

ALTERNATIVE SHADOW REPORT

ALTERNATIVE SHADOW REPORT to the Committee on the Elimination of Discrimination against Women, 70th Session - July 2018, in relation to the combined 2nd and 3rd periodic report of the Cook Islands Government, June 2018.



COOK ISLANDS NATIONAL COUNCIL OF WOMEN

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1. Introduction

On 11 August 2006, the Cook Islands acceded to the Convention in its own right. We fully support the initiative taken by the Government of the Cook Islands to provide the combined 2nd and 3rd Periodic status report on the situation of women in the country. We also welcome the opportunity to deepen this analysis by acknowledging some limitations and shortcomings of the Government's efforts to implement the Convention.

The purpose of this report is to supplement the Government's Report by highlighting our perspective on the nature of the Government's commitment to implement the Convention through legislation, policies and resource allocation. The comments under each Article is in response to the concluding observations of the Monitoring Committee make up the main substance of this report.

As the reality of equality evolves in the country through both law and policy, Cook Islands women must still work together to remove embedded discrimination and practise.

This report has been prepared and developed by the Cook Islands National Council of Women (CINCW) with the financial assistance provided by the Government of the Cook Islands. The report was presented and discussed at the 10th National Womens Conference, April 3 to 5 2018, which included women leaders from the Outer Islands ('Pa Enea'¹) and NGO groups² from around Rarotonga. The endorsement of this report was received at this conference.

¹ Islands outside of Rarotonga including Aitutaki, Atiu, Mangaia, Manihiki, Mauke, Mitiaro, Nassau, Palmerston, Penrhyn, Pukapuka, Rakahanga and Suvarrow

² Cook Islands Civil Society Organisation, Religious Groups – Catholic, Seventh-day Adventists, Assembly of God etc, Cook Islands Women and Girls with Disability, Women in Parliament, Are Pa Metua (Elderly Group), Te Kainga – Cook Islands Mental Health, Tivaevae Society (Quilt stitching), Southern group and Northern group Islands women societies, Cook Islands National Youth Council, Child Welfare, Cook Islands Women in Maritime, Cook Islands Women in Policing, and Women in Sports.

2. Brief overview of key areas of concern

2.1 Downgrade of the entity established in the Ministerial Hierarchy

CINCW notes that CEDAW and gender targets highlighted in international and national instruments have had their bar lowered by government such as the National mechanism for Gender and its position in the structure of the Ministry of Internal Affairs in the sense that the Gender Development Office was merged with other social segments into a Social Policy and Services Division. The continued support of external aid to implement the 2nd National Policy for Gender Equality and Women's Empowerment (NPGewe) focus areas remains a concern on the level of commitment of Government to the policy.

2.2 Continued reliance on Donor assistance by Government

The Government has provided adhoc rather than consistent resourcing to assist in the public awareness of CEDAW. Mainstreaming gender equality across government agencies and their activities is also not consistent with budget resourcing.

Even in the few areas it has designated as priorities for our women, it has failed to achieve clear improvements. The most glaring of these is the failure in the area of violence against women where inadequate or decreased resourcing, from taking effective preventative action or providing the required range and volume of services for survivors.

In the area of the elderly and care, the young infants and child care, and the vulnerable and special needs group and integrating them into the socio-economic framework of our society continue to rely on external funding rather than national budgetary allocations.

2.3 Upholding Governments obligations

There is urgency in implementing the Committee's recommendations. Mileage made in the Governments report are balanced by observations in this report that confirms complacency and institutional divergence in implementing thematic goals of the country's CEDAW implementation plan and strategies.

CINCW urges the government to take immediate steps to implement most of the recommendations made by the UN Committee on the Elimination of Discrimination against Women in 2007. Failure to do so will leave CI women and girls at continued risk of gender-based discrimination and harm, in direct violation of our government's obligations under international human rights law.

3. Articles

Article 1: Definition of Discrimination against Women

Since 2007, little or no action has been taken to address the issues raised in the Concluding Observations regarding a definition of discrimination in its various forms and measures to raise the awareness of CEDAW. A host of legislation quoted in the Government report allude to dealing with the definition in a generic manner such as the Electoral Act 2004, Marriage Act 1973, the Island Administration Act 2012-13 and the Matrimonial Property Act 1991-92. CINCW and affiliate members note that this remains the status quo since the first reporting in 2007.

Recommendation

We call on Government to include the definition of discrimination both direct and indirect in the next review of the Constitution of the Cook Islands.

We call on Government to reflect the principles of CEDAW in the host of legislations that are about to be reviewed.

Article 2: Elimination of Discrimination

We fully support the Governments acknowledgement that a 'comprehensive programme of law reform is needed so that relevant areas of Cook Islands law are consistent with CEDAW'

The current system of legal aid excludes our women from appropriate services and from seeking appropriate advice to fight for their rights when discriminated. The current arrangement with the assistance of the Australian Aid Program limits the support of legal aid for Domestic Violence cases only, all other forms of discrimination does not have the same extended support.

Recommendation

We call on Government to fully implement the comprehensive programme of law reform

We call on Government to extend the legal aid support to women wishing to bring claims of discrimination or enforce their rights to equality

Article 3 Development and Advancement of Women

As yet, gender has not been mainstreamed in most national plans, and especially in island development and business planning process. The Island administration plan on several of the Outer Islands (Northern and Southern Group islands) was reported to not have included women in its development or endorsement process, this was reported to the 10th National Conference for Women. This is a concern due to the fact that these plans thereafter become budgeted without any support or funds designated to support the development of women.

Budgetary planning is insensitive of gender implications in the resource allocation models for major sectors and Outer Island administration ('Pa Enuā') budgets.

There still is a lack of reliable data on Pa Enuā and migrant women, especially their status in relation to gender equality. Data generated from the nation-wide 'Te Ata o te Ngakau' report (VAW in the Cook Islands) 2014, can shed light on discrimination in the homes, villages and islands. The amalgamation of women and gender into the generic Social Development Services Division of the Ministry of Internal Affairs demotes the extensive mileage made for CI women from the period of CEDAW ratification. In one wide sweep a Ministry review has made women invisible as a substantive gender grouping in the affairs and development of the country.

Development challenges relating to climate change and environmental deterioration impact women often, yet mainstream policies ignore the role women can contribute in renewable energy, waste management, and adaptation and mitigation planning.

Resource constraints prevent dissemination of CEDAW information by CINCW and affiliates and negate CINCWs efforts to establish and maintain the partnership model with the related Government agencies. Dissolving the Gender Division has provided even more challenges for CINCW to maintain, because of the merger of the Gender Division into a super Social Development Division, government does not have a national plan with targets for the advancement of women, including gender budgeting

Recommendation

We call on Government to accord a Ministry of Women with authority, capacity and resource necessary to fulfil its mandate within the next 12 months

We urge Government to urgently endorse and implement the new National Policy on Gender Equality and Women's Empowerment (NPGewe)

We call on Government to strengthen the Ombudsman's office mandate to accept the complaints and investigate allegations of sex-based discrimination

We call on Government to establish a National Human Rights Institution

Article 4 Positive Discrimination and Special Measures

The CEDAW principles on temporary special measures and General Recommendation 25 have not been fully implemented. The government is not prepared to introduce binding temporary measures, countless advocacy sessions and conferences have promoted.

Efforts via political parties and interest groups remains keen at manifesto level but without serious traction. The resistance is a direct concern of temporary special measures by political parties.

Recommendation

We urge Government to establish temporary special measures to accelerate women's participation where they are disadvantaged or underrepresented, including in political processes

Article 5 Stereotypes and Culture

There remains advertising that creates blatant sexist views, and in some cases racist stereotypes. There are a number of campaigns changing attitudes to violence against women. The NGOs media and advocacy campaigns with inclusive outreach to all members of the community, are effective but not permanently funded.

CI women experience high unreported rate of intimate partner violence including high lifetime prevalence of sexual violence. The spectre of intimate partner violence is nation-wide, most of which is not reported. Specialist services are sparse for counselling and care of survivors with resort to volunteers supporting.

There is inadequate focus on prevention, such as sexuality education in all secondary schools, and early introduction of life skills and relationship building in our youth. Parental supervision and oversight at crucial periods in youth development and relationship building is inadequate. There is minimal evidence of any government commitment to establishing the extent to which sexual exploitation is occurring informally, particularly to females under the age of 18, or to creating effective safety provisions for these survivors. Reference to the Te Ata o te Ngakau (Family Health and Safety Study Report 2014) which hosts a range of preliminary information on this area and analysing this data set is important to this unimplemented task. The spectre of sexual harassment remains under cover, protected by custom and Christian orthodoxy.

The enactment of the Family Protection and Support Act (2017) is noted, but its lengthy passage from the first reporting in 2007 foreshadows the level of significance Government and the Parliament of the Cook Islands places on its passage.

Recommendation

We call on Government to systematically address gender stereotypes in the Media

We urge the Government to engage men and boys in raising awareness on the extent of violence against women and girls

Article 6 Exploitation of Women

There is a need to extensively attain a position on prostitution and trafficking, the lack of data on sex and tourism and the phenomenon of trafficking in the Cook Islands context remains a concern.

Recommendation

We call on Government to speed up the review of the Crimes Amendment Bill 2017

Article 7 Participation in Political and Public Life

In the Pacific region, CI women are at 12% on the political empowerment scale. Though women are gradually taking up executive management roles in public, private and community sectors (25%), they still lag behind male participation by 40% and are mainly located in sectors specific to women's strength and roles.

At the governance, leadership and decision-making levels (national and island) women lag far behind the targeted 30% Sustainable Development Goal target.

CEDAW implementation and visibility without a sensible budget – from government budget allocation, resorting to competing for funding for a core function it has taken over from Government.

Recent efforts by women parliamentarians to assist in improving the numbers and influence of women in governance areas is commended. External funding to the initiative is noted.

Recommendation

We call on Government to introduce a system of quotas that would aim at reaching a minimum 30% representation of Women in Parliament and in Local Government

We urge Government to address barriers to Women's participation in Political and Public Life, including Legislative and Policy measures

Article 10 Education

Provision of tertiary education locally has enabled women to take advantage of studies while maintaining families and careers

The promotion of thematic career paths for young women in the sciences and technology divisions is not consistent and needs to be revived and sustained.

Recommendation

We call on Government to ensure mandatory, age-appropriate education on sexual and reproductive health and rights at all levels

Article 11 Employment

CINCW commends the work to review the Employment Relations Act 2012 in relation to increasing paid maternity from 6 to 12 weeks for private and public-sector women alike. This is also the case with NGO efforts to move the Employment Relations Clause 40 relating to maternity leave, where passage was held up for over 13 years.

Recommendation

We call on Government to increase the paid maternity leave from 6 to 12 weeks, this to be incorporated in the review of the Employment Relations Act 2012.

Article 12 Health

The 2014 Family Health and Safety Survey found inconsistent implementation of the sexuality curriculum, including limited provision of information about contraception and STI prevention, Government through the Ministry of Health needs to work in partnership with Ministry of Education in the implementation and the resourcing of this curriculum.

Recommendation

We call on Government to ensure the decriminalization of abortion in the review of the Crimes Amendment Bill 2017

We call on Ministry of Health to work with the Ministry of Education to work together in partnership in the implementation and resourcing of the Sexuality curriculum

Article 13 Economic and Social Life

There is no disaggregated data or analysis relating to how women with disabilities in comparison to men with disabilities, or in comparison to women without disabilities. As in 2007, vulnerability to poverty is a major economic issue facing CI women, particularly Pa Enea mothers and working mothers with families.

The employment of migrant working mothers will present challenges with implementing international legal instruments.

Recommendation

We call on Government to ensure that disaggregated data is systematically collected and reported to inform the implementation of key relevant legislations, policies and programs, particularly on the participation of women in economic and social life.

Article 14 Rural/Pa Enea Women

Pa Enea women face a number of barriers including accessibility and availability of infrastructure and services that prevent them from achieving the same level of education, employment and health outcomes as their urban counterparts.

Recommendation

We call on Government needs to ensure that disaggregated data is systematically collected and reported to inform the implementation of key relevant legislations, policies and programs, specifically for Outer Islands ('Pa Enea')

Article 16 Marriage and Family

No progress in the amendment of the Marriage Amendment Bill 2017, and the Matrimonial Property Act 1991-1992. Government needs to inject resources and build the capacity of key agencies to implement and monitor the Family Protection and Support Act 2017.

Recommendation

We call on Government to enact the Marriage Amendment Bill 2017 within a 12-month timeframe

We urge Government to resource and build the capacity to implement and monitor the Family Protection and Support Act 2017

4. Conclusion

We acknowledge the work of the Government in attempting to improve the status of women and the promotion of Gender Equality in the Cook Islands. However, we note that resourcing is limited and the capacity of government agencies at the Ministry level to progress the empowerment and development of the status of women.

We as NGO's remain committed to work in partnership with Government to ensure progress is made on these issues. Government needs to recognize the importance of this partnership and afford it with capacity and resources.