

Family Protection Orders in Lae, Papua New Guinea: Part 2 Improving Safety

Judy Putt, Theresa Phillips, Davida Thomas and Lindy Kanan

In Brief 2019/3

Introduction

A pilot study on the use and effectiveness of family protection orders was undertaken in Lae, Papua New Guinea (PNG) in 2018. The aim of the orders, introduced under the Family Protection Act (FPA) 2013, is to improve access to justice and the protection of and support for victims of domestic and family violence (DFV). This is the second In Brief summarising the findings of the pilot study, with a focus on whether the civil orders are improving the safety of applicants (see Putt et al. 2019 for more detail on the study).

Methodological challenge

The safety of survivors is the paramount concern when conducting research on DFV. As a result, considerable care is required when approaching survivors and doing research to reduce the risk that the researchers' presence or activities exacerbate or trigger further abuse and violence. In high-income countries, the most common indicators used to determine whether survivors are safer are breaches of orders and/or re-offending rates, which rely on police records. Under carefully arranged situations, survivors may also be invited to assess their perceptions of changes in their personal safety. However, in our study, and more broadly in PNG, it is not feasible to obtain reliable or consistently kept police data, nor is it necessarily safe to interview a large sample of survivors. As a result, more indirect or proxy evidence was collated and compared to assess whether the orders were making a positive difference. We drew primarily on interviews and consultations with more than 50 stakeholders and 14 survivors, as well as data obtained from the district court, the family and sexual violence case management service Famili PNG and a sample of police prosecution files.

Perceptions of stakeholders and survivors

The overall impression from the study was that many breaches of orders may not be reported to police or the courts, and, even

if they are, the report may not be followed up. It was acknowledged by many stakeholders that it is difficult to know the extent to which orders are respected by respondents, but they felt that a fair proportion must be having a positive impact, as there is an increasing number of applications. Among our small sample of women survivors, several were pleased with the results of obtaining either an interim protection order (IPO) or protection order (PO), but the majority were not yet in a position to assess whether the order had had the desired effect and/or was respected. A number of stakeholders who worked with survivors believed that the orders were more likely to improve an applicant's safety if she had independent means, a supportive family and friends and wanted to live with her children apart from her husband.

Breaches of orders

A crucial aspect of an order's effectiveness worldwide is whether breaches are acted upon consistently and appropriately. In Lae, there was not much evidence of the criminal provisions under the FPA being used in relation to either the domestic violence criminal offence or charges being laid for breaches of IPOs or POs. The 2018 district court statistics for a five-month period showed that only nine breach matters were heard. Stakeholders knew of several cases where breaches were reported to police, but the outcomes were uncertain.

Linkages between civil and criminal cases

Where criminal charges related to DFV are laid and the case is pursued through the courts over what may be many months, witnesses and victims may seek protection orders to reduce the likelihood of further abuse or violence and intimidation. In Lae, our study found that it was only in cases where serious violence and abuse was alleged to have occurred that stakeholders knew that there was an explicit use of both civil and criminal law. For example, several stakeholders referred to instances where an IPO was sought while criminal proceedings were underway. In our examination of the police

prosecution files, there was one example of a PO being issued at the time of sentencing.

Immediate safety

At times of crisis, DFV victims stress that they want immediate and practical help, and, in some instances, this means leaving home and taking temporary refuge with friends, kin or in refuges or safe houses (Putt et al. 2017). The Femili PNG client data indicated that 18 per cent of IPOs were issued on the same day. However, the average time taken over an almost four-year period of time was 16 days. The fact that safe houses, at the time of the study, usually only allowed women and their children to stay for a fortnight, suggests that many women could have left the safe house without an IPO. The women interviewees highlighted the pressures exerted on them to return to what can be very unsafe homes.

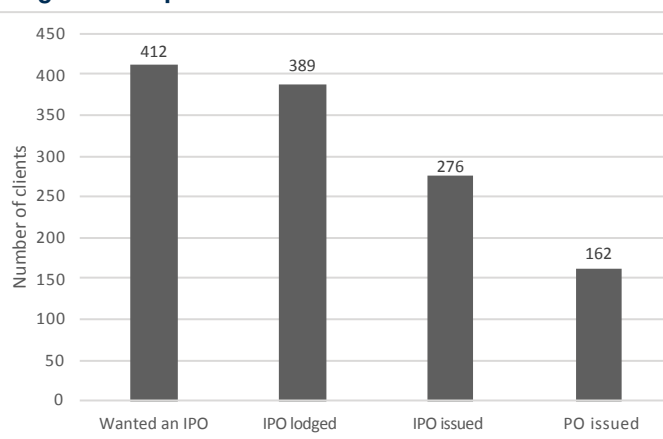
Although the women interviewed were not sure an IPO would have a salutary effect on the perpetrator, most believed it was better to have one, and all said they would recommend them to other women, even where they were unsure of the order's impact over the longer term and/or were critical that the order could not resolve what were described as complex and messy situations.

Longer term safety

A particular concern was the number of applicants who did not pursue a PO. IPOs can only be imposed for a maximum of 30 days (with the option of an extension for a further 30 days), and a hearing is listed for a PO when an IPO application is lodged. The Femili PNG client data and district court statistics showed that a significant proportion of applicants do not appear for the hearing. For example, one quarter of cases heard in the district court during a five-month period were struck out because of the non-appearance of both parties or of the applicant.

The number of Femili PNG clients that drop out at each stage of the process is presented in Figure 1. Less than half (42 per cent) of the 412 clients who wanted an IPO ended up with a PO issued. Only a minority of applicants are therefore accessing the potential longer-term protection of a PO. Where reasons were recorded for applicants not continuing with the process, they related to delays, changes in the husband's behaviour or attitude, safety concerns and/or repatriation of the client to her home village. However, in many instances, the reasons for dropping out were unknown, and the professional stakeholders interviewed suspected that the applicants were afraid to continue. As noted in the previous In Brief, the study found that having a case worker who can act as a court advocate increases the probability of a PO being issued.

Figure 1 Numbers of Femili PNG clients who reached key stages of the process



Source: Femili PNG IPO client data, August 2014-May 2018.

Conclusion

Although there are positive signs that at least some women and children feel safer as a result of an order, it is too soon to assume that the orders are acting as a protective mechanism for a sufficient number of applicants. Even in a relatively well-served context like Lae, more attention is required by a range of key stakeholders (notably NGOs, courts and police) to

- improve women's immediate safety by issuing IPOs expeditiously
- improve women's longer-term safety by reducing in the number who drop out before a PO is issued, by having a case worker who can act as a court advocate
- use protection orders when criminal proceedings are in progress, or after sentencing, and
- respond promptly and consistently to alleged breaches of orders, for example by laying criminal charges.

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

- Putt, J., R. Holder and C. O'Leary 2017. *Women's Specialist Domestic and Family Violence Services: Their Responses and Practices with and for Aboriginal Women: Final Report*. ANROWS Horizons 01/2017. Sydney: Australia's National Research Organisation for Women's Safety (ANROWS).
- Putt, J., T. Phillips, D. Thomas and L. Kanan 2019. *Family Protection Orders: A Key Response to Domestic and Family Violence. A Pilot Study in Lae, Papua New Guinea*. Canberra: ANU.

