



Government of Papua New Guinea

**Mapping and analysis of legal
and policy frameworks**

THE PROTECTION OF CHILDREN FROM ALL FORMS OF VIOLENCE AND CHILD FOCUSED JUSTICE IN PAPUA NEW GUINEA

EXECUTIVE SUMMARY

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Suggested citation of the report:

Kirsten Anderson, Catherine Burke, and Bruce Grant (2022). The Protection of Children from All Forms of Violence and Child Focused Justice in Papua New Guinea (PNG): Mapping and analysis of legal and policy frameworks

Cover photo: UNICEF Papua New Guinea

Table of Contents

1. Introduction	4
1.1 Background, objectives and scope	4
1.2 Methods	5
2. Findings	7
2.1 Law and policy framework on violence against children	7
2.1.1 Physical and emotional abuse and neglect	7
2.1.2 Family violence / intimate partner violence	8
2.1.3 Sexual violence and abuse	8
2.1.4 Sexual exploitation	9
2.1.5 Child abduction, sale of children and trafficking	10
2.1.6 Protection of children in the digital environment	11
2.1.7 Child and forced marriage	11
2.1.8 Harmful practices	12
2.1.9 Child labour	13
2.1.10 Children in armed conflict	14
2.1.11 Birth registration	14
2.2 Child protection laws, policies and institutional framework	15
2.2.1 Legal framework	15
2.2.2 Institutional framework	18
2.3 Child justice laws, policies and institutional framework	20
2.3.1 Legal framework	20
2.3.2 Mapping and analysis of child justice institutions	29
2.4 Children’s right to participation	31
3. Conclusion and recommendations	33
3.1 Legal reforms	33
3.2 Institutional arrangements	36

Acronyms

CSO	Community Service Organisation
CPO	Child Protection Officer
CPV	Child Protection Volunteer
DC&FSC	District Child and Family Services Committee
DCD	Department for Community Development
DFAT	Australian Department of Foreign Affairs and Trade
FSC	Family Support Centre
FSVAC	Family and Sexual Violence Action Committee
FPA	Family Protection Act 2013
FBO	Faith Based Organisation
GBV	Gender Based Violence
GBV Strategy	PNG National Strategy to Prevent and Respond to Gender Based Violence
JSS4D	Justice Services and Stability for Development Program
LPA	Lukautim Pikinini (Child) Act 2015
NC&FSC	National Child and Family Services Council
NLPP	National Lukautim Pikinini (Child Protection) Policy 2017-2027
NEC	National Executive Council
OCFS	Office of Child and Family Services
ODW	Office of the Development of Women
PNG	Papua New Guinea
PCFSC	Provincial Child and Family Services Councils
RPNGC	Royal Papua New Guinea Constabulary
SDGs	Sustainable Development Goals
UN	United Nations
UNCT	United Nations Country Team
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
VAC	Violence Against Children
VAW	Violence Against Women
VAWG	Violence Against Women and Girls
WHO	World Health Organisation

1. Introduction

This paper is an Executive Summary of the findings from a comprehensive mapping and analysis of laws, policies and institutional frameworks aimed at addressing violence against children (VAC), child protection and child justice in Papua New Guinea (PNG). The overall aim of the mapping and analysis was to take stock of all existing legal and policy documentation, to ascertain the barriers, gaps and weaknesses, as well as strengths, and to provide the Government of PNG and UNICEF PNG with evidence-based recommendations for legal development and reform.¹

1.1 Background, objectives and scope

The PNG Government has committed, under Priority 1 of the Child Protection Policy 2017 – 2027, to ‘strengthen the legal and policy framework and enforcement measures’, including through the reviewing and appropriately amending the existing legal and policy framework and enforcement measures (Priority 1.1). Within this framework, the objective of this report is to present a mapping and analysis of all relevant laws, policies, strategies, protocols, planning documents etc. concerning the right to protection and child focused justice in PNG in order to review the extent to which they are compatible with the UN Convention on the Rights of the Child (CRC) and other relevant international standards and understand their gaps, strengths, weaknesses and opportunities as well as their linkages. This mapping and analysis will provide the evidence and recommendations required to begin operationalizing Strategy One and Priority 1.1 of the Child Protection Policy. The mapping and analysis focused on laws, policies and institutional frameworks ‘on paper’, rather than on their implementation. It should be noted that evidence indicates that substantial challenges exist in the implementation of laws and policies relating to violence against children, child protection and child justice; however, an examination of these challenges was outside the scope of this paper.

The report covers laws and policies relating to the following thematic areas:

Violence against Children	Legal Framework	Justice for Children
<ul style="list-style-type: none"> • Physical violence • Neglect of children • Sexual violence and abuse • Sexual exploitation • Abduction, sale of children and child trafficking • Protection of children in the digital environment • Child and forced marriage • Harmful practices • Child labour • Context 	<ul style="list-style-type: none"> • Early intervention • Reporting, assessment and response • Alternative care • Adoption 	<ul style="list-style-type: none"> • Child victims and witnesses • Specialised system for child justice • Limits of criminalisation • Diversion • Analysis of laws and policies • Procedural safeguards • Analysis of laws and policies • Sentencing and use of detention • Safeguards and conditions in detention

¹ UNICEF Papua New Guinea, Request for a contract for services, The Protection of Children from all forms of violence and child focussed justice: Mapping and analysis of the legal and policy frameworks in Papua New Guinea.



1.2 Methods

The study was primarily a **desk-based analysis** of laws and institutional frameworks. However, the study also included primary data collection to ensure inclusion of all necessary documents for the analysis, and to enable a contextualised and more concrete understanding of gaps in laws and frameworks and an examination of priorities of key stakeholders for reform. Data was collected through a series of **12 in-depth, consultative interviews** with key Government, NGO and UN stakeholders, primarily at the national level (though two interviews were carried out with provincial stakeholders in East New Britain and the National Capital District).

Given the challenging context for the research (during the Covid-19 pandemic), in which restrictions and work from home arrangements were in place during the data collection phase, researchers experienced challenges accessing key stakeholders, particularly those at the sub-national level, limiting the ability for researchers to contextualise findings. However, the impact of this was somewhat mitigated by the study primarily being a desk-based analysis.

The research was guided by UNICEF's Procedure for Ethical Standards in Research, Evaluation, Data Collection and Analysis.² The methodology, data collection tools and ethical guidelines were reviewed by UNICEF's external ethics process and ethical clearance was attained.³ An earlier draft of the report was reviewed by several key stakeholders to ensure accuracy and relevance.

Analytical frameworks

The study relied on the development of analytical frameworks for carrying out a review of national laws, policies and strategies using international standards as the yardstick against which these laws, policies and strategies are measured. In order to develop the framework for the law and policy analysis, an analysis of international standards was first carried out, as contained in key international conventions and elaborated in General Comments and General Days of Discussion of treaty monitoring bodies (particularly those published by the UN Committee on the Rights of the Child), UN Special Rapporteur reports and other Standards and Guidelines published by UN agencies and bodies.⁴ The team then developed a comprehensive compendium of relevant PNG laws, policies, guidelines, standards, procedures etc. in relation to each theme. The analytical matrix was used to facilitate a systematic and uniform analysis of national and provincial laws, policies, guidance etc. 'Gaps' were defined as areas in which national laws, policies and strategies are not consistent with international standards in the protection afforded to children across the identified areas /

² UNICEF, *UNICEF Procedure for Ethical Standards in Research, Evaluation, Data Collection and Analysis*, 1 April 2015, available at: <https://www.unicef.org/media/54796/file>

³ HML IRB Review #322EPNG20

⁴ Key provisions from these documents are identified throughout the report.

topics. The compliance of PNG laws and policies were assessed against each indicator (i.e., necessary component of a law /system according to international standards), and ranked accordingly:

	Law / policy is not compliant with international standards / there are large or significant gaps in compliance.
	Law / policy is moderately compliant with international standards, though there are some gaps or inconsistencies.
	Law / policy is compliant with international standards.

The institutional mapping and analysis was linked to the mapping and analysis of laws, policies and strategies. It was carried out in a manner that aimed to ensure that institutional frameworks were considered in terms of how and the extent to which they enable operationalisation of substantive laws and polices according to the analytical categories set out in the matrix.

2. Findings

2.1 Law and policy framework on violence against children

2.1.1 Physical and emotional abuse and neglect

PNG's Criminal Code Act 1974 ('Criminal Code') contains a comprehensive set of provisions that criminalise physical violence generally, and accord appropriate sanctions, along with several provisions that apply specifically to children. However, a major gap is that defences exist in the Criminal Code in relation to corporal punishment at home, in alternative care settings and in schools, effectively permitting physical violence in these settings where force is "reasonable" (Section 278).

There are no provisions in the Criminal Code which define and prohibit emotional violence against children, as required by the CRC (Article 19). While the Criminal Code contains several provisions that criminalise neglect and child abandonment, these provisions only apply to children under the age of 14 years and not to all those under 18 years, as required by international standards, and they do not detail what specifically amounts to neglect. However, emotional violence and neglect are grounds for referring children into the child protection system (see below).

While the general provisions of the Criminal Code Act that prohibit specific acts of violence continue to apply in schools, there are no specific legal provisions that address bullying – a form of peer violence that takes place in schools and other settings, though the Cybercrime Act 2016 does prohibit cyberbullying (see below). This is a significant gap – children would be provided with greater protection from bullying through a policy or legal mandate placed on schools to prevent and address bullying.

Indicators of compliance with international standards	Rating and gaps
(a) Physical abuse of children is clearly defined and prohibited and there are no child-specific or intimate partner-specific defences.	Exception exists to the use of physical violence against children.
(b) Corporal punishment is explicitly criminalised in the home / family.	Corporal punishment not criminalised in the home.
(c) Corporal punishment is explicitly criminalised in schools.	Corporal punishment not criminalised in schools.
(d) Corporal punishment is explicitly criminalised in alternative care settings	Corporal punishment not criminalised in alternative care settings.
(e) Corporal punishment is explicitly criminalised in places of detention.	No gaps.
(f) Emotional / mental abuse of children is clearly defined and prohibited.	Emotional abuse of children not criminalised.
(g) Neglect of children is clearly defined and prohibited and includes physical, emotional, educational, health-related neglect and abandonment.	Provisions on neglect and abandonment only apply to children under 14 years.
(h) Torture and other cruel, inhuman or degrading treatment or punishment is clearly defined and prohibited.	No gaps.
(i) Obligation on schools to have measures or policies in place to address and respond to bullying.	No legal mandate on schools to prevent and address bullying.

2.1.2 Family violence / intimate partner violence

Family violence includes intimate partner violence, which refers to all types of physical, sexual or psychological violence by an intimate partner or ex-partner, including physical aggression, sexual coercion, psychological abuse and controlling behaviours.⁵ In PNG, the Family Protection Act 2013 (FPA) aims to protect family members from violence through the criminalisation of acts of family violence and through legislating a system of civil remedies – the granting of interim protection orders and protection orders. While this law is quite comprehensive and largely conforms to international standards, some gaps remain. The FPA denies the protections of the law to non-cohabiting couples, including for instance adolescents (along with adult women) who are dating but not living together in a ‘married like’ relationship. The Act explicitly denies protection to same sex couples, as the definition of spouse only encompasses persons of the opposite sex, which is a violation of international standards that prohibit discrimination against LGBTI+ persons. Also, while the FPA applies to children, as family members, it does not provide any guidance on how their needs and interests are to be met within family violence response systems. The Act also does not provide a right or referral route for survivors of family violence to services and support.

In addition to the FPA and Regulations, preventing and addressing family violence is a clear policy priority for the Government of PNG. One of the aims of PNG’s Mid-term Development Strategy is achieving zero tolerance for GBV, and the PNG National Strategy to Prevent and Respond to Gender Based Violence, 2016-2025⁶, along with its implementation plan, is designed to elevate and prioritize the prevention of and response to GBV, which it defines as encompassing family violence and violence against women.

Indicators of compliance with international standards	Rating and gaps
(a) Family / intimate partner violence is clearly defined and prohibited in law.	No gaps.
(b) All acts of family violence / IPV are recognised and criminalised.	No gaps.
(c) All types of family relationships are protected.	Same sex and non-cohabiting couples are not protected.
(d) No exceptions exist to family violence / IPV.	Corporal punishment of children is not prohibited.
(e) Law / policy is in place to address drivers of family violence / IPV.	No gaps.
(f) Civil remedies exist to protect survivors of family violence.	No gaps.
(g) The law provides a right to services and support for survivors of family violence.	No legal right or referral process set out in law for survivors to access services.

2.1.3 Sexual violence and abuse

According to international standards, an appropriate age of consent to sexual activity should be set out in law. Any sexual activity involving a child under this age should be regarded as illegal, without the need to establish the absence of consent factually. While PNG’s Criminal Code Act establishes 16 years (or 18 years in the case that the perpetrator is in a position of trust or authority) as the age of consent to sexual activity and criminalises persons who engage in penetration, sexual touching or indecent acts with a child under the

⁵ WHO, Violence against women: factsheet (2017), available at <http://www.who.int/en/news-room/factsheets/detail/violence-against-women>

⁶ Department for Community Development and Religion, Papua New Guinea National Strategy to Prevent and Respond to Gender Based Violence, 2016-2025, p82.

age of 16 years, there are some gaps: the law sets a lower age of 14 years for sexual consent in the case that a child is married to the person involved. Also, the law on sexual consent and that relating to sexual violence against children in general is discriminatory against LGBTI+ adolescents – it criminalises same sex (male) sexual activity, including penetration and “indecent practices.”

PNG’s Criminal Code, along with a series of amendments (e.g. the Criminal Code (Sexual Offences and Crimes against Children Act 2002), contain a range of provisions which criminalise acts of sexual (and other) violence against children (and adults), in compliance with international law. Harsher sentences were introduced under the 2002 Act, and the defence of marriage in rape cases was removed (meaning that rape was criminalised within marriage), and the requirement for corroboration in evidence was removed. However, a gap exists in that the Criminal Code does not appear to prohibit all forms of *non-contact* sexual violence against children, other than that encompassed by provisions on child sexual exploitation (set out below), and provisions on ‘indecent acts’ (which can include uttering of indecent words). Other non-contact offences are not defined in the Code, including, significantly, grooming, which involves preparing children to be sexually abused, for instance, by befriending them and removing their inhibitions with the intention of abusing them. Sexual harassment – unwelcome sexual behaviour such as physical contact or advances, sexual remarks, sexual demands, showing pornography etc. – is also not criminalised in PNG’s Criminal Code Act.

Indicators of compliance with international standards	Rating and gaps
(a) An appropriate age of consent to sexual activity has been established that is: the same for boys and girls and same sex persons; an appropriate close in age exemption applies to ‘factually consensual’ situations; and recognition is given to sexual activity involving a position of trust through higher age / increased penalties.	Lower age of consent to sexual activity applies in marriage and discriminatory laws criminalise same sex (male) sexual activity.
(b) Rape is clearly defined and prohibited in all settings and contexts (including in marriage and against boys), is constituted by lack of consent and applies to all types of penetration.	No gaps.
(c) Law criminalises full range of other sexual offences (including online sexual violence), with appropriate remedies and sanctions.	Some non-contact sexual acts, such as grooming and sexual harassment, are not criminalised.
(d) Law / policies / strategies are in place to address drivers of sexual violence and gender-based violence.	Insufficient policy focus on sexual violence against children specifically.

2.1.4 Sexual exploitation

Sexual exploitation is any situation where the victim takes part in sexual activity in exchange for a gain or benefit (or for the promise of a gain or benefit) to themselves or a third party.⁷ This definition encompasses prostitution and pornography, including online sexual exploitation.⁸ In addition to several general provisions in PNG’s Criminal Code, sexual exploitation (including in prostitution and pornography) of children is quite comprehensively covered in PNG legislation, pursuant to amendments introduced into the Code by the Criminal Code (Sexual Offences and Crimes Against Children) Act, No. 27 of 2002. The provisions on sexual exploitation in child prostitution and pornography are comprehensive and largely align with international standards (though some of the general Code provisions on exploitation in prostitution apply only to girls).

⁷ Terminology Guidelines. Interagency Working Group on Sexual Exploitation of Children. June 2016.

<http://cf.cdn.unwto.org/sites/all/files/docpdf/terminologyguidelines.pdf> p 23 [27.07.2017]

⁸ https://www.unicef.org/protection/57929_79672.html

There are a number of gaps in the criminalisation of exploitation in child sex tourism as criminal provisions do not extend to non-PNG nationals on return to their home country (absent extradition treaties) and there are no distinct offences in law that criminalise various acts carried out to plan and organise child sex tourism.

Indicators of compliance with international standards	Rating and gaps
(a) Commercial sexual exploitation of children is clearly defined and all acts prohibited: offering, obtaining, procuring, providing.	No gaps.
(b) The prohibition on commercial sexual exploitation applies to all children up to 18 years, providing equal protection to boys and girls.	Some general Criminal Code provisions apply only to girls (and some only to unmarried girls and girls under 16 years).
(c) Law exempts children exploited in commercial sexual exploitation from prosecution.	No gaps.
(d) Child pornography is clearly defined and all acts prohibited: production, offering, distribution / dissemination, possession.	No gaps.
(e) Reporting obligations are imposed on service providers and other professionals	No gaps.
(f) Laws relating to child sexual exploitation apply extraterritorially	Criminal law does not extend to non-PNG nationals when they return to their home country.
(g) It is an offence to organize, facilitate or promote sexual exploitation of children in travel and tourism.	No specific offence relating to 'preparatory acts' in travel and tourism.

2.1.5 Child abduction, sale of children and trafficking

The PNG Government passed the Criminal Code (Amendment) Act, Act 13 of 2013, which amended the Criminal Code by creating of new Division on people smuggling and on trafficking in persons. These provisions comprehensively criminalise acts of trafficking and abduction of children and are largely compliant with international standards. However, there are a number of gaps: the act of removing a child under 18 years from a parent / guardian is not criminalised; and trafficking of children must involve a particular means (threat or use of force or other forms of coercion, threats etc.) in PNG, whereas this element is not needed to constitute child trafficking under international law. Also, there is no policy or strategy in place to address the drivers of child trafficking and exploitation.

Indicators of compliance with international standards	Rating and gaps
(a) Abduction and the removal or the retention of a child in violation of the rights of custody of another person is prohibited.	No separate offence of removal of a child from their parent / lawful guardian.
(b) The sale of children (any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration) is clearly set out in law and prohibited.	No gaps.
(c) Child trafficking is clearly set out in law and covers all acts relating to trafficking: (i) recruiting; (ii) transporting; (iii) transferring; (iv) harbouring; and (v) receiving, and covers all types of exploitation, without the need to establish a 'means' of trafficking.	Offences relating to child trafficking require the establishment of a 'means' (force, threats etc.)
(d) Child trafficking is an offence regardless of the child's 'consent.'	No gaps.
(e) Trafficking law applies to all children (boys and girls) equally	No gaps.
(f) Child trafficking laws and extraterritorial application.	No gaps.
(g) Strategy / policy is in place to address the drivers of child trafficking.	No strategy / policy is in place.

(h) Laws and policies are in place to ensure access to services for child victims of trafficking and exploitation.	No gaps.
(h) The law exempts children from prosecution for acts relating to trafficking and sexual exploitation.	No gaps.

2.1.6 Protection of children in the digital environment

The PNG Government adopted a National Cybercrime Policy in 2014. This Policy includes provisions on the prevention and response to online sexual exploitation of children and cyber harassment and bullying, and sets out the need for new legislation. While the Policy is welcome, it does not include sufficient focus on children and does not adequately cover prevention and response to VAC and protection risks in the digital environment for children. PNG's Cybercrimes Act 2016 contains a comprehensive provision that prohibits the use of an 'electronic system' for the purpose of sexual exploitation or abuse. It also prohibits acts of cyber bullying and cyber harassment. However, the 2014 Policy and 2016 Act are silent as to how acts of peer violence are to be addressed (e.g. non-consensual 'sexting'; promotion of self-harm etc.). Also, besides provisions extending liability to digital service providers in relation to child sexual exploitation, the Law does not set out duties or liability on the part of businesses for protecting children from violence in the digital environment.

Indicators of compliance with international standards	Rating and gaps
(a) National policy / strategy is in place for the protection of children in the digital environment.	National policy does not adequately cover VAC in the digital environment.
(b) Law defines and prohibits online grooming of children	No gaps.
(c) Law defines and prohibits acts of cyber aggression / cyber attacks	Forms of peer violence (e.g. sexting, promotion of self harm) is not addressed in law, and the responsibilities and liabilities of businesses are not comprehensively addressed.

2.1.7 Child and forced marriage

There are some key inconsistencies between PNG's laws on child marriage and international standards. The Marriage Act 1963, in contravention of international law, establishes different minimum ages for marriage, at 16 years for girls and 18 years for boys. Also, the law permits marriage of girls from the age of 14 years and boys from the age of 16 years where a Judge or Magistrate authorises the marriage on application to the Court. In addition, the statutory provisions on minimum marriage ages do not appear to apply customary marriages.

Substantial gaps and inconsistencies also exist in relation to the law on forced marriages. According to the Marriage Act 1963, free and full consent is required to enter into a lawful marriage; however, in relation to customary marriages, women must demonstrate that "excessive pressure" has been exerted on her and that it would be a "hardship to compel her to conform to custom." This provision is very limited in application and does not prohibit all forced marriages – it only applies to women and it also does not require an absence of free and full consent but rather the exertion of "excessive" pressure and "hardship."

Section 58(1) of the Marriage Act criminalises a person "who goes through a form or ceremony of marriage with a person who is not of marriageable age", imposing a maximum sanction of five years imprisonment (though only for marriages of girls aged 16 years and over). Confusingly, the LPA criminalises child marriage

where “a person, by act or omission, facilitates the marriage of a child, either by custom or law.” The LPA does not define ‘child marriage’, though ‘child’ is defined as a person under 18 years. It is unclear which law prevails in the case of the marriage of, for instance, a girl aged 16 years (which would be lawful under the Marriage Act 1963).

While marriage of a child under the marriageable age is criminalised in PNG law, the law does not set out any civil remedies for child marriage or forced marriage of children, such as Protection Orders / Restraining Orders that can be used to prevent child or forced marriages from occurring.

Indicators of compliance with international standards	Rating and gaps
(a) Minimum age of marriage (above 18 years) is clearly set out in law and minimum age of marriage is the same for girls and boys.	The minimum age of marriage for girls (16 years) is below that set out in international law.
(a) There are no legal exceptions permitting marriage below the age of 18 years (e.g. pregnancy, parental permission etc.).	The law sets out exceptions for the minimum age of marriage and permits marriage from 14 years (girls) / 16 years (boys) with Judicial approval.
(b) There is a legal requirement to register all marriages, with a requirement of proof of age.	No gaps.
(c) Child marriages are prohibited in law, with sanctions and legal remedies.	Child marriages are criminalised but not for girls from 16 years.
(d) Forced marriages are prohibited in law, with sanctions and legal remedies.	There is no criminal prohibition on forced marriages.
(e) Civil legal remedies exist to prevent and address child and forced marriages.	No civil remedies exist for child or forced marriages.
(f) Policy / strategy is in place to address the drivers of child and forced marriages.	No policy / strategy on preventing child marriages.

2.1.8 Harmful practices

The term ‘harmful practices’ refers to acts carried out as part of a particular tradition, custom, religion or culture that have the potential to result in physical or emotional harm to a child. The term can be applied to a wide variety of different practices within a wealth of different cultures and traditions. These include: corporal punishment, female genital mutilation/cutting (FGM/C), violent and degrading initiation rites (including virginity inspection), forced and early marriage, so-called ‘honour’ crimes, accusations of witchcraft (and associated rituals), and binding, scarring, burning and branding parts of the body.⁹

PNG’s LPA contains a general prohibition against harmful practices; however, what is considered a ‘harmful practice’ is not defined and it is unclear which practices would fall within this provision (however, it could be argued that, in the absence of a definition in PNG law, Courts could be guided by definitions in international instruments). PNG’s law prohibits a number of harmful practices that occur in the country, including bigamy and violence connected to sorcery accusations. However, the practice of paying brideprice is not prohibited in PNG. The CRC and CEDAW Committees recognise the payment of brideprice as constituting a ‘sale of children’ which States are required to prohibit in accordance with the OPSC.

⁹ CRC Committee, General Comment No. 13.

Indicators of compliance with international standards	Rating and gaps
(a) Bigamy / Polygamy is clearly set out and prohibited in law.	No gaps.
(b) Dowry or bride price is prohibited in law (e.g. recognized as a form of sale of children).	No provisions exist that prohibit bride price.
(c) Violence against children in the context of sorcery is prohibited in law.	No gaps.

2.1.9 Child labour

The minimum age of employment is set at 16 years in PNG's Employment Act 1978, in line with international law. However, employment of children aged 11 to 16 years is permitted provided certain conditions are met. The law appears to allow children as young as 11 years to work (in a family undertaking), against international standards. It also permits work by children who are of compulsory school age, which is inconsistent with international standards (though with the proviso that the employer must be satisfied that the child is no longer in school). The Employment Act 1978 does not set any maximum hours of work for children, though it prohibits employment of children between the hours of 6pm and 6am (except for 16 and 17 year olds who are working in a "family undertaking").

According to international law, States are obliged to clearly define and prohibit the engagement of children under the age of 18 in the worst forms of child labour and hazardous labour.¹⁰ Both the Employment Act and the LPA broadly prohibit hazardous labour. However, neither Act details the types of work considered to be hazardous or harmful. As a result, this provision is likely to be subject to individual discretion. Clear guidelines are required to identify or provide further guidance on the particular types of work that are considered harmful or hazardous.

Indicators of compliance with international standards	Rating and gaps
(a) Engaging a child under the age of 18 in the worst forms of child labour, including all work that is likely to jeopardize his/her health, safety or morals, is prohibited.	No gaps.
(b) Laws / regulations are in place to clearly define prohibited hazardous or harmful work.	No guidance on the type of work considered to be hazardous or harmful.
(c) Child labour rules apply to children working in both the formal and informal sectors, including domestic work.	No explicit provisions on domestic work, and minimum age of employment for work in 'family undertakings' (11 years) is below international standards.
(d) The minimum age for work or employment is set at least 15 years.	Exceptions permit employment of children from 11 years in 'family undertakings' / 14 years in any industry besides fishing, provided certain requirements are met.
(e) If the law permits children under the minimum age to engage in 'light work', the minimum age is at least 13, and the law defines and regulates the types of light work that children can engage in.	No definition of light work and minimum age for work in 'family undertakings' (11 years) is below international standards.
(f) Strategy / policy is in place to address the drivers of harmful child labour.	No strategy / policy in place.

¹⁰ Article 3, ILO Convention 138; Articles 3 – 4, ILO Convention 182.

2.1.10 Children in armed conflict

There are very limited national laws relating to the involvement of children in armed conflict in PNG. The only applicable laws are the Geneva Conventions Act 1976, which incorporates the four Geneva Conventions into domestic law. However, the Act is silent on the incorporation of the two Additional Protocols, and the four Geneva Conventions do not address the involvement of children in hostilities in detail. It is likely that recruitment into armed forces is captured by the prohibition of harmful or hazardous labour, though this is not expressly stated in either law.

Indicators of compliance with international standards	Rating and gaps
(a) Compulsory recruitment of children under 18 into the armed forces is prohibited in law.	No explicit prohibition of compulsory recruitment of children under 18 years into armed forces.
(b) The law sets a minimum age of at least 15 years for voluntary recruitment into the armed forces. Safeguards are in place to verify age and to ensure that recruitment is genuinely voluntary and with informed consent of the child's parents/ guardians.	No explicit minimum age of recruitment into voluntary armed forces.
(c) The law criminalizes the recruitment or use in hostilities of children under the age of 18 by armed groups.	No explicit criminalisation of the recruitment or use of children under 18 years by armed groups.

2.1.11 Birth registration

The Civil registration in Papua New Guinea is regulated by the Civil Registrations Act 1963 and the Civil Registrations Regulations 1967. The Civil Registration (Amendment) Act 2014 established a national register and PNG's national ID system and provides for the establishment of an Office in each province, headed by a provincial registrar. However, according to these laws, births are only required to be registered where in 'prescribed premises' or 'compulsory registration areas', and the registration of births outside these areas is only discretionary. Also, there is no explicit legal right for non-nationals to have their births registered. Improving birth registration is a clear priority for PNG. The Civil and Identity Registration Bill 2018 will soon go before Parliament. This will repeal the 1963 and 2014 Acts and generally strengthen the civil registration systems, in line with international standards.¹¹

Indicators of compliance with international standards	Rating and gaps
(a) The law provides the right to birth registration for all children.	There is no obligation on the Registrar to ensure that all births are registered (only those in designated areas / premises)
(b) The law allows birth registration for all children, without discrimination on any grounds.	No explicit right to registration of births of non-nationals in PNG.
(c) The law provides that birth registration is free.	No gaps.
(d) Birth registration / a birth certificate is not a condition for accessing basic services (health, education, social welfare etc.)	No gaps.

¹¹ ¹¹ Pacific Community and United Nations Children's Fund (UNICEF), Civil registration and vital statistics in Papua New Guinea, 2021, Noumea, New Caledonia: Pacific Community.

2.2 Child protection laws, policies and institutional framework

While international standards elaborate criminal laws that States parties are obliged to put in place to address violence, abuse, neglect and exploitation of children, the CRC also requires States to have civil laws and systems in place; States must have a child protection system set out in law, standards and detailed guidance, and systems and services must be in place to support implementation of these laws.

The Lukautim Pikinini (Child) Act 2015 (LPA), which replaced the Child Welfare Act, is the key child protection law designed to protect and promote the rights and wellbeing of all children and in particular, those at risk of violence and other forms of harm. PNG's child protection system is contained primarily in the LPA and accompanying Operational Manual. The LPA sets out the laws that apply to children in need of care and protection, and it also sets out the administrative and institutional framework for child protection. The Government's policy priorities, objectives and a framework for strengthening the child protection system is set out in the Lukautim Pikinini (Child Protection) Policy 2017 – 2027.

2.2.1 Legal framework

Early intervention

In line with international standards, the law in PNG (the LPA and Operational Manual) recognises that the family usually provides the first line of protection for children and recognises the right of children to grow up in their family, unless this is not in their best interests. However, there does not appear to be any supporting guidance on the types of services and support that can be provided to parents and how this is to be delivered.

Indicators of compliance with international standards	Rating and gaps
(a) The law includes a statement of the government's obligation to support families in their child-rearing responsibilities, and to protect children from all forms of violence, abuse, neglect or exploitation.	No detailed guidance on services and support available to parents and how this is to be delivered.

Reporting, assessment and response

The LPA comprehensively sets out the circumstances in which a child is to be considered in need of protection, in conformity with international law. It also provides mandatory reporting obligations and referral process for a range of professionals who work with children; sets out responsibilities for Child Protection Officers (CPOs) to carry out assessments and care planning following a child protection referral; sets out emergency search, removal and protection powers in cases where a child is in immediate danger; includes obligations to keep children informed and provides an opportunity for children to respond to outcomes of child protection decisions; sets out a range of services for children in need of care and protection, including temporary accommodation and various forms of alternative care; and contains a process for judicial review of removals and placements.

However, there are a number of areas in which the law in PNG could be strengthened, including by providing further guidance on multi-agency approaches to assessment and care planning; explicitly requiring regular review of childcare and protection orders / placement decisions; and by explicitly providing children and parents / carers with the right to make their views known in child protection hearings.

Indicators of compliance with international standards	Rating and gaps
(a) There is a definition of the circumstances where children are in need of care and protection that encompasses children under 18 years who are orphaned or without parental care and who have experienced, or at risk of, all forms of violence, abuse, neglect and exploitation.	No gaps.
(b) The law makes provision for reporting children in need of care and protection, including an accessible mechanism for children/families to request assistance, and mandatory reporting for professionals working with children.	No gaps.
(c) There are clearly defined procedures for referral, assessment/investigation and inter-agency cooperation in responding to children in need of care and protection.	Further guidance on multi-agency approaches to assessment and care planning is needed.
(d) The law makes provision for a range of care, recovery and reintegration services for children.	No gaps.
(e) Decision-making in child protection cases is mandated to be guided by the best interest of the child principle.	No gaps.
(f) Law / guidance provides children the right to express their views and have due consideration given to these views commensurate with the child's capacity.	No gaps.
(g) The law provides for care and protection orders or other formal interventions, including restraining orders and removal of the child or perpetrator where necessary to protect the child from significant harm and in the child's best interest.	No gaps.
(h) Any decision to separate a child from his or her parents is made by competent authorities and subject to judicial review, with participation of the child and parents and other interested parties in any such proceedings, and in making their views known.	No explicit provision for the right of children and parents / carers to make their views known in child protection hearings.
(i) Law provides that the decision is regularly reviewed, with the aim of promoting the child's return to parental care, once the original causes of removal have been resolved.	There are no provisions requiring the review of child protection placement decisions or care plans.

Alternative care

The LPA places an obligation on the Director of Children and Families to make provision for the care of a child who is temporarily or permanently in their care, including in a range of alternative care options, as required by the CRC. It also places an obligation on the Director to provide a temporary place of safety in emergency cases requiring immediate removal of a child. However, there are several gaps. While international standards require alternative care to be in family and community-based settings (rather than institutions), there is no provision in law stating that residential institutions are not permitted (or are only permitted as a last resort or where constructive to the child's best interests).

Also, there do not appear to be any standards guiding the delivery of different forms of alternative care, though section 9 of the LPA Regulations permits the Director to accept applications for foster carers. However, there are no regulations or rules which detail processes for recruiting, vetting and monitoring the provision of foster or other forms of care, along with standards of service (though the development of minimum standards for out of home care is mandated under section 68 of the LPA). Part IX of the LPA governs the licensing and inspections of out of home care, which is defined in section 2 to include family-based and residential forms of care; however, there does not appear to be any forms or detailed processes for inspections of out of home care providers.

(a) There is a legal obligation on the State to provide alternative care for children without parental care or who cannot in their best interest be permitted to remain in parental care. This includes a range of emergency, short-term and long-term alternative care options are provided, including kinship care, respite care, foster care, supervised independent living arrangements, adoption and residential care.	No explicit provision in law that residential care is not to be used (or only used where it is constructive to the child's best interests).
(b) Standards of care are in place for all alternative care providers.	No detailed standards of care for different forms of alternative care.
(c) Law / regulations provide a system for registration of all alternative care providers and all providers must be registered with social welfare.	No gaps.
(d) The law requires independent inspection and monitoring of all children in alternative care, including frequent scheduled and unannounced visits.	No detailed guidance or tools for inspections of alternative care providers.
(e) The law requires that alternative care decisions be based on the best interest of the child.	No gaps.
(f) Children have the right to be involved in any decision about their placement and to have their views given due weight in accordance with their evolving capacities.	No gaps.
(g) Children separated from their parents are entitled to maintain personal relations and direct contact with them, unless this is contrary to the child's best interest.	No gaps.
(h) Children in care have access to an effective and impartial mechanism whereby they can notify complaints or concerns regarding their treatment or conditions of placement.	No complaints mechanism for children in care.

Adoption

Adoption in PNG is governed by the Adoption of Children Act 1968, which is quite dated and does not always align with subsequent legal developments. While the Act does provide some important safeguards (e.g. by requiring that adoption decisions are determined in accordance with the best interests of the child as the paramount consideration, and the requirement that parents give free and full consent to adoptions unless certain conditions are met), it does not mandate a Government agency (for example, the Office for Child and Family Services) as the competent body to oversee the whole adoption process, including assessing the situation of children and potential adoptive parents, providing counselling, family tracing for the purposes of adoption proceedings etc. (though the Act does mandate particular functions for the Director of Child Welfare). Also, it legally recognises customary adoptions, but does not make any provisions for a full assessment to be carried out of the child and prospective parents by a competent body.

Moreover, there do not appear to be any laws on intercountry adoption of children from Papua New Guinea, and Papua New Guinea is not a party to the Hague Convention of 29 May 1993 on the Protection of Children in the Context of Intercountry Adoption.

Indicators of compliance with international standards	Rating and gaps
(a) A competent authority has been designated to oversee the adoption process	The law does not designate an authority to oversee the whole adoption process.
(b) Adoptions must be approved by a Court / competent authority based on a full assessment of the child and adoptive parents	The law does not set out a detailed process for assessments of prospective adopters.
(c) Adoptions must only be granted with the free and full consent of parents	There are no explicit provisions prohibiting any form of inducement or coercion or a requirement for counselling, if required.

(d) The law provides the right for children to express their views and have those views taken into account in a proposed adoption, commiserate with their age and capacity.	There is no provision in law granting children under 12 years with the right to express their views and have those views taken into account in a proposed adoption, commiserate with their age and capacity.
(e) The law provides that the best interests of the child shall be the paramount consideration in any decision about adoption of the child.	No gaps.
(f) Private and independent adoption is prohibited and the law provides that all adoptions should be approved by the court or other competent authority based on a full assessment of the child and the prospective parents.	There is no requirement for an assessment of the child and prospective parents by a competent authority in customary adoptions.

2.2.2 Institutional framework

The Department for Community Development and Religion (DfCDR) is the lead national agency and anchor for the child welfare component of the national Child Protection System. The primary function of DfCDR is to develop legislation, policies, and programmes to promote and protect the rights of marginalized and vulnerable groups such as women, children, persons living with disability and the elderly. It implements these functions through several specific offices. Its main reporting line is to the National Executive Council (NEC) through the office of the Minister. Within the Department there are several sub institutions (Offices, Branches, etc.,) that exclusively or partly have mandates related to children. These sub institutions include the Office of Child and Family Services; the National Child and Family Council, the Office of the Development of Women and GBV Secretariat; the Inter-Agency Working Group Child Protection and the Sub-Cluster of the Protection Cluster. These sub-institutions are outline below.

In addition to the DfCDR, PNG has made notable progress in designing and implementing a multi sectoral response to child protection, including for VAC. The following Ministries, Departments and Agencies were identified as having varying degrees of importance and influence in PNG’s child protection system.

HIGH	Institutional Mapping Child Protection		HIGH
IMPORTANCE – DESIGN & IMPLEMENTATION OF LEGISLATION AND POLICY	IMPLEMENTATION ↓	INFLUENCE ↓	IMPORTANCE – INFLUENCING THE AGENDA FOR LEGISLATION AND POLICY REFORM
	Government institutions 1. Ministry of Community Development Youth and Religion 2. Office of Child and Family Services 3. National Child and Family Council 4. Office of the Development of Women and GBV Secretariat 5. Inter-Agency Working Group Child Protection 6. Sub-Cluster of the Protection Cluster 7. Department of Justice and Attorney General 8. Royal Papua New Guinea Constabulary 9. Family and Sexual Violence Units 10. Magisterial Services 11. Family Court 12. Correctional Services 13. Department of Education 14. National Department of Health 15. Department of Labour and Employment Non-government sector	Government institutions 1. Office of and Department of Prime Minister/NEC 2. Department of National Planning and Monitoring 3. Department of Treasury 4. Ombudsman Commission of PNG 5. Constitutional and Law Reform Commission 6. Office of the First Legislative Counsel 7. Department of Provincial Affairs and Rural Development 8. Provincial and District Administrations 9. Public Services Commission 10. Department of Personnel Management 11. Office of Higher Education 12. Human Resources Development institutions 13. National GBV Advisory Committee Non-government sector, development partners and others 1. PNG Institute of National Affairs 2. Consultative Implementation Monitoring Committee	

MEDIUM	16. Family and Sexual Violence Action Committee 17. Child Protection Alliance (and other International and national NGOs and faith organisations with a strong mandate for child protection)	3. Media, Information Technology and Communication Sector 4. Development Partners 5. Human Resources Development institutions such as Universities, training colleges and private training providers	MEDIUM
	Government institutions (Provincial and District) 1. Provincial Child and Family Services Council 2. Provincial Office of Child Welfare 3. Provincial GBV Action Committee 4. District Child and Family Services Committee 5. District Office of Child Welfare 6. District GBV Action Committee Non-government sector 1. Family and Sexual Violence Action Committees 2. Provincial and district NGOs	Government institutions and others 1. Department of Foreign Affairs and Trade 2. National Court 3. Tourism/Hospitality Industries (Tour Service Providers, Accommodation Service Providers) 4. Transport Service Providers (National Airports Corporation, PNG Ports Services, Road Transport Authority) 5. Extractive Industries (Mining, Forestry, Fishing, Agriculture Authorities and agencies) 6. Security Forces/ Service Providers (Chamber of Commerce or regulating body of security services)	

The mapping identified several agencies with **high importance for the design and implementation of legislation and policy**. This group of agencies has a significant role to play in designing new laws and policies and clear accountabilities for their implementation. Investing in strengthening strong partnerships within this group, based on an advanced understanding of the multi-dimensional aspects of child protection would deliver meaningful results for children. Priorities for investments include fostering and building trust and a shared commitment to problem solving and applying a multi-sectoral response to child protection, as opposed to working in legislative or technical silos. Strengthening the capacity of this group to drive change is key for effective implementation of key laws and policies

The mapping identified several agencies with **high importance for influencing the agenda for legislation and policy reform**. This group of agencies has an elevated level of influence in setting priorities for legislative and policy reform. Strengthening the knowledge of this group on child protection through effective communication channels is key for building momentum and demand for action for child protection. High level, high impact communication is required with his group. The use of evidence informed advocacy strategies is likely to yield results.

Critical gaps

There are two critical gaps in the institutional arrangements for child protection including VAC, relating to legislative silos and national planning and response to VAC.

- *Legislative silos*

The scope of the LPA is extensive covering many key child protection concerns. However, the functions of the institutional bodies such as the Office of Child and Family Services and the National Child and Family Services Council, and equivalent bodies at the district levels are limited to the LPA rather than having a broader scope of all welfare related child protection concerns. In other words, the institutional arrangements for child protection are based on a legislative silo (i.e., the LPA), rather than being based on a child protection system, where the institutional arrangements cover several pieces of legislation.

- *National planning and response to VAC*

There is currently no action plan for preventing and responding to the multi-types of violence experienced by children in PNG. This includes violence in the home, in school, in the community and online. This violence includes physical, sexual and emotional abuse, neglect and exploitation. As shown by the legal review, there are several gaps in the protection and response to VAC. While it may be necessary to fix these gaps through further legislative reform, this could no doubt take several years to achieve. It may be more efficient time wise and also in recognition of the urgency to improve the safety of children, to rapidly develop an action plan for VAC.

2.3 Child justice laws, policies and institutional framework

The CRC contains a number of provisions applicable to children in contact with the law (either as victims / witnesses or suspects / offenders). Article 40 is a key provision and provides that States Parties must recognise “the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.”¹² Article 37 concerns deprivation of liberty and provides safeguards against unlawful or arbitrary detention, and requires states to ensure that the arrest, detention or imprisonment of a child “shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.”¹³ The rights of children in conflict with the law have been elaborated in the CRC Committee’s recent General Comment No. 24 on Children’s rights in the justice system, and are set out in a number of ‘soft laws’, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”) 1985, the UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) and the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Rules). Child witnesses are also entitled to special protections according to international standards. These protections are set out in the UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime 2005.

2.3.1 Legal framework

Child victims and witnesses

In PNG there is no stand-alone law that outlines the rights of child victims and witnesses in domestic legislation. Instead, what few protections that do exist for child victims and witnesses are fragmented across multiple pieces of primary legislation and standard operating procedures for those involved in the criminal justice system (e.g. the Evidence Act and Criminal Code). This has led to substantial gaps in legal protection afforded to child victims and witnesses.

In particular, no provisions exist in the law or Magistrates Manual of Papua New Guinea which ensure that cases involving child victims and witnesses are expedited through the criminal justice process, meaning that children could wait a significant amount of time before being able to have their case resolved. This further adds to the burden of children in court proceedings and is not in line with best practice. Also, PNG law states that the credibility of child witnesses should be assessed on a case by case basis, which goes against

¹² Article 40(1), CRC.

¹³ Article 37(b), CRC.

international standards, which require that all children above the age of criminal responsibility are to be presumed competent and treated as a capable witness.¹⁴

Protections do exist for children and young people who are found to be competent to give evidence in Court. Under Article 37(b) of the Evidence (Amendment) Act 2002, child victims and witnesses - defined as those persons aged under 18 - are able to testify using 'special measures order.' These orders detail a range of measures that can be taken by a Judge in a case where distress is likely to as a result of testifying in order to reduce the discomfort of the child or young person, for instance, the use of screens to prevent the witness seeing the accused, provision for a support person for child witnesses, removing elements of formality in the court room and so on. Additionally, the Constitution of PNG allows for an interpreter to be provided to witnesses under certain circumstances. Whilst these protections are broadly in line with international standards, more could be done to ensure support children, including those with disabilities, throughout the process of giving evidence. In particular, there is no impartial and trained guardianship service in Papua New Guinea set out in law to support child victims and witnesses before, during and after trial.

In addition, while protections do exist in the Evidence Act to prevent accused persons from directly cross-examining children, law should strengthen protections for children subject to cross-examination to minimise the risk of further harm to the child and to ensure they are fully informed throughout the trial.

Indicators of compliance with international standards	Rating and gaps
(a) Children of all ages are recognized as competent witnesses and their testimony is not presumed invalid by reason of age alone.	The assessment of a child's competence as a witness on a 'case by case' basis, is not in line with international standards, which require States to ensure that all children above the age of criminal responsibility are presumed competent to participate in Court proceedings.
(b) Criminal proceedings against perpetrators of crimes against children can always be initiated the police or prosecutor and do not require the consent of a parent/guardian.	No gaps.
(c) Mediation / informal settlement only takes place when it is in the best interests of the child.	No reference to children's best interests in the 2008 amendments to the National Court Act or Village Courts Act.
(d) The law recognizes the vulnerability of child victims and the best interest of the child is a primary consideration guiding the entire process.	The best interests paramountcy principle does not explicitly apply to child witnesses.
(e) The law makes provision for child victims to be provided appropriate accompaniment and support services throughout the legal process (e.g. through a guardian).	There is no guardianship service in PNG. Additional support services are also not provided for in law, including a lack of supports for children with disabilities.
(f) Cases involving child victims and witnesses are required to be expedited.	No provisions on expediting criminal cases involving child victims / witnesses.
(g) Provision is made for measures to reduce hardship and assist children	Limited legal protections exist to

¹⁴ United Nations Economic and Social Council resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, para. 18.

to give testimony (e.g. evidence via video link).	minimise the harm of cross examination of child witnesses.
(h) Child victims are guaranteed the right to privacy throughout the process, and there are restrictions on publishing their identity.	There is no absolute right to privacy for child victims / witnesses.
(i) Measures are available to protect the safety of child victims and their family and to prevent intimidation and retaliation.	There are no specific protections for witnesses after they have given their testimony in Court under the Criminal Code. Additionally, there are no specific provisions related to intimidation.
(j) Child victims have access to suitable procedures to seek compensation for damages.	No gaps.

Specialised child justice system

Papua New Guinea's Juvenile Justice Act 2014 sets out a framework for a distinct and specialised child justice system "based on the principles of restorative justice, Melanesian tradition and contemporary juvenile justice practices." In line with the CRC, Section 6A(j) of the Act states that at all stages of the process, the criminal justice system for juveniles (i.e. those aged under 18 years of age) must be separate from that of adults. This is in line with international standards and best practice. The Act establishes specialised juvenile justice institutions, committees and professionals (Juvenile Justice Officers). The Act also permits, but does not mandate, the establishment of local Juvenile Courts. However, these courts can only hear certain cases (cases that would ordinarily be punishable as summary offences or otherwise triable in District Courts) and oftentimes do not exist in practice, with children's cases instead being heard courts of summary jurisdiction or national courts. Also, community based juvenile justice conferences do not follow best practice in that they do not have wider membership from professionals who interact with children, for example social workers and teachers.

Indicators of compliance with international standards	Rating
(a) A Specialised child justice system is in place, with specialised institutions and units (including courts), and applies to all children from the minimum age of criminal responsibility to 18 years.	Juvenile Courts are unable to hear cases of homicide, rape or any other offence punishable by death or imprisonment for life even if that offence was committed by a person under the age of 18 years. The Juvenile Justice Act permits the establishment of juvenile courts but does not mandate their establishment, meaning courts exist only on an ad hoc basis.
(b) Multidisciplinary teams are in place to respond to children in conflict with the law.	Community based conferences do not follow best practice in that they do not have wider membership from professionals who interact with children, for example social workers and teachers.
(c) Strategies / polices are in place to address drivers of child offending.	No gaps.

Limits of criminalisation

The minimum age of criminal responsibility is the minimum age at which a child is regarded by the State as being capable in law of committing a crime. Under PNG's Juvenile Justice Act, the minimum age of criminal

responsibility is ten years old. This is contrary to General Comment 24 of the UN Committee on the Rights of the Child, which in 2019 concluded that states should be encouraged to increase their minimum age to at least 14 years of age in accordance with Article 41 of the CRC. Such a low age of criminal responsibility risks unnecessarily criminalising children, often for minor offences, for matters which should be seen as matters of social welfare or child protection.

Age assessments are an important processes, particularly in countries which do not have high rates of birth registration, like PNG. They can help to establish a child's access to age-specific protections and systems within the child justice system. The Juvenile Justice Act provides for a system for age assessments for cases where the person's age is disputed, a list of methods of assessment, including health clinic records, village lists, school records etc. This is largely compliant with international law, which states that assessment of a child's physical and psychological development should only be used as a method of last resort where other methods (such as obtaining a child's age from official records) are unavailable. However, it does not prohibit or regulate the application of purely physical / medical assessments. It also does not give children the benefit of the doubt where age is unknown or disputed, as required by international law.

According to international standards, States should ensure that the decriminalise minor offences such as status offences (those that can only be committed by persons with a certain status – in this case, by children), such as truancy from school, running away from home, violations of curfew laws or being 'ungovernable' or badly behaved.¹⁵ There are a limited number status offences in PNG, contrary to international standards. For instance, in PNG is the Curfew Act 1987, the Head of State is permitted by means of proclamation, to impose a curfew on 'every person within a specified age group' (Section 3(1)b) for a period of no more than two months at a time. Whilst this regulation is not *de jure* discrimination against children and young people, such legislation is overwhelmingly likely to be applied to children and young people.

The Constitution of Papua New Guinea enshrines equality and non-discrimination provisions into national law which ensure that all citizens have the same rights, provisions, obligations and duties irrespective of race, tribe, place of origin, political opinion, colour, creed, religion or sex (Section 55)., in accordance with international standards. However, in contravention of this provision, PNG criminalises consensual same-sex sexual activity between men, with a maximum prison sentence of 14 years (Criminal Code, Section 210). This includes male children above the minimum age of sexual consent. The Criminal Code also uses discriminatory, derogatory and stigmatising language against male sexual relationships such as 'unnatural offences' and 'against the order of nature'. Same sex relations between women and girls are not criminalised. Marriage also remains illegal for both male and female same-sex couples in PNG, and as such the marital exemption which applies to a person having sex with a married child over the age of 14 does not apply.

PNG law or policy does not appear to require special consideration to be given to the needs children with disabilities, nor are there special provisions for their treatment within the criminal justice system. Without a comprehensive set of protections that remove children with impaired capacity due to disabilities or neurodevelopmental disorders from the child justice system, these children will suffer disproportionately.

Indicators of compliance with international standards	Rating and gaps
(a) The minimum age of criminal responsibility (MACR) is set out in law and is	Minimum age of criminal

¹⁵ Status offences also include the criminalisation of consensual sexual acts by adolescents under a minimum age. This is discussed above at section 3.4.

above 14 years of age. There are no exceptions specified in law for lowering the MACR in certain circumstances.	responsibility is 10 years old and does not meet the international standard of 14 years old.
(b) A system of age assessments is in place, relying on documentation and testimony from parents, teachers, religious leaders etc. where a child's age is unknown.	No guidance provided on the procedures for conducting physical or psychological age assessments, including no requirement that assessments are undertaken in child-friendly manner.
(c) Provisions are in place giving the child the benefit of the doubt where age is unknown / disputed.	The law does not give children the benefit of the doubt in cases where age assessments are inconclusive. Additionally, there is no appeals process in cases where age assessments are disputed.
(d) Status offences are not criminalised (including school absence, running away, begging, trespassing etc.) and consensual sexual acts between children are not criminalized.	The Curfew Act contains restrictions on the movement of persons within specified age groups, leaving open the door for the criminalisation of children in the basis of age.
(e) The criminalisation of acts is not discriminatory on any grounds (e.g. on the grounds of sexuality or gender identity).	Consensual same-sex sexual activity remains criminalised for boys and men of any age.
(f) Children with impaired capacity, due to disabilities or neurodevelopmental disorders, are not in the criminal justice system, through automatic exclusion or exclusion through individual assessments provided in law.	No provisions on children with disabilities in Juvenile Justice Act.

Diversion

In order to reduce the negative effects of children's involvement in the juvenile justice system, the CRC obliges States to develop procedures which allow children's behaviour to be dealt with without resorting to judicial measures, wherever appropriate and desirable providing that their human rights are safeguards are fully respected.¹⁶ This is known as diversion, which is the process of 'diverting' children away from the formal legal system to a more informal resolution in the community. Diversion should be the preferred manner of dealing with children in the majority of cases.¹⁷

The law relating to diversion is largely compliant with international standards. A stepped process of diversion is in place to allow children in conflict with the law to be diverted to more informal routes. The law sets out key criteria for diversion which are largely in line with the CRC. Both police and court-led diversion are clearly articulated in the Juvenile Justice Act and further detailed in the Juvenile Court Protocol issued by the Chief Magistrate and the RPNGC Juvenile Principles and Guidelines for Police. A variety of diversion options are available for children in conflict with the law under Section 29 of the Juvenile Justice Act including a warning, formal apology, counselling, monitored behaviour non-residential vocational training, restitution, financial compensation.

¹⁶ CRC, op. cit., Art 40(3)(b); see also Beijing Rules 6 and 11.

¹⁷ CRC, General Comment 24, Para. 16.

One gap, however, is that no provisions exist in the Juvenile Justice Act to explicitly safeguard children from potential coercion and intimidation in the diversion process. Such provisions are essential to ensure that children make informed decisions regarding their decision to take part in diversion proceedings.

Indicators of compliance with international standards	Ranking and gaps
(a) Law provides possibility of diversion for children in conflict with the law as a priority and diversion is available for the majority of offences / cases	No gaps.
(b) The law provides the following guarantees in relation to diversion: <ul style="list-style-type: none"> <li data-bbox="188 521 1043 678">(i) Diversion should be used only when there is compelling evidence that the child committed the alleged offence, that he or she freely and voluntarily admits responsibility, without intimidation or pressure, and that the admission will not be used against the child in any subsequent legal proceeding; <li data-bbox="188 719 1043 808">(ii) The child is to be given the opportunity to seek legal or other appropriate assistance relating to the diversion offered by the competent authorities, and the possibility of review of the measure; <li data-bbox="188 848 1043 882">(iii) Diversion measures should not include the deprivation of liberty; and <li data-bbox="188 913 1043 1003">(iv) The completion of the diversion should result in a definite and final closure of the case. Although confidential records of diversion can be kept, they should not be viewed as criminal convictions or result in criminal records. 	More clarity is need in law to minimise the possibility of children being intimidated into acknowledging responsibility for the offence. Limited access to legal aid for children.
(c) The law provides for a range of different diversion measures and restorative justice measures for children in conflict with the law.	No gaps.

Procedural safeguards

The CRC and the International Covenant on Civil and Political Rights both set out minimum guarantees and protections for children in the juvenile justice system, including the presumption of innocence¹⁸; right to be informed of reasons for arrest;¹⁹ right to be heard in criminal proceedings²⁰; access to legal representation²¹; right to apply for and be granted bail and provisions tightly restricting the use of pre-trial detention²²; and rights to respect for privacy.²³

The Law in PNG is largely compliant with international standards in providing a Constitutional right for all persons with a criminal offence are to be presumed innocent until proved guilty according to law. According to the Juvenile Justice Act, children must be informed if they are under arrest and Police Officers have a responsibility to explain the nature of the allegations, cite rights the child is entitled to and answer any questions the child may have (Section 46). The law also provides that parents are notified of the arrest of their child immediately and not more than 24 hours after the arrest, in line with Rule 10.1 of the Beijing Rules and General Comment 24, which explains that “notification of parents should not be neglected on the grounds of convenience or resources.”²⁴ Under Section 66(2) of the Juvenile Justice Act, Courts must allow children and their parents to have a full opportunity to be heard and participate in criminal proceedings, in

¹⁸ Article 20(2)(b)(i), CRC.

¹⁹ Article 2, ICCPR.

²⁰ Article 40(b)(iii), CRC.

²¹ Article 37, CRC.

²² CRC, General Comment 24, Para. 86.

²³ CRC, Article 40 (2)(b)(vii).

²⁴ CRC, General Comment 24, Para. 47.

line with international standards. Children’s rights to privacy are also protected under Article 112 of the Juvenile Justice Act, which expressly prohibits the publication of a child’s name or any identifying details about the child that may lead to the identification of the child, except in certain limited cases.

Nonetheless, some gaps remain. The general principles contained in Article 6 the Juvenile Justice Act include the right of a child to “express his or her views before any decision affecting the juvenile is taken” and also entitle children to be addressed in their language of choice, including the use of an interpreter if necessary. However, the law does not provide detail how child participation should be done in practice, nor does it instruct juvenile justice professionals to give “due weight” in decisions affecting the child. Also, no detail is provided in the Act on how interpreters should be coordinated or resourced and at which stages of the legal process an interpreter must be provided and no provision is made in law for free interpreters. Another significant gap is that access to legal aid is limited to cases where the sentence would be two years imprisonment or more. While Courts are mandated under the Juvenile Justice Act (Section 59(2)) to take reasonable steps to expedite the completion of the proceedings to minimize the time the child spends in custody pre-trial, the legislation does not set a maximum time limit for which a child can be detained pre-trial.

Indicators of compliance with international standards	Rating and gaps
<p>(a) The following safeguards are provided in law:</p> <p>(i) That the child is to be presumed innocent until proven guilty according to law;</p> <p>(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;</p> <p>(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;</p> <p>(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;</p> <p>(v) Right to be heard in the context of child justice proceedings;</p> <p>(vi) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;</p> <p>(vii) To have the free assistance of an interpreter if the child cannot understand or speak the language used;</p> <p>(vii) To have his or her privacy fully respected at all stages of the proceedings; and</p> <p>(viii) The right to privacy at all stages of the proceedings</p>	<p>Children can be remanded into custody.</p> <p>No set time limit on the pre-trial detention of children.</p> <p>Lack of detail on provision of interpreters for children.</p> <p>No legal aid for children whose crimes have a sentence which is less than 2 years imprisonment.</p> <p>No provision for children’s views to be given ‘due weight’ in the juvenile justice system, contrary to Article 12 of the UNCRC.</p>

Sentencing and use of detention

PNG law is largely in line with international standards, which require that the law sets out a variety of variety of measures available to ensure that children’s behaviour can be dealt with in an individualised way. A range of community-based sentencing options to the Courts under Section 80 of the Juvenile Justice Act, including good behaviour orders, counselling, supervision and guidance orders, probation, non-residential vocational training or rehabilitation program, compensation and community service orders. When a child is convicted of an offence, the Magistrate must refer the child to an authorised facilitator whose role it is to convene and facilitate a community-based conference for the purpose of making recommendations to the Court on an appropriate sentence through a pre-sentencing report. The Act also prohibits the use of corporal punishment, the death penalty, life imprisonment without the possibility of parole for children and mandatory minimum sentences for children in conflict with the law.

However, a gap remains in the law relating to the use of detention for children in PNG. The Juvenile Justice Act allows for the imprisonment of a child over the age of 14 years old as a last resort and under specified conditions.²⁵ However the law does not prohibit detention for children under 16 years old as recommended in General Comment 24.²⁶ This is a major inconsistency which permits the detention of children ages between 14 and 18 years old. In order for this sentence to be imposed, the child must have committed a “serious indictable offence” and, under Section 81 (1) of the Juvenile Justice Act there must be, upon consideration, no reasonable alternative or combination of alternatives to detention.

Indicators of compliance with international standards	Rating and gaps
The law prohibits unlawful and arbitrary detention of children	No gaps.
A variety of community-based sentences are in place and are used for children (care and supervision orders, probation, counselling, foster care, education and vocational training programmes and family-based programmes)	No gaps.
Law specifies that detention can only be used as a last resort and for the shortest possible period of time and cannot be imposed on children under the age of 16 years	Law does not prohibit detention of children between 14 and 16 years old.
Corporal punishment is prohibited	No gaps.
The use of the death penalty is prohibited	No gaps.
Mandatory minimum sentences are prohibited	No gaps.
Life imprisonment without parole is prohibited in relation to children	No gaps.
Law provides that the child’s best interests and their need to reintegrate guides sentencing decisions	No gaps.

Safeguards and conditions in detention

According to international standards, children must not be detained together with adults, and this provision is encompassed by section 96(2) of the Juvenile Justice Act, which states that children may only be detained in juvenile sections of correctional institutions where those institutions are separate and detached from adult prisons, and that they are used only for children under the age of 18 years old. They must be provided with proper and appropriate accommodation, supervision and suitable facilities for recreation and rehabilitation of children. However, while children detained in police custody post-arrest are to be kept separate from adult detainees according to Section 52(3)(a) of the Juvenile Justice Act, this law is qualified in that it is only required to be followed ‘to the extent possible’. This leaves space for the possibility that

²⁵ Juvenile Justice Act, Section 82 (2)(a)(i)

²⁶ General Comment 24, Para. 89.

children can still be detained in adult custody at the convenience of the arresting Police Officer or where no separate cells are available.

According to Section 101 of the Juvenile Justice Act, children have the right to receive visits from family or friends at least once per week and to receive telephone calls from a parent or responsible person, consistent with international standards, and disciplinary measures cannot include the restriction of family visits (Juvenile Justice Act, Section 102 (1)(e)). Additionally, in line with Rule 59 of the Havana Rules, subject to any reasonable conditions that may be established by the institution, children have the right to leave the institution for a specified period for a variety of reasons including to visit their family.

The 2006 Police Juvenile Justice Policy and Diversity Protocol prohibits the use of torture and other cruel, inhuman or degrading treatment or punishment of children in detention (Rule 1) and provides that juveniles deprived of their liberty should be treated with humanity²⁷ and with respect for their inherent dignity (Rule 3). Rules 4 and 7 set out the safeguards that apply to children in detention, including: the right to prompt access to legal and other appropriate assistance; the right to challenge the legality of their detention before a court; the right to be informed of charges; the right to have matters determined without delay by a competent, independent and impartial authority or judicial body; and the presumption of innocence, among others.

The Juvenile Justice Act provides for a comprehensive set of standards relating to conditions in detention for children, including the right to healthcare, minimum standards of sanitation and hygiene, food that ensures a well-balanced diet, the provision of clothing, medical treatment, the right to freely practice religion, daily time for leisure activities.²⁸ However, such provisions do not meet the minimum standards outlined in the Havana Rules, which establish the basic rights of children in detention. The standards set out in these comprehensive set of regulations include access to basic sanitation (Article 34); the right to the possession of personal effects (Article 35); the right to wear their own clothing (Article 36); food that is suitably prepared, meets all health needs and accommodates dietary restrictions (Article 37); the right to education or vocational training provided outside of the detention facility (Articles 38-46); the right to exercise and leisure time, including physical education and therapy (Article 47); right to practice a religion if so desired (Article 48); right to the provision of mental and physical healthcare (Article 49); right to weekly visitation and twice weekly communication via phone with family (Articles 60 and 61). Additional provisions also cover limitations on the use of force and appropriate punishments for children who violate the rules of correctional institutions.

Whilst the Juvenile Justice Act does set out many of these standards more broadly, there are no detailed provisions on children's rights and guarantees to minimum standards in detention, either in the Act itself or in supporting Regulations or Guidelines.

Also, Children in detention who are of compulsory school age should have the same right to education as children in the community, according to Articles 28 and 29 of the CRC. Under Section 101(1)(m) of the Juvenile Justice Act, children in detention are permitted, "to the extent that it is reasonably practicable, to

²⁷ See also Juvenile Courts Act, Section 48(2), the Lukautim Pikinini (Child) Act, Section 99 and the Correctional Service Regulation, Section 122.

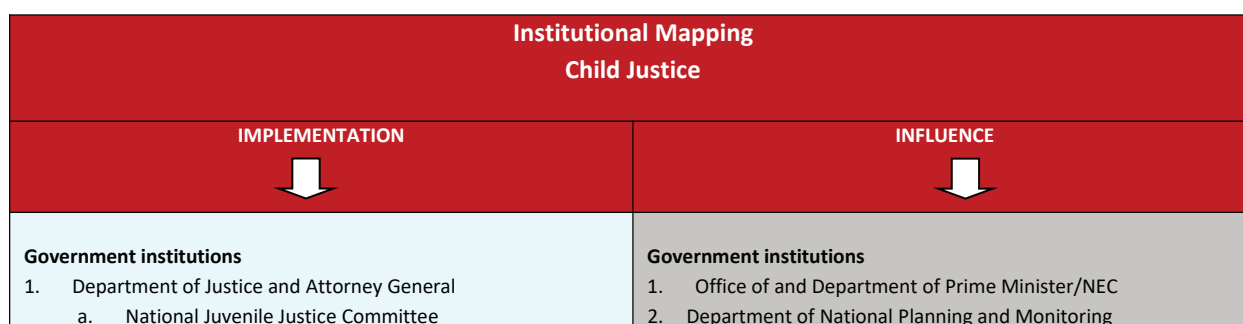
²⁸ Juvenile Justice Act, Section 101 (1).

continue his or her education.” This falls short of the absolute right to education set out in the CRC’s provisions as it allows the Government of PNG the ability to ‘opt out’ of educational provision based on reasons of convenience and practicality.

Indicators of compliance with international standards	Rating and gaps
(a) Law provides that every child deprived of liberty has: the right to prompt legal and other appropriate assistance; the right to challenge the legality of the deprivation of liberty before a court or other competent, independent and impartial authority.	No gaps.
(b) Law provides that all children arrested or deprived of his or her liberty should be brought before a competent authority within 24 hours to examine the legality of the deprivation of liberty or its continuation.	No gaps.
(c) Law provides that every child deprived of liberty is to be separated from adults, including in police cells.	Children in police custody are protected from being detained alongside adults only ‘to the extent possible’, leaving open the possibility that children may be detained alongside adults in certain circumstances.
(d) Law provides right for every child deprived of liberty to maintain contact with his or her family through correspondence and visits and a guarantee that the child is placed as closely as possible to their family’s place of residence.	Children are oftentimes kept far away from family members, which practically limits contact with family members.
(e) Law provides that incommunicado detention is not permitted for persons below the age of 18 years.	No gaps.
(f) Law provides a guarantee that children should be provided with a physical environment and accommodation conducive to the reintegrative aims of residential placement.	No gaps.
(g) Law provides the right of every child to education suited to his or her needs and abilities and, where appropriate, to receive vocational training in occupations likely to prepare him or her for future employment.	The right to receive education and vocational training is qualified in legislation and only applies ‘to the extent that it is reasonably practicable.’
(h) Laws / guidelines on detention facilities meet the standards of the Havana Rules and Mandela Rules.	Significant areas where the law lacks detail or does not meet the standards set out in the Havana Rules.

2.3.2 Mapping and analysis of child justice institutions

At the national level the main institutions for the legal and policy frameworks for child focused justice is the Department of Justice and Attorney General, and its various sub institutions. Papua New Guinea has made notable progress in the integration child justice concerns into the functions of various line ministries. Below is an outline of some of the main institutions involved in this effort.



<ul style="list-style-type: none"> b. Juvenile Justice Service c. Provincial Juvenile Justice Services d. Crime Prevention and Restorative Justice Branch e. Probation and Parole f. Village Courts and Lands Mediation Secretariat <p>2. Royal Papua New Guinea Constabulary</p> <ul style="list-style-type: none"> a. Juvenile Justice Services b. Family and Sexual Violence Units <p>3. Magisterial Services</p> <ul style="list-style-type: none"> a. Family Court <p>4. Correctional Services</p> <p>5. Department of Education</p> <p>6. National Department of Health</p> <p>7. Department of Labour and Employment</p> <p>8. Ministry of Community Development, Youth and Religion</p> <p>Non-government sector</p> <p>1. International and national NGOs and faith organisations with a strong mandate for child justice)</p>	<ul style="list-style-type: none"> 3. Department of Treasury 4. Ombudsman Commission of PNG 5. Constitutional and Law Reform Commission 6. Office of the First Legislative Counsel 7. Department of Provincial Affairs and Rural Development 8. Provincial and District Administrations 9. Public Services Commission 10. Department of Personnel Management 11. Office of Higher Education 12. Human Resources Development institutions 13. Department of Foreign Affairs and Trade 14. National Court <p>Non-government sector, development partners and others</p> <ul style="list-style-type: none"> 1. University of PNG Law School 2. Development Partners 3. Human Resources Development institutions such as Universities, training colleges and private training providers
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Design and implementation of legislation and policy: The first column is the group of institutions with high importance for the design and implementation of legislation and policy. This group has a significant role to play in designing new laws and policies and clear accountabilities for their implementation. Investing in strengthening strong partnerships within this group, based on an advanced understanding of the multi-dimensional aspects of child justice and child protection would deliver meaningful results for children. Priorities for investments include fostering and building trust and a shared commitment to problem solving and applying a multi-sectoral response to child protection, as opposed to working in legislative or technical silos. Strengthening the capacity of this group to drive change is key for effective implementation of key laws and policies.

Influencing the agenda for legislation and policy reform: The second column is the group of institutions with high importance for influencing the agenda for legislative and policy reform. This group has an elevated level of influence in setting priorities for legislative and policy reform. Strengthening the knowledge of this group on child justice and child protection through effective communication channels is key for building momentum and demand for action for child justice and child protection. High level, high impact communication is required with his group. The use of evidence informed advocacy strategies is likely to yield results.

Critical gaps

A critical gap in the institutional arrangements for justice for children is the institutional disconnect between the Child Protection System and the Child Justice System with the two systems appearing to operate in silos, despite legislative frameworks that promote collaboration.

Institutional Mapping					
Child Protection System – welfare and Justice					
Child Protection System - Welfare			Child Protection System - Justice		
Policy	Law	Institutional mechanisms	Institutional mechanism	Law	Policy
National	The Lukautim	National Child and Family	National Juvenile	Juvenile Justice	Juvenile Justice

Lukautim Pikinini (Child Protection) Policy 2017- 2027	Pikinini (Child) Act 2015	Services Council Office of Child and Family Services Family Courts Provincial Office of Child Welfare Provincial Child and Family Services Council District Office of Child Welfare District Child and Family Services Committee	Justice Committee National Juvenile Justice Service Juvenile Courts Provincial Juvenile Justice Committee	Act 2014	National Plan 2018 – 2022
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This disconnect is highlighted in the National Juvenile Justice Plan,²⁹ as a critical challenge for the broader child protection and child justice sectors. Section 25 of Juvenile Justice Act 2014 establishes the functions of the National Juvenile Justice Committee, which includes to ‘promote collaboration between all government departments and agencies and other organisations, agencies and civil society groups involved in implementing the juvenile justice system’. Article 18 of the LPA establishes the functions of the National Child and Family Services Council which include to ‘foster collaboration and assist organisations engaged in the provision of services designed to promote the well-being of children, families and communities.’ As there are no legal or structural barriers to collaboration between the two sectors, there is an opportunity to strengthen collaboration between the two parts of the Child Protection System – Welfare and Justice. This can be done by investing in fostering and building trust across the two sectors and by encouraging a shared commitment to problem solving and to applying a multi-sectoral response to child protection and child justice, as opposed to working in legislative or technical silos.

2.4 Children’s right to participation

The right to participation is a guiding principle of the CRC; a fundamental principle that connects to and helps unlock the Convention’s other rights, including rights relating to protection from violence, abuse, neglect and exploitation, and rights within child protection and child justice systems. Article 12 of the CRC establishes the right of children to express their own views freely in all matters affecting them, and the right to have those views given due weight in accordance with the child’s age and maturity.³⁰

The law in PNG provides basic rights to political participation to its citizens. According to PNG’s Constitution, all citizens should have an equal opportunity to participate in, and benefit from, the development of the country (article 2). The National Youth Development Act 2014 establishes youth development authorities at the national (section 5), provincial (section 33), district (section 43) and local government (section 52) levels. The functions of these bodies include providing advice on Government law and policy relating to youth affairs; authorise, coordinate, implement and monitor youth development activities; develop and provide policy and technical advice to National, Provincial and Local-level Governments, and other functions relating

²⁹ Papua New Guinea, Department of Justice and Attorney General, Juvenile Justice National Plan 2018 to 2022, Annex 5, Capacity Analysis of Key Stakeholders in the Juvenile Justice System, 2018, p. 37.

³⁰ UN General Assembly, November 1989, *Convention on the Rights of the Child*, Article 12.

to youth policy and programming (section 5). However, under the Act there is no requirement for inclusion of representatives from a diverse group of youth. There is no legal mandate or framework for the meaningful participation of children or adolescents in Government decision making processes.

3. Conclusion and recommendations

While the legislative framework for the protection of children from violence and child justice are relatively strong and comprehensive in PNG, critical gaps remain. These gaps limit the protection afforded to children and should be addressed through amendments to laws and through the development (where required) of standards and guidelines to support the implementation of laws. The institutional framework for the protection of children and child justice is well articulated in PNG's laws and policies. However, the functioning of institutions is, in practice, limited, with some critical gaps in institutional frameworks to support implementation of laws and policies.

The following recommendations are made in order to improve the legal, policy and institutional frameworks for the protection of children from violence, abuse, neglect and exploitation and within child protection and child justice systems:

3.1 Legal reforms

Violence against children

- Explicitly prohibit in law the corporal punishment of children in the home, alternative care settings and schools and remove the defence to assault in the context of 'reasonable punishment' of children contained in the Criminal Code. Ensure that the implementation of this prohibition is supported by a campaign to address social and cultural norms and practices that support the corporal punishment of children.
- Explicitly prohibit, in law, the different forms of emotional violence and neglect of children, as set out by the UN Committee on the Rights of the Child.
- Amend the law to ensure that the provisions on neglect and abandonment in the Criminal Code apply to all children up to the age of 18 years.
- Develop a comprehensive legislative and policy framework on bullying, ensuring the meaningful engagement of children and adolescents. This should include placing obligations on schools and other institutions to take comprehensive action to prevent and address bullying effectively.
- Amend the Family Protection Act to extend its scope to unmarried 'dating' couples without children and same sex couples.
Develop detailed guidance to set out a process for linking the Family Protection Act and Lukautim Pikinini Act in cases of co-occurring violence against women and children.³¹
- Develop a legal referral process for women subjected to family / gender-based violence to access case management services and support.
- Remove the provision in the Criminal Code which lowers the minimum age of sexual consent to 14 years in the case that a child is married.
- De-criminalise same sex sexual acts.
- Develop provisions to criminalise all non-contact sexual violence against children, including offences related to grooming and preparatory acts committed in the context of child sex tourism.

³¹ For more detailed recommendations on linking FPA and LPA processes, please see 'Analysis of frameworks for addressing VAW and VAC in PNG' (2021), by UNICEF PNG and Coram International.

- Introduce a legal provision that criminalises the removal of a child from their parent / legal guardian (child abduction).
- Remove the legal requirement of 'means' (force, threats, coercion) in child trafficking offences.
- Develop comprehensive provisions to address online peer violence, including sexting, promotion of self harm etc.
- Extend liability to and impose reporting obligations on service providers and businesses in child sexual exploitation.
- Raise the minimum age of marriage to 18 years for both boys and girls and remove the exceptions that permit marriage under the minimum age.
- Prohibit forced marriages (to be defined as marriage without the free and full consent of either party).
- Develop civil remedies to prevent forced or child marriages, including e.g. restraining orders.
- Prohibit the payment of brideprice (to be defined as a form of sale of children), and recognise marriages involving the exchange of brideprice as unlawful and invalid.
- Set the absolute minimum age for child labour at 13 years for light work (and provide a comprehensive definition of light work), and 16 years for other forms of work, except for hazardous work.
- Develop regulations setting out rights of children in employment (hours, payment etc.).
- Explicitly prohibit the recruitment of children (under 18 years) into armed forces and the use of children by armed groups.
- Ensure that the Civil and Identity Registration Bill is adopted and implemented.
- Develop and implement a comprehensive national policy and action plan to address the drivers of all forms of violence, abuse, neglect and exploitation of children and to strengthen systems and services to respond to violence against children.

Legal framework for child protection

- Develop detailed guidance for child protection officers on the prevention of family separation, including on case management and delivery of programmes and services to prevent violence, abuse and neglect of children in the family.
- Develop detailed guidelines on delivering multi-agency child protection assessments and care planning.
- Incorporate an explicit legal provision into the LPA on the right of children and parents / carers to make their views known and have them taken into account (commensurate with the best interests of the child paramountcy principle) in child protection hearings.
- Introduce an explicit legal provision into the LPA and guidance requiring reviews of child protection placement decisions and care plans.
- Develop and adopt a legal provision in the LPA that residential care is not to be used as an alternative care placement, except where necessary and constructive to the child's best interests.
- Develop and support the implementation of detailed standards of care for different forms of care (guardianship, foster care, adoption etc.).
- Develop detailed guidance and tools for the inspection of alternative care providers.
- Develop and support the implementation of a complaints mechanism for children in care.
- Update the law on adoption and ensure that it includes (in addition to the current legal framework):
 - The designation of a competent authority to oversee the adoption system and processes;

- A detailed process for the assessment of prospective adopters;
- Provisions explicitly prohibiting any form of inducement or coercion of parents;
- The right for all children to express their views in adoption decisions and have these views taken into account (commensurate with the best interests of the child paramountcy principle); and
- Processes and standards for customary adoptions.

Justice for Children

- Develop a Law that sets out the rights of child victims and witnesses, bringing together fragmented legislation in the Evidence Act, Criminal Code and Constitution. This should be consistent with international standards and include: the support to be provided to children and young people who are victims and witnesses of crimes; a presumption that all children are competent to give evidence unless there is compelling reasons that this is not consistent with their best interests; support to support children with disabilities to give evidence; measures to reduce harm when cross examining child witnesses; and the establishment of a Guardianship service. \A provision should be inserted into the Juvenile Justice Act (and the Magistrates manual) that cases involving children in conflict with the law and / or child victims and witnesses must be expedited.
- Mediation and informal justice processes, including those presided over by Village Courts, should make children’s best interests a guiding principle of their work.
- Provisions to protect the identity of child witnesses should be strengthened, including protections after a child has given evidence, stronger prohibitions on intimidation and stronger restrictions on publishing the names of child victims and witnesses.
- The Juvenile Justice Act should be amended to mandate the establishment of Juvenile Courts and require that all cases of children in conflict with the law must be heard in a Juvenile Court. Resources should be made available to increase the provision of these courts and increase the number of Magistrates and Juvenile Justice Officers.
- The Juvenile Justice Act should also be amended to ensure all crimes can be tried by Juvenile Courts, including those that would ordinarily be punishable on summary offences or otherwise triable in District Courts
- The membership of community-based conferences should be expanded to also include a wider membership, including professionals who interact with children, for example social workers and teachers.
- The minimum age of criminal responsibility should be raised from 10 to at least 14 years old. Consideration should be given to having a higher minimum age of criminal responsibility, for instance 15 or 16 years of age in line with General Comment 24 of the UN Committee on the Rights of the Child.
- Guidance on the conduct of age assessments should be strengthened to include guidance on physical age assessments and requirements that assessments are undertaken in a prompt, child- and gender-sensitive and culturally appropriate manner. Additionally, the law should be amended to give children the benefit of the doubt where age is unknown or disputed.
- The Curfew Act should be repealed or amended to remove curfews imposed on ‘every person within a specified age group.’
- Guidance should be strengthened to take greater account of the unique situation of children with disabilities in the juvenile justice system.

- The right to legal advice and representation and the provision of legal aid to children should be extended to those cases where the sentence would be less two years imprisonment.
- A provision should be inserted into the Juvenile Justice Act that states that detention of children shall only be used as a measure of last resort and for the shortest period necessary. The use of remand/pre-trial detention of children should be limited to exceptional cases. Strict time limits should be put in place to limit the amount of time children spend in pre-trial detention.
- A provision should be inserted into the Juvenile Justice Act to give children's views 'due weight' within the child justice system, in line with their age and maturity, in line with Article 12 of the UNCRC.
- The Juvenile Justice Act should be amended to prohibit the detention of children between 14 and 16 years old.
- Smaller juvenile correctional institutions and remand centres should be built in each province to ensure children detained as a measure of last resort and for the shortest period necessary can be kept close to family, to better facilitate weekly visitation and community reintegration.
- Support the implementation of law so that children are never be detained pre or post trial in detention facilities alongside adults.
- Standards of living for children in juvenile in correctional institutions should be comprehensively set out in guidance / regulations to be brought fully in line with the Havana Rules. Children should be given the right to wear their own clothing, should be given adequate access to sanitation facilities, access to water, a healthy and balanced diet in line with their dietary restrictions, religious and cultural needs.
- All children should be given access to education outside the detention facility in community schools, and access to vocational training where applicable. Every effort should be made to facilitate such education.

Child, adolescent and youth participation

- Develop a comprehensive legal mandate and framework for child and adolescent participation in Government processes, including the development and provision of support for the establishment of adolescent and youth councils, forums and clubs.

3.2 Institutional arrangements

- Expand the mandate of the Child and Family Services and the National Child and Family Services Council, and related sub-national bodies to put in place an overall coordination mechanism for the national child protection system, dealing with welfare aspects of child protection. It is further recommended that this change be achieved through the development of specific regulations rather than through legal reform.
- Develop a national multisectoral plan, including the welfare, justice, health, education and humanitarian sectors to prevent and respond to violence against children.
- Strengthen collaboration between the Child Protection System and the Child Justice System with the aim of overcoming the current disconnect between the two systems. This should include fostering and building trust across the two sectors and encouraging a shared commitment to problem solving and applying a multi-sectoral response to child protection and child justice, as opposed to working in legislative or technical silos.

