

HUMAN RIGHTS & FAMILY VIOLENCE IN PNG

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OUTLINE OF PRESENTATION

- Introduction
- Sexual and GBV in PNG
- Root causes of Sexual and GBV
- Family Violence v GBV
- Human Rights and Family Violence
- Policy Response to Family Violence
- Legal Response to Family Violence
- Family Violence as a Human Rights Issue
- Observations
- Conclusion

INTRODUCTION

- The presentation will look at the issue of Family Violence as an integral component of GBV
- Will present PNG's policy and legal responses to Sexual and GBV and its impact on Family Violence at the national level
- Examine the link between Family Violence and SGBV
- Present another approach to dealing with Family Violence – as a Human Rights issue
- Present the work of CLRC on Family Violence
- Cementing Family Violence as a HR

SEXUAL AND GBV IN PNG

- The seminal work of the Law Reform Commission in 1992 showed that 67% of wives beaten with close to 100% in the Highlands Region
- About same time PNG IMR estimated that 50% of women have experienced forced sex
- According to UNICEF, almost 50% of the rape victims are under 15 years and 13% are under 7 years
- According to UNICEF up to 50% of girls are at risk of becoming involved in sex trade...
- 2012 HDR puts PNG

SEXUAL AND GBV IN PNG (CONT...)

- The statistics of the 1990s has unfortunately not changed
- Sexual and GBV is a major problem in PNG which affects all sections of the community and development
- Past and recent research and data reveal a gloomy picture on this matter
- The country is in a crisis!!!
- It is no longer a household matter but a national agenda
- SGBV and Family Violence is everyone's business

SEXUAL AND GBV IN PNG (CONT...)

- The work of Famili PNG Inc (Crisis Management Centre) in Lae, Morobe Province is instructive
- Since Famili opened its doors in 2014, we have seen a steady flow of survivors of Family Violence.
- The number of survivors Famili PNG has increased from 3 new cases in July 2014 to 289 in June 2015. The number of survivors that have consulted Famili PNG has also increased from 123 in July 2014 to 1605 in June 2014
- Total number of survivors referred to other partners began with 3 in June 2014 and now stands at 305
- The stories that are given by these survivors are very alarming and sometime frightening
- The root causes of these violence gleaned from these cases vary widely

ROOT CAUSES OF SGBV AND FAMILY VIOLENCE

- What are the root causes of this disease that is eating away the fabric of our society?
- Many root causes have been identified
- I have publicly declared recently that the root cause of SGBV (and Family Violence) is economic disempowerment! (*Lowy Institute, Jo Chandler, 2014*)
- For me, focusing our attention on providing economic enablers to our people will encourage them to engage in worthwhile economic activities

ROOT CAUSES OF SGBV AND FAMILY VIOLENCE

- Research on violence has mostly been around social issues (domestic violence, sexual behaviors)
- I was involved in a World Bank study in 2013 on “Socioeconomic Cost of Crime and Violence in PNG”
- Study revealed that 67% of businesses consulted said that crime is a major constraint. This is more than 4 times the average in the East Asia and Pacific (16%) and higher than all other regional averages
- 81% of the businesses stated that law and order problems in the country affected business investment in PNG
- Violence in all forms affects both families, communities and business and prosperity in PNG

POLICY RESPONSE TO SGBV AND FAMILY VIOLENCE

- **The Government is very aware of the magnitude of the violence and has taken policy measures to address this disease. These include:**
 - 1. Vision 2050 – Pillar 1 - Human Capital Development, Gender, Youth and People Empowerment**
 - 2. DSP 2030 (zero tolerance for violence against women and children by 2030)**
 - 3. National Public Service Gender Equity & Social Inclusion (GESI) Policy 2013**
 - 4. Draft National Strategy on SGBV 2015**

POLICY RESPONSE TO SGBV AND FAMILY VIOLENCE (CONT..)

■ Vision 2050

- aim is to create a society of people who are smart, wise, fair and happy
- major focus on economic empowerment as the key to alleviating many of the social ills including SGBV (Pillar 2: Wealth Creation)

■ DSP 2030

- goal is “high quality of life for all Papua New Guineans”
- reduce GBV progressively through strategic interventions
- aim is to restore law & law through economic empowerment of our people

■ GESI 2013

- three GESI principles: (1) respect; (2) equity; and (3) diversity
- all Government Departments and agencies to implement GESI

■ National Strategy for SGBV 2015

- very specific to SGBV
- launched yesterday

POLICY RESPONSES TO SGBV AND FAMILY VIOLENCE (CONT..)

- **The Government has taken leadership of the SGBV pandemic and adopted strategic plans to stem the tide through-**
 - 1. Formal recognition of the SGBV pandemic (Vision 2050, DSP 2030)**
 - 2. Transforming the Public Service machinery (GESI)**
 - 3. Collaboration with Partners (National Strategy on SGBV)**

LEGAL RESPONSE TO SGBV AND FAMILY VIOLENCE

- The Government's response to SGBV through law has been quite disappointing from Independence to 2000. However, this situation has changed particularly in the last 10 years
- The change in Government attitude in the last decade can be attributed to the work of the multilateral institutions such as the UN and CSO
- Will highlight only the key pieces of legislation

LEGAL RESPONSE TO SGBV AND FAMILY VIOLENCE (CONT..)

- The first legislation is the Criminal Code Act 1974
- From 1975 to 2001 nothing much happened in legislative reform on SGBV
- Then in 2002 the Parliament enacted the Criminal Code (Sexual Offences) Amendment Act 1992. Division 2 of Part IV of the Code (Offences against Sexual Morality) (Sections 209 -229V) was the focus
 - mostly sexual offences against children
 - including child pornography
 - child prostitution
 - making the spouse a competent and compellable witness
- The Parliament also amended the Evidence Act in 2002 to complement the amendment to the Criminal Code
 - evidence for sexual offence cases

LEGAL RESPONSE TO SGBV AND FAMILY VIOLENCE (CONT..)

- Latest laws as a response to increasing SGBV and Family Violence include:

- 1. Sorcery (Repeal) Act 2013**

- majority of victims were women

- 2. Criminal Code (Amendment) Act 2013**

- death penalty for rape and murder of girl under

10 years

- 3. Family Protection Act 2013**

- domestic violence as an offence

- IPO

- access to Courts

- protection of property

- 4. Lukautim Pikinini Act 2015**

- protection of women detainees

- protection of pregnant women

- access to Family Court by both spouses

- “custody” replaced with “parental responsibility”

LEGAL RESPONSE TO SGBV AND FAMILY VIOLENCE (CONT..)

5. Death Penalty law in 2013

- increased the number of crimes attracting death penalty

6. Proposed amendments to Marriage Act

- definition of marriage (is a union between a consenting man and a women who are 18 years and above)

7. Proposed amendments to Matrimonial Causes Act

- provide protection to married women
- gives wife equal rights to property and assets of husband

8. Supreme Court case to declare polygamy unconstitutional (application by CLRC)

FAMILY VIOLENCE AS A HUMAN RIGHTS ISSUE

- As is obvious from this presentation, PNG has decided to take the traditional approach in dealing with violence generally and Family Violence – law and policy interventions
- PNG has not taken the human rights approach to SGBV and Family Violence
- The key challenge for PNG is: whose human rights are we dealing with – the perpetrator or the victim?
- CLRC is of the view that some effort must be made to protect the rights of the victims
- I have argued that a perpetrator's human rights are effected when he is arrested up to the exhaustion of the appeal process. The victim on the other hand is not assisted at all by the State and its instrumentalities.

FAMILY VIOLENCE AS A HUMAN RIGHTS ISSUE (cont...)

- In a Family Violence case, which human rights of the victims are to be protected and enforced?
- In PNG, we have not considered this issue in some detail.
- A new approach is needed to ensure the basic rights of both the perpetrator and the victim of Family Violence are adequately addressed.
- For PNG, will the paradigm shift (from punitive to human rights) reduce Family Violence and SGBV?
- Hopefully the answer will be positive

OBSERVATIONS

- Many of the latest legislative reforms are based on gender sensitized individuals
- The challenge is to conduct more awareness. As Prince Andrew (advised Dr. Kwa on 3 July 2015 at Airways Hotel, POM)
“PNG is a beautiful country and full of diverse cultures with many challenges. Law reform must be complemented by strong and ongoing awareness, then the society will change”
- In a recent study - Post 2015 National Country Report for PNG by UN & INA 2013 report relating to the MDG, vulnerable groups identified “access to basic services” as their No.1 need and saw “means to increase their income to increase their quality of life” as very important
- PNGeans are very aware of their realities. Family Violence and SGBV is persistent in our societies. However, they have looked beyond the problem and identified the solution – economic freedom!

END OF THE TUNNEL

- In the final analysis, it is clear that policy and law alone will not be enough to repel the tide of Family Violence and SGBV
- Two main interventions:
 1. Ongoing awareness (sustainable) on Family Violence at all levels
 2. Creation of more and better opportunities for greater participation of the people in the economy