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## The Equal Rights Trust

Alternative report submitted to the 54th session of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) in the absence of the First to Third Periodic Reports of

## Solomon Islands

January 2013

## Statement of Interest

1. The Equal Rights Trust (ERT) submits this alternative report to the United Nations Committee on the Elimination of Discrimination against Women (the Committee) in the absence of the First to Third Periodic Reports of Solomon Islands due to be submitted under Article 18 of the United Nations Convention on the Elimination of All Forms of Discrimination against Women (the Convention).
2. ERT 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. Established as an advocacy organisation, resource centre and think tank, it focuses on the complex relationship between different types of discrimination and inequality, developing strategies for translating the principles of equality into practice.
3. In the course of its mission, ERT undertakes 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. ERT 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, ERT has 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, ERT has 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.

## **Introduction**

5. In the course of our work in Solomon Islands, ERT has 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 women's lives, most obviously in the high prevalence of violence against women. Second, ERT has identified a lack of effective constitutional and legislative provisions providing protection from discrimination on all grounds, including gender. The only protection from discrimination provided under Solomon Islands law is found in Article 15 of the Constitution of Solomon Islands. ERT's assessment of this provision has identified a number of significant weaknesses, including a lack of protection from indirect discrimination and harassment, limited material scope and broad exceptions. Moreover, our research found that Solomon Islands does not have either specific or comprehensive anti-discrimination legislation providing protection from gender discrimination, a clear requirement if the state is to fully comply with Article 2.
6. In this submission, ERT addresses three specific issues of concern. First, it identifies gaps, inconsistencies and exceptions in the legal framework which limit Solomon Islands' ability to comply with its obligations arising under Article 2 of the Convention. It then addresses two problems which, in our view, best exemplify both the harmful effect of negative cultural attitudes towards women and the absence of effective legal prohibitions, through assessing the prevalence of violence against women and the level of participation of women in political life.
7. This report finds that Solomon Islands does not have the constitutional or legislative measures in place to provide effective legal protection from discrimination. It recommends that Solomon Islands amends Article 15 of the Constitution to expand the list of protected grounds, forms of prohibited conduct and material scope in order to bring these into line with international law and best practice. It also calls for the enactment of comprehensive anti-discrimination legislation.
8. It also finds that the level of violence against women, fuelled by negative cultural attitudes towards women, is extremely high. It calls on Solomon Islands to enact specific legislation to effectively prohibit, and provide women with protection from, all forms of violence and to develop and implement a comprehensive strategy to combat gender-based violence.
9. Finally, it finds that women are poorly represented at every level of politics and government. It recommends that Solomon Islands takes measures – including temporary special measures – to

accelerate the full and equal participation of women in public and political life. In particular, it calls on Solomon Islands to undertake awareness-raising activities, establish training and mentoring programmes and strengthen its efforts aimed at increasing the participation of women in political parties.

## **Article 2 – Policy Measures**

10. 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”.
11. The Committee, in its *General Recommendation 28 on the Core Obligations of State Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women* (General Recommendation 28), 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>

12. 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>
13. ERT’s assessment of Solomon Islands’ obligations in respect of the right to non-discrimination is informed both by General Recommendation 28 and by the Declaration of Principles on Equality

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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*, CEDAW/C/GC/28, 2010, Para. 6.

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

<sup>3</sup> *Ibid*, Para. 9.

<sup>4</sup> *Ibid*, Para. 9.

(the Declaration), a document of international best practice on equality. The Declaration was adopted in 2008 by 128 prominent human 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*

14. 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. Article 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.*

15. 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

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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).

equality and non-discrimination. A 2009 Draft Constitution provided both a right to equality<sup>8</sup> and, with respect to women, a separate 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.*

16. A more recent Draft Constitution, produced in 2011, removed both of these Articles and replaced them with a new Article 37. Article 37 of the 2011 Draft Constitution of Solomon Islands is identical to Article 15 of the existing Constitution.
17. In ERT's view, Article 15 of the current Constitution of Solomon Islands, and the identical Article 37 of the 2011 Draft Constitution, are insufficient to ensure that the state is able to meet its obligations to *respect* and *protect* women's right to non-discrimination in all areas of public and private life. Furthermore, the absence of either comprehensive or specific anti-discrimination law means that the state party falls short of its obligation to *protect* the rights of women and is inadequately served in its attempts to *fulfil* the rights of women to non-discrimination.
18. There are a number of problems with the scope and application of the protection from discrimination provided under Article 15. First, the provision does not explicitly prohibit the different forms of discrimination which are accepted as essential elements of a modern equality guarantee. Moreover, the definition of the term "discriminatory" provided in Article 15(4), including the phrase "affording different treatment to different persons attributable" 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, Article 15 does not prohibit both direct and indirect discrimination, as required by the Committee in its General Recommendation 28.<sup>9</sup>
19. In addition, the Constitution does not explicitly prohibit discrimination by association, segregation or harassment. The Declaration of Principles on Equality includes all these forms of discrimination in its definition of discrimination.<sup>10</sup> In the view of ERT, the fact that Article 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.
20. There are also a number of problems posed by the list of prohibited grounds of discrimination provided in Article 15(4). While the provision explicitly prohibits discrimination on grounds of

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<sup>8</sup> *Draft Constitution of Solomon Islands 2009*, 2009, Article 23.

<sup>9</sup> See above, note 1, Para. 16.

<sup>10</sup> *Declaration of Principles on Equality*, published by The Equal Rights Trust, London 2008, Principle 5.

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 that the inclusion of “pregnancy or maternity” and “civil, family and carer status” (each of which is provided in Principle 5 of the Declaration) as protected grounds would substantially 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 race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity, 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>11</sup> Thus, the absence of “age”, “disability”, “sexual orientation” and “gender identity” from the list of protected grounds in Article 15 – all of which are acknowledged grounds in a range of jurisdictions and international instruments<sup>12</sup> – is a cause for concern.

21. Further to these concerns, ERT notes the use of a “closed list” of grounds in Article 15, 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 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 a “conditionally open” list of grounds – which provides a test to establish the admission of new grounds – as the best approach to determine whether new grounds should be incorporated.<sup>13</sup> ERT would recommend this as a best-practice approach to this question.
22. 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 General Recommendation 28, the Committee has explicitly stated that “[i]ntersectionality is a basic concept for understanding the scope of the general obligations of states parties contained in article 3”<sup>14</sup> and as such, both the restricted and restrictive list of grounds and the absence of multiple discrimination provisions in the Constitution are a cause for concern.
23. In addition to these problems, ERT is extremely concerned by the limited scope of the right to non-discrimination provided by Article 15 through paragraphs (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 the scope of protection for 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

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<sup>11</sup> See above, note 1, Para. 18.

<sup>12</sup> See, for example, Committee on Economic, Social and Cultural Rights, *General Comment 20: Non-discrimination in economic, social and cultural rights*, UN Doc. E/C.12/GC/20, 2009, Paras 18 – 35.

<sup>13</sup> See above, note 10.

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

from discrimination in “all fields of women’s lives under the Convention and throughout their lifespan”.<sup>15</sup>

24. ERT is also concerned by the numerous exceptions to the right to non-discrimination provided in paragraphs (5) to (9) of Article 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>16</sup> The exceptions provided in Article 15 manifestly fail to meet this test, limiting or excluding the application of the right to non-discrimination in areas including the imposition of taxation,<sup>17</sup> standards or qualifications required for positions in public office,<sup>18</sup> the institution, conduct or discontinuance of civil or criminal proceedings,<sup>19</sup> and the restriction of other rights provided under the Constitution<sup>20</sup>. In the view of ERT, these exceptions are inconsistent with international law, and – of particular relevance here – with the obligation to provide protection from discrimination “all fields of women’s lives under the Convention and throughout their lifespan”.<sup>21</sup>
25. ERT is particularly concerned by certain restrictions provided under paragraph (5) and the impact which these restrictions have on the protection enjoyed by women. Sub-paragraphs (c) and (e) exclude adoption, marriage, divorce, burial, devolution of property on death, land, the tenure of land, the resumption and acquisition of land, and other like matters, from the scope of the protection. Given the status of women in society in Solomon Islands, these exceptions have the effect of denying protection in exactly those areas where women are most likely to suffer discrimination.
26. In sum, ERT is concerned that the scope and definition of the right to non-discrimination provided in Article 15 of the Constitution of Solomon Islands is inconsistent with the requirements placed on states by Article 2, as elaborated by the Committee in General Recommendation 28. ERT therefore calls on the Committee to urge the government of Solomon Islands to amend Article 15, in particular by ensuring that the constitutional provision on the rights to equality and non-discrimination:
  - a. Explicitly prohibits direct and indirect discrimination, discrimination by association, segregation and harassment;
  - b. Explicitly prohibits discrimination on at least the grounds of pregnancy or maternity, civil, family or carer status, age, disability, sexual orientation and gender identity, in addition to those grounds currently protected;

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<sup>15</sup> See above, note 1, Para. 31.

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

<sup>17</sup> *Constitution of Solomon Islands*, Article 15(5)(a).

<sup>18</sup> *Ibid*, Article 15(6).

<sup>19</sup> *Ibid*, Article 15(8).

<sup>20</sup> *Ibid*, Article 15(9).

<sup>21</sup> See above, note 1, Para. 31.

- c. Provides a test for the incorporation of new grounds of discrimination in line with that recommended in the Declaration of Principles on Equality;
- d. Explicitly prohibits multiple discrimination;
- e. Provides protection from discrimination in all areas of life governed by law;
- f. Provides exceptions to the right to non-discrimination which are strictly limited, in accordance with the Declaration of Principles on Equality.

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

27. The Convention, the Committee, other treaty bodies such as Committee on Economic, Social and Cultural Rights,<sup>22</sup> and the authors and signatories of the Declaration,<sup>23</sup> have all recognized 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.
28. 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>24</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.
29. Solomon Islands has no specific legislation prohibiting discrimination against women. In the view of ERT, 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. ERT is 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 ERT would recommend as a guide to how Solomon Islands can effectively meet its obligations in this

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<sup>22</sup> See above, note 12, Para. 37.

<sup>23</sup> See above, note 10, Principle 15.

<sup>24</sup> See above, note 1, Para. 31.

regard.<sup>25</sup> ERT 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.

30. ERT 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>26</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**

37. As the Committee has noted in its *General Recommendation No. 19 on Violence Against Women* (General Recommendation 19), 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>27</sup> The Committee has clarified the states’ 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>28</sup>
38. The widespread nature of violence against women in Solomon Islands is well-documented. The Solomon Islands Family Health and Safety Study (SIFHSS) in 2008 revealed that two out of three

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<sup>25</sup> See above, note 10, Principle 18 (Access to Justice), Principle 21 (Evidence and Proof), Principle 20 (Standing), and Principle 22 (Remedies and Sanctions).

<sup>26</sup> In the view of ERT, 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>27</sup> Committee on the Elimination of Discrimination Against Women, *General Recommendation No. 19 on Violence Against Women*, 1992, Paras 1 and 7.

<sup>28</sup> *Ibid.*, Para 9.

women aged 15 to 49 had experienced physical and/or sexual violence from their partner.<sup>29</sup> As part our work in Solomon Islands, ERT 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 ERT 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>30</sup>*

27. 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>31</sup>*

39. Furthermore, the SIFHSS reveals 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 circumstances (in particular, for infidelity and disobedience). In addition to the social acceptability of violence against women, SIFHSS 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.

40. ERT believes that the widespread nature of violence against women, and its social acceptability, demonstrates that the issue requires urgent and targeted action. ERT welcomes 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. ERT calls on the Committee to recommend that Solomon Islands takes these measures as soon as possible, and ensures that any legislation is in line with the requirements set out in General Recommendation 19.

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<sup>29</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.

<sup>30</sup> Interview with Janet, Marau, Solomon Islands on 12 June 2011. Original transcript held by The Equal Rights Trust.

<sup>31</sup> Interview with Modesta, Arakoa, Solomon Islands, 25 June 2011. Original transcript held by The Equal Rights Trust.

41. ERT calls on the Committee to recommend that Solomon Islands takes measures to improve protection from violence against women, including by:
- i. 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 19.

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

31. 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 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.
32. In *General Recommendation 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>32</sup>*

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<sup>32</sup> Committee on the Elimination of Discrimination against Women, *General Recommendation 23 on Political and Public Life*, U.N. Doc. A/52/38/Rev.1 at 61, 1997.

28. ERT's 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 recent 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 ERT's field research:

*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>33</sup>*

33. 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>34</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>35</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>36</sup>
34. 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 2011 Draft Constitution, Article 68 (replacing Article

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<sup>33</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>34</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>35</sup> *Ibid.*

<sup>36</sup> *Ibid.* Paras 45 to 46.

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. Article 69 (replacing Article 88) provides that each province and Honiara City return one woman elected representative from its allocation, ensuring that there would be at least ten women (making up one third of all representatives) in any future Parliament. At a debate within the Constitutional Congress which has been tasked with drawing up the new Constitution, a vote was held on whether Article 69 should be deleted from the text.<sup>37</sup> Of the 37 members, 20 voted to retain Article 69, 14 voted to delete Article 69, and three abstained. Three of the nine provinces, along with Honiara City, have voiced support for Article 69 whilst five of the provinces have called for Article 69 to be deleted. The ninth province has yet to decide whether to support or oppose Article 69.

35. ERT 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. ERT believes 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. ERT notes 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>38</sup>
36. ERT urges the Committee to make a specific recommendation 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.

## **Conclusion**

42. As noted above, Solomon Islands is currently in the midst of a constitutional reform process. ERT believes that Solomon Islands should seize this opportunity to improve its constitutional provisions on non-discrimination – which are currently inadequate to meet its obligations under the Convention and other instruments of international human rights law – and create a stronger

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<sup>37</sup> Solomon Islands Government, Constitutional Reform Unit, *Reform News*, Volume 1, Issue 10, April - June 2012, available at: <http://www.sicr.gov.sb/Newsletter%2010.pdf>.

<sup>38</sup> Quota Project, *Country Overview (Solomon Islands)*, available at: <http://www.quotaproject.org/country.cfm>.

right to non-discrimination. However, while this would substantially improve the legal situation for women facing discrimination, Solomon Islands must go further if it is to ensure that it meets its obligations under the Convention and effectively respects, protects and fulfils the right to non-discrimination.

43. ERT recommends that Solomon Islands enacts comprehensive equality legislation providing protection from all forms of discrimination on all grounds and in all areas of life governed by law. In our view, such a move is not only necessary to meet the state's obligations under Article 2, but also to provide the framework in which it can effectively address the deep-seated gender inequality which persists in Solomon Islands, and which is most evident in the problems highlighted here in respect of violence against women and lack of participation by women in public life.