



Solomon Islands Government



Solomon Islands CEDAW Combined Initial, Second and Third Periodic Report 2012

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ACRONYMS

AusAID	Australian Aid Agency
CBR	Community Based Rehabilitation
CCC	Christian Care Centre
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CWD	Children with Disabilities
DHS	Solomon Islands Demographic and Health Survey 2007
DPP	Director of Public Prosecutions
ECE	Early Childhood Education
ESIRP	Education Sector Investment and Reform Programme
EVAW	The National Policy on Eliminating Violence Against Women
GEWD	National Policy on Gender Equality and Women's Development (GEWD)
HIV	Human Immunodeficiency Virus
ITN	Insecticide treated net
LAL	SULandowners Advocacy and Legal Support Unit
MAP	Malaria Action Plan
MEHRD	Ministry of Education and Human Resources Development
MFMR	Ministry of Fisheries and Marine Resources
MWYCA	Ministry of Women, Youth and Children Affairs
MWYCFA	Ministry of Women, Youth, Children and Family Affairs
MTDS	Solomon Islands' Government Medium Term Development Strategy
MYWSR	Ministry for Youth, Women, Sports and Recreation
NEAP	National Education Action Plan
NER	Net Enrolment Rate
NGOs	Non Governmental Organisations
NSC	GEWD National Steering Committee
PSSC	Pacific Secondary School Certificate
PSO	Public Solicitor's Office
RAMSI	Regional Assistance Mission to Solomon Islands

RSIPF	Royal Solomon Islands Police Force
SIBC	Solomon Islands Broadcast Corporation
SICA	Solomon Islands Christian Association
SICAFOW	Solomon Islands Christian Association Federation of Women
SICCI	Solomon Islands Chamber of Commerce and Industries
SICHE	Solomon Islands College of Higher Education
SIDT	Solomon Islands Development Trust
SIEMIS	Solomon Islands Education Management Information System
SIF3	Solomon Islands Form 3 (Exam)
SIG	Solomon Islands Government
SILRC	Solomon Islands Law Reform Commission
SINACC	Solomon Islands National Advisory Committee on CEDAW
SINCW	Solomon Islands National Council of Women
SINPF	Solomon Islands National Provident Fund
SIPPA	Solomon Islands Planned Parenthood Association
SISC	Solomon Islands Secondary School Certificate
SISEE	Solomon Islands Secondary Entrance Exam
SIWIBA	Solomon Islands Women in Business Association
SGS	Second Generation Surveillance
SPC	Secretariat of the Pacific Community
STI	Sexually Transmitted Infection
SWD	Social Welfare Division
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
USP	University of the South Pacific
VCCT	Voluntary Confidential Counselling and Testing
WDD	Women's Development Division
WHO	World Health Organisation
YWPG	Young Women's Parliamentary Group



Hon. Peter Tom
Minister for Women, Youth,
Children & Family Affairs

FOREWORD

I am thankful for this opportunity to present the Solomon Islands CEDAW combined report which covers the initial, second and third periodic reports.

To finally produce this combined report after ten years since Solomon Islands became a state party to the convention is a great milestone of its own. Solomon Islands is a post conflict country and the tension and its aftermath have made the delay in producing this report inevitable. The Solomon Islands Government's own limitations in terms of technical and financial capacity to present such a well researched document to the United Nations have also attributed to the delay in producing the three reports when they were due. However, after going through the arduous process of developing this combined report, we are confident that the next report will be easier to produce as we have learnt a great deal from the steps we have taken to produce this report.

What has transpired from this report will not be taken lightly. The Government recognizes that CEDAW is an important human rights instrument that assures the empowerment of women and a catalyst towards gender equality. We appreciate that the costs of our own negligence to implement the obligations under CEDAW will deny Solomon Islanders their rights and freedom and a life of peaceful co-existence and prosperity that must be enjoyed by all citizens.

We are proud of the achievements we have made so far and are committed to ensuring that we do not lose sight of the important areas we need to pay immediate attention including the necessity to systematically monitor and evaluate progress on CEDAW implementation.

As a developing nation, we have benefitted much from the support by our development partners in helping us progress CEDAW. On this note, I would like to thank UN-Women for its joint sponsorship with the Solomon Islands Government to meet the cost of producing this CEDAW combined report. Implementation of CEDAW will continue to embrace the government's partnership role with our development partners and agencies.

May I respectfully thank the UN-CEDAW committee for its understanding of our difficulties and also for its patience. May I also ask for the committee's continual guidance and support to the Solomon Islands Government as we translate CEDAW on the ground.

We look forward to receiving the concluding observations.
God Bless Solomon Islands

A handwritten signature in blue ink, appearing to read 'Peter Tom'.

Honourable Peter Tom MP
Minister of Women, Youth, Children & Family Affairs

INTRODUCTION

The Solomon Islands Government (SIG) acceded to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on 6th May 2002. To date no reports have been submitted in respect of the implementation of CEDAW.

The period between 1998 and 2003 was very difficult with Solomon Islands embroiled in what has been referred to as an “ethnic tension” between two conflicting ethnic groups. This resulted in the intervention of the Regional Assistance Mission to Solomon Islands (RAMSI) in July 2003. To date RAMSI is still present in the Solomon Islands with a plan for transition and drawdown in June 2013.

The ethnic tension not only left the Solomon Islands Government systems, procedures and processes ineffective but also significantly compounded the prevailing capacity constraints to perform basic functions. As a result Solomon Islands did not complete the initial and second reports. Consequently this report is a consolidated initial, second and third periodical report pursuant to the obligations under Article 18 of CEDAW. The completion of this consolidated initial, second and third report demonstrates the commitment of the Solomon Islands Government to the continual improvement of the lives of women.

Despite the setbacks and slow commencement of implementation of CEDAW the Solomon Islands Government has made significant progress towards improving the lives of Solomon Islands women. There has been significant improvement in the policy framework surrounding the rights of women and substantive efforts are underway to also provide for legal framework. This has been through the development and implementation of a number of government policies guided by significant social studies of issues affecting women. In 2009 a Family Health and Safety Study was completed. This study provided the cornerstone for the development of new policies in respect to women and violence against women. In 2010 the Ministry of Women, Youth, Children and Family Affairs launched the National Policy on Gender Equality and Women’s Development (GEWD) and the National Policy on Eliminating Violence Against Women (EVAW). These two policies provide the framework for the programmes and work of the Ministry of Women, Youth, Children and Family Affairs. The national GEWD is the overarching policy that is premised on CEDAW and accompanied by a national plan of action that aims at advancing women’s status in key development areas identified as critical to improving the lives of women in Solomon Islands. These include education and health, women in economy, women’s participation and decision making, violence against women and gender mainstreaming as a cross-cutting theme. The National Policy on Eliminating Violence Against Women is the first of its kind in Solomon Islands. These positive steps demonstrate the commitment of the Solomon Islands Government to the implementation of CEDAW and improving the lives of Solomon Islands Women.

There has been significant improvement in the access to education for girls since the Solomon Islands Government acceded to CEDAW. The ratio of girls to boys accessing primary school has closed to almost negligible. Although there remains disparity at the senior level it is clear that receiving primary school education is now becoming the norm for girls. This significant improvement has been achieved through continuous development of education policies and consistent allocation of resources to the education sector.

Women’s health has also seen improvement with a greater number of women being able to access ante natal and delivery health care. Delivery of services to the rural areas remains a challenge due to the geography of Solomon Islands and the considerable expense to develop infrastructure in rural areas. Despite this, women in the rural areas not only comprise the majority of unpaid subsistence workers but also engage in informal marketing of mostly food produce as the common source of money to feed their families.

The Solomon Islands Government is committed to the development of domestic violence legislation and has allocated a budget for the consultation in its 2012 development budget. Also work towards finalising the National Action Plan for women, peace and security is underway. In the field of participation in leadership and decision making SIG is committed to provide several seats for women in the national parliament and has currently tasked itself to pursue legislative options to effectuate these seats for women.

As part of SIG commitment there have recently been pockets of national policy developments and reviews that mandate and promote women’s participation to increase their economic status and lives.

ARTICLE 1&2: DEFINITION OF DISCRIMINATION AND OBLIGATIONS TO ELIMINATE DISCRIMINATION AGAINST WOMEN

Legal Context

1. The *Constitution* is the supreme law of Solomon Islands. Chapter 2 contains a Bill of Rights which provides a list of individual rights and freedoms conferred upon all citizens. In section 3 *The Constitution* guarantees fundamental rights and freedoms to all citizens regardless of race, place of origin, political opinions, colour, creed or sex. These rights and freedoms are subject to the public interest and to the rights and freedoms of others. Consequently, courts have the discretion to deny the rights and freedoms if they consider it in the public interest to do so.
2. Sections 4 – 15 of *The Constitution* provide for the protection of individual rights and freedoms. The specific rights and freedoms provided include
 - a. Protection of the Right to Life – section 4
 - b. Protection of Right to Personal Liberty – section 5
 - c. Protection from Slavery and Forced Labour – section 6
 - d. Protection from Inhuman Treatment – section 7
 - e. Protection from Deprivation of Property – section 8
 - f. Protection from Privacy of Home and Other Property – section 9
 - g. Protection of the Law – section 10
 - h. Protection of Freedom of Conscience – section 11
 - i. Protection of Freedom of Expression – section 12
 - j. Protection of Freedom of Assembly and Association – section 13
 - k. Protection of Freedom of Movement – section 14
 - l. Protection from Discrimination – section 15
3. The *Constitution* gives legal status to customary law by virtue of section 3 of Schedule 3. It provides –
 1. *“Subject to this paragraph, customary law shall have effect as part of the law of Solomon Islands.*
 2. *The preceding subparagraph shall not apply in respect of any customary law that is, and to the extent that it is, inconsistent with this Constitution or an Act of Parliament.*
 3. *An Act of Parliament may:-*
 - a. *provide for the proof and pleading of customary law for any purpose;*
 - b. *regulate the manner in which or the purposes for which customary law may be recognised; and*
 - c. *provide for the resolution of conflicts of customary law.”*

4. Section 2 of *The Constitution* provides that the Constitution is the supreme law of the Solomon Islands and any other law that is inconsistent shall be void to the extent of the inconsistency. This provision applies to customary law unless there is some other constitutional basis for exception.
5. The *Constitution* does not contain a constitutional guarantee of *substantive equality*¹ between men and women. The Constitution also fails to provide a guaranteed right to the highest attainable standard of physical and mental health. However, it does contain an anti-discrimination clause on the ground of gender. Section 15 of *The Constitution* prohibits any treatment to different persons attributable to their gender and subjecting such person to disabilities or restrictions which another person of another such description is not afforded, or privileges or advantages not accorded to another of such description.
6. However, section 15 provides an exception to laws that relate to the application of customary law. Section 15(1) provides that no law shall make any provision that is discriminatory either of itself or in its effect. This is subject to a number of exceptions which include in section 15(5) an exception of application of section 15(1) to any laws that make provision for the application of customary law. Customary law is often discriminatory in its application against women. Therefore, section 15 of *The Constitution* provides an exception for discrimination that is based on customary law. There is no provision in *The Constitution* which gives precedence to the guarantee of equality in the case of conflict with customary law.
7. The *Constitution* does not contain an anti-discrimination clause on the grounds of marital status, sexual orientation, HIV or health status or disability. There are provisions in various Acts of Parliament² which actively discriminate against women on some of these grounds. For example, section 18 of the *Islanders Divorce Act* provides:

“A husband may, on a petition for divorce, or judicial separation claim damages from any person on the ground of adultery with the wife of the petitioner.”

This provision is discriminatory to women by reinforcing the stereotype that wives are the property of the husband.
8. The definition of discrimination contained in section 15 of *The Constitution* provides that “no law shall be discriminatory either of itself or its effect”. The extension to the effect of the law provides the capacity for actions in indirect as well as direct discrimination. However, the provision applies only to the effect of the law and not to the actions of individuals or organisations.
9. By virtue of sections 15(1) and 15(2) of *The Constitution* the anti-discrimination clause binds public authorities and institutions. There are some protections available for women against discrimination by private institutions and individuals. However, these are very limited and relate to a very restricted area of day to day life. Section 15(3) provides :

1 Substantive equality is an underlying principle in CEDAW. It recognises that equal treatment is not equivalent to identical treatment, and that it is necessary to treat women and men differently according to their circumstances to assert their equal worth and to enhance their capabilities to participate in society as equals. See *Declaration of Principles of Equality*, 2008, Equal Rights Trust, London.

2 An example is section 162(a) of the *Penal Code 1966* which provides: “any person who, whether in public or private, commits any act of gross indecency with another of the same sex commits an offence”. The provision provides a maximum penalty of five years imprisonment. This provision applies to both men and women. It discriminates against women and men in same sex relationships and makes them liable to criminal penalty. Compared to men in same sex relationships, women in same sex relationships are more vulnerable.

“no person shall be treated in a discriminatory manner in respect of access to shops, hotels, lodging-houses, public restaurants, eating-houses or places of public entertainment or in respect of access to places of public resort maintained wholly or partly out of public funds or dedicated to the use of the general public.”

10. Section 18 of *The Constitution* provides that any person who alleges a breach in respect of the protections provided in sections 1-16 of *The Constitution* can apply to the High Court for redress. The High Court can make orders, issue writs and give directions to enforce or secure rights protected. Pursuant to section 17 a person whose rights or freedoms have been contravened can seek compensation from the individual or organisation responsible for the infringement.

11. There is no stand-alone anti-discrimination legislation in Solomon Islands.

12. The Code of Conduct of the Solomon Islands Public Service provides the following definition of discrimination:

“Discrimination – occurs when someone makes a preference or excludes another person from equal opportunity in employment because of issues such as race, age, gender or disability”.

The Code of Conduct provides that all members of the public service must ensure that their actions and language are not offensive or discriminatory to others. Penalties for breach of the code of conduct include warnings, a charge of misconduct, reprimand and dismissal.

13. Much of the domestic legislation is inconsistent with the provisions of the CEDAW. The legal and regulatory system of Solomon Islands, which includes all of the mechanisms for the creation, interpretation and enforcement of customary law, and community practices, does not effectively guarantee the elimination of discrimination against women. There are many discriminatory provisions particularly in relation to sexual offences against women in the *Penal Code* and conditions of employment in the *Labour Act*. The *Penal Code* is currently undergoing a significant review in an endeavour to remove these discriminatory provisions.

14. The *Penal Code* does not contain any specific offences for domestic violence. There are a number of provisions which could be utilised dependent on the factual circumstances. These are as follows:

- a. *s.231(i) intimidation and molestation which provides a maximum penalty of three years imprisonment;*
- b. *s. 244 common assault which provides a maximum penalty of one year imprisonment;*
- c. *s. 245 Assault causing actual bodily harm which provides a maximum penalty of five years imprisonment.*
- d. *s. 226 Causing grievous harm which provides a maximum penalty of 14 years imprisonment.*

15. There is no legislation that imposes mandatory prosecution of domestic violence offences or offences that amount to domestic violence.

16. The *Penal Code* does not provide a specific offence of stalking. However, in some circumstances an offence of Intimidation and Molestation under section 231(i) could be utilised. This offence provides that any person who intimidates or molests any other person shall be guilty of an offence and provides a maximum penalty of three years imprisonment. The definition of the offence is not broad enough to encompass all circumstances in which a woman may be stalked.

17. The *Affiliation, Separation and Maintenance Act (CAP1) 1971* in section 22 provides that if the court is satisfied that a person is violent or threatening violence the court can order them to leave the marital home and to prohibit them re-entering the matrimonial home. The order can be made ex-parte and either party can apply. The orders give the police powers of arrest if there is reasonable cause for suspecting a breach. The provisions are not available to all women and are consequently discriminatory in nature. The protection is only available to women who are married in formal law or in custom law. It does not apply to women who are in de facto relationships or in a relationship where the parties do not reside together.
18. The *Penal Code 1966* provides a broad range of sexual assault offences with varying penalties. These include:
 - a. s. 136 Rape – maximum penalty of life imprisonment;
 - b. s.140 abduction of an unmarried girl under 18 to have carnal knowledge – misdemeanour and maximum penalty two years;
 - c. s. 141 Indecent assault – maximum penalty five years imprisonment;
 - d. s.142 Defilement of girl under thirteen – maximum penalty life imprisonment
 - e. s. 143 Defilement of girl between thirteen and fifteen – five years imprisonment.
19. The definition of rape in the *Penal Code* is very limited and does not allow for any penetration other than penile penetration of the vagina. Section 168 provides that it is not necessary to prove the completion of the intercourse by the actual emission of seed but the intercourse shall be deemed complete on proof of penetration only. This definition excludes the variety of ways in which women may be sexually violated.
20. Section 164 of the *Penal Code* provides an offence of incest which means that women and girls fifteen years of age and over can be charged with an offence relating to the incest that they are a victim of.
21. Consent is defined in the *Penal Code* in section 136. It provides a list which is not broad enough to encompass the full range of situations in which women may consent because of coercion. For example, consent because of a threat to a third party is not provided for in the definition.
22. The *Evidence Act 2009* in section 7 provides that the corroboration rules of England are abrogated and section 18 provides that subject to any other written law it is not necessary that evidence on which a party relies be corroborated. There are offences under the *Penal Code* which require corroboration. For example section 145 provides an offence of Procuring defilement of woman by threats or fraud or administering drugs. This provision provides that a person accused of this offence cannot be convicted on the word of one witness alone unless the witness can be corroborated in some material particular by evidence implicating the accused.
23. There is no legislative provision which prohibits absolutely the use of prior sexual conduct to establish consent. However, there are provisions which restrict the type of evidence that may be obtained from victims of sexual offences. Section 58 of the *Evidence Act 2009* provides the circumstances under which evidence in relation to the prior sexual conduct of a victim of a sexual offence may be received by the court. The provision gives the court the discretion to hear evidence about the victims' previous sexual conduct depending on the circumstances of the offence. There is no legislative prohibition on the requirement for proof of resistance, however if this is regarded as evidence of corroboration of lack of consent it would not be required given section 18 of the *Evidence Act 2009*.

24. The *Penal Code* provides a defence of honest and reasonable belief in relation to a number of sexual offences. It is a defence to have an honest and reasonable belief that the victim is eighteen years of age or over for an offence under s.140 of the *Penal Code*, that is the 'Abduction of an unmarried girl under 18 with intent to have carnal knowledge'. It is a defence to a charge of defilement of a girl between thirteen and fifteen years of age if the offender had an honest and reasonable belief that the girl was fifteen years of age or over. It is also a defence to a charge of householder permitting defilement under section 147 in the defendant had an honest and reasonable belief that the girl was over the age of fifteen.
25. There are some provisions in the *Penal Code* which provide that consent is not a defence for a sexual offence. These provisions vary in reference to the age of the victim and are highly discriminatory. Section 141(2) provides that it is not a defence to a charge of an indecent assault on a girl under the age of fifteen that she consented. Section 142(3) provides that it is not a defence to a charge of defilement of a girl under the age of thirteen that she consented. Procurement of a girl or woman for the purposes of prostitution under section 144 is an offence regardless of consent of the woman or girl and is not dependent on any age restriction. The offence of incest contained in section 163 provides that consent is not a defence. This provision is not dependent on any age restriction.
26. There is no legislative provision which provides an exemption from prosecution for marital rape. In *Regina v Gua*³ the court overturned the common law proposition applied in Solomon Islands that a husband cannot be guilty of rape upon his wife. The Court applied CEDAW⁴ in stating that a husband and wife are equal partners in marriage and held that a husband can be criminally liable for raping his wife. This landmark ruling reflects significant progress in the courts to recognising gender equality.
27. The granting of bail for people accused of committing sexual offences is governed by the *Criminal Procedure Code* (CAP 7). Bail for sexual offences is governed in the same manner as bail for all other offences. That is there are no additional requirements specified in the legislation for sexual offences. Police are able to give bail unless the offence is serious in nature. Serious in nature is not defined in the legislation and is therefore discretionary. In respect to bail applications made during the court processes, as a matter of course the court will consider the risk to the victim and if bail is granted the court will usually impose bail conditions which protect the victim. No contact with the victim clauses are common bail conditions for offenders charged with sexual offences and granted bail by the court.
28. There are no minimum sentences for sexual offences provided in the *Penal Code*. The *Penal Code* provides a maximum penalty for each offence and the sentence imposed is at the discretion of the sentencing court. Sentencing principles are not provided for in legislation, however the courts have regard to principles established through case law such as aggravating features, general and personal deterrence. There is no provision in the criminal legislation that states that customary practices of forgiveness shall not affect criminal prosecution or sentencing. The *Magistrates Courts Act* (CAP 20) in section 35 provides that the court has the power to stay or terminate criminal proceedings in respect of matters such as common assault or other offences that are of a personal or private nature and do not amount to a felony. The settlement of the matter is usually by way of reconciliation and payment of compensation to the satisfaction of the court. Although the Chief Justice of the High Court provides practice directions in respect of the application of section 35, the section is open to abuse and provides little protection for women who are victims of domestic violence.
29. There is no specific criminal compensation legislation. However, the *Criminal Procedure Code*

3 [2012] SBHC 118; HCSI-CRC 195 of 2011.

4 Articles 15 and 16.

1962 provides in section 156(1)(b) that the court can order a defendant to pay compensation to a victim of a crime. However, the circumstances are limited as it is effectively a payment of compensation out of recoverable fine. There is no separate provision for instance if the offender is not sentenced to the payment of a fine for example being sentenced to a term of imprisonment. In these circumstances there is reliance on compensation being recovered by virtue of a civil action and not under any legislative provision.

30. The *Penal Code* (CAP 26) in section 206 provides for an offence of infanticide as opposed to it being treated as an offence of murder. However, the provision treats infanticide the same as manslaughter and consequently the maximum penalty is life imprisonment. The offence of murder has a mandatory sentence of life imprisonment, in contrast the offence of manslaughter has a maximum penalty of life imprisonment and the actual sentence is at the discretion of the court. The definition of infanticide does not include environmental or social stresses. It is defined as:

“Where a woman by any wilful act or omission causes the death of her child under the age of twelve months but at the time the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child....”

Application of the Law

31. It is acknowledged that the provisions in the *The Constitution* are not in full conformity with CEDAW in that they do not guarantee *substantive equality*. They apply only to the public sphere, and this is not the expanded definition of discrimination as contained in CEDAW.
32. The definition of discrimination provided in *The Constitution* is not sufficiently broad to be interpreted as being compatible with the definition contained in the Convention⁵.
33. The conflict between the constitutional guarantee of equality contained in section 15 and customary law remains unresolved. It is unclear whether the exception from the non-discrimination provision contained in section 15 of the Constitution is intended to exempt all customary laws from the anti-discrimination provision (a wide interpretation) or whether it should be interpreted more narrowly to limit the exemption to laws concerning when or how customary law applies.⁶
34. There has not been any clarification of the interpretation of the provision by any Acts of Parliament despite *The Constitution* giving Parliament the power to make laws with respect to the application of customary law. The Courts have considered the issue on a number of occasions but not since the ratification of CEDAW. In *Tanavalu v Tanavalu*⁷ the High Court favoured the wide interpretation that the exemption applied to all customary laws. This decision was upheld by the Court of Appeal. In *Minister for Provincial Government v Guadalcanal Provincial Assembly*⁸ the issue that women were discriminated against because they could not be chiefs was considered by the court. The Court of Appeal upheld that discrimination against women was not unconstitutional as *The Constitution* itself legitimated sex discrimination. In *Remisio Pusi v James Leni and Ors*⁹ the Court stated that the non-discrimination provision of *The Constitution* would not necessarily be applied in preference to customary law. It would depend on the circumstances of the case. These cases demonstrate

5 See Paragraph 5 above.

6 Hedditch, S. Manuel, C. Solomon Islands Gender and Investment Climate Reform Assessment, January 2010, International Finance Corporation, p11.

7 Unreported, High Court, Solomon Islands, Civil Case 185/1995, 12 January 1998.

8 Unreported Court of Appeal, Solomon Islands, Civil Case 3/1997, 11 July 1997.

9 [1990] SILR 174 (10 August 1990).

that there is no clear and consistent manner in how customary law is applied with respect to discrimination against women.

35. The reliance on the various *Penal Code* offences to prosecute acts of domestic violence is generally regarded as not being appropriate for the ongoing and serious nature of domestic violence. Furthermore, the penalties are rather quite low given the circumstances surrounding the commission of domestic violence. The provision for reconciliation under the *Magistrate Courts Act* enables the continuation of domestic violence and potentially provides no consequences for the offender. This provision fails to recognise the pressure placed on women by families, religion and custom to return to their husbands after they have been subjected to domestic violence.
36. The sexual offences in the *Penal Code* are discriminatory by definition and also by penalties provided. Although defilement of a girl under thirteen is treated seriously and the maximum sentence provided is life imprisonment, it is treated significantly different to defilement of a girl between the ages of thirteen and fifteen. This implies that a sexual offence committed against a girl is not as serious if the girl is older. This is discriminatory. The offences of incest and rape carry unequal sentences. Rape carries a maximum penalty of life imprisonment but incest of a girl between the age of fifteen and eighteen attracts a maximum sentence of only seven years imprisonment. The law is unfairly based on the assumption that girls between the ages of fifteen and eighteen have full control over their lives or are able to give consent. It fails to consider the position of the offender in contrast to the victim. The range of offences is not broad enough to provide adequate protections for women.
37. Section 143 of the *Penal Code* provides for the offence of defilement of a girl between the age of thirteen and fifteen. This provision provides that no prosecution for the offence shall be commenced if it is more than twelve months after the commission of the offence. This is a discriminatory provision. It ignores the secrecy that usually surrounds sexual abuse and the power imbalance between the victim and the offender which makes reporting the abuse difficult for victims.
38. The offence of incest by the victim aged fifteen years and over is highly discriminatory. It fails to recognise the power imbalance between women and girls and male relatives. Furthermore it is typically perpetrated by men against girls and women in non-consensual and coercive circumstances. This offence punishes a victim without any consideration of the dynamics of the circumstances surrounding the offence.
39. The terms defilement, indecency and insulting the modesty have not been removed from the *Penal Code* and are referred to throughout the provisions that deal with sexual offences. These terms are offensive and discriminatory as they suggest that women and girls are damaged or “spoilt” by sexual offences. The offences should use non-discriminatory language and be focussed on the invasion of personal autonomy.
40. The availability of a defence of honest and reasonable belief of the victim’s age in various sexual offences under the *Penal Code* is discriminatory and does not afford any protection to victims of these types of offences. The availability of a defence to these offences places the onus on the victim, who is a child, to reveal her age rather than the offender taking steps to ascertain the victim’s actual age. It essentially reverses the onus onto the victim in circumstances where the victim is usually a child.

Law Reform

41. The Solomon Islands Law Reform Commission (SILRC) is currently reviewing the *Penal Code* and the *Criminal Procedure Code*. The SILRC must report back to the Minister for Justice and Legal Affairs on reforms necessary to reflect the current needs of the people of

Solomon Islands and implement the international obligations of Solomon Islands. If the Minister for Justice and Legal Affairs agrees with the recommendations made by the SILRC the recommendations will then be forwarded to Cabinet for consideration. The Review of the *Penal Code* and *Criminal Procedure Code* is one of the references the SILRC received from the Minister of Justice and Legal Affairs in 1995. The terms of reference require the SILRC to enquire and report on reforms necessary to reflect the current needs and the aspirations of the people of and Solomon Islands. The two Codes were introduced in Solomon Islands in 1963 and 1964 and have not been significantly changed since then. The review is complex and large – the two Codes contain around 700 provisions. The review has been broken down into different projects covering the different phases of the review and is being undertaken with regard to the obligations of Solomon Islands under CEDAW. The SILRC have made the following recommendations to amend the *Penal Code* to bring it into conformity with the principles of the CEDAW:

- i. Modifying current offences to adequately protect women;
 - ii. Introduce new and specific offences for children;
 - iii. Eliminate problems identified in relation to the current law on sexual offences;
 - iv. Eliminate discrimination.
42. The SILRC has made extensive recommendations for amendments to the *Penal Code* in respect of sexual offences. These recommendations include the strengthening of current provisions and the addition of specific new offences. The recommendations ensure the offences are gender neutral, remove old fashioned language that is discriminatory and create new offences to cover previous gaps in the law. The recommendations on sexual offences are in the process of being submitted to the Minister for Justice and Legal Affairs.
43. The recommendations include the following additions and amendments to the *Penal Code*:
1. Sexual intercourse of a child under 15 years old – replacing the old fashioned defilement offence – new offence modifying defilement;
 2. Abuse of trust, authority or dependency – new offence;
 3. Persistent sexual abuse of a child – new offence;
 4. Indecent touching of a child – new offence;
 5. Indecent act directed at a child – new offence;
 6. Child prostitution – new offence;
 7. Expanding the definition of rape.
44. A new offence relating to child pornography has also been recommended however this is still being considered by the Law Reform Commissioners.
45. The recommendations made by the SILRC in respect to the offence of rape are:
- Rape to be a gender neutral crime that will protect women and men , boys and girls;
 - Sexual intercourse should include penetration of other parts of the body, including penetration with objects;
 - ‘Consent’ to be defined in legislation as ‘free and voluntary agreement where the person has the freedom and capacity to make the choice’;
 - The Penal Code should give guidance about when a person cannot make a free

agreement because of immature age, mental ability, being asleep or unconscious. A person does not consent just because he or she does not cry out or struggle; and

- The crime should apply to all people, even where there is a marriage between the victim and the accused person.

46. The SILRC also has a reference to review the *Affiliation Separation and Maintenance Act*. This reference was given to the SILRC in 1995 but has not yet commenced.
47. The completion of work by the Law Reform Commission is constrained by human resource issues, capacity issues and competing priorities. The review of the *Penal Code* has been continuing at a steady pace and significant gains have been made. Law reform continues to be a priority to establish a legal framework which is not discriminatory to women. (paragraph 93 from conclusion)

National Machinery for Women and Government Policies

48. The government machinery for women has undergone a number of structural and functional changes since the 1990's. In 1994 the government created the Ministry for Youth, Women, Sports and Recreation (MYWSR). In 1997 MYWSR was dissolved and the areas of youth and women were assigned to separate ministries. In April 2007 a new ministry, the Ministry of Women, Youth and Children's Affairs (MWYCA) was established in acknowledgement of the important role of women, youth and children as contributors to and beneficiaries of development within society. The mission statement reflects the commitment of the Solomon Islands Government to equality and states "this Ministry is established to uphold and promote the rights of women, young people and children through effective partnership and strong commitment, thereby creating equal opportunities for all to advance the well-being of the nation". Within that ministry the Women's Development Division (WDD) is established. WDD derives its mandate from and implements national policies and action plans with respect to gender equality and women's issues. The WDD has its own mission statement which is "to develop, co-ordinate and implement plans and activities to provide opportunities that empower women to participate fully in the development of the Solomon Islands." Contributions by a number of development partners have facilitated the implementation of a number of gender equality initiatives and have allowed WDD to progress.
49. Progress of the implementation of CEDAW has been slow but consistent since the establishment of the Ministry of Women, Youth, Children and Family Affairs. There has been considerable effort in establishing a comprehensive policy framework that not only protects women's rights but also seeks to improve the development of women and identify and address areas of concern. The next step for the Ministry is the development of mechanisms and processes for the implementation, monitoring and evaluation of these policies.
50. In 2007 the WDD was comprised of 8 staff and in 2009 this had increased slightly to 9 staff, all of whom are women. In 2010 the ministry was renamed the Ministry of Women, Youth, Children and Family Affairs (MWYCFA). The operation of the MWYCFA demonstrates the commitment of SIG to equality for women in all aspects of life.
51. The first national policy for women was endorsed in 1998. The aims and objectives of the policy were to promote and increase the participation of women at national decision-making level, improve the availability and circulation of information relating to the welfare of women and children, and facilitate training programmes to improve the capacity of women to effectively participate at the various levels of national development. However, the policy was never accompanied by an implementation plan, although the MWYCA Corporate Plan 2008-2010 eventually provided some guidelines for implementation. Together the policy

and plan provided a platform for the integration of gender equality.¹⁰ While there have been visible improvements in access to health and education and increased involvement of women in the labour force, Solomon Islands women continue to lag behind their male counterparts despite making up half the country's population.¹¹

52. The establishment of the Ministry of Women, Youth and Children Affairs in 2007 was not matched with an appropriate level of resources, which reflects a lack of implemented government commitment to gender equality at that time. WDD only had an allocation of SBD\$1,120,584 for programme costs in 2009 and this was slightly increased to SBD\$1,204,613 in 2010. The WDD is consistently constrained by a lack of resources.
53. In 2006 the Solomon Islands National Advisory Committee on CEDAW (SINACC) was established. It was chaired by the Permanent Secretary for Home Affairs, Women, Youth and Sports but has been inactive for some time. In June 2012 the membership of the SINACC was reviewed and the SINACC re-established. In recognition that CEDAW cuts across many sectors the SINACC embraces the partnership role between government and NGOs and its members represent various sectors and actors. New terms of reference have been developed and the SINACC conducted its first meeting in June 2012. It is envisaged that the SINACC will meet on a quarterly basis. It will act as an advisory and consultation group whose main role is to oversee the implementation of CEDAW.
54. Since 2007 the MWYCFA (as it now is) has played the coordinating role for the White Ribbon Campaign. This campaign involves NGOs and the MWYCFA advocating against "Violence Against Women" and it starts from 25 November and ends on the 10th of December each year. The campaign always commences with a parade through Honiara, the capital city. The campaign is referred to as "16 Days of Activism" and incorporates a range of awareness raising activities in relation to violence against women. The campaign has continued to increase in size each year and the participation of the private sector and development partners has also increased. From 2012 government will increase its support for the campaign to be held in more Provinces. Prior to 2007 it was NGOs who were responsible for the coordination of this campaign. The campaign raises awareness in relation to gender equality.
55. In 2007 the WDD conducted a range of training and awareness raising workshops in relation to CEDAW, human rights and violence against women. A total of eight workshops were conducted, four of which were conducted in the provinces. The total of the WDD's assistant grant disbursement for 2007 was SBD\$215,345.09. Throughout the period of 2008-2010 a range of national advocacy and awareness programmes on CEDAW were implemented in eight out of nine provinces and in the capital city, Honiara. These workshops included topics such as gender equality, the provisions of CEDAW, violence against women and life skills. The workshops also focussed on economic empowerment. Grants to women's community development projects were also provided.
56. The monitoring and evaluation mechanisms of policies and programmes of the WDD have not previously included performance indicators, nor were they subject to rigorous scrutiny. Monitoring was mainly conducted through monthly staff meetings and annual reports to Cabinet. It is recognised that consistent and rigorous monitoring and evaluation of all policies relevant to CEDAW needs to be implemented as a matter of priority.
57. Some projects implemented by WDD are still centred in meeting the practical needs of women; however, increasingly programmes and projects, with the support of development

10 Stocktake of the Gender Mainstreaming Capacity of Pacific Island Governments – Solomon Islands, 2012, Secretariat of the Pacific Community, p19.

11 Solomon Islands National Policy on Gender Equality and Women's Development, 2010, p1.

partners, are being designed in response to Solomon Islands' commitments to international human rights standards and principles. These include the development of a temporary special measures policy paper that was submitted to Caucus in 2009. However, Caucus was of the view that there had not been enough consultation and consequently did not support the policy paper.

58. There are a number of civil society organisations that play an important role in promoting, implementing and supporting the work of the WDD. The Solomon Islands National Council of Women (SINCW) was an initiative of SIG and was established in 1983 to act as a watchdog and forum for women to the government. It forms part of the national women's machinery. The aims and objectives of the SINCW are:
- Act as a representative for women in Solomon Islands to SIG and other bodies;
 - Advise SIG on government policies;
 - Provide a forum where women in Solomon Islands can speak out on issues affecting them;
 - Encourage women in Solomon Islands to participate in decision making bodies and processes;
 - Identify the needs of women in Solomon Islands and devise ways to meet these needs;
 - Promote awareness of women concerns;
 - Form effective partnerships with other agencies and organisations where appropriate.
59. The Public Service Commission is the body responsible for the human resource management for the entire public service. Currently, there are no specific Public Service Commission rules or regulations in support of gender equality. However, in 2010 the SIG launched "A Human Resource Management Strategy for the Solomon Islands 2010-2015". Objective 14 of the strategy is to "Assist SIG to implement gender equality strategies across the public service which provides women with the same access to employment and career development opportunities as men". To date there has been no monitoring or evaluation of the implementation of this objective as the focus has been on the establishment of mechanisms and processes to implement the strategy. In 2011 the Ministry of Public Service launched a "Leadership and Management Development Framework" which highlights the importance of providing leadership and management opportunities on the basis of equity in the public service.
60. The Public Service Commission agreed on a number of strategies¹² for gender equality including gender mainstreaming (GMS) as one of the four Key Result Areas for Permanent Secretaries (PSs) Performance Agreements. The MWYCFA conducted a gender mainstreaming session for Permanent Secretaries in August 2012 and an outcome from discussions at this session was an agreement to designate Gender Focal Points (GFP) to ensure gender mainstreaming is adopted and implemented across whole of government. MWYCFA with the help of RAMSI¹³ and SPC¹⁴ is also developing a Gender Mainstreaming Manual to be finalised by the end of 2012.
61. The MWYCFA has also commenced a stock take of existing and potential Gender Focal Points (GFPs) in the public service with the aim of establishing working links with them and to identify required capacity building needs. These GFPs will be coordinated by the MWYCFA through its GEWD Policy Coordination Unit.

12 Other strategies to mainstream gender include information sharing forums for Human Resource Managers, Code of Conduct trainings, design and delivery of new leadership and management program, collection of disaggregated data and reviewing of the government General Orders.

13 Regional Assistance Mission to Solomon Islands.

14 Secretariat of the Pacific Community.

62. Gender focal points have already been created in some ministries to enable gender mainstreaming. The establishment of these focal points in the Ministry of Finance and Treasury, Office of the Prime Minister and Ministry of Development, Planning and Aid Coordination is part of the GEWD implementation plan. The gender focal point in the Ministry of Development, Planning and Aid Coordination has already been recruited.
63. There are no parliamentary committees with a specific gender equality mandate.
64. In recognition of the importance of women in the fisheries sector the Ministry of Fisheries and Marine Resources (MFMR) in partnership with the World Fish Centre through the “Mekem Strong Solomon Islands Fisheries Institutional Strengthening Programme” have cooperated in developing a strategy for mainstreaming gender in fisheries. Aspiring to achieve gender equality in fisheries, a review of the Ministry of Fisheries and Marine Resources Corporate plan 2011-2013 provides the basis for this strategy. The goal of the strategy is to enhance the role of women and to mainstream gender in fisheries. It will ensure that women are active participants in inshore fisheries management and development and that their contributions are meaningful. The strategy includes the objective to provide a gender sensitive approach to the translation and implementation of the MFMR Corporate plan 2011-2013.
65. In 2004 the Ministry of Health and Medical Services developed the Solomon Islands National Policy on Disability 2005-2010. One of the objectives of this policy is the promotion of equal participation of women with disabilities and mainstream their issues on a national, regional and international level. The policy recognises that women and girls, to a greater extent than boys and men with disabilities, face discrimination within the family, are denied access to health care, education and are excluded from social and community activities. Another objective of the policy is the creation of more opportunities for income generation, employment and promotion based on equal rights and empowerment of all persons regardless of disability or gender. This policy is scheduled to be reviewed in 2013 to enable the development and implementation of a more up to date policy.
66. In recognition of the need to educate students in respect of human rights a review of the Social Science textbook for year 8 commenced in 2011. The textbook will include three chapters on human rights including Rules, Laws and Judiciary – the role of courts and laws in the protection of human rights and the basic freedoms that Solomon Islands citizens have guaranteed in the Constitution; Gender Inequality – how gender equality should be encouraged in Solomon Islands societies and Women and Leadership – the changing role of women and barriers that women face within society. It is anticipated that the updated textbook will be ready for use in schools 2013.

National Policy on Gender Equality and Women’s Development

67. In 2009 a review of the National Women’s Policy was conducted and the National Policy on Gender Equality and Women’s Development (GEWD) was endorsed by Cabinet in 2010. The policy is accompanied by a Strategic Plan of Action (2010-2012) and is linked to specific international and regional gender equality commitments. The GEWD policy goal is to advance gender equality and enhance women’s development ensuring the active contribution and meaningful participation of both Solomon Islands women and men in all spheres, and at all levels, of development and decision making. The GEWD policy represents a very significant step as it incorporates both gender equality and development. In contrast the previous policy was primarily focussed on development. The goal of GEWD aligned with the Solomon Islands Government Medium Term Development Strategy 2008-2010 (MTDS). The MTDS recognises that women’s development will help achieve the national objective of addressing the basic needs of the people in rural communities, where the majority of people live, and ensure real improvement in their standard of living.

68. Despite the existence of the National Policy on Gender Equality and Women's Development (GEWD) there are currently no Provincial women's policies. Although the development of provincial women's policies has been in the work plan of the MWYCFA for two years, these are yet to be completed. Work has commenced on the provincial policies for Guadalcanal Province and Choiseul Province. It is anticipated that these provinces will complete their policies in late 2012 early 2013. The development of the provincial policies has been slow due to resource constraints, budgetary support and the competing priorities of the MWYCFA.
69. To demonstrate its commitment to eliminating all forms of discrimination against women the SIG has committed to providing sufficient resources for the implementation of the GEWD policy. The five priority outcomes sought throughout the life of the policy (2010-2015) are:
- Improved and equitable health and education for women, men, girls and boys;
 - Improved economic of status of women;
 - Equal participation of women and men in decision making and leadership;
 - Elimination of violence against women; and
 - Increased capacity for gender mainstreaming.
70. Performance monitoring of the GEWD is by way of the GEWD National Steering Committee (NSC) of Permanent Secretaries and key stakeholders and report annually to Parliament through the MWYCFA. Each of the priority outcomes of the policy are overseen by respective National Task Forces. The SINACC reports to the GEWD Gender Mainstreaming Taskforce. The NSC was established in 2011 and had its first meeting in July 2011. It has not met since that time but there is a plan for the NSC to meet in July 2012. Consequently, the monitoring and evaluation role of the NSC has not yet commenced. Therefore, there is currently no oversight of the implementation of the GEWD. However, the 2012 work plan of the MWYCFA includes the development of a monitoring and evaluation framework and training and development of MWYCFA staff on the framework with the intention that the monitoring and evaluation by the MWYCFA will commence in 2013. The MWYCFA is making considerable efforts to ensure that the systems and processes established for the monitoring and evaluation of the GEWD policy are sustainable and effective.
71. The co-ordinating role of the SINCW has been incorporated into the GEWD policy. SINCW has the mandate to organise a quarterly forum for: policy dialogue, information sharing and discussion on the implementation of the policy, the involvement of churches and civil society organisations and monitoring policy outcomes. SINCW is a member of the GEWD policy's National Steering Committee and its terms of reference are annexed to the policy. In terms of policy implementation, the main role of the SINCW under the GEWD policy is to coordinate the implementation of the policy with NGOs, civil society organisations and churches.

National Policy on Eliminating Violence Against Women

72. In 2009, the "Solomon Islands Family Health and Safety Study: a Study on Violence Against Women and Children" was completed in partnership with a number of development partners with the MWYCFA as the national coordinator. This is the most comprehensive study to date on incidences of gender based violence and violence against children in Solomon Islands. The Solomon Islands Family Health and Safety Study found that 64% or two out of three women aged between 15 and 49 in Solomon Islands have experienced physical or sexual abuse, or both, by an intimate partner. During the ethnic tensions many women were sexually abused by militants and were traumatised by the abuse together with the social and economic impacts of the conflict.¹⁵

15 Where is the Dignity in That, September 2011, Amnesty International at <http://www.amnesty.org.nz/files/SolomonIslandsWEB.pdf> (Accessed on 20/11/2012)

73. The Family Health and Safety Study recommended the development of government policies to eliminate violence against women. In response to the recommendations, Cabinet endorsed the National Elimination of Violence against Women Policy (EVAW) in 2010. Cabinet has also approved drafting instructions for the development of a comprehensive stand-alone domestic violence bill¹⁶. The National Action Plan on Women, Peace and Security, currently in draft form is also another initiative emanating from the Family Health and Safety Study recommendations.
74. The high prevalence of violence against women demonstrated by the study was used to inform the priority policy outcomes of GEWD. This policy was then expanded to develop the National Policy of Eliminating Violence Against Women (EVAW) (2010) as a subsidiary policy to the GEWD. It is implemented through a national eliminating violence against women taskforce that reports to the National Steering Committee on Gender Equality and Women's Development, and comprising of representatives of violence against women support agencies such as police, health, education, medical services and a number of other stakeholders. The taskforce is guided by a three year multi-sectoral national action plan which will be reviewed after its initial two years via the National Taskforce and the National Steering Committee. The monitoring of the policy will be reported annually to Parliament through the MWYCFA. These reviews will guide the updating of the national action plan and will guide government in evaluating the effectiveness of the policy.
75. The EVAW policy has four guiding principles and values these being:
- Zero tolerance of violence;
 - Recognition of women's rights;
 - The shared responsibility for eliminating violence against women; and
 - Achieving gender equality.
76. The policy has seven key strategic areas:
- Developing national commitments to eliminate violence against women;
 - Strengthening legal frameworks, law enforcement and justice systems;
 - Eliminating and preventing violence against women through public awareness and advocacy;
 - Strengthen and improve protective, social and support services;
 - Rehabilitate and treat perpetrators;
 - Work with men to end violence against women;
 - Coordinate policy and services.
77. To date there has been no monitoring or evaluation conducted on the implementation of the GEWD and EVAW policies. The main focus of the MWYCFA has been the establishment of the policies, the procedures and the processes for the implementation. Developing key stakeholder relationships for the implementation of the policies has also been a considerable focus together with the provision of gender training for MWYCFA staff. Consequently, the MWYCFA has not yet embarked on any monitoring or evaluation of the policies, however the 2012 work plan provides for this to commence.
78. The Royal Solomon Islands Police Force (RSIPF) has adopted a no-drop policy, called the "Victim Protection Policy", which mandates police to investigate and follow through domestic violence, violence against women and children, and sexual violence complaints through the Magistrates Court process. Consequently, should a victim desire to discontinue a criminal prosecution it can only occur at the discretion of the Magistrate.

16 See Paragraph 80 for more information on the domestic violence bill.

79. Although there is no legislation regarding mandatory prosecution of sexual offences the Office of the Director of Public Prosecutions (DPP) has established some guidelines with respect to the prosecution of sexual offences. The DPP have a Prosecution Policy which sets out generally the principles in making decisions and which guide the conduct of prosecutions. There is currently not a separate prosecution policy on sexual offences, but the DPP's 2012 annual work plan includes the task of developing a guideline for prosecuting sexual offences. The DPP take all sexual offences seriously and endeavour to have all matters proceed through the court process. The seriousness of sexual offences is reflected in the decision of the High Court together with the DPP and Public Solicitor's Office (PSO) to give some priority to the listing of sexual offences in 2012. A majority of cases at the DPP's office are sexual offences cases.
80. To address the violence highlighted by the Family Health and Safety Study, government in partnership with stakeholders is currently undertaking work towards developing a comprehensive, stand-alone domestic violence bill. A key strategic area under the EVAW and GEWD policies is to develop laws and establish mechanisms for the protection of women and family members from violence within the home. The Solomon Islands Government has allocated a budget for scoping work towards the proposed bill in its 2012 development budget. The EVAW legislative working group (consisting of government, NGOs, INGOs, churches and other civil society organisations) is overseeing the development of the bill. Consultations have been conducted and Cabinet approved the development of a domestic violence bill on October 29th, 2012. On completion of the draft bill further consultations will be conducted. It is expected that the bill will be presented to Parliament in 2014.
81. The lack of gender equality and the inadequate legislative framework to protect women's human rights have been identified as the major systemic factors contributing to the high levels of violence experienced by women in Solomon Islands. The Solomon Islands Demographic and Health Survey (DHS) in 2007 demonstrated that of the female respondents 69% agreed with at least one of the reasons asked as justification for violence against women. For both women and men the most commonly accepted reason for violence was neglecting the children. The Family Health and Safety Study in 2009 found that 73% of women believe that a man is justified in beating his wife under some circumstances, in particular for infidelity and disobedience. It is concerning that the majority of women believe that intimate partner violence is justified under some circumstances, indicating that women themselves generally accept subordinate status within a relationship.
82. A number of referral networks have been established for victims of gender based violence and child abuse. These networks comprise health, police, the Public Solicitor's Office (PSO), the Christian Care Centre (CCC), the Family Support Centre and the Social Welfare Division (SWD). Currently there are attempts to formalise one of these networks through the establishment of the "Safenet Referral Network". An MOU has been drafted and is ready to be signed by the network members. In demonstrating the importance that the Solomon Islands Government places on the "Safenet referral network", a Safenet Coordinator post will be incorporated into the public service establishment posts by 2013. Development partners are currently providing the funding for this position towards strengthening the function of the referral network. Government has also made a budgetary commitment to support the referral network from 2013.

Access to Legal Services

83. The Public Solicitor's Office (PSO) is responsible for providing legal aid to both victims and offenders. There are no community legal centres in Solomon Islands. The PSO is a government provided legal aid service which currently only operates in three provinces being in Honiara the capital city and in Malaita Province and Western Province. To qualify for legal aid the current legislation requires that a person earn less than SBD\$12,000 per year.

This figure has not been updated since the legislation was enacted in 1989. The threshold is too low and results in a large number of people being disqualified on the basis of means. The private legal profession charge an average of SBD\$700-\$800 per hour which is cost prohibitive. Many women in particular are therefore unable to access government legal aid or pay for private representation. The Public Solicitor's Office has undertaken consultations in respect of the means testing threshold and a recommendation has been made to increase the minimum threshold to SBD\$35,000 per year. This has recently been approved by the Minister of Justice and Legal Affairs and is awaiting completion of formalities before it is able to be implemented.

84. The PSO has undertaken consultations for the development of a means and merit testing policy. The means and merit testing policy will assist to ensure equitable provision of services for women. As a result of the consultations the PSO has established a Family Protection Unit which provides specialist services to women and children in coordination with a range of NGO's, in particular in relation to gender and sexual based violence. However, due to resource constraints the PSO has limited ability to provide these services nationally.

National Children's Policy

85. In April 2010 the first National Children's Policy with accompanying Plan of Action was launched. It has an objective of protecting and developing the interests and rights of Solomon Islands children regardless of age, gender, religion, ethnicity or cultural background and ensures that these rights are acknowledged and promoted and that children grow into responsible citizens. Under the policy a child is defined as being any human being below the age of 18 years.
86. Its outcomes and directions are informed by the UNICEF-AusAID funded study on children in Solomon Islands title: Protect me with Love and Care, a Baseline Report for Solomon Islands 2008 (published in 2010). The Policy only commenced implementation in 2010 and monitoring and evaluation of the policy has not yet commenced. The National policy has 5 strategic plans of action-outcomes for children in Solomon Islands:
 - a. Protection
 - b. Development
 - c. Survival
 - d. Participation
 - e. Planning

National Youth Policy

87. In addition to having a National Children's Policy a National Youth Policy has been developed. The first National Youth Policy was developed in 2000. In 2007 the MWYCA (as it then was) reviewed the National Youth Policy which resulted in the Solomon Islands National Youth Policy 2010-2015.
88. The Solomon Islands National Youth Policy 2010-2015 is the nation's guide for youth development over the next five years. It covers youths aged 14 to 29 years of age. The objective of the National Youth Policy is to promote the development of youth to achieve their full potential through a range of programs and activities that offer choices and assist them to make informed decisions about their futures and their roles and responsibilities in the political, social and economic development of Solomon Islands. The policy has also adopted a "Mainstreaming Approach" to promote a cross-sectoral coordination of implementation.

The priority policy outcomes identified in the policy include:

- i. Improved and equitable access to education, training and employment opportunities for young women and men (Youth and Career Pathways).
 - ii. Increased and equal opportunities for young women and men to participate in decision-making and leadership (Youth and Governance).
 - iii. Youth and health improved through equitable access to health services for young women and men (Youth and Wellbeing).
 - iv. Increased number of young people participating in activities that promote peace building and conflict prevention (Youth and Peace-Building).
 - v. Increased number of young people promoting sustainable development (Youth and Sustainable Development).
 - vi. Improved capacity to implement this policy (Youth Mainstreaming).
89. In relation to Performance Measurement the policy refers to the development of annual performance reports to strengthen accountability and help identify areas where youth capacity building is required. The policy also refers to the MWYCFA identifying relevant sectoral and cross-sectoral youth development indicators for measuring the performance of the policy. However, the policy does not outline what these measures will be and to date the measures have not been determined. In addition to the national youth policy all provinces have a provincial youth policy. All of the provincial youth policies are based on the recognition of the need of young men and women to have equal access in the areas of socio-economic, health, education, employment and skilled training opportunities.

Disaggregated Data

90. The law and policies in the past have been silent on the collection of disaggregated data in government departments and services. Consequently, there remains a lack of adequate data available in order to monitor the implementation of the Policy. It is acknowledged that clear policies and procedures dealing with disaggregated data collection need to be developed and implemented. The lack of full and accessible sex disaggregated and gender data continues to act as a constraint to any meaningful reporting. The GEWD plan of action proposes the establishment of a Gender Management Information System in the MWYCFA. This has not yet been established but scoping for the database has commenced. Funding from development partners has been secured to assist in the establishment of the database. The National Human Resource Development and Training Plan 2012-2014 acknowledges the need to develop information collection and analysis systems that include all economic sectors, public and private, international, national and provincial. However, this has not yet been implemented. The collection of disaggregated data will assist with government planning and policy outcomes and also reporting requirements.

Government Partnerships

91. In November 2010 the MWYCFA in partnership with UN Women launched its completed “Protecting Women’s Human Rights in Solomon Islands Law” toolkit. This toolkit assesses compliance of Solomon Islands law and policies with articles of CEDAW. The completion of the toolkit is a significant achievement as it is the first of its kind developed in the Pacific. It is an important step towards the domestication of CEDAW as it is utilised as an advocacy tool to promote women’s rights.
92. In 2011 the MWYCFA together with RAMSI developed the Gender Action Plan 2011 – 2013. The goal of the plan is to advance Solomon Islands Government policy commitments to

gender equality consistently across all areas of government. There are four objectives under the plan these being :

- To support RAMSI programmes to support Government partner agencies;
- To align Government gender policies and joint SIG/RAMSI agreement on priority actions;
- To improve quality of evidence-based and outcome focussed gender reporting; and
- Increase gender awareness and competencies.

93. The Gender Action Plan has four key results these being :

1. Increased number of women in public sector management and leadership;
2. Increased representation of women in legislature;
3. Effective policies and procedures in place and functioning to eliminate violence against women; and
4. Effective and dynamic national women's machinery and gender focal points in key Solomon Islands Government agencies.

94. In preparation of the Gender Action Plan a baseline study was completed of the key result areas which demonstrated that women make up only 38% of the public service workforce (2011) and that men dominate the senior positions.

NGOs, INGOs, Churches and Civil Society Organisations

95. There are a number of other NGOs and civil society organisations that contribute to the promotion of women's rights and developments. These include Vois Blong Mere Solomons (VBMS) which was established in 2003 and is a national women's media organisation responsible for media publishing and radio programmes advocating and promoting women's issues around the country.

96. The Family Support Centre in Honiara was established in 1995 to address the high incidences of domestic violence, sexual abuse, child abuse and rape in Solomon Islands. The centre offers services to individuals and families that experience violence and abuse through counselling, providing legal information and assistance, training, awareness raising and a resource library. Legal information, assistance, and counselling is provided free of charge. The Family Support Centre has developed close working relationships and a referral network with the Public Solicitor's Office, police, medical services and the Christian Care Centre. The Family Support Centre only offers its support services in the capital city, Honiara, but delivers awareness raising activities in the provinces.

97. The Christian Care Centre (CCC) is sponsored by the Church of Melanesia and provides the only safe house facilities in Solomon Islands. The safe house is located on the outskirts of the capital city. The CCC receives referrals from police, the Social Welfare Department, PSO, the Family Support Centre as well as walk-ins. The CCC provides counselling and refuge for victims, including providing food and paying medical expenses as well as paying for repatriation costs and *kastom* compensation. As a church run organisation the CCC has limited funding and receives no supplementary funding from the government. The MWYCFA has submitted a bid to government for \$285, 935.00 to support CCC and FSC from 2013.

98. The Solomon Islands Christian Association (SICA) provides victim support and referral networks and in the past operated a vast rural network to provide support to victims of domestic violence and violence against women and children. This network comprised teams

of ten including faith based leaders, a police officer, a nurse, a teacher and provincial welfare offices and covers eight provinces. The teams received basic training however, the funding to maintain the network expired at the end of 2011 and SICA have been unable to continue the network in the absence of external funding.

99. Other NGOs, INGOs and Church including but not limited to the Solomon Islands Full Gospel Association, World Vision, National Council of Women, Provincial Councils of Women, YWCA, Oxfam Solomon Islands Standing Together Against Violence Project, Live and Learn Environmental Education and Solomon Islands Development Trust all contribute to addressing violence against women and the promotion of women's rights and development.

ARTICLE 3: GUARANTEE OF BASIC HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Legal Context

100. There is no legislation that establishes a national human rights machinery charged with promoting and protecting human rights including women's rights. There is no legislation that establishes a funded body to monitor the implementation of non-discriminatory law and policy for the advancement of women. It is also acknowledged that enforcement of the rights and freedoms through the court process is expensive and time consuming. Furthermore, the formal justice system is not accessible to most Solomon Islands citizens due to geographical dispersion, high illiteracy levels and resource scarcity among other factors.
101. Section 96 of the Constitution provides for the establishment of the Office of the Ombudsman, as a public office. The *Ombudsman (Further Provisions) Act 1983* sets out specific functions of the Office. Its purpose is to investigate maladministration. There may be circumstances in which the complaint of maladministration may impact on the rights and freedoms of citizens. The functions of the Ombudsman include enquiring into the conduct of any person appointed to the public service (e.g. members of the public service, the police force, the Corrections service, the government of Honiara city, provincial governments and such other offices, commissions, corporate bodies or public agencies as prescribed by Parliament) excluding the Governor General or his/her personal staff or the Director of Public Prosecutions or any person acting in accordance with his instructions. The Ombudsman's Office is open to any Solomon Islands citizen who has any questions relating to how the public offices and public officers make decisions.
102. The only mechanism to seek redress for a breach of basic human rights and fundamental freedoms is by virtue of an application to the High Court of Solomon Islands. Section 18 of the Constitution provides that any person who alleges a breach in respect of the protections provided in sections 1-16 of Constitution can apply to the High Court for redress. The High Court can make orders, issue writs and give directions to enforce or secure rights protected. Pursuant to section 17 a person whose rights or freedoms have been contravened can seek compensation from the individual or organisation responsible for the infringement.
103. Section 92 of the Constitution establishes the position of the Public Solicitor, and further provides that the Public Solicitor's Office (PSO) shall be a public office. The functions of the Public Solicitor are to provide legal aid, advice and assistance to persons in need.
104. Solomon Islands is a party to the CEDAW Optional Protocol giving its citizens the opportunity for communications to be made to the CEDAW Committee.

Public Offices and Government Machinery

105. The Ombudsman's Office has presented to the Attorney General's Chambers amendments to Chapter IV of the Constitution to provide for a tribunal to enforce its recommendations and a mediation provision considering the important role that mediation plays in Solomon Islands cultures. There has been no action on the recommendations to date.
106. In an attempt to ensure that the Ombudsman's Office is available to all Solomon Islands citizens the Ombudsman Office executed a Memorandum of Understanding with the Solomon Islands Postal Corporation in February 2010 which provides for free aerogram for letters and complaints to the Ombudsman office. These are accessible at any post office in Solomon Islands. Additionally it has started the initiative to have a focal point for Ombudsman Office matters in every province and SIG offices.
107. The Public Solicitor's Office provides free legal advice in relation to the breach of constitutional rights and freedoms. The PSO gives priority to these types of cases. There have been cases where private citizens, including those in custody, have sought redress in the High Court for a breach of their rights and freedoms provided by the Solomon Islands Constitution¹⁷. However, these applications have predominantly been made by men.
108. The WDD of the MWYCFA has the mandate to monitor the implementation of non-discriminatory law and policy for the advancement of women. WDD coordinates the Solomon Islands National Advisory Committee on CEDAW (SINACC) which acts as an advisory and consultation group whose main role is to oversee reporting and implementation of CEDAW. The SINACC has the mandate to advise government and monitor the implementation of anti-discrimination law and policy for the advancement of women. Given that it was only revived in June 2012, it will take some time for the operation of the SINACC to be consolidated. Establishing processes and mechanisms that are sustainable takes time. However, the Solomon Islands Government is committed to the important role that SINACC plays.

Human Rights Institutions

109. Solomon Islands has been involved in Pacific regional discussions and plans to establish a Regional Human Rights Institution, as the Pacific Island Countries and the Less Developed Countries face difficulties due to their size in supporting a national human rights institution.
110. In January 2012 there was a national scoping exercise to assess the feasibility of a national independent human rights institute with a delegation from the Office of the High Commissioner for Human Rights sent to Solomon Islands at the request of the Solomon Islands Government. This request was made after the Universal Periodic Review in May 2011. Cabinet has considered the recommendations by the scoping mission but in view of the limited resources and capacity available, it has decided that priority should be given to strengthening the capacity and allocating more resources to existing institutions which function to promote and protect human rights. These include the courts and integrity institutions such as the Office of the Ombudsman, the Leadership Code Commission and the Office of the Auditor General. This work is part of a SIG-RAMSI partnership framework to strengthen the machinery of government.

17 See John Kwakwala Makasi v The Commander of the Participating Police Force under RAMSI and Attorney-General, High Court Civil Case No. 59/2005.

ARTICLE 4: ACCELERATION OF EQUALITY BETWEEN MEN AND WOMEN

Legal Context

111. The *Constitution* of Solomon Islands does not contain a temporary special measures provision. Consequently, there are no exemptions required for temporary special protection measures. However, section 15(5)(f) provides that laws “for the advancement of the more disadvantaged members of the community shall not be considered discriminatory”. This provision could be used to accelerate progress in areas where women have historically been disadvantaged. However, sections 15(5)(c)-(e) provide exceptions for laws relating to ‘adoption, marriage, divorce, burial, devolution of property on death or other like matters of personal law, for the application of customary law and with respect to land, the tenure of land, the resumption and acquisition of land and other like purposes. Consequently, there is a large range of areas where an exemption provision to The Constitution would be required.

Temporary Special Measures for Women in Parliament

112. There have been attempts at the introduction of temporary special measures to accelerate equality between women and men. These include the development of a temporary special measures policy paper for parliamentary seats reserved for women that was submitted to Caucus in 2009. However, Caucus was of the view that there had not been enough consultation and consequently did not support the policy paper.
113. The concept of temporary special measures and elected reserved seats for women in parliament has continued to increase in support from community members. The People’s Surveys conducted in 2010 and 2011 both demonstrated an increase in support for elected reserved seats for women parliamentarians (84% and 91% respectively).
114. The Solomon Islands Government has expressed policy support for temporary special measures for elected reserved seats for women in Parliament. It has expressed its desire for inclusive and participatory governance in terms of policy development and law making. Consequently, a legislative taskforce has been established to consider options on temporary special measures including elected reserved seats in parliament.
115. In recognition of the need to encourage and support women in the political domain the Parliamentary Strengthening Programme funded by UNDP in partnership with the SIG established the Young Women Parliamentary Group (YWPG) in 2011. The YWPG has been active in raising awareness and encouraging debate on the issue of temporary special measures for elected reserved seats for women in Parliament.

ARTICLE 5: SEX ROLES AND STEREOTYPING

Legal context

116. Customary law is given legal status by the Solomon Islands Constitution. Section 75(1) of *The Constitution* provides that Parliament shall make provision for the application of laws, including customary laws. Schedule 3 of *The Constitution* provides that customary law is part of the law of Solomon Islands but not customary law that is, and to the extent that it is, inconsistent with *The Constitution* or an Act of Parliament. The discrimination provision in *The Constitution* provides an exemption for laws relating to the application of customary law.

The situation of women in Solomon Islands

117. In Solomon Islands tradition the domains of authority for men and women was defined. However, power and control largely rest with men. Women have restricted roles in leadership and decision making processes at the family, tribal and community levels. Consequently, the developed stereotype is that leadership is the domain of men. This stereotyping is reflected in the current process of nomination and election of women to national leadership roles in National and Provincial legislatures. It is also reflected in other areas such as employment, education, health and justice systems.
118. Women in Solomon Islands are considered to have primarily domestic and productive roles while men have responsibilities outside the home. Generally, women often remain in their parent's village until marriage was arranged for them, at which time they would then relocate to their new husband's village.¹⁸ While roles of women are changing due to factors such as education and the cash economy, however, generally the role of women still tends to be domestic responsibilities.
119. Women are the child bearers and seen as the caregivers in society and their roles centre around these responsibilities. Therefore, they are responsible for the care and supervision of children and the care of elderly or sick relatives. Women are also responsible for the operation of the household including cooking, cleaning, washing, obtaining water, gardening and raising children. They also make a very significant contribution to the rural economy. The men are traditionally responsible for fishing, trades and employment.
120. In 2010 the Asia South Pacific Association for Basic and Adult Education and the Coalition for Education Solomon Islands conducted an education experience survey and literacy assessment in Isabel and Rennell and Bellona Provinces. The survey found that there is a clear link between sex and main type of work, with a greater proportion of females engaged in craft production and sale, housework and child raising roles and a greater proportion of men engaged in fishing, government, professional and trade roles.
121. The practice of payment of bride price is deeply embedded in custom, although not in all parts of Solomon Islands. Traditionally the practice of a bride price is a means of cementing social relationships between clans. The groom's family demonstrates their appreciation of the bride's family giving away their daughter by offering gifts. The significance of the bride price is the value of the daughter to her family. However, there are occasions where the tradition of bride price payment is abused. As a result of the introduction of the cash economy, in some instances the bride has become more of a commodity than a symbol of positive social relations. However, this does not take away the value that is attached to the giving of the bride by her family. This customary practice can take decision making out of the hands of women and in some instances raises issues of "ownership" of both the bride and any children born as a result of the marriage. The Family Health and Safety Study also shows a direct link between the payment of bride price and violence against women.
122. Changes are beginning to occur largely due to education, acquisition of business skills, access to finance, modernisation, participation of women at all levels of church structures and changing women aspirations. However these types of attitude and cultural changes take time. The recent development of the GEWD and EAW policies are positive steps towards changing the attitudes of both women and men to sex roles and stereotyping. Both policies are focussed on achieving gender equality and eliminating violence against women.

18 Stege, K. Maetala, R. Naupa, A. Simo, J. Land and Women: The Matrilineal Factor, The cases of the Republic of the Marshall Islands, Solomon Islands and Vanuatu, 2008, Pacific Islands Forum Secretariat.

123. It is acknowledged that considerable efforts need to be undertaken to remove the sex roles and stereotyping of women and increase their access to opportunities to take up leadership opportunities and perform roles outside their traditionally defined roles.

Women in Leadership and Decision Making

124. Traditionally leadership is based on big man leadership (which is acquired) and chiefly leadership (which is generally inherited). The big man leadership is based on the masculine roles of the warrior, feast giver and spiritual leaders which are associated with masculinity and strength. Both of these forms of leadership have traditionally been associated with men.
125. Churches have also taken significant steps to advance women in leadership and decision making. The United Church, one of the five mainstream churches has a policy that women comprise 30% of membership at every level of decision making. The Christian Fellowship Church has in its Constitution a provision for women to make up 50% of the members of the Conference (which is the highest decision making forum of the Church).
126. Although there are some matrilineal societies where women inherit customary land, decisions over customary land management are almost always made by men.¹⁹ Logging, mining and other commercial operations view male chiefs as the relevant custodians to approach in seeking rights to land use.²⁰ Consequently, women are receiving very little economic benefit out of the use of land for economic purposes.
127. Women's exclusion from household level decision making is demonstrated in the results of the DHS conducted in 2007. This demonstrated that only 28% of married women independently decided their own health care and that in 23% of respondent families, decisions on household expenditure were made exclusively by men.
128. In the DHS the majority of women reported a high level of sexual autonomy. Only 6.4% of women did not accept that there was any legitimate reason for a wife to refuse to have sex with her husband. Among men, 4.1% believed that women were not justified in refusing to have sex with her husband. The rate is lower than that of women, possibly indicating a greater respect for women's sexual autonomy by men than women have themselves.
129. The Family Health and Safety Study in 2009 also examined the sexual autonomy of women in marital relationships. Of the respondents 13% felt that women could not refuse sex in any circumstances. The most commonly accepted reason for refusing sex was mistreatment and the least acceptable circumstance given by women was not wanting to have sex.

Violence Against Women

130. The DHS demonstrated that both women and men accepted that partner violence was justified under some circumstances with 69% of women agreeing with at least one of the reasons asked as justification for violence against women. This is compared to 65% of men who were of the view that partner violence is justified. For both men and women the most commonly accepted reason for domestic violence was neglecting the children. Violence against women in both intimate and non-intimate relationships is perceived as a weakness because it demonstrates a lack of control and strength by men. However, traditional norms are also often cited without merit to rationalise and justify domestic violence.
131. In 2009, the Solomon Islands Family Health and Safety Study: a study on violence against

19 See Stege, K. Maetala, R. Naupa, A. Simo, J. at p2 at footnote 11 above.

20 See p52 at footnote 18 above.

women and children was completed in partnership with a number of development partners with the MWYCFA as the national coordinator. This study also demonstrated a relatively high level of acceptability of violence against women. The majority of women (73%) believe that a man is justified in beating his wife under some circumstances, in particular for infidelity and disobedience. The study also demonstrated frequent use of physical punishment to discipline women who are seen as transgressing their prescribed gender roles.

Women in Formal Employment

132. The male dominated culture of Solomon Islands does not encourage women to go into formal business. It is accepting of them in small-scale informal agricultural production but does not facilitate women expanding into the private sector formally.²¹ In recent years there has been an increase in the number of women who are formalising their business however they remain significantly outnumbered by men. There are various constraints to women operating a formal business and these include access to credit, low levels of education and literacy and the pressures of family demands.
133. The main professions women enter are education, nursing and administration. The main professions that men enter are education, industrial development, marine resources and fisheries and natural resources. These are reflected by enrolments in the Solomon Islands College of Higher Education (SICHE) and are demonstrated in the table below.

SICHE Enrolments by Gender and School in 2005-2007 (note – 2005 and 2006 show enrolments, 2007 shows graduate figure)

School	Female 2005	2006	2007	Male 2005	2006	2007
Education	238	163	174	248	172	172
Finance and Administration	168	96	62	146	82	65
Industrial Development	1	7	5	89	115	81
Marine Resources and Fisheries Studies	0	NA	NA	40	NA	NA
Nursing and Health Studies	71	85	62	14	24	12
Natural Resources	28	46	33	36	74	51
Totals By Gender	506	397	336	573	467	381

Women in Informal Employment

134. Women make a significant contribution to the rural economy and in particular agricultural production. They perform the roles of producer and or marketer and usually operate informally. Rural women's role in agricultural activities has changed from traditional subsistence gardening to small-time commercial production. A recent World Bank report estimated that the annual turnover at the Honiara Central Market is between USD\$10-16 million, with women responsible for about 90% of the marketing activity as bulk buyers from farmers and as retailers.²²

²¹ See p7 at footnote 6 above.

²² Economic Opportunities for Women in the Pacific, 2010, International Finance Corporation, p1.

ARTICLE 6: EXPLOITATION OF WOMEN

Legal Context

135. The act of soliciting is a criminal offence. Section 153 of the *Penal Code* provides that any person who solicits or importunes for immoral purposes is guilty of committing a misdemeanour. The maximum penalty for such an offence is two years imprisonment. The offence applies equally to men and women but do not apply to clients (who are usually male). The term prostitution is used in the *Penal Code* but is not defined.
136. Aiding and abetting consensual acts of soliciting is a criminal offence. The *Penal Code* criminalises living off sex work and operating brothels. These offences apply to both men and women. Section 153(1)(a) prohibits living off the earnings of prostitution and section 155 prohibits the operation of a brothel. Both offences carry a maximum penalty of two years imprisonment.
137. There are a number of provisions in the *Penal Code* which establish offences for procuring any woman or girl under the age of eighteen. These include:
- Section 147 provides an offence if an owner or occupier of premises induces or knowingly suffers any girl above the age of thirteen but below the age of fifteen to have sexual intercourse on premises (allowing defilement). Honest and reasonable belief that the girl was above the age of fifteen is a defence to this charge.
 - Section 148 provides the offence of detaining any girl or woman in a brothel without consent and provides a maximum penalty of two years imprisonment.
 - Section 149 provides the offence of a parent or guardian providing a girl under the age of fifteen for prostitution and provides a maximum penalty of two years imprisonment.
 - Section 156 provides the offence of procuring for sex by fraudulent means and provides a maximum penalty of two years imprisonment.
138. The *Penal Code* provides various offences in relation to violence and sexual offences. There is no legislative prohibition on these protections applying to women sex workers. The usual evidentiary processes would be applicable, for example in respect of rape the issue would be consent.
139. The employment legislative framework does not provide occupational health and safety legislation to protect those who engage in sex for monetary or material gain.
140. The *Penal Code* criminalises the crime of trafficking through its kidnapping provisions and also prohibits various activities associated with trafficking such as forced prostitution, labour and begging. There are some protections provided in the *Penal Code* to protect women and girls from human trafficking. These are relevant for human trafficking within Solomon Islands and do not apply to international human trafficking. The offences that would be used in these circumstances are:
- Section 144 prohibits the procuring of a girl or woman for sexual intercourse with another person in Solomon Islands or elsewhere or to frequent a brothel elsewhere. It provides a maximum penalty of two years imprisonment.
 - Section 145 provides an offence of procuring a girl or woman by threats or fraud or administering drugs in Solomon Islands or elsewhere. It provides a maximum penalty of two years imprisonment.
 - Section 140 provides for the offence of abduction with intent to marry or have sexual intercourse. It provides a maximum penalty of seven years imprisonment.

- Section 141 prohibits the abduction of a girl under the age of eighteen years with the intent of sexual intercourse if it is without the consent of the girls' parent or guardian. It does not include a requirement of without consent of the girl. It is entirely based on the consent of the parents or guardian. It provides a maximum penalty of two years imprisonment.
141. The penalties are very low for all these offences and are highly discriminatory given that they don't all have regard to the consent of the victim. There are no provisions which prohibit sex tourism. Any offences arising out of this practice would have to be dealt with under existing sexual offences such as rape, defilement and others contained in the *Penal Code*.
142. The *Immigration Act* passed by Parliament in 2012 does provide some protections in relation to human trafficking. Division 2 of Part 7 of the Act deals with people smuggling and people trafficking offences. Section 76 provides the offence of people trafficking and provides a maximum penalty of 45,000 penalty units or a maximum of five years imprisonment or both. Section 77 provides an offence of trafficking children under the age of eighteen years. This offence provides a greater penalty being a maximum of 90,000 penalty units or ten years imprisonment or both. A person who profits from or engages in the exploitation of a trafficked person commits an offence under section 78 and is liable to a maximum penalty of 45,000 penalty units or five years imprisonment or both.
143. Section 6 of *The Constitution* provides protection from slavery and forced labour.

Application of the Law

144. The offences in relation to exploitation in general have very low maximum penalties. Furthermore, they are not broad enough to cover circumstances where women and girls are induced into prostitution against their will by threat, drugs or other means of coercion. The provisions are highly discriminatory as they do not make it an offence to use the services of a prostitute. Consequently, the law punishes vulnerable women who are often very poor and have few employment opportunities available to them.
145. Provisions in relation to people trafficking have only recently been introduced in the *Immigration Act*. The provisions provide equal protection for female and male victims of trafficking and provide greater penalties for offences against children. To date the *Immigration Act* has not come into effect because of other legislative requirements.

Law Reform

146. The Law Reform Commission has reviewed the sexual offences of the *Penal Code*. In addition, this review addressed the trafficking of children. There are currently amendments proposed for many of the current sexual offence provisions of the *Penal Code* and the enactment of new offences. This work of the SILRC is ongoing.

Sexual Exploitation

147. The "Child Sexual Abuse and Commercial Exploitation of Children in the Pacific: A Regional Report" 2006 compiled by UNICEF, UNESCAP and ECPAT is a regional report containing a finding of a study of Solomon Islands and other Pacific nations conducted between October 2004 and June 2005. The primary aim of the report was to summarize the key findings of the country study into the prevalence and nature of child sexual abuse and commercial exploitation of children in those countries. The study was conducted in co-operation with the Solomon Islands Government. The initial study was conducted between July 2004 and December 2004.

148. The study demonstrated the existence of sexual abuse and commercial sexual exploitation of children in Solomon Islands. The study was unable to state the exact extent and nature of child sexual abuse but was able to clearly state that it was present in Solomon Islands. It is clear from the study that inadequate data collection by government agencies and other organisations prevents any real attempt at quantifying the extent of sexual abuse and commercial sexual exploitation of children. The study indicated that child sexual abuse is occurring in various locations, from urban centres to isolated rural areas. The study indicated that many girls were assaulted by militants during the ethnic tensions. Child prostitution by both boys and girls was found to exist and some evidence of opportunistic child sex tourism. The report did not indicate the existence of highly-organised child sex tourism networks that exist in other parts of the world. The study did not provide any evidence of trafficking in children for sexual abuse or exploitation.
149. The “Children Living Away from Parents in the Pacific” report in 2010 considered the issue of commercial sexual exploitation of children. It found some anecdotal evidence that communities close to logging camps operated by foreign loggers were using the bride price system to allow marriage of girls to foreign loggers and consequently enabling the sexual exploitation of children.²³ The study demonstrated the existence of the “sale” of children through improper or illegal marriages and customary adoption of children for exploitative or abusive purposes.
150. A Knowledge, Attitude and Practices (KAP) survey was jointly organised by UNICEF Pacific Offices and the Government of Solomon Islands from 2008 to 2009 to gain a better understanding of risk and vulnerability related to HIV and AIDS among most-at-risk and especially vulnerable adolescents, young people and general population youth in Solomon Islands. One aspect considered by the survey was commercial and transactional sex. Of 219 female respondents who were sexually active 41 of them had participated in sexual intercourse for money. Most of these cases were in Honiara, the capital city however there were incidents in other provinces also. The survey found that there were over three times as many sexually active females as males having sex for gifts, food or trade, as there was for commercial sex.
151. In 2009 the Solomon Islands Planned Parenthood Association (SIPPA) commenced a sex workers project. The project is delivered in partnership with the Anglican Church of Melanesia. The project aims to deliver information and awareness to sex workers. In 2010 the project focussed on six different localities within the capital city, Honiara. Ten males and 79 females were part of the project in 2010.
152. There are no processes or systems in place that monitor whether immigrants or emigrants are predominantly engaged in providing sex for monetary or material gain.

Human Trafficking

153. In November 2011, an Anti-trafficking program funded by US State Government commenced. The program is currently working with civil society organisations such as the Solomon Islands Christian Association (SICA) and the Family Support Centre. SICA will identify four problem areas to conduct workshops on anti-trafficking issues as a method of data collection as well as community education. From that the intention will be to create education pamphlets that can be sent to the provinces and strengthen referral mechanisms. Workshops will focus on women and children and logging camps. The programme will be conducted from November 2011 until November 2012.
154. The Family Support Centre is currently developing through consultation a “Handbook on the

23 Children Living Away from Parents in the Pacific, 2010, UNICEF, p31.

Legal Framework of Human Trafficking in Solomon Islands” for the prosecution of human trafficking offences. It is anticipated that the handbook will be complete at the end of 2012 and will be disseminated to police, prosecuting authorities, civil society organisations and the legal profession. This handbook is a significant tool for providing assistance for service providers in addressing the issue of exploitation of women and girls.

ARTICLE 7: PARTICIPATION IN POLITICAL AND PUBLIC LIFE

Legal Context

155. Section 56 of *The Constitution* of Solomon Islands provides an equal right to vote. Although the provision states that “any person who is registered shall be entitled to vote” the exemptions of the right to vote all use the terminology of “he”. The language of the section is discriminatory despite the fact that it does provide an equal right to vote.
156. Section 48 of *The Constitution* provides equal eligibility for political representation. Although the provision states “a person shall be qualified” the criteria to meet are expressed using the terminology “he”. The language of the section is discriminatory despite the fact that it does provide for equal eligibility for political representation.
157. There is no legislative provision in *The Constitution* or any other Act of Parliament that provides a minimum quota of women in Parliament.
158. NGOs are registered under the *Charitable Trusts Act*. There are no legal barriers to equal participation of women in non-government organisations. However, there are plans to review the *Charitable Trust Act* to better facilitate the work of NGOs.

Women in Parliament

159. There are 50 seats in the Solomon Islands Parliament. Since independence in 1978 only two women have been elected to Parliament. Proposals by the MWYCFA in 2009 to improve gender balance in Parliament through elected reserved seats for women have previously not been supported by Caucus due to a lack of consultation.
160. The Solomon Islands Government has expressed policy support for temporary special measures for elected reserved seats for women in Parliament. The Solomon Islands Government has expressed its desire for inclusive and participatory governance in terms of policy development and law making. Consequently, a legislative taskforce has been established to reconsider the introduction of options for temporary special measures including elected reserved seats in parliament for women. The taskforce creates a platform for high level consideration of the issue.
161. In the national elections conducted in 2010, despite 25 women candidates contesting, there were no females elected to National Parliament. However, in August 2012 a by-election was held for the constituency of North Malaita. A female candidate won this seat by a majority vote of 2802 from a total of 5665 votes. Therefore there is currently one female member of National Parliament. Prior to this candidate entering National Parliament in 2012 there had only been one other female national parliamentarian since independence. She also won her seat through a by-election. The number of female candidates has continued to increase as has the number of male candidates. In 2001 there were fourteen female candidates out of a total of 339 candidates. In 2006 this had increased to 26 female candidates but the total number of candidates increased to 453. In 2010 out of a total of 509 candidates there were only 25 female candidates. Although there are more women candidates standing they are not managing to increase the number of votes that women get overall. Female candidates receive

less than 7% of the total votes. The increased number of female candidates demonstrates that women are increasingly interested in being part of the political sphere. Table 1 below demonstrates the pattern of female candidates and voting patterns. Significant improvement is required before female candidates can really challenge male candidates for votes.

National Elections Voting Summary – 1980 - 2010

Year	1980	1984	1989	1993	1997	2001	2006	2010
Women Candidates	1	2	1	10	14	14	26	25
Total Candidates	218	207	255	280	336	339	453	509
% of votes for women candidates	0.1%	0.9%	1.0%	3.0%	3.2%	2.6%	3.7%	2.7%
Votes for women	68	601	777	3,183	4,552	4,824	7,244	6,270
Total votes	57,874	67,285	81,238	104,954	140,425	184,315	193,495	230,936*
Increase in total voters		16%	21%	29%	34%	31%	5%	19%
Increase in votes for women		784%	29%	310%	43%	6%	50%	-13%

* Includes rejected ballots

162. Since 2006 there have been five provinces out of nine that have had women elected to their Provincial Assemblies. Isabel Province had two women elected and Rennell and Bellona Province had one woman in the Provincial Assembly. One woman was elected to the Malaita Provincial Assembly from 2006 until she lost her seat in 2010. One woman was elected to the Makira Provincial Assembly from 2006 until she lost her seat in 2012. In Western Province one woman was elected to the Provincial Assembly in 2009. Currently Guadalcanal Province has one female member of its Provincial Assembly.
163. A Diagnostic Study conducted in 2010 demonstrated that there were six female members at the local provincial level in four out of nine Provincial Assemblies and one female appointed to the Honiara Town Council. This represented 3.3% out of the total 183 Provincial Assembly and Honiara Town Council elected members (87.3% are male members).
164. At the provincial level thirteen women contested in six provincial elections and one Honiara Town Council election in the years 2010 and 2011. Only three women were elected in two provinces, these being Isabel and Guadalcanal. Of the winning candidates, two in Isabel Province regained their seats whilst the third for Guadalcanal Province, was the only new winning female candidate. There has previously been one woman in the position of Deputy Premiership; the first senior position ever held by a woman at the provincial government level.
165. It has been recognised that decision-making is a male domain, a “first past the post” electoral system that disadvantages women, and discrimination against women in education and employment are contributing factors to the lack of women in parliament at national and

provincial levels.²⁴ In 2006 the cost for registration of candidates for the national election was SBD\$2,000.00 and for provincial elections was SBD\$1,000.00. The cost is prohibitive for women to register. Other factors cited as barriers include the assumption that a woman would not have the appropriate qualities to be a good leader. Disincentives include the high cost of campaigning, or the tendency for wives to be regarded as outsiders in their husband's community so not to be well supported in their home electorates.²⁵ Only a small number of women have been elected to provincial governments, and other important decision-making structures, including in the customary, religious, private and judicial spheres are similarly dominated by men.²⁶

166. Anecdotal evidence demonstrates that women tend to vote in accordance with their husband and male relatives. There appears to be some expectation in society that women will follow the same voting as their husband²⁷. This effectively removes the right of women to determine their own voting decisions. This then impacts on the ability of women candidates being able to capture the votes of the women in their constituency.
167. The Gender Equality in Political Governance (GEPG) Programme, funded by development partners and working with SIG and civil society organisations, has been actively involved in capacity building training workshops using BRIDGE (Building Resources in Democracy, Governance and Elections) Project methodology. The objective of the training workshops has been to improve the understanding, knowledge and acceptance of stakeholders at all levels, in relation to the importance of human rights, gender equality and the importance of women's increased participation and representation in parliament, provincial and local governments through the introduction of temporary special measures. A total of twelve capacity workshops have been conducted since 2009. Out of these two workshops were conducted in rural communities, three at the provincial level and seven conducted in Honiara. A total of 357 participants (125 men and 232 women) were trained between 2009 and 2011.
168. In recognition of the need to encourage and support women in the political domain, the Parliamentary Strengthening Programme which is implemented by the SIG with development partner assistance established the Young Women Parliamentary Group (YWPG) in 2011. The concept of YWPG is to ensure gender messages are the central component of parliamentary education initiatives; the appointment of a gender focal point within the parliamentary secretariat; and supporting women's groups to interact with parliamentary committees, where appropriate. The vision of the YWPG is to recognize, allow and build emerging young women leaders to reach their full potential to positively influence their communities and provide networking opportunities for young women with current leaders and to enhance and develop young women in leadership. There are currently 50 members of the YWPG and thirteen patrons. The patrons include the Prime Minister, the Speaker of Parliament, Parliamentary House Committee Members and the Permanent Secretary of the MWYCFA. To date the YWPG has conducted a radio talk back show discussing temporary special measures and two mock parliamentary debates. One in respect of the issue of temporary special measures for elected reserved parliamentary seats for women and one in respect of eliminating violence against women. There has also been a number of social networking activities implemented. The YWPG has developed an annual work plan for 2012.
169. Despite the lack of women as leaders in government the People's Survey in 2010 and 2011 both indicated that generally the Solomon Islands population are of the view that women make good leaders. In 2010 84% of respondents and in 2011 90% of respondents said that

24 See p7 at footnote 10 above.

25 Protecting Women's Human Rights in Solomon Islands Law, 2009, UNIFEM and MWYCFA, p61.

26 See p7 at footnote 10 above.

27 See paragraph 117-119 and 124-125 for discussions on customary and religious influences on women in leadership positions and voting patterns.

women make good leaders. In the People’s Surveys conducted in 2007, 2008, 2009, 2010 and 2011 more than 85% of respondents reported support for women in parliament. The concept of temporary special measures and elected reserved seats for women in parliament has also continued to increase in support from community members. The People’s Survey conducted in 2010 and 2011 demonstrated an increase in support for elected reserved seats for women parliamentarians (84% and 91% respectively).

Women in the Public Service

170. In 2007 women represented little more than 30% of the Public Service, of which 60% were in junior positions. At that time women held 5 out of 25 (20%) of Permanent Secretary positions and 3 out of 20 (15%) of Undersecretary positions and overall women held only 6% of senior public service positions. In 2011 there were 9068 (62%) men compared with 5542 (38%) women employed in the Public Service.

The male/female breakdown in the top three levels of the public service in 2010 was as follows:

POST	MALE	FEMALE
Highest	10	6
2 nd level	14	4
3 rd level	44	11

171. The table above demonstrates that decision making within government continues to be dominated by males, especially in the resource and economic sectors. There are comparatively more women in the social sectors; health, education, national reconciliation, and the MWYCFA.
172. The most senior positions of the government have always been occupied by men. Women have never occupied the Constitutional positions of Governor-General, Speaker of Parliament, Public Solicitor, Director of Public Prosecutions, Solicitor-General, High Court Judges, Auditor-General and Ombudsman. There has been one female Acting Attorney-General for a short period of time. In 2011 out of 28 Solomon Islands Ministries and Statutory Bodies only ten had females in the senior management level. The National Parliamentary Office is an exception as it has its entire senior executive members made up of women. Women make up 50% of the senior management level of the National Judiciary, the Ministry of Women, Youth Children and Family Affairs and the Ministry of Rural Development and Indigenous Affairs. However, ministries such as Ministry of Justice and Legal Affairs, Ministry of Home Affairs and the Ministry of Prime Minister and Cabinet had no women in senior management level positions. In 2011 the majority of women employed in the public service were in the more junior administrative levels.
173. The very low level of female representation within the Parliament, Provincial Assemblies and high levels of the public service results in less attention being paid to women’s issues.
174. There are no formal programmes in place to encourage more women into decision making or technical positions within the public service. The absence of more structured systems for advancement of women in the public services has been attributed to a lack of awareness and prevailing attitudes of stereotyped roles for women.²⁸ In recognition of the need to increase female participation in the public service the Solomon Islands Government in 2010 launched “A Human Resource Management Strategy for the Solomon Islands 2010-2015”. Objective 14 of the strategy is to “Assist SIG to implement gender equality strategies across the public

28 See p24 at footnote 10 above.

service which provide women with the same access to employment and career development opportunities as men”. There has been no reported monitoring and evaluation of this objective yet as the focus has been on establishing the mechanisms and processes to implement the strategy.

175. In 2011 the Ministry of Public Service launched a “Leadership and Management Development Framework” which highlights the importance of providing leadership and management opportunities on the basis of equity in the public service. This policy will assist in the advancement of women through the ranks of the public service.
176. The Regional Assistance Mission to Solomon Islands (RAMSI) as part of its Machinery of Government pillar has implemented a strategy for advancing the position of women in government. This strategy ensures the women’s leadership is mainstreamed through design, implementation and monitoring and evaluation to increase the percentage of women at all levels in the Public Service and to reduce the barriers to women in government. It also seeks to make improvements in the capacity of organisations that have the potential to foster women’s aspiration to public office. Consequently the strategy is aligned with the GEWD Policy. In 2008 the women in government strategy coordinator worked closely with the WDD of MWYCFA, the National Council of Women and the Secretary to Cabinet to identify opportunities for synergies and to improve communications and cooperation. Under the strategy workshops were delivered on leadership training and strategic planning workshops to assist in mainstreaming women’s advancement in government. A women’s mentor learning programme was also developed and implemented with over 80 women completing it between the years 2008 and 2009..

Women in Traditional Leadership Positions

177. Women in Isabel Province (which is a matrilineal society) have been appointed to serve as tribal chiefs. This then enables women to be represented on the Isabel Council of Chiefs. In 2010 it was reported that there was one female on the Isabel Council of Chiefs. The Guadalcanal Council of Chiefs also had one female representative in 2010.

Women and Peace

178. During the formal peace negotiations²⁹ conducted to stop the “ethnic tension” neither women nor their interests were represented.³⁰ Women played an important role in peace making in their communities and within the church and civil society organisations. The period of the ethnic tension saw the birth of many small women’s organisations and agencies initiated to improve the status of women. Women mobilised themselves into groups, in particular, the Women for Peace Group, the Guadalcanal Women for Peace and the Westside Women for Peace. However, this did not lead to women being included in formal peace negotiations.³¹ Women also did not play any role in the decision making arena with respect to the Regional Assistance Mission to Solomon Islands intervention.
179. The importance of women to peace and security of Solomon Islands has now been formally recognised. Of the five commissioners appointed in 2008 to the Truth and Reconciliation Commission (TRC), two were women, one being a Solomon Islander. The role of the Commissioners was to engage with all stakeholders in the reconciliation process and examine the human rights violations perpetrated during the conflict. To ensure the voice of women was

29 For example, women did not participate in the Townsville Peace Agreement.

30 See p7 at footnote 10 above.

31 Fangalasu, J. Maetala, R. Rodi, P. Vota, A. Wickham, E. Herem Kam: Stori Blong Mifala Olketa Mere, Women’s Submission to the Solomon Islands Truth and Reconciliation Commission, 2011, p34.

heard by the TRC a women's submission entitled "Herem Kam: Stori Blong Mifala Olketa Mere, Women's Submission to the Solomon Islands Truth and Reconciliation Commission" was presented. Women played a key role in the peace-building and transitional justice process but their voices were not heard in any official means. The submission recorded women's experiences during the tension and ensured that these experiences were included in the TRC process. The submission also presented women's recommendations to the TRC in relation to the steps required to bring about justice, healing and closure. The report was produced utilising information that was gained from workshops that were conducted with women leaders and women who had a deep understanding of women's issues during the tension. Approximately 60 women participated in workshops held in Honiara and in the provinces. The workshops and the report created a safe space and process for women to consider and present their needs to the TRC. The final report of the TRC has been submitted to Cabinet and is currently being reviewed prior to public release.

180. Several women have been recognised for their roles in advancing peace in the communities after the social unrest.
181. The MWYCFA has been developing a "National Action Plan on Women, Peace and Security Solomon Islands". The first draft of the plan has been developed and it is currently being revised. It is anticipated that the plan will be forwarded to Cabinet in early 2013.

Women as Members of Organisations/Boards

182. The Chamber of Commerce has over 120 members. It also has 40 honorary members who are young entrepreneurs sponsored through a workshop funded by UNDP. Twelve of these are women.
183. The Solomon Islands Women in Business Association (SIWIBA) is mainly representative of salaried and other self-employed women based in Honiara. Its main role is to provide a forum for networking, and does not have a main advocacy role. SIWIBA has a representative on the board of the Chamber of Commerce and all the Chamber of Commerce female members are members of SIWIBA.
184. The Association of Solomon Islands Manufacturers is representative of the manufacturing sector in Solomon Islands. It has women on its governing committee.³²
185. There are 9 State-Owned Enterprises (SOE) Boards. Altogether these boards have a total of 63 members of which only 9 are females. 5 of the Boards do not have female members. There is a funding bid by RAMSI through the Ministry of Finance and Treasury, Corporate Governance Services Programme to enable the SI Chamber of Commerce and Industry (SICCI) in partnership with SIWIBA to work towards increasing the number of women on SOE Boards³³. This is coordinated by a steering committee with members from the Ministry of Finance and Treasury (Economic Reform Unit), SIWIBA, SOE Forum & SICCI. SICCI has developed a work plan for this programme (targeting private & public sector) which is yet to be finalised and approved by the SICCI board through the steering committee.

32 See p17 at footnote 6 above.

33 Also aligned to the GEWD Policy.

ARTICLE 8: INTERNATIONAL REPRESENTATION AND PARTICIPATION

Legal Context

186. There are no legal barriers to women having equal opportunity to represent government at international level and participate in the work of international organisations.

Participation of Women

187. Given that there have only ever been two female parliamentarians women representation at the Ministerial level has been very limited. However, female members of the public service have been engaged in a range of meetings and conferences both regionally and internationally. The MWYCFA are regular participants of the Secretariat of the Pacific Community Women's Triennial which meets every three years to discuss gender and women's issues. Its purpose is to monitor the progress countries have made in implementing the Women's Pacific Platform for Action which is the regional platform for addressing women's issues.

188. The female Permanent Secretary of the Ministry of Women, Youth, Children and Family Affairs (MWYCFA) is a member of the following regional and international organisations:

1. Pacific Island Forum's Sexual and Gender Based Violence Reference Group;
2. Asia-Pacific high level advisory group on Women, Peace and Security;
3. Pacific Regional working group on Women, Peace and Security;
4. Secretariat of the Pacific Community Regional Rights Resource Team External Advisory Board;
5. MWYCFA is the focal point for Solomon Islands representation on the UN-Women Executive board. The role of MWYCFA is to provide all technical advice to the Solomon Islands representative who is participating in the board's meetings.

189. In May 2012 Solomon Islands was elected to be a member of the United Nations Women Executive Board for the period 2013-2015.

190. Women in the public service are often able to travel overseas as part of delegations for international training and workshops however, it is not very often that the lead of any Solomon Islands delegation is a woman. In some instances when the relevant Minister has been unable to travel and attend an international forum or meeting a Permanent Secretary may travel in the Minister's place. As there are only a small number of women in the positions of Permanent Secretary (in 2012 there are three) this is not that frequent.

191. A female has never been appointed as the head of a Solomon Islands overseas diplomatic mission. Men have always been appointed to these positions. However there are women diplomats in Solomon Islands overseas missions.

ARTICLE 9: NATIONALITY AND CITIZENSHIP

Legal context

192. Section 20 of *The Constitution* provides that a woman has equal right to acquire nationality.

193. A marriage of a Solomon Islands woman to a non-national can affect the wife's nationality. Section 10 of the *Citizenship Act (CAP 57) 1978* provides that if a woman becomes a national or citizen of the country of which her husband is a national she loses her Solomon Islands nationality. A woman who loses her Solomon Islands nationality can only regain it if the marriage has broken down. This provision does not apply in reverse to men.
194. The current *Citizenship Act* is discriminatory in the manner in which it treats the spouses of Solomon Islands nationals. Section 7(3) of the *Citizenship Act* provides that the foreign wife of a Solomon Islander can become a citizen after two years if her husband consents. Section 11 then states that if a foreign woman gains citizenship through marriage and then divorces and marries a person of another nationality she is deemed to have renounced her citizenship. Both of these provisions are discriminatory as they are not applicable to men. Section 7 requires two years residency during which time the wife is unable to obtain a passport.
195. Section 20 of *The Constitution* provides the circumstances in which persons become citizens. It provides that a woman married to either an indigenous Solomon Islander or person with British protector status or a father with that status can become a citizen. This provision is discriminatory as it applies only to foreign women married to Solomon Islanders and not foreign men married to Solomon Islanders. Furthermore, it recognises fathers but not mothers.
196. Both spouses do not have equal rights in determining the nationality of children. Under section 6 of the *Citizenship Act* in a joint application for citizenship an adopted child is only entitled to Solomon Islands citizenship if the male adopter is a citizen. Section 7 of the Act provides citizenship by naturalisation. It provides that a male can make application for his child to become a citizen in his application. However, it does not provide the same for a female applicant.
197. A new *Passports Act* was passed by the Solomon Islands Parliament in 2012. Women who are Solomon Islands citizens have equal right as men to obtain a passport under section 4 of the Act. The issuing of a passport relies on citizenship. Therefore, as described above women who are foreign nationals and married to a Solomon Islander have to wait a period of two years and have their husbands consent before they are able to become citizens under the *Citizenship Act* and then have the ability to acquire a Solomon Islands passport. This restriction is not applied to men. Therefore, despite equality in terms of the ability to acquire a passport the operation of the *Citizenship Act* impacts on a woman's ability to acquire a passport. The issue of a passport to a child under the age of eighteen requires the consent of each person who is legally responsible as a parent or guardian for the child or a court has ordered the provision of a passport to the child. There is equality between mothers and fathers consent for the provision of a passport to a child under the age of eighteen years. Cultural practices, social and economic advantages also impact on the choice of a woman to choose her nationality and that of her children. Changes to these practices and situations will take time.

Limitations

198. The *Citizenship Act* is highly discriminatory. Restrictions are placed on female applicants that are not placed on male applicants. The requirement of consent of a woman's husband reinforces the stereotype of the husband being the head of the household and the sole decision maker. The *Citizenship Act* treats women as unable to make their own decisions and imposes highly discriminatory practices.
199. There are many factors that in practice restrict a woman's ability to choose her nationality. These include social and religious pressures, cultural pressures and economic pressures. In Solomon Islands men are traditionally seen as the decision makers. This is demonstrated by the requirement of consent in the *Citizenship Act*. Consequently, a foreign woman does not have the ability to make a choice, it is reliant on her husband. Given that men make up the

majority of the formal labour force, women are often restricted in their ability to choose their nationality because of economic consideration.

ARTICLE 10: EDUCATION

Legal context

200. The legal framework of the development, implementation and monitoring of education is the Education Act 1978. Education is not free and compulsory under the legislation.
201. The legislation does not guarantee women and girls equal access to education and there are no special measures for the advancement of women in education contained in legislation.
202. There is no legislative prohibition on expulsion from school because of pregnancy. There is no legislative requirement in respect of reproductive and sexual education compulsory in schools.

Government Policies

203. The National Development Strategy 2011-2020 identifies as objective 4 “Ensure all Solomon Islanders can access quality education and the nation’s manpower needs are sustainably met”. This objective demonstrates the commitment of the Solomon Islands Government to provide equal access to education for boys and girls. Education in Solomon Islands is neither universal nor compulsory.
204. During the period of the ethnic tension (1998 – 2003) the education sector was greatly affected with no salaries available for teachers and no operational grants for schools. To help revive the education sector the Strategic Education Plan 2004 - 2006 was developed. Under this strategic framework, the Education Sector Investment and Reform Programme (ESIRP) was implemented to revive the sector and implement educational reforms. Since then strategic planning has improved and budget provision for education has continued to remain at or above 22% of the national budget.
205. Since 2005, the Community High School initiative has been implemented. These Community Secondary Schools are being built closer to or within villages and communities, purposely to address the issue of gender balance, including that of accessibility to secondary education by girls.
206. In 2009 the SIG released the Policy Statement and Guidelines for Basic Education in Solomon Islands. The strategic objective of the policy is to provide equitable access for all children to quality Basic Education in Solomon Islands. The policy objectives include providing full enrolment opportunity to all children of the age six up to fifteen on an equitable basis and achieve 100% transition rate of all children in year six to year seven by 2015.
207. It is recognised that access to education is a human right and since the beginning of 2009 the Free Fee Basic Education policy has been implemented to address the difficulty which parents faced with paying school fees. This policy covers students attending Year 1 to Year 9; however it only covers operational costs of the school. This means that schools management can still ask parents for contributions. These contributions are not monitored and schools may impose whatever contribution that they see fit. There is no monitoring or evaluation of how the funds raised are utilised. In 2009 the cost per child for Year 1 to Year 6 (in both urban and rural schools) was SBD\$320.00. In 2010 the cost for rural primary schools per child remained the same at SBD\$320.00. However, the amount for urban primary schools was increased to SBD\$520.00 to take into consideration water and electricity costs of schools.

There were no increases in these amounts in 2011. In regards to Community High Schools (Year 7 to Year 9 day students) in 2009 the amount per child was SBD\$800.00 in both urban and rural areas. In 2010 rural Community High Schools received SBD\$800.00 per child whilst urban Community High Schools received SBD\$1000.00 per child. The extra amount in the urban schools was calculated to reflect electricity and water usage. These amounts were not increased in 2011. When the Free Fee Basic Education policy was introduced in secondary schools with boarding facilities an amount of SBD\$1640.00 per child was paid for years 7 - 9. In 2010 this was increased to SBD\$2140.00 per child for both urban and rural Community High School boarding students.

208. In recognition of the barriers to education the Ministry of Education and Human Resource Development (MEHRD) devised the National Education Action Plan (NEAP) 2010-2012. The first strategic goal of the NEAP is to achieve equitable access to education for all people in Solomon Islands regardless of gender, ethnicity, religion, location or disability. This is to be achieved through the provision of an adequate number of schools, classrooms, desks, dormitories and other infrastructure and financial support from government.
209. The Policy Statement and Guidelines for Tertiary Education endorsed by Cabinet in 2010 provides as one of the main policy goals “to provide access to high quality tertiary education and to close the opportunity gap in tertiary participation for marginalised groups.” The policy was developed with the principle of ensuring equitable access for all, including men and women from all provinces and students with disabilities.

Education Indicators

210. There is no specific literacy target set for young people. In 2003 it was noted that the literacy rate for women was only 17%.³⁴ The Solomon Islands Demographic and Health Survey (DHS) in 2007 found that the literacy rate for women was 21%. In 2008, the push out rate in junior secondary schools was 26%, more than 5000 young people were effectively pushed out of the school system. In senior secondary schools the rate was 63% with more than 6800 school push outs.³⁵
211. The 2009 Census demonstrated that the total school enrolment rates for six-twelve year olds was 83.3%. The male rate was 82.8% and the female rate was 83.9%. The literacy rate for females over the age of fifteen years was 79.2% and males were 88.9%. This gap is closer in the fifteen – 24 year old bracket which reported a literacy rate of 88.4% for females and 90.5% for males.
212. The MEHRD has made remarkable progress in providing increased access to education in recent years. Enrolments in early childhood education (ECE) increased by 2.6% between 2007 and 2009. In 2007 there were 49.2% females and 50.8% males. In 2009 there were 48.4% females and 52.6% males. Net enrolment for primary grew from 85.9% in 2004 to 99% in 2009. For junior secondary the progress has been equally impressive with an increased net enrolment rate (NER) that rose from 23.3% to 38% for the same years³⁶. Gender balance in primary schools slightly improved during the period 2007-2009. In 2009 there were 47.5%

34 Strongim Pikinini, Strongim Laef B'long Family – Enabling Children to Reach Their Full Potential, 2005, World Vision.

35 Solomon Islands National Youth Policy 2010-2015, June 2012, Ministry of Women Youth & Children Affairs, p6.

36 The baseline study noted that there is some reason for caution when looking at this data. The figures are likely to be an overstatement of the actual enrolments, as the level of school grant funding that MEHRD provided to the schools is based on enrolment numbers that are indicated in the school survey. Though MEHRD has proven successful in the monitoring and strengthening of the accuracy of the school survey data, it realises there is more work to be done in this area.

females and 52.5% males compared to 47.2% females and 52.8% males. During that period total student numbers in primary education increased from 90,612 in 2004 to 115,728 in 2009; an increase of 25,116 students. For junior secondary schools the number of students increased from 16,231 in 2004 to 24,847 in 2009, an increase of 7,615 students.³⁷ The gender balance also improved over the 2007-2009 period with 46.4% females in 2009 compared with 45.3% females in 2007. Despite an increase in enrolments in senior secondary education throughout the 2007-2009 periods the majority of students are male and this level of schooling has the greatest gender disparity. The data available demonstrates that throughout the period 2007-2009 the transition rate of females into higher levels of education are much lower than males. Some contributing factors to this disparity are large household size, no facilities for children with intellectual or serious physical disability, lack of parental support for children, teachers conduct and attitude, financial hardship and food security at household and individual level.³⁸ Other contributing factors include lesser number of female dormitories, distance to schools and cultural factors.

213. Despite improvements to the enrolment numbers there remain considerable challenges to enrolling all children, and ensuring that they complete the nine years of the basic education cycle. Drop-out rates at primary schools have increased in the period 2007 - 2009 from 8% to 11% and in particular for girls (from 7% to 11%). Malaita Province had the highest drop-out rate in 2009 (18%), but Central (13%), Renbell (12%) and Temotu (12%) Provinces also carry high drop-out rates.³⁹ Also at the junior secondary level a similar negative trend is revealed. Drop-out rates in junior secondary schools have increased from -1% in 2007 to 4% in 2009. Girls show higher drop-out rates than boys at 13% and -8% respectively. The highest drop-out rates in junior secondary are in Choiseul and Central Provinces, at 17% and 18% respectively.
214. Increasing enrolments put pressure on the capacity of school systems and teachers to deliver quality education. Considerably high enrolments (especially for primary school) have been achieved but the challenges of continuation, completion, poor teacher motivation, teacher absenteeism and low standards, patchy attendance of students remain. Children from rural areas, slum areas, and children with disabilities still face major obstacles in accessing good quality education.
215. In addition, absenteeism of students is a serious problem. From 2007 to 2009, the absenteeism rate in Central, Rennell and Bellona and Temotu Provinces has deteriorated – from 6% to 7% in Central province; from 2% to 3% in Rennell and Bellona Province; and from 5% to 7% in Temotu Province.
216. The gap between gender disparity in primary education is closing with a picture of 0.97 in 2007, as ratio of females to males in primary schools in comparison to 0.86 in 1990s. In 2008 94% of girls and 95% of boys were attending primary education. There has also been significant increase in the ratio for secondary education with a value of 0.84 in 2007 compared to 0.60 in 1991. In 2006 30% of girls attended junior secondary schools. This increased to 32% in 2008. However, there is anecdotal evidence that demonstrates that there is still a prejudice in schooling girls and should a decision need to be made between schooling for a boy sibling or a girl sibling parents often educate the boy first. The disparity between genders increases as the level of education increases. There have been considerable efforts in the development of policies to address these disparities and in particular increase the participation of girls in the senior levels of the education system. A need for greater gender parity in teachers is also needed.

37 Data is from MEHRD's Digest of Education Statistics 2005 and the Performance Assessment Framework 2007-2009.

38 Barriers to Education Study, June 2011, MEHRD, p7.

39 Performance Assessment Framework 2007-2009, 2010, MEHRD.

217. An important problem, faced particularly by female students at secondary level is the lack of dormitory facilities. This means that for those female students who need to board to complete their schooling are effectively pushed out of the system due to lack of dormitory accommodation for female students. Disaggregated data on the availability of dormitories for female students is not available however generally the number of dormitories available for male students outnumbers the number available for female students.
218. The MEHRD has significantly improved its systems on data collection. However, greater attention to the collation of disaggregated data from schools will continue to assist the development of education access policies. It is acknowledged that there needs to be a greater level of monitoring of data in schools including in respect of the expenditure of parental contributions to ensure that these are being utilised to provide access to quality education for all children.

Tertiary Education

219. One of two major tertiary educators is the Solomon Islands College of Higher Education (SICHE) established in 1985 which is now a National University⁴⁰ and offering a range of certificate and diploma courses relating to professional employment, and bachelor level courses in teaching and business. In 2005 a total of 1,756 students were enrolled at SICHE of which 45% were female and 55% were male.⁴¹ The other major tertiary institution is the University of the South Pacific (USP) Centre in Honiara, where most USP courses are available as assisted distance learning courses. There is some support for overseas study in the form of Solomon Islands government or third country scholarships. There is no disaggregated data available for the composition of students enrolled in these education institutions.
220. Tertiary education reveals similar patterns to secondary school with respect to female participation. In 2005 out of a total of 1,756 students enrolled, 972 were boys and 784 were girls. The MEHRD National Education Plan (2007-2009) shows that the different fields of study pursued reflect the stereotyping of men's and women's roles. Women dominate in the education, nursing, finance and administration fields of study and areas relating to industry and resources are heavily dominated by men. The lack of representation of female students in the resources sector is mirrored in their lack of employment in these sectors.⁴²

Education Surveys and Studies

221. In 2008 the MEHRD together with development partners formed a special Taskforce to lead and implement a study to identify the '*barriers to education*' at the basic education level. The purpose of the study was 'to identify the factors which contribute to non-enrolment and drop-out and therein support the MEHRD to implement strategies which will increase the enrolment and completion rates for the basic education cycle'.
222. An important conclusion of the "Barriers to Education Study" is that enrolment in primary school has become a normal part of childhood in Solomon Islands, and that very few children fail to enrol in school at all, despite the fact that primary education is not mandatory in the country. From the 389 household interviews only 66 children (6.8%) were identified as not enrolled. Ages in this group varied, but there seemed to be more non-enrolled children towards the two ends of the basic education cycle. The data also showed that more girls (48%) compared to boys (33%) were not enrolled in school. However it must be noted that Solomon Islands Education Management Information System (SIEMIS) data shows near gender parity

40 The Solomon Islands National University Act was passed by Parliament on 6 December 2012.

41 Policy Statement and Guidelines for Tertiary Education in Solomon Islands, February 2010, MEHRD, p33.

42 See p9 at footnote 6 above.

at primary and lower secondary levels, so there needs to be some caution in interpreting this finding. The household survey encountered 25 households that had at least one child, who had never at any time in their lives been enrolled in school. This is about 6% of the total number of children covered in the household survey.⁴³

223. In 2010 the Asia South Pacific Association for Basic and Adult Education and the Coalition for Education Solomon Islands conducted literacy research in the provinces of Isabel and Rennell and Bellona. This research demonstrated that in both provinces more women than men reported that they had never attended school. In Isabel 9.7% of women compared with 4.3% of men reported that they had never attended school. In Rennell and Bellona province this figure was 5.9% for women and 2.9% for men. The survey also demonstrated that for both provinces males are twice as likely to complete secondary school as females. The university education results of the survey demonstrate the same picture. In both provinces a greater proportion of males reached tertiary level education than females. In Rennell and Bellona Province 11.6% of males and 5.45% of females reached university level. In Isabel Province 12.3% of males and 6.5% of females reached university education.
224. In 2011 the fifth Solomon Islands Government-RAMSI People's Survey was conducted of perceptions of economic conditions, governance and law and order in Solomon Islands. A total of six provinces and the capital city, Honiara participated in the survey. A total of 4972 questionnaires were completed and more than 70 focus groups conducted. The survey showed that 83% of respondents lived within an hour of a primary school and most of the remainder could reach one in less than two hours.

Children with Disabilities

225. Children with disabilities (CWD) still face discrimination in relation to schooling. The report "Pacific Children with Disabilities" found that education for children with disabilities is very limited. According to official education statistics, only a very small proportion of children with disabilities are attending school. Official statistics record that 2% of children with disabilities attend primary school; 1% junior secondary school and less than 1% at senior secondary school. Those children with disabilities who do attend school tend only to stay for a few years. It is apparent that most children with disabilities in rural areas – the major part of the country – do not attend school. This is often due to the distances that children have to walk to school and also due to attitudes of teachers who lack the confidence to teach children perceived to have different abilities. In Honiara, the Red Cross Centre for Children with Disabilities provides basic care, education and training to some 155 CWD between the ages of six months and 20 years. The Centre has children with all disabilities and includes an early intervention unit as well as physiotherapy. The Centre tries to integrate some children back into the mainstream school system where possible and has had some successes in this area. Some deaf children progress to the San Isidro Care Centre, a rural training centre for deaf youth, where they learn agriculture, home economics and life-skills.⁴⁴ Disaggregated data is not available in respect to children with disabilities attending school.

Education and Pregnancy

226. Female students who fall pregnant are at risk of expulsion from school. There is currently no national policy or strategy which protects the right to education for pregnant female students. It is at the discretion of the relevant school as to whether a pregnant female student can continue to attend school. The current practice in all schools, including those that are faith based, is that pregnant female students are expelled. Although there is no data on the number

43 See p17 at footnote 37 above.

44 Pacific Children with Disabilities - A report for UNICEF Pacific's 2010 Mid-Term Review, UNICEF, p34.

of female students who are expelled due to pregnancy there is anecdotal evidence that it occurs in most schools throughout the country. There are currently no policies or strategies that have been developed and implemented to enable pregnant female students to continue with their education. It is very rare for the same type of punishment to be inflicted on a male student who had a sexual relationship with a female student resulting in pregnancy.

Curriculum Review

227. Although there is no legislative requirement to include sexual and reproductive health education in the curriculum it is compulsory in primary school under the health education syllabus. Resistance to the inclusion of it as compulsory was experienced particularly from parents.
228. In the Universal Periodic Review in May 2011, the Solomon Islands Government recognised the need and expressed a desire to have human rights as a subject. As a step towards implementing this, a review of the curriculum and teaching materials has commenced. In 2011, a review of a Social Science textbook for year 8 commenced. The textbook will include three chapters on human rights including Rules, Laws and Judiciary – the role of courts and laws in the protection of human rights and the basic freedoms that Solomon Islands citizens have guaranteed in the Constitution; Gender Inequality – how gender equality should be encouraged in Solomon Islands societies and Women and Leadership – the changing role of women and barriers that women face within society. It is anticipated that the updated textbook will be ready for use in schools 2013.
229. In addition to reviewing textbooks and other school materials the MEHRD has been conducting a curriculum review. This review commenced in 2005 and will be complete in 2013. The review is considering the inclusion of gender issues, women in leadership and violence against women in the social studies syllabus. The types of elective and compulsory subjects are also being reviewed. The review is considering the implementation of all subjects being compulsory up until Form 3 rather than having home economics and industrial arts available as electives. The development of two strands of education, technical and academic up until Form 4 is also being considered.
230. There are currently an inadequate number of vocational and non-formal education opportunities available for young people and which are more limited for young women. The total intake for vocational schools for 2010 was 2228 and this number increased to 2600 in 2011. The female intake for both years was 509 and 576 respectively. The courses offered in vocational schools include mechanic, agriculture, life skills, basic electrical, basic carpentry, plumbing, hospitality and eco-tourism and business skills.

Education Staff Levels

231. The MEHRD is primarily staffed by men. In 2009 the MEHRD had a total of 215 positions filled. Of those positions 173 (80%) were men and 42 (20%) were women. Although the number of women did increase in 2010 the MEHRD remains dominated by men. In 2010 out of a total of 232 positions 151 (65%) were filled by men and 81 (35%) were filled by women. These figures are for Ministry established posts and do not include teachers.
232. Overall the number of male teachers outnumbers the number of female teachers apart from in early childhood education. In 2008 there were 893 female ECE teachers and 167 male ECE teachers. In 2009 there were 936 female ECE teachers and 162 male teachers. At primary school level there are more male teachers than female teachers. In 2008 there were 1931 female teachers at primary school level in comparison with 2429 male teachers. In 2009 there were 2170 female primary school teachers and 2695 male primary school teachers. The disparity between the number of male and female teachers is even greater at secondary level.

In 2008 there were 397 female secondary school teachers and 997 male secondary school teachers. In 2009 there were 404 female secondary school teachers and 1015 male secondary school teachers.

233. Male teachers in management roles in schools also outnumber female teachers in management roles. Management roles in schools include head teachers in primary school education level and deputy principals and principals in secondary education level. In 2007 there were 163 female teachers in management roles in primary education in comparison with 625 men. In 2008 there were 168 female and 649 male teachers in primary education management roles. In 2009 the disparity continued to increase and there were 183 female teachers and 702 male teachers in primary education management roles. The disparity is greater in secondary education. In 2007 there were a total of 26 female teachers and 194 male teachers in secondary education management roles. These numbers increased to 28 and 217 respectively in 2008. In 2009 the disparity continued to grow with 29 female teachers and 241 male teachers in secondary education management roles. There are currently no strategies or processes in place to increase the number of female teachers in management roles in the education system. Furthermore, there are currently no policies or strategies in place to reduce the disparity between the numbers of female and male teachers.

Enrolment numbers by education level and gender 2006-2010 (Performance Assessment Framework 2006-2008 and 2007-2009 and 2008-2010)

Level	2006	2007	2008	2009	2010
ECE Total	18248	20,516	19,382	21,045	22720
ECE M F	(M)9244 (F)9004	(M)10415 (F)10101	(M)9913 (F)9469	(M)10858 (F)10187	(M)11656 (F)11064
Primary Total Primary M F	102167 (M)53854 (F)48313	106,226 (M)56075 (F)50151	110,219 (M)57837 (F)52382	115,728 (M)60709 (F)55019	119,139 (M)62336 (F)56803
Junior Sec Total Male Female	18208 (M)10055 (F)8153	19,432 (M) 10,628 (F)8804	20,607 (M)11157 (F)9450	24,847 (M)13312 (F)11535	25,642 (M)13618 (F)12,024
Senior Sec Total Male Female	10433 (M)6575 (F)3858	11,387 (M)7,360 (F)4027	11,957 (M)7471 (F)4486	13,598 (M)8219 (F)5379	14,436 (M)8711 (F)5725

Gross Enrolment Ratios by Education Level and Gender 2006-2010 (Performance Assessment Frameworks 2006-2008, 2007-2009 and 2008-2010)

Level	F 2006	M 2006	Total 2006	F 2007	M 2007	Total 2007	F 2008	M 2008	Total 2008	F 2009	M 2009	Total 2009	F 2010	M 2010	Total 2010
ECE	138%	132%	135%	155%	149%	152%	146%	142%	144%	154%	150%	152%	149%	147%	148%
Primary	117%	120%	119%	118%	121%	120%	122%	124%	123%	126%	127%	126%	127%	126%	126%
JS	53%	60%	57%	57%	63%	60%	58%	63%	61%	69%	73%	71%	71%	76%	74%
SS	20%	31%	25%	20%	34%	27%	22%	34%	28%	27%	37%	32%	27%	33%	30%

Net Enrolment Ratios by Education Level and Gender 2006-2010 (Performance Assessment Frameworks 2006-2008, 2007-2009 and 2008-2010)

Level	F 2006	M 2006	Total 2006	F 2007	M 2007	Total 2007	F 2008	M 2008	Total 2008	F 2009	M 2009	Total 2009	F 2010	M 2010	Total 2010
ECE	36%	35%	35%	41%	40%	40%	38%	39%	39%	41%	40%	41%	41%	39%	40%
Primary	92%	93%	92%	92%	95%	93%	95%	96%	96%	99%	98%	99%	99%	98%	99%
JS	30%	30%	30%	31%	31%	31%	33%	32%	32%	39%	37%	38%	39%	38%	39%
SS	17%	23%	21%	17%	23%	20%	18%	22%	20%	21%	24%	23%	23%	26%	25%

Number and percentage of children not attending regularly by Gender and Year Level 2006-2010 (Performance Assessment Frameworks 2006-2008, 2007-2009 and 2008-2010)

Level	F 2006	M 2006	Total 2006 And %	F 2007	M 2007	Total 2007 And %	F 2008	M 2008	Total 2008 And %	F 2009	M 2009	Total 2009 And %	F 2010	M 2010	Total 2010 And %
Primary	2342	3310	5652 6%	2327	3055	5382 5%	2353	3148	5501 5%	1724	2320	4044 3%	2024	2810	4834 4%
JS				156	272	428 2%	138	270	408 2%	182	301	483 2%	183	310	493 2%
SS	74	200	274 3%	45	144	189 2%	34	61	95 1%	100	90	190 1%	95	146	241 2%

Transition Rate from Standard 6 to Form 1 = the percentage of students enrolled in Standard 6 who went on to Form 1 the following year (from 2005 Education Digest Statistics):

	2003>2004	2004>2005
Male	0.85	0.86
Female	0.85	0.88
Total	0.85	0.87
GPI	1.01	1.02

Transition Rate from Standard 6 (primary) to Form 1 (Secondary) (SISEE) 2007-2009 (Performance Assessment Framework 2007-2009)

	2007 Total enrolled	2007 Total Transitioned	2007 Transition Rate	2008 Total enrolled	2008 Total Transitioned	2008 Transition Rate	2009 Total Enrolled	2009 Total Transitioned	2009 Transition Rate
Male	4425	4128	93.3%	4764	4261	89.4%	5142	4531	88.1%
Female	3910	3586	91.7%	4400	3965	90.1%	4731	4164	88%

Transition Rate from Form 3 to Form 4 (SIF3) 2007-2009 (Performance Assessment Framework 2007-2009)

	2007 Total enrolled	2007 Total Transitioned	2007 Transition Rate	2008 Total enrolled	2008 Total Transitioned	2008 Transition Rate	2009 Total Enrolled	2009 Total Transitioned	2009 Transition Rate
Male	2522	1966	78%	2925	2023	69.2%	3278	2421	73.9%
Female	2025	1617	79.9%	2417	1650	68.3%	2725	1876	68.8%

Transition Rate from Form 5 to Form 6 (SISC) 2007-2009 (Performance Assessment Framework 2007-2009)

	2007 Total enrolled	2007 Total Transitioned	2007 Transition Rate	2008 Total enrolled	2008 Total Transitioned	2008 Transition Rate	2009 Total Enrolled	2009 Total Transitioned	2009 Transition Rate
Male	1746	551	31.6%	1853	636	34.3%	1811	910	50.2%
Female	1317	475	36.1%	1377	472	34.3%	1470	594	40.4%

Transition Rate from Form 6 to Form 7 (PSSC) 2007-2009 (Performance Assessment Framework 2007-2009)

	2007 Total enrolled	2007 Total Transitioned	2007 Transition Rate	2008 Total enrolled	2008 Total Transitioned	2008 Transition Rate	2009 Total Enrolled	2009 Total Transitioned	2009 Transition Rate
Male	1067	166	15.6%	1123	164	14.6%	988	207	21%
Female	549	115	20.9%	745	109	14.6%	599	128	21.4%

Education Drop Out Rates by Gender and Year Level 2006—2009 (Performance Assessment Framework 2006-2008 and 2007-2009)

Level	F 2006	M 2006	Total 2006	F 2007	M 2007	Total 2007	F 2008	M 2008	Total 2008	F 2009	M 2009	Total 2009
Primary	9%	8%	9%	7%	8%	8%	7%	6%	6%	11%	11%	11%
JS	19%	16%	18%	7%	-7%	-1%	-4%	-18%	-11%	10%	-1%	4%
SS	54%	56%	55%	46%	56%	52%	42%	52%	49%	48%	52%	51%

Enrolment numbers by Education Level and Gender 2003-2005

Level	2003 – total		2004 – total		2005 – total		% Change
	Male	Fem	Male	Fem	Male	Fem	
ECE	4482M	4340F	5364M	5180F	5728M	5523F	6.7%

Enrolment by Education level and gender 2003, 2004 and 2005

School Level	2003	2004	2005	% change
Primary total	85,958	90,612	100,356	10.8%
Female	40,127	42,587	47,210	
Male	45,831	48,025	53,146	
Secondary total	23,514	23,690	25,017	5.6%
Female	10,151	10,235	10,788	
Male	13,363	13,455	14,229	

Dormitory Facilities by Gender 2005 (Digest of Education Statistics 2005)

	Boarders	% Boarders	Dorm Capacity	Boarders/Toilets	Boarders/showers
Male	6327	9.48%	5814	19.65	23.18
Female	4387	7.56%	4629	22.38	29.84
Total	10714	8.59%	10443	20.68	25.51

ARTICLE 11: EMPLOYMENT

Legal Context

234. The various pieces of legislation which cover employment in Solomon Islands do not provide anti-discrimination provisions on the grounds of sex, marital status, pregnancy, sexual orientation and HIV status with sanction. The legislation does not provide special measures for the advancement of women in employment. Employment protection legislation is very limited.
235. The equality between male and female employees under the employment legislation is dependent on what type of work is being performed. The *Labour Act* (CAP 73) provides protections in respect of leave, minimum wage and conditions of work. However, some of the provisions do not apply to all employment types. It excludes a domestic servant or seaman from the definition of a worker. Therefore, those protections which are provided to workers do not apply to domestic staff. For example, the days and hours of work are confined to those employees who meet the definition of worker.
236. The *Workmen's Compensation Act* (CAP 78) 1952 in section 2 states that an outworker is not a workman for the purposes of the Act. An outworker is defined to mean a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale in his own home or on other premises. Consequently, there is no protection for death or injury during the course of employment for women who are outworkers as defined under the Act.
237. The *Solomon Islands National Provident Fund Act* (CAP 109) 1976 in Schedule 1 excludes outworkers as defined by the Workmen's Compensation Act. Therefore, the protections and benefits provided by the Solomon Islands National Provident Fund are not available to outworkers.
238. The *Labour Act* in section 30 provides that the Minister may by order fix minimum rates of wages for workers in any occupation or in any class or grade of any occupation. There is no differentiation on the basis of gender, it is on the basis of occupation.
239. The employment legislation framework does not provide a legislative provision providing pay equity⁴⁵. There is no legislative guarantee for equal retirement age.
240. The employment legislation framework does not provide sexual harassment protection from

45 Pay equity refers to equal pay for equal work at <http://www.dol.govt.nz/services/PayAndEmploymentEquity/definitions.asp> (Accessed on 17/12/2012)

employers and co-workers. Consequently, depending on the type of behaviour exhibited by the offender reliance would have to be placed on offences contained in the *Penal Code* to deal with these circumstances. One offence that may be of assistance is section 141(3) of the *Penal Code* which provides:

“Whoever, intending to insult the modesty of any woman or girl, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman or girl, or whoever intrudes upon the privacy of a woman or girl by doing an act of a nature likely to offend her modesty, shall be guilty of a misdemeanour, and shall be liable to imprisonment for one year.”

241. The *Labour Act* contains restrictions on the choice of employment for women. Section 39 provides that women are not to be employed at night in any undertaking except as follows:
- a. *has to do with raw materials or materials in course of treatment which are subject to rapid deterioration;*
 - b. *unforeseen emergency;*
 - c. *responsible position of management not normally engaged in manual work;*
 - d. *is that of nursing and of caring for the sick, or other health or welfare work; or*
 - e. *is carried on in a cinematograph or other theatre while such theatre is open to the public; or*
 - f. *is carried on in connection with a hotel or guest house, or with a bar, restaurant or club; or*
 - g. *is carried on by a registered pharmacist; or*
 - h. *is not prohibited by an international convention applying to Solomon Islands and is specifically declared by the Minister by order to be work upon which women may so be employed.*
242. The *Labour Act* in section 40(1) provides that women shall not be employed in underground work in any mine except in management and health and welfare services. Section 41 provides that the Minister may from time to time suspend the prohibition of the employment of women during the night when in case of serious emergency the public interest so demands. These restrictions on employment are not made on men.
243. The *Safety at Work Act* (CAP 74) provides a general duty on employers to provide a safe working environment however there is no specific protection provided for pregnant women.
244. Section 42 of the *Labour Act* provides for maternity leave. This is not available to casual staff or to women employed as domestic servants (as they are not defined as workers). The maternity leave provided for is up to twelve weeks leave on the production of a medical certificate and on not less than 25% of the wages. This includes a period of six weeks compulsory leave after confinement during which time it is an offence to return to work. The remaining six weeks may be taken before or after birth and is not compulsory and is available if certified as necessary by a medical practitioner. Section 43(2) provides that if a female worker has received wages during her period of maternity leave and fails without reasonable cause to return to work her employer may regard her as having abandoned her employment. The woman must then repay the leave payment that is equivalent to the leave notice period.
245. The legislation does not provide protection from dismissal because of pregnancy. However, section 43 of the *Labour Act* provides that a woman cannot be dismissed during maternity

leave taken in accordance with the Act and any additional leave which may have been certified to be necessary by a medical practitioner. As identified above women can be dismissed if they fail to return to work after the approved leave period.

246. The legislation does not provide a guarantee for the provision of childcare by employer or state.
247. The *Labour Act* in section 42(5) provides that up to an hour twice per day during work hours a mother may have nursing time. Such interruptions are regarded as work time and she shall be remunerated accordingly.

Application of the Law

248. It is recognised that The *Labour Act* is discriminatory in providing protections for women. The exclusion of domestic staff from the definition of worker discriminates against a large number of women. This legislation is likely to exclude women disproportionately as domestic staff is a role frequently performed by women.
249. The exclusion of outworkers from the definition of workmen is also likely to exclude women from protection disproportionately as this type of role is frequently performed by women.
250. Reliance on the *Penal Code* to deal with sexual harassment is too limited. The definition of the indecent assault offence under section 141(3) is too restrictive and does not cover the breadth of unwanted behaviours that may be experienced by women in the workplace.
251. In recognition of the importance of public office the Solomon Islands Government developed a “Code of Conduct” for the Solomon Islands Public Service in 2009. The Code of Conduct provides that all members of the public service must actively contribute to a harassment free workplace. It provides that all members of the public service must ensure that the workplace is free from harassment, including sexual harassment, by ensuring that each member’s own behaviour is not offensive, intimidating, humiliating, threatening or inappropriate. It also provides an obligation to ensure that actions and language are not offensive or discriminatory to others. Breaches of the code of conduct can result in warnings, a charge of misconduct, reprimand or dismissal.

Maternity Leave

252. Although maternity leave is provided for it has a number of discriminatory features. Firstly, it is not available to all workers as domestic servants are excluded from the definition of worker under the *Labour Act*. Consequently, a large number of female employees do not receive the benefit of maternity leave. Secondly, the pay is only guaranteed at a rate of 25%. Although the prohibition on working during the 6 weeks after birth is intended to protect women it may result in financial hardship for those women who must return earlier. Furthermore, it takes away a woman’s choice about when to return to work after birth. The requirement to repay leave money if a woman does not return to work in lieu of notice is discriminatory. It does not take into account circumstances such as lack of childcare, health issues, or the desire to spend further time at home with the newborn child. This is discriminatory as there is no availability of extended unpaid leave in the legislation.
253. The maternity leave entitlements available to women employed in the public service are much more generous than those contained in the *Labour Act*. The Public Service General Orders which sets out the condition of service in the public service provides that a female staff member on maternity leave shall receive full pay from six weeks before till six weeks after delivery. However this does not apply to staff that are on probation. A female public servant is entitled to apply for unpaid leave for up to 90 days after the expiration of the full pay period

which ceases at six weeks after delivery. If a woman is unable to return to her employment upon completion of the 90 days unpaid leave the General Orders provide that “she shall be called upon to resign”.⁴⁶ This condition also applies to women who are on probation.

Participation Indicators

254. While female participation in the labour force has increased, there are still significant gender gaps in participation rates, occupational levels and wages. Paid employment for women has expanded slowly and women continue to assume the largest share of unpaid work. Increased participation in the formal sector has been restricted largely to low-paid, low status jobs in the tertiary and services sector with average female earnings close to half the average male wage.⁴⁷ In 2005 the estimated average earned income per year was USD\$2,672 for men and USD\$1,345 for women.
255. The 1999 Census revealed that 60.4% of women compared with 72.2% of men were in the labour force. The number of female wage and salary earners was approximately 17,711 and was less than half the number of male wage and salary earners which was 39,761. Approximately 76.2% of women were subsistence workers, compared with 58.1% of men.
256. The 2009 Census revealed that the employed population in total was 81,194 of which 26,658 (33%) were women and 54,536 (67%) were men. It reported that a total of 87,913 of the population were subsistence workers of which 52,665 (60%) were women and 35,248 (40%) were men. A total of 41,191 unpaid workers were reported of which 23,330 (57%) were women and 17,861 (43%) were men. The census reported that only 4,331 of the population classified themselves as unemployed of which 1,841 were women and 2,490 were men.
257. The Solomon Islands 2007 Demographic and Health Survey (DHS) showed that a much smaller number of currently married women (42.1%) than currently married men (87.1%) were employed at some point in the year prior to the DHS. The DHS indicated that the economic vulnerability of women was exacerbated by the fact that more than half (56.1%) of those women who were employed were not paid, either in cash or in kind for their work.
258. The 2011 People’s Survey demonstrated that the most common source of money is selling goods (78%) which is largely by informal marketing of food and betel nut. The percentage relying on selling was higher in rural areas. In comparison to men, women respondents were more likely than males to rely on informal selling (80% and 75% respectively) or their family (22% and 16% respectively) but males were almost twice as likely to be engaged in paid work and more likely to have their own business.

Women in the Public Service

259. Men continue to dominate the formal workforce including the public service. In 2011 the public service workforce was 62% (9068) men and 38% women (5542). Women continued to dominate the lower administrative level of the public service workforce with very few women in senior management. Women are absent in the senior ranks of the Legal Sector. There are no women and have never been any Solomon Islands women in positions of the Chief Justice, High Court Judge, Chief Magistrate, Public Solicitor, Director of Public Prosecutions, Solicitor-General and few women in senior management roles in the Ministry of Justice and Legal Affairs. There are thirteen position levels in the public service before five senior management levels. Most women in the public service in 2011 were employed in

46 See Labour Act Section 42(1) and Solomon Islands Public Service General Orders 2007 Edition, Chapter J, Sections 501 & 502.

47 Solomon Islands Human Development Report, 2009, UNDP.

Position levels one to five (with one being the lowest level).

260. The dominance of men in the public service is demonstrated by an examination of the Ministry of Education and Human Resource Development. The MEHRD is primarily staffed by men. In 2009 the MEHRD had a total of 215 positions filled. Of those positions 173 (80%) were men and 42 (20%) were woman. Although the number of women did increase in 2010 the MEHRD remains dominated by men. In 2010 out of a total of 232 positions 151 (65%) were filled by men and 81 (35%) were filled by women. These figures are for Ministry established posts and do not include teachers.

261. The Public Service General Orders are discriminatory against women in situations of spousal postings. Section 4 (401) of Chapter B states that –

“A married woman officer is subject to all conditions under which other officers are required to serve including liability to be posted anywhere in Solomon Islands. Generally, Responsible officers will endeavour to employ a married woman officer at the same station as her husband but where this is not possible a separate posting must be accepted or the officer must resign her appointment.”

This provision basically provides that a married woman either must accept a separate posting or resign. There is no ability to have leave without pay so that the woman may accompany her husband for the duration of his posting and attempt to obtain a same location posting during the course of the posting. This restricts the choices of women and usually results in women being forced to resign for lack of other options.

262. In recognition of the need to address the gender imbalance in the public service, a gender based objective was included in the “Human Resource Management Strategy for the Solomon Islands Public Service 2010-2015” which was launched in 2010. Objective 14 of the strategy provides “Assist SIG to implement gender equality strategies across the public service which provide women the same access to employment and career development opportunities as men”. In order to achieve this objective the actions required include the establishment of a gender taskforce to research strategies undertaken in relation to women in leadership, implement a women in leadership mentoring program and the development of robust policies aimed at eliminating all forms of workplace harassment. To date there has been no reported monitoring or evaluation of the implementation of this objective as the development of processes and mechanisms for implementation have been the focus.

263. There have been considerable steps taken in the development and implementation of policies in the public service to increase employment opportunities for women in the public service and in particular in senior management positions. However, there remains the need to perform a comprehensive review and reform of all discriminatory provisions in the Public Service General Orders.

Women in Business

264. The establishment of businesses is dominated by men. The male dominated culture of Solomon Islands does not encourage women to enter into formal businesses. This is demonstrated by the small number of women that are registering business names⁴⁸. In 2008 out of 772 business names that were registered, only 3 or 4 were made by women. Similarly, in the companies registry, of the 157 companies registered in that year, the vast majority have male shareholders and directors. However, many women operate businesses informally including market sellers, stall holders and women in small scale agriculture.

48 See paragraph 333 below for more information on SIWIBA.

265. There are various legislation which allow both women and men to register business entities. These include *Business Name Act*, the *Cooperatives Society Act* and the most recent 2009 *Companies Act*.

Constraints to participation in formal employment

266. Women have been constrained from formal employment due to various factors. Unequal sharing of household responsibilities mean that women spend most of their time in the home and are restricted from performing economic activities⁴⁹. Unpaid labour is also a major contributor to economic inequalities between women and men. Consequently, reliance is placed on family members or domestic staff to perform the role of childcare to enable a woman to engage in formal employment⁵⁰.

Initiatives to Address Unemployment

267. In recognition of the issue of increasing unemployment in Honiara, the capital, the Solomon Islands Government requested assistance from development partners to fund projects to increase the skills, knowledge and experience and provide short term employment opportunities to urban poor. This has resulted in the development of the Rapid Employment Project which commenced in 2010 and will conclude in 2015. Funded by a number of development partners the project is implemented through the Honiara City Council and the Ministry of Infrastructure Development. The life skills development component of the project provides information sessions to targeted youth within the scheme and will focus on topics ranging from workplace behaviour, basic money management, health and domestic violence. The project is expected to benefit roughly 7,500 people with at least 50% being youths and will support equal gender participation. Other government initiatives to address unemployment include the Honiara Women's Initiative, Bina Harbour Industrial Port, Auluta Basin Palm Oil Project, Wairokai Palm Oil Project, Suava Bay Fish Processing Project, and the Tenaru Fish Loining Project.

ARTICLE 12: HEALTH CARE AND FAMILY PLANNING

Legal Context

268. The Constitution provides protection for the right to life but does not specifically provide for the right to the highest attainable standard of physical and mental health care.
269. The *Penal Code* criminalises abortion in section 158. It provides that any woman who with intent to procure her own miscarriage, unlawfully administers to herself any poison or uses any force of any kinds or permits any such thing commits the offence of abortion and is liable to life imprisonment. Section 157 provides that any person who attempts to procure an abortion also commits an offence for which the maximum penalty is life imprisonment. The supply of drugs or instruments to enable a person to procure an abortion is also an offence and carries a maximum penalty of five years imprisonment.
270. Section 221 of the *Penal Code* provides the offence of killing an unborn child that is capable of being born alive. This is defined as a woman being pregnant for 28 weeks or more is prima facie proof that the child was capable of being born alive. The maximum penalty for this offence is life imprisonment. It is not an offence if the act that killed the child was done in good faith to preserve the life of the mother.

49 This is also a result of the stereotype where women have the bulk of domestic roles. See paragraph 118 and 119 above.

50 See paragraph 118 and 119 above.

271. The provision of health and medical services is regulated by the *Health Services Act*. The Constitution protects the right to life. The *Mental Treatment Act 1974* governs the administration of the mental health system.

Application of the Law

272. The health services strictly observe the *Penal Code* and its application to abortions. Abortions can only be performed where it is essential to safeguard or save the life of the mother and it has to be recommended by two independent medical experts.

Health Services

273. The Solomon Islands Government provides free health and medical services to its citizens. In addition to the government provided services there is a private health sector which provides private health clinics with access to a general medical practitioner for a fee.
274. Primary Health care is delivered by a network of clinics of four types from least sophisticated to most sophisticated; nurse aid posts, rural health centres, area health centres urban clinics and outpatients clinics based at provincial and the national hospitals. Primary health care clinics are the main providers of health care nationally, apart from small numbers of private practitioners who are based largely in the national capital. These clinics provide acute care outpatient services, maternal care (antenatal visits, birth and post natal care), child health services (including vaccinations and growth monitoring), outreach satellite clinics, health education and inpatient services.
275. The Ministry of Health and Medical Services delivers its programmes and activities with assistance from development partners through the Health Sector Support Program 2008-2015 (HSSP). Of the total funding for the health sector, more than 50% comes from development partners and over 90% of actual development expenditure for health is provided by development partners.⁵¹
276. The Solomon Islands Government has benefited from specialised medical visits from key development partners. In 2005 the Solomon Islands Government signed a Memorandum of Understanding with Cuba under which there are currently approximately 98 Solomon Islands students studying medicine in Cuba and seven Cuban doctors serving in-country.

Malaria

277. Health is characterized by a medium to a high level of infectious diseases and an increasing burden of non-communicable diseases. Malaria represents a major public health concern, especially among those who are particularly vulnerable such as pregnant women and children under five years of age. Consequently, the Solomon Islands National Development Strategy 2011 - 2020 states in objective 3 “Ensure all Solomon Islanders have access to quality health care and combat Malaria, HIV, Non-communicable and other diseases”.
278. The Solomon Islands Government and development partners have developed a six year (2008 - 2014) Malaria Action Plan (MAP) to scale up the response to Malaria. The goal of the MAP is effective intensified nationwide control of malaria and elimination of malaria in Temotu and Isabel Provinces by 2014. Use of insecticide treated mosquito nets (ITNs) is a key part of the primary health intervention aimed at reducing malaria transmission. According to the Solomon Islands Demographic and Health Survey in 2007 (DHS) three quarters of

51 Solomon Islands National Development Strategy 2011-2020, July 2011, MDPAC, p17.

all households in both urban and rural areas own at least one mosquito net. However, the availability of insecticide treated nets is much lower affecting only one in two households in both urban (50.3%) and rural (48.3%) areas. Higher rates of mosquito net use were reported among pregnant women living in rural households (58.3%) compared with 44.8% of pregnant women in urban households. The highest rates were recorded for Guadalcanal with 75% of pregnant women aged between 15-49 having slept under a net the night before the DHS. The 2009 Census revealed that out of a total number of 91,250 private households 22,684 households did not have any insecticide treated bed nets.

279. In 2010, 316,108 bed nets were freely distributed covering an estimated household population of 482,522. A total number of 33,762 households were reportedly sprayed with insecticide of which a total population of 168,711 was estimated to be protected. In 2010 214 primary schools were visited as part of the National Vector Borne Disease Control Programme.
280. Malaria has fallen to the lowest levels in the past 12 years, although the rate of clinical syndromic diagnosis has plateaued since 2008. Significant reduction in malaria incidence has been reported across the country, with the most significant drop in highly endemic provinces including Malaita (52% decrease) and Central Islands Province (84% decrease). Annual incidence rate has decreased from 130.91/1000 in 2007 to 82.32/1000 in 2008. An 11% decline in the number of positive malaria cases occurred between 2008 and 2009. There is no disaggregated data available in respect of the incident rate of malaria.

Women with Disabilities

281. In 2004 the Ministry of Health and Medical Services developed the Solomon Islands National Policy on Disability 2005-2010. One of the objectives of this policy is the promotion of equal participation of women with disabilities and mainstream their issues on a national, regional and international level. A consultant has been engaged to review the policy. In 2005, the Solomon Islands Government together with the European Commission conducted the first ever Solomon Islands National Disability Survey. This survey was to investigate the numbers and needs of people with disability in Solomon Islands. The study showed that in 2005 there were very few outreach rehabilitation services available to people with disabilities in the provinces. This has started to improve with community based rehabilitation workers operating in all nine provinces. However, there is only one physiotherapy outpost in the provinces and that is based in Malaita Province.
282. The disability survey showed that at the time of the survey there were about 14,403 people with disabilities (being 3.52% of population based on 1999 Census) and approximately 96% of these people live in rural areas, most without access to any rehabilitation services or appropriate services. The survey established that in many communities there are negative attitudes and a lack of awareness towards disability and the needs of people with disabilities. The survey found that of the disability population females accounted for 6505 or 45%. This is based on the 1999 Census total population figure of 420,000. It also found that more males (61%) than females (39%) have attended school and this figure worsened for females at the secondary level. 70% of males with disabilities reported that they had attended secondary school. In contrast only 30% of women with disabilities reported attending secondary school. The survey found that the four most common forms of disability for females are vision impairment (12.76%), physical disability (8.92%), hearing impairment (7.69%) and paralysis (2.76%).
283. The 2009 Census reported that a total number of 907 people reported that they were blind. Of this 496 were women and 411 were men. A total of 1,398 people reported that they were deaf of which 669 were women and 729 were men. The census reported that a total of 2,975 people reported that they suffered from lameness of which 1,484 were women and 1,491 were men. The data available was not disaggregated according to age.

284. In 1990 the NGO Persons with Disabilities Solomon Islands was established. It provides assistance to people with disabilities by providing food, transport, clothing and assisting with access to housing, sanitation and water tanks. They conduct awareness raising activities and advocate on disability issues.
285. There is a well-established system of Community Based Rehabilitation (CBR) under the Rehabilitation Section of the Ministry of Health and Medical Services. There are CBR workers in all of the nine provinces of Solomon Islands providing continuity of home-based therapy and raising awareness on disability issues. These include therapy exercises for clients and teaching family members to continue with the exercises, community awareness on disability issues, early detection and intervention on disability and the provision of equipment such as wheelchairs, crutches and other assistant devices.
286. CBR also provides services for visually impaired adults and children which include basic Braille lessons, orientation and mobility trainings. CBR has had budget cuts for the past two years due to the global economic crisis and there has been a recruitment freeze since 2008. These factors have resulted in a reduction of activities and a restriction in the implementation of programmes.

Health Care Decisions

287. There is not equality in decision making in relation to the health care of women. The DHS in 2007 showed that 28.1% of married women make their own health care decisions independently. A total of 16.6% of respondents reported that their husbands/partners make their health care decisions for them. This reinforces the stereotype of the husband being the leader and decision maker of the household.

Sexually Transmitted Infections and HIV and AIDs

288. In 2008, the Ministry of Health and Medical Services with assistance from a development partner conducted a Second Generation Surveillance of Antenatal Women and Youth in Solomon Islands. The second generation surveillance (SGS) involves strengthening existing HIV surveillance systems to improve the quality and breadth of information. An STI Prevalence Survey (SPS) was conducted among pregnant women attending Antenatal Clinics in Honiara and two other provincial centres (Gizo and Munda). In addition, a Behavioural Surveillance Survey (BSS) and SPS were also conducted among youth 15 to 24 years from these regions and a further provincial centre (Auki). The survey demonstrated a low level of understanding in relation to the prevention strategies for HIV & AIDS and the causes of infection. Misconceptions concerning the contraction of HIV & AIDS were high. The surveys also indicated that very few youth and pregnant women are being tested for HIV & AIDS and that testing for sexually transmitted infection is also low.
289. The Solomon Islands Demographic and Health Survey (DHS) demonstrated that knowledge of HIV and AIDS is widespread but not universal among the adult Solomon Islands population (94% of women and 98% of men aged 15-49). Whilst general knowledge is quite high the survey demonstrated a very low level of comprehensive knowledge with only 29% of women and 38.6% of men having comprehensive knowledge. Furthermore, it illustrated that more than half of the respondents in the age group 15-24 had engaged in sexual intercourse prior to turning 18 years of age (51.1% women and 54.8% men). Almost four in five young men (78.9%) and two in five young women (43.4%) had high-risk sexual intercourse in the past 12 months.
290. The DHS demonstrated that 69% of all Solomon Islands women and 53% of all men were aware that HIV can be transmitted via breastfeeding or during pregnancy, however, only 8% of women and 9.2% of men were aware of the potential benefits of anti-retroviral medicines

during pregnancy for HIV positive mothers. The study revealed that the stigma attached to HIV and AIDS is high, with very few people showing accepting attitudes towards people living with HIV even if the infected person is a family member. Similar proportions of men and women (83% women, 86% men) agreed that a woman is justified in refusing to have sex with her husband or asking that he use a condom if she knows he has a sexually transmitted disease.

291. As of 2009, HIV testing was only available in twelve health facilities with relatively low numbers of tests performed. In the DHS conducted in 2007 only a small proportion of the population reported knowledge of where to get a HIV test performed (26% of women and 38.9% of men). A small number of confirmed cases of HIV infection have been detected however the limited number of people being tested, early sexual promiscuity and high levels of sexually transmitted diseases mean the numbers of HIV cases are highly likely to be unreported. In relation to sexually transmitted diseases slightly fewer women (2.6%) than men (3.5%) reported that they had an STI or symptoms of an STI in the year preceding the survey. Of those reporting having an STI or symptoms, 40% of women and 35% of men sought treatment from a health professional while 33% of women and 26% of men did not seek any advice or treatment.
292. The National HIV Policy and Multi-Sectoral Strategic Plan (NHPMSP) 2005 - 2010 provides that the “health and wellbeing of the people of Solomon Islands will not be undermined by the burden of HIV.” While HIV prevalence in Solomon Islands remains apparently low, with only fifteen HIV positive persons (ten of whom were women) as of December 2010, there is a high probability that the actual incidence of HIV is under-reported and/or untracked. There have been two reported cases of children affected by HIV. One of these children died at the age of three months of AIDS related conditions.⁵² Young people are particularly at risk.
293. A Knowledge, Attitude and Practices (KAP) Survey was jointly organised by development partners and the Solomon Islands Government from 2008 to 2009 to gain a better understanding of risk and vulnerability related to HIV and AIDS among most-at-risk and especially vulnerable adolescents, young people and general population youth in Solomon Islands. This demonstrated a relatively low level of comprehensive knowledge of HIV and AIDS amongst respondents.
294. Some provincial health settings do not have laboratory facilities or laboratory technicians e.g. Choiseul, Rennell and Bellona or Central Islands Provinces. Therefore relevant testing for HIV and other sexually transmitted infections are not able to be performed at provincial level.
295. There has been strengthened collaboration with HIV stakeholders in terms of integrations, sharing of resources, and implementation of related HIV program activities. There are quarterly meetings between stakeholders regarding HIV issues and program activities. These stakeholders include the Ministry of Health and Medical Services, NGO’s, Faith Based Organisations and Community Based organisations.
296. In recognition of the impact of low levels of HIV testing the Ministry of Health and Medical Services included substantive national health priorities concerning HIV/AIDS in its National Health Strategic Plan 2011-2015. It provides for a strategy on better implementation of HIV and AIDS prevention. Its objectives include by 2015 at least 50% of high risk populations have been tested for HIV and 95% of pregnant women and partners access quality PMTCT service in all health clinics and hospitals. The strategic plan also provides for expanded family planning and other reproductive health services, especially for adolescents.

52 Solomon Islands Child Health Situational Analysis, 2011, p25.

297. NGOs and civil society organisations such as ADRA, Save the Children, Church of Melanesia and Solomon Islands Development Trust (SIDT) conduct HIV and AIDS programmes.
298. There exists a high probability of a significant gap between reported HIV infected persons and the actual number of infected persons. This information gap owes largely to limited coverage and related issues of access to VCCT, weak testing and laboratory capacities, weak reporting systems and issues of stigma among the population and health workers alike. Women are most at risk, especially pregnant women between the ages of fifteen and 24 years. Gender inequality is a primary social cause of women's vulnerability to HIV and STIs by virtue of early marriage, sexual violence, and unequal negotiating power in sexual relations and men's infidelity.⁵³
299. There is no disaggregated data in relation to people being diagnosed with HIV & AIDS or sexually transmitted infections.

Family Planning

300. The DHS demonstrated that family planning and knowledge of modern methods of contraception is almost universal among women and men.⁵⁴ Despite this, only 27.3% of current married women were using some form of modern contraceptive at the time of the DHS. The main reasons cited by female respondents for not using some form of contraception were they feared side effects (37%), have difficulty conceiving or are infertile (15%) or were opposed the use of contraceptives (15%). In 2007 of women who were using contraceptives, the proportion of sexually active unmarried women using a modern method of contraception (16.2%) is less than for currently married women (27.3%). Among unmarried women who reported using contraceptives, the greatest proportion (14%) stated that they were using condoms. Those that do use the contraception mostly obtained it for free (90%). More than four in five women get their contraceptives from government clinics where they are provided for free.
301. Solomon Islands Planned Parenthood Association (SIPPA) is a voluntary, non-profitable Sexual and Reproductive Health and Family Planning organisation. It is supported by several international agencies, including the International Planned Parenthood Federation. It operates five clinics these being two in Honiara, one in Malaita Province, one in Western Province and one in Choiseul Province. SIPPA has been receiving funding to operate an Adolescent Reproductive Health clinic. SIPPA also engages in advocacy, with trained staff providing community education at meetings organised by peer educators, and offers reproductive health education for teacher trainees. SIPPA also has community based educators working in six provinces. It utilises radio programmes to highlight reproductive health issues. In 2004, SIPPA and the Ministry of Health and Medical Services commenced a collaboration to establish an Adolescent Reproductive Health (ARH) clinic which has a client friendly focus. The clinic is located at the SIPPA premises in Honiara and supported by UNFPA via SPC with one MHMS staff member seconded to work at the clinic with SIPPA staff. There is no current disaggregated data available for the operation of the clinic.

Reproductive Health

302. According to the DHS 2007, there has been a slow but steady decline in fertility rates over the last 20 years, and the current total of women have 4.6 children on average. Fertility levels are lower for women living in urban centres (3.4), than rural areas (4.8) and this difference is particularly pronounced in 15 - 19 age group where the DHS findings show 75/1000 in rural

53 See p8 at footnote 10 above.

54 Solomon Islands 2007 Demographic and Health Survey – Fertility and Family Planning Fact Sheet.

settings and 41/1000 in urban settings. Adolescent fertility rate and childbirth starts early among women but over the last 20 years adolescent pregnancy has been decreasing. The median age for first birth increased from 20.8 to 21.6 years. More women get married at an early age (15-19 years) than men (almost one in ten women married) and, despite the lowering of fertility rates among young women aged 15-19 there is evidence of early childbearing with 9% of fifteen year old women having already had a child.

303. There have been improvements in the Maternal Mortality Rate. Data on maternal mortality is not available however a modelled estimate by WHO in 2004 provided a maternal mortality ratio of approximate 220 per 100,000 live births. The maternal mortality rate in 2010 was estimated to be 146 per 100,000 live births.

Maternal mortality ratio (per 100,000 live births)

2004	2006	2007	2009
184/220	223	103	146

304. The major causes of maternal mortality include Primary causes:

- post-partum haemorrhage;
- Puerperal Sepsis
- Eclampsia
- Prolonged Labour

Secondary causes are:

- Malaria
- Other infections.

305. The proportion of pregnant women who have access to, and benefit from, prenatal and post-natal health care;

Proportion of births attended by skilled health personnel (%)

2000	2004	2006	2007	2010
85%	87%	84% DHS	86%	95%/85%

306. The DHS in 2007 showed that 95% of women had received antenatal care from a skilled provider. While almost two thirds of women (64.6%) made four or more visits, 18.1% did not make the recommended number of antenatal care visits and 17.4% had no recall of the number of visits they made. The survey showed that the median gestational age at which women make their first visit is 5.6 months, when the opportunity to diagnose complications early, provide treatment or prevent further complications may have passed. Only 55% of women surveyed reported that during antenatal care they were informed how to recognise signs of problems during pregnancy, particularly for first time mothers (51.9%) and potential high-risk births to older women (51.8%).
307. The DHS in 2007 reported that 85% of births took place in health facilities and 14% of births took place at home. The proportion of births taking place in a health facility is higher in urban areas (94%) than rural areas (83%). The DHS showed that 86% of births were attended by a skilled health provider. A larger proportion of urban women (95%) had a skilled provider assist them during childbirth compared with rural women (84%). The proportion of births in 2010 attended by skilled health personnel was approximately 85%.
308. Among women who gave birth in the five years preceding the 2007 DHS, over one quarter of them did not receive any postpartum care, 57% were seen for their first postpartum check-up by a doctor, nurse or midwife, 14% were seen by an auxiliary nurse or midwife and less than

2% were seen by other health providers including Traditional Birth Assistants.

Mental Health

309. Despite the existence of a national mental health program since 1999 mental health has not been a priority issue with the result that there has traditionally been insufficient policy, resources and services available to those in need. The care for mentally ill people has been left to families, churches and non-governmental organisations that are often poorly equipped and ill-prepared to handle the situation of a person who is mentally unwell. The national mental health program was revised in 2001 and again in 2004.
310. The Ministry of Health (as it then was) prepared a Solomon Islands Integrated Mental Health Plan 2006 - 2010. This was a first step towards a National Mental Health Policy which is still yet to be finalised. The lack of previous commitment to mental health issues explains the absence of statistics and data to assist in the analysis of mental health in Solomon Islands. As part of a Pacific review in 2005 it was noted that only 1.4% of the health budget was allocated to mental health.
311. There is no disaggregated data on the number of women affected by mental illness. The only statistics available in 2010 is the average age of those diagnosed with mental illness which is 27.78 years. The National Psychiatric Unit in Malaita Province has very limited facilities.
312. In 2008, Mental Health Services of the Ministry of Health and Medical Services provided training on mental health and common mental illness to a total of approximately 100 children and young people.
313. The Solomon Islands Development Trust (SIDT) completed a Youth and Mental Health Situational Analysis study in 2007 and the report provided 19 recommendations. This study was the first study of mental health in children and youths. The recommendations from the study are supported by a rationale which provides opportunities for collaboration among different stakeholders on how to deal with issues affecting young people including children below the age of 18 years. The study recorded suicide rates for the period from January to August 2007. In this short period there were 41 suicides, 35 of them female and 6 male. The study reports that most of these occur amongst the younger population but the study does not provide disaggregated age data on these statistics. The study identifies issues such as substance abuse, depression, suicide, family breakdown and the lack of employment and opportunities as significant issues affecting the youth of Solomon Islands. Other than those contained in this report there is no data available on the number of suicides that have occurred during the reporting period.
314. The Solomon Islands Development Trust is currently working together with the Mental Health Division of the Ministry of Health and Medical Services and other stakeholders such as Commonwealth Youth Program, in addressing issues relating to Mental Illness and considering precautionary measures.

Obstacles to Health Care

315. The availability of drugs, no female care provider being available and getting money for treatment were the most commonly cited problems in accessing health care in Solomon Islands indicated in the DHS conducted in 2007. Almost all women (96%) who participated in the 2007 DHS reported some problem in accessing health care. The most commonly reported problems were that no drugs (89%) or health care providers (85%) were available.
316. Accessibility to reproductive health services is highly variable as it is not only determined by the presence of facilities, clinic times and contraceptive supplies but also by a host of

subtle factors that are more difficult to address. These factors include the level of privacy offered, the degree of perceived confidentiality, the likelihood that others in the community will observe clients using services and stigmatise them and community attitudes to the use of family planning by various types of client and their family. Many facilities do not offer sufficient privacy for patients to give them confidential access to counselling, examination and other services. In addition, the required follow-up, back-up and referral systems are not always in place to ensure quality care and services are provided to men, women and young people in the communities.

317. Health services in rural areas have often been difficult to provide due to the following factors:

- The remote, widely dispersed geographical nature of the country;
- Lack of trained personnel;
- Poor transport and communication facilities;
- Limited financial resources; and
- Lack of available information.

Only 30% of the population live within 3kms from nearest health clinic. Since majority of Solomon Islanders live in villages, which are dispersed across numerous islands makes it very difficult to provide cost effective health services to isolated areas and outer islands.

ARTICLE 13: ECONOMIC AND SOCIAL BENEFITS

Legal Context

318. The main formal social security system in Solomon Islands is the Solomon Islands National Provident Fund (SINPF) which is established under the SI NPF Act 1976. Other formal social security system include pensions for parliamentarians, constitutional post holders and some church workers. The *wantok*⁵⁵ system is the main informal social security system in communities.

319. There are no legal barriers to women receiving bank loans, mortgages and financial credit. There are no legal barriers to prevent women from participating in recreational activities, sports and cultural life.

Solomon Islands National Provident Fund

320. Under the SI NPF Act the employer compulsory contributes 7.5% and the employee contributes 5% minimum with a 20% maximum contribution. The Act largely covers formal sector employees to which obligatory contributions have to be made by employees and employers. The SINPF benefit can be withdrawn upon reaching the age of 50, or upon death, incapacity or permanent emigration. It may also be withdrawn partially or in full upon job redundancy or reaching the age of 40 and by producing evidence of permanent job separation. In 2005 the SINPF had a total of 65,089 members of which 70% were men and 30% were women. The SINPF recorded a total of 135,960 members with credit balances at June 2008. Of this 73% of members were men and 27% of members were women. In 2010 72% of members were men and 28% were women. The number of employed workers contributing the SINPF and being members has continued to increase each year. However, the number of women members has not increased during the period 2005-2010. This is attributable to the fact that women are more likely to do informal work or work that does not fall under the provisions of the SINPF. Membership of the Solomon Islands National Provident Fund is optional for the

55 The kin based system of reciprocity which is embedded in culture.

self employed and unemployed.

Women and the Economy

321. The DHS indicated that the economic vulnerability of women was exacerbated by the fact that more than half (56.1%) of those women who were employed were not paid, either in cash or in kind for their work.
322. The 2007 report on North Vella Constituency – Report on the Status of Women noted that economically women’s advancement is restricted due to the lack of income generating activities, lack of markets and a lack of access to banking and credit facilities.
323. Although women do not play a significant role in the formal economy they play a major role in the informal economy. A recent World Bank report estimated that the annual turnover at the Honiara Central Market is between USD\$10-16 million, with women responsible for about 90% of the marketing activity as bulk buyers from farmers and as retailers.⁵⁶

Government Policies and Initiatives

324. To demonstrate its commitment to rural development the Solomon Islands Government established the Ministry of Rural Development and Indigenous Business Affairs in 2007. The policy goal of the Ministry is rural advancement in all provinces and improving provincial, community and village capacities that take into account the different diversities, dynamics and peculiarities of each province. The budgets of the Ministry were increased from the period 2009 to 2010. The Indigenous Business Division have been engaged in delivering entrepreneurship and simple book keeping training courses in rural areas. Women are participating in these training courses however the majority of participants are men. The division also implements an assistance to small business programme. Disaggregated data in respect of the applicants for this programme is not available.
325. In demonstrating its commitment to the equality of the provision of economic benefits the Solomon Islands Government developed the Mid Term Development Strategic Plan (MTDS) 2008-2010. This strategy recognised that women’s development will help achieve the national objective of addressing the basic needs of the people in rural communities, where the majority of people live, and ensure real improvement in their standard of living. The MTDS 2008 - 2010 is now incorporated into the SI National Development Strategy (NDS) 2011-2020.
326. In recognition of the importance of the economic contribution of rural women the MWYCFA has recently sought and received development partner assistance to conduct scoping on women’s economic status. The scoping which will assist SIG to determine and focus on priority areas to improve the lives of women in economic activities has been completed.
327. In an attempt to address the backlog of land disputes and provide greater equality between men and women the Solomon Islands Government is currently consulting on a Tribal Land Dispute Resolution Panels Bill 2012. Its purpose is to incorporate alternative dispute resolution, especially mediation, into the land disputes process, to encourage agreements between parties and incorporate custom in determining disputes. The current draft bill proposes that the panel considering any dispute will comprise three people, at least one of whom must be a woman. The bill is a direct attempt to include women in the land administration process. A draft of the bill has been approved by Cabinet and consultations are currently being carried out on the bill. It is envisaged that the bill will be tabled in Parliament in mid 2013.

Women and Land

328. Although there are some matrilineal societies where women inherit customary land, decisions over customary land management are almost always made by men.⁵⁷ Commercial operators view male chiefs as the relevant custodians to approach in seeking rights to land use.⁵⁸ Consequently, women are receiving very little economic benefit out of the use of land for economic purposes. Women having greater access to and share of, productive resources such as land and the income it generates significantly contributes to the improvement in the economic status of women and the reduction of poverty. This has been acknowledged in the GEWD policy with outcome 2 being the improvement of the economic status of women. This outcome is to be achieved by the development of policies and programmes that involve women in natural resource development and management; improve access to and ownership of, resources and land and development opportunities; and improve employment and business opportunities for women in all sectors.

Access to Credit

329. The Office of the Registrar of Credit Unions and the Central Bank support and promote the credit union movement in the Solomon Islands through support to the Solomon Islands Credit Union League.
330. Banking services are very limited in rural areas. Only Honiara has a good range of commercial banks and financial institutions. Women who lack formal identification such as a passport or a driver's licence, cannot open an account, and hence cannot access commercial credit or loans. In the provinces where there are only banking agents, such as Isabel Province, accounts are not able to be opened. People have to travel to Honiara to open an account. Banks will not lend to small agricultural farmers or village people who do not have collateral and formal identification. Anecdotal evidence demonstrates that even when women meet the eligibility criteria, they are perceived as too great a credit risk; experience inexplicably long delays in the application process or are asked to identify male guarantors. Rural women in particular cannot access loans and credit
331. There are a number of women's organisations that have recognised a need to assist women in controlling their business assets. Most of them are engaged in trading activities selling goods at local markets. An example is the Rokotanikeni Association which was established in 1999 and its primary focus is to provide economic empowerment to women from West Areare in Malaita Province. It runs a highly successful credit scheme and in 2012 launched a publication with information in relation to saving, operating a credit scheme and other areas of business operations. The Solomon Islands Women in Business Association (SIWIBA) runs a successful credit union with 98 members. The main advantage of the credit schemes is the ability to deposit money although it does provide some credit to members.
332. It is acknowledged that there are considerable legal and regulatory constraints to women entering business and having access to economic empowerment and development. Studies have identified that there needs to be an appropriate business licence fee and processes implemented to provide women in business an opportunity to formalise their businesses thereby being able to access credit and other measures in order to expand.⁵⁹

57 See p2 at footnote 11 above.

58 See p2 at footnote 11 above.

59 See pp 32-34 at footnote 6 above.

Women in Business

333. The Solomon Islands Women in Business Association (SIWIBA) is mainly representative of salaried and self-employed women based in Honiara. Its main role is to provide a forum for networking, and it does not have a major advocacy role although it does have a representative on the Business Law and Administration Reform Steering Committee. The mandate of the Business Law and Administration Reform Steering Committee is to guide and advise the Minister for Commerce, Industry and Employment and the Minister for Finance and Treasury in relation to implementing practical reforms in Solomon Islands that enhance business related laws and property rights, and reduces business regulatory compliance time and costs as quickly and effectively as possible. SIWIBA is also a member of Solomon Islands Chamber of Commerce, which sees advocacy as one of its key roles, providing the link between the public and private sectors. However, there is limited private-sector representation of the interests of most business women in the country, who are small-scale agricultural producers and traders.⁶⁰
334. The Ministries of Commerce and Finance do not currently undertake any activities targeted at improving the investment climate for women. Currently most women in Solomon Islands are not formalizing their businesses. The vast majority of registrations of companies, business names and holders of business licenses are for businesses owned by men.⁶¹ Women are operating their businesses primarily on an informal basis.
335. Women face major challenges to operating businesses due to low literacy, lack of financial resources and low education levels. The male dominated culture also does not encourage women to enter into formal businesses. This is demonstrated by the small number of women that are registering business names. In 2008 out of 772 business names that were registered, only three or four were made by women. Similarly, in the companies registry, of the 157 companies registered in that year, the vast majority had male shareholders and directors.
336. The Chamber of Commerce has over 120 members. It also has 40 honorary members who are young entrepreneurs sponsored through a workshop funded by UNDP. Twelve of these are women.

ARTICLE 14: RURAL WOMEN

Legal Context

337. There is no legislation that provides for special measures to advance *substantive equality* for rural women. This is despite the fact that the majority of the population lives in rural areas and outlying islands.

Women in rural areas

338. The majority of women live in rural areas. The 2009 Census reported that the total population was 515,870 of which 251,415 were women. Of those women 203,095 reported living in rural areas and 48,320 living in urban areas. According to the 2009 Census approximately 81% of women live in rural areas. The situation of rural women is shaped by customary laws and social sanctions, which do not generally enshrine the principles of equality. Rural families are often large and include many children and older people. This places great demand on women as the main caregivers of the family.

60 See p ix at footnote 6 above.

61 See px at footnote 6 above.

Government Policies and Initiatives

339. In demonstrating its commitment to the rural women the Solomon Islands Government developed the MTDS 2008-2010. This strategy recognised that women's development will help achieve the national objective of addressing the basic needs of the people in rural communities, where the majority of people live, and ensure real improvement in their standard of living.
340. Recognising the key role of women in agriculture the Ministry of Agriculture has a Women Extension Division. It was established in 1993 with funding from development partners and its key activity is to provide training to rural women farmers on food production and food security. It commenced with only two officers and has now grown to a staffing level of 33 officers posted around all nine provinces. The Division also provides significant capacity building for its staff in order to pass on skills and knowledge to rural women. The staff attend SICHE as in-service students undertaking a Diploma in Applied Agricultural Science. The Women Extension Division in 2012 had a development budget of SBD\$2.5 million for the implementation of training and grants for income generating projects.
341. The Women's Development Division in the MWYCFA is the Government focal point for women. Training and advocacy is the core function of the Division. In its training role, the Women's Development Division is responsible for skills training provision for women at the community level. One of the key components of Gender Equality and Women's Development Policy is the empowerment of women through skills training and educational awareness.
342. The WDD has provided training and financial assistance to a wide range of rural women's groups. In 2007 four workshops were conducted in the provinces which covered topics such as CEDAW, human rights and the elimination of violence against women. A total of seven financial assistance grants were provided to both national and provincial women's groups for the assistance of delivery of training workshops. These groups included the National Council of Women, SSEC National Women's Desk Office, Western Provincial Council of Women and the SDA Women and Children's Ministry. In 2007 the WDD was able to assist both rural and urban women's groups through the provision of financial assistance for small income generating activities. These included funding the Tanigili Women's Group from Temotu for a sewing project, the Tegano Women's Group from Rennell and Bellona Province for a sewing project, the Nona Women's Group from Guadalcanal for a poultry project and the Uri Women's Group from Central Province for a fishing project.
343. In 2007 the WDD with the assistance of development partners facilitated four rural women (two from Malaita Province and two from Temotu Province) to attend a seven months Community Development Training Programme in Fiji. These women acquired a range of skills that they were then able to utilise in their community and more broadly in their Province. The WDD has also utilised the skills of these women to assist in the delivery of training and workshops for rural women in their respective provinces. This training has assisted in the development of women's leadership capacity in the community.
344. During the period 2008-2010 a provincial Women Resource Centre was constructed in each of the nine provincial centres. The purpose of the resource centres is to provide a venue for women to come together and meet to talk about women's issues and women's development. They also act as a venue for networking opportunities for women. Various gender related programmes and organisations have utilised the Women Resource Centres.
345. The WDD has continued to provide basic business skills training and workshops on human rights awareness and women's rights to economic empowerment for women in provincial areas. The recurrent budget of WDD has grants available specifically for rural women.

346. In recognition of the need to improve rural health facilities the National Health Strategic Plan 2011-2015 developed by the Ministry of Health and Medical Services provides as a substantive national health policy to provide better service provision at all rural health facilities. The plan provides that one of the indicators of better service provision is that by 2012 all provinces define their annual primary health care and curative service targets and that by 2015 all provinces achieve 80% of their service targets. The plan also seeks to ensure the provision of community based rehabilitation to those in need and provide mobility aids and information and materials for caregivers.
347. In recognition of the difficulties faced by people in rural areas SIG in partnership with a number of development partners commenced implementation in 2007 of the Rural Development Program. The programme will run from 2007 until 2012 and is implemented by the Ministry of Development Planning and Aid Coordination, Ministry of Agriculture and Livestock in collaboration with the Provincial Governments and communities. The objectives of the program are to improve mechanisms at community and provincial level for the delivery of important economic and social infrastructure and services; increase the access of rural households to quality agricultural services to support rural income growth and develop rural businesses through the provision of financing, related training and technical assistance. Whilst the programme does not have specific components targeted at women, women have access to all components of the programme and benefit from all aspects of the programme.

Rural Women and Land

348. Five of the nine provinces in Solomon Islands are still considered to be practising a matrilineal land tenure system, but this system is coming under pressure with the demand for land for large-scale developments and the changing nature of traditional systems.⁶² In many cases ownership or usage through customary practices has become a source of potential conflict, and women's land rights are not legally protected. Women are often unable to use or hold land independently from their husbands even under matrilineal systems where they exist. Land ownership in rural areas determines access to credit and agricultural support services as well as the social power to negotiate access to resources.⁶³ Women are increasingly at a disadvantage with the introduction of large-scale logging, and the demand for land for development and cash cropping. Women are often relegated to the periphery by men motivated by monetary gain who often negotiate deals with total disregard for women and the traditional matrilineal inheritance systems.⁶⁴
349. The NGO Live and Learn commenced a Natural Resource Management Project in rural communities. Live and Learn is a member of the Solomon Islands NGO Partnership Agreement (SINPA). The goal of the project is to work towards more inclusive and sustainable communities and in particular empowering women and youth to improve their quality of life. The project works in communities, particularly those affected by logging activities and empowers women to be more involved in decision making in their community. Some communities in Western Province were successful in preventing logging in their area. The project has also assisted rural women to establish saving clubs in their communities. Between July 2011 and January 2012 fourteen women led savings clubs collectively saved over SBD\$100,000.

Agriculture

350. Agriculture is a major source of livelihood security throughout Solomon Islands, with small

62 See p9 at footnote 10 above.

63 See p76 at footnote 25 above.

64 See p9 at footnote 10 above.

farming as the major form of production. Traditionally, women and girls in rural areas had primary responsibility for food production for the family by growing crops in home gardens rearing small livestock and producing handicrafts. However, rural women's role in agriculture activities is changing from solely traditional subsistence gardening to include small-scale commercial production. The difficult economic situation in Solomon Islands has forced many rural women into the informal work sector. This means that 66% of the women are engaged in informal trade, of which approximately 30% are providing the only income for their family.⁶⁵

351. The 2011 People's Survey demonstrated that the most common source of money is selling goods which is largely informal marketing of food and betel nut. The percentage relying on selling in rural areas (84%) was higher than urban areas like Honiara (51%). The survey also demonstrated that 85% of women respondents in comparison to 75% of men relied on informal selling.
352. Rural women's employment is centred on daily activities for survival. These include cooking, cleaning, water carrying, child care, marketing of agricultural produce, baking (goods for sale), copra cutting and producing, gardening and other food production activities. Obstacles to rural women increasing their income include lack of adequate transport, lack of and/or poor quality of infrastructure especially roads and bridges and bad weather. There are insufficient markets for local resources which means that rural women often have to travel to access markets. All of these factors restrict the ability of rural women to access urban areas to sell their produce and other goods.⁶⁶
353. Women in rural areas are largely responsible for food supply and food security development policies of the Solomon Islands Government. However, it is acknowledged that there is a need for increased engagement with women in subsistence agriculture.

Access to Health Care

354. Women in rural areas have inadequate access to health care facilities. In the 2007 DHS 97% of rural women reported that they experienced at least one problem in accessing health care. The most commonly reported problems amongst rural women in relation to health care were no drugs (91%) and no provider (87%) available. Getting money for treatment was reported as a problem for 65% of rural women and 56% reported that the distance to the health facility was an access problem. The proportion of births taking place in a health facility is higher in urban areas (94%) than rural areas (83%). A larger proportion of urban women (95%) had a skilled provider assist them during childbirth compared with rural women (84%).
355. The Solomon Islands Planned Parenthood Association (SIPPA) in 2010 conducted two stepping stone programmes in Temotu Province (one of the most remote provinces) and Central Province. These programmes were aimed at changing the behaviour of young people within the community and giving them information to make informed decisions about their sexual and reproductive health. SIPPA has also worked in rural and remote communities, particularly close to the border with Papua New Guinea to raise AIDS/HIV awareness in rural communities in Western Province and Choiseul Province.

Access to Education

356. The particularly low female adult literacy rate in rural areas affects women's access to information and technology for farming improvements. In 2010 the Asia South Pacific

65 See p76 at footnote 25 above.

66 People's Survey 2011, ANU Enterprise, p64.

Association for Basic and Adult Education and the Coalition for Education Solomon Islands conducted an education experience survey and literacy assessment in the provinces of Isabel and Renbell. In Isabel Province out of 1214 respondents 40.6% of women and 32.5% were classified as non-literate. Approximately 43.4% of women and 48.1% of men were regarded as semi-literate and 16% of women and 19.4% of men were classified as literate. In Isabel Province the highest literacy rate was amongst people between the ages of 20 and 24. In Renbell Province the literacy rate declines with age however the gap between male and female literacy is closer. Approximately 24.5% of females and 23.6% of males are classified as non-literate, 42.2% of women and 41.9% of men are classified as semi-literate and 33% of women and 34.5% of men are classified as literate. The literacy survey demonstrated that literacy is by no means ensured for those who attend formal schooling.⁶⁷

Access to Justice

357. Women in rural areas often have inadequate access to the formal justice system. Local Courts which are part of the formal state justice system and also deal with customary issues operate sporadically dealing with a limited number of issues. This is due to a lack of funds available to appoint and maintain officials for the Local Courts in rural areas. Local Courts are dominated by men. In 2008 it was reported that out of the appointment of 940 members to the Local Court bench only one female was appointed. Magistrates Courts are also not provided in rural areas and are usually confined to provincial centres. Consequently, many women are not able to access the formal justice system without the need to travel to their provincial centre and in some occasions it is necessary to travel to the capital city, Honiara. There are not sufficient funds to provide Magistrates Courts in rural areas. There are 56 circuit centres throughout the nation, however many of these are often not serviced by provincial court tours. From January to June 2011 only fifteen of these circuits were covered as they have to be serviced from Honiara and there are limited funds to cover all 56 circuits.⁶⁸
358. It has been estimated that over 95% of disputes are dealt with informally at the village level in rural areas.⁶⁹ With chiefs being the traditional leader and peacemaker at the village level in the rural areas most justice is dispensed by men. Studies have found that in situations relating to violence against women most women do not feel that the traditional system of justice meets their needs because it is administered by men and upholds traditional gender roles and values that favour men.⁷⁰ There is a certain level of stigmatisation faced by women who attempt to access the justice system. It is also an expensive and daunting experience for them.
359. In attempting to address the lack of legal information disseminated in rural areas the PSO delivers a legal information programme on the national broadcaster, Solomon Islands Broadcast Corporation (SIBC) every second Wednesday in the evening. This programme often deals with legal issues relevant to women and is broadcast nationally. The Law Reform Commission also delivers fortnightly programs on land and criminal law issues. This covers sexual offences issues affecting women. The Family Protection Unit of the PSO also plans to conduct tours to provincial areas to increase access to legal services and disseminate information.

NGOs, INGOs, Churches and Civil Society Organisations

360. The Solomon Islands National Council of Women is an initiative of the Solomon Islands

67 Education Experience Survey and Literacy Assessment, 2010, ASPBAE, p24.

68 Pacific Islands Forum Reference Group to Address Sexual and Gender Based Violence, Solomon Islands Country Visit Report, 16-19 August 2011, p11.

69 See p42 at footnote 6 above.

70 Addressing Violence Against Women in Melanesia and East Timor - Solomon Islands Country Supplement, 2008, AusAID.

Government and was established to act as a watchdog and forum for women to the government. It forms part of the national women's machinery. Registered NGOs and groups with objectives which are similar to the National Council of Women may become affiliated members. Provincial Councils of Women throughout the country are members of the National Council of Women.

361. Vois Blong Mere (women's media arm) is a key civil society organisation representing women that focuses on the dissemination of information to rural women. It develops regular newsletters and radio messages for rural women.
362. The Solomon Islands Christian Association Federation of Women (SICAFOW) coordinates the mainstream churches⁷¹ women's groups on work to advance the status of women in rural areas. Similarly, the Solomon Islands Full Gospel Association (SIFGA) coordinates women's groups from other churches.
363. From 2009 – 2010, SICAFOW provided support to victims of domestic violence and violence against women and children. This network comprised teams of ten including faith based leaders, a police officer, a nurse, a teacher and provincial welfare offices and covers eight out of nine provinces.
364. The Family Support Centre (FSC) and Christian Care Centre (CCC) primarily operate services in Honiara. The FSC will establish two counselling centres in Auki and Gizo. A Family Support Organisation has been established in Gizo in the Western Province. These however provide services to the urban and peri urban areas. Therefore, rural women and children who are the victims of domestic violence, sexual abuse, child abuse and rape must travel to those urban centres to access these services. The CCC located in East of Honiara is the only safe house for women and children victims.
365. There are also several Provincial and community based groups which focus on advancing the situation of rural women. These groups are generally designed to give women greater control over resources necessary for the development of their families. Some of them operate credit schemes and provide business operating information. These include YWCA, Rokotanikeni, Vella la Vella Women's Association and the Fikutaikini East Kwara'ae Women's Association.
366. The Solomon Islands Development Trust (SIDT), Live and Learn Environmental Education (LLEE), the Oxfam Standing Together Against Violence Project (STAV), the Solomon Islands Planned Parenthood Association (SIPPA) and other NGO and civil society organisations with assistance from development partners also focus on rural women.

Access to Banking Services

367. Banking services are very limited in rural areas. Only Honiara has a good range of commercial banks and financial agencies. Consequently, women in many rural areas have no access to banking facilities and credit facilities. The People's Survey conducted in 2011 demonstrated that only a few rural people have bank accounts and they are mostly public servants such as teachers, nurses and police, whose salary is deposited into their accounts. Previously ANZ Bank conducted a rural banking service. However, this service is no longer provided and consequently many public servants leave their place of work on pay week to travel to the nearest centre where they are able to withdraw their salary. This often results in these people being absent from work for a number of days. This is a significant issue in rural areas as it means that teachers and nurses are absent regularly for extended periods of time. Banks will

71 Roman Catholic Church, Anglican Church of Melanesia, Seventh Day Adventist Church and Wesley United Church.

not lend to small agricultural farmers or village people who do not have collateral and formal identification. Rural women in particular cannot access loans and credit.

Infrastructure

368. In 2007 the North Vella Constituency completed a report on the status of women in that rural area. It noted that whilst there have been numerous efforts by the Solomon Islands Government together with NGO's to advance the status of women, many rural parts of the country have not felt the impacts of social and economic progress. The report concluded that this has contributed to the slow and limited advancement of women in the political, economic, social and technological sectors.
369. The 2011 People's Survey demonstrated that much of the rural population have a lack of road access. In communities in east Guadalcanal they often have to walk nine hours to reach the nearest road. This has significant impact on the ability to transport goods for marketing and travel for medical and supply purposes. Participants in the survey from Temotu Province stated that they are far from Honiara and largely neglected by the national government. The province has poor transport and no proper reliable shipping service. Participants from Western Province also complained of inadequate transport infrastructure.
370. The 2011 People's Survey indicated that most rural people feel helpless and neglected.⁷² Most rural women still have limited levels of access to safe drinking water and sanitation. The 2009 Census demonstrated that out of a total number of 91,251 private households in Solomon Islands 29,932 (almost 33%) do not have any sanitation facilities. Out of a total of 91,251 households there were 22,396 who reported that their main source of drinking water was a river or stream and 32,042 that reported their main source was a communal standpipe.

ARTICLE 15: EQUALITY BEFORE THE LAW AND CIVIL MATTERS

Legal Context

371. There is no guarantee in *The Constitution* of equality before the law. There are no legal barriers to women having capacity to sue in civil matters. There are also no legal barriers to women's right to participate in court proceedings. Furthermore, there are no legal barriers to women's rights to conclude contracts and administer property.
372. There are no legal barriers which prevent women from serving as members of the Judiciary or Magistracy. There are no legal barriers to prevent women from working in the legal profession and having a right of appearance in all courts and tribunals.
373. Pursuant to section 60 of the *Wills, Probate and Administration Act (CAP 33) 1987* women have an equal right to be executors or administrators of estates.
374. There is no legislation that nullifies all contracts and instruments that limit women's legal capacity and therefore no prohibition on discriminatory contracts.
375. Section 7 of the *Citizenship Act* provides that the foreign wife of a Solomon Islander can become a citizen after two years residence and with her husband's consent. This provision does not apply to husbands of Solomon Islands women. Section 11 provides that if a woman gains citizenship through marriage and then divorces and marries a person of another nationality

72 See p55 at footnote 63 above.

she is deemed to have renounced her citizenship. This provision also is not applicable to men.

Application of the Law

376. The provisions of the *Citizenship Act* in relation to a woman's right to choose her residence and domicile are discriminatory. The *Citizenship Act* places restrictions on women that it does not on men. It requires women to undergo significant time periods before they can seek citizenship and requires the consent of their husbands. These requirements are not made of men.

Women in the Law

377. The Women Lawyers Association of Solomon Islands was established in 2005 with an initial membership of around eighteen women lawyers. It was formed after it was recognised that there was a need for improved attention and greater accessibility to the machinery of the law for both women and children and also the need to establish equal gender participation in government institutions. The members conducted legal awareness workshops, provided networking opportunities for women lawyers and the association was a member of a number of governmental committees. However, the association has been inactive since 2010.
378. Although, women are entitled to serve as a member of the Judiciary a Solomon Islands woman has never been a Judge of the High Court or the Court of Appeal. There have only been a small number of female Magistrates and these have usually been in the lower ranks.

Access to Legal Services and Information

379. The majority of disputes are resolved informally by traditional methods. Women in particular rarely access the formal justice system. However, in recent years there have been considerable efforts by SIG, development partners, NGOs and civil society organisations to disseminate information regarding the formal justice system to all citizens. This has included advocacy campaigns conducted by way of provincial touring and through print, radio and television media. However, the geographical diversity of Solomon Islands together with the remoteness of many parts makes dissemination of information a great challenge. The delivery of legal services uniformly across the nation is constrained by geographical, transport, communication and economic factors. This continues to be a major challenge for the government.
380. Women have access to free legal services from the Public Solicitor's Office. This representation is in varied areas of law and includes criminal, family, domestic violence and civil matters. There is access to the Public Solicitor's Office in only three Provinces being Guadalcanal where the main office is located in Honiara, the Provincial capital of Western Province and in the Provincial capital of Malaita Province. The PSO in Honiara has established a Family Protection Unit. This unit provides specialist services to women and children. Some court tours are conducted in other provincial areas. However, these are usually conducted for a very short time, are infrequent and are usually focussed on criminal matters. Therefore, there is very limited opportunity for women in areas where a provincial tour is being conducted to obtain access to legal services. Access to legal services by women in rural areas and provinces not serviced by the Public Solicitor's Office is very limited. If women in remote and rural areas require legal services they often must travel to the capital, Honiara to obtain access to the service.
381. In 2008 the Public Solicitor's Office established the Landowners Advocacy and Legal Support Unit (LALSU). The role of the unit is to provide free information and advice for customary landowners regarding their legal rights as landowners (right to sustainable development and protection of environmental interests) over their forest resources in partnership with other NGOs. LALSU carried out awareness of these legal rights in all the provincial urban centres

in the 2009-2010 period.

382. In 2010 the inaugural “Law Week” was launched in Solomon Islands. This was repeated again in 2011. For the week the Ministry of Justice and Legal Affairs (Attorney General’s Chambers, Public Solicitors Office, Director of Public Prosecutions, Police, Correctional Services, the Courts and the Law Reform Commission) and other organisations provided displays to the public and conducted information sessions through open forums, brochures, debates and discussions. NGO’s such as Save the Children also participated in providing information in relation to human rights.
383. In 2010, as part of its ongoing program of community engagement which includes awareness raising activities the Law Reform Commission produced seven 15 minute radio programs for broadcast on Solomon Islands Broadcasting Corporation (SIBC). These radio sessions gave information about the Law Reforms Current projects such as reviewing corruption, sexual offences, mental impairment, criminal responsibility and fitness to plead, sentencing and law (including customary law and practice) relating to land below high water mark and invited public comment on how the issues, needs and aspirations of the people, as well as how the convention relates to the reviews of particularly the *Penal Code*.
384. The Ombudsman Office in 2010 and 2011 conducted community outreach awareness programs in all the Provincial urban centres on the legal rights of person to access their legal services freely. The outreach was primarily conducted in schools in the provincial urban centres.
385. There are around 400-500 civil cases filed each year at the High Court of which hardly any have a female claimant or defendant. Most of these are instituted by men claiming to be representatives of a family or tribe where the dispute involves land. Even in matrilineal societies the decisions regarding land are usually made by men.

ARTICLE 16: PERSONAL AND FAMILY LAW

Legal Context

386. The *Islanders Marriage Act (CAP 171) 1945* recognises customary and formal marriages. Section 4 provides that a marriage shall be valid if celebrated before a minister of religion or a district registrar or if it is celebrated in accordance with custom. In formal marriages before a minister of religion or the District Registrar there is consideration of consent. However, in relation to customary marriages there is no consideration of a woman entering marriage with full and free consent. Consequently, there is no legislative guarantee that a woman’s entry into marriage is with full and free consent. The *Islanders Divorce Act (CAP 170) 1960* provides for divorce in relation to customary marriages that have been registered in accordance with the *Islanders Marriage Act*. In section 12(b) it provides that a marriage is void if induced by duress or mistake.
387. Section 10 of the *Islanders Marriage Act* provides that the minimum age for marriage is fifteen for both boys and girls, however this does not apply to customary marriages. Consequently, there is no legislative prohibition on child marriage.
388. Formal marriages must be registered in the District Marriage Register pursuant to sections 15 and 17 of the *Islanders Marriage Act*. Customary marriages are exempt from registration however they may be registered voluntarily under section 18 of the Act. Section 170 of the *Penal Code* provides that bigamy is a criminal offence except in relation to a ceremony of marriage under customary law which is not a valid previous marriage unless it has been registered pursuant to section 18 of the *Islanders Marriage Act*. It provides a maximum penalty of seven years imprisonment. Section 14 of the *Islanders Marriage Act* provides

that bigamy is an offence which carries a maximum penalty of five years imprisonment. However, like the *Penal Code* offence this does not apply to customary marriages that have not been registered under the Act.

389. There is no legal barrier preventing women from choosing a family name.
390. The consent of both parents is not equal in respect to marriage of minors. Section 10 of the *Islanders Marriage Act* provides that a child between the age of fifteen and eighteen who wishes to be married must have written consent of the father, or if the father is dead, absent or of unsound mind the consent of the mother.
391. The legislation does not guarantee equality to both spouses in ownership, acquisition, management, administration, enjoyment and disposition of property. Solomon Islands legislation does not provide for a division of matrimonial property after a divorce. Consequently, in cases that go before the courts the courts rely on common law principles when determining the division of matrimonial property. Property rights are largely determined by custom which has legal status under the Constitution. Consequently, in custom where women are discriminated against in relation to property the law does not guarantee protection and equality.
392. The *Affiliation, Separation and Maintenance Act (CAP 1) 1971* determines separation based on fault criteria. The Act does provide for the payment of maintenance under section 13. It provides that the husband shall pay to the wife such lump sum having regard to the means of both what the court thinks is reasonable. The criteria of reasonableness does not provide enough guidance with respect to earning capacity, commitments and needs of the parties. Furthermore, there is no criteria for the calculation of women's non-financial contributions. If a woman commits adultery the order for maintenance is discharged under section 17.
393. Section 22 of the Act enables either party to occupy the marital home when settlement is not possible or in situations of domestic violence. The legislation does not provide for orders for restitution of conjugal rights.
394. The *Islanders Divorce Act (CAP 170) 1960* in section 5 provides that divorce is available on fault based grounds and includes five years separation. The fault based grounds mean proving a matrimonial offence namely that the spouse has been guilty of adultery, desertion for a period of at least three years, cruelty and being of unsound mind for a period of at least five years. Additionally a woman can claim for a divorce if the husband has been guilty of rape, sodomy or bestiality. Section 13 provides that if sexual intercourse has taken place with consent of the petitioner since the discovery of grounds for divorce then the court will not grant a divorce. Section 3 states that the Act applies with respect to customary marriages only in circumstances where the husband is domiciled in Solomon Islands. Therefore, if the husband is not domiciled in Solomon Islands the wife cannot get a divorce. This does not apply in reverse.
395. There is no duty on the court to promote reconciliation although in practise the courts encourage parties to settle. Courts may refer parties to a mediator for proceedings under the *Islanders Divorce Act* or the *Matrimonial Causes Act* or the *Affiliation, Separation and Maintenance Act (Cap 1)* to assist the parties affected or likely to be affected by the separation or divorce to resolve some or all of their disputes with each other.⁷³
396. The legislation does not provide for the division of property. Consequently, there are no legislative criteria which recognise unpaid contributions, future needs and future earning

capacities.

397. Section 21 of the *Islanders Divorce Act* (CAP 170) provides for the payment of child support after divorce as is just and necessary. The criteria does not specifically state that regard is to be had, to the child's needs, the earning capacity and assets and respective commitments of both parents. This section also provides for the payment of spousal maintenance on the basis of just and necessary. As with the case with child maintenance the legislation does not require a consideration of earning capacity, assets and respective commitments of both parents.
398. The *Islanders Divorce Act* and the *Affiliation, Separation and Maintenance Act* do not provide a legislative requirement for custody and access based on the principle of the best interests of the child.
399. In section 18 the *Islanders Divorce Act* provides that husbands may claim damages on petition for divorce or separation from a third party on the ground of adultery. The same is not applicable to women whose husbands have committed adultery.
400. Women have equal rights to guardianship, wardship, trusteeship and adoption pursuant to the *Adoption Act 2004*. Custom adoption is recognised to be regulated by customary law.
401. None of the legislation governing family law recognises de facto relationship rights (including same sex couples) on the same basis as marriage.
402. The *Affiliation, Separation and Maintenance Act* under section 5 provides an order for establishing parentage. However, under that section parentage can only be established with evidence provided by the complainant, which must be corroborated. The Act provides for a contribution to child birth costs by the father to an unmarried mother. However, these are in limited circumstances. Within three years from the birth or if the father has left Solomon Islands within twelve months of his return the court can award expenses incidental to the payment of the birth. An order for the payment of child support for children born out of marriage can only be made in these circumstances also. It provides that the amount of child support will be reasonable and based on the means of the father.
403. There is no legislation which requires the court to apply the principles of the *Convention on the Rights of the Child* or the *Convention on the Elimination of All Forms of Discrimination Against Women*.
404. The *Wills, Probate and Administration Act* (CAP 33) provides for equal inheritance laws. However, the *Solomon Islands Constitution* provides that customary law has formal legal status. Consequently, customary inheritance laws that discriminate against women may in some circumstances be lawful.

Application of the Law

405. The exemption of registration of customary marriages reduces the impact of registration in assisting to prevent bigamy and child marriage given that these are more likely to occur in customary law. Furthermore, the exclusion of customary marriages from the offence of bigamy further enables the practice to continue legally.
406. The requirement of consent for the marriage of a minor in the first instance from the father perpetuates a stereotype of men as the head of the household.
407. The practice of early marriage has decreased but remains common in rural areas and among poor populations. Poor parents often believe that an early marriage will protect their daughters and provide them opportunities. In fact the reverse is often the case. It often results in a loss

of development opportunities, life options and poor health.

408. Section 18 of the *Islanders Divorce Act* is clearly discriminatory as it implies that a husband has the right to compensation as he has lost his property to another man. This provision is demeaning to women and reflects discriminatory stereotypes arising from the practice of bride price. In *Sasango v Beliga*⁷⁴ the court held that the best interest of the child prevail over customary rules on child custody, even where a woman has had a relationship which is considered inappropriate in custom.
409. As land in Solomon Islands is mostly customarily owned, land inheritance is primarily governed by customary law. Customary law is often discriminatory against women and does not provide equalities in terms of ownership of the land or other assets. The Courts have not been consistent in their application of the exemption from the non-discrimination provision contained in section 15 of *The Constitution*. Consequently, it is unclear whether *The Constitution* is intended to exempt all customary laws from the anti-discrimination provision (a wide interpretation) or whether it should be interpreted more narrowly to limit the exemption to laws concerning when or how customary law applies.⁷⁵
410. There has not been any clarification of the interpretation of the provision by any Acts of Parliament despite *The Constitution* giving Parliament the power to make laws with respect to the application of customary law. The Courts have considered the issue on a number of occasions but not since ratification of CEDAW. See Articles 1 & 2 for a complete discussion of the decisions.
411. In applying the *Islanders Divorce Act* and the *Affiliation, Separation and Maintenance Act* the courts appear to take into account the principle of the best interests of the child. In proceedings relating to the custody of children under the *Affiliation, Separation and Maintenance Act* the court relies upon established case law to apply the principle of “in the best interests of the child”.
412. The statutory time limits on the availability to apply for child maintenance are discriminatory. The child remains a child until the age of eighteen and the costs of raising a child should be shared until that time regardless of when an application for an order is made. Furthermore, the amount of child support should take into account a greater number of factors than the means of the father. It should include a consideration of the needs of the child, the earning capacity of both parties and the commitments of both parties.
413. The requirement of corroboration for establishing parentage under the *Affiliation, Separation and Maintenance Act* is highly discriminatory. The legal requirement of corroboration implies that the evidence of a woman is not trustworthy enough or reliable enough to be taken on its own without corroboration. Furthermore, corroboration can be difficult to provide depending on the circumstances.

Law Reform

414. The SILRC currently has a large number of references to review legislation including the *Penal Code*, the *Criminal Procedure Code*, the *Affiliation Separation and Maintenance Act*, the *Islanders Marriage Act* and the *Islanders Divorce Act*. It is envisaged that the reviews will pay attention to provisions which will protect and promote the rights of women and children. The review of legislation by the Law Reform Commission is a very time consuming task requiring extensive community and stakeholder consultation. Due to the large volume of work, human resource constraints, financial constraints and the determination of legislative

74 [1987] SBMC 5; [1987] SILR 91 (5 August 1987).

75 See p11 at footnote 6 above.

priorities the review of the *Affiliation, Separation and Maintenance Act*, the *Islanders Divorce Act* and the *Islanders Marriage Act* has not yet commenced.

Customary Marriage

415. The payment of a bride price is still a widespread practice in Solomon Islands, although not in all parts. Bride Price can be a significant causal factor for the occurrence of young marriage. Traditionally the practice of a bride price is a means of cementing social relationships between clans. The groom's family demonstrates their appreciation of the bride's family giving away their daughter by offering gifts. The significance of the bride price is the value of the daughter to her family. However, there are occasions where the tradition of bride price payment is abused⁷⁶. As a result of the introduction of the cash economy, in some instances the bride has become more of a commodity than a symbol of positive social relations.⁷⁷ This customary practice can take decision making out of the hands of women and in some instances raises issues of "ownership" of both the bride and any children born as a result of the marriage.
416. A number of recent studies have recognised the potential child protection issues raised by the customary practice of bride price and arranged marriages. The "Children Living Away from Parents in the Pacific" report completed in 2010 and the "Child Sexual Abuse and Commercial Exploitation of Children in the Pacific: A Regional Report" completed in 2006 both refer to the dangers of the customary practices of bride price and arranged marriages.
417. The "Child Sexual Abuse and Commercial Exploitation of Children in the Pacific: A Regional Report" 2006 compiled by a number of development partners is a regional report containing findings of a study of Solomon Islands and other Pacific nations conducted between October 2004 and June 2005. The report found the existence of foreigners marrying girls as young as twelve in exchange for money or gifts to the family.⁷⁸ The perception was that the giving of cash or gifts in exchange for the girl was justified by the tradition of the bride price.
418. Considerable efforts have been made by state organisations and NGO's to increase the knowledge of women with respect to their personal and family rights. With the assistance of funding from development partners the Family Support Centre has devised a range of legal literacy information pamphlets for women. The topics include, *What is the Law?*, *Legal Aid, Separation, Custody and Access, Protection and Restraining Orders, Affiliation and Child Maintenance, Marriage, Divorce and Matrimonial Property*. The Public Solicitor's Office also has a range of information materials⁷⁹.

76 See paragraph 121 on bride price.

77 Child Sexual Abuse and Commercial Exploitation of Children in the Pacific: A Regional Report, 2006, UNICEF, UNESCAP & ECPAT, p42.

78 See p42 at footnote 75 above.

79 Brochures topics include *Sentence Appeal, Juvenile Justice, Bail Application, Counsellor for Children in the Formal Justice System, Police Powers, Your Court Hearing* and *Disclosures and Magistrates Courts*.

