

## Solomon Islands

### 1. Discrimination in the family

#### a) Overarching legal framework for marriage

The 1945 Islanders Marriage Act grants women and men in the Solomon Islands equal rights to enter into marriage, either before a minister of religion or a District Registrar (Sec. 2-5). The Islanders Divorce Act includes legal provisions that prohibit forced marriage, which is defined as marriage “induced by duress or mistake” (Solomon Islands, 1996, Sec. 12).

A marriage properly performed according to custom is also recognized by the courts as a legal marriage and can be registered before the magistrate’s court (Solomon Islands, 1945, Sec. 4). In practice, most people in the Solomon Islands do not register their marriages unless a certificate is needed for an administrative or official requirement, such as a passport (WHO and IPU, 2016). A registered marriage can be ended before the High Court, while an unregistered marriage can only be ended according to custom (WHO and IPU, 2014).

“Bride price,” is deeply embedded in Solomon Islands custom as a means for the groom’s family to demonstrate their appreciation by giving gifts to the bride’s family (CEDAW, 2013). While it serves as a means of demonstrating social relationships between clans, in some instances it raises questions about the “ownership” and commodification of the bride and children born as the results of the marriage, and links have been established between the payment of the bride price and violence against women (CEDAW, 2013).

#### b) Child marriage

Under the Islanders Marriage Act, the legal age of marriage for both girls and boys is 15 years (Solomon Islands, 1945, Sec. 10). Marriage under the age of 18 requires consent from the father, the mother, a guardian or judge (Solomon Islands, 1945, Sec. 3).

The legal age of marriage is not applicable to customary marriages, for which there is no age restriction (CEDAW, 2013). The practice of early marriage in the Solomon Islands has decreased but remains common in rural areas and among poor populations, with parents believing an early marriage will protect their daughters and provide them with economic opportunities (CEDAW, 2013).

#### c) Household responsibilities

No law on household responsibilities or requirements for a wife to obey her husband exists. The equal right to guardianship of children is not explicitly stated in legal texts; however texts such as the 2004 Adoption Act grants women equal rights to guardianship, wardship, trusteeship and adoption (Solomon Islands, 2004, Sec. 3). Rights and responsibilities of parents diverge when it comes to consenting to a child to enter into marriage: the consent of the mother only counts in case of death or unsound mind of the father (Solomon Islands, 1945, Sec. 10).

In practice, while roles of women are changing due to increased education and economic participation, their role still tends to be in the domestic sphere (ADB, 2015). Women are seen as caregivers and responsible for the care of children, elderly and sick relatives, as well as for the operation of the household (CEDAW, 2013). Gender relations in the Solomon Islands are heavily male-dominated and men are responsible for major household decisions, including where to live (ADB, 2015).

#### **d) Divorce**

The right to divorce is enshrined in the 1996 Islanders Divorce Act, which allows fault-based divorce under different conditions such as adultery, desertion, cruelty and unsound mind (Solomon Islands, 1996, Sec. 11). Bestiality, rape and sodomy by a husband are permissible reasons for the wife to file a divorce petition, but these conditions do not apply for husbands who wish to divorce their wife (Solomon Islands, 1996, Sec. 18). Women and men have equal rights to be the legal guardians of their children following divorce (Solomon Islands, 1997, Sec. 21).

In practice, the divorce system is not accessible to many women, as it requires either going to the high court or hiring a private lawyer, both of which are expensive for most Solomon Islands women (NSR, 2012). Strong customary and religious beliefs which dictate that a woman has a responsibility to her husband, children and community to stay in a marriage, further restrict access to separation and divorce (NSR, 2012). As a result, women are vulnerable to domestic violence as they are pressured to stay in abusive marriages (CEDAW, 2013).

#### **e) Inheritance**

The order of priority set out in the 1991 Wills, Probate, Administration Act grants daughters equal inheritance rights to sons, and female surviving spouses equal inheritance rights to male surviving spouses (Solomon Islands, 1991, Sec. 29). Customary laws that discriminate against women, however, often take precedence when it comes to inheritance rights (CEDAW, 2013).

## **2. Restricted Physical integrity**

### **a) Violence against women**

Solomon Islands does not have an overarching law addressing violence against women (VAW). The Government has, however, established a 2016 – 2020 National Policy to Eliminate Violence against Women and Girls, which serves as a holistic framework to support the implementation of existing laws on domestic violence and sexual violence. The policy includes specific targets and benchmarks, a plan for the monitoring of VAW legislation, and protocols and funding for ministries and NGOs to carry out prevention and protection work (Solomon Islands, 2016).

Violence against women and girls is high, entrenched in unequal power dynamics and creating psychological and intergenerational cycles of violence that are very difficult to break (ADB, 2015). The prevalence of violence against women in the Solomon Islands has been demonstrated to decrease girls' education, endanger women's health status, and hinder women's economic participation (ADB, 2015).

## b) Domestic violence

Domestic violence is a criminal offense under the 2014 Family Protection Act, punishable by a fine of SI 30 000 or imprisonment for three years, as well as compensation (Solomon Islands, 2014, Art. 58). Domestic violence is defined as “conduct committed by a person (...) against another person with whom the offender is in a domestic relationship, or the threat of such conduct,” and as such does not specifically include violence by former partners (Solomon Islands, 2014, Art. 4). The definition given in the Act includes physical, sexual, psychological and economic violence (Solomon Islands, 2014, Art. 4). The Act does not forbid mediation or conciliation in cases of domestic violence, but it does allow the victim to opt out of mediation (Solomon Islands, 2014, Art. 2). The Act also includes guidelines on the establishment of protection orders for the victim as they go through the judicial process (Solomon Islands, 2014, Art. 5 – 15).

Solomon Islands does not have a national action plan specific to domestic violence. However, domestic violence is covered by the National Policy to Eliminate Violence Against Women and Girls, which includes prevention measures, calls for the establishment of emergency shelters, strengthens health services for survivors, supports a hotline for victims and includes guidelines and training programmes for police, court officials and local court justices (Solomon Islands, 2016). The Policy also supports the provision of education programmes for children at the community level, as a preventative measure (Solomon Islands, 2016).

In practice, many cases of domestic violence continue to be settled by customary law at the village level, in processes led by village chiefs, church leaders or community leaders (OHCHR, 2012). These systems, which prioritize community dispute resolution, are patriarchal and often do not provide effective justice for the victim (OCHCR, 2012). Leaving abusive relationships continues to carry a stigma for Solomon Islands women, which makes it difficult to break the cycle (ADB, 2015).

## c) Rape

The Solomon Islands parliament passed an amendment to the Penal Code in 2016 that expands the grounds on which rape and sexual violence can be prosecuted, including via the criminalisation of marital rape (Solomon Islands, 2010, Art. 136). Under the revised Penal Code, rape is defined as “sexual intercourse with another person without the person's consent; and, knowing about or being reckless as to the lack of consent,” and carries a penalty between 15 years and life imprisonment, depending on the nature of the crime (Solomon Islands, 2010, Art. 136). As per the Penal Code, rape does not require proof of physical force, resistance or penetration, and the Code includes provisions for rape via misrepresentation, abuse of authority, threat of humiliation and withdrawal of consent during the act (Solomon Islands, 2010, Art.136).

Solomon Islands does not have a national action plan specifically to address sexual violence. However, sexual violence and rape are covered by the National Policy to Eliminate Violence Against Women and Girls, which includes training programmes for health providers, law enforcement and officials, the expansion of justice services and campaigns to spread awareness on the recent Penal Code amendment (Solomon Islands, 2016). The Policy does not provide for medical support services – only training of existing health providers – nor does it provide for specialised tribunals to address sexual violence.

Sexual violence is particularly prevalent at the hands of intimate partners and family members, and survivors continue to be constrained by lack of knowledge of their own rights, fear of stigma, and scarce presence of the justice system outside of the capital (ADB, 2015). Sexual violence is also common in informal settlements and remote communities that lack clean water sources, where women face high risks of sexual violence when they are collecting water, bathing or using toilets, particularly after dark (OCHCR, 2012).

#### **d) Sexual harassment**

Protection against sexual harassment is not comprehensively provided for by the Solomon Islands legal framework. Sexual harassment offenses may fall under the indecent assault category in the Penal Code, defined as “an act of a sexual nature (...) other than sexual intercourse, which a reasonable person would consider to be contrary to community standards of decency” (Solomon Islands, 2010, Sec. 136B). However, the Code does not specifically address harassment in the workplace, educational establishments or cyber harassment. Furthermore, the National Policy to Eliminate Violence against Women and Girls does not detail an action plan for the prevention of and protection against sexual harassment.

#### **e) Female genital mutilation**

There is no legislation on female genital mutilation (FGM), and no evidence that FGM is practiced in the country.

#### **f) Abortion**

Attempts to procure abortion, and the supply or procurement of drugs or instruments to perform abortion are criminalised under the Penal Code (Penal Code, Art. 157 & 159). Attempting to procure abortion is considered a felony and subject to a life prison sentence (Penal Code, Art. 157). Abortion is only permitted to save a pregnant woman’s life (Penal Code, Art. 234).

### **3. Restricted Access to productive and financial resources**

#### **a) Secure access to land and assets**

The right to own, use and make decisions about land or property, or to use them as collateral, is guaranteed for all Solomon Islanders by the Constitution (1978, Sec. 110). The Land and Titles Law does not use gender-specific language, and suggests men and women have equal access to land and assets.

However, land and property use are frequently determined by customary law, which is formally recognized in the Constitution as a source of law, and benefits men (ADB, 2015; CEDAW, 2013). Although there are some matrilineal societies in the Solomon Islands, where women inherit land, decisions over customary land management are almost always made by men and commercial operations view male chiefs as the relevant custodians to approach in seeking rights to land use, thus side-lining women economically (CEDAW, 2013). Property and land-related disputes are often dealt with at the local level, placing women at a disadvantage since local-level adjudicators are male chiefs or elders, with few exceptions (ADB, 2015).

Customary law principles also rule the management of marital property and the division of matrimonial property following divorce, since the rights to land- and non-land assets are not formally enshrined in Solomon Islands legislation (CEDAW, 2013). Again, this places women at a disadvantage since divorce disputes are frequently adjudicated at the local level (ABD, 2015). Joint land titling for married couples and informal unions is provided for under the Land and Titles Act (Solomon Islands, 1996b, Sec. 16).

The Solomon Islands government, in its 2016 Gender Equality and Women's Development (GEWD) policy has set the aim to "improve access to and ownership of resources, land and development opportunities by women in the productive sectors of fisheries, agriculture, forestry and minerals," including by working with the Land Ministry to develop a policy on the security of land and property ownership rights. However, no information is available on progress made towards this goal. The policy does not promote legal literacy of women, nor does it propose public measures to ensure women's participation in cooperatives and producer organisations (Solomon Islands, 2016b).

### **b) Secure access to formal financial resources**

Women and men have equal rights to open bank accounts and obtain credit, regardless of their marital status (World Bank, 2016). In practice, however, it is difficult for rural women to access financial resources as banking services are limited in rural areas, and banks in larger cities will often not lend to small agricultural farmers or village people who lack formal identification (CEDAW, 2014). When rural women do meet eligibility criteria, they may be perceived as too great of a credit risk, and are sometimes asked to identify male guarantors or they experience delays in the application process (CEDAW, 2013).

The government, via the 2016 GEWD policy, emphasizes the need for women's economic empowerment, proposing the establishment of financial literacy programmes, microcredit initiatives and savings clubs for women (Solomon Islands, 2016b, Outcomes 2.1, 4.1, 4.2).

### **c) Workplace rights**

There is no provision mandating non-discrimination on the basis of sex in employment, including in the Labour Act (Solomon Islands, 1996c). As such, discrimination on the grounds of sex, marital status, pregnancy, sexual orientation or HIV status by an employer is not punishable by law (CEDAW, 2013). Furthermore, there are no laws in the Solomon Islands that mandate equal pay for work of equal value (Solomon Islands, 1996c; CEDAW, 2013). The government has ratified the Equal Remuneration Convention and the Discrimination (Employment and Occupation) Convention, but it is unclear how it has incorporated the treaties' articles (ILO, 2017).

As per the Labour Act, women in the Solomon Islands are restricted from entering certain professions, namely mining, and cannot work the same night hours as men except under specific conditions (Labour Act, 1996c, Sec. 39-40).

The law mandates paid maternity leave of 12 weeks, but guarantees only 25% of wages during this period, to be paid by the employer (Labour Act, Sec. 42; NSR, 2012). It is not lawful for an employer to give a female worker a notice of dismissal during her maternity leave period, but there are no legal

restrictions prohibiting employers to ask women about their pregnancy or intention to have children during the recruitment or promotion processes (Labour Act, 1996c, Sec. 43).

Women are not required by law to seek permission from their husband to choose a profession or register a business. The Solomon Islands' electronic registry of companies, Company Haus, has recorded an increase in the proportion of female shareholders of companies and female company directors (ADB, 2015).

However, gender disparities in employment remain: women are underrepresented in wage employment and mostly work in the informal economy, and differential wages and limited access to dispute resolutions reinforce gender differences (ADB, 2015). Women continue to experience discrimination in the attainment of managerial positions, and instead dominate the lower administrative level in the public service workforce (U.S. Dept. of State, 2016). The vast majority of businesses are headed by men and have male shareholders (CEDAW, 2013).

### 3. Restricted Civil liberties

#### a) Citizenship rights

The Constitution of the Solomon Islands and Article 20 of the Citizenship Act (1978b) contain discriminatory provisions regarding the right to acquire, retain and confer nationality. Women do not have the same rights as men to confer their nationality to their foreign spouse (Constitution, Art. 20), and mothers are not explicitly recognized as able to confer nationality to their children. As per Section 20 of the Citizenship Act, a marriage of a Solomon Islands woman to a non-national can affect her nationality (Solomon Islands, 1978b). Finally, under Section 6 of the Citizenship Act, only men can submit a citizenship application for their adopted child (Solomon Islands, 1978b; CEDAW, 2013).

The provisions included in the Constitution and Citizenship Act position men as the main decision-makers regarding nationality and citizenship. Social customs and gender norms that restrict women's abilities to choose their nationality, including social, economic and religious pressures to depend on husbands to make choices, further reinforce these legislative gaps (CEDAW, 2013; ADB, 2015).

The Constitution does not recognize multiple or intersectional discrimination. It defines discrimination as "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" (Solomon Islands, 1978, Sec. 15(4)).

The Passports Act (1996c) grants both women and men the right to obtain passports and other travel documents for themselves and their children, and to travel outside of the country, regardless of their marital status. However, since obtaining passports requires Solomon Island citizenship, women who are foreign nationals will need their husband's consent prior to obtaining a passport, due to the restrictions included in the Citizenship Act (Solomon Islands, 1978b; CEDAW, 2013).

Rates of birth registration in the Solomon Islands are low, although they have increased since the introduction of an Electronic Civil Registration Database system in 2013 (UNICEF, 2013). There are no time limits on registration, although it is recommended within 21 days of the birth (UNICEF, 2013).



## **b) Voting**

The Constitution of the Solomon Islands grants women and men equal rights to vote in elections, regardless of their marital status (Solomon Islands, 1978, Sec. 56(1)). There is no evidence that the Government has provided for measures to ensure women understand how to exercise their voting rights.

In practice, societal expectations dictate that women are often pressured to vote along with the family patriarch, which impacts both women's voting decisions and the ability of women candidates to capture the votes of women in their constituency (CEDAW, 2013; NSR, 2013).

## **c) Political voice**

The Constitution provides women with the same rights as men to hold political office in all three branches of government (Solomon Islands, 1978, Sec. 48). The does not foresee temporary special measures, and attempts to institutionalize a reserved seats policy have so far failed to pass through Parliament (NSR, 2013).

De facto participation of women in government, both as elected politicians and public servants, remains low, and there are no quotas, government-led incentives or government programs in place to increase their involvement in decision-making (CEDAW, 2013). In addition, there are many normative barriers to women's political participation. The cost of campaigning is high and women in the Solomon Islands are at an economic disadvantage compared to men (ADB, 2015). Discrimination against women in education and employment, and assumptions that women do not have the requisite leadership qualities further inhibit female participation in political processes (CEDAW, 2013).

## **d) Access to justice**

The Constitution does not explicitly guarantee equality before the law, but there are no legal barriers to women's capacity to sue (Solomon Islands, 1978b, Sec. 10(1)). As per the Evidence Act (2009), the testimony of women and men holds the same evidentiary weight in court, regardless of marital status. The Act includes several protection measures for victims of "offenses against morality," namely rape and sexual assault cases, including only allowing questions to be posed to the victim about the sexual experience if it "would be contrary to the interest of justice to exclude [them]" (Solomon Islands, 2009, Art. 58).

The government provides free legal aid to victims and offenders, and has established a Family Protection Unit which provides specialist services to women and children with a focus on sexual and domestic violence survivors (CEDAW, 2013). For women in rural areas, access to justice is limited as they are not educated on how to use the justice system, do not have the knowledge on how to seek redress or legal advice, or simply do not have the time or resources to dedicate to the justice process (NSR, 2013; ADB, 2015). Women face stigma for rape and domestic violence case and the possibility of being ostracized from their communities (NSR, 2013). Men are disproportionately represented in the justice system at all levels, including in the Ministry of Justice, police, High Court, magistrates' courts and local courts, which places women at risk of receiving gender-biased judgments (ADB, 2015).

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