



## Presentation Topic

# **Abolition of the death penalty in Papua New Guinea: What's the next step?**

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# Presentation Outline

- Introduction: Giving context to the “Next Step”, the 2<sup>nd</sup> Optional Protocol to the International Covenant on Civil & Political Rights (OP2-ICCPR)
- What is OP2-ICCPR and is PNG eligible to ratify it?
- Why PNG should ratify OP2-ICCPR? Capital punishment in PNG: Pre-and post-independence context.
- Conclusion and Recommendation
- References

# Introduction: The 'OP2-ICCPR' in context

- PNG had long maintained '*abolitionist in practice*' status since 1950 according to Amnesty International.
- Despite reinstatement and abolition of the death penalty since 1974, no executions were carried out although death sentences were imposed by the courts during the reinstatement period.
- PNG already abolished the death penalty **twice** since 1974. The second abolition was in 2022. But there's a possibility of death penalty's reintroduction due to law and order issue.
- Ratifying OP2-ICCPR ensures that reintroduction of the death penalty would be made irrevocable and to **justify** whether PNG should take this step is the **aim** of this presentation.

# What is OP2-ICCPR & is PNG eligible?

- The Second Optional Protocol to the International Covenant on Civil and Political Rights (OP2-ICCPR) was adopted on 15 December 1989 based on UNGA's Resolution 44/128 & entered into force on 11 July 1991 (UN Treaties, 1989).
- The Protocol aims for a complete abolition of the death penalty in an abolitionist state. Once the OP2-ICCPR is ratified, the current gov't and the future gov't will not reintroduce the death penalty in their domestic law.
- Reservations for the application of DP can be given only to serious crimes of military nature committed during war time.
- Since it entered into force in 1991, 90 countries have become official parties to the Protocol
- To be eligible to ratify OP2-ICCPR, countries must abolish the death penalty and become an official party to the International Covenant on Civil & Political Rights (ICCPR).

# Ratification OP2-ICCPR: 90 states Regionally

Regions	Number of States
Europe	45
Latin America	16
North America	1
Africa	16
Middle East/Arab	2
Asia	8
Pacific/Oceania	2

Source: UN Treaty Series, 1989 (Vol. 1641, p.414)

# Is PNG eligible to ratify OP2-ICCPR?

- PNG has shifted from being classified as an “*abolitionist in practice*” to an “*abolitionist for all crimes*” (Amnesty International 2022).
- States that are eligible to ratify OP2-ICCPR are the ones that have already become official party to ICCPR and PNG became official party to ICCPR in 2008.
- Given that PNG has already abolished death penalty twice and it’s an official party to ICCPR, the country is eligible to start the process of ratifying the OP2-ICCPR
- The Universal Periodic Review (UPR) process and the UN Human Rights Committee recommendations. PNG participated 3 times and the 4<sup>th</sup> is in 2026.

# Why PNG should ratify OP2-ICCPR?

## **Pre- & Post Independence context: Introduction of the death penalty**

- Death penalty was formally introduced in 1902 & 1921 in the Territory of Papua and New Guinea through the adoption of the Queensland's Criminal Code 1899 (Chalmers et al, 2001 & Dinnen, 1993).
- Although DP was applied for serious capital offenses (mostly willful murder), there's no data for number of executions carried out. Last execution was carried out by hanging in 1954.
- Last death sentence imposed in 1971 & in 1974, DP was abolished for the first time (Law Reform Commission Report No.3, 1975).

# Why PNG should ratify OP2-ICCPR?

## From Abolition to Reintroduction to Abolition (National Level)

Status of death penalty law	Year	Reasons for abolition & reintroduction
Abolition	1974	<b>1. Lack of deterrence</b> 2. Extenuating Circumstances
	<ul style="list-style-type: none"> <li>- Almost two decades without death penalty law</li> <li>- Maintained 'abolitionist for all crimes'</li> </ul>	
Reintroduction	1991	<b>1. Deterrence to violent crimes (crime control purpose)</b>  <i>'Payback' killings &amp; tribal fights was raised as a crime concern</i>  <i>Culture – communities have different ways of dealing with murder</i>
	<ul style="list-style-type: none"> <li>- Three decades without implementation of death penalty although death sentences were imposed by the courts</li> <li>- Criminal Code amended in 2013 for sorcery accusation murder</li> <li>- Maintained 'abolitionist in practice'</li> </ul>	
Abolition	2022	<b>1. Lack of deterrence</b> 2. Lack of administrative mechanism and infrastructure to implement death penalty 3. Christian values
	<ul style="list-style-type: none"> <li>- Abolitionist for all crimes</li> </ul>	



# Why PNG should ratify OP2-ICCPR?

## **From Abolition to Reintroduction to Abolition (International Level)**

- In 2003, PNG support UN Human Rights Commission with 75 other states calling on all retentionist states to establish moratorium on execution and abolish death penalty (UN Commission on HR, 2003).
- Recommendations of UN Human Rights Committee through UPR cycles rejected three times (2011, 2016 & 2021).
- UNGA Moratorium Resolution on execution: PNG voted Against (six times) & abstained (three times) since 2007
- Maintained *Abolitionist in practice* status

# Why PNG should ratify OP2-ICCPR?

- PNG opposes death penalty at the domestic level since 1974 even despite the reintroduction in 1991
- At the international level, PNG is somewhat 'confused' in its position on the issue of death penalty although the country has been supporting it
- Even if the death penalty is reintroduced for the second time, it is quite (not difficult) but impossible to implement death penalty.
- If reintroduced, the law will remain on the paper as a 'tool for crime control purposes'.

# Conclusion & Recommendation

## Conclusion

- Based on the existing data presented, PNG should ratify the OP2-ICCPR and join the international community towards universal abolition of the death penalty as the country is already eligible to do that because its international standings on the issue of death penalty is somewhat confusing although the country support it while its standings at the domestic level is against the death penalty, particularly towards abolition as the law is not suitable culturally to be applied.

# Conclusion & Recommendation

## Recommendations

Before PNG start the process of ratifying the OP2-ICCPR, we recommend that:

- ✓ A wider public consultation is required on whether PNG should reintroduce the death penalty or not,
- ✓ Given that PNG already abolished the death penalty twice and is eligible to ratify the OP2-ICCPR, consultation is also required before starting the process of ratifying the OP2-ICCPR

**Thank you**

**Questions**

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