2015.

<sup>179</sup> Civil Registration (Amendment) Act 2014, sections 37B(5) and 37C(3).

<sup>180</sup> Human Rights Watch interview with village court magistrate, name withheld, Highlands, June 26, 2015.

<sup>181</sup> Child marriage remains legal in Papua New Guinea, and 21 percent of girls marry before age 18, as discussed in Chapter I.

price,” an activist said. “They say, ‘We looked after you for so many years, we need to be paid.’ Sons stay, daughters go.”<sup>182</sup>

Bride price has a number of potentially harmful consequences for women. “The practice of bride-price was identified by many stakeholders as an important trigger of domestic violence, as men commonly feel entitled to control and even abuse their wives as a result of having paid the bride price, thus regarding women as their property,” the UN special rapporteur on violence against women wrote.<sup>183</sup> “A man pays and then he thinks he owns the woman,” said an activist.<sup>184</sup>

Tensions over bride price are sometimes the trigger for violence, or make a survivor’s natal family less likely to offer support. Because husbands may feel they have “paid for” their wives through bride price, when women leave their husbands, the husband may feel entitled to a refund of that payment. This can be a barrier to women getting help from their natal families: the families may not want or be able to repay the bride price, and pressure them to stay with their abusive husband. “[F]amilies who received such payment are reluctant to provide support or receive abused women back in the family home, as this will entail paying compensation or returning the bride-price received for the marriage,” wrote the UN special rapporteur on violence against women.<sup>185</sup>

Shannon had to partially repay her bride price in order to obtain a divorce. “I had a 1,500 kina [\$545] bride price. The village court charged me 500 kina [\$189] to pay to him because I wanted a divorce. I knew it was wrong to make me pay because I had so many kids, but the village court said I had to pay or he might see me around and kill me—so I should pay him and make him happy.”<sup>186</sup>

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<sup>182</sup> Human Rights Watch interview with activist, name withheld, Highlands, June 26, 2015.

<sup>183</sup> United Nations High Commissioner for Human Rights, “Special Rapporteur on Violence against women finalizes country mission to Papua New Guinea,” March 26, 2012, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12013&LangID=E> (accessed July 27, 2015).

<sup>184</sup> Human Rights Watch interview with an activist, name withheld, Central Province, June 22, 2015.

<sup>185</sup> United Nations High Commissioner for Human Rights, “Special Rapporteur on Violence against women finalises country mission to Papua New Guinea,” March 26, 2012, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12013&LangID=E> (accessed July 27, 2015).”

<sup>186</sup> Human Rights Watch interview with Shannon, Highlands, June 26, 2015.

Activists are working in communities to change attitudes about bride price and women’s rights. “I say ‘Just because you paid bride price doesn’t mean you own the person,’” an activist said, describing community outreach work she does. “No one can own someone.”<sup>187</sup>

Although the government does not appear to track trends with bride price and quantitative data is not available, some experts believe that the practice of paying a bride price is spreading geographically, and involving increasingly high payments.<sup>188</sup>

Some analysts told Human Rights Watch that increasingly high bride prices may cause even greater problems for families on both sides, and suggested that capping the permissible bride price at a specific monetary amount could help prevent some abuses.<sup>189</sup> Others believe that bride price should be outlawed completely. “If bride price was made illegal, some issues would stop,” an activist said. “It would be a good step. It’s possible. People would follow the law—but it would take time.”<sup>190</sup> The Papua New Guinea government should follow the UN’s recommendation that bride price should be fully prohibited, or at a minimum that any payments related to marriage not be considered enforceable or required for a marriage to be valid.<sup>191</sup>

### *Sorcery Accusations*

Many people in Papua New Guinea believe that sorcery exists, and when tragedy occurs, particularly a death in a community, family and community members may blame the death on sorcery and seek to identify the culprit. A person accused of sorcery is likely to be subjected to, or at least threatened with, physical violence, often leading the person to flee the community.

Sorcery accusations may link to family violence, for example, if a woman wishes to seek a family protection order or make a criminal complaint, her husband could retaliate by accusing her of sorcery, thereby cutting her off from family and community support. If a woman wishes to leave an abusive marriage and wants to assert rights to land or property,

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<sup>187</sup> Human Rights Watch interview with activist, name withheld, Highlands, June 26, 2015.

<sup>188</sup> E.g. Human Rights Watch interview with international justice expert, name withheld, Central Province, June 23, 2015.

<sup>189</sup> E.g. Human Rights Watch interview with lawyer, name withheld, Central Province, June 24, 2015.

<sup>190</sup> Human Rights Watch interview with activist, name withheld, Highlands, June 26, 2015.

<sup>191</sup> UN Women, “Handbook for Legislation on Violence against Women,” section 3.3.8; and CEDAW Committee and Committee on the Rights of the Child joint general recommendation No. 31 on harmful practices, para. 24.

sorcery accusations can result in her being driven away, leaving her with fewer resources to manage on her own.

“Most sorcery cases are within a family,” said an officer of a Family and Sexual Violence Unit in the Highlands, explaining that many sorcery attacks never lead to arrest, even though the attackers are almost always known to the victims. While the FPA was not designed to address sorcery accusations, the protection orders the law provides for could help women facing sorcery accusations as a form of family violence.

In 2013, the 1971 Sorcery Act, which permitted claims of sorcery as a defense to murder, was repealed.<sup>192</sup> “It was hardly ever used and was very outdated,” an official with an international organization said. An NGO worker who assists victims of sorcery accusations said that repeal of the Sorcery Act means that, “Victims are more willing to come forward—they want help.”<sup>193</sup>

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<sup>192</sup> “PNG repeals sorcery law and expands death penalty,” *BBC*, May 29, 2013. <http://www.bbc.co.uk/news/world-asia-22698668> (accessed July 28, 2015).

<sup>193</sup> Human Rights Watch interview with official from an international NGO, Highlands, June 25, 2015.

## IV. Government Role, Civil Society, and Donors Filling the Void

To its credit, the government passed the law on family violence, and has supported efforts to establish specialized units in police stations and hospitals. But beyond that, the Papua New Guinea government is falling far short of its obligation under international law to prevent, investigate, prosecute, and punish family violence, and ensure that survivors have access to services and remedies.

In the context of this faltering government response to family violence, civil society groups are filling the void. With minimal resources and often at great risk, they are providing essential, sometimes life-saving, services to survivors of family violence.

The United Nations special rapporteur on violence against women emphasized this point after her 2012 visit to Papua New Guinea, writing, “During my mission, it was clear to me that the support and other relevant services that do exist for victims of all forms of violence, are being provided largely by the civil society sector, with the assistance of development partners.... 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.”<sup>194</sup> Many activists, observers, and service providers told Human Rights Watch they were frustrated with what they saw as the government’s abdication of responsibility to assist victims of family violence. “The government is not really supporting this issue,” one expert said.<sup>195</sup>

A common complaint among activists and experts is that government agencies have not allocated adequate funds to confront family violence. The government does not fund safe houses, Family and Sexual Violence Units in police stations have been funded by the Australian government, and Family Support Centres in hospitals have also been established with extensive international assistance. The Department for Community

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<sup>194</sup> United Nations High Commissioner for Human Rights, “Special Rapporteur on Violence against women finalises country mission to Papua New Guinea,” March 26, 2012, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12013&LangID=E> (accessed July 27, 2015).

<sup>195</sup> Human Rights Watch interview with a representative of an international organization working on family violence, name withheld, Central Province, June 23, 2015.

Development of the Ministry for Religion, Youth and Community Development has primary responsibility for implementing the Family Protection Act. But it has a very small budget and little subnational presence, experts said.<sup>196</sup> Human Rights Watch requested information from the government concerning budget allocations for various ministries to address family violence, but as of the time of publication had not received a response.

International donors have long supported civil society efforts and even some government reform on family violence. “All gender-based violence funding is international—there is no support from local government or national government,” an official with an international organization told Human Rights Watch.<sup>197</sup>

Activists, who often work on a volunteer basis due to shortage of funds, had similar views. “The government doesn’t know or support the people like us working on the ground,” said an activist who assists victims of violence in the Highlands. “Our lives are at risk from the perpetrators, but there is no support.... We get our support from international people, but nothing from our government in our country.”<sup>198</sup>

“Civil society organizations are up on their toes,” the head of an agency assisting victims of violence said. “But the government is just lazing around.”<sup>199</sup>

As Papua New Guinea’s economy has grown, international donors are playing a lesser role than in preceding decades, but aid remains critical for survivors of family violence. The UN and other international partners have also played a major role in supporting Papua New Guinea’s response to family violence and measures on gender equality, including national planning processes, training programs, and the design and implementation of new structures and services.

Among Papua New Guinea’s donors, Australia plays a central role, providing an average of US\$486 million in 2012 and 2013, about 74 percent of Papua New Guinea’s approximately

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<sup>196</sup> E.g. Human Rights Watch interview with head of an international organization, name withheld, Central Province, June 23, 2015.

<sup>197</sup> Human Rights Watch interview with official from an international NGO, Highlands, June 25, 2015.

<sup>198</sup> Human Rights Watch interview with activist, name withheld, Highlands, June 25, 2015.

<sup>199</sup> Human Rights Watch interview with the head of an agency assisting victims of violence, name withheld, Central Province, June 24, 2015.

\$660 million in annual development assistance for that period.<sup>200</sup> While Australia in December 2014 announced multi-year cuts of about 33 percent to its overseas development budget, Papua New Guinea was largely shielded from these cuts, losing only 5 percent of its aid in Australia’s 2015-2016 budget.<sup>201</sup> “Our colonial history, geographic proximity, deep trade and investment ties and people-to-people connections mean that Australia has to lead in assisting Papua New Guinea tackle its development challenges,” wrote an analyst with Australia’s Lowy Institute for International Policy.<sup>202</sup> Australian foreign minister Julie Bishop has made several visits to Papua New Guinea, and has said, “The Australian Government considers women’s economic empowerment, ending violence against women and girls, and enhancing women’s leadership opportunities in the Pacific a foreign policy priority.”<sup>203</sup>

Australia (primarily through the Department of Foreign Affairs and Trade) has invested heavily in law and justice development in Papua New Guinea, including through projects specifically focused on family and sexual violence, and Australian support has been a key ingredient of many of the efforts at reform described in this report.<sup>204</sup> For example, from 2009 through 2014, Australia invested AUS\$150 million [US\$109.5 million] in justice reform through the Papua New Guinea-Australia Law and Justice Partnership (PALJP), which “worked with PNG’s law and justice agencies: the police, prosecutions, national, district and village courts, legal aid, corrections and ombudsman and the Department of Justice and Attorney General.”<sup>205</sup> The program was followed by a transition program in anticipation of a new related program to be launched in 2016.<sup>206</sup> Among other activities, the ongoing program has supported the establishment of 14 specialized police Family and Sexual

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<sup>200</sup> Organization for Economic Cooperation and Development—Development Assistance Committee, “Papua New Guinea,” [https://public.tableau.com/views/AidAtAGlance\\_Recipients/Recipients?:embed=n&:showTabs=y&:display\\_count=no?&:showVizHome=no#1](https://public.tableau.com/views/AidAtAGlance_Recipients/Recipients?:embed=n&:showTabs=y&:display_count=no?&:showVizHome=no#1) (accessed August 7, 2015).

<sup>201</sup> Lowy Institute for International Policy, “Australian Foreign Aid,” undated, <http://www.lowyinstitute.org/issues/australian-foreign-aid> (accessed August 7, 2015).

<sup>202</sup> Jenny Hayward-Jones and Phillipa Brant, “Australia’s Pacific aid budget spared from serious cuts,” Lowy Interpreter, May 13, 2015, <http://www.lowyinterpreter.org/post/2015/05/13/Australia-aid-budget-Pacific-spared-serious-cuts.aspx> (accessed August 7, 2015).

<sup>203</sup> Jo Chandler, “Violence Against Women in PNG: How Men are Getting Away with Murder,” Lowy Institute for International Policy, August 2014, [http://www.lowyinstitute.org/files/violence\\_against\\_women\\_in\\_png.pdf](http://www.lowyinstitute.org/files/violence_against_women_in_png.pdf) (accessed July 24, 2015), p. 14.

<sup>204</sup> “An Australian Investment to Support Law and Justice in Papua New Guinea,” Australia Department of Foreign Affairs and Trade, January 2015, <http://dfat.gov.au/about-us/grants-tenders-funding/tenders/business-notifications/Documents/investment-design-png-law-justice-support.docx> (accessed July 24, 2015).

<sup>205</sup> Australian High Commission, Papua New Guinea, “Information Sheet: Australia’s Support to Law and Justice in Papua New Guinea as of 20 August 2014,” <http://png.embassy.gov.au/pmsb/299.html> (accessed August 7, 2015).

<sup>206</sup> *Ibid.*

Violence Units. Australia is also training district court magistrates and clerks as well as prosecutors on the handling of cases of family and sexual violence. Australia also trains law enforcement and justice officials more broadly, including through the deployment of 73 Australian Federal Police to Papua New Guinea.

The relationship between Papua New Guinea and Australia has become more complex in recent years, with the agreement between the two countries to process and resettle asylum seekers who try to come to Australia by boat in Papua New Guinea.<sup>207</sup> Nonetheless, Australia remains an influential and crucial donor, especially in the justice sector.

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<sup>207</sup> Human Rights Watch and Human Rights Law Centre, “The Pacific Non-Solution: Two Years On, Refugees Face Uncertainty, Restrictions on Rights,” July 15, 2015, <https://www.hrw.org/news/2015/07/15/australia/papua-new-guinea-pacific-non-solution> (accessed July 24, 2015). These asylum seekers are detained in an Australian built and funded detention center on Manus Island. The Australian and Papua New Guinea governments have agreed that detainees found eligible for asylum will be resettled in Papua New Guinea.

## V. Papua New Guinea's Constitutional and International Legal Obligations

Failure to protect women and girls from domestic violence, offer adequate services, and ensure access to justice violates not only Papua New Guinea's national constitution, but also its binding international human rights obligations. The Papua New Guinea Constitution, adopted in 1975, emphasizes equality, including between women and men.<sup>208</sup>

Papua New Guinea is also a party to several international human rights treaties relevant to domestic violence. Key among these is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which Papua New Guinea ratified in 1995. The convention calls on states to take a number of measures to prevent and prohibit discrimination on the basis of sex, including by private actors, so as to ensure women's full enjoyment of their human rights.<sup>209</sup>

Papua New Guinea has also ratified other treaties that contain provisions relevant to domestic violence, including the Convention on the Rights of the Child (CRC), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of Persons with Disabilities (CRPD).<sup>210</sup> These include provisions on the rights to life, health, physical integrity, non-discrimination, an adequate standard of living (including housing), a remedy, and freedom from cruel, inhuman, or degrading treatment or punishment.

The CEDAW Committee has stated that “[f]amily violence is one of the most insidious forms of violence against women” and that such violence presents risks to women's health and

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<sup>208</sup> Papua New Guinea Constitution, art. 55.

<sup>209</sup> Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted Dec. 18, 1979, G.A. res. 34/180, 34 UN GAOR Supp. (no. 46) at 193, UN Doc. A/34/46, entered into force September 3, 1981, art. 1.

<sup>210</sup> Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (no. 49) at 167, UN Doc. A/44/49 (1989), entered into force September 2, 1990, Papua New Guinea ratified March 2, 1993, art. 2; International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 52, UN Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, Papua New Guinea acceded July 21, 2008; International Covenant on Economic, Social, and Cultural Rights, adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 52, UN Doc. A/6316 (1966) 993 U.N.T.S. 3, entered into force January 3, 1976, Papua New Guinea acceded July 21, 2008; Convention on the Rights of Persons with Disabilities, adopted December 13, 2006, G.A. Res 61/106, entered into force May 3, 2008, Papua New Guinea ratified September 26, 2013, art. 16.

ability to fully participate in private and public life.<sup>211</sup> The CEDAW Committee's General Recommendations No. 19 and No. 28 make clear that gender-based violence is considered a form of discrimination and may be considered a violation of CEDAW, whether committed by state or private actors.<sup>212</sup>

The CEDAW Committee has specifically called on states to combat domestic violence. It has called for implementation of laws on domestic violence, for provision of services to protect and support survivors, and training of state officials, including judicial and law enforcement personnel, to properly enforce such measures.<sup>213</sup> Moreover, it clearly recommends that states establish or support services for survivors of domestic violence, including in rural or isolated areas.<sup>214</sup>

International human rights instruments recognize that social and cultural norms may be linked to attitudes and behaviors that are harmful to women and girls. CEDAW calls on states to modify or abolish customs and practices that discriminate against women, and also to take measures to change patterns of conduct of men and women, with a view to eliminating prejudices and practices based on the idea of inferiority or superiority of either of the sexes or stereotyped gender roles.<sup>215</sup> This includes polygamy, which the CEDAW Committee has stated “contravenes a woman’s right to equality with men, and can have such serious emotional and financial consequences for her and her dependents that such marriages ought to be discouraged and prohibited.”<sup>216</sup> It also includes bride price, which the CEDAW Committee and the UN Committee on the Rights of the Child consider to be a harmful, discriminatory practice.<sup>217</sup>

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<sup>211</sup> Committee on the Elimination of Discrimination against Women, General Recommendation No. 19, Violence against Women, (Eleventh session, 1992), Compilation of General Recommendations and General Comments adopted (<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19> (accessed March 20, 2015)), art. 16.

<sup>212</sup> *Ibid.*; CEDAW Committee, General Recommendation No. 28, on the core obligations of States parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, UN Doc CEDAW/C/GC/28 (December 16, 2010), para 19.

<sup>213</sup> CEDAW Committee, General Recommendation No. 19, para. 24b.

<sup>214</sup> *Ibid.*, paras. 24(k), 24(o).

<sup>215</sup> CEDAW Committee, arts. 2(f) and 5(a).

<sup>216</sup> CEDAW Committee, General Recommendation No. 29, Economic consequences of marriage, family relations and their dissolution, CEDAW/C/GC/29, February 26, 2013, [http://www2.ohchr.org/english/bodies/cedaw/docs/comments/CEDAW-C-52-WP-1\\_en.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/comments/CEDAW-C-52-WP-1_en.pdf) (accessed May 25, 2015), para. 27.

<sup>217</sup> CEDAW Committee/CRC Committee, Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18 (Nov. 14, 2014), para 24.

# Recommendations

## To the Prime Minister and Parliament

- Issue implementing regulations and ensure that the Family Protection Act is implemented immediately throughout the country.
- Establish a financial safety net for survivors of family violence who require assistance to meet their family's basic needs, including those who become indigent due to a separation from an abusive partner.
- Establish a comprehensive nationwide data collection system to track all family violence cases handled by police, village courts, prosecutors, district courts, and social service agencies.
- Follow through on the government's 2007 commitment to establish a National Human Rights Commission, in line with the Paris Principles.
- Reform the law to make the minimum age of marriage 18 for women and men.
- Ban the payment of bride price.

## To the Ministry for Religion, Youth and Community Development

- Establish safe houses in all provinces of the country in sufficient numbers and with adequate resources.
- Establish a system to provide quality assurance of safe houses, including setting standards and performing regular accreditation reviews and inspections.
- Ensure availability of adequate shelter, psychosocial, legal, health, and other services for survivors of domestic violence, including in rural areas.
- Establish programs to help survivors of family violence transition to financial independence, such as job training and financial counselling.
- Assist survivors of family violence in seeking child custody and child support, and in enforcing court orders granting child custody and support.
- Establish an accreditation system for qualified psychosocial counselors and promote access to such counseling for survivors of family violence.

- Establish case management services for victims of family violence in every province to coordinate between agencies and follow up with survivors.
- Work with NGOs and donors to increase the availability of assistance to survivors of family violence who wish to flee abusers and “repatriate” to their home town or province.
- Lead the process to develop and implement a “referral pathway” in every province.
- Undertake ongoing public awareness campaigns throughout the country and in a variety of languages and media, explaining that family violence is a crime and what remedies and protections are available.

### **To the Ministry of Health**

- Require health care providers to screen all patients to determine whether they have been the victims of family violence.
- Develop standard protocols for health care providers handling all cases of victims of family violence.
- Provide health care free of charge to all victims of family violence.
- Ensure that health care providers collect and document all evidence of family violence.
- Ensure that health care providers refer all victims of family violence to community-based services and law enforcement.
- Require health care providers to provide medical reports promptly and free of charge in cases of family violence.
- Establish at least one hospital Family Support Centre in each province.

### **To the Ministry for Police**

- Ensure that the police have sufficient access to transportation to be able to investigate crimes, including in remote areas and areas inaccessible by road.
- Require police to fully and effectively investigate family violence cases, regardless of the location of the offense or the suspect.
- Establish a pro-arrest policy for such cases, as per UNODC and UN Women guidance.

- Prohibit police officers from charging community members fees for any service, and take action to discipline, dismiss and, where appropriate, prosecute, police officers who violate this rule.
- Establish adequately staffed and resourced Family and Sexual Violence Units in all major police stations; refer all victims of family violence to these units, and provide transport for survivors to such units.
- Monitor the number of complaints, arrests, prosecutions, and interim and standard orders of protection issued in the case load of each Family and Sexual Violence Unit and do an annual review of whether these statistics reflect appropriate case handling.
- Where Family and Sexual Violence Units encounter difficulties in working with other ministries, for example magistrates in district courts or community development offices, coordinate with those ministries to resolve any difficulties.
- Ensure that law enforcement policies and training are in line with the UN Office on Drugs and Crime *Handbook on Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women* and the UNODC *Handbook on Effective Police Responses to Violence against Women*.

## To the Ministry for Justice and Attorney General

- Expand the capacity of the state solicitor's office for assisting victims of family violence.
- Monitor the handling of family violence cases by district courts, and establish prosecution policies for family violence cases, as per UNODC and UN Women guidance.
- Perform an analysis of the processing of protection order applications in family violence cases under both existing district court powers and the FPA, once implemented. Determine whether delays or inappropriate denials are occurring, and if so, implement remedial measures.
- Ensure that neither village nor district courts ever demand fees from individuals seeking IPOs or protection orders, and bring disciplinary action against any court official who requests such fees.

- Ensure that village courts comply with national law, including the law prohibiting polygamous marriage.
- Ensure that village courts refer all cases involving indictable criminal offenses to district courts and train village court officials to implement the FPA.
- Enforce the requirement that village courts employ at least one female magistrate.

### **To Papua New Guinea’s International Donors, Including Australia, New Zealand, Japan, the US, and the European Union**

- Publicly and privately urge the government of Papua New Guinea to undertake the reforms recommended above.
- Assist the government in developing policies and programs that will prevent and provide accountability for family violence and assist survivors of violence.
- Continue and expand support for reforms and services assisting survivors of family violence, especially funding for safe houses, local NGOs/activists, legal assistance, and counseling.

### **To Australia, as Papua New Guinea’s Largest Bilateral Donor**

- Make sure domestic violence is an agenda item on the annual bilateral Ministerial dialogue.
- Measure Papua New Guinea’s progress in tackling domestic violence through clear benchmarks including collection of data, establishment of functioning Family and Sexual Violence Units, proportion of complaints leading to arrest, number of protection orders issued, and number of prosecutions.
- Include a detailed analysis of Papua New Guinea government’s progress and failings in addressing family violence in annual public reports on the state of human rights in Papua New Guinea.
- Continue supporting law and justice reform in Papua New Guinea through sustaining and expanding the Papua New Guinea-Australia Law and Justice program and any follow-on programs.

## Acknowledgments

This report was written by Heather Barr, a senior researcher on women's rights, based on research she conducted with Elaine Pearson, Australia director. It was edited by Janet Walsh, deputy director of women's rights, and reviewed by: Elaine Pearson, Australia director; Bede Sheppard, deputy director of Children's Rights; and Richard Pearshouse, senior researcher on Health and Human Rights. Legal review was by Aisling Reidy, senior legal advisor, and program review by Robin Shulman.

Report production and editorial assistance was provided by Alexandra Kotowski, senior associate with the Women's Rights Division, and Jose Martinez, senior coordinator for administration.

Human Rights Watch would like to thank the many activists, service providers, analysts and experts who generously shared their expertise. We regret not naming them, but understand that they work closely with the government and need to protect that relationship.

We were moved by the level of passion and organizing among the community of people working to fight family violence in Papua New Guinea, and especially by the many survivors of family violence who have become activists fighting for the rights of others.

Our greatest gratitude is to the survivors of family violence who shared their stories with us and, often literally, showed us their scars.

## Appendix A

August 13, 2015

Prime Minister Peter O'Neill  
Department of Prime Minister  
Morauta Haus P.O.BOX 639  
Waigani, National Capital District  
Papua New Guinea



[HRW.org](http://hrw.org)

Re: Questions about implementation of Family Protection Act

Dear Prime Minister O'Neill:

Please accept my regards on behalf of Human Rights Watch, an independent nongovernmental organization that monitors and reports on human rights in more than 90 countries worldwide.

I am writing to you on an issue of great shared concern—the prevalence of family violence, particularly against women and girls, in Papua New Guinea and your government's efforts to reduce this violence. Your government has taken important steps to combat family violence, including adoption of the Family Protection Act, establishing police Family and Sexual Violence Units and hospital-based Family Support Centres, and initiating a process to develop a gender-based violence strategy.

Human Rights Watch has recently undertaken research on the topic of family violence in Papua New Guinea, including interviewing people who are survivors of family violence, as well as activists, service providers, and experts. I am writing to share with you the preliminary findings of our research and to request information that can help us ensure that we accurately and fairly reflect the current situation and your government's efforts in our reporting on this issue. We would be grateful if you could facilitate a response to this information request from the various ministries involved in addressing family violence by September 15, 2015.

Our research was largely focused on the assistance available to survivors of family violence, particularly the response by police and justice officials, as well as the availability of services. We conducted research in both the Central Province and the Highlands. Some of the key concerns we identified include the following:

**Impunity for perpetrators of family violence:** Our interviews with survivors suggested that police and prosecutors are very rarely prepared to pursue investigations or criminal charges against people who commit family violence, even in cases where the violence is severe, including attempted murder and repeated rape. Interviewees said that police, prosecutors, and courts seem reluctant to treat these cases as criminal matters, preferring to resolve them through mediation and/or the payment of compensation, even when it was clear that this was not the preference of the victim. Police often demanded money (“for fuel”) from victims before they would take action, or simply ignored cases that occurred in rural areas, instructing victims that it was their responsibility to bring the perpetrator to the police. These failures appear to occur in Family Sexual Violence Units as well as other police units.

**Underutilization of protection orders:** Experts and organizations reported that survivors of violence were rarely able to secure interim protection orders (IPOs) and other forms of protection orders. Nongovernmental organizations that support victims said that police often seem reluctant to refer survivors for IPOs in cases where they would have been appropriate. Survivors whom we interviewed who did seek IPOs and protection orders often said they encountered delays in the courts.

**Lack of services:** There appears to be a dire lack of services for people requiring assistance after having suffered family violence. Safe houses are absent in most areas and in short supply everywhere, qualified counsellors are all but non-existent, case management is not provided, legal aid is almost entirely absent, and there is no safety net to assist survivors, especially those with dependent children, who need temporary support and assistance to leave their abusers and become financially independent. Moreover, we are concerned about courts mandating mediation for couples in cases of family violence, as this goes against international best practices.

**Lack of government leadership:** Although your government has taken the critical steps mentioned above, we were struck by the fact that much of the leadership on trying to end family violence in Papua New Guinea seems to be coming from activists outside the government with support from international donors. While these actors have critical roles to play, family violence cannot be systemically tackled without full engagement and leadership by your government. While in Papua New Guinea, we requested meetings with government officials responsible for addressing family violence. We were unable to secure meetings, but we hope that we can have a dialogue moving forward. As a first step, we would welcome any reactions to our preliminary findings above. In addition, we would appreciate receiving the data and information requested below:

- 1) When do you expect to instruct police and justice officials to begin to enforce the Family Protection Act (FPA)?
- 2) What plans do you have for ensuring that police, prosecutors, and courts—both district and village—fully enforce the FPA? Have there been any disciplinary measures or other sanctions against officials who have failed to enforce the law?
- 3) Please describe any complaint mechanisms available for family violence survivors to lodge grievances about officials involved in responding to family violence.
- 4) Please provide the following data on family violence cases for the years 2013 - 2015:
  - a. Number of family violence complaints filed with police
  - b. Number of arrests for family violence crimes
  - c. Number of IPOs sought and issued
  - d. Number of protection orders sought and issued
  - e. Data on violations of such orders
  - f. Number of investigations
  - g. Number of prosecutions
  - h. Number of convictions
  - i. Number of acquittals
  - j. Sentenced handed down (length of prison sentences; data on fines)
  - k. Number of cases dropped by prosecutors and referred to village courts
  - l. Demographic data on defendants and victims (gender, age, education, marital status, pregnancy status, disability, area of residence, etc.)
- 5) Please provide data on the health system response to family violence, including:
  - a. Data on injuries or deaths associated with domestic violence
  - b. Data on referrals to specialized medical care
  - c. Number of forensic examinations for family violence cases
  - d. Number of psychological and psychiatric examinations of domestic violence survivors
  - e. Data on access to post-rape care, including for survivors of marital rape

- 6) Please provide data on government budget allocations to address family violence by ministry, type of activity or service funded, and by location. Please indicate what proportion of this funding is derived from foreign aid.
- 7) What plans does the government have for expanding services for survivors of family violence, including safe houses, psychological counselling, case management, and legal aid?
- 8) Please provide information on government efforts to train officials involved in responding to domestic violence, including numbers of police, health officials, prosecutors, and judges who have participated in such trainings.
- 9) Does the government have plans to provide financial assistance (and help with transitioning to financial independence) to survivors of family violence who are indigent and/or financially dependent on their abusers?
- 10) What government efforts are currently underway and planned to raise public awareness about the fact that family violence is a crime and to explain to victims how they can access help?

We also welcome any other responses or information you are prepared to share on this topic.

The findings of our research will be published in the coming months in a Human Rights Watch report. We would gladly include any response you provide to this letter, but in order to do so we would need to receive the response by September 15, 2015. Please feel free to contact me at [REDACTED].

We sincerely hope that you and your government will engage in a dialogue with us about the crucial issue of family violence. We would be very grateful for the opportunity to work together with you to try to end family violence improve the lives of women and girls in Papua New Guinea.

Sincerely,



Janet Walsh

Acting Director of Women's Rights

Cc: Ministry of Foreign Affairs, Ministry of Development, Ministry of Police, Ministry of Justice and Attorney General



Family violence in Papua New Guinea is an emergency. The most comprehensive data, published in 1992, found that family violence occurred in more than two-thirds of households. Activists say the violence remains pervasive today.

Although the government has established specialized units within police stations and hospitals to assist victims, and adopted the 2013 Family Protection Act that sets new penalties, the Family Protection Act has not yet been implemented.

Police appear reluctant to refer survivors for protection orders, and survivors who seek protection orders frequently encounter delays in the courts. Police and prosecutors rarely pursue criminal charges against perpetrators, even in the most serious cases. Police often demand money from victims before they will act, or simply ignore cases occurring in rural areas. These failures occur even in specialized family violence police units.

There is a dire lack of services for survivors: there are few shelters, qualified counsellors are all but non-existent and legal aid is largely absent. There is no safety net for survivors, including those with dependent children, who need help to leave abusers and become financially independent.

*Bashed Up* documents the often insurmountable obstacles women continue to face in seeking protection from and justice for family violence. It documents serious gaps in the government's response to family violence, based on interviews with survivors of domestic violence, service providers, police, activists and international advisors and donors in 2015. While recognizing that the government, with the urging of activists, has taken some important steps, the report highlights serious failure by the government to provide protection and services, investigate and prosecute cases, and end impunity for the perpetrators of family violence.

Papua New Guinea has a booming economy, thanks to the country's natural resources. The government should direct both funds and political will toward ending impunity for family violence, urgently implement the Family Protection Act, and ensure that police, prosecutors and courts treat family violence as a crime. The government should also dramatically expand services for survivors of family violence, by providing more shelters, ensuring access to legal aid, counseling and case management, and a financial safety net for women—and their children—when they seek to begin a new life free of violence.

*(above) Stilt housing on the seafront in Port Moresby, the capital of Papua New Guinea, widely considered to be one of the most dangerous cities in the world. Although there are more services in Port Moresby than elsewhere, victims of family violence still often find themselves ignored by police and courts, unable to access services and pushed to reconcile with their attackers.*

*(front cover) A woman holding a child looks down the valley from Kassam Pass, in Papua New Guinea's Highlands, an isolated region where some people must walk several days to reach the nearest road, and where activists believe the level of domestic violence against women is particularly high, although there is little, if any, official data.*

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