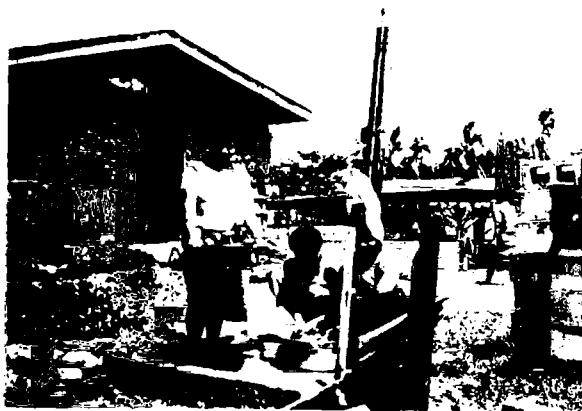




Women and the Law in the Pacific

Suva, Fiji



Report of a Regional Seminar

International Commission of Jurists
Geneva, Switzerland



Women and the Law in the Pacific
Suva, Fiji

Report of a Regional Seminar

*Organized by
the International Commission of Jurists
in Collaboration with
the Fiji Women's Rights Movement (Suva)*

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advancement of their status.

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Preface

The International Commission of Jurists (ICJ) and the Fiji Women's Rights Movement (FWRM) jointly organized a seminar on «Women and the Law in the Pacific» between 25-29 April 1994 in Fiji.

The objective of the seminar was to examine a plethora of relevant laws and issues affecting women in the Pacific Island States. The efforts undertaken in different countries of the vast Pacific region in providing legal literacy and developing legal aid and paralegal training programmes were discussed at length. Lively debates also focused on United Nations Conventions and fora in the domain of women's rights, as well as the work of the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO). Another topic was the coordination of activities among women's organizations at the national, regional, and international levels.

This publication contains the papers presented by both participants and the resource persons, including lawyers or representatives of women's NGOs, on the situation of women's rights in their respective countries. It also contains the Conclusions and Recommendations which are to serve as the basis for future action.

At the national level, it was agreed to: identify and establish «national focal points» on which to report on a regular basis; coordinate with all relevant national human rights networks to bolster exchange of information; develop strategies to eliminate violence against women; enhance education and training concerning women's rights and coordinate legal literacy activities; organize systematic and consistent paralegal training programmes; train law enforcement officers on women's rights issues; hold legal service programmes; and undertake research on women's issues. It was also deemed necessary to lobby all regional governments to ratify the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).

At regional/international levels, the participants *inter alia* emphasized that information and documentation constitute the backbone of NGO action. They said that these «powerful tools» were necessary to «efficiently carry out their work.» Efficient and more rapid access to information from regional and international organizations was considered vital.

Some 40 participants representing 15 States and territories participated in the discussions: Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Caledonia, Niue, Papua New Guinea, Solomon Islands, Tahiti, Tonga, Tuvalu, Vanuatu, and Western Samoa.

The ICJ wishes to express its gratitude to the European Union whose financial contributions enabled us to undertake the seminar and publish this report.

Adama Dieng
Secretary-General of the ICJ

The Asia Pacific Forum on Women, Law and Development

*Ms. Salbiah Ahmad, Programme Associate,
Asia Pacific Forum on Women,
Law and Development
(APWLD)*

Women and the Development Decade

The APWLD was a seed that grew out of grievances of the development decade of the 1960s and its impact on women in the Third World. Development brought with it a deterioration in the situation of women. Research shows that women's access to economic resources, income and employment has worsened, their burden of work has increased and their relative and even absolute health, nutritional and educational status has declined.

Where they are principal producers and workers, their services are undervalued and wages low. In the agricultural and industrial sectors, they are not decision-makers; they have no control over working conditions. Besides this «integration in development» work, women are traditionally home managers (collecting fuel and water, meeting the basic needs of food and looking after the health of the family) and carers (welfare of parents and children).

Women have not been beneficiaries in the development process. They are marginalized due to unequal access to employment, credit technology, education and training.

Working with Law

Our dialogue with women in the region on law and legal strategies showed that:

- the language of the law tends to be discriminatory, limiting the rights of women;
- the application of the laws tends to be prejudicial to women;
- women are unaware of their own rights or the meaning of the law in practice;
- women have no access to the process of law for economic reasons;
- women lack the confidence to take action;
- women do not trust the law, its institutions and lawyers;
- there are insufficient lawyers, or insufficient lawyers who work on a legal aid basis; and
- there is frustration and disillusionment with working with the law.

Yet women continue to use law, continue to be involved in legal processes and strategies of some kind in the hope that it will bring change.

Why Law?

Has more law and more reform in the law brought the desired change? Does equality before the law mean that women can now no longer be discriminated against in the workplace in terms of wages and benefits and the nature of the work? Does change in the law bring about change in the way men and women behave towards one another, does it change attitudes about family roles for women and men, the societal expectations of women and men, relationships between people and between the people and the State? Does change in the law bring higher income, better health and the elimination of violence against women?

Some of us feel that we should give up working with law. Law is seen as a means of oppressing people, law is associated with the powerful: internal security acts/anti-terrorism (detention without trial) laws to preserve «national security»; labour laws that do not provide for minimum wages in free trade zones and freedom of association (trade unionization) - laws that are pro-management and pro-multinationals rather than pro-workers, to cite some examples in the Third World.

Others feel that we must be able to make use of a system that gives us a reasonable expectation of justice. It is a forum for dispute settlement, to define and redefine rights. It has its weaknesses, but it can at least provide an interim relief/redress in a given situation. It remains for some of us the site of our struggle for change.

So maybe law is not the end product that we want. Maybe we can begin to look at law as a process for change.

Legal Strategies as a Response for Change

At the end of the UN decade for women, culminating in the Nairobi meeting, women expressed a need to begin a global dialogue on the growing experimentation with legal strategies. A workshop on women, law and development was held in Nairobi in 1985 with the following objectives.

- a) To begin organizing information concerning our understanding of:
 - (i) the relationship between the law and the socio-economic development process as it affects women;
 - (ii) the legal and cultural mechanisms which maintain women's marginal status; and
 - (iii) successful strategies to improve women's legal status.
- b) To develop a network among Third-World women working to promote and improve the status of women;

- c) To contribute to the development of effective action using law and other creative methodologies; and
- d) To focus world attention on this issue and heighten awareness about the importance of law in shaping women's participation in development.

What are the Elements of a Strategy?

For our purposes, strategy

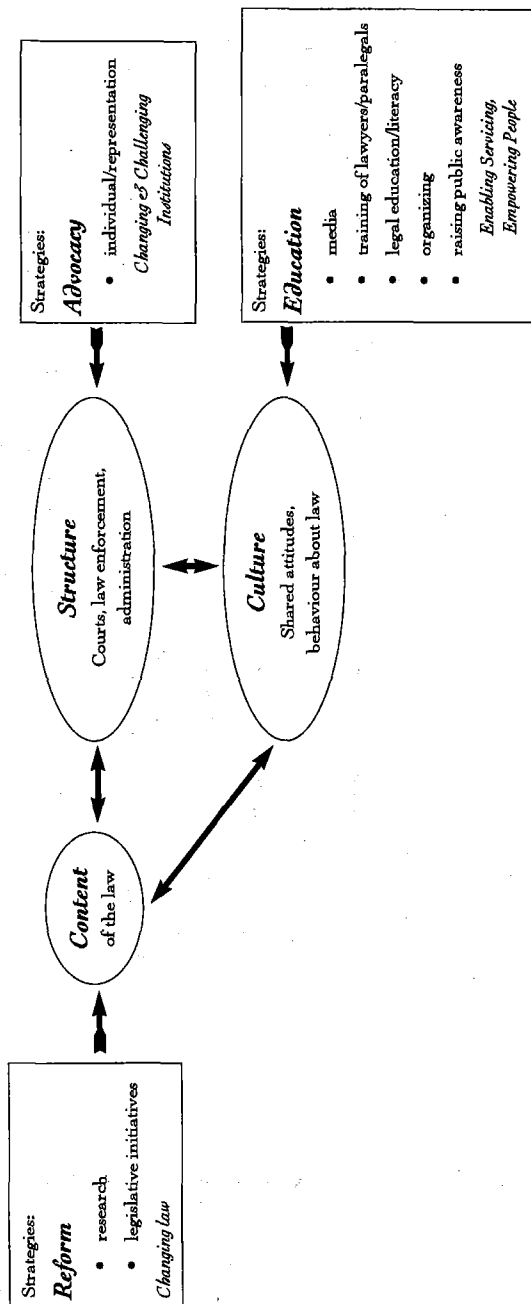
- has clearly defined goals and objectives;
- is a series of planned activities (not sporadic) designed to meet these goals;
- is carried out over a period of time in a systematic way;
- is carried out by a group of people in a collective/collaborative way (Schuler, 1986; 21).

A Framework for Examining Strategies

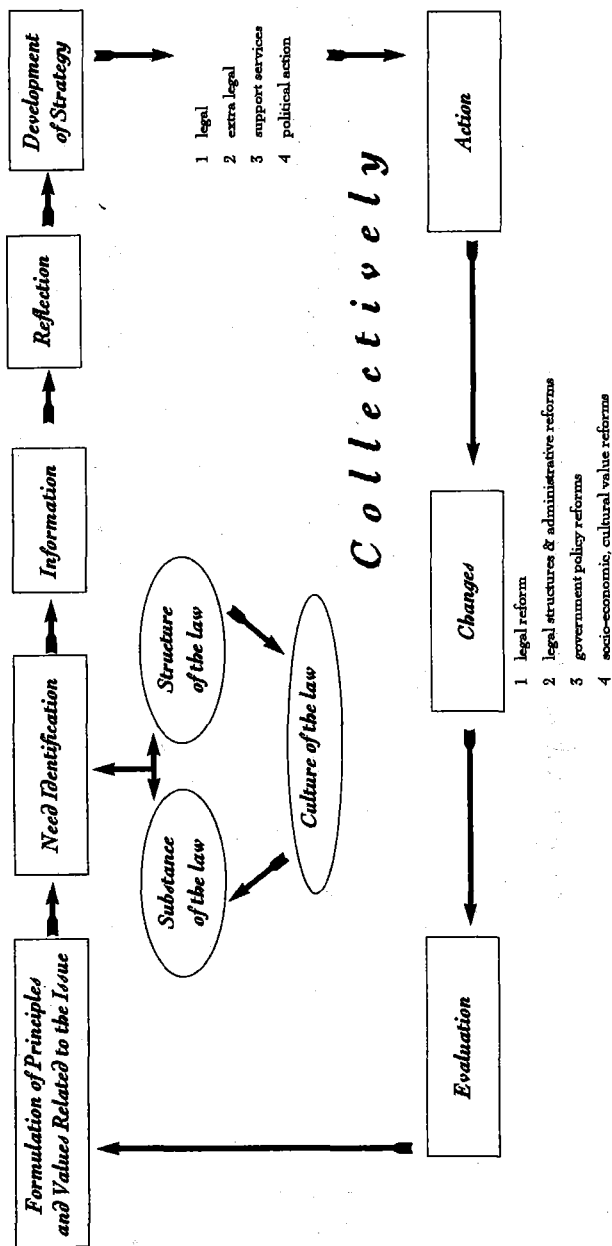
The strategies in each component of the legal system (content, structure and culture) cannot be worked out in isolation. The strategies of each component must also target the other components of the legal system. A holistic approach is vital to the success of a strategy.

For example, the Constitution of the Cook Islands contains an equality provision, yet we are told, discrimination continues in the workplace. How is the problem to be identified? Is it one of lack of knowledge of rights and law? Will information on this law enable a change in the situation of women in the workplace? The change or reform in the law has to be coupled with strategies aimed at the structural and cultural components as well. An example of a

A Framework for Examining Strategies



A Framework for Examining Strategies



structural change in this case, would be testing a work discrimination case against the constitutional equality clause.

Tonga's customs - we are told - abhors adultery, which is punishable by law. It is known that Tongan men often resort to extra-marital sexual relations and children have been born out of these unions. Nevertheless Tongan women are reluctant to initiate legal action against their men. Why? Women are more forgiving, we are told. But why just women? Why are men allowed to transgress and women are expected to forgive? Are men not accountable for their actions? Is not accountability a fair value to expect of men? If a Tongan woman were to begin an action (which she has the right to do under the law, presumably in some countries only men can bring an action for adultery since women are perceived as their property and not vice versa) would she be perceived as a 'bad person', as she is expected, as a good woman of Tonga, to forgive? Looking at the cultural component in this area would require an examination of the value system that prevents the enforcement of law and custom.

Legal Strategies to Empower Women

In 1989, the APWLD held two regional meetings in Lahore and Manila to examine legal aid, legal reform and legal literacy. Social transformation or change cannot be brought about without a widespread grassroots endeavour. The traditional legal aid approach which is lawyer-centred, while addressing some immediate needs and raising some level of consciousness, ignores the fundamental causes of the problems and is inadequate by itself. Legal reform programmes must address both the content and structure of the legal system. This must be coupled with a consciousness raising of the community in relation to rights and concerted community action or mobilization to push for change. Legal reform must also be concerned with decision-making and policy-making processes and work towards the political participation of women in these spheres. Legal aid and legal reform requires legal literacy.

Legal Literacy

Legal literacy programmes have been focused mainly on a «know your rights» approach. Women and organizations carrying out this method of information-giving have evaluated their work and found that it is not enough that laws exist and that people are aware of them. Effective legal literacy is a process concerning:

- acquiring/getting information;
- critical awareness of rights and the law;
- the ability to assert rights; and
- the capacity to move/mobilize for change.

Critical awareness and the ability to assert rights must be intrinsically linked to issues of social structures that determine the unequal exercise of power in society. Effective legal strategies empower.

Empowerment of Women

Empowerment contains the word **power**. Empowerment is about power and about changing the balance of power. Power is exercised in social, economic and political relations between individuals and groups.

Power is control over resources (e.g. land, forests, skills, labour, bodies, knowledge, information, ideas) and control of beliefs (values, attitudes, ways of thinking).

Empowerment is a process aimed at changing the nature and direction of forces which marginalize women and other groups in a given context. Empowerment brings about a redistribution of power i.e. power between nations, classes, castes, races, ethnic groups or sexes (Batiwala, 1993).

Empowering legal strategies, of which legal literacy is a critical component, begin with legislative change or advocacy. They have to

include an educational component which progressively moves women from learning about rights and injustice toward an understanding of the causes of their inferior status, to the articulation of alternatives and the development of organizing and political skills.

What Is the Objective of Empowerment?

To challenge subordination and subjugation and to transform the structures, systems and institutions that have supported inequality.

Is Women's Empowerment Against Men?

If empowerment of women is a real success, it **does mean the loss of men's traditional power and control over the women of their households e.g.**

- loss of control of her body and physical mobility;
- loss of the 'right' not to do housework and care for the children;
- loss of the 'right' to physically abuse or violate her;
- loss of the 'right' to spend income meant for the family on personal pleasures (and vices);
- loss of the 'right' to abandon her or take other wives;
- loss of the 'right' to take unilateral decisions which affect the whole family;
- and the countless other ways in which men of every class have unjustly confined women.

The process of women's empowerment will also liberate men: they will be freed from the roles of oppressor and exploiter and become better human beings. They will be like women, freed of gender stereotyping (Batliwala. *op. cit.*).

Equality for Women 'Women's Rights'

When speaking of equality for women, or women's rights, we are getting involved in a discussion about empowerment. It is not a case of throwing men out of the whole picture. For example, Papua New Guinea bemoans the practice of polygamy among its men or in the case of my country among Muslim men. Women are not however saying that they want more husbands because men are taking more wives. They are saying that they want a change in the way their men look at women. They are not just bodies, or things to be traded and discarded at will, they want their dignity as humans.

Law and Access to Justice - Challenges and Reflections

The Forum's research project on gender and access to justice dramatically showed the limits to the use of law in addressing violations of women's rights. Law does not necessarily equate with justice. Justice as embodied in the law is really the interpretation of things that have gone through a social screen which is gender-biased against women in many ways, whether in the family, in the economic sector or in cases of violence against women.

Lobbying for more rights without a deeper understanding of the limits and possibilities of law creates a false expectation that the law can change women's lives. The question we need to ask ourselves is how to rely on law and rights without creating either a dependency on law, or the expectation that law will provide the solutions to our problems (Kapur, 1992a; 95).

We need to reconceptualize the notion of rights, challenge the arbitrary distinction often made between law and politics and locate rights within the broader political strategies (Kapur, 1992b; 35).

We need to look beyond law. Legal literacy and the involvement of women in legal processes have been positive in that women have begun and are continuing to articulate their views and concerns in the language of rights. New challenges for women's empowerment requires a re-thinking of the basis from which our rights as women emanate. It is necessary for us to begin articulating a language of rights from our perspective: a feminist theoretical construct which validates women's experiences in the region (Ahmad, 1994).

References

Ahmad, Salbiah. 1994. «Issues and Strategies in Gender and Access to Justice» in *Gender and Access to Justice*. Report of Training Programme in 1992. APWLD.

Batliwala, Srilatha. 1993 *Empowerment of Women in South Asia, Concepts and Practices*. ASPBAE and FAO.

Kapur, Ratna. 1992a «From Theory to Practice in Legal Literacy» in Margaret Schuler (ed.) *Legal Literacy: A Tool for Women's Empowerment*. UNIFEM

Kapur, Ratna. 1992b Feminism, Fundamentalism and Rights Rhetoric *The Indian Journal of Social Science* Vol.5, No.1 (1992). New Delhi

Sen, Gita and Caren Grown. 1985. *Development, Crisis and Alternative Visions: Third World Women's Perspectives*. DAWN

Schuler, Margaret (ed.) 1986. *Empowerment and the Law: Strategies of Third World Women*. O.E.F. International

1989. *Legal Strategies to Empower Women (unpublished workshop report)*. APWLD

1990. *The Asia Pacific Forum on Women, Law and Development: Its Origins, Issues and Vision*. APWLD

1994. *Beyond Law Planning Meeting (unpublished report)*. APWLD

Proposal for a Continuing Education Certificate on Women and the Law and Rights Education

*Ms. Cema Bolabola, Coordinator Continuing Education
University of the South Pacific*

The continuing education section of the University Extension, University of the South Pacific (USP), is proposing a project to design, develop and deliver a non-credit certificate study programme addressing women and the law and rights education.

The section has had consultations with individuals and groups working in the field of women's rights, women and the law and rights education in general. There seems to be a general consensus that further education relating to women and the law be delivered through a mainstream education institution and made available as widely as possible in the islands of the South Pacific.

The «distance education» structure and network of the University Extension of the University of the South Pacific has the expertise and infrastructure to assist in the production, design and implementation of the proposed certificated programme in twelve countries in the South Pacific. Students would enrol through their USP Centres and countries outside the USP region would also be able to take the study programme by mutual arrangement with the Extension Services.

Materials for the study programme could be used in workshops, seminars and other educational projects by any group in Oceania. The programme should be able to offer support to groups in the development of their national programmes on the subject of rights education and women and the law.

University Extension, University of the South Pacific

The role of the University Extension is to «disseminate University knowledge, skills and services at national levels within the South Pacific region, provide professional support to students in extension and continuing education studies, provide academic leadership and expertise in the field of distance and continuing education and maintain and enhance the presence of the USP in the South Pacific region».

The University Extension offers and manages credit extension courses and continuing education courses and study programmes that are offered at a distance through the eleven USP Centres located in ten countries in the region.

However, the USP Centres have some autonomy in designing and developing continuing education programmes to meet national training and development needs and priorities.

There are USP Centres in the Cook Islands, Fiji, Kiribati, the Marshall Islands, Nauru, Niue, the Solomon Islands, Tonga, Tuvalu, Vanuatu and Western Samoa which also serves Tokelau.

The Continuing Education Programme of the University

The USP sees the provision and facilitation of continuing life-long education as a proper and responsible function of the University in pursuing its services to the wider community.

Under its continuing education programme, the University is able to provide non-award (non-credit) studies and training to promote professional upgrading, «re-skilling» and general community education and development.

Continuing education is carried out by many providers at the University, especially the Institutes and University Extension. However UE is unique in the sense it offers two modes of continuing education studies.

At the USP Centres, continuing education programmes are locally identified, designed and delivered face-to-face within the country to meet training needs. At regional level, regional professional or interest groups mandate or request the University Extension to design and deliver in the «distance» mode study programmes to address professional upgrading and the advancement of knowledge relating to a special issue or area of professional interest.

Two study programmes are currently offered at a distance to the region viz, Pacific Pre-School Teachers Certificate (PPTC) and the Community Nutrition Certificate (CNC).

Both study-programme are made up of three courses with each taken for one semester. The learning package for each course is complete and self-contained and students will need little outside assistance in completing the course. However, tutorials can be offered to assist students in their progress. All students enrolled are required to carry out a number of assignments as part of the required course work during the semester and an end-of-semester examination is compulsory.

Students are enrolled and served by their USP Centres. For students from outside the USP region, special arrangements can be made with the co-ordinator of continuing education either to enrol directly with the continuing education section or via the nearest USP Centre. At present the section is serving some one hundred students from Papua New Guinea who are enrolled in the Pre-School Teachers Certificate programme.

As the study programmes certificates are non-credit awards, they cannot be cross-credited to any credit course or programme of the USP, but could be used as a prerequisite for enrolment into a specific study programme eg. the PPTC is accepted as a prerequisite for enrolment in the Diploma in Early Childhood Education. We plan to use the CNC, in the same way, for a related credit programme in USP or maybe the Fiji School of Medicine's School of Dietetics.

Proposed Certificate(s) in Rights Education and Women and the Law

The USP policy on continuing education supports the provision of life-long learning for professional upgrading and bringing knowledge, skills and services to the community it services.

Readers can be used as trainers' referral material for training workshops, seminars and other community education efforts, by social welfare workers, women's groups, women trainers, para-legal workers in government and NGOs. The study programme can be given sufficient recognition by individuals and national groups that it could be a required qualification for employment or the opportunity for further study.

The proposal is for topic books to be produced first, before the course is designed. However, we are aware that there is an existing book that could be used as the main text for topical areas on women and the law in the South Pacific context.

Proposed phases of the project:

- a) pre-project phase: administration and coordination
The Coordinator of Continuing Education will consult individuals and groups in the field of women and the law and rights education to discuss and comment on the proposed project;
a project proposal to be developed jointly with individuals in the hope that a donor agency will support the initial proposal for the appointment of a coordinator to oversee the proposed process for the project phases and subsequently develop the study programme(s) on the subject for offer, at a distance, to learners in the South Pacific region;
- b) phase I: identification of topical issues;
- c) phase II: selection of writers;
- d) phase III: writers' workshop;

to brief writers on style, emphasis and coverage. A number of writers can contribute to sub-topics in a topical book;

- e) phase IV: text writing, editing and pretesting
Writers are commissioned to write on the subject with technical assistance from a project co-ordinator preferably with a legal background;

this phase would take longer than the others as the writer will send texts to the co-ordinator for professional editing; the texts will be returned to writers for further work if required. The phase will also involve a pretesting of text, selection and pretesting of illustrations as well as other learning activities contained in the text. These texts can be used as stand-alone trainer books for workshops and seminars or readers for any user;

- f) phase V: book production
All completed texts with illustrations go to the layout professionals and designers for completion;
- g) phase VI: development of study programme(s) for distance learning.

United Nations Mechanisms on Women's Rights

*Ms. Elizabeth Evatt,
Member, UN Human Rights Committee*

Introduction

Many organs and agencies of the United Nations have specific programmes or agenda for women. This paper refers to some which are relevant for women's legal rights in the Pacific region. It deals briefly with human rights covenants and conventions, other than the Women's Convention,¹ because few have been ratified in the Pacific region. It does not deal with the ILO, UNESCO or with specialized development agencies.

This is a period of transition, when there is a move to bring women's rights more clearly into the mainstream activities of the United Nations. The divided nature of the UN approach to these issues is apparent in the material presented in this paper.

UN Bodies Dealing with Women's Rights

Under the UN Charter, which established it, the Economic and Social Council (ECOSOC) has overall responsibility for human rights. It consists of 54 Member States, each elected for a three-year term. It has established two major commissions to carry out functions concerning human rights, the Commission on Human Rights and the Commission on the Status of Women.

1 The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

The Commission on Human Rights

The Commission on Human Rights (CHR) was established in 1946. Its mandate extends to preparing recommendations and reports concerning international declarations or conventions on human rights, civil liberties, the status of women, freedom of information, the protection of minorities, the prevention of discrimination on the basis of race, sex language or religion, and any other matter concerning human rights.²

The Commission consists of 53 Member States, each elected by ECOSOC for a three-year term. Australia is currently a member. The CHR meets annually in Geneva, in February/March. Its secretariat is at the UN Centre for Human Rights in Geneva. The Commission has several subsidiary bodies.

Sub-Commission on the Prevention of Discrimination and Protection of Minorities

The Sub-Commission was established by the CHR to undertake studies and to make recommendations concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms and the protection of racial, national, religious and linguistic minorities, and to carry out any other functions entrusted to it.

The Sub-Commission consists of 26 individual members, who are elected by the CHR, but serve in their personal capacity. The Sub-Commission meets annually in August, and is based in Geneva. Issues on its agenda recently have included traditional practices harmful to the health of women and girls, and the validity of reservations to the CEDAW.³

2 From United Nations Handbook. Ministry of Foreign Affairs, New Zealand (1993).

3 There is an initiative to seek an Advisory Opinion from the International Court of Justice about certain reservations to the CEDAW. The CEDAW Committee has supported this initiative, as it would assist it in its task of considering progress made in the implementation of the Convention, A/48/38 Report of 12th Session 1993, para 5.

Working Group on Contemporary Forms of Slavery

A five-member working group established by the Sub-Commission reviews slavery and similar practices. It is based in Geneva, and meets annually, before each session of the Sub-Commission. It deals with such matters as child prostitution, child pornography, exploitation of child labour, debt bondage, forced labour and traffic in, and sale, of children.

Communications Procedures

The Sub-Commission receives communications from individuals or groups concerning alleged violations of human rights in any State which reveal a consistent pattern of gross violations of human rights and fundamental freedoms.⁴ A five-member working group considers these together with replies sent in by the governments concerned. It can select cases for the attention of the Sub-Commission where there seems to be reliable evidence of a consistent pattern of gross violation of rights. The Sub-Commission can refer situations to the Commission on Human Rights, which can decide whether to embark on a detailed study or to appoint a committee to investigate, with the permission of the State concerned. The action is confidential until the Commission reports to ECOSOC. Communications should be addressed to the Centre for Human Rights in Geneva.

Special Rapporteurs

The CHR can appoint special rapporteurs to investigate situations in particular countries or to prepare thematic reports on violations of rights which occur in several countries. It has recently decided to appoint a Special Rapporteur on Violence Against Women.

4 ECOSOC resolution 1503 (XLVIII) 27 May 1970, («1503 procedure»)

Centre for Human Rights

The Centre for Human Rights provides the infrastructure and secretariat services for the Commission on Human Rights, and for all the treaty bodies, other than CEDAW Committee. Treaty bodies are the independent expert committees which monitor the implementation of the human rights instruments of the UN.

Commission on the Status of Women

The Commission on Human Rights can deal with women's rights and status. Nevertheless, it was decided in 1946 to have a separate Commission on the Status of Women rather than leaving women's rights to be dealt with by the CHR.

The Commission on the Status of Women (CSW) was established by ECOSOC in 1946. Its mandate is to prepare reports for ECOSOC on matters concerning the promotion of women's rights in the political, economic, social and education fields, and to make recommendations on problems requiring immediate attention in the field of women's rights.

The Commission consists of 45 Member States, each elected by ECOSOC for a three-year term. Australia is currently a member. The CSW meets annually. Its secretariat is part of the Division for the Advancement of Women and is currently based in New York (previously it was in Vienna).

The CSW has contributed to the drafting of a number of important instruments relating to the rights of women, including the 1952 Convention on Political Rights of Women, the 1979 Convention on the Elimination of All Forms of Discrimination Against Women and the 1993 Declaration on the Elimination of Violence Against Women. It also initiated International Women's Year.

Specific issues which have been dealt with by the CSW in recent years include migrant women, political participation, women affected by armed conflict, violence against women and disabled women.

CSW Working Group on Communications on the Status of Women

The CSW has established a five-member working group to consider confidential and non-confidential communications from individual women or women's groups on the status of women and violations of rights, and to make recommendations to ECOSOC as to what action should be taken on emerging trends and patterns of discrimination against women revealed by such communications. The working group holds closed meetings during each CSW session to consider the communications and the replies of governments.

Any person can submit a communication to the CSW. In fact, few communications are received, as the procedure is not well known. Communications should be sent to the CSW at the UN headquarters in New York.

The CSW's Role in World Conferences on Women

Among the many matters dealt with by the CSW was the planning for the world conferences on women held in 1975 in Mexico City, in 1980 in Copenhagen and in 1985 in Nairobi. The CSW is at present preparing for the Fourth World Conference to be held in Beijing, China from 4 to 15 September 1995.⁵ The CSW set the items for the agenda of the Conference and has made recommendations to ECOSOC about the preparations at national and regional level, and about the non-governmental forum (see below).

Division for the Advancement of Women

The Division for the Advancement of Women is part of the UN Secretariat; it provides services for the CSW and for the CEDAW Committee. It was based in Vienna until 1993 when it was transferred to New York, where it is actively planning the Beijing Conference.

5 The CSW, at its 36th Session, decided that the Fourth World Conference on Women should be held in Beijing in 1995.

The separate treatment of women's rights from other UN human rights activities has been much criticized recently. The World Conference on Human Rights in Vienna called for women's rights to be integrated into the mainstream of UN system-wide activity and for a strengthening of coordination between the Centre for Human Rights and the Division for the Advancement of Women.⁶

UN Human Rights Covenants, Conventions and Declarations

The Universal Declaration and the Covenants

The Commission on Human Rights was responsible for drafting the international Bill of Rights, which consists of:

- the Universal Declaration of Human Rights, adopted in 1948;
- the Covenant on Civil and Political Rights adopted in 1966; and
- the Covenant on Economic, Social and Cultural Rights, also adopted in 1966.

Conventions and Treaty Bodies

The CHR also drafted other major conventions, such as the Convention on the Elimination of Racial Discrimination and the

6 *World Conference on Human Rights, The Vienna Declaration and Programme of Action*, Vienna June 1993, para. 37 of Programme of Action. The human rights of women should form an integral part of the United Nations human rights activities, including the promotion of all human rights instruments relating to women. *World Conference on Human Rights, The Vienna Declaration and Programme of Action*, Vienna June 1993, Declaration para. 18.

Convention on the Rights of the Child. All major human rights instruments recognize the equal rights of men and women and prohibit any discrimination in the enjoyment of human rights and fundamental freedoms on the basis of sex.

Most of these conventions provide for an independent supervisory committee, or «treaty body» to monitor compliance by States which have ratified the convention. The Women's Convention is a typical example.

***Convention on the Elimination of All Forms
of Discrimination Against Women
(the Women's Convention)***

The convention dealing with women's rights in a specific and comprehensive manner is the Convention on the Elimination of All Forms of Discrimination Against Women. Its early drafts were prepared by the CSW and it then proceeded through ECOSOC to the General Assembly, where it was adopted in 1979. It entered into force in September 1981. There are now 131 States Parties (as of January 1994), though many States have made reservations at the time of ratification.

***Committee on the Elimination
of Discrimination Against Women***

The Women's Convention provides for an independent Committee - called CEDAW or the CEDAW Committee - to monitor the progress made by States in implementing their obligations under the Convention, and to consider reports submitted by States parties about this.

The CEDAW Committee consists of 23 experts of high moral standing and competence elected by the States parties to serve in their personal capacity for four-year terms. The Committee reports

annually to the UNGA⁷ through ECOSOC. The Secretariat of the Committee is part of the Division for the Advancement of Women.

Women's Rights under the Women's Convention

The Women's Convention spells out how equality and non-discrimination are to be achieved in particular areas such as public life, work, education and the family. It covers legal status, the rights of rural women, health and many other areas in far more detail than the other conventions mentioned.

There are, of course formidable obstacles. These include outdated attitudes to the roles of men and women. The preservation of ethnic or cultural identity is often used as an excuse for denying women full equality.⁸ While many customs are discarded in the development process, those that subordinate women are often maintained, especially in the area of the family. The Women's Convention recognizes the need for a huge mind-shift - a change in attitudes and in behaviour - as a necessary condition for achieving equality.

The Convention calls for the modification of the social and cultural patterns of conduct of men and women with a view to achieving the elimination of prejudices and customary and other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women (Article 5).

Education is intended to play a significant role in encouraging men and women to accept equal responsibilities in the family.

7 UNGA - UN General Assembly: all the States which have been accepted as Member States of the UN.

8 See *Ours by Right*, Marsha Freeman [pp. 99 and 100]

Recognition of Affirmative Action

The Women's Convention makes *de facto* equality the goal. States must take appropriate measures, including enacting laws and taking policies measures, to ensure that women enjoy rights and freedoms on a basis of equality with men (Article 3). Affirmative action, and measures to protect maternity are not regarded as discrimination (Article 4). Positive measures, whether legislative or otherwise, are not only lawful, they are necessary to ensure that women enjoy rights on a basis of equality.

The CEDAW Committee has recommended that States parties make more use of temporary special measures such as positive action, preferential treatment or quota systems, to advance women's integration into education, the economy, politics and employment.⁹

Summary

To summarize, the goal of the Women's Convention is the equal enjoyment of rights and freedoms. The Convention sets out in detail how equality is to be achieved in specific areas. It calls for changes in attitudes and for affirmative action to achieve its goals.

Reporting Procedures under the Women's Convention

States which ratify the Women's Convention undertake to submit periodic reports to the CEDAW Committee, setting out the legal or other measures they have taken to give effect to women's rights, the progress they have made, and any factors or difficulties affecting the implementation of rights.¹⁰ The reporting procedure is the principal means of monitoring compliance with the Convention. The reports are examined by the CEDAW Committee in the

9 General Recommendation No. 5, 7th Session 1988: Temporary Special Measures.

10 CEDAW Art. 18; ICCPR Art. 40.

presence of representatives of the State, to whom many questions are put by Committee members. The laws, policies and practices of the State are scrutinized and evaluated publicly by the Committee which then reports on the process to the General Assembly.¹¹

Continual efforts are made to improve the effectiveness of the reporting procedures. For example, the CEDAW Committee has recently adopted procedures to enable it to express a concluded Committee view as to whether the laws and constitution of a State fully conform to the Convention which they have ratified. Nevertheless, the process of examining reports is one of persuasion rather than coercion. It lacks the force of a complaints mechanism which would enable violations of individual rights to be considered.

Some Current Issues in Women's Rights

The Family

This is the international year of the family. From the point of view of women's rights, it is an appropriate time to press for equality for women in the family and marriage, as provided for the by the Women's Convention, (Article 16). The CEDAW Committee in fact adopted an important recommendation on equality in marriage and the family at its session in January 1994.¹²

The recommendation deals with issues such as the nationality rights of women, equal access to justice in matters relating to the family and property, polygamy as a denial of equality, the right to

11 Philip Alston. «The Purpose of Reporting» in *Manual on Human Rights Reporting* UNITAR & UN Centre for Human Rights, 1990. The following functions of the reporting process are identified; initial review; monitoring actual progress; policy formulation; public scrutiny; evaluation; acknowledging problems; information exchange.

12 General Recommendation No. 21, 13th Session, 1994: *Equality in Marriage and Family Relations*.

free choice of marriage, overcoming inequality in customary laws relating to marriage and the family, equal parental rights, free access to measures for the voluntary regulation of fertility, the right to choose a name, equal sharing of matrimonial property, equal inheritance rights, and minimum age of 18 for marriage.

Violence Against Women

In national systems, the women's movement has struggled to have domestic violence accepted as a serious violation of law, which should be dealt with as a crime. In international law the problem has been to gain recognition that violence against women in all its forms is a violation of human rights. There have been some important recent developments in this regard.

CEDAW General Recommendation on Violence Against Women

Although the Women's Convention does not refer to violence expressly, the CEDAW Committee adopted a recommendation in 1992 which shows the close connection between discrimination against women, gender-based violence and violations of human rights and fundamental freedoms.¹³

The Committee's recommendation emphasized that States had to take positive measures to eliminate all forms of violence against women, whether perpetrated by public authorities or by any person, organization or enterprise. The recommendation sets out detailed measures which States should take to protect women against gender-based violence, including

- effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including, *inter alia*, violence

¹³ General Recommendation No. 19, 11th Session, 1992: *Violence against Women*. A/47/38.

and abuse in the family, sexual assault and sexual harassment in the workplace;

- preventive measures, including public information and education programmes to change attitudes concerning the roles and status of men and women; and
- protective measures, including refuges, counselling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence.

Declaration on the Elimination of Violence Against Women

In December 1993, the UN General Assembly adopted the Declaration on the Elimination of Violence Against Women. The Declaration had been drafted by the Commission on the Status of Women, through an expert group, and was submitted to the UNGA through ECOSOC. It was the result of a successful campaign by women's organizations to gain wider recognition of violence against women as a violation of human rights.

The preamble to the Declaration affirms that violence against women is a human rights violation, and calls on States to use due diligence to prevent, investigate and punish acts of violence against women, whether those acts are perpetrated by the State or by private persons (Article 4.c). It calls on States not to invoke «any custom, tradition or religious consideration to avoid their obligations with respect to its elimination.» (Preamble, Article 4) It mirrors Article 5 of the CEDAW by calling for the modification of social and cultural patterns of conduct of men and women and for the elimination of prejudices and practices based on inequality of treatment between men and women.

The Declaration sets out (in an Annex) many measures which States are asked to consider. It does not create legally binding obligations and has no enforcement or supervisory mechanism. However, it has educational and persuasive value, and it can be used to urge reform at national level.

International Conferences and Women's Rights

Women's Rights at the World Conference on Human Rights, 1993

The World Conference on Human Rights, held at Vienna in June 1993, made some important statements about women's rights. Among the most important was that States did not accept a relativist approach to human rights, but endorsed the universality of human rights by affirming their duty, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.¹⁴

The World Conference endorsed moves to bring women's rights more closely into the mainstream and to strengthen the Women's Convention. It declared that the human rights of women are an *inalienable, integral and indivisible part of universal human rights*, that gender-based violence is incompatible with the dignity and worth of the human person and that it must be eliminated.

The Population Conference, Cairo, 5 to 13 September, 1994

Women's control over their own fertility is the key to health, equality and economic independence. Article 16.e of the Women's Convention requires States to ensure that women have the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.

The CEDAW Committee has prepared an important statement for the Population Conference, asserting that population and

¹⁴ A qualification was that «the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind».

development policies need to address the «vicious cycle of women's illiteracy, poverty, high fertility rates and discrimination in formal and informal employment as well as an interrelation of these issues with population and development issues.»

World Summit on Social Development, Copenhagen, March 1995

The aims of the Summit are, *inter alia*, to enhance social integration, to alleviate and reduce poverty, to expand productive employment and to put people at the centre of development by connecting economic growth, environmental concerns and social concerns in the development process. A significant input from NGOs is anticipated.

50th Anniversary of the UN, 1995

The anniversary of the UN will provide another opportunity to promote women's equality, bearing in mind that it was specifically mentioned in the Charter, in connection with human rights, which were to be respected without distinction as to sex, and in respect of eligibility to participate in the UN and its organs.

The Fourth World Conference for Women, Beijing, September 1995

This is being dealt with by other speakers, so I will mention only that the CEDAW Committee will present a report to the Conference on progress achieved in the implementation of the Convention. Among the issues it will emphasis are:

- the Committee's proposals for an optional protocol and the programme of activities of the Centre for Human Rights;

- making women's rights an integral part of UN human rights activities;
- achieving universal ratification of the Convention by the year 2000, and the withdrawal of all incompatible reservations;
- emphasizing the CEDAW Committee's general recommendation on violence against women in the work of the special rapporteur on violence;
- ensuring that all women are made aware of the Convention and of how to use it in defending their rights.

Special Rapporteur on Violence Against Women

The effort to bring violence against women into the mainstream of human rights law has been rewarded in another way. The Commission on Human Rights has now decided to appoint a Special Rapporteur on Violence Against Women. An expert rapporteur will be nominated to carry out investigations and to report annually on this issue. The rapporteur will consider not just the incidence of violence, but also its causes and consequences.¹⁵

How Women can Be Involved in and Contribute to the Process

Communications to the CHR and the CSW

Women in any country who consider that there is a serious of violation of their rights can communicate this to the CHR or the

¹⁵ CHR resolution 1994/45: the question of integrating the rights of women into the human rights mechanisms of the United Nations and the elimination of violence against women.

CSW, in the ways described above. This would not result in any specific action to assist an individual woman; the process is largely confidential and only situations involving massive violations or showing persistent patterns of violations would be considered. Both the CHR and the CSW are essentially «political» bodies, which further limits the effectiveness of this process.

Contributing to the Work of Treaty Bodies such as the CEDAW Committee

As mentioned, the principal way of monitoring whether a State has complied with its obligations under the Women's Convention is through the reporting process, under which States present reports to an expert committee, the CEDAW Committee. One problem with that process is that the Committee depends to a great extent on the information provided by States themselves. Those reports are often quite inadequate as a description of what is happening in the State and some States do little more than compile a list of laws and leave it at that. Even when the State provides adequate information, the lack of publicity and information given about the proceedings before the Committee may mean that few people in the State concerned know the outcome of the reporting process.

The Committee tries to address the problems in various ways and to make the reporting system more effective. It can supplement the information provided by States from its own research or from other sources and use this information in its dialogue with the State. Non-governmental organizations, both national and international, provide information to members of the Committee about significant issues. These organizations include the International Women's Rights Action Watch.

Non-governmental organizations represent a voice which otherwise would be absent from the dialogue, that of the persons most vitally affected. But they cannot take part directly in the dialogue with the State; and, of course, this is an option that is open only to women in States that have ratified the Convention.

Contributing to Major Conferences

Women can contribute to the successful outcome of major international conferences held by the United Nations. Their contribution is not and should not be confined to conferences which specifically deal with women's rights. For example, women's non-governmental organizations made a huge contribution to the Rio Conference on the Environment - the Earth Summit - in 1992. Women's groups were the best organized and most influential at the World Conference on Human Rights in June 1993. Their efforts showed significant results in terms of commitment by the conference to issues such as violence against women and the integration of women's rights into the mainstream. That conference showed clearly;¹⁶ «the power of women to bring concerns from the grass roots into the public arena even at the international level if we organize for effective political participation.»

There is a need for continuing activism by women at national and grass-roots level and through their own international networks. Results show that it is worthwhile for women's NGOs to work with their national delegations and to lobby all delegations at international conferences to ensure that their interests are not neglected. The lessons from the Vienna World Conference on Human Rights are now being applied by women in the preparatory phases of the Population Conference and the Social Summit.

NGOs have only limited opportunities to make major contributions on the floor of conferences. They work by lobbying government delegations, and by taking a role in the preparatory stages of conferences, when the agenda is being set and the contents of the declaration being drafted.

Drafting New Standards

The same kind of energy that has gone into conference preparation has also been applied to the development of new

16 Charlotte Bunch, *Ours by Right*, p. 146.

international standards; for example, the Declaration on the Elimination of Violence Against Women would not have been achieved without intensive lobbying by women's NGOs at every stage of its progress. This lobbying often took the form of detailed drafting amendments provided to State delegations with encouragement that they take them forward onto the floor.

Problems Affecting CEDAW and Women's Rights in the UN System

While the UN system has given rise to an ever-increasing number of standards, to supervisory machinery, reporting processes, complaints procedures, special rapporteurs and so on, it still lacks effective implementation and enforcement strategies and is burdened by lack of co-ordination and resources, by overlapping mandates, by reservations and delays.

CEDAW Is Outside the Mainstream

The existence of a separate convention for women, with its own supervisory body, staffed and resourced separately from the other human rights bodies, is of considerable importance for women. At the same time, it maintains the separation of women's issues, and their isolation from mainstream human rights activities. The CEDAW Committee has been given a minimum amount of resources and support and has been isolated from mainstream human rights activities by its location and servicing.

The Vienna Plan of Action impliedly acknowledged these deficiencies in its call for review and reform of the system and for the integration of women's rights within the mainstream (paragraphs 87, 88 and 89).

Lack of Enforcement: Need for a Protocol

Several international human rights conventions provide a right of complaint for individuals.¹⁷ The Women's Convention does not have such a procedure, though it has been suggested.¹⁸ If the Convention were strengthened by including a protocol allowing individual women, or perhaps a class of women, to complain about violations of their rights under the Convention, specific issues of violence could then be dealt with in an international forum, at least with regard to those States that accepted the protocol.

The World Conference on Human Rights called on the Commission on the Status of Women and the CEDAW Committee to quickly examine the possibility of introducing the right of petition through the preparation of an optional protocol to the Women's Convention.¹⁹ The CEDAW Committee has asked for an expert group meeting to be held in 1994 to develop this proposal.²⁰

Additional References

Women and Human Rights. Prepared by Katarina Tomasevski. London and New Jersey, Zed Books Ltd, xiv and 162 pp. 1993 Women and World Development Series.

Opening Doors with CEDAW. A publication for Australian women about the UN Convention on the Elimination of All Forms of

17 Examples are the International Covenant on Civil and Political Rights and the European Convention on Human Rights.

18 Meron, «Enhancing the Effectiveness of Prohibition of Discrimination, Against Women», A.J.I.L. Vol. 84, No. 1. Andrew Byrnes, «Towards more effective enforcement of women's human rights through the use of international human rights law and procedures», Women's International Human Rights Conference, Toronto 1992.

19 *World Conference on Human Rights, the Vienna Declaration and Programme of Action*, Vienna June 1993, para. 40 of Programme of Action.

20 Suggestion No. 5, 13th Session, 1994: Feasibility of preparing an optional protocol to the Convention.

Discrimination Against Women. Prepared by Kate Tulley for the National Women's Consultative Council, October 1993.

Communications Procedures, Human Rights Fact Sheet No. 7, Centre for Human Rights, Geneva.

UN Centre for Human Rights

*Ms. Rukia Hussen Aden
Focal Point for Human Rights of Women*

The elimination of discrimination based on sex is enshrined in all international law elaborated and enacted under the auspices of the United Nations. In addition to the principle of non-discrimination on the basis of sex, the rights of women became the object of a specific treaty: the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The States parties to the Convention make a commitment to take all the necessary legislative, judicial, administrative or other appropriate measures in all fields to guarantee women the exercise and enjoyment of human rights and fundamental freedoms on the basis of equality with men.

Promoting and protecting the equal status and human rights of women was a major concern throughout the preparatory process for the World Conference on Human Rights and at the Conference itself, which took place in Vienna, Austria, from 14 to 25 June 1993. The World Conference declared, *inter alia*, that:

«The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community.

Gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking,

are incompatible with the dignity and worth of the human person, and must be eliminated.»

The Conference marked a turning point in the recognition of women's rights as human rights and the universality and indivisibility of human rights. In the Programme of Action, the Conference recommended a number of measures and, in particular, the integration of the equal status of women and the human rights of women into the mainstream of United Nations system-wide activity, and that the human rights of women be regularly and systematically addressed throughout relevant UN bodies and mechanisms. The collection and inclusion of gender-specific data in their deliberations and recommendations was also encouraged. The importance of working towards the elimination of violence against women in public and private life, the elimination of all forms of sexual harassment, exploitation and trafficking in women, the elimination of gender bias in the administration of justice and the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism were also stressed. Violations of the human rights of women in situations of armed conflict are violations of the fundamental principles of international human rights and humanitarian law.

The World Conference on Human Rights urged the United Nations to encourage the goal of universal ratification by all States of the Convention on the Elimination of All Forms of Discrimination Against Women by the year 2000. It also urged States to withdraw, as required by Article 28, reservations that are contrary to the object and purpose of the Convention or which are otherwise incompatible with international treaty law. *

The World Conference on Human Rights recommended that consideration be given to the drafting of an «optional protocol» to the Convention on the Elimination of All Forms of Discrimination

* Under the CEDAW, States parties may make a reservation which is a formal declaration that they do not accept as binding upon them certain parts of the Convention.

Against Women which would permit citizens of States parties to lodge complaints with the Committee alleging violation of their rights as set out in the Convention (similar to the two optional protocols to the International Covenant on Civil and Political Rights). As part of the follow-up to this Conference, the Committee on the Elimination of Discrimination Against Women and the Commission on the Status of Women have discussed the possibility of examining this question.

Finally, the World Conference urged that the treaty-monitoring bodies should disseminate the necessary information to enable women to make more effective use of existing implementation procedures in their pursuit of full and equal enjoyment of human rights and non-discrimination, and that new procedures should also be adopted to strengthen implementation of the commitment to women's equality and the human rights of women.

Following the adoption of the Vienna Declaration and Programme of Action by the World Conference on Human Rights, the Centre for Human Rights prepared a preliminary plan of activities aimed at the integration of the human rights of women. The plan of activities includes the dissemination of necessary information on human rights activities. Improvement of existing procedures and development of new implementation procedures and guidelines to strengthen the United Nations' commitments towards the human rights of women are under consideration.

The collection and inclusion of gender-specific data in the activities of the United Nations became a necessity for the assessment and recognition of women's unequal status in society, and in order to force governments to take specific measures to eliminate discriminatory practices and violations of human rights of women. The Centre for Human Rights will assist and facilitate the consideration by treaty-monitoring bodies, special rapporteurs and working groups, of questions related to the human rights of women, making use of gender-specific data. For its part, the Commission on Human Rights at its session in February/March 1994 adopted a decision to appoint a special rapporteur on violence against women who would report his/her findings and possible solutions to the Commission in 1995.

Another area of our programmes which will focus on the human rights of women includes the preparation of studies and information fact sheets; the organization of a campaign for universal ratification of the CEDAW; public information, legal literacy and education programmes with the objective of promoting changes in attitudes and awareness of the human rights of women; and the organization of seminars and training courses.

The Centre is also developing better mechanisms for cooperation and coordination with other UN agencies and NGOs active in protecting and promoting the human rights of women.

As a first step, the Centre has designated a Focal Point on Human Rights of Women in order to coordinate activities within the Centre and to ensure that all activities undertaken in the field of human rights include gender-specific information and analysis. The Focal Point represents the Centre at all meetings and conferences which focus on women's human rights.

Fourth World Conference on Women, Beijing, 1995

Synopsis of the Three World Conferences on Women

The General Assembly proclaimed 1975 as International Women's Year and sponsored that year a First World Conference in Mexico City. The Conference adopted a Declaration containing principles on the equality of women with men and women's contribution to development and peace, as well as a World Plan of Action setting out guidelines and targets for improving the status of women. The Assembly also proclaimed 1976 to 1985 as the United Nations Decade for Women. The Second World Conference of the United Nations Decade for Women, which was held in Copenhagen in 1980, adopted a Programme of Action for the second half of the Decade, 1980 to 1985. Taking for its theme the words «Equality, Development and Peace», with the sub-theme «Employment, Health and Education», the Conference proposed action to fulfil the objectives of the World Plan by the end of the Decade. A Third World Conference to Review and Appraise the Achievements of the United Nations Decade for Women was held in Nairobi in July

1985, and strategies to advance the status of women by the year 2000 were adopted. The strategies focused on ways of improving the legal status of women as well as their role in all spheres of development activity and in the promotion of international peace and security.

The Nairobi Conference examined a series of issues affecting the advancement of women, i.e. the impact of economic crises, the widening gap between rich and poor nations, feminization of poverty, abused women, equality under the justice system, minority and indigenous women, political participation, health and population growth, education, training and employment. It recommended action to be undertaken in the area of equality, development and peace as well as in the area of mass communication media, research data collection and analyses.

The assessment made regarding the three world conferences on women, particularly in terms of achievement of the Forward-Looking Strategies, has underlined the lack of and late implementation of the Plan of Action at all levels, national, regional and international. This was due to many factors, including the tendency to see the advancement of women as separate from other fundamental issues relevant to the development of society and the world generally.

Nearly two decades have elapsed since the Women's Conference in Mexico City. While concerned by the overall regression of the status of women in various parts of the world, we should nevertheless welcome the improvements and important changes in the lives of many women. Since the women's conferences, new problems have emerged in the world and new opportunities for progress have become available, causing us to reassess the traditional strategies of development. Today, many countries are experiencing a process of democratization and transition to market economy, while others experience alarming poverty and a decline in development and/or a resurgence of nationalism and ethnic conflict, all of which affect the advancement of women.

The focus of the Fourth World Conference on Women in 1995, rather than being on women as a separate group, is to build on women's current roles and capacity by investing in women

themselves and organizing them to obtain more political and economic power as well as achieving more balance in the roles and relationships between themselves and men.

Acting as a preparatory body for the Fourth World Conference on Women, the UN Commission on the Status of Women decided to prepare, for consideration by the Conference in 1995, a programme of action, keeping in mind the Nairobi Forward-Looking Strategies for the Advancement of Women: Action, Equality, Development and Peace.

The purpose of the Fourth World Conference on Women is to review and appraise the advancement of women since 1985 in terms of the objectives of the Forward-Looking Strategies and to mobilize women and men at both the policy-making and grass-roots levels to achieve those objectives. The ongoing preparatory activities at the national, regional and international levels should lead to a convergence of views on the major issues affecting women worldwide that can be expressed in terms which can be embraced by all who seek the common objectives of equality, development and peace. Thus, the preparatory meeting, which should promote appraisal and mobilization at the national level, will constitute an integral part of the objectives of the World Conference itself; at the same time, it will bring the advancement of women into international focus. Throughout the preparatory process for that Conference, women should be involved in all discussions on political, economic and social issues as full members of their society, while men should be made aware that women's advancement is a prerequisite for the achievement of societies where human rights are universally applied.

The UN Commission on the Status of Women called for action-oriented and concise documents for the Conference which should concentrate on a few issues identified as representing fundamental obstacles to the advancement of women, and suggested calling the final document of the Fourth World Conference a «Platform for Action». Since the correlation and interdependence between equality, development and peace have become so pronounced, it is no longer feasible to treat them separately in terms of women's advancement. At its 1991 session, the Commission decided that the

Platform for Action should include elements relating to awareness-raising, decision-making, literacy, health, violence, national machinery, refugees and technology.

The possible content of the Platform for Action was also discussed at various meetings and consultations within the UN system and within non-governmental organizations. The draft Platform for Action which has come out of these discussions will also constitute a basis for discussion at the following regional meetings which will be organized by the UN regional commissions:

- Economic and Social Commission for Asia and the Pacific
Jakarta, Indonesia – 7 to 14 June 1994
- Economic Commission for Latin America and the Caribbean, Buenos Aires, Argentina – 20 to 30 September 1994
- Economic Commission for Europe
Vienna, Austria – 17 to 21 October 1994
- Economic Commission for Western Asia
Amman, Jordan – 4 to 8 November 1994
- Economic Commission for Africa
Dakar, Senegal – 16 to 23 November 1994

The six basic structures of the draft Platform for Action are as follows: 1) Statement of mission; 2) Global framework; 3) Critical areas of concern; 4) Strategic objectives derived from the critical areas of concern and action to be taken; 5) Financial arrangements; and 6) Institutional arrangements for implementation and monitoring of the Platform for Action.

The critical areas of concern contained in the draft Platform for Action are:

- a) inequality between men and women in the sharing of power and decision-making at all levels;

- b) insufficient mechanisms at all levels to promote the advancement of women;
- c) lack of awareness of and commitment to internationally and nationally recognized women's human rights;
- d) the persistent and growing burden of poverty on women;
- e) inequality in women's access to and participation in the definition of economic structures and policies and the productive process itself;
- f) inequality in access to education, health and related services and means of maximizing the use of women's capacities;
- g) violence against women;
- h) effects of armed or other kinds of conflict on women;
- i) insufficient use of the mass media to promote women's positive contributions to society;
- j) lack of adequate recognition and support for women's contributions to managing natural resources and safeguarding the environment.

The objectives proposed in the draft Platform for Action relating to the strategic objectives to be achieved in order to eliminate the various obstacles referred to above as areas of concern are:

- a) strengthening factors that promote the full participation of women in power structures and decision-making at all levels;
- b) applying and enforcing international norms and standards to safeguard the human rights of women;
- c) promoting women's economic self-reliance, including access to and control over economic resources - land, capital and technology;

- d) eliminating the factors that accentuate poverty among women and prevent them from overcoming the circumstances that keep them in that situation;
- e) ensuring women's access to quality education and training for self-reliance;
- f) increasing women's full access throughout the life cycle to health and related services;
- g) eliminating violence against women;
- h) increasing the participation of women in conflict resolution and protecting women in international armed and other kinds of conflict;
- i) mobilizing information so as to integrate gender considerations into policy and programme planning and implementation at all levels;
- j) using the communications media effectively to promote equality between women and men;
- k) promoting action to develop the joint responsibility of women and men for achieving equality.

During the UN Commission on the Status of Women session in March 1994, hundreds of women and men representing NGOs from all over the world organized various discussion groups on the draft Platform for Action.

They have prepared an «NGO Women's Caucus Document» with a series of suggestions and amendments for the structure of the Platform for Action. Despite the diversity and the division that exist between NGOs from the north and those from the south, there was consensus at the forum for a joint document.

The draft Platform will be discussed and, it is hoped, finalized during the thirty-ninth session of the UN Commission on the Status of Women in March 1995. Comments made and suggestions

provided by Member States, intergovernmental bodies, the UN system and the output of the regional preparatory conferences, as well as international conferences and seminars scheduled to be held during 1994, will be taken into account in the final document of the Platform for Action.

Most of the issues diagnosed as critical areas of concern and the strategic remedies suggested to eliminate obstacles to the advancement of women constitute a further indication that the human rights of women have systematically been ignored and disregarded as an inalienable, integral and indivisible part of universal human rights. These issues are the following:

- women make up half of the voters in all countries and have the right to vote but lack equal access to power; they are not in the leadership of their countries, international organizations, transnational corporations, banks, the military, the police, or in peace-keeping and peace-making bodies;
- national and international machinery and mechanisms for promoting the advancement of women are ineffective and/or not given sufficient resources to function properly. However, various NGOs, women's networks, grass-roots women's groups and professional associations have been recognized as having achieved success in effectively and forcefully mobilizing women in both urban and rural areas;
- international standards to prevent discrimination against women are in place but not fully applied, interpreted or enforced in civil, penal and commercial codes and in administrative rules and regulations. There is a lack of appropriate recourse mechanisms at the national and international levels, as well as inadequate resources for institutions monitoring violations of the human rights or the advancement of women, e.g. the CEDAW Committee;
- women constitute the poorest of the poor. This poverty determines their health status and that of their children.

In many parts of the world, women are unable to emerge from poverty due to lack of opportunities in the public and/or the private sector;

- women's unremunerated contribution to the economy, whether in family enterprises or in domestic work, is unrecognized and not reflected in national accounts. Their access to economic structures, such as ownership of land, credit and training in technology has been limited by discriminatory laws. Two-thirds of the one billion illiterate people in the world are reported to be women. Women from the south have been particularly affected by the deterioration in terms of trade, structural adjustment policies, debt, ecological disasters and political instability.

Objectives should aim at the most strategic needs of women in terms of ensuring a long-lasting enabling environment for sustainable progress towards gender equality. In this regard, the participation of women in power structures and decision-making at all levels, and the systematic integration of gender concerns in policies, planning and implementation in all sectors, are critical to consolidate the basis for future and continued development of gender equity in all spheres.

Gender-based violence against women has emerged over the last decade as requiring priority attention at the international level. Violence occurs in all spheres of private and public life: in the family, the workplace, the community and national and international conflict situations. Gender-based violence includes harmful situations which are very frequently justified or condoned on the basis of custom, tradition or religion. It is a form of sex discrimination which inhibits women's ability to enjoy human rights.

The most severe violations of women's self-determination consist in the wilful abortion of female foetuses, sale of organs, mutilation of the girl-child and sale of girls for purposes of prostitution. Violence against refugee and displaced and migrant women call for special attention. There is a need to study the root causes and mechanisms of the different forms of violence including their relation to a balance of power between women and men; governments should

analyse and review their legislation on violence against women or enact new legislation to eradicate it; prosecute offenders and establish rehabilitation centres for both victims and perpetrators; provide training for the judiciary and police forces to ensure fair treatment of women targets of violence; increase recruitment of women into the police forces and within the judiciary and bring more women into conflict resolution and peace processes, both in civilian and military roles.

In the process of the preparation for and during the Fourth World Conference on Women 1995 in Beijing, the participation of women as strong players and managers of their own lives should be demonstrated. The conference is a great opportunity for women all over the world to use the rich diversity of their backgrounds as a stronghold from which to combat the low status of women in society, so as to permit them to enter the mainstream of economic and social structures and to finally walk out of the maze of neglect in which they have been lost for centuries.

The outcry at the Vienna Conference in favour of women's equality *initiated a new era of action* by the international community which coincides with the Beijing Conference.

In carrying out its activities, the UN Centre for Human Rights will seek close cooperation with and input from the NGOs concerned with the advancement and realization of human rights of women. In this regard, we are planning to convene, as soon as possible, a working meeting with the relevant NGOs to study together their contribution to the implementation of activities for the full integration of human rights of women in the United Nations system-wide activities.

The ILO and Women Workers' Rights

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«The purpose of promoting equality for women workers should not be based only on equality and social justice considerations or on welfare arguments. As Nafees Sadik has said 'the main issue is no longer equal rights and some benefits as if for a minority or disadvantaged group; rather it is a question of mobilising half of a country's human resources'.» (ILO 1990)

ILO Activities and Policies on Women

Equality of opportunity and treatment for men and women is a fundamental principle of the International Labour Organization (ILO). The Organization is deeply committed to equality of opportunity worldwide and believes that equality, as a fundamental human right is the foundation for peace and democracy as well as a necessary condition for economic and social progress. This commitment was coded in 1975 in the Declaration on Equality of Opportunity and Treatment for Women Workers and in the Resolution on Equal Opportunities and Equal Treatment for Men and Women in Employment of 1985, as well as in the Resolution concerning ILO Action for Women Workers of 1991. A Plan of Action on Equality of Opportunity and Treatment of Men and Women in Employment has also been prepared.

The Declaration on Equality of Opportunity and Treatment for Women Workers indicates that «all measures shall be taken to guarantee women's right to work as the inalienable right of every human being and to revise as necessary, existing laws, collective agreements, practices or customs which limit the integration of

women in the workforce on a footing of equality with men». It also refers to the elimination of discrimination, positive treatment of women as a transitional measure, the need to educate public opinion, equal access of women to education and vocational training, equal remuneration, access to maternity benefits and child-care services, protection of women at work, equitable sharing of resources and access to social security. Later resolutions put more emphasis on proper implementation, as it was observed that in spite of many governments having adopted the principle of equality, progress was still very slow in the matter of women getting equal pay and equal access to various types of employment as well as to better working conditions. Unequal sharing of family responsibilities, lack of adequate child-care facilities and other supportive measures also continued to block efforts towards equality for women at work. Fresh appeals were therefore made to governments and the employers' and workers' organizations «to adopt comprehensive strategies to eliminate the continuing barriers to the equal participation of women in employment». Other measures called for included desegregation of the labour market, proper recognition and fair valuation of all work including work that has traditionally been done predominantly by women, and the adoption of measures to help women and men to reconcile work with family responsibilities.

With the limited time available it is not possible to present in detail the ILO Plan of Action on Equality of Opportunity and Treatment of Men and Women in Employment. What follows is therefore, an overview of the main problems, strategies and major areas of ILO activities.

Some of the main problems which still need to be addressed, in addition to those already mentioned, include :

1. social and economic constraints resulting from changes in economic policies, technical innovations and changes in the labour market;
2. concentration of women in work of low skill and low pay;
3. increasing poverty and unemployment of women workers;

4. inadequate organizational efforts of women workers;
5. women's low status in trade unions;
6. inefficient industrial relations machinery to promote equality of opportunity; and
7. inadequate legislation and/or enforcement.

Women in refugee camps, female heads of households, unemployed and low-income women, women in the rural and informal sectors, disabled women, migrant women and women living under the apartheid system have been recognized as being particularly vulnerable.

ILO programmes on women are usually governed by existing international labour standards, particularly those that address basic human rights (freedom of association, for example) as well as those that relate specifically to women.

Major areas of ILO activity on women workers include :

1. promotion of human rights and equality through International Labour Standards and their application, as well as through research, tripartite seminars and technical advisory services;
2. programmes to promote employment and alleviate poverty through research, standard-setting and technical cooperation (in ILO technical projects these three activities are often interlinked);
3. training of women to expand women's employment and skills, entrepreneurship development and management training;
4. training of women to increase their participation in the trade union movement;
5. improvement of working conditions with special focus on

protective measures, maternity protection, working-time arrangements and work-related facilities; and

6. improvement in social protection of women workers including studies, policy assistance and pilot schemes on social security.

ILO Standards on Women Workers

Through its international labour standards and programmes of action, the ILO assists governments, employer's organizations and trade unions as well as interested groups and individuals in its Members States in promoting equality in the world of work.

International labour standards are in the form of conventions and recommendations. There are 22 conventions and 20 recommendations which are relevant to women workers.²¹ Three

21 List of all ILO Conventions and Recommendations relevant to women workers as of January 1990. There are 22 Conventions which are relevant to women workers. These Conventions are the following: No. 3 Maternity Protection, 1919; No. 4 Night Work (Women), 1919; No. 41 Night Work (Women)(Revised), 1934; No. 45 Underground Work (Women), 1935; No. 18 Labour Inspection, 1947 (Article 8); No. 89 Night Work (Women)(Revised), 1948; No. 100 Equal Remuneration, 1951; No. 102 Social Security (minimum Standards), 1952 (Part VIII); No. 103 Maternity Protection (Revised), 1952; No. 110 Plantations, 1958 (Part VII, Maternity Protection); No. 111 Discrimination (Employment and Occupation), 1958; No. 118 Equality of Treatment (Social Security), 1962 (Articles 2 and 4, Maternity Benefit); No. 122 Employment Policy, 1964; No. 127 Maximum Permissible Weight To be Carried by One Worker, 1967 (Article 7); No. 129 Labour Inspection in Agriculture; No. 136 Protection against Hazards of Poisoning arising from Benzene 1971 (Article 11, para.1); No. 140 Paid Educational Leave, 1974; No. 142 Human Resources Development, 1975; No. 149 Employment and Conditions of Work and Life of Nursing Personnel, 1977; No. 156 Workers with family Responsibilities, 1981; No. 157 Maintenance of Social Security Rights, 1982 (Article 2); No. 158 Termination of Employment, 1982 (Article 5). Some of these Conventions are supplemented by the following 20 Recommendations: No. 4 Lead Poisoning (Women and Children), 1919; No. 12 Childbirth (Agriculture), 1921; No. 13 Night Work of Women (Agriculture), 1921; No. 26 Migration (Protection of Females at Sea), 1926;

countries in the Pacific Region which are members of the ILO (i.e. Fiji, Papua New Guinea and the Solomon Islands) have ratified some of these conventions. Fiji, Papua New Guinea and the Solomon Islands have ratified Convention No. 45 on Underground Work (Women). In addition, Papua New Guinea has ratified Convention No. 122 on Employment Policy and the Solomon Islands has ratified Convention No. 81 on Labour Inspection. However, some of the major conventions on women workers have not been ratified. These are Convention No. 100 on Equal Remuneration, Convention No. 111 on Discrimination (Employment and Occupation) and Convention No. 156 on Workers with Family Responsibilities.

It may be pointed out that Convention No. 100 has been ratified by 107 countries and Convention No. 111 by 108 countries.

There are some other conventions which are also relevant to women particularly those that promote association and organization of women workers. Convention No. 11 on Rights of Association (Agriculture) is one of them and it has been ratified by Fiji, Papua New Guinea and the Solomon Islands. Another convention of importance is No. 98 on Rights to Organize and Collective Bargaining. This has been ratified by Fiji and Papua New Guinea. Convention No. 141 on Rural Workers Organizations is also of importance but it has not been ratified by any of the three countries.

No. 67 Income Security, 1944 (includes recommendations on maternity benefit and age of retirement for women); No. 90 Equal Remuneration, 1951; No. 95 Maternity Protection, 1952; No. 110 Plantations, 1958 (IV, Equal Remuneration: X, Social Security); No. 111 Discrimination in Respect of Employment and Occupation, 1958; No. 112 Occupational Health Services in Places of Employment, 1959 [Paragraph 8(e)]; No. 113 Consultation and Cooperation between Public Authorities and Employers' and Workers' Organizations at the Industrial and National Levels, 1960 (Paragraph 1 and 2); No. 114 Protection of Workers against Ionising Radiations, 1960 (Paragraph 16); No. 116 Reduction of Hours of Work, 1962 (Chapter I, paragraph 9 and Chapter II, D, Paragraph 18); No. 122 Employment Policy, 1964; No. 128 Maximum Permissible Weight to be Carried by One Worker, 1967 (Paragraph 15 to 18); No. 144 Protection against Hazards of Poisoning arising from Benzene, 1971 (Chapter IV: Medical Measures, paragraph 19); No. 148 Paid Educational Leave, 1974; No. 150 Human Resources Development, 1975 (Chapter VIII); No. 157 Nursing Personnel, 1977 (Para. 50), (Paragraph 26 of the Annexes); No. 165 Workers with Family Responsibilities, 1981.

It needs to be noted that ILO conventions are usually rather brief and general. Recommendations on the other hand are more detailed and therefore they often function as guidelines. When a government of a Member country of the ILO ratifies a convention it becomes legally bound by it. In actual practice this means that it must follow it with respect to its own laws and regulations. It also has to provide regular reports to the ILO indicating measures it has taken to implement the convention. A particularly active and important role can be played by NGOs in promoting, distributing information on and raising awareness of ILO standards as well as in monitoring the application of ratified ILO conventions.

Countries that are not ILO members and, therefore, not in a position to ratify ILO conventions are nevertheless often influenced by these conventions, and can use them as guidelines in framing policy and action plans.

Collaboration Between the ILO and NGOs

Women's organizations and NGOs in many countries have collaborated with the ILO and played an important role at local, national and global levels. They have raised social awareness not only of a range of women's issues in general but also of the labour standards of concern to women. They have in many cases lobbied for laws and mobilized support from the various organs of government. In some cases their efforts have been crucial in creating pressure for ratification of labour standards. This was the case, for example, in Sri Lanka with Convention No. 100 on Equal Remuneration.

The efforts to mobilize support and raise awareness should not be limited to the legal framework alone. Improved public policy and effective institutional capacity is also crucial (ILO 1990, p.7). It is here that the watchdog role of the NGOs becomes important. The NGOs can also study and monitor the impact of economic reform and structural adjustment programmes. There are, for example, indications that home work or home-based piece-rate work is on the increase and that women in general find it particularly hard to cope

with decreasing social and health services as well as increasing cost of living. It is, therefore, important to evolve new measures to protect women in new and precarious situations.

The NGOs can also play an important role in experimenting with various innovative and pilot schemes. In India SEWA has addressed the problems of home workers. It has also set up social security schemes for non-organized women workers. The ILO has been supporting both these activities. This role of NGOs as social innovators is particularly interesting as NGOs can experiment with new ways and new approaches. These efforts can pave the way towards larger national schemes and policies. The ILO has supported many NGOs in such activities. This has been the case with projects on self-employment, homework and wasteland development.

Another area of cooperation relates to the role of NGOs in enhancing democracy through the process of empowering women through organizational activity. The organizational efforts - whether struggling for justice, for employment generation, for improvement of wages, piece-rates and working conditions or for access to resources - are not an end in themselves, nor just a means to development, but a step towards people's participation in democracy. The ILO has supported many NGOs in strengthening their capacity to organize women workers.

The ILO has also promoted NGO participation in the national dialogue and debate on policy in its technical meetings together with its tripartite partners consisting of government and employers' and workers' organizations. This has been the case particularly when addressing issues of the non-organized and informal sector of women workers. The ILO has also strengthened the NGO capacity in Asia, Africa and Latin America through dialogue, research and technical cooperation in implementing social protection, employment promotion, improvement of working conditions, management and enterprise development and income-generating activities.

The economies of all countries are becoming more and more interdependent and integrated. No longer can individual nations

make decisions in isolation from the global economic and political environment; increasingly, policies of individual nations are being influenced by international treaties and decisions of global fora. Many NGOs have perceived this as a threat. But it is also a challenge - a challenge for NGOs to link up with regional and international organizations and networks and to lobby at the global level. Some NGOs are already doing this. Home work for example has become one such issue around which international lobbying has been taking place for some time. It is, therefore, important to identify allies outside NGO fora for this type of action.

Additional References

Brett E.A. : Voluntary Agencies as Development Organizations - Development and Change, Vol. 24. 1993. pp. 269 - 303.

ILO, 1990 : Background Paper *National Mechanisms to Promote Equality of Opportunity and Treatment for Women Workers* for Asian Pacific Regional Symposium on the Promotion of Equality for Women Workers. (Canberra/Sydney 15 - 19 October 1990), Equality of Rights Programme.

Linking Women's Rights to UNESCO's Work

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Introduction

Education has been UNESCO's first and foremost goal since its inception. Adhering to the principle of education as a basic human right and to the UNESCO Convention against Discrimination in Education and its Protocol, UNESCO has focused on the «democratization of education», through its Education for All Programme which seeks to ensure that every child, woman and man enjoys her or his right to education without discrimination due to race, sex, class or creed. Women, who make up half of the world's population and who do more than half of the world's work remain, ironically, the most disadvantaged group in education.

In UNESCO's Education for All Programme, top priority is given to literacy and basic education for girls and women, activities promoting women's access to vocational training and scientific and technical education as well as higher education and research. It also involves women in the development and democratization processes, and helps to universalize women's rights and to combat violence against women, as well as stimulating women's participation in and contribution to the fields of culture and communication.

Women's Education - its Benefit

«To awake the people, it is the women who must be awakened. Once she is on the move, the family moves, the nation moves.» Pundit Jawarlal Nehru

Education and empowerment are the keys to the movement the great Pundit speaks of and to the development process of nations. It has become clear that the overall development of a nation is contingent upon the extent to which its women can participate in the development process. For the first time, the world starts to look upon women as valuable resources with great potential waiting to be tapped.

The World Bank's study, *Educating Girls in Asia and the Pacific*, unequivocally substantiates this. Evidence from more than 120 countries indicates that nations with high enrolment of girls in primary schools pay less in social costs than those with low enrolment rates. Primary school enrolment rates for girls also positively correlate with GNP *per capita*.

In order to explore women's potential to the full, a drastic change in education and training is needed. Here is the reason why.

Economic prosperity and social change have marked the Pacific rim countries as the most dynamic region in today's world. At the same time, the region still houses the world's largest number of illiterates and while the number of illiterate men declined by 14 million in the period 1970 to 1985, the number of female illiterates rose 28 million during the same period. The gain made in male education is offset by female illiteracy. Two points are clear. First, education has left the region's female population behind. Second, unless the regional community targets female literacy, the goal of Education For All will be as remote in the 21st century as it is now. This paper focuses on a training project: «Educate to Empower». It links various aspects of the project to components of relevant UN conventions.

Consolidating Information

During the International Decade for Women, many countries started research on women. Despite a sizable literature on women in Asia and the Pacific, consolidated information is conspicuously missing. This makes it almost impossible for policy-makers to

benefit from it in their decision-making process. Nor does it help raise the public's awareness of issues related to the roles of men and women in society.

Taking into account the need to review the efforts made during the Decade and to evaluate their impact, UNESCO commissioned and published a survey on the status of women in seven different countries in Asia. The *Status of Woman* series identifies women's current roles in their societies. Most importantly, it singles out relevant issues and problems and sets priorities for future action. Although the priorities varied in the seven countries, there were certain common elements related to their needs. For example, raising women's economic self-reliance; promotion of health education; promotion of basic literacy, education and training among girls and women; equal pay for women and men and the inculcation of self-confidence and self-esteem.

In close connection with this, UNESCO supported studies of educational materials designed for women in eight countries and published them in a series, *Writing for Women*. The series shows that women's educational programmes largely emphasized women's reproductive functions at the expense of their productive ones. Another series, *Education of Girls in Asia and the Pacific*, describes and analyses issues and problems related to girls' education. *Functional Literacy and Civic Education for Women* represents an overview of the region's literacy effort which goes beyond the «three R's» and encompasses skills for women's survival and advancement.

Education to Empower

Educate to Empower is an example of a UNESCO project promoting women's overall development and addressing the needs identified in the *Status of Women* series. Through this project, grassroots professionals in ten countries, including Papua New Guinea, worked with UNESCO to prepare some 50 self-contained learning/teaching units specially designed to promote women's empowerment. Connected to these units are 29 post-literacy

booklets prepared at UNESCO training workshops. The subject-matter of these materials varies from women's rights as human rights to income earning; planning and management; projecting positive role models; inculcating scientific attitudes; and equal partnerships between women and men in domestic and productive work

These topics were selected because they contribute towards strengthening the attributes identified as the basis for women's empowerment. These attributes form the Profile of the Empowered Women which gives a definition for the term empowerment.

From the learning/teaching units and post-literacy reading materials, at least 700 others have been developed in Bengali, Burmese, Bahasa Melayu, Chinese, Dzongkha, Lao, Thai, Tok Pisin and Motu, Vietnamese, and Urdu. A further product of the Educate to Empower project was a training manual; aptly entitled, *Educate to Empower*, it is a pioneering work that substantiates and documents the whole experience of the preparation of training materials for women's empowerment. The manual is now available in ten languages.

The manual and the books, however, are just the products of the project. The most important contribution of the project is its process. In learning how to empower others, women become empowered themselves. The 700 or so grassroots professionals are the most significant product of the project. These people are now skilled in training others. They are the agents of change, who can and will perpetuate the empowerment concept in their respective countries by, in their turn, training others to prepare and conduct empowerment training. In this way, a multiple effect results.

Sharing of Household Responsibilities

From Bangladesh, for example, *Two in One*, is about Raisa who works from sun up till midnight in the garment industry and at home as well, with no help from her husband. This damages her health and the quality of their family life. The moral of *Two in One* and another, Bhutanese book, *Work Together and Share*, is that there

is value in maintaining a household and that husbands and others should share women's tasks. The booklets dispel the myth that women's work is worthless because it is done by women and challenges the traditional division of work among men and women.

«... to modify the social and cultural patterns of conduct of men and women, with a view of achieving the elimination of prejudices and customary to all other practices which are based on the idea of the inferiority of either of the sexes or on stereotyped roles for men and women.» **Article V, Convention on the Elimination of All Forms of Discrimination Against Women.**

There are also books such as *Daughters Are Not Curses*, *Sabina Comes Out Into the Light*, and *Nahara the Brave Girl*, which aim at questioning societal attitudes to daughters and women. Positive examples of altering customary practices negative to women such as in land inheritance, are also given.

Women's Productive Work

One of the most important attributes of an empowered woman is financial self-reliance. Countless books in every country participating in the project address this subject. *Women Making Money*, for example, describes Balinese women spending their free time making money selling peanut crackers they bake at home. *Effort* is written in Sri Lanka about Agnes who started a small fishing business with a loan from the Women's Bank. *Food Marketing* shows how Papua New Guinean women can sell fresh fruit and vegetables to the market stalls as a lucrative enterprise. The booklet includes information on how they can manage their earnings and avail themselves of various credit facilities.

The *Self-Reliant* series is an off-shoot of the Educate to Empower project and *Cashing in on Corn Leaves*, *Cattle Grazing for Cash*, *Together We Sell* and *Goat Raising - Cash Key to Choices* are but four of the seventeen titles in this series.

Expanding Mumu Business is set in Papua New Guinea where ten women form a business group that cooks and sells mumus for profit. As their business progresses, so does their need for more literacy and knowledge about other possible investments, and better cooking technology.

Educate to Empower concentrates on women's work because work is what gives human beings dignity. The project adheres to the principle that, given equitable *training* and *encouragement*, women, like men, have the potential for most if not all work at all levels.

«... discrimination against women prevents their participation, on equal terms with men, in the ... economic ... life of their countries and is an obstacle to the full development of the potentialities of women in the service of their countries and of humanity.» **The preamble to the Declaration on the Elimination of Discrimination Against Women.**

The focus of these work-related materials is two-pronged: first, to raise women's and men's awareness of the need to alleviate women's domestic burden and second, to strengthen women's capacities in economic activities including expanding into non-traditional work such as plumbing or running a business.

We are Equals, set in India, illustrates how construction workers band together to exact equal pay for equal work when their husbands were getting higher wages for simply being men. This has direct relevance to the ILO Convention on Equal Remuneration for Men and Women Workers for Work of Equal Value, which states that women must be paid the same wages as men for doing the same work. Other work-related rights such as the right to paid holidays and maternity leave are also integrated into some of the materials.

Recognition of Women's Multiple Roles

«...to ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and

women in the upbringing and development of their children.» **Convention on the Elimination of All Forms of Discrimination Against Women.**

The project takes special care to expose the multiple roles women play: as mothers and wives and simultaneously as productive workers. It emphasizes the need for a new and clear understanding that child care is not only the mother's duty but that of both parents. Although women bear the children, it is both women and men who perpetuate the human race. *Ibu Tati did It* from Indonesia, and *Sharing Responsibilities, Sharing Happiness* from Thailand are examples of material that emphasizes the dual and equal role of men as child-carers.

Despite progress, enough has not been achieved with respect to the improvement of health, nutrition and other social services for women. These are essential to their full participation in development activities and to the strengthening of the quality of family life. Women are often kept in the dark about certain work-related health hazards that affect their reproductive functions. They are frequently denied the special health care they need during pregnancy, delivery and lactation. Women are often conditioned to deprive themselves of food for the sake of their families. It comes as no surprise, then, that one-third of the world's women are anaemic.

This subject is addressed in the booklet, *For Mothers*, that tells Bengali women about healthy practices during pregnancy such as what nutritious food to eat and refraining from heavy labour. It also dispels superstitious practices. *Do Not Ignore Them* is about Lan, a Vietnamese girl who suffered irregular and painful menstrual periods until a friend gave her medicinal herbs to alleviate the discomfort. Lan subsequently planted and harvested her own herbs, learning which one was good for what kind of feminine ailment, and became more self-reliant.

Underlining all this is the principle that due to women's substantial contribution to society, their health must be well taken care of.

Equal Access to Education

Despite tremendous progress in primary and adult literacy education, the majority of out-of-school children are girls. Various social and cultural reasons often prevent parents from educating girls. For example, they feel that, as education is an investment it is more worthwhile to educate boys than girls. *Why Not Educate Girls?* from India and *The Changing in A Girl's Life from China*, are examples of two booklets which stress girls' potential for success and their contribution to society, given equal opportunity with boys.

Participation in the Political Process

«Eliminate discrimination against women in the political and public life of the country.» **Part II, Convention on the Elimination of All Forms of Discrimination Against Women.**

Educate to Empower gives examples of positive and exemplary role models, showing how women can represent their needs and concerns in their government. This is related to the Convention on the Elimination of All Forms of Discrimination Against Women. *Kala - First Woman Village Court Magistrate*, is about a struggling, illiterate young woman who rose to become village court magistrate in Papua New Guinea. In *Organise to Lead*, Vietnamese women organize themselves into village groups that work collectively in the fields; for example, stronger women do heavier work while the weaker do less physically demanding jobs, and they all help each other with advice and information on health-related problems. In *Can Women Lead?* leadership roles that women could play are brought forward to ignite discussion and dialogue, first among women and later with society at large to challenge traditional discrimination against women in politics.

- «- Women shall be entitled to vote in all elections on equal terms with men, without any discrimination.
- Women shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination.

- Women shall be entitled to hold public office and to exercise all public functions, established by national law, on equal terms with men, without any discrimination.» **Convention on the Political Rights of Women.**

Although, in countries in South Asia, women from a select class have held positions in the highest political offices, evidence of increasing participation by women leaves much to be desired. Women's participation in voting, public demonstrations, debates and discussions has been limited to urban areas. Rural women's participation in politics is negligible. For the most part, there is also a lack of information available on the extent of women's participation in local politics in their villages.

In the book *Women in Politics*, UNESCO attempted to survey the state of women's participation in politics, probing questions such as: At what level were women involved? What were the distinguishing attributes of those who participated and those who did not? The key to development and empowerment for women is the possibility of having their views and concerns represented and expressed to policy-makers at the local and national level.

Once women gain more representation in government, they can help stop oppressive practices such as forced prostitution, early marriage and unfair dowry practices that haunt their existences, by making sure of the implementation of conventions such as the Convention on Consent to Marriage that says that «No marriage shall be legally entered into without the full and free consent of both parties...» *The Dark Shadow*, written by a Pakistani grassroots worker, is the story of Seema. Seema was a young village girl who was married to a drug addict. Her husband treated her badly, squandering her dowry, selling her jewellery and eventually selling her to a pimp for money to buy drugs.

The Importance of Process

Providing women with knowledge and information is an excellent start towards empowerment. However, education needs to

prepare them for action that will bring about positive and meaningful changes in their lives. For this to happen, the knowledge provided must be accompanied by appropriate skills and attitudes. Carefully designed participatory methods have proved very helpful in bringing about attitudinal changes; and, since people usually teach as they are taught, these methods are used at the UNESCO workshops so that the participants will, in their turn as trainers, use them too. These methods include group discussions and presentations, drawing and drawing analysis, case studies, audio-visual critique, field visits, songs and dances, debates, games, independent reading, group work, coaching, role-playing and drama.

Violence Against Women

A part of UNESCO's Major Programme Area devoted to Peace, Human Rights, and the Elimination of All Forms of Discrimination, is a book entitled *Violence Against Women*, the result of two studies on violence against girls and women in cities in India and South Korea. The book addresses i) sexual exploitation (rape, forced prostitution, sexual harassment) and ii) physical assault on women and girls. Although violence against women in urban areas is on the rise, as is evident from media reports, little research has been done to assess its incidence and to examine causes and effects. The book examines and chronicles this malady in two different case studies.

Violence Against Women discusses how women who are subject to sexual violence, become victimized by society and the State because of the dichotomous patriarchal view of women and because existing legal structures do not provide women with adequate protection. In those cases of sexual crimes against women, there is a direct conflict between women's rights and civil rights.

The book's objective was to sharpen a methodology of investigation into the phenomenon of violence against women and to inspire others to look into this evil in their own countries so that alternative ways of assessing and eliminating violence against

women might emerge.

Maria Kalap wrote *Dekap's Lesson* on «wife-bashing», because she felt it to be a common problem among her people. It tells the story of women who banded together and decided to come to one another's aid with sticks and rocks, though refraining from actual violence, when one of their group was being «bashed». Such illustrated easy-to-read material complements information leaflets and audiovisual material already existing in the country. Some of the audiovisual material tells women about laws against wife beating in Papua New Guinea and tells men how to cope with their basic instincts to turn their physical might against their wives. It also shows the power of solidarity and organization and mutual support, such as talking things over between the husband and wife.

Involving Policy-Makers

Though the teaching of the principles and methods of empowerment training is now relatively well under way in several countries in the region, there is no guarantee that empowering women through education will be a widespread practice. The mainstreaming of empowerment into the educational process now depends largely upon the political will in each country. It has been evident from budget allocations, among other things, that there is an immense lack of appreciation of and commitment to educating to empower. This could be interpreted as policy-makers' ignorance of and apathy to the ideals behind the conventions.

UNESCO is determined to correct these shortcomings. In early 1993, it organized a pan-African conference of policy-makers at the highest level and the conference adopted the Ougadougou Declaration which commits African nations to promoting women's and girl's education as their highest priority. Later in the year, the Conference of the Ministers of Education and Those Responsible for Socio-Economic Planning adopted the Kuala Lumpur Declaration along the same lines.

UNESCO and the Asian Development Bank are having a

dialogue on collaboration to sensitize policy-makers at the highest level to promote not only female education, but education for empowerment.

UNESCO has also enjoyed the media's cooperation in raising public awareness of women's issues and women's education. It organizes media seminars where media professionals are introduced to grassroots projects and are exposed to the conditions and problems women are facing. In preparation for the World Conference on Women, UNESCO will organize an international conference on Women and the Media.

To secure policy-makers' support for empowerment education is the most important prerequisite to successful mainstreaming of a new direction in implementation. UNESCO is currently exploring various avenues with respect to collaborating with policy-makers to bring about their commitment to this goal. Activities include publicizing pertinent issues through posters, brochures, and calendars, and organizing conferences, seminars and meetings for policy-makers and public opinion leaders.

Conclusion

In summary, this paper outlines some of UNESCO's activities. It also describes the relationship between selected conventions and the UNESCO project, Educate to Empower. The project encompasses education interventions especially designed to promote meaningful and optimal participation of women in development and ultimately enhance their status in society. The various aspects of interventions are linked to principles embedded in various UN conventions such as the Convention on the Political Rights of Women and Convention on the Elimination of All Forms of Discrimination Against Women and the ILO Convention on Equal Remuneration for Men and Women Workers for Work of Equal Value. Practical examples from education materials produced through the project were given to illustrate UNESCO's adherence to the conventions.

UNESCO's activities seek to bring about action which will influence positive and long-term changes in women's lives. They operate on two axes. The first focuses on, for example, the disadvantaged female populations and the policy-makers/opinion leaders. The second centres on the various strategies designed to affect change. These include awareness/sensitivity-raising and advocacy, and enhancement of ability to act. Within the operational framework of legitimizing action through reliance on directives embodied in conventions, UNESCO's parameter of operation derives from the interaction between the various components of the two axes. For example, some activities sensitize policy-makers and decision-makers to the need to embrace education which promotes women's status and others stress the raising of disadvantaged women's awareness of their right to education, while yet others focus on strengthening the technical proficiency of the various actors. Through such interactions, various positive activities are set in motion to further the enhancement of women's overall empowerment and status.

Cook Islands

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Introduction

The Cook Islands is a group of 15 islands in the South Pacific with a population of 18,000 people, of whom half live on the island of Rarotonga, the capital. In addition, approximately 30,000 Cook Islanders live in New Zealand and 20,000 in Australia.

Prior to 1888, each island was autonomously and hierarchically governed by hereditary chiefs. Captain James Cook re-discovered some of the islands during his first voyage, and the first mission was established in Rarotonga in 1823 by the London Missionary Society. In 1888, at the request of the *Ariki* (chiefs) of Rarotonga and some southern islands (mainly because of a perceived threat of a spread of French influence from Tahiti), a British Protectorate was declared over the islands. In 1891, an elected Federal Parliament was established under a British High Commissioner; however, when Britain withdrew from its colonies in the South-East Pacific, New Zealand annexed the Cook Islands in 1901. For the next 64 years, the Cook Islands were administered as a colonial territory of New Zealand with all decision-making centralized in the Resident Commissioner who reported to Wellington.

In 1957, the Legislative Assembly was established with democratic representation, and in 1965 the Cook Islands became self-governing in association with New Zealand, with a Westminster style of democratic government. This was a «first» in

terms of political development and has become a model for other Pacific Islands, especially in Micronesia. In 1982, through a revision of the Constitution, the Legislative Assembly became the Cook Islands Parliament, the Premier became the Prime Minister, and the Head of State became appointed by the Cook Islands government.

The Cook Islands' Constitution provides for the Queen's Representative as the Head of State, the House of Ariki (to advise government on traditional and cultural matters), the Executive Council, the Parliament, the judiciary and the public service.

Constitutional Provisions Affecting Women

The Constitution also provides for fundamental human rights and freedoms. Part IVA, section 64 reads:

«Fundamental human rights and freedoms: (1) It is hereby recognised and declared that in the Cook Islands there exist and shall continue to exist, without discrimination by reason of race, national origin, colour, religion, opinion, belief, or sex, the following fundamental human rights and freedoms:

- a. the right of the individual to life, liberty, and security of the person, and the right not to be deprived thereof except in accordance with law;
- b. the right of the individual to equality before the law and to the protection of the law;
- c. the right of the individual to own property, and the right not to be deprived thereof except in accordance with law; provided that nothing in this paragraph or in Article 40 of this Constitution shall be construed as limiting the power of Parliament to prohibit or restrict by Act the alienation of native land (as defined in section 2(1) of the Cook Islands Act 1915 of the Parliament of New Zealand);

- d. freedom of thought, conscience, and religion;
- e. freedom of speech and expression;
- f. freedom of peaceful assembly and association.»

Article 40 referred to in (c) above states that no property shall be taken compulsorily without compensation. Section 2(1) of the Cook Islands Act 1915 of the Parliament of New Zealand states that:

«Land means customary land or native freehold land as herein defined.

- Native freehold land means land which, or any undivided share in which, is owned by a native or a descendant of a native for a beneficial estate in fee simple, whether legal or equitable.
- Customary land means land which, being vested in the Crown, is held by natives or the descendants of natives, under the native customs and usages of the Cook Islands.
- Native means a person belonging to any of the Polynesian races, (including the Maori race), and includes a half-caste and a person intermediate in blood between a half-caste and a person of pure descent from any such race.»

Status of Women in the Cook Islands

It is apparent from early accounts that at the time of missionary contact in Rarotonga in 1823, the status of women was subordinate to that of men. Women were not able to hold rank or titles and therefore had no rights to land. Titles were ideally transmitted from father to first-born son, although there were exceptions.

Women normally married outside their lineage and lived on the land of their husband's lineage. Traditionally, a woman's privileges and prestige were dependent on the position of her husband. In religious matters women were inferior to men and there were no women priests.

Because of their secondary status, women were probably more willing to be converted to Christianity than men, and therefore more susceptible to missionary manipulation. As a result of missionary influence the status of women began to change and in 1845 the first women acquired the Makea Ariki title, one of the highest chiefly titles in Rarotonga. However, even with this established precedent, it was a long time before many women on Rarotonga acquired titles and the status of the average woman did not change much at all.

Thus the status of women did not improve significantly throughout the missionary period (1823 to 1874), the trading period (until 1901) or the colonial period (1901 to 1965). However, the Land Court, established in 1902, for the first time allowed women equal rights to own land. This was a big step for women (although they probably did not realize it) for the Court also began to recognize women's rights to acquire chiefly titles.

It is worth noting that although women have increasingly assumed traditional leadership roles since Western contact, the political power of these roles has been greatly reduced. As the political power has moved to the Parliament, men have given up traditional leadership roles and gone where the power is.

Although Cook Islands women now enjoy equal political and civil rights, they have not been fully aware of these rights and have not always exercised them. For instance, there have been no women members of Parliament since the 1960s, with one exception for a brief period in 1983 when Mrs. Fanaura Kingstone was member for the Overseas Constituency. She lost her seat, after only nine months, when a snap election was called. Mrs. Kingstone was the only Cabinet Minister in Cook Islands history, but unfortunately for only a short period of time. There are no women judges, Justices of the Peace, or church leaders, and very few women at the top level of the public service or statutory authorities.

There are many women's organizations in the Cook Islands, with many different objectives. These include church women's groups, the Child Welfare Association, the Family Welfare Association, the Business & Professional Women's Association and the National Council of Women, which is an umbrella women's organization encompassing most women's groups.

However, there is only one women's organization that is dedicated to women's rights - the Women's Counselling Centre or *Punanga Tauturu*. The Centre provides support and advice to women and children who are victims of violence.

One of our main functions is to educate women on their rights under the law. Generally speaking, women are protected under Cook Islands law - however, most women are not aware of their rights.

Legal Status of Women

Since 1965, when the Cook Islands became self-governing, both men and women have had equal rights to vote for and seek election to Parliament.

The main Cook Islands legislation that affects women generally is the Constitution and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Cook Islands is one of three Pacific countries (the others are Niue and Western Samoa) to become parties to the CEDAW.

Some New Zealand acts are in force in the Cook Islands, although the Crown Solicitor is working on repatriation of legislation.

Family Law

Family law in the Cook Islands is fragmented and is not codified. Basic family law was set out in the Cook Islands Act of

1915 and although amendments and some new legislation have been passed since then, finding one's way through the family law system is a nightmare! In many instances family law has not changed since 1915. The Cook Islands Act covers marriage, divorce, maintenance and affiliation. Obviously, after 79 years, some provisions seem archaic. One example is Section 539 covering molestation of a divorced wife by her husband. Any man guilty of this offence «shall be liable to a fine not exceeding \$40 or to imprisonment for a term not exceeding 3 months»!

The principles of Cook Islands family law being applied today are based on New Zealand legislation. For instance, the grounds for divorce are those stipulated in the New Zealand Matrimonial Proceedings Act 1963, although New Zealand itself has repealed this act. There are no laws regulating separation orders. Separation is recognized only through agreement between the parties.

Both men and women have equal rights to claim custody of and maintenance for children. The common law test for custody of considering what is the best interest of the child is that applied by the courts in the Cook Islands.

The property rights of legal spouses are governed by the Matrimonial Property Act 1991. It provides that the division of matrimonial property shall be on an equal basis between spouses of a legal marriage and is based on the New Zealand statute. The Act does not cover the property rights of *de facto* spouses (see below).

One area of concern for those members of the Cook Islands community who are aware of the underdevelopment of the law in respect of domestic violence, is that the Cook Islands do not have legislation equivalent to that enacted by the New Zealand Parliament in respect of non-molestation and non-violence orders. At present when violence of a domestic nature occurs and the female victim is a spouse or *de facto* spouse of the alleged offender, the female victim can only rely on the provisions of the criminal law and if there is sufficient evidence, the alleged offender may be charged under The Crimes Act 1969, with «assault on a female» for which the maximum sentence is two years imprisonment.

The Act covers sexual crimes which also include rape, incest, indecent assault, etc. The penalties associated with these offences are currently under review by a Commission of Enquiry (Review of Penalties for Violent Offences) of which one of the authors of this paper (Dr. Ingram) is a member. The findings of this Commission will be completed shortly.

There are several other Cook Islands statutes that directly affect women.

The Evidence Act 1968 provides that «the wife or husband of a person charged with an offence shall be a competent but not compellable witness for the Prosecution ...» (Section 6(3)).

The Evidence Amendment Act 1986 to 1987 provides that in a rape case, «no evidence shall be given and no question shall be put to a witness in a rape case relating to: (a) the sexual experience of the complainant with any person other than the accused; or (b) the reputation of the complainant in sexual matters, except by leave of the Judge.»

The Evidence Amendment Act 1986 to 1987 (No. 2) further amends the principal Act by stating that no corroboration of a complainant's evidence shall be necessary for the accused to be convicted.

De Facto Relationships

Under a 1917 Rarotonga by-law, it is an offence to have a *de facto* relationship. Therefore such relationships are not recognized by law.

Property rights within *de facto* relationships must therefore rely on the common law doctrine of constructive trusts whereby two people contributing equally to a relationship share equally in the fruits of that relationship. However, the intentions of the two parties can be contracted through agreement.

Children of *de facto* relationships are not covered by the custody laws but, in these cases, orders for guardianship can be made under the New Zealand Infants Act of 1908.

In a *de facto* situation there is no provision for orders for occupation of a matrimonial home. The whole issue is complicated by the land tenure system, whereby land is owned by the family unless a lease has been executed giving tenancy to the occupant.

Specific Legislation Recognizing the Equal Status of Women

The Judicature Act 1980 to 1981

Section 95 of the Judicature Act refers to the legal status of married women and states that, «save where otherwise provided by any other enactment, the legal capacity of a married woman, whether contractual, proprietary, testamentary, or of any other kind whatsoever, shall be the same as that of an unmarried woman.»

The Income Tax Act 1972

This piece of legislation makes no distinction between income earners based on gender. In particular, relevant deductions from income tax may be claimed by either men or women, who have dependent children or a dependent spouse.

The Citizenship Act 1977 (New Zealand)

Section 7 of the Act abolishes the restriction with respect to citizenship by descent in cases where the mother is a New Zealand citizen, which is provided for the Citizenship Act 1948 (United Kingdom).

The Public Service Act 1975

About 60% of the working population of the Cook Islands is employed by the public service. The Public Service Act 1975 treats male and female employees as equals in terms of both equal pay for equal grading and merit.

An Appointments Committee determines the appointment of employees and the Public Service Act further provides for a right of appeal by an applicant.

Although such protection of pay equity and appointment is afforded to public service workers there is no equivalent legislation protecting other workers in the private sector.

Legal Problems

Some of the legal problems faced by women in the Cook Islands stem from:

- the lack of provision for restraining orders, non-violence orders, non-molestation orders, and separation orders in the case of divorce;
- the need to codify Family Law; and
- the fact that the Crimes Act 1969 does not recognize «rape within marriage». Section 141 (3)(a) provides that «no man shall be convicted of rape in respect of his intercourse with his wife, unless at the time of the intercourse
 - a. there was in force in respect of the marriage a decree nisi of divorce or nullity....»

Other Areas of Protection Afforded to Women

Maternity Leave for Public Service Workers

The Public Service Manual states that permanent female staff should be allowed up to six weeks fully paid maternity leave.

In the private sector there is no statutory provision regarding maternity leave. However, the company for which one of the

authors of this paper (Ms. Uhrle) works has a policy of granting four weeks paid leave for female employees in respect of maternity leave. There is a requirement, however, that the female employee must have been employed by the company for 15 months in order to qualify to apply for maternity leave.

The Office of the Ombudsman

Section 11 of the Ombudsman Act 1984 states that it is a function of the Ombudsman to investigate any decisions or recommendations made or any act done or omitted relating to a matter of administration and affecting any person or body of persons in his or its personal capacity in respect of decisions made by an officer of a government department. Again the function only relates to government employees and, to date, no complaints of a discriminatory nature based on gender have been received.

Conclusion

Although much of the necessary legislation protecting women against violence is in place in the Cook Islands, attention needs to be paid to those legal aspects that are insufficiently provided for and to other ways of providing for women and children who are victims of violence. The following are recommendations for action in the Cook Islands:

- new family law legislation to codify existing legislation;
- legal review to provide for non-violence orders, separation orders etc.;
- administrative changes within the police system for mandatory arrest of perpetrators of violence against women and children without the victim pressing charges;
- tougher penalties for assault;

- national action plans to stop violence;
- support for shelters, counselling centres and other welfare services;
- training to sensitize law enforcement officers and public officials;
- increasing the presence of women in the judicial system at the professional level (judges, magistrates, lawyers, prosecutors), especially those who are more understanding of the issues of violence against women;
- increasing the presence of women in the police force;
- legal literacy programmes for counsellors and national awareness programmes on women's rights.

Fiji

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The General Status of Women in Fiji

The status of women in Fiji reflects the status of women in the Pacific Islands and the Third World in general. They are legally, socially, politically and economically disadvantaged. Their condition has been influenced by a combination of factors notably, their gender, race, ethnicity and class.

Women's participation in the labour market is minimal. They are concentrated in low-income-earning employment such as the garment industry and informal domestic labour. Women's paid work is largely non-unionized and is, therefore, subject to little control. There is little legislation covering women's employment.

Women account for only seven per cent of the professional workforce in Fiji. There are currently no women magistrates, no women judges and no senior women police officers. There are three elected female members of Parliament and three appointed ethnic Fijian female senators, all women of chiefly rank.

Women's political participation has been minimal but is increasing in post-coup Fiji. Women tend to mobilize on the basis of race and tend in the main to concentrate on traditional activities which do not encourage empowerment.

Constitutional Status

Fiji's Constitution of 1990, imposed after the military *coup d'Etat*, grants all its citizens equal rights and makes discrimination of any kind illegal.

Despite this grant of equality, if a Fijian man marries a foreigner his wife can live in Fiji and she has the right to apply for citizenship (Art. 26(2)). The children born of this marriage are entitled to citizenship and have the right to be called and to be 'Fijian'. If a Fijian woman marries a foreign male, her husband has no right to apply for citizenship nor to live in Fiji without a tourist visa or to work in Fiji without obtaining a work permit (Art. 26(2)).

If a Fijian woman gives birth to a child whilst outside her country of citizenship her child is denied citizenship rights in Fiji if the father of the child is not a national of Fiji (Art. 25). A child born to a Fijian man and his foreign wife outside Fiji is given full rights of Fijian citizenship. The discrimination against Fijian women and their children in this respect is very clear. This child can however claim citizenship if it can prove one grandparent is a Fijian citizen (Art. 26).

Despite the fact that some Fijian groups are matrilineal the Fiji Constitution legalizes patrilineal rights (Art. 156).

Other Laws

Family Law

Section 3 of the Maintenance and Affiliation Act, chapter 52 allows only «married» women to apply for maintenance for themselves if they can prove fault on the part of their husbands. The law thus discriminates against women who have been living either in *de facto* relationships or as common law wives or who have undergone a religious ceremony of marriage.

Maintenance is based on proving fault and women encounter great difficulty in proving fault, especially with respect to cruelty and adultery, which are among the most common grounds. Only physical cruelty is a ground for separation and maintenance; mental cruelty on its own has been ruled by the courts to be an insufficient ground.

If a wife commits adultery, even if it occurs after an initial separation through the husband's fault, she is not entitled to claim maintenance for herself (Maintenance and Affiliation Act, s.7). Thus adultery automatically disentitles a wife to maintenance even if her husband deserted her and left her without means of support.

Enforcing maintenance orders is a major problem for women. Currently at the Suva Domestic Court (the largest court) only about 15% of orders are enforced regularly, 35% intermittently and the remainder not at all (Jalal, 1988). Only two bailiffs service the entire Greater Suva Peninsula which has a population of some 200,000. Neither bailiff has a vehicle provided by the Court. Defendants unfailingly avoid payment by habitually changing employment and addresses.

These rules severely disadvantage women who have custody of children and do not adequately take into account women's limited access to money and greater economic hardship.

De facto wives have no right to claim maintenance, matrimonial property, pensions, nor the right to seek the protection of a non-molestation order. In a 1993 case recently a man was sentenced in the High Court to only 18 months imprisonment for beating his *de facto* wife to death (State v Croker ²²).

Under Part III of the Maintenance and Affiliation Act, s.16, a «single woman with child or who has been delivered of a child» may claim maintenance within 12 months of her child's birth. A claim may be brought after 12 months if the mother can prove that the father was supporting the child either financially or otherwise within the 12-month period. This «limitation period» is a form of indirect discrimination against women as it does not recognize women's unfair access to justice.

Under s.18 the law requires «corroboration» of the complainant's evidence before a magistrate can find that a defendant is the «putative» father of illegitimate child.

22 *The Fiji Times*, 16 September 1993.

Corroboration is evidence of an independent nature which tends to prove the truth of the complainant's evidence. For obvious reasons women encounter great difficulty in proving paternity.

In family law, the main consideration in assessing fitness for custody of children is, theoretically, «the best interests of the child» (s.85, Matrimonial Causes Act, chapter 51; s.4(b) Maintenance and Affiliation Act, chapter 52). Both parents have an equal right to secure custody save that when the children are of «tender age» (under five years) there is a presumption in favour of mothers. By and large women who fit into conventional notions of wifehood and motherhood secure custody of «tender-aged children» if custody is disputed.

Despite this presumption there has been a primary focus, not upon women's mothering role, but rather upon aspects of women's sexual behaviour. The fundamental legal view of the courts is that mothers should be chaste and those who engage in adulterous conduct may find themselves punished for their transgressions.

In *S A v. H*²³ a woman who left her husband ostensibly for another man was denied custody of a six-month-old infant whom she was breast-feeding. Although it was not stated in clear terms, it was obvious that the Court's attitude was that the woman deserved to lose custody of her infant and that she should have thought about the possibility of losing custody before deserting her husband. This double standard of morality blatantly discriminates against women as no concomitant standard is imposed upon men.

Divorce law in Fiji is based on proving fault and thus fortifies a cultural milieu dedicated to entrenching the institution of marriage and deterring women from obtaining divorce no matter how difficult the circumstances.

The grounds upon which divorce may be obtained are, for the most part, gender-neutral. They are specified in s.14 of the

23 Suva Domestic Court, unwritten judgment, (1988).

Matrimonial Causes Act chapter 51 and include adultery, desertion, cruelty, separation and insanity.

Apart from having to prove fault, women face further penalties because legal divorce may not be applied for unless the parties have been married for more than three years, the two exceptions being wilful refusal to consummate the marriage and adultery (s.30). Revealingly, the exceptions do not include cruelty. The burden imposed on women by such technical rules is demonstrated in cases of persistent cruelty where the law effectively sentences women to three years of legally condoned violence before divorce is regarded as lawful.

Cruelty has to be persistent before one can legitimately apply for divorce. In addition, there have, in effect, to be police and medical reports and preferably a conviction for assault before the courts will consider cruelty as a legitimate ground. Women encounter great difficulty in getting police and the courts to take domestic violence seriously and in obtaining convictions for domestic assault.

Fiji's family law does not recognize the principle of equal partnership in a marriage in the distribution of matrimonial property upon divorce. The general rule is that distribution is based on economic contribution and paid work, notwithstanding s.86 of the Matrimonial Causes Act which states that settlement of property will be based on what is «just and equitable». Unpaid work is not regarded as real work when it comes to the sharing of matrimonial property (all property acquired after a marriage, including a home, furniture etc.) upon divorce or dissolution of marriage.

Inheritance and Land Law

Land ownership in Fiji depends to a large extent on one's ethnicity. The majority of land (83%) is owned by indigenous Fijians in trust for them by the Native Lands Trust Board and is governed by customary law which has been partly codified in legislation. Other races, more than 50%, have limited access to

ownership of freehold land. The legislative process is weighted against women in terms of land as, at all levels, the decision-makers are men.

Land ownership of native land defines ownership primarily in terms of male descent through the Constitution and Native Lands Act which provide that land is held mainly by the «mataqali» (land-owning unit). Under this system women cannot broadly convey their rights to land. When a woman from one *mataqali* marries a man from another, her children do not have legal rights but only *vasu* rights to the land held by their mother and which she owns communally with other members of her *mataqali*.

In most parts of Fiji patrilineal descent is most prevalent and land is passed through men. The Native Lands Commission, initiated by the Colonial Government, fortified patrilineal conveyance of land. Women did however, upon the introduction of statutory law, become registered owners of native land based on their birthright as members of their *mataqali* of registration. Although this law is ostensibly gender-neutral, as it purports to make women and men equal within the *mataqali*, because land rights are determined according to customary law, women effectively have little control over land (Bolabola, 1986).

There is no legislation preventing women from owning freehold or leasehold land or from renting property. Rather there is a form of indirect discrimination in that although women can own land, because they lack other rights, e.g. economic, social and political rights, they are not able to buy or lease land or property.

Labour Law

The law mirrors prevailing orthodox views about women's proper status as wives, mothers and teachers and the expected domestication of women. This dominant ideology is carried over into the paid workforce determining women's low wages, their limited access to employment, the restricted categories of work available to them, their preponderance in the lower echelons of formal employment, the lack of legislation protecting their work

and their vulnerability within the work-force. It is important to note that although the law affecting women's work has a significant role to play in determining women's status, women's situation in the work-force is more significantly shaped by broader non-legal political, social and economic forces (Embersson-Bain & Slatter, 1993). The law merely reinforces the poor position of women within the work-force.

Wages paid to male workers in all categories are based on the postulation that men are natural heads of household responsible for their immediate families and other dependants. The payment of lower, discriminatory wages to women is based on erroneous assumptions that women's participation in the job market is discretionary and is a means of obtaining pocket-money.

Fiji has made no serious attempt to rectify women's position in the work-force by passing laws which ensure women are paid a fair wage for their work, e.g. there is no equivalent of an Equal Pay Act.

When discussing women's legal rights as far as pregnancy, childbirth and post-pregnancy rights are concerned it is not possible to talk about «discrimination» as such as it is not possible to compare women's situation to men's situation. Nevertheless, women in paid employment are not treated equitably.

Particular categories of workers are excluded from the advantages of maternity leave under the Employment Act, chapter 92: casual workers, those who have been employed for less than five months and domestic workers. Under the same Act, other workers need only be employed for three months to enjoy annual leave benefits (Embersson-Bain & Slatter, 1993). There is no legal provision excusing pregnant women from heavy labour, or protecting them from exposure to harmful substances or from working excessively long hours (Embersson-Bain & Slatter, 1993).

Fijian female civil servants have the right to a total of 84 days fully paid maternity leave under the Fiji Government Leave Regulations (1972, s.18) for the first three pregnancies. After the first three children, women may get annual leave up to 84 days but without pay. This leave is discretionary.

For women working in the private sector, s. 74 of the Employment Act covers their rights during pregnancy and maternity. Women may not be dismissed if they cannot return to work after taking 42 days maternity leave. They may stay away from work for a further three months after their normal maternity leave terminates as long as they have medical reasons approved by a doctor.

Unlike other Pacific island countries, such as the Solomon Islands, Fiji law does not permit women two one-hour nursing breaks a day. Despite the fact that primacy attached to women's roles as nurturers and caregivers, maternity laws do not reflect this.

The Employment Act, chapter 92, makes no provision for either paid sick leave or paid public holidays. For those non-unionized workers and those not covered by wages councils, the majority of whom are women, there is no guarantee of paid sick leave.

Sexual harassment is common, especially in industries like the garment industry which is dominated by women and non-unionized, as illustrated in 1989 when garment workers protested over compulsory body searches by security guards.²⁴ Women do not enjoy the same opportunities as men in the labour force and are usually employed in low-paid, low-skilled jobs which have male supervisors, as in the garment industry. This inevitably allows sexual harassment to flourish. As there are few laws protecting women workers and women have little financial option, most of them have to continue working in a hostile environment. There are no specific laws against sexual harassment in the workplace or elsewhere. Legislation in the Penal Code, s.154(4) could be applied to some types of the more obvious forms of sexual harassment.

Pursuant to the Fiji National Provident Fund Act, chapter 219, women may withdraw their accumulated savings upon marriage. Men may not. Although this may be regarded as positive discrimination, it is based on an assumption that women will cease

24 *The Fiji Times*, 27 January 1989.

their involvement in paid labour upon marriage. It is also hazardous for women who withdraw hard-earned savings upon marriage and then potentially lose control over these funds to their husbands thereby jeopardising their future financial security, especially in the event of desertion or divorce.

Criminal Law

Fijian women enjoy paltry protection under the law in domestic assault cases and rape. The paucity of the legislation and the laxity in enforcement of the law intensifies social and cultural mores which coerce women to remain in violent marriages no matter the consequences. The law on domestic violence is informed by such societal notions as that marriage is a private matter between husband and wife, that women subconsciously enjoy being beaten, that alcohol causes wife abuse, that women deserve to be beaten and that if women were really being hurt they would leave their husbands.

The characteristics of the legislation and legal practices and judicial and police attitudes are significant in determining the position of women in the law as victims of domestic assault. Currently their position has the following features: domestic assault is unrecognized as a separate crime against women - even its appellation implies a lack of criminality by the deliberate use of «domestic»; police and law enforcement officials are unsympathetic and in the main do not encourage legal solutions; it is the chore of the victim to lay charges; it is difficult to enforce a non-molestation order; there is a consistent focus on reconciliation notwithstanding the circumstances; magistrates rarely, if ever, impose custodial sentences to reflect the seriousness of the crime; there is a tendency for courts to bind over defendants despite domestic violence being a recidivist crime; and the *bulubulu* is accepted by the courts in lieu of punishment of the offender, i.e. if the offenders and victims are ethnic Fijians the Court will accept the offer of a *bulubulu* to the wife's family, and its acceptance, in lieu of punishment. The victim herself has little say in the outcome as enormous pressure is placed on her to accept the «apology».

Rape is a serious felony in Fijian legislation (s.149, Penal Code, chapter 17) punishable by life imprisonment. The maximum sentence for attempted rape is seven years imprisonment. However, marital rape is not a crime in Fiji, even where the parties are separated.

The law of rape is based on many misplaced ideas about women's roles and sexual behaviour. Among these are the notions that rape is always accompanied by violence and therefore there should always be visible injuries; that women say «no» when they mean «yes»; that most women precipitate and enjoy being raped; that women often cry rape for reasons of revenge, pregnancy or if they are caught having sex with somebody inappropriate; that women provoke rape by their behaviour and dress; that rape is sex and not violence; and that rape with a foreign object is not rape. These beliefs reflect society's moral values about seemly behaviour for women and find expression in the way women are treated by law enforcement agencies, in the length of sentences meted out to rapists, in various legal rules and procedures and in the way rape trials are conducted in court in Fiji, as elsewhere.

Technically, rape is a serious felony and is in the same league as murder and manslaughter. Yet it can be tried in the lower magistrate's court unlike other crimes of that ilk as the accused can elect to be tried in the magistrate's court or the High Court. The maximum sentence that can be imposed in the magistrate's court is only five years.

Non-consensual sex can only fall within the definition of rape if the contact is penile/vaginal. This is problematic because rape can and does occur with other objects, such as bottles, cassavas, sticks, etc. Rape with these objects falls within the ambit of indecent assault and is consequently liable to lesser penalties.

A discriminatory and unfair procedural rule requires that the fact of rape be independently corroborated. Revealingly, only sexual offences and paternity suits, in which only women can be complainants, require corroboration of all allegations. The evidence of women and children in sexual complaints is considered innately unreliable.

Questioning regarding the victim's past sexual experience during a rape trial is permissible, and evidence of her moral character may be admitted as evidence against her even though it is frowned upon by more enlightened judges. In one case the Chief Justice gave two rapists suspended sentences because the girl lived «a loose form of existence».²⁵

It is instructive that the law allows a woman's past sexual experience (non-criminal behaviour) to be brought into court as evidence against her, but it does not allow the rapist's past (criminal) history as evidence against him until after the conviction has been obtained, if it is obtained. This procedural rule clearly favours men over women and is flagrantly discriminatory.

Rape sentences are a social indicator of the law's attitude towards women. Current experience indicates that offences against property are more likely to attract custodial and lengthier sentences than rape. An illustration of this occurred in 1989 where a man who raped a housewife got 18 months imprisonment. On the same day, two youths who stole goods valued at \$445 got two years imprisonment.²⁶

Crimes against children are in the main committed against girl children (90% of victims are female) and the majority of offenders are men (97%).²⁷ The requirements of proof are exactly the same as those for rape, hence the lack of convictions. Children have no right to give evidence against their assailants behind a screen as in other countries to avoid fear. Recently, for the first time in Fiji, after lengthy submissions from the female counsel from the Office of the Director of Public Prosecutions the Court granted a nine-year-old female victim the right to give her evidence behind a screen. This grant was, however, only a discretionary one and does not guarantee future victims similar treatment.

25 *The Fiji Times*, 23 February 1988.

26 *The Fiji Times*, 30 December 1989.

27 Carte, C. - *Women's Crisis Centre Fact Sheet on Child Abuse*, 1992

A woman's right to legal abortion is denied in most Pacific islands, including Fiji, even though abortion using traditional methods is common throughout the Pacific. Legal abortion is available to women if it can be proved that the abortion is necessary to save the mother's life. In these circumstances the abortion is termed a «therapeutic» abortion. It will not result in a criminal prosecution.

The law makes no provision for the prosecution of men who consort with prostitutes. Thus women prostitutes can be charged, taken to court, imprisoned or fined for prostitution but not the men who use the services that prostitution provides. The discrimination against women in the law on prostitution is self-evident.

Organizations Working in the Area of Women's Rights

The Women's Crisis Centre (WCC) and the Fiji Women's Rights Movement (FWRM) both work in the area of women's rights. The WCC assists victims of rape, child abuse and domestic violence and attempts to educate the public on these issues. Its sister organization, the FWRM is more directly a lobbying group, and has as its primary aim, to improve the status of women in the law in Fiji. To that end it is involved in two major campaigns, first, a project against rape, and second, a project on women's work and economic rights. The FWRM's ultimate objective is to bring about law reform for women through legal literacy campaigns (see below).

NGOs and Legal Literacy/Paralegal Training

From its inception, the FWRM has had a very public monitoring role, commenting on media attitudes towards women and using the media to highlight government and judicial attitudes towards women. It was directly responsible for the progressive but short-lived rape sentencing guidelines promulgated by the Chief

Justice in February 1988, recommending longer sentences for rape and an improvement in judicial attitudes.

Immediately prior to the May 1989 general election, the FWRM sent questionnaires to all 150 candidates inviting their responses to policies and attitudes on women's issues and discriminatory laws. Although only a small minority from the three political parties answered, the results of the survey were published in the national newspapers. The analysis and publication of the responses effectively «grading» candidates on their attitudes to women (with its concomitant implication that those who had not answered simply did not care about women) caused widespread consternation and quickly forced all political parties to include women's issues on the national agenda for the first time in Fiji's political history. All political parties formulated concrete policies on women's issues.

The organization chose not to deal with the post-coup government until the first quasi-democratic government was elected in 1992. As a result of this hiatus the various rape and anti-violence law reforms that the FWRM worked on from 1989 to 1992 did not get presented to the government for some years. It did however make substantial submissions to the post-coup Constitutional Review Committees set up by the government to elicit the views of the public on the new constitution. Although it was not successful in getting discriminatory provisions on citizenship and other rights removed from the draft constitution it was partly responsible for forcing the government to include gender discrimination in Article 16 of the 1990 Constitution.

The FWRM officially launched its Anti-Rape Campaign in the latter part of 1988. Its aims were to educate the public and law-associated agencies about the social and cultural aspects of rape and to push for law reforms. The project included researching the socio-cultural and legal aspects of violence, a nation-wide outreach programme, the production of mass-media articles in newspapers and on radio in the three major languages, the production of pamphlets and posters, the production of a video entitled «Forceline» (a local term implying that rape is an acceptable cultural practice), the presentation of street drama and education

workshops for schools, medical personnel, police officers and judicial personnel. The FWRM also conducted workshops and seminars for rural women's groups in an attempt to educate women about rape and to obtain their support for its law reforms. The video, «Forceline», was aired on public television for the first time in 1992.

At its first presentation of the rape law reform package to the government, the FWRM was told to obtain the support of the majority of the «population», in effect, to obtain a referendum, for its law reforms. The FWRM has refused to comply, justifiably pointing out that no other law reforms require a referendum. At the time of writing, the FWRM is attempting to obtain the signatures and support of the majority of women's organizations and other human rights organizations in Fiji. It has just obtained funding to launch a short-term project to lobby members of parliament, other powerful lobby groups and the judiciary to convince these persons and bodies to support the law reforms.

The FWRM conducted the first training of women paralegals in March 1993 on the law and women. A video to assist in paralegal training has been produced and will soon be ready for distribution. If further funding becomes available the FWRM intends to train women who have the most potential to become effective paralegals on an on-going basis on more detailed aspects of the law. A combined UNESCAP/Asia Foundation/AIDAB/Ministry of Women funded family law project is currently under way using the media (both newspapers and radio), workshops, pamphlets, a radio play and seminars in all three major languages.

One member of the FWRM had a monthly column in a local women's magazine, *Fiji Women*, until 1993 when the magazine closed down. The same member writes a weekly column for the largest national newspaper on women's issues and the law under the banner of the FWRM. Other members regularly have a voice on national radio in Fijian and Hindi on various programmes. One prominent member writes regularly for a regional magazine, *Pacific Islands Monthly*. These women have made it possible for women's voices to be heard publicly on a day-to-day basis and to access the public domain in a significant way.

FWRM has recently embarked on a project entitled «Women, Work and Economic Rights» to bring about an awareness of women's conditions of employment, to lobby for legislation to improve women's situation on the labour market, to obtain legal recognition for women's unpaid labour in the home and in subsistence farming and agriculture and to improve women's economic rights in general. The strategies adopted are similar to those employed in the Anti-Rape Campaign and Family Law Project.

The Beattie Commission, set up recently to inquire into the need for improvements in the judiciary and legal system wrote to the FWRM and the WCC requesting both oral and written submissions. Subsequently, the Commissioner said that amongst the best submissions received were those from women's NGOs. FWRM is regarded as a legitimate mouthpiece for women and is regularly referred to by public personalities and members of the judiciary. Allusions to FWRM are not always made in a positive manner, indeed, sometimes its members have been openly threatened, but this has been regarded by its members as an indication that the organization is a force to be reckoned with.

Coordination Amongst National, Regional and International Organizations

During the last two years the Ministry of Women has undergone significant changes in its attitude to non-traditional women's activities and has become actively involved in the area of women's rights. The Ministry sent 24 women's interest officers to the FWRM paralegal training programme for women in March 1993. In addition, resource persons from the FWRM and the WCC have been involved in in-house training of Ministry staff in the area of rape and the laws affecting rape. The Ministry has become more gender-sensitive and has opened its doors to the possibility of government and NGO collaboration in the area of legal literacy for women.

The Ministry also intends to run a series of workshops on a national basis to make the community more aware of the

Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and has funded the translation of the Family Law into the local vernaculars. This is in keeping with the recent Port Vila declaration in which governments of the region recognized «the need to remove all forms of legal discrimination against women and to ratify the Convention on the Elimination of All Forms of Discrimination Against Women» and with the present government's «Growth for Opportunities» manifesto. The Ministry of Women has recently acquired funding to hire the services of a legal expert on legislation affecting women in Fiji to carry out a review of such legislation with a view to making recommendations to the Cabinet, the Justice Department and the Law Reform Commission. The possibility of acceding to CEDAW will then be able to be considered.

The legal literacy projects and training for women sponsored by the FWRM and the WCC always attract women from other NGOs and to this extent there is cooperation. There has been some NGO cooperation nationally in respect of celebrations for International Women's Day and human rights activities. The WCC has had regional conferences on the subject of violence and the FWRM has sponsored a regional conference on women and politics. Any regional programme for legal literacy will first require more national work.

Participation in UN Activities

The FWRM conducted one national workshop to acquaint women with the CEDAW. United Nations activities are mainly conducted by the Ministry of Women.

Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

The Convention has not yet been ratified. The issues are being debated by NGOs and the Ministry of Women and various government agencies (see above).

References

Bolabola, C., *Fiji: Customary Constraints and Legal Progress in Land Rights of Pacific Women*, Institute of Pacific Studies, University of the South Pacific, 1986

Edwards, S., *Female Sexuality & the Law*, Martin Robertson, Oxford, 1981

Emberson-Bain, 'Atu, *Women, Poverty and Post-Coup Pressure in Tu Galala: Social Change in the South Pacific*, Budget/Pluto Press, 1992

Emberson-Bain, 'Atu & Slatter, C., *Labouring Under the Law: A Feminist Critique of Employment Legislation Affecting Women in Fiji*, a research paper prepared for the Fiji Women's Rights Movement, September 1993, Unpublished

Graycar, R. & Morgan, J., *The Hidden Gender of Law*, Federation Press, 1990

Jalal, P.I., *The Urban Woman - Victim of a Changing Social Environment in Environment and Pacific Women: From the Globe to the Village*

Leatuailevao, R., & Taeiwa, J., Fiji Association of Graduates, Proceedings of the Biennial Convention, University of the South Pacific, 1988

Lateef, S., *Current and Future Implications of the Coups for Women in Fiji*, The Contemporary Pacific, Vol. 2, 1990, pp. 113 to 130

Laws of Fiji, ed. 1985, Fiji Government Printer

Powles, G. & Pulea, M. (eds.), *Pacific Courts and Legal Systems*, University of the South Pacific, Suva and the Faculty of Law of Monash University, 1988

Pulea, M., *The Family, Law and Population in the Pacific Islands*, Institute of Pacific Studies, University of the South Pacific, Suva, 1986

University of the South Pacific, *Land Rights of Pacific Women*, Institute of Pacific Studies, 1986

Kiribati

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History

Traditionally, women in Kiribati were viewed as being responsible for the running of the home and the well-being of the rest of the family. The «family» often included not only the woman's husband and children but also many other members of the extended family. The village political system was run by the Unimane, the old men who made decisions in the traditional meeting house, the Maneaba, in which women did not directly participate.

Politics

In 1979, Kiribati became an independent constitutional democracy. The majority of people live in the Gilbert group of islands, with approximately 35% of the population living on the capital, Tarawa. Most of the educational institutions and government employment are found on Tarawa.

Since 1958, island councils have existed on most of the outer islands. Due largely to the isolation of most of the outer islands, most of the island councils have been given a great deal of autonomy and are able to pass by-laws, subject to the approval of the relevant minister, on a wide range of matters. Island councillors

are elected representatives, however the island councils are often viewed as being an extension of the *Unimane* system on many islands. On some island councils and *Unimane* exist side by side.

Current Situation of Women

For the vast majority of women, political independence has not brought about great changes in their lives away from the traditional role of women. Women are still largely viewed as belonging in the home with primary responsibility for the running of the home and caring for the family.

Educational and employment opportunities have meant that many women are now employed in responsible jobs. However, those that do leave the home to work are often also expected to fulfil their traditional role when they return to the home. Employment and education have led to a greater independence for some women. However, most employed women are employed on Tarawa, and it could be argued that on the outer islands, the situation has not changed much from the traditional roles women have always played.

Currently, there are no women members of Parliament although there have been two women MPs since independence. At local village level and on the outer islands, the *Unimane* system, from which women are still denied access, to a large extent continues, although there are now several women councillors on island councils. Lack of representation in and access to the decision-making process at either the local or government level continue to be a huge problem for women in Kiribati.

As far as education is concerned, the limited number of positions in secondary schools are evenly spread between males and females. This is consistent even in the most senior classes. There are limited places available for overseas scholarships and in tertiary education in Kiribati, however there does not appear to be a vast difference in the division of these scholarships between males and females.

Despite this apparent equality in the education system, very few women are employed in senior positions in Kiribati. For example, of a possible 182 available positions in the top third of the public service, only 20 of them are held by women. However, several of those positions are at the most senior level, one department secretary and one assistant department secretary. There are currently no affirmative action policies in place to redress the balance.

One reason for the disparity between the number of women who attend tertiary education and the number who obtain senior level positions, appears to be that many women do not complete their studies because of policies at tertiary institutions that women will lose their positions or scholarships if they become pregnant during their studies. Another reason is that women are sometimes required to leave their employment to return to outer islands when family obligations arise, e.g. a sick relative.

Legal Issues

Introduction

One of the legacies of British colonial rule is the inheritance of British laws which bear little resemblance to and do not reflect the realities of cultural and traditional values, although there is some recognition of customary law in family, land and inheritance laws, as will be discussed below. However, customary law varies from island to island and appears to be more discriminatory in its application to women than the inherited British laws as will be seen below.

The Constitution

The Constitution does not protect women from discrimination. Section 3 of the Constitution states that every person, regardless of sex, race, political opinions etc., shall be entitled to fundamental rights and freedoms, namely the right to:

- a. life, liberty and protection of the law;
- b. freedom of expression and of assembly and association;
and
- c. privacy of the home and property.

While section 3 makes it clear that all women are entitled to these fundamental rights and freedoms, the following sections of the Constitution then explain and limit them.

Section 15 of the Constitution provides that no law or person performing a public duty may treat people differently because they are of different races, political opinions, places of origin etc. However, there is no reference to a person's sex. Therefore, if laws or official treatment or policies do treat people differently on the basis of their gender, the Constitution offers no protection.

Criminal Law

The main criminal laws that relate to women are in the areas of sexual offences and domestic violence.

Sexual Offences

The formulation of the offences themselves appears to provide adequate protection for women. It is an offence to rape or indecently assault a woman or to have sexual intercourse with a woman under the age of 15, even if she consents to the act. All of the offences carry substantial maximum prison sentences.

However, very few rapes are reported to the police, although it is known that it is a common offence in Kiribati. One of the major obstacles, especially for young unmarried women in reporting rapes, appears to be the terrible social stigma which attaches to women who have been raped. For a woman to be a virgin is still an essential prerequisite to marriage. Women who have been raped are seen by men to be «available» and are not treated with respect

because they are no longer virgins. There is little concept of confidentiality in the islands and if a woman reports a rape to the police, it will generally become common knowledge with a subsequent lack of respect and few marriage prospects.

There is also a perception that rapes are often the woman's fault because, by her behaviour, she has caused the rape to occur, for example, because she went to a nightclub and drank alcohol, or because she was out walking by herself. These attitudes would also appear to have an impact on the low reporting of rape.

Giving evidence in sexual offence cases is also a difficult exercise for women in Kiribati. Most women find it very difficult to discuss personal matters in public and there is no specific legislation which allows for courts to be closed to the public in these cases. Many women withdraw their complaint of rape when it becomes clear what the court process will involve. There is also often fear that the offender will carry out some form of pay-back against the woman.

Another social practice prevents women from reporting rapes. In many cases, offenders apologize to the woman's family for what has happened and offer some form of compensation to the family. Traditionally, these apologies must be accepted and the woman loses her choice to take the matter through the courts even if she wished to.

Sentences for sexual offences are fairly low, although not more so than many other serious offences. For example, in a recent case, where a woman had been punched several times in the face, hit over the head with a large rock twice and dragged by her hair for about 100 metres before she was raped, the offender, who had claimed that the woman had consented, received a sentence of four years imprisonment.

Domestic Violence

There are no specific legislative provisions which deal with domestic violence and it is, therefore, treated as part of the law of

assault. It is, therefore, an assault when a man beats his wife. Again, despite evidence that domestic violence occurs on a large scale in Kiribati, there are very few cases where a domestic assault results in charges being laid. Again, the problem appears to lie in prevailing social attitudes towards domestic violence.

Unlike sexual offences, domestic violence is often reported to the police by neighbours or other family members when concern arises for the safety of the woman. However, police often claim that they do not have the power to enter the offender's home to arrest the offender even when the assault is occurring while the police are there. Police in fact do have power to enter a person's home if an assault is occurring or where they believe that the person has committed a felony. An assault is considered a felony if the offender has used a weapon or has caused grievous harm to the victim.

It is clear that police are reluctant to intervene in cases of domestic violence, and this appears to reflect a wider community attitude to such offences. There also appears to be an acceptance that a husband has the right to punish his wife if she has not been a «good» wife.

There are no formal women's refuges in Kiribati, and sometimes women will return to their families following domestic violence. However, when a husband apologizes to his wife's family, she is expected to return to him.

Family Law

Divorce

Either party to a marriage can apply to a Magistrate's Court for a divorce on any of 12 possible grounds, which include cruelty, adultery or incompatibility. There are very few divorce cases in Kiribati. For example, in 1993, there were only 20 cases for the whole of Kiribati and only nine cases for Tarawa. It appears that women are reluctant to apply to the courts for a divorce and will instead simply separate from their husbands and live in *de facto*

relationships in the future. Divorced women are often treated badly by their families as there is a perception that the woman has failed in her marriage and was not a good wife. As with women who have been raped, there is also a perception that a divorced woman is «available» and does not have to be treated with any respect.

Custody of Children

Any person may apply to the court for custody of a child under 18 years of age. Before the court can make such an order, it must make a full enquiry about the child and the family. It must consider the welfare of the child as paramount and must make an order that is in the best interests of the child. The court is not allowed to take into account any presumption that either parent's claim to the child is stronger than the other. Where it grants custody of the child to one parent, it can also make provision for the other parent to have access to the child.

There appear to be very few applications to the court for custody. Instead, most changes in custody of children appear to be dealt with by way of adoption through the Magistrate's Court. The Court can take into account customary law when considering such applications for adoption. It is apparently common for the family of the child's father to seek to adopt the child and women often find it very difficult to refuse requests such as these. On the islands where these practices are part of customary law, the court will recognize the family's right to adopt the child over the mother's right to keep the child.

Maintenance

Where a court finds that a person is liable to maintain another person on either a legal or a customary basis, it can make an order that that person must pay maintenance to the other.

Apparently, very few applications for maintenance are brought before the courts. It appears that many women are unaware of their right to seek maintenance from the father of their children or are

too embarrassed to do so. This is despite the often desperate financial position that single mothers must face.

Property Law

Property law is largely governed by customary law which varies from island to island. There is nothing to prevent women from owning land but there is discrimination on some islands regarding the division of land following the death of a landowner. For example, on most islands the Lands Code provides that the sons of the landowner shall receive more than the daughters, but the proportions are not clear. On only two islands is there provision for equal division of the land between daughters and sons.

Employment

The Employment Act prohibits the employment of women after 18.00 hrs unless the work is because of an emergency, is in a management or nursing position or is in a hotel or guest house. There is no evidence that this legislation is enforced.

Women employed by the government are entitled to fully paid maternity leave for 12 weeks; six weeks before the birth and six weeks after the birth, which can be extended for medical reasons. However, this maternity leave is only available to a woman twice. Non-government employees, are entitled to receive 25% of their wage for 12 weeks maternity leave, as are government employees who have taken maternity leave twice before. This is despite an average birth rate in 1979 of 4.3 children per woman.

Women are also entitled to take one hour a day in addition to other breaks for the purpose of breast-feeding their children. It is not clear whether most women are actually given this time off.

There is no equal opportunity legislation which prohibits sexual harassment in the work place.

Citizenship

The Constitution provides that any woman who marries an I-Kiribati man shall be automatically entitled to be registered as a citizen of Kiribati. However, a similar situation does not exist where an I-Kiribati woman marries a non-I-Kiribati man, which appears to be the more common practice. The man will often face great difficulties in obtaining citizenship in Kiribati.

Area of Greatest Discrimination

It would appear that the area of greatest discrimination against women is in the lack of access to the decision-making process. The effect of this is that there are few opportunities for women to have a say even on minor issues except in and among women's organizations and, therefore, little opportunity for women to raise issues that affect them to the political level. It also means that women are in many ways denied access to the legal system, either to enforce their individual rights or to bring about change at a legislative or policy level. However, it is to be hoped that the more often issues such as these are discussed among women's organizations, the more likely it is that change will come about.

Organizations

There are approximately eight women's organizations in Kiribati, most of which operate through the major church groups. The Kiribati Women's Federation or AMAK is the only women's organization that is officially recognized by the government and was formed by the government to ensure that there was an organization which linked women's groups and would be a national voice for women in Kiribati and coordinate activities.

The effectiveness of coordinating activities between organizations working on women's issues is limited by the lack of funding available to AMAK, which receives a minimal amount from

the government, and lack of any funding at all available to the other groups. Most of the organizations, including AMAK, are, therefore, largely run by volunteer workers.

In the area of women's rights, several of the women's organizations have recently run workshops to discuss family issues with a major emphasis on women's and children's rights. Just prior to this seminar, AMAK organized a public meeting to discuss women's legal rights, which was attended by about 40 women from various organizations and government departments.

Coordination with international organizations is undertaken by AMAK which then designates women from the various women's organizations to attend international conferences and workshops. AMAK is affiliated to the Associated Countrywomen of the World.

Community Legal Education

There is no community legal education material available in Kiribati. However, it became very clear during the public meeting organized by AMAK that there was a need for legal education. Very few women appeared to be aware of their rights, nor were groups which were likely to be in a position to advise them necessarily sufficiently aware of the law to be able to give effective advice. There was agreement at the meeting that pamphlets on issues such as custody of children and entitlement to maintenance for children would be helpful. There was also great interest in finding out what the law said and discussing possibilities of changing laws to improve women's lives. It was agreed that more time was needed to discuss each legal issue and that more meetings and workshops should be held in future to do this.

International Law

Kiribati is not a member of the United Nations and is not a party to many international conventions. Kiribati has not signed or

ratified the Convention on the Elimination of all Forms of Discrimination Against Women, however there does not appear to have been a rejection of the Convention and it is still being considered at the department level.

The only participatory activity organizations and government departments undertake with the UN is to attend international conferences organized by the UN.

Conclusion

The laws of Kiribati do not necessarily discriminate against women. Many of the laws are however, ineffective, because of social practices and attitudes which prevent women from exercising their legal rights or seeking the legal protection to which they are entitled. These attitudes and social practices will probably not change while women in Kiribati are denied access to the decision-making process and are excluded from senior employment positions. While women's organizations are making efforts to promote women's rights, their effectiveness will continue to be limited while the lack of funding continues.

Marshall Islands

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The Republic of the Marshall Islands has not ratified the Convention on the Elimination of All Forms of Discrimination Against Women.

There are two sets of laws in the Marshall Islands:

Customary Law

Women are protected by customary law. The society is matrilineal; land titles and rights are vested in women and men's legal rights in this field are inferior to those of women.

In cases of domestic violence women are protected by their families (brothers especially). The family is more effective than the legal system provided for under written law (courts of law, police and prosecution).

Regarding custody of children, customary law will apply first and it holds that the place of children is with their mothers; there are exceptions, such as where the mother is found to be unfit, then the father may win custody of the children.

Child support is provided for under customary law and women need not utilize the legal system (courts).

Women do not usually seek alimony from their husbands and a woman will return to her family on separation, unless her husband apologizes to her family (re-establishment of marriages).

For unmarried women with children, family support is provided under customary law.

Custom is law and it has the force of law in the Marshall Islands. Remedies provided by written law are also provided by customary law. Custom is very important and the Parliament (two or three years ago) exercised, for the first time, its power under the Constitution to impeach a judge who failed to recognize and apply customary law in a case brought before his court.

Other Laws (Written Laws)

The Constitution is the highest law of the land; it also protects women: Article II is the Bill of Rights - which provides all the basic rights and freedoms.

In addition, Article X, Section (i) states «Nothing in Article II (Bill of Rights) shall be construed to invalidate the customary law or any traditional practice concerning land tenure or any related matter in any part of the Marshall Islands, including, where applicable, the rights and obligations of the Chief, Headsman, and/or the landowners.»

As already noted, all land rights belong to and pass through women (matrilineal society).

Criminal Law

Rape is a felony in the Marshall Islands, punishable by up to a maximum of 25 years imprisonment. The section on rape in the Criminal Code is very brief. A Rape Statute was introduced in the last session of the Parliament and was defeated. The law-makers (men) did not think that it was the proper time to concentrate on the issue of rape since rape cases are very rare.

This is illustrative of the need to elect more women to the decision-making process. Decision-makers are currently all male

and if a piece of legislation is unfavorable to them, they will sit on it.; the Rape Statute is a good example of this.

In cases of domestic violence, offenders can face up to ten years in prison under the Assault and Battery Section of the Criminal Law. Once a criminal charge is filed against a man or husband, it cannot be withdrawn by the woman because the case itself is being brought by the People and the Republic. If the prosecution believes that it has a good case, it will go for trial. Thus, a woman will think twice before she actually brings any criminal charges against her husband.

US Case Law

United States Case Law is applicable in the Marshall Islands when there is no Marshallise written law dealing with any particular issue (criminal or civil). It is the duty of the lawyer to argue and convince the judge or court that US case law is applicable in a given case.

The written laws/legislation of the Marshall Islands are modelled on those of the United States. The Parliament has power and authority to modify them from time to time to suit local needs, situations, conditions and standards/beliefs.

Right to Work

The Regulations of the Public Service Commission (PSC) treat men and women equally. The test is qualification; if a woman is more qualified, she will get the job. However, because she is a woman, she may not get the maximum salary level the job offers. This kind of discrimination crops up in a random way because some men are intimidated, jealous and insecure about the fact that the salary offered to a woman is more than they are getting.

Maternity Leave

There is, currently, no legal provision for maternity leave. However, if women insist, employers will usually grant some time off.

Inheritance Law

Land titles and rights are passed down from women to their daughters; society is matrilineal.

Wives inherit the personal property of their husband or of the marriage:

- money in banks and other places
- homes
- cars
- social security benefits and life insurance policies etc.
- furniture and jewellery.

Wives do not inherit land belonging to the family (sisters and mothers) of their husbands, unless the husband owned it free and clear from his family.

Conclusion

Women are quite well protected under both custom and legislation. If discrimination exists, it is because of social problems, attitudes, pressures etc. Women in the Marshall Islands have the benefit of the protection of both customary law and written law. The choice is theirs!

Recommendations

Women need to know more about all their rights under both sets of laws. They need to educate themselves, not only about their rights (both legal and customary) but about everything concerning and affecting their daily lives. More education, knowledge and information is the only key to empowerment and success for and by women.

The Federated States of Micronesia

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Introduction

This is an overview of the current Federated States of Micronesia (FSM) Women in Development National Report. The report covered the status of women and their role in traditional Micronesian society, the marginalization of women in contemporary FSM society and the need for the redefinition of the role of women, which would move away from the reactive and passive and emphasize the productive and active.

FSM - General Overview

Geography and Demography

The FSM is an independent island nation comprising 607 islands scattered across wide areas of ocean. The Federation as a small-island, developing State is made up of a few relatively high volcanic islands and number of small developing islands. The nation is composed of the four island states of Yap, Chuuk, Kosrae and Pohnpei. While the nation is large in spread, the total land area is only 370 square miles. The population is estimated to be 100,000 with a population density of 1000 per square mile and an annual growth rate of three per cent (3%). Our population base is very young, 54% of the total population being under 19 years old.

Political Status

The FSM became self-governing in 1986 under the Compact of Free Association. The Compact is the treaty between the FSM and the United States. Although the FSM is a sovereign nation, its economic stability presently relies heavily on financial assistance from the United States available through the Compact.

Economic Status

Economic growth is slow and unsteady. The FSM relies heavily on the US aid obtained through the Compact Funds. The grants are distributed under a series of national/State governmental procedures. In 1989, external aid to the FSM totalled approximately \$136.7 million. However, domestic revenues generated from the local economy amounted to about \$31.2 million.

The reliance on US and other foreign aid has created disparities between different sectors. Certain aspects of Western life-style have emerged, resulting in patterns of consumer consumption reliant on imported goods and in disparities between urban and rural incomes and living standards.

Social and Cultural Status

The transition to cash economy, the rapid population growth, the lowered quality of the environment, the inadequate locally generated revenues of the national and State governments and the decline in foreign aid commitments have had a direct and adverse impact on the population, particularly the women and children. Infant mortality ranges between 20 to 40 per 1,000 births. The leading cause of infant mortality is prematurity, which is associated with inadequate maternal health and levels of pre-natal care. Other life-style diseases are steadily increasing. The socio-culture changes that have been occurring rapidly in recent years not only affect the traditional family system but also the goals of the young population, especially the women. The extended family is being pressured by the devaluing of its importance and by the limited resources in a

cash economy. The traditional roles of young women and men do not adapt easily to a more urban environment resulting in the following social problems:

- alcoholism and alcohol-related problems;
- juvenile delinquency;
- students dropping out of school;
- teenage pregnancy;
- domestic violence;
- unemployment of women and young people.

Traditional and Contemporary Status of Women

The FSM is faced with the challenge of deciding the right direction for its destiny and of producing a sustainable development agenda whose programme will respond more effectively and equitably to the multiple social, economic, political and environmental needs of its population. Confronted with the country's special problems of slow and unsteady economic growth, the inadequate locally generated revenues of the national and State governments, the decline in foreign aid commitments and steadily increasing population, the status of women and children will continue to be challenged.

Traditionally, women in the FSM played an important and vital role in the household, in productive activities, cultural affairs and community management. The traditional roles of women were many and important. However, their roles as mothers, daughters, sisters, aunts, wives, caretakers of land, peacemakers in times of conflict, children's first and most important teachers, manufacturers of goods, providers of medical care, producers of family subsistence, community organizers and home managers are changing in a quickly changing society. Through more than a century of exposure

to colonial and other outside influences, women have been de-economized and marginalized from the mainstream of family and community planning and decision-making.

Land Tenure

Traditionally, land was the most valued possession of the Micronesian people because it was the source of food, building materials and living space and inheritance of land was usually through the women (matrilineal).

In contemporary FSM, land and money are the two most valued assets. With money anybody can purchase land. With money anybody can obtain a better education. With money comes knowledge of other ideas, new skills, new information, better opportunities and more choices. Also, Christian teaching, an outside influence in FSM society, gives men the power as the ultimate decision-makers in the affairs of the family as well as the community; and as men were the first to be given educational opportunities, they were the first to hold salaried jobs. As their traditional roles have eroded over time, new roles have taken the place of the old roles and been given recognition.

As for women, because they started late in obtaining education, because of the shift away from power-sharing to male-centred power, and because of the increase in their domestic responsibilities, they have been lagging behind in education and in taking their place in the workforce and in the political arena.

Women in Decision-Making Roles

In the Federation, women have traditionally made a large number of decisions in the household as well as in the community. Women made decisions about the number and spacing of children, the training of young children, training of young men and women, the preservation of culture. However, their traditional roles have been challenged by Christianity, democratization, electoral systems, imported values and other changes in traditional value systems

which initiated the disempowerment and marginalization of women in contemporary FSM society.

Women and Health

Women in the FSM face a rapidly changing society. As the nation moves away from a subsistence economy toward a cash economy and as families migrate to the main islands, economic factors continue to challenge the traditional social system. The erosion of the extended family structure is accelerating and there is increasing dependence on the government to provide educational, social and health services.

Women traditionally played vital roles as the manufacturers of medicine and they were usually the ones that attended to and treated the sick. In today's society, the women's traditional role of doctor (healer) has been taken over by professional doctors, mostly men, and pharmacologists.

With the emphasis on the nuclear family structure, the role of women as mothers is coming under stress. But with the erosion of the extended family, a vital support is being lost. For example, traditionally the whole community looked out for a mother-to-be; she got the best food, was allowed ample time to rest and was excused from most activities. Her primary responsibility was to take good care of herself for the sake of her unborn child. Now she is no longer the responsibility of her own clan or of the community.

Women and Education

Traditionally, women were the primary teachers of the young. In contemporary society, they have lost some of the control over small children that they formerly enjoyed as the «primary teachers» for they are now competing with other influences including teachers in elementary and high schools and colleges, who are mostly men, and with television.

Women in the FSM lag significantly behind men in education and have limited access to educational programmes due to

sociocultural gender-biased restrictions, the notion that formal education is not an option for women as it does not prepare them for productive married life and also the fear of premarital sexuality and its moral, social and cultural impact on the family reputation. However, although these factors are still very much the thinking of the general public, the realization of education as a life-time investment is on the increase. More families have seen the advantage of educating girls and have invested in their education. An increasing number of women are seeking educational opportunities as a means to more and better choices.

Women and Politics/Legal Rights and Status

Traditionally, policy and decision-making processes were shared by men and women. Today, these roles have been superseded by unilateral electoral processes which have concentrated policy-making on men.

To date, the representatives in the FSM Congress are all male as are all but one of the senators in the State legislatures.

There is one woman lawyer within the national judiciary and one woman at State level.

The heads of the Foreign Services and Diplomatic Corps are all men.

The heads of national and State government departments, inclusive of the President and Vice-President, are also all men. Although, several years ago, Yap State had a female director for the Department of Health Services.

Women and the Economy

Women traditionally played a vital role in production and, in many places in FSM, did inshore fishing and gathered sea-food. In contemporary FSM society, the transition from subsistence to cash

(money) economy has altered women's economic role drastically. The food crops they once produced have been replaced with imported food. Women have been economically marginalized.

Women in Development

Since 1988, outside agencies (UNICEF/UNFPA/UNDP) have reported on the situation of women in the FSM and even recommended that technical and financial assistance be provided to establish national machinery for women's affairs. No action was taken until, finally, in the Second National Development Plan (1992 to 1996) seven development objectives concerning women were included. One of the objectives was the need to establish a national council for women.

The realization of the importance of integrating women into national and State development processes finally resulted in the establishment of the Pacific Women's Information/Communication Network (PAWORNET) Project, in 1992.

National Machinery for Women's Affairs: The National Women's Programme

The National Women's Advisory Council (NWAAC) was established in 1992, to facilitate the implementation of the PAWORNET Project, and as an advisory body to the FSM President and the National Women's Interests Officer (NWIO) on women's issues and concerns.

The NWIO was hired in late 1992 and has been functional in the Division of Environment and Community Health, at the Department of Health Services. The NWIO currently coordinates women's activities through both the State Governors' and National and State Women's Advisory Councils.

Following recommendations by ESCAP, the ADB and other UN agencies on the need for the building and strengthening of a

high-level national machinery for women's affairs, and the formulation of a national women's policy, the National Women's Programme hired a consultant to draft the FSM Policy on Women and the Conceptual Framework for the Division of Women's Affairs. Both were submitted to the participants of the Second FSM Women's Conference in Kosrae in November 1993. The Draft Policy was forwarded to all the FSM states women's focal points for review. The participants at the Kosrae conference also made a recommendation to the President for the strengthening of the National Women's Programme by the setting up of a Division of Women's Affairs. The proposal for a Division of Women's Affairs, with a budget request, has been submitted to the Secretary of Health Services for review and appropriate action.

Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

The FSM Government is reviewing the question of ratification of the CEDAW. The Department of External Affairs is responsible for initiating the reviewing process of any treaty and, *vis-à-vis* the CEDAW, it has forwarded its recommendations to the President for his review and further instructions.

Nauru

*Ms. Pamela Scriven
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Nauru Women's National Council*

Introduction

The Republic of Nauru gained its independence in 1968, prior to which it was UN trust territory which was administered jointly by Great Britain, Australia and New Zealand. But in practical terms, Australia was the effective administering authority. Most of the present laws in Nauru were passed by the Australian administering authority.

Nauru is a one-island country, unlike most of the island countries of the Pacific. It lies a few miles south of the equator in the Pacific and is roughly 8.5 square miles. It has a population of about 10,000 of which almost half are migrant workers and their dependents. Nauru has been described as a hat-like country because of its low coastal rim which rises to form a plateau which is about 200 feet above sea level at the top. The plateau is rich in phosphate, which has been the sole source of national income (almost 75% of the phosphate rock has been mined). The population is concentrated along the coastal rim.

Nauruan Women in General

There are opportunities for Nauruan women to surge ahead professionally and obtain those economic and developmental advantages characteristic of a firm and secure lifestyle, through government scholarships at secondary school level and sponsorship

at a higher educational level in the Pacific Region, Australia and New Zealand. However, not all Nauruan women have the advantages of higher education and opportunities; dropping out of school is a major problem on the island. Part of the future programme of the Nauru Women's National Council will be to motivate the country's young women and raise their expectations.

As a whole Nauruan women are extremely versatile in all activities and are proud of their heritage. They are resourceful and effective and their performance compares well with the standard performances of community projects and activities. These characteristics should also be utilized fully in the coordination of national and international interests. Nauruan women are slowly starting to voice their fears and claim their rights. The protests organized by Nauruan women, members of the Peoples' Movement Association, in the belief that there had been misuse of the Nauru Royalty Trust Funds was reported in the media. They show that Nauruan women are moving away from the roles traditionally imposed on them by island custom, a custom which is being phased out with progress and Western influence. It is regrettable that the impact of Western civilization has also resulted in the breakdown of communication and relationships between families, communities and government.

Problems Facing Nauruan Women

Some of the problems facing Nauruan women are:

- Children of Nauruan women married to foreigners other than those from the Pacific islands are classified as non-Nauruans and are not eligible for entitlements such as scholarships, child endowments, and most important in the Nauruan culture, their tribal clan heritage, which is identified only by the Nauruan female 'lineage'.
- Retirement income benefits are only available to single women in the work-force.

- There are no social benefits for unemployed Nauruan women, those with single status, etc.
- The housing crisis has resulted in over-crowding becoming a major problem in family life on Nauru.
- A change in policy in the administration of the Nauruan Housing Fund (Public Fund No.3) has resulted in the Fund no longer purchasing houses for Nauruan people and repairing and maintaining them free of charge. Now all repairs and maintenance are charged for and the Nauruan people have to purchase their own homes. Nauruan basic wages can not cover any extra overhead expenses. Most of the houses are in a dilapidated condition and infested with rodents and cockroaches, presenting a real health hazard to Nauruan women and children, made worse by the fact that such disrepair extends to the Nauru General Hospital.
- Employment opportunities for semi-skilled Nauruan women are very low. Redundancy without notice is part of normal practice.
- The incidence of domestic violence against women and children is high, when drinking is involved. Rape is also a major threat to the safety of women and children. Educational programmes on alcohol abuse are limited throughout the community. Counselling centres for abused women and children are not available on Nauru. Severe and heavier penalties should be enforced by law.
- There is no family planning programme available on Nauru.
- Cervical and breast cancer screening programmes are not widely promoted in the community centres for Nauruan women.
- Programmes pointing out the dangers of Aids and promoting safe sex are not widely disseminated in schools and the community.

- Educational programmes dealing with teenage pregnancies, sexually transmitted diseases and tobacco abuse are not widely promoted in schools and community centres.
- There are no child-care centres to assist in the participation of Nauruan women in the work-place or to further their education or training.
- There are insufficient employment and training facilities for young people, both school leavers and school dropouts. The Youth Affairs Division of the Directorate of Education is the only available centre at present that is training these young people and preparing them for economic independence and future security.
- Grants are not available to promote equality for Nauruan women in sport.
- Women are inadequately represented at the level of decision-making. There are only three Nauruan women on the Government Authority Advisory Boards.
- There is no government price control system on goods.
- There is no establishment of a body like the Nauru Women's Affairs Bureau within the government.

Constitution

The Constitution of Nauru came into effect in 1968. The system of government is based on the Westminster model with parliament as the supreme law-making body, a judiciary and an executive.

The Constitution protects the fundamental rights and freedoms of all people living in Nauru irrespective of sex, race, religion or culture.

Any person who is aggrieved about the infringement of his or her rights can bring an action in the Supreme Court to enforce those rights.

Family Law

Under the Constitution any law which seeks to discriminate against women will be unconstitutional and void and have no legal effect. There is no law in the family law field which discriminates against women.

Discrimination Under the Public Service Act

Section 61 of the Republic of Nauru Public Service Act reads:

«A female officer shall be retired from the Public Service upon her marriage, unless the Minister is satisfied that there are special circumstances which make it desirable that she should continue in the Public Service.»

The total population of male and female in the workforce is 2,453 - Married women 24%; single women 12%.

Judgments

There are no judgments of the courts or the tribunals which discriminate against women.

Organizations Working on Women's Rights

The Nauru Women's National Council's aim is to generate awareness of women's issues and problems at national level within

the government and at the same time alert women to the need to define and voice their rights within the framework of their economic development, traditional culture, equality and peace.

The People's Movement Association seeks to rouse Nauruan women to action in support of its demands for human rights and justice against the present government, on the grounds and belief that the Nauru economy is on the verge of collapse; a situation of great concern for their children's future economic status.

Coordination at National, Regional and International Levels

There is a certain slackness in the interaction between governmental and non-governmental organizations on women's issues at the local or international level

The Nauru Woman's National Council bases its beliefs and activities at national level on the principles of the UN structure, and intends to put forward all humanitarian problems to the government and to promote respect for human rights and fundamental freedoms.

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

The Government of the Republic of Nauru has not become a party to the CEDAW.

Conclusion

It should be made clear that not all Nauruans are financially wealthy. A small group of families own substantial phosphate-yielding lands, the rest of the people are not so well-off.

Furthermore, many of the problems which confront Nauruan women today lie in the economic structure of the nation. Being an independent State and existing on its own phosphate wealth, the small island is in dire danger of exhausting its natural resources and prejudicing economic development to the detriment of its future inhabitants.

The complex network of the economic function is subject to the investment of various public funds. These funds hold the critical key to the day-to-day existence of Nauruan women, children and men and to government and community needs. These funds if channelled elsewhere and not to appropriate targets will lead to a major upheaval in the well-being and welfare of the Nauruan people. Nauruan women know in their hearts that if this is not voiced and controlled, a major economic disaster will result.

Land rights on Nauru were defined and determined through the matrilineal system - from mother to eldest daughter, but since the colonization of Nauru, this system is no longer applied. However, customary land still retains the traditional law of inheritance that all land is owned outright by indigenous Nauruans regardless of their gender.

The need for assistance in providing legal literacy/paralegal training is essential for Nauruan women.

We believe the issues presented in the framework of this seminar are most critical to women's identity and place in the world. We must not forget that women's issues are still unresolved even though women have become active in voicing their rights and in obtaining the right to vote, the right to equal education, the right to economic development and the right to live in dignity and harmony.

Women must no longer stand in the corridors and wait; this is the time to make an effort to take our place in decision-making and policy-making and contribute to all avenues leading to human dignity. We owe it to our sisters who paved the way, we owe it to ourselves and our children so that this universe will survive in peace.

New Caledonia

*Justice Fote Trolue
Magistrate
Service Judiciaire, Tribunal de Nouméa*

Introduction

The island group of New Caledonia and the outer islands includes more than a hundred islands of which at least one tenth are inhabited. The main island is known as «Big Island» where the capital Nouméa is situated, and is about 400 kms long and 50 kms wide. To the east of the «Big Island» we find the Loyalty Islands (Lifou, Mare, Ouvéa and Tige), the largest of which, Lifou, is 1,150 square kilometres.

This group of islands covers some 20,000 square kilometres and has a population of about 175,000, half of which resides in the capital Nouméa. The population is made up of many races, colours and cultures.

New Caledonia has a diversified economy the largest sector of which is nickel mining and a refinery at Nouméa transforms the crude mineral into a semi-refined substance which is sent to France for the extraction of refined nickel. Tourism has been on the increase in recent years and the main clients are the Japanese.

Imports exceed exports and a high level of subsidies from the French government means it is possible to have a standard of living which is one of the highest in the South Pacific, making it difficult to attain that independence which the majority of the Melanesian Kanak population desires.

Since 1988, New Caledonia and the outer islands have been divided into three provinces each is administered by a legislative assembly and an executive assembly.

New Caledonia is still a French Overseas Territory (annexed by France on 24 September 1853) but the new statute of New Caledonia aims at elections for self-determination in 1998. The name New Caledonia derives from its mountainous configuration which resembles that of Caledonia (Scotland) so named by Scottish explorer Captain James Cook, who discovered the islands in 1774.

French is the language of education and is also the *lingua franca* of the different races living in the territory and of Kanak tribes having different dialects. For some years now the vernacular Kanak languages have been taught in high school.

In 1958, a new French constitution led to the fifth republic, and New Caledonia gave up its title of colony to become an overseas territory. Article 75 of this constitution allows citizens of the Republic who enjoy a civil status to keep it unless they renounce it. So in New Caledonia only Kanaks and Wallisians have a special civil status.

It seems appropriate, for the purpose of this seminar, and in the light of New Caledonia's special status, to confine our remarks to the rights of Kanak women in New Caledonia. Indeed if we have properly understood the theme of this seminar «Women and the Law in the Pacific», it seems to us appropriate to limit ourselves to Kanak women, since for other women (except, however, Wallisian women who have a special status which exists in the French territory of Wallis and Futuna), it is, in practice, French law applies. As regards the special political and historical situation of New Caledonia, with a society of tradition-bound Kanaks and modern French society, it seems essential to examine the state of the rights of Kanak women in the context of their evolution in this complex social situation.

The Rights of Kanak Women in Traditional Society

Predominance of Men

Being patrilineal, traditional Kanak society revolves around the man whose physical attributes predispose him to war-like pursuits. Affiliation of children passes through the man and land deals revolve around him. It is the man who is spokesperson for the socio-political organization. This predominance does not, however, sideline the women. Indeed, traditional society, mindful of the physical differences between men and women, has established a division of labour as regards men's tasks and women's tasks. Thus men wage war and do the heavy work (ploughing, digging, building huts, cutting firewood and fence posts) and deep-sea fishing. Women look after the housekeeping and family occupations (basket-making, food-gathering, reef fishing, cooking, weeding) and the education of young children, especially girls, while the boys, right from their childhood, are brought up separately for initiation into the task of protecting the group.

Extended Rights of Women

In areas reserved for women, men must not trespass. However, contrary to appearances, men do not monopolize the scene. Women are fully involved in decision-making by giving their comments to their husbands, so that the matters aired in public are the result of an upward-tending discussion between husbands and wives. Women's discretion gives them more weight in group socio-political decision-making.

When a boy in a family is to be married, it is the mother who decides on the bride. In customary celebrations (death-birth-marriage) the wife must be consulted and very often her advice will be heeded.

It is through woman who by having children gives to her brother, the maternal uncle, the right to take up an important role in affiliation and the education of the children.

Recognising the bloodline which she transmits to her husband's clan, the latter will always «give» her one of those children and the result will be to all intents and purposes a full adoption.

By belonging to a clan, a woman is shown the respect accorded to the rank of the clan. Thus men will be subject to a woman of royal blood. The older a woman becomes the more she acquires the prerogatives of men in decision-making involving the future of the group.

When a man dies, the wife's family will come for her, because her affiliation to her clan has not been superseded by marriage. But very often her husband's clan will keep her with her children so that she can help her eldest son in guiding the family.

Sometimes when there is a wedding, the bride's father will give her a dowry of land, which will belong to her new family. This in Kanak society is a means of acquiring land with its own rights.

A Kanak woman enjoys an important place in traditional society, contrary to the outward appearance of being a submissive wife.

The coming of Western society to New Caledonia will gradually change the role of Kanak women in society, bringing about a need to redefine relationships between men and women in the interests of Kanak culture.

The Rights of Kanak Women in Modern Society

The encounter between traditional Kanak society and so-called modern Western society will lead Kanaks to evolve outside their groupings. While in traditional society an individual does not exist outside his group, in modern society an individual will seek fulfilment outside the group or even against the group. Kanak women are also affected by this trend. Furthermore, by doing paid work, Kanak women are no longer restricted to custodianship of

tradition, but will emerge more and more from their traditional role to publicly participate in society alongside men. In modern society, the division of labour takes place at quite a different level from that which was based on physical differences, and also takes into account intellectual capacity. Women are becoming the rivals of men in the struggle for employment, and they will continue to demand more and more an equality based on ability rather than respect for their difference.

As a citizen of the French Republic, the Kanak woman enjoys the same privileges as those accorded by law to all citizens. Her rights as a mother are therefore protected, especially as regards custody and maintenance in the case of divorce. Her individual rights with regard to physical integrity are also protected against, for example, sexual aggression and physical violence, even at the hands of her husband. Within the limits of the law she can freely decide whether or not to keep her baby (voluntary termination of pregnancy). Like other French citizens, she celebrates the 50th anniversary of French women's right to vote. She also has the right to freedom of expression, freedom of speech, freedom of movement and freedom to be what she wants to be. Her rights are also protected in conjugal property and inheritance by her own rights of succession.

However, all the rights conferred by French citizenship bring about a sometimes disturbing situation in Kanak society which is not ready for such an upheaval. The Kanak woman, aware of this situation, will thus have the freedom of choice to either break with her society at her own risk, since her Kanak identity does not allow her to integrate fully into modern society, or else to submit, to the detriment of Kanak society itself, which needs to be aroused so as not to stagnate.

The French administration of Kanak society has led to the transformation of ancient kingdoms into districts and tribal religious groups will necessarily lead through the 1958 Constitution to the setting-up of a civil status for French citizens of Kanak origin. This civil status is particularly concerned with the status of persons (marriage - birth - death - adoption - name - inheritance) and makes reference to customary law for certain procedures. Thus

marriage and divorce take place according to custom. On the other hand, very often in cases of dispute such as divorce or inheritance, a woman who feels threatened at the level of customary law will, for the protection of her rights, change her status to be able to use the common law (which applies to all French citizens).

It also happens that men invoke customary law to claim parental authority over children or to take possession of the wife's share of matrimonial goods.

Certainly modern society has freed women as individuals from traditional Kanak society, but it seems to have forgotten the Kanak woman. This has led to unwelcome consequences in the balance of Kanak society as a whole, since it concerns the balance of the family. Kanak women are more and more claiming their rights in their own society while forgetting that they base their claims on foreign values. They must be told that their well-being is to be found through their own society and they must therefore engage in a more important struggle: the liberation of the conscience of Kanak men.

Conclusion

The laws of the French Republic in New Caledonia apply equally to all citizens without distinction of religion, race or sex. Local texts apply similarly. The co-existence of traditional Kanak society and modern society has obliged the setting up of a particular civil law concerning Kanaks, applied without consideration of sex or religion.

However, the French citizen Kanak woman and the customary law Kanak woman must take care to see, together with French citizen Kanak men, that bridges are built to enable them to overcome the contradictions arising from the two above-mentioned systems and to create a new society where customary law and modern law will complement each other instead of confronting each other.

New Caledonia

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For centuries, Third-World women, other black women and working class women have been struggling against double or triple exploitation. As a Kanak (indigenous from New Caledonia, Kanaky), I disagree strongly with the liberal feminist view that, «we are all women facing the same problem against male supremacy». It is true that problems such as rape and domestic violence are similar for all women whatever their class or their colour. But the assumption of «sisterhood» or «womanhood» is unacceptable to women who have to struggle side by side with men to get back the land stolen by colonialism at the same time as fighting within our traditional society against the patriarchal system which orders obedience of women towards men.

Liberal feminist ideas emanated in the 18th century through the liberal ideology of liberty and equality, freedom of choice, freedom of the individual etc. The idea that «women's capacity to reason was equal with that of men» first appeared through Mary Wollstonecraft's writing in 1792. She argued that «the apparent inferiority of women's intellects was due to inferior education» and that this was «the result of women's unequal opportunities rather than a justification for them».

Liberal feminists argued that women should be free to sell their labour outside their houses and therefore argued for State support for all mothers including women. They also demanded the right to vote and to participate in any high position in parliament.

It was mostly bourgeois women who first talked about liberal and radical feminism because the other women did not have the chance to do so - some being slaves in foreign countries, others

being exploited in the factories and still others losing their land through colonialism.

Ms. Angela Davis, a black socialist feminist, emphasizes the historical differences between black and white women. She argued that at the time liberal women were claiming individual freedoms, equal rights and the right to work outside the home, black slave women with no rights at all had to endure being flogged, mutilated and raped by their white owners. Black women did not have the freedom to sell their labour or even to care for their children when they gave birth. «In the eyes of the slave holders, slave women were not mothers at all, they were simply instruments guaranteeing the growth of the slave labour force. They were breeders. In slavery, black women and men were equal. They were forced to work together and were mistreated together. In the black slave environment there was no 'family head' as all blacks belonged to the masters. When the men were humiliated by the slave owners, black women felt humiliated too.»

I do not deny the importance of issues raised by liberal feminists such as the problems of rape and violence against women. But I cannot accept the idea that all women share a common oppression.

Since 24 September 1853, the date France annexed New Caledonia, the life of Kanak women has totally changed. They have lost their land and their dignity. At the present time, middle-class French women still sing their same eternal song of «We are all women. We have to bring peace. All women unite.» How Utopian! How can we be united with French women when they participate in the colonization of our country?

In conclusion, I would say that liberal feminists are mostly middle-class women and know little about oppression. They have achieved changes in laws, employment policies and many other areas which enable them to compete with middle-class men to be part of the elite in a racist, capitalist society.

All poor women from the colonies, from Third-World countries and from the working class are more oppressed than middle-class and bourgeois women, whatever their colour.

To the organizers of this conference, especially to the Women's Rights Centre, I would like to say that all the thoughts expressed here are not addressed to you. I have a great deal of respect for the work you are doing for women in the Pacific region. I am also from the Pacific and I know how hard it is to fight against the triple exploitation of women here, where customs, religion and western laws exert their influence.

Employment of Kanak and European Women in Kanaky in 1983

	European Number	European %	Kanak Number	Kanak %
Professionals, managers, business people	622	8.5	30	0.4
Middle-level- professionals	2,169	29.7	498	7.4
Shop, office, govern- ment employees, trades	3,413	46.7	606	9.0
Employees of private individuals	733	10.0	1,436	21.4
Agricultural and unskilled workers	218	3.0	4,039	60.2
Other	159	2.2	98	1.5
Total	7,314	100	6,707	100

Niue

Ms. Luisapati Posimani Makaola
Justice of the Peace
and Committee Member
and
Ms. Ofania Tafatu
Justice of the Peace
Niue Judiciary Association

A Brief History

Niue is the common name by which this island is known by neighbouring islands. Its nearest neighbour is the Vavau Islands (a Tongan group of islands) situated 500 kilometres away. Niue is believed to be the largest and highest coral atoll in the world with an area of 259 square kilometres lying remote from all others in the Pacific ocean.

Since 1974, Niue has been self-governing in free association with New Zealand. The people enjoyed dual citizenship, giving them easy access to New Zealand under the Constitution, which resulted in a steady decrease in the population from 5,000 in 1974 to 2,239 in 1991 (Niue Census).

Problems Faced by Women in Niue

Since the early 1990s, women have enjoyed a relatively free life and have been overly protected by their menfolk and the law.

Prior to that date women took a back seat in matters of the *magafaoa* (family), politics, land, health and education. Male

members of the family were encouraged in further education, bypassing intelligent female members. Craft work and home duties were impressed on young females as qualities helpful in procuring a husband. Marriage was encouraged very young, between 12 to 15 years of age. Marriages then were known to be arranged, a bride being chosen not for her personal attributes but for the social clan of her family. Divorce was not practised on Niue.

Few women on Niue encounter major problems in life and women in general have very little to be overly concerned about either in the public service domain, political arena or concerning social practices. Modern parents are industrious in the need to educate their young female children to the highest possible level.

However, there is a problem concerning domestic violence to which older women become conditioned and concerning which they are reluctant to seek protection from the law as this would be frowned upon. This conditioning rubs off onto the children and sets a pattern for their future.

The Constitution of Niue and the Place of Women in the Workforce

The Constitution of Niue was passed on 19 October 1974. The women of Niue have equal rights in the administration of the law and social services under the Constitution. This freedom has enabled Niuean women to achieve high positions in their respective fields of study and to be rewarded with prominent posts in the public service and other areas based on their educational qualifications, relevant work experience and personal attributes.

Niue's Public Service Commission is presently headed by a woman, as are the Agriculture, Fisheries and Forestry Department and the Department of Community Affairs. A woman also heads the only secondary school and another woman holds the post of Deputy Director of Education.

Other services, e.g. the Tourist Board, the Broadcasting Corporation and the two island newspapers are all headed by women.

The first Niuean citizen to be honoured by the Head of State, Her Majesty Queen Elizabeth II, was a woman, for services in education. Since then two other women have been honoured with medals for services to the community.

Women have also been elected to the assembly since 1974, and presently a woman holds the portfolio for Education, Health, Community Affairs (Womens', Youth and Village Councils) and Media Services in the Cabinet of Ministers.

Of legislators and professional senior officers on the island 77 are women and 72 are men.

Discrimination Against Women

As stated above there is no discrimination against women in our country.

Under the Judiciary Section of the Niue Act 1966, both the High Court and Land Court of Niue must mete out punishment to guilty offenders regardless of their sex.

Criminal cases are heard in the High Court by a commissioner or two Justices of the Peace.

In Niue, there are three commissioners (all men) and six Justices of the Peace (three are women and three men). The appointment of men as Commissioners is due to the fact that women seem to lack confidence in this area, though this may change in years to come.

The government recognizes the need for women to be involved in the administration of matters on the island. There are representatives from all 13 villages on the island in the Land Commissioners Court. Land can be inherited from the mother and/or father.

There is no discrimination against women concerning marriage under The Niue Act 1966. Common law marriages are recognized

and accepted. Children of common law marriages are recognized and have the same rights to land and other social matters as children born in wedlock.

Foreigners marrying Niuean women or men can apply for a Niuean Residential Certificate after a certain period if they wish to reside on the island.

Women are also protected with respect to maintenance under the Niue Act 1996. «The Court if it thinks fit, in and by the decree, can order the husband to pay towards the future maintenance of his wife (whether petitioner or respondent) so long as she remains unmarried, a reasonable sum at such times and in such manner as the Court thinks fit.» The court under an affiliation order can make a maintenance order for a child born out of wedlock. Most often the man leaves the house to the estranged wife and children.

The Court has jurisdiction as to who has custody of the children, bearing in mind the interests of the children.

There may be some sections of the law that theoretically discriminate against women but, fortunately, these are not applied in practice. Once again interpretation of the law varies in different islands; Niuean women are blessed in this respect.

Organizations Working on Women's Rights

There are tentative developments where concerned groups of women and men have banded together to put together ideas and materials on matters relating to domestic violence and alcohol abuse in the community. These are as yet at an embryonic stage.

Educational programmes in the form of documentaries on domestic violence have been put out by the Broadcasting Corporation and the Health Department to increase public awareness.

A Niue Judiciary Association has been formed and important issues concerning the people have been discussed and programmes will be duly available.

Cultural Influence

The power of Niue culture is a driving force regarding control of society and is still very much in evidence. The village council and relevant important elders still have a considerable effect on many issues involving domestic differences and women have protection when needed.

Niue is fortunate in that everyone is concerned about violence of all kinds, whether domestic, child abuse or molestation etc., due to the decrease in population. This has resulted in everyone knowing what goes on in the everyday life of each family which has minimized abuse because of the social stigma it brings upon each family.

Only a few still offend, usually due to the intake of alcohol. These cases have gone unreported as village elders have chosen to discipline the offenders rather than bring them to the attention of the law. This is a much preferred solution for all concerned.

Religion

Religion plays a very important part in the lives of most Niuean families. Pastors, elders and deacons have established a rapport with most of their congregations who worship faithfully and seek to achieve total harmony and peace in the Lord Jesus Christ. The ten commandments is the base which guides each individual in his or her attempt to live life to the full. Any deviation is frowned upon and the offender is quickly disciplined to avoid unnecessary conflicts.

We firmly believe that the saving grace for our people is our unfailing faith in the Almighty. For whoever has the love of Christ in them will have love for his or her family which will then emanate to the community, leading others to strive for a life of peace and harmony.

Activities Between Organizations and with the United Nations

As Niue enjoys free association with New Zealand, this also includes management of its external affairs and defence, including womens' issues at international level.

Niue, in trying to recognize its needs at the international level, has recently become a member of UNESCO and will soon seek to become a member of the World Health Organization.

Other international activities are undertaken by New Zealand on our behalf. It is uncertain at the moment whether Niue will seek to become a member of other international organizations because of the above agreement with New Zealand under the Constitution.

Conclusions

It would be fair to say that the status of Niue women is acknowledged and respected. Their right to participate in every aspect of life and development is not restricted or disputed in any formal way. Their right to equal opportunity in education, health, community services and politics is recognized. Most importantly, the personal safety of individuals is protected by the law of the land.

Papua New Guinea

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Introduction

Papua New Guinea (PNG), the biggest of all Pacific islands in terms of both population and land-mass, is a country which is, at this point in time, at its most colourful stage; politically, socially and especially economically. The situation of women is even more colourful. With a population of approximately 3.9 million people (according to the 1992 census) half of which is female, PNG stretches over a total land-mass area of 467,000 square kilometres.

There are 19 provinces in PNG, each with its own government and capital. The 20th «province» is the National Capital District, in which the capital city, Port Moresby is situated. PNG has more than 700 different languages, with English, Pidgin and Hiri Motu, being the national languages. This great diversification of languages indicates a people of many tribes and customs, which is confirmed in the different attitudes or acceptable norms regarding women.

In PNG today, the ways of life of many people have changed; many of the old customs have been dropped and new ways, some which are considered better, adopted. However, it is also true to say

that some of the new ways adopted into PNG societies are ruining the lives of many people, especially women.

General Description of the Situation of Women in PNG

General Information

Women in PNG range from the most isolated and illiterate, who make up the bulk of the female population, to the semi-illiterate and finally to the working and the elite who make up a very small percentage. Traditional society places the responsibility in a subsistence agricultural economy on the women as principal providers of food. Consequently, they have a primary duty in family concerns and thus carefully harbour their resources.

In the last hundred years in coastal and island communities, PNG women have overwhelmingly changed. This is a direct result of the impact of education, Christianity, a cash economy, Western laws, urbanization and free movement of people, all of which have greatly affected marriages and altered women's roles in the cross-cultural marriage situation. Many traditional practices and roles have been changed and new roles have been created (e.g. working mother whose unemployed husband tends the children and the house while she is at work).

Problems Faced by Women in PNG

Women are regarded as inferior beings whose status is always lower than that of men and generally speaking, women occupy a subordinate position to men in decision-making. In some extreme societies or language groups in PNG, women are viewed as property and are dominated by men in family relationships. These relationships have led to situations where women are treated violently. In addition, the deteriorating law and order situation in towns and main urban centres and the high rate of petty crime,

poses a great threat to women's freedom of movement. With the influx of bigger projects like forestry, mining etc. to PNG today, there is now an increase in prostitution and the number of illegitimate children fathered by foreign employees in project areas and borne by local girls. This is of increasing concern and at times creates conflicts when it comes to the question of maintenance of children. This matter has been taken up by church women's groups and local NGOs.

The political crisis on the torn island of Bougainville for the last five to six years has had a devastating affect on the lives of people, in particular women and children. The shortage of or lack of access to medical supplies has at times been particularly dramatic. There have been brave attempts by women's groups on the island to bring conflicting groups together and some have lost their lives in the fighting.

The modern PNG woman with her education and a stable job has broken through many barriers. The one barrier she is still fighting to overcome is that put up by her equally educated male counterpart who regards her as inferior and expects her to conform to traditional roles. This kind of situation leads to more physical violence amongst educated couples, marriage break-ups and the increasing number of many single PNG mothers who have had to bear the consequences of raising children alone while at the same time holding down a job, in many cases an executive position.

Finally, legal aid services are either not known about or are not accessible. In PNG, where the majority of women are illiterate and live in rural areas, legal services are at times too expensive to consider. The village courts, in particular, at times misrepresent or mistreat women's cases. Even if a women can read and write, the legal language used – even though English – is hard to understand. The language needs to be simplified so that it can easily be understood. This last point brings us to the objective of this seminar which is to examine the efforts taken by some countries to promote legal literacy and develop legal aid and paralegal literacy programmes. PNG has embarked on these programmes and already indigenous organizations in the country have begun to take this essential service up.

Provisions in the Constitution of Papua New Guinea Particularly Affecting Women

The Constitution of Papua New Guinea came into effect on 16 September 1975. The provisions in the Constitution particularly affecting women are:

- a. the National Goals and Directive Principles and basic social obligations contained in the preamble to the Constitution at paragraph 1(5) which emphasize the importance of the Melanesian family; paragraph 2(5) which stresses the need for equal participation by women in social, economic, religious and cultural activities; and paragraph 2(12) which states that marriage and parenthood should rest upon equality of rights and duties of the partners.

According to Deputy Chief Justice Kearney, «The Constitution is permeated by an underlying principle of free and equal participation by its citizens.»

- b. section 55 of the Constitution which states that:
«Subjects to this Constitution, all citizens have the same rights, privileges, obligations and duties irrespective of race, tribe, place of origin, political opinion, color, creed, religion or sex.»

Relevant Legislation

The laws in Papua New Guinea do not discriminate against women. However, discrimination arises in the way in which the legislation is applied by magistrates, especially at village court level, and derives largely from the fact that Papua New Guinea is predominantly a patriarchal society and that there has been a resulting failure by the male-dominated magistracy to, at times, observe or to even recognize the legal rights and needs of Melanesian women.

Family Law

The general area of family law consists of legislation pertaining to marriage, divorce, maintenance and property claims and the custody and adoption of children. Also included is succession and inheritance law as it applies within the family.

Marriages

In Papua New Guinea the law recognizes both customary marriages and Western-style marriages.

In almost all customary marriages, some sort of bride price is exchanged. However, other practices pertaining to customary marriages vary quite markedly throughout PNG and can, from an evidential standpoint, at times make the marriage difficult to prove - especially in cases where the husband and wife come from different areas and where they do not share the same customary practices.

To date no reported cases have arisen in which a family law provision relating to marriage has been challenged as being inconsistent with the constitution on the grounds that it discriminates against women.

Under the patriarchal influence which is prevalent in Papua New Guinea, women are under greater daily pressure than men to perform domestic duties. According to a study carried out by the PNG Law Reform Commission in 1985, women are not treated as equals. The report shows that wives do much of the work in the home and family environment but do not participate in decision-making. Husbands do not distribute goods and income fairly and often keep the money earned from the sale of vegetables and other products of their wives' labour after such produce is sold in local markets. Domestic violence is a major problem in Papua New Guinea.

A *de facto* wife whose relationship with her male partner has not been recognized as being a valid marriage (e.g. a customary

marriage²⁸) is not entitled to the same legal remedies which are accorded to a wife whose marriage has been recognized in law. Instances of this legal disadvantage are:

- a. a *de facto* wife has no claim for maintenance from a husband who deserts her;
- b. a *de facto* wife is unable to sue a husband for divorce and is also unable to ask the courts to grant her a share of any property owned by the husband by taking into account her domestic contribution, the husband's conduct or her financial needs for the future;
- c. a *de facto* wife is unable to apply to the courts to grant her a larger share of the estate of a husband who dies leaving a will;
- d. a *de facto* wife is unable to lay a claim for loss of consortium after her husband is killed in a car accident;
- e. a *de facto* wife is unable to lay a dependency claim under the Motor Vehicles (Third Party) Insurance Act or the Wrongs (Miscellaneous Provisions) Act.

Village Courts Act Chapter 44

Under the Village Courts Act, a village court is directed to apply «custom» in the resolution of dispute (s. 26). The court has an unlimited mediatory jurisdiction (ss. 16 to 18). It also has ancillary jurisdiction to make orders «that are necessary or convenient for the purposes of the exercise of its powers, jurisdiction and authority under this Act». (s. 13).

28 A survey conducted in 1985 by the Law Reform Commission, published in their occasional paper No. 18, 1985 *Marriage and Domestic Violence in Rural Papua New Guinea* showed that customary marriage alone is the usual form of marriage. 70.2% of married men and 63.7% women were married according to custom.

In applying these sections, village court magistrates generally tend to abuse or disregard the purpose and limits of their statutory powers.

There have been numerous reported cases of women who have been jailed incorrectly by village court magistrates. His Honor Mr. Justice Woods, the resident National Court judge of the Highlands region, receives on average 15 complaints a month from women who have been jailed for failing to obey a village court order. In many cases the order is either to repay her bride price or to return to her husband.

Village court officials should give women the option of paying «in kind». However, orders almost always have a large cash component. Because women subject to these orders seldom have the means to pay cash, they then face a term of imprisonment.

In some cases, if the wife is unable to repay her bride price, her father is ordered to repay it. If he does not, he too can receive a jail sentence.

Village court magistrates also use orders to stop wives from leaving their violent husbands. Sometimes an order prohibits a wife from going to her gardens or to the local river to wash or fetch water. If the wife disobeys these absurd orders, she can be held in contempt of court and jailed.

These are but a few examples of the serious infringement of PNG women's fundamental constitutional rights which have become part of everyday life. Such infringements go against all principals of equal rights and justice for women in Papua New Guinea.

Inheritance

The Wills Probate and Administration Act sets out the rules of inheritance for a man and woman whose marriage is recognized under the Western-style Marriage Act. It does not directly apply to customary marriages.

If a European man were to go through a purported form of customary marriage with a Papua New Guinean woman and he were to later die without making a will, the woman would not be entitled to any of his property regardless of how long the parties had lived together and how the wife's relatives might view the domestic situation. The husband in these circumstances should therefore have undergone a statutory marriage at the outset or at the very least made a will in favour of the *de facto* wife if the wife's property rights are to be maintained.

More awareness is needed amongst Papua New Guineans of the importance of making a will, especially where assets are being accumulated by marriage partners.

Labour Law

Under section 100 of the Employment Act, Chapter 373, a woman is not entitled to full pay whilst on maternity leave. The employer applies her sick leave or vacation leave credits to cover that period.

In the major centres of Papua New Guinea, employees are covered by locality-related «Common Rules» which do provide for payment of maternity leave.

Female public servants now have maternity leave paid as a result of the introduction of the Public Service General Orders (7.20) as do, for example, national airlines employees under the National Air Lines Employees Association Agreement of 1989 to 1993.

Criminal Law

Provocation is a defence under the criminal code. However, it is very rarely applied in cases where a woman is jailed by a village court magistrate for killing her husband after years of violent domestic abuse.

Further, assault is an offence under the Summary Offences Act. However, very rarely do wives who have been assaulted by their husbands report their cases to the police. The police adopt a «don't care» attitude by not investigating disputes that arise from domestic violence. Their attitude is that this is a problem between husband and wife who should resolve it between themselves. Also, a woman finds that she is unable to pursue assault charges against her husband as she is dependant on him financially. When she does pursue such charges she usually finds herself without a home and abandoned.

Areas in which Women are most Discriminated Against

From the above discussion it will be seen that the use of custom when resolving marital disputes is very discriminatory in that it invariably favours the man. This is because violence against women is the result of accepted societal attitudes. Any solution to the lessening of violence against women must first address this deep-seated problem. Simply stated if one's attitude is such that frustrations may be released by hitting a spouse when some fault arises, domestic violence will continue unabated.

Women in PNG will continue to be discriminated against in the village courts if those courts continue to be dominated by men who hold unacceptable prejudiced attitudes towards women. This also applies to polygamous marriages and inheritance under customary law.

Judgments which Discriminate Against Women

There are no reported discriminatory judgments from higher courts. However, there are many unreported judgments handed down by village court magistrates which unreasonably and unjustifiably affect and control the way PNG women are expected to conduct themselves in traditional PNG society.

Organizations Working to Promote Women's Rights and Developing Legal Literacy / Paralegal Training Materials

ICRAF (Individual Community Rights Advocacy Forum)

- Organizes workshops and carries out training on paralegal work and women's rights.

YMCA

- Provides a women's adult literacy programme and leadership skills.

Home Affairs - Women's Division

- Provides women in development and women and
- Development training packages.

PNG Trust Meri

- Promotes equal participation by women in literacy programmes.

ENB Sosial Ekson Komiti

- Carries out awareness and training programmes regarding violence against women.
- Promotes women's participation in environment issues and decision-making.
- Promotes women in management.

WEEP Programme (Women and the Environment Programme, Melanesian Environment Foundation)

- Carries out environment education awareness and training for grass-roots women in PNG.
- Produces support materials like posters, brochures, booklets and video-cassettes to disseminate information.

The Law Reform Commission

- Carries out research and surveys and prepares publications and reports on marriage and domestic violence in urban PNG. It also conduct seminars on domestic violence and women's rights.

The Law Reform Commission has produced:

- a. A videotape on domestic violence entitled *istap isi*.
- b. Pamphlets:
 - (i) Wife beating is a crime.
 - (ii) What to do about rape.
 - (iii) Adultery and enticement.
 - (iv) Maintenance and custody.
 - (v) Affiliation and custody for single mothers.
 - (vi) Maintenance and custody for divorced wives.

These materials are useful for all Papua New Guinean women, right down to the grass-roots level. They are all prepared in simple pidgin, PNG's second language, and so are easy to understand; for those who are illiterate, the pictures on the pamphlets and the videotape are quite understandable.

Coordination of Women's Activities

There is good coordination of activities among organizations working on women issues at all levels – nation, regional and international. This is carried out through seminars, workshops, paralegal training courses and, of course, through funding agencies who provide funds for all of the above. All these activities are very effective in that they broaden knowledge and have participants well equipped for implementation in their respective communities.

Activities in the United Nations

In 1993, *East New Britain Sotel Ekson Komiti* organized and celebrated the «International Day to end violence against women» through rallies, choirs, a march, drama and displays of national and international development issues concerning women (photos, videoclips, cuttings and speeches).

We are also participating in the United Nations Conference on Women NGO Forum documentation project.

Additional Information

The use of alcohol in PNG cultural activities is increasing at an alarming rate and in some areas it has found its place in compensation ceremonies, marriage ceremonies and big cultural «sing-sing» ceremonies. Alcohol also contributes to domestic violence, accidents, deaths and the great law and order problem in PNG. Women have fallen victim to alcohol use and abuse, directly and indirectly. Alcohol is seriously threatening and has become a major factor where women are treated violently, resulting in problem marriages, divorce and even death.

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

PNG ratified the CEDAW on 23 March 1994.

Conclusion

To conclude this paper, we wish to say that the message to us all is clear – that women are the key to change. We join with you all in saying we will support each other to overcome violence in our communities.

Solomon Islands

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Introduction

The Solomon Islands is the second largest of the Pacific island States with a total land area of 28,000 square kilometres. It comprises a scattered archipelago of mountainous islands and coral atolls stretching over some 800,000 square kilometres of ocean. It lies about 1,800 kilometres north-west of Australia, its closest neighbours are Papua New Guinea to the north-west and Vanuatu to the south-east.

There are six main islands and 400 smaller ones dispersed over a vast expanse of ocean. The six main islands are Choiseul, New Georgia, Isabel, Guadalcanal, Malaita and Makira.

The population is predominantly Melanesian (approximately 95%) although there are smaller Polynesian, Micronesian, Chinese and European communities. Within the Melanesian community there is a great deal of cultural diversity exemplified by a range of languages and variations in customs.

Some estimates suggest that more than 90 different indigenous languages are spoken throughout the Solomon Islands. English is the official language and Pidgin the *lingua franca* for the majority of people.

The vast majority of Solomon Islanders (approximately 85%) live in some 5,000 rural villages primarily engaged in subsistence agriculture and some small-holder cash cropping.

Like many other developing societies, the Solomon Islands is dependent on the agricultural sector, including fishing and forestry, for subsistence needs.

Political Structure

The Solomon Islands was a British protectorate from 1893 until it attained internal self-government in 1976 and then independence in 1978. It is a constitutional monarchy with Queen Elizabeth as Head of State, represented in the country by a Governor General who is elected every five years. We now have the first Solomon Islands woman member of Parliament, Mrs. Hilder Kari and she is the Minister for Energy and Natural Resources.

Social and Cultural Factors

Women are the major food producers in the Solomon Islands and the making and maintaining of gardens is their principal domestic economic activity. Besides food production, women also have the responsibility for collecting water and firewood, child care and other domestic duties. Women also make an important contribution to cash cropping. Additional to their agricultural and maternal responsibilities, women also take care of the aged, fish, if they are living in a coastal area, and contribute to ceremonial activities.

At marriage a bride-price is paid to the bride's family and her clan. A woman's value is not only based on her capacity to work but also on the fact that she is a source of wealth and personal pride to her family, hence the bride-price.

Relevant Legislation

Domestic Violence

The vast majority of women in the Solomon Islands have very little knowledge of the laws that protect them, their constitutional

equality or their legal rights and rarely use those to their advantage. Women's lives and status continue to be largely influenced by custom and tradition. The need for Solomon Islands women to gain some familiarity with the legal system is becoming increasingly important given the fast pace of social change which is altering the dynamics of traditional life.

As with other countries in the region and for that matter around the world, domestic violence is a problem for many women in the Solomon Islands. The major reasons seem to be alcoholism, sexual jealousy, failure to adequately perform expected wifely duties and financial pressures as well as what we term in the Solomon Islands the *Wantok* system.²⁹ These problems may result in the breakdown of marriages and in divorce. Although there has been no study undertaken on the nature and extend of domestic violence, it is widely agreed and accepted that a large number of women are victims at some time in their life and it is increasingly becoming a serious social problem, especially amongst city dwellers.

Traditionally, women could turn to their kin for help and support. A women's family would initially attempt to talk her husband out of such behaviour but if he persisted they would take the woman back. A woman would then remain with her family until her husband and his kin paid compensation. The system of paying compensation to some extent ensured that such behaviour was not repeated since the husband was placed under immense moral pressure by his family who generally contributed to the compensation payment.

Although the compensation system still exists in many areas, women are often geographically distanced from their families, making the practice impractical. In the new social settings women must turn for help to the police, who tend to treat such issues lightly and demonstrate a reluctance to interfere in domestic affairs. Very few women seek help from the police, take their husbands to court or are even aware of their legal rights as far as domestic violence is concerned.

29 *Wantok* system means the extended family.

Most women harbour traditional attitudes towards domestic violence perceiving it to be a private issue as well as accepting the «right» of husbands to chastize their wives. Such views have resulted in little public attention being given to the problem.

Most women, including those prominent in the women's movement acknowledge the widespread existence of domestic violence and accept the need for action, while stressing that the issue must be tackled cautiously and sensitively. In the Solomon Islands, where the church is extremely influential, action taken against domestic violence is interpreted as promoting and causing marital disharmony and break down. This issue has already created divisions between and within womens' organizations.

Rape is another area of violence where women are often victims. Rape is defined as unlawful sexual intercourse with a women or a girl obtained by force or unlawful means. In the Solomon Islands few women are subject to sexual abuse; however the incidence is increasing slowly. Rape victims are expected to report the incident to the police then to the magistrate, following which it will be referred to the High Court for trial.

Legislation

Maintenance

Regarding maintenance, a woman has the right to take legal action against her husband using the Islander Divorce Act and the Affiliation, Separation and Maintenance Act. The latter act states that any married women whose husband is working can claim maintenance from the father of her child (as can any single mother).

Conclusion

There is a great need for women to be made aware of their legal rights regarding the above matters so that they can not only seek

protection but also improve their quality of life. There should be government-sponsored agencies that promote womens' rights and women should be encouraged to join such organizations. Women in employment have greater opportunities to participate than housewives who are confined to domestic duties, and who therefore, should be specifically targeted to receive information regarding their rights. Education will also have an impact on women and their rights. Accordingly, school children, particularly girls, should be encouraged to pursue their education further.

Tabiti

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Introduction

French Polynesia is made up of island groups in the South Pacific with a population of 208,000. It is one of the three French Overseas Territories, the others being New Caledonia and Wallis and Futuna. Since 1984, our Territory has had an internal, autonomous Constitution, which allows for two kinds of government:

- the State Government; and
- the Territorial Government.

The State Government

The High Commissioner nominated by the French State represents the French Government in the Territory. He is in charge of national security and so is responsible for

- the supervision of 200 miles of territorial limits;
- justice, immigration and customs;
- money, defence, district regulations and legal control; and
- the Police Department.

The Territorial Government

The President of the Territorial Government is elected. He represents the Territory in the French Government. He chairs the Government Council which has nine ministers. He guarantees the executive power of the first institution in the Territory.

The second institution is the Territorial Assembly which has 41 councillors from different political parties. The Territorial Councillors are elected with a five-year mandate.

The third institution is the Economic, Social and Cultural Council. This institution has only an advisory role and represents the different important economic, social and cultural groups within the society.

The Territory is in charge of the Departments of Health, Education, Youth, Environment, Transport, Handcrafts and Land. Despite the separation of governments, which is well-balanced, problems can arise.

Description of the Situation of Women in our Territory and their Preoccupation

Women are very much concerned about the well-being of their children and husbands in addition to their personal needs. Self-reliance, networking, sharing other women's experiences, self-esteem, etc., are some issues which they consider as high priorities for their development and which they want to share with others.

There are fewer women than men in French Polynesia (there are 8,000 more men), but women attend school longer and have more certificates. Through their education and their natural lack of aggression, women have greater know-how and more harmonious social interactions than men and also envisage their future in a more realistic and comprehensive way.

There are some difficulties, especially with regard to family planning, domestic violence, and professional training.

Nevertheless, women «in» and «of» Polynesia are courageous and are ready to take themselves in hand and to assume their own responsibilities.

There is a high birth rate – approximately 5,000 births a year - but no planned programme which can help to cope with this fast changing demography, either in the Health Department or in the education, social or economic fields. Some 2,500 young people each year enter the labour market.

Though French Polynesia may cover an area as large as Europe, yet it is mostly made up of several small islands. Tahiti attracts numerous inhabitants from the outer islands because of its advanced health, education and social structures.

Social Issues

Issues concerning domestic violence, education, health, housing, environment, scientific research, and drug abuse are immediate and relevant. All these demand that we take responsibility, wherever we are and whenever we can act.

The Constitution

Everybody is equal under the Constitution. However, although, we have had an Information Centre on Women and Family Rights since 1991, the fundamental right to information is not developed enough.

Relevant Legislation

Family Law

In marriage law, both husband and wife should participate equally in daily duties. If one partner does not, the other can ask a

judge dealing with family matters to set a certain amount as a contribution from the other.

Inheritance

The intervention of a notary can be necessary when dealing with succession. The outcome depends on the kind of marriage contract between husband and wife. A woman has the right to buy land if she wants.

Labour law

An employer cannot refuse to take on workers because of their sex or because a woman is pregnant. Men and women are equal under work regulations.

Areas of Greatest Discrimination Against Women

Discrimination against women can be found in several fields.

Religious

In many churches women do not participate in decision-making at parish level. There are still churches which do not accept the ordination of women as ministers or deacons.

Cultural

There are still many communities where, according to their custom and tradition, women are not allowed to stand up and talk in front of men. They carry out orders given by the chief or the councillors, and it is considered that their place is behind a locked door or in the kitchen.

Political

There are very few women in politics.

In the above field, the image of womanhood is considered as a handicap (women being seen as having to submit themselves). It is, therefore, vital to conduct information campaigns to promote and encourage women to take leadership roles and assume responsibilities.

Organizations Working on Women's Rights

There are many non-governmental organizations in French Polynesia as well as a public department dealing with the development of women's rights in all fields of life.

Development and Dissemination of Literacy/Paralegal Training Material

There are all kinds of organizations which deal with the dissemination of information regarding women's rights in all fields. Meetings and training workshops on particular themes are organized by professional resource people. Methods, tools and programmes are prepared and worked out according to the needs of the participants.

Coordination of Activities Between Organizations

There are several NGOs, church organizations, social and public groups and government institutes, which work at the international (United Nations) and regional (South Pacific Commission) levels, as well as at the national and territorial levels.

Methodology is mainly appropriate video film shows, case studies based on newspaper reports, exposure-visits, and life situations group sharing.

At national, regional and international levels, various activities are coordinated with groups regarding the practical implementation of activities concerning women. The French Territory participates in United Nations activities through the Department of Women's Rights of *France Metropolitaine*, and through the South Pacific Commission and the CESAP.

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

France has ratified the Convention and our Territory ratified it during the Sixth Pacific Regional Women's Conference in Nouméa (N.C.) on 5 and 6 May 1994.

Tabiti

Ms. Roti Make-Tehaeura
President
Executive Women's Committee
Polynesian Women's Liberation Front
Tavini Hui Raatira

The Tavini Hui Raatira Women's Committee was set up in 1986, together with the Youth's Committee.

Its main aim is to promote women's rights, that is, to empower women and enable them to speak up at all levels of life for the betterment of their future and that of their society.

The Women's Executive Committee has established local groups in many districts. These local women's groups are directly related to the District Committee and participate in all activities at district level, especially information and training projects concerning the Tavini Hui Raatira party programme and government incompetences.

The main concern of the Women's Committee is «the liberation of the indigenous people from the French colonization», in accordance with the decisions adopted by the United Nations, especially resolution 1514 adopted on 14 December 1980, which gave colonized people the right to be informed and to freely decide, through voting, on the recovery of their sovereignty, that is, the independence of their country.

It is really difficult to protect those women whose desire is to act freely and to choose independence, in the face of political opposition from men who do not favour independence.

Since colonization, women's decisions have become dependent on the colonial system. The Western way of life has been completely

accepted. Traditional behaviour and culture have been turned into folkloric events in order to develop Polynesian tourism.

Human dignity is no longer respected and the new civilization has created lots of problems.

We need to question ourselves and try to better understand what the future holds.

The many existing organizations are not fully working out their roles. The political colonial ideology facilitates the restricting of freedom of speech and fosters a mentality which leads the people to accept and search for all kinds of development projects which enable them to get financial support.

If the development of the Territory is based only on money from the State, then it is certain that the country will continue to live on assistance.

All People Have the Right to Freely Claim the Independence of their Country

Whatever can be said, UN Resolution 1514 concerning the «Declaration on the concession of independence to all colonized countries and peoples» clearly points out that no colonized country can claim its justice and its real rights for its economic development, its health, its education, and its social, cultural and traditional riches, whenever a foreign State exercises ownership rights on a place that is not its own.

As for the internal autonomous status of the French Polynesian Territory, it is in itself an obstacle to the emancipation of its people and to the realization of their fundamental rights.

When we speak of a people, we also speak of the development of women and the development of all persons. Women are the ones who give birth to future generations. They are the ones who pass on their knowledge, their culture and their oral traditions to the

children in order to keep the specificities of their heritage and enrich the world and so allow their heritage to be integrated in the economic development of their country.

Must we just sit and watch and do nothing? Do we have to conclude that the people must continue to accept this situation and let the colonial power exercise its ascendancy over them. Do they have to accept mutely the invasion of their labour force by unemployed Europeans who come and settle down for good in their Territory and so take their young people's share of jobs. What will the future of the young people be? This is not racism, it is only a natural human right to ask for the independence of our Territory so as to protect the future of our people. What law gives the colonialist power the moral right to force itself on someone else? We are quiet when we need to speak out loudly. Stop invading us without asking us. Stop stealing our land and our heritage. We now understand the political strategy of the invading powers; we ask that our sovereignty be given back without bloodshed.

The awakening of youth and women in particular and their search for protection for their children would help to bring together all the potential and strength in our society to make known our rights and safeguard our dignity.

As women of today, we cannot cut away the roots of our education that our parents transmitted to us. We cannot leave our heritage, our history, our culture and our laws, even if they are oral laws. Western pragmatism, which considers the Polynesian people as inferior, is a denial of human and people's rights.

I would ask those women living in independent countries to identify themselves for they are in a strong position as they have international recognition. They can reflect on, study and concretely carry out activities for the betterment of their people. Their interest is really profound and very noble and helps towards providing a wonderful heritage for their children.

The application of laws is of great moral interest, it aims to provide a basic harmony and respect for truly human values and so to spread human rights in independent countries.

Democracy is an essential value which enables the building up of a better world.

What are our roles as women? We no longer live in ancient times and yet, we do not exercise our roles fully. We are still under the rule of men, we care for their physical well-being in order for them to impose laws on us, while we should be claiming those rights which belong to us as women and by which we can develop a better future for women.

Laws should no longer be oral but fully written and applied according to ancestral rules in order to better organize the present and prepare the future.

This is the hope we want to share with you.

Tonga

Ms. Iunisi Malolo Fuka

Legal Adviser

Fuka Law Office

and

Ms. Seini Vakasiuola

Administrator - Director of the Village Women's

Development Programme

Foundation for the Peoples of the South Pacific

Introduction

The Kingdom of Tonga comprises 169 scattered islands. The total land area is 669 square kilometres, which is less than one percent of the sea area. There are three main islands: Tongatapu, Vava'u and Ha'apai. The largest island, Tongatapu, is only 159 square kilometres in area.

Tonga is a kingdom with a constitutional monarchy whereby the King rules in accordance with the provisions of a written Constitution, which was adopted in 1875. The form of government written into the Constitution is based on that of the United Kingdom and provides for government authority at three levels. The highest level is that of the King in Privy Council and Cabinet. The Privy Council is the highest executive authority in the country and consists of the King, all the Ministers of the Crown, and the Governors of Vava'u and of Ha'apai. The Cabinet is appointed by the King, and does not serve any set term.

The Legislative Assembly comprises all the ministers and governors, together with nine representatives elected by the hereditary nobles, and nine representatives of the people. There are no political parties.

The population was estimated in the 1986 census to be 94,649 persons, with 67.4% of the total being resident on the main island (Tongatapu). The net annual rate of population growth for the past six years has been 0.6%. This low rate of growth is primarily the result of foreign migration and, to a lesser extent, of family planning.

An interim population update issued in 1992 estimated a total population of 98,161 persons, of which 47.72% were women.

It has been claimed that Tongan women hold a very high status in society. According to Tongan culture, women (and especially the first born) are *fahu*, which means that they have specific rights and certain privileges over their brothers' children, and their maternal uncles and their children. The privileges attached to the practices of *fahu* are usually emphasized on social occasions such as weddings, funerals and birthday feasts involving those family members over whom the *fahu* is superior. Women, however, do not have inheritance rights, as Tonga is a strictly patrilineal society. Therefore, they cannot inherit property, lands or (in the case of nobility) a hereditary title.

In contemporary Tonga, attitudes towards the traditional role and status of women have been changing, not only among women themselves but in society as a whole. These changes may be due in part to the exposure of Tongan people to Western influences through, for example, education and overseas travel. It may also be a result of economic security for those who succeed in penetrating the capitalist economy.

Political Status of Women

Historically and traditionally, women in Tonga were not involved in political decision-making. Exceptions, however, have been allowed for succession to the throne. On only two occasions have women ascended to the throne, the most recent being when Queen Salote became the 21st *Tu'i Kanokupolu* from 1918 to 1965. She was readily accepted by both the nobles and the people.

Women are absent in the modern political arena. There is a total absence of women in the Legislative Assembly, where the members consist of ministers selected by the King, representatives elected by the nobles, and representatives elected by the people. This is a legacy of a cultural belief that decision-making is a man's role, rather than intended discrimination against women. In the 1970s, two women did manage to make their way through to election to Parliament, although each served only a single three-year term. Another woman is still serving her first three-year term until the next election in 1996.

At the village level, there are district and town officers, who are responsible to the Privy Council through the Prime Minister's Office. Formerly appointed, these officers are now elected and their responsibilities include minor regulatory tasks dealing mainly with public health responsibilities and village order. To date, no woman has been elected or appointed to any of these positions. The lack of female involvement at this level is sometimes explained by the fact that women are highly respected in Tongan society. The responsibilities involved in these elected positions are not familial and therefore considered inappropriate and disrespectful to women, rather than being any indication of lack of capabilities on the part of women to assume the responsibilities involved.

No women sit on any of the boards of such quasi-governmental agencies as the Tonga Development Bank or the Tonga Electric Power Board. Government representatives of these boards are appointed by the Cabinet, and they are normally the heads of department. There has never been a female head of any government department.

Despite this overall absence of women in decision-making roles, they are increasingly involved in administration and management. It was found (Fleming et al, 1983³⁰) that the proportion of women in the top levels of the Civil Service had increased to 15% by 1983. This trend could be an indication of a growing presence of Tongan women in middle-level decision-making positions.

30 A report to ESCAP on the review and appraisal of achievements of the United Nations Decade for Women, Kingdom of Tonga.

Employment

As noted above, there is an increasing number of women in the top levels of the Civil Service, in middle-level decision-making positions, and in administration and management in general. However, this trend does not appear to be reflected throughout the entire workforce.

On examining the basic statistical information, the following observations can be made:

- Although women comprise nearly 51% of the total potential workforce, less than 19% are actually employed, according to government definitions of employment, workforce, and occupation, etc.
- Men are four times more likely to be employed than are women.
- Nearly 61% of the total potential workforce is unemployed, according to government definitions of employment, workforce, and occupation, etc.

It is unlikely that 61% of the total potential workforce is actually unemployed. That unrealistically high figure is likely to have been caused by inappropriate or incomplete definitions of key concepts such as types of employment, types of occupation, and/or who is included in the workforce.

In particular, it is likely that the conventional definitions used in cases like this exclude, ignore or omit the roles and responsibilities of women as wives, mothers, caretakers of the home and family, producers of handicrafts, etc. The explicit and implicit assumptions within these definitions need to be examined and re-assessed, to make them more appropriate, and thus to make the resulting statistical information more realistic.

It is acknowledged that for social, cultural or physical reasons, women are excluded from certain types of employment. Even so, it appears that the ratio of men employed to women employed is very

unbalanced. Reasons for this imbalance need to be examined and considered, for the benefit of women and for more effective use of human resources. Women could play a greater role if constraints were eliminated. It appears that the resources, skills and abilities of women are either not being properly accounted for, or not being effectively utilized.

Legal Status

No legislation gives specific or preferential consideration to either men or women with regard to employment. In the eyes of the law, women and men are equal. Nevertheless, social norms and the domestic roles of women have at times been constraints on the advancement of their careers outside the home.

The rights of women upon marriage are clearly laid down by the law. The age of consent to marriage is 18. There is also legislation prohibiting certain degrees of consanguinity. On marrying a foreigner a woman has the right to acquire the nationality of her husband. Upon acquiring a foreign nationality, she automatically loses her Tongan citizenship. If in the future she wants to regain her Tongan nationality, she may do so with the approval of the Chief Immigration Officer. Illegitimate children normally take the nationality of their mother.

Deserted wives are entitled to certain benefits according to the law. A court order can force the husband to provide for the maintenance of the deserted wife and children. Illegitimate children can receive maintenance until the age of 16. These benefits do not extend to deserted husbands.

In the Civil Service, maternity leave with pay was only granted in 1968.

Inheritance Law

Inheritance laws in Tonga discriminate against women, because only the male issue of the father can inherit land.

According to the Constitution, men and women are equal and in most legislation there is no discrimination between them. It is only in the Land Act and the Inheritance Law that men and women are treated differently.

Land Law

The most common form of land acquisition in Tonga is by inheritance. Land will go to the eldest legitimate male heir of the estate holder, *ad infinitum*. Succession is controlled strictly by law, and land cannot be willed or sold. Women can only acquire land through leasing. The argument for this has been that if women had land rights then, when the woman marries, land could be lost from the family and effectively gained by her new husband.

Certain aspects of the Land Act provide for the sustenance of women under special conditions. A widow has the right to use (but not own) her late husband's estate until she effectively breaks the marriage vows either through remarriage, or by being proven guilty of adultery or fornication. Furthermore, if there is no male heir of the same degree, then the daughter has the right to use the land until she marries.

Criminal Law

There is no discrimination against women with regards to the criminal law of the Kingdom.

Organizations in Tonga Working on Women's Rights

There are no organizations in Tonga which work specifically or directly on women's rights, or on developing/disseminating legal literacy or paralegal training materials. But there are a number of organizations which include a focus on women and women's rights within their programmes and areas of interest and concern.

Many women's organizations work on women's issues at the national level, interacting not only by/with/through the government, but also among themselves. As a result, the non-governmental women's organizations established a National Executive Committee in 1991 to coordinate national women's activities and to promote welfare development in Tonga through its member organizations. This structure was incorporated into the old and respected national women's association, the *Langafonua a e Fefine Tonga*.

On the government side, work began through the ministries and departments that had women's sections. These were strengthened and their work objectives clearly identified. As a result, the government established, in 1993, a women's affairs section, known as the Women in Development (WID) Unit, within the Prime Minister's office. The long-term objectives of the WID Unit are:

- to integrate women into the mainstream of development in the country;
- to provide assistance and consultancy for women so as to enhance their economic productiveness and their awareness of their roles in the economy;
- to promote women and development and coordinate with women's groups and organizations in developing and implementing programmes for women in the fields of education, health, agriculture, fisheries, nutrition, politics, law, home management, income-generating activities and communications.

There are other formal women's organizations, and many more informal groups in Tonga, all with the common goal of upgrading the standard of living of women and their families. For example, the twin organizations of FSP and Tonga Trust sponsor a village women's development programme, involving mainly the outer islands, and primarily focus on social and environmental development, income-generation, and a variety of other training programmes. One goal is to enable women to be self-supporting, to make their roles much easier within their families and communities, and to strengthen their traditional roles.

In addition, the Women's Affairs Unit and its steering committee completed a National Preparatory Workshop for the United Nations Women's World Conference to be held in Beijing.

Convention on the Elimination of all Forms of Discrimination Against Women

The Government of Tonga has not yet ratified the above Convention. However, through the regular radio programme of the Women's Affairs Unit, women's groups are made aware of the various United Nations conventions.

Dissemination of Legal Information

At present there are no women's organizations in the country set up specifically to disseminate legal information, etc. However, women lawyers in Tonga belong to the Law Society of Tonga and take a very active role in the running of the Society and working towards its goals and objectives; that is, the encouragement of young people to join them in legal activities, etc.

Conclusion

As can be observed from the above information while the laws and Constitution of Tonga in most cases do not discriminate against women, there are certain areas and situations where this is not so. These need to be reviewed, revised or amended, as culturally and socially inappropriate, so as not to discriminate against women. Progress is being made in the striving of women for their rights in Tonga and for changes in the inheritance and land laws, etc. Women are becoming increasingly aware of the need for more women in the legal profession, if the rights of women are to be upheld.

Tuvalu

Mr. Philip Ells
People's Lawyer of Tuvalu
and
Ms. Meleta Faaalo
Secretary for Mission and Evangelism
Tuvalu Christian Church Headquarters

Tuvalu is one of the smallest countries in the world. It comprises nine islands of only 26 square kilometres of land spread over 560 kilometres, with 1.3 million square kilometres of sea. The population in the 1991 census was 9,043 and is growing fast. The main concentration of people is on the capital, Funafuti, which has in excess of 4,000 people living on it. In 1991, women made up 52% of the population, the majority being aged 40 and over; 31% of the female population is located on the outer islands. There are no telephones on the outer islands although a telephone system along with electrification is planned shortly. Inter-island transport is by means of one-passenger boat.

Particular Problems of Women in Tuvalu

The woman's role in Tuvaluan society has traditionally been that of caring for the family and home, and preparing the meals. This stereotypical division of labour was a practical consequence of living in a harsh environment where survival depended upon community skills and cooperation.

Women face longstanding prejudices in the *Maneapa* system, the traditional meeting house, and in religion. It is only recently that women have been allowed to speak and their opinions have been acknowledged and valued when a meeting of the village elders takes place. Their previous exclusion from participation stemmed, in part,

from pre-Christian days when weapons were carried into the *Maneapa* which might have been employed if a heated dispute arose. A significant development occurred with the election and subsequent appointment to the Cabinet in 1989 of Mrs. Naama Maheu Latasi, OBE, the first female Member of Parliament and member of Cabinet. Mrs. Latasi was returned as an MP in the 1993 election.

There are numerous religious organizations in Tuvalu. They are hierarchical and almost all senior positions are occupied by men; in the State church, the Church of Tuvalu, women cannot be ordained.

Following marriage, a woman traditionally leaves her family home to live with her husband and his family. This often leads to great conflict between the mother-in-law and the new female family member within the extended family and can damage the marriage.

Domestic violence is almost never reported. If there is violence in a marital relationship, the woman may return to her parents' home and the families will seek a resolution of the problems.

Sexual offences are on the increase possibly due to alcohol consumption and the introduction of the cash economy.

The onset of development has brought an increasing number of technical specialists to advise the country on policies and institutional structures. Women are rarely consulted or asked for their views in the process of considering new projects and policies. Their voice is a disparate and quiet one. There is a noted lack of confidence in forcefully advocating the contribution women can make to the life and well-being of Tuvalu.

Constitutional Provisions Affecting Women

The Constitution of Tuvalu was amended in 1986 following independence in 1978. It states that it is the supreme law of the country and that any legislation which is inconsistent with its principles is void. Particular emphasis is placed throughout upon

the acceptance of Tuvaluan values and traditions; whilst everyone has the right to freedom based on law or the absence of law, such freedom is, however, granted subject to:

«cultural, social, civic, family or religious obligations, or other obligations of a non-legal nature».

The Constitution lists a set of fundamental human rights and freedoms which every person in Tuvalu is entitled to enjoy on a non-discriminatory basis. The right to equal treatment is not part of that list. Freedom from discrimination is not available to women. Factors such as race, political and religious beliefs, origin and skin colour are noted, but not gender.

Specific Discriminatory Laws

Family Law

Divorce and related applications are dealt with by the principal court on each island («the Island Court») or by the Resident Magistrate where the parties do not reside on the same island or one party is overseas. The case of illegitimate children is an exception; it is the Lands Court not the Island or Resident Magistrate's Court which has jurisdiction. The Lands Court has the power to summon a woman before it to enquire into the identity of the father of her child. In these circumstances, some women refuse to name the father and the Lands Court may accept this position and not enquire further if the father does not come forward to claim the child.

Upon application to it, and acknowledgement of paternity by the father, the Lands Court «shall» order the custody of a child of not less than two years of age to the father. No discretion is given to the Court. Even if the father has remarried and has other children, he is entitled to custody without consideration of any other factors, including the welfare of the child.

Land/Inheritance

Land is an extremely important political and social issue in Tuvalu. It is becoming more emotive because of the increase in the population and the consequent pressure upon the small area of land.

Land law is a mixture of statutory legislation and the Lands Code, which has the status of subsidiary legislation. The Lands Code is an attempt to codify customary law as applied in general to land, native adoptions, fishing rights, the administration of native estates and the practices of individual islands. Where the Code is silent, local customary law may be applied by the Court.

Land is an intensely family affair. A woman is entitled to inherit land, although if she dies childless, the land will revert to the original family circle and not be passed on to her husband's family. Consistent with this view, the Lands Code provides that where there is no will the share of any daughter is to be less than that given to her brother (she may marry and take the land out of the family).

Land is more often than not registered in the name of a male, even if it is land held by a group of people who are all related (*Kaitasi*). In some cases, this enables the registered owner to agree to a transaction relating to the land without the consent of all members of the *Kaitasi* being given. Consent of all members is required. Legal challenges may arise where a transaction has taken place without that consent being obtained.

Areas of Most Discrimination

Cultural norms have traditionally excluded women from the formal decision-making process. Their influence is, however, discernible at the island community and household level. Women have traditionally been perceived as implementers, not makers, of decisions. They are represented on few of the important bodies whose decisions affect the majority of the population: for example; the Scholarship Board (education); Chamber of Commerce

(industry); Heads of Islands; Lands Court and Island Court (judiciary). The Executive Committee of the Church of Tuvalu represents approximately 98% of the population of the country - it has one female member.

The lack of representation of women in these bodies is a major factor in hampering official notice being taken of their concerns and hinders their progress.

Discriminatory Judgments

So far as is known there are no judgments that discriminate against women. The High Court is held only once or twice a year with a visiting Chief Justice from New Zealand. Most cases at this level are land appeals and serious criminal matters.

Women's Organizations in Tuvalu

There are several organizations working towards women's rights. A brief description of the most significant groups follows:

Tuvalu National Council of Women (TNCW)

The TNCW is an umbrella organization of all established women's island and church groups in Tuvalu. It works closely, and has extremely good relations, with central government, in particular the Women's Affairs Sector within the Community Affairs Division in the Ministry of Health, Sports and Human Resources Development.

It has a representative membership of women on the Executive Committee from the outer islands' communities residing on Funafuti, and meets regularly to discuss any issues arising from each respective island's women's group, and make decisions and policies that safeguard and upgrade the development of the

organization and the living standards and economy of its members. For example, the TNCW is engaged in considering ways of promoting Tuvalu handicrafts for better marketing overseas as well as seeking funds to help women start small businesses through a credit scheme of soft loans.

There is one full-time staff member, with the title of National Council of Women's Coordinator, funded by the New Zealand Government up until 1996, to implement and coordinate projects identified by the Executive Committee.

A TNCW centre is to be constructed during 1994 on Funafuti.

Tuvalu Church Women's Fellowship (TCWF)

The TCWF's activities are similar to those of the TNCW save that it caters for Tuvalu Christian women only. It is a member of the TNCW. In the early 1980s it was felt that one contributing factor to the lack of response and enthusiasm of women was their acceptance of a subordinate role in the community. This was, in part due to a literal belief in the teachings of the Bible. The TCWF is now trying to counter this view by holding educational Bible studies based on the theme 'Women's role in the church and society'.

Tuvalu Association of Non-Governmental Organizations (TANGO)

The organization was formed in 1986 as an umbrella body to coordinate all NGOs in the country (there are 31 in all). It coordinates between the NGOs themselves, between the NGOs and the government, and also on an international scale.

TANGO does not have funds of its own but helps find resources and funding for its members' various problems. At present it is run on a voluntary basis by the Secretary-General of the Red Cross movement although the volume of work requires full-time staff in order for it to be effective. The current administrator is working towards that goal.

Women's Link

Women's Link is a recent initiative in response to the encouragement and suggestions of Women in Politics (see below). About ten women who believe that there is a great need for further women's development in Tuvalu have held exploratory meetings to establish a new women's body. The group intends to work together with the TNCW but create its own more politicized agenda.

Dissemination of Legal Materials

The level of legal literacy among men and women in Tuvalu is low. This is especially true for inhabitants of the eight outer islands. A project has been agreed by the Canada Fund for the preparation of a legal handbook for women. The TNCW, in association with the People's Lawyer, will prepare the work. Radio broadcasts on the contents of the booklet and on legal issues for women generally will enhance its impact.

A week-long women's workshop organized by the TNCW in February 1994 addressed legal issues for the first time and received a very positive, interested response from participants. These will be continued.

Coordination of Activities and their Effectiveness

The National Women's Coordinator is responsible for circulating information to all women's groups throughout the country.

Whoever represents Tuvalu at any women's meeting overseas must report back to the appropriate national body concerned. The national body will then formulate the most appropriate strategy in hand with the TNCW to ensure that the information acquired may be disseminated.

The lives led by women in Funafuti (which is the headquarters of government administration and private enterprise) are essentially the same as on the outer islands. There is however, a far greater exposure to Western influences and knowledge of women's issues, which can create difficulties of mutual comprehension and in achieving a consensus of approach with women from the outer islands.

On the regional level, activities are coordinated on an occasional and informal basis. The SPC's Pacific Regional Women's Bureau has given assistance to the TNCW upon request. Globally, the World Council of Churches has provided a forum for discussion at its various conferences which Meleta Faaalo of the TCWF has attended as the regional representative for the Pacific. A new regional group sponsored by the Asia Foundation called Women in Politics, which aims to expand women's participation in the political arena, has had one meeting, held in Fiji in February 1994, at which Tuvalu was represented by its sole female MP. Women's Link intends to coordinate some of its strategies and activities with this body.

The effectiveness of these linkages can only be described as moderately successful. Women are only gradually finding their voice and the confidence to express themselves. The continued good relations with central government are of prime importance in developing a unified and consistent strategy for the future.

United Nations

A project devised and sponsored by UNIFEM has been in operation in Tuvalu since 1992. The aim is to integrate women's issues in the three-year national development plan. This document now refers to government efforts to promote women's participation in mainstream development programmes. The strategy is to inject consciousness of women's issues into planning, the collection of statistical data, and, lastly, by means of advocacy, to all sectors of government. Secretaries of all government departments and members of Cabinet are to undertake a course on the aims and objectives of the project.

UNIFEM's assistance terminates in 1995. It is hoped that the SPC will accept the project thereafter.

The UNFPA is assisting with this project. It is developing a comprehensive population programme the results of which will be reflected in a proposed national Population and Development Plan. The aims of the plan, when finalized, will be to improve outer island life and slow down urban drift to the capital, reduce the birth-rate, improve the health of mothers and children, and increase recognition of women's economic contribution. By acknowledging the central role of women, the project will ensure development plans and programmes are geared towards improving the efficiency of women's existing and future levels of participation.

Convention on Elimination of all Forms of Discrimination Against Women

There are currently no plans to sign or ratify the Convention although the matter was discussed previously at Cabinet level in 1991.

Vanuatu

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Introduction

The Independent Republic of Vanuatu comprises a Y-shaped chain of 68 inhabited islands, stretching over a distance of about 850 kilometres in a north-south direction to the south-west of Sydney, Australia, and about 800 kilometres west of Fiji.

Most of the islands are volcanic in origin. Vanuatu has two distinct seasons. The hot and rainy season from November to April, and a cool and dry season from May to October. As is obvious from its location, Vanuatu is very vulnerable to tropical cyclones during the hot and rainy season, and these do have a significant impact on the islands.

The culture and ethnicity of Vanuatu peoples is predominantly Melanesian, however, there are small pockets of Polynesian and Micronesian populations. Vanuatu is probably the most linguistically diverse nation in the Pacific with approximately 105 languages.

The national political structure as defined by the Constitution of the Republic consists of a legislature, an executive and a judiciary. The legislature comprises a unicameral parliament. There are presently 46 seats and members of parliament are elected every four years.

The executive consists of the Prime Minister and the Council of Ministers who, according to the law, must be members of parliament. At the time of writing, there are eleven ministers in the Council of Ministers.

The judiciary comprises a Supreme Court headed by a Chief Justice and three judges. The Head of State is the President who is elected every five years by an electoral college consisting of members of parliament and presidents of local government councils.

The Vanuatu economy is characterized by a dual system, the rural subsistence sector and the urban commercial sector. The biggest contribution to the country's GDP is derived from the service sector. Approximately 80% of the population still depend on subsistence farming for their livelihood. However, there is a growing participation of subsistence farmers in the cash economy with the production of copra, vegetables for urban consumers and coastal fishing.

Manufacturing activities constitutes about 5% of the GDP. The country relies heavily on imports both for capital and for skills.

Involvement of Women in the Development Process: an Overview

The role in and contribution of ni-Vanuatu women to national development has been acknowledged in two National Development Plans. But there has been a tendency to treat issues affecting women in a general manner under the overall heading of social welfare and/or community development. Even there, their role has been largely reduced to traditional household and family-related matters despite the fact that women are the main producers of food,

play the leading role in cash-cropping, and hence appear as the main contributors to family welfare. Development programmes and activities aimed at increasing women's participation and productivity continue to be organized separately from mainstream development programmes and are left largely to the National Council of Women (VNCW), an NGO, and the Office of Women's Affairs, a very small government agency. Input from these two organizations to date, in regard to both national planning in general, and to ensuring that women are given due recognition in development programmes and activities across sectors is virtually non-existent.

Support networks for women are currently not well developed, due to a lack of resources (particularly financial), a lack of coordination of activities, and very little inter-sectoral cooperation.

From the above, it is quite clear that the development process in Vanuatu could be more effective and beneficial to ni-Vanuatu communities if the participation of women and their potential was more appropriately acknowledged and utilized.

On the other hand, Vanuatu is well placed to continue improving the lives of women, as in several key areas, broad policy guidelines or legislation already exists. There are national policies/guidelines on primary health care, food and nutrition, and family health and planning, and existing legislation also protects the rights of women and establishes equality of opportunity with men.

Laws of Vanuatu

The laws of Vanuatu consist of the Constitution adopted in 1980, the statute laws both pre-independence (i.e. prior to 1980) and post-independence, those passed by the Parliament, various UN conventions ratified by Vanuatu, bilateral and multilateral agreements with other countries and customary law. In the case of customary law it is applicable in so far as it is not inconsistent with the written laws of Vanuatu.

Except for family law, all the laws of Vanuatu apply equally to all men and women. Because of the protection afforded to all under the Constitution, no laws can be discriminatory. If they were so, they would be void to the extent to which they discriminate against anyone.

The land system in Vanuatu consists of public land owned by the government, leasehold land which anyone can apply to be registered owner of over a certain period and customary land. Females are not excluded from customary ownership of land in Melanesian societies.

The Constitution of Vanuatu

The Constitution of Vanuatu is open and general due to the fact that the Constitution Committee was given only a short period of time to produce a document. This allows for changes to be made as Vanuatu steps into the future. Article 5 of the Constitution which sets out the fundamental rights of the individual specifically protects the rights of all people in Vanuatu irrespective of sex. Since the Constitution is the supreme law of Vanuatu, no law can be passed by the Parliament which discriminates for or against women.

Article 5(i) (k) calls for equal treatment under the law or administrative action. However, it goes further in creating a special privilege for women, children and other young persons who are members of under-privileged groups or inhabitants of less-developed areas. The privilege is and we quote «No law shall be inconsistent with Article 5 (i) (k) insofar as it makes provision for the special benefit, welfare, protection or advancement of women».

Family Law

The quality of family life in Vanuatu as in other places in the world is subject to stresses and strains of one kind or another for a variety of reasons, some of which are highlighted in this paper.

Although law alone cannot protect the family as an institution, it can provide for measures to help create and maintain family life and to provide assistance when it is threatened.

The family law of Vanuatu is made up of five different pieces of legislation: the Marriage Act; the Maintenance of Children Act; the Maintenance of Family Act; the Civil Status Act; and the Matrimonial Causes Act. We will only deal with the laws considered discriminatory. The first four acts were passed before 1980 and are pre-independence legislation.

Marriage Act

This law provides for the validity of marriage and sets out the requirements for a valid marriage.

An important concept of marriage on which the Act is silent is bigamy. Due to the country's deep religious background, marriages in Vanuatu are monogamous. However this is not protected by the marriage law.

Legally speaking, marriage can be celebrated in three different ways, by custom, by a minister of a religion or by a district registrar depending on the choice of the marriage partners. There is no provision in the law prohibiting any person from marrying one person in one system and marrying another in another system. There are cases where a person has married by custom and later contracted a civil marriage with another thus contracting two valid marriages to two different persons under two different systems.

Maintenance of Children Act

Under this Act, an unmarried mother is severely restricted in the channels open to her by which to take action for maintenance against the father of her child. This law provides a series of conditions which a single mother must fulfil before obtaining maintenance.

An unmarried mother can only achieve maintenance for her child if the following is proved:

- a. that there is evidence of a promise of marriage during the normal period of conception;
- b. that the parents have lived together as husband and wife during the same period;
- c. that the alleged father had at the same time provided or contributed towards the maintenance and upbringing of the child; and
- d. that an action is brought to court before the child is 12 months old.

In addition, an action will not lie if there is evidence:

- a. that during the normal period of conception the mother was of notorious loose behaviour;
- b. that during the same period the mother had sexual intercourse with another man unless there is evidence that the other man was not the father of the child; and
- c. that during the same period the alleged father was physically incapable of being the father of the child.

Due to the above conditions, innocent children born into this world suffer on account of their status at birth; such conditions contradict the worldwide notion that the child's welfare or the best interests of the child should be the paramount concern of the Court. There is no family court in Vanuatu.

The VNCW has, since 1985, repeatedly called for changes in this legislation but nothing has been done.

Criminal Law

The criminal law of Vanuatu is embodied in the Penal Code Act. One particular provision of this legislation which has caused concern is the generality of the offence of 'assault', which includes wife beating.

Law enforcement officers have, in practice, been reluctant to act on cases reported to them, especially where the victim is a wife, sister, or mother assaulted by husband, brother, son or father. In almost every case, it is treated as a personal family matter. The VNCW and the Vanuatu Women's Centre proposed changes in this area.

Discrimination

In Vanuatu, as elsewhere, women are discriminated against. Melanesian society is, after all, a male dominant society, strongly based on the family unit, in which the male is a dominant figure. Women are often very badly treated by men in the home environment although the laws are there to protect them. In most cases women do not avail themselves of these laws through ignorance and, more often than not, fear.

The courts in Vanuatu have not, so far, handed down judgments that are discriminatory in nature.

Other areas where women are discriminated against include the political arena where the male decision-makers make it difficult, practically, for women to enter. Vanuatu women are not getting into the decision-making bodies as they are not selected to be candidates.

Furthermore, women are not coming forward as there are so many barriers to overcome in the areas of custom and the church, creating negative attitudes towards women coming together to promote, defend and support each other.

One area that cannot be ignored is the economic area, in the development of which the economic power of women is being ignored. This is now being considered differently from a planning point of view.

The VNCW and the Vanuatu Women's Centre (VWC)

The VNCW has been in existence for over ten years. It has concentrated on women and development. This means its activities cover many areas. Therefore, women's rights is a small part of the activities of the VNCW. It was in 1994 that the first workshop on domestic violence was held. The VWC was set up a year ago to concentrate on domestic violence and related issues.

Neither the VNCW nor the VWC nor the WAO nor the government has done anything on women's rights or human rights. A draft for a brochure on wife/girlfriend beating has been developed by the VWC and will be funded by a local women's group whose membership is made up of a majority of white expatriates. Legal literacy is mainly promoted on an *ad hoc* basis through seminars, workshops or meetings. The first workshop in Vanuatu on human rights will be on 27 May 1994 in Vila.

Women's Rights

Although there are no specific groups working on women's right and human rights, the VNCW and the VWC are undertaking some activities in bringing awareness to women through meetings, training, exposure in the media and counselling. Women have gained some experience on their rights through these groups.

The VWC has made attempts to give information to victims of domestic violence who seek counselling or further legal assistance, i.e. protection and access to the court. The VWC also gives assistance in obtaining child and family maintenance in the event that the marriage/relationship has broken down. For 1994, there are

plans to hold five different workshops in different parts of Vanuatu on various topics concerning domestic violence.

Vanuatu Women and the UN

Vanuatu is a member of the UN. It participates in overseas meetings of the UN at government level. Socially, the UN special days are observed, e.g. World Food Day. Furthermore UN international years for specific people or topics are observed and promoted.

The government has also signed several UN conventions; the latest being the Convention on the Rights of Children which Parliament ratified in 1993. A national holiday to honour children in Vanuatu on July 24 has been approved by Parliament. However, it is sad to note that Vanuatu has not ratified the Convention on the Elimination of All Forms of Discrimination Against Women. This has been of concern to the women of Vanuatu, especially when the 4th UN Global Meeting in Beijing, China in 1995 is just around the corner.

Western Samoa

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Introduction

Status and Social Situation of Women

To understand the situation of women in Western Samoa, one has to look at the woman's role in the family, including the extended family and the community. This can vary, depending on whether she lives in the rural area or the urban area.

In the rural areas and villages, where about three-quarters of the female population over the age of fifteen reside, the traditional views on the role of women are still very strong. Basically, this view holds the woman as being the home-maker.

Each village has a women's council. Through this council or committee, the village women are able to meet, discuss and pool their ideas and resources together for the promotion of health and sanitation conditions and other issues affecting their work.

In most cases in the rural areas, women are treated differently according to their husbands' rank in the community. If she is single and lives at home, she is treated with respect. Her male relatives see it as their duty to help, serve and protect her. Where the woman is married and her husband is untitled and they live with the husband's family, the woman is expected to do all the menial and household work. She is sometimes treated like a family servant.

Where a woman marries a titled man or is herself a *Matai*, her status and social situation are more elevated. She enjoys and is accorded respect and privileges.

Women in the urban area either experience the traditional treatment of women as seen in the rural area, or enjoy a more relaxed and in some cases unrestricted social environment. Many are engaged in the workforce, many are well educated, and hold good or relatively well-paid jobs, both in the government and in the private sector. Quite a few run their own small businesses or hold key positions in family businesses. Generally, in the town area, many if not most women earn a living and help support the family.

Problems Faced by Women in Western Samoa

In the rural areas and villages, the women lack the «know-how» about how to approach appropriate organizations for assistance in various areas. This ties in with another problem, which is the lack of facilities for dissemination of materials which would make them aware of these aid organizations (both local and overseas).

Sometimes, where the women or women's organizations are made aware of funding assistance available to them, they often find that even getting through the initial stage of preparing a proposal can become a hurdle in itself because of language and other technical difficulties.

A major problem which is always faced by women is the lack of funds to finance their projects and activities.

Another major problem, and one which the writer feels women have shown a reluctance to address, is that of physical abuse and domestic violence. The reluctance naturally stems from the shame and stigma associated by many with this kind of ill-treatment.

The above are only some areas where women have met with or are experiencing major difficulties and problems.

Women and the Law

The Constitution

The Constitution became effective on 1 January 1962, when Western Samoa became independent. It is the supreme law in Western Samoa, and it upholds equality of the sexes and prohibits discrimination on many grounds including that of sex.

Relevant Legislation

The laws of Western Samoa generally do not discriminate against women.

Family Law

There are no discriminatory provisions against women. However, there is room for further and better provisions in this area to provide protection and other legal rights for women. (For example, we do not have specific legislation providing for non-molestation orders, or governing matrimonial property and distribution of same upon divorce or separation). Provisions for mediation and counselling services as well as the right to a closed hearing would help in this area also.

Inheritance Law

The Administration Act 1975 does not discriminate against women in the field of family law. Women have the same rights as men; there is provision for a spouse to take a certain percentage of the deceased partner's estate. There are no laws against women inheriting and they have equal rights with male siblings in respect of inheritance.

Land Laws

Laws in this area do not discriminate against women. Women can hold land in their own name. They can buy and sell, mortgage, lease or otherwise dispose of their lands if they so wish. In many instances, women hold freehold land jointly with their spouse. In respect of customary lands, these are held in accordance with Samoan customs and are basically under the control of the *Matai* who is the head of the family.

Labour Law

There is also no discrimination in this area. But again, the law here could be improved to make provision for maternity leave and other similar measures to advance and promote women's interests and position in the workforce.

Section 33 of the Labour and Employment Act 1972 prohibits women from working between certain hours at night, except for those in the nursing, medical and other such services. It also prohibits women from certain manual work.

- «s.33 1. Except with the consent of the Commissioner, no woman shall be employed in any place of employment between the hours of 12 midnight and 6 o'clock in the following morning, provided that this prohibition shall not extend to the nursing, medical, police, postal, telephone, telegraphic, and other essential Government services.
2. No woman shall be employed in manual work unsuited to her physical capacity.»

Criminal Law

There is no discrimination in this area also. However, perhaps one can comment on the fact that the only areas of crime in which corroboration is required concern crimes against women, such as rape, indecent assault etc.

Judgments of Courts or Tribunals

The writer is not aware of any judgments of court or tribunals in Western Samoa which discriminate against women. The general feeling is that the courts and tribunals in Western Samoa have consistently maintained the equality of sexes and have not been discriminatory against women.

Women's Organizations in Western Samoa

Organizations Working on Women's Rights

Western Samoa does not have a woman's organization for the sole and specific aim of promoting women's rights. But the numerous women's organizations in Western Samoa all, in some way, work for the betterment and advancement of women in this country. The following organizations are examples.

The Soroptimists International - Western Samoa

This organization is a member of the Soroptimist International - South-West Pacific Region. Soroptimist International is a worldwide, women's organization of service clubs for business and professional women, who have pledged to serve their local community, their country, and the world.

It has as one of its objectives, to «strive for human rights for all people and in particular, to advance the status of women.».

It has about 25 to 30 members. Some of its activities include the providing of scholarships for girls at primary school level; distribution of books to various district schools; funding assistance for a water tank in one of the remote areas of Samoa; as well as assistance by way of food and clothing and cooking utensils for three sets of triplets.

Western Samoa Women's Committees Development Organization

This organization has a membership of 6,000 women. Its goals are to promote the organization of women's committees to improve the development of Samoan women in accordance with their economic, educational and health needs; to maintain a standard of cultural awareness and enhance the status of women; to uphold the principle of equal rights and equal opportunities for women; to develop, inspect and keep clean villages and the environment as well as to promote handicrafts.

Their activities have included a planting of pandanus project (required for mat-weaving and other handicrafts work); the promoting of vegetable gardening by women; and the promoting of health programmes in the villages.

Ministry of Women's Affairs

The Ministry of Women's Affairs is a government department set up in 1990. It has an advisory committee consisting of representatives from various women's organizations. At the moment, 18 women's organizations are represented on this advisory body. The Ministry advises government on women's affairs and provides feedback to women's organizations. Its activities include the conducting of home economic workshops throughout Samoa; as well as assisting in women's vegetable-growing projects.

Mapusaga O Aiga Inc. (Family Refuge)

Set up in 1993, this newly established organization aims at providing public awareness on abuse, domestic violence and related areas. It also liaises with organizations and individuals on the issue of violence, and promotes changes to legislation and ratification of relevant international treaties. Activities include the conducting of seminars and counselling sessions.

National Council of Women

This organization has many members throughout Samoa. Activities are more or less the same as those of the women's committees.

There are many other women's organizations which also promote the interests of women in Samoa, but suffice it to say that their activities follow more or less the same pattern as those of the organizations mentioned.

Development and Dissemination of Legal/Paralegal Training Material

The women's organizations in Western Samoa have not developed and disseminated legal literacy and paralegal training material at this stage. The Ministry of Women's Affairs has now adopted this area as one of its activities to be promoted during a three-year programme it is currently implementing with assistance from the New Zealand Government.

Coordination of Activities Between Organizations Working on Women's Issues

In Western Samoa, there are no organizations coordinating activities between the organizations working on women's issues at the regional or international level. On the national level, the establishment of the Ministry of Women's Affairs has provided an umbrella organization giving some coordination of activities between women's organizations throughout the country.

The Ministry also liaises between the government activities on women's issues and those of the non-governmental organizations. Among other things, it promotes better conditions for employment for women in both the government and private sectors; solicits funds for projects by women's committees; plans programmes for

women; and is establishing a database on women for programming purposes.

With the assistance of the New Zealand Government, the Ministry is now following a three-year programme for «the advancement of the social and economic position of women in Western Samoa».

Women's Organizations and Activities of the United Nations

The Soroptimist International in Western Samoa is probably the only women's organization in Western Samoa having links with the United Nations through its club links with the 'mother' association the Soroptimist International.

The Government of Western Samoa has already ratified the Convention on the Elimination of all Forms of Discrimination Against Women.

Conclusion

It is felt that women are not discriminated against in Western Samoa in the pure sense of the word, discrimination - «unfair treatment of women because they are women or because of a dislike of/or prejudice against them». Women are not discriminated against in the various areas of legislation; they can vote, and can participate in many activities.

But it is discrimination in its more subtle form that can be said to be evident in Western Samoa. It is to be found in the social attitude towards women and their capabilities and their role in society. It is sad to say, but such attitudes are clearly not confined to men.

Conclusions and Recommendations of the Regional Seminar on Women and the Law in the Pacific

We, the participants of the seminar on Women and the Law in the Pacific, sponsored by the International Commission of Jurists (ICJ) and the Fiji Women's Rights Movement (FWRM), having shared our experiences, and, after hearing the presentations of the resource persons, having a better understanding of the working of international organizations, agree on the following conclusions and recommendations.

We recognise, with gratitude to the ICJ and FWRM, the importance and usefulness of this timely seminar. We also recognise that women's rights advocacy is an ongoing process and therefore there is need for a continued follow up at the national, regional and international levels.

National Level

1. We, the participants, agree to identify and establish our national focal points and report on a regular basis, all developments in women's rights issues to our national focal points and to organizations, groups and individuals involved in women's rights issues.
2. We agree to coordinate with relevant national networks such as those on human rights, environment, development, indigenous people and other related organizations with regard to access to, sharing and distribution of information.
3. Women's rights are human rights and violence against women is a violation of basic human rights and we agree to develop strategies to eliminate violence against women.

4. We agree on the important need for education and training on women's rights and to take measures to ensure coordination of legal literacy activities.
5. Legal literacy and education materials on women's rights are widely needed, and we will develop such materials. We recognise that a few countries have already started this process.
6. We agree to develop, design and deliver paralegal training on women's rights. We are of the view that such programmes need to be systematically and consistently conducted.
7. We recognise the urgent need to sensitizse and train law enforcement officers on women's rights issues.
8. We agree to introduce staff training programmes and for this purpose develop appropriate training attachments.
9. We agree to design, develop and deliver legal service programmes.
10. We agree to undertake research, studies and surveys on women's rights issues.
11. We encourage all participants to lobby their governments to ratify the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).

Regional and International Levels

1. It is recognised that information and documentation are the most powerful tools permitting national non-governmental organizations (NGOs) to efficiently carry out their work. There is presently an insufficient amount of input and support from the regional and international organizations in the Pacific. The need for efficient and

more rapid access to information from the regional and international organizations was clearly identified.

2. a. There is in existence a network known as the Pacific Women's Network Against Violence Against Women (PWNAVAW).
- b. PWNAVAW is hereby requested to coordinate the network on women and the law.
3. We urgently call upon the Secretary General of the 4th World Conference on Women, 1995 to provide us, through PWNAVAW, with information on the United Nations Women's Conference which is to be held in Beijing in September 1995 and to let us know the procedure for non-governmental organization (NGO) participation in that meeting as well as the regional meeting for Asia and Pacific which will be held in Jakarta in June 1994.
4. We support the goal of universal ratification of the Convention on the Elimination of all forms of Discrimination Against Women by 2000 A.D. as agreed upon by the participants at the World Conference on Human Rights.

We note that in the Pacific Region only the Cook Islands, Papua New Guinea, Niue and Western Samoa have ratified the Convention and we call upon all countries in the region to do so before the United Nations Women's Conference in Beijing in 1995.

5. We request the UN Special Rapporteur on Violence Against Women to assess the situation and to visit the Pacific Region. We further request that background information be supplied to the Special Rapporteur by PWNAVAW on behalf of the Region.
6. We request UNESCO and the University of the South Pacific to encourage Pacific Island Governments and Ministers of Education to implement curricula reform to:

- a. produce learning/teaching materials which are gender sensitive, locally;
 - b. promote the inclusion of women's human rights, violence against women and other gender sensitising issues in the schools curriculum at teacher training, primary, secondary and tertiary levels.
 - c. facilitate more involvement of NGO's in UNESCO's activities.
 - d. support the regional training programmes which address legal literacy, women and the law, and human rights education as proposed by the Continuing Education Department of the University of the South Pacific.
7. We note the difficulties in funding all the abovementioned activities. It is also understood that this is not only a regional problem but is as real for international NGOs as well. It is thus recommended that PWNAAW develop a directory of funding sources for organizations dealing with women's rights in the Pacific Region, including indications of the type of activities each donor is prepared to support as well as other useful information, to permit organizations to have an easier access to funding sources. National and local funding sources should be identified and training programmes on fundraising techniques developed for the Pacific Region by experts.
 8. We request the International Labour Organization (ILO), UNICEF, UNESCO, the Asia Foundation and other international organizations to extend their existing and future programmes to the Pacific Region.
 9. We thank the ICJ and the FWRM for having organized this seminar and we undertake to continue to work for the full realisation of women's rights.

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