



**For the Office of the High Commissioner
for Human Rights
Universal Periodic Review: 3rd Cycle
Papua New Guinea
2021**

**ISSUES RELATED TO REFUGEES, PEOPLE SEEKING ASYLUM AND
INTERNALLY DISPLACED PERSONS**

A submission by:

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ABOUT THE CATHOLIC BISHOPS CONFERENCE OF PNG & SOLOMON ISLANDS AND CARITAS PNG

Caritas PNG (CPNG) is the Justice, Peace, Relief and Development Agency of the Catholic Bishops Conference of PNG and SI. It was established in 1974 under the auspices of The Catholic Bishops. CPNG is a member of Caritas Internationalis, the world's second largest humanitarian network which collectively has more than 500,000 staff and 20 million volunteers operating through 169 national Caritas agencies in over 200 countries and territories. CPNG is also a member of Caritas Oceania, which brings together highly diverse members from the larger and smaller islands of the Pacific. CPNG's vision is for the nation to be a just and harmonious society and our mission is to serve the poor to raise their dignity by addressing the underlying causes of poverty, dependence, and inequality, which undermine the true nature of authentic human development in PNG. CPNG is represented in all the 22 provinces of PNG.

The Catholic Bishops Conference of PNG and Solomon Islands (CBC) is the coordinating body for the Catholic Church in PNG and the Solomon Islands. While the central role of the CBC remains the Christian formation and development of its Catholic followers, as part of the Catholic church moral duty, it is also involved in providing and addressing social issues such as health, education, environment, youth, and victims of human rights violations.

I. BACKGROUND INFORMATION

Papua New Guinea (PNG) is a signatory to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol (hereunder jointly referred to as the Refugee Convention). At the moment, PNG hosts three categories of refugees and asylum seekers:

- A. Those brought to PNG in 2013 under the Regional Resettlement Arrangement (RRA) between the governments of Australia and PNG. Their population at the moment is at 130 persons.
- B. Melanesians from West Papua who have fled the conflict with the Indonesian government. The recent wave was in December 2019 with an approximate total of 143 persons.
- C. Spontaneous Arrivals- all others who spontaneously arrived in PNG and sought asylum under PNG law. Current statistics stands at 15 males and 1 female.

At the time of acceding to the Refugee Convention in 1968, the PNG government made seven reservations in relations to its obligation as a contracting state.¹ On 20 August 2013, the government of PNG notified the UN Secretary General to partially withdraw its reservations made

¹ "The Government of Papua New Guinea in accordance with article 42 paragraph 1 of the Convention makes a reservation with respect to the provisions contained in articles 17 (1), 21, 22 (1), 26, 31, 32 and 34 of the Convention and does not accept the obligations stipulated in these articles." Available from https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-2&chapter=5&Temp=mtdsg2&lang=en#EndDec

upon accession.² However, this applies only to the Refugees transferred to PNG under the Regional Resettlement Arrangement. The reservations still remain so for the West Papuan refugees and other spontaneous refugees.

Domestically, PNG has a poor record of effectively settling and identifying durable solutions for internally displaced persons (IDPs). IDPs need protection and humanitarian assistance as a result of conflict and human rights abuses or natural disasters. Without a specific legal framework in place, the IDPs are often dealt with in piecemeal approaches, often unsustainable, and leaving them to suffer in the long term.

With the protracted situation of the West Papuans as well as the residual caseload of non-refugees from the RRA, there is possible risks that in the future such undocumented persons may face arbitrary challenges to access public services and go about their lives in PNG, if their status is not regularized by the government.

II. KEY PROTECTION CONCERNS AND RECOMMENDATIONS

Regional Resettlement Arrangement

It has been more than 8 years since Australia established the Manus Island Regional Processing Centre, to process claims of asylum seekers that were transferred from Australia. As of 25th March 2021, 130 men still remain in PNG, with the possibility of some going to the US or other welcoming European countries during the year. CBC and Caritas PNG are concerned about the ongoing treatment of these vulnerable people and their future.

Firstly, lack of appropriate mental health attention given to those with severe mental issues is worrying. There are at least three men who have lost capacity to independently function as a result of severe mental health concerns. Several others suffer from a varying degree of mental and medical issues. It is noteworthy to highlight that even with the engagement of Pacific International Hospital contracted by the Australia's Department of Home Affairs to look after the health concerns of the men, many of those with mental illnesses have been suffering for years. The same can be said for those with chronic medical conditions. The longer they remain in PNG, their conditions deteriorate and there seem to be no future in sight for them. Further, CBC and CPNG also note the handling of a number of cases of people with mentally challenging behaviors, with primarily a compliance and enforcement approach, without due regard for their mental health and other underlying conditions.

Second concern is regarding the elderly men. There are about 6 of them, mainly from the Middle East, who have very limited communication and employment ability. There is real risk that if these men are left behind in PNG, they would not manage to integrate, let alone survive on their

² "... In accordance with article 42, paragraph 2 of the Convention, I wish to communicate to you that Papua New Guinea withdraws its reservation with respect to the provisions contained in articles 17 (1), 21, 22 (1), 26, 31, 32 and 34 of the Convention in relations to refugees transferred by the Government of Australia to Papua New Guinea and accepts the obligations stipulated in these articles in relation to such persons. This withdrawal has immediate effect. The reservation remains in effect for all other persons...", *ibid*.

own. PNG's National Refugee Policy emphasizes on employment as a means of self-sufficiency and ultimately settlement in PNG³. However, even contained in policy there is limited government intervention to create meaningful opportunities for the refugees and asylum seekers, except for giving them work rights. The PNG settlement support package currently offered to the refugees falls short of a well-thought-out package aimed at achieving durable solution.

Thirdly, we are concerned about the lack of oversight and accountability by the relevant stakeholders. Since the Australian Government pulled out of being directly involved in the operation and management of the Regional Resettlement Arrangement cohort around 2018/2019, the whole situation of the asylum seekers and refugee is in limbo.

The fact that PNG Immigration is not a party to or privy to the contents of the contracts between the Australian Government and the service providers means that their influence in as far as oversight of the project is effectively limited. This is further constrained by the fact that service providers send reports directly to Australia's Department of Home Affairs (DHA) and not PNG Immigration. This lack of clarity between the Australia's DHA, PNG Immigration and the case management contractor Applus Wokman only creates more misery and uncertainty for the asylum seekers and refugees. Issues faced by these men are poorly addressed, often arbitrarily, and in many cases neglected. Consequently, despite not being in detention, there were no genuine improvements in their treatment since the closure of MIRPC in 2017.

Recommendations

We call on the government to:

- ensure to end the RRA by no later than 2022 and send all remaining asylum seekers and refugees back to Australia, except for those refugees who freely choose to settle in PNG.
- Not accept any pressure from Australia to forcefully settle refugees in PNG against their will with a wash-hand style settlement package.
- Allow an independent inquiry into the Regional Resettlement Arrangement and all its processes, including awarding of contracts to services providers, complaints of human rights abuse by both Australia and PNG, and service providers etc.
- Declare its position with respect to any future proposed arrangements to host asylum seekers transferred by third countries.
- Refrain from placing immigration detainees in prisons, co-located with convicted criminals.

West Papuan Refugees & Asylum Seekers

Current statistics of West Papuans in Port Moresby stands at over 200 families, mostly extended. According to the PNG Immigration, the estimated total population of West Papuans around PNG

³ Government of Papua New Guinea, 2015, *National Refugee Policy*

is 10 000⁴. However, anecdotal evidence suggests that there may more than this figure. In December of 2019, about 143 individuals fled into the Western Province of PNG⁵, following increased incidences of human rights abuses in West Papua. While we (CBC & CPNG) welcome the effort of the PNG Immigration and the government to regularize the status of all West Papuan refugees by naturalization since 2017, we equally remained concerned with the overall effort by the government to give these people a proper settlement in PNG. The West Papuan refugees have been living in PNG for over three decades but have not being properly resettled.

Currently two camps in Port Moresby are under eviction notices while one is under demolition notice, posing serious risks of human rights violations. Their situation remains dire without a proper land allotted to them to settle on. As their population grows, the camps become more cramped, posing serious health concerns. Despite a National Executive Council decision in 2014 for the government to allocate land to West Papuans who are given PNG citizenship, nothing concrete transpired so far.

While it is noteworthy that the government is not strictly applying the 7 reservations of the Refugee Conventions on the West Papuans, the fact that it remains in law means that the government does not have any obligation towards these refugees. Consequently, there is a lack of direct intervention by the government to provide meaningful opportunities to them for settlement, including, the right to work, education, and housing (land).

Recommendations

We call on the government to:

- Totally uplift the 7 reservations on the Refugee Convention to benefit all refugees in PNG, and not only a certain cohort
- Prioritize to issue legal identity documents to all West Papuan refugees recognized by the government
- PNG Immigration to coordinate with all provincial governments and the department of lands and physical planning to identify and issue land to naturalized West Papuans, as per NEC decision of 2014⁶
- Given the dire state of their settlement in Port Moresby, government should intervene to allocate a piece of land for them to build their homes
- Provide support to this group to ensure they have access to meaningful employment and financial independence.

⁴ Papua Immigration Citizenship Authority. Available from <https://ica.gov.pg/refugees/facts-and-figures-about-refugees-in-png>

⁵ *West Papuans and Other Spontaneous Refugees in PNG, 2020, Caritas PNG.*

⁶ PNG National Executive Council, Decision No: 326/2014 *Registration and Naturalization of West Papuans*

Spontaneous Arrivals

Spontaneous arrivals are those refugees and asylum seekers who come to PNG and individually seek protection from the government. This group of refugees and asylum seekers are largely taken care of by the International Organization for Migration (IOM) office in Port Moresby. Unlike those who came under RRA, this group is not detained and are also protected from refoulement. However, the apparent slowness on the part of the government to assess their protection claims and issue legal status is a serious impediment on their progress to obtaining durable solution. Additionally, we note that the lack of institutional support for their welfare needs while awaiting their refugee status determination result (RSD) is negatively impacting their livelihood, especially, those who fall outside IOM's support parameters.

Recommendations

We call on the government to widen its protection mechanism by:

- putting in place support package consistent with international best practice to cover asylum seekers welfare and livelihood while awaiting their results
- Give conditional working rights to asylum seekers as a means of livelihood support
- Prioritize those with underlying medical or mental challenges to access required health attention without restrictions
- Prioritize and speed up RSD within reasonable and legitimate timeframe
- Put in place a review and appeal procedure to allow failed spontaneous asylum seekers to seek review of their applications
- Codify in law complementary protection procedures and support mechanisms for failed asylum seekers who are unable to return to their country of origin

Internally Displaced Persons

According to an IOM profiling report (2017), there are 44,547 IDPs from 8,405 households in 37 locations in assessed provinces.⁷ In February 2018, an earthquake displaced over 50,000 people in the highlands of PNG.⁸ The increase in human and development-induced displacement is also a worrying trend. Tribal fights, sorcery accused related violence, resource developments, and sporadic community feuds all account for uprooting people and exposing them to risky conditions. On a long-term basis, IDPs in PNG face issues in the following areas: *food security, health, water and sanitation, shelter, education, and safety and security*.⁹ As documented by the IOM, a significant proportion of the IDPs continue to experience challenges including limited access to livelihood, lack of adequate standard of living, lack of safety, security, and freedom of movement.¹⁰

⁷ IOM, Profiling Internally Displaced Persons in PNG, 2017, p.5

⁸ Reliefweb, Papua New Guinea: Earthquakes - Feb 2018, 22 March 2021, available on <https://reliefweb.int/disaster/eq-2018-000020-png>

⁹ IOM, *Profiling Internally Displaced Persons in PNG*, 2017, pp. 8-17,

¹⁰ Ibid.

Despite the overwhelming evidence on the plight of the IDPs, PNG is still yet to put in place a policy framework to effectively deal with IDPs. The practice has been that the government responds during the emergency phase to rescue and provide relief supplies. This also includes in most cases relocating people to care centers. However, government support quickly become unsustainable and the situation of the IDPs becomes protracted. The case of the Manam Islanders of Madang province is an example.

Recommendations

We call on the government to:

- Consult widely and formulate an inclusive national policy framework in line with the Guiding Principle on Internal Displacement (OCHA) aimed at preventing human induced displacement, providing protection, humanitarian assistance, and durable solutions
- Task a particular government department to be directly responsible for IDPs
- Allocate annual grants for NGOs to access to work with IDPs
- Properly resettle the Manam Islanders, and other protracted IDPs
- Continue to take a leading role in the Pacific to raise concerns and lobby for concrete actions from world powers in combatting climate change

III. SUMMARY RECOMMENDATIONS

Aside from the specific recommendations made above, this is a summary recommendation listing for the two thematic areas discussed:

Refugees and Asylum Seekers

CBC and CPNG call on the PNG government to:

- a) Codify in law complimentary protection procedures and support mechanisms for failed asylum seekers who are unable to be returned to their countries of origin, consistent with PNG's obligation on pertinent human rights treaties
- b) Put in place welfare and livelihood support mechanism for asylum seekers who are awaiting their refugee status determination, including issuing conditional work rights
- c) Institute a transparently constituted committee to assess the viability and integrity of PNG's protection capacity, including settlement
- d) Allow an independent inquiry into the Regional Resettlement Arrangement (RRA 2013) and all its processes, including awarding of contracts to services providers, complaints of human rights abuse by both Australia and PNG, and service providers etc.
- e) Put in place a review and appeal procedure for all categories of asylum seekers to allow failed spontaneous asylum seekers and West Papuans to seek review of their applications
- f) Refrain from placing immigration detainees in prisons, co-located with convicted criminals

- g) Provide support to the West Papuan refugees to ensure they have access to meaningful livelihoods and financial independence
- h) Totally uplift the 7 reservations on the Refugee Convention to benefit all refugees in PNG
- i) Refrain from mandatory detention of any failed asylum seeker, unless detention is warranted for security reasons or execution of removal orders

Internally Displaced Persons

CBC and CPNG call on the PNG government to:

- a) Consult widely and formulate an inclusive national policy framework in line with the Guiding Principle on Internal Displacement (OCHA) aimed at preventing human induced displacement, providing protection, humanitarian assistance, and durable solutions
- b) Allocate annual grants for NGOs to access to work with IDPs
- c) Institute a transparently constituted committee to assess the viability and integrity of PNG's IDP protection capacity, including settlement and achievement of durable solution