

FAMILY PROTECTION ORDERS A KEY RESPONSE TO DOMESTIC AND FAMILY VIOLENCE

A PILOT STUDY IN LAE, PAPUA NEW GUINEA

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ABBREVIATIONS

| | |
|----------------|--|
| DJAG | Department of Justice and Attorney General |
| DV | Domestic violence |
| DFV | Domestic and family violence |
| FPA | Family Protection Act 2013 |
| FPNG | Femili PNG |
| FPO | Family protection order |
| FSC | Family Support Centre |
| FSV | Family and sexual violence |
| FSVAC | Family and Sexual Violence Action Committee |
| FSVU | Family and Sexual Violence Unit |
| FV | Family violence |
| GBV | Gender-based violence |
| IPO | Interim Protection Order |
| K | Kina |
| NGO | Non-government organisation |
| ODE | Office of Development Effectiveness |
| PacLII | Pacific Islands Legal Information Institute |
| PNG | Papua New Guinea |
| PO | Protection Order |
| PWSPDSU | Pacific Women Shaping Pacific Development Support Unit |
| RPNGC | Royal Papua New Guinea Constabulary |
| SGBV | Sexual and gender-based violence |

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'20 Days of Activism', 2017. Source: Femili PNG

EXECUTIVE SUMMARY

The pilot study was conducted primarily from March to August 2018 in the urban centre of Lae in Papua New Guinea (PNG), with the support and advice of members of the Morobe Family and Sexual Violence Action Committee. Drawing on consultations and interviews with more than 50 stakeholders and interviews with 14 women survivors, the research aimed to determine the use and efficacy of family protection orders. The study drew on de-identified client data for a period of more than three years from Femili PNG (FPNG), a non-government organisation (NGO) that provides case management and support for survivors of family and sexual violence. In addition, the district court provided statistics on orders for 2017 and 2018, a sample of police prosecution files were reviewed and the research team observed proceedings at the district court.

Family protection orders were introduced in PNG through the Family Protection Act (FPA) 2013, with the aim of improving access to justice and the protection and support for victims of domestic and family violence (DFV). Those covered by the orders include spouses, ex-spouses, immediate family members, kin and residents 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 the conversion to longer term orders. Reported and proven breaches are a criminal offence that can attract serious penalties, including imprisonment.

Based on Femili PNG client data, the study found that over almost four years there has been an increase in the number of Interim Protection Orders (IPOs) being issued as well as a decline in the time it takes to obtain an IPO and to convert the IPO to a longer term Protection Order (PO). On average, Femili PNG client records suggest it takes almost 16 days to obtain an IPO and 38.5 days from when the IPO was issued, to obtain a PO. District court statistics for five months in 2018 show that, on average, 19 IPO cases were completed per month and 15 POs per month.

Factors that contributed to the increase in the uptake and a more efficient process in Lae included:

- » **Greater understanding of the purpose and administration of the orders:** following the gazettal of regulations early in 2017 and the subsequent release of guidelines by the Department of Justice and Attorney General (DJAG). Key stakeholders also received training by DJAG in various locations, including Lae.
- » **Increased capacity in the district court:** more magistrates were appointed and with active support from a newly appointed senior provincial magistrate.
- » **Increased support for applicants during the process:** through improved coordination and referrals among key stakeholders, with Femili PNG taking on a lead role in court advocacy. Femili PNG helps those who are assessed as being at high risk of further abuse and violence with paperwork and the court process. A comparison of 2017 data from Femili PNG and the district court suggests about half of the IPO applicants in that year were Femili PNG clients.

The overwhelming majority of Femili PNG clients who wanted an IPO were women (94 per cent) and aged in their twenties and thirties (74 per cent). A small number of clients were males (n=25), of whom a quarter were boys or babies. All of the research data, including interviews with stakeholders and women survivors, suggests that the majority of orders are sought because of domestic violence between current or ex-intimate partners and that the order respondents are husbands or former husbands. However, a small proportion of DFV matters (probably less than one-tenth) being dealt with by criminal or by civil law are estimated to involve other family members, such as in-laws, parent/child relationships or extended family.

There was not much evidence of the use of criminal provisions under the FPA, either the domestic violence criminal offence or charges laid for breaches of IPOs or POs. The 2018 district court statistics for a five month

period showed that nine cases of breaches of orders were heard. Stakeholders knew of several cases where breaches were reported to police but the outcomes were uncertain. 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 under way, and among the police prosecution files, there was one example of a PO being issued at the time of sentencing.

The overall impression from the study was that many breaches may not be reported to police or the courts, and even if they are, that the report may not be followed up. Many stakeholders acknowledged that it was difficult to know the extent to which orders were respected by respondents, but they felt that a fair proportion must be having a positive impact as there was an increasing number of applications. Among our small sample of women survivors, several were pleased with the results of obtaining either an IPO or 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.

The Femili PNG client data from over three years and nine months revealed that only a subset of applicants who had an IPO issued went on to have it successfully converted into a PO. For the 412 clients who wanted an IPO, 389 lodged an IPO application, 276 had an IPO issued and 162 had a PO issued. This means that only 42 per cent of those who sought an IPO continued with the process until they were issued with a longer term PO. Sometimes reasons were recorded for applicants not continuing with the process; these 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 stakeholders suspected that the applicants were afraid to continue. Certainly, a considerable number of cases (one-quarter of those heard in a five month period of 2018) were struck out by the district court because of the non-appearance of both parties or of the applicant. A comparison of the 2017 district court and Femili PNG data indicated that having a case worker and court advocate with the applicant increases the probability of a PO being issued.

Although all of the women survivors who were asked said they would recommend to other women that they should apply for an IPO, they did have criticisms of the process, including the length of time it could take, the amount of paperwork and the complexity of the process. A key concern for some women was the expectation that they serve the summons on the respondent when the police could or would not do it.

The women survivors and stakeholders believed there should be more public awareness of family protection orders, but the study highlighted that the current system would struggle with a major increase in demand. A common theme across all interviews was the need to boost the resourcing for services which are currently under considerable pressure to make sure that orders can be applied for and issued, and to assist applicants to feel safe enough to pursue the option. A further recommendation was to have additional and more DFV-sensitive personnel in government services and NGOs.

This was only a pilot study and further research is required to continue to build our knowledge of how the FPA is being implemented and whether it is meeting its objectives. In particular, it is important to investigate whether family protection orders are being issued in other locations and whether similar trends and issues arise. The fact that village court magistrates in Lae are not issuing IPOs would indicate that in rural areas they are not being used — rural communities may also not be aware of them or do not see them as a helpful new intervention. It is also vital to investigate more thoroughly whether the orders are effective. Such an investigation, which takes time and resources, includes seeking the views of applicants and respondents at different stages of the process and some months after the matter is listed in court among those who had an order issued and those that did not.



Bilums. Source: Judy Putt



Lae Port. Source: Judy Putt

CHAPTER 1. CONTEXT

Introduction

A recent review of gender research in the Pacific found that there is extensive evidence of high levels of violence against women in the Pacific region, with intimate partner violence the most common (Underhill-Sem et al. 2016). Gender inequality and widespread beliefs regarding men's entitlements within intimate partner relations are widely viewed as underpinning such high levels. Other factors are also important to consider: the incidence and nature of interpersonal violence more generally, and both the formal and informal mechanisms which have existed and continue to exist to deal with abuse, violence and discord within domestic relationships and in multiple household and community settings.

Legislation that enables the granting of protection orders to prevent and reduce domestic and family violence¹ has been enacted in many Pacific countries in the past decade. The legislation is very similar in each country and is typically the Family Protection Act (such as Vanuatu 2008 (subsequently amended in 2011), Tonga 2013, Palau 2012, PNG 2013 and Solomon Islands 2014). The aim of the protection orders is to improve the safety of, and give access to justice for, victims and their immediate family, including children and the victims' kin.

Legal and justice reforms in low- and middle-income countries around the world in the past two decades have included the criminalisation of domestic violence and the provision of new legal definitions of rape. In some countries, these reforms have been accompanied by national plans and policies and a growth in specialised services. Some of the concerns that spring from a focus on criminal justice include that many women do not want their partners in jail, do not trust their police and justice systems and often find corrupt services insensitive or unable to meet their needs (Heise 2011).

The other key legal reform has been the introduction of civil remedies, typically involving court-ordered protection or restraining orders, which in theory are less onerous and give applicants more choice and can provide immediate safety. These require a lower standard of proof and usually provide for the expeditious issuing of a temporary order. Applicants need to apply for and request the conditions of the orders. If reported, the violation or breach of an order can result in criminal consequences.

Many aspects of the domestic violence legislation in each Pacific Island country are similar and all include provisions for civil protection orders. However, as Awa (n.d.) highlights, there is considerable variation in the implementation of the new laws, with only some countries opting to issue regulations. Training and awareness-raising among key stakeholders has occurred in some countries, with a particular focus on the police, who play a crucial role in the pursuit of criminal charges for primary and breach offences and in advocating or supporting complainants' applications for civil orders.

Protection or restraining orders have been a core element of responses to domestic violence since the 1980s in Australia and other countries. Debates that have emerged over time relate to the risks associated with the application process and the issuing of orders, the timeliness of the process and in responses to breaches of orders, and whether they do act as a deterrent to further violence. A recent Australian study found that safety may be affected by inconsistent police and judicial decision-making and behaviours, and that legislation and policies are not always applied in practice in the manner originally intended (Taylor et al. 2017). Whether these and additional issues arise in relation to protection orders in Pacific Island countries has not yet been examined. This lack of information is not confined to the Pacific Islands region, as there is a limited quantity of evaluations and quantitative research on the effectiveness of legal and justice reforms, including civil law remedies, in low- and middle-income countries (Heise 2011).

Although studies and reviews exist of the nature and extent of domestic violence in many Pacific Island countries and there have been several evaluations of key initiatives, to date no comprehensive assessment has been undertaken of protection orders across the region. In 2015, a monitoring and evaluation framework for sexual and gender-based violence legislation was developed for the Pacific Islands Law Officers Network (PILON) sexual and gender-based violence working group, but to date there appears to have been little collection of data in the region in accordance with the proposed plan. As part of the framework, for protection orders, there is a program logic, a monitoring plan and evaluation questions related to appropriateness, effectiveness, efficiency, impact and sustainability (PILON Secretariat 2015).

Given that family protection legislation has been in place across the Pacific Island region for a number of years, it is important to see how protection orders are being employed and to investigate their impact in a range of contexts. It is critical to examine whether the issues that have emerged elsewhere in relation to such orders apply in the Pacific context and, if so, explore how they specifically act to prevent domestic and family violence in each Pacific Island country, and how to appropriately investigate their efficacy given the many practical and ethical challenges of undertaking research and assessing changes in behaviour and attitudes.

The aim of this pilot study was to investigate the uptake, use and efficacy of POs in one location in PNG. The project was small in scale and of short duration. The results have to be interpreted cautiously and it is not being suggested that they represent what is going on in the rest of PNG, let alone the Pacific. PNG is a huge populous country with complex and diverse cultures and languages, with a large proportion of the population living in rural villages. The pilot project in PNG is a critical first step, before embarking on a larger, multi-country project.

Papua New Guinea

A nation that gained independence in 1975, PNG is by far the largest country in the South Pacific with a population of more than eight million people. In the midst of what has been described as 'deeply challenging economic, cultural and social changes' (Zimmer-Tamakoshi 2012), it has very high levels of domestic violence (Jolly et al. 2012). The most comprehensive data on the extent of family violence was published in 1992, where it was estimated the violence occurred in two-thirds of households, but there are enough indicators of its extent and seriousness for it to be claimed that today 'family violence in PNG is an emergency' (HRW 2015:2). Qualitative research has indicated that domestic violence is common in every strata of society and is not influenced by socio-economic status, although older women were slightly more likely to experience it (Lewis et al. 2007, cited by Lakhani and Willman 2012:12).

Service data from hospital-based family support centres in Port Moresby and Tari indicate that more than half of their consultations concern intimate partner violence and three-quarters of their clients are adult women. With intimate partner violence, major injuries were sustained in one-fifth of cases, and one-quarter of clients had been threatened with death (MSF 2016). This suggests much of the domestic violence is very serious indeed.

At a local level, in villages and in urban centres, a range of services and justice institutions may be involved in working with and supporting victims of domestic violence, including churches, police, village court officials, welfare officers, NGOs, clinics and hospitals, although much of this activity is likely to be undocumented. There are also informal networks of support, through family kin and *wantoks*,² although they can also contribute to conflict and pressure on the victims. According to Hameed et al. (2016), the strong social bonds and obligations fostered between *wantoks* are at the root of much social cohesion and conflict in PNG today.

Legislation was introduced in PNG five years ago — the Family Protection Act 2013 — the intent of which is stated as: to promote safe, stable and strong families; prevent and deter domestic violence at all levels of society; recognise that domestic violence of any kind is not an acceptable behaviour; ensure that there is effective legal

protection for the victims of domestic violence; and provide for punishment of persons who commit acts of domestic violence or who breach protection orders. The Act defines domestic violence to include assaults as well as stalking and threatening and other behaviour, and stipulates what kind of relationships are covered. Part III of the Act outlines the application process for interim and full protection orders, the conditions that may be set and maximum penalties for breaching an order. Two distinctive PNG elements of the Act are the power given to village courts to make interim protection orders, and the provision, in addition to an order, whereby a court may order the defendant to pay compensation in accordance with custom.

Prior to the introduction of the Act, and still available to the police and courts, are generic criminal offences relating to assault and preventive orders that can be issued by police, the district court and the village courts. It may take some time for the new measures introduced by the Act, which are crafted to apply specifically in situations of domestic and family violence, to be used by the justice system. In the five years since the Act was introduced, there are signs that many in the general population are not aware of the new criminal offence or the civil protection order process. A large-scale 2015 survey of more than 3600 adults in nine locations in PNG found a very low awareness of interim or full protection orders, with only seven per cent saying they were aware of them. Of those that had sought an order, equal numbers had found it effective (44 per cent) and partly effective (44 per cent) (GRM International 2015). More recent research in Lae revealed that only one of the 71 women interviewed had obtained an IPO or PO (Rooney et al. 12/12/2018).

The legislative reform is part of a wider and recent move to respond to gender-based violence (GBV) in PNG through government policies and aid-supported programs, including the first national strategy to prevent and respond to GBV (2016–2025), the establishment in 2015 of a free hotline so survivors can be referred to Family and Sexual Violence (FSV) services, and at a provincial or local level, the establishment of Family and Sexual Violence Action Committees (FSVAC), family support centres attached to hospitals, and family and sexual violence units (FSVUs) in key police stations. However, in a country that many have been characterised as a weak or faltering state, there are challenges in implementing reform and sustaining services across sectors and the country.³

Based on meetings and focus groups in Port Moresby, Goroka and Bougainville, an ODE evaluation team believe there is improved access to justice for women since 2008 with more laws and policies in place such as the FPA and some evidence of impact such as increased applications and processing times for protection orders (ODE 2018). While the creation of sexual offences squads and FSVUs and greater police awareness of family and sexual violence is viewed as a positive development, the team emphasises that more work needs to be done on police attitudes and they argue for more specialist services. They refer to the 17 family support centres in 13 provinces as a positive development, yet note that it still means many areas throughout the country do not have them. The team found less evidence of knowledge, implementation and coordination between the village courts and what they call the formal justice sector (ODE 2018).⁴

Challenges facing DFV survivors

In a report on judicial sentencing practices in sexual and gender-based violence cases in the Pacific Islands region, a range of barriers are described as confronting FSV survivors:

Unfortunately, victim/survivors face numerous hurdles at every step of the criminal and judicial process. The gender power imbalances that lead to SGBV [sexual and gender-based violence] are also barriers to equal access to justice for women. Community attitudes to violence and to women's roles, lack of education, lack of resources, customary and non-customary forms of reconciliation, and judicial and police attitudes about rape all create barriers for women attempting to access the judicial systems for redress. This

manifests in a lack of reporting of a crime, failure to investigate or prosecute, barriers to achieving a conviction and, as we will see in this report, the short and frequent non-custodial sentences that perpetrators receive in DV cases. (Christie et al. 2015:8)

Many women in PNG are ambivalent about reporting to the police and prosecution and arrest may not always be in their best interest. It has been highlighted how many women have little or no income of their own, that fathers fail to support children on separation and mothers fear losing custody of their children (HRW 2015). An evaluation report of FSVUs observes that survivors are encouraged to drop legal and police action from a variety of different sources: family, husband, and FSV service providers (GHD 2015). The practical and emotional difficulties facing women were identified as including:

- » Women may be extremely reluctant to give evidence against someone whom they love or have loved, and with whom they share or have shared a home, and who may be the father of their children
- » They may feel under pressure to protect the family reputation
- » Bride price may have been paid and spent by the family
- » Women may be dependent upon their husband who is the only source of income
- » Women may have nowhere to go
- » Women want to believe the man they married when he promises he will not beat them again
- » Women may be unwilling to risk community/family ostracism, allegations of disloyalty
- » Women are often at risk of further violence or at increased risk of reprisals from a vengeful partner or ex-partner (GHD 2015:100).

These issues are also highlighted in other reports. For example, a Médecins Sans Frontières (MSF) report refers to attitudes held by many that see family and sexual violence as a private matter to be handled by family or tribal compensation, with difficulties arising from women's financial dependence, and family agreement to repay the bride price if the wife decides to leave her husband (MSF 2016).

Challenges in accessing specialist services

Services for women who have experienced family and sexual violence are few and far between. A report on family support centres refers to the gaps in services, lack of staff and insufficient psychosocial services. Barriers include distance, transport costs and insecurity created by crime and/or tribal fighting (MSF 2016). Similarly, another recent report refers to the lack of information, geographical barriers, inappropriate counselling and mediation, and the shortage of safe houses. It also underlines how most of the population live in rural areas (estimated to be about 85 per cent) where basic social services may not even be present (HRW 2015). Specialist FSV services are typically funded by external donors and run by NGOs and are thinly spread across the country. In contrast, government services including schools, clinics and the police are distributed throughout the country but are poorly resourced. For instance, the Department for Community Development and Religion has primary responsibility for coordinating and monitoring the implementation of the national gender-based violence strategy, but has both a limited budget and presence (HRW 2015).

Challenges in accessing justice

Given the many pressures facing women, and poor and limited support services, it is not surprising that the literature frequently refers to under-reporting to police of DFV and sexual violence. For example, the 2015 survey of community perceptions in PNG indicated significant under-reporting of domestic violence (31 per cent of those who said they or a household member had been a victim in the previous year) and sexual offences (36 per cent) to police (GRM International 2015). Official police statistics and even survey results

are thought to inadequately reflect the nature and extent of such crime. Non-reporting is attributed to the fear and shame felt by survivors, and a widespread tolerance of domestic violence as a family (non-criminal) matter, that might be better dealt outside the formal justice system through mediation and compensation (Lakhani and Willman 2012:8).

However, even where the formal justice system is alerted to incidents of DFV, reports lament the lack of legal representation (for example, HRW 2015) and are critical of police and the courts calling them 'unresponsive', 'corrupt' and biased because of wantok relationships (Hameed et al. 2016). Such criticisms are not confined to DFV offences. Much has been said about the parlous and diminished capacity of the Royal Papua New Guinea Constabulary (RPNGC) and their low arrest and prosecution rates (Lakhani and Willman 2012). In a summary of continuing problems with policing in PNG since independence, Peake and Dinnen (2014) refer to the poor fit of what is an imported organisational structure, its urban bias, the widespread indiscipline and corruption and chronic underfunding. The size of the police force has increased by less than a third while the national population has trebled since independence. Current problems with police and policing have been listed as absenteeism, poor discipline, low morale, slow or no response, demands for 'fuel money' and the lack of resources as the budget does not cover buildings and equipment (Coffey 2013). There are also limited training and opportunities for professional development. It is therefore unsurprising that public satisfaction with how police deal with reported crimes is low, even though, if a person is a victim of a crime, survey results suggest he or she is more likely to report it to police (55 per cent) than to elders and community leaders (23 per cent) or family members (17 per cent) (GRM International 2015).

Specifically in relation to FSV, police have been portrayed as rarely taking FSV survivors seriously, by sending them away or ignoring them and refusing to pursue investigations. Little is done to inform them of protection orders and often the police instead mandate mediation (HRW 2015). Clients of Family Support Centres (FSCs) have also said that some police officers actively discourage protection orders or the pursuit of criminal charges, favouring mediation and dispute resolution instead (MSF 2016). Although the specially created FSVUs may be more responsive, there is the risk that all such complaints will be referred to the units and ignored by other police (Coffey 2013). There are reports that FSVUs may not take the formal legal route, preferring to encourage the parties to 'sit down and hammer out an agreement' (HRW 2015:4). However, as Rooney et al. (2018b) found when they interviewed many women in Lae, women often prefer to resolve matters within family, the church or the community.⁵ In the main, the women were pleased with recent changes in the police response to their complaints and the way in which the police proceeded on the basis of what the women said they wanted, which frequently resulted in mediation and, sometimes, perpetrators being called in to see the police.

Less has been written about the district and higher courts. It has been noted that it is not uncommon for survivors to withdraw from court action and police are quoted as complaining of the number of survivors that drop the case once it gets to the court. The reasons for dropping a case has been attributed to faults in the justice system, such as poor communication, lengthy waiting times and poor follow-up (GHD 2015), as well as pressures that may be exerted upon the complainants.

Delays and lengthy waiting times associated with criminal and civil proceedings are the most common criticisms, with women described as being frequently left without adequate legal protection while they wait for their case to go through the court (HRW 2015, GHD 2015). Going to court can be costly and an ordeal for complainants, although these are not issues confined only to PNG courts. Village courts are more accessible and available in rural areas (HRW 2015), but because their primary goal is to restore the local social balance through adjudication, compensation and mediation, they are seen as not necessarily supportive of women in a domestic conflict situation and may not involve themselves in intra-family disputes (for example, see Goddard 2009:170).

Other concerns include the variability in outcomes issued by the district and higher courts, and the concern among stakeholders that punishments for committing FSV offences are too lenient (GHD 2015). An analysis of judicial sentencing practices in sexual and gender-based violence cases found varying degrees to which gender stereotypes, rape myths and other contentious factors led to a reduced sentence. Of the 144 cases analysed in PNG courts only a small number related to district courts (n=7), and only 13 cases were categorised as domestic violence. Interestingly, three of the 13 domestic violence cases had a protection order imposed at the time of sentencing for the criminal offence/s (Christie et al. 2015).⁶

In addition to the formal justice system, there are significant local processes and bodies that people can access to seek justice and the resolution of disputes. The 2009–2010 PNG Household Income and Expenditure survey found that the most common disputes were over land and water, followed by domestic violence and that community leaders and village courts were most often chosen by respondents to resolve disputes (Bulman 2013).

At a local level, in urban settlements in Port Moresby and Lae, Craig and Porter (2018) refer to the critical role of local *komitis* that coexist and often work with formal state authorities such as the police, local level government and village courts. Comprising local leaders working in a voluntary capacity and often for a fee — and working at the behest of local residents — the *komitis* mediate in diffusing disputes to regulate and make settlements and markets more safe and secure. However, women are most likely to mistrust the local *komitis* and, in particular, their capacity to fairly arbitrate on family and sexual violence matters. Craig and Porter (2018:52) found a large proportion of *komiti* cases relate to family matters, but as *komitis* are dominated by men and men's community networks are likely to have more influence, they are viewed by women as usually 'confirming women's subordination within the family unit'. As a consequence they found a profound scepticism among women about their ability to access justice either through the *komitis* or by *komiti* referrals to the formal justice system.

Challenges in accessing protection

Widely varying practices and fees among police, village courts and medical services have been documented (HRW 2015). The example given in HRW's report related to IPOs, as one FSVU recorded that it had more than 600 family violence cases in the year but only 15 resulted in an IPO, so that it appeared the unit police saw the IPO as 'an exceptional tool to be used only in rare cases' (HRW 2015:41).

Based on data obtained from 13 FSVUs for the years 2013 and 2014, only a small but increasing number of IPOs were registered and constituted a fraction of the FSV cases dealt with (GHD 2015). In total, the number of registered IPOs increased from 967 to 1127, and the number of recorded FSV cases rose from 9248 to 10,346. The evaluation report does stress that numbers should be treated with considerable caution because of inconsistent and intermittent recording practices,⁷ but the data at least indicates that a small number of IPOs were being registered and that the proportion 'completed' was about 70 per cent.⁸

Some FSV service providers are reported to strongly favour victims of FSV seeking protection orders. But they urge caution, given that it is uncertain whether victims will be assisted to obtain orders or that police will respond to breaches (Hameed et al. 2016:9). An evaluation of the FSVUs highlights the difficulties of bringing about changes in attitudes towards violence and in service responses (GHD 2015). More specifically in relation to IPOs, the evaluation found that they were the primary focus of the units' intervention but the orders were not working effectively to protect applicants, as the process for obtaining an IPO was too difficult and time-consuming. The report comments that there were indications that the time required to obtain an IPO was longer than the period of the IPO itself. Further criticisms were that there were inconsistent responses from police (in terms of criminal charges for assaults and for the breaches of orders) and variable and often insufficient levels of inter-agency coordination and cooperation.

Focusing on Lae

Lae is the second-largest urban centre in PNG and has a population of at least 76,000 residents⁹ with some estimates as high as 250,000,¹⁰ with many residents having moved there from other parts of Morobe province or PNG. Focusing on the urban centre of Lae allowed us to consider, in some depth, how well agencies in the government and non-government sector are working together to support and protect victims of domestic violence; how much family protection orders have become part of local responses to reported domestic violence; and to canvas issues related to the orders' process and impact. In addition, the study was an opportunity to test out a methodological approach and to identify issues that may be worth exploring in other contexts.

Jolly et al. (2012) refer to the local, national and global perspectives that can be brought to bear on and inform discussions of engendered violence. Although this pilot study is situated in Lae, the place is shaped by these perspectives. Overseas aid and corporate funding is evident in the support for key services such as the Family Support Centre and Femili PNG, and although much of the administration of government services operates at the city level, key justice services such as the police and courts are influenced by national laws and policy agendas and, to some extent, accountability structures.

As a port and regional urban hub, Lae is a cauldron of diversity that includes contemporary institutions, practices and beliefs shaped by the transformative effect of the four dimensions identified by Jolly et al. (2012:12): extraction industries and commoditisation, Christianity, Western models of justice and the law, and biomedicine. There are highly visible inequalities between those who have economic and political power — who have cars, live in substantial houses and have access to private security — and those who live in the settlements and eke out a living as best they can.

Less visible is gender inequality. There are women in jobs, girls at schools and females attending university. As Gibbs (2012) notes, women are doing much that their mothers did not have the opportunity to do. But it is the men who by and large hold formal positions of power, who are the political leaders and senior government officials, even though women may be leaders and authority figures within communities (for example, village court magistrates), exercise a degree of financial independence and hold social status as small business and service managers. Although there are specific forms of engendered violence among the many different ethnic-linguistic groupings within PNG, a common thread is the past and present expectation and acceptance of collective and interpersonal violence, and the widely held views of the right of men to punish, and abuse, their wives in certain circumstances (Jolly 2012:4). More is said on this later. It is not within the remit of this small study to explore the myriad ways that engendered violence is occurring in the everyday lives of Lae residents¹¹ yet it is the underlying context in which the study is conducted.

Based on the most recent and available police statistics, and surveys conducted in Lae in 2005, 2008 and 2010, there are high rates of crime and violence in Lae. Police national homicide data¹² for 2007 and 2010 suggest Port Moresby and Lae had the highest homicide rates in the country and there was a large increase in Lae between 2007 and 2010. In 2010, Lae's homicide rate of 66 per 100,000 of the population was estimated to be nine times the global average, the highest found in the East Asia–Pacific region and amongst the highest worldwide (Lakhani and Willman 2012:4-6).

Despite surveys and police data indicating a stabilisation in crime levels in many parts of PNG in the preceding decade, in 2010 in Lae there were increases in the perceived incidence in 11 of the 12 crime categories covered in the surveys, and in the 'fear of crime and perceived corruption' category, compared with the survey results of 2005 and 2008. The surveys also suggest domestic violence and sexual assault were and continue to be grossly under-reported to police (Lakhani and Willman 2012:7; Coffey 2013).

Serious violent crime is very common and there is evidence of low arrest rates by police. Crime recorded by the RPNGC for 2012 and for the first 10 months of 2013 show that the most common crimes in Lae were

stealing motor vehicles, robbery and murder in 2012, and robbery, rape and grievous bodily harm in 2013. Arrests were made in only a fraction of cases.¹³ Appendix I provides more detail.

Lae was one of the nine locations in GRM's large-scale survey of community perceptions of crime and justice conducted in 2014–15, with 300 people participating from Lae. Akin to the total sample, very few of them (6 per cent) said they were aware of IPOs. Of those that were aware, almost a quarter (23.5 per cent) said they or a family member had applied for an IPO or PO. Of the few who said this, almost all of them responded that the application process was 'not too difficult' (96 per cent) but the majority found them 'not effective' (75 per cent) with the remainder feeling they were 'partly effective' (GRM International 2015:37).¹⁴

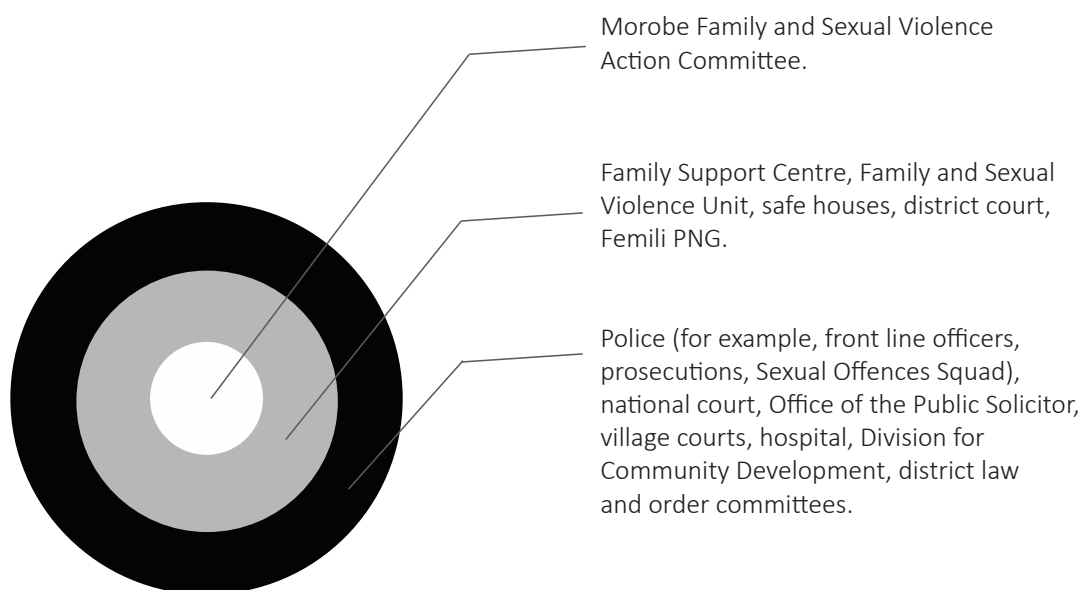
Capacity and priorities of services involved in helping victims of DFV in Lae

It is well known that there have been acute shortages in funding for many key government services and this is even more the case in rural villages and remote areas. Even wages have sometimes not been paid and staff morale can be poor, resulting in absenteeism and pressure to demand unofficial payments for services. Office infrastructure, amenities, vehicles and equipment are often frayed, defunct, inoperable or non-existent. Non-government services exist in a range of places, most frequently in urban centres such as Lae, but they rely on project-driven external donor support or Christian charitable organisations, and in some quarters, assistance and funding from the private sector. In such a context, help and support from family, kin, wantoks and the church remain integral to how people deal with adverse events, including crime victimisation.

In Lae, the key services addressing family and sexual violence are represented on the Morobe Family and Sexual Violence Action Committee (FSVAC). The FSVAC was formed as part of a PNG roll-out of provincial and local committees¹⁵ responsible for implementing the long-term national goal to reduce FSV incidence and associated harms to victims and to improve access to justice and support services for victims, in line with the national GBV strategy. Figure 1.1 shows the range of services that currently exist in Lae and, to varying degrees, may assist survivors of FSV. The inner circle of services has a more explicit role of working with victims or responding to reported incidents, of family and sexual violence.¹⁶ These include Femili PNG, the Family Support Centre, the FSVU and the safe house.¹⁷

After two workshops and an environmental scan, key stakeholders on the FSVAC finalised the Morobe

Figure 1.1: FSVAC as coordinating hub for social and justice services in Lae.



province FSV strategic plan for 2015–17. The plan sought to address major areas of concern including the lack of a secretariat for FSV, the need to address the lack of centralised data collection and analysis, and the need to establish the following: greater levels of coordination and cooperation; rural pathways and services for rural-based survivors; skills development such as crisis counselling and dealing with child survivors; greater levels of community awareness and prevention programs; better provision of safe house services; and improved law enforcement and the provision of legal assistance and support to survivors. The plan's five high-level strategic outcomes include strengthened legal support and enforcement/response to FSV in Morobe.

The establishment of a specialist and well-funded FSV service, Femili PNG, has made a significant difference to the quality and range of services available to survivors. Femili PNG is a local NGO based in Lae, supported by Australian Aid and PNG organisations and businesses, which runs a case management centre to assist survivors of family and sexual violence to access the services they need. In its first two years of operation (2014–16), Femili PNG had more than 900 clients, the great majority of whom were female adults who reported intimate partner violence. On average, clients were referred to 2.4 services, the most common being health (79 per cent), police (53 per cent) and courts (40 per cent) (Femili PNG et al. 2017). According to a client satisfaction survey, legal services were the second most important service (police were listed as fourth) provided by or which Femili PNG assisted with (Femili PNG 2017).

Of note, two negative comments in the survey results indicate that there can be long waiting times for IPOs and that police do not always respond to cases reported to them. Clearly there is demand at the local level for IPOs, as back in 2015, case data from the Lae FSVU would suggest that at least one in six victims/survivors requested an IPO (GHD 2015:74-75).

Conclusion

PNG has high rates of violence, including domestic and family violence and sexual violence. Based on quite old statistics, Lae, as an urban centre, has had especially high rates, with the current levels unknown and the police struggle to arrest many suspects for reported offences.

Every shred of evidence available highlights how domestic violence is challenging for survivors, with many barriers facing women. In general, there are widespread beliefs that domestic violence and abuse should be a matter for family and not a criminal offence. These beliefs combined with few specialist support services and poorly resourced systems make access to justice difficult.

Across the country there have been increased efforts to address DFV through a national strategy, the training of key stakeholders, and action committees. Lae has its own Morobe FSVAC which developed a strategic plan to improve the support available to survivors and the response by justice and social services. Moreover, Lae, as the second largest urban centre in PNG, has a range of services not typically found in rural areas. These include services that focus on assisting victims of FSV, notably the NGOs Femili PNG and the FSC, and a police FSVU.

A key area of reform in PNG was the Family Protection Act 2013, which included provisions for family protection orders. Previous research found considerable variation in how FSVUs were operating, that the FPO process was slow and time-consuming, and that police were not necessarily supportive of victims.

The aim of the pilot study is to examine in more depth how FPOs are being accessed in Lae, and which factors are inhibiting victims' access to justice and protection.

There are three further chapters to the report. The second chapter considers the methodological issues that need to be addressed when undertaking a pilot study of this kind. It then summarises the approach and methods used in the study. The substance of the study's findings are in Chapters Three and Four,

with the third chapter focusing on the findings in relation to the implementation of FPOs, and the fourth distilling the themes that emerged from the qualitative research in relation to the effectiveness and impact of the orders.



Child safety awareness session, 2017. Source: Femili PNG

CHAPTER 2. METHODOLOGY

Introduction

This chapter sets out the methodological context to the pilot study. The basic toolbox of social research methods typically involves a mix of qualitative and quantitative methods such as interviews, focus groups and observations, and should the resources and circumstances align, a survey. In addition, usually for an evaluation or review, these are complemented by the analysis of files or service data. Before finalising the study's approach and suitable methods, we reviewed and considered relevant literature on the findings of, and the methods adopted in, evaluations and research on domestic violence legislative reform in high- and low-income countries. As explanatory background, based on this literature review, the introductory sections in this chapter describe approaches to the evaluation and review of family violence legislation undertaken elsewhere and the benefits of in-depth research. A short section considers what is feasible and appropriate in PNG, which is followed by an account of the actual approach and methods used in the study. The conclusion discusses the limitations of the study and lessons for future research.

Aims of the pilot study

The principal objective of the pilot study was to investigate the expectations, use and efficacy of protection orders in Lae, PNG. As a secondary objective, the pilot study provided an opportunity to refine the research questions, appropriate methods and project governance before the possible expansion of the project to other countries and sites in PNG.

At the outset, key research questions that guided the project included:

- » What do the complainants want when seeking protection orders and what do they expect as a result of being issued an interim or full protection order?
- » How is the process being conducted? (Who are complainants? How long does it take? Who are supporting them? Who is issuing them? What level of court is dealing with the matters? Are criminal charges being pursued in parallel to the civil process?)
- » How many orders are being granted and are they meeting the needs of complainants?
- » Are the conditions of the orders being respected, and if not, are they being breached? What are the consequences of breaches?
- » How are interim protection orders and protection orders actually being used by complainants to try to ensure their safety? Why? How do these processes interact with community/customary/church mechanisms of ensuring safety?

The secondary research questions for the pilot study included:

- » Were the research findings useful and valued by the partner organisation and key stakeholders?
- » Are there ways to improve the service organisation–research partnership?
- » Could the methods be adapted and used in other Pacific countries?
- » Was there adequate safety and support of clients, other research participants and researchers?

A pilot study, by definition, is exploratory in nature. It is not large in scale or encompass longitudinal in-depth research, nor does it involve long-term monitoring. However, it is useful to see how similar key research questions have been tackled in previous studies and to examine those findings.

Approaches to evaluation and review

Protection or restraining orders have been a core element of responses to domestic violence since the 1980s in Australia and other countries. Debates that have emerged over time relate to the risks associated with the application process and the issuing of orders, the timeliness of the process and in responses to breaches of orders, and whether they do act as a deterrent to further violence. The first two issues relate to the efficiency and effectiveness of the process — that is how well the legislation has been operationalised and implemented — and the third issue relates to the impact of the orders on individuals to whom they are applied.

In 2015 the Pacific Islands Law Officers Network (PILON) sexual and gender-based violence (SGBV) working group developed templates to monitor and evaluate two specific aspects of SGBV legislation — what are called ‘protection/police safety orders and prosecutions’. The five domains for which indicators were developed relate to appropriateness, effectiveness, efficiency, impact and sustainability (see PILON 2015). Although the templates focus on monitoring and evaluating the training of police and prosecutions, and community awareness sessions, Table 2.1 shows elements of the evaluation plan for the protection orders. It demonstrates that there is a similarity in the research questions that guide this pilot study and a more comprehensive approach to assessing the implementation and impact of the orders.

Table 2.1: Framework for evaluating family protection orders

| Domain | Headline questions | Focus | Methods |
|---------------|---|--|--|
| Effectiveness | To what extent has there been an improvement in capacity in issuing/applying for orders and resolving breaches? To what extent has there been an increase in community understanding of orders and DFV? | Improvements in issuing/ applying for orders and identification and resolution of breaches Improvements in community understanding of use of orders to halt and deter DFV | Survey/interviews Review of police and court files Review of DFV statistics |
| Efficiency | To what extent were the policies and procedures developed and implemented efficiently? | Performance against budget | Administrative data Survey/interviews Review of budget |
| Impact | To what extent has there been a reduced rate of DFV reoffending by perpetrators who have been issued orders? To what extent has there been an increase in confidence in the police and justice system? To what extent has there been an increase in reporting of DFV (including breaches of orders)? | Trends in reoffending rates Trends in confidence Trends in reporting | Administrative data and interviews Review of timeframes Review of crime statistics |

Source: Adapted from PILON’s report, 2015.

To some extent, therefore, the pilot study was a mini or quasi-review or evaluation of how the FPOs are being accessed and the impact they are having. But the PILON framework contains several significant assumptions about measurement and the likelihood of having reliable and meaningful data. Before embarking on the study and while working on its design, we undertook a review of evaluation approaches and methods that have been used to address the research questions we were asking. Based on this literature scan and on advice from key stakeholders, questions arose about the feasibility and appropriateness of certain measures and methods.

Effectiveness of implementation

The significance of the extent and quality of implementation of domestic violence legislation was highlighted in a recent report by the Pacific Women Shaping Pacific Development Support Unit (PWSPDSU). It notes that ‘specific domestic violence legislation makes an important contribution to ending violence against women’ by criminalising domestic violence and providing mechanisms to protect those who experience domestic violence’ (PWSPDSU 2018:15). However, it also cautions that a strong legislative framework is only as effective as its implementation, and that successful (or effective) implementation requires:

- » Community awareness of the law and access to lawyers and courts
- » Overcoming or reducing barriers to accessing justice such as: geographical isolation, financial costs, language barriers, entrenched stereotypical attitudes and lack of awareness of gender issues on the part of police, lawyers and court staff, lack of confidence in formal legal processes due to perceptions of corruption and bias
- » Adequate planning, budgeting and cross-sector consultation
- » Technical capacity within government, law enforcement agencies, the legal profession and the judiciary
- » Overcoming governments’ reluctance to invest financial and human resources within the resource/financial constraints faced by developing countries (ibid:18–19).

Having all these prerequisites in place for effective implementation is extremely unlikely in any context, but especially so in low-income countries. The number of low- and middle-income countries with domestic violence legislation has grown from four to 76 between 1993 and 2013, but implementation is a huge issue. Most legislation is not accompanied by dedicated budget allocations and there is often widespread resistance to the intent of the new laws, not least among the male-dominated criminal justice sector. Research has indicated that training and legislation alone are not enough to improve outcomes for women or reduce violence (Ellsberg et al. 2015). A recent report also warns that legislation can only contribute to longer term change in norms and behaviours in combination with other efforts including education, advocacy and community-building (PWSPDSU 2018).

Following the introduction of family protection and domestic violence legislation across the Pacific region, various approaches have been adopted in implementation (Awa n.d.). Some countries have developed implementation plans and, in most, consultation and training of key stakeholders has been undertaken to varying degrees. In PNG, the regulations to accompany the legislation were not issued until 2017 and DJAG has conducted training in many parts of the country, including Lae.

Implementation is a process of operationalising a policy or program design and how it is done affects the effectiveness and impact of the reform. A realistic evaluation also stresses the specific mechanisms that produce results in specific circumstances and contexts. The latter is crucial as external factors — macrostructural and place-based — can influence the way the implementation story unfolds (Putt and Yamaguchi 2015).

A recent systematic review of the evidence in high-income countries on the effectiveness and impact of protection orders used a matrix of factors to classify the evidence for effectiveness (Dowling et al. 2018). Factors included the mechanisms and moderators that effect change, implementation requirements and barriers, and cost-effectiveness. The review noted that effective implementation includes an efficient and victim-friendly process, the consistent imposition of order conditions and effective enforcement.

The review found that complicated and time-consuming administrative requirements discourage potential applicants and that they may withdraw their application because of fear of reprisal, scepticism that they will have an effect, and poor support. The assistance of police, victim advocates and other court personnel can have a positive impact, as the process can be simplified and made more comfortable for victims. The review found that enforcement continues to be a problem with limited reporting, complex arrangements, weak or insufficient evidence, and police perceptions of weak sentences (Dowling et al. 2018).

To explore the implementation and impact of DFV legislation in a particular locality such as Lae requires an awareness of and sensitivity to the local context. The significance of having sufficient in-depth local knowledge or research is evident from the work of legal anthropologists who since the mid-1990s have drawn attention to the tensions stemming from, and cultural resistance to, legal reforms that seek to address gender-based violence (Goodale 2017:169). A considerable gap is evident between the intent of laws shaped by United Nations' declarations and Western legal frameworks and local implementation. Goodale says that ethnographically informed accounts illustrate and detail 'multiple stakeholders, political interests, and processes of cultural vernacularisation that shape dynamics in the ambiguous spaces between the global and the local' (ibid.:173).

Examples include ethnographically informed accounts of the partial implementation of a law against sexual violence in the Democratic Republic of the Congo which was only partially or badly applied and resulted in few prosecutions over a six-year period as local village chiefs preferred to use customary law. In Trinidad and Tobago, a domestic violence Act introduced in 1991 was implemented 'unevenly' and four specific categories of predominantly subordinate women were more likely to find formal protection from the courts: women married to alcoholic husbands, mothers with drug-addicted abusive children, women beaten in homes they helped pay for, and former partners of obsessed men (Mindre Lazanis-Black 2001:399 cited by Goodale 2017).

Such studies illustrate the aspirations of realist evaluations: to document change and to also understand 'the mechanisms' that lead to change. The intent of legislative reform can be subverted by an implementation process and patterns of use or non-use of orders that is influenced by the local context.

Impact measures

In Dowling's systematic review of the evidence on the effectiveness and impact of protection orders, impact was only defined in terms of evidence of re-victimisation levels, as the objective of protection orders in countries such as Australia, New Zealand, Canada, United States and the United Kingdom is given as preventing the reoccurrence of domestic violence by imposing a series of conditions on perpetrators. The review found an overall positive impact in that there was a small but significant reduced likelihood of re-victimisation, and that the severity of the domestic violence was reduced in some contexts. They were found to be more effective where the domestic violence was more severe, victims are employed or have higher socio-economic status and less effective if the victim and perpetrator have children together. What contributes to a positive effect of an order is attributed to what it does to perpetrators — it deters them, increases the effort required to offend and removes excuses (Dowling et al. 2018).

In high-income countries, the main measure to assess the effectiveness of orders has been whether the orders have reduced or prevented further victimisation. This is often referred to as the 'rates of violation'. A meta-review of empirical studies using this measure found that between 23 and 70 per cent of women victims reported repeat victimisation. The risk of violence was associated with the amount of time that had elapsed

from when the order was issued, certain characteristics of the victim, the abuser and their relationship, and legal system factors (Benitez et al. 2010).

Another measure has been women's perceptions of safety after the order is in place. For example, a large-scale study found that, even where there was a breach of the order, the majority of women said they felt safer (Heise 2011). However, as is emphasised in the literature (for example, Ellsberg and Heise 2005; PILON 2015), survivors' safety should be a paramount concern, and it may not be practical or ethical to invite a large number of women to answer questions about their feelings of safety and/or their experiences of re-victimisation. Moreover, if there are low levels of breach reporting or poor record keeping there will be also be no reliable measures on 'violation' in police or court records.

These are technical issues surrounding appropriate and feasible measures. A more fundamental question is the short and longer term outcomes expected from the introduction of FPOs, from the point of view of individual survivors as well as for the system and society as a whole. In addition to the impact of an order on the applicant and respondent, there are broader questions about whether the legislative reform has any impact on the system and society more broadly.

DFV legislation can send an important message about the non-acceptability of domestic violence. However, the symbolic meaning of official orders may be different from that found in high-income countries, especially in places where there is significant gender inequality and men's violence towards their wives is not necessarily stigmatised or viewed as illegal. But even in such contexts, attendance at a police station or a court may act as a 'public denunciation' (Heise 2011). Mindre Lazanis-Black (2001) indicates that determining whether the reform is a 'success' requires a nuanced approach. Even where applicants were not successful in obtaining a temporary restraining order, she argues the application process itself represents a significant milestone as for many it was the 'first empowering engagement with the state' and created the opportunity to think in new ways 'about themselves and their relationships'(cited by Goodale 2017:171).

A further issue raised by several colleagues and stakeholders is the often negative and/or critical bias that an outsider or foreigner from a high-income country can consciously or unconsciously bring to bear in evaluations or research. A comment is made in the HRW (2015) report that FSV service providers expressed frustration with foreigners' brief visits and the way they emphasised the negative aspects of service delivery and practice. It was felt that there are not enough questions about, or acknowledgement of, the hard work being done.



What measures are applicable and feasible to use in PNG?

Based on the previous section, Table 2.2 summarises the key factors and methods used to measure implementation and impact of protection orders in high-income countries.

Table 2.2: Indicators and methods to assess implementation and impact in high-income countries

| | Measure of effectiveness | Indicators | Source |
|----------------|---|---|--|
| Implementation | Efficient and victim-friendly process Consistent imposition Effective enforcement | Time to taken to get an order Support and information provided to victims Analysis of applicants' characteristics and court outcomes Response to reported breaches | Court records Police records Stakeholders' perceptions Victims' perceptions |
| Impact | Reduced re-victimisation Improved safety | Violation or breaches of orders Perceptions of victims' safety | Court records Police records Stakeholders' perceptions Victims' perceptions |

Although the findings from meta-reviews of evidence on the effectiveness of orders in high-income countries suggest what we might look for, these measures may not apply to PNG.¹⁸ In-depth research in low- and middle-income countries has found distinct and subtle application of introduced protection order regimes and the value placed on them.

In an ideal world, we would have reliable and relevant data that has been collected by key stakeholders, complemented by rich qualitative material from prolonged engagement in research. In practice, there are significant constraints, which raises the question of how much can be achieved in a low-income country with weak state institutions and patchy and intermittent service delivery? Moreover, how much data can be collected as an indicator of implementation and impact when there may be little or no reliable administrative data, and seeking out the views of participants and stakeholders may put women's safety at risk? It is therefore crucial to calibrate expectations of the implementation and impact of the FPA given the context and level of resources available for reform and service improvements. Realistic expectations are also necessary when considering the methods that could or should be employed to assess implementation effectiveness and impact. There are major challenges if not downright obstacles, not least:

- » **Factors affecting implementation:** these were touched on in the previous chapter and include:
 - » Pre-existing general preventative orders (various types of orders can be issued by village courts, police and the district courts)
 - » Overburdened, under-resourced services
 - » Lack of knowledge and awareness (among general public, justice practitioners and services)

- » Attitudes to and perceptions of DFV (among general public, justice practitioners and services)
- » Attitudes to and perceptions of justice (among general public, justice practitioners and services)
- » **Factors affecting methods:** these constitute two main limitations:
 - » The lack of detailed in-depth studies of awareness or experiences of FPOs. The previous chapter highlighted that PNG is a country with multiple complex and diverse settings, and hybrid and pluralistic justice institutions and processes. Yet to date there is not much written on the practices and interactions in formal legal settings such as district courts and nothing that specifically examines FPOs in any settings.¹⁹
 - » Poor and/or hard to access information. This has two parts:
 - a Under-reporting to and by police and justice officials. Specific barriers to effective use of FPAs and access to justice have been listed as entrenched attitudes in the justice system, inadequate training for police, corruption in the police force, and violence against victims perpetrated by police (PWSPDSU 2018:40). Both police and prosecutors face a number of challenges including a policing culture that is reluctant to enforce SGBV legislation or respond to SGBV complaints, limited resources, lack of legal knowledge, lack of specific training and a lack of professional standards and special operating procedures for handling SGBV complaints and prosecutions. (PILON 2015:4).
 - b The lack of reliable data and records, which is a common complaint in commissioned evaluations and reviews. ODE (2018) refers to inconsistency in the collection and management of data across various services. A recent evaluation noted that there was no central system to track agencies' response and even data collected by FSVUs and FSCs was neither centralised nor always collected consistently or regularly (HRW 2015). The lack of reliable police statistics was recently publicly acknowledged by the RPNGC commissioner of police.²⁰

These constraints result in fairly modest expectations of improvements as a result of the FPA. In terms of accessing justice, HRW (2015:19) note that the district courts already had power to issue interim and longer term protection orders, but state that the FPA should make it easier to obtain an order and ensure greater consistency in how courts handle such requests. They found that several stakeholders said IPOs were 'easier to get' and there was 'more awareness and demand for them' and some survivors reported 'good outcomes' from FPOs (HRW 2015:28, 47). From a system perspective and in the shorter term, secondary outcomes that may flow from the implementation of the DFV legislation could be improved community and stakeholder awareness and attitudes towards DFV, and improved coordination and relationships between key stakeholders, such as the police and specialist services, that act as foundations for a better response and therefore improved outcomes for victims.

These more modest expectations tempered our objectives and design of the pilot study — and underscored why the secondary research questions were important to address as well.

Pilot study – the approach and methods

The pilot project adopted a participatory and exploratory approach so the willingness of agencies to assist and the quality and accessibility of data had to be ascertained. At the outset, four key research areas helped frame the research process, to ensure at least some of the key research questions were addressed:

- » Agency information on resources, activity and outcomes
- » Coordination and information sharing between agencies
- » Knowledge, skills and attitudes of professionals and stakeholders
- » Applicants' expectations and experiences.

Knowing that the research had to be undertaken with great caution and awareness of victims' safety and of local politics, the pilot study needed the support of key stakeholders in Lae. Importantly, the specialist DFV service Femili PNG agreed to assist and, at a meeting in March 2018, the Morobe FSVAC formally expressed their support for the project. The methodology involved mixed methods and various mechanisms to ensure safety considerations for participants and of the research team always had primacy (informed by the World Health Organization guidelines on research into violence against women (Ellsberg and Heise 2015)).²¹ The proposed approach was submitted to The Australian National University's Human Research Ethics Committee and was approved in March 2018. As the budget was small and the timeframe tight, it was crucial that stakeholders had realistic expectations of what could be achieved.

The project took a little longer than originally envisaged, with primary research conducted between March and August 2018. The all-female research team consisted of the lead researcher, based in Canberra, and two casual research assistants based in Lae and who had previously undertaken research on behalf of the Department of Pacific Affairs at The Australian National University. Significant in-kind support was provided by several stakeholders, most notably Femili PNG, which played a pivotal role in providing data from their case management service, guidance in the preliminary stages and assistance from and liaison with their development manager during the course of the project. In March 2018, a team leader from the Canberra-based specialist DFV service, the Domestic Violence Crisis Service also visited Lae for a week, and shared her insights of DFV practice in two very different settings.²²

The main quantitative data on FPOs was from Femili PNG, comprising de-identified records of 412 clients who wanted an IPO from August 2014 to May 2018. A limited range of de-identified data was accessed from Femili PNG service records and analysed to see what it revealed about the process and outcomes. The majority of clients were adults (97 per cent), women (94 per cent), and in their twenties or thirties (74 per cent). The average age of the sample was 32 years, ranging from a baby to a 60 year old. A quarter of the 25 males were children or babies. There was a slight increase in the average age of the clients during the sample period.

The Lae District Court provided two sets of statistics. The first set of district court statistics cover the whole of 2017 and the first two months of 2018, representing all applications during that 14 month period. The second set of statistics was provided more recently and although they relate to a shorter period of April to August 2018, they provide more detail than the first set.

In comparison to the district court data, the statistics based on Femili PNG case information cover a longer period of time (three years nine months compared to 14 months) and are only those applications and their outcomes that have involved Femili PNG clients. Due to the detail and longer period covered, the Femili PNG client data is the primary source for most of the statistics referred to in this report. More information on the client sample and data is available in a separate Femili PNG report (see Femili PNG et al. 2018). Based on published numbers of Femili PNG clients, it is estimated that about one-quarter of new clients in the sample period were recorded as wanting an IPO (Femili PNG et al. 2017).

Statistics were also sought from the police and the FSC but these were not forthcoming. Village court officials were also asked if statistics were available but their response indicated that the data was not routinely being compiled and that IPOs were not being issued by the village court magistrates. The police assisted with access to a random sample of 15 police prosecution files involving recent DV-related charges and interviews were conducted with the FSC and various sections of the police (FSVU, police prosecutions, community policing).

The lead researcher visited Lae on three occasions, spending more than three weeks in the town. She and the research assistants observed the proceedings of the district court and the work of the FSVU on a number of occasions during the project. Consultations and face-to-face semi-structured interviews were conducted with at least 50 stakeholders, sometimes more than once, including representatives of or staff in the police, the courts, and health and welfare services. The stakeholder interview schedule is at Appendix 2. At a meeting of the Morobe FSVAC in the first week of October 2018, the study's preliminary findings were presented and discussed with the key stakeholders.

Box 2.1: Pilot study methods

- » District court statistics, 14 months (January 2017–February 2018).
- » District court statistics, five months (April–August 2018).
- » Femili PNG data of 412 clients who wanted IPOs (2014–2018).
- » Interviews and consultations with more than 50 stakeholders.
- » Observation at the district court and the police's Family and Sexual Violence Unit.
- » Sample of recent police prosecution files relating to DFV (n=15).
- » Interviews with 14 women.
- » Visit by Canberra's Domestic Violence Crisis Service court advocacy team leader.

Talking with a range of applicants was seen as desirable but not essential for a pilot project. The safety of women was the top priority and we did not want to place them in danger by approaching them to seek an interview. The client satisfaction survey conducted by Femili PNG in 2016–17 showed that it can be difficult to follow up with clients, especially given the high turnover in mobile phone numbers, with only 39 clients being able to be contacted for the survey (Femili PNG 2017).

In the end, 14 women were interviewed as part of the project. Initial contact was made outside the FSVU, where the women felt safe enough to talk to us. Although an interview schedule had been drafted, it was not possible to adhere to its format (see Appendix 2 for a copy of the original questions). Instead, more open-ended conversations were held one-on-one and the researcher filled out the form later. One interview concerned a young woman who had been at the safe house for a year, after being raped by fellow students, and who was considering whether she should take out a restraining order. As she was not a victim of DFV, her interview is not included in the results of the pilot study.

The remaining 13 women were at different stages in the IPO and PO process. Four had applied for an IPO and were still waiting for one, seven had an IPO issued and, although it was not always clear, several also seemed to have obtained POs. One woman had an IPO issued against her. If nothing else, talking with these women highlighted the need in future research to talk to women over a period of time, as their views will change depending on their experience of the process and its outcomes.²³

All of the 13 women were in their 30s or 40s and had children. A total of 39 children were affected by what the 13 women had and were experiencing, with their ages ranging from a toddler to young adults. Several of the women mentioned being in professional jobs and one was a businesswoman. Most, however, appeared to have no independent means of income.

Conclusion: study limitations and lessons for future research

Not all of the research questions can be adequately addressed by the study's methods. It is partly a problem of scale. For example, it would be preferable to have a large sample of women who are asked about their experiences over the longer term and a larger sample of police prosecution files. The unavailability of police data on DFV — from the hotline, the FSVU and the charges laid by frontline police — is a critical missing link. Overall, the quality and/or accessibility of organisations' statistics remains a major gap that requires additional effort to address through, for example, project-specific collection of data.

Key stakeholders provided positive feedback on the study's findings at the October 2018 meeting of the Morobe FSVAC. However, it has to be acknowledged that it was not always easy to contact several service providers and there was a marked reluctance to assist with data or to be interviewed in some quarters. The research team had to move carefully as we did not wish to exacerbate the stress many people were suffering as a result of their jobs, nor did we want to inflame any pre-existing tensions between agencies. By and large, the majority of key stakeholders were helpful and obviously concerned about survivors, but this was not always the case. An additional burden was placed on key services, such as the district court and Femili PNG, and there was not always the time or personnel to aid the study. More work needs to be done to build acceptance of and trust in research, so that stakeholders see the value in being party to it. Integral to this is researchers not focusing exclusively on the deficits in service delivery, practice and coordination, and being open to local stakeholders' views of what has improved and what is important.

Having local researchers who were fluent in Tok Pisin and familiar with Lae was essential to the study. This was most noticeable in the interviews with women and in the observations made at the court house. Being an 'outsider' also had its advantages at times, but the lead researcher was not there for long enough periods to properly develop good working relationships with service providers.

A major limitation of the study is that we can only partially address the key research questions related to the impact and effectiveness of the IPOs and POs. These include questions about what complainants want when seeking protection orders and what they expect as a result of being issued an order, as well as how the orders and protection orders are actually being used by complainants to try to ensure their safety. A more ambitious research project is required and more is said on this at the conclusion to Chapter Four. But a larger and better-resourced project would involve documenting the views of applicants (and respondents) of the process and its outcomes over time. A further extra component would be a survey of the wider community on their levels of awareness and knowledge of FPOs as well as attitudes to and perceptions of DFV.

A final cautionary note concerns the survivors of DFV and what they want from engagement in the research process. Safety is always the most important consideration, but it was clear from our interviews with women that they want and expect much from an encounter with a researcher. Although we could advise them to contact various services for information and support, this did not always feel adequate. The survivors were eager to share their experiences in great depth which meant the interviews were long and detailed.

Moreover, the survivors were often in need of immediate practical help which we could not provide nor were we confident that there were services that could help. A member of the research team said the interview was like 'a therapy session'. It is a constant and ongoing challenge to be able to respond sympathetically to such unmet need without making false promises or raising expectations that cannot be met.





Source: Femili PNG

CHAPTER 3. ACCESS TO PROTECTION

Introduction

This chapter focuses on the process of applying for protection orders and, within the context of Lae, looks at what we learnt from the project about how the process works in practice and the available data on applications, the number of orders issued and the length of time it takes. The first section describes the key elements of the Family Protection Act as well as the procedures that have been outlined in regulations and further explained in guidance notes issued by DJAG. The second section presents data from the district court and from Femili PNG on the number of and trends in applications and the granting of orders, who is applying for orders, the length of time that elapses between each stage of the process, and the incidence of criminal offences. The third section summarises the main issues relating to the process that emerged from consultations, interviews and observations at court.

The legislative framework

Passed by the PNG parliament in 2013, the Family Protection Act aims to prevent and deter domestic violence by introducing civil family protection orders and by criminalising acts of what is broadly defined as domestic violence and breaches of the FPOs. Several years later, family protection regulations were gazetted in 2017 which set out the processes and the forms to use under the Act. Guidance notes were issued in the same year to provide clear and practical advice to the stakeholders and the general public (DJAG 2017).

Under Part II, s. 5 of the Act, domestic violence encompasses assaults, sexual abuse, threats, property damage, psychological abuse and stalking. The guidance notes stress that police should carefully consider the nature and seriousness of the offence/s before laying charges, as the definition excludes serious sexual offences and major physical injury which can be pursued through offences under the Criminal Code Act 1974. The guidance notes also underline that though individual acts may appear minor or trivial, they could constitute a pattern of behaviour that amounts to domestic violence. Under s. 23 a spouse can be called to give evidence against the offending spouse. The maximum penalty for a domestic violence offence (s. 6)

Box 3.1: Distinctive PNG elements of the Family Protection Act 2013

- » Compensation paid to the complainant by the defendant in accordance to custom is not a defence to the domestic violence offence.
- » The intent of the law includes promoting safe, stable and strong families.
- » Relationships covered by the Act include spouse, immediate family and 'any other person who is treated by the spouse as a family member'.
- » Village courts have the power to issue IPOs.
- » The district court can order the respondent to pay compensation in accordance with custom.
- » The district court may direct either or both the complainant and respondent to participate in mediation and/or counselling.

is a fine of K5000 or a two-year prison sentence or both. The Act (s. 20) also makes it a criminal offence to breach any of the conditions of a FPO and, if convicted, the maximum penalty is greater than that for a domestic violence offence being a fine of up to K10,000 or imprisonment for three years or both.

The other crucial definitions in the Act relate to a 'family member' and a 'spouse'. The latter covers heterosexual couples that are or have been married or live or have lived in a defacto relationship, or are the biological parents of a child, but not more casual relationships such as boyfriend/girlfriend. Family members include the spouse, children and immediate family of the person or spouse (parent, grandparent, sibling) and 'any other person who is treated by the spouse as a family member'.

Under its criminal jurisdiction, the district court hears matters related to domestic violence offences or FPO breaches. Under its civil jurisdiction, s. 7 of the Act gives the district court the power to grant interim protection orders (IPOs) and protection orders (POs). On the other hand, under ss. 12–15, village courts can only grant IPOs.

Procedures

The two types of order differ in terms of the length, with IPOs lasting for 30 days with the option to renew for another 30 days. The PO can be for any period up to 2 years and may be extended, varied or revoked via an application to the district court (s. 24).

Applications for an IPO can be made by a complainant in a village court or a district court. This can be done in writing using the appropriate forms and with the district court, the form needs to be accompanied by a completed summons upon complaint and an affidavit in support of the application. If the application is made orally then the court clerk or the village court or the district court magistrate has to convert it to a written application. If the complainant is unable to appear in court, someone may apply on their behalf but they need to complete Form 1 (see Table 3.1).

An IPO can be granted where the court believes, on reasonable grounds and based on the balance of probabilities, that the complainant is in danger of any form of domestic violence. The defendant does not have to be in court. The district court can grant a PO on its own initiative if criminal matters are being heard or the defendant has been found guilty of offences where domestic violence is involved.

The IPO commences from the time it is served on the defendant. If issued by the district court, the IPO will be accompanied by a summons to the respondent informing him or her of a court date to appear in court to respond to the complaints made against him/her. A summons should be served at least 72 hours before the appointed time of the hearing. If the defendant is not present in court, the court can still hear the PO matter if the summons has been served or all reasonable efforts have been made to serve the summons.

Conditions that can be imposed in both the IPO and the PO are specified in ss. 8–10 of the Act. These conditions can stipulate that the defendant be of good behaviour to protect the complainant and other family members, prohibit contact and/or communication between the complainant and defendant, prohibit the defendant from being in or near specified premises, grant the complainant exclusive occupancy to a residence, direct the return of property and prohibit the damage of property.

Under s. 11 the court may direct either or both the complainant and defendant to participate in counselling or mediation or both. The regulation specifies that both parties must consent and the court is satisfied that attendance will not jeopardise the safety of the complainant and other family members. If counselling is ordered, the clerk of the court is responsible for making the arrangement. Mediation can be performed by the district court or village court magistrate or by a neutral person. A non-judicial mediator has to report back to the court within 14 days. Mediation can be used to determine any compensation that needs to be paid. The court can order that a defendant pay a complainant compensation when the complainant has suffered as a result of domestic violence personal injury, damage to property or financial loss.

If an IPO made by the village court is breached, then the complainant may apply to a district court to enforce the order. Before it is able to make a determination, the district court has to satisfy itself that the village court acted appropriately, that the IPO is justified and it was breached. With breaches of POs, the complainant can go directly to the police and have the defendant arrested and charged, or can make an application to enforce the order in the district court. The complainant is required to submit a copy of the PO, an information form (Form 16), a summons upon information (Form 17) and an affidavit in support of the application. The court cannot hear the matter until an affidavit of service of the summons on the defendant is provided.

Paperwork

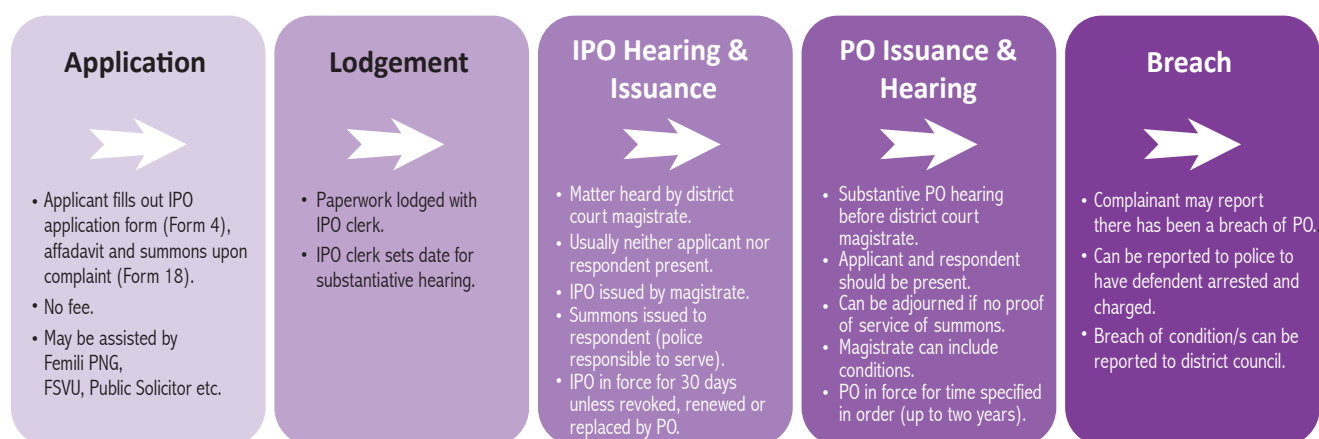
Table 3.1 lists the forms required for various stages in the process. It also shows that the complainant is expected to complete a considerable proportion of the forms. This could be a challenge for a complainant with poor English literacy skills and limited education. A de-identified example of a Femili PNG client's application with an affidavit that covers the most recent incident and past history (and any relevant medical records) is in Appendix 3 and shows the level of detail prepared with the assistance of Femili PNG caseworkers and a legal officer. It must be highly daunting for a complainant to prepare such paperwork, even with the assistance of a busy IPO clerk, if the person is not a client of Femili PNG, which could be as high as half of the applicants in the district court annually (see below).

Table 3.1: Forms required in the Family Protection Order process

| Action | Form | Who is responsible |
|---|---------|---|
| Application for an IPO – district court | Form 4 | Complainant or any person on behalf of the complainant |
| Application for an IPO – village court | Form 2 | Complainant |
| Summons upon complaint | Form 18 | Issued by the district court magistrate |
| Complainant authorisation | Form 1 | Complainant who names a person to apply for an IPO on their behalf (for example, family member, service provider, police, lawyer) |
| IPO granted | Form 5 | District court magistrate |
| IPO granted | Form 3 | Village court magistrate |
| Application for PO – district court | Form 6 | Complainant (or person on behalf of complainant) |
| PO granted | Form 7 | District court magistrate |
| Counselling completed | Form 9 | Counsellor |
| Non-judicial mediator's report | Form 10 | Non-judicial mediator |
| Application to extend, vary or revoke a FPO | Form 8 | District court or village court magistrate |
| Information about a breach of village court IPO or district court IPO or PO | Form 17 | Complainant |
| Referral to district court of alleged breach of village court IPO | Form 11 | Village court magistrate |

Figure 3.1 presents a flow diagram to illustrate the stages of the FPO process. It is an ideal version of how the process should proceed — there are invariably delays or withdrawals at various stages, the evidence for which is examined in a later section. Again, unless complainants and respondents have access to legal advice or a service such as Femili PNG, then it is questionable whether they would be aware of how the process is meant to unfold.

Figure 3.1: Stages in the Family Protection Order process



Note: The village court 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.

Implementation in Lae

After gazettal of the regulations in early 2017, DJAG drew up guidance notes and undertook training in various provinces across PNG, including Lae. Many of the FSVAC members participated in the training in 2018. A number of other events and changes in 2017 contributed to greater capacity and skills to improve the process and to assist complainants. Box 3.2 highlights some of the critical changes in Lae in 2017. Importantly, from the point of view of complainants, Femili PNG increasingly became the service that provided advice and support for potential applicants, at least for those who had been assessed as high risk and taken on as clients. Prior to 2017, the Office of the Public Solicitor, the FSVU and the IPO clerk indicated that they had helped more complainants but that they were now more likely to refer them to Femili PNG. Some stakeholders also recalled the period before 2017 as a difficult one, where there could be long delays in the FPO process, primarily because of a shortage in district court magistrates.

There are a range of frontline services that have contact with DFV survivors. Staff at the FSC, the hospital, frontline police at stations or via the free hotline, said they recommend the survivors go to the courthouse, or more probably the FSVU, to lay a complaint and to go to Femili PNG or the Office of the Public Solicitor for advice. An FSVU officer said they ‘triage and verify cases’ and if the injury is minor it is the client’s choice to pursue civil matters, while if it is serious the police lay charges and can arrest (Interviewee PO1). A non-FSVU police officer rather disparagingly referred to the FSVU as ‘more like a clinic’ with long queues and not enough staff, with clients sometimes waiting for one or two days to be seen by an officer (Interviewee PO2).

In terms of the current process, a court officer said there is no fee and the complainant who wants an IPO fills out a form and completes an affidavit, then lodges an application. The IPO clerk sets the date for the hearing of the PO at the time of lodgement. A magistrate can issue the IPO based on the complainant’s submission and the conditions requested by the complainant are usually accepted by the magistrate once she or he has read the affidavit. The survivor takes the summons and gets proof of service, from the police ‘mostly’. The

hearing for the PO may be adjourned two to three times over several weeks if there is no service or no appearance by one or both parties. The complainant can ask for an IPO extension if ‘there is a good reason and if there is proof of service and he chooses not to attend’ (Interviewee S2). The hearing for the PO was described as being ‘more like a trial, involving both parties. The respondent is expected to counter the affidavit and call witnesses to disprove it’ (Interviewee S2).

Given the increasing role of Femili PNG in assisting potential IPO applicants it is worth documenting their practice. The Femili PNG caseworkers said they screen potential clients to see if they are high risk and if they are, they ask them to complete an intake form and the workers explain their options including applying for an IPO. Depending on the client’s perceived risk, the caseworker may refer the client to the safe house, where she and children may be able to stay, usually for up to a fortnight while the IPO application is lodged and heard. With the client’s permission, the caseworker may take the application to the court house.

The assistance given with the IPO is part of an overall approach that was described by the Femili PNG caseworkers as explaining options, giving practical assistance as well as referrals and advocacy. A caseworker said their aim is to give ‘protection for her; report for an arrest of him and refer to the Public Solicitor for adultery cases ... We help with transportation, supplies, a shower and food, apply for an IPO and follow up with police cases. I’ve got calls in the night and we respond’ (Interviewee FPNG7).²⁴

Box 3.2: 2017 — A very good year in Lae

A constellation of factors improved access to justice for DFV survivors during 2017. Key stakeholders became more versed in the Family Protection Act and its regulations towards the end of 2017 because of the training provided by DJAG. The district court had only had two magistrates at one stage, but by 2017 five were working in the court. In addition, a new senior provincial magistrate was appointed mid-2017. A lawyer, with previous experience in the Office of the Public Solicitor, joined Femili PNG and played a vital role in advising on and developing templates to assist with IPO and PO orders. The metropolitan police had also introduced a toll-free number which, although not DFV-specific, did improve the public’s ability to report crimes to the police.

Innovations continue to occur. For example, in 2018, two outreach positions were created in Femili PNG, and the FSVU has decentralised with the appointment of FSV officers to suburban police stations. Supported by the Justice Services and Stability for Development Program, 32 police officers and staff from the Office of the Public Prosecutor and the Office of the Public Solicitor recently participated in a workshop on FSV investigation and prosecution. (Loop local news website, [Gaps in police response, perpetrators walk free](#). 29/10/2018)

Available statistics

In 2013–14, statistics from the Lae FSVU indicated that it was in the top three locations out of 13 FSVUs for the number of registered IPOs (which is not surprising given the population), at about 175 IPOs per annum, but that proportion of IPOs completed dropped significantly from 78 per cent in 2013 to 47 per cent in 2014 (GHD 2015). Unfortunately, although requested, more recent data from the FSVU was unavailable.

Two other key sources of recent data give an indication of how many applications for IPOs have been made and the outcomes from the applications. The district court provided two sets of data. The first set of statistics cover the whole of 2017 and the first two months of 2018. These statistics represent all applications during that 14 months. In contrast, the statistics based on Femili PNG case information cover a longer period of time, from August 2014 to May 2018 but are only those applications and their outcomes that have involved Femili PNG clients.

A comparison between the Femili PNG client data and the first set of district court data indicates that almost half (47 per cent) of the IPOs registered with the district court in 2017 (n=274) were for Femili PNG clients (n=129). As presented in Table 3.2, the district court statistics show that just under half of the 226 completed IPOs (49 per cent, n=111) were converted into a PO, with most of the remainder struck out (47 per cent, n=106). A small minority were either dismissed (3 per cent, n=7) or withdrawn (1 per cent, n=2).

For the majority of 129 Femili PNG clients who had an IPO application lodged in 2017, 105 had an IPO issued (81 per cent). Of the 105 IPOs issued, 71 were converted to a PO, a conversion rate of 68 per cent. There are therefore two major implications from the comparison of the district court statistics and the Femili PNG clients for 2017:

- » Half of IPO applications registered with the district court relate to women who have been assessed by Femili PNG as high risk.
- » The case management and advocacy of Femili PNG makes a difference for clients, with a higher conversion rate to POs compared with the overall district court rate.

Due to the detail and longer period covered, the Femili PNG client data is the primary source for most of the statistics referred to in this report. More information on the client data is available in a separate Femili PNG report (Femili PNG et al. 2018).

The district court provided the second set of statistics more recently and while the data covers the shorter period of April to August 2018, there is more detail than in the first set. For these five months in 2018, the second set shows there were 253 IPO and PO cases finalised (see Table 3.4). Each month there were between four and seven magistrates sitting on these cases. The number of cases pending fluctuated between 9 and 31. Table 3.4 shows for the completed cases that:

- » The highest volume of outcomes was IPOs — 95 in total out of 253 — but the number each month varied between 8 and 29, with a monthly average of 19.
- » A total of 76 POs were issued with a monthly average of 15, but a large number of cases were either struck out (n=60) or dismissed (n=10). A quarter of applications were struck out.
- » There were a few completed applications for variation to an order (n=3) and nine completed breaches of orders.
- » There were no cases where there was a completed application for revocation, settlements out of court or transfers.

Table 3.2: IPOs, Lae District Court for 2017 and Jan–Feb 2018

| | Registered | Completed | Pending |
|--------------|------------|-----------|---------|
| 2017 | 274 | 226 | 48 |
| Jan–Feb 2018 | 51 | 25 | 26 |

Source: Lae District Court

Table 3.3: PO outcomes, Lae District Court for 2017 and Jan–Feb 2018

| | Permanent order | Struck out | Dismissed | Withdrawn | Total completed |
|--------------|-----------------|------------|-----------|-----------|-----------------|
| 2017 | 111 | 106 | 7 | 2 | 226 |
| Jan–Feb 2018 | 13 | 11 | 1 | 0 | 25 |

Source: Lae District Court

Table 3.4: Completed cases, IPOs and POs, Lae District Court, April–August 2018

| | April | May | June | July | August | TOTAL |
|----------------------------|-----------|-----------|-----------|-----------|-----------|------------|
| IPO | 26 | 16 | 8 | 29 | 16 | 95 |
| PO | 18 | 13 | 17 | 13 | 15 | 76 |
| Struck out | 11 | 12 | 12 | 11 | 14 | 60 |
| Dismissed | 1 | 0 | 6 | 2 | 1 | 10 |
| Withdrawn or discontinued | 0 | 0 | 0 | 0 | 0 | 0 |
| Breach of order | 3 | 5 | 0 | 0 | 1 | 9 |
| Application for variation | 0 | 1 | 2 | 0 | 0 | 3 |
| Application for revocation | 0 | 0 | 0 | 0 | 0 | 0 |
| Settled out of court | 0 | 0 | 0 | 0 | 0 | 0 |
| Transferred | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 59 | 47 | 45 | 55 | 47 | 253 |

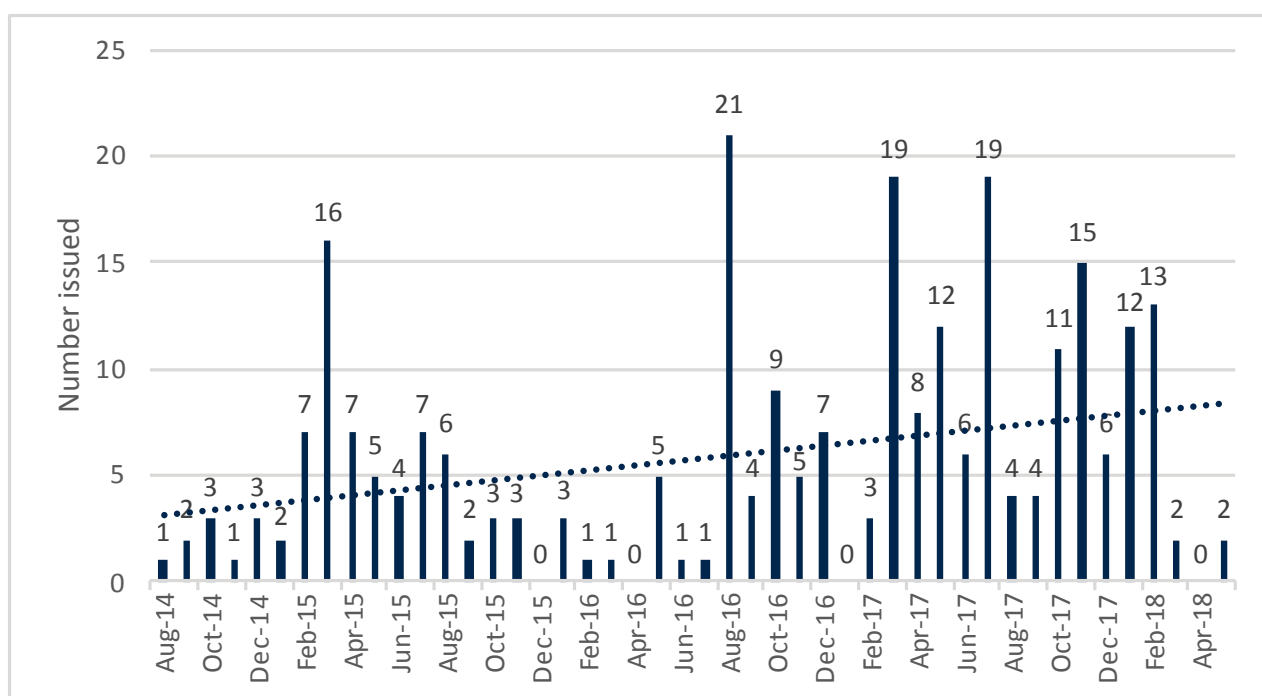
Source: Lae District Court

Trends and outcomes

Trends in IPO numbers

All key stakeholders, including the IPO clerk and Femili PNG caseworkers, were of the view that there had been an increase in the number of IPO applications made to the district court. Available statistics would suggest this is the case. FSVU data for 2013–14 refers to 175 registered IPOs, while district court statistics for 2017 recorded 274 registered IPOs. Client records from Femili PNG show that the trend in the monthly number of IPOs issued over the period of three years and nine months has climbed (see Figure 3.2). There is, however, noticeable variation with some months having very few IPOs issued, for example, during December 2015 and January 2016. The graph shows clearly that the monthly numbers for 2017 were higher than that recorded for previous years.

Figure 3.2: The number of IPOs issued each month for Femili PNG clients, August 2014 to May 2018



Source: Femili PNG IPO client data, August 2014–May 2018; n=266.

The increase in IPO lodgements and improvements in outcomes of the applications in 2017 are likely to be due to several factors, including the changes in the district court and in the practices of Femili PNG, with the addition of legal expertise.

IPOs and village courts

According to the village court magistrates and officials we spoke to, they had not issued IPOs. They said they already gave out preventative orders to stop ‘husbands beating their wives’. Their reason for not using IPOs was that they had not had training on the Act, nor information. In the absence of available statistics, they estimated that ‘family and related issues’ constituted about 75 to 80 per cent of the cases they saw.²⁵ Their comments revealed a strong sense of grievance, as they complained of ‘having full-time jobs and being under daily threat and stress’, but had no proper court house, insufficient funding (including new magistrates that have not been put on the payroll) and monthly instead of fortnightly pay.

Conversions to POs

As Table 3.5 shows for Femili PNG clients, the proportion of lodged IPOs increased significantly in 2017, when compared with 2015 and 2016. The proportion of lodged IPOs that were issued and the proportion of issued IPOs that were converted to POs improved as well.

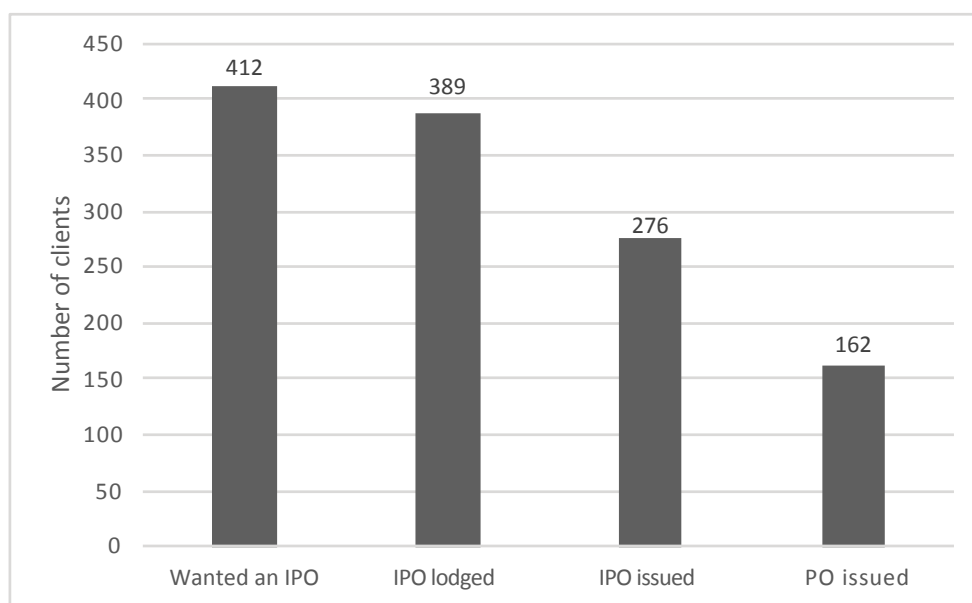
Table 3.5: The number of IPOs lodged, issued and converted into POs, Femili PNG clients, 2015–17

| | 2015 | 2016 | 2017 |
|---------------|----------|----------|-----------|
| IPOs lodged | 104 | 106 | 129 |
| IPOs issued | 63 (61%) | 62 (58%) | 105 (81%) |
| PO conversion | 37 (59%) | 31 (50%) | 71 (68%) |

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

Between August 2014 to May 2018, the total number of Femili PNG clients who wanted an IPO was 412 but at each step in the process there was a decline in the number of clients. As Figure 3.3 shows, there were 389 clients recorded as lodging an IPO, a decrease of 6 per cent. Of these 389, a total of 276 were recorded as having an IPO issued, a 29 per cent decrease. Of the 276 who were issued an IPO, 162 subsequently had a PO issued, a decrease of 41 per cent. Overall, this means that the rate of attrition from IPO lodgement to PO issue was 58 per cent.

Figure 3.3: Numbers of Femili PNG clients who reached key stages of the process



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

As Tables 3.6 and 3.7 show, the reasons recorded in the Femili PNG files for the drop in numbers at each stage relate to the non-appearance or non-returns of clients. The main reasons recorded for not getting an IPO were that the client never returned or withdrew her/his application (30 per cent of the clients who wanted an IPO). Similarly, there was no conversion to a PO primarily because the matter was struck out in court due to the non-appearance of the applicant or both parties (24.5 per cent of clients who had an IPO issued) or the client never returned or withdrew the application (13 per cent). The proportion of struck out cases is similar to the proportion found for the five months of district court statistics, that is, one-quarter of cases (see earlier).

Table 3.6: Outcomes for clients who wanted an IPO

| Outcome | Number | Percentage |
|--------------------------------------|------------|-------------|
| IPO issued | 276 | 67.0 |
| Client never returned | 90 | 21.8 |
| Client withdrew | 26 | 6.3 |
| Client withdrew — other intervention | 8 | 1.9 |
| Don't know | 12 | 2.9 |
| Total | 412 | 99.9 |

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

Table 3.7: Outcomes for PO conversions after IPOs were issued for Femili PNG clients

| Outcome | Number | Percentage |
|--|------------|--------------|
| PO issued | 162 | 58.7 |
| Client never returned | 17 | 6.2 |
| Client withdrew | 20 | 7.2 |
| Struck out non-appearance both parties | 60 | 22.0 |
| Struck out non-appearance of client | 7 | 2.5 |
| Don't know | 10 | 3.6 |
| Total | 276 | 100.2 |

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

Reasons for withdrawals, non-appearances and non-returns

According to Femili PNG records, where the client withdrew an application or never came back, and a reason was recorded, the most common reason given was the delay in the process. In 17 cases a long delay was recorded due to a range of factors, such as no available magistrate, no IPO clerk, missing documents and multiple adjournments. Clients were noted as becoming tired or giving up because of the lengthy delays. In addition, in the few cases where clients were recorded as making two IPO applications, the first application was recorded as not being issued in half of the cases because of delays or misplaced documents.

Other reasons recorded for withdrawals by Femili PNG clients included changes in the husband's behaviour or attitude, and safety concerns and/or repatriation of the client to her home village.

In interviews and during consultations, stakeholders offered explanations for why many clients do not return and complainants do not appear at a hearing, although they could not know with any degree of certainty. In some instances, the IPO may be viewed as sufficient, as happened in the case of one of the women interviewees, where a family dispute was resolved. According to a justice stakeholder, orders are rarely issued for counselling and mediation in the period before a PO hearing but this does not mean that other non-court ordered processes have not been employed to deal with the conflict (Interviewee S5).²⁶ Another suggested reason was that the complainants may think that the IPO is the only option and not realise there is an opportunity to obtain a longer term PO. Being at court can be daunting and very public and it can be difficult to know what is going on and when matters are being dealt with (see Box 3.3 for a summary of our court observations).

The most common negative reason given by stakeholders for a non-return or non-appearance was that the complainant was afraid to continue and that there may have been further violence, threats and intimidation. This is in keeping with concerns raised in earlier reports and referred to in the first chapter. Other negative

Box 3.3: Observations on the district court

Very crowded: in the mornings that civil law cases were heard by the court (Tuesdays and Thursdays), large numbers of people were present at the counter, in the waiting room and in the court rooms. We estimated that at least 10 people were at the counter all day and it could be very difficult for applicants to get the attention of the IPO clerk. On one day, when the court opened late, it was estimated that up to 120 people were waiting around, many unsure about where their matters would be held.

Challenging to know when matters are being dealt with: hearings for PO matters were only a small component of the gamut of civil legal cases, which for example could relate to land or business disputes. There is a public listing of matters to be heard on that day, including what is called the IPO list (which indicates the relevant court) placed on public notice boards. On one day, there was a calling out of names at various junctures to notify the waiting public where they should go.

Delays: on one day it took some time before matters were heard and it was difficult to work out what was happening. The IPO clerk was off work, which made it especially difficult for those there for protection orders. For example, a few women with IPOs, including a defendant, were fed up after a few hours of waiting and left.

Presence of advocates: Famili PNG caseworkers were observed handing over paperwork to the IPO clerk and waiting with women in the waiting area. On one day, several applicants who were seeking POs had private lawyers.

Explanations of process and outcomes by magistrates: there is no specific magistrate assigned to IPO/PO matters. The magistrates explained the process well to those present in English and Tok Pisin. Matters were conducted with a degree of formality, and those present were quiet and respectful while in the court room. Some participants appeared uncertain or confused about the outcome.

IPO to PO conversions dealt with expeditiously: on one day, 12 applications for POs were dealt with within 45 minutes.

Mixed results from PO matters: on one day there were 12 applications. Of those 12, three were struck out, seven were adjourned for a week and the IPO extended until then, in one case the complainant was present and a PO was granted for 12 months, and in the remaining case the outcome was unclear. On the second day that we were present, there were five PO applicants. In one case where only the applicant was present, a 12-month PO was issued. With the two cases where both parties were present, one was adjourned so the respondent could prepare an affidavit. In the other, the applicant said the respondent's behaviour had improved since the IPO was issued and the magistrate offered marriage counselling. The magistrate said that if he continued to improve, the IPO could be removed at her request or if his behaviour deteriorated then she could request a longer term PO. In the remaining two cases, both parties were not present and the cases were struck out.

Family violence versus domestic violence matters: out of the 17 PO cases that were witnessed, two of them did not involve a couple. With one the interim order was against a nephew and in the other, it was a husband who sought an IPO against his step-son. The remaining 15 cases were domestic violence.

reasons included the direct and indirect costs of the process (such as being at court) and the potential consequences of not having a husband willing to support the family financially. A justice practitioner was of the view that if the violence is more serious and involves working class couples, then the complainant is more likely to seek a permanent order 'so much depends on the husband, his financial means, and if they have children' (Interviewee S5). Another interviewee said that in his/her experience, applicants do not usually want a PO, especially 'if the husband in jail and he is the breadwinner and she is scared' (Interviewee S2).

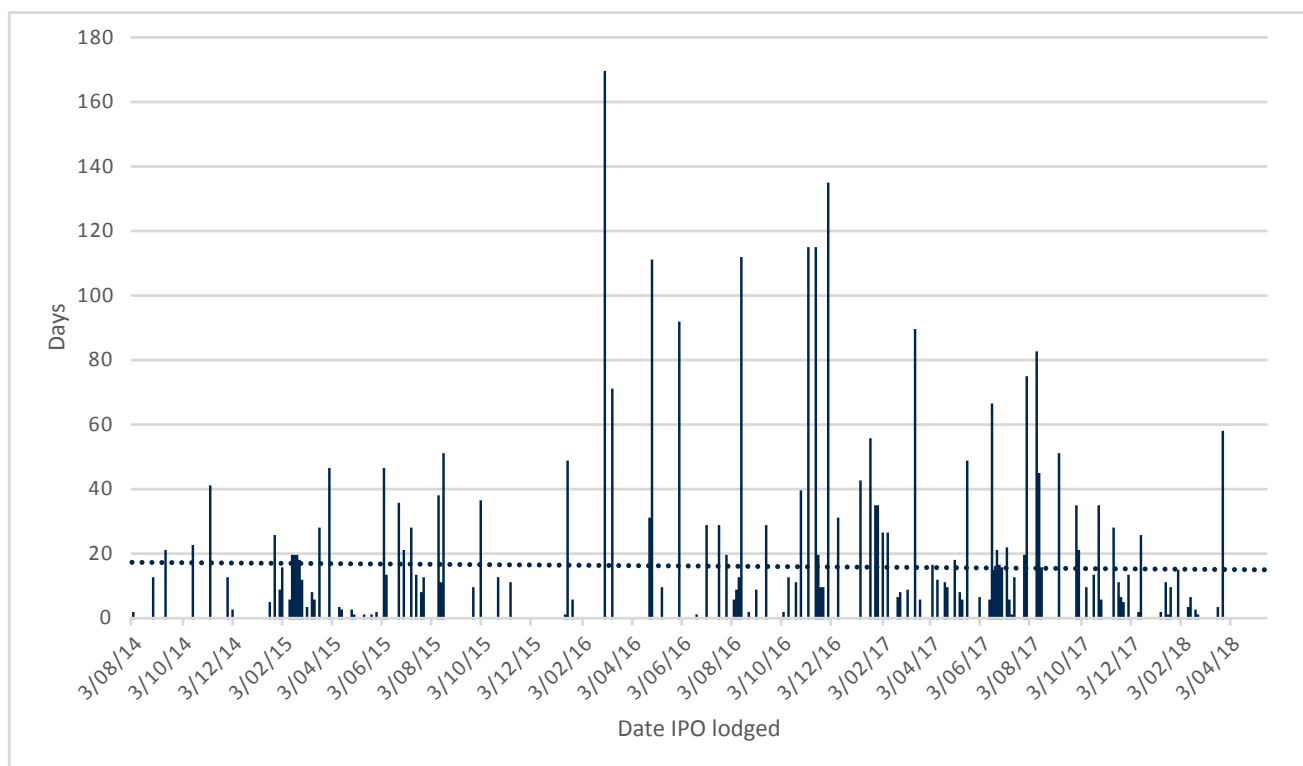
Timeliness of the process

According to the Femili PNG client data, the average period between application lodgement and the grant of an IPO was 15.9 days. Almost three-quarters of the IPOs were issued within a month after an application was lodged. Almost one-fifth (18 per cent) were issued on the same day and just one-half were issued within a week. A small proportion took longer than 36 days (10.5 per cent) with several taking more than four months. The fact that the average is more than a fortnight is a concern, considering that those women most at risk can usually only stay in the Salvation Army safe house for two weeks.

The overall trend according to Femili PNG client data is a decrease in the time between lodgement and the grant of an IPO, especially when comparing 2017 outcomes to 2016 (see Figure 3.4).

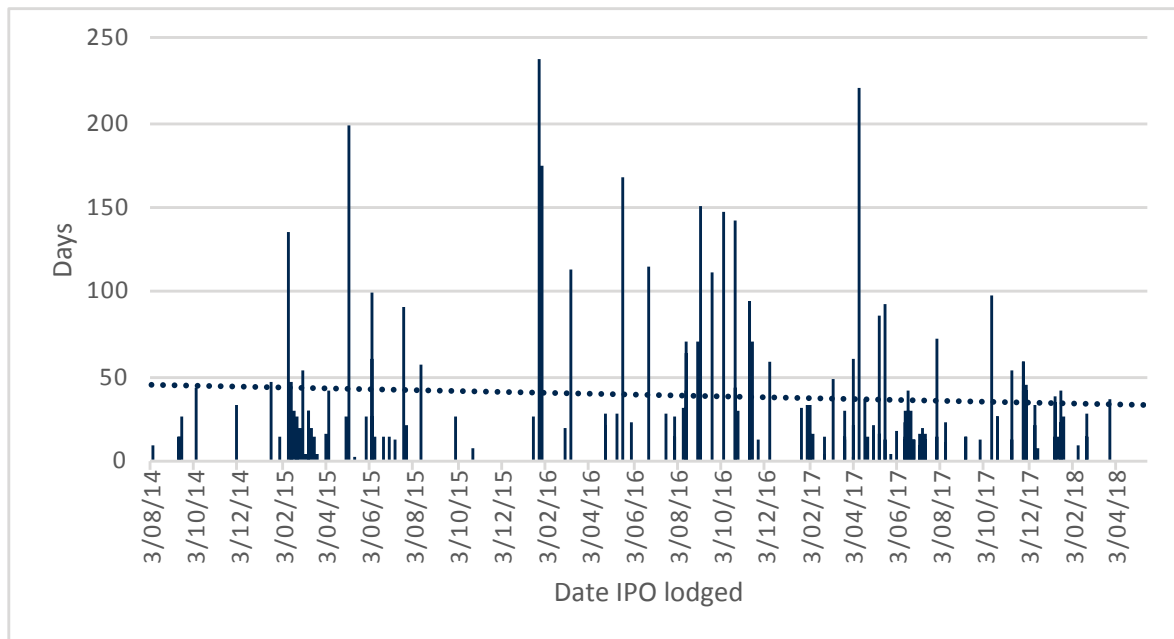
A decrease in time was also evident in the time taken between issuing an IPO and the conversion to a PO (Figure 3.5). According to Femili PNG client data, the average time from the grant of an IPO to the conversion to a PO was 38.1 days. For more than half of the clients (59 per cent) who obtained a PO, it took up to 29 days from when the IPO had been issued. For 13 per cent of the clients, it took 71 days or longer and a few took more than seven months.

Figure 3.4: Time in days between lodgement and grant of an IPO for Femili PNG clients, August 2014–May 2018



Source: Femili PNG IPO client data, August 2014–May 2018; n=267

Figure 3.5: Time between the grant of an IPO and conversion to a PO for Femili PNG clients, August 2014–April 2018



Source: Femili PNG IPO client data, August 2014–May 2018; n=158

Criminal offences

DFV criminal offences

Police prosecutors said their role was to prosecute sexual offences and assaults, many of which are DFV. With domestic violence, the police prosecutors said it was hard to get evidence and most cases are thrown out of the court. One police prosecutor said the couples 'often want to stay together ... and that victims encounter interference from the family and compensation is paid to stop justice' (Interviewee PO3). Another stakeholder echoed this statement by asserting that '[they] take people to court to generate discussions about compensation. Women get little support' (Interviewee SI).

Once again, it was stressed by stakeholders that taking action depends on the complainant/victim, with a police prosecutor saying that having evidence 'relies on the complainant being strong enough to come to court' (Interviewee PO). A FPNG caseworker said that clients 'had to get the police to do anything. The client has to be a brave woman. She needs a supportive family network' (Interviewee FPNG10). This can be a lot to expect, as the caseworker went on to stress, when the client may have experienced '5, 10, 15 years of violence'.

More than half of the women who were victims of domestic violence in the sample of police prosecution files were recorded as saying they had experienced many years of abuse and violence, but only one of the defendants had a criminal record (see Box 3.4). The files indicated that where the defendant pleads guilty the matter can be dealt with quite quickly (one to two weeks) and that a fine, compensation and/or good behaviour bond is imposed. However, if the plea is not guilty and there are non-appearances by the defendant and/or witnesses, the cases can drag on and may be struck out. In only one instance, a family violence case, a restraining order was recorded as part of the outcome. There was no record of an IPO being issued while a criminal case was adjourned, maybe in part because most defendants appeared to be in police custody, at least for some of the time. Femili PNG staff said they had applied for an IPO in cases where serious criminal charges have been laid.

Police prosecutors said the DFV offence under the FPA has been rarely used. Three out of the 15 police prosecution files related to DFV had charges laid under s. 6 of the FPA, but it was not clear why such charges

Box 3.4: A sample of police prosecution files for DFV offences

The police prosecutors provided a randomly selected sample of 15 files from 2018 of completed assault/violence charges that involved domestic violence. Several of the 15 files appeared to be incomplete. A summary of key features are:

Type of relationship: of the 15 cases, 1 was domestic violence and 4 involved family violence. DV was where couples were co-resident, with children. The FV relationships were: brother/sister, father/son, and in two cases, mother-in-law/son-in-law.

Violence: often involved a 'closed fist', hitting with an iron bar, and kicking.

Charges: the majority were single charges: 3 cases were DV charges under s. 6 of FPA (2 involving a couple), the rest were unlawful assault and 1 case of threatening behaviour. No obvious reason for using FPA rather than charges of assault. In one case of family violence, a restraining order was part of the outcome.

Evidence: Victim statement, statement of facts by police; 2 had medical evidence; 1 photo of injuries; 1 case other witness statements (FV).

Reporting to police and the police response: one used the toll-free number, the rest usually presented at a police station. Police arrested the defendant at work or at home, charged and placed in police cells.

Time to outcome: 1–2 weeks if defendant pleaded guilty. Adjournments granted when no appearance of the defendant (NAOD); the matters then appeared to be deferred for some time or not resolved.

Prior history/background: in one case a pre-sentence report was requested. There was considerable background given, including consultation with community/church leaders. In six of the DV cases, the women victims referred to previous abuse and violence and said they were 'fed up'; no official prior DFV convictions were recorded for any of them. Only one defendant had a recorded prior conviction (for a rape).

Outcomes: Where the defendant pleaded guilty, the sentences comprised fines, good behaviour bonds and/or compensation. The fine amounts varied between K200 and K500, depending on the defendant's income. With one matter, it appeared to be settled out of court and the defendants were discharged. In another, the prosecution offered no evidence; in the three cases where there was a plea of not guilty and a non-appearance of the defendant, a warrant was issued in one case and the outcome of the other two was not recorded.

were laid in these cases and not others (see Box 3.4 for a summary of the files). It is more probable that the domestic violence offence was used more often in 2018 because of the training that had been done — and the Femili PNG lawyer had drafted a definition of the offence to include the relationship to distinguish it from the general summary offence, because the Act's regulations does not spell out the wording. Another notable finding from the file review was the number of cases relating to family violence rather than domestic violence, as there has been no specific research undertaken on family violence in PNG.

Breaches of IPOs and POs

The IPO clerk said there were not many breaches reported to the court. When there is a breach of an IPO or PO, the IPO clerk said they come to see her and she asks them to fill out a form and it is heard when a magistrate is available. It should be heard quickly, although this is not always the case, and the magistrate can issue a warrant. The IPO clerk encourages the complainant to report the breach to police as a criminal offence. To do this, the complainant is required to take to the police a copy of the order and the completed breach form.

A FPNG caseworker was aware of three cases where perpetrators breached orders (Interviewee FPNG3), and a police officer in the FSVU also said three had been reported and arrested (Interviewee PO1). The recent district court data indicated there had been nine cases of completed breaches during the five-month period (April to August 2018), which is more than the consultations with the stakeholders would have suggested. This court data may reflect a recent increase in breach matters being dealt with by the court.

Not much information was recorded for criminal charges in the Femili PNG client files. Criminal charges may have been laid in other cases and run in parallel to the civil process for orders, but it was either not recorded or not known. It could be that instances of further assault or other breaches of orders were not reported to police or to Femili PNG. For nine clients, it was recorded that there had been an assault and/or breach of an order. In almost all of the instances (n=7), the assault occurred when an IPO or a PO was in place. In one case, the client changed her/his plan and decided not to pursue an IPO and to have the perpetrator arrested instead. In four cases, it was recorded that an arrest warrant was issued for the assault or the breach, two alleged offenders were arrested, and in one case, the husband was recorded as arrested and sentenced.

Key issues

In summary, based on what was raised during discussions and interviews with stakeholders and women survivors, key issues surrounding access to protection orders include:

- » Lack of awareness of FPOs and poor English literacy among many in the community.
- » The way the process places an onus on the complainant, a particular concern being that they are expected to serve a summons without police assistance.
- » Delays in the process, which means IPOs are not being issued in a timely fashion, affecting the likelihood of complainants pursuing a longer term PO.
- » The significant number of applicants who do not appear in court and/or do not return to a service to pursue the matter.
- » The burden on key service providers and their capacity to meet increasing demand for orders.
- » IPOs not being issued by village court magistrates and the implications of this in rural areas.
- » Limited reporting of breaches, and a belief that there will be inaction if reported.

Conclusion

Although it is five years since the Family Protection Act 2013 was passed by parliament, it has taken a while for there to be a concerted uptake in the issuing of family protection orders. Regulations and subsequent training of key stakeholders did not occur until 2017. In the same year, a number of other changes occurred in Lae, such as an increase in the number of district court magistrates and the increased role of Femili PNG in assisting applicants. These developments contributed to an increase in the number of IPOs being granted and a more expeditious processing of applications. In effect, implementation of the new reform was one

of multiple small incremental changes, which led to a significant improvement in 2017. The study found that key champions and leaders played a critical role in improvements in the process. In addition, there has been greater cooperation and coordination between key stakeholders.

It is estimated that half of the IPO applicants in the district court last year (almost all of them were women) were clients of Femili PNG. These clients are assessed as being at high risk of further violence and abuse, which means a significant proportion of applications are for those most in need of protection. Almost all of the Femili PNG clients were victims of intimate partner violence and both the interviews and the police prosecution files suggest many of the women had been experiencing DFV for many years. The police prosecution files as well as the observations in court indicate that in a minority of cases family violence has occurred where an applicant is seeking protection from another family member or in-law. In future research, it would be useful to ascertain whether victims of family violence require different forms of protection (for example, in the conditions that are set) and whether the orders were effective for them. What was apparent, from the data and based on interviews, is that the probability of an applicant continuing with the process and securing a longer term PO is improved if the applicant has a court advocate, such as the service provided by Femili PNG.

The key issues raised by stakeholders and women survivors were summarised in the previous section. Most commented on what they saw as the lack of general awareness of the existence of FPOs. However, a concern for the future is that as the public becomes more aware of FPOs and the current trend of an increase in the number of IPO applications continues, the system may not be able to cope. There are pressure points in the system and in the FPO process that disproportionately impact on key positions and services; these services will require additional resources and personnel to keep up with increasing demand. A further issue in relation to the scheme overall is the role of village courts, which are especially central to villagers' access to IPOs. At the moment, it is not clear (at least to the village court magistrates) why they would issue IPOs instead of preventative orders and it is not clear what a villager is expected to do, if having been granted an IPO, she or he wants to convert it into a PO, which requires attending the district court in Lae.

The study suggests that police are only infrequently laying criminal charges for the domestic violence offence under the FPA and that the successful prosecutions of domestic violence cases (be they for offences and/or breaches) remains low. This is covered in greater detail in the next chapter.



Source: Judy Putt

CHAPTER 4. IMPACT

Introduction

This chapter summarises the themes that emerged from the interviews and consultations. The five sections relate to the key research questions that underpinned the pilot study. These related to the implementation of the FPA and the accessibility of protection to potential applicants for orders, and the effectiveness and impact of the FPOs. The latter is the most important question but the hardest to answer. The first section summarises the responses of stakeholders and women survivors to this question. The second, third and fourth questions identify various factors that were seen to enable or hinder the uptake and the effectiveness of the orders. The fifth section considers what else could be done from the point of view of both stakeholders and women survivors. The concluding section summarises the main themes and implications that arise from the study. It suggests priorities for further research and to improve implementation of the FPA in relation to FPOs.

1. Making a difference?

The introduction of family protection orders into the justice system of PNG has had an effect on individuals and on the system. The FPA legislation communicates clearly that DFV is a crime and that survivors can pursue both criminal and civil remedies to address and prevent abuse and violence. It sharpens pre-existing general offences and civil restraining orders by creating an additional and targeted layer of responses. Whether the additional provisions are understood and used has ramifications for how the formal justice system is seen, and on the practice of justice by practitioners such as police and judicial officers. The focus here is the civil protection regime. The previous chapter demonstrated that there is a steady increase in the number of IPOs being granted in Lae, which suggests the system is at least being accessed. However, what the impact has been for the individuals who have obtained an IPO or a PO is very hard to gauge.

Impact on survivors

Stakeholders' views

As discussed in the chapter on methods, it is not easy to ascertain whether IPOs and POs are effective. A significant minority of complainants drop out of the process or withdraw and no one knew for sure how they had fared. Even where survivors had gone through the process, only a small number were approached as part of this study to see what they had thought of the process and to ask about what had happened as a result of their engagement in the process or the grant of an order.

When stakeholders were asked whether they thought the IPOs had been effective for survivors, everyone cautiously responded that they thought that was the case for the majority. A worker at the safe house said that 'women do want IPOs. Some work, some don't' and she sees 'some faces come back' to the safe house (Interviewee S4). The two key reasons that stakeholders gave for making this assumption were:

- » The number of survivors who do not come back to report a breach of an order; or to report further abuse and violence.
- » The perception that there was an increase in the number of applications every year; a view that is supported by the trend in Femili PNG client data. As one stakeholder put it, the orders 'must be working for some given the increases in IPOs' (Interviewee S5).

Stakeholders assume that the increase is being aided by either people knowing or seeing good outcomes for survivors and/or a sufficient number of survivors are recommending applying for an IPO to friends, work colleagues and family members.

Women's views

Women's views on the effectiveness of the orders were also cautious. Out of the 13 who participated in the study and who were DFV survivors, five were still waiting for an IPO at time of interview. One, for example, said she was not sure if her husband would 'respect the IPO' when it was granted, but that she hoped it would protect her (Interviewee W4). Two women had an IPO issued by the court, but still had to serve the IPO on their husbands (Interviewees W5 and W6). Delays, and the expectation that they serve the order themselves, increased the women's levels of fear and anxiety; having to serve the order was viewed by them as the most risky aspect to the process to date.

Of those women who had orders in place, one woman said that the IPO had given her the 'freedom to move on to a better life away' from her former husband and that she and her daughter 'felt more safer and happier' (Interviewee W3). Another woman was happy with her PO which she saw as enabling her to 'live free' and away from her husband. He was arrested for serious offences related to the history of DFV but she did not know what had happened since (Interviewee W7). After many years of violence against her, by having an IPO, another woman said she was able to move back into the family home with her three children, as her husband deserted her to live with another woman (Interviewee W9). When an IPO was taken out against a woman's brother, she said that while it was in place the family had been able to 'resolve its differences' without the brother disturbing the place (Interviewee W12).

In contrast, one woman said she had found the IPO 'a waste of time' primarily because it did not address what she wanted, which was to safeguard her marriage, as the IPO was against the girlfriend of her husband, and the girlfriend's family and associates. She also said that she reported a breach of the IPO to the police but 'nothing was done'. She attributed the lack of help and action by police to the fact that the girlfriend's father was a police officer (Interviewee W1).

A woman who was subject to an IPO said she had respected the order (she lives apart from her husband) but her husband did not. She subsequently laid a complaint of attempted murder, which was dealt with through mediation, after the police allegedly took a bribe from her husband. The latter did apologise through customary means (pigs and money) in the presence of the police and public. She gave the impression that she felt more care was required to ensure IPOs were not misused (Interviewee W12).

Of the 12 women who were directly asked whether they would recommend an IPO to other women, the majority (75 per cent) said yes, even the woman who said she found it a waste of time. However, there were usually caveats about the process and their recommendations are discussed later on.

Impact on the system

Despite being rarely discussed in these terms with stakeholders, the overall impression from the pilot study was that the justice system and the practice of justice had been improved by having the option of civil protection orders. As one stakeholder put it, 'it is an important tool' that can act as adjunct to criminal prosecution. However, a more profound commitment and willingness to use the 'tool' was only evident among certain stakeholder groups and in the practices of key justice practitioners. Certain individuals and leaders, by virtue of their position — such as senior police and the senior provincial magistrate — can exercise some influence over how the system works, by example and by instruction.

Yet, judging by what many said during the pilot study, there is yet to be a seismic shift in attitudes to DFV and support for survivors among the bulk of justice practitioners. Several police, for example, indicated they were reluctant to assist survivors because 'so many withdraw' from prosecution or the pursuit of FPOs. Such reluctance no doubt goes some way to explain a pervasive belief among stakeholders that frontline police would hesitate to act should there be a complaint of a breach of an order. Within the context of under-resourced,

often ineffectual and bias-laden government service provision, as flagged in the first chapter, it is not surprising that the outcomes from a justice intervention or the likelihood of an effective justice response are uneven and often weak.

A secondary positive outcome of the existence of FPOs, according to a stakeholder, was that a copy of an IPO should or could be sufficient grounds for divorce, while in the past adultery was the principal argument (Interviewee S1). This suggests that having FPOs and a specific domestic violence offence is re-prioritising grounds for divorce away from adultery and towards the abuse and violence a wife or husband has experienced.

2. Enabling factors that improve accessibility and effectiveness

Through the consultations, interviews and observations conducted in the pilot study, a range of factors emerged as contributing to improved accessibility to the justice system more broadly and several had a direct impact on the FPO process. Such factors are also likely to have a flow-on effect that make it more probable that the orders will be effective, because they are perceived to be a 'legitimate and meaningful' tool that is effectively administered. Key factors are:

Improvements in service responses

Lae is relatively well serviced for DFV survivors when compared with PNG as a whole and the rural areas of the Morobe province. When asked, the women interviewed mentioned being helped around the time of the incident that led to an IPO application by the FSVU, other police, Femili PNG, the Office of the Public Solicitor and the safe house, although they were not always happy with the service or advice they received. As discussed in the previous chapter, there have been improvements or expansion in services in the past two years, with an increase in the number of district court magistrates, a new toll-free police number, new premises for the Family Support Centre, and a new vehicle and office for Femili PNG. External donor funding has played a critical role in some of these improvements and has underwritten much of the FSV training and awareness-raising.

Networking through the FSVAC

A police officer described the Morobe FSVAC as 'the best team in the country' (Interviewee PO3). The two FSVAC meetings that the research team were invited to were both well-attended and had agendas that resulted in actions to be taken by members. Femili PNG also convenes what are termed 'core service provider' meetings at regular intervals and, if needed, case conferences are held with key services to discuss individual cases. It was acknowledged that the FSVAC and the core service provider meetings have helped consolidate relationships between different agency staff and increased awareness about what each agency is responsible for and can do. It was apparent during the pilot study that the FPO process has become an integral part of how a subset of stakeholders work together. Nevertheless, as a stakeholder commented, there are challenges with tensions and 'jealousies' between agencies, largely because of funding and work practices, which require careful and ongoing efforts to resolve or minimise.

Men (perpetrators) respectful of court, the law and/or afraid

From conversations with women and stakeholders, it was evident that a large but unknown number of men do respect or are fearful of the law and the consequences of not respecting the law. At the district court, we observed how the many people present in court and waiting outside were quiet, patient and showed respect towards court staff and the presiding magistrate. If a FPO is taken out against someone who is willing to respect the conditions of the order, then it naturally means the order is working as it should. However, further research is required to examine men's attitudes and perceptions of justice, DFV and FPOs, something that is further discussed in the conclusion.

Applicants' understanding of options and potential consequences

Educating women to be aware of the FPO process and of their options was identified by Femili PNG case workers as a critical component of their job. Much rests on both the complainant and respondent being conscious of what the process entails, and what the consequences can be of not appearing in court and of breaching the conditions of an IPO or a PO. According to a police officer, the 'process works if both parties are aware before [the IPO] is given out. Most women who come to FSVU request an IPO, but who applies is between the client and the court' (Interviewee PO1).

Stakeholders sensitised to DFV

Various members of the Morobe FSVAC saw themselves as being involved in 'sensitising' their workplaces and the general public to DFV. This sensitising is also an underlying goal of the training by DJAG and by Femili PNG, and of the 2018 overseas visit to the Philippines by key stakeholders organised by Femili PNG. The landscape is changing, with greater awareness of DFV as a crime. A long-term service provider noted that 'in 2003 GBV was not an issue that was talked about, it was normal for women to get beaten and to be afraid of their husbands. Now it is talked about' (Interviewee S4).

Support of family and friends

Several of the women interviewed mentioned advice or help they had received from family members, friends or a work colleague. For example, a friend told an interviewee (W4) about the safe house. A police response unit helped another woman on the street when they saw she was in distress and took her to the FSVU (Interviewee W5). A brother let a woman and her children stay at his house until the IPO was issued after which she returned home. It had been her mother who had advised her to seek legal advice (Interviewee W9). In contrast, a woman who had no family and no money moved to another village in the area with her children, but returned to the safe house because she could not cope and was worried about the children (Interviewee W6).

3. Factors that hinder uptake of FPOs

As can be expected, many of the factors that were found or spoken of as hindering the uptake and use of FPOs were often the polar opposite to what was viewed as improving accessibility. These include:

So much depends on the applicant, a woman in most instances

The previous chapter outlined some of the difficulties for complainants with the process, especially if they do not have the assistance of a Femili PNG case worker. In addition to the paperwork, there are both direct and indirect costs because the process can be long and confusing. In the view of one woman, she did not get the guidance and aid she needed as 'most police are corrupt, and [a key justice practitioner] was unhelpful and slack' (Interviewee W1). A woman was pressured to leave the safe house before she had an IPO and she did not know where her children were (Interviewee W2). As described in the last chapter, two women were expected to serve the order on their husbands. Police had accompanied one of them and her children to the house but when he was not at home, they had left and said it was up to her to serve the order (Interviewee W5). This was a recurring theme among stakeholders: 'it is up to her' to pursue the matter, to retain and produce paperwork and to turn up at court and at a police station at various junctures in the process.

Pressures on women

In the first chapter, reference was made to previous reports that have documented the pressures on women victims of DFV. These pressures were borne out in Lae as the following interview excerpts highlight:

- » A woman described herself as 'living in fear in a makeshift house with the kids' (Interviewee W5).
- » A woman was afraid of the 'build-up in anger' of her husband while waiting for an IPO; she had no money, no family, and had moved to another village (Interviewee W6).
- » A woman had left her husband after living in what she described as 'constant fear'. She was trying to get her household and personal items while waiting for the IPO (Interviewee W10).

Lack of awareness amongst the general population

The next section documents the recommendations of stakeholders and the women who were interviewed. Both groups advocate for public awareness of FPOs. As noted in the first chapter, available evidence indicates many in Lae's general population are not aware of IPOs, or even if they have heard of them, are not necessarily sure what they are or how to obtain one. According to a police officer, 'women line [up] outside of FSVU but they don't know what the police and courts should do' (Interviewee PO2).

Lack of knowledge or distrust amongst stakeholders

The preceding chapter noted that general preventative or restraining orders were already in place and continued to be used by village court magistrates, police and the district court, and it is uncertain how frequently they are used. There may have been some impact on the police and district court on their use with the introduction of FPOs, but the village court magistrates we talked to indicated that they still use preventative orders. They stressed that they are unfamiliar with the Family Protection Act and have established ways of dealing with family disputes and conflict.

Others were sceptical of the family protection orders, of their objectives and how they were being used. For example, a stakeholder said that 'some see the Act as a way of splitting up families and that he'll go and get another wife' (Interviewee S2). Another stakeholder observed that, at least initially, 'some magistrates didn't agree with the Family Protection Act and it wasn't supported very well' (Interviewee S1). The potential misuse of orders was raised by several stakeholders; for instance, a police officer said that 'sometimes clients take advantage and fool around' (Interviewee PO1) and a woman interviewee believed there was a risk that IPOs could be used for the 'wrong' reasons (Interviewee W12).

Churches and/or family not supportive

One of the women interviewed said her church friends and family told her to 'forgive him and to pray for my husband' (Interviewee W2). Several Femili PNG staff referred to cases they knew of where women were told by their church leader to return to and forgive their husbands, with the example given of a woman who had been bashed for 10 years, and when she told the pastor, he said he would 'pray for her' (Interviewee FPNG7). As one stakeholder observed, 'the churches can have unhelpful sermons about the role of women, who are told they should forgive and submit' (Interviewee S1).

Many PNG citizens regard themselves as Christian and a pledge to guard and pass on Christian principles is enshrined in the preamble to the PNG constitution. The significance of the church and Christian beliefs is very apparent in everyday life, with for example, meetings beginning and ending with a prayer. The many churches in the country are often central to the daily lives of citizens, especially women, and church leaders can have enormous influence. Only some leaders and churches were viewed by stakeholders as holding views that were unsupportive of women's rights and the right of a wife to not be abused or controlled by her husband. But where such views are held, there can be serious consequences for women and the perception of their choices.

4. Factors that hinder effectiveness of FPOs

Pressure on particular services and roles

At critical stages of the protection order process, blockages or delays can be caused by the limited and/or intermittent capacity of services or individuals. In the domain of family and domestic violence, there are particular services, organisations, units and positions that bear the brunt of the pressure to assist and support victims and apprehend perpetrators. An examination of how family protection orders are being administered and how complainants are helped in Lae illustrates the finite and fragile capacity for them to work effectively. Key pressure points or areas in Lae include:

- » One district court
 - » one IPO clerk
 - » five magistrates²⁷
 - » two days a week when civil matters are heard.
- » One safe house
 - » usual stay no more than two weeks.
- » One FSVU
 - » few staff working in the unit.²⁸
- » One Femili PNG
 - » six case workers; one in-house lawyer.

Long histories of domestic violence and limited help

Many of the 13 women we talked with had long histories of physical and emotional abuse by their husbands. The same was the case for the domestic violence cases that were in the police prosecution files. In only one case was there an official prior conviction recorded for the alleged offender. As the literature review highlighted, much of the domestic violence and abuse goes unreported. Reporting an incident to the police or actively seeking an IPO can be a big step, especially when taken for the first time. Among the women who had experienced past and current domestic violence and were interviewed, the triggers for seeking an IPO included an extramarital affair (for two of them), the husband being caught in the act of adultery, an especially harsh beating and/or threat to kill, and intervention/assistance from a friend or work colleague or police.

Even where the domestic violence is reported to the police or to other services, there is no guarantee that an adequate and appropriate response will ensue. We were told the details of one woman who had tried to access justice from multiple sources over several years (see Box 4.1 for a summary) and a stakeholder cynically remarked that 'the high ups have a network of friends and find a way around the system, which doesn't work fairly' (Interviewee FPNG10). Several of the women interviewed also asserted that their cases were adversely affected by the respondent's relationship to a police officer.

Attitudes to domestic violence and wives' roles

Many Morobe FSVAC members and other stakeholders stressed that entrenched and widespread beliefs reinforce husband's domination in a marriage, which extends to abuse and the right to retaliate if the wife is not seen as acting or behaving as she should. Comments included that 'the norm is for husbands to beat their wives' (Interviewee FPNG10), 'bride price encourages women to be seen as an object, a thing' (Interviewee S3) and 'women are seen as the instigators [of DV] who drove him mad with her nagging' (Interviewee S3).

Although there was often acknowledgement of significant social change, especially in an urban melting pot such as Lae, there was an implicit assumption that these changes were not always progressive, nor did they necessarily improve the lot of wives. As a stakeholder put it, 'changing attitudes [of men] is not easy. They listen and agree and then go home, to church, have a relationship and bash their wives' (Interviewee SI).

Box 4.1: A long drawn-out case with little resolution

A written overview, together with copies of applications, reports and letters, were provided by a woman to the research team to convey the difficulties she faced over a three-year period. This summary of her account omits much of the detail to avoid identification of her or the other parties.

After being married for more than 15 years and with five children together, the woman's husband left the family in 2015 to live with another woman. The wife went to the local village court and it issued an order restraining the husband and girlfriend from seeing each other. The wife also sought the support and intervention of their church organisation. In the following year she was referred to the FSVU by the FSC and the FSVU referred her to the child protection officer in the Department of Community Welfare. She went to Famili PNG but she was assessed as not being at high risk of DFV and they referred her to the FSVU. Last year she wrote a letter of complaint to the Metropolitan Superintendent of Police asserting that the police had done nothing to help her, despite the village court issuing a warrant of arrest, because the girlfriend's father was a police officer. The wife eventually obtained an IPO and a PO in 2017, but she says that though it has been breached several times, she has not laid a formal complaint because she believes the police will not act.

In the beginning, it seemed the wife just wanted her husband to return to the family, which he did for short periods of time. In one of the earlier statements by the wife there is an allegation of violence by the husband, but most of her subsequent statements focus on his neglect and the consequences of his actions on her and the children. He allegedly visits the home and puts pressure on her for money and because he was not turning up for work at one stage, they were at risk of losing their house. Although the wife has a job, she has struggled to meet the costs of the education and care of her children. In 2018, with the help of the Office of the Public Solicitor, she made a second request for a maintenance order, which was issued by the family court mid-year. She is waiting for the order to be submitted to his employer.

The impact of the husband's actions on the wife and the children is vividly described in her statements. She feels that she has received little assistance from services, that the police have not acted as they should and that seeking orders and the warrant has incurred significant costs.

Respondents not engaged/accountable

In addition to a prevailing sense of men's entitlement, several stakeholders indicated that some men — and they seemed to suggest the minority — do not necessarily accept that they have done wrong by assaulting, intimidating or controlling their wives. A police officer admitted that he had heard that IPOs do work in that the 'police ring and the offender comes in, but they don't accept they've done wrong' (Interviewee PO2). A more comprehensively damning view of men's diminished sense of responsibility or culpability for harm to their wives and children was offered by another stakeholder, as he believed that 'there is no accountability for [men's] behaviour. They don't follow maintenance orders and any man over 30 with 10,000 kina gets a second wife. There is a breakdown in family units' (Interviewee S1).

Messy and complex situations

Domestic and family violence incidents occur and are enmeshed within a complex web of family relationships. This fact was a thread that ran through the women's narratives in interviews and was present in the statements in the police prosecution files. There are children, his family, her family and extended kin on both sides — and what might be a 'family unit' can change rapidly and involve many parties, as well as questions of money and assets. The expectations and contours of what marriage entails has undergone rapid sociocultural transformation across the country, and is lived out in the conflicts and multiple forms of hardship and sorrow that can result from unstable and unchartered family groupings and relationships (see Pupu and Wiessner 2016 for an argument that the 'family' is the most transformed cultural entity in PNG in the past few decades).

As described in the first chapter, the Family Protection Act is quite accommodating in its definition of 'domestic relationships' covered by the legislation but it does not, nor can it, adequately reflect the emotional and practical maelstrom surrounding conflict within a family and between families. In the statements in the prosecution files, a constellation of reasons were given for the conflict or violence, such as adultery, not looking after children, intoxication from alcohol and marijuana, wives not obeying their husbands or wanting to be independent, and the involvement and expectations of other family members (complicated by bride price, and inter-ethnic marriages and relationships).

A police officer noted that there are 'challenges in terms of children, custody, property and asset ownership' (Interviewee PO1). A further complication is that the threat of violence and pressure on family members might not only apply to the 'nuclear' family, with a Femili PNG staff member explaining that there is 'not a nuclear family here. You are married to a tribe and you are working to their wants' (Interviewee FPNG10). A woman interviewee, who did not yet have an IPO, was firm about wanting the order to include the condition that her husband, his relatives and associates did not come near her when they were drunk (Interviewee W10).

As noted previously, all 13 of the women interviewees had children, with a total of 39 children affected by their experiences of DFV. Three of the women had children from previous relationships. In the end, one of the women interviewees found that a maintenance order obtained through the family court was a better option, because she decided that financial support for the children was the most important issue for her (Interviewee W1).

The women's accounts revealed in most cases transitory and multiple sexual relationships outside of wedlock, typically by the men, and often more than one marriage (usually serial rather than polygamous), with several of the women having had a previous husband. Almost half of the women (7 out of the 13) said they had a violent abusive husband who had conducted affairs with other women, had committed 'adultery' and was 'a womaniser'. In contrast, one woman said she had a very jealous husband who accused her of having extra marital affairs (Interviewee W5).

An IPO or PO may only address practical issues related to residence and specific behaviours towards a complainant; the underlying issues related to jealousy or family breakdown or financial irresponsibility are not

necessarily going to be resolved by seeking an order. This might explain one interviewee's disappointment that an IPO did not sort out her difficulties, why the process and outcomes can seem frustrating and ineffective and why mediation and compensation are acknowledged as complementary processes that can be instigated by the court or outside of the formal court setting by the key parties. The woman interviewee argued that the focus of IPOs should be on 'saving and protecting' the marriages of those who have 'officially recognised marriages', which she defined as those who had a wedding, a bride price had been paid, the couple had been together for some years and had children together (Interviewee W1).

Low reporting and inaction when breaches reported

There was a shared belief among stakeholders that not many IPOs or POs had been reported as breached. The district court statistics for April–August 2018 showed that there had been a small number dealt with by the court (n=9). Although there was no police data to confirm this, stakeholders' comments suggested they thought that many breaches were not being reported, and when they were, police may not take action. It may also be that where the breach involved further or serious violence, rather than a breach of a condition, a criminal charge would be laid in relation to the assault but not a breach charge. A woman interviewee had reported further violence but the matter was referred to mediation, in her view because her husband had bribed the police (Interviewee W1).

Limited linkages between civil and criminal cases

A degree of uncertainty surrounded whether there would be awareness among police and in the courts of past offences and orders, or of current charges and applications which were being dealt with separately in the criminal and civil court but involving the same parties. A stakeholder asserted that the court was not likely to know that civil and criminal matters are being pursued in parallel (Interviewee S5). If the complainant was a client of Femili PNG there would be an awareness of past and current actions and staff gave examples of cases involving serious charges where an IPO was sought as a matter of urgency. However, many complainants do not have the help of Femili PNG and cannot afford a private lawyer. As a result, the system relies heavily on the complainant retaining records of past and current actions, on the complainant knowing that such records should be kept and that she or he can and wants to pursue both criminal and civil courses of action.

Box 4.2 refers to a case dealt with in the Bougainville District Court and reported on PaCLII,²⁹ where the offender was convicted of a domestic violence offence and sentenced to pay a fine and compensation, with a protection order issued for a year and an order to attend marriage counselling. During the course of the pilot study, stakeholders said they were only aware of an IPO being issued during periods of court adjournments when cases involved very serious criminal charges. No one seemed to know of cases where an order was issued at the time of sentencing, and in the sample of police prosecution files, only one of the 15 had an order issued at the time of sentencing and that was for a family violence matter (that is, not an intimate partner violence case).

Friction and jealousies between services

A goal of the Morobe FSVAC strategic plan was to improve information-sharing and referrals among services. However, such cooperation requires commitment and a level of knowledge and resources that are not always present. Ill-feeling and 'jealousy' between key people and organisations came out quite frequently in conversations and interviews with stakeholders. This friction primarily appeared to relate to the media profile and donor support for some activities and agencies that fostered, on the one hand, a degree of envy among government services that struggled to obtain regular core funding and on the other, a sense of competition among NGOs. This friction is found not just in Lae and at least among the stakeholders represented on the Morobe FSVAC, active efforts were made to manage and overcome such barriers.

Box 4.2: District court case in Buka where an FPO was issued at the time of sentencing for a DV offence under s. 6 of the FPA

In *State v. Kaivi* (2018), the sentencing remarks of the magistrate, B. Tasikul, sheds some insights into his views of domestic violence and the appropriate response. He states that:

- » The defendant admitted to assaulting his wife and that she took refuge in a neighbour's house where the next day, he continued to assault and threaten her.
- » The Family Protection Act was enacted due to the 'wide spread of domestic violence or violence against women and children throughout our communities'.
- » The police were now charging perpetrators of violence against women under the Act which he believed is 'good because it makes the process much easier and quicker'.
- » The victim is the defendant's second wife, that she is young and been living a 'miserable' life because of his violence, jealousy and possessiveness, based on what was said in the pre-sentence report. The defendant 'chose to marry this young lady, therefore [he] must take care of her'.
- » There had been around 30 cases of domestic violence from January to June 2018 in the civil and criminal track of the court and that domestic violence is 'a big problem' in Bougainville. There is a need for more 'awareness' and that 'husbands must start respecting their wives'.
- » The court had not been 'doing justice' to the victims because it had been lenient towards offenders and that the penalties imposed should send a clear message that 'domestic violence is a criminal offence'.

As the defendant pleaded guilty and had spent 13 days in custody, the magistrate imposed a fine of K200 and ordered compensation of K200 to be paid to the wife, with terms of imprisonment to be imposed if they were not paid. In addition, the wife was issued with a protection order for 12 months so that the defendant refrains from 'committing any further act of domestic violence'. An order to attend marriage counselling was also issued.

Source: PacLII 2018 (PGDC 30; DC 3068 13 June 2018)

5. What else should be done

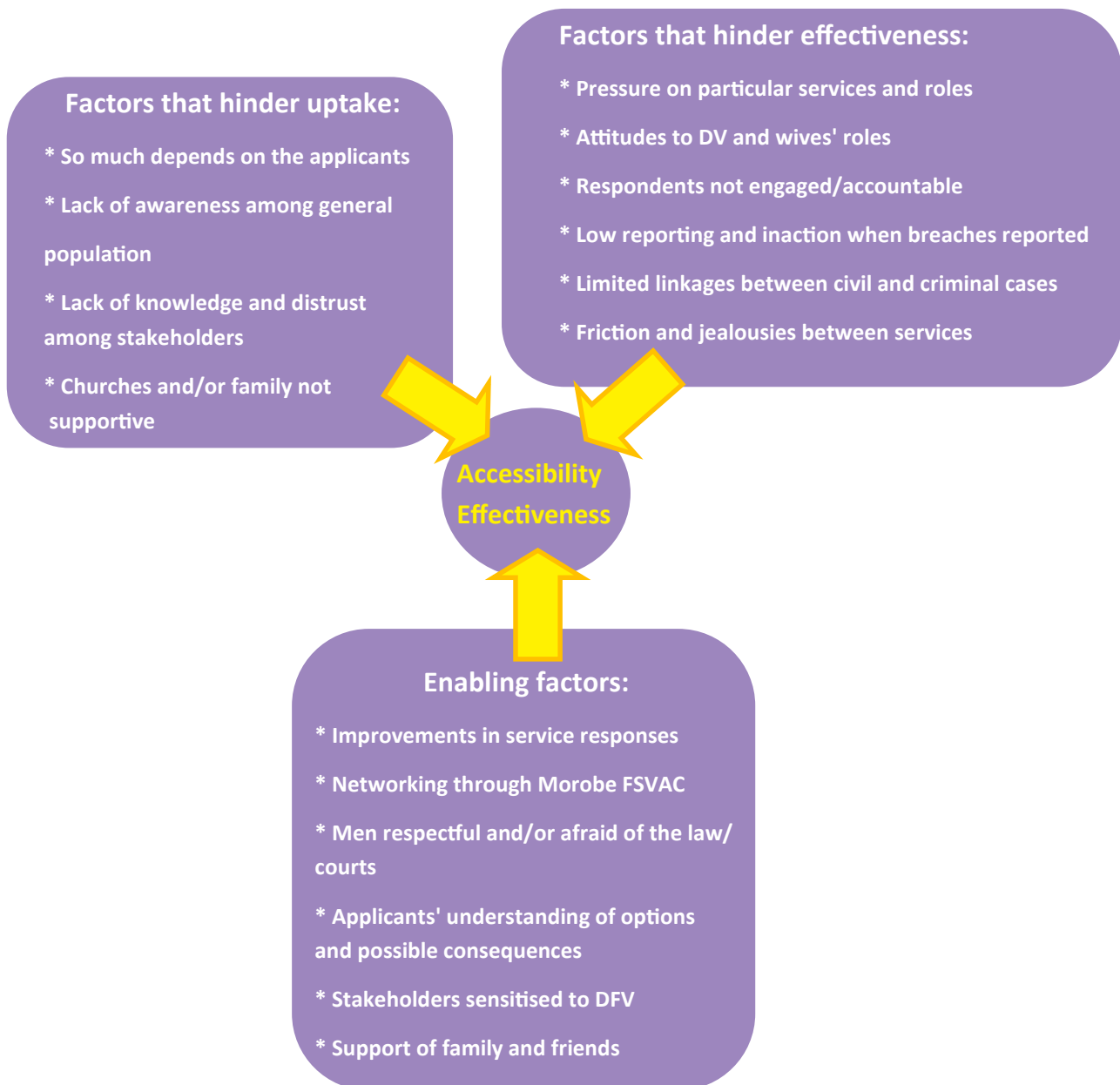
A range of recommendations on what should change or could be improved emerged from interviews and conversations with stakeholders and women.

Recommendations from stakeholders

Boost capacity: the most frequent recommendation made by stakeholders was to increase personnel and equipment (such as computers, printers, paper), especially at pressure points, such as on the IPO clerk, the FSVU and the district court.

More focus on rural areas: it was acknowledged that IPOs were unlikely to be applied for in rural areas in the province, where there may be few if any police and no administration, and no knowledge of the Act and the orders.

Figure 4.1: Factors that affect the accessibility and effectiveness of Family Protection Orders



More focus on village courts and the role of local law and order committees: village court magistrates have the power to issue IPOs including in rural areas, yet it is unclear how a complainant would obtain a PO without travelling to the district court in Lae. Even the village court magistrates thought they needed training on the FPA and information or guidelines before they would start issuing IPOs. In general, stakeholders indicated that village courts throughout the province as well as local law and order committees in Lae should play a more central role in raising awareness of the Act and its provisions, and to advise local residents and villagers on where to seek assistance to obtain family protection orders.

More charges for breaches and the DV offence: FSV service providers said they would like to see more perpetrators charged with breaches of orders and an increase in the prosecution of criminal matters using the domestic violence offence.

Improve quality and availability of counselling, especially for children: several stakeholders expressed concern about the impact of DFV on children and recommended that more attention be paid to their needs. Rather than relying on the church, they advocated for more professional counselling services for everyone involved, but particularly children.

More awareness among people and potential complainants: most stakeholders thought too few people in the community knew of the Act or the orders, something that is borne out by surveys mentioned in the first chapter. Stakeholders also stressed that literacy levels can be poor, especially in English, which makes it hard for people to read legal information or forms. It was believed that many people would not know who to approach, even if they had heard of IPOs. Several stakeholders were keen to see churches promote a more proactive awareness.

Recommendations from women

Develop more awareness among the general public and women in particular: the majority of women interviewed raised this point. One interviewee was particularly clear about what the awareness should cover, saying that there should be 'more awareness of IPOs, family law and women's rights' (Interviewee W12). Similar to stakeholders, a woman felt that such awareness should be complemented by a different stance by the churches and Christians in general who should support, and not discourage, women from applying for FPOs (Interviewee W2).

More services and more experienced staff: four of the women placed great emphasis on having more experienced and suitably trained staff to 'assist, advise and counsel' and the expansion of the services (Interviewees W5, W6, W7 and W9). Another woman focused on legal advisers and workers and said they must understand the 'root problem' in order to provide the 'right help and support' (Interviewee W12). In a similar vein, the importance of having a court 'advocate' (such as an individual caseworker) was underlined by several women, including workers who could 'hear the story properly, with the aim of restoring the family' (Interviewee W1).

A simpler, quicker and safer process: was raised by almost all of the women interviewed. A quicker process was viewed as essential, as they had found it took too long to get an IPO and the process need to be simpler and less confusing (Interviewees W4, W5, W8). Reducing risks for women was a priority with several saying victims should not have to serve IPOs on their husbands and a few who had stayed at the safe house argued that women and their children should be allowed to stay for longer than two weeks (Interviewees W4, W5, W6).

Conclusion

Main themes

Based on the previous and this chapter's findings, the factors that contribute to positive change over time include:

- » Key leaders and champions
- » Incremental and patient approach to change
- » Working with what you have to build capacity and skills
- » External donor funding for NGOs and for training
- » Many men abiding by orders
- » Active FSVAC in Morobe province.

Some of the hurdles to overcome to foster a more efficient and effective family protection order scheme include:

- » Competition and jealousy between agencies and individuals
- » Avoidance and non-participation of frontline staff who may not understand nor support the reform
- » Limited resources, especially with government social and justice services
- » Pressures of increasing demand on key positions and services.

The barriers to immediate and adequate protection for DFV survivors include:

- » Traditional attitudes that do not regard DFV as a criminal or civil legal matter
- » The often weak position of complainants/survivors
- » Time-consuming procedures and delays
- » Low reporting and/or unreliable responses to reports of breaches.

More to be done: improve implementation

The recommendations and suggestions from stakeholders and women survivors clustered under three main interrelated headings:

1. **Increased awareness and knowledge among the general public and complainants.** A key theme was the need to involve the churches in future efforts to promote and support the use of and respect for family protection orders.
2. **Boost capacity of key services, including additional staff and more targeted support for children.** Increased awareness and access to justice will increase demand and the pressure on key services. A priority is having more or enhanced safe houses or other safe places.
3. **Improve access to justice by making the process simpler and quicker,** ensuring village courts have the guidelines and information they need, and by piloting an approach that makes IPOs a tenable option for DFV survivors in rural areas.

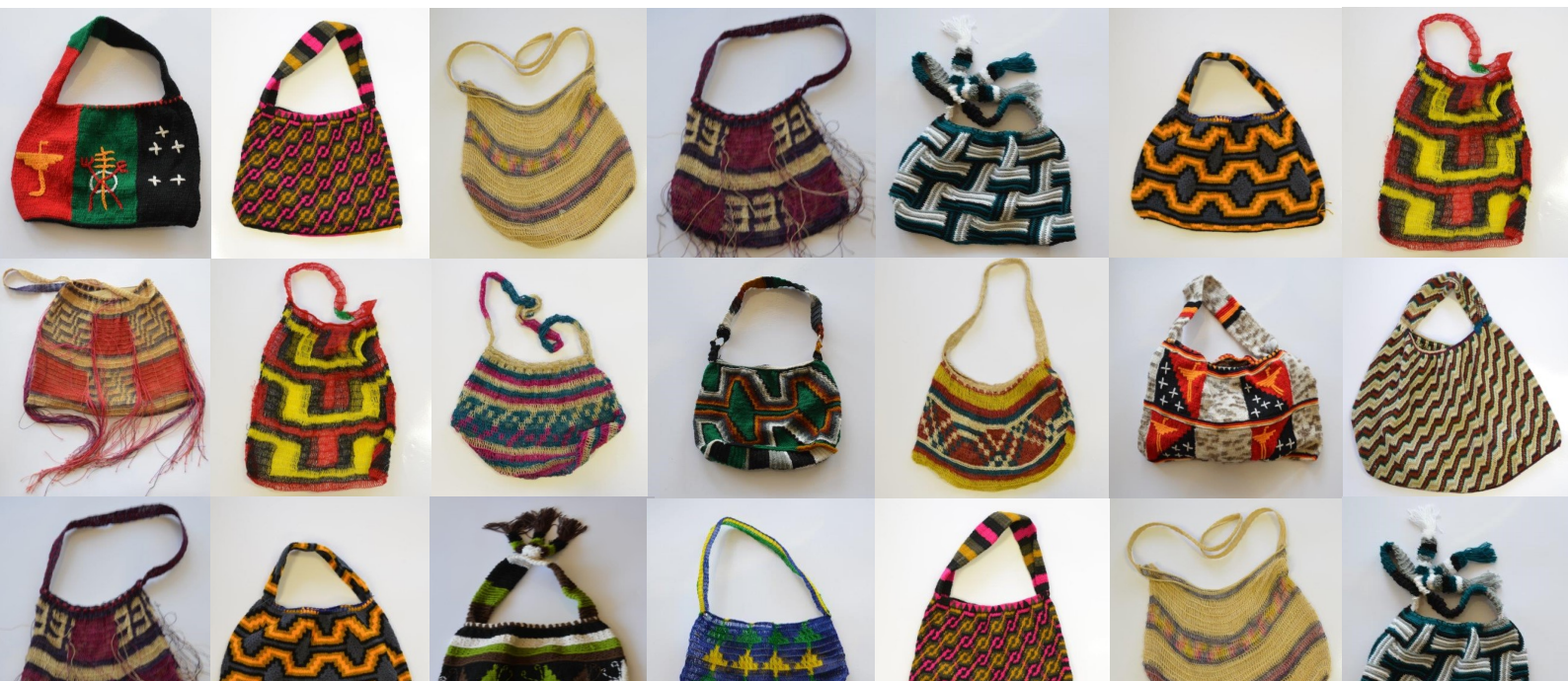
In addition, practical suggestions emerged from the consultations and interviews that did not involve much if any additional resources. One such suggestion related to better case-tracking by police and courts of DFV cases and the granting of IPOs or FPOs during criminal cases and at the time of sentencing. Two clear priorities are to continue to reduce the time it takes to obtain an IPO, and to improve applicants' safety so that they are more likely to pursue a PO because of concerns for their safety.

More to be done: research

There are significant limitations to the pilot study which was only undertaken in one location in PNG. The key research questions have, by and large, only been partially addressed. We know a lot more about the process, that there is an increasing demand for orders and that not many breaches are being prosecuted. We know that that other justice processes outside the district court are brought to bear, with mediation and compensation inherent in or complementary to formal justice and policing practices. We know which of the key stakeholders is involved in what and where the pressure points are in the system. However, we have limited evidence on the efficacy of the orders themselves, whether they are making women and other family members safer and whether they are meeting the aims of the legislation.

To more comprehensively address the key research questions will require additional research; research that builds on the approach and methods used in the pilot study:

- » In more locations of Papua New Guinea.
- » With applicants and respondents at different stages of the process over several months and with a larger, cross-sectional sample.
- » With police and courts, to investigate in-depth the reporting of and action taken in response to breaches and further criminal offences.
- » With the general population, especially young adults, to assess their level of awareness of and attitudes to DFV and FPOs.



Appendix 1

Crime and Violence in Lae

Current or recent crime statistics are not in the public domain. This appendix summarises various efforts in the past to build up a picture of levels of crime and violence, based on what is reported to police and recorded by them, as well as population surveys.

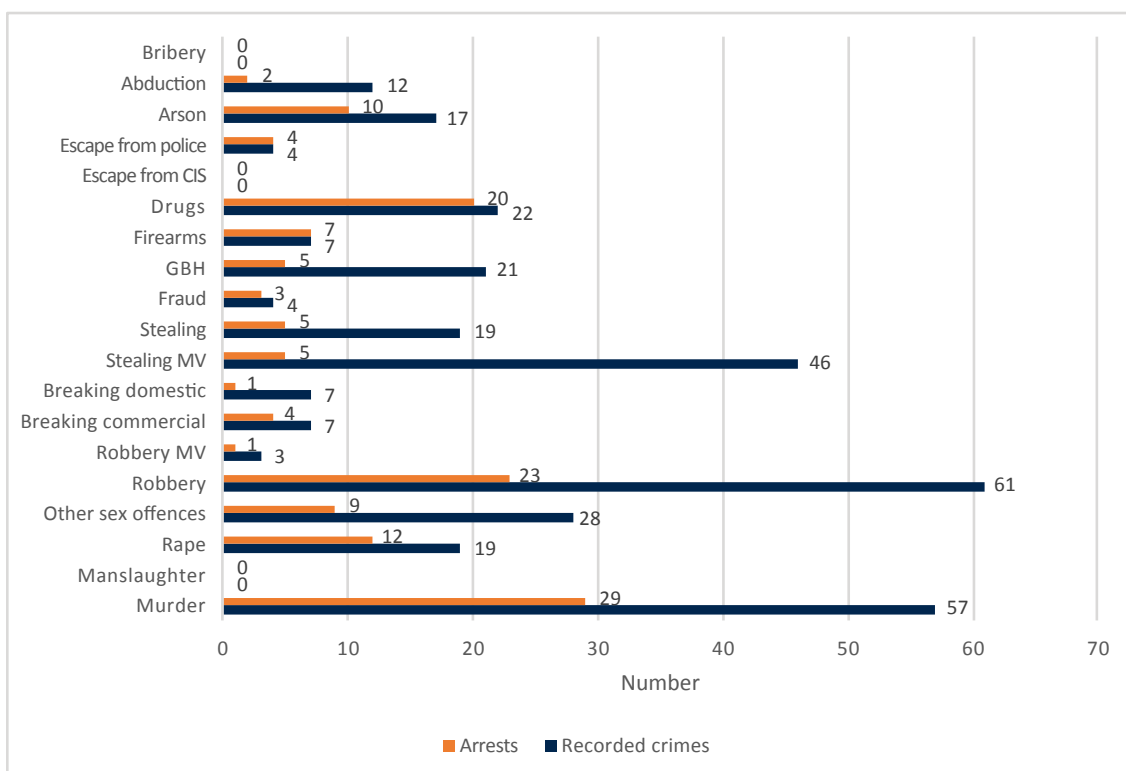
Trends in crime and violence based on police recorded crime and surveys

According to RPNGC national data for 2007 and 2010, Lae and the National Capital District (NCD) had the highest homicide rates in PNG, and in Lae there was a huge increase between 2007 and 2010. Lae's homicide rate in 2010 was 66 per 100,000, which is nine times the global average and the highest found in the East Asia–Pacific region and amongst the highest worldwide (Lakhani and Willman 2012:5-6).

There was an apparent stabilisation in crime overall in PNG by 2010 but considerable variation across towns and provinces (based on police data 2000–2010 and household surveys in the NCD (2004 compared with 2009). However, the levels of crime victimisation in Lae increased in 11 of the 12 categories of crime in 2010 when compared with surveys in 2005 and 2008 (Lakhani and Willman 2012). The Lae urban community crime victimisation survey conducted in 2010 with 404 people aged 15 years and over in 120 households indicated there was high and increasing crime rates, fear of crime, and corruption compared with earlier surveys in 2005 and 2008 (Coffey 2013).

Figure A1: Police recorded crime and arrests in Lae, 2012

Source: RPNGC data recorded in Coffey (2013)



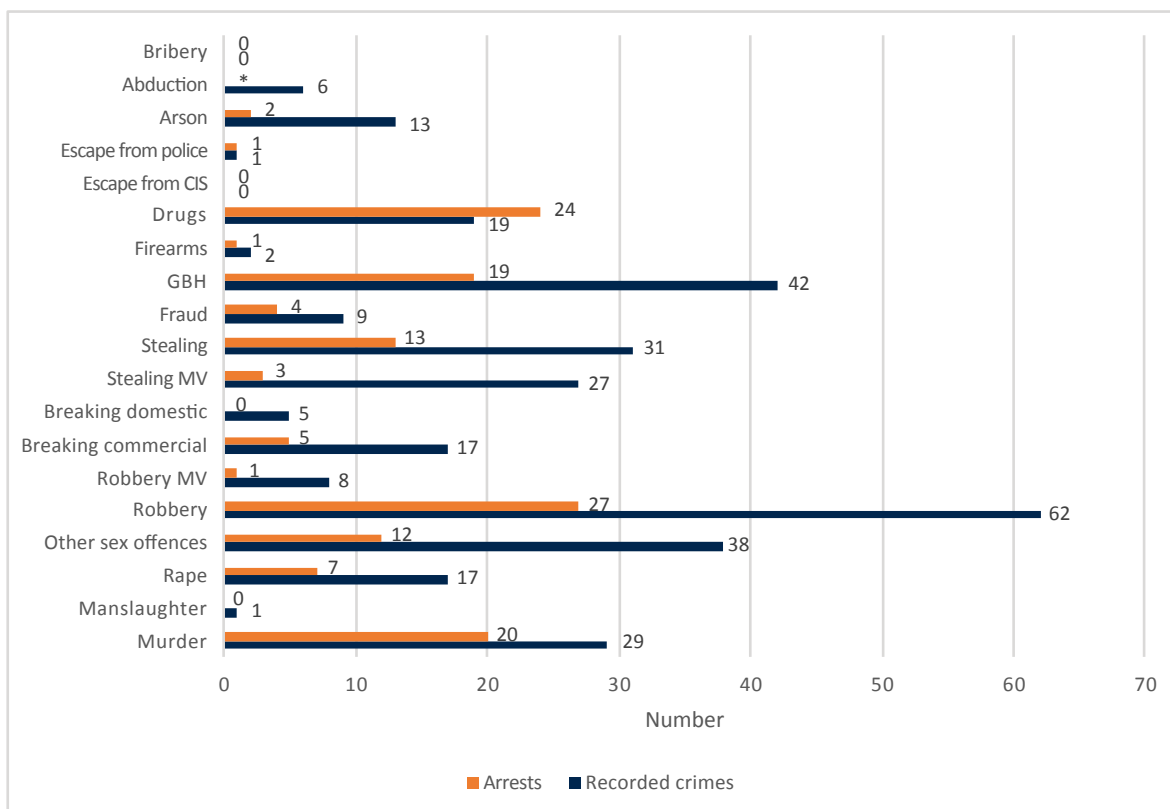
A more recent community perceptions survey in PNG, conducted in 2015, took place in nine locations including 300 participants in Lae. The survey results are for the most part not separated out for Lae, which are combined with the data from Port Moresby. The survey did indicate, however, that the crimes that respondents are concerned about in Lae are similar to those found for the total sample. In order of most concern, Lae respondents cited alcohol-related problems (30.1 per cent), stealing property (19.3 per cent), disturbing the peace (13.2 per cent), damage to property (13 per cent), violence (11.4 per cent), sexual assault (5.4 per cent) and domestic violence/child abuse (5.1 per cent). Another national survey was undertaken in 2018, but the results are not yet available.

Types of recorded crime and the number of arrests in Lae, 2012 and 2013

For Lae, RPNGC recorded crime data shows that in 2012 there were 334 recorded crimes which resulted in 140 arrests (42 per cent of crimes) and in 2013 (the first 10 months) there were 327 crimes and 139 arrests (42 per cent of crimes).³⁰ Figures A1 and A2 show that there were low arrest rates across the crime categories, including the most common crimes such as stealing motor vehicles, robbery and murder in 2012, and robbery, rape and grievous bodily harm in 2013 (Coffey 2013).

Figure A2: Police recorded crime and arrests in Lae, 1 January to 20 October 2013

Source: RPNGC data recorded in Coffey (2013)



Appendix 2

Interview Questions



PILOT RESEARCH PROJECT – FAMILY PROTECTION ORDERS

Interview schedule

Key stakeholder/service provider

Note: make sure the interviewee has been provided with an information sheet and signed the consent form

1. Background on interviewee

Name:

Agency:

Position:

Relevant experience with agency and with sector (length of time, other details)

2. Please provide a brief description about your organisation/department (including number of workers, services provided, and whom you report to)

3. Does your service have much to do with family protection orders? In what capacity?

4. When is a person encouraged to apply for an interim protection order? Does your service help with filling out an application? Does your service support the applicant?

5. How well do you think the process works, when applying for an IPO? Do agencies work together in Lae?

6. Do you know if criminal charges are pursued as well, when there is an application for an IPO? If not, do you know why not?

7. Are you and your service/organisation involved in the application for a permanent protection order? If yes, in what capacity?

8. In your experience, who do you think benefits from having an order? Do you have a view on the conditions and the length of time of the orders?

9. Are you and your service/organisation involved in breaches of orders? Can you provide an example of where this has happened?

10. What do you think your service/organisation does well?

11. What would you like to see improved or done differently with orders?

12. Do you think the Family Protection Act is a success? Please explain your answer

13. What would you like to see as a result of this research project?

Thank you

If you would like further information about the project please contact:

Dr Judy Putt, judy.putt@anu.edu.au

Theresa Phillips, _____

David Thomas, _____

NOTE: Date and place of interview _____

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PILOT RESEARCH PROJECT – FAMILY PROTECTION ORDERS

Interview schedule

IPO applicants

Note: make sure the interviewee has been provided with an information sheet and signed the consent form

We are interested to hear from women about their experiences in applying for or getting family protection orders. Mainly we are interested to hear what helped, what didn't help, and what you wanted when you applied for an order. We want to learn from you about how to make it easier for women who are coming along behind.

Your name won't be kept, and no one will know what you said. It is confidential.

1. Where do you mostly live? (settlement, block, village)

2. How old are you?

- a. 18 - 19yrs
- b. 20 – 24yrs
- c. 25 – 29yrs
- d. 30 – 34yrs
- e. 35 – 39 yrs
- f. 40 – 44 yrs
- g. 45 – 49 yrs
- h. 50 – 59 yrs
- i. 60+ (try to get exact age)

3. Do you have kids living with you?

- a. Yes
- b. No

Please note the number and their ages

4. Do you have a husband/partner?

- a. Yes
- b. No, I separated in [note year]
- c. Never had one

5. How did you hear about getting an interim protection order (IPO)? Get their story –when, why, how– whatever detail you can get on why they thought it was useful for them.

6. What do you expect from an IPO?

7. How long did it take to get an IPO after you had lodged an application?

8. If you got an IPO, what were the conditions and who did they apply to?

9. Did you then or do you plan to get a permanent protection order? If you did or will do, could you please tell me some details (eg when you got it, conditions, length of time, who it applied to)

10. Were criminal charges laid at any stage? What happened with them?

11. What agencies or services helped you with applying or getting an order? How did they help? Could more have been done?

12. If you have or had an IPO or a permanent order, do you think it has made a difference? Do or did you feel safer?

13. What could have be done to make you (and kids/other family members) feel safer?

14.If you have or had an order, has there been a breach of the order? What happened as a result of the breach?

15. What do you think should change that would make it easier for women like you to apply for an order?

16. Would you suggest to a friend of family member that they apply for a protection order? Please explain your answer.

Thank you.

If you would like further information about the project please contact:

Dr Judy Putt, judy.putt@anu.edu.au

Theresa Phillips, _____

David Thomas _____

NOTE: Date and place of interview _____

Appendix 3

Example of a De-identified IPO Application and Accompanying Paperwork, Prepared with the Help of Femi PNG

IN THE DISTRICT COURT)
HELD AT LAE)
MOROBE PROVINCE)

IPO No. Of 2017

[REDACTED]
Complainant

AND

[REDACTED]
Defendant

APPLICATION FOR INTERIM PROTECTION ORDER

I, [REDACTED], LAE, MOROBE PROVINCE

APPLY for the following orders

- (a) Restraining Order to prohibit the Defendant from applying physical and verbal abuse anywhere and at any time.
- (b) Restrain the Defendant and his mistress from threatening and using abusive language.
- (c) Restrain the Defendant from harassing and intimidating behaviour.
- (d) Restrain the Defendant from behaving in an indecent and /or offensive manner.
- (e) Restrain the Defendant from stalking or causing Complainant to feel apprehension or fear
- (f) Restrain the Defendant from destroying and lock up the Complainant market table and goods she sell to get the money.

- (g) FOR:
 - (a) Myself (Complainant)
 - (b) All my Children

THE GROUNDS are set out in the sworn statement attached.

DATED:

Signed.....

I, [REDACTED], LAE, MOROBE PROVINCE

AGREE to obey any order this Court may make against me for costs or damages if the Court finds that I should not have made this application.

.....
Signed by the Applicant

IN THE DISTRICT COURT)

HELD AT LAE
MOROBÉ PROVINCE)

IPO No. Of 2017

[REDACTED]
Complainant

AND

[REDACTED]
Defendant

SWORN STATEMENT

I, [REDACTED], LAE, MOROBÉ PROVINCE

duly sworn make oath and say that the following is true:

1. I am the Complainant.
2. I am applying on behalf of myself And My children:

- (a) [REDACTED]
- (b) [REDACTED]
- (c) [REDACTED]
- (d) [REDACTED]

3. The Defendant and I are members of the same family. The defendant is:

My current husband

.....
.....

4. The home where I and the children live is at [REDACTED]
5. The defendant lives: [REDACTED]
6. My work is: I do selling every day at [REDACTED] market to get the money.
7. If you have been to see a doctor or have taken any of the children to see a doctor because of what happened you should tick the box and staple or clip the doctor's note to this form. Tick here

8. I believe I need these orders for my/our protection (cross out *our*, if you are applying for yourself).
9. Write down what happened and what the defendant has done or has threatened to do to make you ask the court to help you.

a) ... My name is [REDACTED]. I am [REDACTED] and I do selling at [REDACTED]. I am from [REDACTED] in the [REDACTED] of [REDACTED]. I have four children, namely [REDACTED].

-
- b) I have been married to [REDACTED] since [REDACTED] and I have four children from him.
- c) [REDACTED] and he is the owner of the [REDACTED]
- d) Since being married to him, I have been abused, accused of unfaithfulness and been called very abusive and dirty names, with no respect for me as a woman and a mother.
- e) From the start of us living together, he started restricting me to see my family or going to my Church, the United Church. He said since he was a Catholic I am to go to the Catholic church.
- f) He started accusing me of my work colleagues, he didn't want me to talk to any male friends. He even accused me of my blood cousin brother. That was when I started to see his true personality. From then on, he continued to accuse me of any male, his friends, his relatives, my work mates or any male he wants to accuse me off.
- g) While I was pregnant with my second son, he said to me, "If you give birth before September that is not my child". I was dumb struck when he said that, it was like he was playing some mind game with me to drive me mad or make me go insane. He even beat me up when I was pregnant with my third son and when I just gave birth to my last son.
- h) He beats me up if I do not follow his instructions or I talk back.
The beatings continued then to date. But his swearing is the worst of all. He can call me names and describe me in front of my children with no shame or consideration what so ever. Most of this argument is usually over minor issues or his jealousy.
- i) If I am tired after work and do not cook to his liking he would say, you making wanem long office na tired nothing, nothing, you kuap, kuap go na tired. As a female and part of our hygiene, after I bath every afternoon, I wash my under garment as well. This he would also say, you kuap long office na come washim pants bilong mas clean. Things, a male is not supposed to ask regarding female body he always has a comment to make.
- j) His accusation of me also continued, where ever I have worked, he will always find someone to pick on and accuse me of. Even now I am [REDACTED] old; he has no respect for me as a person and a mother.
- k) As of the [REDACTED], I have moved out of the house we were living in at the [REDACTED]. Since we moved there in [REDACTED], every time he is cross or start one of his tantrums he shouts and tells me to leave the house. This is his house and I should pack up and leave with my children.
- l) This continued almost like monthly and I had to leave. Also when he is cross and when we drive into the house he will start yelling Kan grass, kan grass and start swearing at me. For him to swear at me twice this year and say to me you kaikai kan bilong mama bilong yu dai pinis really hurts because my mother is dead and why would he swear at me like that.
- m) When going through that problem I am always affected in the office feeling severe head ache and I definitely know that I was stressed out of this problem not knowing that I've been in that cycle of violence for so long and finally I came to know that I have to break this cycle with the help of the services available.
- n) As a mother I am in great fear that if I continue to live in that situation it will lead me to a serious medical condition and I might even lose my life.
- o) I am now seeking legal assistant to take out a restraining order against him. For him not to harass me, or accuse me or unfaithfulness with men, swear at me and at my family and to stay

away from my market place and our current home at [REDACTED] and not to intimidate me. I also ask the court to restrict him from abusing or swearing at all our children.

SWORN at)
Thisday of.....2017)

.....
Signature of Complainant

(This must be signed in front of a Commissioner for Oaths. If you cannot find a Commissioner for Oaths you may swear this is true in front of the Magistrate.)

BEFORE ME:

.....
COMMISSIONER FOR OATHS

PAPUA NEW GUINEA

District Courts Act 1963

*Secs 28, 35 Dist. Court Act
Form 16*

INFORMATION

The information of [REDACTED], LAE, MOROBE PROVINCE.

Laid thisday of, 20.... Before the undersigned, a Magistrate
Of a District Court, who (on oath) says that on the First of August, 2017 at LAE, Morobe Province,
[REDACTED], LAE, Morobe Province

(State the nature of offence below):

The Informant claims that the defendant is an aggressive, violent and a cruel person who has and continues to abuse the Informant. The complainant fearing for her life has left her marital home on the first of August 2017. Therefore, the Informant seeks protection orders under section 209 & 210 of the District Court Act for herself, her children and her family to ensure the defendant keep the peace and be of good behaviour. The Informant seeks the following orders:

- (a) Restraining Order to prohibit defendant and his agents from applying physical or sexual violence against the Informant, her children and her family members
- (b) Restrain defendant and his agents from threatening, harassing, intimidating, inciting, provoking or using abusive language against the Informant, her children and her family members
- (c) Prohibit defendant from disturbing the Informant and her family in their daily lives.
- (d) Restrain the defendant from ringing and sending text messages to the Informant's mobile phone, including her family members
- (e) Restrain the defendant from behaving in an indecent and or offensive manner towards the Informant, her children and her family members,
- (f) Restrain the defendant from stalking or causing Informant, her children and her family members to feel apprehension or fear,
- (g) Restrain the defendant from coming within 100 metres radius of Informant's residence or work place.

The Informant seeks protection orders under section 209 & 210 of the District Courts Act.

[REDACTED]

.....
(insert

name & signature of informant)

Laid/Sworn* before me the day and year first above mentioned at

.....
Magistrate

~~Strike out whichever is inapplicable~~

PAPUA NEW GUINEA

District Courts Act 1963

Act. Secs. 41, 42, 44, 47.
Form 17

SUMMONS TO A PERSON UPON INFORMATION

[REDACTED]
Informant

And:

[REDACTED]
Defendant

TO: [REDACTED] LAE, MOROBE PROVINCE

Whereas you have this day been charged by [REDACTED], LAE, MOROBE PROVINCE.

Before the undersigned, a Magistrate of a District Court, that on the [REDACTED] at LAE, Morobe Province

You (*state shortly the matter of the information below*):

The Informant claims that the defendant is an aggressive, violent and a cruel person who has and continues to abuse the Informant. The complainant fearing for her life has left her marital home on the first of August 2017. Therefore, the Informant seeks protection orders under section 209 & 210 of the District Court Act for herself, her children and her family to ensure the defendant keep the peace and be of good behaviour. The Informant seeks the following orders:

- a) Restraining Order to prohibit defendant and his agents from applying physical or sexual violence against the Informant, her children and her family members
- b) Restrain defendant and his agents from threatening, harassing, intimidating, inciting, provoking or using abusive language against the Informant, her children and her family members
- c) Prohibit defendant from disturbing the Informant and her family in their daily lives.
- d) Restrain the defendant from ringing and sending text messages to the Informant's mobile phone, including her family members
- e) Restrain the defendant from behaving in an indecent and or offensive manner towards the Informant, her children and her family members,
- f) Restrain the defendant from stalking or causing Informant, her children and her family members to feel apprehension or fear,
- g) Restrain the defendant from coming within 100 metres radius of Informant's residence or work place.

PROOF OF SERVICE
(to be endorsed on summons)

I,of.....

make oath and say (or affirm) that I did on....., 20....., at
serve the within- named defendant with the within summons by delivering a copy of it to him
personally, and at the same time showing him the original summons.

Signature.....

Date:

Sworn (or affirmed) before me at

this day of

.....
Commissioner for Oaths

IN THE DISTRICT COURT)
HELD AT LAE)
MOROBE PROVINCE)

IPO No. Of 2017

[REDACTED]
Complainant

AND

[REDACTED]
Defendant

INTERIM PROTECTION ORDER

On theTHE COURT heard an application from [REDACTED] of LAE, MOROBE PROVINCE

And READING the Documents placed before the Court, the COURT MAKES THE FOLOWING ORDERS against the defendant:-

1. The defendant is restrained from applying physical or verbal abuse towards the Complainant,
2. The defendant is restrained from threatening and using abusive language towards the Complainant and the children.
3. The defendant is restrained from harassing and intimidating the Complainant in any way whatsoever/ disturbing her in her daily life.
4. The defendant is restrained from behaving in an indecent and or offensive manner towards the Complainant and the children.
5. The defendant is restrained from stalking or causing Complainant to feel apprehension or fear.
6. Restrain the defendant from destroying and lock up the complainant's market table and goods she sells at the market to sustain her living.

THE COURT FURTHER ORDERS that the Officer In charge of Police Station at Lae shall serve this order and the court process on the defendant.

If, you defendant does not obey all of these orders then the police shall arrest him and bring him to court as soon as possible.

WARNING TO THE DEFENDANT

- (1) If you [REDACTED] do not obey these orders then you can be arrested. You will then be brought before the court and may be fined and /or sent to prison.
- (2) **SUBSTANTIVE HEARING:** The next hearing of this matter is on.....the.....day of, 2017.
- (3) **YOU MUST ATTEND**
If you disagree with this order you should go to the court and ask for an earlier hearing date.

DATED thisday of

.....
MAGISTRATE

Endnotes

- 1 There are a range of terms used to refer to domestic and family violence, sexual violence, violence against women, and gender-based violence. This report primarily refers to domestic and family violence (or DFV), as this is what is covered by PNG's Family Protection Act 2013. Domestic violence refers to intimate partner violence. Family violence has a broader definition as it includes children, the immediate family and those that are related to a perpetrator by birth or marriage. The gamut of relationships covered by the FPA is discussed later, as is the range of behaviours that constitute violence and abuse.
- 2 Wantok relationships have been described as drawing on commonalities between individuals such common language, kinship groups, geographical area of origin and social association or religious group. In urban contexts, it is also viewed as underpinning socio-economic and political networks, where principles of reciprocity inherent in wantok relationships create obligations to assist each other (Hameed et al. 2016).
- 3 HRW (2015) refers to Transparency International's Corruption Perceptions Index, which rated PNG 145 out of 174 countries.
- 4 Village courts are part of the formal justice system in PNG, but the ODE team are drawing a distinction between an indigenous justice institution, created by legislation in 1971, and the lower and upper courts found in Western common law justice systems.
- 5 The PNG 2009–10 Household Income and Expenditure survey found that no men reported being hit or beaten by someone in their household, whereas 9 per cent of women/girls reported being beaten. Of those that did report being beaten, the majority (67 per cent) said it was by a husband and just over one-fifth said it was by another family member such as a brother, father or mother. Of those who said they were beaten, one-quarter sought help, the first recourse being a family member, friend or wantok, the second being a community leader and the third being a village court (Bulman 2013).
- 6 The authors observe that: 'Fiji was the only country studied where legislation requires courts to make an intervention order if a person is charged with, or is found guilty of, a domestic violence offence. The fact that the vast majority of intervention orders are in Fiji shows the positive effect this legislation is having' (Christie et al. 2015:36)
- 7 It is unclear whether IPOs and/or general preventive orders were being counted over the time period, as the FPA was not enacted in 2013. In addition, the 'completion' of IPO cases does not necessarily mean that there was a conversion from an IPO to a PO.
- 8 The statistics indicated that Lae was in the top three locations for the number of registered IPOs (which is not surprising given the population) at about 175 IPOs per annum, but that the proportion completed dropped significantly from 78 per cent in 2013 to 47 per cent in 2014. At least two survivors who were interviewed indicated the IPO had a positive impact on ending violence (GHD 2015).
- 9 This estimate is from the [World Population Review](#) website.
- 10 This estimate includes the outlying urban settlements of the wider Lae area (Craig and Porter 2018:2).
- 11 Research was conducted in Lae in April 2018 on women's experiences of seeking support to address family and sexual violence in their lives, and their children's wellbeing and opportunities for education. Many of the 71 women interviewed had low incomes and levels of education, and it was observed that 'their experiences of violence reflect deeply-entangled cycles of poverty, marital breakdowns, and chronic episodic violence' (Rooney et al. 22/5/2018).
- 12 Lakhani and Willman (2012:4) observe that even homicide data is likely to be inaccurate. There were discrepancies between RPNGC data and crime victimisation survey data; both were regarded as problematic.

-
- 13 The low arrest rate is illustrated by the fact that, according to official police statistics, 51 per cent of murder incidents resulted in an arrest in 2012, which is slightly higher than the estimated proportion of 40 to 47 per cent of total crime recorded that resulted in arrest for the whole of PNG in 2012 and 2013 (Coffey 2013).
- 14 Not much should be read into the percentages for those who had or whose family had applied for an IPO or PO. Based on the sample size, it is estimated approximately five people answered the question about their effectiveness.
- 15 The national FSVAC was established in 2000 as one of the sectorial committees of the Consultative and Implementation Monitoring Committee. The committee has four focus areas: legal reform, service provision, communication and advocacy, and research and knowledge management. Part of its mandate is to coordinate, network and build capacity of key institutions across the country, including the roll out of coordination desks at the provincial and district level as required under the NEC Direction 2013 (see cimcpng.net).
- 16 There are also likely to be multiple informal avenues for support. Rooney et al. (22/5/2018) found that many women they interviewed in Lae preferred to resolve matters within the family, church or community. During our study, we met the wife of a police officer who for a number of years had been providing emergency accommodation, usually for a night, to women escaping from violent situations. Adopting a non-denominational approach to be as inclusive as possible, she said she had no funding but was planning to register as a charity.
- 17 Currently run by the Salvation Army, there is only the one safe house for women and their children in Lae. The future of the Salvation Army safe house was in doubt towards the end of the study period. There is a safe house for children, the New Life Care Centre run by City Mission (formerly House Clare).
- 18 Even the language and the underlying concepts are problematic. Terms like socio-economic status, full-time employment, drug use, race and ethnicity, and the presence of biological children are imbued with a significant bias. Attempting to measure whether there is an 'effect of arrest' is challenging when there may be no records consistently kept of whether an arrest has occurred. Another example is where one of the variables relates to paid employment, yet in PNG there is more gender equality in the informal economy, which will not be captured by only including paid employment. It is estimated that one in eight persons with access to cash income is female (Hameed et al. 2016).
- 19 There are examples of descriptive accounts of the formal legal system, for example various chapters in Powles and Pulea (1988) and in-depth research on the community's views of law and justice (Larcom 2015), but there are no ethnographic accounts of the higher courts' practices in contrast to a body of literature on village courts (for example, Goddard 2009).
- 20 PNG's Commissioner of Police, Gari Baki, was quoted as arguing for a central police statistics database and stating the intention to partner with the National Research Institute to address the problem (*PNG Post-Courier*, 17 August 2018)
- 21 PILON (2015:7) states that all research on sexual and gender-based violence should prioritise victims' safety and be conducted ethically. It asserts that all research must be conducted with due sensitivity and attention to safety and confidentiality lest it distress and put respondents, and at time researchers, at risk. Additional information on the ethical considerations is at: <http://www.endvawnow.org/en/articles/174-ethical-considerations.html>
- 22 Femili PNG and the ACT Domestic Violence Crisis Service had a pre-existing relationship that involves learning and exchange between the two organisations.

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- 23 In her book on victims and justice, Holder (2018) makes a persuasive case for interviewing victims at different times during and after their contact with the justice system.
- 24 The form of assistance offered to clients resonates with what is valued by clients of specialist DFV services in Australia (see Putt et al. 2017 for further detail).
- 25 Based on research with village courts in Enga over a number of years, and their long-running involvement in the local communities of Enga, Pupu and Wiessner (2018) argue there has been a critical change in marriage practices — those involved in arranging them, the role of bride price, divorce, polygamy and extra-marital affairs. This change, along with new or altered social problems, for example related to drugs, alcohol and sanguma (a specific kind of witchcraft beliefs originating in the highlands of PNG), poses particular challenges for the village courts. Consequently, the magistrates argue for additional training and guidance.
- 26 For a small number of Femili PNG clients, alternative justice processes were mentioned. For two clients, a village court was reported as mediating or settling the matter. With two other clients, mediation was undertaken by the police (the police FSVU was cited in one case). As a result of these mediations, the client did not pursue the IPO application. Similar to criminal charges, it is unclear whether this small number of recorded mediations is indicative of actual incidence, or reflects the absence of knowledge or recording of such resolutions. Based on interviews conducted for the research project, it is more likely the latter is the case.
- 27 At the beginning of the study, the number of district court magistrates was five, but towards the end of the project we were told there were four, maybe only three.
- 28 In a recent interview, the head of the Lae FSVU said their numbers had increased but that it was important for all police to have the right approach to FSV (Loop local news website. Gaps in Police Response, Perpetrators Walk Free. 29/10/2018).
- 29 Pacific Islands Legal Information Institute, a facility of the University of the South Pacific School of Law.
- 30 Total crime recorded for 2012 in PNG was 1838 incidents with 744 arrests (40 per cent of crimes), and 2329 crimes in 2013 with 1088 arrests (47 per cent of crimes) (Coffey 2013).

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