

## Family Protection Orders in Lae, Papua New Guinea: Part 1 Accessing Justice

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### Introduction

Family protection orders (FPOs) were introduced in Papua New Guinea (PNG) by the Family Protection Act (FPA) 2013 with the aim of improving access to justice and the protection of and support for victims of domestic and family violence (DFV). Those covered by the orders include spouses, ex-spouses, immediate family members, kin and people resident in a household who are treated as a family member. Short-term interim orders can be issued by the district court or by village courts, with the former responsible for converting interim protection orders (IPOs) to the longer-term protection orders (POs), which are up to two years in duration. Reported and proven breaches are a criminal offence that can attract serious penalties, including imprisonment.

A pilot study was undertaken in Lae, the second-largest urban centre in PNG, over six months in 2018 to examine the uptake and efficacy of family protection orders (FPOs). With the support of the Morobe Family and Sexual Violence Action Committee (FSVAC) and assistance from a family and sexual violence case management centre, Femili PNG, the study involved consultations and interviews with more than 50 professional stakeholders (mainly in the legal, policing and welfare sectors) and interviews with 14 women survivors. The study drew on more than three years of de-identified client data from Femili PNG, district court statistics on orders in 2017 and for a five-month period in 2018, a sample of police prosecution files and observations at the district court and the police's Family and Sexual Violence Unit.

The results of the study are detailed in a report (Putt et al. 2019) and summarised in three In Briefs. Part 1 focuses on whether there are improvements in DFV victims' access to justice through the introduction of protection orders. Part 2 examines whether the orders have contributed to victims' being or feeling safer. Part 3 identifies the factors that were found to affect the accessibility and effectiveness of the orders.

### Slow uptake

The mixed results from efforts to address DFV through the criminal justice system and the challenges facing DFV survivors have been well documented in high-income countries, but may be even more pronounced in low- to middle-income countries like PNG. In Lae, many women prefer to seek help from family, friends and the church rather than report the violence and abuse to the police (Rooney et al. 2019) and are very sceptical that local law and order committees will act in their interests (Craig and Porter 2018). In theory, the recourse to civil law via an FPO offers protection and access to justice because interim orders can be issued expeditiously by a court, there is a reduced burden of proof, and the conditions set can be tailored to a survivor's circumstances. However, district court statistics show that on average 19 IPO cases and 15 PO cases are currently being completed per month, which is a relatively low number given the size of Lae's population and the widespread incidence of DFV.

The low numbers may be due in part to a lack of awareness or knowledge of FPOs. In 2015, a survey showed that only six percent of the participants in Lae were aware of IPOs. Both stakeholder and women interviewees in the pilot study said they would like to see more public awareness of POs, including information on what they are and how to apply for one.

Another reason for the apparent slow uptake is the gradual implementation of the PO regime and the limited resources allocated for its introduction. A key new position of a dedicated IPO clerk to assist with the orders' administration was introduced in the district courts after the legislation was enacted, and applicants are not charged fees.

However, the application process, and the conversion of IPOs to POs, involves considerable paperwork, with the onus on the complainant to pursue their application even when faced with delays and adverse circumstances (see Figure 1 for a diagram of the process). Regulations to accompany the Act, which spell out the process, were not issued until 2017. Soon

**Figure 1: Key stages in the Family Protection Order process**

Note: The village courts' power to issue an IPO is not included in the diagram. Alleged breaches of IPOs issued by the village courts are heard by the District court by the village courts are heard by the District court.

after, the Department of Justice and Attorney General produced guidelines and held training for key stakeholders in the main centres across the country, including Lae.

Although the district court in Lae and a cluster of key services are currently involved directly in the process or are part of a referral network, a noticeable absence is the issuing of IPOs by village courts, a power granted under the Act. The study found that village courts in Lae were not issuing these orders, with magistrates arguing they already had general preventative orders and had not been trained in the use of the IPOs. An implication of this is that, since the village courts in rural areas are not likely to be issuing IPOs and the district court does not do a circuit in the province, the Act has not been implemented outside of urban areas, where most of the population lives.

### Recent improvements

It is estimated that around a quarter of Femili PNG clients wanted an IPO. The trends in what happened to these clients over almost four years indicates there has been an increase in the number of IPOs issued, especially in 2017 compared to 2016, and a decrease in the time it takes to obtain an IPO and convert such orders to the longer-term POs. Almost all of the Femili PNG clients were women (94 per cent) and aged in their 20s or 30s (74 per cent). The majority had been subjected to domestic violence by a partner or an ex-partner rather than a family member. As Femili PNG assists survivors assessed as being at high risk, it appears those most in need of protection are accessing protection orders.

Factors that contributed to the increase in uptake and more efficient processing in Lae in 2017 included: greater understanding of the purpose and administration of the orders by key stakeholders and services; an increased capacity in the district court, with the appointment of more magistrates and

the active support of a newly appointed senior provincial magistrate; and increased support for applicants during the process, with Femili PNG taking on a lead role in court advocacy by helping with paperwork and at court. The study showed there was a higher rate of conversion of IPOs to the longer-term POs when a survivor had the assistance of a Femili PNG case worker.

### Pressure on the system

A major concern is that if current trends continue, key positions and services, such as the IPO clerk, will struggle to keep up with and respond to the demand. Both stakeholders and survivors advocated more resourcing and skills development for government and NGO services to assist and support DFV survivors.

### Author notes

*Dr Judy Putt is a research fellow in Department of Pacific Affairs at The Australian National University. Theresa Phillips, Davida Thomas and Lindy Kanan are independent researchers.*

### References

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