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Stephen Sedley  
Theodore Shaw  
Sylvia Tamale

314-320 Gray's Inn Road  
London WC1X 8DP  
United Kingdom

Tel.: +44 (0) 20 7610 2786  
Fax: +44 (0) 20 7833 0277  
info@equalrightstrust.org  
www.equalrightstrust.org

Company no. 5559173  
Charity no. 1113288

Shadow report submitted to the 59<sup>th</sup> session of the  
Committee on the Elimination of All Forms of Discrimination against Women  
in relation to the combined initial to third periodic reports of

## Solomon Islands

October 2014

### Introduction

1. The Equal Rights Trust submits this shadow report to the United Nations Committee on the Elimination of Discrimination against Women (the Committee) in relation to the initial to third periodic reports of Solomon Islands submitted under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women (the Convention).
2. The Equal Rights Trust is an independent international organisation whose purpose is to combat discrimination and promote equality as a fundamental human right and a basic principle of social justice.
3. In the course of our mission, we undertake research on the patterns of discrimination and inequality – including discrimination and inequality affecting women – which prevail in different states, and of the adequacy of domestic legislation and policy to address these forms of discrimination and disadvantage. The Trust also undertakes projects, in partnership with civil society organisations, to develop the capacity of these organisations to undertake documentation, advocacy and litigation in order to enhance the realisation of the rights to equality and non-discrimination in their country.
4. Since 2010, we have worked in partnership with the Honiara Office of the Secretariat of the Pacific Community and the Secretariat of the Pacific Community Regional Rights Resource Team, on two projects: the first to build the capacity of Solomon Islands civil society organisations to provide basic and wide-reaching training on human rights and equality with a view to building and strengthening the national human rights regime; and the second to strengthen the role of civil society in Solomon Islands in promoting gender equality and combating gender discrimination. Through these projects, we have developed a strong understanding of the patterns of discrimination, including those based on gender, which prevail in Solomon Islands and the adequacy of Solomon Island legal and policy framework to address these patterns.

5. In the course of our work in Solomon Islands, we have identified two overarching problems which limit the ability of women to participate in all areas of life on an equal basis with men. First, deep-rooted cultural attitudes unfavourable to women have far-reaching effects on many areas of women's lives. Second, we have identified a lack of effective constitutional and legislative provisions providing protection from discrimination on all grounds, including gender.

## **Article 2 – Constitutional and Legislative Provisions**

6. Under Article 2 of the Convention, States Parties undertake to “condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women” and 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”.
7. The Committee, in its General Recommendation No. 28 on the Core Obligations of State Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women, has elaborated on the nature of states' obligation arising under Article 2, stating that:

*Article 2 is crucial to the full implementation of the Convention since it identifies the nature of the general legal obligations of States parties. The obligations enshrined in article 2 are inextricably linked with all other substantive provisions of the Convention, as States parties have the obligation to ensure that all the rights enshrined in the Convention are fully respected at the national level.<sup>1</sup>*

8. The Committee has further confirmed that the obligation on state parties under Article 2 has three elements. States are required to respect the right to non-discrimination by refraining from “making laws, policies, regulations, programmes, administrative procedures and institutional structures that directly or indirectly result in the denial of the equal enjoyment by women of their civil, political, economic, social and cultural rights”;<sup>2</sup> to protect the right by “protect[ing] women from discrimination by private actors and tak[ing] steps directly aimed at eliminating customary and all other practices that prejudice and perpetuate the notion of inferiority or superiority of either of the sexes”;<sup>3</sup> and to fulfil the right by adopting a “wide variety of steps to ensure that women and men enjoy equal rights de jure and de facto, including, where appropriate, the adoption of temporary special measures”.<sup>4</sup>
9. The Equal Rights Trust's assessment of Solomon Islands' obligations in respect of the right to non-discrimination is informed both by General Recommendation No. 28 and by the Declaration of Principles on Equality (the Declaration), a document of international best practice on equality. The Declaration was adopted in 2008 by 128 prominent human

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<sup>1</sup> Committee on the Elimination of Discrimination Against Women, *General Recommendation No. 28 on the core obligations of States parties under article 2*, UN Doc. CEDAW/C/GC/28, 2010, Para 6.

<sup>2</sup> *Ibid.*, Para 9.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

rights and equality advocates and experts, and has been described as “the current international understanding of Principles on Equality”.<sup>5</sup> It has also been endorsed by the Parliamentary Assembly of the Council of Europe.<sup>6</sup>

### ***Constitutional Provisions***

10. The sole protection from, and definition of, discrimination in Solomon Islands’ legal order is to be found in the Constitution, which consists of the schedule to the Solomon Islands Independence Order 1978,<sup>7</sup> a statutory instrument of the United Kingdom, from which Solomon Islands became independent in that year. Section 15 of the Constitution provides for the right to non-discrimination in the following terms:

#### ***15 Protection from discrimination on grounds of race, etc.***

*(1) Subject to the provisions of subsections (5), (6) and (9) of this section, no law shall make any provision that is discriminatory either of itself or in its effect.*

*(2) Subject to the provisions of subsections (7), (8) and (9) of this section, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or performance of the function of any public office or any public authority.*

*(3) Subject to the provision of subsection (9) of this section, no person shall be treated in a discriminatory manner in respect of access to shops, hotels, lodging-houses, public restaurants, eating-houses or places of public entertainment or in respect of access to places of public resort maintained wholly or partly out of public funds or dedicated to the use of the general public.*

*(4) In this section, the expression “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.*

11. A debate on reform of the Constitution of Solomon Islands is currently ongoing. The constitutional reform process has included examination of the protection of the rights to equality and non-discrimination. A draft Constitution produced in 2009 provided for a

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<sup>5</sup> *Naz Foundation v Government of NCT of Delhi and Others* WP(C) No. 7455/2001, Para 93.

<sup>6</sup> Parliamentary Assembly of the Council of Europe, Resolution and Recommendation: The Declaration of Principles on Equality and activities of the Council of Europe, REC 1986 (2011), 25 November 2011, available at: [http://assembly.coe.int/ASP/Doc/ATListingDetails\\_E.asp?ATID=11380](http://assembly.coe.int/ASP/Doc/ATListingDetails_E.asp?ATID=11380).

<sup>7</sup> Solomon Islands Independence Order 1978 (SI 783/1978).

general right to equality,<sup>8</sup> a right to non-discrimination<sup>9</sup> and a specific provision on equality for women:

#### **54. Women**

(1) *Women have the right to full equality, including the right of equal opportunities in political, economic and social activities.*

(2) *The Federal Republic affirms its commitment to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and to any amendments thereto.*

12. The most recent draft Constitution, published in 2013, however, omits these articles, instead containing only a single provision on the rights to non-discrimination in Article 40. Article 40 of the 2013 draft Constitution is identical to section 15 of the existing Constitution, save that it provides for an additional exception, namely legislation “for the prohibition of cohabitation of same sex partners and same sex marriages”.
13. In the view of the Equal Rights Trust, section 15 of the current Constitution (and, by extension, Article 40 of the 2013 draft Constitution) is insufficient to ensure that Solomon Islands is able to meet its obligations to respect and protect women’s right to non-discrimination as required under the Convention. This failure is compounded by the absence of either comprehensive or specific anti-discrimination law providing alternative protection for women.
14. There are a number of problems with the scope of the protection from discrimination provided under section 15. **First**, the provision does not explicitly define and prohibit the different forms of discrimination which are accepted as essential elements of a modern equality guarantee. In particular, the definition of the term “discriminatory” provided in section 15(4), including the phrase “affording different treatment to different persons”, excludes cases where a provision, practice or criterion which applies equally to all persons would put persons having one particular characteristic at a particular disadvantage. Thus, section 15 does not prohibit both direct *and* indirect discrimination, as required by the Committee in its General Recommendation No. 28.<sup>10</sup>
15. **Second**, section 15 does not explicitly prohibit discrimination by perception, discrimination by association or harassment. The Declaration of Principles on Equality includes all these forms of discrimination in its definition of discrimination.<sup>11</sup> In its General Recommendation No. 28, the Committee makes clear that “discrimination in all its forms” includes “all forms of discrimination, including forms that are not explicitly

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<sup>8</sup> Draft Constitution of Solomon Islands 2009, 2009, Article 23: “Every person is equal before the law and has the right to equal protection of law.”

<sup>9</sup> *Ibid.*, Article 27: “Every person has the right not to be unfairly discriminated against whether directly or indirectly on the grounds of actual or supposed characteristics or circumstances, including race, religion, clan or tribal origins, ethnic origin, colour, place of origin, island or region, sexual orientation, pregnancy, birth, language, marital status, employment status, economic status, age, disability or illness, opinions and beliefs.”

<sup>10</sup> See above, note 1, Para 16.

<sup>11</sup> *Declaration of Principles on Equality*, the Equal Rights Trust, London, 2008, Principle 5.

mentioned in the Convention or that may be emerging.”<sup>12</sup> Discrimination by perception, discrimination by association and harassment are all now well-established as forms of discrimination and have been recognised as such by other UN Treaty Bodies such as the Committee on Economic, Social and Cultural Rights.<sup>13</sup>

16. In the Trust’s view, the fact that section 15 does not explicitly cover these forms of discrimination represents a failure of the state party to ensure that its Constitution effectively prohibits *all* forms of discrimination and provides for substantive, rather than solely formal equality, in accordance with current best practice.
17. **Third**, the list of prohibited grounds of discrimination provided in section 15(4) is insufficient. While the provision explicitly prohibits discrimination on grounds of sex, the list of grounds is restrictive in such a way as to limit the scope of protection available to women. In particular, we note the exclusion of “pregnancy or maternity” and “civil, family and carer status” (each of which is provided in Principle 5 of the Declaration) as protected grounds which, if included, would increase the protection which women enjoy. Moreover, due to the inextricable link between discrimination based on sex and other factors that affect women, such as religion or belief, disability, health status, age, sexual orientation, gender identity and disability, the Committee has stressed the obligation for states parties to adequately prohibit discrimination on other grounds which may affect women as an inherent element of state obligations under Article 2.<sup>14</sup> Thus, the absence of these characteristics from the list of protected grounds in section 15 – all of which are acknowledged grounds in a range of jurisdictions and international instruments<sup>15</sup> – represents a significant deficiency.
18. **Fourth**, section 15 uses a “closed list” of protected grounds, limiting the protection from discrimination to only the grounds of “race, place of origin, political opinions, colour, creed or sex”. This restrictive approach denies the courts of Solomon Islands the opportunity to add new grounds – including those referred to in General Recommendation No. 28, but also emerging grounds, such as fertility status – which are analogous to those explicitly listed. The effect is that women who face discrimination on any ground other than those listed in the Constitution will not be protected. The drafters of the Declaration regarded the use of an extensive list of explicitly protected grounds, together with a test to establish the admission of new grounds as the best approach to determine whether new grounds should be incorporated.<sup>16</sup> We would recommend this as a best-practice approach to this question.
19. **Fifth**, the impact of the lack of protection from discrimination on a broader list of grounds is further exacerbated by the lack of provision for multiple, including intersectional discrimination. In its General Recommendation No. 28, the Committee has explicitly stated that “[i]ntersectionality is a basic concept for understanding the scope of the

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<sup>12</sup> See above, note 1, Para 15.

<sup>13</sup> See, for example, 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, Paras 16 and 7 respectively.

<sup>14</sup> See above, note 1, Para 18.

<sup>15</sup> See, for example, above note 13, Paras 18 – 35.

<sup>16</sup> See above, note 11.

general obligations of states parties contained in article 3<sup>17</sup> and as such, both the restricted and restrictive list of grounds and the absence of multiple discrimination provisions in the Constitution represent notable weaknesses.

20. **Sixth**, we are concerned by the limited scope of the right to non-discrimination provided by section 15 through subsections (1) to (3). These provisions limit the scope of the right to legislation, acts undertaken by public officials and public authorities, and access to certain specified places and services. The result is that individuals suffering discrimination at the hands of private actors in areas such as education and employment, for example, have no recourse under the Constitution. While this limited scope might, in some jurisdictions, be compensated for through specific anti-discrimination legislation, in Solomon Islands it means that the state has failed to meet its obligation to provide protection from discrimination in “all fields of women’s lives under the Convention and throughout their lifespan”.<sup>18</sup>
21. **Finally**, we are also concerned by the numerous exceptions to the right to non-discrimination provided in subsections (5) to (9) of section 15. The Declaration of Principles on Equality states that “[d]irect discrimination may be permitted only very exceptionally, when it can be justified against strictly defined criteria”.<sup>19</sup> The exceptions provided in section 15 manifestly fail to meet this test, limiting or excluding the application of the right to non-discrimination for non-citizens,<sup>20</sup> and in areas including the imposition of taxation,<sup>21</sup> standards or qualifications required for positions in public office,<sup>22</sup> the institution, conduct or discontinuance of civil or criminal proceedings,<sup>23</sup> and the restriction of other rights provided under the Constitution.<sup>24</sup> In our view, these exceptions are inconsistent with international law, and – of particular relevance here – with the obligation to provide protection from discrimination in “all fields of women’s lives under the Convention and throughout their lifespan”.<sup>25</sup>
22. The Equal Rights Trust is particularly concerned by certain restrictions provided under subsection (5) and the impact which these restrictions have on the protection enjoyed by women. Paragraph (c) excludes adoption, marriage, divorce, burial and devolution of property on death; paragraph (d) excludes customary law; and paragraph (e) excludes land, the tenure of land, the resumption and acquisition of land. Given the status of women in society in Solomon Islands, these exceptions have the effect of denying protection in exactly those areas where women may be most exposed to discrimination.

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<sup>17</sup> See above, note 1, Para 18.

<sup>18</sup> See above, note 1, Para 31.

<sup>19</sup> See above, note 11.

<sup>20</sup> Constitution of Solomon Islands, section 15(5)(6).

<sup>21</sup> *Ibid.*, section 15(5)(a).

<sup>22</sup> *Ibid.*, section 15(6).

<sup>23</sup> *Ibid.*, section 15(8).

<sup>24</sup> *Ibid.*, section 15(9).

<sup>25</sup> See above, note 1, Para 31.

23. In sum, the Equal Rights Trust is concerned that the scope of the right to non-discrimination provided in section 15 of the Constitution of Solomon Islands is inconsistent with the requirements placed on states by Article 2, as elaborated by the Committee in its General Recommendation No. 28. We therefore call on the Committee to urge the government of Solomon Islands to ensure that the new Constitution adequately protects the rights to equality and non-discrimination, in particular by ensuring that the relevant provisions:
- a. Clearly define and prohibit direct and indirect discrimination, discrimination by perception, discrimination by association and harassment;
  - b. Explicitly prohibit discrimination on at the grounds of pregnancy or maternity; civil, family or carer status; religion or belief, disability, health status, age, sexual orientation, gender identity and disability;
  - c. Provide a test for the incorporation of new grounds of discrimination in line with that recommended in the Declaration of Principles on Equality;
  - d. Explicitly prohibit multiple discrimination;
  - e. Provide protection from discrimination in all areas of life governed by law;
  - f. Include only such exceptions to the right to non-discrimination as are permissible in accordance with the Declaration of Principles on Equality.

#### ***Other Measures to Protect the Right to Non-discrimination***

24. The Convention, the Committee, other treaty bodies such as Committee on Economic, Social and Cultural Rights,<sup>26</sup> and the authors and signatories of the Declaration,<sup>27</sup> have all recognised that in order to provide effective protection from discrimination, states are required to go beyond a prohibition of discrimination in their Constitution, and must also adopt specific anti-discrimination legislation.
25. Article 2(b) of the Convention specifically requires states to “adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women”, while the Committee has stated that states must “enact legislation that prohibits discrimination in all fields of women’s lives under the Convention and throughout their lifespan”.<sup>28</sup> Principle 15 of the Declaration states that “[t]he realisation of the right to equality requires the adoption of equality laws and policies that are comprehensive and sufficiently detailed and specific to encompass the different forms and manifestations of discrimination and disadvantage”. In order to comply with international law and best practice, anti-discrimination legislation should apply to both state and non-state actors; prohibit discrimination in all areas of life governed by law; and define and prohibit direct discrimination, indirect discrimination and harassment in accordance with definitions accepted by the Committee.

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<sup>26</sup> See above, note 13, Para 37.

<sup>27</sup> See above, note 11, Principle 15.

<sup>28</sup> See above, note 1, Para 31.

26. Solomon Islands has no specific legislation prohibiting discrimination against women. In the view of the Equal Rights Trust, the absence of such legislation represents a failure by the state party to meet its obligations to protect the right to non-discrimination under Article 2. We are also concerned that, in the absence of such legislation, provisions to ensure access to justice, such as provisions for the transfer of the burden of proof in civil cases and measures to ensure standing by associations or other interested parties, which are necessary for the effective protection of the right to equality, are absent from the legislative framework in Solomon Islands. Again, the Declaration of Principles on Equality provides a clear guide to best practice in this area, which we would recommend as a guide to how Solomon Islands can effectively meet its obligations in this regard.<sup>29</sup> The Trust is concerned that the absence of anti-discrimination legislation containing these provisions means that, in addition to failing to meet its obligations under Article 2(b), Solomon Islands is also ill-equipped to meet its obligations under Article 2(c) which requires it to ensure “through competent national tribunals and other public institutions the effective protection of women against any act of discrimination”. Without law establishing these critical principles regarding effective access to justice, Solomon Islands courts will lack the necessary legal tools to ensure women have effective protection from discrimination.
27. The Equal Rights Trust is firm in its opinion that – even if it is substantially amended – the Constitution alone will be insufficient to meet Solomon Islands’ obligations to protect and fulfil the right to non-discrimination arising under Article 2(a), (b), (c) and (e), and believes that these obligations can only be properly met by the enactment of equality legislation. Further, given the importance of protecting women from discrimination on all grounds, and the Committee’s emphasis on the obligation to protect from inter-sectional discrimination, we believe such legislation should be comprehensive, covering a conditionally open and extensive list of protected grounds.<sup>30</sup> We therefore call on the Committee to urge the government of Solomon Islands to enact comprehensive equality legislation in line with the standards set out in the Declaration of Principles on Equality.

## **Article 2 – Elimination of Violence Against Women**

28. As the Committee has noted in its General Recommendation No. 19 on Violence Against Women, violence against women “seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men” and is “discrimination within the meaning of article 1 of the Convention”.<sup>31</sup> The Committee has clarified the state’s duty to eliminate violence against women and to provide redress, stressing in particular that under Article 2, state parties “may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation”.<sup>32</sup>

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<sup>29</sup> See above, note 11, Principle 18 (Access to Justice), Principle 21 (Evidence and Proof), Principle 20 (Standing), and Principle 22 (Remedies and Sanctions).

<sup>30</sup> In the view of the Equal Rights Trust, in order to provide comprehensive protection for women, such legislation should cover all grounds specified in Principle 5, *Declaration of Principles on Equality*: race, colour, ethnicity, descent, sex, pregnancy, maternity, civil, family or carer status, language, religion or belief, political or other opinion, birth, national or social origin, nationality, economic status, association with a national minority, sexual orientation, gender identity, age, disability, health status, genetic or other predisposition toward illness.

<sup>31</sup> Committee on the Elimination of Discrimination against Women, *General Recommendation No. 19 on Violence against Women*, UN Doc. A/47/38 at 1, 1992, Paras 1 and 7.

<sup>32</sup> *Ibid.*, Para 9.

29. The widespread nature of violence against women in Solomon Islands is well-documented. The Solomon Islands Family Health and Safety Study in 2008 revealed that over 64% of women aged 15 to 49 had experienced physical and/or sexual violence from their partner.<sup>33</sup> As part of our work in Solomon Islands, the Equal Rights Trust has interviewed women who have spoken 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 is typical of this testimony:

*As the time goes by, my husband started some of his abusive ways (...) these was after we have our second child. He went with his friends or (...) drinking alcohol. When he arrives I welcome him and tell him that food is there. I don't know what happen 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 get drunk, my children and I always find shelter with different family at time he went out drinking. (sic)<sup>34</sup>*

30. Another woman from Arakao 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 gives in before he stops and as a result I am in pregnant every year.<sup>35</sup>*

31. A 27 year old female from Makira Province told our researchers that, "Teenage pregnancy is prevalent, rape is also evident and domestic violence is everywhere." Another woman, R., from Pamua, told the Trust that her husband often hit her and harassed her because of jealousy.
32. Women also reported their experiences of violence perpetrated by intimate partners or other family members to the Secretariat of the Pacific Community, the Trust's partner organisation in Solomon Islands. 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. V., a 15 year old, told the researchers 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, who in turn 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. G., from Lavangu, stated that her husband was the breadwinner and so controlled everything. He often beat her when under the influence of alcohol.

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<sup>33</sup> Solomon Islands Ministry of Women, Youth & Children's Affairs, *Solomon Islands Family Health and Safety Study: A study on violence against women and children*, 2008, p. 58, Table 4.4.

<sup>34</sup> Interview with Janet, Marau, Solomon Islands on 12 June 2011. Original transcript held by The Equal Rights Trust.

<sup>35</sup> Interview with Modesta, Arakoa, Solomon Islands, 25 June 2011. Original transcript held by The Equal Rights Trust.

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

*“[A]larming” reports of young girls being abused by employees of fishing and logging companies in remote areas of the country and instances in which young girls face sexual and commercial exploitation or are sometimes given away by their families in exchange for compensation such as money or material goods.*<sup>36</sup>

34. There were reports in 2008 of women being brought from mainland China to serve in prostitution, largely in and near logging camps.<sup>37</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>38</sup>
35. Though widespread, violence against women in Solomon Islands is underreported. One of the reasons for this is that domestic violence is seen as a private matter rather than a crime.<sup>39</sup> 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>40</sup> The Equal Rights Trust 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. The Final Report of the Truth and Reconciliation Commission noted that the statistics it reported did not capture the extent of the sexual violence that occurred because sexual violence was not always disclosed by victims for reasons including that sexual violence is a culturally taboo and sensitive subject.<sup>41</sup>
36. The Solomon Islands Family Health and Safety Study also revealed a deeply worrying level of acceptance of violence against women among women themselves, with 73% of women interviewed stating that a man was justified in beating his wife under some

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<sup>36</sup> 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>.

<sup>37</sup> Women’s Rights & Advocacy in the Pacific, *Promoting Gender Equity in the Pacific*, 2011, p. 8, available at: <http://www.wrap.org.nz/assets/WRAP-Report-Promoting-Gender-Equity-in-the-Pacific-Nov-2011-FINAL.doc>.

<sup>38</sup> 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>.

<sup>39</sup> Christian Care Centre et. all, *NGO Shadow Report on the Status of Women in Solomon Islands, Initial, Second and Third Report (2002 – 2012)*, 2012, p. 8, available at: <http://www2.ohchr.org/English/bodies/cedaw/docs/ngos/SolomonIslandsJointNGOCEDAWShadowReport.pdf>.

<sup>40</sup> U.S. Department of State, *2013 Human Rights Reports: Solomon Islands*, 2014, available at: <http://www.state.gov/j/drl/rls/hrrpt/2013/eap/220230.htm>.

<sup>41</sup> Solomon Islands Truth and Reconciliation Commission, *Final Report*, 2012, Vol. III, p. 590, available at: <http://pacificpolitics.com/2013/01/solomon-islands-trc-final-report/>.

circumstances.<sup>42</sup> Worryingly, “the most common reason that men gave for hitting their wife was that she disobeyed him, and almost all said that they hit their wives as a form of discipline.”<sup>43</sup> In addition to the social acceptability of violence against women, the Study highlighted other factors which contributed to the widespread nature of the practice, including the frequent use of physical punishment to discipline women who were seen as transgressing their prescribed gender roles; the common practice of physically disciplining children, meaning that children learnt from a young age that physical violence is normal; and the fact that the law did not define partner violence, particularly marital rape, as a crime.

37. It is reported that the police in Honiara do not take domestic violence seriously, excusing a failure to respond to calls and provide a prompt response on shortages of staff and transport.<sup>44</sup> Women spoke to the Equal Rights Trust about the inadequate police response to allegations of violence. R. from Rennell discussed women’s difficulties in obtaining justice, noting that the system is corrupt and that few women report cases to the police. Similarly, R. spoke about the poor standard of police work in communities which left women with disabilities vulnerable to harassment, abuse, violence and rape both in the home and the community.
38. The Equal Rights Trust believes that the widespread nature of violence against women, and its social acceptability, demonstrates that the issue requires urgent and targeted action. We welcome the publication of the Solomon Islands National Policy on Eliminating Violence Against Women in 2010, but believes that the state must go further to ensure effective protection for women and fulfil its obligations under the Convention. We note that Solomon Islands is currently developing a Family Protection Bill and proposing amendments to the Penal Code. We calls on the Committee to recommend that Solomon Islands takes these measures as soon as possible, and ensure that any resulting legislation is in line with the requirements set out in the Committee’s General Recommendation No. 19.
39. The Equal Rights Trust calls on the Committee to recommend that Solomon Islands takes measures to improve protection from violence against women, including by:
  - a. Enacting specific legislation to effectively prohibit, and provide women with protection from, all forms violence against women, including family violence and abuse, rape and sexual assault;
  - b. Developing and implementing a comprehensive strategy to combat and eliminate violence against women, in line with the Committee’s recommendations in General Recommendation No. 19.

#### **Article 7 – Political and Public Life**

40. Article 7 of the Convention requires States to “take all appropriate measures to eliminate discrimination against women in the political and public life of the country”. It requires

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<sup>42</sup> Solomon Islands Ministry of Women, Youth & Children’s Affairs, *Solomon Islands Family Health and Safety Study: A study on violence against women and children*, 2008, p. 72.

<sup>43</sup> *Ibid.*, p. 30.

<sup>44</sup> See above, note 39, p. 8.

states to ensure that women have equal rights to: vote; be eligible for election; participate in the formation and implementation of government policy; hold public office; and participate in non-governmental organizations and associations concerned with the public and political life.

41. In General Recommendation No. 23 on Political and Public Life, the Committee discussed the obligation to give effect to the requirements of Article 7 and to remove barriers which have the effect of denying equal participation by women, stating:

*While removal of de jure barriers is necessary, it is not sufficient. Failure to achieve full and equal participation of women can be unintentional and the result of outmoded practices and procedures which inadvertently promote men. Under article 4, the Convention encourages the use of temporary special measures in order to give full effect to articles 7 and 8. Where countries have developed effective temporary strategies in an attempt to achieve equality of participation, a wide range of measures has been implemented, including recruiting, financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal participation, setting numerical goals and quotas and targeting women for appointment to public positions such as the judiciary or other professional groups that play an essential part in the everyday life of all societies. The formal removal of barriers and the introduction of temporary special measures to encourage the equal participation of both men and women in the public life of their societies are essential prerequisites to true equality in political life. In order, however, to overcome centuries of male domination of the public sphere, women also require the encouragement and support of all sectors of society to achieve full and effective participation, encouragement which must be led by States parties to the Convention, as well as by political parties and public officials. States parties have an obligation to ensure that temporary special measures are clearly designed to support the principle of equality and therefore comply with constitutional principles which guarantee equality to all citizens.<sup>45</sup>*

42. Equal Rights Trust research indicates that the ability of women to participate in public life in Solomon Islands is limited by traditional views of the role and position of women in society. 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, reflects the findings of field research undertaken by the Equal Rights Trust:

*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*

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<sup>45</sup> Committee on the Elimination of Discrimination against Women, *General Recommendation No. 23 on Political and Public Life*, UN Doc. A/52/38/Rev.1 at 61, 1997, Para 15.

*traditional perspectives and also reflects the dominant views regarding women's status and value.*<sup>46</sup>

43. In part as a result of these attitudes, Solomon Islands has made little progress towards ensuring equal participation by women in its public life. Since its independence in 1978, only two women have served in the Parliament of Solomon Islands.<sup>47</sup> Hilda Kari served from 1989 to 2001 after which no women served in the Parliament again until August 2012 when Vika Lusibaea was elected following a by-election in North Malaita. At the general election in 2010, just 25 of the 209 candidates were women.<sup>48</sup> At the provincial level, women are equally 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, just five of the 183 elected representatives at the provincial level (2.7%) are women.<sup>49</sup>
44. The under-representation of women in the Federal Parliament has been acknowledged and clauses aiming to increase the representation of women have been included in drafts of the Constitution. Article 87 of the 2009 draft Constitution would have provided for a Parliament comprising between 30 and 50 representatives, while Article 88 would have provided for a law to be enacted "to secure a fair representation of women in Parliament" within three years of the Constitution coming into force. As noted above however, the 2009 draft Constitution has since undergone substantial amendment. In the 2013 draft Constitution, Article 72 (replacing Article 87 from the 2009 draft) provides for a Parliament of 30 representatives with between two and four representatives elected from each of the provinces and Honiara City. The 2013 Draft Constitution does not, however contain any provisions on the participation of women in Parliament.
45. The Equal Rights Trust considers that the longstanding and significant underrepresentation of women in the legislature – both in the Federal Parliament and the Provincial Assemblies and Honiara Town Council – constitutes a priority concern. We believe that the current Constitutional Reform process presents an opportunity for Solomon Islands to begin to address this issue, through the imposition of temporary special measures in line with Article 4 of the Convention and the Committee's General Recommendations. We note that, to date, over 70 states parties to the Convention have constitutional or legislative quotas for female representation in the legislature or executive branches of government.<sup>50</sup>

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<sup>46</sup> 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>.

<sup>47</sup> Committee on the Elimination of Discrimination Against Women, *List of issues and questions to be taken up in the absence of report, adopted by the CEDAW Committee at its fifty-fourth session (30 July to 3 August 2012), Addendum, Replies of Solomon Islands to the list of issues*, UN Doc. CEDAW/C/SLB/Q/1-3/Add.1, 6 November 2012, Para 44.

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*, Paras 45 to 46.

<sup>50</sup> Quota Project, *Country Overview (Solomon Islands)*, available at: <http://www.quotaproject.org/country.cfm>.

46. The Equal Rights Trust urges the Committee to make a specific recommendation in relation to the low level of women in public and political life calling on Solomon Islands to:
- a. Take measures without delay to accelerate the full and equal participation of women in public and political life by, for example, adopting temporary special measures, in accordance with Article 4(1) of the Convention and General Recommendation 25 on temporary special measures.
  - b. Implement awareness-raising activities for society as a whole about the importance of women's participation in decision-making and develop targeted training and mentoring programmes on leadership and negotiation skills for present and potential women candidates and women holding public office.
  - c. Strengthen its efforts aimed at increasing the participation of women in political life at the national and municipal levels, including by conducting awareness-raising campaigns, by providing incentives for political parties to nominate equal numbers of women and men as candidates and adequately funding campaigns of women candidates.

### **Article 10 Education**

47. While differences in enrolment levels for male and female children aged 6 to 14 years are relatively insignificant, enrolment rates are higher for males from age 15 upwards.<sup>51</sup> In addition, significant disparities remain between adult males and females in the levels of educational attainment. The 2006-7 demographic and health survey found that a higher percentage of males had completed education at each of the four levels assessed (some primary; completed primary; some secondary; completed secondary; and more than secondary), with the exception being the completion of secondary education, which was 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>52</sup> The 2009 Census recorded 21% of females and 11% of males as having not completed schooling.<sup>53</sup> The overall literacy rate for those aged 5 and above reported in the 2009 Census was 80% for males and 74% for females. The gap between male and female literacy rates was greater for those aged 20 and over; in the 45 to 49 age group, around 70% of women were literate compared to nearly 90% of males.<sup>54</sup> According to the 2009 Census, only 3% of females had tertiary education compared to 6% of males.<sup>55</sup>

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<sup>51</sup> Solomon Islands National Statistical Office, *2009 Population & Housing Census National Report, (Volume 2)*, p. 91, available at: <http://www.spc.int/prism/solomons/>.

<sup>52</sup> Solomon Islands National Statistics Office, Secretariat of the Pacific Community and Macro International Inc., *Solomon Islands Demographic and Health Survey 2006 – 2007*, 2009, pp. 26-28, available at: [http://www.spc.int/sdd/index.php/en/downloads/cat\\_view/46-dhs/52-solomon-islands-2006-2007-dhs-report](http://www.spc.int/sdd/index.php/en/downloads/cat_view/46-dhs/52-solomon-islands-2006-2007-dhs-report).

<sup>53</sup> See above, note 51, p. 97.

<sup>54</sup> 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>; Amnesty International, *Solomon Islands: Women Confronting Violence*, 2004, p. 16, available at: <http://www.amnesty.org/en/library/info/ASA43/001/2004/en>.

<sup>55</sup> See above, note 51, p. 97.

48. The cost of education, lack of facilities and cultural attitudes towards women's role in society all prevent women and girls from accessing education.<sup>56</sup> The Equal Rights Trust spoke to a 32 year old female from the Western province whose pregnancy disrupted her education:

*Because I was pregnant, I could not complete my secondary education, compared to male student, he will continue his education.*

49. There is also evidence that gender stereotyping is reflected in 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>57</sup>
50. The Equal Rights Trust urges the Committee to make a specific recommendation in relation to education calling on Solomon Islands to:
- a. Ensure that all girls are entitled to free primary and secondary education;
  - b. Take steps to redress the gender imbalance in enrolment in tertiary education;
  - c. Introduce programmes to tackle the high illiteracy rate of women; and
  - d. Tackle gender stereotyping which may discourage women from pursuing certain types of education.

### **Article 11 – Employment**

51. According to the report submitted by Solomon Islands to the Committee, “[w]hile female participation in the labour force has increased, there are still significant gender gaps in participation rates, occupational levels and wages”.<sup>58</sup> Women's ability to enter the work force is significantly affected by the lack of equal access to training and education.<sup>59</sup> As noted in other reports to the Committee, cultural expectations that women will remain in the home and undertake unpaid domestic work also limit women's employment opportunities.<sup>60</sup>
52. 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

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<sup>56</sup> Amnesty International, *Solomon Islands: Women Confronting Violence*, 2004, p. 16, available at: <http://www.amnesty.org/en/library/info/ASA43/001/2004/en>.

<sup>57</sup> Secretariat of the Pacific Community, *Stocktake of the gender mainstreaming capacity of Pacific Island governments – Solomon Islands*, 2012, p. 9, available at: <http://www2008.spc.int/images/publications/en/Divisions/Hdp/solomon-islands-gender-stocktake.pdf>.

<sup>58</sup> UN 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, Para 254.

<sup>59</sup> See above, note 57.

<sup>60</sup> See above, note 39, p. 25.

high as female participation, 17.5%.<sup>61</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>62</sup> The 2009 Census identified that women made up 33% of the total employed population, with men constituting the remaining two thirds.<sup>63</sup> The 2006-7 demographic and health survey reported 42.1% of married woman aged 15 to 49 years old were employed during the 12 months prior to the survey date compared to 87.1% of married man in the same age group.<sup>64</sup> 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 wage.<sup>65</sup>

53. The 2009 Report on Economic Activity and Labour Force provided statistics on the breakdown of paid employment between industry sectors. 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 household (1,951), public administration and social security (1,659).<sup>66</sup> More women than men were employed in accommodation and food services, health and social work and working in households.<sup>67</sup> The Report also revealed regional disparities, identifying that 12.7% of women in rural areas were paid workers compared to 27.9% in urban areas.<sup>68</sup> Honiara had by far the highest proportion of women in work, with 60% working as employees, employers or self-employed. In comparison, other provinces were either below or slightly over 10%, other than Western Province at just below 20% and Guadalcanal at around 15%.<sup>69</sup> Overall, greater levels of participation were evidence in subsistence work.<sup>70</sup>

54. Women have reported barriers to starting their own businesses due to discrimination. The wait to obtain a licence for a business was reported to be several months for women and several weeks for men. Women perceived the attitude of both male and female staff in the registry to be that “women ‘are not meant to do business.’”<sup>71</sup> Women also reported that they felt disadvantaged because, unlike men, they did not pay bribes for faster

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<sup>61</sup> Solomon Islands National Statistical 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>.

<sup>62</sup> *Ibid.*

<sup>63</sup> See above, note 58, Para 256.

<sup>64</sup> See above, note 52, p. 271.

<sup>65</sup> Hedditch, S., 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).

<sup>66</sup> See above, note 61, p. 42.

<sup>67</sup> *Ibid.*, p. 41.

<sup>68</sup> *Ibid.*, p. 34.

<sup>69</sup> *Ibid.*, p. 32.

<sup>70</sup> *Ibid.*, p. 31-32.

<sup>71</sup> See above, note 54, p. 4.

processing.<sup>72</sup> Similarly, it has been reported that women faced long waits to obtain credit and were required to have a male guarantor although they met eligibility requirements.<sup>73</sup> Women wishing to sell goods in the market reported harassment by drunken men and favouritism in allocation of a limited number of stalls to men selling betel nut. This favouritism led to women selling goods out in the streets, where they had safety concerns.<sup>74</sup>

55. The Equal Rights Trust urges the Committee to make a specific recommendation in relation to employment calling on Solomon Islands to:
- a. Introduce comprehensive equality law which includes provisions prohibiting discrimination, including harassment, in the workplace;
  - b. Remove discriminatory provisions in the Labour Act which unjustifiably prohibit women from undertaking certain forms of work;
  - c. Take urgent steps to tackle the gender pay gap, through legislation and mandatory pay audits;
  - d. Eliminate barriers to women starting their own businesses, such as difficulties in obtaining credit and favouritism towards men.

## **Article 12 – Healthcare**

56. Inadequate access to health services is a problem for large parts of the population of Solomon Islands, especially for those residing in the rural areas.<sup>75</sup> Gender disparities in the area of health remain prevalent. According to the 2006-7 demographic and health survey, women of reproductive age are more likely to be affected by conditions caused by malnutrition, such as anaemia, and sexually transmitted diseases (STDs), than other parts of the population.<sup>76</sup> 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>77</sup>
57. With regard to sexual and reproductive health, the majority of women reported having a relatively high level of sexual autonomy. However, a number of women stated a belief that they could not refuse sex with their husband under any circumstances.<sup>78</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 have access to prenatal, delivery and post-natal health care.<sup>79</sup> Men also have better access to

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<sup>72</sup> *Ibid.*

<sup>73</sup> *Ibid.*, p. 3.

<sup>74</sup> *Ibid.*, p. 6.

<sup>75</sup> See above, note 52, p. 58.

<sup>76</sup> *Ibid.*, pp. 205-217.

<sup>77</sup> *Ibid.*

<sup>78</sup> *Ibid.*, p. 298.

<sup>79</sup> *Ibid.*, p. 296.

contraceptives than women: 81% of men stated that they knew where to get condoms, in comparison to just 49% of women.<sup>80</sup>

58. It is reported that women, particularly pregnant women aged between 15 and 24, are at the highest risk of contracting HIV. This vulnerability is primarily caused by gender inequality arising through sexual violence, cultural sanctioning of male infidelity, early marriage and unequal negotiating power in relation to sexual relations.<sup>81</sup>
59. The Equal Rights Trust urges the Committee to make a specific recommendation in relation to healthcare calling on Solomon Islands to:
- a. Take steps to improve the healthcare of women of reproductive age who are more likely to be affected by particular conditions and diseases such as malaria;
  - b. Ensure free and easy access to reproductive healthcare, including contraception, for all women;
  - c. Provide sex and relationship education in schools to tackle gender inequality in relationships, unequal power relations, and greater risk of young women contracting sexually transmitted diseases, including HIV.

#### **Article 16 – Marriage**

60. As noted in the state's report to the Committee, in some parts of the Solomon Islands, a "bride price" is traditionally given by the family of the groom to the family of the bride on a marriage.<sup>82</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 changed 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>83</sup>
61. 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 a 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>84</sup>*

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<sup>80</sup> *Ibid.*, p. 252.

<sup>81</sup> See above, note 57, p. 8.

<sup>82</sup> See above, note 58, Para 124.

<sup>83</sup> 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, pp. 149-150, available at: [http://www.spc.int/hdp/index.php?option=com\\_docman&task=cat\\_view&gid=39&dir=ASC&order=name&Itemid=44&limit=5&limitstart=10](http://www.spc.int/hdp/index.php?option=com_docman&task=cat_view&gid=39&dir=ASC&order=name&Itemid=44&limit=5&limitstart=10).

<sup>84</sup> *Ibid.*

62. The study found that almost 60% of women whose marriage involved the payment of a 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>85</sup> There is also a view that a woman cannot leave a marriage if a bride price has been paid. Among women who had never left a violent relationship, 9% reported that they stayed because bride price had been paid. Ten percent of women who left a violent relationship later returned because bride price had been paid.<sup>86</sup>
63. There is no legal minimum age for marriage in customary law. However, the Islanders Marriage Act provides that the minimum legal age for marriage is 15 years and consent is required for marriage under 18 years.<sup>87</sup> A research institute has reported that families are selling young girls into marriage under the pretence of bride price and that loggers from Malaysia are marrying girls aged as young as 13 and 14.<sup>88</sup>
64. The Equal Rights Trust urges the Committee to make a specific recommendation in relation to marriage calling on Solomon Islands to:
  - a. Take urgent steps to eradicate the practice of bride price;
  - b. Raise the marriageable age to 18 in the Marriage Act and take steps to eliminate child marriage.

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<sup>85</sup> *Ibid.*, pp. 141-142.

<sup>86</sup> *Ibid.*, pp. 149-150.

<sup>87</sup> *Ibid.*, p. 29.

<sup>88</sup> Protection Project, *A Human Rights Report on Trafficking in Persons, Especially Women and Children – Solomon Islands*, 2009, p. 2, 4, available at: <http://www.protectionproject.org/wp-content/uploads/2010/09/Solomon-Islands.pdf>.