



**United Nations Human Rights Council  
Universal Periodic Review: Solomon Islands**

**Submission of the International Center for Advocates Against Discrimination (ICAAD)**

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**About ICAAD**

The International Center for Advocates Against Discrimination (ICAAD) is a tax-exempt 501(c)(3) non-profit organization that combats structural discrimination and promotes human rights norms consistent with public international law. Structural discrimination refers to systems of inequality that provide a social, political, cultural, or economic advantage to a dominant group while furthering barriers of exclusion that make marginalized communities more susceptible to violence and indignity. By leveraging partnerships, ICAAD brings together passionate multidisciplinary teams of lawyers, data scientists, universities, and design strategists to improve access to justice for women, girls, and vulnerable communities, while strengthening the capacity of civil society and government.

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**Executive Summary**

Drawing on ICAAD's research, this submission highlights issues of structural discrimination that impact women and minorities in the Solomon Islands. The research examines the Solomon Islands' compliance with its international human rights obligations on the issues of: violence against women and girls (VAWG), gender equality and discrimination against persons with disabilities.

**(A) Violence Against Women**

**a) Systematic Discrimination:**

(1) Violence against women and girls is endemic in the Solomon Islands. Domestic violence is largely underreported.<sup>1</sup> Women fail to report due to fear of reprisals, feelings of shame, and cultural taboos.<sup>2</sup> A 2012 report by the Special Rapporteur on VAWG indicated that approximately 64% of women who had been in a relationship experienced physical or sexual violence by a partner.<sup>3</sup> 37% of women between the ages of 15 and 49 reported being the victims of sexual abuse under the age of 15.<sup>4</sup> Spousal rape is not criminalized.<sup>5</sup>

(2) In terms of the broader social context, women continue to live with the effects of a period of internal unrest between 1998 and 2003 known as "the tensions."<sup>6</sup> Rape was frequently used by militants and policemen to extract information from women and girls about the whereabouts of family or community members.<sup>7</sup> It is reported that up to 75 percent of women suffered personal trauma, including rape.<sup>8</sup>

(3) Sexual abuse of women is particularly high in remote communities. Some cases involved girls being taken to fishing boats where sex was exchanged for fish.<sup>9</sup> A market for sexual services has developed in areas where local logging companies import foreign workers. The foreign workers use money and access to goods not locally available in exchange for sex, resulting in sexual exploitation and abuse.<sup>10</sup> The customary practice of paying a dowry or "bride price" to a woman's family in exchange for marriage also results in the high-prevalence of intimate partner violence, stymies girl's education, and results in teen pregnancy.

(4) Culturally, the practice of reconciliation plays an important part in settling disputes of violence against women.<sup>11</sup> Women are not allowed to take part in the settlement negotiations and must rely on male family members to speak for them.<sup>12</sup> Men frequently give money to the families of the victims as a form of restitution.<sup>13</sup> The custom fosters community cohesion at the expense of punishment against perpetrators.<sup>14</sup> Many women do not feel protected by this practice, which they see as controlled by men in favor of the male perpetrators.<sup>15</sup>

(5) The police are inclined to encourage reconciliation instead of prosecution.<sup>16</sup> Legislature actually propagates the custom by mandating that reconciliation be encouraged in settling disputes of a personal nature.<sup>17</sup> In fact, courts take reconciliation into account during the sentencing process. In a survey of case law, reconciliation impacted sentencing in 78 percent of the cases where reconciliation was raised.<sup>18</sup> One Judge specifically held that "[c]ompensation is an important part of punishment in Solomon Islands society and should be encouraged in appropriate cases."<sup>19</sup>

(6) Domestic violence is not specifically addressed by the law and marital rape is not criminalized by statute.<sup>20 21</sup> Cases of domestic violence are covered under the law against common assault.<sup>22</sup> Many cases of domestic violence do not reach the courtroom, partly as a result of inadequate handling of the cases by the police. Prosecutions of domestic violence are weak.<sup>23</sup> Judges and prosecutors are not sensitized to the needs of victims of domestic violence.<sup>24</sup> Women face long waiting periods, a lack of privacy, and inadequate legal counsel.<sup>25</sup> Cases of domestic violence are not treated with the required urgency by the court system.<sup>26</sup>

### **b) State Response**

(7) The government of the Solomon Islands must be commended for its ratification of CEDAW without reservations.<sup>27</sup> In response to reports of the high rate of domestic violence, the government took the important step of signing a Memorandum of Understanding with civil society and NGOs to build a network, SafeNet, to provide services to victims of domestic violence and sexual abuse.<sup>28</sup> The government has taken steps to increase awareness of the issue of violence against women at the provincial level.<sup>29</sup>

(8) While marital rape has not been criminalized by statute, the case of *Regina v. Gua* criminalized marital rape in the common law.<sup>30</sup> The Court in that case relied on the adoption of CEDAW as its authority.<sup>31</sup>

(9) The police adopted a family violence policy and a set of standard operating procedures to guide police intervention in cases of domestic violence.<sup>32</sup> The policy mandates that family violence be treated as a crime, that offenders be held accountable for their actions and that victims be kept safe, including when perpetrators are members of the police force.<sup>33</sup> The government has instituted training of its police force on how to work with rape victims.<sup>34</sup> The police force created Sexual Assault Units to combat the problem of rape. These Units are staffed mostly by female officers.<sup>35</sup>

(10) The Public Solicitor's Office works with allied service providers to improve the response to sexual violence.<sup>36</sup> Specifically, a domestic violence referral network has been established, albeit only covering the capital city.<sup>37</sup>

### **c) Remaining Challenges**

(11) The government has not enacted specific laws to protect women against domestic violence and sexual assault. Medical-staff lack adequate training to properly treat victims of sexual violence.<sup>38</sup> Only two organizations provide shelters and services for women victims of violence. Both organizations are based in the capital.<sup>39</sup> The government does not provide any funding to organizations providing services to women victims of violence.<sup>40</sup>

(12) The customary practice of reconciliation is an obstacle to prosecution of perpetrators of violence against women. In *Kunia v Regina* [2005] SBHC 60; HCSI-CRAC 599 of 2004 (21 February 2005), the holding states, "In domestic violence cases the courts should be mindful of the effect of a custodial sentence and should always bear in mind that in some cases a short sharp sentence may be as effective in rehabilitating the Appellant and deterring others. Where a desire for reconciliation has been expressed and or the parties have reconciled and are living together again that should have bearing on the length of

sentence to be imposed. An overly lengthy sentence may do more harm to their marriage relationship in the long run.” In 2011, the Court of Appeal established a “starting point” for sentencing perpetrators of rape at 5 years for adults, and 8 years for a person who is “in a position of responsibility towards the victim.” However, this is the starting point without any aggravating or mitigating factors, and reconciliation is used as a mitigating factor.

(13) Under the Islanders’ Divorce Act, a woman may file for divorce on the grounds of adultery, desertion, cruelty and/or insanity of the husband or if her husband has been found guilty of rape, sodomy or bestiality. The law requires the woman seeking a divorce to present evidence of such violence or abuse before a divorce can be granted. In practice, women wishing to leave an abusive marriage find it hard to produce evidence of any of the grounds for divorce out of fear of further violence. Many provisions of the Islander’s Divorce Act are discriminatory against women and present barriers to completing the process. For example, if a husband brings a petition for divorce against a wife on grounds of adultery, only the wife must respond, but if a wife petitions the court for divorce on grounds of adultery, the wife must join the husband and the person with whom the husband allegedly committed adultery as co-respondents. Moreover, men are entitled to claim damages for adultery by wives, but women may not seek such damages from their husbands. A court has discretion to make orders for spousal support, but such support orders are not mandatory. Additionally, because a woman’s entitlement to the matrimonial property is not equal to a man’s after a divorce, a woman is at risk of greater poverty as a result of a divorce.

#### **d) Recommendations**

(14) The Solomon Islands must enact legislation to specifically criminalize violence against women.<sup>41</sup> Additionally, the government must make spousal rape illegal.<sup>42</sup> Legislation must be adopted to raise public awareness to combat the issue of domestic violence, make the Public Solicitor’s Office prosecute cases where there are no visible injuries, and institute measures to make it easier to obtain a protective order, especially in emergency situations.<sup>43</sup> Circuit courts must be reactivated to provide women outside the capital city with access to judicial services.<sup>44</sup> In addition, minimum sentencing guidelines must be established to limit the effect of reconciliation in the sentencing phase of cases. The Islander’s Divorce Act should be modified to provide women the ability to pursue damages, as well as provide equal access to matrimonial property.

(15) The government must improve training of medical personal.<sup>45</sup> Government sponsored shelters must be established.<sup>46</sup> Finally, the government must work with NGOs and the donor community to develop women’s centers throughout the country.<sup>47</sup>

### **(B) Gender Equality**

#### **a. Systematic Discrimination**

(16) Women in the Solomon Islands are subject to discrimination in political, social, educational, and economic sectors.<sup>48</sup> For the most part, women are confined to customary familial roles that limit their ability to access the benefits from the country’s development.<sup>49</sup> Women’s participation in the labor market is concentrated around low-skill and low-paying jobs.<sup>50</sup> Politically, women do not fare any better: 1 out of 50 members of parliament is a woman and women do not sit in the country’s highest court.<sup>51</sup> Within Solomon Islands public service, women represent little more than 30% of the total

workforce and 60% of these women are in junior roles. Women hold 5 of 25 Permanent Secretary positions in government and 3 of 20 undersecretary positions are held by women.

(17) The Solomon Islands constitution also establishes the sources of law in Solomon Islands and continues to undergo a constitutional reform process. Under the current Constitution, Parliament has the power to “make provision for the application of laws including customary laws” and in doing so “shall have particular regard to the customs, values, and aspirations of the people of Solomon Islands.” Parliament is thus required to consider traditional customary laws in passing new laws. Many traditional laws are discriminatory against women. By requiring Parliament to consider customary laws in passing new laws, the Constitution permits discrimination against women to continue, in violation of Solomon Islands international obligation to respect and protect women’s rights to non-discrimination in all areas of public and private life under CEDAW.

#### **b. State Response**

(18) The constitution prohibits any laws that would have a discriminatory effect on any person and prohibits any state official from treating any person in a discriminatory manner.<sup>52</sup> More specifically, the Women’s Development Division within the Ministry of Women, Youth, and Children’s Affairs has taken some steps to address women’s issues.<sup>53</sup>

#### **c. Remaining Challenges**

(19) Women are underrepresented in the labor market. Their participation in the labor market is generally limited to low-skill and low-paying jobs. In addition, women are largely absent from the country’s national political scene.

(20) Though the gender gap between boys and girls attending primary school is narrowing, there is no guarantee of equal access to education for girls. Gender disparities continue because families prioritize male education, especially when they are unable to pay school fees for all of their children.

#### **d. Recommendations**

(21) The government of the Solomon Islands must create quotas and preferential treatment to increase women’s participation in education and the economy.<sup>54</sup> Incentives must be created in the private and public sectors to increase women’s participation in the labor market.<sup>55</sup>

(22) The government must implement measures to increase women’s participation in the political life of the country.<sup>56</sup> For instance, special parliamentary seats must be reserved for women in upcoming elections.<sup>57</sup>

(23) The Constitution should be amended to ensure that traditional customary law does not interfere with the rights and equality of women.

### **(C) Discrimination of Persons with Disabilities**

#### **a. Systematic Discrimination**

(24) The government has not enacted legislation to protect persons with disabilities against discrimination. Government buildings are not accessible to persons with disabilities. Persons with disabilities must attend mainstream schools due to a lack of educational facilities designed to meet their needs. Mainstream schools are inadequately equipped.<sup>58</sup>

(25) Persons with disabilities face major obstacles entering the work force. Only one agency exists to assist in job placement. Since the law does not require reasonable accommodations at one's place of employment, most persons with disabilities do not find work outside the family structure.<sup>59</sup>

#### **b. State Response**

(26) The government of the Solomon Islands accepted numerous recommendations made as part of the Universal Periodic Review process regarding the disabled and access to education, housing, employment, health and justice.<sup>60</sup>

#### **c. Remaining Challenges**

(27) The government has not enacted legislation to protect persons with disabilities from discrimination, and has done little despite accepting various recommendations. Public facilities remain inaccessible to many persons with disabilities and employers are not required by law to make reasonable accommodations to employees with disabilities. With a lack of access to the labor market, persons with disabilities largely depend on their families for support.<sup>61</sup>

#### **d. Recommendations**

(28) The government of the Solomon Islands must ratify the Convention on the Rights of Persons with Disabilities and enact law to ensure the protection and care of persons with disabilities.<sup>62</sup> In addition, the Solomon Islands must implement policies to guarantee decent housing, employment and health to persons with disabilities.<sup>63</sup> Finally, the government must develop public awareness campaigns about the rights and participation of persons with disabilities.<sup>64</sup>

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<sup>1</sup> U.S. DEPARTMENT OF STATE, COUNTRY REPORT ON HUMAN RIGHTS PRACTICES 2013: Solomon Islands, at 9, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220230>

<sup>2</sup> *Id.*

<sup>3</sup> United Nations Office of High Commissioner, *Special Rapporteur on Violence Against Women Finalizes Country Mission to Solomon Islands* (March 16, 2012), at 6, <http://reliefweb.int/sites/reliefweb.int/files/resources/A%3AHRC%3A23%3A49%3AAdd.1.pdf>. A 2013 AusAid report states that 67% of women and girls are victims of domestic violence or sexual assault.

<sup>4</sup> *Id.* at 7.

<sup>5</sup> *Supra* note 1, at 9.

<sup>6</sup> *Supra* note 3, at 8.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 9.

<sup>10</sup> *Id.*

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- <sup>11</sup> International Center for Advocates Against Discrimination (ICAAD), *Solomon Islands: Violence Against Women, Identifying and Combating Structural Discrimination that Furthers Sexual and Gender Based Violence (SGBV)* (2015) at 3.
- <sup>12</sup> NGO Shadow Report on the Status of Women in Solomon Islands, Initial Second and Third Report (2002-2012) available at <http://www2.ohchr.org/English/bodies/cedaw/docs/ngos/SolomonIslandsJointNGOCEDAWShadowReport.pdf> (accessed June 15, 2015).
- <sup>13</sup> *Supra* note 11, at 3.
- <sup>14</sup> *Id.*
- <sup>15</sup> *Id.*
- <sup>16</sup> *Id.*
- <sup>17</sup> *Id.* at 4.
- <sup>18</sup> *Id.* at 5. For example, in *Regina v Maenisoa*, a Judge held, “I note that the victim was not part of the reconciliation process and that she now lives in the village. Nevertheless, I give credit to the accused for the reconciliation process.”
- <sup>19</sup> *Id.*
- <sup>20</sup> *Supra* note 1, at 9.
- <sup>21</sup> International Center for Advocates Against Discrimination (ICAAD), *Solomon Islands: Violence Against Women, Identifying and Combating Structural Discrimination that Furthers Sexual and Gender Based Violence (SGBV)* (2014) at 8.
- <sup>22</sup> *Supra* note 1, at 9.
- <sup>23</sup> *Supra* note 3, at 17.
- <sup>24</sup> *Id.*
- <sup>25</sup> *Id.*
- <sup>26</sup> *Id.* at 18.
- <sup>27</sup> United Nations Treaty Collection, CEDAW fact sheet (Nov. 18, 2014, 2:52 PM), section *Declarations and Reservations* [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en#EndDec)
- <sup>28</sup> *Supra* note 1, at 10.
- <sup>29</sup> *Supra* note 3, at 12.
- <sup>30</sup> *Supra* note 21, at 10.
- <sup>31</sup> *Id.*
- <sup>32</sup> *Id.* at 7.
- <sup>33</sup> *Id.*
- <sup>34</sup> *Supra* note 1, at 9.
- <sup>35</sup> *Id.*
- <sup>36</sup> *Supra* note 21, at 5.
- <sup>37</sup> *Id.*
- <sup>38</sup> *Supra* note 3, at 14.
- <sup>39</sup> *Id.* at 15.
- <sup>40</sup> *Id.*
- <sup>41</sup> *Id.* at 19.
- <sup>42</sup> *Id.*
- <sup>43</sup> UNIVERSAL PERIODIC REVIEW (UPR), The Follow-Up Program on the Solomon Islands (2014), at 11, [http://www.upr-info.org/followup/index/country/solomon\\_islands](http://www.upr-info.org/followup/index/country/solomon_islands)
- <sup>44</sup> *Supra* note 3, at 20.
- <sup>45</sup> *Id.* at 21.
- <sup>46</sup> *Id.*
- <sup>47</sup> *Id.*
- <sup>48</sup> *Supra* note 1, at 9.
- <sup>49</sup> *Id.*
- <sup>50</sup> *Id.*

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<sup>51</sup> *Id.* at 7.

<sup>52</sup> *Id.* at 9.

<sup>53</sup> *Id.* at 11.

<sup>54</sup> *Supra* note 3, at 19.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* According to the Regional Assistance Mission to Solomon Islands (RAMSI) 2011 People's Survey, 89% of Solomon Islanders believe that women should serve in Parliament. Of these, 91% supported the concept of special reserved seats for women; available at <http://www.ramsi.org/our-work/machinery-of-government/women-in-government.html> (accessed 3/10/2014).

<sup>58</sup> *Supra* note 1, at 12-13.

<sup>59</sup> *Id.*

<sup>60</sup> *Supra* note 43, at 9-10.

<sup>61</sup> *Supra* note 1, at 13.

<sup>62</sup> *Supra* note 43, at 10.

<sup>63</sup> *Id.* at 9.

<sup>64</sup> *Id.* at 10.