

## 2. PATTERNS OF DISCRIMINATION AND INEQUALITY

This part of the report discusses the principal patterns of discrimination and inequality which affect people in Solomon Islands. It is based on original direct testimony collected from a wide range of individuals; interviews with academics and experts; analysis of existing research undertaken by international organisations, government bodies, non-governmental organisations and academics; news reports and statistical data.

This part does not seek to provide an exhaustive picture of all patterns of discrimination which prevail in Solomon Islands. Rather, it aims to provide an insight into what appear to be the most significant issues pertaining to those grounds upon which discrimination is most common, such as ethnicity, gender and disability. In respect of each ground, the report discusses the ways in which people experience discrimination and inequality in a range of areas of life, including as a result of discriminatory legislation; the actions of state actors; exposure to discriminatory violence and discrimination; and inequality in areas such as education, employment and access to goods and services.

The report discusses patterns of discrimination and inequality on grounds of, *inter alia*, **gender; ethnicity, wantok<sup>92</sup> and language; place of origin; disability; sexual orientation; health status; citizenship; economic status;** and **religion or belief**. While there are clear differences between the problems experienced by those suffering discrimination and inequality on each of the grounds covered – and unique problems affecting some groups – the research identifies a number of common patterns and inter-relationships between the disadvantages experienced on different grounds.

A number of key themes can be identified as central to the patterns of discrimination which affect people in Solomon Islands. The first is the **pervasive influence of traditional cultural attitudes towards sex and gender** – including attitudes formed as a result of the conservative Christianity practiced by the overwhelming majority of the population – which results in restrictions limiting the ability of different groups to participate fully in society. Women, despite constituting half of the population of Solomon Islands, are largely invisible in public life, a reflection of the “bigman” model of social or-

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92 The notion of shared linguistic and cultural heritage.

ganisation. A range of laws reflect patriarchal principles, discriminating directly against women. The high level of violence against women – and the social acceptability of such violence – demonstrate the dominating influence of patriarchal and sexist attitudes in Solomon Islands society. Traditional attitudes encourage women to stay in the home, with women’s participation in education and employment, as well as political life, negatively affected as a result. These attitudes have also meant that the criminalisation of same-sex sexual activity – even if unenforced in practice – faces little opposition, forcing lesbian, gay and bisexual people to hide their sexual orientation or risk facing stigma and prejudice.

The second key theme identified by this part of the report is the importance of group identification, in the form of both the **deeply-engrained wantok system** in which people identify by, and build relationships and networks based on, shared language, tradition and geographic origin, and in the form of identification by **place of origin**. The population of Solomon Islands tends to identify first and foremost by their *wantok*, then by their island or province, and finally – and most weakly – by their identity as a Solomon Islander. The *wantok* system pervades all areas of life, both public and private. There is evidence of preferential treatment by state and non-state actors of members of their own *wantok*, resulting in discrimination against others in education and employment. Identification by place of origin – that is, the island or province where a person or their parents were born – is connected to *wantok* and is another decisive factor in people’s experience and understanding of discrimination and inequality. The civil conflict and unrest commonly known as “the Tensions” which occurred between 1998 and 2003 had their origins in a complex combination of factors. However, one driver was the perception of disparities in treatment, investment and development between different islands which created animosity and eventually hostility between people from different islands. Whilst the violence which was commonplace during “the Tensions” has now ended, to some extent the underlying animosity between these different groups remains.

Another manifestation of the negative impact of traditional norms is found in the treatment of persons with disabilities. **Stigma and prejudice about disability** is a serious problem, with disability seen as a mark of shame and a tendency to focus on persons with disabilities as being in need of charity and care, rather than support to enable them to participate in society on an

equal basis with others. The application of a medical or “charitable” model to issues facing persons with disability, as opposed to a social model focused on removing barriers to access and participation, has profound effects on the lives of persons with disabilities. Few children with disabilities attend school, limiting their chances in later life significantly, and the government has made little, if any, effort to support persons with disabilities in employment, access to buildings and transport, or other areas of life.

## 2.1 Discrimination and Inequality affecting Women

Solomon Islands acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2002. As such, the state has obligated itself to “condemn discrimination against women in all its forms, [and] agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women”.<sup>93</sup> Nevertheless, discrimination against women in Solomon Islands is widespread, affecting the ability of women to participate on an equal basis in many areas of life. The clearest and most severe manifestations of this discrimination come in the form of laws which discriminate against women both directly and indirectly and in the high levels of gender-based violence, both of which are legitimised by deeply negative cultural attitudes and stereotypes about the role and position of women in society.

### *Cultural Attitudes and the Position of Women in Society*

Negative cultural attitudes and traditions governing women’s place in society play a significant role in causing and perpetuating discrimination, including gender-based violence. In its 2013 report to the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW Committee), the Government of Solomon Islands gave a frank assessment of the prevailing cultural perceptions of women in society:

*In Solomon Islands tradition the domains of authority for men and women was defined. However, power and control largely rest with men. Women have restricted*

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93 Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, 1979, Article 2.

*roles in leadership and decision making processes at the family, tribal and community levels. Consequently, the developed stereotype is that leadership is the domain of men. This stereotyping is reflected in the current process of nomination and election of women to national leadership roles in National and Provincial legislatures. It is also reflected in other areas such as employment, education, health and justice systems.*

*Women in Solomon Islands are considered to have primarily domestic and productive roles while men have responsibilities outside the home (...) While roles of women are changing due to factors such as education and the cash economy, however, generally the role of women still tends to be domestic responsibilities.<sup>94</sup>*

As this indicates, communities in the Solomon Islands are highly patriarchal; men are heads of both households and communities.<sup>95</sup> The report produced by the Truth and Reconciliation Commission (TRC) which investigated “the Tensions” of 1998–2003 relates that society has traditionally been dominated by strong male figures, known as the “bigman”:

*Traditional societies consisted of autonomous clan-based communities usually headed by a male leader who gained individual status by the personal acquisition and application of private wealth. The prototype of Melanesian politics is the “bigman”, a particularly influential member of a community who assumed leadership through ceremonial exchange and feasting. His position is not hereditary; he held no title and usually lacked any conspicuous display of social distinction, although everyone in the community was*

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94 Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention: Initial to third periodic reports: Solomon Islands*, CEDAW/C/SLB/1-3, 2013, Paras 119–120.

95 Solomon Islands Truth and Reconciliation Commission, *Final Report*, 2012, Vol. 3, pp. 543-544, available at: <http://pacificpolitics.com/files/2013/04/Solomon-Islands-TRC-Final-Report-Vol-3.pdf>.

*fundamentally aware of the importance of this “invisible chieftaincy”.*<sup>96</sup>

In contrast to the role of men as leaders and decision-makers, women have traditionally been largely responsible for the daily functions of household life, being involved in domestic duties, caring for children, food production and caring for the sick and elderly. Solomon Islands includes some communities which are matrilineal (land being inherited down the female line), though this does not translate into higher status for women. Men hold decision making power in relation to land use and development in both matrilineal and patrilineal societies.<sup>97</sup>

Women were traditionally highly valued in communities and afforded status for the role that they played and the work that they did.<sup>98</sup> Today, women are more involved in political, civil, economic and church activities, but despite this, they continue to face discrimination in many aspects of life and are largely excluded from decision making processes. Gender roles are culturally structured and maintained, and positively reinforced from infancy, with children raised accordingly.<sup>99</sup>

The Equal Rights Trust found evidence that in some cases, these traditional stereotypes about the respective roles of men and women translate into misogynistic views of women. For example, during a focus group discussion held by SPC-SI in Valesala, one participant commented on male attitudes towards women, summarising it as:

*You women are here on earth to give birth and work for us men, and we are your bosses; so do as we say.*<sup>100</sup>

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96 *Ibid.*, Vol. 1, p. 34, available at: <http://pacificpolitics.com/files/2013/04/Solomon-Islands-TRC-Final-Report-Vol1.pdf>.

97 *Ibid.*, Vol. 3, pp. 543–544.

98 *Ibid.*, Vol. 3, pp. 545–546.

99 Paina, D.T., “Peace-making in Solomon Islands: The Experience of the Guadalcanal Women for Peace” Movement, *Development Bulletin*, Issue 53, 2000.

100 Equal Rights Trust focus group, 15 June 2013, Valesala, Guadalcanal province.

Likewise, participants in a focus group in Kolomola, Isabel province, spoke of the way in which men treated women as “slaves” and “child-bearers”,<sup>101</sup> whereas participants in Valesala, Guadalcanal stated that the violence and discriminatory treatment experienced by women and girls in their village was never reported because women believed that it is acceptable for men to treat them however they wished.<sup>102</sup> A focus group of women in Hovikoilo, Isabel province, spoke of the view, held by some elders and chiefs, that violence against women is a form of correction and therefore permitted behaviour.<sup>103</sup> In the context of such deeply negative cultural attitudes towards women, discrimination against them, both in law and in practice, remains widespread.

### ***Discriminatory Laws***

As a state party to CEDAW, Solomon Islands is obligated to “embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle”.<sup>104</sup> Yet the legal and policy framework in Solomon Islands does not provide effective protection from gender discrimination. Article 15 of the Constitution makes discrimination on the grounds of sex unlawful, but the provision is narrow in scope and subject to a number of exclusions which limit the extent of the protection which women enjoy.<sup>105</sup> There is no specific legislation prohibiting discrimination against women and no general, comprehensive anti-discrimination law.<sup>106</sup>

Moreover, a number of laws enshrine patriarchal principles and contain provisions which discriminate both directly and indirectly against women. In its 2014 Concluding Observations, the CEDAW Committee noted, *inter alia*, that Solomon Islands retains discriminatory provisions against women in the

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101 Equal Rights Trust focus group with women, 14 June 2013, Kolomola, Isabel province.

102 See above, note 100.

103 Equal Rights Trust focus group with women, 14 June 2013, Hovikoilo, Isabel province.

104 See above, note 93, Article 2(a).

105 See section 3.2.1 of this report for further discussion of the constitutional right to non-discrimination.

106 See section 3.2 of this report for further discussion of non-discrimination provisions in Solomon Islands law.

Penal Code, the Islander Divorce Act, the Affiliation, Separation and Maintenance Act, the Labour Act and the Citizenship Law.<sup>107</sup>

The CEDAW Committee has asserted that state parties “should ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity”.<sup>108</sup> In this light – and in particular in light of the high levels of violence against women which are discussed immediately below – section 136 of the Penal Code, which provides an excessively narrow definition of rape, is a cause for significant concern. It states that:

*Any person who has unlawful sexual intercourse with a woman or girl, without her consent, or with her consent if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of bodily harm, or by means of false representations as to the nature of the act, or in the case of a married woman, by impersonating her husband, is guilty of the felony termed rape.*<sup>109</sup>

This definition does not appear broad enough to include certain forms of sexual violence against women which can constitute rape and therefore does not go far enough so as to preclude such acts of sexual violence as a form of discrimination against women. In particular, the definition appears to be limited to penetration by the penis,<sup>110</sup> and does not explicitly prohibit marital rape, though this has been compensated for by recent jurisprudence on the application of the common law definition of rape.<sup>111</sup>

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107 Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined initial, second and third periodic reports of Solomon Islands*, CEDAW/C/SLB/CO/1-3, 7 November 2014, Paras. 10(c) and 44.

108 Committee on the Elimination of Discrimination against Women, *General Comment 19: Violence against Women*, UN Doc. A/47/38 at 1, 1992, Para 24(b).

109 Penal Code 1978, section 136.

110 Christian Care Centre et al., *NGO Shadow Report on the Status of Women in Solomon Islands, Initial, Second and Third Report (2002-2012)*, 2012, p. 9, available at: <http://www2.ohchr.org/English/bodies/cedaw/docs/ngos/SolomonIslandsJointNGOCEDAWShadowReport.pdf>.

111 *Regina v Gua* [2012] SBHC 118; HCSI-CRC 195 of 2011 (8 October 2012). See discussion at section 3.4 of this report, below.

Section 158 of the Penal Code makes it an offence punishable by life imprisonment for a woman to attempt to procure her own miscarriage by any means.<sup>112</sup> Measures which prohibit abortion or unduly restrict women's access to it violate a number of international human rights provisions, including the right to non-discrimination on grounds of sex in access to healthcare.<sup>113</sup>

Section 58 of the Evidence Act governs the admission of evidence in relation to sexual experience in cases of "offences against morality".<sup>114</sup> The removal of the corroboration rule, requiring victims of sexual violence to produce evidence, as well the creation of section 58(3), which makes clear that evidence of sexual experience cannot be used for the purpose of challenging a complainant's truthfulness, establishing their consent or for any other purpose not permitted by the court,<sup>115</sup> were highlighted and praised by the UN Special Rapporteur on violence against women in 2012.<sup>116</sup>

However, under Section 58(2) of the Act, evidence of the "sexual experience" of a complainant can be introduced in proceedings where it "relates directly to the acts, events, or circumstances which constitute the offence" or where it "is of such direct relevance to facts in issue (...) that it would be contrary to the interest of justice to exclude it".<sup>117</sup> This provision has been criticised by civil society organisations for allowing the continued use of the past sexual history of a complainant as evidence in sexual offence cases.<sup>118</sup> The corroboration rule has not completely fallen out of use. In a recent judgement concerning rape, one judge reiterated that "there is no corroboration [when women report] because women tend to lie".<sup>119</sup>

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112 See above, note 109, section 158.

113 For a detailed discussion of the international human rights framework as it relates to restrictions on abortion, see Knox, V., "Abortion in the Americas: Non-discrimination and Equality as Tools for Advocacy and Litigation", *The Equal Rights Review*, Vol. 9, 2012, pp. 25–33.

114 Evidence Act 2009, section 58.

115 *Ibid.*, section 58(3).

116 UN Human Rights Council, *Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum: Mission to Solomon Islands*, 22 February 2013, A/HRC/23/49/Add.1, Para 43.

117 See above, note 114, section 58(2).

118 See above, note 110, p. 9.

119 *Ibid.*

Section 18(1) of the Islanders Divorce Act holds that a husband who has filed a petition for divorce or separation may claim damages from any person found to have committed adultery with the wife of the petitioner.<sup>120</sup> There is no corresponding provision in the legislation giving the same right to women whose husbands have committed adultery. Furthermore, such a provision arguably objectifies women, appearing to treat the wife as a part of the husband's property, in allowing him to claim damages in this way.

The Affiliation Separation and Maintenance Act provides, at section 13, for maintenance payments to be paid to a wife for the benefit of children committed to her custody.<sup>121</sup> However, section 17 of the same Act allows a court to discharge such an order if the wife commits "an act of adultery."<sup>122</sup> It appears then that women may have to "choose between retaining the payments and entering into another relationship".<sup>123</sup>

As discussed in greater detail below, the Labour Act does not recognise certain female-dominated areas of employment, such as informal employment and employment as a domestic worker, as possessing full employment rights, thus indirectly discriminating against women and leaving them exposed to exploitation. In addition, section 39 of the Act prohibits the employment of women at night, notwithstanding several listed exceptions. Furthermore, section 40 of the Act explicitly prohibits the employment of women in mines. Such restrictions constitute unnecessary restrictions to work for women and undermine their freedom to choose employment, something which has been criticised by the CEDAW Committee in respect of other states.<sup>124</sup>

The Citizenship Act 1978 contains numerous discriminatory provisions concerning the acquisition, transmission, retention and loss of nationality for women. Section 11(1) of the Act, as amended in 1986, states that:

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120 Islanders Divorce Act 1960, section 18(1).

121 Affiliation Separation and Maintenance Act 1971, section 13.

122 *Ibid.*, section 17.

123 International Finance Corporation, *Solomon Islands, Gender and Investment Climate Reform Assessment*, January 2010, p. 12, available at: [http://www.ifc.org/wps/wcm/connect/648b35804d7381d596a5b748b49f4568/IFC\\_GenderICReformAssessments\\_SolomonIslands.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/648b35804d7381d596a5b748b49f4568/IFC_GenderICReformAssessments_SolomonIslands.pdf?MOD=AJPERES).

124 See, for example, Committee on the Elimination of Discrimination against Women, *Concluding Observations: Tajikistan*, UN Doc. CEDAW/C/TJK/CO/4-5, 29 October 2013, Para 25.

[W]here a woman, who obtained citizenship by virtue of the provisions of section 7, is divorced under a decree of court, subsequently remarries a non-citizen, she shall be deemed to have renounced her citizenship, unless, on the date of the subsequent marriage she had ordinarily been resident in Solomon Islands for a period of ten years.

No such parallel provision exists for men upon remarriage of a non-citizen, and as such the provision constitutes direct gender discrimination. In addition, foreign women can apply for nationality after two years of marriage only with the consent of the husband.<sup>125</sup> Women cannot transmit their nationality to jointly adopted children<sup>126</sup> and only male spouses can apply on behalf of their children for acquisition of nationality through naturalisation.<sup>127</sup>

Customary law also enshrines patriarchal norms, posing challenges for the realisation of women's rights. It has been noted that Solomon Islands, like many of its Pacific Island neighbours, faces the challenge of reconciling the competing notions of equality through human rights and custom, the latter often being "diametrically opposed" to the values underlying provisions designed to provide protection against discrimination.<sup>128</sup>

### ***Gender-based Violence***

One of the most startling manifestations of negative cultural perceptions of women and their position in society is in the levels of gender-based violence and attitudes towards such violence. According to the report submitted to the CEDAW Committee by the Government of Solomon Islands:

*The DHS [Demographic and Health Survey] demonstrated that both women and men accepted that partner violence was justified under some circumstances with 69% of women agreeing with at least one of the reasons asked as justification for violence against women.*

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125 Citizenship Act 1978, section 7(4)(b)(v).

126 *Ibid.*, section 6.

127 *Ibid.*, section 7(3).

128 Corrin Care, J., "Customary law and women's rights in Solomon Islands", *Development Bulletin*, no. 51, 2000, pp. 20-22.

*This is compared to 65% of men who were of the view that partner violence is justified. For both men and women the most commonly accepted reason for domestic violence was neglecting the children (...) In 2009, the Solomon Islands Family Health and Safety Study: a study on violence against women and children (...) demonstrated a relatively high level of acceptability of violence against women. The majority of women (73%) believe that a man is justified in beating his wife under some circumstances, in particular for infidelity and disobedience. The study also demonstrated frequent use of physical punishment to discipline women who are seen as transgressing their prescribed gender roles.<sup>129</sup>*

Levels of violence against women in Solomon Islands are among the highest in the Pacific region.<sup>130</sup> More than half of all women have experienced sexual violence by an intimate partner and 64% of women aged between 15 and 49 have experienced violence in the home.<sup>131</sup> Violence occurs in both the family and the wider community and includes physical violence, sexual violence and coercion.<sup>132</sup> In 2011, the Equal Rights Trust interviewed women about their experiences of discrimination. Violence against women was a repeated theme: all but one of the women interviewed or trained by the Trust spoke of their experiences of physical and/or sexual violence from their partners as well as other men. The following extract from an interview with a woman in Marau, Guadalcanal province, is typical of this testimony:

*As the time goes by, my husband started some of his abusive ways (...) this was after we had our second child.*

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129 See above, note 94, Paras. 132–3.

130 Solomon Islands National AIDS Council (SINAC), *Solomon Islands Global AIDS Response Progress Report 2014*, 2014, p. 21, available at: [http://www.unaids.org/sites/default/files/country/documents/SLB\\_narrative\\_report\\_2014.pdf](http://www.unaids.org/sites/default/files/country/documents/SLB_narrative_report_2014.pdf).

131 Rasanathan, J. and Bhushan, A., *Gender-based Violence in Solomon Islands: Translating Research into Actions on the Social Determinants of Health (Draft Background Paper)*, 2011, p. 1, available at: [http://www.who.int/sdhconference/resources/draft\\_background\\_paper4\\_solomon\\_islands.pdf](http://www.who.int/sdhconference/resources/draft_background_paper4_solomon_islands.pdf).

132 *Ibid.*, pp. 1–3; see also UN News Centre, *Solomon Islands must act to end violence against women, UN rights expert says*, 2012, available at: <http://www.un.org/apps/news/story.asp/html/story.asp?NewsID=41575&Cr=Violence#.Uq81fvRdVqM>.

*He went with his friends (...) drinking alcohol. When he arrives I welcome him and tell him that food is there. I don't know what happened, he suddenly slapped and kicked me. I fell down on the floor, crying with pain. He always did this to me; he even chased me with knife and stick. He did this when he got drunk, my children and I always find shelter with different family at time he went out drinking (sic).<sup>133</sup>*

Another woman from Arakao, Malaita province, spoke of the sexual demands placed upon her by her husband:

*Sometimes I refuse to have sex with my husband to avoid pregnancy every year, and this is where the husband gets frustrated and threatens me with all sorts of talking, swearing, chasing me etc., until I give in and as a result I am pregnant every year.<sup>134</sup>*

In 2013, other women reported their experiences of violence perpetrated by intimate partners or other family members to the Secretariat of the Pacific Community and Equal Rights Trust researchers. A 27 year old female from Makira province told the Equal Rights Trust that “[t]eenage pregnancy is prevalent, rape is also evident and domestic violence is everywhere”.<sup>135</sup> A 22 year old mother from Western province, D., noted that the father of her child left her but continues to intimidate and harass her.<sup>136</sup> G. from Lavangu, Rennell and Bellona province, stated that her husband was the breadwinner and so controlled everything. He often beat her when under the influence of alcohol.<sup>137</sup> Another woman, R., from Pamua, Makira-Ulawa province, told our researchers that her husband often hit her and harassed her because of his jealousy.<sup>138</sup>

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133 Equal Rights Trust interview with Janet, 12 June 2011, Marau, Guadalcanal province.

134 Equal Rights Trust interview with Modesta, 25 June 2011, Arakao, Malaita province.

135 Equal Rights Trust interview with X., 15 May 2013, Makira-Ulawa province.

136 Equal Rights Trust interview with D., 13 July 2013, Western province.

137 Equal Rights Trust interview with G., 24 July 2013, Lavangu, Rennell and Bellona province.

138 Equal Rights Trust interview with R., 14 July 2013, Pamua, Makira-Ulawa province.

Many interviewees spoke of the influence of alcohol on their husbands in cases of domestic violence. Our researchers interviewed Christina, a 43 year old woman from Honiara who spoke about her experiences of domestic violence and sexual abuse when her husband had been drinking. Christina believed that she could not go to the police, as she would be beaten further by her husband.<sup>139</sup> Similarly Rose, 26, and Veronica, 38, both told Equal Rights Trust that their husbands would beat them when they were under the influence of alcohol and in the case of Veronica, sometimes drugs.<sup>140</sup> Rose noted that no action would be taken when the violence was reported to the police, because of the *wantok* system.<sup>141</sup> Testimony from Brita, who was interviewed by Equal Rights Trust researchers, highlighted the adverse and potentially damaging psychological effects that such treatment can have. Brita said that she had often been beaten and verbally abused by her husband in the years since they were married, and spoke of how she has, on several occasions, attempted suicide.<sup>142</sup>

Equal Rights Trust researchers noted that domestic violence does not exclusively occur between husband and wife. Edith, from Honiara, spoke of being a victim of violence and unfair treatment by her father,<sup>143</sup> and Maria Pirule spoke of how at the age of 14 she had been sexually harassed by her step-father after the death of her mother.<sup>144</sup> V, a 15 year old girl, told us that she ran away from her family because of her shame that the man that she called her father indecently assaulted her. She told her mother about the abuse, and her mother reported it to their village elder. The elder advised her to move out and live with other relatives. The matter was not reported to the police. V. worried that other girls in her family might experience the same abuse.<sup>145</sup>

Women also experience violence outside the home. In 2012, the Special Rapporteur on violence against women, its causes and consequences stated:

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139 Equal Rights Trust interview with Christina, 16 May 2013, Wind Valley, capital territory.

140 Equal Rights Trust interview with Veronica, 2 May 2013, Rifle Range, capital territory.

141 Equal Rights Trust interview with Rose, 20 May 2013, Wind Valley, capital territory.

142 Equal Rights Trust interview with Brita, 20 May 2013, Rifle Range, capital territory.

143 Equal Rights Trust interview with Edith, 20 May 2013, Tikopia Settlement, capital territory,

144 Equal Rights Trust interview with Maria Pirule, 16 May 2013, Habuasi, Guadalcanal province.

145 Equal Rights Trust interview with V., 26 July 2013, Rennell and Bellona province.

*[I] received allegations of incest, gang rape and sexual exploitation by foreign workers in the logging and fishing industries. The increasing influx into poor and isolated communities of men who are employed by logging and fishing companies and who have access to money, and other goods that are inaccessible to locals, has created a “market” for sexual services, and has also resulted in cases of sexual exploitation and abuse.<sup>146</sup>*

There have been reports of women being brought from mainland China, Indonesia, Malaysia and the Philippines to serve in prostitution, largely in and near logging camps.<sup>147</sup> Amnesty International has reported that women living in the slums of Honiara are at particularly high risk of both physical and sexual violence. These women often walk long distances to get to water or the toilet, usually walking through the bush. This places them at especially high risk when they collect water in the early evening and when they are bathing or using the toilet at night.<sup>148</sup>

The Solomon Islands Family Health and Safety Study, published in 2009, found that violence against women has a significant negative impact on women’s health, although there is a tendency for women to downplay the impact of violence when making reports.<sup>149</sup> The study found that women who suffered physical or sexual abuse reported a range of injuries, consistent with the severity of the violence inflicted on them. For 12% of those interviewed, their injuries were serious enough to require health care.<sup>150</sup> In addition, the study found that high levels of emotional distress, suicidal thoughts, and suicidal attempts were also likely consequences of the physical and/or sexual violence suffered by

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146 See above, note 116, Para 31.

147 US Department of State, *Trafficking in Persons Report*, July 2015, p. 307, available at: <http://www.state.gov/documents/organization/245365.pdf>.

148 Amnesty International, *Where is the Dignity in that? – Women in Solomon Islands Slums Denied Sanitation and Safety*, 2011, p. 10, available at: <http://www.amnesty.org.nz/files/SolomonIslandsWEB.pdf>.

149 Secretariat of the Pacific Community for Ministry of Women, Youth & Children’s Affairs, *Solomon Islands Family Health and Safety Study: A study on violence against women and children*, 2009, p. 106, available at: <http://www.pacificwomen.org/wp-content/uploads/SolomonIslandsFamilyHealthandSafetyStudy1.pdf>.

150 *Ibid.*, p. 108.

women.<sup>151</sup> Women experiencing partner violence during pregnancy were more likely to report miscarriage, abortion, stillbirth and having a child who died.<sup>152</sup> One key finding from the study was that there is a correlation between the experience of gender-based violence and the reporting of a “fair”, “poor” or “very poor” health status (as opposed to a “good” or “excellent”).<sup>153</sup> The study also found that gender based violence had a significant impact on women’s ability to carry out their daily activities, including caring for children.<sup>154</sup>

Women experienced increased violence both within and outside of the home during “the Tensions”. A submission made by women to the TRC reported that a large number of women, including young women, were raped during “the Tensions”. The women’s stories included being raped at gunpoint and through the use of foreign objects.<sup>155</sup> Together with the resulting psychological and physical trauma, women also faced social consequences, including stigmatisation. Amnesty International was told by women leaders that a married woman could be required by cultural tradition to pay “compensation” to her husband’s family due to the shame that her rape brought upon the family.<sup>156</sup> The Special Rapporteur on violence against women, its causes and consequences, Ms Rashida Manjoo, visited the Solomon Islands in 2012. Following her visit, she highlighted the impact of “the Tensions”:

*“The Tensions” had an impact on the lives of women in many ways. Women were victims of sexual abuse, increased domestic violence, killing and torture. Many of them also suffered displacement, loss of property and of access to such services as education and health.*<sup>157</sup>

The TRC which followed “the Tensions” dedicated a section of its final report to the impact of “the Tensions” on women, noting that:

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151 *Ibid.*, p. 113.

152 *Ibid.*, p. 116.

153 *Ibid.*, p. 109.

154 *Ibid.*, p. 111.

155 See above, note 110.

156 *Ibid.*; see also Amnesty International, *Solomon Islands: Women Confronting Violence*, 2004, p. 28, available at: <https://www.amnesty.org/en/documents/asa43/001/2004/en>.

157 See above, note 116, Para 12.

*The violations and challenges that women experienced and survived were not isolated in the period of the conflict alone. The prevailing cultural and religious protocols and social conditions of Solomon Islands and the pre-existing established gender roles of males and females in society had a direct relationship to women's experiences of the conflict.*<sup>158</sup>

Despite trials occurring as a consequence of “the Tensions” (often referred to as the “tension trials”) no prosecution for sexual violence has been brought.<sup>159</sup> Male relatives allegedly discouraged women from cooperating with prosecutors or reporting rape to the police.<sup>160</sup> Trust in the police is also problematic as many members of the current police force were previously militants.<sup>161</sup> In its most recent State Report to the Universal Periodic Review, Solomon Islands stated that it is currently in the process of implementing a framework to give effect to the recommendations of the TRC, including guidance on judicial trials for perpetrators of violence.<sup>162</sup>

The lack of progress in prosecuting the perpetrators of gender-based violence during “the Tensions” is symptomatic of a wider problem of poor legislative and policy response to gender-based violence more broadly. In 2012, the Secretariat of the Pacific Community concluded that the lack of an adequate legislative framework to protect women, together with broader social patterns of gender inequality, contributes to the high levels of gender-based violence.<sup>163</sup> This said, efforts to improve the legal and policy framework have recently progressed, following a period of inactivity during and in the after-

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158 See above, note 95, Vol. 3, p. 540.

159 See above, note 110; see also Solomon Islands Truth and Reconciliation Commission, above note 95, Vol. 2, p. 499, available at: <http://pacificpolicy.org/files/2013/04/Solomon-Islands-TRC-Final-Report-Vol-2.pdf>.

160 Amnesty International, above note 156, p. 1.

161 See above, note 110, p. 8; see also Amnesty International, above note 156, p. 1.

162 United Nations Human Rights Council, Working Group on the Universal Periodic Review, *National Report: Solomon Islands*, UN Doc. A/HRC/WG.6/24/SLB/1, 30 October 2015, Para 55.

163 Secretariat of the Pacific Community, *Stocktake of the gender mainstreaming capacity of Pacific Island governments – Solomon Islands*, 2012, p. 8, available at: <http://www2008.spc.int/images/publications/en/Divisions/Hdp/solomon-islands-gender-stocktake.pdf>.

math of “the Tensions”.<sup>164</sup> A number of recent legal and policy reforms – the publication of a National Policy on Gender Equality and Women’s Development, the creation of a National Taskforce on the Elimination of Violence against Women and the enactment of the Family Protection Act 2014<sup>165</sup> – illustrate a commitment by the government to improve the framework for addressing violence against women. However, it is too early to say how effective these reforms, in particular the new Family Protection Act, will be in meeting the need.

Violence against women in the Solomon Islands is definitely underreported. According to the Solomon Islands Family Health and Safety Study, only 17.9% of women who experienced violence sought help and only 2.4% reported it to a court or sought legal advice.<sup>166</sup> A recent report to the CEDAW Committee posits that one of the reasons for the low rates of reporting by victims of gender-based violence is that domestic violence is seen as a private matter rather than a crime.<sup>167</sup> More broadly, as discussed above, some reports indicate that high proportions of both men and women believe that violence against women can be justified in certain circumstances:

*In Solomon Islands, GBV [gender-based violence] has been largely normalized: 73% of men and 73% of women believe violence against women is justifiable, especially for infidelity and ‘disobedience,’ as when women do “not live up to the gender roles that society imposes.” For example, women who believed they could occasionally refuse sex were four times more likely to experience GBV from an intimate partner. Men cited acceptability of violence and gender inequality as two main reasons for GBV, and almost all of them reported hitting their female partners as a “form of discipline,” suggesting that women could improve the situation by “[learning] to obey [them].”<sup>168</sup>*

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164 Australian Agency for International Development (AusAID), *Solomon Islands Country Supplement*, 2008, p. 142, available at: [http://aid.dfat.gov.au/Publications/Documents/vaw\\_cs\\_solomon\\_islands.pdf](http://aid.dfat.gov.au/Publications/Documents/vaw_cs_solomon_islands.pdf).

165 See sections 3.2.2 and 3.3 in this report for discussion of these instruments.

166 See above, note 149, chapter 10.

167 See above, note 110, p. 8.

168 See above, note 131, p. 4.

Other reasons given for not reporting violence are shame, fear of reprisals, cultural taboos about discussing such matters and pressure from male family members.<sup>169</sup> Equal Rights Trust researchers spoke with S., an adult female from the Western province, who stated that she remained silent about being raped because of fear, shame and harassment from her community and family.<sup>170</sup> During a focus group held by the SPC-SI in Kolosori, two women shared their experiences with the group about victims of rape whom they counsel. They noted that often stepfathers act inhumanely and rape their step-daughters. In more general terms, they discussed how men believe that they play the role of “security provider” in the home, and therefore feel justified in doing what they want to the mother and her daughters, leaving women powerless.<sup>171</sup>

The aforementioned submission by women to the TRC stated that women may also choose not to report their experiences of violence in the interests of their family: depending on the type of abuse and the families involved, a report of violence may spark further violence when the victim’s relatives seek to avenge the violation.<sup>172</sup> The Final Report of the TRC noted that the gender-based violence statistics it reported did not capture the full extent of the sexual violence that occurred during “the Tensions” because sexual violence was not always disclosed by victims for reasons including stigma and cultural taboo.<sup>173</sup> Indeed, some authors have argued that due to the prevailing cultural conventions on sexual violence, some of the TRC truth-telling methods may have acted as a barrier for some women to testify the violence suffered.<sup>174</sup>

Another concern in the reporting of gender-based violence is that the police may not take domestic violence seriously; one NGO report found that police in Honiara blamed failures to respond to calls and provide a prompt response

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169 United Nations Development Fund for Women, *Ending Violence against Women and Girls: Evidence, Data and Knowledge in the Pacific Island Countries*, August 2010, Para. 139, available at: <http://www.unicef.org/pacificislands/evaw.pdf>.

170 Equal Rights Trust Interview with S., 19 July 2013, Western province.

171 Equal Rights Trust focus group with women, 14 June 2013, Kolosori, Isable province.

172 Fangalasuu, J., Maetala, R., Rodi, P., Vota, A. and Wickham, E. (on behalf of Stori Blong Mere Workshop participants), *Herem Kam: Stori Blong Mifala Olketa Mere. Women’s Submission to the Solomon Islands Truth and Reconciliation Commission*, 2011.

173 See above, note 95, p. 590.

174 See above, note 110.

on shortages of staff and transport.<sup>175</sup> This was corroborated by women who spoke to Equal Rights Trust researchers about the inadequate police response to reports of gender-based violence. R. from Rennell and Bellona province discussed women's difficulties in obtaining justice, noting that the system is corrupt and that few women report cases to the police.<sup>176</sup> Similarly, R. spoke about the poor standard of police work in communities which left women with disabilities in particular vulnerable to harassment, abuse, violence and rape both in the home and in the community.<sup>177</sup>

A focus group of women in Hovikoilo, Isabel province, noted that despite the fact that domestic violence is commonplace, even when repeated incidents led to some cases being reported to village elders, action was never taken.<sup>178</sup> Sylvester, a 28 year old woman from Malaita province, spoke to the Equal Rights Trust about her experiences of sexual harassment and abuse which occurred when she wore "short pants". This led to an attempted rape, which was not taken seriously by the police; she said that police officers had accused her of provoking the assault by wearing those kinds of clothes.<sup>179</sup>

The Special Rapporteur on violence against women, its causes and consequences has noted that women's access to justice is severely limited by a lack of human and financial resources, infrastructure and insufficiently qualified lawyers, judges and magistrates.<sup>180</sup> In 2009, changes were made to the Evidence Act to remove discriminatory rules of evidence which may result in a greater chance of justice for survivors of sexual assault.<sup>181</sup> However, the approach of the courts is problematic. Courts are generally reluctant to imprison a male family member who may provide the sole source of income to his family, but this approach is only taken in relation to domestic violence against

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175 See above, note 110, p. 8.

176 Equal Rights Trust interview with R., 4 July 2013, Rennell and Bellona province.

177 Equal Rights Trust interview with R., 13 July 2013, Kaunasugu, Makira-Ulawa province.

178 See above, note 103.

179 Equal Rights Trust interview with Sylvester, 15 May 2013, Malaita province.

180 See UN News Centre, above note 132.

181 UNIFEM, *CEDAW Success Stories: The Solomon Islands Removes Discriminatory Practices in Evidence Legislation*, 2009, available at: [http://www.unifem.org/cedaw30/success\\_stories/index.html](http://www.unifem.org/cedaw30/success_stories/index.html).

women and girls and not for other crimes.<sup>182</sup> The emphasis of both the courts and informal village councils is on family reunification rather than criminal charges and accountability.<sup>183</sup>

In its 2014 Concluding Observations, the CEDAW Committee noted the lack of services for women victims of violence, including medical treatment, psychological counselling, legal assistance, as well as shelters outside the capital.<sup>184</sup> The CEDAW Committee called on Solomon Islands to take measures to ensure that the police respond effectively to complaints regarding domestic violence by prosecuting the perpetrators and to discourage mediation and settlements under customary mechanisms. Furthermore, the state was urged to provide access to information to women, including women with disabilities, and to strengthen and support state and non-state services available to women victims of violence.<sup>185</sup>

### ***Marriage, Divorce and Pregnancy***

In some parts of Solomon Islands, a “bride price” is traditionally given by the family of the groom to the family of the bride on marriage.<sup>186</sup> Traditionally, bride price involved the family of the groom giving shell money to the family of the bride, to compensate them for the loss of their daughter, and the practice was partly about building a relationship between the families. However, the practice has evolved in recent years as large cash payments are made, leading to a view that bride price gives a man “ownership” of his wife and the right to treat her as he pleases.<sup>187</sup> In its report to the CEDAW Committee, the Government of Solomon Islands described the impact of bride price on women’s freedom to choose and on their experience within marriage:

*As a result of the introduction of the cash economy, in some instances the bride has become more of a com-*

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182 International Social Service Australia, *Solomon Islands, Social Welfare Needs Analysis*, 2012, p. 11, available at: <http://www.iss.org.au/wp-content/uploads/2012/06/Solomon-Islands-FINAL-Full-Doc.pdf>.

183 *Ibid.*

184 See above, note 107, Para. 24(c).

185 *Ibid.*, Para. 25.

186 See above, note 94, Para. 123.

187 See above, note 149, pp. 149–150.

*modity than a symbol of positive social relations. However, this does not take away the value that is attached to the giving of the bride by her family. This customary practice can take decision making out of the hands of women and in some instances raises issues of “ownership” of both the bride and any children born as a result of the marriage.*<sup>188</sup>

A study on violence against women published by the Secretariat of the Pacific Community in 2009 found that women in marriages involving the payment of bride price were “significantly more likely” to experience violence from their intimate partner:

*Bride price was found to be a strong risk factor for women’s experiences of partner violence. Women whose bride price had not been fully paid were particularly at risk. They were more than two and a half times more likely to experience violence than women whose marriage did not involve bride price.*<sup>189</sup>

The study found that almost 60% of women whose marriage involved the payment of bride price had experienced violence from an intimate partner; this figure rose to almost 81% of women whose bride price had not been fully paid.<sup>190</sup> There is also a view that a woman cannot leave a marriage if bride price has been paid. Among women who had never left a violent relationship, 9% reported that they stayed because the bride price had been paid, while 10% of women who left a violent relationship later returned because the bride price had been paid.<sup>191</sup>

In 2013, the Special Rapporteur on violence against women, its causes and consequences found evidence that the practice of bride prices was being used by foreign workers to effectively “purchase” women from their families:

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188 See above, note 94, Para. 123.

189 See above, note 149, p. 149.

190 *Ibid.*, pp. 141–142.

191 *Ibid.*, pp. 149–150.

*[I] was also informed of how young women were often “married off” by their families to men who would pay the families a bride price but then abuse the women and/or later abandon the women and children born of the union.<sup>192</sup>*

A focus group of girls interviewed by the Equal Rights Trust in Malaita province spoke of the discrimination that women face because of the practice of bride price. They spoke about how this high cost led to high expectations that the woman must meet, including bearing children for the man’s family, doing domestic chores and submitting to the husband’s will.<sup>193</sup> Rose, a 26 year old woman from Honiara, spoke about how the payment of bride price had limited her freedoms, stating that she was prevented from moving freely to visit family members and that her husband believed that he owned her.<sup>194</sup> Similarly, the participants of focus groups in Venga and Nemba, Temotu province, noted that cultural practices are extremely biased against women, who are seen as an “object of labour”, expected to work tirelessly and prepare food for the husband. Some women spoke of harsh punishments if such work was not done,<sup>195</sup> preventing them from being active in other ways, or taking part in other activities. Men, on the other hand, they noted, have the freedom to move, or to relax.<sup>196</sup>

There is no minimum age for marriage in customary law. However, the Islanders Marriage Act provides that the minimum legal age for marriage is 15 years and that the consent of the child’s father is required for marriage of persons under the age of 18.<sup>197</sup> Both the CEDAW Committee and the Committee on the Rights of the Child (CRC Committee) have called on states to increase the minimum legal age for marriage to 18.<sup>198</sup> According to UNICEF, the

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192 See above, note 116, Para. 30.

193 Equal Rights Trust focus group with girls, 14 May 2013, Malaita province.

194 See above, note 141.

195 Equal Rights Trust focus group with young men and women, 11 June 2013, Venga, Temotu province.

196 Equal Rights Trust focus group with women, 11 June 2013, Nemba, Temotu province.

197 Islanders’ Marriage Act 1945, section 10(3).

198 For a comprehensive list of such recommendations, see: Equality Now, *UN CEDAW and CRC Recommendations on Minimum Age of Marriage Laws around the World*, 2013, available at: [www.equalitynow.org/childmarriage-report](http://www.equalitynow.org/childmarriage-report).

prevalence of child marriage among girls under 15 years of age is 3%, whilst it increases to 22% for the group of 15-18 years of age.<sup>199</sup> A 2009 report by the Protection Project, a human rights research institute, found that families were abusing the tradition of bride price – once used to secure the well-being of the bride – by using it as a pretext of selling underage girls into arranged marriage. Moreover, there were reports that loggers from Malaysia married girls aged as young as 13 and 14.<sup>200</sup> Roda, a 16 year old girl from Kombe, Central province, told the Equal Rights Trust how she was forced into marriage with an older man and now lived in an environment of fear, in which she was constantly harassed and could not move freely or talk freely with others in the community.<sup>201</sup> According to Solomon Islands' most recent State Report for the Universal Periodic Review, the Law Reform Commission of Solomon Islands has been authorised to consult with stakeholders towards a review of the current marriageable age.<sup>202</sup>

In its review of Solomon Islands in 2014, the CEDAW Committee expressed concern over the low minimum age for marriage for both girls and boys and the absence of a minimum age for marriage under customary law.<sup>203</sup> It urged Solomon Islands, *inter alia*, to prohibit the customary practice of bride prices and to establish legal safeguards to ensure that women are not forced to marry without their free and full consent.<sup>204</sup>

The Islander Divorce Act provides that divorce can be initiated by both spouses.<sup>205</sup> However, women face greater difficulties than men in accessing courts to initiate proceedings, due to lack of financial resources. Obtaining a divorce involves the costs of travelling to a High Court in Honiara or elsewhere, as well

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199 UNICEF, *Every Child Counts: The State of the World's Children 2014 in Numbers*, January 2014, available at: [http://www.unicef.org/sowc2014/numbers/documents/english/SOWC2014\\_In%20Numbers\\_28%20Jan.pdf](http://www.unicef.org/sowc2014/numbers/documents/english/SOWC2014_In%20Numbers_28%20Jan.pdf).

200 Protection Project, *A Human Rights Report on Trafficking in Persons, Especially Women and Children – Solomon Islands*, 2009, pp. 2-4, available at: <http://www.protectionproject.org/wp-content/uploads/2010/09/Solomon-Islands.pdf>.

201 Equal Rights Trust interview with Roda Pia, 7 May 2013, Kombe, Central province.

202 See above, note 162, Para 53.

203 See above, note 107, Para 44(a).

204 *Ibid.*, Para 45.

205 Islanders' Divorce Act 1960, section 5.

as the costs of hiring a lawyer. NGO reports to the CEDAW Committee indicated that financial difficulties, as well as the customary and religious stigma which still surrounds the idea of separation for women, restricts access to divorce.<sup>206</sup> Furthermore, where women are able to initiate divorce proceedings, there is evidence of discrimination in the division of matrimonial property, as the law does not provide clear criteria, leaving the decision to the discretion of individual magistrates.<sup>207</sup> Participants in an Equal Rights Trust - SPC SI focus group involving women in Malaita province noted the unfair treatment of men and women in divorce proceedings and spoke of discrimination faced by divorced women and about the effect on children of divorced parents, who may not benefit from equal shares of property.<sup>208</sup>

Several participants in interviews conducted by Equal Rights Trust researchers noted that there was a tendency for families to ostracise or treat unfairly girls and young women who become pregnant outside of marriage. Luisa, a 28 year old woman from Malaita province, told the Equal Rights Trust that she fell pregnant whilst she was in high school. She was harassed by her parents who became angry and did not want to help her, affecting Luisa emotionally and causing her distress. Luisa told our researchers that the child did not survive the birth.<sup>209</sup> Our researchers also spoke to Diana, an 18 year old girl from Malaita province, who told Equal Rights Trust researchers how, after falling pregnant, she was subsequently harassed by her immediate family members to such an extent that she chose to leave home and move in with another family. She felt that there was unfair blame placed on girls, given that boys, she said, were never confronted or held responsible in any way when a girl becomes pregnant outside of marriage.<sup>210</sup>

The view that there is a perceived lack of responsibility for men and boys in such situations was corroborated in part by the participants of a focus group with young men in Hoilava. They recalled how girls who have children outside of marriage are treated badly by their families, whereas boys are not. Moreover, girls, they felt, were often seen by their families as no longer be-

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206 See above, note 110, p. 31.

207 *Ibid.*

208 Equal Rights Trust focus group with women, 11 June 2013, Malaita province.

209 Equal Rights Trust interview with Luisa, 15 May 2013, Malaita province.

210 Equal Rights Trust interview with Diana, 15 May 2013, Malaita province.

ing valuable after having had children.<sup>211</sup> The problems for young women appear to be compounded by the fact that contraception is not readily available throughout Solomon Islands. A focus group of young women in Kokona spoke of teenage pregnancy, noting the difficulties for women and girls to access contraception or family planning, and the restrictions often faced because of their fear of talking about these issues with priests or counsellors.<sup>212</sup>

### ***Employment and Economic Participation***

Article 11 of CEDAW requires Solomon Islands to take “appropriate measures to eliminate discrimination against women in the field of employment”, including in respect of employment opportunities, free choice of profession, the right to promotion, benefits and training and the right to equal remuneration.<sup>213</sup> Nevertheless, Solomon Islands does not have legislation which prohibits sex discrimination or sexual harassment in employment, or which provides for equal pay.<sup>214</sup> Moreover, as noted above, there are a number of discriminatory provisions in the Labour Act: section 39 places restrictions on women working at night, while section 40 states that women cannot work underground in mining. In addition, the exclusion of domestic workers and so-called “outworkers” (persons employed to clean, alter, finish or repair garments) from the application of the Act has a disproportionate impact on women, who are more likely to work in these occupations, and thus constitutes indirect discrimination.<sup>215</sup>

In the context of a weak protective legal framework, women experience discrimination and disadvantage in all areas of employment. Statistical data indicates that women are significantly less likely to be employed, receive lower pay when in employment, and experience both vertical segregation (separation in occupational hierarchies) and horizontal segregation (separation across occupations) in employment. In 2013, 53.4% of women aged 15 years

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211 Equal Rights Trust focus group with young men, 18 May 2013, Hoilava, Guadalcanal province.

212 Equal Rights Trust focus group with young women, 19 May 2013, Kokona, Guadalcanal province.

213 See above, note 93, Article 11.

214 For a detailed discussion of Solomon Islands’ laws providing protection from discrimination, see section 3.2 of this report.

215 See above, note 94, Paras. 249–250.

and older participated in the labour force, compared to 79% of men.<sup>216</sup> According to the report submitted by Solomon Islands to the CEDAW Committee in 2013, “[w]hile female participation in the labour force has increased, there are still significant gender gaps in participation rates, occupational levels and wages”.<sup>217</sup> Women’s ability to enter the work force is significantly affected by the lack of equal access to training and education.<sup>218</sup> Cultural expectations that women will remain in the home and undertake unpaid domestic work also limit women’s employment opportunities.<sup>219</sup>

At the time of the 2009 Report on Economic Activity and Labour Force (part of the 2009 census), male participation in paid work for those aged 15 and over was 35%, twice as high as female participation, 17.5%.<sup>220</sup> This result was similar to that in the 1999 census, which reported male participation at 32.2% and female participation at 15.1%.<sup>221</sup> The 2009 census identified that women made up 33% of the total employed population, with men constituting the remaining two thirds.<sup>222</sup> The 2006–2007 Demographic and Health Survey (DHS) produced by the Solomon Islands National Statistics Office (SINSO) reported that 42.1% of married women aged 15 to 49 years were employed during the 12 months prior to the survey date, compared to 87.1% of married men in the same age group.<sup>223</sup>

The Report on Economic Activity and Labour Force revealed regional disparities, identifying that 12.7% of women in rural areas were in paid employment, compared to 27.9% in urban areas.<sup>224</sup> Honiara was home to

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216 UN Women, *Progress of the World’s Women, 2015-2016*, p. 280, available at: [http://progress.unwomen.org/en/2015/pdf/UNW\\_progressreport.pdf](http://progress.unwomen.org/en/2015/pdf/UNW_progressreport.pdf).

217 See above, note 94, Para. 254.

218 See above, note 163, p. 9.

219 See above, note 110, p. 25.

220 Solomon Islands National Statistics Office, *Report on Economic Activity and Labour Force – 2009 Population and Housing Census*, 2009, p. 35, available at: <http://www.spc.int/prism/solomons/index.php/sinso-documents?view=download&fileId=61>.

221 *Ibid.*

222 See above, note 94, Para. 256.

223 Solomon Islands National Statistics Office, Secretariat of the Pacific Community and Macro International Inc., *Solomon Islands Demographic and Health Survey 2006–2007*, 2009, p. 271, available at: <http://catalog.ihsn.org/index.php/catalog/2963>.

224 See above, note 220, p.34.

the highest proportion of women in work, with 60% working as employees, employers or in self-employment; other provinces were either below or slightly over 10%, while Western province was at just below 20% and Guadalcanal at around 15%.<sup>225</sup> Overall, greater levels of participation were found in subsistence work.<sup>226</sup>

Participants in interviews conducted by Equal Rights Trust researchers gave examples of restrictions on women's abilities to move freely or work in a job of their choosing. Some participants raised issues related to traditional gender roles enforced by the husband's treatment of the wife. Such was the case of Hellen, a 26 year old woman from Kombe, Central province, who explained to the Equal Rights Trust how her husband assumed stereotyped family roles, not wanting her to work as a teacher but instead to stay at home and look after their children.<sup>227</sup>

Article 11(1)(d) of CEDAW specifically commits states parties to ensuring "the right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value". However, there is evidence of significant disparities between male and female average income, pointing to the distinct possibility that equal remuneration obligations are not being fulfilled. According to UNDP statistics, the estimated average earned income in 2005 for men was US\$2,672, with women earning US\$1,345, close to half the average male income.<sup>228</sup>

The 2009 Report on Economic Activity and Labour Force provided statistics on the breakdown of paid employment between industry sectors, revealing significant horizontal gender segregation between fields of employment. Of 26,669 women reported to be in work, the majority were employed in agriculture (10,010), wholesale and retail trade (3,417), education (3,284), private

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225 *Ibid.*, p.32.

226 *Ibid.*, pp. 31–32.

227 Equal Rights Trust interview with Hellen, 7 May 2013, Kombe, Central province.

228 Hedditch, S. and Manuel, C., *Solomon Islands, Gender and Investment Climate Reform Assessment*, 2010, p. 9, available at: [http://www.ifc.org/wps/wcm/connect/0465238049fb0beca26eebd1a5d13d27/IFC\\_Gender+and+Inv+Climate+Reform+Assessments+\\_SolomonIslands.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/0465238049fb0beca26eebd1a5d13d27/IFC_Gender+and+Inv+Climate+Reform+Assessments+_SolomonIslands.pdf?MOD=AJPERES).

household (1,951) and public administration and social security (1,659).<sup>229</sup> More women than men were employed in accommodation and food services, health and social work and working in households.<sup>230</sup> Solomon Islands' 2013 report to the CEDAW Committee stated that the "male dominated culture of Solomon Islands does not encourage women to enter into formal businesses", citing statistics from 2008 which show that of 772 new business names registered, only 4 were registered by women.<sup>231</sup>

Vertical segregation in employment is also a significant problem. The 2013 report submitted by Solomon Islands to the CEDAW Committee presented evidence of a significant gender gap in senior positions, using the public service as an example. According to the report:

*Women continued to dominate the lower administrative level of the public service workforce with very few women in senior management. (...) There are 13 position levels in the public service before 5 senior management levels. Most women in the public service in 2011 were employed in position levels one to five (with one being the lowest level).<sup>232</sup>*

There is evidence that the government is taking steps to address gender discrimination and inequality in public service employment. Respondents at an Equal Rights Trust – SPC-SI consultation meeting in August 2014 stated that new employment contracts for Permanent Secretaries include an outcome on gender mainstreaming, against which they are assessed.<sup>233</sup> In addition, the Human Resource Management Strategy used by the Public Service includes indicators related to addressing discrimination in employment and zero tolerance on workplace harassment.

Article 11(2) of CEDAW requires states to *inter alia* "introduce maternity leave with pay or with comparable social benefits without loss of former

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229 See above, note 220, p. 42.

230 *Ibid.*, p. 41.

231 See above, note 94, Para 265.

232 *Ibid.*, Para 259.

233 Equal Rights Trust focus group with key stakeholders, 15 August 2014, Central Territory.

employment, seniority or social allowances”.<sup>234</sup> While the Labour Act provides for maternity leave, certain categories of workers, including domestic workers, are excluded from the application of the Act and thus are unable to claim this right.<sup>235</sup> In addition, the Act only provides for 12-week maternity leave after birth, during which period women receive 25% of pay.<sup>236</sup> Due to the already low wages in Solomon Islands, many women cannot afford to take 12 weeks off work at 25% of their pay.<sup>237</sup>

Women also face discrimination and disadvantage in other areas of economic life, as illustrated by a 2008 study which found a number of barriers which prevented women from starting their own businesses.<sup>238</sup> Women perceived the attitude of both male and female staff in the registry to be that “women are not meant to do business”.<sup>239</sup> The wait to obtain a license for a business was reported to be several months for women and several weeks for men; women reported that they felt disadvantaged because, unlike men, they did not pay bribes for faster processing. Similarly, it was reported that women faced long waits to obtain credit and were required to have a male guarantor although they met eligibility requirements.<sup>240</sup> Women wishing to sell goods in the market reported harassment by drunken men and favoritism in allocation of a limited number of stalls to men selling betel nut. This favoritism led to women selling goods out in the streets, where they had safety concerns.<sup>241</sup> These examples appear to indicate a failure on the part of the state to meet its obligations under Article 11(c) and Article 13 of CEDAW. Article 11(c) obligates states to ensure equal enjoyment of the “right to free choice of profession and employment” while Article 13 commits states to “take all appropriate measures

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234 See above, note 93, Article 11(2)(b).

235 Labour Act 1960, section 2. For further discussion of these provisions, see above note 94, Para 245.

236 Labour Act 1960, section 42(3).

237 See above, note 110.

238 Hutchens, A., *Women in Business in Solomon Islands, Key Findings from April 2008 Scoping Mission*, 2008, available at: <http://unpan1.un.org/intradoc/groups/public/documents/apcity/unpan038189.pdf>.

239 *Ibid.*, p. 4.

240 *Ibid.*, p. 3.

241 *Ibid.*, p. 6.

to eliminate discrimination against women in other areas of economic and social life”, including the right to “bank loans, mortgages and other forms of financial credit”.

Interviews conducted by the Equal Rights Trust and SPC-SI found evidence of restrictions on women’s ability to undertake other economic activities, apparently arising from discrimination by state actors. Equal Rights Trust researchers interviewed Nelly, a 40 year old farmer from Mukiki, Choiseul province, who spoke of her difficulties in obtaining seeds and plants, and the lack of help from the government in doing so. She said that such help was only given to men, and as a widow, she had difficulty accessing such services.<sup>242</sup> Similarly, participants at a focus group with young people in Kole stated that women could not access funding for projects, unlike men, who were often given funding for fishing projects, or given materials such as fishing gear or seeds for farming. Participants stated that this was often facilitated by their member of parliament, and was seen by them as discriminatory on the basis of sex.<sup>243</sup>

The cumulative impact of these aspects of discrimination and disadvantage in employment and economic life is that women are disproportionately affected by poverty. According to the 2010 report by Solomon Islands on the UN Millennium Development Goals (MDG), 22.7% of the population lived on less than US \$1/day,<sup>244</sup> and the majority of people living in poverty were women and children.<sup>245</sup> In 2007, over 56% of married women reported earning no income at all, while an additional 10% of women reported earning all or part of their income in-kind.<sup>246</sup>

In its 2014 Concluding Observations, the CEDAW Committee underlined the lack of measures to promote equal employment opportunities for women in the formal economy and urged the state to seek technical assistance to im-

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242 Equal Rights Trust interview with Nelly, 31 May 2013, Mukiki, Choiseul province.

243 Equal Rights Trust focus group with young men and women, 7 May 2013, Kole, Central province.

244 UNDP, *Millennium Development Goals Progress Report For Solomon Islands 2010*, p. 58, available at: [http://www.undp.org/content/dam/undp/library/MDG/english/MDG%20Country%20Reports/Solomon%20Islands/2010%20Final\\_SI\\_MDG.pdf](http://www.undp.org/content/dam/undp/library/MDG/english/MDG%20Country%20Reports/Solomon%20Islands/2010%20Final_SI_MDG.pdf).

245 See above, note 110, p. 25.

246 See above, note 223, Table 14.1, p. 271.

prove women's access to the labour market and to ensure their rights to maternity leave and maternity benefits.<sup>247</sup>

### ***Land Use***

The logging industry is the most significant economic sector in Solomon Islands. Indeed, up to 50% of the entire workforce of Solomon Islands may be associated directly or indirectly with the forest sector.<sup>248</sup> Whilst the size of the industry means that it is a major source of employment, our research identified a series of negative effects which seem to disproportionately affect women. Women interviewed by the Equal Rights Trust indicated that they are excluded from decision-making relating to land or logging. Participants in focus groups in Verahue, Guadalcanal province, said that men made decisions about logging and so gained the financial benefits from logging licenses.<sup>249</sup> Leah, from Choiseul, Choiseul province, explained that cultural norms and practices are barriers to women's participation in leadership roles and decision-making: she felt that she could not talk about land issues within their family when logging was discussed.<sup>250</sup> Similarly, during a focus group with women in Hovikoilo, participants noted that as women were not allowed to make decisions on logging arrangements, there was an unfair distribution of royalties. Of the 10 participants in this focus group, two women who were heads of their families in the matrilineal system claimed that their brothers ignored them and invited loggers to exploit their resources, which made the soil infertile and unsuitable for gardening.<sup>251</sup> Participants in one focus group stated that women who are not part of the decision-making process and do not receive royalties have been coerced into a marriage with older loggers against their will.<sup>252</sup>

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247 See above, note 107, Paras 34–35.

248 The United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries, *Solomon Islands*, available at: [http://www.un-redd.org/NationalProgrammes/Solomon\\_Islands/tabid/6898/Default.aspx](http://www.un-redd.org/NationalProgrammes/Solomon_Islands/tabid/6898/Default.aspx).

249 Equal Rights Trust focus group with mixed participants, 20 May 2013, Verahue, Guadalcanal province.

250 Equal Rights Trust interview with Leah, 31 May 2013, Choiseul, Choiseul province.

251 Equal Rights Trust focus group with women, 16 June 2013, Hovikoilo, Isabel province.

252 Equal Rights Trust focus group with young men and women, 21 May 2013, Katsatai-Kovema, Guadalcanal province.

The situation appears similar concerning the distribution of royalties from other such industries. Participants of one focus group in Guadalcanal noted that the unfair distribution of royalties from mining development in their area caused a lot of tension within the family, often leading to a domestic environment which is not safe for the children.<sup>253</sup>

## **Education**

Article 10 of CEDAW commits states to take all appropriate measures to eliminate discrimination and ensure equal rights in the field of education. Unlike in the area of employment however, Solomon Islands has made considerable progress in addressing substantive inequalities between male and female children.

Primary school education was made free by the government in 2009, in part in an effort to increase the number of girls enrolled.<sup>254</sup> As a result, there is little difference between primary school enrolment levels for girls and boys.<sup>255</sup> The Ministry of Education and Human Resources Development Performance Assessment Report recorded a net attendance at primary level that was slightly higher for males than females. The same is true at secondary level for years 10–13.<sup>256</sup> The 2009 national census reported that differences in enrolment levels for children aged 6 to 14 years were insignificant, though enrolment rates were higher for males from age 15 upwards.<sup>257</sup> The number of children aged 5 to 14 enrolled in primary school education increased from below 60% in the 1999 census to around 80% in the 2009 census and the gap between male and female enrolment rates decreased in the same time period.<sup>258</sup>

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253 Equal Rights Trust focus group, 15 June 2013, Katetahana, Guadalcanal province.

254 See above, note 182, p. 14.

255 See above, note 223, p. 26.

256 Ministry of Education and Human Resource Development, *Performance Assessment Report, 2006–2013*, pp. 23–25, available at: [http://www.spc.int/prism/images/EducationDigests/SOLOMON%20ISLANDS/PAF\\_Report\\_2006\\_-\\_2013.pdf](http://www.spc.int/prism/images/EducationDigests/SOLOMON%20ISLANDS/PAF_Report_2006_-_2013.pdf).

257 Solomon Islands National Statistics Office, *2009 Population & Housing Census: National Report*, Vol. 2, p. 91, available at: <http://www.spc.int/prism/solomons>.

258 *Ibid.*, p. 95. Children of the same age group may be attending school across a range of grade levels. For example, children aged 12 were attending classes at a range of levels, from pre-primary to form 3.

This said, Solomon Islands' report to the CEDAW Committee expresses concern about the transition and completion rates of females compared to males, recognising its failure to discharge its obligations under Article 10(f) of the Convention to reduce "female drop-out rates". The report states that "the transition rate of females into higher levels of education are much lower than males", citing a range of factors including lack of parental support, lack of female dormitories, financial hardship, teachers' conduct and attitude and culture as contributing factors.<sup>259</sup> The report also highlights higher drop-out rates among girls, with 13% of girls dropping out of secondary school, compared with 8% of boys.<sup>260</sup> Due to societal gender norms boys education is prioritised, with girls further inhibited by a lack of transport and facilities.<sup>261</sup>

Equal Rights Trust research found that gender stereotypes play a significant role in limiting girls' participation in education. The Trust spoke with Viola, a 25 year old woman from Poroporo, Choiseul province, who described how, against her wishes, her parents prevented her from attending school, making her stay at home to help her mother, whilst her brothers were free to attend school.<sup>262</sup> A focus group with women in Magakiki expressed similar experiences of inequality at home, stating that for fathers, the priority was not for girls to go to school, and as a result only boys managed to attend. They stated that this often leads to a situation where women are illiterate and this increases discrimination.<sup>263</sup>

Older research by Amnesty International had reached similar conclusions, finding that the cost of education, lack of facilities and cultural attitudes towards women's role in society all prevented women and girls from accessing and completing education. Families commonly withdrew girls, rather than boys, from school when fees could not be met.<sup>264</sup> Cultural views that women belong at home also contributed to the lack of educational opportunities

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259 See above, note 94, Para 213.

260 *Ibid.*, Para 214.

261 Secretariat of the Pacific Community, *Beijing +20: Review of progress in implementing the Beijing Platform for Action in Pacific Island countries and territories*, February 2015, p. 30, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/Beijing20.pdf>.

262 Equal Rights Trust interview with Viola, 31 May 2013, Poroporo, Choiseul province.

263 Equal Rights Trust focus group with women, 19 May 2013, Magakiki, Guadalcanal province.

264 See above, note 156, p. 16.

available to women and girls. Amnesty's research indicates that older girls were kept at home to help care for younger siblings.<sup>265</sup>

There is also evidence that gender stereotyping is reflected in gendered areas of study: more women than men study nursing, education and administration and finance, while men dominate in the study of areas involving industry and resources.<sup>266</sup>

As a result of historic inequalities in school enrolment and completion, significant disparities remain between adult males and females in levels of educational attainment. The 2006-2007 DHS found that a higher percentage of males had completed education at three of the five levels assessed (some primary, completed primary, some secondary, completed secondary and more than secondary), with the exception being the completion of secondary education, where the completion rate was just 0.1% for both males and females. The survey found that more females than males had no school education: 26.9% of females compared to 22.8% of males.<sup>267</sup> The 2009 census recorded 21% of females and 11% of males as having no completed schooling.<sup>268</sup> The census also found that only 3% of women had tertiary education, compared to 6% of men.<sup>269</sup> The overall literacy rate for those aged 5 and above, as reported in the 2009 census, was 80% for men and 74% for women.<sup>270</sup> The gap between men and women literacy rates was greater for those aged 20 and over; in the 45 to 49 age group, around 79.2% of women were literate compared to nearly 88.9% of men.<sup>271</sup>

In its 2014 Concluding Observations, the CEDAW Committee expressed concern about the high drop-out rates of girls at the secondary level of education, citing the inadequacy of educational infrastructure, the lack of safe transport for girls and the resulting exposure of pupils to risks of violence as factors preventing the

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265 *Ibid.*

266 See above, note 163, p. 9.

267 See above, note 223, pp. 26–28.

268 See above, note 257, p. 97.

269 *Ibid.*, p. 98.

270 *Ibid.*, p. 99

271 *Ibid.*, p. xxiv.

effective enjoyment of women's right to education.<sup>272</sup> The Committee also noted the negative impact of early pregnancy on women's educational opportunities and urged the state to promote education on sexual and reproductive health to prevent such pregnancies, and to take measures to retain girls in education, including pregnant girls. Furthermore, the Committee called on Solomon Islands *inter alia* to make primary education compulsory, to increase the spending on education in order to improve school infrastructure and facilities, and to reduce indirect costs for education with a view to eliminating them.<sup>273</sup>

## **Health**

As in the areas of employment and education, CEDAW gives rise to specific obligations for Solomon Islands in respect of eliminating gender discrimination in the field of healthcare.<sup>274</sup> In addition to these general obligations, the Convention requires specifically that states "ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation".<sup>275</sup>

As noted in Part 1 above, inadequate access to health services is a general problem affecting large parts of the population of Solomon Islands, especially those residing in the rural areas.<sup>276</sup> Exacerbating this problem for women, gender disparities in the area of health remain prevalent. According to the 2006–2007 DHS, women of reproductive age are more likely to be affected by conditions caused by malnutrition, such as anaemia, and sexually transmitted diseases, than other parts of the population. Moreover, young pregnant women have a heightened risk of suffering from malaria, which is the lead cause of morbidity and mortality in Solomon Islands.<sup>277</sup>

With regard to sexual and reproductive health, the majority of women reported having a relatively high level of sexual autonomy, though a number of

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272 See above, note 107, Para. 32.

273 *Ibid.*

274 See above, note 93, Article 12(1).

275 *Ibid.*, Article 12(2).

276 See above, note 223, p. 58.

277 *Ibid.*

women stated a view that they could not refuse sex with their husband under any circumstances.<sup>278</sup> Additionally, research shows that women who are not in an equal position with their husbands when making decisions in the marriage are less likely to use contraceptives, and to have access to prenatal, delivery and post-natal healthcare.<sup>279</sup> Men also have better access to contraceptives than women: 81% of men stated that they knew where to get condoms, in comparison to just 49% of women.<sup>280</sup> It has been reported that women, particularly pregnant women aged between 15 and 24, are at the highest risk of contracting HIV. According to the Secretariat of the Pacific Community research, this vulnerability is primarily caused by gender inequality arising through sexual violence, cultural sanctioning of male infidelity, early marriage and unequal negotiating power in respect to sexual relations.<sup>281</sup>

As noted above, section 158 of the Penal Code makes abortion illegal, with a penalty of life imprisonment for anyone who intentionally “procure[s] the miscarriage of a woman”, including the woman herself. There is an exception however, in that abortion is legal before the foetus “is capable of being born alive” and where it is necessary to save the life of the woman.<sup>282</sup> Recommendations and signatures of two physicians are required, as well as consent of the spouse or next of kin.<sup>283</sup> In its 2014 Concluding Observations, the CEDAW Committee expressed concerns for, *inter alia*, the criminalisation of abortion, which forces women to resort to unsafe abortion.<sup>284</sup>

### ***Public Participation***

Article 7 of CEDAW commits Solomon Islands to take all appropriate measures to eliminate discrimination against women in “political and public life”, including *inter alia* the right to vote and be eligible for election, to participate in the formulation and implementation of government policy

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278 *Ibid.*, p. 298.

279 *Ibid.*, p. 296.

280 *Ibid.*, p. 252.

281 See above, note 163, p. 8.

282 Penal Code 1963, section 221.

283 *Ibid.*

284 See above, note 107, Para. 36.

and to hold public office. In Solomon Islands law, women were afforded the right to vote and to stand for parliament in 1974, during the preparations for independence.<sup>285</sup>

However, women play a limited role in public life in the country. A statement delivered by Ms. Rashida Manjoo, the UN Special Rapporteur on Violence against women, its causes and consequences, at the conclusion of her visit to Solomon Islands in March 2012, provided an insight into the participation of women in political life:

*While there is no single homogenous society in this culturally diverse and geographically widespread country, Solomon Islanders share some traditional and religious values which largely shape the roles that women play in the family and in society. Women are mainly viewed as mothers and home-makers and their participation in public and political life is extremely limited. The lack of female role models in positions of authority is evident in the fact that there are no women currently in the Parliament or in the Executive, which reinforces such traditional perspectives and also reflects the dominant views regarding women's status and value.*<sup>286</sup>

Indeed, since independence in 1978, only three women have served in the 50-seat parliament of Solomon Islands.<sup>287</sup> Hilda Kari served from 1989 to 2001, after which no women served in the Parliament again until August 2012. In the national elections in 2010, 25 women stood as candidates (out of a total of 509 persons standing for election) but none were elected; the single female Member of Parliament won a by-election in 2012.<sup>288</sup> In the elections in 2014, a

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285 See above, note 156.

286 Office of the High Commissioner for Human Rights, *Special Rapporteur on Violence against women finalises country mission to Solomon Islands*, 16 March 2012, available at: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11968&LangID=E>.

287 See above, note 94, Para. 161; see also Tamsitt, M., "Solomon Islands needs a Parliament that will deliver results", *The Interpreter*, 25 November 2014, available at: <http://www.lowyinterpreter.org/post/2014/11/25/Solomon-Islands-needs-a-parliament-that-will-deliver-results.aspx?COLLCC=3959330201&>.

288 See above, note 94, Para. 163.

total of 26 women stood for election, with just one – Frea Soria Comua – being elected; the only woman elected to the 2010-14 parliament, Vika Lusibaea, was not re-elected.<sup>289</sup>

At the provincial level, women are similarly under-represented. Of the nine Provincial Assemblies, six have no female representatives. Two (Rennell and Bellona province and Western province) have a single female representative and one (Isabel province) has two female representatives. There is also a single female representative on the Honiara Town Council. In total, in 2015, just five of the 183 elected representatives at the provincial level (2.7%) were women.<sup>290</sup>

Wood has noted that there are several factors that determine the low competitiveness of women in national elections in Solomon Islands, noting that none of these are directly related to strong voter preference for male candidates.<sup>291</sup> In fact, in a 2013 survey conducted in collaboration with the University of the South Pacific, 89% of 3405 respondents thought that National Parliament should include female MPs, whilst 80% supported the idea of reserved seats for female candidates.<sup>292</sup> Wood finds that there are structural obstacles preventing women from running for and being elected to Parliament, including the tendency of candidates and campaigns to use gendered stereotypes and prejudices against women candidates to weaken their credibility before voters as well as the propensity of campaign funders to direct funding towards male candidates. This latter factor gives a significant advantage to male candidates who can draw votes from the population by licit or illicit means, such as vote buying, which is allegedly common in Solomon Islands. Finally, women face another important challenge in finding influential brokers to support their candidacy: brokers are usually male community leaders such as heads of families, clans, villages or churches,

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289 See Tamsitt above, note 287.

290 See above, note 94, Paras 45–46.

291 Wood, T., “Why Can’t Women Win? Impediments to Female Electoral Success in Solomon Islands”, *Australian National University*, Discussion Paper 2014/01, available at: <http://cdi.ips.cap.anu.edu.au/sites/default/files/CDI%20DP%202014-01%20Wood-ONLINE.pdf>.

292 Regional Assistance Mission to Solomon Islands, ANU Edge, *People’s Survey*, 2013, p. 6, available at: <http://www.ramsi.org/wp-content/uploads/2014/07/FINAL-Peoples-Survey-2013-1-final-111900c1-79e2-4f41-9801-7f29f6cd2a66-0.pdf>.

who tend to prefer male candidates. An NGO shadow report to the Committee on Economic, Social and Cultural Rights (CESCR) noted that corruption favours men and enables male dominance of politics to continue.<sup>293</sup> According to the state report of Solomon Islands' to the CEDAW Committee, cultural attitudes and discrimination in other areas of life act as barriers to female participation in public life:

*[D]ecision-making is a male domain, a "first past the post" electoral system that disadvantages women, and discrimination against women in education and employment are contributing factors to the lack of women in parliament at national and provincial levels (...) Other factors cited as barriers include the assumption that a woman would not have the appropriate qualities to be a good leader. Disincentives include the high cost of campaigning, or the tendency for wives to be regarded as outsiders in their husband's community so not to be well supported in their home electorates.*<sup>294</sup>

An assessment of efforts to increase women's participation in local (*suco*) councils and of leadership training provided to elected women found a number of positive impacts from women's involvement.<sup>295</sup> These included an increase in the women's confidence to speak up both in the council and at home and increased respect for the women from their husbands, leading to less violence and conflict in the family. Some of the women were able to raise issues of domestic violence, family planning, vaccinations and school facilities before the councils.<sup>296</sup>

The low levels of female participation found in electoral politics is also typical of the judiciary. In 2015 the highest positions in the top two levels of the High and magistrate courts were held by men, with only one female mag-

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293 See above, note 110, p. 11.

294 See above, note 94, Para. 167.

295 See above, note 164, p. 140

296 *Ibid.*

istrate, in Honiara.<sup>297</sup> Furthermore, there are no women in the position of local court presidents, vice-presidents or judges.<sup>298</sup>

A 2015 report by the Asian Development Bank found that the lack of female representation in the legal system may have contributed to “attitudinal bias”.<sup>299</sup> In the sentencing decision following *Regina v Gua*,<sup>300</sup> a case which established that a man can be found guilty of raping his wife, the sentencing judge stated that:

*This is (...) a case which has occurred as a result of domestic problems between a husband and his wife. It is not an offence that has been committed to gratify one’s own sexual desires. There is an underlying cause for the commission of the offence – the termination by the victim of her marriage to the accused. Hence, the accused is not solely to be blamed for this incident. The complainant must also share the blame.*<sup>301</sup>

Whilst the sentence was eventually extended by the Court of Appeal,<sup>302</sup> the sentencing judge’s statement indicates the need for greater female participation in the judiciary.

In its Concluding Observations on Solomon Islands’ report on the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the CESCR expressed concern:

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297 Asian Development Bank, *Solomon Islands: Country Gender Assessment*, 2015, p. 12, available at: <http://www.adb.org/sites/default/files/institutional-document/176812/sol-country-gender-assessment.pdf>.

298 Allen, M., Dinnen, S., Evans, D., and Monson, R., *Justice Delivered Locally: Systems, Justice and Innovations in Solomon Islands*, The World Bank, Research Report, July 2013, available at: [http://siteresources.worldbank.org/INTJUSFORPOOR/Resources/JDL\\_July\\_2013\\_Final\\_Online\\_Report.pdf](http://siteresources.worldbank.org/INTJUSFORPOOR/Resources/JDL_July_2013_Final_Online_Report.pdf).

299 See above, note 297, p. 12.

300 See sections 3.1.5 and 3.4.2 of this report for further discussion of this case.

301 *Regina v Gua* [2013] SBCA 2; CAC 37 of 2012 (26 April 2013), Para 12.

302 *Ibid.*

*[A]bout the inadequate representation of women at all levels of decision-making bodies of the State party and the persistence of patriarchal attitudes in the society.<sup>303</sup>*

A similar concern was expressed more recently by the CEDAW Committee, which also noted that the 10% minimum quota set by the Political Parties Integrity Act is low and that the Act lacks enforcement mechanisms.<sup>304</sup>

## **Conclusion**

Women in Solomon Islands experience severe discrimination and inequality in all areas of life governed by law. Our research indicates that these problems are directly connected to deep-rooted gender stereotypes which portray women as weaker and of lesser value than men. These cultural attitudes create an environment in which domestic and other forms of violence against women are tolerated and where levels of violence are alarmingly high. They also help to legitimise the continuing existence in force of laws which discriminate against women and influence decision-making regarding women's participation in employment and economic life, education and public life. The cumulative impact is a society in which women cannot participate on an equal basis with men in almost any area of life.

## **2.2 Discrimination and Inequality on the Basis of Ethnicity**

Solomon Islands succeeded to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 1982. As a party to the Convention, Solomon Islands undertakes "to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms".<sup>305</sup> "Racial discrimination" is defined by the ICERD as including any:

*[D]istinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin*

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303 Committee on Economic, Social and Cultural Rights, *Concluding Observations of the Committee on Social, Economic and Cultural Rights, Solomon Islands*, E/C.12/1/Add.84, 19 December 2002, Para. 6.

304 See above, note 107, Para. 28.

305 International Convention on the Elimination of All Forms of Racial Discrimination, Article 2(1).

*which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life”<sup>306</sup>*

On one level, as the national census states, Solomon Islands has “a very homogenous population composition” in terms of ethnic origin. The census indicates that the population is composed almost entirely of members of three ethnic groups: the overwhelming majority, approximately 95.3%, is Melanesian with some small minority populations including Polynesians (3.1%) and Micronesians (1.2%).<sup>307</sup> However, the census data masks a complex system of cultural and social group identifications that constitute ethnic identities within the meaning of the ICERD definition.

The Statistics Division of the United Nations, in providing guidance on data collection on the basis of ethnicity, is keen to stress that what constitutes an ethnic group should be defined on a country-by-country basis and that there can be no single, universal set of criteria for defining an ethnic group:

*The specific ethnic and/or national groups of the population which are of interest in each country are dependent upon individual national circumstances. Some of the criteria by which ethnic groups are identified are ethnic nationality (i.e., country or area of origin, as distinct from citizenship or country of legal nationality), race, colour, language, religion, customs of dress or eating, tribe or various combinations of these characteristics. (...) The definitions and criteria applied by each country investigating ethnic characteristics of the population must, therefore, be determined carefully and with the involvement of or consultation with representatives of the groups which it desires to categorize. By the nature of this topic, these categories and their definitions will vary widely from country to*

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306 *Ibid.*, Article 1(1).

307 *Ibid.*

*country; therefore, no internationally accepted criteria are possible.*<sup>308</sup>

Taking this approach – in particular looking at the tendency of people in Solomon Islands to self-identity on the basis of place of origin and shared customs – it is clear that, far from being an ethnically homogenous state, Solomon Islands is in fact home to myriad ethnic groups. A proper understanding of ethnicity – and therefore of ethnic discrimination – in Solomon Islands requires an appreciation of the history of social organisation in the country and the ways in which Solomon Islanders have defined their group identity. As a state, Solomon Islands was “created” from a large group of different islands which themselves were home to multiple distinct cultures and communities. This had the effect of both grouping together communities which were historically separate and even in conflict and of artificially dividing those which were closely tied. As Evans has argued:

*[The] cultural diversity of pre-colonial Solomon Islands effectively made it so drawing a straight line anywhere within the territory would bisect something of importance, so the division completed by the British administration inevitably divided and joined areas of cultural or linguistic variance.*<sup>309</sup>

As the report of the TRC asserts, this history is reflected in the ways in which people in Solomon Islands identify themselves:

*Nations, like states, have to be made; they do not exist naturally. Post-colonial societies often face the challenge that nationhood has to be created out of statehood, rather than the other way round; a challenge which in Solo-*

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308 United Nations Department of Economic and Social Affairs, Statistics Division, *Principles and Recommendations for a Vital Statistics System*, Revision 2, ST/ESA/STAT/SER/M/19/Rev.2, 2001, Para 186.

309 Evans, K., “The Solomon Islands ‘ethnic’ conflict – considering the Malaitan and Gwale identities”, *Euroacademia International Conference Identities and Identifications: Politicized Uses of Collective Identities*, 2013, p. 4, available at: [http://euroacademia.eu/wordpress/wp-content/uploads/2013/04/Kyle\\_Evans\\_The\\_Solomon\\_Islands\\_Ethnic\\_Conflict%E2%80%93Considering\\_the\\_Malaitan\\_and\\_Gwale\\_Identities.pdf](http://euroacademia.eu/wordpress/wp-content/uploads/2013/04/Kyle_Evans_The_Solomon_Islands_Ethnic_Conflict%E2%80%93Considering_the_Malaitan_and_Gwale_Identities.pdf).

*mon Islands is complicated by the cultural, historical and linguistic diversity which undermines efforts to construct an imaginary community of common national interests and values. Creating an “imagined community” in the Solomons, with no shared common language other than Pijin, no unifying ideology and no countrywide leadership, is not an easy task. Three times Prime Minister Solomon Mamaloni’s famous portrayal of the Solomons as a “nation conceived but never born” gives evidence of this difficulty.<sup>310</sup>*

With many inhabited islands and over 120 languages spoken, Solomon Islands is home to many different cultures and groups. The existence of distinct and disconnected communities, and of tensions between these different groups have been recognised for many years, as illustrated by the following assertion from a 1914 history book:

*There are several distinct cultural regions in these islands, with great differences in the mode of social organisation and in the way of counting relationship. In the larger islands of the Solomons there are two distinct populations, the people inhabiting the coast and those of the interior, who may be spoken of as the coast and bush people respectively. These people are hostile to one another...<sup>311</sup>*

As historians have noted, even at the time of its independence from the United Kingdom in 1978, Solomon Islands had no unified populace:

*There was little sense of shared political community in Solomon Islands (...) capable of uniting the peoples of the newly independent state. Living predominantly in rural communities, bonds of kinship, shared (local) language and ties to ancestral land, along with Chris-*

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310 See above, note 95, Vol.3, p. 46

311 Rivers, W.R.R., *The History of Melanesian Society, Vol. I*, Cambridge: Cambridge University Press, 1914, p. 232.

*tianity, provided the basis for individual identities and allegiance, rather than abstract notions of “citizenship” or membership of the modern state. Localism prevailed over nationalism in virtually every sphere of social, political and economic activity.*<sup>312</sup>

Little has changed since independence. Tarcisius Tara Kabutaulaka has noted that “[n]ational consciousness is often only skin deep”, with the result that most people have “allegiances to a particular *wantok* or ethnic group”;<sup>313</sup> most people carry competing identities between their island and their country. Mabeuta and Spence have asserted that the isolation and remoteness of Solomon Islands – which has posed challenges in ensuring effective delivery of services, local government and economic development throughout the country – contributed to the difficulties in creating a sense of national identity.<sup>314</sup> They argue that, during the colonial period, development of the islands was focused largely on a few coastal areas rather than throughout the islands,<sup>315</sup> while Kabutaulaka goes further, arguing that development was tightly focused on the area immediately around Honiara:

*Apart from issues of nationalism, the British left behind a group of islands largely undeveloped and an economy dependent almost entirely on the exploitation of natural resources by foreign multinational companies. Infrastructural development was concentrated around Honiara, the national capital, located on the northern coast of Guadalcanal and built out of the remains of a former World War II US Air Force base.*<sup>316</sup>

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312 Dinnen, S., “A Comment on State-building in Solomon Islands”, *The Journal of Pacific History*, Vol. 42, No. 2, 2007, p. 259.

313 Kabutaulaka, T.T., “Beyond Ethnicity: The Political Economy of the Guadalcanal Crisis in Solomon Islands”, *State, Society and Governance in Melanesia Project*, Working Paper 1, available at: <https://digitalcollections.anu.edu.au/bitstream/1885/41949/1/tarcisiusworkingpaper.htm>.

314 Mabeuta, J. and Spence, R. with Wienders, I. and O’Loughlin, M., *Reflecting on Peace Practice Project: Cumulative Impact Case Study: Attempts at Building Peace in the Solomon Islands: Disconnected layers*, December 2009, p. 3, available at: <http://www.cdacollaborative.org/media/53192/Attempts-at-Building-Peace-in-the-Solomon-Islands-Disconnected-layers.pdf>.

315 *Ibid.*

316 See above, note 313.

Following independence, the benefits of development were unevenly distributed with the poorer islanders in the remote parts of the country becoming even poorer.<sup>317</sup> Rural livelihoods were further constrained by irregular transportation services and communication; large numbers of people, particularly in rural areas and outside Guadalcanal, struggled to meet their basic needs, access education and healthcare, and participate in social, civil and political life. These factors combined to create a feeling of injustice and not receiving a “fair share”.<sup>318</sup> The uneven distribution of the benefits of development, combined with the traditional *wantok* system which is based upon strong local ties, have made creating a shared national identity a task beyond the ability of governments past and present. Indeed, as Liloquila has noted:

*While educated people may understand the benefits of being one nation, the vast majority of Solomon Islanders see it as a threat to their resources, their cultural identity and culture, their environment and the basis of their sustained community living.*<sup>319</sup>

Thus, while different authors posit different causes, it is clear that the cultural, political and social history of Solomon Islands is such that people do not have a strong sense of shared national identity. In place of national identity, people in Solomon Islands self-identify in ethnic groups based on common area of origin and shared culture and traditions. This section of the report examines two important patterns of ethnic self-identification: one at the geographical level, in the form of people’s tendency to identify with others originating from a particular island, and the other at the community level, in the form of the *wantok* system. Our research has identified evidence of both discrimination and substantive inequality arising on the basis of both aspects of ethnicity.

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317 See above, note 314.

318 *Ibid.*

319 Liloquila, R. “Understanding the conflict in Solomon Islands as a practical means to peace-making”, *State, Society and Governance in Melanesia Project Discussion Paper 00/7*, 2000, p. 3 (quoted in Mabeuta, J. et al., above note 314).

### 2.2.1 Discrimination and Inequality on the Basis of Place of Origin

Solomon Islands is divided into nine provinces – each containing one or more islands – and the capital territory.<sup>320</sup> As noted above, many people in Solomon Islands identify strongly with their island of origin, considering themselves and others as people of a particular island before, or instead of, as people of Solomon Islands. As a result, the perception – whether grounded in fact or not – of disparities between different islands in terms of development, investment and services, is a cause for significant concern when assessing the existence of ethnic division and inequality.

Taking the approach set out by the Statistics Division of the United Nations, the tendency of people in Solomon Islands to identify strongly with a particular island, and to stress a sense of shared history and culture with others from that island, creates a strong case for considering identification with a particular island as a form of ethnic grouping. However, significant questions have been raised by academics about the extent to which these are genuinely distinct ethnic groups. Evans, for example, has questioned the extent to which one’s purported identity – “Malaitian” – can be seen as ethnic group, given that the province of Malaita includes not only the island of Malaita but a number of other, quite different islands, and the fact that a number of distinct communities traditionally inhabited the main island of Malaita. As she states:

*[T]he boundaries of the province of Malaita administratively tied the islands of Ontong Java, Sikaiana, Maramasike (sometimes called South Malaita) and Malaita (...) despite traditional rivalries, trade connections and customary cultural differences (...) The historical differences, just within the island of Malaita would make the categorization and classification of a Malaitan ethnicity difficult as it lacks a unified common historical trajectory.*<sup>321</sup>

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320 The nine provinces are Central, Choiseul, Guadalcanal, Isabel, Makira-Ulawa, Malaita, Rennell and Bellona, Temotu, and Western. In this part of the report, “provinces” will be used to describe the nine provinces and Honiara capital territory.

321 See above, note 309, p. 5.

Discussing the causes of “the Tensions” of 1998-2003, Kabutaulaka also expresses concern about the tendency to define people from particular islands or provinces as a distinct ethnic group, arguing against the “notion of constructing a homogenous ethnic identity - even where there was initially none”.<sup>322</sup> He argues that any explanation of “the Tensions” as simply the result of inherent “primordial” ethnic differences is “a lazy shorthand explanation that divorces the crisis from contemporary socio-economic contexts”.<sup>323</sup> Nevertheless, both authors cautiously conclude that the tendency of people to self-identify by reference to a particular island, coupled with other factors, is evidence of ethnic identification. Thus, Evans concludes that “if the island itself is understood as the boundary, the potential for Malaitan to be accurately described as an ethnicity is possible” on the basis that people from the island have a “common homeland, common descent and common history”.<sup>324</sup> Kabutaulaka concludes that, while any assessment of the causes of “the Tensions” “need[s] to look beyond ethnicity as the only cause of the crisis”:

*In a way, there is legitimacy in many of the issues raised by Malaitans, Guadalcanal and others who are involved. Ethnicity has become an avenue through which peoples’ frustrations become manifested.*<sup>325</sup>

### ***The Tensions***

As Kabutaulaka intimates, there is a long history of inequalities between islands in Solomon Islands, and of corresponding grievances between ethnic groups. These grievances sparked into violent conflict in 1998, leading to hundreds of deaths, widespread displacement and the creation of a violent, lawless atmosphere in the region around Honiara which lasted until the early 2000s.

As noted above, during the colonial period in the first half of the twentieth century, development of Solomon Islands focused on certain coastal areas and, in particular, the island of Guadalcanal. When Honiara (which is in Guadalcanal)

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322 See above, note 313.

323 *Ibid.*

324 See above, note 309, p. 7.

325 See above, note 313.

was made the capital city in 1952, many people from other islands started to migrate to the city. Economic activity became ever more concentrated on Guadalcanal and migration increased. In particular, Malaitans became a significant portion of the labour force in Guadalcanal and by the 1990s, there were a number of Malaitan settlements on the northern and western parts of Guadalcanal.<sup>326</sup>

According to Mabeuta and Spence, Guadalcanal islanders increasingly felt that they were being culturally and economically marginalised on their island of origin as they received inadequate benefits from the investments that had taken place in the island; it was the Malaitians, not the Guadalcanal islanders, who had exploited the economic opportunities such as jobs and services on the island.<sup>327</sup>

These two authors have used what they refer to as the “success to the successful” paradigm, which is described as follows:

*Those who have influence, relative wealth, or access are able to gain additional resources and increase their success, while those who lack those advantages remain trapped or actually become poorer.*<sup>328</sup>

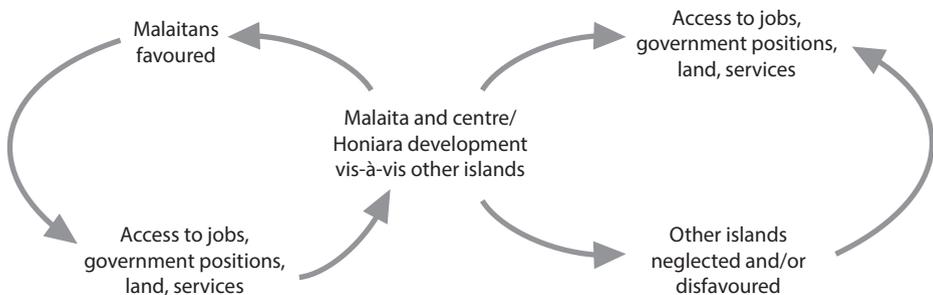
Mabeuta and Spence argue that it is both the perception and the reality that Malaitans and others in and around Honiara had benefitted in the post-colonial period whilst those on other islands had not. In this paradigm, as Malaitans on Guadalcanal benefited from development, the other islands were neglected, allowing Malaitans to access jobs, land and important government positions. They then exploited this advantage to increase development for themselves. Correspondingly, those on other islands had fewer opportunities and less access to the better jobs and land, fewer positions in government, and were thus unable to exert any influence which would lead to a more equitable distribution of the benefits of development. (See Figure 1).

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326 See above, note 314, p. 6.

327 *Ibid.*

328 *Ibid.*, p. 7.

**Figure 1: Success to the Successful in the Solomon Islands**

Foukona, on the other hand, has argued that one major catalyst for violence leading to “the Tensions” was the government’s inadequate and inconsistent approach to dealing with disputes which were, at least in part, ethnically sensitive.<sup>329</sup> In particular, Foukona highlights the executive’s apparently inconsistent approach to awarding compensation in a number of sensitive legal cases, thus calling into question the integrity of the government.<sup>330</sup> In 1989, the government paid compensation to the Malaita province, in response to a claim that a defamatory statement had been written by a Polynesian person which caused offence to Malaitans and led to a violent demonstration.<sup>331</sup> Despite there being no legal process or police investigation, SBD\$200,000 (US\$2,470) was paid in compensation, something which Foukona suggests “reflected a further eroding of the due process of law in Solomon Islands”.<sup>332</sup> This perception of the unfair and inadequate functioning of the state institutions was exacerbated when, in 1998, the government failed to establish any legal process or investigation into a claim of rape, ignoring demands for compensation.<sup>333</sup>

329 Foukona, J.D., “State powers and institutions in Solomon Islands’ developing democracy”, *The Foundation for Development Cooperation*, pp. 7-8, available at: [http://www.researchgate.net/publication/255663810\\_State\\_powers\\_and\\_institutions\\_in\\_Solomon\\_Islands'\\_developing\\_democracy](http://www.researchgate.net/publication/255663810_State_powers_and_institutions_in_Solomon_Islands'_developing_democracy).

330 *Ibid.*

331 *Ibid.*, p. 6.

332 *Ibid.*, pp. 7–8.

333 *Ibid.*, p. 7.

Foukona argues that:

*[T]he unfair and biased approach used by the Executive to deal with (...) demands (...) became the catalyst for Guadalcanal Province resubmitting their self-determination demands in 1998 (...) the Government had already confused the ways in which State powers and institutions operated to the extent that these gradually became less and less functional.<sup>334</sup>*

The author concludes that this lack of functionality was a factor in creating frustration which boiled over into criminal activity. People from Guadalcanal began to harass, and cause damage to properties of Malaitans living on the outskirts of Honiara, displacing them from the area. The lack of investigation, compensation, and criminal prosecution resulting from these actions only compounded the situation, as the Malaitans took a “justice before peace” stance.<sup>335</sup> Trust in the institutions, especially among those who had been displaced, was lost. The latter, mostly Malaitans, instead took the matter into their own hands, forming the Malaitan Eagle Force (MEF) and taking control of the government in a coup of 5 June 2000.

While there is debate over the underlying and proximate causes of “the Tensions”, there is consensus that disparities between provinces in terms of wealth, development and access to basic services played an important role, not least in being a factor in the movement of people from islands with fewer resources or poorer infrastructure to those with more. This point was highlighted by the TRC in the conclusions to its report. The Commission concluded that “the Tensions” had three distinct phases, the first of which was overtly ethnic in nature:

*The first stage (...) included the eviction of settlers, mostly Malaitans, from Guadalcanal by the GRA/IFM [Guadalcanal Revolutionary Army / Isatabu Freedom Movement] and the retaliation of the Malaita Eagle Force. During this stage, the driving force of the con-*

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<sup>334</sup> *Ibid.*, p. 8.

<sup>335</sup> *Ibid.*, p. 9.

*flict was ethnicity (...) most of the killings had an ethnic background (...)*

*The definition of the conflict as “ethnic tension”, which has been popularized to describe the whole period between 1998 and 2003, strictly speaking, applies only to this first stage.*

*The TRC is aware that some analysts reject the term “ethnic tension” altogether. The Commission agrees that ethnicity does not, sui generis, cause people to do things and must always be understood in political and economic contexts. Ethnic antagonism does not explain why the tension happened. The roots of ethnic conflicts may in fact not be ethnic at all. But the mere fact that ethnicity could be activated as a political weapon and channelled towards violence shows the inherent conflict-generating potential of ethnic stereotyping.<sup>336</sup>*

Equal Rights Trust field research identified a number of examples of prejudice against people from particular islands or parts of the country, which indicates that the conditions in which “ethnicity could be activated” persist to date, more than a decade after the end of “the Tensions”. The Trust’s research has also identified evidence of disparities in the distribution of investment, resources and services between the different provinces of Solomon Islands, and of apparent discrimination on the basis of place of origin from different islands. For example, Benjamin, a man from Malaita married to a woman from Isabel, stated that his family is prejudiced against him and that he had been excluded from family discussions about land or other issues.<sup>337</sup> Kingsley, from Western province, also married to a woman from Isabel, stated that his brothers in law would refer to him as “black” and tell him to go back to his place of origin if he argued with them or his wife.<sup>338</sup> Murphy, also from Western province but living on Malaita, described similar experiences, stating that people referred to him as “black”.<sup>339</sup>

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336 See above, note 95, Vol. 3, p. 733.

337 Equal Rights Trust interview with Benjamin, 14 June 2013, Kolomola, Isabel province.

338 Equal Rights Trust interview with Kingsley, 14 June 2013, Kolosori Isabel province.

339 Equal Rights Trust interview with Murphy, 16 May 2013, Malaita province.

## ***Access to Resources and Services***

As a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), Solomon Islands is obligated to ensure the enjoyment of a wide range of economic, social and cultural rights without distinction on a number of specified grounds, including “national origin”, which the Committee on Economic, Social and Cultural Rights (CESCR) has stated includes “place of origin”.<sup>340</sup> Under the ICERD, Solomon Islands is required to guarantee to everyone the enjoyment of various economic and social rights “without distinction as to race, colour, or national or ethnic origin”.<sup>341</sup> In addition, in its General Comment No. 20, the CESCR interpreted Article 2(2) of the ICESCR as prohibiting discrimination on grounds of place of residence. Elaborating on the implications of this for states parties, the Committee has said:

*The exercise of Covenant rights should not be conditional on, or determined by, a person’s current or former place of residence; e.g., whether an individual lives or is registered in an urban or a rural area, in a formal or an informal settlement, is internally displaced or leads a nomadic lifestyle. Disparities between localities and regions should be eliminated in practice by ensuring, for example, that there is even distribution in the availability and quality of primary, secondary and palliative health care facilities.*<sup>342</sup>

Equal Rights Trust research and analysis indicates that there are significant disparities between the different provinces in Solomon Islands in ac-

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340 International Covenant on Economic, Social and Cultural Rights, Article 2; Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-discrimination in economic, social and cultural rights*, UN Doc. E/C.12/GC/20, 2009, Para 24, which states: “National origin’ refers to a person’s State, nation, or place of origin.”

341 International Convention on the Elimination of all Forms of Racial Discrimination, Article 5(e) which lists the following rights: (i) the rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration; (ii) the right to form and join trade unions; (iii) the right to housing; (iv) the right to public health, medical care, social security and social services; (v) the right to education and training.

342 See above, note 340, Para 34.

cess to basic services, many of which are essential to the enjoyment of social rights which the state is required to guarantee without discrimination. These disparities do not correlate to population size, thus giving rise to substantive inequalities in access to essential infrastructure and services between different islands. While these disparities do not, in themselves, evidence discrimination on the basis of ethnicity, they are nevertheless a cause for concern as potential violations of the right to equality and as indicators of the potential presence of directly or indirectly discriminatory decision-making.

Each province in Solomon Islands contains one or more islands, with significant variation between the provinces in terms of size and population. Table 1 below shows the total population of each province, together with the percentage of the population in each province which is classed as residing in urban areas.

**Table 1: Provinces of Solomon Islands<sup>343</sup>**

Province	Population	Percentage of Population in Urban Areas (%)
<b>Choiseul (CHO)</b>	26,372	3.1
<b>Western (WES)</b>	76,649	12.7
<b>Isabel (ISA)</b>	26,518	3.7
<b>Central (CEN)</b>	26,051	4.8
<b>Rennell-Bellona (REN)</b>	3,041	0.0
<b>Gudalcanal (GUA)</b>	93,613	16.5
<b>Malaita (MAL)</b>	137,596	3.7
<b>Makira-Ulawa (MAK)</b>	40,419	5.1
<b>Temotu (TEM)</b>	21,362	9.3
<b>Honiara (HON)</b>	64,609	100.0
<b>Total</b>	<b>515,870</b>	<b>19.8</b>

343 Solomon Islands National Statistical Office, *Report on 2009 Population & Housing Census – Basic Tables and Census Description*, 2009, Vol.1, Summary of main Indicators, Solomon Islands: 2009, p. vi, available at <http://www.spc.int/prism/solomons/index.php/sinso-documents?view=download&fileId=60>.

Data from Solomon Islands, however, shows that the enjoyment of various social rights varies significantly between urban and rural areas and between the different provinces. These two ways of analysing data (urban versus rural and by province) are largely overlapping. As can be seen in Table 1, Honiara is entirely urban whereas the nine provinces are overwhelmingly rural. Only Guadalcanal and Western provinces have any sizeable urban population, and even there, the urban population only accounts for 16.5% and 12.7% of the total population.

### *Standard of Living*

Article 11(1) of ICESCR protects the right of everyone “to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”. One key factor in determining the standard of living in Solomon Islands – where large numbers of people rely on subsistence farming – is access to land. Women from the Kiribati ethnic group informed the Equal Rights Trust that they had been deprived of rights to access land for which they had purchased title and that where disputes had arisen, the police had not assisted them, citing their ethnicity as the causal factor in both cases.<sup>344</sup>

The CESCR, in interpreting Article 11(1), has found that it entails the provision of various resources and services, including, for example, the right to water.<sup>345</sup> In Solomon Islands, there are large disparities in access to improved drinking water sources, as can be seen in Table 2.

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344 Equal Rights Trust focus group with women of Kiribati origin, 20 May 2013, Honiara.

345 Committee on Economic, Social and Cultural Rights, *General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant)*, 20 January 2003, E/C.12/2002/11, Para 3.

**Table 2: Drinking Water Sources and Access to Improved Drinking Water Sources by Province (2009) (%)<sup>346</sup>**

Water Source	CHO	WES	ISA	CEN	REN	GUA	MAL	MAK	TEM	HON	Total
<b>Metered (SIWA)</b>	0.0	0.3	0.4	0.5	0.0	6.3	1.6	0.4	0.1	75.4	9.2
<b>Communal Stand-pipe</b>	30.1	30.2	64.4	39.4	0.0	26.6	45.4	49.9	38.5	3.9	35.1
<b>Household Tank</b>	24.1	33.4	10.2	18.6	79.5	5.0	5.1	3.3	10.4	9.6	12.5
<b>Communal Tank</b>	17.8	17.6	11.2	17.6	13.4	7.4	7.6	8.4	24.2	1.5	10.6
<b>Well (protected)</b>	0.3	0.3	0.8	1.2	0.7	6.6	1.8	0.5	1.9	0.5	2.1
<b>Well (unprotected)</b>	0.0	0.1	0.4	0.3	1.5	5.6	0.4	0.3	5.8	2.6	1.8
<b>River / Stream</b>	25.1	14.3	10.7	18.3	0.1	37.8	33.1	34.3	7.8	4.7	24.5
<b>Bottled Water</b>	0.4	0.6	0.2	1.6	2.6	0.4	0.6	0.2	0.2	1.0	0.6
<b>Other</b>	2.1	3.2	1.6	2.5	2.2	4.1	4.5	2.6	11.1	0.8	3.6
<b>Total access to improved drinking water sources</b>	72.8	82.4	87.3	78.9	96.2	52.4	62.0	62.9	75.3	91.9	70.1

While the overwhelming majority of Honiara and Rennell and Bellona inhabitants have access to improved drinking water sources (91.9% and 96.2% respectively), the figure is as low as 52.4% and 62% in other provinces (Guadalcanal and Malaita respectively). Whereas only a small proportion of inhabitants of Honiara and Rennell and Bellona still rely on rivers and streams for their drinking water (4.7% and 0.1% respectively), in some provinces (Guadalcanal, Malaita and Makira-Ulawa), a third or more of the residents continue to do so.

CESCR has made clear that Article 11(1) (as well as other provisions of ICE-SCR and international human rights law more generally) include a right to

<sup>346</sup> See above, note 343, Vol. 1, H6: Number of private households by main source of drinking water by province (converted to percentages), p. 198. "Total access to improved drinking water sources" refers to the total proportion of dwellings whose source of drinking water is metered (Solomon Islands Water Authority), a communal standpipe, a household tank or a communal tank.

adequate sanitation in the context of the right to water.<sup>347</sup> As with access to improved drinking water, however, there are large disparities in access to improved sanitation facilities, as can be seen in Table 3.

**Table 3: Access to Improved Sanitation Facilities by Province (2009) (%)**<sup>348</sup>

CHO	WES	ISA	CEN	REN	GUA	MAL	MAK	TEM	HON	Total
15	31	42	10	98	44	53	14	9	97	43

Again, whilst the overwhelming majority of Honiara and Rennell and Bellona's inhabitants have access to sanitation facilities (97% and 98% respectively), the figure is far lower in all other provinces, particularly in Temotu (9%), Central (10%), Makira-Ulawa (14%) and Choiseul (15%). A similar picture can be seen in the data in Table 4 of the proportion of dwellings which have no toilet facilities.

**Table 4: Proportion of Dwellings with no Toilet Facilities (2009) (%)**<sup>349</sup>

CHO	WES	ISA	CEN	REN	GUA	MAL	MAK	TEM	HON	Total
72	44	1	75	0	31	21	49	80	1	33

Whilst in three provinces, a very small proportion of dwellings have no toilet facilities (Isabel, Rennell and Bellona and Honiara), in others the figure is over 70% (Choiseul, Central and Temotu).

### *Healthcare*

Article 12 of the ICESCR protects the right of everyone to “the highest attainable standard of physical and mental health”. In Solomon Islands, a number of indicators reveal that this right is not enjoyed equally across the different provinces. For example, there are notable disparities in life expectancy in the different provinces.

<sup>347</sup> See above, note 345, Para 29.

<sup>348</sup> See above, note 343, Vol. 2, Summary of main Indicators, p. xxi.

<sup>349</sup> *Ibid.*, Figure 22, p. 142.

**Table 5: Life Expectancy at Birth and at Age 20 for Men and Women (2009) (years)**<sup>350</sup>

	CHO	WES	ISA	CEN	REN	GUA	MAL	MAK	TEM	HON	Total
<b>Life Expectancy at Birth (all)</b>	66.7	69.0	69.0	65.2	65.2	69.6	67.3	70.7	69.6	71.3	69.6
<b>Life Expectancy at Birth (men)</b>	63.5	65.7	65.7	62.0	61.0	66.2	64.0	67.3	66.2	67.9	66.2
<b>Life Expectancy at Birth (women)</b>	70.1	72.5	72.5	68.5	69.6	73.1	70.7	74.3	73.1	74.9	73.1
<b>Life Expectancy at age 20 (all)</b>	50.8	52.3	52.3	49.7	49.8	52.8	51.1	53.6	52.8	54.1	53.3
<b>Life Expectancy at age 20 (men)</b>	48.4	49.8	49.8	47.4	46.8	50.2	48.7	51	50.2	51.4	50.2
<b>Life Expectancy at age 20 (women)</b>	53.3	55	55	52.1	52.9	55.5	53.7	56.4	55.5	56.9	56.5

Thus, it can be seen that life expectancy for a girl born in 2009 in Solomon Islands was 73.1 years, though this could range from 68.5 for a girl born in Central province to 74.9 for a girl born in Honiara. For boys born in 2009, life expectancy was 66.2 years, with a range from 61.0 (Rennell and Bellona) to 67.9 (Honiara).

Another means by which the availability and quality of healthcare can be assessed is through infant (under 1 year old) mortality rates. Article 12(2)(a) of the ICESCR requires states parties to take steps necessary for “the provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child”.

<sup>350</sup> *Ibid.*, Summary of main Indicators, p. xxv.

**Table 6: Infant Mortality Rates (2009) (per 1,000)<sup>351</sup>**

	CHO	WES	ISA	CEN	CEN	GUA	MAL	MAK	TEM	HON	Total
<b>Infant mortality rate (all)</b>	33	23	23	32	32	22	26	20	22	19	22
<b>Infant mortality rate (boys)</b>	37	22	22	40	40	23	26	22	18	22	24
<b>Infant mortality rate (girls)</b>	28	24	24	23	23	20	25	18	27	16	20

Significant differences can be seen both between province and between genders within provinces. The infant mortality rate in Choiseul (33) and Central (32) is far higher than in Makira-Ulawa (20) and Honiara (19). The gender differences make the gaps even more pronounced. A boy born in Central province is two-and-a-half times more likely to die before his first birthday than a girl born in Honiara.

### *Education*

Article 13(1) of the ICESCR provides the right of everyone to education. As noted in Part 3 of this report, Solomon Islands maintains a reservation to Article 13(2)(a) (the requirement for the states parties to provide compulsory and free education), which corresponds to the fact that significant numbers of children are not enrolled in primary school. The proportion of children enrolled in school varies greatly by province. Whilst only three quarters of 6 to 12 year olds in Malaita are enrolled in primary school, almost all children in this age bracket are enrolled in Rennell and Bellona.

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351 *Ibid.*, p. xxv.

**Table 7: School Enrolment Rates (Children Aged 6 to 12 Years) (2009) (%)**<sup>352</sup>

	CHO	WES	ISA	CEN	REN	GUA	MAL	MAK	TEM	HON	Total
<b>Total</b>	92.0	90.6	88.5	86.5	97.3	80.5	75.3	87.2	87.8	86.4	83.3
<b>Boys</b>	90.9	89.5	87.2	85.9	95.9	80.5	74.9	86.2	87.5	86.1	82.8
<b>Girls</b>	93.1	91.7	89.9	87.2	98.9	80.5	75.8	88.4	88.2	86.7	83.9

Whilst this data only indicates the presence of significant disparities between different provinces and therefore between the ethnic groups which predominate in these areas, our research also identified evidence of ethnic discrimination in education, particularly in the allocation of scholarships which are a necessary precondition for most Solomon Islanders to participate in education. Women of Kiribati origin living in Honiara told the Equal Rights Trust that there were few opportunities for their children to access scholarships, because of perceptions that they are foreign.<sup>353</sup> People originating from Tikopia island in the Temotu province told the Trust that there was evidence of discrimination in allocation of scholarships for tertiary education, arguing that these were disproportionately awarded to the larger, most populous province – Malaita.<sup>354</sup> They stated their belief that this was a result of discrimination on the basis of their ethnicity and place of origin.

### *Summary*

An analysis of available data on the disparities in investment and services between the different provinces presents a complicated picture. While two provinces, Rennell and Bellona and Honiara, have better results in respect of two indicators related to standard of living – access to water and sanitation – this pattern is not consistent with data on healthcare and education. Honiara has the best life expectancy statistics in the country, but amongst the worst school enrolment rates; conversely, Rennell-Bellona has amongst the worst life expectancy, but the best school enrolment rates. At the other end of the spectrum, the picture is equally unclear. Ranking the provinces by out-

<sup>352</sup> *Ibid.*, p. xxiii.

<sup>353</sup> See above, note 344.

<sup>354</sup> Equal Rights Trust focus group with people from Tikopia, 20 May 2013, Temotu province.

come across the six data sets, one province – Central province – has amongst the worst outcomes in four different areas: access to sanitation, toilet facilities, life expectancy and infant mortality. Two other provinces, Choiseul and Malaita, had amongst the worst three outcomes when measured against three of the four indicators – access to sanitation and toilet facilities and life expectancy for Choiseul, and access to drinking water, infant mortality and school enrolment rates for Malaita.

Thus, it is difficult to reach a firm conclusion about whether the disparities in investment, employment and services between different islands which were commonly cited as the reasons for internal migration and the resulting tension are real or not. Certainly, examining this data, there is not a clear pattern of advantage and disadvantage between the different regions as one finds in other countries where ethnic groups are concentrated in particular regions. In Kenya, for example, a clear and consistent pattern of deprivation in respect of infrastructure, investment, employment and access to education and health services can be found in the north and east of the country, areas which are dominated by particular marginalised ethnic groups.<sup>355</sup>

### ***Conclusion***

It is difficult to reach a firm conclusion about the relative importance of place of origin in determining patterns of discrimination and disadvantage in Solomon Islands. It seems clear that perceptions about disparities in investment and services between the country's different provinces – and therefore between different ethnic groups – was a factor in driving migration between the islands. Similarly, the perception that one ethnic group – Malaitians – had benefitted disproportionately from development in Honiara was clearly a central factor in “the Tensions” which beset the country between 1998 and 2003. However, as the analysis above indicates, an examination of available data on the levels of basic services in the different regions of the country does not identify a consistent pattern of advantage or disadvantage for Malaita or for Honiara.

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355 See the Equal Rights Trust, *In the Spirit of Harambee: Addressing Discrimination and Inequality in Kenya*, 2012, chapter 2.2, pp. 52–64.

## 2.2.2 Discrimination and Inequality on the Basis of *Wantok*

*Wantok* has been described both as “a term used to express patterns of relationships and networks that link people in families and regional localities and (...) a reference to provincial, national and sub-regional identities”<sup>356</sup> and also as:

*[T]he set of relationships (or a set of obligations) between individuals characterized by some or all of the following: (a) common language (wantok = one talk), (b) common kinship group, (c) common geographical area of origin, (d) common social associations or religious groups, and (e) common belief in the principle of mutual reciprocity.*<sup>357</sup>

The TRC (1998-2003) defined *wantok* as “the set of obligations between people related to each other by a common language (‘one talk’), ethnicity, and/or district or provincial boundaries”.<sup>358</sup> Others have described *wantok* as a traditional social system including “kinship, clan, ethnicity and language”<sup>359</sup> with the most fundamental social group being the extended family,<sup>360</sup> responsible for subsistence, wealth, social stability and relations with the ancestors and the environment.<sup>361</sup> In recent decades, the *wantok* family and social structure has become more complex with modern institutions such as churches, unions, sports clubs and other forms of social groupings. From a purely familial structure, the *wantok* system now extends to business dealings and intersects

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356 Nanau, G.L., “The Wantok System as a Socio-economic and Political Network in Melanesia”, *OMNES: The Journal of Multicultural Society*, 2011, Vol. 2, No. 1, p. 32, available at: <http://www.omnesjournal.org/upload/public/pdf/10/1.pdf>.

357 Renzio, P. “Women and Wantoks: Social Capital and Group Behaviour in Papua New Guinea (WIDER)”, *Project Meeting, Group Behaviour and Development*. The United Nations University, Helsinki, 1999, p. 19.

358 See above, note 95, Vol. 3, p. 35, available at: <http://pacificpolicy.org/files/2013/04/Solomon-Islands-TRC-Final-Report-Vol-3.pdf>.

359 See above, note 314, p. 4.

360 Moore, C., *Happy isles in crisis: The historical causes of a failing state in Solomon Islands*, 1998-2004, Canberra: Asia Pacific Press, 2004.

361 See above, note 314, p. 4.

with political alliances at the local, provincial and national level.<sup>362</sup> *Wantok* is closely linked to the concept of *kastom*: cultural practices such as reciprocal gift giving, and traditional forms of social organisation through which *wantok* relationships are enacted and embodied.<sup>363</sup>

As a system of social organisation, the *wantok* system can be considered beneficial, in that it encourages individuals to look after relatives and neighbours. On the other hand however, there is evidence it has been associated with nepotism, through the use of an individual's personal connections with members of their *wantok* to obtain public sector employment at the expense of equal opportunities.<sup>364</sup>

### ***Discrimination by State Actors***

There is evidence of state agents discriminating against those from other *wantoks*, or favouring members of their own *wantok*. The United States State Department has cited assertions that the police have been more loyal to their *wantok* than to the country as a whole,<sup>365</sup> with implications for the fair administration of justice. For example, Connie, a young man from Choiseul province, told Equal Rights Trust researchers that government assistance funds were not equitably distributed, as the local MP ensured that funds went only to those who had voted for him from his *wantok*.<sup>366</sup> Other people also interviewed by the Trust included Mebia, a 38 year old man from Nemba in Temotu province, who spoke of his difficulties in obtaining assistance following the tsunami in 2013 and how relief supplies were not equally distributed amongst those who needed them but were distributed on the basis of the *wantok* system.<sup>367</sup> Julia Ima from Venga in Temotu province told a similar story, stating that the government had not provided tsunami relief supplies to her, both because of her *wantok* and her disability.<sup>368</sup>

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362 *Ibid.*

363 See above, note 356, vol. 2 No 1, pp. 31–35.

364 *Ibid.*, Vol. 2 No. 1, p. 35.

365 United States State Department, *Country Reports on Human Rights Practices for 2013: Solomon Islands*, 2014.

366 Equal Rights Trust interview with Connie, 31 May 2013, Poroporo, Choiseul province.

367 Equal Rights Trust interview with Mebia, 11 June 2013, Nemba, Temotu province.

368 Equal Rights Trust interview with Julia Ima, 12 June 2013, Venga, Temotu province.

## ***Employment***

A number of those interviewed by the Equal Rights Trust and SPC-SI expressed concerns about discrimination in favour of family members or members of a particular *wantok* group in employment. For example, participants in focus groups in Wasu, Salisapa and Buala stated that the practice of favouring members of a particular *wantok* group made it difficult to get jobs and to receive equal treatment in employment.<sup>369</sup> Five men from Buala spoke to our researchers about discrimination in a logging firm, where decisions were made by those from a particular *wantok* and royalties were not distributed fairly.<sup>370</sup> Participants at a focus group with young men in Honiara stated that Malatian and Isabelian employers tended to recruit members of their *wantok* group, thus favouring those of the same ethnic origin.<sup>371</sup>

The Equal Rights Trust interviewed Ellen Buta, a 40 year old woman from Auki, the capital of Malaita province, who spoke of her experience applying for a cleaning job and being rejected. Ms Buta believed that the employers had relatives of the same *wantok* group and chose to hire them rather than those from a different *wantok* group.<sup>372</sup> A number of other persons who spoke to the Equal Rights Trust also referred to the *wantok* system as a key factor in their difficulties in obtaining employment. For example, Jimmy, a 29 year old man from Poroporo in Choiseul province, told our researchers that he had applied for a position in his local provincial offices, only to discover that the position had been filled before the advertisement was published.<sup>373</sup>

## ***Education***

The education system in Solomon Islands is governed by the Education Act, under which education is neither free nor compulsory. Established at the beginning of 2009, the government's "Fee Free Education" policy funds schools'

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369 Equal Rights Trust focus groups; 6 May 2013, Salisapa, Central province; 14 June 2013, Buala, Isabel province; 15 July 2013, Wasu, Makira-Ulawa province.

370 Equal Rights Trust focus group, 14 June 2013, Buala, Isabel province.

371 Equal Rights Trust focus group with young men, 20 May 2013, Rifle Range, capital territory.

372 Equal Rights Trust interview with Ellen Buta, 15 May 2013, Malaita province.

373 Equal Rights Trust interview with Jimmy, 31 May 2013, Poroporo, Choiseul province.

operational costs for all students in Years 1 to 9.<sup>374</sup> As only operational costs are covered, schools are able to ask parents for contributions. These contributions are not monitored and schools impose contributions as they see fit. A child's ability to obtain education is therefore inextricably linked to their parents' resources, though the island on which they reside also has an impact. For example, in Honiara, there are several secondary schools, meaning that the parents of local students are able to avoid the higher fees charged by boarding schools.

Moreover, while scholarships are available, many of those interviewed for this report asserted that these were distributed on the basis of the applicant's *wantok* group. A young man from Makira-Ulawa province told the Equal Rights Trust that, "[n]owadays, to get into higher education, I see the *wantok* is the only way, to get scholarship or further studies".<sup>375</sup> Another young man, Lawrence, from Mukiki, Choiseul province, said that he was awarded a scholarship to study overseas, but the opportunity was taken away and given to the son of a member of parliament.<sup>376</sup> Roselyn, from Poroporo, Choiseul province, stated that the education system is "corrupted, full of *wantok*"; because of *wantok*, her son who had achieved grades similar to others from his class was unable to progress to grade 7 alongside them.<sup>377</sup> Similarly, Susan, a 37 year old teacher from Malaita, spoke of how the education system is corrupt with opportunities only given to people of the same *wantok* as those in charge. As a result, she was not permitted to undertake further studies as a teacher, whilst approval was given to another applicant who was less qualified.<sup>378</sup>

## **Conclusion**

The evidence gathered by the Equal Rights Trust has identified a clear pattern of concern about corruption based on *wantok*, which, if verified, would constitute discrimination on the basis of ethnicity within the meaning of ICERD.

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374 Solomon Islands Times, "Launch of Fee Free Education: An educated populace is the foundation to a vibrant society and nation", *Solomon Islands Times*, 16 January 2009, available at: <http://www.solomontimes.com/news/launch-of-fee-free-education/3406>.

375 Equal Rights Trust interview with Y, 14 June 2013, Makira-Ulawa province.

376 Equal Rights Trust interview with Lawrence, 31 May 2013, Mukiki, Choiseul province.

377 Equal Rights Trust interview with Roselyn, 31 May 2013, Poroporo, Choiseul province.

378 Equal Rights Trust interview with Susan, 15 May 2013, Malaita, Malaita province.

The Trust has found a consistent pattern of allegations of unfavourable treatment on the basis of *wantok* in the areas of employment, education and delivery of services by state actors, which indicate the presence of a systemic problem with discrimination on this basis.

### 2.3 Discrimination and Inequality on the Basis of Disability

The legal regime in Solomon Islands provides very little protection from discrimination on the basis of disability. The 1978 Constitution does not prohibit discrimination on the basis of disability and, despite years of debate, a draft Bill to provide protection from discrimination on grounds of disability has still not been enacted.<sup>379</sup> Solomon Islands signed the Convention on the Rights of Persons with Disabilities (CRPD) in 2008, though it has yet to ratify it, despite the government's commitment during the Universal Periodic Review in 2011 that it would do so.<sup>380</sup> According to its 2015 report to the UPR, the country is improving infrastructure and accessibility as "pre-emptive steps to ratifying the CRPD".<sup>381</sup> Whether or not it does so, Solomon Islands is party to ICESCR, which the CESCR has interpreted as giving rise to an obligation to prohibit discrimination on the basis of disability in the enjoyment of all economic, social and cultural rights.<sup>382</sup> Our research has identified significant problems of discrimination affecting persons with disabilities, in particular in respect to the enjoyment of rights protected by ICESCR, thus putting the state in violation of its obligations under that treaty.

#### *Cultural Attitudes and the Position of Persons with Disabilities in Society*

Estimates of the number of persons with disabilities in Solomon Islands vary widely. According to the 1999 census, there were 11,107 persons with disabilities in the country.<sup>383</sup> The 2009 census, however, reported a substantially

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379 For detailed discussion of the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Bill 2006, see section 3.2.3 of this report.

380 Solomon Islands Country Statement, *Solomon Islands Response to HRC-UPR WG 115 Recommendations, Wednesday 21st September 2011*, p. 3, available at: [http://www.upr-info.org/sites/default/files/document/solomon\\_islands/session\\_11\\_-\\_may\\_2011/solomonislandplenarystatement2011.pdf](http://www.upr-info.org/sites/default/files/document/solomon_islands/session_11_-_may_2011/solomonislandplenarystatement2011.pdf).

381 See above, note 162, Para 95.

382 See above, note 340, Para 28.

383 Solomon Islands Nationwide Disability Survey 2005, p. 7.

higher figure. The report stated that “about 14% of the total population” reported a disability.<sup>384</sup> The question posed “concerned whether a person had any difficulties or health problems in seeing, hearing, walking, and/or remember or concentrating”.<sup>385</sup> It should be noted that this methodology is open to question because it does not reflect internationally recognised standards on the definition of disability.<sup>386</sup> The World Health Organisation estimates that in 2004, 2.9% of the world population was severely disabled and 12.4% was moderately disabled,<sup>387</sup> which if consistent with the Solomon Islands population would mean a total population of 68,200 persons with moderate or severe disabilities in the country.

Significant stigma is attached to disability in Solomon Islands, with severe and serious impacts on the opportunity of persons with disabilities to participate in life on an equal basis with others. Interviews conducted by the Equal Rights Trust found a number of examples of negative attitudes towards persons with disabilities even within their families. Jessica, a girl with physical disability from Salisapa, Central province, told our researchers that she felt treated differently compared to girls of the same age and that, while the rest of the family was playing games or telling stories, she was sent to wash dishes, cook and do other menial work.<sup>388</sup> John, a young man who fell in love with a woman with a disability in the province of Malaita, reported that he was prohibited by his parents to marry the woman.<sup>389</sup> Lynda, a young girl with disability from Malaita province, told our researchers that persons with mental disability can experience rejection and degrading treatment by the community.<sup>390</sup>

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384 See above, note 257, p. 84.

385 *Ibid.*

386 See, for example, the broad definition of “disability” provided in Article 1 of the Convention on the Rights of Persons with Disabilities as including “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”.

387 World Health Organisation, *Global Health Risks: Mortality and burden of disease attributable to selected major risks*, 2004, p. 34, available at: [http://www.who.int/healthinfo/global\\_burden\\_disease/GlobalHealthRisks\\_report\\_full.pdf](http://www.who.int/healthinfo/global_burden_disease/GlobalHealthRisks_report_full.pdf).

388 Equal Rights Trust interview with Jessica Nume, 7 May 2013, Salisapa, Central province.

389 Equal Rights Trust interview with John, 15 May 2013, Malaita, Malaita province.

390 Equal Rights Trust interview with Lynda, 15 May 2013, Malaita, Malaita province.

Some commentators have argued that negative cultural attitudes towards disability stem, in part, from the particular interpretation of Christianity practiced in Solomon Islands and other countries in the region:

*Pacific customs mixed with religions such as Christianity can often be exclusionary, despite preaching tolerance and respect as core values. Literal preaching from Deuteronomy in the Old Testament depicts disability as a curse from God. Combined with customary beliefs that disability is punishment for a family's wrongdoing, this results in many people being ashamed of and fearing people with disabilities.<sup>391</sup>*

Further, there is evidence that traditional attitudes towards disability in the region are based on a belief that persons with disabilities cannot be expected to take a full and active part in community life and should be cared for by others. The NGOs Foundation for Marist Solidarity International and Franciscans International, for example, have reported that this “charity” or “welfare” approach leads to parents keeping children with disabilities at home rather than sending them to school.<sup>392</sup>

### ***Discriminatory Laws***

A number of provisions in the Constitution of Solomon Islands and other laws discriminate, or create conditions for discrimination, against persons with disabilities, including in particular against persons with mental or intellectual disabilities. For example, section 5(1) of the Constitution which states that “[n]o person shall be deprived of his personal liberty save as may be authorised by law” includes a number of specified exceptions to the right, permitting the restriction of liberty, *inter alia*:

*[I]n the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol,*

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391 Flynn, K, “The challenges faced by disabled girls in the Solomon Islands”, *The Guardian*, 5 July 2011, available at: <http://www.theguardian.com/journalismcompetition/the-challenges-faced-by-disabled-girls-in-the-solomon-islands>.

392 Foundation for Marist Solidarity International and Franciscans International, *Joint Submission to the Universal Periodic Review for Solomon Islands*, November 2010, p. 2.

*or a vagrant, for the purpose of his care or treatment or the protection of the community.*<sup>393</sup>

This would appear to contradict Article 14(6) of the CRPD which provides that:

*States Parties shall ensure that persons with disabilities, on an equal basis with others (...) are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.*

Similarly, section 8 of the Constitution which provides the right to protection from deprivation of property states that:

*Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section (...) to the extent that the law in question makes provision for the taking of possession or acquisition of (...) property of (...) a person of unsound mind.*<sup>394</sup>

The term “unsound mind” is not defined in the Constitution. However, in the absence of such a definition, it is clear that such restrictions could discriminate against persons with mental or intellectual disabilities, potentially violating Article 12(5) of the CRPD which provides that:

*States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.*

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393 Constitution of Solomon Islands 1978, section 5(1)(i).

394 *Ibid.*, section 8(2)(b)(ii).

The Labour Act provides for a minimum wage in Solomon Islands,<sup>395</sup> but section 36(1) of the Act allows the Commissioner of Labour to issue permits of exemption to “infirm or disabled persons” which allows for their employment at less than the minimum wage. Whilst such a provision may be well-intentioned, it nevertheless constitutes direct disability discrimination, in violation of Articles 2(2) and 7 of the ICESCR. As the CESCR has stated:

*Disabled workers may not be discriminated against with respect to wages or other conditions if their work is equal to that of non-disabled workers. States parties have a responsibility to ensure that disability is not used as an excuse for creating low standards of labour protection or for paying below minimum wages.*<sup>396</sup>

## **Education**

While it has not ratified the CRPD, Solomon Islands through its signature has committed to its provisions, which require states parties to “ensure an inclusive education system at all levels,” and to “ensure that persons with disabilities are not excluded from the general education system on the basis of disability”.<sup>397</sup> The Convention on the Rights of the Child (CRC), which Solomon Islands has ratified, contains an extensive right for all children to education in Article 28 which must be ensured without discrimination on grounds of disability as required by Article 2(1) of the Convention. In addition, Article 23 recognises the particular needs of children with disabilities and requires states parties to extend assistance to children with disabilities to ensure that:

*[T]he disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recrea-*

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395 The minimum wage is currently SBD\$3.20 (US\$0.39) in the agriculture plantations and the fishing sector and SBD\$4.00 (US\$0.49) in all other sectors by virtue of Legal Notice No. 31/2008.

396 Committee on Economic, Social and Cultural Rights, *General Comment No. 5, Persons with disabilities*, U.N. Doc E/1995/22 at 19, 1995, Para 25.

397 Convention on the Rights of Persons with Disabilities, G.A. Res. A/RES/61/106, 2006, Articles 24(1) and 24(2)(a).

*tion opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.*<sup>398</sup>

Furthermore, as illustrated above, as a party to the ICESCR, Solomon Islands is obligated to ensure the enjoyment of the right to education without discrimination on the basis of disability. As the CESCR has stated, ensuring the enjoyment of Covenant rights without discrimination on the basis of disability entails an obligation to make reasonable accommodation where necessary to ensure the equal enjoyment of Covenant rights.<sup>399</sup> Dealing specifically with education, the Committee has stated that:

*States should ensure that teachers are trained to educate children with disabilities within regular schools and that the necessary equipment and support are available to bring persons with disabilities up to the same level of education as their non-disabled peers.*<sup>400</sup>

Despite repeated attempts, Solomon Islands is yet to enact a law providing protection from discrimination on the basis of disability, while the legislative framework governing education in Solomon Islands, the Education Act, contains no provisions on children with disabilities. However, the National Policy on Disability 2005–2010 contained a number of measures which aimed to improve the situation. Objective 5 of the Policy was to:

*Review education and training policies to ensure that they give opportunity to boys and girls with disabilities, improve their access and their equal right to education, and provide compulsory special education modules in all teacher training courses.*<sup>401</sup>

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398 Convention on the Rights of the Child, G.A. Res. 44/25, 1989, Article 23(3).

399 See above, note 340, Para 28.

400 See above, note 396, Para 35.

401 Ministry of Health and Medical Services, *Solomon Islands National Policy on Disability 2005 - 2010*, November 2004, p. 8, available at: <http://www.mindbank.info/item/1563>.

The National Policy on Disability was reviewed in 2013–2014 but, as of May 2015, Cabinet endorsement has not yet been sought. No budget or implementation measures have been planned by the Ministry of Health, and no time-scale for endorsement has been drawn up.<sup>402</sup>

In 2010, the government of Solomon Islands promised to ensure that “all Solomon Islanders have equal access to quality education”.<sup>403</sup> Despite this promise, international obligations and the government’s policy commitments, access to education for children with disabilities remains poor. In 2002, the Committee on the Rights of the Child (CRC Committee) expressed its concern that children with disabilities “have no access to education”.<sup>404</sup>

One of the factors which limit access to education for children with disabilities is that great stigma is attached to disability, even by the parents of young people with disabilities. For example, Edith, a woman with disabilities from Honiara, told the Equal Rights Trust that her education was interrupted because she could no longer tolerate schoolmates’ verbal abuses targeting her disability.<sup>405</sup> A 2010 report produced by UNICEF found that:

*The cultural attitude to children with disabilities in Solomon Islands depends on various factors such as the part of the country, the type of disability and the levels of awareness of disability issues. While some parents actively seek help for their CWD (children with disabilities), others hide them as there is still a feeling of shame and embarrassment. The perception that having a CWD is a punishment or curse is still strong. There is some fear of PWD, especially those with epilepsy. Many believe that CWD are incapable and do not encourage them to*

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402 People with Disabilities Solomon Islands, *Submission to the Universal Periodic Review for Solomon Islands*, May 2015, available at: <http://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=2288&file=EnglishTranslation>.

403 National Coalition for Reform and Advancement (NCRA), *Government Policy Statement*, Office of the Prime Minister, October 2010, Para 4.2.5, available at: <http://www.lowyinterpreter.org/file.axd?COLLCC=3112814889&file=2010%2F10%2FNCR+Policy+Document.pdf>.

404 United Nations Committee on the Rights of the Child, First Session Report, *Concluding Observations: Solomon Islands*, UN Doc. CRC/C/15/Add.208, 2 July 2003, Para 38.

405 See above, note 143.

*seek education or to learn to live an independent life. Parents with CWD are often very protective and do not want their children to attend school for fear of ridicule or teasing.*<sup>406</sup>

In addition, while children with disabilities are not prevented from attending mainstream schools, in reality, inadequate facilities and lack of reasonable accommodation – both a consequence of limited resources – make attendance impossible for many.<sup>407</sup> Those who do attend school tend only to stay for a short time. Children with physical disabilities are not always able to access transportation to take them to school, and long distances to the nearest school may render attendance impossible.<sup>408</sup>

Outside the mainstream education system, as of 2014, there are two educational facilities which specialise in education for children with disabilities in Solomon Islands. The first, the Red Cross Centre for Children with Disabilities, is supported almost entirely by the International Committee of the Red Cross.<sup>409</sup> The Centre provides basic care, education and training to children with disabilities from the age of six months to 20 years; as of 2011, it had 155 students. The Centre aims to integrate some children into the mainstream schooling system where it believes this is possible and has had some success in doing so.<sup>410</sup> The second facility, the San Isidro Care Centre, caters for children with hearing impairments aged 14 and over, many of whom have progressed from the Red Cross Centre.<sup>411</sup> The San Isidro Centre provides training in agriculture, carpentry, cooking, sewing and life-skills, with an emphasis on income-generating activities; as of 2011, it had 37 students.<sup>412</sup>

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406 UNICEF, *A Report for UNICEF Pacific's 2010 Mid-Term Review: Pacific Children with Disabilities*, 2012, p33.

407 UNDP, *Pacific Sisters with Disabilities: at the Intersection of Discrimination*, 2009, p. 20, available at: <http://wwda.org.au/wp-content/uploads/2013/12/pacificsisters1.pdf>.

408 See above, note 406, p. 34.

409 United States State Department, *2013 Country Reports on Human Rights Practices: Solomon Islands*, 2014.

410 *Ibid.*

411 See above, note 408.

412 *Ibid.*

Reliable figures on how many children with disabilities are in education are difficult to obtain. The government's statistics from 2009 reported that just 2% of children in primary schools had "special needs" indicating that significant numbers of children with disabilities were not attending primary school at all.<sup>413</sup> The corresponding figures for children in junior secondary schools and senior secondary schools were 1% and less than 1% respectively, suggesting that children with disabilities were even less likely to attend secondary school than primary school.<sup>414</sup> A report produced by UNDP in the same year suggested that only 18% of girls with disabilities were attending school, while 39% of women with disabilities had obtained primary education.<sup>415</sup>

### ***Employment***

Although not yet ratified by Solomon Islands, Article 27 of the CRPD requires States parties to recognise "the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities". Further, as a party to the ICESCR, Solomon Islands has obligations to ensure the enjoyment of economic, social and cultural rights without discrimination on grounds including disability. The CESCR, in addressing the obligation to ensure that persons with disabilities enjoy the "right of everyone to the opportunity to gain his living by work which he freely chooses or accepts" arising under Article 6, has stated that:

*[P]ersons with disabilities, whether in rural or urban areas, must have equal opportunities for productive and gainful employment in the labour market (...) For this to happen it is particularly important that artificial barriers to integration in general, and to employment in particular, be removed. (...) Governments should also*

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413 Government of Solomon Islands, Ministry of Education and Human Resources Development, *Performance Assessment Framework 2007 - 2009*, December 2010, pp. 24-25, available at: [https://www.spc.int/PRISM/images/EducationDigests/SOLOMON%20ISLANDS/Final\\_endorsed\\_PAF\\_2007-2009\\_ver8Dec2010.pdf](https://www.spc.int/PRISM/images/EducationDigests/SOLOMON%20ISLANDS/Final_endorsed_PAF_2007-2009_ver8Dec2010.pdf).

414 *Ibid.*

415 See above, note 407.

*develop policies which promote and regulate flexible and alternative work arrangements that reasonably accommodate the needs of disabled workers.*<sup>416</sup>

There are no statistics which confirm the number of persons with disabilities in employment in Solomon Islands. Indeed, in its report to the Universal Periodic Review process in 2011, the government of Solomon Islands stated that the Labour Division of the Ministry of Commerce, Employment and Industries does not collect data on the number of persons with disabilities in employment, nor does it collect any information on discrimination against persons with disabilities in recruitment, promotion and other aspects of employment.<sup>417</sup> This failure to collect data is itself a failure to comply with the clear recommendation of the CESCR that states monitor:

*[B]oth the steps taken and the results achieved in the elimination of discrimination (...) us[ing] appropriate indicators and benchmarks, disaggregated on the basis of the prohibited grounds of discrimination.*<sup>418</sup>

Moreover, it indicates a lack of concern with the participation of persons with disabilities which is deeply problematic.

There is a single disability centre in Honiara which assists persons with disabilities in finding employment, but the high level of unemployment in the economy as a whole, combined with the absence of any laws requiring reasonable accommodation, mean that most persons with disabilities are unable to find work outside of the family structure; this is particularly the case in rural areas.<sup>419</sup>

## **Health**

Article 25 CRPD requires that “States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of

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416 See above, note 396, Para 22.

417 See above, note 162, Para 52.

418 See above, note 340, Para 41.

419 See above, note 409.

health without discrimination on the basis of disability”. Similarly, as in the areas of employment and education, as a party to the ICESCR, Solomon Islands has a specific obligation to ensure the enjoyment of the right to the highest attainable standard of physical and mental health without discrimination on grounds which include disability. The CESCR has clarified that meeting the obligation of ensuring “accessibility” of health services which arises under the Covenant entails four overlapping dimensions: non-discrimination, physical accessibility, economic accessibility and information accessibility. It has recognised that physical accessibility “includes adequate access to buildings for persons with disabilities”.<sup>420</sup>

The Equal Rights Trust spoke with a number of people with disabilities about problems of discrimination, inaccessibility and lack of reasonable adjustment in the area of healthcare. Jessica, a woman with physical disability from the Central province, told our researchers that she had difficulties in accessing healthcare services because of the distance of her village from the nearest clinic and the lack of nurses conducting home visits.<sup>421</sup> Similarly, Peter, a man with disability from Lambi Tasiloki, Guadalcanal province, stated that he remained unable to access healthcare services located in Honiara due to the long distance and the lack of government support or assistance.<sup>422</sup> Interviewees also expressed concerns that staff in healthcare services lack the necessary training to deal with the healthcare needs of persons with disabilities. Meleu, a man with a hearing impairment living in Venga, Temotu province, stated that persons with hearing impairments can have difficulty in accessing suitable healthcare because nurses cannot communicate effectively with them.<sup>423</sup>

### ***Access to Buildings, Infrastructure and Transport***

The CRPD, which Solomon Islands has signed but not ratified, includes “accessibility” among its general principles, while Article 9 requires that:

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420 The United Nations Committee on Economic, Social and Cultural Rights, *General Comment 14, The right to the highest attainable standard of health*, U.N. Doc. E/C.12/2000/4, 2000, Para 12(b).

421 See above, note 388.

422 Equal Rights Trust interview with Peter Uduseni, 19 May 2013, Lambi Tasiloki, Guadalcanal province.

423 Equal Rights Trust interview with Meleu, 11 June 2013, Venga, Temotu province.

*[S]tates Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public.*

The CESC, recalling the World Programme of Action Concerning Disabled Persons, has stated that “[d]isability policies should ensure the access of [persons with disabilities] to all community services”. In Solomon Islands, however, the Disability Rights Fund has said that:

*[A]ccessibility for people with disabilities is a barrier in public buildings. In addition, access to services and transport in the outer islands is virtually non-existent.<sup>424</sup>*

This finding was corroborated by Equal Rights Trust field research. Prisilla Tutuga, a woman with disability living in Central province, told the Trust’s researchers that persons with disability are not guaranteed equal access to government services.<sup>425</sup> Meleu, a man with hearing impairment living in Venga, Temotu province, told the Trust that, after the tsunami, the government did not provide him with the necessary supplies and he was left dependent on his parents.<sup>426</sup> According to a coalition of Solomon Islands’ NGOs in a shadow report to the CEDAW Committee, women with disabilities have no or little access to services, education and employment; they are the most vulnerable to abuses and to diseases including HIV.<sup>427</sup>

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424 Disability Rights Fund, *Strengthening Voices of Persons with Disabilities*, 2011, p. 1, available at: [http://www.disabilityrightsfund.org/files/pwdsi\\_solomon\\_islands.pdf](http://www.disabilityrightsfund.org/files/pwdsi_solomon_islands.pdf). The Disability Rights Fund is a collaboration between donors and the disability community to advance the Convention on the Rights of Persons with Disabilities through building capacity in various countries.

425 Equal Rights Trust interview with Prisilla Tutuga, 7 May 2013, Salisapa, Central province.

426 See above, note 423.

427 Solomon Islands NGO CEDAW Coalition Group, *NGO Shadow Report on the Status of Women in Solomon Islands: Initial, Second and Third Report (2002-2014)*, 2014, p. 11, available at: [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SLB/INT\\_CEDAW\\_NGO\\_SLB\\_18377\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SLB/INT_CEDAW_NGO_SLB_18377_E.pdf).

## ***Conclusion***

As this evidence makes clear, persons with disabilities in Solomon Islands are unable to participate in many areas of life on an equal basis with others. Significant social stigma attached to disability creates conditions for exclusion and mistreatment in the home and direct discrimination in society at large. A paternalistic approach to disability focused on “charity” and “welfare” rather than rights, a lack of reasonable accommodation and the limited resources of persons with disabilities together limit the capacity of persons with disabilities to participate in education and employment and to access healthcare and other services. The result is that persons with disabilities are marginalised and disadvantaged in many areas of life.

### **2.4 Discrimination and Inequality on the Basis of Sexual Orientation**

While sexual orientation is not explicitly included as a protected ground of discrimination in any of the human rights instruments to which Solomon Islands is party, it is now a well-recognised principle that sexual orientation is a characteristic analogous to those which are explicitly protected.<sup>428</sup> UN treaty bodies have recognised the specific obligation to prohibit discrimination on the basis of sexual orientation that arise under a number of international human rights treaties to which Solomon Islands is party. The CESCR has recognised sexual orientation as a form of “other status” as protected under Article 2(2) of the ICESCR, meaning that states are obligated to ensure the enjoyment of economic, social and cultural rights guaranteed under the Covenant without discrimination on this basis.<sup>429</sup> In addition, the CEDAW Committee and CRC Committee have made clear that states party to the CEDAW and the CRC are obligated to protect women and children respectively from discrimination on the basis of sexual orientation.<sup>430</sup>

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428 In addition to the international human rights treaties discussed here, see also: Equal Rights Trust, *Declaration of Principles on Equality, Principle 5*, London, 2008, p. 6 and the Yogyakarta Principles.

429 See above, note 340, Para 32.

430 See, respectively, Committee on the Elimination of Discrimination against Women, *General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, U.N. Doc. CEDAW/C/GC/28, UN Doc. CEDAW/C/GC/28, 16 December 2010, Para 18, and Committee on the Rights of the Child, *General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child*, UN Doc. CRC/GC/2003/4, 2003, Para 2. See also Principle 5 of the *Declaration of Principles on Equality* (see above, note 428), and Yogyakarta Principles.

Nevertheless, Solomon Islands does not prohibit discrimination on the basis of sexual orientation. Indeed, it law directly discriminates against lesbians and gay and bisexual men, through criminalising same-sex sexual activity between persons of the same sex.

### ***Discriminatory Laws***

Same-sex sexual activity between men is a criminal offence in Solomon Islands. Section 160 of the Penal Code criminalises “unnatural offences” (buggery) with up to fourteen years’ imprisonment, while section 161 criminalises attempts to commit “unnatural offences” as well as indecent assault against a man, with up to seven years’ imprisonment. The relevant sections read:

#### ***Unnatural offences***

*160. Any person who-*

*(a) commits buggery with another person or with an animal; or*

*(b) permits a male person to commit buggery with him or her,*

*shall be guilty of a felony, and shall be liable to imprisonment for fourteen years.*

#### ***Attempts to commit unnatural offences***

*161. Any person who attempts to commit any of the offences specified in the last preceding section, or who is guilty of any and assault with intent to commit the same, or any indecent assault upon any male person shall be guilty of a felony, and shall be liable to imprisonment for seven years.*

The Penal Code (Amendment) Act 1990 replaced section 162, “Indecent practices between males” with a new offence criminalising “gross indecency” between two persons of the same sex, whether male or female, with up to five

years' imprisonment. Although "gross indecency" is not defined, the Law Reform Commission has stated that it includes touching another person's genitals with one's hands, oral sex and masturbation.<sup>431</sup> Section 162 reads:

***Indecent practices between persons of the same sex***

*162. Any person who, whether in public or private –*

*(a) commits any act of gross indecency with another of the same sex;*

*(b) procures another of the same sex to commit any act of gross indecency; or*

*(c) attempts to procure the commission of any act of gross indecency by persons of the same sex,*

*shall be guilty of a felony and be liable to imprisonment for five years.*

In 2008, the Law Reform Commission proposed repealing the provisions criminalising consensual same-sex sexual activity.<sup>432</sup> At Solomon Islands' Universal Periodic Review in 2011, recommendations were made to decriminalise same-sex sexual activity by France, Norway, Slovenia and Spain.<sup>433</sup> However, the government of Solomon Islands stated that it had no intention of repealing the relevant provisions of the Penal Code, arguing that "the cultural context of society did not condone same-sex relationships" and that "there had not been any submissions to the Law Reform Commission in their review of the Penal Code to repeal those sections".<sup>434</sup> In its Second Interim Report on

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431 Solomon Islands Law Reform Commission, *Review of the Penal Code and Criminal Procedure Code: Sexual Offences – Sentencing Research Paper*, 2011, Para 3.19, available at: <http://www.lawreform.gov.sb/files/publications/Sexual-Offences-Sentencing-Research-Report.pdf>.

432 Solomon Islands Law Reform Commission, *Review of Penal Code and Criminal Procedure Code: Issues Paper 1*, November 2008, Paras 6.91–6.96.

433 United Nations Human Rights Council, Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Solomon Islands*, 11 July 2011, UN Doc. A/HRC/18/8, Paras 36 and 80.38 (Norway), 39 and 81.49 (France), 81.50 (Slovenia), and 81.51 (Spain).

434 *Ibid.*, Para 26.

Sexual Offences published in June 2013, the Law Reform Commission made no proposals to repeal or amend sections 160 to 162.<sup>435</sup>

According to the Law Reform Commission in 2011, there had been only two prosecutions under section 160 in the period since 2003, both involving adults who sexually abused children under the age of 18 years without their consent.<sup>436</sup> Although the Law Reform Commission stated in the same year that there had only been two prosecutions under section 162, in both cases involving male adults and children,<sup>437</sup> in 2004, a woman was charged under section 162 and remanded in custody, though there are no reports of the case's outcome.<sup>438</sup> Despite the criminalisation of same-sex sexual activity between women, there is anecdotal evidence of women living in same-sex relationships throughout Solomon Islands.<sup>439</sup>

### ***Cultural Attitudes and Discrimination***

As a consequence of both criminalisation and social stigma, few lesbian, gay and bisexual people in Solomon Islands are open about their sexual orientation, making it difficult to gather evidence about discrimination in practice against people on the basis of their sexual orientation. However, evidence gathered through interviews and focus groups in Solomon Islands indicates high levels of stigma and prejudice against people on the basis of their actual or perceived sexual orientation. Participants at a focus group with women from Malaita stated that being gay is unacceptable because marrying persons of the same sex is forbidden by the bible and by local culture. S., a 22 year old man from Malaita, told our researchers that people laugh, joke and verbally abuse him because they believe him to be gay.<sup>440</sup> K., a 25 year old man from

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435 Solomon Islands Law Reform Commission, *Review of the Penal Code and Criminal Procedure Code: Second Interim Report: Sexual Offences*, June 2013, available at: [https://web.archive.org/web/20140918234117/http://www.lawreform.gov.sb/files/reports/Final-sexual\\_offences\\_report\\_2013\\_v4\\_12\\_June.pdf](https://web.archive.org/web/20140918234117/http://www.lawreform.gov.sb/files/reports/Final-sexual_offences_report_2013_v4_12_June.pdf).

436 See above, note 431, Para 3.19.

437 *Ibid.*, Para 3.22.

438 Gay and Lesbian Archives of the Pacific Northwest, "Mother Remanded on Lesbian Charge", *glapn.org*, 8 December available at: [http://www.glapn.org/sodomylaws/world/solomon\\_islands/sinews001.htm](http://www.glapn.org/sodomylaws/world/solomon_islands/sinews001.htm).

439 See above, note 427, p. 15, citing: *Regina v Piko* [2012] SBHC 89, 14 Aug 2012.

440 Equal Rights Trust interview with S., 15 May 2013, Malaita province.

Temotu, told an Equal Rights Trust interviewer that he had been “abused by certain people from the public or in the village” because of his sexual orientation.<sup>441</sup> C., a 25 year old man from Malaita interviewed by Equal Rights Trust, reported verbal abuse and concerns about his safety in public.<sup>442</sup> C. spoke of sexual abuse he had suffered, including sexual assault, which had taken place on public transport, in buses or taxis. He stated that he had decided not to report these incidents to the police as other gay men he knew had been harassed by police officers and so felt unable to trust or confide in them.

As noted above, the CESCR has stated that states parties to the ICESCR have an obligation to ensure the enjoyment of Covenant rights – including the rights to work and to education – without discrimination on the basis of sexual orientation.<sup>443</sup> Whilst difficult to prove in the absence of other evidence, a number of the gay men interviewed by the Trust believed that their sexual orientation had resulted in discrimination in education and employment. C. and J., both from Malaita, believed that being gay resulted in discrimination in receiving scholarships, something which is vitally important in a country where education is not widely or freely available. J. told the Trust:

*I feel discriminated because other students who are in my group have been awarded with scholarships in the past years while I still wait, though our grades are more or less the same.*<sup>444</sup>

C. also spoke of how he had struggled to find employment as a result – he believed – of his sexual orientation. He said:

*I feel that getting a highly paid job is hard unless the government and the other sectors recognised our rights, just like other normal men and women. For example, my class mate and I applied for the same job, and they chose my friend to work as a teller in that bank.*<sup>445</sup>

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441 Equal Rights Trust interview with K., 19 July 2013, Temotu province.

442 Equal Rights Trust interview with C., 19 July 2013, Malaita province.

443 See above, note 340, Para 32.

444 Equal Rights Trust interview with J., 19 July 2013, Malaita province.

445 Equal Rights Trust interview with C., 19 July 2013, Malaita province.

## **Conclusion**

Lesbian, gay and bisexual persons in Solomon Islands are criminalised and subject to severe social stigma, resulting in very few people ready to be open about their sexual orientation. The small number of openly lesbian, gay and bisexual persons in Solomon Islands presents challenges for the collection and assessment of information on the extent of discrimination on the basis of sexual orientation. Nevertheless, testimony gathered for this report indicates the existence of harassment and discriminatory violence and with discrimination in both employment and education.

### **2.5 Discrimination and Inequality Affecting Persons Living with HIV**

As with sexual orientation, neither HIV status in particular, nor the broader category of health status, is listed as a protected characteristic under the international human rights instruments to which Solomon Islands is party. However, the CESCR has concluded that it is a protected characteristic as a form of “other status” within Article 2(2) and recommended that “[s]tates parties should ensure that a person’s actual or perceived health status is not a barrier to realizing the rights under the Covenant”.<sup>446</sup> Yet, research for this report has identified evidence of discrimination on the basis of HIV status, which limits the enjoyment of the economic, social and cultural rights guaranteed by the ICESCR.

UNAIDS has classified the Solomon Islands as a low HIV prevalence country, with an estimated 0.002% of the population living with HIV.<sup>447</sup> According to a 2015 report prepared by the Solomon Islands National AIDS Council (SINAC)<sup>448</sup>, a total of 25 people had been diagnosed with HIV between the first reported case in 1994 and December 2014, of whom 10 had died.<sup>449</sup> Of the 15

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446 See above, note 340, Para 33.

447 Solomon Islands National AIDS Council (SINAC), *Solomon Islands Global AIDS Response Progress Report 2015*, 2015, p. 24, available at: [http://www.unaids.org/sites/default/files/country/documents/SLB\\_narrative\\_report\\_2015.pdf](http://www.unaids.org/sites/default/files/country/documents/SLB_narrative_report_2015.pdf).

448 SINAC was established in 2005 by the Solomon Islands Cabinet to act as the overarching authority for the national HIV response. Its role is to provide guidance, approval for HIV policies and prevention, treatment and care programmes.

449 See above, note 447, p. 19.

persons living with HIV, 11 were women and four were men.<sup>450</sup> It should be noted that the Ministry of Health and Medical Services considers that:

*[B]ecause of the high number of STIs, low access to testing, and known risk behaviours in some populations, the number of people infected with HIV is thought to be significantly higher than the recorded cases.<sup>451</sup>*

It is not unlawful to discriminate on the grounds of HIV or AIDS status in the Solomon Islands. The Constitution – the only legal instrument prohibiting discrimination in the country – makes discrimination unlawful only on the grounds of sex, colour, creed, race, place of origin or political opinion. SINAC’s 2014 report indicates that it considers legal protections for vulnerable groups to be very weak and is concerned that there are no specific protections for persons living with HIV or people assumed to have HIV on the basis of their membership of a vulnerable group.<sup>452</sup> In 2010 and 2011, policies and legislation relating to HIV were reviewed and a working group was established to draft an HIV bill.<sup>453</sup> However, by early 2015, the draft Cabinet paper in relation to the bill had not yet been put before the Cabinet and a 2014 SINAC report noted that “[p]olitical leadership, media coverage and public advocacy efforts in support of the HIV response waned in 2013”.<sup>454</sup> Indeed, the 2014 report notes that:

*National level political changes, internal capacity gaps, and a reduction in the involvement of civil society stakeholders due to lack of funding and donor support, has eroded the effectiveness of SINAC, and has adversely impacted on the progress and performance of the national HIV response.<sup>455</sup>*

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450 *Ibid.*, p. 12.

451 See above, note 130, p. 6.

452 *Ibid.*, p. 11.

453 *Ibid.* See also Solomon Islands National AIDS Council (SINAC), *Solomon Islands Global AIDS Response Progress Report 2012*, 2012, p. 22, available at: [http://www.unaids.org/sites/default/files/en/dataanalysis/knowyourresponse/countryprogressreports/2012countries/ce\\_SB\\_Narrative\\_Report\[1\].pdf](http://www.unaids.org/sites/default/files/en/dataanalysis/knowyourresponse/countryprogressreports/2012countries/ce_SB_Narrative_Report[1].pdf).

454 See above, note 456, p. 7.

455 *Ibid.*, p. 9.

However, the government has taken steps to tackle the spread of HIV, including through the reduction of stigma and discrimination, which it recognises as a barrier to effective prevention and treatment. In 2004, a National Multi-Sectoral Strategic Plan for HIV and AIDS 2005-2010 was developed. The Plan identified the development of an environment that enables a reduction in stigma and discrimination in order to promote prevention and care as one of its five key results areas.<sup>456</sup> The Plan was reviewed during 2010 and 2011 in order to develop a plan for 2011–2015, but as of December 2013 the draft Plan had still not been finalised.<sup>457</sup> A new draft Solomon Islands National Strategic Plan for HIV and Sexually Transmitted Infections (STI) 2014–2018 has been developed but has not yet been endorsed by Cabinet.<sup>458</sup> The new draft Plan has “identified legal and policy reform as a national response priority for the period 2014–2018”.<sup>459</sup>

The SINAC has stated that “stigma and discrimination persist in Solomon Islands and PLHIV [people living with HIV] perceive significant fear and risk if their HIV status is known”.<sup>460</sup> The report also indicates that stigma and discrimination are among the primary barriers to persons living with HIV obtaining care, treatment and support; two individuals were reported as not taking antiretroviral treatment due to fear of stigma and discrimination.<sup>461</sup>

The DHS undertaken by the SINSO and others in 2006 and 2007 concluded that “intervention strategies are needed to reduce the stigma associated with HIV and AIDS”.<sup>462</sup> Participants in the study were asked four questions in relation to their attitudes towards persons living with HIV. Approximately 57% of male respondents and 36% of female respondents stated that they would be willing to care for a family member with AIDS in their home; approximately 54% of men and 36% of women stated that they would buy vegetables from a

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456 Solomon Islands National AIDS Council (SINAC), *National HIV Policy and Multisectoral Strategic Plan 2005-10*, 2005, p. 5, available at: [http://www.aidstar-one.com/sites/default/files/prevention/resources/national\\_strategic\\_plans/Solomon%20Islands%202005-2010-tagged.pdf](http://www.aidstar-one.com/sites/default/files/prevention/resources/national_strategic_plans/Solomon%20Islands%202005-2010-tagged.pdf).

457 See above, note 130, p. 10.

458 See above, note 447, p. 22.

459 *Ibid.*

460 See above, note 130, p. 22.

461 *Ibid.*, p. 7.

462 See above, note 223, p. 233.

shopkeeper with AIDS; 20% of men and 16% of women agreed that a female teacher with AIDS should be allowed to continue teaching; whilst 72% of men and 66% of women would not want to keep secret that a family member had contracted AIDS. Overall, only 10% of men and 5% of women expressed acceptance of persons living with HIV or AIDS in relation to all four of the questions asked.<sup>463</sup> The same study highlighted differences in knowledge and attitudes about HIV and AIDS between men and women and across different levels of education and wealth. The study found that misconceptions about the transmission of HIV were higher among those in lower wealth quintiles and those with no education.<sup>464</sup> The study also found that comprehensive knowledge of HIV and AIDS (encompassing prevention, misconceptions and knowledge of contraction and transmission) was lower in women with little or no education and in those from the lowest wealth quintile.<sup>465</sup>

Research by the Equal Rights Trust found some evidence that stigma and prejudice associated with HIV acted as a barrier preventing access to health services. A., a 35 year old woman from Guadalcanal living with HIV, told the Trust that she had experienced significant stigma when her status was first disclosed: her immediate family and others in the community would not accept her at first, though she was later accepted. However, she reported that nurses were still scared of her because of her HIV status, meaning that it was difficult for her to access treatment at the clinic.<sup>466</sup>

No recent national studies have been undertaken to identify groups at higher risk of HIV infection. However, the SINAC stated in its 2014 report that “[v]iolence against women in Solomon Islands is amongst the highest in the Pacific region and contributes to HIV and STI vulnerability of women and girls.” The report also identified certain groups of adolescents and young boys and girls as being more vulnerable to HIV and AIDS.<sup>467</sup> A 2010 report by UNICEF noted a number of factors that increase the level of vulnerability of young people including transactional sex, substance abuse, sexual violence and a lack of

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463 *Ibid.*, pp. 233–235.

464 *Ibid.*, pp. 224–225.

465 *Ibid.*, pp. 225–229.

466 Equal Rights Trust interview with A., 20 May 2013, Guadalcanal province.

467 See above, note 130, p. 21.

knowledge about safe sex.<sup>468</sup> At the completion of SINAC's report in 2014, there were no health facilities providing services to marginalised groups at higher risk of HIV exposure.<sup>469</sup>

## **Conclusion**

The number of people identified as living with HIV in Solomon Islands is small and as a result documenting patterns of discrimination and inequality on the basis of HIV status is difficult. However, both the National Aids Council and the Demographic and Health Survey have identified evidence of stigma and prejudice associated with the condition. Indeed, the stated views of respondents to the Demographic and Health Survey raise serious concerns about the potential for direct discrimination in access to basic goods and services. Research conducted by the Equal Rights Trust bears this out, indicating that persons living with HIV have experienced discrimination in access to health-care as a result of ignorance and stigma.

## **2.6 Discrimination and Inequality on the Basis of Economic Status**

The CESCR has recognised economic status as a protected characteristic under Article 2(2) of the ICESCR, noting that economic status, for those living in poverty:

*[M]ay result in pervasive discrimination, stigmatization and negative stereotyping which can lead to the refusal of, or unequal access to, the same quality of education and health care as others, as well as the denial of or unequal access to public places.<sup>470</sup>*

Solomon Islands experienced severe economic stagnation and contraction during “the Tensions”, but since their end in 2003, economic growth has been strong and consistent, with a peak growth of 10.7% in 2011 and subsequent

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468 UNICEF, *Bad Sickness Rubbish Sicki, Understanding HIV and AIDS Risk and Vulnerability among Solomon Islands Youth*, 2010.

469 See above, note 130, p. 22.

470 See above, note 340, Para 28.

growths of 4.8% and 2.9% in 2012 and 2013 respectively.<sup>471</sup> However, there are ongoing and serious economic problems and the country remains relatively poor. Less than a quarter of the population are in paid work, with the majority of the population participating in subsistence and cash crop agriculture.<sup>472</sup> A 2006 household income and expenditure survey measured inequality (on the basis of annual expenditure) as represented by the Gini coefficient at 0.361.<sup>473</sup>

Evidence suggests that those in lower income groups experience inequality in access to basic public services. A 2009 report prepared by the Secretariat of the Pacific Community for the Ministry of Women, Youth and Children's Affairs noted that:

*According to the most recent estimates, extreme hardship is experienced by Solomon Islanders at the bottom end of the income spectrum. Low-income families in urban areas and young people are emerging as the first generation of Solomon Islanders living in absolute poverty.*<sup>474</sup>

Research for this report indicates that relative poverty acts as a barrier in access to basic services limiting the enjoyment of economic and social rights, thus violating Solomon Islands' obligation to ensure the enjoyment of these rights without discrimination on the basis of economic status.

## **Education**

There is evidence of *de facto* inequalities between income groups in access to education. These are sharper in respect to opportunities for secondary and tertiary education, where financial limitations restrict access to a select

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471 Australian Government, Department of Foreign Affairs and Trade, *Solomon Islands Country brief*, updated 2015, available at: [http://www.dfat.gov.au/geo/solomon\\_islands/solomon\\_islands\\_brief.html](http://www.dfat.gov.au/geo/solomon_islands/solomon_islands_brief.html).

472 *Ibid.*

473 Solomon Islands Statistics Office, Department of Treasury and Finance, *Household Income and Expenditure Survey 2005/6, National Report (Part One)*, 2006, p. 42.

474 See above, note 149, p. 26.

few.<sup>475</sup> While there is little difference at the primary school level resulting from free primary education,<sup>476</sup> a 2006-7 DHS produced by the SINSO and others noted that:

*The likelihood of completing secondary and 'more than secondary' level education increases as a household's wealth quintile increases. For example, among females, only 7.9% of those from the poorest households would have some secondary education while 29% of females from the wealthiest households would have some secondary schooling. Similar differences by wealth are also large among males; only 8% of males from the poorest households have 'some secondary' compared with 32% from the wealthiest households.*<sup>477</sup>

As indicated in section 2.2.1 above, place of residence is a related factor in determining access to education. Those in rural areas have a higher level of primary education than those in urban areas, but this trend is reversed for secondary education: people in rural areas attend school for fewer years (median of 3 years of attendance) than those in urban areas (median of 5 years).<sup>478</sup>

## **Health**

Poverty is also considered to impact on the ability to access health services,<sup>479</sup> with health problems consistent with both a high fertility rate and relative poverty.<sup>480</sup> Interviews conducted for this report found that poverty had an adverse impact on people's ability to travel and thus access health services. The Equal Rights Trust interviewed Vahine, a 23 year old female from Tavamangu, who spoke about being unable to take her children to a clinic when they were ill, due to the distance to health facilities and high cost of transport.

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475 See above, note 182, p. 14.

476 See above, note 223, p. 26.

477 *Ibid.*, p. 27.

478 *Ibid.*, p. 26.

479 *Ibid.*, p. 7.

480 See above, note 149, p. 26.

She suggested that mobile nurses should travel to villages to treat those who are most vulnerable, such as children and the elderly.<sup>481</sup> Grace, a woman from Lavangu, Rennell and Bellona province, spoke of similar difficulties in obtaining medical help due to the high cost of transport to Honiara or Tinggoa.<sup>482</sup>

### ***Intersections with Other Grounds of Discrimination***

There is some evidence to suggest that poverty and gender discrimination are mutually reinforcing. The results of the DHS highlight clear gaps between males and females in educational attainment: as noted above, a higher percentage of males had completed education at each of the various levels assessed (some primary, completed primary, some secondary, more than secondary), with the exception of the level of completion of secondary education, which was 0.1% for each sex.<sup>483</sup> More females than males had no school education: 26.9% of females compared to 22.8% of males. For those in the lowest wealth quintile, 38.1% of females compared to 32.3% of males had no school education.<sup>484</sup> More recent statistics from the 2006-2013 Performance Assessment Report (for the year 2013) show a higher transition rate for males than females at all levels except between primary and secondary education, where the transition rate was equal.<sup>485</sup> A study from 2008 found that girls were more commonly withdrawn from school rather than boys when a family could not afford to pay school fees.<sup>486</sup> In a 2004 report on violence against women in the Solomon Islands, Amnesty International stated that:

*The consequences of discrimination have been aggravated by poverty and lack of economic opportunities in a subsistence economy which hinders the education of*

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481 Equal Rights Trust interview with Vahine, 26 July 2013, Tavamangu, Rennell and Bellona province.

482 Equal Rights Trust interview with Grace, 24 July 2013, Lavangu, Rennell and Bellona province.

483 See above, note 149 pp. 26–28.

484 *Ibid.*

485 See above, note 256, p.25.

486 Hutchens, A., *Women in Business in Solomon Islands: Key Findings from April 2008 Scoping Mission*, 2008, p. 3, available at: <http://unpan1.un.org/intradoc/groups/public/documents/apcity/unpan038189.pdf>.

*girls, by internal displacement resulting from the conflict, and a failing health system.*<sup>487</sup>

Ethnicity and economic status also overlap. “The Tensions” of 1998-2003 are sometimes considered to be solely a result of ethnic conflict between people from the islands of Malaita and Guadalcanal. However, as a report from the International Centre for Transitional Justice indicated, economic disparities between the different islands (and hence ethnic groups) were key:

*Benefits from development and the wealth from exploitation of natural resources were not (and are still not) evenly distributed across the country. These helped bring an influx of people to Guadalcanal in search of economic opportunity, many of them from Malaita. The disproportionate representation of Malaitans in government and the private sector contributed to perceptions that Malaitan settlers benefited unduly at the expense of indigenous people from Guadalcanal. Limited housing caused squatter communities to spring up around Honiara, and some people from Guadalcanal argued that settlers were occupying their customary land without proper permission or paying customary compensation. Differences in culture increased the confusion and the disagreements.*<sup>488</sup>

## **Conclusion**

Our research indicates that poverty is both a cause of discrimination and disadvantage and an exacerbating factor for those experiencing discrimination on other grounds. Solomon Islands has a low level of human development and high levels of unemployment and poverty. There is evidence that poverty restricts access to education and health services, and when poverty intersects with gender and ethnicity, it has increased the vulnerability of groups subject to discrimination on these grounds.

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487 Amnesty International, *Solomon Islands: Women Confronting Violence*, 2004, p. 2.

488 International Center for Transitional Justice, *Transitional Justice Mechanisms in Solomon Islands*, 2011, available at: <http://www.ictj.org/sites/default/files/ICTJ-SolomonIslands-Fact-Sheet-2011-English.pdf>. See also Braithwaite, J., Dinnen, S., Allen, M., *Pillars and Shadows: Statebuilding as Peacebuilding in Solomon Islands*, Australian National University E Press, 2010, p. 19.

## 2.7 Discrimination and Inequality on the Basis of Citizenship

A number of treaties to which Solomon Islands is party guarantee the enjoyment of rights without discrimination on the basis of citizenship or nationality. In its 2008 General Comment on non-discrimination, the CESCR stated that “the ground of nationality should not bar access to Covenant rights”.<sup>489</sup> Similarly, whilst ICERD contains an exception for differences between citizens and non-citizens through Article 1(2)<sup>490</sup>, CERD has stated that this stipulation “must be construed so as to avoid undermining the basic prohibition of discrimination”, advising that while some rights, such as those concerned with participation in the political process, may be limited to citizens, “human rights are, in principle, to be enjoyed by all persons”.<sup>491</sup> The CEDAW Committee has also clarified that the prohibition on discrimination in CEDAW applies to all women, including both citizens and non-citizens.<sup>492</sup>

Non-citizens in Solomon Islands face a number of legal restrictions under the Constitution and other pieces of legislation. Whilst some of these are consistent with the exceptions set out by the CERD in its consideration of the rights of non-citizens under the ICERD, others are not and constitute unjustified discrimination contrary to the Convention. Section 14(3)(c) of the Constitution sets out an exception to the right to freedom of movement providing for the “imposition of restrictions on the movement or residence within Solomon Islands of any person who is not a citizen of Solomon Islands or the exclusion or expulsion from Solomon Islands of any such person”. The International Covenant on Civil and Political Rights (ICCPR) – which Solomon Islands is not party to – recognises that states may restrict freedom of movement for persons not lawfully within the territory of a state, so it can be argued that limitations on freedom of movement for some classes of non-citizens might be permissible. As set out in the Constitution, however, this blanket limitation is excessively broad to be justified.

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489 See above, note 340, Para 30.

490 It reads: “This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.”

491 Committee on the Elimination of Racial Discrimination, *General Recommendation No. 30: Discrimination against Non-citizens*, U.N. Doc. CERD/C/64/Misc.11/rev.3, 2004, Paras 2–4.

492 Committee on the Elimination of Discrimination against Women, *General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations*, U.N. Doc. CEDAW/C/GC/30, 18 October 2013, Para 2.

Of even greater concern is that section 15(5)(a) of the Constitution excludes the application of the right to non-discrimination to laws concerning “persons who are not citizens of Solomon Islands”. As argued in section 3.2.1 of this report, none of the treaties to which Solomon Islands is party permit the restriction of the right to non-discrimination to citizens alone, and as such this general exception is in clear violation of Solomon Islands’ international legal obligations. The Constitution also makes non-citizens ineligible to stand for and vote in elections,<sup>493</sup> though these restrictions are arguably justified within international human rights law: the CERD has noted that the “right to participate in elections, to vote and to stand for election, may be confined to citizens”.<sup>494</sup>

Only Solomon Islanders are entitled to hold or to acquire perpetual title to land under the Land and Titles Act.<sup>495</sup> “Solomon Islanders” is defined in the Act in a manner even more restrictive than being a citizen: a person must be both born in Solomon Islands and have two grand-parents who were members of a group, tribe or line indigenous to Solomon Islands.<sup>496</sup> Although the National Parliament is permitted to prescribe what other person or persons may hold or acquire perpetual title to land, it has not done so. Indeed, with effect from 31 December 1977, the Land and Titles Act converted all perpetual estates and fixed-term estates with more than 75 years remaining held by non-Solomon Islanders to fixed-term estates of 75 years’ duration.<sup>497</sup> As noted above, the CERD has examined in detail the question of how states can limit or restrict the enjoyment of rights under the ICERD for non-citizens. It is noteworthy that, while the Committee specifically identified certain political rights as being open to such limitation, it made no reference to the limitation of civil rights such as the right to own property, which is guaranteed without discrimination under Article 5(d)(v) of the ICERD. Instead, the Committee recognised that “human rights are, in principle, to be enjoyed by all persons” and that:

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493 Constitution of Solomon Islands, sections 48(a) and 55(1)(a).

494 See above, note 491, Para 3.

495 Land and Titles Act (Cap 133), section 112(3). See also Constitution of Solomon Islands, Article 110.

496 Land and Titles Act (Cap 133), section 2.

497 *Ibid.*, sections 100 and 101.

*[D]ifferential treatment based on citizenship or immigration status will constitute discrimination if the criteria for such differentiation, judged in the light of the objectives and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim.<sup>498</sup>*

In view of the above, it seems unlikely that the Committee would consider the restriction of rights to purchase or hold land to citizens to be justified as pursuant to a legitimate aim when judged in light of the objectives and purposes of the Convention, in particular when the excessively restrictive definition of “Solomon Islander” used in the Act is taken into consideration.

## **Conclusion**

Non-citizens in Solomon Islands experience a number of disadvantages as a result of discriminatory laws. While some restrictions on the rights of non-citizens are permissible under international law, broad limitations on the rights to freedom of movement and non-discrimination, as found in Solomon Islands’ Constitution, are unlikely to be so justified. Similarly, legal provisions which prevent non-citizens from acquiring title to land are in conflict with Solomon Islands’ obligations to ensure the enjoyment of rights without discrimination on the basis of citizenship.

## **2.8 Conclusion**

The research for this report has found compelling evidence of discrimination on the basis of **gender, ethnicity, disability, sexual orientation, health status, economic status** and **citizenship**. Whilst Solomon Islands is not party to the ICCPR, Article 26 of which gives rise to an obligation to prohibit discrimination on a wide-ranging list of grounds in all areas of life regulated by law, it nevertheless has binding obligations to eliminate many forms of discrimination on each of these grounds. As a party to CEDAW the state has committed to eliminate all forms of discrimination against women, and as a party to ICERD it has undertaken to eliminate all forms of discrimination on the basis of race and ethnic origin. As a party to ICESCR, the state has obligations

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<sup>498</sup> See above, note 491, Para 4.

to ensure the enjoyment of economic, social and cultural rights without discrimination on many grounds including disability, sexual orientation, health status, economic status and nationality. Our research indicates that the state is failing to meet these obligations.

One key factor underlying many of the patterns of discrimination identified in this Part of the report is the **persistence of negative cultural norms** which appear to be deeply rooted in Solomon Island society. One striking example is the persistence of the notion of the “bigman”, whereby communities look to a male figure of personal power and authority for leadership. The inherently sexist notion of the “bigman” is one among a set of wider patriarchal norms which sanction violence against women and limit women’s opportunities in education, employment and public life. Another example is the *wantok* system of community kinship and organisation which, while in some senses providing a valuable social support network, also provides a basis for nepotism, corruption and discrimination between different ethnic groups. Discrimination against persons with disabilities – seen by many either as “cursed” or as objects of charity, and against persons of different sexual orientation is similarly linked to stigma and prejudice rooted in traditional norms.

Another key finding is that Solomon Islands’ **geography and history** have played a key role in creating inequalities which in turn has fuelled resentment between different groups. As a nation state, Solomon Islands is a largely artificial construct, and a relatively recent one at that: a product of colonialism which brings together under one flag a group of disparate islands, many of which are home to multiple distinct ethnic groups. In general, Solomon Islanders have a stronger affiliation to their island of origin or to their *wantok* group than to the state. At the same time, the country’s limited economic resources and the difficulties of providing and maintaining infrastructure across a large number of islands result in significant disparities in access to employment, education, healthcare and basic services. These inequalities translate into differences between ethnic groups, which in turn foster resentment leading to discrimination and, in some cases, violence.

This report finds that **women** in Solomon Islands experience severe discrimination and inequality in all areas of life governed by law. Our research indicates that these problems are directly connected to deep-rooted gender stereotypes which portray women as weaker and of lesser value than men.

These cultural attitudes create an environment in which a high proportion of both men and women believe that domestic violence can be justified and where levels of domestic and other forms of violence against women are exceptionally high. Women are victims to a large number of discriminatory laws and laws which create the conditions for discrimination, ranging from the Evidence Act to the Citizenship Act. Patriarchal stereotypes influence decision-making regarding women's participation in many areas of life, including education, employment, family life and public life. Levels of unemployment are higher among women than men and there is evidence of both vertical and horizontal segregation in the labour market. Women are severely under-represented in public life: there have only been three female MPs in the country's history. The cumulative impact is a society in which women cannot participate on an equal basis with men in any area of life.

Whilst Solomon Islands' national census states the country is "very homogenous" in its ethnic composition, this belies significant cultural diversity. Our research indicates that far from being an ethnically uniform country, people in Solomon Islands self-identify with ethnic groups based on common area of origin and shared culture and traditions. Thus, the report examines evidence of discrimination and inequality arising on the basis of two important patterns of ethnic self-identification: one at the geographical level, in the form of people's tendency to identify with others originating from a particular island, and the other at the community level, in the form of the *wantok* system. Solomon Islanders tend to identify more strongly with their **place or island of origin** than with the nation. As a result, differences in levels of investment, infrastructure and services between islands or provinces acquire an ethnic dimension. Perceptions about disparities between the country's different provinces – and therefore between different ethnic groups – was a factor in driving migration between islands. Similarly, the perception that one ethnic group – Malaitians – had benefitted disproportionately from development in Honiara was clearly a catalyst for "the Tensions" which beset the country between 1998 and 2003. However, our analysis finds a more complex picture: available data on the levels of basic services in the different regions of the country does not identify a consistent pattern of disadvantage for Malaita or a consistent pattern of advantage for Honiara. Thus, the report concludes that while there are significant disparities between different regions and ethnic groups, a single, clear pattern of discrimination disadvantaging certain islands cannot be identified.

In contrast, Equal Rights Trust research found evidence of discrimination on the basis of *wantok*, a social system in which people identify by, and build relationships and networks based on, shared language, tradition and geographical origin. Our research has identified worrying evidence of corruption and nepotism based on *wantok*, which, if verified, would constitute discrimination on the basis of ethnicity. The report finds a consistent pattern of allegations of unfavourable treatment on the basis of *wantok* in the areas of employment, education and public services, which indicate the presence of a systemic problem with discrimination on this basis.

**Persons with disabilities** in Solomon Islands suffer significant disadvantage and are unable to participate in many areas of life on an equal basis with others. Disability is highly stigmatised, seen as either a “curse” or as an object of pity and charity. This stigma can result in social exclusion, mistreatment by the family and direct discrimination in society at large. Our research found evidence of both direct discrimination and failure to make reasonable accommodation in education, employment, healthcare and other services, with the result that persons with disabilities cannot participate in many areas of life on equal basis with others.

**Lesbian, gay and bisexual persons** suffer severe discrimination, which is legitimised by the continued criminalisation of same-sex conduct between both males and females. Criminalisation, coupled with stigmatisation of homosexuality, results in the prevailing lack of openness about sexual orientation. The small size of the openly lesbian, gay and bisexual population presents challenges for the collection and assessment of information on the extent of discrimination on the basis of sexual orientation. Nevertheless, testimony gathered for this report indicates the existence of harassment and discriminatory violence and discrimination in both employment and education.

The report finds evidence of significant social stigma directed towards the small population of **persons living with HIV** in Solomon Islands. As with lesbian, gay and bisexual persons, the small number of persons living with HIV creates challenges in documenting discrimination against them, but the Trust found evidence giving cause for significant concern. The views stated by respondents to the government’s Demographic and Health Survey raise serious concerns about the potential for direct discrimination in access to basic goods and services by people acting out of fear or prejudice. Testimony

collected for this report bears this out, indicating that persons living with HIV can experience discrimination in access to healthcare as a result of ignorance and stigma.

In addition to these patterns of discrimination, our research found evidence of discrimination and inequality arising on the basis of **economic status** and **citizenship status**. In respect of the first, the report identifies poverty as both a cause of discrimination and disadvantage and a factor exacerbating discrimination on the basis of gender and/or ethnicity. In respect of the latter, the report highlights a number of legal provisions which differentiate between citizens and non-citizens in ways which cannot be justified in international law.

In sum, our research finds extensive evidence of discrimination and inequality in Solomon Islands. Many patterns of discrimination and disadvantage identified in the report can be linked back to cultural stereotypes and norms which sanction the differential treatment of others – women, members of other ethnic groups, persons with disabilities and persons of different sexual orientation. These cultural attitudes – and the patterns of discrimination which flow from them – prevail in the context of a weak response by the state, which has failed to challenge stereotypes and stigma, to enact legislation to prohibit discrimination, or to ensure equal enjoyment of economic, social and cultural rights without discrimination.