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Prosecution of sorcery accusation related violence in PNG: What more is required?

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SUMMARY

This Policy Brief presents an analysis of decisions by the Papua New Guinea courts on cases involving sorcery accusation related violence (SARV). The analysis contributes an important dimension to debates around how to respond to and address SARV by providing an evidence base about how many and what types of perpetrators of SARV are convicted and imprisoned. The findings indicate that the rate of prosecutions for SARV needs to be increased, that female victims in particular should be better supported in accessing the justice system, and that prosecutions should be expanded from the current focus on murder to the full spectrum of criminal property damage and personal harm related to SARV.

KEY POINTS

- Over the past two decades, just 12 individuals on average have been convicted each year for criminal activity that can be characterised as sorcery accusation related violence (SARV).
- These numbers are very low when compared to the rates of criminal activities related to SARV throughout the country.
- It is primarily only the most serious form of harm resulting from SARV, namely murder, that results in criminal convictions.
- The majority of prosecutions resulting in trial or conviction involve a male victim of SARV.
- The vast majority of cases that proceed into the court system result in a conviction with nearly three-quarters of the sentences for over 16 years' imprisonment.

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INTRODUCTION

There is a widespread perception among public commentators on sorcery accusation related violence (SARV) in Papua New Guinea (PNG) that impunity for these offences is the norm, if not the rule. This Policy Brief presents a more nuanced view by examining the extent of SARV prosecutions and the trends over the past 20 years. We found an average of five convictions each year from 2000 to 2010, a figure that leapt to an average of 19 per year from 2010 to 2020, making the average across the two decades 12 convictions per year. While this figure falls well below a satisfactory number given the high rates of this form of violence,¹ it is an important corrective to the popular narrative that such prosecutions do not occur at all. As we argue below, this disjunct between perception of no prosecution and the reality of consistent numbers of prosecutions points to the need to improve public messaging about court decisions and sentencing.

This Policy Brief sets out an analysis of the prosecutions of SARV in the National Court of PNG over the past two decades. We sought to investigate the extent and characteristics of SARV prosecutions by answering the following questions: How many prosecutions have occurred, in which provinces, and for what offences? Has this varied over time? How long do SARV cases take to work their way through the courts to conviction? What percentage of cases end in conviction, what are the length of sentences and have these increased over time? Are there more male victims of SARV in the cases that get to court than female victims? How often is the crime part of a group attack?

We briefly outline our methods, then address each question in turn and conclude with a number of policy recommendations.

DATA AND METHODS

The primary data set we used to compile this Policy Brief is drawn from court cases reported on the [Pacific Islands Legal Information Institute](#) (PacLII) database. We searched for all cases in PNG involving sorcery and used a variety of search terms (including magic, *sanguma* and *poisen*) to ensure coverage. We then read each judgment to ensure that the case involved SARV rather than “sorcery” in another context, for example “conspiracy to kill a person using sorcery” or “threats to use the power of sorcery”, and discarded those that were not relevant. We also ensured that we did not double count a case, for example if it was reported as a decision on guilt and as a sentencing decision. The vast majority of the cases were decided in the National Court. While far from complete, as not all cases decided in this court make their way to PacLII, this is the most comprehensive set of case reports publicly available.

Our data set included 64 cases involving 248 defendants over a 20-year period (2001–2020). We coded each case by province, date of incident, date of decision, charge, result, gender of victim (all perpetrators were male) and number of defendants involved, and then used SPSS software to analyse the data.

We also drew on data from three additional sources. The first is a database of reports of SARV in PNG’s two national newspapers – *The National* and the *Post-Courier*.² The second is a database we created of incidents of SARV in a number of hotspot provinces (initially Enga, Bougainville and Port Moresby and then Jiwaka was added) from 2016 for four years. This incident database was built on the basis of forms completed by a network of local data gatherers who documented accusations that lead to violence and those that did not lead to violence. The forms were designed to capture detailed information

1 See Forsyth, M., Losoncz, I., Gibbs, P., Hukula, F. & Kipongi, W. (2021). *Sorcery accusation-related violence in PNG – Part 5: Incidents and victims*, In Brief 2021/05, Department of Pacific Affairs, ANU College of Asia & the Pacific.

2 Described further in Forsyth, M., Putt, J., Bouhours, T. & Bouhours, B. (2017). *Sorcery accusation-related violence in Papua New Guinea – Part 1: Questions and methodology*, In Brief 2017/28, Department of Pacific Affairs, ANU College of Asia & the Pacific.

on the victims, perpetrators, and state and non-state interventions and responses to the incident. This dataset is analysed using SPSS software. In total we documented 1,039 accusation incidents involving 1,553 accused persons of sorcery in the past four years in four provinces (Bougainville, Enga, Jiwaka and National Capital District [NCD]).³ The final dataset is a series of 291 semi-structured interviews conducted with a broad range of key stakeholders, including those in the justice sector, community leaders, survivors, faith leaders and leaders of community-based organisations.

PROSECUTIONS OVER TIME

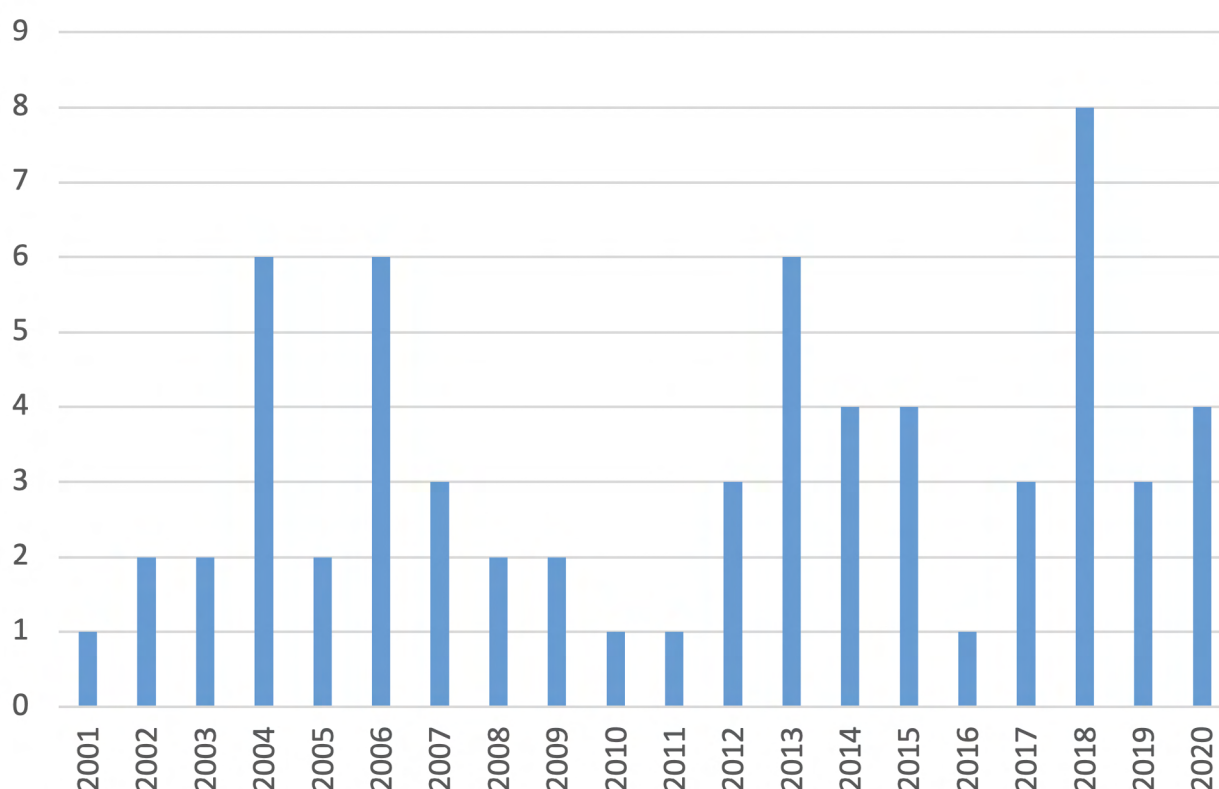
Figure 1 shows the number of SARV cases (which may have more than one defendant as discussed below) over time since 2001. It is apparent that there has been a trend of increased prosecutions since 2012, although 2004 and 2006 also saw high numbers of cases. In 2012 and 2013, the national consciousness of the issue of SARV was

raised through the *Haus Krai* movement and the highly publicised deaths of two women, one in the Highlands and one in Bougainville. It was also in 2013 that the *Sorcery Act 1974* was repealed, a new provision directed at SARV was included in the Criminal Code and the first national SARV conference was held in Goroka.

PROSECUTIONS IN MANY PROVINCES

As shown in Table 1, there is a wide regional spread of SARV prosecutions, with the greatest number in the Eastern Highlands, Morobe and Western provinces. As we have not done extensive fieldwork in those three provinces, our data sources for the prevalence of SARV in those provinces is limited. However, our analysis of newspaper reporting of SARV over the same period indicates that both Eastern Highlands and Morobe have elevated levels of SARV reports compared to elsewhere, but this is not the case with Western Province as can be seen in Figure 2.

Figure 1: Number of SARV cases in the National Court, PNG, 2001–2020



3 See Forsyth et al. (2021). *Sorcery accusation-related violence in PNG – Part 5: Incidents and victims*.

Table 1: Number of SARV cases in the National Court by province, 2001–2020

Province	No of cases	Per cent*	Province	No of cases	Per cent*
Chimbu	1	2	National Capital District	2	3
East New Britain	4	6	New Ireland	2	3
East Sepik	2	3	Oro	5	8
Eastern Highlands	6	10	Sandaun (West Sepik)	5	8
Enga	1	2	Southern Highlands	2	3
Gulf Province	3	5	West New Britain	5	8
Jiwaka	1	2	Western	6	10
Madang	5	8	Western Highlands	3	5
Milne Bay	3	5	Missing	2	
Morobe	6	10	Total	64	100

* Percentages are calculated using valid data, i.e. exclude data that is missing or not known.

Figure 2: Newspaper reporting of SARV incidents between December 1989 and June 2020



Province	No of cases	Province	No of cases	Province	No of cases
Morobe	83	Enga	16	East Sepik	5
Chimbu	61	Oro	15	Milne Bay	5
Eastern Highlands*	57	East New Britain	12	West New Britain	5
Western Highlands	49	New Ireland	11	Central	3
Madang	46	Sandaun (West Sepik)	10	Manus	2
Southern Highlands**	40	Gulf	7	Not stated	1
National Capital District	32	Southern Highlands	2	Total	484
Bougainville	19	Western	6		

* Includes six cases from Jiwaka

** Includes two cases from Hela

WHAT SORTS OF SENTENCES ARE GIVEN IN SARV CASES?

There is a strong trend since 2002 of lengthy sentences being handed down in SARV cases as a form of deterrent.⁴ Table 2 shows that over the past two decades, significant sentences of imprisonment have been imposed, with nearly three-quarters (74%) over 16 years. Long sentences (8–40 years) of hard labour were handed down in four cases, involving 20 defendants, in 2016, 2018, 2019 and 2020. The death penalty was imposed on 10 defendants, but to our knowledge these have not been carried out.

Table 2: Types of sentences given in SARV cases (excluding defamation), 2001–2020

Sentence categories	Frequency	Per cent*
Not guilty	7	3
Suspended sentence	18	8
1–3 years	4	2
4–10 years	25	11
11–15 years	7	3
16–20 years	28	12
21–25 years	34	15
26–50 years	7	3
Life imprisonment	92	40
Death sentence	10	4
Missing	13	
Total	245	100

Note: Includes sentences of hard labour.

** Percentages are calculated using valid data, i.e. exclude data that is missing or not known.*

An amendment to the Criminal Code in 2013 introduced a new section on the wilful murder of a person on account of sorcery accusation ([section 299A](#)). It provides a person convicted of the offence “shall be sentenced to death”. One interpretation of this amendment is that it mandates the death penalty.

However, the court considered this issue in *State v Damanin* (No. 2) [2020] PGNC 210 and concluded the phrase “shall” is merely discretionary. His Honour Toliken J in that case

stated: “It is also well settled now that belief in sorcery can no longer be considered an extenuating circumstance regardless of how pervasive and entrenched the belief may be. By creating the new offence of wilful murder on account of accusation sorcery, Parliament has given legislative force to judicial pronouncements in this regard and there can no longer be any room for doubt as to whether or not belief in sorcery for homicide offences is an extenuating circumstance let alone a special mitigating factor. This is because the belief in sorcery and acting upon that belief is an essential element of the offence.”

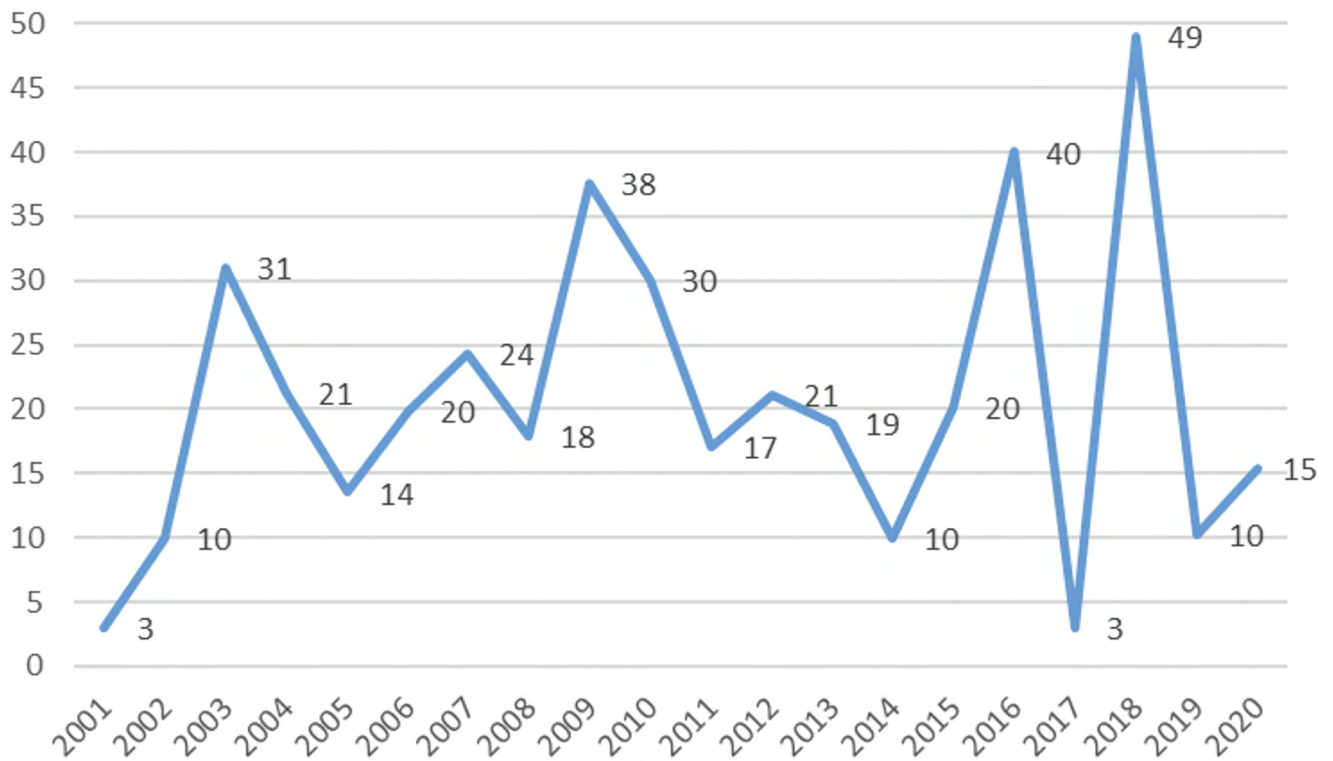
We also wanted to find out if the sentences have increased over the past two decades. As we can see from Figure 3, there has been a slight downwards trend in average length of sentence since 2012, despite it being the start of the period when the number of cases began to increase. The spike in 2018 is due to the mass arrest and prosecution of 96 individuals in the one case of SARV in Madang (*State v Kakiwi* [2018] PGNC 273). One explanation for the apparent downwards trend in sentences may be because we could not factor the addition of hard labour into Figure 3, and this is a recent addition to sentences given between 2018 and 2020.

HOW LONG DO CASES TAKE TO PASS THROUGH THE COURT SYSTEM?

A common complaint regarding the criminal justice system in PNG is lengthy delays. In cases of SARV, our qualitative research found that delays in cases moving through the criminal justice process from arrest to trial to sentence resulted in offenders escaping or being released from custody, witnesses moving and losing contact with prosecutors, and evidence becoming more difficult to gather. Figure 4 shows that it is rare for SARV cases to pass through the court system in under a year, and that 2–4 years is a far more normal timeframe. In six cases, the process took longer than six years before a final decision was reached.

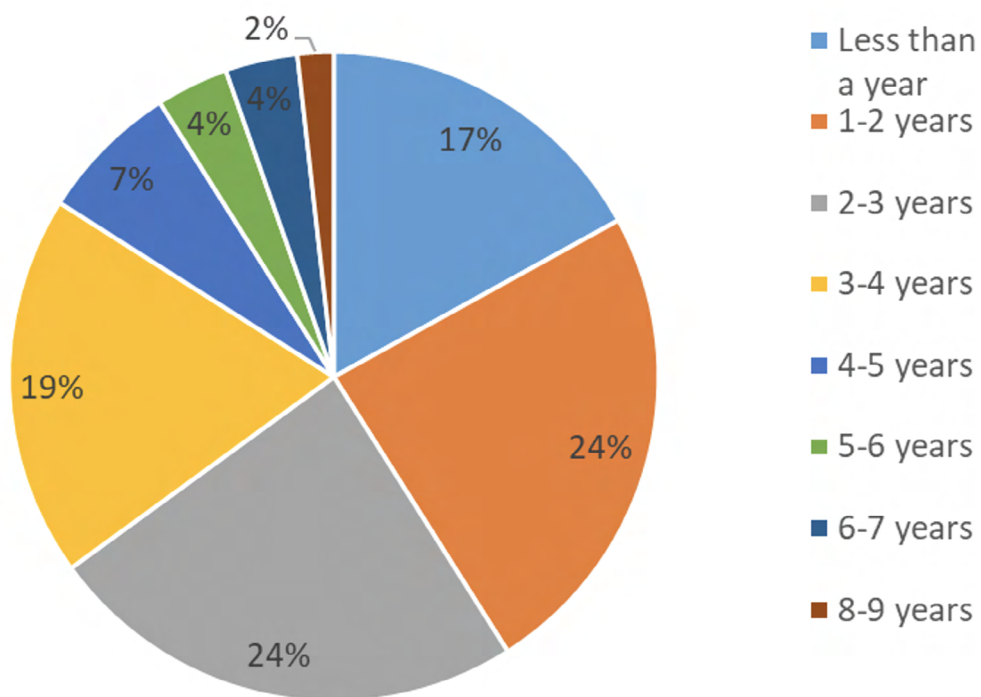
⁴ Forsyth, M. (2015). A pluralist response to the regulation of sorcery and witchcraft in Melanesia. In M. Forsyth & R. Eves (Eds), *Talking it through: Responses to sorcery and witchcraft beliefs and practices in Melanesia* (p. 230). ANU Press.

Figure 3: Average length (in years) of sentences per year, 2001–2020, excluding death sentences



Notes: Includes sentences of hard labour. Life imprisonment sentences were counted as 55 years.
Number of death sentences: 2 in 2007; 8 in 2018.

Figure 4: Percentage of cases by time of offence to trial, PNG, 2001–2020



WHAT CHARGES ARE BEING USED FOR SARV CASES?

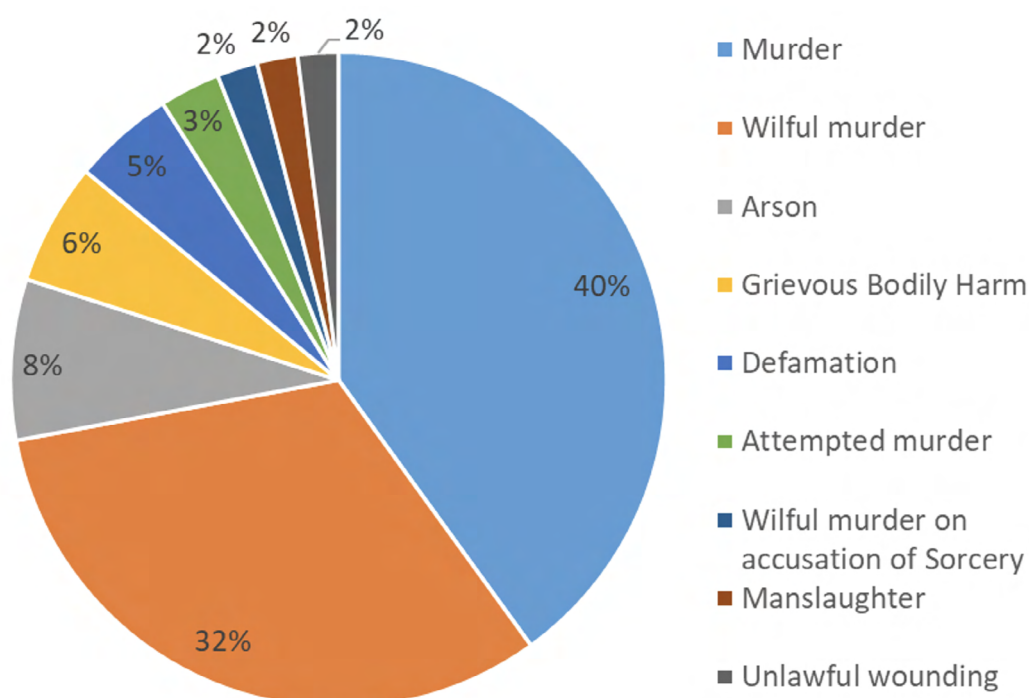
SARV involves a wide range of harmful behaviour, from property damage such as arson and destruction of houses and food gardens, through to assault, torture and killing.⁵ Of the incidents recorded in our incident database, half involved property damage and almost half involved physical violence, whereas killing was only involved in 15% of cases. However, as shown in Figure 5, the vast majority of cases that go through the National Court involve charges of murder and wilful murder (72%). There was only one decision that appeared in our case searches where the defendant had been charged under section 299A of the Criminal Code – wilful murder on account of sorcery accusation – although as noted above, that provision was introduced in 2013.⁶

This limited use of charges other than murder is consistent with our qualitative findings that many in the justice system appear confused about how SARV should be treated within the system. It is likely that the introduction of the amendment to the Criminal Code that linked SARV to murder unintentionally reinforced the assumption that special provisions or extreme charges are required where SARV is involved. Correcting these assumptions is urgently required, as the destruction of property such as housing and food gardens frequently leaves victims of SARV homeless, hungry and dispossessed.

WHO ARE THE SARV VICTIMS IN THE CASES COMING BEFORE THE COURTS?

Auka et al. (2014) reported that there was a strong gender bias in the SARV cases that proceed through the criminal justice system to trial and

Figure 5: Percentage of criminal cases by charge, PNG, 2001–2020

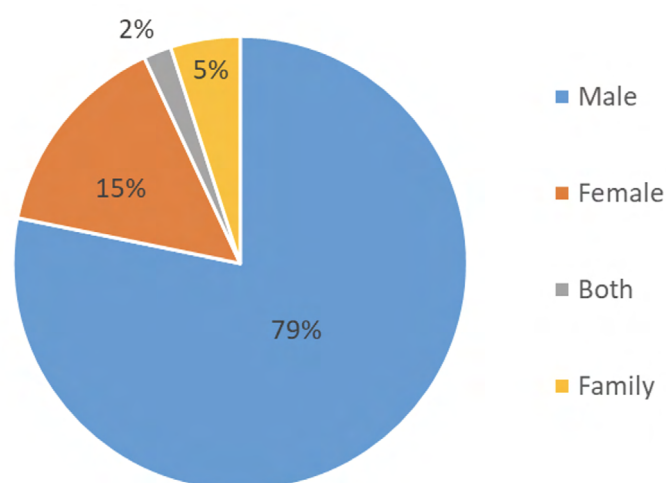


5 Detailed in Forsyth, M., Losoncz, I., Gibbs, P., Hukula, F. & Kipongi, W. (2021). *Sorcery accusation-related violence in PNG – Part 7: The harm of SARV*, In Brief 2021/07, Department of Pacific Affairs, ANU College of Asia & the Pacific.

6 Forsyth, M., Gibbs, P., Hukula, F., Putt, J., Munau, L. & Losoncz, I. (2019). *Ten preliminary findings concerning sorcery accusation-related violence in Papua New Guinea*, Development Policy Centre Discussion Paper No. 80, Crawford School of Public Policy, The Australian National University, Canberra.

conviction.⁷ Despite victims of SARV being roughly evenly split between men and women at a national level (with significant regional gendered variation),⁸ Auka et al. observed in 2014 that the vast majority of victims of SARV cases in court were men. As shown in Figure 6, this finding is similar to our analysis which found that 79% of cases between 2001 and 2020 involved male victims of SARV. The fact that cases of SARV involving male victims are more likely to proceed through the criminal justice system than those where the victims are women suggests serious gendered barriers to justice in the PNG criminal justice system that need urgent attention.

Figure 6: Gender of victims in SARV cases prosecuted in the National Court, 2001–2020



WHAT DO THE COURT CASES TELL US ABOUT MOB VIOLENCE?

Our research findings based on our incident database show that SARV often involves group attacks, with 34% perpetrated by groups larger than 20, and 40% by groups of 5 to 20.⁹ This led us to analyse our data set of National Court cases to see the extent to which they involved a group attack. We found that 69% of cases could

be characterised as involving a group attack, although often the exact number of perpetrators was not specified in court judgments. This lends support to the finding that there is a strong mob justice element that characterises SARV.

We also wanted to know if the large number of perpetrators committing the offence translated into high numbers of perpetrators being charged for each incident. In fact, as we see in Table 3, it is very unusual for more than two defendants to be charged. The marked exception to this was *State v Kakiwi* in which 97 defendants were charged. This disjunct between the number of perpetrators involved and the number who end up convicted suggests an unsatisfactory arbitrariness to the current prosecution of SARV cases. In some ways, the prosecution of SARV could be another form of scapegoating, as a few individuals pay the very high price for the violence of the group. At the same time, given the high numbers of perpetrators involved, SARV cases raise significant logistical and capacity challenges to the PNG criminal justice system that need to be addressed if all the perpetrators in SARV cases are to be satisfactorily prosecuted.

Table 3: Number of defendants per case, 2001–2020

No of defendants per case	No of cases	Per cent*
1	34	53
2	14	22
3	5	8
4	2	3
5	2	3
6	1	2
7	1	2
9	3	5
16	1	2
97	1	2
Total	64	100

7 Auka, R., Gore, B. & Koralayo, P.R. (2014). *Sorcery- and witchcraft-related killings in Papua New Guinea: The criminal justice system response*. In M. Forsyth & R. Eves (Eds). *Talking it through: Responses to sorcery and witchcraft beliefs and practices in Melanesia*. ANU Press.

8 See Forsyth et al. (2021). *Sorcery accusation-related violence in PNG – Part 5: Incidents and victims*.

9 Forsyth, M., Gibbs, P., Hukula, F., Kipongi, W. & Losoncz, I. (forthcoming). *Sorcery accusation related violence in PNG: Characteristics of perpetrators and accomplices*. National Research Institute Spotlight, PNG.

PUBLIC KNOWLEDGE OF SENTENCES

One of the issues motivating calls for higher sentences and more prosecutions is a belief that this will have a deterrent effect on SARV. The criminological evidence overall does not draw clear correlations between severity of punishment and deterrent impact. There are many relevant factors that contribute to general deterrence. One of these is the extent to which the general public is aware of decisions being made by the courts, and our research to date suggests that such knowledge is extremely limited. Following the case where 97 people were charged in Madang (*State v Kakiwi*), our research team conducted interviews and focus group discussions with 24 participants, comprising police officers, students and teachers in the nearby region. They found very limited knowledge of the court's decision among this group, who it could reasonably be expected would know something of the decision given their demographic characteristics.¹⁰ This suggests that if such a high-profile case fails to make an impact, other cases are even less likely to unless the courts proactively engage in better communication.

POLICY RECOMMENDATIONS AND CONCLUSIONS

Our analysis of SARV cases in the National Court of PNG suggests six key recommendations should be considered by justice agencies as a whole (courts, prosecutors, Department of Justice and Attorney General) as well as by political leaders who need to fund these recommendations.

1. **Focus on increasing SARV prosecutions.** The number of SARV prosecutions in general falls well below the extent of crime that is occurring as a result of sorcery accusations throughout the country. An increased focus on SARV prosecutions is needed.
2. **Prosecute a range of harmful SARV behaviour.** The data shows that the number of prosecutions for murder are disproportionate

to prosecutions for other forms of harm caused by SARV, such as arson, property destruction and serious assault. Prosecutions should be for a wide range of harms resulting from SARV, not just for murder.

3. **Assist female victims in prosecuting cases.** The data indicates that women are far less likely to be able to have their perpetrators prosecuted than men despite forming half the total number of victims. Female victims of SARV need additional assistance in bringing their cases before the court.
4. **Fast-track cases through the court system.** Too often, SARV cases take many years from trial to prosecution and in that time witnesses often become unavailable, evidence is lost, and the outcome becomes less helpful for the victim and their family. There is a need to fast-track SARV cases through the courts.
5. **Arrest all perpetrators in cases involving group attack.** It is uncommon for more than two defendants to be convicted of SARV even though mob violence characterises many of these cases and this makes justice appear to be, if not actually, arbitrary. Greater efforts should be made to arrest all perpetrators of SARV rather than a few.
6. **Communicate court decisions and sentencing to wider public.** Court decisions and sentences need to be better communicated to the general public to overcome impressions of impunity for SARV.

ABOUT THE AUTHOR

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The views expressed in this publication are those of the author only.

¹⁰ See Gibbs, P., McKenna, K., & Yakam, L. T. (2019). *Perception of the public on the law as a deterrent to sorcery accusation related violence, Madang Province, PNG. Contemporary PNG Studies*, 30, 51–71.