



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of  
Discrimination against Women**

**Consideration of reports submitted by States parties  
under Article 18 of the Convention on the Elimination of  
All Forms of Discrimination against Women**

**Combined initial, second and third periodic reports of  
States parties**

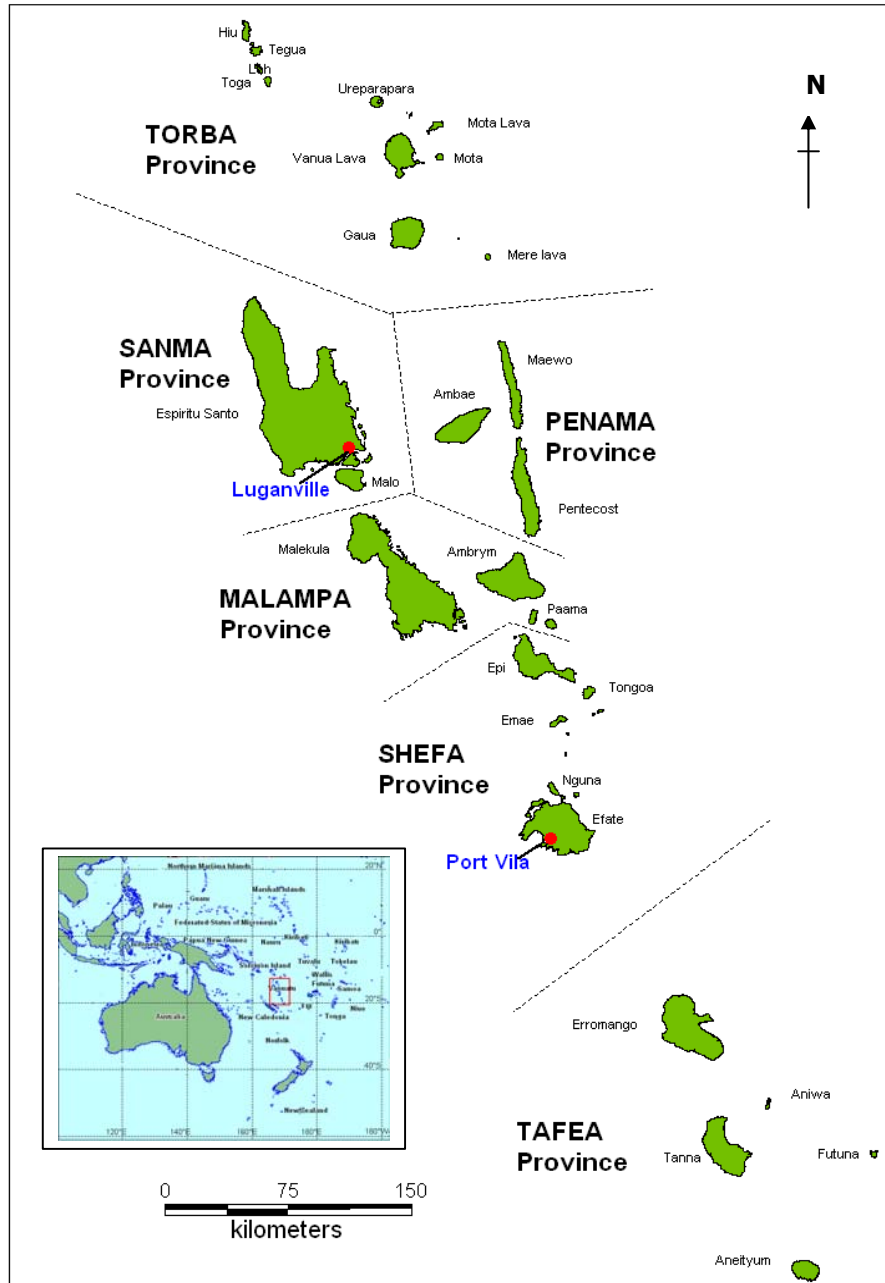
**Vanuatu\***

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\* The present report is being issued without formal editing.

SEPTEMBER 2004

**MAP OF VANUATU**



**Source:** National Statistics Office, 2004.

**OFFICE OF THE PRIME MINISTER  
AND DEPARTMENT OF WOMEN'S AFFAIRS  
PORT VILA, VANUATU**

**Combined Initial, Second and Third Reports on the Convention on  
the Elimination of All Forms of Discrimination against Women**

**SEPTEMBER 2004**

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**LIST OF ABBREVIATIONS**

ADB	Asian Development Bank
CIDA	Canadian International Development Agency
CRP	Comprehensive Reform Programme
DPA	Disability Promotion & Advocacy Association
DV	Domestic Violence
DWA	Department of Women's Affairs
Ed/Eds	Editor/Editors
EFA	Education for All
HIS	Health Information System
ILO	International Labour Organization
IWRAW	International Women's Rights Action Watch
IZA (Foundation)	Initials for <i>Irene</i> and <i>Zara</i> combined to make this name
MA	Master of Arts
MALAMPA (Province)	consisting of the islands of Malekula, Ambrym and Pa'ama
MCH	Maternal Child Health
MFIs	Micro Financing Institutions
n.a.	not available
NGOs	Non Government Organizations
NPSO	National Planning & Statistics Office
NSO	National Statistics Office
PENAMA (Province)	consisting of the islands of Pentecost, Ambae & Maewo
PPH	Post Partum Haemorrhage
PSABV	Pri-Skul Asosiasen Blong Vanuatu
PSC	Public Services Commission
SANMA (Province)	consisting of the islands of Santo and Malo
SHEFA (Province)	consisting of the Shepherd Islands and Efate
SPPF	South Pacific Peoples Foundation
TAFEA (Province)	consisting of the islands of Tanna, Aneityum, Futuna, Erromango and Aniwa
TIV	Transparency International Vanuatu
TORBA (Province)	consisting of the islands of Torres and Banks
TSCU	Training and Scholarships Coordination Unit
TVET	Technical & Vocational Education Training

UNDP	United Nations Development Fund
UNGASS	United Nations General Assembly Special Session
UNICEF	UN Children's Fund
UNIFEM	UN Development Fund for Women
UPNG	University of Papua New Guinea
USP	University of the South Pacific
Van LR	Vanuatu Law Report
VANGO	Vanuatu Association of Non Government Organizations
VANWIP	Vanuatu Women in Politics
VANWODS MFI	Vanuatu Women's Development (Microfinance Scheme)
VCH	Vila Central Hospital
VFHA	Vanuatu Family Health Association
VIP	Ventilated Improved Toilets
VNCW	Vanuatu National Council of Women
VNPF	Vanuatu National Provident Fund
VSDP	Vanuatu Society for Disabled People



## REPORTING ON THE CONVENTION

The Republic of Vanuatu ratified the Convention on the Elimination of All Forms of Discrimination Against Women without any reservations on 13 April 1995. It is incorporated into the laws of Vanuatu through the Ratification Act No. 3 of 1995 with the specific provision under section 1(2) that the Convention is binding on the Republic. It came into force on 14 August 1995 when it was gazetted in the Official Gazette No. 22 of 1995. The instrument of Ratification of the Convention was deposited with the United Nations on 8 September 1995.

The Optional Protocol has not been ratified.

## REPORTING REQUIREMENT OF THE UN CEDAW COMMITTEE

This is the combined Initial, Second and Third reports of the Government of the Republic of Vanuatu. As required by Article 18 of the Convention, Vanuatu should have presented its Initial Report in 1996. This was not done and problems relating to Reporting Obligations of States Parties will be covered under Article 18.

In the preparation of this Report, serious consideration has been given by the Government of Vanuatu to adhere to the “*Revised Reporting Guidelines*” adopted by the UN CEDAW Committee at its Twenty-sixth session of 14 January-1 February 2002, Twenty-seventh session of 3-21 June 2002 and the Exceptional Sessions of 5-23 August 2002 as contained in the Official Records of the UN General Assembly’s Fifty-Seventh Session, Supplement No. 38 (A/57/38) and the General Recommendations provided by the UN CEDAW Committee since 1981. The Government of Vanuatu has been guided by the UN document “*Assessing the Status of Women: A Guide to Reporting Under the Convention on the Elimination of All Forms of Discrimination Against Women*” in conjunction with the Resolutions adopted by the General Assembly S-23/3 on “*Further actions and initiatives to implement the Beijing Declaration and Platform for Action*” in compiling its Report.

This Report was produced under the guidance of the Vanuatu CEDAW Committee appointed by the Honourable Prime Minister in April 2003 comprising eight women and five men representing both Government and Non-Government Organizations. The project team was housed in the Department of Women’s Affairs under the auspices of the Office of the Prime Minister.

Wide consultation was undertaken throughout the country with the cooperation of the Provincial and Municipal Councils, Non Government Organizations, civil society organizations including women’s groups, chiefs, youths, unions, churches and individuals in order to obtain as many differing and common views from women and men in rural and urban Vanuatu. This Report is a result of that collaborative effort by the people of Vanuatu.

## BACKGROUND

1. 30 July 1980 marks the date when Vanuatu obtained its Independence from Great Britain and France after being jointly administered for 76 years. Vanuatu meaning ‘our land’ was the name chosen

for the country and people from Vanuatu are called ni-Vanuatu. Located in the south-west Pacific, Vanuatu is quite small, consisting of 80 islands situated between 10 and 22 degrees latitude and 165 and 171 degrees longitude and extends for 1,000 km along a north-south axis. The total land area is 12,190 km<sup>2</sup> and its exclusive economic zone is over 700,000 km<sup>2</sup>. Its islands are young, small and highly disturbed as a result of frequent cyclonic, seismic and volcanic activities. Of the 80 islands, 65 are permanently inhabited with the majority of the population living along narrow coastal strips or small offshore islands. Commonly categorized as a Melanesian country, Vanuatu shares its borders with three other Melanesian countries (Solomon Islands to the northwest, Fiji Islands to the east and the French overseas territory of New Caledonia to the southwest) and the Polynesian country of Tuvalu to the northeast.

2. Archaeological evidence from Lapita pottery suggests that human settlements on the islands of Vanuatu have been occurring for at least four thousand years. Only in the last 200 years have the islands been settled by European traders, missionaries, planters and colonial administrators. The first European to sight the islands was de Quirós who led the Spanish expedition which reached the large northern island which he named *Espiritu Santo*, commonly referred to as Santo. In 1768 Frenchman Louis Antoine de Bougainville sailed through and in 1774 Englishman Captain James Cook named the archipelago *New Hebrides*, a name that would continue for 206 years.

#### DEMOGRAPHY

3. Since 1967 Vanuatu has kept count of her population, and the 1967 census recorded a total population of 77,988. The enumerated population count following the 1999 national census was 186,678. Of whom 49 per cent (90,996) were women. Ethnically Vanuatu is very homogeneous with 99 per cent of the population consisting of ni-Vanuatu and part ni-Vanuatu ancestry.

4. The main feature of Vanuatu's population is its youth, with 43 per cent under the age of 15 years. It is difficult to give youth a particular age definition as different social and cultural contexts define the passage from childhood to adulthood in various ways, sometimes with elaborate rituals such as those for menarche for girls or a broad range of initiation rites for the boys. For example, the World Health Organization defines 'adolescents' as 10-19 years old, 'youths' as 15-25 and 'young people' as 10-25. The Convention on the Rights of the Child defines a child to mean every human being below the age of 18 as does Vanuatu's Penal Code for the purpose of protecting children from criminal responsibility at ages when they are probably unaware of the implications of their actions. The Constitution defines those under the age of 18 years to be children.

5. Nevertheless the youthfulness of Vanuatu's population indicates a high birth rate and the dynamics of the population growth has implications for Vanuatu and her youth in a number of areas, the most immediate being in education, health and employment. While there is no definition of 'old people', the retiring age for workers in Vanuatu is 55 years. In 1999, approximately seven per cent of the population were 55 years while those over the age of 60 years made up five per cent of the population (NSO, 2000a).

6. The population growth rate was estimated to be 2.6 per cent between the 1989 and 1999 census and is particularly high in the only two urban centres of Port Vila and Luganville at 4.2 per cent increase per annum. This is due largely to internal rural-urban migration motivated primarily by search for employment, cash income and education leading to a concentration in these two centres. This rapid urbanization is another significant feature of Vanuatu's recent demographic history. In 1989 it was estimated that 13 per cent of the population lived in urban areas but by 1999, urban population had increased to 21 per cent. At this current high growth rate it is estimated that by the year 2011 the urban population will be 82,998 and the rural population will be 227,580 and the overall population of Vanuatu will reach 310,578. These differing growth rates between the urban and rural areas have important social implications especially for social services, the labour market and living standards in the two urban centres and have potential for further disadvantage in social services for those living in the rural areas of the nation (NSO, 1999).

Table 1  
Population by age group and sex, 1999

Age range	Males	Females	Total	% Females	<i>Sex Ratio</i>
0 – 4	14,143	13,093	27,236	48.0	108
5 – 9	13,677	12,902	26,572	48.5	106
10 – 14	12,298	11,304	23,602	47.8	109
15 – 19	8,867	8,418	17,285	48.7	105
20 – 24	7,784	8,142	15,926	51.1	96
25 – 29	7,081	7,406	14,487	51.1	96
30 – 34	6,015	6,213	12,228	50.8	98
35 – 39	5,274	5,276	10,550	50.0	100
40 – 44	4,073	3,888	7,961	48.8	105
45 – 49	3,530	3,281	6,811	48.1	108
50 – 54	2,704	2,483	5,187	47.8	109
55 – 59	2,263	1,910	4,173	45.7	118
60 – 64	1,553	1,391	2,944	47.2	112
65 – 69	1,337	1,028	2,365	43.4	130
70 – 74	773	623	1,396	44.6	128
75 – 79	608	481	1,089	44.1	128
80 – 84	320	250	570	43.8	128
85 – 89	224	170	394	43.1	128
90 – 94	93	75	168	44.6	128
95 – 99	78	50	128	39.0	128
100 +	60	36	96	37.5	128
<b>Total</b>	<b>92,748</b>	<b>88,420</b>	<b>181,168</b>	<b>48.8</b>	<b>106</b>

**Source:** National Statistics Office, 2000a.

## LANGUAGES

7. Linguistically Vanuatu is the world's most diverse nation in terms of the number of actively spoken indigenous languages per head of population. Of the indigenous population 91 per cent speak at least one of the 80 indigenous languages of the country with an average of 2,500 speakers each. In addition to these indigenous languages, there are the introduced and colonial languages of French and English which are the official languages and principal languages of education. The former plantation language, *Bislama*, is spoken by approximately 95 per cent of people over the age of 10 years (Crowley, 2000). Literacy rate is difficult to estimate with differing figures using different definitions. In 2004 UNESCO is carrying out a pilot literacy survey which will provide Vanuatu with its first literacy figure by 2005.

Table 2  
Some demographic indicators of Vanuatu, 1999

Description of indicator	Rural	Urban	Vanuatu (Total)	
Total population	146,584	40,094	186,678	
Females	71,628	19,368	90,996	
Males	74,956	20,726	95,682	
			(Average)	
Average life expectancy at birth				
Total population	66	72	67	
Females	67	74	70	
Males	64	69	66	
Sex Ratio	105	107	106	
Dependency Ratio	100	65	91	
Dependency Ratio – Young Age	88	61	82	
Dependency Ratio – Old Age	12	4	10	
Rate of urbanization (percentage)			2	
Crude population density			15	
Youth population (< 15 years)	Total	63,204	14,205	77,410
	Females	30,311	6,988	37,299
	Males	32,903	7,208	40,111
Adult population (15 – 59 years)	Total	71,564	23,135	94,699
	Females	35,894	11,124	47,018
	Males	35,670	12,011	47,681

Older population (60 years & over)	Total	8,291	880	9,171
	Females	3,759	351	4,110
	Males	4,532	529	5,061
Median age		18	21	19
Economically active pop (15–59 Years)	Total	71,564	23,135	94,699
	Females	35,890	11,128	47,018
	Males	35,674	12,007	47,681
General Fertility Rate per 1000		144	104	134
Total Fertility Rate		5	4	5
Crude Birth Rate per 1000		29	25	28
Maternal Mortality (Grace & Vurobaravu, 2002)		-	-	7/10,000
Infant Mortality Rate per 1000	Total	29	17	27
	Females	33	18	26
	Males	30	17	27
Child Mortality Rate per 1000	Total	6	3	6
	Females	9	3	5
	Males	7	3	6
Under 5 Mortality Rate				46
Mean Age at First Marriage	Females	23	23	23
	Males	25	26	25
Number of Households		28,157	8,258	36,415
Head of Households (%)	Females	-	-	13
	Males	-	-	87
Average Household Size		5	5	5

**Sources:** National Statistics Office, 2000a & 2000b.

8. In terms of its linguistic uniqueness, Vanuatu is the only country in the region that gives both English and French equal constitutional status and therefore represents the only point at which the Anglophone and Francophone worlds intersect in the Pacific. Secondly, Vanuatu is the only Pacific Island nation where a non-metropolitan language – Bislama – is given higher constitutional status than a former colonial language. Finally, Vanuatu is the only country in the Pacific – indeed in the world – in which a European-lexifier pidgin language has been declared to be a national language. As the national language, Bislama functions more than just the major lingua franca within Vanuatu as it also carries some of the emblematic functions that are typically associated with a national language: Vanuatu's coinage is inscribed in Bislama only (*Ripablik blong Vanuatu* /Republic of Vanuatu') while

the motto on the national coat of arms is given in Bislama (*Long God yumi stanap* 'In God we stand'). Finally, the words of the national anthem are sung exclusively in Bislama. By way of contrast, the coinage in both Papua New Guinea and Solomon Islands are inscribed only in English and the national anthems of both countries are sung only in English (Crowley, 2000).

### RELIGION

9. According to the 1999 national census approximately 10 per cent of the population practice *kastom*<sup>1</sup> beliefs while 83 per cent practice Christianity due to the significant influence of the Churches over the past 200 years of missionization. This is reflected in the Preamble to the Constitution of the Republic of Vanuatu that the nation is founded on faith in God and fundamental Christian principles. Traditionally religions have been one of the most powerful sources of both vision and values inspiring both personal and institutional transformation. Schools were established, hospitals were built and staffed and children were provided both academic and spiritual education. Whilst pastors and priests spread and taught God's words, wives of missionaries and planters both contributed to the teachings of domesticity, of healthy homes and families where cooking, cleaning and sewing were taught.

10. Thus, from very early on, the churches were heavily influential in organizing and establishing women's groups who then became the first women's groups to have extensive networks throughout the country. The message of Christ was taught to children at a very early age through Sunday schools, for example, where most of the teachers were women. The church groups formed a strong forum for empowering and strengthening women through networking and support that later became the building blocks upon which the Vanuatu National Council of Women was formed (Farran, 2000). For a long time now women have held positions such as elders and deacons in the Presbyterian Church and in 1994 the first female Pastor was ordained.

11. However the record of religions in promoting the advancement of women has been uneven. While typically in the early years of their existence religions have tended to encourage the participation of women, historical evidence suggests a gradual tendency among religious institutions over time to establish practices and support attitudes that impede the development of women's potential. Interpretations of the Scriptures, for example, have been cited as a major impediment to women's progress where both lay and religious leaders quote the Biblical reference of Ephesians 5:22: 'Wives, submit to your husbands as to the Lord' to indicate where women's position should be but overlook the previous verse 'Submit to one another out of reverence for Christ' (Jolly, 1994; Lini, 1995; Bahá'í International Community, 2002; Ngwele, 2003). In one of her reports, the then Director of Women's Affairs was specifically critical that there continues to be a "... big gap between the practical application of basic ... Christian principles... because there are numerous customs and traditions (real or invented) which serve to deter the women from taking their God given rights to be equal with men' (Tor, 2001).

12. Further, it must also be acknowledged that denominations have also contributed to the division and social fragmentation particularly where churches have played an important part in the division of

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<sup>1</sup> Bislama term referring to various customary beliefs and practices.

alliances in political parties. Most political parties in Vanuatu can be divided into religious groupings and with loyalties to parties based along religious affiliations, splits have been created not only in the political sphere but also in families and communities.

## **ECONOMY**

13. As an agriculturally based economy, Vanuatu is subject to the fluctuating global market for its produce. Regional and international events such as the Asian crisis of 1997, the effects of September 11 2001, the pharmaceutical ban on dry kava in 2002 and a general decline on world market for agricultural produce all have an impact on the economy of the nation. Vanuatu receives income from two principal exports, goods and services. In 2001, for example, 27 per cent of the country's earnings were from export of its main agricultural products such as copra, coconut oil, beef, kava, timber and cocoa; 73 per cent was from earnings from the export of services from tourism and the Finance Centre of which 61 per cent was from tourism alone (NSO, 2002a).

## **SOCIAL STRUCTURES**

14. The social structure in Vanuatu is principally patriarchal featuring men as administrators of the societies. In the few matriarchal and graded societies that exist in central Vanuatu, women can and do attain chiefly titles and decorations but do not normally play a role of an administrator or talking chief of her clan, rather this role is delegated to her brother.

15. The cultural dominance of men in Vanuatu society is symbolized on the coat of arms which contains three symbols of importance in Vanuatu: a male chief, the full circled-tusk of a pig and the namele leaf (*Cycas circinnalis*). These symbols signify the central place held by males and chiefs as leaders of the social unit with the accompanying importance of tusks in customary exchanges and ritual gradings of chiefs in certain parts of the country. The namele leaf is used almost universally throughout the central parts of the country symbolizing peace. The symbols on the coat of arms point to the value and importance that is placed on tusked boars expressing the idea that tusks are a sign of a leader and a substance on which leadership is based and often the most valuable pigs are not the biggest but those with the best developed tusks valued as a traditional wealth particularly in central Vanuatu (Rodman, 1996). For the purpose of this report, it was found that the warrior chief on the coat of arms was adopted at Independence from an engraving by Captain John Elphinstone Erskine (1851) with one difference: the original etching contained the warrior chief and a mother/wife carrying a child.

16. As in many parts of Melanesia land in Vanuatu is highly valued and its allocation and use carefully regulated not only for what it produces but also because of what it symbolizes: it is the source of identity for individuals and groups as well as the basis from which almost all subsistence requirements are met. In pre-colonial times land was vested in groups which were based on common descent, residence in a particular area and participation in various activities. The group was the land – its ancestors were buried in it. Through membership in the group, the individual derived his or her social status, power, livelihood, name and rights to land. At birth an individual acquired specific rights through both the mother and father, usually with an emphasis on one side or the other, depending on

whether the society was matrilineal or patrilineal. However, while the emphasis was on the acquisition of primary rights through a single matrilineal or patrilineal kin group, an individual was in fact linked by birth and marriage to one or more groups through which additional rights to land could be obtained. This, however, is changing with land now becoming a saleable commodity.

17. Vanuatu's extreme cultural and linguistic diversity has resulted in a great deal of variation between and within islands in social organization and thus land tenure systems, though there are basic similarities in certain regions. Since the principles on which land tenure systems were based were not written and genealogical records were left to memory, decisions relating to land rights were made in the context of existing social and political circumstances which reflected changes occurring within the society and in the system itself. Since it was also usual for women to shift residence and land use at marriage, female offspring normally acquired only usufruct rights while primary rights were held by males. Women did, however, sometimes assume a custodial right over land when no male heirs existed to inherit primary rights. Most important, however, was the role which women played as the link through which husbands, sons, brothers and other male affines might gain usufruct rights to needed land. In the central islands of Vanuatu, for example, a woman brought with her into marriage a right to specific parcels of land which she and her husband could use during their lifetime. Land inheritance and ownership in customary sense is both patrilineal and matrilineal. The sole purpose of the clan therefore is to look after the land and nurture what exists on it including the obligation to reproduce so that the next generation will take over that responsibility (Van Trease, 1987; Lini, 1995).

#### **ADMINISTRATIVE STRUCTURE**

18. No report on the status of the nation, women or children can be fully appreciated without making reference to our unique historical experience. The form of government prior to Independence, known as condominium, was established in 1906, which possibly makes Vanuatu the last part of the pre-colonial world to have ever been colonized by European powers. Vanuatu emerged from a state of colonization to an independent and sovereign state not fully equipped to deal with the inherited systems of government. The fact that the islands were never formally annexed by a single colonial power but administered jointly by two colonial powers resulted in duplication rather than co-ordination of administrative, judicial and other services including those in education and health. The result was that decisions were taken based on short-term considerations only with priority given to engendering local support for one or other of the two powers instead of planning for the emergence of a newly independent nation (Crowley, 2000).

19. During the immediate post-independence period Government gave priority to establishing institutions and agencies of government itself and colonial structures and procedures were either replaced or revised to meet the developmental priorities of a sovereign state. The economic situation facing the country in 1981 was acute and this largely determined the policy responses undertaken by the Government. The inherited economy was underdeveloped, impoverished and structurally unbalanced and the fragile and narrow economic base co-existed with an extensive and relatively well-developed system of education and health services. The formal sector of the economy was mostly limited to the urban areas under foreign ownership and closely integrated with the world



economy, whereas the non-formal and small holder commercial and subsistence sector was poorly articulated, under-productive, under-capitalized and with few internal linkages.

20. Following Independence the dual infrastructures operating under the condominium government were amalgamated and centralized and the Local Government Councils continued to be administered under the central government until the mid 90s. Under the Decentralization Act of 1994 the country was divided administratively into six Provinces of Malampa, Penama, Sanma, Shefa, Tafea & Torba which are supported under the Department of Provincial Affairs. The capital, Port Vila, is located on the island of Efate and is the seat of government as well as its commercial centre. As the largest of the urban centres in the country development in Port Vila is far in advance of developments in the provinces and this tendency for developments in the provinces lagging behind the capital is a continuing concern.

21. As a result of the acute economic situation at the time of Independence the National Planning and Statistics Office was established in 1982 and given the collective responsibility firstly for the collection, compilation and dissemination of statistical data, and secondly for formulating, implementing, monitoring, developing and financing development programmes. Thus, from 1983 to 1997 National Development Plans were orchestrated by this Office until the introduction of the Comprehensive Reform Programme (CRP) in 1997 when the Department of Strategic Management was created and became responsible for the implementation of plans under the Programme. The Comprehensive Reform Programme is considered to be the single most significant development that has shaped the country in the past decade to restore separation of the powers and to ensure that the various institutions of governance develop the powers and capabilities necessary to fulfill their intended roles (United Nations, 2002). Despite criticisms leveled at the CRP as foreign and imposed, it has at least given voice to women's concerns and it now remains for women and men to jointly implement the programme that will advance women.

## **POLITICAL STRUCTURE**

22. From Independence until 1991 only one major political party, the Vanua'aku Pati, held dominance in the political arena and the country developed in a period of relative political stability. Despite this initial period of relative political stability during the first 11 years of Independence there have been a number of changes of government between elections over the last 14 years leading to frequent changes in policy directions and disruptions in government services. Government changes between elections reflect shifts in party coalition loyalties and have often been linked to a general lack of application of good governance principles, and there continues to emerge from the Office of the Ombudsman reports of corruption by both politicians and senior civil servants.

23. Currently there are some nine main political parties in the country and with the dissatisfaction of some of these parties Vanuatu is witnessing an increasing number of independent candidates contesting elections in recent years. Elections are held approximately every four years. Since 1980 only four women have been elected to Parliament and in the July 2004 snap election, the country saw two women elected, the second time this has happened since Independence. In 2004 female representation in Parliament is only four per cent.

### **EXECUTIVE GOVERNMENT**

24. Vanuatu has a parliamentary democracy with executive power vested in the Prime Minister and a Council of 13 Ministers. The Head of State is the President. The Executive is responsible for government departments, national administration and the provision of government services. The written Constitution of Vanuatu provides for an Executive Government based on the Westminster model and Ministers of Government are appointed, and dismissible by a Prime Minister who must have the support of the legislature. The Prime Minister and Ministers are drawn from, and remain, members of the legislature and they are ultimately responsible to the legislature which can remove them by a vote of no confidence. Ministers are responsible for those aspects of government which are placed in their control by the Prime Minister. This responsibility of ministers is enforced most immediately by the person who appoints them but it is also enforceable by a vote of no confidence by the legislature (Paterson, 1999).

### **LEGISLATURE**

25. The Constitution provides for an elected legislative body called Parliament which is authorized to make laws called Acts. The size of the elected legislature and the basis of election in Vanuatu requires that the electoral system includes an element of proportional representation (Art 15-21). The powers of the legislature to make legislation are very wide and are limited only by the provisions of the Constitution which is the supreme law and so overrides all other laws and renders them void to the extent of any inconsistency. The Constitution also provides that special majorities of the legislature are required to approve amendments. Under Art 16(4) the assent of the Head of State is required in order for a Bill which has been approved by the legislature to become law unless he or she refers the Bill to the courts to determine its constitutionality. Legislation to amend certain sections in the Constitution under Article 86 requires endorsement by the electorate and a simple majority of voters in a referendum is sufficient (Paterson, 1999). In 1991 a review of the Constitution was attempted; in 2001 another review was carried out, results of which have yet to go before Parliament.

26. Article 24 of CEDAW requires States parties to adopt all necessary measures at the national level aimed at achieving the full realization of the rights contained in the present Convention. In Vanuatu international Conventions and Treaties have to be effected through domestic law and for CEDAW this was done through the Ratification Act No. 3 of 1995 which is binding on Vanuatu. Only a few cases invoking the provisions of CEDAW have been brought before the Courts which will be mentioned in the Report. Thus the provisions of the Convention which are not already part of the laws of Vanuatu or are in contradiction to the provisions of CEDAW require legislative amendments. Otherwise domestic policies effecting the provisions of CEDAW have been used without necessarily legislating for it as will be referred to throughout the Report.

### **JUDICIARY**

27. Vanuatu has two legal systems operating at the same time: the formal, legal system inherited from the colonizers and the customary laws inherited from ancestors which are the rules and dispute resolution procedures of clans, lineages and traditional villages often applied in matters such as land

rights, fishing rights, inheritance, marriage, divorce, child custody, conflict resolution, punishments and *tabus* (taboos). Court decisions based on CEDAW or commitments to endorse international standards of women's rights will be referred to throughout the Report.

28. The hierarchy of the courts in Vanuatu consists of three levels: inferior courts, a superior court, and an appeal court. Additionally village courts, for example, have been set up to administer customary law and to deal with customary land and minor local disputes. They do not necessarily have any legal recognition; rather, they are based on respect for customary authority. Appeal from these courts leads back into the formal structure.

### **HIERARCHY & ESTABLISHMENT OF COURTS**

<b>Hierarchy of Courts</b>	<b><i>Legal Establishment of Courts</i></b>
Court of Appeal	The Court of Appeal was established under Art 50 of the Constitution. It is constituted from time to time, as the need arises, by two or more judges of the Supreme Court.
Supreme Court	The Supreme Court which was established under Art 49 of the Constitution and by sect. 28 of the Courts Act 1980 was replaced by the Judicial Services & Courts Act of 2000. The composition of the court is one judge sitting alone. Except for the Chief Justice, members of the judiciary are appointed by the President of Vanuatu on the advice of the Judicial Services Commission under Article 47(2) of the Constitution.
Magistrates Court	Magistrates courts were established under, and governed by, the Courts Act 1980. They are presided over by a lay magistrate or Senior Magistrate appointed by the Judicial Services Commission. When hearing appeals from an island court, they must sit with two or more assessors knowledgeable in custom.
Island Courts	Island Courts were established under the Island Courts Act, Cap 167 and authorized to deal with matters relating to customary land. Each island court is constituted by at least three justices knowledgeable in customary law, at least one of whom must be a custom chief residing within the jurisdiction of the island court, and must have a supervising magistrate with powers and duties prescribed by the Chief Justice (Island Courts Act, Cap 167, sect. 2). Island courts administer the customary law prevailing within the territorial jurisdiction of the court as long as it is not in conflict with any written law and is not contrary to justice, morality and good order.

**Source:** Corrin Care & Newton, 1999.

## SITUATION OF WOMEN IN VANUATU

29. Women have been and continue to play a significant role in contributing to the social and economic development of the nation. Their traditional roles and responsibilities in child rearing, household management, family health & welfare, food production, and support obligations to the immediate and extended families, hospitality services to visitors and involvement in community activities and development, continues today. The process of evaluating the situation and progress of women requires a realistic interpretation of a country that has been politically independent for less than three decades. What Vanuatu has been able to achieve in the past 25 years has taken most western countries over 200 years to achieve. Advances have been made in nearly all fields particularly in education and health, and while some areas may not be viewed as advanced as in some western countries the efforts made by both Government and civil society organizations have seen some results: more women are now employed in the cash economy and in particular in the labour force; women are speaking out and calling both Government and society at large to be accountable to meet commitments; and women are taking a stand on issues that have been considered the domain of males.

30. Yet there is still a lot more that can be done because there continues to be strong male influence in what has traditionally been considered as male domains such as public offices which then perpetuates the continued support of the systematic patriarchal institutions of dominance in political, economic, social, cultural and civil milieu in Vanuatu. A number of indicators attest to the low status of women: the endemic nature of gender-based and gender-directed violence that exists in the country which will be discussed below, and the limited presence of women in decision making arenas, most notably, Parliament, which has seen only four women elected in the last 25 years. Whilst the Constitution provides in Article 5 for specific programmes to advance disadvantaged groups, traditional views on the role of women have seen little progress for women in the public arena. It is common to hear men say that women do have a voice – but from the kitchen again re-emphasising the value of the woman's voice from her 'place'. Other indicators are shown indicating low access by women to decision making positions in Government, in business and commerce and other civil society organizations which will also be referred to in the Report.

31. Following Beijing, Vanuatu developed its plan of action to implement the Beijing Platform for Action in 1996. In 1997 some of these action plans were incorporated in the Nine Benchmarks as national plans.

32. Women's progress has to a large extent been reflective of the lack of support they gain from leaders both men and women. Perhaps the most revealing statement on the continual disadvantaged status of women in Vanuatu is captured by the reaction to the ratification of CEDAW nine years ago and uttered by Chief Noel Mariasua, then Chairman of the Malvatumauri National Council of Chiefs when he addressed women on the National Day of Women 20 days after ratification. He "... warned women not to take the Convention for the Elimination of all Forms of Discrimination Against Women to start thinking highly of themselves and forgetting their place in society ...". (Mason, 2000). In 2004 following the announcement from the Electoral Office for nominations of candidates for the position of Head of State, a previous Head of State and current Chair of the Port Vila Council of Chiefs categorically spoke out in the media that it is not the role of women to hold positions such as the Head

of State or the Prime Ministership. Following the second round for the Presidential election, one woman, Donna Ann Brown, a registered nurse, practiced her constitutional right not to be discriminated against on the basis of her sex and created history by standing in the Presidential election for the position of Head of State (Toa, 2004).

33. There are a few women recognized nationally who have, over the years, raised their concerns on the slow advancement of women. Hilda Lini, one the first female Ministers of Government, quotes the late Grace Molisa, a prominent woman leader who in 1978 observed that “a female of the human species in Vanuatu traditional society is viewed as secondary and inferior to men. In childhood, a boy is allowed to assert himself, while a girl is continuously taught subservience”. Lini has noted that women’s status is heavily subjected to the traditional and religious roles assigned to and accepted by them, and plays a major part in the continuation of the low status given to women. After having lived with such mentality and attitudes for so long, women believe the sorts of images that the society portrays of them and that enforces their continued existence under these attitudes (Lini, 1995).

34. While there is an acknowledgement by Government that progress has been slow, women leaders themselves have commented that there have been notable changes. The late Grace Molisa, for example, noted that:

“We have detected a noticeable change in the way women in leadership roles are perceived in Vanuatu. We believe that the environment in which we are now working is one that is becoming more and more enlightened and more aware of gender equality issues than at any time in Vanuatu’s modern history” (Molisa, 2000).

## INTERNATIONAL COMMITMENTS

35. Vanuatu became a member of the United Nations on 18 September 1983 and is a signatory to a number of international treaties. Of the six UN human rights treaties it ratified the Convention on the Rights of the Child in 1993 and CEDAW in 1995.

36. The status of a Least Developed Country was accorded to Vanuatu in 1995 and in 1999 it was ranked 12<sup>th</sup> out of 14 countries in the Pacific region within the UNDP’s Human Development Index and 140<sup>th</sup> in the world. Vanuatu ranked 13<sup>th</sup> in the Pacific region and 63<sup>rd</sup> out of 124 developing countries on the UNDP’s Human Poverty Index reflecting the poor access to basic services due to the large size, dispersal and diversity of Vanuatu resulting in low life expectancy because of high child and adult mortality rates. Data is unavailable for the Gender-related Development Index and the Gender Empowerment Index introduced by UNDP in 1995 to gauge gender inequality in key areas of economic and political participation and decision making. Both the GDI and the GEM are based on life expectancy, adult literacy, school enrolments, and proportional income shares for men and women but due to lack of gender disaggregated data on female to male wage ratios or shares of earned income, these two indices have not been calculated for any Pacific island countries (UNDP, 1999). In June 2003 Vanuatu became a member of the International Labour Organization and has been in the process of becoming a member of the World Trade Organization.

37. Since Beijing there have been more awareness raising and actions taken to implement the Beijing Platform for Action. In 1996 a Government / NGO workshop was held to develop action plans to address the 12 critical areas of concern<sup>2</sup>. Vanuatu was present at the United Nations meeting in 2000 which adopted the Millennium Development Goals (MDGs) to realize the unmet goals of agreements made by Governments at various UN conferences during the 90s. In 2002 a United Nations team of experts carried out a country assessment and highlighted that potentially Vanuatu was in a position to meet the goals. Vanuatu is currently preparing its MDGs report to be presented at the UN General Assembly in November 2004.

### **NATIONAL COMMITMENTS TO THE ADVANCEMENT OF WOMEN**

38. Since Independence and, particularly with the development of the first National Development Plan in 1982 and subsequent Plans, involvement of and participation by women in national development has always been emphasized in policies without the necessary mechanisms to implement them. In 1994 during the preparations leading to the Beijing Conference, a number of reasons for the lack of concrete actions for development of women were identified. These included the lack of input from women themselves in devising plans of action to help alleviate their situation, need for institution-building and strengthening of Government, a more coordinated approach for women groups to implement development programmes for women and the lack of policy for the advancement of women to provide a national guideline for the equal treatment of, and opportunities for, women. The first National Development Plan for 1982-1986, for example, stated as its object "... to promote a change in the role of women and to work towards their full and equal participation in domestic, local and national affairs..." where women were to benefit from Government policies. The second Development Plan from 1987-1991 stated that Government remained committed to this objective and would facilitate the full and active participation of women in the development process (NPSO, 1987). The Nine Benchmarks introduced in 1997 are an example of a concrete action to be undertaken by Government.

39. While awareness raising and development of action plans have been in place to implement both national and international commitments there continues to be inadequate mechanisms to effect these plans. The often perceived lack of inclusion and participation of women in development has, to some extent, been due to the limited awareness and knowledge on how to implement these policies which have to compete with demands from the health, education and economic sectors as well as the lack of a central coordinating or advisory committee as articulated in the Nine Benchmarks. The establishment of a National Women's Coordinating and Advisory Committee, for example, with representatives from Government and NGOs to coordinate and monitor the implementation of national and international commitments, would go a long way to ensuring that goals for the advancement of women are realized.

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<sup>2</sup> Vanuatu did not include Indigenous Women in its action plan, thus there are 12 areas of concern for Vanuatu.

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 GENDER EQUITY POLICY AND THE NINE BENCHMARKS

40. The lack of a clear policy directive for women in 1994 led the Government to articulate in 1997 that:

“Women feel that their contribution to the economy is under-valued, and consequently there is too little attention paid to their special needs with regard to health care, education etc. They also feel excluded from the highest levels of decision-making, there being only one woman in parliament, none in the Council of Ministers, none among the Political Secretaries and very few in senior public service management positions or on the board of statutory corporations. This absence of one gender from positions of power is often said to be culturally determined. But culture is not static. Societies advance by selecting and perpetuating positive, human aspects of their culture while leaving behind discriminatory and constraining elements” (Government of Vanuatu, 1997).

41. **As a result nine benchmarks or goals were adopted under the Gender Equity policy:**

**BOX 1**

**NINE BENCHMARKS TO IMPROVE THE SITUATION OF WOMEN**

1. Visibility and meaningful participation in decision-making.
2. Valuation of the contribution of women.
3. Economic equality and Independence.
4. Violence against women and discriminatory laws.
5. General physical and mental health.
6. Reproductive health.
7. Customs, religion and culture.
8. Education.
9. Environmental management and subsistence production.

42. Embedded within the general reform framework, national machineries were directed to incorporate issues affecting the non-participation of women in the development process. The following targets were developed to achieve these goals:

- |   |   |
|---|---|
| i. Incorporation of gender awareness and analysis into policy making at all levels;           | iii. Review of all legislation to ensure gender neutrality;   |
| ii. Introduction of a strong gender dimension into the collection and analysis of statistics; | iv. Incorporation of gender awareness education into Government and donor-sponsored community activities on natural resource management and human resource development and at the Government Training Centre; |

- v. Development of policy and legislation on violence against women and children including rape, incest, domestic assault and sexual harassment (with the acknowledgement that in theory violence is a gender-neutral issue, but in practice some kinds of violence are disproportionately directed at women);
- vi. Creation of a working group to coordinate and monitor the above;
- vii. Appointment of a planner with specific responsibility for gender policies and programmes, and
- viii. Adoption of the Nine Benchmarks for periodic reviews of progress toward gender equity.

43. To effect these plans, an Equity Desk was established under the Department of Strategic Management and a Social Equity Task Force with representatives from both Government and civil society organizations were appointed to monitor the development and implementation of the Gender Equity Policy. Operating for a short time in the early stages of the reform, the Task Force has remained inactive in recent years. Much of the gender training and awareness to incorporate a gender perspective in national policies has been carried out by the Department of Women's Affairs. The Department of Strategic Management was established as the official government body responsible for the coordination of developing, implementing and monitoring of gender activities in the country.

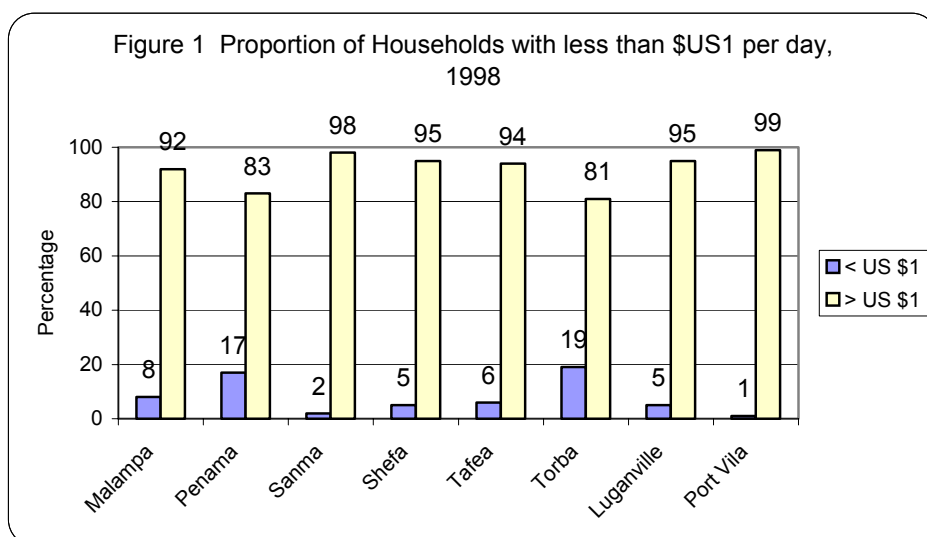
44. A Gender Planner was appointed in 2000 and placed in the Department of Women's Affairs but without the necessary budgetary allocation to support this extra position. This has posed considerable constraints on the Department's already inadequate resources. A number of interpretations can be made from this situation: Firstly the effect of placing a Gender Planner in the Department of Women's Affairs perpetuates the general misconception that gender is only about women's issues and is not seen as a developmental issue affecting both women and men; secondly, the placement was inappropriate since the position of Gender Planner requires one to develop policies and programmes from a national perspective and therefore should be placed in a strategic location such as the Department of Strategic Management or the Department of Economic and Sectoral Planning; thirdly, the placement begs the question of how serious the Equity Policy is being taken at a national level. Nearly all policy papers submitted by the Department of Women's Affairs since 2001 (including the working paper on Gender Policy Guidelines and Action Plans, Equal Opportunities Policy, Policy on Women's Health, and Policy on Political Participation and Violence Against Women) have remained working papers within the Department.

45. The Gender Planner has, nevertheless, achieved some progress under the circumstances. Gender Focal Points have been established in all Government Ministries, a 'Women in the Public Service Committee' has been established to advance women in the Public Service, gender sensitization workshops and awareness training have been conducted throughout Government (and some NGOs) and a number of working papers incorporating gender issues have been developed as a basis for future policies.

46. The national development strategies outlined in the Comprehensive Reform Programme as well as the National Summit continue to emphasize the importance of equity and access issues with



priorities emphasizing the need to improving the lives of people in rural areas and to close the gap between rich and the poor and disadvantaged groups.



**Source:** National Statistics Office, 2002b.

47. Many distinguish between relative and absolute poverty with the unofficial stand that in Vanuatu there is hardship rather than poverty; however, it is becoming more recognized that there are pockets of vulnerable groups in both rural and urban settings who face not only poverty of opportunities but also are living in poverty. Using the 1998 Household Income and Expenditure Survey data, the National Statistics Office produced a report in 2002 which indicated that seven per cent of the population were living under the \$US1 per day mark (NSO, 2002). However, the recent Asian Development Bank (ADB) publication stated that 40 per cent of all ni-Vanuatu and 51 per cent of those living in the rural areas have incomes below the poverty line of US\$1 per day. While this ADB report did not clearly indicate how women were situated, it is women and children who are often the most affected in vulnerable situations such as these pockets of poverty that are beginning to emerge in Vanuatu.

48. In Vanuatu, 'hardship' more so than poverty, has been characterised as poor living conditions; inability to get jobs; unable to afford prices of goods, school fees and materials; struggling to provide for family needs; difficulty in accessing health services and worrying about lack of money all the time (ADB, 2003). The lack of employment or income generating opportunities for a significant section of the community in Vanuatu is indicated and again, people living in rural areas are often most affected. A number of actions have been taken by Government to assist in developing the contribution of women in the economic sector. One immediate action taken by Government to implement Vanuatu's strategy to promote women's abilities to earn an income under 'Women and the Economy' in the Beijing Platform for Action was the development of a microfinance scheme, Vanuatu Women's Development Scheme (VANWODS) which came into existence in 1997.

49. Other initiatives have been to include women in economic development through the Rural Economic Development Initiative (REDI) programmes. In Sanma Province, for example, the Department of Women's Affairs was involved in the preparation of the Sanma REDI Five Year Economic Development Plan for 2003-2007 and identified a number of objectives to support, promote and train young women by the identification of school 'drop-outs' (girls) who have potential and to support their training in 'home management'. The difficulty with these goals, however, is that they continue to emphasize the traditional notion of women's work. No report has been released on how far the women's component under the REDI programmes have progressed or how effective they have been.

50. Within the urban centres the Municipal Councils of Port Vila and Luganville have both been supporting women's participation in economic development. Women's desire for training in skills for economic independence has seen the Luganville Municipal Council support small scale enterprises such as cooking and business courses which are offered by a variety of organizations including the Vanuatu Chamber of Commerce and Industries. The Port Vila Municipal Council has assisted the livelihood of women by upgrading the market house and is now in the process of building a Craft Centre for women.

51. Since the consultation and preparation of the CEDAW Report, it is important to report that on 17 May 2004 Shefa Provincial Council became the first Council to adopt CEDAW as its platform for action for women in the Province. This is the first time that any government body has unequivocally supported the Convention. As its first goal the Provincial Office is currently working on Article 7 of the Convention and supporting the recommendations from the Electoral Commission to have 30 per cent women in decision making positions. The Provincial Office has widely consulted and disseminated information on the Council's adoption of the Convention and is calling voters to have at least seven women out of 18 Councilors elected into the new Council at the November election.

#### **GENERAL RECOMMENDATIONS FROM THE UNITED NATIONS CEDAW COMMITTEE**

52. In line with Recommendations from the United Nations CEDAW Committee, this Report has attempted to address some of the concerns raised by the Committee. Particular note has been given to General Recommendation No. 18 (Tenth session, 1991) and General Recommendation No. 19 (Eleventh session, 1992) relating to women with disabilities and violence against women respectively (UN, 2000a).

#### ***VIOLENCE AGAINST WOMEN***

53. Gender based violence is an indicator of the status of women in any given society. In Vanuatu the issue of domestic violence has only recently entered the public arena. Public debate continues concerning not just the prevalence of domestic violence and strategies for addressing it, but also whether or not it is justifiable behaviour, tolerated and sometimes condoned as a man's right to discipline his wife or partner. The view that domestic violence is an acceptable aspect of marriage or cohabitation is not a fringe or extreme position in Vanuatu and the comments made by the then

President of Vanuatu Jean-Marie Leye Manatawai in the Trading Post No 57 of 24 April 1995 highlights this:

“Men should not hit their wives, but you can’t have a fire without smoke...Some men have short tempers and women should try not to make smoke”.

54. Similarly, the high rate of sexual crimes committed against women and girls are not necessarily seen as gender-based discrimination as a result of prevailing traditional and customary attitudes that women and girls are sexual objects to be used and abused. Whilst the formal legal system makes assault a criminal offence, including an assault by a man on his wife or partner, no differentiation is made in relation to assaults which take place within the domestic sphere and practice shows that an assault within the domestic sphere is usually treated differently from an assault outside it. Generally speaking domestic assault is treated as a matter less likely to require outside intervention, and when intervention is undertaken, the punishment tends to be less severe than if it had not been domestic violence (Mason, 2000).

55. Data collected for this Report from the Vanuatu Police Department between 1988 and 2002 show that intentional assault was ranked as the No. 1 form of physical violence against the person reported. Whilst neither the sex of the offenders nor the victims can be ascertained from the police records, the Office of the Public Prosecutor showed in 1994 that 62 per cent of unlawful assaults upon women were committed by men and 38 per cent by other women (Baxter-Wright, 1994). Associated with specific gender based sexual violence, rape is ranked No. 10 of all crimes reported and is the No. 1 sexual crime against women.

Table 3  
**Ranking of crimes reported in Vanuatu, 1988-2002**

<i>Types of crime</i>	<i>Total</i>	<i>%</i>
1. Theft	8 835	23
2. Intentional assault	6 406	17
3. Damage	5 352	14
4. Trespass	3 750	10
5. Unlawful entry	3 624	9
6. Drunkenness	3 112	8
7. Threats	2 136	6
8. Abusive words	1 176	3
9. Other crimes against persons	491	1
10. Rape	447	1
11. Misappropriation	443	1
12. Cruelty to animals	408	1
13. Others against property	353	1
14. Unlawful sexual assault	284	1

<i>Types of crime</i>	<i>Total</i>	<i>%</i>
15. Indecent assault	277	1
16. Unlawful assembly	235	1
17. Others against public order	213	1
18. Incest	155	0
19. Arson	152	0
20. Others against morality	145	0
21. Forgery	142	0
22. Escape	142	0
23. Fraud	118	0
24. Riot	59	0
25. Obstruction	35	0
26. Homicide	32	0
27. Obscenity	14	0
28. Corruption	2	0
<b>Total</b>	<b>38 538</b>	<b>100</b>

#### Results

- Intentional Assault is the No. 1 crime against persons in Vanuatu.
- Rape is the No. 1 sexual crime against women and No. 10 out of 28 most reported crimes in Vanuatu.
- 34 per cent or over 1/3 of all sexual crimes committed are rapes.
- 43 per cent of sexual offences of IA & USI committed are against children.
- Almost all offenders of sexual crimes against children are repeat offenders.

Table 4  
**Number of reported crimes against morality, 1988-2002**

<i>Sexual crimes</i>	<i>Total</i>	<i>%</i>
Rape	447	34
Unlawful sexual intercourse	284	22
Indecent assault	277	21
Incest	155	12
Others	145	11
<b>Total</b>	<b>1 308</b>	<b>100</b>

**Source:** Compiled for the CEDAW Report from the Vanuatu Police Force Annual Crime Statistics, various years excluding 1997-1998. Figures have been rounded off.

56. The high profile about domestic violence is due largely to the tremendous work carried out by the Vanuatu Women's Centre which have been at the forefront in advocating against domestic and

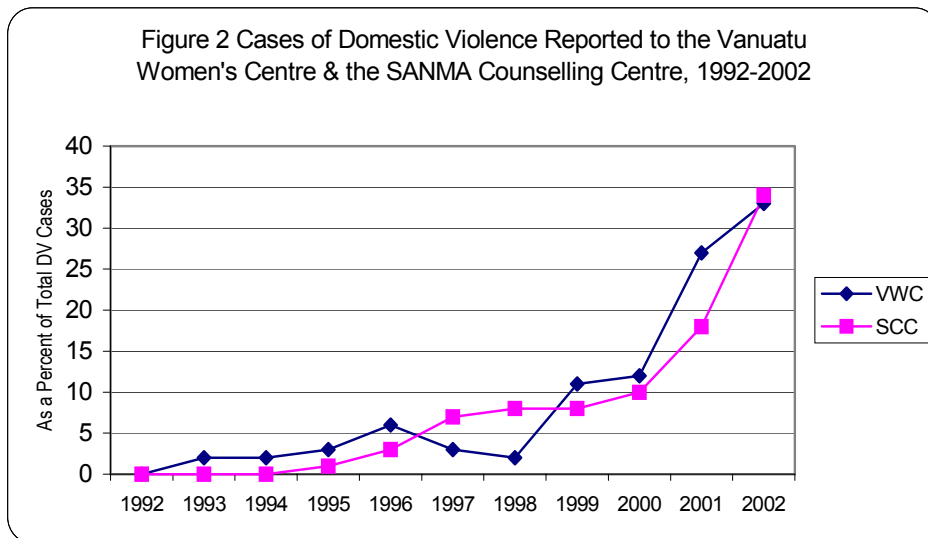
sexual violence towards women and girls since 1992. The Constitution grants women *de jure* equality and makes sex discrimination specifically illegal. Whilst there are constitutional provisions guaranteeing women equal status with men, the legal system often fails to enforce these provisions. This is particularly so in cases of intentional assaults against women. 'Domestic violence' as the general term for assaults against women is not specifically included as discrimination against women nor is it viewed as discrimination even though it is gender-based violence. The Department of Women's Affairs has given the elimination of domestic violence a high priority in its plan of action from 2003-2006.

57. There is underreporting of crimes and therefore it is difficult to tell from the official statistics whether intentional assaults have increased. Problems associated with incomplete data arise from data from police stations in the outer islands failing to reach the Criminal Records Office or else they come too late for inclusion in the Annual Reports; lack of gender training and awareness amongst officers and lack of appreciation of the importance of detailed collection of data. One issue of importance is that data provided by the Criminal Records Office rarely gets to be used in any plans to eliminate violence or other programmes, with the result that data analysis is not given a priority.

58. Reports from both the Vanuatu Women's Centre and the SANMA Counselling Centre show that there has been an increase in the number of domestic violence cases seen by them over the last decade. Since the Vanuatu Women's Centre started in 1992, a total of 2,954 cases of domestic violence have been dealt with by them. In 2002, 40 per cent of their case load was assisting clients with domestic violence problems. SANMA Counselling Centre started in 1995 and between then and 2002 it has seen a total of 1,466 cases of domestic violence which represents 32 per cent of all the cases presented during the eight years. A total of 421 child abuse cases were seen by the Vanuatu Women's Centre and the SANMA Counselling Centre by 2002 representing four per cent of all cases presented up to 2002. This high level of sexual crimes committed against our children remains a blunt reminder of the moral decay in our society. These figures can be compared with 561 cases reported between 1988 and 2002 to the police suggesting either underreporting or failure to report sexual crimes against children as well as, perhaps, indicating an inadequate legal system in prosecuting and convicting the offenders. These problems are compounded by a history of statutory pardoning of prisoners as well as lenient sentencing of child sexual offenders resulting in a legal system which is unable to protect children and women.

59. Due to the high levels of violence against women and children, Government identified this as a high priority in 1997 and drafted the Family Protection Order Bill. This proposes, among other things, to preserve and promote harmonious relationships, eliminate domestic violence at all levels of society and ensure effective legal protection of victims of domestic violence. Since 1998 consultation and awareness on the Bill has been provided widely to men and women mostly by women's NGOs and in the past two years by the Department of Women's Affairs. Whilst it is expected to be presented to Parliament by the end of 2004, the delay has largely been attributed to a number of contributing factors including political instability or as one newspaper stated the "... customary attitudes regarding traditional familial roles in Melanesian society ... and to the misconception and misunderstanding of the Bill by the general public who think that the Bill is another one of the Women's Rights Movement

charade designed to grant women more power to destabilise the status quo in Melanesian society” (*The ni-Vanuatu*, 26/8/04, p. 4).



**Source:** Vanuatu Women's Centre, 2003.

60. The Department of Women's Affairs has prioritized violence against women as an area for policy development over a six-year period and in its policy paper on *Violence Against Women 2002-2006* it proposes to work to “reduce and eventually eliminate violence against women, protect women who have experienced violence and ensure that perpetrators of violence are held accountable”. The Department established an inter-agency working committee consisting of Government, NGOs and other civil society organizations to coordinate the implementation of the following five strategies:

- Provision of reliable data on the extent of violence against women and its impact on society
- Changing the entrenched attitudes that blame violence on women
- Training of key people who deal with violence against women
- Enactment of legislation to incorporate Vanuatu's obligations under CEDAW and the Convention on the Rights of the Child, and
- Establishment of a special, comprehensive unit dedicated to dealing with family violence.

61. The following targets were developed but without specific reference to time frames:

- To research into the extent and impact of violence against women in Vanuatu;
- To legislate reforms to incorporate Vanuatu's obligations to the Convention on the Rights of Children and CEDAW including the Family Protection Order Bill and the equity amendments to legislation;

- To achieve attitudinal change and provision of professional training for those working with violence against women and to establish a Family Violence Centre;
- To support, strengthen and expand the services of those NGOs and other agencies currently working in this area such as the Vanuatu Women's Centre, the Vanuatu Family Health Association & Wan Smol Bag; and
- To seek funding for a five year period to realize the goal of eliminating violence against women in Vanuatu.

62. A Domestic Violence Task Force consisting of representatives from Government and NGOs started but is currently not operating. In 2003 it began the process of researching on violence and *kastom* and in January 2004 the Department of Women's Affairs was directed by the Department of Strategic Management to 'implement' CEDAW, presumably as a result of the slow progress on the plans of action identified in 1996 as well as the plans developed under the Comprehensive Reform Programme.

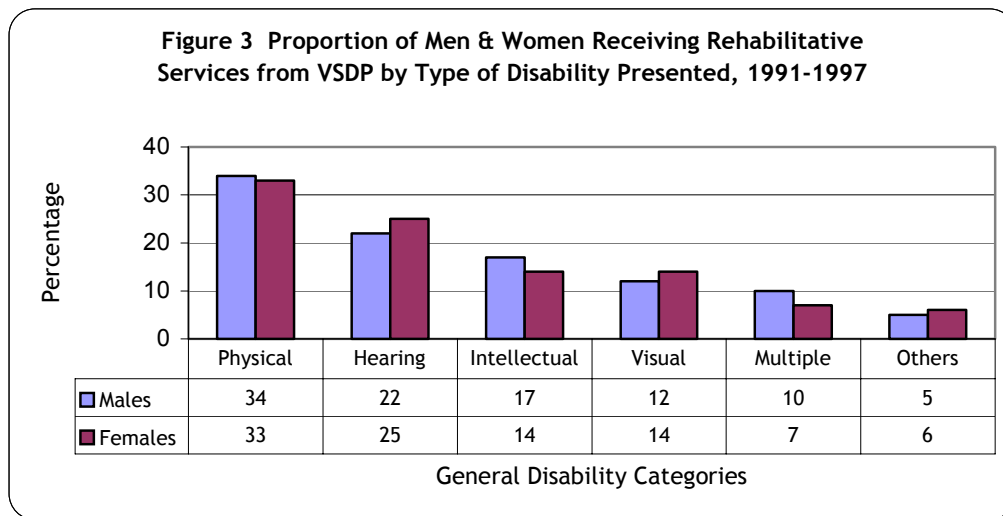
### ***Women with Disabilities***

63. Women with disabilities continue to remain the most disadvantaged and marginalized of all women in Vanuatu. In the pre-census survey conducted by the National Statistics Office in 1999 a total of 2,749 persons with disabilities were listed, with 1,125 or 41 per cent being women. This represents approximately one per cent of the population and moves are currently underway to do a national survey<sup>3</sup> which will provide a more in-depth analyses of the situation of women with disability. Services for men, women and children with disability are limited to those provided by the Vanuatu Society for Disabled People. Care of persons with disability are left mostly to family members.

64. Many women with disabilities are mothers and caregivers themselves and continue to experience barriers to full participation in society as a result of the interrelationship between myths and stereotypes about disability and myths and stereotypes about women. Whilst statistics of persons with disabilities are available, very little data is available on the actual experiences and lives of women or men with disabilities. Unpublished reports from the field workers of the Vanuatu Society for Disabled People and the Vanuatu Women's Centre place women with disabilities at considerably more risk from physical and sexual abuse and neglect (Disability Promotion & Advocacy Association, 2002). The gendered roles of women as care givers and their other roles in society often create difficulties for women with disabilities who must perform a wide range of physical maintenance tasks or if their conditions deteriorate they too need extensive care themselves. Yet many are unable to perform at least some of these tasks and instead they require personal care and assistance with dressing, bathing, eating, thus demanding a caring role from their families instead of providing it. The issue of the aging caregivers in urban centres also requires attention as Vanuatu does not have institutional care facilities for people with disabilities.

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<sup>3</sup> In 2003 the Vanuatu Society for Disabled People undertook a disability survey on the island of Tanna with the assistance from Inclusion International which showed that one per cent of the population had one or more disabilities (Pascoe, 2003).



**Source:** Piau-Lynch & Tataki, 1998.

65. The gendered aspects of women as caregivers and the need for recognition to be given to women with disabilities was voiced as follows in 1999:

“Women and girls face particular challenges, barriers, demands and risks with respect to disabilities. Societal attitudes already disadvantage women on the one hand and people with disabilities on the other. Women with disabilities are thus doubly disadvantaged, more likely to not be supported to attend school, more likely to be denied employment etc. The normal vulnerability to physical and sexual abuse that women and girls face is increased when that person is made more vulnerable due to a disability, perhaps beaten for work that one can’t perform or less able to resist a sexual assault. The disability may also make it more difficult for the person to escape the abusive situation or to seek assistance. Disability is also a ‘gendered issue’ for another reason. The vast bulk of the caregiving workload for those who look after people with disabilities falls on women and girls, turning the infamous ‘double day’ into a triple day of demands” ... (Wolffe, 1999).

66. While there are some services provided at the Vila Central Hospital in prosthetics, only the Vanuatu Society for Disabled People has been providing rehabilitative services to women, men and children since 1986. With no government support these services have been hampered over the past decade and thereby people with disabilities are unable to access service deliveries and opportunities in both rural and urban areas. This contributes to the other barriers that deny the participation of, and contribution by, women and men with disabilities to services including rehabilitation, education, health and other national programmes. However, there is support from local as well as international development partners.

67. Through the advocacy role played by DPA since its establishment in 1999, it has worked with Government which has seen a number of positive changes taking place at the national level. In 2003, for example, the Vanuatu Government successfully lobbied the South Pacific Forum Heads of



Government to endorse the ‘Biwako Millennium Framework of Action Toward the Asian & Pacific Decade of Persons with Disabilities, 2003-2012’ (BMF) with the result that now the Forum Secretariat is addressing disability issues. Of the seven Priority Goals of the BMF, Goal No. 2 is Women with Disabilities. In April 2004 DPA was able to assist the Government develop and write the National Disability Policy in which the priority goals of the BMF have been incorporated. Priority No. 3 of Vanuatu’s National Disability Policy is “To recognize that women with disabilities are doubly discriminated against and ensure that issues affecting them are incorporated into national programmes and policies”. As yet, no actual programme has been developed to implement the National Disability Policy or the Biwako Millennium Framework for Action. However, for the first time in the country’s history, the Prime Minister’s Department has included an item in the 2005 national budget for disability organizations and programmes for persons with disabilities.

68. The relationship between the effects of gender-based violence and disability has not been studied in Vanuatu although available data from the Vanuatu Society for Disabled People shows that one third of disabilities suffered by both women and men are physical. Whether some of these women acquired the disability as a result of violence against them, or became amputees as a result of diabetes or from other sources, is not known.

## Article 1

**For the purposes of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.**

1.1 The Constitution of Vanuatu guarantees fundamental rights and freedoms and prohibits discrimination based on a number of grounds, including sex. These rights listed in the Constitution are to be afforded without discrimination as to sex and include equal treatment under the law or administrative action. Provisions specifically making discrimination illegal on the grounds of sex should mean that any legislation or practice that discriminates against women is illegal; in practice, however, discrimination against women and men on the basis of sex and other does grounds exist. The Convention is directed at eliminating discrimination against women. Discrimination against a man on the grounds of his sex by reason of the granting to women rights or privileges in connection with pregnancy or childbirth is not considered discriminatory. Indeed pregnant women are afforded substantial protection under the Employment Act.

1.2 The definition contained in Article 1 is reflected in the Constitution as well as in a number of items of legislation. While the essence of discrimination is that a person is treated less favourably than a person of the opposite sex would be treated in a similar situation, there is no specific definition of discrimination. Further, there are no Constitutional provisions protecting against discrimination of citizens on the basis of marital status; however, this is covered in some policies of individual Government Departments.

1.3 Section 3(1) of the Interpretation Act (Cap 132) provides for any words and expressions importing the masculine gender to include the feminine and vice versa. However, the looseness with which words such as ‘he’ or ‘she’ occur in the laws of Vanuatu does not necessarily import sex discrimination in a statute. In some cases, it can be argued that requirements such as employment criteria which do not directly refer to sex are neutral and non-discriminatory. In fact, certain criteria, for example, related to the person’s height and weight as in the airline industry, can be discriminatory because one sex is much more likely to satisfy the criteria than the other. There is currently no policy on equal opportunity although opportunities based on ‘merit’ is one of the bases of recruitment and promotion in the public service. In 2003 the Department of Women’s Affairs proposed development of new legislation to include policies for equal employment opportunity and sexual harassment.

1.4 Within Government, there are more internal policies that provide for non-discrimination. The Public Service Act, for example, provides for non-discrimination in the workplace and for recruitment, selection and promotion to be based on merit. Two of the 12 guiding principles of the Public Service and the Public Service Commission Act of 1998 are to:

- i) make employment decisions based on merit and
- ii) provide a workplace that is free from discrimination and recognizes the diverse background of employees.

1.5 Amended through Act No. 8 of 2001, the definition of ‘Employee’ in relation to the Public Service has changed from being:

“a person employed therein whether on the permanent staff or temporarily or on probation or as a casual employee or daily rated worker, whether by way of written contract or otherwise but does not include a Director General or Director...”

to mean

“a person employed in the Public Service on a permanent basis”.

1.6 Since many women are employed in the lower end of the ladder on a casual or daily rated basis this has direct impact on them as it denies them entitlements that would otherwise be owing to them had they been employed as ‘permanent’. Some women have been employed as daily rated for as many as five years even though the policy states that they are required to be appointed as permanent after three months. Some of the entitlements include for example, 12 weeks of maternity leave on full salary, that would be owing to them had they been employed as ‘permanent’ officers. Temporary female salaried employees and female daily rated workers are also entitled to 12 weeks maternity leave but on half pay. It is unclear how many women have worked, in some cases, over 15 years as temporary workers. Since 2002 the Ministry of Health has begun to assess staff who are on temporary or casual basis with the intention of reviewing their condition of employment.

**Box 2****Employment Act (Cap 160)**

No country in the Pacific region has a Sex Discrimination Act or similar legislation to allow women to challenge discrimination in the paid work-place. Vanuatu is the only country whose Employment Act attempts to grant women the right to equal pay for equal work, and to prevent the exploitation of labour for both women and men. Below are summaries of the relevant sections:

- Section 8(1) If a woman and a man are doing similar work in the same organization, they should receive similar rates of pay.
- Section 8(2) A woman is regarded as doing the same work as a man if her work and his is the same or broadly similar, and if any differences between the things she does and the things he does are not of practical importance in relation to terms and conditions of employment.
- Section 8(3) The section above may not apply if the employer can prove that a variation in wages is due to a genuine difference and not a sexual difference.
- Section 13(1) Employers must make appropriate sanitary arrangements and wherever possible, arrangements for breast-feeding and other care of employees' young children.
- Section 22 Employers must not make any employee work more than 44 hours or more than six days a week or more than eight hours a day excluding free time.

(Jalal, 1998)

1.7 The Employment Act does, however, limit opportunities for women in paid work in various ways. Putting legal restrictions on women's work does not always protect women but can confine more women to undervalued and underpaid work and thereby legalizes discrimination.

1.8 Since the establishment of the Office of the Ombudsman in 1994 the number of cases of discrimination have increased from 0 in the first year to 80 in the fourth year but it is not clear what type of discrimination was reported. In 1999 a different basis of categorization was introduced as a result of the amendment to the Leadership Code Act and the new Ombudsman Act and changes in the categorization of complaints have meant that cases previously categorized under discrimination are no longer reported. Further, while complaints were categorized under the general heading of 'Discrimination', there are no indications of the type of discrimination complained against nor are the figures disaggregated by sex. As a result, no useful comparisons can be made to see which type of discrimination is common, or if there has been any increase or decrease in the frequency of occurrence of complaints of discrimination over the years.

Table 5  
**Categories of complaints received by the Office of the Ombudsman, 1994-1999**

Complaints	1994/1995	1995/1996	1996/1997	1997/1998	1998/1999
Unfair decision/action	17	41	71	133	-
Administrative error	5	7	5	21	-
General mal-administration	30	104	136	267	454
Abuse of power	1	16	51	154	-
Discrimination	0	3	14	80	-
Corruption	6	7	17	48	-
Language rights	-	-	-	-	14
Leadership	-	-	-	-	123
Others	3	30	59	147	23
<b>Total</b>	<b>62</b>	<b>208</b>	<b>353</b>	<b>850</b>	<b>614</b>

**Sources:** Office of the Ombudsman, 1998; 1999a.

1.9 A review with the view to re-introducing 'Discrimination' as a category of complaint disaggregated by sex would assist the Office of Ombudsman in monitoring the incidence of discriminatory practices.

1.10 No figures are available from the Labour Department on cases of discrimination. Only since January 2004 has the Department begun to systematically compile monthly labour statistics from all its offices.

## Article 2

**States parties 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 this end, undertake:**

- a) **To embody the principle of 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;**
- b) **To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;**
- c) **To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;**

- d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;**
- e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;**
- f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;**
- g) To repeal all national penal provisions which constitute discrimination against women.**

2.1 Article 5(1) of the Constitution of Vanuatu embodies a strong commitment to human rights and provides for fundamental rights and freedoms of the individual without discrimination:

The Republic of Vanuatu recognizes, that, subject to any restrictions imposed by law on non-citizens, all persons are entitled to the following fundamental rights and freedoms of the individual without discrimination on the grounds of race, place or origin, religious or traditional beliefs, political opinions, language or sex but subject to respect for the rights and freedoms of others and to the legitimate public interest in defense, safety, public order, welfare and health-

- (a) life;
- (b) liberty;
- (c) security of the person;
- (d) protection of the law;
- (e) freedom from inhuman treatment and forced labour;
- (f) freedom of conscience and worship;
- (g) freedom of expression;
- (h) freedom of assembly and association;
- (i) freedom of movement;
- (j) protection for the privacy of the home and other property and from unjust deprivation of property;
- (k) equal treatment under the law or administrative action, except that no law shall be inconsistent with this sub-paragraph insofar as it makes provision for the special benefit, welfare, protection or advancement of females, children and young persons, members of under-privileged groups or inhabitants of less developed areas.

2.2 All of these rights and freedoms, except the freedom from torture, are stated to be subject to exceptions which are specified in the provisions. One issue of a general nature which is very basic to the application of the provisions protecting fundamental rights and freedoms is whether the fundamental rights and freedoms described in the Constitution are to be observed by, and are therefore enforceable against, the State, or private individuals, or both because the Constitution does not contain any express statement on who is bound by the fundamental rights and freedoms provisions (Paterson, 1999). Article 2 of CEDAW on the other hand is quite specific in that all the provisions in the Convention bind the Government, individuals, and enterprises and if these provisions are not contained in any legislation, the State, through its ratification, is required to amend or introduce amendments to effect these provisions. When the Convention was ratified, it was done so under

Article 26 of the Constitution which provides for ratification of treaties negotiated by the Government and presented to Parliament when they:

- (a) concern international organizations, peace or trade
- (b) commit the expenditure of public funds
- (c) affect the status of people
- (d) require amendment of the laws of the Republic of Vanuatu
- (e) provide for the transfer, exchange or annexing of territory.

2.3 Paterson (1999) provides the example of the High Court of Australia which has analyzed the national responsibilities of a country that ratifies an international convention. In *Minister of Immigration and Ethnic Affairs v Teoh (1994) Australia*, the case specifically concerned whether the United Nations Convention on the Rights of the Child should be applied to a particular child in Australia, which had ratified the Convention but had not formally made the Convention part of national law. The High Court said that although such conventions cannot be used as “a direct source of individual rights and obligations under the law”, ratifying a convention was a “positive statement to the world and to the people of Australia that the ... Government and its agencies will act according to the Convention ... Since then the people of Australia, and the international community have had a right to expect that the Government and its agencies would abide by the principles of the Convention ... The 1994 High Court of Australia decision means that by ratifying CEDAW, Australia has created a legitimate expectation that the Government and its agencies will act in accordance with CEDAW principles”.

2.4 In Vanuatu, the Courts have acted in accordance with the *legitimate expectation* created by the Government, by virtue of it ratifying CEDAW without reservations, that it, and its agencies, will act in accordance with CEDAW principles. This was borne out in the 1995 court case of *John Noel and Ors v Obed Toto* involving land.

**Issue** Article 5 of the Vanuatu Constitution grants equal rights to men and women. Article 72 says that “the rules of custom shall form the basis of ownership and use of land”. If there is conflict between customary law and the Constitution, which law should prevail?

**Decision** Customary law is the basis of land ownership in Vanuatu but it is subject to the Constitution and cannot be applied if it discriminates against women. Under Article 5 of the Vanuatu Constitution, men and women have equal rights. This is a fundamental principle, which overrides any law or custom contrary to it. Further, a decision giving more rights to men than to women would be contrary to the United Nations Women’s Convention, which the Vanuatu Parliament had recently adopted.

Therefore, Obed Toto’s sisters and brothers were equally entitled to a share in the income from Champagne Beach. No distinction should be made between the legitimate children of Crero’s first wife, and the children of his *de facto* wife. Obed Toto was the head of the family but was obliged to share the income equally with his sister, brothers, half-sisters and half-brothers and descendants (Jalal, 1998).

2.5 Although the Convention is not directly part of domestic law, the court's decision in the case of *John Noel and Ors v Obed Toto* has used the legitimate expectation that by ratifying CEDAW and by making official commitments at the 1995 Beijing world conference on women, Vanuatu had endorsed the international standard of women's human rights. Underlying these international commitments and Conventions is the principle of equality. In 1997 Government introduced the Gender Equity Policy under the Comprehensive Reform Programme directing Government machineries to incorporate gender perspectives in their programmes. In 2002, for example, the Ministry of Health produced a range of policies which was, according to the Minister for Health,

“... a great stepping-stone for the Ministry to come up with its first ever major national policy document. In the past the Ministry had no policies of its own and relied heavily on ratifying international treaties as the basis of providing service delivery for the nation”.

2.6 In committing itself to the importance of equity in the workplace, the Ministry of Health expanded the definition contained in Article 1 of CEDAW to:

“Eliminating all forms of discrimination in the workplace based on age, sex, race, place of origin, geographic location (urban/rural), culture, language, physical, intellectual or [psychological] disability, industrial activity, political beliefs or activities, religious beliefs or activities, sexual preference, pregnancy, status as parent or carer/family responsibilities or by personal association with anyone who has any of these characteristics.”

2.7 By prohibiting discrimination on the grounds of disability, sexual preferences, pregnancy, and status as parents and caregivers or anyone associated with persons with these characteristics, the Ministry of Health has produced the most comprehensive policy statement yet in the country incorporating grounds for non-discrimination not evident in many policies or legislation. This comprehensive definition follows very much the provision under Article 2 of the Convention on the Rights of the Child<sup>4</sup>. The Ministry of Health also provides free health services to persons with disabilities. Currently it is reviewing all legislation pertaining to health which review should be completed by 2006. Other legislation and policies which outlaw discrimination are provided below.

### **Employment Act (Cap 160)**

2.8 The inalienable right to work without coercion is protected under Article 5(1)(e) of the Constitution which provides that an individual's fundamental rights and freedom include freedom from inhumane treatment and forced labour. These Constitutional provisions to the right to work and be protected from discrimination are further enforced by legislation providing for non-discrimination in employment, equal remuneration, benefits, and the health, safety & welfare of employees. Sections 7 & 8 of the Employment Act No. 20 of 1986 (Cap 160) provides for general prohibition of forced or compulsory labour and prohibition of sex discrimination in employment respectively as summarized in Article 1.

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<sup>4</sup> Article 2: States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, property, disability, birth or other status.

2.9 Part VIII of the Employment Act provides for conditions pertaining to the Employment of Women and Young Persons and states that:

“Women shall not be employed during the night in any undertaking except where the night work has to do with the processing of raw materials or is necessitated by an emergency or is that of a woman in a responsible position in management or for nursing and caring for the sick or other health or welfare work or women are employed in the hospitality/tourism industries such as theatres, hotels, restaurants, clubs, transport by air and sea and working in the communication industries including telecommunication”.

2.10 These legal restrictions have not, however, deterred women in any way as it is quite obvious that women have been, and are free, to seek employment, and are employed, in a variety of occupations. The only place where no women are working is on fishing boats. The freedom to choose to work in whatever profession is limited by the availability of jobs and opportunities to create jobs as well as educational opportunities available to women. The Employment Act prohibits employment of persons under specific ages such as the prohibition of young persons under 18 years to work to ships. The law does, however, recognize that under certain conditions, young persons may work with their parents in agricultural activities.

2.11 Whilst the Employment Act contains generous maternity provisions, many employers in the private sector continue to disregard these provisions and discriminate against women on the grounds of maternity as will be discussed in Articles 4 and 11. Avenues to redress discriminatory practices through the government machinery are available through the Public Service Commission, Office of the Ombudsman, Labour Department, Unions or through the use of private lawyers. The ILO Conventions, embodying standards agreed upon by recognized workers' groups, employers' groups and Government representatives (which have yet to be ratified since Vanuatu joined the International Labour Organization in June 2003) offers another way for advancing women's employment rights as well as a mechanism for raising employment complaints.

2.12 Section 46(1) of the Employment Act provides that every employer shall take appropriate steps as soon as possible to remedy any working conditions which may be dangerous for the health or welfare of employees. In this instance, the provision is broad and covers both women and men, not only women.

#### **PUBLIC SERVICE MANUAL PROVISIONS ON MARITAL STATUS, MATERNITY PROVISIONS AND STATUS OF CHILDREN**

2.13 A number of provisions in the Public Service Manual (Public Service Commission, 2002) are mentioned below that are quite advanced in terms of recognizing the status of employees. Section 5(1), for example, provides for Child allowances and no distinction is made whether the child is natural or adopted for which the employee has legal custody and for which the employee is financially responsible. Section 5.1(g) recognizes couples who are legally married as well as defacto partners and leaves it to the couple to decide which spouse or defacto partner should receive this child allowance.



2.14 In line with the Employment Act and generous provisions for maternity entitlements, s 7.6(a) of the Public Service Manual provides that a female permanent officer is entitled to 12 weeks maternity leave on full pay and section 7.6(b) provides that temporary female salaried employees and female daily rated workers are entitled to 12 weeks maternity leave on half pay. Section 7.65(d) allows one hour each day for breast feeding and such breaks are counted as working hours and form part of the staff member's 36<sup>1</sup>/<sub>4</sub> standard weekly working hours. The Public Service Act requires that "the selection of persons for appointments and promotion to be based upon merit".

2.15 The Public Service Commission has policies that pursue non-discriminatory practices. The Public Service has provisions to select appointees based on 'merit'. This can be construed as limiting women in middle level administration who often do not apply for senior positions because they do not have the experience or skills necessary to advance. The 'glass ceiling' effect is quite pronounced in the Public Service as indicated by the low number of women advancing to senior management level. The Department of Police, for example, has provisions for non-discrimination but still contains discriminatory provisions against women, particularly with reference to transfers and leave entitlements for female officers. It is currently reviewing its policies and this review should be completed in 2004.

### **Penal Code Act (Cap 135)**

#### **2.16 Section 150 of the Penal Code provides that discrimination is illegal:**

"No person shall discriminate against another person with respect to his right to the supply of goods or services, or to gain or continue in any employment, or to be admitted to any public place, by reason of the sex, ethnic or racial origin, or the religion of such other person."

2.17 The Penal Code was amended<sup>5</sup> in 2003 ridding some of the discriminatory provisions identified by Zinner-Toa & Wano in 2000 as will be discussed below. Recognizing the increasing frequency of child abuse, the amended Code has provided substantial additions relating to prostitution of children and use of children for pornographic purposes which did not exist previously. No other amendments have been made to the other pieces of legislation identified as containing discriminatory provisions. Thus, whilst the formal legal system in Vanuatu offers significant protection to women with constitutional guarantee of their equal status with men, it often fails to enforce women's rights (Mason, 2000). This is particularly so in cases of intentional assaults against women. 'Domestic violence' as the general term for assaults against women is not specifically included as discrimination against women nor is it viewed as discrimination even though it is gender-based violence.

2.18 *In 2001* the Judiciary, under the leadership of the Chief Justice Vincent Lunabek, invoked Article 5(1)(k) of the Constitution and Article 3 of CEDAW and instituted special temporary measures to address the increasing need of women for immediate legal relief for their safety and protection in abusive relationships. This is provided for in the Courts (Domestic Violence Protection Order) Rule No. 67 of 2001 providing redress in situations of violence faced by women (which is discussed in

<sup>5</sup> Penal Code (Amendment) Act No. 17 of 2003.

Article 4). Similarly, the high rate of sexual crimes committed against women and girls is not necessarily seen as gender-based discrimination as a result of prevailing traditional and customary attitudes that women are the property of men and the diminishing level of respect afforded to women.

### **Education Act No. 21 OF 2001<sup>6</sup>**

2.19 The Education Act of 2000 legislates against discrimination based on sex for enrolment of school children. Included in this Act for the first time are non-discriminatory provisions based on disability and giving equal opportunity for children with disabilities to be included in the education system. What needs to also be considered is extending this positive action to include children whose parents or guardians are disabled. Article 10 (a) provides for the same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories, in rural as well as in urban areas and this equality is to be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training. Article 10 (b) provides for access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality. Article 10 (c) legislates for the elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods.

### **Citizenship Act (Cap 112)**

2.20 This piece of discriminatory legislation will be discussed in Article 9.

### **LEGISLATIVE REVIEW TO ENSURE GENDER NEUTRALITY**

2.21 One of the targeted actions identified under the Gender Equity Policy in 1997 to ensure gender neutrality was to review discriminatory laws. In 2000 a study was commissioned by Vanuatu Women in Politics (VANWIP) under the Good Governance Project "... to review all legislation to ensure gender equality as recommended by the CRP and in conformity with the Vanuatu Government's commitments in the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women ... so that future recommendations may be made for changes or reform to the laws which contain gender discrimination ...". The review was limited solely to legislation and did not cover other forms of regulations, by-laws and internal memorandums and concluded that:

“Although the Constitution clearly states that there is equal treatment under the law, this does not show in the Acts that are passed by Parliament...” (Zinner-Toa & Wano, 2000).

2.22 Of the 208 Acts reviewed 12 were found to contain discriminatory provisions as indicated below. As yet Vanuatu does not have a Law Reform Commission to assist in the required revision of legislation.

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<sup>6</sup> The Administration of Schools Act (Cap 21) was repealed by this Act.

MARRIAGE AND FAMILY	Maintenance of Family Act (Cap 42); Control of Marriage Act (Cap 45); Maintenance of Children Act (Cap 46); Marriage Act (Cap 60); Matrimonial Causes Act (Cap 192)
CITIZENSHIP AND NATIONALITY	Citizenship Act (Cap 112)
EMPLOYMENT AND LABOUR	Employment Act (Cap 160)
SEXUAL OFFENCES	Penal Code Act (Cap 135)
MISCELLANEOUS	Immigration Act (Cap 66); Rent Taxation Act (Cap 196); Chamber of Commerce and Industry of Vanuatu Act No. 4 of 1995; Mental Hospital Act (Cap 38)

2.23 A review of the Constitution was first attempted in 1991. In 2001 another review was undertaken involving a nation-wide process of consultation. In 2003 a Review Committee was appointed to review the work of the Constitutional Review Committee.

2.24 Throughout the islands there are traditional systems of maintaining harmony, one of which is the chiefly system. This is recognized by Article 30 of the Constitution that gives the Malvatumauri Council of Chiefs general competence to discuss all matters relating to custom and tradition. One such power given to the chiefs is for them to make recommendations for the preservation and promotion of ni-Vanuatu culture and languages and to be consulted on any question relating to tradition and custom in connection with any Bill before Parliament. Respect for the authority of chiefs for example, has been instrumental in resolving conflicts between the people and public institutions and communities. Customary practices which govern matters such as land rights, inheritance, marriage, divorce, child custody and punishments discriminate against women and children as do customary methods of redress and often these discriminatory customary practices are not seen as against the law because they are *kastom*.

2.25 Articles 71-79 of the Constitution deal with the custom ownership of land and say that the rules of custom shall apply to all land. Article 45 encourages island courts to decide matters 'wherever possible in conformity with custom' and s3(1) of the 1983 *Island Courts Act* requires each court to have at least 'three justices knowledgeable in custom'. One of these must be a "custom chief" from the region covered by the court. Since most chiefs in the nation are men, it is highly unlikely that this form of discriminatory practice will be readily amenable to change. Further, women are very rarely called as experts, although they are considered the carriers and sustainers of custom from one generation to the next (Jalal, 1998) In a recent review of the Lands Tribunal Act, one of the main recommendations was to include more women on the Tribunals. Legislation providing for the 'best interests of the child' in matters relating to custody is discriminatory against women because in many customs, children are regarded as the property of fathers. Laws of inheritance discriminate against indigenous women, naturalized women and male children particularly in matrilineal societies.

2.26 The differential treatment afforded to women is evidenced in nearly all areas of life from the limited participation of women in Parliament, Provincial & Municipal Councils and statutory bodies to the high degree of violence against women and children throughout the country. Damages awarded

by chiefs including the practice of *kastom faen*<sup>7</sup> doubly discriminates against women who are victims in physical and sexual assaults. Whilst legal, religious and custom principles provide the basis for a society that should promote equality, discrimination against women is wide spread. The social, cultural and economic roles assigned to women bear a direct relationship with the prevailing societal attitudes - held by most men and women - of the position of women in society. As indicated by Lini (1995) in the Background section of this Report, in most instances, women too take these attitudes as something that is *kastom* which aids in the maintenance of the status quo.

2.27 While the legislative review undertaken above by Zinner-Toa & Wano was specifically to identify legislation to ensure gender neutrality, there are pieces of legislation and customs which contravene the laws of the country and which are in effect discriminatory against women. One practice that discriminates against women is the customary method of punishment against offenders called *kastom faen* performed by both victims and offenders on the grounds that the community must carry on in peace and is not for the benefit of the individual offender. This practice is often discriminatory and unfair on victims, particularly women, who too must pay some customary dues. While it should not be a substitute for punishment, nor lessen the punishment in the formal legal system, in general, the punishment problem arises from misunderstanding and misapplication of formal and customary laws. In 1991, for example, the Malekula Magistrate's Court accepted withdrawal of criminal charges in an attempted rape because the offender had obeyed a compensation order by the *kastom* court. Many women say that women are a custom commodity, used to obtain money; the rapist or his family receive customary punishment or make payments, not to the survivor but to the chief of her village. When charges are not withdrawn, customary fines sometimes influence the prison sentence as the case below shows.

***PUBLIC PROSECUTOR V TABISAL (1991)***

The accused had pleaded guilty of rape of a girl of nine. He paid, to the chiefs, a customary settlement of three pigs and six mats, valued about 74,000 vatu. Neither the rape survivor nor her parents shared in the compensation. In court, the charge was reduced from rape to unlawful sexual intercourse. The [Supreme] Court said that the offence was very serious because of the girl's age but gave the accused a three year sentence because he was a first offender and had made a customary settlement (Jalal, 1998).

2.28 Some may justify rape as a reconcilable offence by saying that reconciliation or *kastom faen* is a customary practice and is acceptable because customary practices are recognized by the Constitution. In 1993 a judge said that "custom settlement in rape cases had no place in the courts" (Jalal, 1998). In a delivery at the Conference on Violence and the Family in 1994<sup>8</sup> the Public Prosecutor had this to say:

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<sup>7</sup> Literally meaning customary fines which can include custom materials such as mats, kava, chicken, pigs. In some cases money is also included in the calculation of the fine depending on the severity of the offence.

<sup>8</sup> Organized by the Vanuatu Women's Centre in commemoration of the UN International Year of the Family, August 1994.

**“I disagree with the view that no case should be withdrawn simply because there has been a customary settlement. Clearly, the existence of a custom settlement would constitute reasonable grounds for withdrawing some cases. Every case has to be considered on its merits, having regard to the seriousness of the offence. It is my view that there are a number of offences which are intrinsically so serious that the matter should always be prosecuted before the Courts irrespective of whether or not there has been a customary settlement and provided the case is evidentially sound. Rape, incest, unlawful sexual intercourse involving a girl under 13 years of age, and serious indecent assault fall within that category. In addition, intentional assault causing permanent harm, intentional assault causing death, and intentional homicide, should always be prosecuted” (Baxter-Wright, 1994).**

2.29 The Constitution further contains provisions that indirectly discriminate against women. Article 5(1)(i) for example, guarantees all citizens the right to freedom of movement.

#### **CASE PUBLIC PROSECUTOR V KOTA AND OTHERS (1993)**

**Facts and Decision** The custom chiefs of Tanna forced a woman to leave Port Vila and return to her husband. She argued that the action by the chiefs had violated Vanuatu’s constitutional guarantee of freedom of movement. The chiefs argued that customary law give them the right to make a woman return to her husband. The judge said:

“There is a conflict between ... Custom and the Law of Vanuatu as passed by Parliament and the people of Vanuatu ... the chiefs must realize that any powers they wish to exercise in custom [are] subject to the Constitution ... and Statutory Laws of Vanuatu ... A significant number of cases ... come before this Court as a direct result of the failure to treat women equally as the Constitution requires in Article 5(1)(b). Further, freedom of movement is guaranteed under Article 5(1)(i), and Section 105 of the *Penal Code* makes it unlawful to force “any person to go from one place to another”.

2.30 The judge referred to the male bias of the chief’s point of view, and drew attention to a general misunderstanding of the constitutional rights of the chiefs. He said that if any legislation were passed to clarify the roles of chiefs, “... the fundamental rights of women must be protected...” (Jalal, 1998).

#### **PRISONS (ADMINISTRATION) ACT (CAP 20) & ARTICLE 38 OF THE CONSTITUTION**

2.31 Another practice that has yet to effect Article 2(d) of the Convention is the statutory powers granted to release prisoners. Section 30 of the Prisons (Administration) Act (Cap 20) provides that the Minister responsible for prisoners

may order the release of any prisoner on license for the period of the unexpired portion of his sentence subject to such conditions as may be prescribed in the said order.

Article 38 of the Constitution provides that

The President of the Republic may pardon, commute or reduce a sentence imposed on a person convicted of an offence.

2.32 Such decisions to release prisoners on licence have been decreed over the years on certain dates such as 30 July and 25 December contrary to Article 5(1)(d) of the Constitution. Some of those to benefit from these early releases and pardons had committed the most serious sexual offences, only to re-offend soon after their release. In some instances, they had been convicted of further offences, returned to prison and yet again been released. Below are two of the most glaring examples of serious sexual offenders being severely punished by the court, released pursuant to one of the provisions above, only to re-offend and then again to have their sentences cut (Baxter-Wright, 1994).

**I. THE CASE OF SIMON** On 19 December 1991 Simon was convicted on seven counts involving indecent assault upon his nine year old step-daughter and unlawful sexual intercourse and intentional assault with his 13 year old step-daughter. On the same day he was sentenced to seven years imprisonment. On 25 December<sup>9</sup> he was released on licence and on 28 December he again had sexual intercourse with the elder step-daughter. On 27 February 1992, having been recalled to serve the original seven years, he was sentenced to an additional one year, effectively given an eight year sentence. On 30 July 1993 he was unconditionally released by the President of the Republic.

**II. THE CASE OF MORRIS** At the time of Christmas 1991 general release of prisoners on license, Morris was serving a total of 27 years imprisonment for numerous serious offences including eight years for a violent rape at knifepoint. On 31 May 1993 he was convicted of further serious offences of attempted rape and intentional assault. He was sentenced to 15 years (later reduced to 12 years on appeal), and recalled to prison to serve the balance of the original sentence: of approximately 26 years. The law requires the two sentences for 26 years and 15 years to be consecutive to one another, that is, 41 years imprisonment. On 30 July 1994 he was unconditionally released by the President. He was then invited to give an interview on Radio Vanuatu where he was asked to give advice to young people about how to stay out of trouble!

2.33 Public outcries against statutory releases have been made by women and NGOs over the years. In December 1999, for example, the Council of Ministers decided to release 78 of 85 prisoners on licence so that they could celebrate the new Millennium with their families. As a result of the public outcry following this, the Pacific Islands Association of Non Government Organizations and Vanuatu Association of Non Government Organizations (VANGO) conducted a public opinion poll in Port Vila, Santo, Tanna and Malekula to gauge public reaction on the releases. Of the 749 responses received an overwhelming 93 per cent of the general public were against the release of prisoners. 97 per cent of women and 90 per cent of men did not agree that the President or the Minister should have these powers and specific concerns were raised by women about rights of victims who expect the legal system to both protect them and punish the offenders and saw this power as denying the fundamental rights of protection as enshrined under the Constitution. In 2004 the Court of Appeal upheld the Public Prosecutor's appeal against the following releases:

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<sup>9</sup> On 25 December 1991, the Minister for Home Affairs, who was then Minister responsible for prisoners, released on licence 124 prisoners, that is, the entire prison population (Baxter-Wright, 1994).

- a) A man who had been sentenced to 6 years imprisonment for rape was released after 3 months and 10 days;
- b) Another man sentenced to 6 and a half years for rape was released after 3 months and 12 days. Apparently another person sentenced at the same time for the same offence remains in custody;
- c) A person who was sentenced for rape to 8 years imprisonment was released after 18 months and 5 days. In respect of a 5 year sentence for rape the prisoner was released after 10 months and 7 days;
- d) Three men were dealt with together by the Court for Unlawful Sexual Intercourse. One was sentenced to 15 months imprisonment, another to 19 months imprisonment and the third to 30 months imprisonment;
- e) A person sentenced to 3 years imprisonment for accessory to rape was released after 1 month and 22 days.

2.34 On the 16<sup>th</sup> day of August 2004 the 5<sup>th</sup> Head of State, His Excellency Kalkot Matas Kelekele, who the media have dubbed 'The Peoples' Man', was elected with popular support of the public. A lawyer by profession, the next five years should be an opportune time for women to petition and lobby for an amendment to Article 38 of the Constitution as well as to establish a Committee with representatives from women's groups and human rights activists to review recommendations for release by the Superintendent of Prisons as contained in s31 of the Prisons (Administration) Act if they have not already done so in the Constitutional Review undertaken in 2002.

### Article 3

**States parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.**

3.1 The Constitution of Vanuatu guarantees the exercise and enjoyment of human rights and fundamental freedoms by women on the basis of equality with men and provides under Article 6(1) that anyone who considers that any of the rights guaranteed has been, is being or is likely to be infringed may, independently of any other possible legal remedy, apply to the Supreme Court to enforce that right.

3.2 Since Independence the Government has made commitments to the progress of women and this has been expressed nationally through the ratification of both CEDAW and the Convention on the Rights of the Child as well as participating in a number of international meetings and commitments to advance the situation of women.

3.3 Efforts to incorporate women's issues in mainstream development were improved with the adoption of the Gender Equity Policy and the Nine Benchmarks under the Comprehensive Reform Programme as highlighted in the Background section of this Report. These benchmarks highlight the continual need to address issues affecting women at the national level and respective Departments

have embraced these goals and implemented strategies towards meeting the goals. Support has also come from various NGOs in their respective fields who have been working together with relevant ministries to effect these goals. The mainstreaming of gender in all government business, including national/sectoral planning and macroeconomic policy, is a central objective under the Gender Equity Policy of the CRP. In 2000, Five Millennium Priorities were identified to be streamlined toward:

- a) Improving the lives of the people in rural areas;
- b) Supporting private sector growth;
- c) Restoring good governance;
- d) Improving participation by civil society
- e) Closing the gap between the rich and the poor and disadvantaged groups.

3.4 Unfortunately the limited capacity and understanding of the importance of incorporating gender perspectives into all planning and policy work has seen few reports evaluating the progress of the Nine Benchmarks as well as the overall progress of the Gender Equity Policy itself including gender analysis of national budgets.

3.5 A national committee involving both government and civil societies to promote the advancement of women (such as is available for children under the Vanuatu National Children's Committee or youths under the National Youth Council) would be a step forward to ensuring a more coordinated approach to effecting and monitoring national commitments. A review of the annual budgetary allocation to the Department of Women's Affairs (whose budget has remained at approximately 9.5 million vatu over the last three to four years) as well as supporting and strengthening the capacity within the Department for analysis of issues pertinent to women in the overall development of the nation would be key initiatives toward supporting Government's overall efforts to mainstreaming gender equity and gender equality policies.

### **NGOs & Civil Society Organizations**

3.6 Non Government Organizations (NGOs) have been an important sector in the development of Vanuatu. NGOs are governed by the Charitable Associations (Incorporation) Act [Cap 140]; however, the Act does not define or specifically state classes of organizations which may apply for incorporation as a charitable association. Instead it allows application from any association established for charitable purposes and defines charitable purposes to include objects of a religious, educational, cultural, scientific or sporting nature or for general social welfare. According to VANGO, there are 74 financial members in January 2004. Of these only 20 are registered with the Financial Services Commission. Two of those that are registered are national women's organizations. These figures do not include the numerous civil society organizations that permeate throughout the nation and provide services to the population which the Government is unable to reach.

3.7 As an important sector in the country, women's branches of religious organizations offer one of the most extensive networks of civil society organizations throughout the nation. These groups include the Seventh Day Adventist DOCAS Association, the Presbyterian Women's Missionary Union, Anglican Mothers Union and the Catholic Mothers Union who have played and continue to



play a significant role in advancing the status of women in their respective churches. Political parties also have Women's Wings but these are not so pronounced in assisting with the advancement of women in the public decision making arena. The Vanuatu Teachers Union as well as the Vanuatu Credit Union League both have extensive networks linking their female members throughout the nation. Other NGOs such as the Vanuatu Family Health Association (although not a women's organization) also has an extensive network promoting family planning and health of women in the country as do the Wan Smolbag Theatre Group and the Foundation of the Peoples of the South Pacific (FSP).

3.8 There are two national women's organizations of note: the Vanuatu National Council of Women established in 1980, and the Vanuatu Women's Centre established in 1992, both of which have actively promoted human rights of women for the past two decades and whose voluntary and paid members throughout the nation have been disseminating human rights education awareness. The two organizations have been instrumental in laying the foundation for women to advance in the nation.

3.9 According to the national census in 1999, approximately six per cent of the population was classified as providing voluntary work or working without pay. Whilst this number is quite small, it does not adequately capture the spirit of volunteerism that exists in the country since many of those who actually work for a salary are also involved in some voluntary capacity either in religious or secular organizations. One of the problems which face those who wish to gather information about the voluntary sector is that most national accounts do not measure the voluntary sector in a meaningful way. As with domestic or home work, if both of these categories were taken into consideration in the national account, the Gross Domestic Product of the country would probably triple within one year.

3.10 There are a number of obstacles preventing women from attaining their full development and exercise of human rights and fundamental freedoms on an equal basis with men. One of the basic barriers is the attitudinal barrier that exists that would like to preclude women from moving ahead. Awareness training on human rights, as one approach to breaking these attitudinal barriers, has been provided by various NGOs particularly the Vanuatu Women's Centre, the Vanuatu National Council of Women, Transparency International Vanuatu, FSP and Wan Smolbag Theatre. Human rights violations against Government employees can be taken to the Office of the Ombudsman if their rights are infringed but it does not have the power to prosecute. However, for the general public, unless they have a complaint against a Government employee or Department, there is no such body like a Human Rights Commission where complaints can be made. They can go to the Public Solicitor's Office or a private lawyer and file a human rights complaint. This, however, does not guarantee that the issue will be solved as the office is grossly understaffed and cases take years to move forward; further, the majority of women do not have the financial capacity to do so or lack the understanding that there are avenues available if their rights have been infringed.

3.11 In terms of political participation, the Electoral Commission recommended in 2002 that 30 per cent of members of Parliament after the 2006 election should be women. Government began the process to effect this recommendation but was overtaken by the snap General Election in July 2004.

## Article 4

- A. Adoption by States parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.**
- B. Adoption by States parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.**

4.1 Vanuatu is one of the very few countries in the Pacific that has affirmative action laws for women. This is contained in Article 5(1)(k) of the Constitution which specifically provides for:

“equal treatment under the law or administrative action, except that no law shall be inconsistent with this sub-paragraph insofar as it makes provision for the special benefit, welfare, protection or advancement of females, children and young persons, members of underprivileged groups or inhabitants of less developed areas.”

4.2 Despite this affirmative provision women today continue to experience discrimination in both public and private spheres, much of which is reflected in the attitudes of both men and women. For example, there continues to persist the attitude that affirmative actions are discriminatory.

“Rights of women ... is an issue that has been debated in Vanuatu, and probably the main obstacle to passing and implementing gender policies. The view from the male side of the population is that the legal framework has given equal opportunity, and employment on merit to all, and to have policies that have preferential treatment over one portion of the population is discriminatory...” (Bebe, 2003)<sup>10</sup>.

4.3 Generally, however, a number of actions have been identified by Government to move forward the commitment to advance the status of women. In the public sphere, one of the most obvious kinds of discrimination seen is the lack of female representation in the political arena. Although this will be covered in more detail in Article 7, this is one area in which women have been least represented whereby Vanuatu has seen only four women represented in the national Parliament since 1980. Thus, following the Beijing conference in 1995, Government and NGOs developed the Vanuatu strategy in 1996 to progress the 13 Critical Areas of Concern of the Beijing Platform for Action. One objective identified was to promote the equal participation of women in decision making with one of the targets being a quota system in place to have 50 per cent of women in decision making bodies. Financial

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<sup>10</sup> This attitude was borne out during the process of consultation for this report, where one member of the TORBA Provincial Council remarked in a similar vein that since women have CEDAW, there should be a Convention for men. As a comparison, the position is remarkably different from the attitudes of Councillors in the SHEFA Provincial Council who unanimously adopted CEDAW in May 2004 as the platform for action for women in that Province. In both Councils, all members were males and these opposing points of view from decision makers in the provinces point to the often difficult path that women must overcome to progress.

support to achieve this goal, timeframes and who would be responsible for ensuring the implementation of these targets were not established.

4.4 Following the national general elections in July 2002, the Electoral Commission (2002) made 31 recommendations to the Minister for Internal Affairs. Of importance and relevance to this Article is Recommendation No. 1:

“That Government enact specific provisions in the Representation of the People Act (Cap 146) to encourage women’s participation in contesting elections and that in 2006 General Elections one third (1/3) of the elected members of parliament are women and with a distant vision of Vanuatu eventually achieving the 50/50 “Get the Balance Right”.

4.5 Following the Election Report, the Prime Minister of Vanuatu acted on these recommendations and requested assistance from the Commonwealth Secretariat to do an assessment of these recommendations. The Assessment Mission took place between June and July 2003 and provided seven findings with seven recommendations. Of importance are Finding No. 7 and Recommendation No. 6:

“Finding No. 7: The Role of Women in the Electoral Process as both Parliamentary Candidates and Voters needs to be strengthened and supported by Government and Parliament.

“Currently the involvement of women in parliament is tiny (one woman MP out of 52 MPs). It has been suggested that there be a quota system for parliamentary seats but this raises complex issues of having seats that only women can contest. The solution seems to be more in encouraging parties to put up more women candidates and general education on gender discrimination targeted at both women and men. Donor support for an integrated programme of appropriate education by the electoral administration and local NGOs is desirable.

Recommendation No. 6

That a comprehensive programme aimed at improving the participation by women both as voters and candidates should be launched as a joint effort of the Electoral Commission and local NGOs and that donor funding be sought for that purpose” (Neuhaus, 2003).

4.6 Since these two reports came out, actions have yet to be carried out by Government to amend the Representation of the People Act (Cap 146) or to incorporate the recommendations in programmes to improve the participation of women in the political arena. With the snap election of July 2004, these recommendations were not able to be implemented and it will have to be pursued by the Department of Women’s Affairs and women’s groups with the support from the Electoral Commission to ensure that the recommendations and programmes are developed to achieve these goals during the

next four years. It must also be noted that whilst a lot of these recommendations have been made over the years, little have been implemented. This may be due to the lack of thought or planning and the implications both in terms of finance and human resources. Training of candidates and voters has been provided by the Electoral Commission, the Department of Women's Affairs, the Office of the Ombudsman on an ad hoc basis. NGOs such as Wan Smolbag Theatre, Transparency International Vanuatu and VANWIP have provided much of the training on voter education and training for women candidates. However, a comprehensive programme coordinated by one Department to effect the recommendations from the Electoral Commission is suggested to overcome the duplication and trainings that are currently carried out as last minute activities towards elections.

4.7 While many provinces are still grappling with the issue of including women in decision making, SHEFA Province has announced that it wants to have seven women in the next Provincial Council. As the only Province that has adopted CEDAW as its platform for action for women, it has consciously targeted Article 7 as the first step to advancing women in the highest decision making body in the Province. Awareness campaigns articulating the Council's adoption of CEDAW, recommendations from the Electoral Office and the provision under Article 7 of CEDAW have been provided throughout the Province since May 2004. As a further step in assisting candidates, the Provincial Council has already targeted areas for training for both women and men. Such training includes administrative and financial procedures of the Council plus procedures and processes in Parliament, information on national and international commitments to women such CEDAW, commitments under the SHEFA REDI Programme, the Gender Equity Policy of the CRP, the Beijing Platform for Action, the Millennium Development Goals and how to implement CEDAW itself.

4.8 In other areas, discrimination continues to exist in decision making positions as seen by the small number of women holding senior positions in Government. In 2003, for example, only one woman held the most senior position of Director General. In the Ministry of Education all seven positions at the Director level are held by men, and in almost all committees and statutory bodies, senior positions were dominated by men. To overcome this and to comply with the Gender Equity Policy of the Comprehensive Reform Programme and the Beijing Platform for Action and CEDAW, the Department of Women's Affairs produced in 2003 the 'Policy Guidelines for Women in the Public Service 2003-2006' with the qualifying statement that achieving gender equity in the public sector is an important goal of the Government. Included in the Executive Summary is a statement encouraging private sector employers who can "apply the good example set by the Government". In this policy paper, the following goals and timeframe were established to:

- a) Increase the proportion of women in senior positions, particularly at the Director General and Director level by 30 per cent by 2006;
- b) Increase representation of females by 30 per cent in statutory boards, commission and tribunals by 2006;
- c) Have an equal representation of men and women in employment in the Public Service by 2006.

(Department of Women's Affairs, 2003, p. 9)

and it is of concern that a number of plans and actions are being developed without necessarily understanding or analyzing the implications of these plans.

4.9 In its plan to advance and increase the participation of women in the Public Service, the policy paper highlights that sexual harassment is referred to loosely in the public sector and there is a need to go beyond that. Therefore the Department has proposed that "... in order to ensure that women participate equally in the employment sector, sexual harassment needs to be legislated against so that females do not face undue obstacles in their efforts to improve their own positions and apply for promotion without interference...". The policy paper also suggests that support be given to the State Law Office to draft a Sexual Harassment Bill as currently the Labour Act makes no provisions for curbing discriminatory practices related to sexual harassment in the workplace. Whilst there is no existing policy prohibiting sexual harassment in the workplace, the Vanuatu Teachers Union does have a policy against sexual harassment in place.

**4.10 There are other affirmative actions in place which will be referred to in later Articles; but the following are provided as an indication of what Government has done over the past seven years.**

**i. GENDER EQUITY POLICY**

4.11 As indicated in the Background section, the Gender Equity Policy of the Comprehensive Reform Programme highlighted the directive to Ministries to incorporate gender equity policies in their programmes. The Department of Education, for example, has had a policy of gender equity in the distribution of scholarships since 1997.

4.12 This affirmative action was emphasized under the CRP and supported by development partners and has seen an increase in the number of female scholarship holders. Included also in the affirmative actions for disadvantaged populations provided for under Article 5(1)(k) of the Constitution, the Department of Education through the Vanuatu Institute of Technology has available five scholarships per year for persons with disability through the assistance of the AusAID. Vanuatu's action plan to implement the *Education for All* gender equality target by 2015 has been incorporated in legislation and a Gender Policy for the Education Department is being developed in 2004. Amendments to the Education Act have seen the prohibition of discrimination against children with disabilities. The Department of Health has also incorporated non-discrimination on the grounds of disability. These positive actions by both the Ministry of Education and Ministry of Health to recognize persons with disabilities are now supported through the approval of the National Disability Policy adopted by Government in April 2004.

**ii. DOMESTIC VIOLENCE PROTECTION RULE NO. 67 OF 2001**

4.13 Perhaps the most critical affirmative action taken by Government is the introduction of the Courts (Domestic Violence Protection) Rule No. 67 of 2001 initiated by Chief Justice Vincent Lunabek. This arose out of the recognition that many women needed to have quick and effective legal protection against domestic violence. Women are able to seek relief through this important Rule.

Since its introduction in 2001 until June 2003 a total of 99 cases were registered at the Port Vila Court House. It is unclear why there were such a high number of males who sought restraining order in 2002. Between July 2001 and March 2003, the Vanuatu Women's Centre in Port Vila facilitated a total of 54 Domestic Violence Orders. According to staff at the Public Solicitors Office, approximately eight orders are processed by them on a daily basis indicating the necessity for such orders.

Table 6

**Domestic Violence Protection Order cases registered at the Port Vila Court House, 2001-June 2003**

Year	Registered cases	F	M	Refused	Granted	Want of prosecution	Transferred to Supreme Court	Withdrawn	Struck out	Pending
2001	4	3	1	1	3	0	0	0	0	0
2002	53	2	51	2	44	1	1	1	4	0
June 2003	42	37	5	0	11	0	0	5	3	23
<b>Total</b>	<b>99</b>	<b>42</b>	<b>57</b>	<b>3</b>	<b>58</b>	<b>1</b>	<b>1</b>	<b>6</b>	<b>7</b>	<b>23</b>

**Source:** Vanuatu Women's Centre, 2003.

4.14 Under the Comprehensive Reform Programme violence against women was identified by Government as requiring immediate action and as a result, the Family Protection Bill was initiated. Under the auspices of the Department of Women's Affairs, wide consultation was carried out with the support from NGOs and after seven years, it is now awaiting completion and it is expected to be presented in Parliament by 2004. As a crime, domestic violence has not been given the legal support in that there is no specific Domestic Violence law to outlaw it even though it is covered under the Penal Code under common assault.

### **MATERNITY LEAVE ENTITLEMENTS**

4.15 While the two initiatives above have been recent, Vanuatu has always had legal provisions protecting maternity. Under Article 5(k) of the Constitution the affirmative provision of maternity leave entitlement is not considered discriminatory. Nor do people see it as discriminatory since the bearing of children is considered highly important. Following Independence in 1980, provisions for maternity leave entitlements were provided for in the Employment Act which was first enacted in 1983. This legislation was revised and the provisions are now contained under s36 of the Employment Act (Cap 160) as follows:

- (1) An employer shall allow a woman employee to leave her work upon production by her of a medical certificate stating that her confinement is likely to take place within 6 weeks, and shall not permit her to work during the 6 weeks following her confinement.
- (2) While absent from work in pursuance of subsection (1) a woman employee shall be entitled to be paid not less than half of the remuneration she would have earned had she not been so absent.

- (3) An employer shall allow a woman employee who is nursing a child half an hour twice a day during her working hours for this purpose; such interruptions of work shall be counted as working hours and shall be remunerated accordingly.

4.16 Many of the initiatives taken over the past years show Government's commitment to promoting and supporting women. Many of the policies and legislation, however, are not well known both within the Government agencies themselves and the population at large. The only study conducted on the level of awareness by employees of s36 of the Employment Act shows that women are generally aware of the maternity entitlement in the public and private sectors but the entitlements received in the private sector is poor (Piau-Lynch & Tarileo, 1996). Under the Public Service Commission Staff Manual, women are granted maternity leave on full pay for 12 weeks and thus enjoy better employment conditions than they do elsewhere. However, there are some women who are employed on a casual basis who are discriminated against because of the new definition of 'permanent' employee.

4.17 In other areas, women continue to be underrepresented in occupations that are traditionally occupied by males as will be discussed in Article 11. While 38 per cent of employees in Government are women, on average they earn 80 per cent of men's salaries. Affirmative action legislation and policies are needed to allow women to catch up with men, economically, politically and socially and this requires giving women favourable treatment in a number of fields. While affirmative action by Government cannot force the private sector to do the same, they are nevertheless bound by the provisions of CEDAW. At the same time, some private sector organizations do provide more affirmative actions for women than Government. A positive action for both would be for both sectors to support a comprehensive piece of legislation such as a Sex Discrimination Act or a Sexual Harassment Bill making illegal both direct and indirect discrimination. The other way would be to go through each Act, identify any that are directly or indirectly discriminatory, and then to change these by new legislation. Whilst the legislative review conducted in 2000 has already highlighted the discriminatory provisions in 12 Acts, the Department of Women's Affairs could seek the assistance from the State Law Office to work towards the amending of these discriminatory provisions.

## Article 5

**States parties shall take all appropriate measures:**

- a) **To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;**
- b) **To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.**

5.1 This article is interpreted as imposing an obligation on the Government to adopt an educative role in the removal of practices based on prejudices and stereotyped assumptions to the extent that these practices have the effect of discriminating against women as provided under Article 1 of the Convention. To this extent a number of NGOs have been providing human rights education to women and men including officers of the Government such as police and teachers. Much of the human rights training however is carried out by NGOs to equip women to understand their rights.

5.2 The stereotype of a woman as a housewife, fully occupied at home with the family and housework while fathers are heads of the household continues to be the dominant perception. While education about human rights has been and continues to be provided to women by various civil society organizations, the education of children on fundamental human rights and the equality of women and men has been somewhat uneven. This can be seen in the perception of children who see the roles of mothers as primarily belonging to the kitchen as shown in Box 3 below.

5.3 The past two decades have seen more ni-Vanuatu women step out of the roles that society placed them in to join the workforce and jointly contribute to the financial welfare of the family. While more are now working they continue to occupy jobs that have traditionally been classified as women's work such as sales persons, secretaries, nursing, clerks, teachers and domestic service. It is reported that when both husband and wife work, it is the wife who is expected to use her salary to feed the family, pay school fees, and all household expenses, while the man considers his salary as his own for his own use in kava bars. The one study conducted in 1994 did show that 38 per cent of women who had a small business used their earnings to pay school fees (Meuller, 1995). Although men continue to be seen as the head of the family and women as primarily care providers, there are moves toward promoting the idea that fathers should play a more helping role to mothers. For women who care for a family member who is disabled, the message of joint and shared responsibility has been one that the Vanuatu Society for Disabled People has supported through the positive portrayal of fathers as care-givers.

#### BOX 3 GENDER ROLES, STATUS, RIGHTS & RESPONSIBILITIES AS PERCEIVED BY CHILDREN

Mothers	Fathers
<ul style="list-style-type: none"> <li>• Look after kids, help with school work, feeding children, keep house properly</li> <li>• Mothers spend more time and take more time to teach children</li> <li>• Mothers are less likely to discipline children</li> <li>• Mothers are less likely to be listened to by boys</li> <li>• Mothers are responsible for peace, comfort and unity</li> <li>• Mothers are too soft</li> </ul>	<ul style="list-style-type: none"> <li>• Head of family, boss, administrator, in charge (Bible source of authority)</li> <li>• Fathers should help mothers, help in gardens but not in the house</li> <li>• Make sure everything works, sort out differences</li> <li>• Fathers discipline children, teach children</li> <li>• Children are frightened of fathers</li> <li>• Some argue that only fathers as the head of the family have rights to punish</li> </ul>



<ul style="list-style-type: none"> <li>• Mothers may get cross if fathers whip children which can lead to arguments</li> <li>• Mothers have rights but only in the kitchen and at home and can take over if man is not strong</li> <li>• Mothers overwork has negative impact on health and patience with children</li> </ul>	<ul style="list-style-type: none"> <li>• Some fathers punish too hard</li> <li>• Some fathers can get cross if mothers whip children, prefer to talk</li> <li>• Fathers drink too much kava and/or alcohol (decreases family income and their time with family).</li> </ul>
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**Source:** Chevalier, 2003.

5.4 One of the barriers blocking the advancement of women is the practice of bride price. According to one (male) chief,

“... Most cultures in Vanuatu demand that bride price be paid to the relatives of the woman, where women are exchanged for cattle, pigs, money, traditional mats etc. Although these gifts are supposed to be tokens of appreciation to the woman’s parents, often they have been regarded as a price for the woman. So bride price compounds the problems, as it is often interpreted as wife purchase, which gives male’s unlimited powers to do what they wish ... We ... need to challenge cultural practices that dehumanize people against the true customs and beliefs that each island of Vanuatu has [such as] sexual violence, bride price and polygamy” (Ngwele, 2003).

5.5 As a customary practice, the idea behind exchanging gifts is to cement relationships between one family and another. However, in the recent decade women in Vanuatu have seen bride price as discriminatory as well as giving licence to men to physically assault them and placing women in the control of the men. The Malvatumauri Council of Chiefs, for example, has placed an upper limit of VT 80,000 as the monetary price in addition to customary gifts of mats and food items in marriages but this placement of a material value on human beings is a violation of human rights and a breach of Article 5(a) of CEDAW (Jalal, 1998) and is seen as restricting the enjoyment of human rights and fundamental freedoms guaranteed to women under the Constitution. Many couples today find this practice financially draining and refrain from getting married for a long time, sometimes until after they have had four or five children. In 1999 for example, out of the 65,871 people who reported that they were either married or living in a defacto relationship, 8,438 people (or 11 per cent) reported living in a defacto relationship. It should be noted also that 1999 was the first time that a national census introduced a category for those living in a defacto relationship.

#### PORTRAYAL OF WOMEN IN THE MEDIA

5.6 Vanuatu has three newspapers – the *Vanuatu Daily Post* and the *Independent* - published daily and weekly respectively and the Editors of these newspapers are men. Of the 10 journalist working for the two newspapers, four of them are women. On 26 August 2004, *The ni-Vanuatu*, came into circulation. Of its three journalists, one is a woman. As at August 2004 Vanuatu has two television stations: *Television Blong Vanuatu* which is government operated and another 24-hour television

operated by an international religious organization. People are also able to hook up to SKY TV and be able to see any movies, advertisements, documentaries 24 hours a day. For a few short weeks before the snap election in July 2004, a woman was appointed for the first time as Chair of the Vanuatu Broadcasting and Television Corporation until the whole Board of Directors were dismissed by the current Government.

5.7 Little or no study has been carried out in Vanuatu on the impact of negative images of women as portrayed by the media. Whilst media has played a major role in highlighting women's issues, it also has played a negative role through graphic expression of female subjection through violence, through exploitative reporting of rape and other degrading injuries, and through the portrayal of the female body as a commodity to be bought and sold. With the ease with which young children, youths and adults can access satellite television which often shows graphic and violent movies depicting women as willing victims, it is difficult to censor these movies. Parental control is also slipping away as young people can watch videos and movies with adult or violent themes without much parental supervision.

5.8 Nearly all the advertisements seen on the local television are made overseas and promote consumerism: furniture, tourism, clothing, sunglasses, cars, cooking gas, soap powders, bath soap, beauty products, Coca-Cola, and so forth. Mostly slim, well-known women in the countries that produce the advertisement are used in advertisements, reinforcing the stereotypic image of the 'right' type of body women must have – according to overseas standards – and imparting (subconsciously) an image not necessarily reflecting images of women in Vanuatu. The advertisements are seldom educational. Whilst not scientifically researched, some of the radio announcers (both males and females) need to undergo gender sensitization training due to their unconscious use of sexist language on the programmes.

5.9 Gender-sensitization workshops have been carried out in the Government through the Department of Women's Affairs in recent years and through women's groups in the NGO sector over the past 15 years. However, one group that training has not reached is the media. In at least one case a special workshop was held for journalists in print, broadcast and electronic media and public relations officers in Government and statutory organizations to sensitize them about out-dated words that continue to be common use to describe persons with disabilities (Piau-Lynch & Mermer, 2003).

5.10 There is only one theatre in Vanuatu and it is located in Port Vila with little advertisements of films. There are quite a number of video outlets that rent films containing lots of violence portraying the submissive roles of women. Even though the movie ratings are shown, a lot of under-age viewers are permitted to rent the videos as there are no identification cards. Whilst there exists a Censorship Board, it would appear that it is ineffective. Many of the videos are pirated copies brought in from Asia, Australia, USA, Europe and New Zealand and are rented at a very high cost of 400 vatu per cassette. The Penal Code Act prohibits obscene publication, pornography and publication of pornography. It is also an offence to be in possession of such publications. At this point in time, no data has been collected on how many cases have been prosecuted under this law.

EXPLOITATION OF WOMEN IN BEAUTY CONTESTS

5.11 One area in which stereotyping of women is of grave concern to women is the use of images which present women not as individual persons but as sex symbols or sex objects. Since 1979, women have been at the forefront protesting against beauty contests. In 1993 a protest was organized by the Vanuatu Women's Centre which saw representatives from the Vanuatu National Council of Women, Vanuatu Christian Council, Malvatumauri Council of Chiefs, youths and the Department of Women's Affairs demonstrate against the Ms Le Flamingo beauty contest. Outcries from the community stressed that whilst the nightclub and its sponsors may see the event as promoting Vanuatu, they saw it as degrading their women and their country:

“Not only is the idea of a beauty quest a foreign concept, we view it as debasing our women and an event that is not a custom in Vanuatu... To us, every woman in Vanuatu is beautiful. Their beauty lies not in wearing skimpy swimsuits or wearing make-up and parading in front of men as cows lined up for slaughter ... To choose a Ms Flamingo to represent Vanuatu is a blatant abuse of a woman's body. The quest does not represent Vanuatu: It represents only a handful of business men who are interested in nothing else except money and sex...”(*Vanuatu Trading Post*, 4 August, 1993, p. 5).

5.12 While the protest statement called for parents to restrain their daughters from taking part in the quest and called on the Government to pass legislation stopping such contests, little has been done by the Vanuatu National Council of Women or the Government since 1993. Strip-tease shows and other shows like “wet T-shirt” contests in bars in Port Vila have stopped through the interventions of organizations such as the Presbyterian Church and women's groups.

INTERNET

5.13 Whilst it is almost impossible to curb any private screening of adult web-sites there are no laws prohibiting this activity. Government has a policy prohibiting employees accessing sites that contain pornography and bio-terrorism activities and in 2003, at least eight Public Service employees were charged for accessing these sites.

**LEGISLATIVE MEASURES TO ELIMINATE STEREOTYPED ROLES**

5.14 Legislative measures to eliminate stereotyped roles in education have been in place following the Education Act of 2001. In 2002 the Curriculum Department underwent a major review to implement this law with changes to the text of books used in schools depicting women in roles of nurses or teachers and men in roles of mechanics or builders. Today more girls are now taking up courses in mechanics and carpentry. In an effort to eliminate stereotyped roles, technical and non-formal training is now provided to both women and men in mechanics, carpentry and training as technicians. Only recently have boys in junior secondary schools begun learning basic sewing skills. One major work that has been done to promote women in non-traditional occupations has been the effort by the Vanuatu Women Graduates Association. In two separate publications, they have firstly promoted women who have been successful in their particular field of expertise as role models, and

secondly, they have produced the book, *Role Models, I Stret Nomo*, which is the first book of its kind in Vanuatu, highlighting women pilots, technicians, lawyers, broadcasters and women working in the paramilitary.

## **FAMILY EDUCATION**

5.15 Family education is probably not as developed in Vanuatu as in other countries. The Vanuatu Teachers College has been utilizing teaching materials provided by the Vanuatu Family Health Association in providing the education of trainee teachers as will be covered in Article 10. The law recognizes the importance of maternity as a social function and provides generous maternity provisions. The Constitution also provides that the education of children is the responsibility of parents, thus making education a joint responsibility. However, in practice, the education of children is often left solely in the hands of the mother. The Penal Code Act recognizes that the interest of the child is of paramount consideration.

5.16 In light of the declining moral standards evidenced by the high rate of gender-specific violence and abuse of children, there is a general concern that both spiritual and civic education is missing. In promoting the spiritual components of education for children, the Bahá'ís of Vanuatu, for example, have been working with the Department of Education since 2003 to introduce spiritual education into primary schools. Transparency International Vanuatu and the Rural Development Training Centres Association have also been working with the Department to include civic education into secondary schools.

## **HUMAN RIGHTS EDUCATION**

5.17 It is now commonly recognized that human rights education is a vital component for the advancement of women. To this end a few NGOs and civil society organizations in Vanuatu have been providing awareness training on human rights and in recent years almost all NGOs include human rights components in their training and awareness programmes. Awareness training on gender-based violence, for example, has been provided by the Vanuatu Women's Centre for the last 14 years. An important achievement after so many years saw the Centre train men as advocates against violence against women with the formation of the country's first Men Against Violence Committee in 2003. Training of the human rights of persons with disabilities has been going on for the last eight years provided by the Vanuatu Society for Disabled People and the Disability Promotion & Advocacy Association and now by other NGOs.

## **Article 6**

**States parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.**

## TRAFFICKING OF WOMEN

6.1 There are no known cases of women being trafficked either into or out of Vanuatu. Legislation against trafficking of women is contained in s102(b) of the Penal Code<sup>11</sup> which prohibits anyone from engaging in the traffic of persons. The law provides that citizens may be prosecuted within the Republic for an offence against the criminal law committed by him beyond the Republic as if it had been committed in Vanuatu and s5(1) includes trafficking of persons as an international offence punishable under Vanuatu laws. Vanuatu has extradition agreements with a number of countries. Vanuatu has not ratified the United Nations Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others.

## PROSTITUTION

6.2 The act of prostitution is not illegal; however, there are certain prostitution-related activities which are considered offences under the Act. Under the Idle and Disorderly provisions (s147(a)) in the *Offences Against Public Interest* category, it is illegal for any person to “behave in a disorderly or indecent manner in any public place for the purpose of prostitution” and s147(d) prohibits any person to “solicit for immoral purposes in any public places”. The penalty for offences under this section is three months imprisonment.

6.3 In discussions with both men and women during the course of research for this Report, it is evident that prostitution exists but because it is not a behaviour many write about, little information is available to indicate the extent or even the health of the sex workers. There do not appear to be any brothels as such but one or two houses in Port Vila are used as a centre for escort agencies for businessmen. Otherwise, individual sellers and buyers of sex operate out of their own houses, hotels, offices, deserted locations and vehicles. This is in contrast to male prostitutes who operate singly (in most cases) and are at the beck and call of women who pay them for their sex.

6.4 Section 101 of the Penal Code prohibits any persons to procure, aid or facilitate the prostitution of another person or share in the proceeds of such prostitution whether habitual or otherwise, or be subsidized by any person engaging in prostitution. The penalty for these offences is five years imprisonment. However, one does not hear of men or women being put in jail as a result of committing offences under this section.

6.5 It is also understood that there is an extensive network known to both locals and overseas businessmen, seamen and tourists where sex can be procured and the most extensive of these networks appears to be the taxi drivers. To a lesser degree, bus drivers and individuals in both government and private sectors have been heard to be involved in facilitating access to women for local and overseas businessmen, consultants to governments, and tourists. Politicians are also known to supply women in attempts to gain support in the political numbers game. With the advent of the internet, access to pornography is readily available for those who have internet. Further, exploitation of women through pornography has been known to occur in Port Vila.

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<sup>11</sup> Penal Code (Amendment) Act No. 17 of 2003 (Cap 135).

6.6 To the extent that prostitution is not illegal<sup>12</sup>, and there is no evidence to suggest that any laws criminalizing prostitution will in turn stop this practice, the law discriminates against prostitutes, most of whom are women, *vis-à-vis* their clients. This is evidenced in the way in which women suspected of being prostitutes are treated. A practice that is engaged in by both men and women is the prevalent use of derogatory language used as a means of causing offence to someone. The terms often used to refer to prostitutes are *solmit* or *woman blong rot* (street walker). Harassment of prostitutes by the general public and general condescension of them is common.

6.7 In court cases, the courts will take into consideration the fact that the mother is of “loose moral character” and her sexual history will be taken into account if she is known to engage in prostitution; often she is subjected to intensive cross-examination and these histories are taken into account in judging such cases, particularly in custody cases. Very rarely does one hear of the “loose moral character” of the father or men described as *solmit*. Instead their prowess is often applauded more than it is condemned. Discussion with female police officers suggests that women who are picked up under s147(a) and (d) are provided ‘counselling’ and encouraged to find alternative work. Economic reasons such as low income, inability to pay school fees, unemployed husband, debts and changing life styles in towns push many women and girls to prostitution as showcased below. There are few alternatives for girls who have left school after primary or junior secondary school and haven’t the qualifications for work in a situation where there are limited job opportunities.

**Box 4**

**FEMALE PROSTITUTE, 17 YEARS OLD**

“...I went to primary school on the island, but as I had no moral and financial support from my parents I finished at Class 4 and stayed with my poor parents in the village. I didn’t enjoy village life and so in 1998 I moved to Vila town, thinking that life would be so much easier and enjoyable. However, I started to see things differently and experience[d] life in an environment so different from my life back on the island. The family I live with didn’t like me. I could tell because I was treated harshly and differently at all times. I did not even have decent meals and enjoy life like other youths in the settlement. I often thought of supporting myself but I didn’t have any skills to be employed in Port Vila.

“When I was 14 I started going with my friends to the *nakamal* (bar where kava is served/kava bar). From there I was directed to a different lifestyle, which is to give my body for money and kava. So I had sex for the first time through some arrangements made by my kava-drinking friends. At the beginning it was frightening but as it was an easy means of making money, I discovered the habit couldn’t be stopped. I earn money to get by and so I can continue to drink kava. I don’t even have time to think about my parents on the island, as I know that what I am doing is actually very wrong. They would not be happy.”

(Asian Development Bank, 2003)

<sup>12</sup> That prostitution is not illegal is a surprise to many, particularly women, as evidenced in the first ever meeting between the Director of Women’s Affairs and the Inter-Church Women’s Fellowship held in July 2003.

6.8 No research has been conducted in Vanuatu to find out the nature of prostitution - how many sex workers have been prosecuted for soliciting or procuring sex, their health or whether sex workers are exploited. In 2003, Wan Smolbag Theatre conducted an exploratory study to identify sex workers in Port Vila with a view to providing information on safe sex as well as providing treatment for sexually transmitted infections. This was through the Kam Pussum Hed Clinic, the youth-friendly 'drop-in' centre and the health clinic arm of Wan Smolbag established in 1998 with a major focus on sexual health. It is staffed by qualified nurses and is a logical place for encouraging sex workers to go to receive treatment.

6.9 Laws relating to violence against individuals apply equally to prostitutes. Results from the Wan Smolbag study suggest that sex workers do get physically assaulted particularly if they refuse to perform without some sort of protection. With the very high incidence rate of sexually transmitted infections currently existing in Vanuatu, particularly in the urban centres, the health of sex workers is jeopardized when they cannot demand the use of condoms. It is not known to what degree sex workers feel confident to report intentional assaults and to what extent the law offers them protection or charges laid against perpetrators if they do report.

#### HAOSGELS AS SEXUAL OBJECTS

6.10 There is one other group of women who are nearly invisible in public accounts but provide an important service to ensure that working men and women can come home to a clean house, ironed shirts and dresses, who ensures that kids are fed and generally make life easy for those who can afford to have them. These group of women are known as 'haosgel' or domestic workers. Often left out in most reports, the haosgels provide a valuable service but often at their own expense. Most are not covered under the Vanuatu National Provident Fund by their employers even though by law anyone receiving a monthly wage of VT 3,000 is required to contribute to this superannuation fund. Recognizing this, the VNPF has introduced a specific category for them. Most do not ask for their legal working hours, work extreme hours and are paid below the minimum wage.

6.11 Some haosgels are subjected to sexual exploitation. In a recent study highlighting the exploitation of 'haosgels' by both expatriates and ni-Vanuatu men (including immediate family members) in Port Vila, Kraemer notes that:

“In Vanuatu the sexual advances made towards haosgels, are the most visible indicators that employers treat their paid domestic workers as ‘sexual’ objects”. These women form a large section of the paid workers but have literally been relegated to house work and forgotten”.

6.12 In her discourse of the sexual exploitation of haosgels by expatriate men, Kraemer suggests that:

“... one of the reasons some expatriates in the South Pacific perceive and treat their paid domestic workers as ‘sexual’ objects’ is the ‘exotification’ of the ‘South Pacific’ and South Pacific women. Indeed, according to Margaret Jolly, the exotification of the ‘South Pacific’ in film, literature and art, of ‘women draped lasciviously in sarongs and wreathed in flowers as of

old...’ has shaped the image of South Pacific women as ‘South Pacific’ beauties ... and created amongst expatriates a perverse desire for local women... [For] ni-Vanuatu men, [it] is less about constructions of ‘South Pacific beauty’ and more about doing that which expatriates do!..” .

6.13 Kraemer concludes that

“Whether these women are actively prostituting themselves or are being sexually assaulted, it is hard to say. One thing is for certain: if society valued these women more than they do, the sexual exploitation of women would not be so widespread...” (Kraemer, 2003).

**Box 5**

**“LEISA”**

“There are these two [expatriate European] men who have been living here quite a long time. They were going through a mid-life crisis or something, and bet each other to sleep with their house-girls! And so they did! Had affairs with them. One wife found out and so there were big marital problems. This happens all the time”.

**“FIONA”**

“... Fiona worked for an [expatriate European] teacher at the College. The mister was using his house-girl in the house. Paying her extra money. He took her with him when he traveled to Epi Island. She would get extra money for that. He traveled to Epi a lot. Going and coming to Epi like peanuts. Fiona was happy with the arrangement. When the missus was away she would go and stay with him in the house. Everyone in Malapoa could see what was going on. Could watch the mister picking up Fiona here... It looked like a boy and girl making friends. People told her that she should be close to the missus not the mister...Fiona also has a boyfriend and three kids. They live together like a family. The boyfriend fights with the mister. Boom on the floor. *Kilim hem lo yard* / Hits him inside the yard. He says that she lies to him. The police talked strong to the white man and sent him back to [his country]. But now Fiona has a little white baby. Her boyfriend hits her sometimes. Says that she is not interested in her husband anymore because she has been with a white man.”

(Kraemer, 2003)

**CHILD PROSTITUTION**

6.14 Children all over the world are loved as offspring, grandchildren, nieces and nephews, brothers, and sisters. And in general, children are protected and expected to be protected and kept safe. Yet, there are signs of increasing child abuse in the country.

6.15 Very little data is available on child prostitution, paedophiles or pornography. Recently AusAID funded the Pacific Children’s Programme, a three-year project which was aimed at obtaining information on child abuse including prostitution, sexual exploitation of children within the family



and by paedophiles, use of children for pornographic purposes and prostitution in Vanuatu, Fiji and Samoa. This project found much exploitation and abuse of children by both adults and older siblings. This report places children in a most vulnerable position: they are in danger from paedophiles both in Port Vila and in remote resorts of Vanuatu and they are in danger from their own immediate family members for exploiting their labour as well as for sex (Chevalier, 2003).

6.16 In recent years there has been a spate of media coverage exposing the extensive network of paedophile activities in the Pacific, and in particular, Fiji. In 2002, a regional conference was held to address this major problem although no statement was issued from Vanuatu on measures that will be taken to protect children. Such is the grave concern of the existence of commercialized sexual exploitation of both girls and boys by both nationals and expatriates that foreign Governments in Port Vila through their Embassies and High Commissions require the written consent of parents for their child or children to go overseas with friends or relatives or even with one parent.

6.17 Vanuatu, as is the case with most Pacific countries has ratified the Convention on the Rights of the Child. Article 19(1) of the Convention commits States Parties:

“... to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child...”

6.18 Article 19(2) commits States Parties to establish appropriate programmes for the prevention of abuse and the treatment of the child victims. At this point in Vanuatu’s history, no programmes are available for children. Counselling of victims is often provided by the Vanuatu Women’s Centre or private practitioners. The recent amendment to s101 of the Penal Code has substantial provisions prohibiting child prostitution, obtaining benefits from child prostitution and using children for pornographic purposes, whether actual or virtual. While the National Children’s Committee exists, it is basically ineffective in monitoring and recommending strategies or advocating on behalf of children who are in abusive and exploitative situations.

## Article 7

**States parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:**

- a) **To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;**
- b) **To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;**
- c) **To participate in non governmental organizations and associations concerned with the public and political life of the country.**

7.1 Government has embarked on supporting women in the public arena through the adoption of the Nine Benchmarks to give visibility to women in decision making. Its attempt to provide special temporary measure – to have 30 per cent of women in parliament by 2006 – has been presented in Article 4. This section will discuss the strategies currently in place by the Department of Women’s Affairs in effecting the directive of 1997 as well as the recommendation made by the Electoral Commission in 2002.

7.2 There have been seven national elections since Independence, the last one being held on 6 July 2004. Article 17(1) of the Constitution provides for election of members of Parliament on the basis of universal franchise through an electoral system that has an element of proportional representation to ensure fair representation of different political groups and opinions. Progress in the political arena has been slow: since 1980 only four women have been elected to Parliament, two in the 1987 election, one in 2002 and two in the 2004 snap election<sup>13</sup>. Whilst in Government, Hilda Lini served as the Minister for Health during her two terms. In the previous Government before the snap election in 2004, the only woman in Parliament did not hold any portfolio: some say that it was her first term in office and that she needed to become familiar with the system; yet, men who were serving their first term were given portfolios. Some of the attitudinal barriers facing women will be discussed below.

7.3 Following the 4<sup>th</sup> UN World Conference of Women, the Beijing Declaration was signed by all Pacific nations stating that

“We are convinced that women’s empowerment and their full participation on the basis of equality in all spheres of society, including participation in the decision making processes and access to power, are fundamental for the achievement of equality, development and peace” (cited in Strachan & Dalesa, 2003).

7.4 In 1996 the Vanuatu National Council of Women published the “Working Together for Women” document developed by both Government and NGOs (with support from UN ESCAP) to action the Beijing Platform for Action. This document re-emphasized that everyone has the right to take part in the government of his/her country and that women’s participation in political life plays a key role in the advancement of women. It also identified that the under-representation of women in most levels of Government and the inequitable representation of women in the public arena often started with the unequal power relations within the family. Women were therefore afraid to break with tradition to become leaders and it was stressed that if there were to be a woman’s perspective in politics and decision making, then women’s voices must be heard in the family, in communities and in public affairs. Objective No. 7.1 of the platform for action in Vanuatu then called for a target of 50 per cent female representation in all decision making bodies (Vanuatu National Council of Women, 1996).

7.5 Following the CRP Summit in 1997 the first of the Nine Benchmarks identified for advancing women was to give visibility and meaningful participation to women in decision-making. It acknowledged that by including women in Government and decision making bodies, the following benefits would follow:

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<sup>13</sup> Maria Crowby (1987); Hilda Lini (1987 & 1995); Isabelle Donald (2002 & 2004) and Leinavau Tasso (2004).

- Increased well-being in society
- More balanced policies and programmes that equally benefit men and women
- Economic growth
- Social growth
- Increased access to services and resources for women and girls (for example, in health and education)
- Improved human rights for women
- Meeting obligations under the Constitution, the CRP and CEDAW (Articles 4, 7 & 8) and
- International approval and support.

7.6 In 2001 the Department of Women's Affairs actioned these goals when developing its Statement of Intent for the period 2001-2006 and documented what it intended to carry out in terms of policy formulation during this period. Recognizing the work done by women in Non Government Organizations who have been tireless in working for the advancement of women, it adopted the philosophy of 'Working in Partnership for Equality' to assist in achieving its goals and objectives. One qualifying statement made in this Statement of Intent, however, was the potential slowness with which some of the objectives would be achieved because of limited financial and human resources. It began with the establishment of the Women in Government Taskforce which later became defunct. The following priority areas therefore were detailed for action during 2001-2006:

- Ensuring women's equal participation in Government by 2006
- Meeting Vanuatu's obligations under its Constitution, the Comprehensive Reform Programme and the CEDAW, and
- Ensuring that practical and workable strategies are in place so women can take their rightful place in the decision-making processes of Government at the national, provincial and municipal levels (Department of Women's Affairs, 2001).

7.7 Included in the strategies to increase the visibility of women were voter education for women, training of potential women candidates, quota systems, a change to a proportional representation electoral system and research. These strategies were chosen because they had been shown to be helpful in increasing women's participation in Government in other developing countries (Strachan & Dalesa, 2003). Currently the attitudes of both men and women hinder women's equal participation in public life. To date there are no quota systems in place by Government and there have been no obvious signs of political parties to include in their strategy a direction to increase the number of women in their campaigns in national elections or in decision making bodies.

## **WOMEN IN POLITICS**

7.8 All political parties in 2004 were headed by men although in the recent past, women have formed their own political parties and headed them because of the difficulty of getting support within the party machinery dominated by men. In the years leading up to the 1998 election, for example, two parties - Tavanuatu Community Movement and the Vanuatu Liberal Party<sup>14</sup> - were headed by women.

<sup>14</sup> Started by Hilda Lini and Maria Kalsakau respectively.

Some political parties have women's wings but the strength of these women in pushing for pro-women policies in the parties is largely dependent on the sympathies and strength of the party leadership and members as well as the women themselves. Very few parties have a policy of affirmative action to increase the number of women candidates in their parties to achieve even the target of 30 per cent participation (the 'critical mass') adopted in Beijing as recommended by the Electoral Commission.

7.9 Despite having the right to vote in elections, many women find it hard to stand. Their struggles for recognition and participation in publicly held positions such as in Parliament, Municipal and Provincial elections have always been difficult. Of the 237 candidates in the 2004 elections there were 9 women including three naturalized women. Three women contested under a political party while six were independent candidates. Women's exclusion has been due to attitudes and behaviours that derive from the belief that women are inferior to men, that women's place is in the kitchen and not in the public domain, that women cannot organize themselves, that women should join political parties as a way of getting support for candidature as well as the attitudes in many religious communities promoting the subordination of women reinforced by the interpretation of scripture as the will of God.

7.10 Naturalized women (and men), are discriminated against in politics. In 2002, for example, there were two naturalized women who took part in the national election. Following criticisms that flowed from women and men alike, one candidate withdrew<sup>15</sup>.

#### **OTHER BARRIERS TO WOMEN'S PARTICIPATION IN THE PUBLIC SPHERE**

7.11 As the Department of Women's Affairs is mandated to support the implementation of the Nine Gender Benchmarks, it is strategically placed under the Office of the Prime Minister just as the Department of Strategic Management is mandated to monitor the implementation of the overall progress of the CRP is similarly situated. In an attempt to document the barriers faced by women entering the public domain, the Department of Women's Affairs conducted a study immediately following the 2002 election to find out the reasons why women in Vanuatu are so underrepresented in national, provincial and municipal Governments.

7.12 The study concluded that the problems identified were complex but the reasons included the reluctance, and in some cases direct opposition, by some men (and women) to acknowledge that women have a rightful place in the decision-making processes of the country. These attitudes (already deeply engrained in *kastom*) are difficult to change and attempts in the past to do so had been on an *ad hoc* basis but what is now required is a more clearly planned and coordinated approach. Other barriers identified included political parties that were reluctant to include women as candidates as well as the operational aspect of the "first past the post" electoral system used in Vanuatu. The problems identified in the research show the depth of the attitudinal barriers held by men and women which

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<sup>15</sup> In the 2002 General Election, one of the naturalized women withdrew her candidacy despite being nominated by the party due to internal opposition by indigenous women of the same party contrary to Article 5(1) of the Constitution and Article 1 of CEDAW. No group came forth to protest against this opposition and other discriminatory acts against naturalized citizens. She went on to contest the 2004 General Election and obtained the highest number of votes out of the six women who stood in the Port Vila constituency.

women must first overcome in order to be visible in the public sphere. Below are four of the findings from the research by Strachan & Dalesa.

i. Accessing the Communities

Because the community leaders such as pastors and chiefs are almost always men who have a big influence in how their community members vote, some of the candidates actively worked to bring the men in the communities ‘on-side’ and to also show respect. They did not want to be seen as undermining men’s authority:

“So when we approached the communities we sat with the other women on the mats and left the seats to the men. I thought this was important because I felt that through this way the people could see we did not want to over-ride the men who were mostly community leaders.”

ii. Attitudes and Behaviours of Others: Internal Opposition and General Opposition to Women Candidates

Another commonly identified difficulty was the negative attitudes of many men to women entering politics. This included some husbands not supporting their wives, some highly respected chiefs stating that women have no place in politics and some men considering women were of lower status. This resulted in some party members actively disrupting the campaigns of women candidates.

iii. Kastom

The general view amongst the participants who were interviewed was that kastom was not a barrier, that it differed from island to island and most of the women from SHEFA did not believe kastom hindered their access to politics or other decision-making activities. The women separated out kastom from the attitudes of some men that women were of a lower status. The view that women were of a lower status was not part of kastom (except in Tanna) but rather the attitudes of some individual men who pretended it was kastom and so used it as an excuse to block women. The following comment covers some common sentiments amongst the women:

“I see that *kastom* does not stop women from entering politics. In my kastom, men are made the chiefs, however women become the chiefs when there is no son in the family so we have the rights handed down to the daughter. Women in my area have entered the *nasara*<sup>16</sup>”

iv. Women not Supporting Women

Until women are prepared to support other women it will be very hard for women to get elected. One candidate suggested:

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<sup>16</sup> ‘Nasara’ or nakamal is the meeting house for the chiefs.

“Often women are watched by men and a lot of the times the internal conflicts we have among ourselves are seen as a weakness by the people, and so men continue to say we are not ready to work as a team and so they keep pushing us aside”.

7.13 Whilst the internal conflicts spoken about do exist in a few organizations (such as the 2003 court battles between the President and Board of Directors of VNCW) the majority of women’s organizations do not face these internal and disruptive forces. Many women, therefore, feel that this generalization of women’s groups is unfair. Further, no one talks about the internal conflicts men have within sporting federations headed by men or the shifting of alliances amongst political parties or say that men are not ready to work as a team.

7.14 The late Grace Molisa, Vanuatu’s most renowned advocate for women’s rights, sheds insight into the historical opportunity lost to women to enter the public arena and its ramification in the new millennium.

“The last stage of the Struggle [in 1979 for Independence] was marked by a heightened political tension. During this time, people were frightened. While the men concerned themselves with defending their villages and communities, women and children focused their attentions on keeping their homes and families safe and secure. Women were also busily involved in preparing for the independence celebrations. During that time the political leaders (men) jostled for the power positions which were about to become available to the indigenous people of Vanuatu for the first time ever. So while both men and women had worked together during the Struggle, in this last phase while women were busy keeping their homes safe, the men concerned themselves with public defense considerations and at the same time claimed the power of the constitutional posts and senior administrative positions. This reinforced the effect of the opportunity women lost at the 1979 National Election, thus laying the foundation for the political situation in Vanuatu today where there are no women members of parliament. The lost opportunity for women to be politically included at independence has set the scene for the struggle women are now experiencing” (Molisa, 2001 quoted in Strachan & Dalesa, 2003).

7.15 Thus, one of the early strategies identified by women was the need to provide political training to educate voters and to support women candidates. In the mid 1990s, for example, training was provided primarily by NGOs such as VANWIP, Wan Smolbag Theatre, Transparency International (Vanuatu) as well as the Electoral Commission and recently, the Department of Women’s Affairs. The lack of success by women candidates has also been attributed to the general lack of understanding of the importance of having female voices in Parliament whose concerns will be the well being of children and the family first. Voting on family political lines, non-support of political parties (including the lack of policies for the advancement of women in their party platforms plus the lack of support by women themselves for female candidates remain major obstacles.

7.16 While women were trained to contest the election, 2002 also saw a general awareness campaign to train voters and election observers. Government agencies such as the Electoral Office, the Office of the Ombudsman plus NGOs such as the Vanuatu Rural Development Training Centres Association (with support from the Regional Rights Resource Team), Wan Smol Bag Theatre and

Transparency International Vanuatu participated in a massive training programme. One of the outcomes of these awareness and training campaigns is that today Vanuatu has a large number of trained election observers (Randell, 2002).

### **FIRST WOMAN TO STAND AS CANDIDATE FOR HEAD OF STATE**

7.17 For the first time in the history of the country, a woman contested the election for the position as Head of State on 16 August 2004. Anne Brown, a registered nurse by profession, had the courage to step forward in an arena where three months previously, as in previous years, chiefs were telling women that they had no place. Says Brown in the newspaper: “I am taking the first step because i) there is no discrimination in applying for the post and ii) I believe that women can apply for the post as well as men if we feel we have confidence in ourselves” (Toa, 2004).

#### **Box 6**

#### **TRAINING WORKSHOPS FOR WOMEN CANDIDATES**

In February 2002, the Department of Women’s Affairs organized two training workshops for potential female candidates in Port Vila and Luganville to prepare them for the General Elections in May funded by the NZ Government and UNIFEM. This was part of the work done in collaboration with the VANWIP and the Women in Government Taskforce Committee as part of the Department’s strategy to increase women’s representation in Government. 70 women, including both those who were affiliated with political parties and non-affiliates, participated ensuring the apolitical nature of the training. Topics covered a range of issues including the importance of having women MPs; the electoral process, running a campaign, preparing and delivering a speech, roles of MPs, how parliament works (including accounting and budgeting); issues affecting women; CEDAW; use of the media. Speakers included the Minister for Education and two MPs, donors, the Director General of the Office of the Prime Minister and Hilda Lini, herself an MP serving two terms as well as a Minister in Government. The training was run by a ni-Vanuatu woman who later stood as a candidate and two female advisors from the Department of Women’s Affairs and UNIFEM.

(Dalesa, [2002])

### **WOMEN IN GOVERNMENT**

7.18 The Public Service is an important employer for women and in 2003, out of a total of 4,641 employees, 38 per cent (1,781) were women. The 2002 Public Service Manual provides for the establishment of a Selection Committee comprising three members to ensure that job applicants are assessed in a fair and equitable manner. Sections 2.4(f) and 2.4(g) provide that there should be a reasonable balance of Anglophone and Francophone speakers and males and females on the Committee. In principle the human resource management policies of Government are non-discriminatory and both recruitment and promotion are officially based on “merit”. There are some informal measures currently in place to give preference to women to address the unequal sex ratio of employees when there are potential appointees of both sexes who are equally qualified.

7.19 While there has been some increase in the number of women employees in Government in some areas, in others, such as the Police Force, little has changed. In 1995, for example, there were 639 members of the police and paramilitary force of which 36 were women and in 2003, there were 560 members of which 30 were women. Since sexual crimes and crimes against children are rising it would be expected that there would be more female officers to specifically deal with gender-based crimes.

7.20 The reality, however, is that it is difficult for women to break the invisible glass ceiling. Women's own lack of confidence to break the glass ceiling has been suggested as one reason for few women in top positions. In 1995, for example, four females compared to 39 males, held positions at the most senior Government level. Nearly a decade later, there are only 10 female Directors (an average increase of one per year). In 2003, there were four departments which had no female representation at the Director or Director General levels. Surprisingly, the Education Department, which is probably one of the few Departments ahead with its policy for equity and equality, does not have any women holding senior administrative positions such as Directors.

7.21 In 2003 one out of nine Director Generals was a woman and of the 47 Directors, nine were women representing only 18 per cent of senior positions held by women. The Prime Minister's Office is currently the only Office where 50 per cent of senior posts are held by women. This is followed by the Department of Health and Department of Finance and Economic Management both with 40 per cent participation rate by women.

7.22 Since the adoption of the Nine Benchmarks to make women visible, no Equal Opportunities policy has yet been developed. In 2001 the Department of Women's Affairs proposed development of new legislation to include Equal Employment Opportunity and a policy against Sexual Harassment. Overall, there is still a lot of work to be done in Government to increase the level of participation of women in decision making positions and achieve a gender balanced workforce by 2006 as envisioned by the Department of Women's Affairs.

Table 7  
**Women holding senior positions in Government, 2003**

Department	Male	Female	Total	% Female
Prime Minister's Office	3	3	6	50
Finance and economic management	3	2	5	40
Health	3	2	5	40
Internal affairs	7	2	9	22
Agriculture, quarantine, forestry and fisheries	4	1	5	20
Education	8	0	8	0
Infrastructure and public utilities	5	0	5	0
Lands and natural disaster	8	0	8	0
Trade	5	0	5	0
<b>Total</b>	<b>46</b>	<b>10</b>	<b>56</b>	<b>18</b>

**Source:** Public Services Commission, 2003.



## WOMEN IN STATUTORY BODIES

7.23 Women continue to be underrepresented in statutory and special bodies appointment by Government.

## WOMEN IN PROVINCIAL & MUNICIPAL COUNCILS

7.24 Female representation in Provincial and Municipal Councils has been very poor. There has only been one female Lord Mayor in Luganville and there has never been any female Presidents or female Councillors in the six Provincial Councils since 1994. In the past, representatives of chiefs, women and youth were appointed with observer status in Councils. With the adoption of CEDAW in 2004 as its platform of action for women by SHEFA Province, its first action to implement the various directives to give visibility to women in decision making position and Article 7 of CEDAW, has been the active dissemination of this pro-women action through the mass media and community meetings. A lot of leg-work by the SHEFA Provincial Council, has been taking place since May to encourage chiefs, women, church and community leaders to put seven or more women in the new Provincial Council due in November 2004.

## WOMEN IN NGOS AND CIVIL SOCIETY ORGANIZATIONS

7.25 There are no legal barriers to the participation of women in Non Government Organizations or civil society organizations. As has been highlighted previously, women's groups, particularly among the churches, are most organized with an extensive network throughout the country. 40 per cent of the Cultural Fieldworkers at the Vanuatu Cultural Centre are women; two of the seven members of the Board of Directors of VANGO in 2004 are women; approximately 11 out of the 77 financial members of VANGO have women as heads of those organizations. The constitution of the Disability Promotion & Advocacy Association specifically provides for a gender balance in its governing body and in 2004, four out of the seven members were women.

Table 8

### Representation of women in public bodies and civil society organizations, 2003

<i>Institutions</i>	<i>Men</i>	<i>Women</i>	<i>Total</i>	<i>% Women</i>
<b>PARLIAMENT (2004)</b>	50	2	52	4
Council of Ministers	13	0	13	0
Political Advisors	32	1	33	3
<b>COMMISSIONS, TRIBUNALS, BOARDS</b>				
<i>Citizenship Commission</i>	4	1	5	20
Development Committee of Officials	22	1	23	4
Electoral Commission	2	1	3	33
<i>Government Remuneration Tribunal</i>	3	0	3	0

<i>Institutions</i>	<i>Men</i>	<i>Women</i>	<i>Total</i>	<i>% Women</i>
Judicial Services Commission	4	0	4	0
National Housing Commission	6	1	7	14
Police Services Commission	4	0	4	0
<b><i>Public Services Commission</i></b>	5	1	6	17
<b><i>Public Services Disciplinary Board</i></b>	2	1	3	33
Teaching Services Commission	5	0	5	0
<b>GOVERNMENT ESTABLISHED COMMITTEES</b>				
<b><i>Constitutional Review Committee (2002-2003)</i></b>	9	1	10	10
<b><i>National Children's Committee</i></b>	4	5	9	56
<b><i>Parliamentary Accounts Committee</i></b>	6	1	7	14
Social Equity Task Force	10	5	15	33
Vanuatu CEDAW Committee	5	8	13	62
<b>STATUTORY BODIES</b>				
Air Vanuatu	9	1	10	10
Malvatumauri Council of Chiefs	22	0	22	0
Vanair	4	0	4	0
Vanuatu Broadcasting & Television Corporation	7	0	7	0
Vanuatu Commodities Marketing Board	10	1	11	9
Vanuatu Cultural Council	7	1	8	12
Vanuatu National Provident Fund	4	-	5	-
Vanuatu National Training Council	5	3	8	38
<b>VANUATU CHRISTIAN COUNCIL</b>	5	0	5	0
<b>UNIONS</b>				
Vanuatu Teachers Union	8	2	10	20
<b>NON GOVERNMENT ORGANIZATIONS</b>				
Vanuatu Association of Non Government Organizations	5	2	7	29

**Source:** Data collected for the CEDAW Report.

## WOMEN IN UNIONS

7.26 There are two main unions in Vanuatu, the Vanuatu National Workers Union and the Vanuatu Teachers Union. As of June 2004 the Vanuatu Teachers Union had 1,121 members. It also has a Women in Education Committee with branches in all the Union's offices throughout the country. Of the 10 members of the Executive, two are women (one being the Treasurer).

7.27 No women have been jailed as a result of their political affiliation or activity. One man, the late Jimmy Stevens, is the only person who is considered to have been a political prisoner.

## **PARTICIPATION OF NGOS AND CIVIL SOCIETY IN THE DEVELOPMENT OF NATIONAL DEVELOPMENT POLICIES**

7.28 Over the years, NGOs and civil society organizations (including disability organizations) have been consulted by Government to provide input to national policies, reports and to participate in regional and international meetings. In 1995 for example, the Country Report for the World Conference on Women was produced with huge input by women's groups (Department of Culture, Religion, Archives & Women's Affairs, 1994; 1995). Following the Beijing Conference, the platform for action for the country was initiated by NGOs and produced with Government; the Comprehensive Reform Programme had input from civil society organizations, and in 2002, Government invited NGOs (including VNCW, Vanuatu Women's Centre, VANGO, DPA) to be on the Prime Minister's Advisory Group to provide advice and review the Comprehensive Reform Programme. In general, Government has been working with civil society organizations in all the different fields.

7.29 Comments received in the preparation of this Report were that many NGOs and CBOs are tightly pressed for time to attend the numerous meetings called by all sectors of the community. Women's groups are often placed at a disadvantage when they cannot attend meetings and as a result, there is often an incorrect perception that they are not interested. For women who have a lot to contribute, the inability to attend meetings and provide women's perspectives into meetings is a concern. While it is expected that the recent Memorandum of Understanding between Government and VANGO will address some of these issues by having women on specific sub-committees, this will not answer the concerns raised by women. There are specific issues such as reports for international and regional organizations to which women in the NGOs are requested to provide.

7.30 What is clear from the consultations held with women is that there is a need to have a national entity for women that will provide recommendations, monitor the implementation of national and international commitments for women as well as providing advice to Government Departments as well as external bodies on issues specific to women. Just as there is the Malvatumauri Council of Chiefs for chiefs, National Youth Council for youths and the National Children's Committee for children, there is a need for a National Women's Advisory Committee for women.

### **Article 8**

**States parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the world in international organizations.**

8.1 There are no legal or administrative barriers barring women from representing the Government at international meetings or participating in the work of international organizations. At the same time, there is no policy specifically stating that there be an equal balance of women and men at regional and international meetings although in most cases it is men who represent the Government. Women

representatives from the NGO community do get invited to be part of the Government delegation to meetings at times.

8.2 Vanuatu is a member of most UN committees as well as regional organizations but very few women represent the Government in regional or international organizations. There are no statistics kept to monitor representation of women who are sent to international meetings. One woman who is currently the only female Director General and Chair of the Vanuatu CEDAW Committee has represented Vanuatu on the World Health Organization from 1999 to 2002. While a few people do work in regional organizations, most of them are males. In the last five years, only one woman and one man from Vanuatu have headed a regional NGO. Vanuatu does not maintain foreign offices but of the three Honorary Consuls (Noumea, Sydney and New York) one is a woman. There are no programmes to encourage women to enter the foreign service or to apply for positions in international bureaucracy and it is left to women themselves to apply for vacancies.

### PEACE KEEPING MISSIONS

8.3 Vanuatu does not have a military army. Instead it has a paramilitary body called the Vanuatu Mobile Force mandated to protect the country from external threats. There are currently 30 women in the Vanuatu Police/VMF (five per cent) of whom two are in the VMF. Over the past decade, Vanuatu has assisted in regional and international peace keeping missions. Women's participation rate in peace keeping missions over the past decade is five per cent.

Table 9  
**Women in peacekeeping missions, 1994-2003**

Countries	Male	Female	Total	% Women
Bougainville: October 1994	50	0	5	0
Bougainville: November 1997 – August 2003	126	11	137	8
Bosnia: October 2000 – November 2001	10	0	10	0
East Timor: September 2000 – October 2003	30	0	30	0
Solomon Islands: 2000 – 2001	14	3	17	18
Solomon Islands: September 2003	12	0	12	0
<b>Total</b>	<b>242</b>	<b>14</b>	<b>256</b>	<b>5</b>

**Source:** Captain Karl, B, 2003.

### Article 9

- a) **States parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of her husband;**

**b) States parties shall grant women equal rights with men with respect to the nationality of their children.**

9.1 Chapter 3 of the Constitution contains provisions determining a person's citizenship based on his or her ancestry and status as a citizen. Articles 9 to 11 provide that persons who have or had four grandparents belonging to a tribe or community indigenous to Vanuatu or who had no citizenship, nationality or had status as optants at independence became automatic citizens. Anyone born after the Day of Independence, whether in Vanuatu or abroad became a citizen if at least one of his or her parents is a citizen of Vanuatu. There are provisions for revocation of ni-Vanuatu citizenship and provisions for children including adopted children. Article 12 of the Constitution has provisions allowing anyone from a foreign state or a person who is stateless to apply to become a naturalized citizen if they have lived continuously in Vanuatu for at least 10 years before application who must renounce their previous citizenship within three months of being granted Vanuatu citizenship. The exception to this 10 year period is for children where the period of renouncement is three months after reaching 18. Parliament also has the prerogative to prescribe other conditions for naturalization, one of which is the reduction from 10 years to five years residence if the non-citizen has invested in Vanuatu. This condition puts many foreign women married to ni-Vanuatu men at a disadvantage since most are not able to comply. Non-monetary investments such as marriage to a ni-Vanuatu man and bearing his children are not recognized as investment although this is recognized in custom. Vanuatu does not recognize dual nationality under Article 13 of the Constitution.

9.2 Women, whether married or not, have equal rights with men to acquire, change or retain their nationality. There are no social, cultural or economic factors that affect a woman's exercise of these rights. Women who are non ni-Vanuatu and marry ni-Vanuatu men on the other hand mostly change their nationality and become citizens of Vanuatu, and most do so for the purpose of becoming part of the family. Women have the same rights with respect to gaining residence and employment status for their spouse in situations where the spouse is a non-national. A fee of VT 100,000 is charged for a work permit for non ni-Vanuatu women married to ni-Vanuatu men.

9.3 Children can have their own passports if they are attending overseas schools or go on excursions with their schools or churches or go on holidays with families. Most children up to the age of five or six are included on their mother's passport – except if the child is in the custody of the father. In that case, the child will have his or her own passport. A father's consent is not required to include children on their mother's passport. A woman may also obtain a passport without the permission of her husband.

9.4 Due to the increasing prevalence of paedophiles operating in the Pacific and fears of trafficking of children, the consent of parents of minors are required by the Embassy or High Commissions granting the visa prior to being granted a visa. It is a requirement by foreign missions that both parents must grant permission for their children to leave the country for overseas trips without them. In cases where one parent leaves the country with their children, the other parent must sign a release paper to the foreign Embassy or High Commission who are required to have this proof of release through documents such as the original birth certificate or other documents of proof of parentage. This requirement applies to both mother and father.

9.5 The provisions of Chapter 3 of the Constitution were effected through the Citizenship Act (Cap 112) but this piece of legislation has been found to be discriminatory contrary to Article 1 of CEDAW.

**Box 7**

**SUMMARY OF DISCRIMINATORY PROVISIONS  
IN THE CITIZENSHIP ACT (CAP 112)**

In 1999 the Ombudsman reviewed the Citizenship Act (Cap 112) and its impact on male and female applications for citizenship and found that, in several respects, women and men are treated differently for the purpose of determining Vanuatu citizenship:

- A man applying for citizenship after 10 years residence can include his wife and children in his application. A woman applying for citizenship after 10 years residence cannot include her husband and children in her application (s12);
- A woman is entitled to citizenship if she is married to a ni-Vanuatu man. A man is not entitled to citizenship on the basis of marriage to a ni-Vanuatu woman (s10).;
- In the case of joint adoption of a child, the child is automatically a citizen if his or her father is ni-Vanuatu, but not if his [or her] mother alone is ni-Vanuatu (s11);
- A woman can regain her citizenship if she gave up her ni-Vanuatu citizenship because of marriage to a foreign national and the marriage later broke down; a man cannot (s18).

The Ombudsman found that the Citizenship Act illegally and unconstitutionally discriminates on the basis of sex by providing unequal entitlements to women and men which is a violation of the fundamental right to equality in Article 5 of the Constitution. It was also contrary to the Convention on the Elimination of All Forms of Discrimination Against Women (Ratification) Act which is binding in Vanuatu.

The Constitution guarantees equal treatment under the law and Article 2 of CEDAW requires the Government to amend discriminatory laws. The Ombudsman therefore recommended amendment of the Citizenship Act (Cap 112) by Parliament in 1999 to remove the discriminatory and unconstitutional aspects of the Act, a move that could be done without detracting from the current citizenship entitlements. The Ombudsman further recommended that until the Citizenship Act can be amended, the Citizenship Commission acknowledges the discrimination within the Act and advises applicants that it will not oppose any person's application to the Supreme Court to be given equal rights under the Citizenship Act.

(Office of the Ombudsman, 1999b)

9.6 A working paper recommending amendments to these discriminatory provisions was provided by the Office of the Ombudsman to both the Prime Minister and the Chair of the Citizenship Commission in 1999. It is not known if the Citizenship Office did advise applicants following the Ombudsman's recommendation or if any applicants applied to the Supreme Court for equal rights

under the Citizenship Act. To date no amendments have been made to the Act as recommended by the Ombudsman.

9.7 As part of the consultation for the preparation of this Report, a first ever meeting with naturalized women married to ni-Vanuatu men living in Port Vila was held in the Department of Women's Affairs. While many reports are written on the status of indigenous women, there are a few women from all corners of the earth married to ni-Vanuatu men, bearing their children, taking on the nationality of their husbands and devoting their life to their families and communities. Yet, very little has been documented about their positions. While the comments shared during this consultation point to a need to take into account their situation as women of Vanuatu, a more thorough documentation of their lives, their experiences and their suggestions would be one step to include these women from different islands, different cultures, different religions as Vanuatu women.

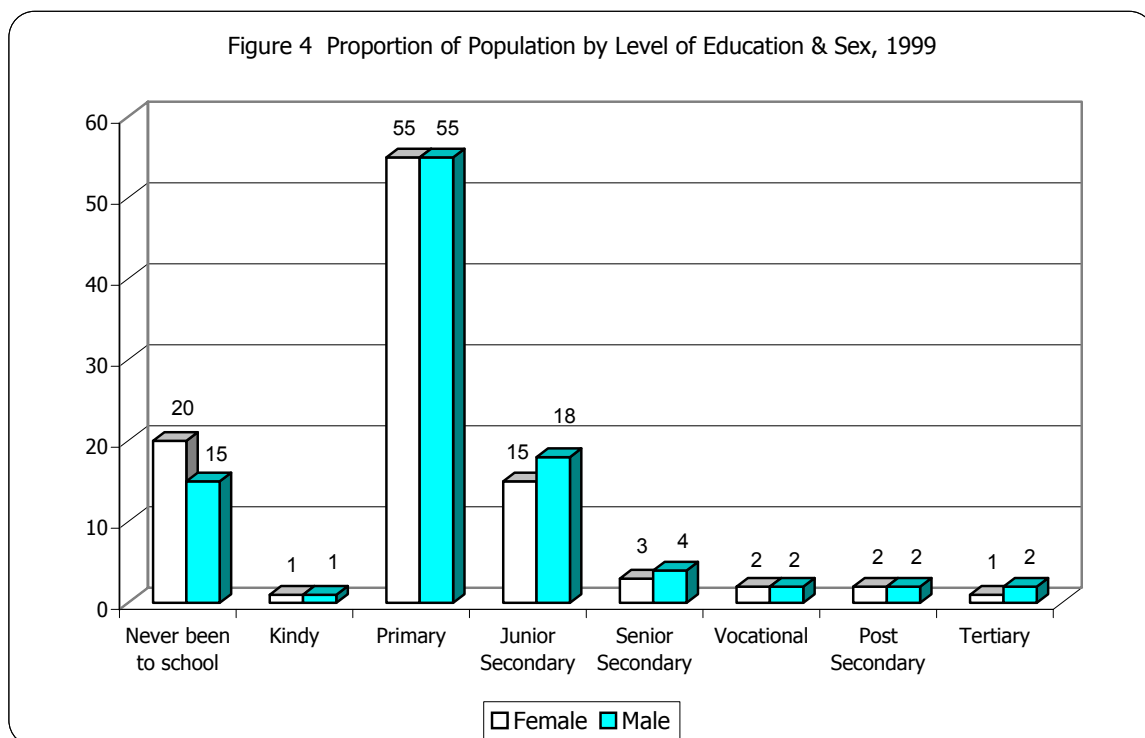
## **Article 10**

**States parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:**

- a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;**
- b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;**
- c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;**
- d) The same opportunities to benefit from scholarships and other study grants;**
- e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;**
- f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;**
- g) The same opportunities to participate actively in sports and physical education;**

**h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.**

10.1 Vanuatu has progressed well toward achieving gender equity in school enrolments especially at the primary and junior secondary levels of education. Since 1991 enrolment of girls in primary education has reached 48 per cent matching the ratio of boys to girls in the general population at that age. This suggests that there is little gender difference in primary education in general. Provincial variations exist and most notable has been the progress in Tafea Province which has seen a steady increase in the enrolment of girls from 45 per cent in 1991 to 48 per cent in 2001. The 1999 national census recorded that 55 per cent of both males and females had attained Grade 6 education shown in Figure 4. However, 20 per cent of women compared to 15 per cent of men reported that they had never attended school. The literacy rate for Vanuatu ranges from 34 per cent to 65 per cent. Abel Nako will provide a figure from UNESCO to clarify or be consistent instead of having this huge range.



**Source:** National Statistics Office, 2000a.

10.2 In junior secondary schools, enrolment of girls has increased from 43 per cent in 1991 to 49 per cent in 2002. Again Tafea province has seen the biggest progress from 39 per cent in 1991 to 52 per cent in 2002. In senior secondary, post secondary and tertiary education, females have yet to meet the positive achievements made in the junior levels of education.

10.3 One of the factors contributing to this positive progress has been the emphasis Government has placed on education before and since independence. Education of children has always been a



priority for both parents and Government and is considered a fundamental duty of parents as reflected under Article 7(h) of the Constitution which obligates parents to support, assist and educate their children, whether legitimate or illegitimate. Section 7(2) of the Education Act provides that it is the duty of the child's parents to ensure that the child attends a school. At present education is not compulsory or free. However, according to the National Plan of Action for the Education For All launched in 2001, Government has targeted that by 2015, all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities will have access to a complete, free and compulsory primary education of good quality (Strachan, 2002). The EFA National Plan of Action 2001-2015 was launched on 5 May 2004.

10.4 Detailed information on the status of the education sector in 1995 is not available for reporting as required under Article 18 of the Convention. What is available, however, are the enrolment statistics from 1991 which the Ministry has been able to provide when it began to systematically compile Annual Reports in 2001. In addition to these sources, the data from the 1999 National Census has been relied upon to provide some of the necessary details for some sections of this Report.

## **LEGISLATION RELATING TO NON-DISCRIMINATION IN EDUCATION**

10.5 Legislation prohibiting discrimination in education is contained in the Education Act<sup>17</sup> under s8(1) and states that a child is not to be refused admission to any school on account of his or her gender, religion, nationality, race, language or disability. Section 8(2) provides that a child is not to be admitted to year 1 unless he or she is at least 6 years old and a child is not to be admitted to year 7 if he or she is over 15 years old. Otherwise, a child is not to be discriminated against on account of his or her age. Non-discrimination on the grounds of age was included in the Act following the findings of the Ombudsman that the Ministry discriminated against a 15 year child by not allowing that child to continue to secondary school because the child was considered to be too old.

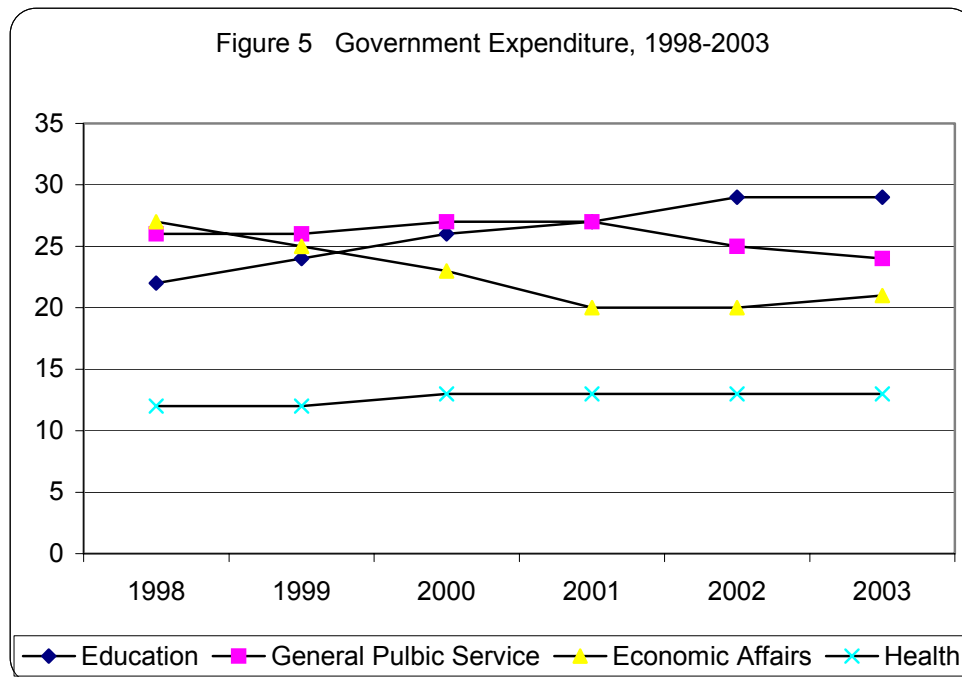
## **GOVERNMENT MACHINERY**

10.6 Vanuatu has an English and French education system commencing from pre-school, primary, secondary to post secondary level and is provided by Government, religious bodies and for private organizations. Pre-schools are fully provided for by the communities themselves and since 2003 some 90 per cent of them are conducted in the vernacular. Figures available in 2001 report that there were approximately 524 pre-schools, 405 primary schools (nearly doubled from 265 in 1991) and 59 secondary schools. All Government schools are co-educational and are required under s 26(b) of the Education Act to comply with the national curriculum which is determined by the National Education Commission. Since 2004 all other educational institutions are required to register with the Ministry and approval of compliance with this requirement rests with the Director General of Education under s20 of the Act.

10.7 Expenditure in the Education sector is the largest of all sectors in Government as can be seen in Figure 5. Since 1998 expenditure in this sector has increased from 22 to 29 per cent of Government

<sup>17</sup> Education Act No. 21 of 2000, assented to on 30 December 2001 and commenced on 25 February 2002.

spending in 2003. This can be compared to expenditure in the health sector which increased minimally from 12 per cent to 13 per cent during the same period.



**Source:** Finance Department, 2004.

## SCHOOL ATTENDANCE

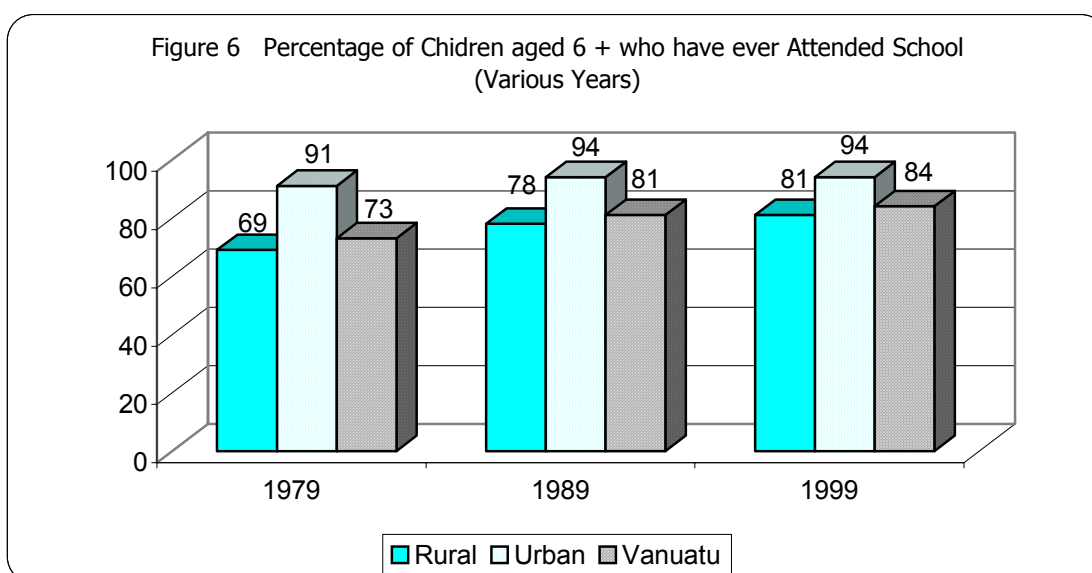
10.8 Reports from the three national censuses show that since 1979, the proportion of children attending school has increased from 73 per cent to 84 per cent in 1999 as shown in Figure 6. The increases have been particularly marked for girls from 76 per cent in 1989 to 82 per cent in 1999 compared with boys from 84 per cent in 1989 to 85 per cent in 1999. In the rural areas, there has also been noticeable improvement in attendance rates from 69 per cent in 1979 to 81 per cent in 1999. In 1999 it was recorded that 76 per cent of males and 75 per cent of females were attending school at the time of the census in November, suggesting that this is the retention rate for that year (NSO, 2000a).

## PRE-SCHOOLS

10.9 The duration of enrolment in a pre-school is two years. In 1995 it was reported that 51 per cent of the 5,666 children in pre-school enrolment were girls and in 2001 this had decreased slightly to 49 per cent during the same period. For the first time ever in 2001, the Division of Policy and Planning Services with the assistance of the National Pre-School Coordinator at the Ministry of Education and the Pri-Skul Asosiesen blong Vanuatu (PSABV) carried out a pilot project to collect data on Early Childhood Education Centres/Kindies/Pre-schools throughout the country. This survey reported a total

of 8,710 children aged between 4 and 6 years who were attending pre-schools, 49 per cent of whom were girls. Further, the following findings were reported:

- There were 830 teachers, 99 per cent of whom were females;
- 349 or 42 per cent of teachers – all women - were trained by the PSABV;
- The teacher/student ratio was approximately 10:1 in line with the Ministry recommended ratio as approved under the Policy & Guidelines on Early Childhood/Pre-school Education. Shefa Province, however, had a ratio of 18:1;
- 65 per cent of all teachers were volunteers;
- Of those who received a salary, 75 per cent received between 500 and 1,000 vatu per month. This is because the majority of teachers are in the rural areas and most parents who live in the villages cannot afford to pay school fees. Most of those in a higher income bracket are from the urban centres.



**Source:** National Statistics Office, 2000a.

10.10 One of the factors that makes it possible to adhere to the recommended student/teacher ratio is the remoteness of villages. It is difficult for young children to walk long distances to another village to attend pre-school so each small village has its own small pre-school. In some cases there is an unnecessarily large number of pre-schools in one area or village because of religious divisions and this results in duplication of scarce resources.

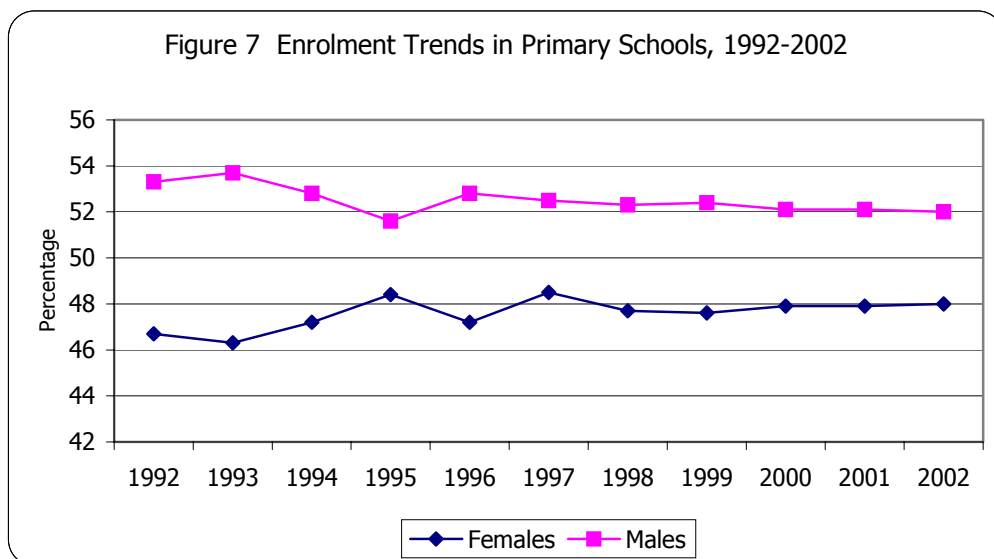
10.11 Pre-school teachers are chosen by their local community, usually by the chief. The criteria for their selection is that they must have an interest in young children; must understand children; must have a mature attitude and a sense of responsibility, and must be 18 years or older. The Pre-School Association does not have a gender equity policy as evidenced by the huge disparity of female trained pre-school teachers compared with males. Four out of seven of the Provincial Pre-School

Coordinators are men and one reason suggested for the appointment of men to these positions is because they are more likely to be listened to by the community. This is an important factor particularly in the initial stages of negotiation with communities for establishing a pre-school.

10.12 The main gender issue in pre-school education is that if women continue to be grossly over-represented, then caring for young children will continue to be seen as women's work. One of the recommendations made following the gender analysis of the education sector in 2002 was to give more attention to developing a plan of action that includes strategies to encourage more men to train as pre-school teachers (Strachan, 2002).

### PRIMARY SCHOOLS

10.13 72 per cent of all schools are administered by Government, 23 per cent by religious bodies and six per cent by private organizations. Of the schools run by religious bodies, 54 per cent were run by the Catholic Church. MALAMPA Province has the most primary schools (92) followed by SANMA (82); SHEFA (76); TAFEA (73); PENAMA (63) and TORBA (19). Girls and boys are provided the same curriculum including equal participation in all sports in schools.

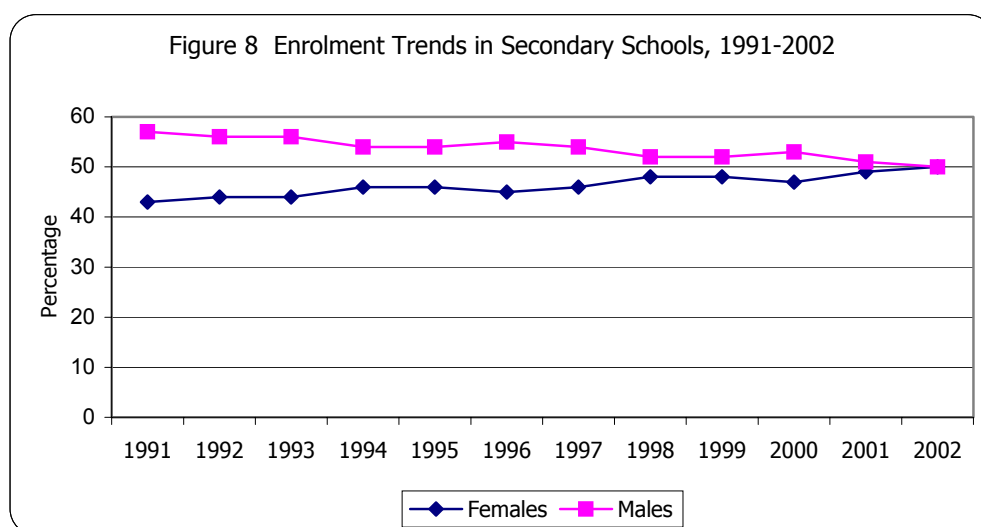


**Source:** Department of Education, 2002.

10.14 The total number of primary students enrolled in 2001 was 36,482, an increase of four per cent since 2000. Of a total of 1,537 teachers, 51 per cent were women. The enrolment rates for girls in primary schools has been increasing from 46 per cent in 1992 to 48 in 2002. In 2002 all Provinces maintained this rate and in some cases recorded higher than 48 per cent. While there are some provincial variations - TAFEA has seen the most increase as previously mentioned. As a means of assisting some of the children who were not able to pass to secondary schools after the Class 6 exams and to assist the rural areas, Government introduce two Top-Up Schools which are operating in TORBA Province.

## SECONDARY SCHOOL

10.15 Figure 8 shows that there has been a positive increase in the proportion of girls' enrolment in secondary school since 1991. This is significant because proportionally, the national male/female ratio is 51:49. In 2002 the enrolment rate reached 50 per cent.



**Source:** Department of Education, 2002.

10.16 Figures from 2001 show that the number of girls enrolled in junior secondary is approximately 50 per cent. In the senior years - Years 11, 12 and 13 - there was an average of 7 per cent drop out amongst girls but of those who continued, there was an equal balance of boys and girls.

10.17 Data available for one senior secondary school showed that in Year 11, more girls took courses in humanities (Development Studies, French, English, History) and Accounting. By Year 13, Accounting and Statistics were the favoured subjects amongst girls. By the same token, the Vanuatu Association of Women Graduates has been actively encouraging girls in secondary schools to progress to tertiary education and venture into traditionally male dominated fields.

## TERTIARY EDUCATION

10.18 Vanuatu hosts Emalus Campus, one of the three campuses of the regional University of the South Pacific (the other two being in Fiji and Samoa with the headquarters based in Fiji), comprising the School of Law, the Pacific Languages Unit, the Early Childhood Education programme and Distance and Flexible Learning Centre. In 2003 there were approximately 1,000 students from the Pacific region enrolled on campus and through extension at Emalus Campus, both full-time and part-time students. A review of the four extension programmes at Emalus Campus reveals that accounting is the subject of choice of females - the female intake for this course had increased from 29 per cent in 1999 to 45 per cent in 2002. At the same time, it is also clear that more women are enrolling in extension courses from 26 per cent in 1999 to 40 per cent in 2002.

10.19 In 2002 there were 79 staff, 35 of whom were females. 53 per cent of the administrative, clerical and cleaning positions were held by females and all the security posts and grounds staff were males. 30 per cent of academics were females while 3 out of 10 senior posts were held by women. The Pro Vice Chancellor is a male. In 2002, the Agence Universitaire de la Francophonie, the other tertiary institution in Vanuatu, employed 10 staff including two volunteers. The Director is a female.

## **TECHNICAL AND VOCATIONAL EDUCATION**

10.20 Technical and vocational education and training in Vanuatu includes virtually all education and training, apart from general school education, which leads to the acquisition of skills that may be used in either paid or subsistence employment. There are 12 technical schools excluding the private and church run ones. The majority of education and training takes place after attendance at primary or secondary schools and consists of institutions like the Vanuatu Institute of Technology (VIT) as well as non-formal education facilities including Rural Training Centres. In 1999, it was reported that a total of 70 Government and Non-Government institutions enrolled approximately 2,650 students in post primary institution, 1,402 students in post-secondary and 1,173 students in in-service or continuing education (Department of Education, 1999). The Technical and Vocational Education Training Master Plan was formally launched in May 2003.

10.21 In almost all forms of technical and vocational education and training, females are underrepresented. For example, females account for 43 per cent of the total enrolment at the Vanuatu Teachers College, 36 per cent at VIT and 26 per cent at Rural Training Centres. The exception is the Vanuatu Nursing School where 60 per cent of students are female. The reasons cited for the under representation of women include the relatively low incidence of girls in upper levels of general education, the reluctance of families to send their daughters to boarding institutions, the opportunity costs of providing education to girls, and traditional perceptions of the roles that women should play in society.

### **VANUATU INSTITUTE OF TECHNOLOGY (VIT)**

10.22 This is the country's main provider of post-secondary, formal, pre-employment training for jobs in the modern sector of the economy. Courses last for two years full-time aimed at the craft or trade levels and generally require a Year 10 education for entry. The fields of studies are Industrial Studies (Masonry, Automotive Mechanics, General Mechanics, Carpentry and Joinery, Electrical Engineering and Arts and Crafts); Commercial Studies (Accounting and Secretarial Studies); Hospitality and Tourism. In 1998 the total number of students in certificate courses was 462 and of these, 166 or 36 per cent were females. 80 per cent of students in Accounting were female students compared with none in the Industrial Studies.

10.23 In 2002 the Vanuatu Institute of Technology employed a total of 50 teaching staff, 12 females and 38 males. In terms of seniority there was one female Head of Department, four male Heads of Department, two female Assistant Heads of Department and three male Assistant Heads of Department.

### **RURAL SKILLS TRAINING PROGRAMME**

10.24 The Rural Skills Training Programme is a quasi-government organization that has been operating since 1992 with support from DFID and the New Zealand Government aimed at promoting rural community development by facilitating the acquisition of skills needed to improve social and economic well-being in the village. The programme typically conducts training in areas such as leadership, adult and youth literacy, first aid, health and hygiene, and construction of village infrastructure such as stoves, toilets and systems for water supply and rubbish disposal. Of the 37 managers of Rural Training Centres in 2002, only one was a woman and only 24 per cent of the trainers working in these Centres were female.

10.25 Statistics for the Vanuatu Rural Development and Training Centres Association showed that in 1997 a total of 675 students were enrolled in 27 RTCs with an average of 25 students for each centre. 26 per cent (176) of the students were females. There were 58 teaching staff of whom 21 per cent (12) were females.

### **EDUCATION OF CHILDREN WITH DISABILITIES**

10.26 Since independence little has been done to include children with disabilities in mainstream education. From 1991 until about 1997, the Vanuatu Society for Disabled People was able to provide some rudimentary education to some children within the urban centre of Port Vila. This was provided by the only Special Education teacher who was also heading this NGO until she left in 2001. However, in one report it was stated that only 13 per cent of children with disabilities in the country who could have gone to school in 1997 actually went to school (Department of Education, 1999). Since the adoption of the National Action Plan for the Education for All (EFA), Government has embarked on a number of initiatives, among which is the inclusion of a representative of the Vanuatu Society for Disabled People on the Vanuatu EFA Committee. In 1999 Government recommended the following actions:

- i. To appoint an officer in the Ministry of Education with specific responsibility for the development of policies and programmes for the education of persons with disabilities at all levels of the education system and to be the official representative of Government on the Vanuatu Society for Disabled People;
- ii. To officially incorporate components about the needs and education of persons with disabilities into the curricula of all programmes of the Vanuatu Teachers College;
- iii. To designate one primary school in Port Vila and one in Luganville as the national centres for the education of children with disabilities and to assign resources to make it possible for these schools to provide effective education for persons with disabilities;
- iv. To devote capital resources and make physical provision for persons with disabilities in all new schools constructed from 2000 onward and in all existing schools when any major project or renovation is being implemented.

10.27 In 2003 the Special Needs Officer was appointed specifically to coordinate and develop programmes for children with disabilities. As a result of this the Department now has, for the first

time, preliminary information showing that in 2003 a total of 334 children with disabilities were attending mainstream schools in five Provinces. Although the figures are not broken down by sex, it is hoped that this and other data will be available in 2004. While training of teachers or changes in the curriculum to accommodate children with special needs is a priority, these will take time to reach fruition. In March 2004, the Disability Promotion & Advocacy Association submitted recommendations to the Hon Deputy Prime Minister and Minister for Infrastructure & Public Utilities to include universal access in the Building Code using the United Nations standards (DPA, 2004). To further support actions to give recognition to people with disabilities, Government, with the assistance of DPA, developed the National Disability Policy which was approved by the Council of Ministers in April 2004.

10.28 Students with disabilities comprise a miniscule proportion in the programme at any of the educational institutions. The Australian High Commission has provided five scholarships annually for people with disabilities to attend VIT for the last five years.

### **EDUCATION FOR THE HEALTH AND WELL-BEING OF FAMILIES**

10.29 Vanuatu does not have institutions which specifically provide life-long education that includes the health and well-being of families. Much of the education on the well-being of families is provided through the teachings of the various religious organizations. Family planning as a component of this education is left to health clinics and a number of NGOs such as the Vanuatu Family Health Association and Wan Smol Bag Theatre which also provide issue-based health education on HIV/AIDS and STIs. Other NGOs such as the Vanuatu Women's Centre provide education on the impacts of violence on the health of women, girls, boys, men and the community at large.

10.30 The Vanuatu Family Health Association has developed a two-part "Family Life Education Manual for Year Six Teachers" which is taught at the Vanuatu Teachers College. Topics in this booklet include:

- Sexuality
- Puberty
- Anatomy
- Births and Pregnancies
- Family Planning and Contraceptives
- Relationships
- Sexual Assaults
- Sexual Harassment
- Sexually Transmitted Infections
- Vanuatu and Attitudes
- Decision Making
- Gender Issues
- Adolescence

10.31 One of the problems that has been identified in the use of this teaching manual is the traditional and religious attitudes some teachers hold about discussing taboo topics such as sexuality. According to the first Executive Director of the Vanuatu Family Health Association, this is a major barrier to providing teachers with educational tools to make students informed of natural phenomena such as hormonal changes during puberty and adolescence, pregnancies and child births. The Coordinator of the IZA Foundation (the first HIV/AIDS-specific registered NGO started by a person



living with HIV/AIDS), is one of the strongest advocates for going beyond the silence of religion or custom as exemplified in her statement in Article 12.

10.32 Education is an important indicator for the development and quality of life. For a woman, this is particularly important as it has a direct relationship with her role as a caregiver. With her education and knowledge about health, particularly basic hygiene, she can be armed against childhood illnesses. Figures from the 1999 national census indicate that the level of education of women plays a significant part in childhood mortality rates. This evidence suggests the importance of education, and the correlation between level of education and health of children could be used to launch an awareness campaign to promote the importance of educating girls. The Ministry of Education and Health have established a programme called the “Health Promoting School” to promote health and hygiene within schools.

### **THE PUSH OUT/DROP OUT SYNDROME**

10.33 The transition from primary to lower secondary and lower to upper secondary is largely determined by the available number of places in schools and not necessarily by the success or otherwise of students in the entrance examinations for lower and upper secondary. The bottleneck at the end of the primary cycle is the result of the highly competitive examination systems operating at Class 6 which acts as a screening mechanism. For example, of 100 children enrolled in Grade 1 only 35 continue to lower secondary level and less than seven per cent access Grade 11. In general, there are many more young people who want to continue to secondary level than there are places available and the fall-off in enrolment rates between primary and secondary education (or attendance in secondary level education for only a short period of time) may be more a consequence of push-out than drop-out.

10.34 Few studies have been conducted to determine the reason for girls dropping out. There are a number of reasons apart from screening at Year 6 that have been suggested over the years. One reason for the push-out syndrome is the lack of physical structures to house female students in secondary but in particular in senior secondary school and the security of girls. This in turn is reflected in parental reluctance to sending their daughters to secondary schools for their safety. Another factor is the prioritization of boys’ education. Many families consider that girls will be ‘lost’ to them by marrying out of the family and therefore are more willing to ‘invest’ in their son’s future than their daughter’s. Associated with parental factors is that girls are more likely to be kept home to help with housework than are boys because of the entrenched gender roles that exist.

10.35 One study suggested that because many young people were unable to continue school by the time they were 12 years old, and they have little opportunity to acquire skills to help them make a living, or to find employment, having a child became a way to bring meaning to their lives. Having a child was also a way for young girls to assert themselves even if they suffered considerable hardship in the process. Many unmarried young women with children still receive support from their families but there are indications that this may be changing, to the detriment of the child and the young mother. While having a child is one way to bring meaning to their lives, this action can leave the young

mother and child vulnerable and dependent on family members whose resources are already stretched (Mitchell, 1998).

10.36 One other important determinant to girls' access to education is the ability of parents to pay school fees. Parents provide much more than just the school fees or the in-kind contributions<sup>18</sup> made to schools. In some schools, cash or in-kind contributions equal or exceed the annual contributions required by the school. In Vanuatu it is customary for the costs of schooling to be met by many members of the child's extended family, but even allowing for this support, the high costs of schools must put secondary school education beyond the reach of many of the poorer families in Vanuatu (Department of Education, 1999). The major consequence of this and the fewer number of girls in senior secondary is that there are fewer girls who can then go on to further education.

10.37 One way in which Government is addressing the drop out rate in Year 6 is the introduction of two extra years of basic education from Year 6 to Year 8. This will commence in 2006 and is part of Vanuatu's commitment towards the Education for All target and an interim step towards universal education. This interim step will increase current enrolment by 58 per cent of Year 6 students and go some way to providing the much needed educational base on which to build subsequent vocational and lifelong learning skills. In terms of its commitment to Goal No 2 of the Millennium Development Goals, Vanuatu is well on the way to achieving eight years of basic primary school with an equal number of boys and girls enrolled in schools.

#### **PROGRAMMES FOR GIRLS AND WOMEN WHO HAVE LEFT SCHOOL PREMATURELY**

10.38 There is a systemic constraint on regaining access to education and training once a student has left. Currently there are no programmes specifically organized for girls or women who have left school prematurely. Continuing or adult education or bridging programmes to allow such students to re-access the system are lacking. While re-entry to primary school is almost impossible, the introduction of the Top-Up Schools has assisted some girls to further their basic education. Re-entry to secondary and post secondary education is still difficult.

10.39 However, some programmes are available, mostly in the form of non-formal education provided by a number of different organizations including NGOs. Rural Training Centres were first established in the early 1980s in response to the training needs of rural youth who left the formal education system after completing only basic education. They were aimed at providing youths additional general education and particularly vocational skills; they operated initially in isolation from each other and were also independent from Government. In 1989 the Vanuatu Rural Development Training Centres Association was formed to enhance the operations of rural training centres by providing them with a coordinating mechanism and technical and material support.

10.40 There are eight private technical/vocational secondary schools run by religious organizations offering Years 7 to Year 9 programmes that emphasize vocational and practical training.

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<sup>18</sup> For example, occasional payments such as initial registration fees and caution fees, transport (often to other islands), school uniforms, or contributions to a wide variety of fund-raising activities.

## **TRAINING AND SCHOLARSHIPS COORDINATION UNIT**

10.41 The Training and Scholarships Coordination Unit administers scholarships for Vanuatu awardees undertaking long-term academic training, normally of a year or more and leading to a qualification such as a diploma or a degree. Due to the inconsistencies of data between years, it is difficult to provide any comparative analyses. In 1997, for example, a total of 97 new awards were made for students to commence studies in 1998 of whom 51 per cent were females. In 1998, it was reported that there were 108 new awards but this was not broken down by sex. In 1998 the Government introduced a policy of equitable distribution of scholarships in an effort to increase the number of women entering further education and to ensure that an equal number of women and men obtained scholarships. The proportion of women obtaining scholarships had been around 35 per cent. Funding for the programme comes through grants from international donors and development partners as well as Government itself (TSCU, [1997] & [1998]). Data is not currently not easily accessible to indicate the types of disciplines which are studied by the scholarship holders.

10.42 In 2003 a total of 507 applications were received by the Scholarships Unit. Of these, 32 per cent (182) were from women<sup>19</sup>. A total of 306 applicants were eligible for scholarship of which 39 per cent (120) were women. Of the 76 scholarships given, 41 per cent (31) were awarded to women. Since females and males are being awarded scholarships in proportion to the percentage of females and males applying for scholarship, the low rate of female application will continue to see a low number of scholarship given to females. What is clear is that fewer females than males apply for scholarships with the tendency for males and females to study in stereotypical fields of study. This is one area in which encouragement for females to apply is required.

10.43 Data from the 1997 graduate tracer study show that Government employed 62 per cent of graduates; it also showed that females were less likely to undertake post graduate study.

## **REPRESENTATION OF WOMEN IN EDUCATION**

10.44 In 2001 female teachers were equally represented in the primary school level (50 per cent) but underrepresented in the secondary level. Data from 1999-2001 suggests gross under-representation of women in principals' positions with no increase in the percentage of female primary principals (30 per cent in 1999 and 30 per cent in 2001) and a slight increase (2 per cent) in the percentage of female secondary principals.

10.45 What the data does not show however is the seniority of positions that women hold compared with men. Analysis carried out in 2002 indicate that not only are females under-represented as employees in the administration of the Education Ministry but they are also significantly disadvantaged in terms of salary as will be discussed in Article 11. For teachers however, the ratio of salary received by females is nearly on par with men.

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<sup>19</sup> As a comparison, 36 per cent of applications in 2002 were from women.

10.46 Data for secondary school staffing is available for only one secondary school – Malapoa College - and is provided here as an example of female representation at this level. It should not be generalized to staffing situations in other secondary schools, particularly rural schools. Women make up 64 per cent of teachers at Malapoa College. In proportion to their representation on the staff, women are also well represented as Heads of Departments; however men hold the three senior positions of Principal, Deputy Principal and Assistant Deputy Principal. There appears to be little stereotyping in terms of subjects taught: women can be found teaching mathematics, sciences and technology alongside their male colleagues and males teaching English and social sciences alongside their female colleagues.

10.47 The Teaching Service Commission is the body that appoints principals but there are no women on this body. Research shows that those making appointments are most likely to appoint people like themselves, that is, men are more likely to appoint men. If their experience of principalship, either as a student or as an educator, has been with male principals then often they have an unconscious bias towards appointing men to principalship. As recommended by Strachan (2002), special measures would need to be taken to increase the proportion of female principals. At the time of writing, no women have been appointed to the Teaching Services Commission.

#### **NATIONAL PLAN OF ACTION IN EDUCATION**

10.48 In 2001 the National Plan of Action 2002-2006 for the Education for All was launched. Priority 2 of the Plan states that by the year 2015 all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities will have access to a complete, free and compulsory primary education of good quality. It is not clear how the proposed strategies might assist more girls accessing basic education but it is assumed that provision of free and compulsory education would assist parents who often favour boys because of financial difficulties. Safety reasons due to problems of physical access where children have to go a long distance as well as safety within school boundaries often make parents keep their daughters at home (Strachan, 2002).

10.49 Priority 3 states that by 2015 the education sector will achieve a 50 per cent improvement in levels of adult literacy especially for women and equitable access to basic and continuing education for all adults. Strategies on ascertaining the level of literacy – by using a national survey, policy development and a community adult literacy programme – do not specifically mention women and how they might be targeted.

10.50 Priority 6 states that gender disparities in primary and secondary education will be eliminated by 2003 and by 2015 gender equality in education will be achieved with a focus on ensuring girls' full and equal access and achievement in basic education of good quality. In terms of equity in enrolments in primary and secondary education, Vanuatu has achieved this target. However, there are other gender disparities in education that need addressing, some of which have been highlighted in this Report. These include the high drop-out rates of girls in high schools and the subsequent limited access to tertiary education, the under-representation of women in senior posts in both teaching and administration and the need to provide opportunities for girls to access continuing education following premature departure from their schooling. In doing so there needs to be a clearly coordinated plan of

action that should include specific strategies, quantifiable indicators to monitor progress and timelines for completion, as well as delegating specific division of responsibility for carrying out the plan (Strachan, 2002).

10.51 Whilst Government can effect changes within the administration, a change in attitudes that continue to discriminate against girls from gaining more than the basic education is required of parents. One of the most important reason for educating girls is that they are the first teachers of their children. Evidence from Vanuatu of the impact of having educated mothers and the subsequent health of their children – as will be discussed in Article 11 - shows a clear link that the more education women have, the lower the mortality rates of their children.

## Article 11

**I. States parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:**

- a) **The right to work as an inalienable right of all human beings;**
- b) **The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;**
- c) **The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;**
- d) **The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;**
- e) **The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;**
- f) **The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.**

**II. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:**

- a) **To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;**
- b) **To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;**
- c) **To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;**

- d) **To provide special protection to women during pregnancy in types of work proved to be harmful to them.**

**III. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.**

11.1 The right to work as an inalienable right is contained in Part 1 of Chapter 2 of the Constitution. Furthermore, Articles 7(b), (c) and (e) highlight that all persons have a fundamental duty to themselves and to their descendants and others to recognize that they can fully develop their abilities and advance their true interests only by active participation in the development of their communities and the nation. They also have a duty to exercise the rights guaranteed or conferred by the Constitution and to use opportunities made available to participate fully in the Government and to work according to their talents in socially useful employment and, if necessary, to create for themselves legitimate opportunities for such employment.

### **REPRESENTATION OF WOMEN IN THE LABOUR FORCE**

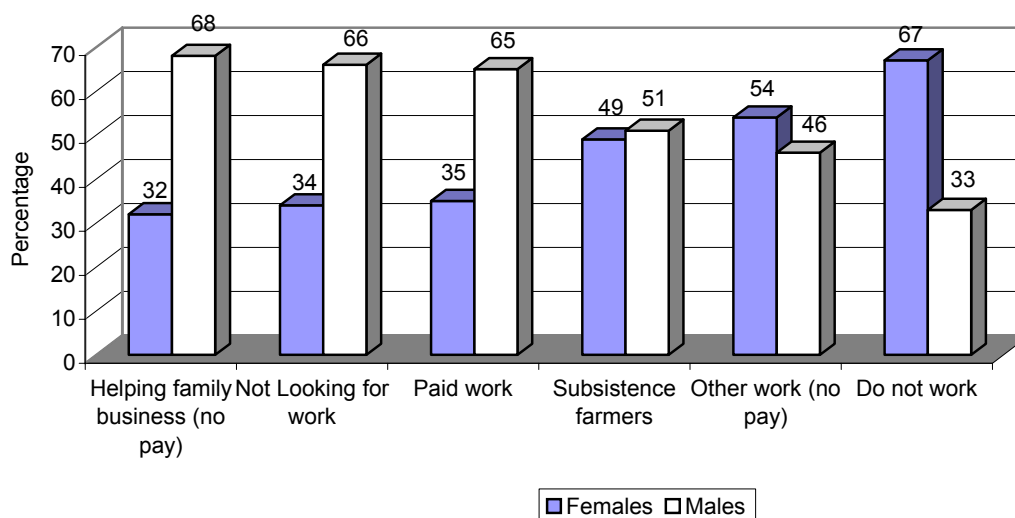
11.2 The national census in 1999 estimated that 97,642 people were aged 15-64 years, the age which is used to calculate the labour force. Of this, a total of 76,370 people (or 78 per cent of those between 15-64 years) were estimated as economically active of whom 55 per cent were men (42,072) and 45 per cent were women (34,298). Vanuatu's economically active population is further broken down into three major categories: people who work in paid employment; people who work in non-paid employment, and people who work as subsistence farmers. The first category are those who work in the formal employment sector of which the Government is the primary employer, the second category represents a larger and more fluid informal sector based on agriculture and garden/cottage industry and the third category is subsistence workers.

11.3 Figure 9 highlights further that 50 per cent of the population aged 15-64 years are women and 45 per cent of those estimated to be economically active are women. 49 per cent of subsistence farmers are women suggesting that both men and women are equally engaged. 35 per cent of those who have regular paid work are women and 34 per cent are also paid when they help family members. Where women do dominate is doing other work with no pay.

11.4 In 1999 the unemployment rate was estimated to be 1,260 people (one per cent) which represented those 'looking for work'. However, it does not indicate the visible and significant signs of 'unpaid' and voluntary workers. The most obvious signs of unemployment are found in the 3,000 plus young people who leave school each year with little hope of finding paid employment. It is not known how many of the student population who leave each year are able to gain paid or unpaid employment. Of these 1,260 people 66 per cent were men (836) and 34 per cent were women (424). By the same token, a total 20,827 people "Do not Work" of whom 33 per cent were men (6,923) and 67 per cent were women (20,827). Whilst the census does not provide details of those 'not economically active/do not work', there is a direct correlation between the number of men who are looking for work (66 per

cent) compared to the number of women who ‘do not work’ (67 per cent) suggesting perhaps that women are not looking for work because they are already “working” at home.

Figure 9 Status of Economically Active Population by Sex, 1999



**Source:** National Statistics Office, 2000a.

11.5 Previous national accounts of Vanuatu’s labour force categorized unpaid work as uneconomical and not contributing to the economy of the nation. Many of those who were classified as economically inactive did some major and important work such as home/housework or voluntary work. In these areas women do dominate. While the contribution of their labour is not accounted for in national accounts, this invisibility of women’s work, particularly in the home, has been a concern of women for decades and was one area recognized by Government requiring attention under the Nine Benchmarks. The 1999 National Census therefore shifted its emphasis accordingly and for the first time, work done in the ‘domestic’ arena such as housework is accounted for in the national labour force statistics. In 1999 for example, 75 per cent of those in ‘domestic service’ are women and work mostly as domestic helpers or ‘haosgels’ as seen in Figure 10. As a result of the significantly high number of domestic helpers, the Vanuatu National Provident Fund has introduced an additional category of membership to cater specifically for women engaged in domestic work to also benefit from the superannuation scheme.

## INFORMAL SECTOR

11.6 The informal sector consists of businesses which are owned and operated by those who work alone or in partnership with members of the same family on paid and unpaid positions. 77 per cent of the total number of persons employed in 1999 were engaged in subsistence farming, unpaid voluntary work and working in religious sectors. The 1999 national census did not require that those who worked in the garden, helped with the family business (with no pay), did voluntary/community work,

were religious leaders or held other non-paid positions to answer the question “What is your position at work?” Due to the high number of persons in this category, it may be suggested that future censuses review the classification of occupation and industry to ensure that those who are volunteers, religious workers, and or workers in an unpaid position are classified. This will give a better picture of the important contribution of unpaid work that both women and men are providing to the nation.

11.7 The informal sector plays an important role in the Vanuatu economy. As shown in the 1999 national census 79 per cent of the population live in rural areas. The vast majority of economically active people are dependent on informal employment and income generating activities. Excluding subsistence farming, 29 per cent of women work in the informal sector and are dominant in the handicraft and open air vendor businesses while men dominate in the fishing, transport, kava bars, manufacturing, co-operative and retail enterprises.

### **FORMAL SECTOR**

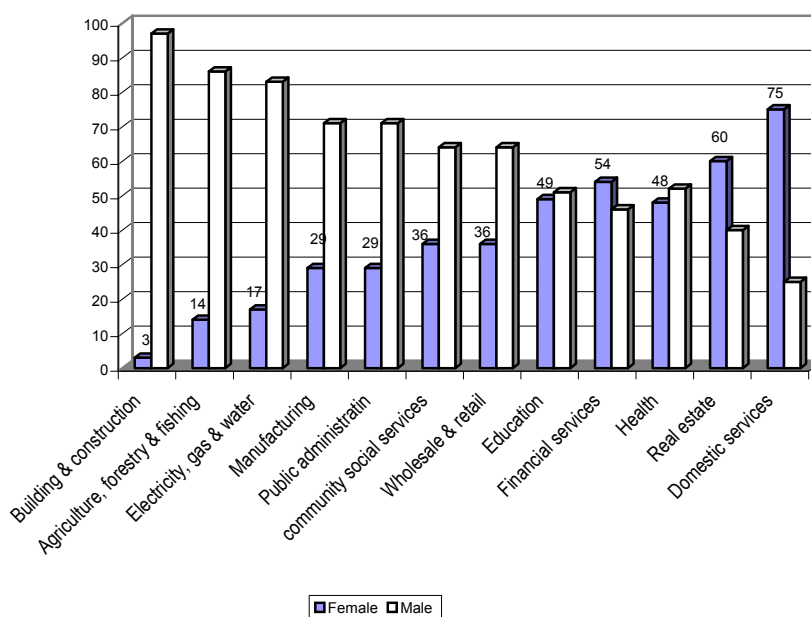
11.8 According to the National Statistics Office, the proportion of female employees has increased from 27 per cent in 1983 to 34 per cent in 2000. Given the overall increase of 72 per cent in the total number of employees, this shows that there has been a significant increase in female employment in the formal sector between 1983 and 2000 and that it has grown at a greater rate than total employment growth. Men predominate in construction, transport, agro-forestry-fisheries, gas and electricity, manufacturing and public administration. Women predominate in the domestic services industry. Education is the only formal sector industry where women and men are represented about equally.

### **HOURS OF WORK**

11.9 The Employment Act provides that workers work not more than 46 hours per week and the Public Service Manual of 2002 states that the normal weekly hours are 36<sup>1</sup>/<sub>4</sub>. In the public sector the average hours worked per week is 41 hours for both females and males with males working more hours than females in industries such as agriculture, forestry, logging and fishing, manufacturing and construction (42 hours) and 43 hours in industries such as hotels and restaurants and retail and wholesale trading. Men tend to work on average four hours more than women in occupations such as plant and machine operators (42 hours compared to 38 hours). For Legislators, senior officials and managers, women work one hour more than men at 42 hours compared to 41 hours for men. Overall however, there is very little difference in the hours worked by men and women in the different occupations in the formal sector. For the informal sector the hours are variable as would be expected (NSO, 2001).



Figure 10 Representation of Women in the Labour Force by Industry, 1999



**Source:** National Statistics Office, 2000a.

## SALARIES

11.10 Analyses of those in paid employment showed that over 53 per cent of all employees receive a monthly salary of VT 40,000 or less and a further 30 per cent of employees are paid a monthly salary between VT 40,000 and VT 80,000. The largest discrepancies in the salary distribution are found between ni-Vanuatu and non ni-Vanuatu: Whereas non ni-Vanuatu are concentrated in the salary range from VT 80,000 and above, 83 per cent of ni-Vanuatu are concentrated below VT 80,000. Further breakdowns between ni-Vanuatu and non ni-Vanuatu show that 56 per cent of ni-Vanuatu earn less than VT 40,000 compared to 2 per cent of non-ni-Vanuatu but 47 per cent of non-ni-Vanuatu earn over VT 200,000 per month compared to 2 per cent of ni-Vanuatu.

11.11 While the overall distribution of monthly salaries between males and females are reasonably similar, upon closer examination it is revealed that 14 per cent of male employees earn over VT100,000 compared to 11 per cent of female employees indicating that the higher paying jobs have a greater proportion of males than females. Another notable difference is that 33 per cent of female employees earn between VT 40,000 to VT 79,999 compared to 28 per cent of males.

11.12 In the analyses of the pay differentials in the formal sector, the Vanuatu National Statistics Office has focused on median<sup>20</sup> monthly salaries for analysis and comparison purposes since the median is a more robust statistic to use than the average when the data does not follow a normal

<sup>20</sup> The median is the number in the middle of a set of numbers; that is, half the numbers have values that are greater than the median, and half have values that are less.

(symmetric) distribution. In the case of salary distribution in Vanuatu, the average is misleading when the distribution is highly skewed with a long tail at the right indicating that a large number of employees are paid 'lower' salaries and smaller number of employees are paid 'higher' salaries (which is typical in many other countries). In 2000, the average monthly salary was VT 58,952. For females, the average per month was VT 50,643 compared to VT 63,643 for male employees. The median monthly salary on the other hand was around VT 38,000 and is more likely to be representative of the salary of the 'typical' employee than the average salary. Table 9 shows that overall, females have a slightly higher median income than males, a factor that is very unusual for women.

11.13 In general terms, the female average monthly wage is about 80 per cent of the male average which is similar to differentials in other countries. The world average is in the range of 70 to 80 per cent (NSO, 2000c). In July 2003, the average annual salary in the Public Service was VT 628,467 per annum. For women the average was VT 539,470 and for men it was VT 650,443, a difference of VT 56,973. The average monthly salary was VT 52,372 with women receiving VT 49,546 compared to men who received VT 54,204.

Table 10

**Average and median monthly salary, 2000 and 2003**

	Female	Male	All employees
Average monthly salary in 2000 <sup>(a)</sup>	VT 50,643	VT 63,012	VT 58,952
Median monthly salary in 2000 <sup>(a)</sup>	VT 38,000	VT 37,000	VT 38,000
Average monthly salary for Government employees only in 2003 <sup>(b)</sup>	VT 49,456	VT 54,204	VT 52,372

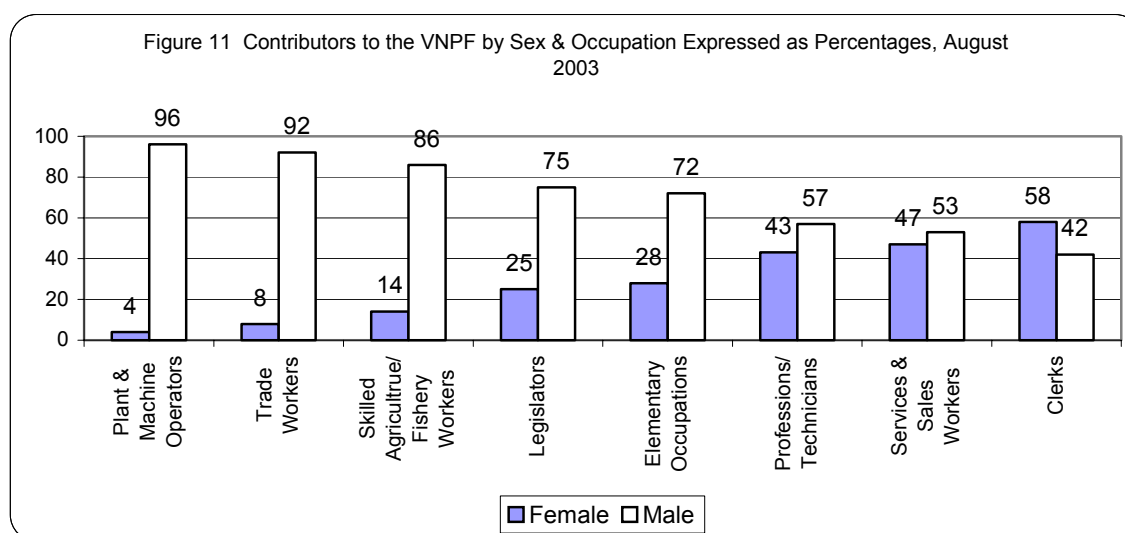
**Sources:** (a) National Statistics Office, 2000c; (b) Salaries Section, Department of Finance, July 2003.

11.14 WHILE THESE FIGURES REFLECT THE FORMAL SECTOR, THE AVERAGE MONTHLY SALARY IN THE INFORMAL SECTOR VARIES QUITE CONSIDERABLY ACCORDING TO INDUSTRY AS WELL AS BETWEEN RURAL AND URBAN SETTINGS. NO SEX DISAGGREGATED DATA IS AVAILABLE BUT WHAT IS AVAILABLE SHOWS THAT THOSE WHO RUN A HANDICRAFT STALL ON A DAILY BASIS AVERAGE VT 36,629 PER MONTH WHILE THOSE WHO OPERATE ONLY WHEN CRUISE SHIPS COME INTO TOWN AVERAGE VT 20,078 VATU PER MONTH. SINCE MOST OF THOSE WHO OPERATE HANDICRAFT STALLS ARE WOMEN, THIS INCOME COMPARES FAVOURABLY WITH OTHER OPERATORS IN THE RETAIL TRADE, MANUFACTURING, TRANSPORT AND FISHING. OPEN AIR VENDORS AVERAGE THE LEAST AT VT 6,923 PER MONTH COMPARED TO OTHER INFORMAL BUSINESSES (NSO, 2001).

**Social Security Benefits: VNPF**

11.15 The Vanuatu National Provident Fund (VNPF) was established in 1986 under the VNPF Act (Cap 186) to provide for contributions to the payments of benefits for paid employees and their families as a measure of financial support when income is affected by the onset of old age or permanent incapacity for work or the death of a member. Many private companies, and regional and international organizations working in Vanuatu have their own social security and insurance schemes.

Whilst the VNPF is legal security for those who are employed, it also caters for self employed persons. In August 2003, a total of 19,156 people were contributing to the VNPF. Of these, 63 per cent of contributors (12,045) were males and 37 per cent (7,111) were women who dominated in the clerical occupations (Figure 11). In 2003 the rate of contributions from both employers and employees was four per cent each.



**Source:** Vanuatu National Provident Fund, August 2003.

11.16 Whilst there is no national health scheme, the Council of Ministers have passed a policy asking the Ministry of Health to develop options for a social health scheme to consider and to be submitted in 2005. Individual organizations have developed their own, for example, the Teachers Union is drafting a medical assurance scheme for its members. Private and statutory enterprises have their own scheme such as the Medical Benefit Scheme of the Vanuatu National Provident Fund, the Medical Benefit of the National Bank of Vanuatu and the medical benefits for staff at the University of the South Pacific. VANWODS, for example, has a Members Mutual Fund established to serve as an insurance fund in case of death, injury or old age and a Pension Plan was also initiated in order to provide retirement and medical benefits to members who have been disabled through accident or sickness or are no longer able to engage in income generating activities due to old age.

## GENDERED ROLES IN INDUSTRIES & OCCUPATION

11.17 There are a number of occupations that are dominated by men as can be seen in Figure 11. Typically women are engaged in the social services occupations such as health, education and the domestic services. Excluding health and education, 29 per cent of those in the labour force in 1999 were employed in Government of whom 36 per cent were women. By 2003 the proportion of women employed in Government had increased to 38 per cent. The only occupation in which females and males were equally represented is in the education sector. With health, there are slightly more females employed due to the higher number of female nurses. While more women are represented in the real

estate business, the most prominent occupation that is dominated by women is domestic services. The one occupation where women are not found is on fishing boats.

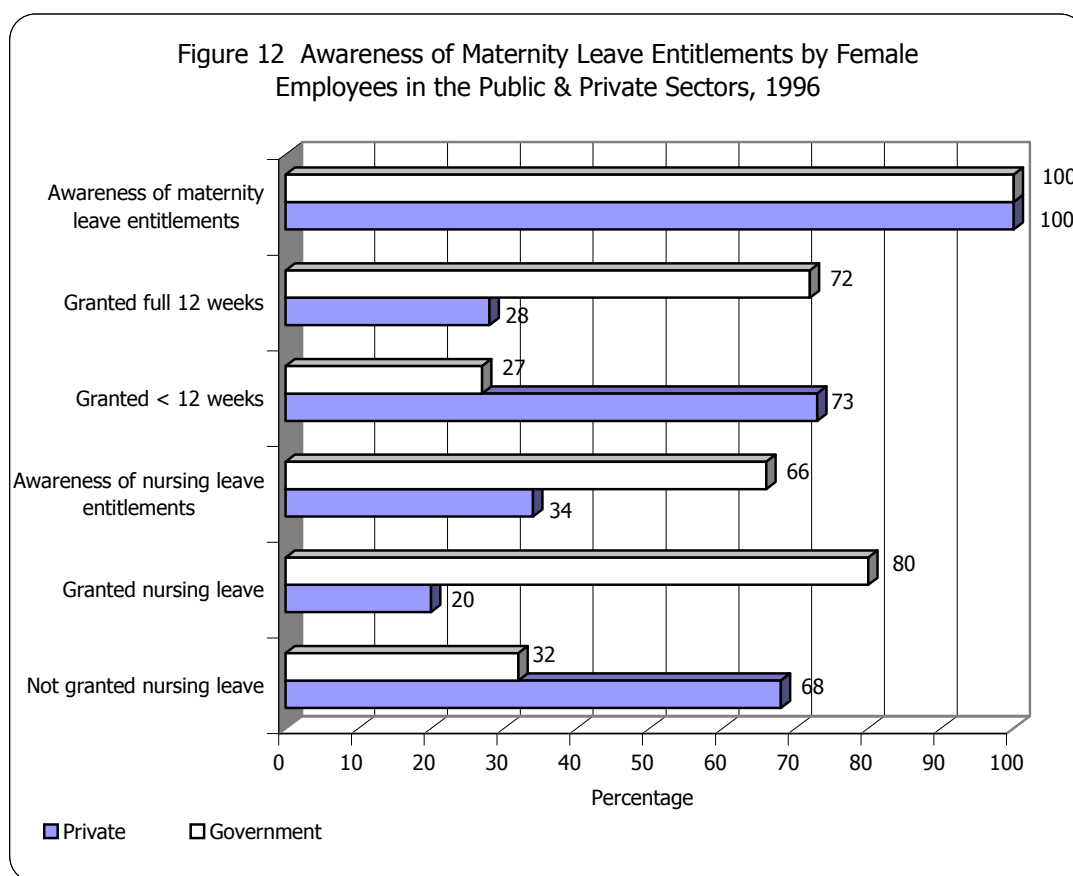
### **NON-DISCRIMINATION ON THE GROUNDS OF MARRIAGE, PREGNANCY AND MATERNITY LEAVE**

11.18 While discrimination on the grounds of marital status is not specifically included in the Constitution or legislation, it is found in other administrative policies such as the Equity Policy of the Ministry of Health Policy which specifically prohibits discrimination based on marital status. Although documentary evidence was not available during the research for this Report, women did report that at least one hiring agent for a tourist liner selectively recruited single females yet recruited married men. Discriminatory practices on the ground of pregnancy was also practiced through refusal to hire.

11.19 In the only study carried out to find general level of awareness of s36 of the Employment Act by female employees in Port Vila, it was found that they were aware of the general maternity provisions but they were not fully aware of their nursing leave entitlements as shown in Figure 12. More women in the private sector were denied their legal entitlements to maternity and nursing leave. While the Office of the Ombudsman and the Labour Department can assist some women who are denied these entitlements, many who work in the private sector or for their relatives, fear loss of employment or feel obliged to work without pay. Many don't know where to go if they get terminated or do not get their full entitlements (Piau-Lynch & Tarileo, 1996).

11.20 The Public Service Staff Manual is more specific in its provisions for maternity leave and states that a female permanent officer shall be entitled to 12 weeks maternity leave on full pay. The maternity leave must commence 6 weeks before the confinement date certified by the doctor. Temporary female salaried employees and female daily rated workers are also entitled to 12 weeks maternity leave but on half pay and again, the maternity leave must commence 6 weeks before confinement certified by the doctor.

11.21 Section 13(1)(d) of the Employment Act provides that where necessary, adequate arrangements for the nursing of children of employees be provided. In the above survey, two private companies were identified who made provision for child care facilities on the premises. Most organizations are flexible and allow women to nurse their child; however, it is not a general practice that women nurse their babies in the office environment. Some mothers reported that they did not make use of their nursing leave entitlements and did so for very practical reasons. As one employee pointed out, the half hour provided twice daily is insufficient because she lives outside of the centre of town and off the normal bus route. Sometimes, it may take up to 45 minutes just to get to the house. In addition to this, it is too expensive because of bus fares. This employee earned VT 33,000 per month. If she took the nursing leave entitled to her, her total transport costs for coming to work as well as taking nursing leave would be VT 16,000 per month which is half of her salary.



**Source:** Piau-Lynch & Tarileo, 1996.

11.22 Obviously there are some mothers who make a deliberate choice not to breast-feed their baby. There are others who would like to breast-feed their babies and the Ministry of Health has been promoting the Baby Friendly Hospital since 1996. However, some women are not in a position to breast-feed their children on premises either because they are not aware of their nursing leave entitlements or because their employers are not allowing them time to do so. Some do not find the office environment conducive to feeding their babies or find it not practicable.

## Article 12

- I. States parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
- II. Notwithstanding the provisions of paragraph 1 of this article, States parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

12.1 There has been considerable progress in the health sector since 1980. At that time, the Ministry of Health adopted a policy of Primary Health Care enshrined in the *Alma Ata Declaration* of the late 1970s. With the broad social policy objective laid down in the Declaration expressing concern for equal access to primary care, the Ministry applied this principle foremost to the efforts at the community level in rural areas. A programme to train community-based Village Health Workers was established and the primary health care approach continues to be expanded to respond to the demands of rapid urbanization resulting in over-crowding of outpatients' facilities at the hospitals in Port Vila and Santo. The First Health Development Plan of 1992-1996 outlined the national strategy for primary health care, including the importance of a preventative rather than curative health focus, the equitable and regionally balanced distribution of health services and the maximum participation of local communities in providing health care.

12.2 In 1997 the 2nd Health Development Plan 1997-2001 was developed which identified the serious gaps in the health sector needing urgent attention such as legislation governing the delivery of health services (Department of Health, 1997). As a result, 15 Health Policies were developed in 2000 containing non discrimination based on a number of grounds using Article 1 of CEDAW as their basis. Included in the policies are provisions for equity of health services delivery as directed under the Comprehensive Reform Programme. The Millennium Development Goals (MDGs) are further commitments that the Government has undertaken since it was adopted by the UN in 2000, these are further commitments that Government has undertaken. A summary of selected indicators and whether they required under the MDGs is provided in Table 10.

12.3 The Ministry of Health has adopted the World Health Organization definition that health is a state of complete physical, mental, and social well-being of a person which enables that person to be able to live fully. This definition extends beyond the previously held concept of health as a state which is absent of any physical and or mental illnesses and encompasses the whole spectrum of a person's make-up: their physical, mental, emotional and spiritual components. All of these components must be in balance in order to be in a state of health. The vision of the Ministry of Health therefore is "to provide the highest quality, efficient and effective, affordable and equitable health care service to all people in Vanuatu" and its mission is "to protect and promote the health of all people in Vanuatu and the implementation of both the Corporate and Business Plans and the Health Policies" that set out time-bound goals for the different health sections, part of which is the annual planning process directed towards monitoring these goals (Department of Health, 2001).

Table 11  
Selected health indicators required under the Millennium Development Goals

Indicator		Year	Required under the MDG?
• Maternal mortality rate	7/10,000	1978-2001	YES
• TB prevalence			
Detection rate	47 %	2004	YES
Success rate (cure)	79 %		
DOTS coverage	95 %		

Indicator		Year	Required under the MDG?
• Malaria prevalence rate			
Confirmed malaria cases	6,416	1992	YES
Reported malaria deaths	0	2000	
• Percentage of population with access to improved/safe drinking water source:			
Urban	88 %	2000	YES
Rural	na		
• Percentage of population with access to improved sanitation (adequate excreta disposal facilities)	95 %	1999	YES
• Percentage of population below minimum level of dietary energy consumption	na		YES
• Percentage of households with access to secure tenure	na		YES
• Percentage of population < US\$ 1 per day	7 %	NSO, 1998	YES
• Percentage of population under the poverty line	41 %	ADB, 2003	
• Female/male 15-24 years unemployment	na		YES
• Ratio of literate women to men, 15-24 years old	na		YES
• Ratio of girls to boys enrolled in secondary school education	49:51	2001	YES
• Proportion of seats held by women in national parliament	4 %	6 July 2004	YES
• Proportion of population using solid fuels	-		YES
• Proportion of births attended by skilled health personnel	80 %	WHO	YES
• Proportion of population with access to affordable essential drugs on a sustainable basis	na		YES
• Male/female <1 year and 1-4 year mortality rate	-		yes
• Male/female prevalence of HIV infection, 15-25 years old	na	2004	yes
• Incidence amongst women attending clinics with at least one STI	50 %	2002	yes
• Percentage of 15-19 years old girls/boys ever married			no
Girls	10 %	NSO, 1999	
Boys	3 %		
• Percentage of household headed by women	13 %	NSO, 1999	no
• Total fertility rate (child per woman)	4.5	NSO, 1999	no
• Prevalence of modern contraceptives	24 %	2001	no

**Source: Adapted from Piau-Lynch, 2004.**

12.4 The 2<sup>nd</sup> Health Development Plan identified that there were a number of pieces of legislation relating to health which had virtually nothing to do with what the Department of Health was doing or what it would like to see done in order to improve the state of health of the population. The Plan raised concerns that provision of health services was viewed as a service free from control in terms of its quality, the type and amount of drugs available, supplied and used in the country. Further, the person providing the service in terms of age, qualification, health, and perhaps the type of facility

being used was not regulated (Department of Health, 1997). In response to these concerns, the Ministry reviewed its relevant legislation and by 2000 it had identified 15 policies to address these concerns. For the last 20 years the Ministry has had a policy on Maternal Health but overall, there is no specific policy on the health of women. However, the programmes covered under Communicable and Non-Communicable Diseases, Reproductive Health, Community Health and Preventable Cancers are all relevant issues for women as are the issues contained under the Legislative Policy of the Ministry of Health.

12.5 Public health care at the national level is managed through various provincial health centres as well as clinics run by churches. There are five hospitals throughout the country with Northern District Hospital serving both SANMA, MALAMPA, PENAMA and TORBA Provinces. Port Vila Central Hospital and Northern District Hospital serve as both referral and training hospitals. Bed differences range from approximately 50 in the provincial hospitals to over 100 in the referral hospitals. In 1999 there were 5 hospitals, 23 health centres, 83 dispensaries and 180 aid posts serving a total population of 186,678 with a ratio of 1 health facility servicing approximately 1,761 people.

#### WOMEN IN HEALTH

12.6 There were approximately 12 medical doctors in 1995, including private practitioners, which then increased to 33 in 2000 and 41 in 2004. The large presence of doctors in 2003/2004 is the result of support provided by donor partners. 27 of the doctors in January 2004 were based at the Port Vila Central Hospital. In 1996 there were three female doctors, two in 2003 and one in 2004 and all were practising in the public health sector. In 1995 there were six private practitioners and this number has remained the same in 2004 except with one difference: In mid 2004, for the first time, there is a female doctor practicing privately in Port Vila. Gynaecologists are rare and in 2003 there were two male gynaecologists, one based in Vila Central Hospital and one in Santo. In addition to the availability of western medicine and practitioners, Vanuatu also has traditional healers, called *klevas*, who can be found throughout the country. With their immediate availability and minimal fees, *kleva* provide a much needed service where there is no doctor or nurse. It is not known how many *kleva* are women or men and no study has been done on the efficacy of their treatments compared to western treatments. Spiritual healing, mostly through prayers and cleansing of 'contaminated' places, is conducted in many situations, sometimes in conjunction with the treatment provided by *kleva*.

12.7 Available data for 2001 shows that 76 per cent of all nurses were females. In the medical and allied health care area, men dominated with 92 per cent and 77 per cent respectively. 56 per cent of the administrative staff and 55 per cent of staff in general services were women. At the senior level, two Directors are women and the only woman holding a post as Director General in the Government is in the Health Department.

12.8 Of the top 10 health seeking behaviours in 2002, 49 per cent were related to women and of those 35 per cent alone were related to pregnancy. These figures should be used with caution as reportage rate in 2002 showed that only 57 per cent of all possible reports were received by the Health Information System. In 2003, the rate of reporting had dropped to 47 per cent (Quai, 2004).



POLICIES, PROGRAMMES & STRATEGIES OF THE MINISTRY OF HEALTH

Policy Title	Programmes	Action required
8. Legislative issues	8.1 Non-communicable diseases	<ul style="list-style-type: none"> <li>• Policy for Tobacco Control</li> <li>• Standard guidelines for screening &amp; treatment of diabetes, hypertension and asthma</li> <li>• Promotion of local foods &amp; regulation of imported foods in terms of fat content</li> </ul>
	8.2 Oral Health	<ul style="list-style-type: none"> <li>• Strengthen &amp; enhance oral health programmes in schools</li> <li>• Encourage the use of fluoride toothpaste</li> <li>• Discourage the sale of sweets and soft drinks in schools</li> <li>• Provision of rural health programmes to ensure equity of access to oral health services</li> </ul>
	8.3 Reproductive Health	<ul style="list-style-type: none"> <li>• Domestic violence</li> <li>• Women's health</li> <li>• Adolescent reproductive health</li> <li>• Training of staff, community &amp; NGO partners</li> <li>• Promote awareness of reproductive health</li> <li>• Ensure adequate supplies, strengthen management capability</li> <li>• Involvement of men in reproductive health</li> <li>• Minimum training standards for Traditional Birth Attendants</li> </ul>
	8.4 Communicable Diseases	<ul style="list-style-type: none"> <li>• Policies &amp; Procedures to address communicable diseases that pose a threat to public health</li> </ul>
	8.5 Preventable Cancers	<ul style="list-style-type: none"> <li>• Development of a cancer control policy aimed at reducing occurrence, morbidity and mortality of preventable cancers</li> </ul>
	Others	<p>Amendment of the current Health Promotion Policy to include</p> <ul style="list-style-type: none"> <li>• Support for health promoting schools</li> <li>• Elements of primary health care</li> <li>• Primary eye care</li> <li>• Development of procedures for public health responses to notification of infectious diseases</li> <li>• Provision of information to the community on the implementation of the Public Health legislation</li> </ul>

Policy Title	Programmes	Action required
11. International Commitments	1983-1993	<ul style="list-style-type: none"> <li>• Endorsed Implementation of the Primary Health Care Programme</li> </ul>
	1997	<ul style="list-style-type: none"> <li>• Took part in the Alma Mata Declaration as an Observer</li> </ul>
	1998	<ul style="list-style-type: none"> <li>• Endorsed and signed the Health For All Declaration</li> </ul>
	22 April 2004	<ul style="list-style-type: none"> <li>• Signed the WHO Framework Convention on Tobacco Control</li> </ul>

**Source:** Ministry of Health, 2000.

#### LIFE EXPECTANCY

12.9 In 1999 overall life expectancy was reported to be 68 years. Women's life expectancy has increased from 54 years in 1979 to 70 years in 1999 compared with 56 to 67 years for men during the same period. In the urban centres life expectancy for women is 74 years compared to 67 years for men. TORBA Province is the only Province where life expectancy for men is higher than that for women (67:52 years). In 1999 this Province had a total of 8 health centres & dispensaries to serve a population of 7,757, this is approximately 1 health facility per 1,000 population. Often jokingly referred to as the '*las ples, las tingting* / last place, last thought', the islands in TORBA are off the main shipping link and had two air services per week in 2003. With limited access to transport for evacuation in health emergencies, or immediate relief following cyclones and other natural disasters, not only is the health of women at stake but that of all the people in the Province. Following the Donors meeting in 2004, the TORBA Provincial Government has called for assistance to build a hospital and the Minister of Health laid the foundation in July 2004.

#### FERTILITY

12.10 Vanuatu's crude birth rate per 1,000 is 33, a decline from 37 in 1989. The total fertility rate for Vanuatu is 4.5, a decline from 5.3 in 1989. This figure is still seen to be fairly high indicating the continuing strong cultural tendency towards having large families. Within this socio-cultural context, the fertility rate is largely dependent on whether a woman can make her own decision with regard to how many children she will have, and the availability and use of family planning. Problems of accessibility to health facilities is a factor that continues to restrict access to communities which are located in the remotest parts of the country and where women find it difficult to obtain advice as well as contraceptives. Restrictions on the use of contraceptives are imposed by some religions and adhered to by their followers.

12.11 The demographic analysis of the 1999 national census found a high male to female ratio at birth for children born in the preceding 12 months. Given a world average of 104 males to every 100 females, the male to female ratio of 112 boys to every 100 girls at the national level is excessively high. Reflecting the low status of women, this has raised questions amongst demographers as to

whether there was undercounting, whether female children were omitted from the census or whether there is something unique about sex ratios at birth in Vanuatu<sup>21</sup> (NSO, 2000a).

#### INFANT MORTALITY RATES

12.12 Infant Mortality Rate had decreased from 123 per 1,000 live births in 1966 to 27 per 1,000 in 1999. Mortality rates of children between their first and fifth birthday also declined from 61 per 1,000 live births in 1985 to 6 per 1,000 live births in 1995, a decline of 89 per cent in the 10 years preceding the census, and it maintained that level in 1999. Under 5 mortality rate has declined from 106 in 1985 to 33 in 1995, a decline of 69 per cent over 10 years and it remained at that level in 1999. These declines are largely as a result of improved survival of children after their first birthday and reflects the improvements in the maternal and child health care in the health sector. The Infant Mortality Rate for rural areas was estimated at 30 per 1,000 live births compared with 15 per 1,000 in the urban areas. This highlights better access to health services in urban areas (NSO, 2000a).

12.13 The probability of a female infant dying before reaching the age of one year was estimated to be 26 per 1,000 live births compared to 27 per 1,000 live births for males between 1985 and 1995. A similar pattern continues as age increases, resulting in an estimated 33 per 1,000 live births (National Statistics Office, 2000b).

Table 12

#### Socio-economic differentials in infant and child mortality rates, 1992-1997

Background characteristics	Infant mortality	Child mortality	Under five mortality
Male	27	6	33
Female	26	5	31
<b>Level of education</b>			
No school	42	12	54
Primary	24	5	29
Junior secondary	20	4	24
Senior secondary	17	3	20
<b>Economic activity status</b>			
Working for a salary	18	3	21
Working without salary/wage	31	7	38
Economically inactive	22	4	26

<sup>21</sup> Demographers knowledgeable in Pacific situations comment that relying on census and surveys to establish records of live births entails other methodological problems worth mentioning. The first problem applies to high fertility environments where some, particularly older women, may accidentally omit a child when relating their pregnancy histories to the enumerator; this is of particular importance in environments with high out-migration, where children who have been absent for many years may be 'forgotten'. Recounting on this, Haberkorn notes a tale of an experience he and his wife had in recording pregnancy histories in Vanuatu where some "...women fail to mention their daughters altogether 'thinking' that we were only interested in sons". Another problem related to 'memory failure' is the omission of children born prior to current relationships; that is particularly important in environments with high premarital fertility, and in survey situations where current partners are present throughout the interview, and/or interviews are conducted by male interviewers" (Haberkorn, Pontifex & Gagahe, 2003).

Background characteristics	Infant mortality	Child mortality	Under five mortality
<b>Marital status</b>			
Never married	25	6	31
Married/defacto	25	7	32
Separated/divorced/widowed	36	9	45
<b>Household headship status</b>			
Household head	27	6	33

**Source:** National Statistics Office, 2000b.

12.14 The importance of educating girls is clearly evident in the above table. This analysis from the 1999 census shows that the more education the mother has, the lower the rate of infant childhood mortality and these rates are nearly double the national average where mothers have no education.

#### FAMILY PLANNING

12.15 In 1991 the contraceptive usage rate was reported to be 15 per cent increasing to around 25 per cent towards the end of the 1990s. As attitudinal problems of users and promotion about contraceptives were seen as factors for such low levels of use, the Department of Health established a Family Health Project in 1990 aimed at assessing the needs of both health promoters and users. During the first phase of the National Health Development Plan 1992-1996, efforts were made to improve public knowledge about family planning through popular theatre and distribution of family planning information throughout the nation. Workshops were conducted where many rural health nurses were trained in family planning methods such as insertion of IUDs, promotional approaches to family planning, distribution of condoms, how to counsel new and old family planning users, and advice on sterilization for both males and females. As a result many families began to talk about family planning more openly and today men are accompanying their wives to receive advice on Maternal Child Health and family planning (Department of Health, 1997). One of the major NGOs promoting family planning is the Vanuatu Family Health Association.

12.16 The use of contraceptives continues to be largely determined by males who also determine when sexual activity occurs in and outside of marriage and who are not culturally restricted from having casual partners, as are women. The Mitchell report of 1998 found that many young people were sexually active, but the level of information on contraception, condom use and other safe sex practices was extremely variable. While 53 per cent of males reported using condoms, a low 11 per cent of young girls reported usage of condoms. The use of condoms was problematic with female respondents reporting that there was considerable male resistance to them and females were accused of being promiscuous if they suggested condom use. Only 12 per cent were on the pill. The study concluded that a large proportion of the young population was at risk of pregnancy and/or STIs with as many as 89 per cent of the young women and 47 per cent of the young men interviewed appeared to be having sex without any protection against STIs, HIV/AIDS. This high rate of non-use of contraceptives was attributed to several factors including the fact that many young people expressed feelings of shame and discomfort in asking for contraception. While some people may not approve of young people being sexually active the issue of protecting young people from STIs, HIV/AIDS and

unplanned pregnancies is urgent and it is very important that health staff do not pass judgment on young people seeking contraception (Mitchell, 1998).

12.17 Contraceptive use since 1992 has increased. Depo-provera and the pill remain the most common method of family planning (36 per cent and 31 per cent respectively). Nine per cent of women have had a tubal ligation while 2 per cent of men have had a vasectomy. Data from 2002 shows that 11 per cent of users of family planning chose non-reversible methods the majority choosing tubal ligation. Advice provided by family planning clinics and at hospitals encourages both men and women to consult in cases of permanent forms of family planning. However, in most rural areas, use of contraceptives is low and the decision on family planning is left mostly to women. In a study of young people in the peri-urban areas of Port Vila, 57 per cent used some form of contraception obtained primarily from the hospital. Whilst pregnancies and childbirth are women's experiences, men take a predominant role in restricting the use of contraceptives. In 2002, only 16 per cent of family planning users used the condom. Overall, family planning is used by approximately 24 per cent of men and women.

## **MATERNAL HEALTH**

12.18 Nationally, approximately 93 per cent of pregnant women receive some form of antenatal care with an average of four visits per woman. Antenatal visits are free and dietary supplements of iron are provided to expectant mothers. However some health facilities do charge a fee which was reviewed by the Health Ministry and will be endorsed by the State Law Office. There are various food taboos that women used to follow when pregnant or lactating. For example, a pregnant woman could not eat turtle or the baby wouldn't walk well; she could not eat certain kinds of fish or the baby would have trouble breathing. Impurity taboos related to menstruation and post-partum are still observed by some women and in some parts of the country menstruating women are not allowed to cook or handle food to be received by men as it is believed that the men will become ill. In the early 1980s a study on taboo foods was carried out and listed the restricted foods for babies as well as lactating mothers. Over this past 20 years, diets have changed and the health practices of the 1980s are seldom practiced.

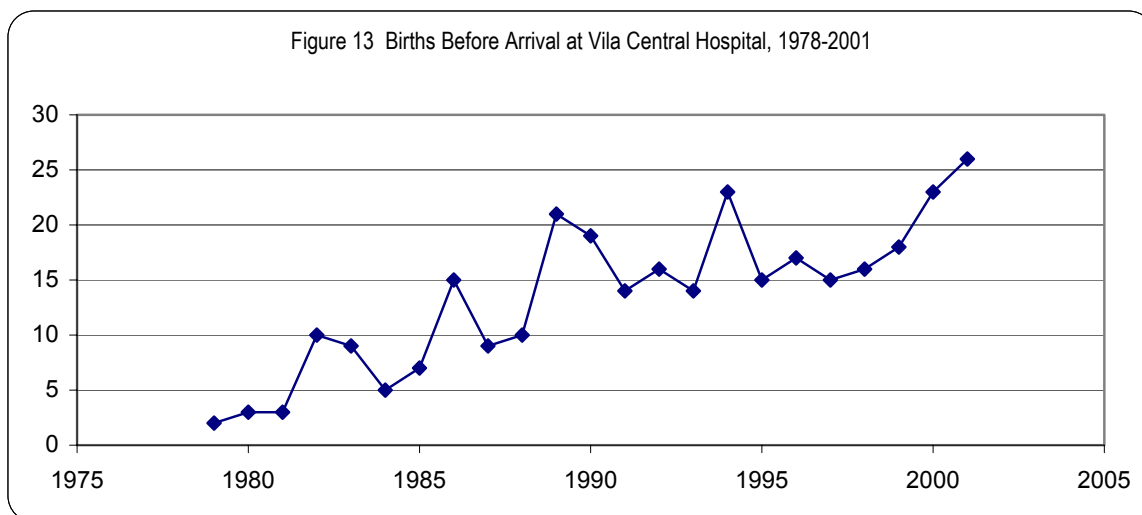
12.19 In 1994 it was estimated that 87 per cent of births were attended by medical birth attendants and this increased to 97 per cent in 2002. In 1996 it was estimated that 60 per cent of mothers were attending post natal care. Immunization of children was provided long before independence. By 2000, the Expanded Programme on Immunization (EPI) had covered 90 per cent of Vanuatu's population with hepatitis B being covered in the same schedule.

12.20 The recent report by Grace & Vurobaravu (2002) of the labour ward from 1 January 1978 to 31 December 2001 at the Vila Central Hospital provides the most in-depth and largest published series of labour floor statistics collected from any Pacific island nation. Results from this report showed that:

- 28,638 women delivered at VCH between 1978 and 2001
- In 1979, 564 women delivered; in 2001 there was a total of 1,607 confinements
- 1.04 males were born for each female (14,756 boys/14,254 girls)
- Mean stillbirth rate for infants >20 weeks gestation and 500gm accounted on average for 15/1000 deliveries

- Mean neonatal deaths occurred in 11/1000 deliveries ranging from 4/1000 in 1986 to 18/1000 in 1993
- Mean peri-natal mortality was 26/1000 ranging from 15/1000 in 1986 to 36/1000 in 1993
- Mean caesarean section rate was 5.2 per cent (range 2.1-8.2 per cent per annum)
- Mean instrumental delivery rate was 1.8 per cent (range 0.9-3.2 per cent per annum)
- Mean augmentation rate was 2.9 per cent
- Mean induction rate was 0.8 per cent
- Maternal mortality rate was 7/10,000
- Mean breach rate was 23/1000 (range 15-40/1000)
- Mean twinning rate was 12/1000 (range 7-20/1000)
- Small for gestational age rate was 45/1000 (range from a high of 83/1000 in 1983 to a low of 16/1000 in 1998)
- Ante-partum haemorrhage was 3/1000 deliveries (range from 0-7/1000)
- Post-partum haemorrhage was 21/1000 (maximum 53/1000 in 1979 and minimum 8/1000 in 2001)
- Births-before arrival have increased from 0.3 to 1.6 per cent
- Children born with congenital abnormalities 6/1000 (range 2-10/1000)

12.21 One of the findings from this report was the inexplicable increase in births-before- arrival from less than one per cent in 1978 to two per cent over the 23 years. One possible explanation is the user-fees charged by the Department of Health. An analysis of the fee structure shows that the labour ward fees are far too high for the majority of families and this could well be acting as a deterrent to many families. For single and unemployed women, user fees provided a major barrier to accessing hospital delivery. Many young women do not have the financial support to assist them to access the services.



**Source:** Grace & Vurobaravu, 2002.

12.22 A recent report highlighted that very little or no attention has been given to the gender implication of user fees in Vanuatu (Piau-Lynch, 2004). Analysis of the current rates suggest that a review of the fee structure as it stands need to be conducted. Non-citizens, for example, pay 100 per cent more than citizens for maternity services but 1,000 per cent more than citizens for gynaecological services.

12.23 Another finding from the Grace & Vurobaravu was that in 1994 obstetric ultrasound first became available at Vila Central Hospital and interestingly enough this coincided with a rise in the caesarean section rate and a reduction in small-for-gestational-age infants. Whether ultrasound allowed for more accurate dating of gestation or promotes earlier operative delivery is unknown. The rates of small-for-gestational-age infants appear high (45/1000) with the most likely explanation being that it reflects maternal nutritional deficiencies. In Vanuatu 55 per cent of women are reportedly anaemic (Grace & Vurobaravu, 2002).

#### MATERNAL MORTALITY

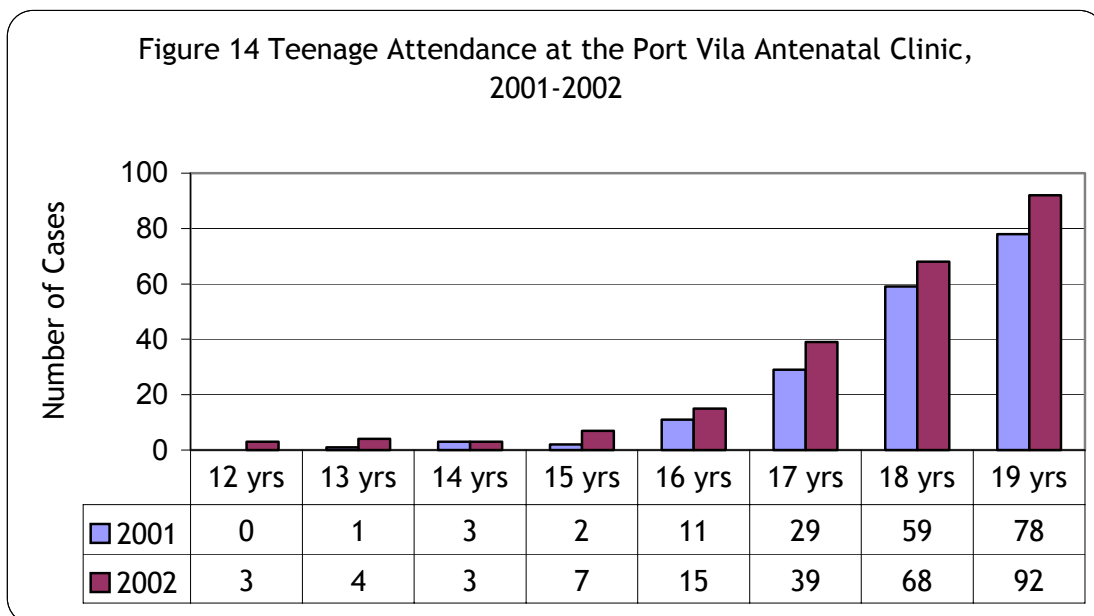
12.24 It is reported that measuring maternal mortality rates is fraught with problems and is underestimated. The reported rate of 7/10,000 is only for Vila Central Hospital and is not representative of the whole country although it is quite likely that women delivering at VCH do have a lower maternal mortality than those delivering in the outer island. Causes of maternal mortality at the Vila Central Hospital were massive haemorrhage and renal failure. Vila Central Hospital has no dialysis service (Grace & Vurobaravu, 2002). Some maternal deaths can also be attributed to the presence of other medical conditions. Such was the case on one island where consultation took place for the writing of the Report where a mother expecting her 14<sup>th</sup> child had been ill but was not brought to the clinic until she nearly went into a coma. When she was brought to the health centre, the nurse found that her veins had collapsed and she could not give her any injection. Shortly upon arrival, she aborted, then went into a coma and died. One of the reasons for her death was hepatitis B.

#### TEENAGE PREGNANCIES

12.25 Teenage and child pregnancies are rising. While national data is not available, data from the Port Vila Central Hospital suggests that 12 per cent of women attending antenatal clinics in 2001 and 15 per cent in 2002 were teenagers. In 2003 three 12-year old girls attended the Port Vila Antenatal clinic. These figures are limited only to those who attend antenatal care and the figure is likely to be much higher if figures for those who visit private practitioners are included. This data reveals a dramatic change in the attitudes and sexual behaviour of teenagers: they are becoming sexually active at a very young age, are not informed on issues involving sex and are not using contraceptives. The changes in teenage sexual behaviour have to some extent been attributed to the influences of television, music videos, newspapers, magazines and the internet which have had significant impacts on teenagers' and children's perception of sex without dealing with the issues that arise from it (Tarere, 2004).

12.26 While there are cultural codes that place restrictions or prohibitions on openly discussing sex and sexuality within the family, there are a number of previously held control mechanisms regulating

certain male/female relationships that have been discarded which are contributing to the increasing number of teenage pregnancies plus child sexual abuses. These controls cover a range of interactions and behaviour like segregated sleeping areas and general avoidance relationship between uncles and aunts, brothers and sisters and parents. Taboos that governed the relationship between in-laws like avoidance of being in close physical proximity to them, are not as strictly observed as they would have been previously. While it is tacitly understood that there is a need for being culturally sensitive when broaching the subject of sex, it must also be recognized and acknowledged that the impact of a general lack of knowledge by young people about sex and sexuality places them in a vulnerable position where they don't know how to respond to sexual advances and their subsequent consequences.



**Source:** Grace & Vurobaravu, 2002.

12.27 Abortion is illegal in Vanuatu and currently there are no provisions in the Penal Code for abortion in rape cases. Counselling for victims of rape and other sexual crimes is provided by the Vanuatu Women's Centre and its network throughout the nation, private practitioners, churches, and generally from friends and families. There are no Government provided counselling services for girls and teenagers who become pregnant or adequate procedures in place for the adoption of children leading to an increasing number of women abandoning their child.

### **MIDWIFERY SERVICES**

12.28 Midwives, nurses and, to a lesser extent, traditional birth attendants continue to be responsible for childbirth. Training in midwifery was initiated in 1983 at the Vanuatu Centre for Nursing Education and by 1992 there were 39 nurses who had graduated as midwives. Midwives are employed mainly in rural health services. Following the 1993 strike midwifery services were not well coordinated as no staff were available at the national level to coordinate this service. Lack of technical



support and supervision in the field has meant that midwives work alone most of the year, being visited on rare occasions. Recently the World Health Organization in collaboration with the Vanuatu Family Health Association provided midwifery practical training on a one-to-one basis in the rural areas throughout the country.

12.29 Most staff nurses at all health posts perform birth delivery services. Cases which are complicated and detected early are referred to provincial hospitals. In terms of birth deliveries, it has actually improved since 1990 with an estimated 95 per cent of deliveries being conducted at health posts. Deliveries which are not attended to by a staff nurse are due to either the pregnant mother having delivered on her way to the health post or being attended to in the village by a traditional birth attendant. Midwives, trained traditional birth attendants and staff nurses have helped to significantly reduce the maternal mortality rate.

### **NON-COMMUNICABLE DISEASES**

12.30 Non-Communicable Diseases (NCDs) are diseases for which lifestyle and environmental factors make a major contribution, such as diabetes, coronary heart disease and strokes. Risk factors known to be associated with these NCDs are hypertension, obesity and elevated blood cholesterol with the underlying risk behaviours of alcohol and tobacco use, high saturated fat diet, physical inactivity and high salt intake (Carlot-Tari, Hughes & Hughes, 1998). According to the Pacific Human Development Report for 1999, the leading causes of death in Vanuatu were diseases of the circulatory system, neoplasms and cancer and neonatal deaths with the three leading causes of morbidity being acute respiratory infections, malaria and diarrhoea (UNDP, 1999).

12.31 Based on the WHO definition of overweight and obese categories, the 1998 Non-Communicable Survey classified one third of ni-Vanuatu as overweight; 16 per cent were classified as obese with females having a significantly higher prevalence of obesity than males (20 per cent compared with 12 per cent respectively). The study noted however, that in the urban areas, the prevalence of overweight was greater amongst males (43 per cent) than females (37 per cent). Diabetes was more than twice as prevalent amongst females than amongst males (4 per cent compared to 2 per cent respectively). In 1996 it was reported that 55 per cent of women were affected and women in the rural areas affected more severely than women in the urban areas. Another survey is expected to take place in 2005.

12.32 Malaria has dropped drastically from 32 deaths in 1988 to 8 in 1999 and zero in 2000. This figure has remained the same due to the highly successful mosquito net campaign undertaken by the Health Department over the past decade. Such success has seen islands like Aneityum mosquito-free for the past decade. Disaggregated data is not available.

### **CANCER**

12.33 The South Pacific Commission (now called the Secretariat of the South Pacific Community) data on cancer cases among women from 1987 to 1989 indicated that of the total number of 25 cases 47 per cent comprised of cancers of the breast and reproductive organs that were more prevalent

amongst women over 35 years of age (Mackenzie-Reur, 1995). Of all cancers reported by women in Vanuatu between 1983 and 1998, 271 or 26 per cent were cancers of the breast and reproductive organs. Many women in Vanuatu are at risk of these two diseases but regular screening is not promoted as a means to ensure early detection and prevention, and it is often left to women themselves to have these tests and screening done. Pap smears are carried out mostly by the hospitals and private doctors plus a few NGOs such as the Vanuatu Family Health Association.

12.34 Problems with laboratory equipment, testing of samples (which have to go overseas) and limited staff trained to carry out this service continue to hamper advances in this area.

12.35 Most cases of cancer presented at clinics for breast and reproductive organs were presented at such late stage that nearly all cases are fatal. Most of the conditions affected older women usually beyond child bearing age who had little regular contact with health services. Figures for incidence at the national level as reported in the National Health Development Plan gave an estimate of 5-6 new cases per year for both cervical and breast cancers. Women in rural areas have less access to medical facilities that can provide screening for breast cancer and very few regularly have pap smears. The collaborative effort by the Ministry of Health, the Vanuatu Family Health Association and WHO recently (through the mobile clinics) has seen women in rural areas in SHEFA Province having pap smears, some for the first time in their lives. While this mobile service is no longer carried out in the rural areas, the services are available in the hospitals.

Table 13

**10 most common cancers in Vanuatu, 1983-1998**

<i>Site</i>	<i>Males</i>	<i>Females</i>	<i>Total</i>	<i>% Women</i>
Cervix		121	121	100
Uterus	-	25	25	100
Ovary	-	27	27	100
Breast	4	98	102	96
Thyroid	13	77	90	85
Bone marrow	27	22	49	45
Stomach	19	14	33	42
Brain	14	10	24	42
Liver	90	25	115	22
Others	239	167	406	41
<b>Total</b>	<b>455</b>	<b>602</b>	<b>1 057</b>	<b>57</b>

**Source:** Department of Women's Affairs, 2001.

12.36 Other lifestyle and risk factors such as alcohol, tobacco and kava consumption, lack of physical activities, and changes in consumption from traditional to non-traditional foods have been indicated for the increase in diabetes and other non-communicable diseases. In one study of young

people by Mitchell (1998), it was found that 37 per cent of females and 63 per cent of males were using some form of legal substances - alcohol being the more common substance used by both males and females. Whilst there is no comparative data nationwide, it would appear that more females are imbibing these drugs today. No study is currently available on the use and abuse of other mind-altering drugs or poisons such as petrol or glue which are known to be used by young people.

12.37 Writing about gender and women's health, one researcher has commented that the social origins for sex-linked patterns of tobacco use are rarely given the attention they deserve, as if these behaviours were natural rather than learned. 'Gender and health' is often synonymous with 'women and health' with the result that connections between masculinity and risk taking behaviours are overlooked when both sex and gender are in fact relevant for tobacco control. The delayed health consequences from the effects of tobacco and alcohol often paint a false sense of security for young people who are pressured by their peers to imbibe. In-depth study of factors associated with smoking and alcohol among youth has yet to be studied.

12.38 The Public Health Act No. 22 of 1994 contains provisions for tobacco control;. Following the outcome of the 1998 Non Communicable Diseases survey report, the Ministry introduced a ban on smoking in hospital premises as part of its campaign against tobacco use and since then a number of sporting bodies have taken up the campaign against tobacco and actively promote drug-free sports. On 22 April 2004 Vanuatu signed the WHO Framework Convention on Tobacco Control with smoking forbidden in Government workplaces.

## COMMUNICABLE DISEASES

12.39 Communicable diseases of major concern to Vanuatu are malaria, tuberculosis and other vector-borne diseases; HIV/AIDS and sexually transmitted infections (STIs). Though the prevention of malaria has improved, malaria remains a public health issue. A malaria mortality survey which confirmed that Vanuatu had had no confirmed malaria deaths in 2000 highlights the strength of the prevention programme. No dengue fever epidemics occurred in 1999/2000 while prevention and surveillance continues.

## SEXUALLY TRANSMITTED INFECTIONS

12.40 According to Grace & Vurobaravu (2002), approximately 50 per cent of women attending first visit antenatal clinics will have one or more sexually transmitted infections. Figures from a cross-sectional survey of pregnant women aged between 14-49 attending their first antenatal clinic at the Vila Central Hospital (WHO, 2000) showed that the prevalence rate of STIs among the women was 50 per cent. Findings from this survey show that:

- Decreasing maternal age was highly correlated with the presence of infection;
- Younger women (< 25 years) were more likely to have a current infection than older women;
- Almost three in five (58 per cent) teenage women had an infection compared to one in two women aged 20-24 years;

- Women with current STIs were significantly younger than women without STIs (median 24.2 years versus median 26.7 years);
- Women with current STIs were significantly more likely to be single than women without an infection.

12.41 The high prevalence of STIs among pregnant women is a strong indicator that STIs are common among those who are sexually active. For many women and girls, their position in society does not enable them to insist on fidelity, demand condom use, or refuse sex to their partner even when they suspect or know he is already infected himself; further, most women lack the economic power to remove themselves from relationships that carry major risks of infections. Fear of being beaten or thrown out or their inability to go back to their families places them in a vulnerable position where they cannot protect themselves against STIs and HIV.

12.42 The low level of protective behaviour in the sexually active population is one factor that can be linked to the high rate of STIs. One study showed that over 53 per cent of young men used condoms compared to only 11 per cent of young girls. This suggests that much of the resistance to the condom use programme is gender related. Young women were reluctant to carry or suggest use of condoms for fear of being seen as promiscuous while many young men disliked condoms for their interference in the enjoyment of sex. Whilst many young people in the study appeared to be knowledgeable about how STIs and HIV/AIDS are transmitted, this knowledge does not necessarily translate to protective actions as indicated by the high level of STIs among young people and the increasing number of teenage pregnancies. Further Mitchell (1998) notes that:

“... young women have less control over decisions to use condoms. Some young women reported that if they suggested using condoms they faced physical and verbal abuse from their male partners. Such views and actions are deeply enmeshed in gender relationships and lend an urgency to understanding the specific problems that women face...”

12.43 This was also reported for sex workers in Port Vila who faced physical violence because of insisting on protected sex. Societal attitudes which condone the loose behaviour of males and see it as depicting males' sexual prowess places both sexes in increasing danger of contracting and spreading STIs. As a medium for the contracting of sexually transmitted infections in an individual, the presence of an untreated STI can make that person up to 10 times more likely to get and to transmit HIV.

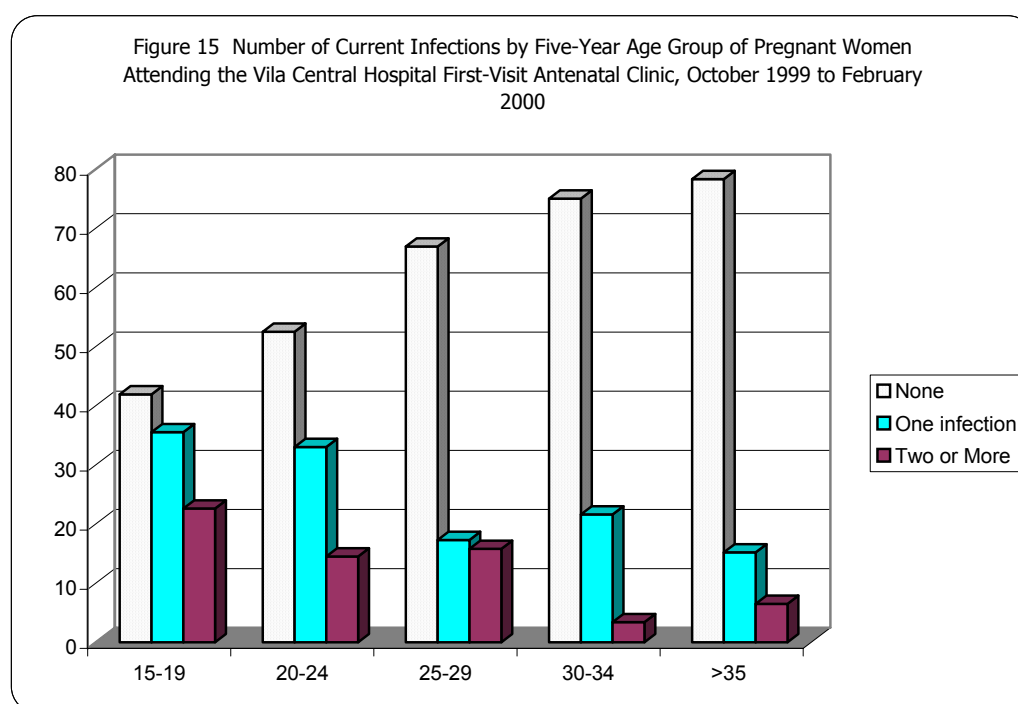
#### HIV/AIDS

12.44 On 25 September 2002, Vanuatu announced its first confirmed case of HIV. No policy was in place on how to handle the situation. This was reflected by the negative and sometimes angry comments from the general public such as demanding Government to name the person. For many years Vanuatu had been listed as HIV/AIDS-free although concerns that it was imminent had always been stressed. In 2001 the Minister for Health<sup>22</sup> stated:

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<sup>22</sup> Statement by Minister for Health, Hon Clement Leo at the 26th United Nations Special Session on HIV/AIDS convened by the General Secretary of the United Nations where member states agreed on Draft Declaration of Commitment on HIV/AIDS (Larson, 2000).

“... Vanuatu in several respects was vulnerable to becoming affected by this deadly disease since as a least developed country, it already faced many social, economic and environmental vulnerabilities. Its high population growth rate is particularly felt in the urban areas as well as very young population who are highly vulnerable. The high population mobility, increasing level of unemployment, and the alarming magnitude of traditional sexually transmitted infections are risk indicators of the spread of HIV/AIDS. This scenario, coupled with cultural factors and the lack of sophisticated technology for screening and testing may well point to underreporting or lack of detection capacity” (Larson, 2001).



**Source:** World Health Organization, 2000.

12.45 In 2003 the Ministry of Health produced the Draft Policy and Strategic Plan for HIV/AIDS and Sexually Transmitted Infections 2003-2007 which was endorsed by the Executive of the Ministry in 2004. The policy identifies six key strategic directions to combat HIV/AIDS and STIs:

- Prevention of sexually transmitted HIV & HIV transmission through blood
- Prevention of mother to child transmission of HIV
- Early intervention and care and support to people with HIV
- Monitoring and evaluation of the National AIDS Programme
- Programme management
- Staff training and support to develop professional skills.

12.46 Under this policy a number of activities have been identified as well as identification of NGOs that will collaborate with the Ministry of Health to carry out the programme activities. Work done in

the STI/HIV/AIDS areas is already been undertaken by a number of NGOs such as the Family Health Association, Wan Smol Bag Theatre and Volunteer Services Overseas. Recognizing the susceptibility and vulnerability of sex workers and seamen, the policy has specifically included them. At present the only NGO working with sex workers is the Kam Pussum Hed clinic of Wan Smol Bag Theatre. While it mentions concern for women, including women with disabilities, it does not clearly articulate how women will be targeted or the timeframe within which targets should be accomplished.

12.47 It is important at this point to mention the IZA Foundation, a newly established NGO founded by a woman living with HIV as a direct response to the discriminatory treatment received by herself and her family as indicated in a recent press statement. This NGO was specifically established to promote awareness, provide support and counselling for people living with HIV/AIDS and their family members and campaign against discrimination of people living with HIV/AIDS.

#### **Box 8**

##### **“SILENCE HAS ALLOWED HIV/AIDS-RELATED STIGMA AND DISCRIMINATION TO FLOURISH”**

Our faith calls us to challenge stigma and discrimination and to make the invisible visible! Stigma kills. Stigma hurts. Stigma creates discrimination and prevents people living with HIV/AIDS from receiving the love, care and treatment they deserve. It prevents everyone else in the family and community from being fully human. Each of us, as members of our community has a responsibility to speak out against the stigma associated with HIV/AIDS.

One of the most important thing for me is to vocalize how we treat this disease differently from other incurable diseases. When someone is HIV positive, labeling takes place. Assumptions and judgments are made about the sources of the infection. The person is talked about being guilty. He or she is excluded, stigmatized and often discriminated against. It is not surprising if people don't want to know about their HIV status and are afraid to seek out care. Relatives hide in their shame, children are shunned and abuse, fear, denial, shame and blame take over. Even when families, neighbours and medical staff are taking care of the sick, and pastors are preaching compassion and love, they may still say: “It's punishment from God” or secretly “He or she deserves it”.

These contradictions exist but can change. We know our own contexts, our country, our local community and our faith community and if things are to change, the responsibility begins with us. Today, we should mobilize people to speak out about HIV/AIDS related stigma and discrimination! Give special attention to the words that are used when we speak or write about HIV/AIDS [sufferers and] to make sure that they are inclusive and do not cause more harm.

(Malachi, 2004)

12.48 Formally registered since March 2004 the Coordinator of the IZA Foundation has been actively carrying out awareness campaigns with the Department of Health and VSO and is the strongest advocate for a change in attitudes that discriminates against people living with HIV/AIDS.

### **MENTAL HEALTH & GENDER BASED VIOLENCE**

12.49 Mental health is a neglected area in the health sector. In 1997 a review by a WHO consultant concluded that mental health services in Vanuatu were 'rudimentary' (Wilton, 1997). In 2003 another study was conducted and concluded that the situation had not improved significantly since the visit of the last consultant (Pathare, 2004). In November 2003 the Ministry of Health in collaboration with WHO held a workshop on the development of Mental Health Policies and Legislation to enhance the mental health services within Vanuatu. This policy is expected to be approved in 2004.

12.50 Preliminary results from a WHO Multi-country study on Women's Health and Domestic Violence as well as the report of the World Studies of Abuse in family environments indicated a highly significant relationship between violence and contemplation of suicide. Moreover, the same significant patterns were found for sexual violence alone, and/or in combination with physical violence (Bruntland, 2001). Anecdotal data suggest that women are more likely to commit suicide than men (Kaltantano, 2000); however, no study is available to confirm the relationship between violence and suicide in Vanuatu. Presently, there are very few trained ni-Vanuatu personnel in the field of mental health including psychiatric nurses, psychologists, psychiatrists or social workers. A small segment of psychiatric nursing is taught at the Nursing College but there are no programmes to promote the mental health of the population. One study is currently being carried out by the Foundation for the Peoples of the South Pacific to find out the mental health of men and violent behaviours. Results of this study should be available in 2005.

12.51 Gender-based violence is the most obvious and important indicator of the status of women in a given society. Since 1994 the Vila Central Hospital has seen an increasing trend of male spousal abuse treated and recent figures from the hospital show this has increased from 80 per cent in 2000 to 97 per cent in 2002 with an average of 89 per cent over the three years. At present the Vanuatu Women's Centre is the only NGO providing counselling to victims of domestic and sexual violence. In 1992 when the Centre was established, it recorded five cases of domestic violence. In 1995 it recorded 77 and by 2003 it recorded a total of 986 cases totaling 2,954 in 10 years. In 1995 the SANMA Counselling Centre was set up in Luganville as an arm of the Vanuatu Women's Centre. In that year it received 17 cases of domestic violence; by 2003 this had increased to 496 cases with a total of 1,466 cases in eight years (Figure 4). Sexual crimes dealt with by both Centres are far in excess of the cases reported to the police as stated in the Background section suggesting that there is underreporting of crimes committed against women and girls.

12.52 Women who are in a violent relationship cannot demand protected sex because of fear of being beaten up and are unable to leave the situation because of lack of economic independence. Says Marilyn Tahi, Coordinator of the Vanuatu Women's Centre:

“Violence against women and children imposes an enormous cost on individuals and society. While it is difficult to undertake a cost-benefit analysis of the impact of violence, and of programmes to address violence, it is possible to identify the range of costs to the community. These include chronic ill-health, severe injuries, death of the victim in some cases, psychological damage, repeated or unwanted pregnancies (due both to rape, and to lesser degree, control over sex life associated with domestic violence), miscarriages and other reproductive health problems (due to violence during pregnancy), productivity...and costs associated with the impact on children who observe violence or are subjected to it. Fear of violence is a serious impediment to women’s participation in all forms of social and economic life. All these costs are a serious drain on the economy. The[re are] health costs including surgery, x-rays and dental costs, and the care of women and children who suffer long-term psychological damage. During the same period, over two million vatu were spent on court fees” (Vanuatu Women’s Centre, 2003).

12.53 Even more difficult is the fate of the girl-child who has been abused by her immediate family. The reasons for failure to report are many and include parents who shun from exposing perpetrators especially if the perpetrators are family members.

12.54 The custom of bride price is one practice that impedes a woman’s ability to leave an abusive relationship because of societal acceptance that once a woman is married and bride price exchanged, the woman becomes the property of the man’s family. The mental health of women in physically and sexually abusive situations requires professional help that is provided by the Centres and in some instances, the churches. The Vanuatu Women’s Centre, for example, is the only organization that provides a safe house for victims of violence in Port Vila. Systematic training or self-help groups to provide peer counselling are currently not available. The initiative by the Vanuatu Women’s Centre to create an informal group of Men Against Violence Against Women is significant in that men are now becoming involved to change the prevailing attitudes so that domestic violence can be stopped. The research by the FSP should also go toward understand men’s mentality and use of power as a weapon to suppress women.

12.55 Research into post-partum depression and other psychological symptoms experienced by women is currently limited and this has been an area that the Department of Women’s Affairs has articulated as needing attention. One area of particular importance is the relationship between women and the professional service providers in the health care systems whose attitudes reflect a tendency for judgment which does not conform to social roles expected by the service providers. The attitudes amongst professionals limit the accessibility for women wanting to seek assistance for health problems.

### **Article 13**

**States parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights in particular:**



- a) **The right to family benefits;**
- b) **The right to bank loans, mortgages and other forms of financial credit;**
- c) **The right to participate in recreational activities, sports and all aspects of cultural life.**

13.1 With its small economic base it is currently believed that Vanuatu does not have the capacity to have in place a welfare system that provides for her people who are unemployed, single parents, persons with disabilities or pensioners. There is no free national health scheme although the public health system does provide special concessions to disadvantaged groups such as people with disabilities as well as pregnant mothers and elderly people. Students are also entitled to some concessions in the public facilities. Education, though not free, is subsidized and Government does provide for child allowances. There is no income tax in Vanuatu but it has a value added tax system in place.

13.2 The compulsory retiring age is 55 years for all Government employees. Some family benefits for employees are legislated for in the Employment Act and the Health & Safety Act and have been covered in previous sections while the Public Service provides a number of additional benefits. Social benefits accorded to teachers, for example, are summarized as follows:

- Housing is normally available with a reduction for rent of 12 per cent of salary or less;
- Relocation allowances when transferring to a different school;
- Holiday leave amounting to 21 paid days per year;
- Four days compassionate leave on the death of close family members;
- Teachers may receive up to 28 days of leave for sickness in any year; may be extended to 42 days by medical certificate and to 138 days upon approval by a medical board; further, there are provisions of a further six months of unpaid leave;
- If teachers require admission to hospital, three quarters of the cost is paid for the first two weeks and the entire cost thereafter;
- If treatment outside of Vanuatu is required, the Government pays;
- Maternity leave is granted on full salary for 12 weeks for permanent employees;
- Upon death while in service, one year's salary is paid;
- One year's salary is paid as a retirement gratuity at 55 years

(Department of Education, 1999)

13.3 In addition to these, the Vanuatu Teachers Union also provides other benefits for its members, including the transport to hospitals for mothers to deliver.

13.4 While not all private organizations provide as reasonable such benefits as Government, some others provide more and others less. However, there are some basic provisions that must be accorded to all employees by law such as annual leave, sick leave, maternity leave and safe working conditions. For those employed in the informal sector or those not covered under a collective agreement between unions and employers, provisions are varied and it is the role of the Inspectors of the Department of Labour to ensure that the provisions of the law are complied with. The Vanuatu National Provident

Fund provides options for non-wage earners to contribute; however, few do and it is suggested that many do not know about this provision. Non-unionized workers face more hardship because they often do not know their entitlements. It is not uncommon to find a person being terminated after working for 15 years thinking they have some money in the VNPF but find that their employers have not complied with the law to do so. Redress is often through the Labour Department and the VNPF itself.

13.5 The Labour Department is available for assistance but it is not known how many people seek this avenue since data from the Department is not available. For the first time in many years, however, the Department was able to produce the 2003 Annual Report which inform us that a total of 437 complaints were received at all its offices. The report does not provide disaggregated data nor how many complaints were received from the different industries and this is one task that the Department is embarking upon in 2004. In 2003 the Department issued 684 work permits, 219 for women and 465 for men, and carried out inspections on occupational safety and health standards on 20 sites. Besides the Labour Department other complaint machineries such as Unions, the Office of the Ombudsman for the public sector employees and the courts are available for complaints.

13.6 The only major insurance benefit scheme for most workers is the Vanuatu National Provident Fund (VNPF). Established under the VNPF Act Cap 189 in October 1986, it is designed to provide paid employees and their families a measure of financial support when income is affected by the onset of old age or permanent incapacity to work or death of a member. The support is in the form of a lump sum comprising the contributions paid to the Fund by the member and his/her employer plus interest. Until 1998 the contribution was 6 per cent: three from the employer and three from the employee; this increased to 12 per cent in 1998 and is now back to four per cent each. The amount payable to the beneficiaries of a member who dies before becoming entitled to withdraw his/her credit in the Fund is enhanced by a Special Death Benefit provided through a supplementary scheme. A member of the Fund who leaves Vanuatu permanently may withdraw all credits upon departure.

13.7 Following the social unrest in January 1998 as a result of the report by the Ombudsman on the operations of the Fund, the Government suspended the operation of certain provisions of the Act and members were allowed to withdraw their contributions totaling 3.2 billion vatu. In 1998 the VNPF Act was amended with special provisions brought in to protect members' funds and to provide for the restructuring of the organization. In August 2003 the number of contributing members was 19,156 of whom 37 per cent were women as highlighted in Article 11.

13.8 In 1994 a review of women's business activities, their needs and skills was carried out in order to identify women with initiative and an interest in setting up business. One of the findings was that women had little institutional support for their activities. 73 per cent of them reported that their main source of loans was through family members; 12 per cent from commercial banks and credit unions jointly and four per cent were borrowed from the Development Bank which longer exists. Some women wanted to borrow money but were not able to do so, and did not appear to perceive the bank as an appropriate place from which to borrow money. Bank loan conditions require that the loan amount to be secured should be the same amount in an existing account and most banks are reluctant to consider loans under 100,000 vatu because of the expense of servicing the loan. The most

frequently cited reasons for not borrowing are fear of taking out a loan, not knowing where to go for a loan, lack of deposit and the belief that banks do not give loans (Meuller, 1995). In 2002, a survey of the informal sector was carried out by the National Statistics Office with similar results.

13.9 Since the closure of the National Development Bank the Department of Ni-Vanuatu Business has been established to fill this gap. The commercial banks have a number of loan categories and the criteria for each is different. The National Bank for example has School Fee loans, Personal loans and lease loans at different rates of repayment. School fees for example can be repaid within 12 months. For others, it would depend on the type of loan and the amount. All loans from banks, including the VANWODS scheme (a microfinance scheme for disadvantaged women currently operating in Port Vila) are charged at 16 per cent interest on loans.

#### ***PARTICIPATION IN RECREATIONAL ACTIVITIES, SPORTS AND ALL ASPECTS OF CULTURAL LIFE***

13.10 Women play a significant part in the cultural and social life in Vanuatu as they are considered custodians of traditional knowledge and customs particularly related to women - from traditional medicine, songs, craftwork, designs to colours. In custom activities, the roles are gender specific and women participate according to their roles. These roles are very important and in almost all cases, cultural activities would not be carried out if women did not weave the mats, the grass skirts, the baskets and plant the food. There are additional recreational activities in which women participate in such as churches, schools and community events.

13.11 There are no legal restrictions on where women can and cannot participate in social activities in urban centres, some activities are limited through racial discrimination practiced by foreign managers or specialty stores, clubs or bars which restricts both ni-Vanuatu men and women from entry. A number of women have entered the musical arena once dominated by men. This is particularly so where there are now many women String Band groups. Participation of female musicians and singers are increasing for both contemporary music and religious groups. Currently one young woman is based in Noumea while another young performer has been touring the Pacific since she was in Class 5. There is one female drummer.

#### **REGIONAL & INTERNATIONAL SPORT**

13.12 In all sporting meets both women and men represent Vanuatu. At the last South Pacific Games in Fiji in 2003, for example, one male and one female led the team as Chef de Mission and Deputy Chef de Mission respectively. One woman, profiled below, is currently on the Oceania Olympic Athletics Commission. In the sporting field, women can be seen participating in almost all sports since schools actively encourage students to take up sports for both physical enjoyment and fitness. There exists indirect discrimination in certain sports such as soccer and rugby which are played predominantly by men. Netball on the other hand is played exclusively by women. Both men and women participate in the Olympics.

13.13 Development of sports for persons with disability is virtually non-existent with the result that very few women and men with disabilities play sports. Assistance from Government is provided

through the Department of Sports but a coordinated and systematic programme for developing sports is yet to be carried out. **Vandisports** is the only body that has been promoting sportsmen and women with disabilities in Vanuatu since 1997. In 2004 one woman and one man were chosen by the International Paralympic Committee to participate in the Paralympic Games in Athens.

**BOX 9****VANUATU'S GOLDEN MUM**

Born in the small village of Lowaneai on Tanna island on 11 August 1966, Mary Estelle Mahuk *née* Kapalu is the only woman in Vanuatu who has achieved fame in the athletics field in her own country as well as the Pacific region. She attended Primary School on Tanna and Secondary school at Malapoa. She topped it off with a Diploma in Education with a major in Physical Education from the University of Papua New Guinea in 1990 where she met and married her Papua New Guinean husband.

It was during her junior secondary years at Malapoa at the age of 14 that she began her outstanding career in sports by setting the national Junior School record in the 400m and Javelin, two records which still stand today.

In 1981 she participated in her first Mini South Pacific Games in Honiara, Solomon Islands, and set the National Record for the 400m and continued to break her own record in years to come. In 1991 she set two South Pacific Games records in the 400m and the 400m Hurdles, again she would break her own records in the ensuing years. In 1993 in Port Vila, she set two Mini South Pacific Games records in the 400m and 400m hurdles, the latter record one she would hold for nine years until 2003. In Tahiti in 1995, she set another national record in the 800m.

Mary Estelle currently holds six National Records in the 100m, 200m, 400m, 800m and Long Jump and the South Pacific Games Record for the 400m Hurdles.

She has represented Vanuatu at almost all athletic meets throughout the world. In 2000 the South Australian media named her "Queen of the 400m in the Pacific". Mary Estelle is currently working with the Vanuatu Amateur Sports and National Olympic Committee as the Sports Development Officer. From 1996 to 2003 she was a member of the International Athletics Federation Athlete Commission and from 2003 to 2006 she will represent Vanuatu as member of the Oceania National Olympic Athlete Commission. She is also the National Coach for the Vanuatu Paralympic Squad for Athens 2004.

For a period spanning 20 years, Mary Estelle has been carrying her flag with quiet dignity. Excluding all the medals she has won in Papua New Guinea, Mary Estelle has won a total 75 medals for her country: 51 Gold; 17 Silver and 7 Bronze. In 1999 Vanuatu paid tribute to her brilliant career and honoured her commitment and service in sport for her country by awarding her the nation's Medal of Honour.

But it was at the Mini Games in Port Vila, with her feet on her own soil, that the media dubbed her "Golden Mama blong Vanuatu".

**Source:** Compiled with the assistance of Mary Estelle Kapalu Mahuk for the CEDAW Report, 2003.

## Article 14

**I. States parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.**

**II. States parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:**

- a) **To participate in the elaboration and implementation of development planning at all levels;**
- b) **To have access to adequate health care facilities, including information, counselling and services in family planning;**
- c) **To benefit directly from social security programmes;**
- d) **To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, *inter alia*, the benefit of all community and extension services, in order to increase their technical proficiency;**
- e) **To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;**
- f) **To participate in all community activities;**
- g) **To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;**
- h) **To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.**

14.1 Of the total female population of Vanuatu, 79 per cent live in the rural areas. It is here that the subsistence economy predominates where women play a critical role with their productive as well as their socially reproductive roles devoting most of their working lives balancing their time between meeting family as well as community needs and cultural obligations. Women's work includes an array of work from bearing and caring for children, old people, people with disabilities and the infirm to domestic tasks such as fetching of water and firewood, cleaning the house, washing clothes, cooking food and gardening. Women are involved in food production including animal husbandry and production of handicrafts such as mats, baskets for the home as well as weaving of mats, baskets and grass skirts for sale as well as for cultural purposes. Nearly all women in rural areas also participate actively in church activities and participate in meetings organized within the community as well as visitors such as NGOs, Government delegations or meeting with tourists. These tasks are not valued in monetary terms yet they are the backbone of a family in all societies.

14.2 The public participation of women in communal activities cannot be underestimated. Their significant contribution to daily, yearly and seasonal cultural activities, including the preparations for plantings, preparations of cultural activities are invaluable. In this sense, participation in decision-making may not be visible but women's understanding, intuition and decisions contribute to the overall success of these activities. Participation of women, however, is limited in the traditionally male domain such as the 'nakamal' and how they are able to participate depends on the matrilineal or patrilineal nature of the society. Outside of the male domain, women participate frequently and often their views are sought by the community leaders. However, systematic inclusion of rural women in decision making in formal administrative fora such as Councils, Municipalities, Provincial and the national arena has yet to improve.

### LIVING CONDITIONS

14.3 Over the past decade water and sanitation, two crucial development issues that have direct implications for community and child health have been improved. Since women play a central role in the management and care of the household, easy access to a clean and safe water supply, and a healthy latrine system and sanitary environment are all matters that impinge on their workload and ability to care for their families. The overall census picture of toilet facilities in 1999 suggests a fairly encouraging situation. This is significant as it points to the impact of the health programmes and rural water programmes run by both Government and NGOs. A significant health factor has been the increase in the number of ventilated and improved toilets particularly in the rural areas from 6 per cent in 1989 to 30 per cent in 1999. While the pit latrine continues to be the most common type of toilet in the rural areas, problems associated with pit latrines include distance from homes, flies and inadequacy of washing facilities are risk factors associated with health of families in the rural areas. While health awareness of the link between not washing one's hands after gardening or from the toilet and illnesses is provided, there is a continuous need to stress the importance of basic hygiene in most rural areas. Non-availability of toilets in urban settings has almost disappeared and in the rural it has halved from 10 per cent in 1980 to five per cent in 1999.

14.4 According to the household survey undertaken in 1999, 83 per cent of cooking fuel used in Vanuatu is wood and coconut; these fuels make up 89 per cent of rural fuel use compared to 11 per cent in urban centres (79 per cent of urban households use gas). Effects from smoke from this form of fuel often results in respiratory illnesses found in many of the rural areas. In 2002 for example, two of the top 10 health seeking reasons were asthma and acute respiratory illnesses. Interestingly Port Vila had more cases of these two illnesses compared to rural areas such as Norsup in or Lenakel suggesting that perhaps there may be some hidden factors contributing to the high number of respiratory diseases in an urban area.

14.5 The most common form of lighting in rural areas is wood and coconut used by 97 per cent of the population. 89 per cent of rural households and use kerosene lamps for light. Use of electricity is limited to the urban centres and towns where 72 per cent of dwellers use this medium for light. (NSO, 2000a).

## **WOMEN IN AGRICULTURE**

14.6 Women's participation in the garden tops the list of their otherwise traditional household-related responsibilities and they participate in virtually all farming activities from ground preparation, planting, weeding, harvesting and post harvesting. These jobs are strenuous, labour intensive and time consuming. In addition they are responsible for the cultural and income generating handicrafts, and contribute to the commercial farming of vegetables and root crops as well as feeding pigs, goats and chickens. In the rural economy, access to land and land usages is determined primarily by men. Rural women, therefore are still largely in a position of economic dependency. Some of the medical, social, political and economic issues which affect ni-Vanuatu women are a consequence of their dependency status as well as the workload women carry. In this setting, opportunities for women to move outside of their traditional roles into paid employment and training thereby becoming more independent, are limited.

14.7 Unlike any previous census, the 1999 national census specifically included the different kinds of work that women did. In doing so, Vanuatu has at last taken the step of reversing the trend of making women's invisible work 'visible' in national statistics. The outcome is that now we can qualify the statement that "women are the backbone of the nation" when we see that 77 per cent of all economically active women in the country are engaged in subsistence agriculture. This is a substantial contribution by women. In 2001, for example, the subsistence sector in Vanuatu contributed 10 per cent points to GDP at current prices and if women's contribution were to be incorporated in national accounts, there is no knowing as to how much women may be contributing to the GDP.

## **SOCIAL SECURITY**

14.8 According to the Household Income and Expenditure Survey conducted in 1999, the mean monthly income of all households in the country was VT 52,900. Of this, salaries and wages accounted for VT 34,200 with the remainder being made up from sales of home-grown produce. Port Vila recorded a mean household income of VT 102,200 from salaries and wages, compared to VT 19,300 for rural households. Though data on income distribution within Port Vila is limited, anecdotal evidence suggests income variability of similar magnitude, if not greater, between households where people are employed and those where people are primarily living on subsistence production (UN, 2002)

14.9 According to the contributors to the Vanuatu National Provident Fund, 82 women and 506 men out of a total of 19,156 are categorized as skilled Agriculture and Fishery workers signifying that almost all subsistence farmers do not contribute (Kaleb, 2002). Thus very few women and men who are subsistence farmers have any form of social security in terms old age benefits. As has been practiced from time immemorial, social security for the majority of the population is cared by the extended family. With the rapidly changing social environment, even this safety net is fraying, most notably in the urban centres.

### ACCESS TO HEALTH

14.10 Access to health facilities for women in the rural areas has been referred to in Article 12. One major obstacle is the limited number of facilities that are available as well as the inequitable distribution of medical personnel to resource these facilities between rural and urban areas. The rural population of the TORBA Province for example, is denied access to a hospital for the simple reason that there is none. As women's health is dependent on a number of clinical factors, inaccessibility to medical services and professionals denies them these fundamental services that are taken for granted by women in urban centres. Women's health is strongly related to their role in reproduction, diseases of the reproductive system and complications of birth and/or pregnancy. These are common causes of admissions to hospital and when facilities are lacking, health is under threat. With the lack of physical facilities and the limited service delivery in rural areas, access to health services remains a major problem for rural women.

14.11 The inequitable distribution of medical doctors further attests to the disparity between urban and rural areas. Only three of the 41 doctors in Vanuatu in 2003 are located in the rural hospitals. None of the three female doctors practice in the rural hospitals and neither of the two gynaecologists practice in rural hospitals. Besides the health centres and dispensaries most women and men in the rural areas also rely on traditional healers for medical problems and a large number of births are attended by traditional birth attendants. Traditional healers or *kleva* are the most accessible and play a most important role by providing women with advice and medication where there are no nurses or doctors.

Table 14

#### **Distribution of doctors by rural and urban hospitals, 2003**

	Rural hospitals			Urban hospitals		Total
	(PENAMA)	(MALAMPA)	(TAFEA)	(SANMA/TORBA)		
	Lolowai	Norsup	Lenakel	Vila Central	Northern district	
No. of doctors	1	1	1	20	11	34
Private practitioners	0	0	0	4	2	6
Total	1	1	1	24	13	40

**Source:** Leipakoa Matariki, Hospital Manager, Vila Central Hospital, December 2003.

### ACCESS TO EDUCATION

14.12 As indicated in Article 10, parity in primary school has been attained over the past decade. At the same time it is encouraging to note that some rural areas have enrolment rates exceeding the national average with enrolment of girl exceeding that of boys. This includes the provinces of TAFEA, MALAMPA and PENAMA. In all cases secondary schools still have a long way to go before catching up with the primary school level. One of the factors that may affect girls in secondary schools might be the attitude about the role of women, as mothers. For women, it is important that education must not be seen only as a financially gainful career. An education that will build on their



status as women, as mothers, educators and sustainers of a healthy family and a healthy community must be promoted. An educated mother, well equipped with the knowledge of health skills, agricultural skills, accounting skills and many other skills is a woman that will direct the health of herself, her family and the nation. The attitude that “In the rural areas a lot of parents do not think heavily about a child’s future especially in education because they think that there is enough food in the garden, there is still enough land for the children to survive and that is sufficient” (Chevalier, 2003) needs to be revisited.

14.13 Access to education for women is more problematic. In Vanuatu 18 per cent of the total population have never been to school. 93 per cent of those who have never been to school live in the rural areas, of 53 per cent are women. 49 per cent of rural women have been to school but have no qualifications, 45 per cent have primary School Leaving Certificate and 22 per cent have Year Ten Leaving Certificates. As outlined in Article 10, access to formal education is difficult particularly after girls leave primary and secondary schools. Informal education provided by civil society organizations can be accessed by women and is helped by their involvement in the various women’s organizations. While the University of the South Pacific has Distance Learning Centres in three Provinces for further education, access to these is dependent on the qualifications already achieved and the availability of time and resources to study.

### **ACCESS TO TRAINING**

14.14 In the non-formal education sector, many training opportunities are available by religious organizations, NGOs, statutory organizations such as the Credit Unions, Chamber of Commerce and individuals. These training have provided opportunities to enable women to gain access to human rights training, business skills, management and a host of other trainings. The Department of Women’s Affairs provided training in traditional women’s work such as sewing, cooking, home making, building of stoves until 1996. Today it only has two offices and is limited by both human and financial resource constraints. It expends its energy writing policy papers. The Women’s Handicraft Centre in Luganville is the only centre operated by the Department and it provides an outlet for handicrafts made by both women and men.

### **ACCESS TO CREDIT**

14.15 Access to income for almost all rural women is through the sale of their garden produce or crafts. For most women access to markets is limited particularly if they live away from the two major centres which have markets provided by the two Municipalities. Rural women in Port Vila, for example, are able to access the market due to the Port Vila Municipality’s practice of allocating specific days at the market for the women on Efate and offshore islands. Through this practice, women are able to access the market as well as earn income. This is not so for the other rural provinces. Access by many women from the rural areas is limited due to the perishable nature of most local food, the distance to markets, the unreliable shipping services and the huge cost of transportation.

14.16 Access to credit is available on a more limited basis for women in the rural areas due to a number of factors. As land is inalienable, it cannot be used as collateral; property assets in terms of houses is difficult as most houses in rural areas are not permanent and limited availability of collateral restricts almost all women from accessing credit from commercial banks. Major commercial banks exist in all the major provincial towns except TORBA but as has been mentioned, many women and particularly those in the rural areas, find it difficult to access bank loans. Some access is available through Co-Operatives and the Credit Unions.

14.17 The Vanuatu Credit Union League, for example, is the umbrella organization for Credit Unions. There are two Credit Unions with 13 Savings Clubs located throughout rural Vanuatu. In 2001 it had 13 branches in five provinces serving a total of 1,530 members of which 53 per cent were women. In 2003 membership had decreased to 700 of which 51 per cent of members were women. Since 2003 the Credit Union League has embarked on a more inclusive approach to supporting families. For example, if the husband wants to join the Saving Club it is a condition that his wife is asked to be trained with him on how to do family budgeting. This approach has two purposes: one, it provides budgeting training to members and two, it is an attempt at overcoming the failure of some members to successfully budget because their spouse did not understand the importance of budgeting. With both couples involved in training, it supports their joint efforts in saving as well as budgeting. As well as individual accounts, the Credit Unions have accounts for couples and youths. Loans from the clubs depends on the regularity of the savings and from all accounts, women have a good record of both savings and repayment of loans.

14.18 A number of successful women's saving schemes exist throughout the country. However, with little documentation of the range and scale of these operations, it is difficult to give an account of their extent in Vanuatu. VANWOODS, the microfinance scheme initiated by Government in 1996 operates only in Port Vila and serves women within the periphery of the nation's capital. It is expected to expand into the rural areas from 2005.

14.19 In 1994 the Business Unit of the Department of Cooperatives and Rural Business Development conducted a study of 949 women from Santo, Malekula, Ambae and Tanna to understand women's roles in businesses. These findings from this study showed that:

- 7 per cent were women-headed households with household size between 4 and 8 people;
- 74 per cent had been to school with an average of 4.9 years schooling;
- 67 per cent could read;
- 72 per cent could write;
- 27 per cent had been employed during the last 12 months;
- 37 per cent spent money on school fees;
- 73 per cent reported that their main source of loans were through family members; 12 per cent from commercial banks and credit unions jointly; 4 per cent were borrowed from the Development Bank and 18 per cent from unstated sources;
- 65 per cent of women were engaged in multiple economic activities;

- 64 per cent said that the money they earned was the main source of income;
  - 28 per cent had attended courses;
  - 89 per cent spent money on business licenses;
  - 89 per cent spent money on household expenses including food.
- (Meuller, 1995)

**Box 10****VANWODS MFI**

The Vanuatu Women's Development Scheme was formulated as a microfinance project by the Department of Women's Affairs in 1996 in response to its overall goal of realizing the potential of women as partners and beneficiaries of the development process. It is a partnership between Government and UNDP to provide poor and disadvantaged women with reliable and affordable microloans to start income earning activity and to be able to save regularly with the aim of putting in place a beneficiary owned microfinance programme that serves a large number of poor women. VANWODS objectives were to incorporate women's issues in mainstream development: planning, participation in economic activities; strengthening organizational structures of the nation and provincial councils of women and improve the status of women and their children. On 11 April 2001 it was registered under the Charitable Organizations Act and is now an independent NGO.

With seed funding from UNDP in 1997, VANWODS targeted 20 disadvantaged households in resettlement areas around Port Vila to test the applicability and adaptability of the solidarity group micro-finance model modified from the Grameen Bank of Bangladesh. It had reached 60 borrowers out of 4,000 low income families by 1998 with a total loan disbursement over one million vatu and accumulated savings of VT 753,000 or VT 12,550 per borrower. The micro enterprises being carried out by women included peanut selling, village stores, selling food, dress making, mini bakery, handicraft, selling kerosene and second-hand clothing. By 2001, it had exceeded its target of 2,000 members but this was reduced to 800 in 2003 due to operation difficulties. In 2001 VANWODS had:

- ✓ Disbursed VT 21,050,118;
- ✓ Earned income of at least VT 2,237,457 from interest and service fees;
- ✓ Upheld a repayment rate of 100 per cent;
- ✓ Maintained the concept of debt sharing;
- ✓ Enabled members to earn from businesses and generate about VT 6.5 million;
- ✓ Introduced the Member's Mutual Fund to cover loan redemption in case of a member's death of which VT 366,000 has been generated under the scheme.

Members currently had a total savings of VT 8,000,000 from saving 100 vatu per week.

**Source:** VANWODS MFI, 2001 and updates since then.

14.20 By 2003 over VT 39 million had been lent out of a total of 2,045 loans for a period of over six years. In recognition of this remarkable and outstanding contribution Government initiated further support for the scheme through assistance from the European Union and in 2004 was able to support VANWODS with VT 6 million as part of the overall VT 93 million budget that it needs to be able to operate as a self-sufficient institution by 2008 (Joy, 2004). Another example of a savings scheme for women developed by the Women's Officer of the Department of Women's Affairs in Santo is provided below. Women in both schemes have a 100 per cent track record for repayment of loans which is quite exceptional and a credit to them.

### Box 11

#### Savings Scheme for Rural Women

*Sevem Fastaim* or 'Save it First' is a simple savings scheme which started on 11 March 2002 by the Department of Women's Affairs Unit in the Solwei area in Santo. It is run by a woman with a disability who is supported by the Handicraft Shop also run by the Unit. With this scheme women must save every week with the amount left entirely to individual women. For some women in the rural areas, other arrangements are made so that they do not have to pay transport costs to come into town every week to make their savings deposit. By December 2003 a total of 310 women had joined and had saved a total of VT 1,475,029, an average of VT 4,758 per woman. Only two withdrawals have been made. In December 2003 a total of VT 245,303 was withdrawn for the following purposes:

- 5 women were able to purchase goods to start their own small business: one started a lawnmower business, three started their stores and one woman bought a sewing machine;
- 2 women bought calico in order to make and sell sarongs for tourists and
- 2 women were able to return to their home island and visit their families after many years of absence.

In January 2004, 27 women withdrew VT 186,331. With available cash on hand,

- 15 women were able to pay school fees and
- 1 woman was able to pay for electricity to be connected to her house.

This scheme has given women who never had an opportunity to save before the confidence and belief in their ability to save. Some of these mothers who previously had difficulties in paying school fees can now do so and many others are able to do things that they thought were impossible. The Department of Women's Affairs will be extending further support through the recent grant of VT 6 million received from central Government.

**Source:** Compiled with the assistance of Nelly Caleb for the CEDAW Report, 2004.

14.21 Rural women's concerns about access to credit, to basic services such as education, health and market facilities are closely related to their role as household income earners and subsistence

providers. Women use the money they earn from selling produce to pay for food, children's school fees and medical needs of their families. What can be said is that women are finding ways and means of accessing credit, are saving and earning cash and provide for their family needs. There are numerous other credit schemes operating within villages and suburbs which provide a means of access to both markets and finance; however, with little documentation of these schemes, it is not possible to provide further information.

## **Article 15**

- I. States parties shall accord to women equality with men before the law.**
- II. States parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.**
- III. States parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.**
- IV. States parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.**

### **EQUALITY BEFORE THE LAW**

15.1 The Constitution of the Republic accords equal status before the law regardless of sex but as has been stated in Article 2 of this Report, under the law, this does not show in some Acts that have been passed by Parliament. Legislation does not prevent women from owning, leasing or trading property, nor does it restrict credit availability to women. The ability of women to exercise these rights is dependent upon their level of education, employment, legal knowledge, financial acumen, support and access to legal services. However, in rural areas where disputes in villages between families, husbands and wives and individuals are often resolved in the *nakamal* presided over by the chief - usually a male - recourse to legal capacity identical to that of men is restricted and not often considered a possibility. In rural areas, properties such as houses are considered to be the man's - just as women and children are considered to be men's property. Since most women marry into the man's family and are considered to have left their own family, in administering properties women are disadvantaged. The disadvantages are compounded because of the general lack of access to legal service.

### **HUMAN RIGHTS AND CUSTOMARY LAW**

15.2 In a recent review<sup>23</sup> of reported cases undertaken by lawyers at the University of the South Pacific, it was revealed that serious conflicts exist between women's human rights and customary law.

<sup>23</sup> Introduction to South Pacific Law (Corrin Care, Newton & Paterson, 1999) is the latest book that provides some relevant cases and judicial reasoning and practices that have differential impacts on women and men. In 1998 the Law for Pacific Women - A Legal Rights Handbook (Jalal, 1998) provided the first groundbreaking regional perspective on laws, decisions and their impacts on women and men with examples from Pacific countries - except Papua New Guinea. Both books are very useful references that Pacific countries can use to assist them in writing their CEDAW Reports.

In some cases, this conflict has been resolved in favour of upholding human rights. For example, in *Noel v Toto*,<sup>24</sup> the respondent's son applied for a declaration that land in Santo was held by the respondent in a representative capacity and that the benefits arising from the land had to be accounted for and shared with the applicant.

15.3 In this case, the Judge stated that Art 5 of the Constitution of Vanuatu was clearly intended to guarantee equal rights for women. However, he noted that this conflicted with Art 74, which provided that custom should form the basis of ownership and use of land in Vanuatu. His Lordship concluded that the fundamental rights recognized in Art 5 apply to prevent the application of customary law that discriminates against women in respect of land rights, as the Constitution clearly aimed to give equal rights to women. His Lordship stated that it would 'be entirely inconsistent with the Constitution and the attitude of Parliament to rule that women have less rights with respect to land than men'. His Lordship stressed that customary law would still provide the basis of determining ownership of land, but the customary rule discriminating against women in land matters would be disregarded (Corrin Care & Paterson, 1999).

15.4 Article 5(1)(i) guarantees freedom of movement. *Public Prosecutor v Walter Kota and 10 Others*<sup>25</sup> illustrates the conflict between customary law, on the one hand, and both the rights to equality and the right to freedom of movement, on the other. The case arose after a matrimonial dispute between the first accused and his wife. A meeting of chiefs from Tanna, the couple's home island, was called to try to resolve the problem. The wife was forced to go to the meeting by the police. After the wife refused a reconciliation, the chiefs decided to send her back to Tanna, which they did, against her will. The defendants, who included the custom chiefs, were charged and convicted of inciting the offence of kidnapping under ss 35 and 105(b) of the Penal Code. Downing J said:

"A significant number of cases that come before this court are as a direct result of the failure to treat women equally, and, therefore, in so treating women as property, a substantial breach of the Constitution. It also, by Article 5(1)(i), provides for the freedom of movement...Whilst I appreciate in this case that the chiefs were trying to resolve a problem, they did so from a very biased point of view. It was from a man's point of view and not from the woman's point of view" (Corrin Care & Paterson, 1999).

15.5 The case is also significant in that the court held that it was unlawful for the chiefs and others to send a woman back to her island, since it was in breach of the freedom of movement enshrined in Art 5(1)(i) of the Constitution, even though such action was in accordance with the customary law of that island. They didn't send the husband back to Tanna. The chiefs and others were convicted of offences under the Penal Code relating to kidnapping, even though their actions were justifiable under customary law.

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<sup>24</sup> Supreme Court, Vanuatu, Civ Cas 18/94, (unreported) (19 April 1994).

<sup>25</sup> [1989-94] 2 Van LR 661.

15.6 It is a common practice that when women marry they go and live with their husbands and their children live with them, sometimes as a nuclear family as in towns, but more often as part of the extended family within the rural setting. Many couples in urban setting live in defacto relationships prior to getting married and the choice of domicile is often dependent on the availability of housing, space in homes of the extended family members and the ability to rent houses.

### EQUALITY OF ACCESS

15.7 Equality under the law implies access to services. The Public Solicitor's Office, established since 1984 under Article 56 of the Constitution, provides legal assistance to needy persons<sup>26</sup> or any person when so directed by the Supreme Court under s 5(1) of the Public Solicitor's Act Cap 177. Every person is entitled to legal advice for a fee of VT 1,125. In civil matters, 'free legal assistance' depends on satisfying the means and merit tests<sup>27</sup> and the Office prioritizes cases as follows:

- i. giving of legal advice
- ii. all criminal matters but the more serious taking priority
- iii. family and general civil claims
- iv. prison visits.

15.8 There are two offices, one in Port Vila and one in Luganville with a staff of three required to cater for the whole country. For the general public, this is the first point of contact for legal assistance. However, for the past decade, the Public Solicitor's Office has been extremely under-staffed with an average of approximately 2 staff. Another important office for justice is the Public Prosecutor's Office which is also extremely understaffed. Since 1998 the total number of women on the Judicial Services Commission has not changed from three (Department of Women's Affairs, 2000).

15.9 In 2003 six lawyers were recruited into the State Law Office but none into the Public Solicitor's Office or the Public Prosecutor's Office despite their requesting additional staff for the past 10 years. There are four active Magistrate's Courts throughout the islands - Port Vila, Santo, Tanna and Malekula - which are served by eight Magistrates. Two female Magistrates are currently taking a degree course at the USP School of Law in Port Vila. A total of seven women including one naturalized woman have been trained as Justices to sit on Island Courts and in 2003, three of them were actively sitting. Since 1996 the Vanuatu Women's Centre has been used to provide legal assistance to women and in June 1999 it began operating a Court Fees Fund which is used to provide legal aid. By 2003 some 206 women have been provided legal assistance through this fund totalling

<sup>26</sup> Section 2 of the Public Solicitor's Act explains that the term 'needy persons' is to be interpreted in relation to each particular case and, without limiting the generality of this expression, account shall be taken of the means of the person to meet the probable cost of obtaining alternative legal assistance, the availability of such assistance and the hardship which might result to the person if compelled to obtain legal assistance other than the Public Solicitor.

<sup>27</sup> For the means test if a person has savings in the bank, a consistent income and possesses assets s/he would be considered wealthy enough to pay their own costs. For the merit test the office would not be disposed to meeting the costs or providing the resources for a person to pursue a civil action i) where it is highly unlikely the person will win the case; ii) where the action is speculative; iii) where the problem is on-going and previous references of the matter to court have been unproductive or iv) in a case such as defamation where there is always the prospect of the court finding the subject of the proceedings does not constitute defamation. Under these circumstances, the office would run the risk of having to pay the other side's legal costs and considers defamation risk litigation, something that the Government would not contemplate providing free legal assistance for (Joel, 1994).

VT 2,089,753. The Legal Aid Centre of the USP School of Law is also another available avenue for needy persons. All of these, however, are based in Port Vila.

15.10 Whilst much discussion is often directed to clients of lawyers little attention is paid to ni-Vanuatu lawyers themselves. The Constitution prohibits discrimination based on race; yet as reported in Article 11, the discrepancies between the salaries of ni-Vanuatu and non Ni-Vanuatu lawyers working in the same office and providing the same service is substantial. The ability to provide equal access to legal services for the needy, most of whom are women, requires the discriminatory practices currently operating within the legal fraternity, the medical profession, accounting and other professional fields, to be addressed in order that those who are there to provide equal treatment under the law, are also given equal treatment. The recent establishment of the National Lawyers Association, the National Doctors Association and the National Accountancy Association speak directly to this unequal treatment.

15.11 In May 1995 there were six female and 17 male lawyers working in Government Legal Services. The first female ni-Vanuatu lawyer graduated in 1985. In July 1994 the Ombudsman's office was established and the first person to hold this office was a naturalized woman. In 2003, there were 13 lawyers. There have been no female judges since independence.

Table 15  
**Lawyers in government services, 1990-2004**

Government services	1990 <sup>(1)</sup>		1995 <sup>(1)</sup>		2004 <sup>(2)</sup>	
	M	F	M	F	M	F
Judicial Services Commission	5	2	5	1	8	3
Public Prosecutor	1	0	3	1	4	2
Public Solicitor	1	0	3	1	3	0
Attorney General	5	2	6	1	6	4
Ombudsman <sup>28</sup>	-	-	1	1	0	2
Financial Services Commission	-	-	1	1	1	2
<b>Total</b>	<b>12</b>	<b>4</b>	<b>17</b>	<b>6</b>	<b>22</b>	<b>13</b>

**Source:** (1) Department of Culture, Religion, Women's Affairs & Archives, 1995; (2) Data collected for the CEDAW Report.

15.12 Generally the progress of women's legal knowledge and how to use it has increased markedly over the past decade. Whilst the law does not deny a woman's capacity to make contracts with any party, use her own name, buy or sell, what does limit her is her financial capacity and legal knowledge. This legal illiteracy limits her ability to sign contracts with her husband and to administer their matrimonial property. The latter is becoming more obvious in town where women are losing out because they are not a party to a joint contract. Legal awareness training directed towards this lack

<sup>28</sup> The only female lawyer was the Ombudsman who was assisted by a legal Adviser from Papua New Guinea.



will be one way of addressing this. Access to legal services is restricted when women lack the financial capacity to seek remedies and it is made more difficult when services such as the Public Solicitors Office are understaffed and women must seek private lawyers for assistance.

## **Article 16**

**I. States parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on the basis of equality of men and women:**

- a) The same right to enter into marriage;**
- b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;**
- c) The same rights and responsibilities during marriage and at its dissolution;**
- d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;**
- e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;**
- f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;**
- g) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.**

**II. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.**

16.1 The family in Vanuatu includes the extended family which consists of the children's grandparents, aunts, uncles, cousins and in-laws. Ties between families are strong and of vital importance to ni-Vanuatu who rely on each other for social and cultural survival and it has traditionally been the role of the extended family to provide security and livelihood for its members. In return individuals feel a sense of responsibility towards the family and are expected to assist each other when the need arises. In a marriage for example, the bridegroom's extended family will contribute to the bride price and this contribution is regarded as an obligation that will be returned in some future time when one of his relations gets married. This system of reciprocity extends to many of the social functions that are part of life, including death. These family ties and subsequent exchanges and reciprocity have contributed to the maintenance of family support and act as control mechanisms for problems such as hunger and poverty to some extent. With the increase in population, a shift away from the rural communities toward urban centres, this important cultural safety net is slowly diminishing.

## MARRIAGES

16.2 Marriages are usually a community festival and a time of joy and happiness. They are also a time when the value of the extended family network can really be seen in action. In the past marriages were arranged between the bridegroom's family and the family of the bride, usually through uncles or a highly placed male in the family. The rituals of acceptance or rejection were formal as was the way in which the arrangements were made. Rituals of engagement and marriage differed between the different islands but generally a marriage was formalized when exchanges of gifts were made accompanied with the payment of a bride price which was presented from the bridegroom's family to the bride's family. The bride would then become part of the man's family. In most cases the bride would move from her parents' home to her husband's.

16.3 Today marriages are arranged but mostly it is an agreement between the man and the woman. Exchanges of gifts have become bride price and women are still considered as the man's possession. In general, bride price represents the recognition of the social and economic value of women. It is also considered as a way of compensating the women's family for the loss of her work and of connecting the two families, especially as the children of that union are regarded as belonging to the father's clan. Women who have married under custom have difficulty in obtaining a share of matrimonial property and in obtaining custody of children. Under the formal legal system, custody decisions are made on the principle of "the best interests of the children" and often conflicts with customary practices where the child is considered to be the property of the father. Bride price may be affected and devalued by things outside the woman's control. There are arguments against the practice that the effects of bride price include valuing women in material terms, their virginity, chastity or sexual purity, capacity to reproduce, educational qualifications and labour. If bride price encourages competition between women and applies only to women, not to men, that should alert women to the discriminatory nature of the practice (Jalal, 1998). Finally, the practice means that women are treated as a commodity with a price tag. The Malvatumauri Council of Chiefs have formalized the monetization of bride price by placing a value of VT 80,000 as the upper limit in any payments, contrary to Article 5 of CEDAW.

16.4 There are no laws prohibiting women from retaining their maiden name upon marriage. Most children take the father's surname and in some instances both parents'. However, many ni-Vanuatu children are also given customary names that bear no relation to the name of the father.

## FORCED MARRIAGES

16.5 Forced marriages are not usual although they are known to happen. For example, in *Public Prosecutor v Silas*<sup>29</sup>, a man was convicted of abducting his sister and forcing her to go and live with another man, which was an offence under the Penal Code, even though justifiable under custom. Although not practiced often, some widows are forced into marriage, usually to a close kinsman of her husband, upon his death. Similarly, polygamy is frowned upon but on occasions, a man does marry two women. Very few women marry two men. Although the practice is slowly declining, arranged marriages continue to occur.

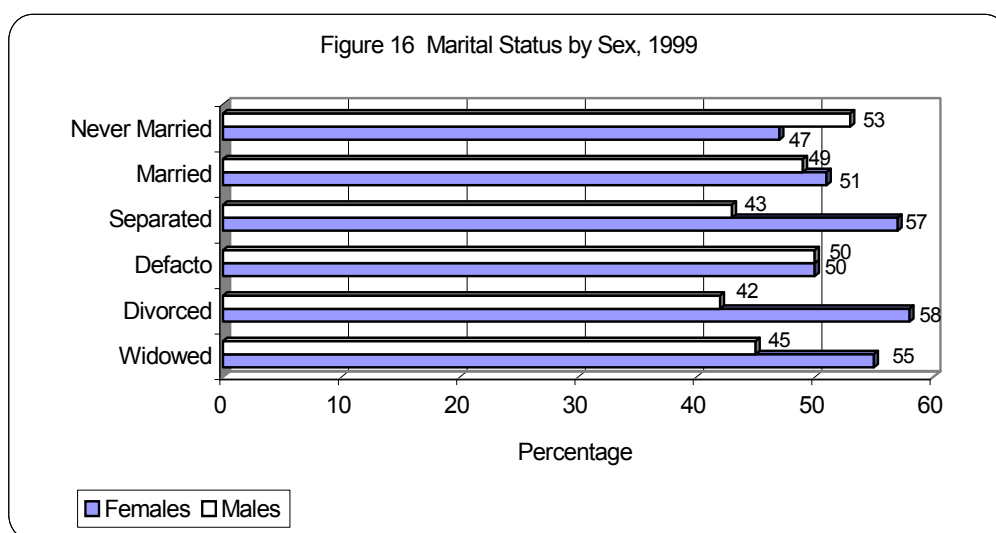
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<sup>29</sup> (1993) 2 Van LR 659.

## DEFACTO RELATIONSHIPS

16.6 It is acceptable for couples to live in a defacto relationship for many years and raise their children before they get married through a custom, church or civil marriage. One of the reasons for the delay in marriages is because the bride price payment is often beyond the means of most families. Most couples get married in both church and custom and it is not unusual to find communities celebrating multiple marriages – the most multiple celebration in Port Vila has been 35 marriages.

16.7 Marriage patterns for males and females indicate that there is a higher proportion of single males than females. This is because there are more men than women at birth and females generally get married at an earlier age than males. From 1967 to 1999 the mean average age at marriage for males decreased from 27 to 25 years while for females it increased from 21 to 23 years. Urban/rural data suggests that the age at first marriage for males in the urban sector is slightly higher at 26 years than that for the rural sector at 25 years. For rural and urban, there is minimal difference for women as both marry around 23 years (NSO, 2000b).



**Source:** National Statistics Office, 2000a.

## LEGAL AGE FOR MARRIAGE

16.8 Vanuatu sets different minimum legal ages for marriage with parental consent for boys and girls. The legal age for marriage for boys is 18 years and 16 years for girls as contained in both the Constitution and the Control of Marriage Act. Section 2 of the Control of Marriage Act (Cap 45) states that no person of the male sex being under the age of 18 years and no person of the female sex being under the age of 16 years may lawfully marry. It also sets different minimum legal ages of consent for girls and boys to marry without parental approval as can be seen below.

Table 16  
**Minimum age for marriage in some Pacific countries**

Countries	With parental consent		Without parental consent	
	Male	Female	Male	Female
Cook Islands	18	15	21	19
Fiji	18	16	21	21
Kiribati	16	16	21	21
Nauru	16	16	18	16
Tuvalu	16	16	21	21
Tonga	15	15	18	18
Solomon Islands*	15	15	18	18
Samoa	18	16	21	19
Vanuatu	18	16	21	21

**Source:** Jalal, 1998. \* A Solomon Islands national and an alien need written consent to marry if one party is under 21.

16.9 If parents do not give their consent to marriage, the young couple may make written application to a Magistrate's Court seeking permission to marry. 10 per cent of teenage girls and three per cent of teenage boys were married or living in a defacto relationship in 1999.

16.10 The age difference for boys and girls is discriminatory. Since the Interpretation Act considers a person who is 18 years old and over an adult, and a person who is under 18 years a minor or infant, this means that the Control of Marriage Act would be permitting a female child to marry which is contrary to the common law principle that a child cannot enter a legally effective transaction. This includes marriage. Zinner-Toa & Wano (2000) have suggested that the age of marriage for girls should be increased to 18 years so that it would be in line with the male age of marriage. The Convention on the Rights of the Child, the Penal Code and CEDAW overwhelmingly suggest marriageable age to be 18 years.

#### **HEAD OF HOUSEHOLD**

16.11 In Vanuatu men are generally considered to be the head of the household. The Public Service however does not take this view regarding child allowances as exemplified in 2.3 in the Background section. In 1999 the proportion of households headed by women was 13 per cent (NSO, 2000a).

#### **RIGHTS AND RESPONSIBILITIES AS PARENTS**

16.12 Both parents are morally and legally responsible for the upbringing and caring of their children. As indicated earlier, parents have a constitutional as well as a moral obligation to teach their

children. However, it is mothers who are the principal care givers and educators of children whether born in wedlock or not. The Malvatumauri Council of Chiefs has a specific policy outlining the role of fathers as well as a policy outlining the responsibilities of a man who causes a woman to bear his child. One such policy is that the man will take the child away from the mother if the mother is already married. How many women know of the rules and policies established by the Malvatumauri is not clear but it is clear that this is a policy that conflicts with law as well as denying rights of mothers in the decision.

16.13 Upon marriage women are not restricted from working or continuing in their current employment. Both father and mother have responsibilities as parents and as providers. The extent to which both partners decide on family planning is unclear. Most often the choice of family planning method is made by the woman and in most cases, husbands/partners are consulted. From data provided in previous sections, more men are deciding on non-reversible methods of family planning but the extent to which each of the couple participate in deciding on the family planning method and the spacing of their children is harder to define and more documentation is required.

#### **REGISTRATION OF MARRIAGES**

16.14 As in births and deaths, marriages are legally required to be registered. Civil marriages are performed in a Registry as long as all the legal requirements are met, for example, that both partners are above the legal age of marriage. Religious weddings are also another way in which couples can get married. In both civil and church weddings (with the exception of certain religion and denominations), celebrants can be males or females. Civil and church weddings are more likely be registered since they are celebrated by a person recognized in law. In almost all cases, couples get married by custom as well as having a church marriage.

16.15 Registration of marriages is contained in s1(5) of the Marriage Act (Cap 60). The law provide for registration of custom marriages but recognize custom marriages even if they are not registered. However there are no set requirements for a custom marriage in order for it to be valid. Under s3(4) of the Marriage Act (Cap 60) it merely requires the marriage to fulfill any pre-marital requirements of the custom, and this can cause problems. For example, a man and a woman married to each other under both custom and civil law may get a custom divorce, but they are still legally married to each other. They will need to get a divorce under civil law as well custom law. Similarly, if they get a civil law divorce, they may also need a custom divorce. One of the dangers of having two separate systems of marriage is that there is no legislation preventing a person from marrying one person under one system and then marrying a different person under another system. There have been cases in Vanuatu where a person married in custom has also contracted a civil marriage with another person thereby legally marrying two different persons under two systems (Molisa, Tahi & Lini, 1994 in Jalal, 1998).

#### **REGISTRATION OF BIRTHS**

16.16 Whilst many parents do not often think of registering their children, it is more important now that they do. Section 18(1) of the Civil Status (Registration) Act provides for any of a number of

persons to register a child<sup>30</sup>. According to the 2001 Annual Report of the Port Vila Civil Status Unit, Vila Central Hospital reported 1,625 births but the Civil Status Unit registered only 421 or 26 per cent. The report stated, however, that parents are beginning to see the importance of registering births and there is a need for the Port Vila Council to find ways to educate parents on the importance of registration for the following reasons:

- to prove that you exist in Vanuatu
- to prove that you are ni-Vanuatu
- to claim child allowance
- to go to school
- to obtain a passport
- for other official and administrative documents (Manuake, 2001).

16.17 In the rural areas, registration of births are more difficult. Children born out of wedlock, however, are discriminated against if both or either of the parents is not named to the registering officer and therefore not noted in the register. One of the prime reasons why it is important to register births is that it can assist in prosecuting an offender of commercial child sexual exploitation. Most provisions against commercial sexual exploitation of children include the age of the victim as one of the central elements of the offence. Relevant aspects in legislation are the age of consent to sexual relations (18 years), the age limit in the child pornography law (14 years) or an age limit that established a more severe penalty (less than 13 years). It is difficult to get birth or marriage certificates unless they births been registered. This is the case in Vanuatu where few births, deaths and marriages are registered, either in urban centres or rural areas.

## RIGHTS TO CHILDREN

16.18 In a patrilineal society, it is the man who has the rights to the children. The Courts however rely on legislation that reflects the United Kingdom common law welfare principle in which the main consideration is in 'the best interests of the child'. In *Toma v Charley*<sup>31</sup>, *M v P*<sup>32</sup> and *G v L*<sup>33</sup>, all cases relating to who should have custody of a child, the Supreme Court stated that it must give paramount consideration to the welfare of the child, even if this was not in accordance with custom. In these cases, the Court did not explain why it must give paramount consideration to the welfare of the child regardless of the custom rights of a parent (usually the father), but since there is no provision to this effect in the Constitution or legislation of Vanuatu, then the Court must have been relying either upon the principle of common law which so requires or upon the statutory endorsement of the principle in s 1 of the Guardianship of Infants Act 1925 (UK)<sup>34</sup> which would appear to be in force in Vanuatu as a statute of general application. The courts have consistently refused to recognize the rights of fathers under customary law to the custody of their children, despite the fact that those rights were not in

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<sup>30</sup> S 18(1) provides for registration by the father or mother; a member of the family; the doctor, midwife, or medical officer present at the birth; person at whose house the birth took place; the village chief, local leader or clergyman; or any person having knowledge of the birth.

<sup>31</sup> Supreme Court, Vanuatu, Civ Case 37/1985, (unreported) (15 April 1985).

<sup>32</sup> (1958) 1 Van LR 333.

<sup>33</sup> (1990) 2 Van LR 486.

<sup>34</sup> [1893] 2 QB 232.

conflict with the written constitution or with the legislation of the country (Corrin Care & Patterson, 1999).

### ***RIGHTS TO OWNERSHIP, ACQUISITION & DISPOSITION OF PROPERTY***

16.19 Property rights and rights of inheritance are governed by legislation. However, customary practices most often severely disadvantage women. In particular there have been cases of women married into a matrilineal society whose customs dictate that all property belonging to the man be distributed to his sisters and aunts upon his death. In one classic case, a naturalized wife of an extremely prominent man who died lost everything that she and her husband had acquired during his lifetime. This included all property in town that was not registered in her name only and all finances they had. She was left with only what was under her name, the rest having been stripped from her by her in-laws.

16.20 Matrimonial property laws are more applicable to women who live in towns or who have rights in non-custom land or leased custom land. Most Pacific citizens do not own land, whether freehold or custom, but many do have some customary rights. Custom land cannot be alienated in any Pacific Island country; it cannot be permanently given away or transferred, and cannot generally be sold, although Melanesian countries may permit custom sales to other custom land-holders. Custom land may, however, be leased, and people may buy and own leasehold rights for many years.

### **DISSOLUTION OF MARRIAGES**

16.21 In the past, family dissolution occurred through cultural ceremonies which varied from island to island. The reasons for a family to dissolve would have to be very serious. This is because in most places in Vanuatu bride price is very expensive and families of women often find it difficult to pay back the man's family and also the women feel that they are owned by their husbands as the husbands had to pay a lot of money, pigs and mats for them. Situations which could involve dissolution of a marriage are: if one of the spouses acquires a disability as a result of illness, the wife is deserted by the husband, or one of the spouses finds a new partner. With the introduction of Christianity, dissolution of marriages was discouraged.

16.22 In 1986 the Matrimonial Causes Act (Cap 192) was passed by Parliament. This was a new page in women's lives because they could seek divorce from their husbands and vice versa. However the divorce rate is very low and there appears to be two reasons for this: firstly, the majority of women continue to be dependent on their husband and fear the repayment of bride price despite their husband committing adultery. In *Waiwo v Waiwo and Banga*<sup>35</sup> the Magistrates Court took into account a widespread custom rule that adultery was regarded as a punishable offence, when interpreting s17(1) of the Matrimonial Causes Act (Cap 192) which provided that 'a petitioner may, on a petition for divorce, claim damages from any person on the ground of adultery with the respondent.' Taking this custom into account, the Magistrates Court held that the word 'damages' should be interpreted as including punitive or exemplary damages as well as compensatory damages. This decision was, however,

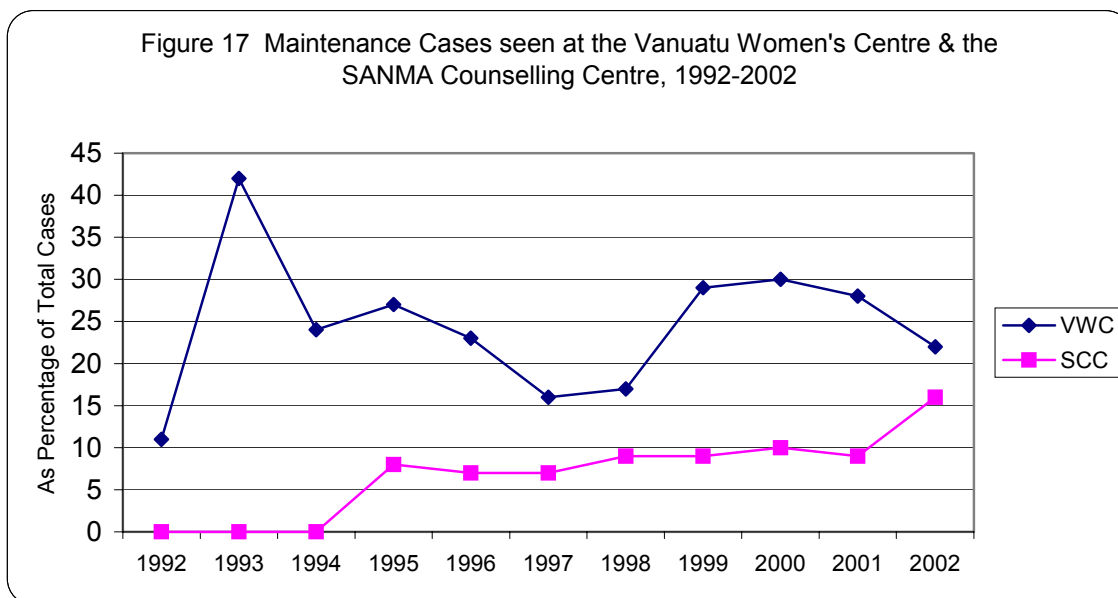
<sup>35</sup> Magistrates Court, Vanuatu, Civ Cas 324/195 (unreported) (12 February 1996). Reversed on appeal, *Banga v Waiwo*, Supreme Court, Vanuatu, App Cas 1/1996 (unreported) (16 June 1996).

reversed on appeal by the Supreme Court, where the Chief Justice held that the word ‘damages’ must be interpreted to conform with the Matrimonial Causes Act 1965 (UK), upon which the Matrimonial Causes Act (Cap 192) was based, and which did not provide for exemplary damages. The second reason for the low divorce rate is that women fear losing their children if they pressure for divorce.

## MAINTENANCE

16.23 The Vanuatu legislation makes it a criminal offence for a man not to maintain his family, and for a mother to desert her children. However, only married women can claim maintenance for themselves. In order to obtain maintenance, a wife must first obtain a criminal conviction against her husband for desertion and failure to maintain. She has to prove beyond reasonable doubt that her husband has committed the crime. This provision places a magistrate in a difficult position. If the magistrate convicts the husband, he must fine and/or imprison the husband. If the husband is poor, who will pay the fine and maintenance money? But if the magistrate does not convict the husband, maintenance is not liable. Who then will support the deserted wife and children? Of all maintenance legislation affecting Pacific women, Vanuatu legislation is the most restrictive as seen in *Niurrie v Niurrie* (1996)<sup>36</sup>. In a cartoon showing this case, the Judge says: “You can starve because I’ve put your husband in prison, or you can starve because I can’t make him give you anything. Which would you like?” (Jalal, 1998).

16.24 Data from the Vanuatu Women’s Centre and the SANMA Counselling Centre show that this is a major dilemma facing women who seek assistance for maintenance. Often women need support to seek actions in court for maintenance as with domestic violence during and after separation between couples. Between 10 to 22 per cent of the cases seen by these two Centres deal with maintenance.



**Source:** Vanuatu Women’s Centre, 2003

<sup>36</sup> Port Vila Magistrate’s Court Civil Case 17/1996; Supreme Court Civil Appeal 7/1996.



16.25 Since 1996 the Vanuatu Women's Centre has been providing legal assistance and over the past decade there have been two female lawyers advocating equal treatment under the law. Only since June 1999, however, has the Centre been operating a Court Fee Fund used to provide legal assistance with costs. As of 2003 some 206 women have been provided legal assistance through this fund totaling VT 2,089,753. The process is not simple as Merilyn Tahī, Coordinator of the Centre highlights:

“Although a vast number of reported cases do not end up in court, law enforcement costs are very high and include costs associated with divorce and child maintenance hearings which far outweigh the costs of crisis counselling, community education and legal advocacy services. Women's organizations working to address violence against women and children are frequently subjected to hostility and criticisms from community leaders and various social institutions. Their work to promote women's human rights is sometimes mis-interpreted as anti-male, pro-divorce or anti-culture. Promoting debate on the issues of culture, customary law and women's rights in civil society is essential to change attitudes on violence against women. Responsiveness to the views of stakeholders and community leaders needs to be balanced with a core commitment to the human rights of women. Strategies for addressing violence need to be culturally appropriate while retaining this core commitment. A capacity to explain how some aspects of culture disadvantage women, harm the whole family and community, and undermine development efforts, is a key factor for success. Organizational autonomy assists in this process, just as continuity and security of core funding is essential for successful strategies on addressing violence against women” (Vanuatu Women's Centre, 2003).

16.26 Since 1994 the Vanuatu Women's Centre has provided the only Safe House for victims of violence. Records from July 1999 to June 2002 show that 61 women utilized this support service.

## Article 18

- I. States parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:**
  - (a) Within one year after entry into force for the State concerned;**
  - (b) Thereafter at least every four years and further whenever the Committee so requests.**
- II. Reports may indicate factors and difficulties affecting the degree of fulfillment of obligations under the present Convention.**

## Reporting Requirements

18.1 Following the Beijing conference in 1995 Vanuatu's process to action the critical areas of concern in the Beijing Platform for Action was developed in 1996 through the facilitation of the National Council of Women. Objective 9.1 was to promote and protect the human rights of women and within this framework three targets were set, two of which were:

- i. To accede to the CEDAW Optional Protocol if it is added to the Convention
- ii. To report on schedule to the Committee on the Elimination of all forms of Discrimination Against Women

18.2 In 1998 following a number of regional meetings held to assist Pacific Island Countries progress on CEDAW work on the Report started. Following a meeting in Fiji, Grace Molisa, then President of the Vanuatu National Council of Women, coordinated a NGO/Government workshop (with the support of ESCAP) with the aim of completing an NGO CEDAW Report. An NGO CEDAW Task Force was established and tasked with overseeing the completion of the Report by September 2000 for approval by the Council of Ministers and to submit to the UN by December 2000. Due to a misunderstanding of the reporting process, the Task Force faded away (Nelson, 1999).

18.3 The misunderstanding in 2000 arose because it was not clearly understood that a Shadow Report to the UN CEDAW Committee could not be submitted without there first being a Government Report. Further Vanuatu had not ratified the Optional Protocol. In 2000 another meeting on writing of a CEDAW report was held in New Zealand which was attended by representatives from the Attorney General's Office and the Vanuatu National Council of Women. Following this meeting the Department of Women's Affairs, with support from UNIFEM, contracted Grace Molisa to draft a preliminary CEDAW Report (Molisa, 2000b).

18.4 In 2003 the Department of Women's Affairs obtained generous financial support from the New Zealand High Commission for the compilation of this Report. In April 2003 the then Hon Prime Minister Edward Natapei Nipake appointed a 13 member CEDAW Committee - including five representatives from the NGO sector - responsible for overseeing the preparation of the Report. In June two women were contracted for a period of nine months to compile the Report. A draft was completed in March and the final Report presented to the CEDAW Committee in September 2004. A complete list of members of the Committee as well as stakeholders consulted during the preparation of this Report is provided below.

#### **INFORMATION & PUBLICITY ON CEDAW**

18.5 Awareness campaigns about CEDAW have mostly been carried out by women's NGOs. In 1992 the late Grace Molisa, in her capacity as the Chair of the VNCW's Information and Publication Committee had CEDAW translated into Bislama (Molisa, 1992). Awareness of CEDAW within the Government machinery in the early years was slow but has improved in the last five years. One of the factors that can be identified as slowing the process was that no coordinating body was established to monitor and review the process of implementation of the Convention after its ratification in 1995.

18.6 In its commitment to improving the status of women in Vanuatu, Government has taken a number of positive steps as identified in the Report. A number of areas requiring further action have also been identified. As stated in the Report, what Vanuatu has achieved in the last 25 years has been considerable and advances made by women have been positive in certain areas as both Government and women leaders acknowledge. However, both also recognize that there is still more that can be accomplished together to improve the status and the situation of women in Vanuatu.



Pastor Dorothy Regenvanu	Secretary, Vanuatu Christian Council
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Joemela Simeon	Trainer, Regional Rights Resource Team, Vanuatu
Merilyn Tah	Coordinator, Vanuatu Women's Centre
James Toa	Acting Director, Department of Economic and Sectoral Planning
Pioni Willie	Acting Statistician, National Statistics Office

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Andonia Piau-Lynch compiled the Report  
Eileen Roy Seresere provided administrative and moral support

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### **OFFICE OF THE OPPOSITION**

### **National & Provincial Governments, Councils & Statutory Bodies**

- Department of Cooperatives & Rural Development
- Department of Education
- Department of Finance
- Department of Foreign Affairs
- Department of Health
- Department of Labour
- Department of Provincial Affairs
- Office of the Public Prosecutor
- Office of the Public Solicitor
- Public Service Commission
- State Law Office
- Vanuatu Police Force
- Malvatumauri Council of Chiefs
- Vanuatu Cultural Centre

- 
- Department of Sports
  - Department of Strategic Management
  - Department of Trade
  - Department of Women's Affairs
  - Electoral Commission
  - Judicial Services Commission
  - National Statistics Office
  - Office of the Ombudsman
  - MALAMPA Provincial Council
  - PENAMA Provincial Council
  - SHEFA Provincial Council
  - SANMA Provincial Council
  - TORBA Provincial Council
  - Luganville Municipal Council
  - Port Vila Municipal Council

### **WOMEN'S ORGANIZATIONS**

- Inter-Church Women's Fellowship
- Luganville Town Council of Women, SANMA Province
- Maufter Island Council of Women, SHEFA Province
- MALAMPA Council of Women
- PENAMA Island Council of Women
- SANMA Council of Women
- SHEFA Council of Women
- TORBA Council of Women
- Vanuatu National Council of Women
- Vanuatu Women's Centre
- Rometer Council of Women, TORBA Province
- DPA Women with Disabilities Sub-Committee, Santo, SANMA Province

### **National NGOs & Civil Society Organizations**

- Disability Promotion & Advocacy Association
- Foundation of the Peoples of South Pacific
- IZA Foundation
- National Spiritual Assembly of the Bahá'ís of Vanuatu
- Save the Children Fund
- vandisports
- Vanuatu Association of Non Government Organizations (VANGO)
- Vanuatu Amateur Sports & National Paralympic Committee (VASANOC)
- Vanuatu Credit Union League
- Vanuatu Family Health Association
- Vanuatu National Workers Unions
- Vanuatu Rural Development Training Centres Association
- Vanuatu Society for Disabled People
- Vanuatu Teacher's Union
- Wan Smolbag Theatre
- World Vision

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- International Women's Rights Action Watch Asia Pacific (IWRAP), Malaysia
- Regional Rights Resource Team, Fiji
- UN ESCAP Pacific Operations Centre, Vanuatu
- UNIFEM Pacific, Fiji
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Captain Karl, B. Joint Planning & Operations Centre, VANSEC House. Letter to Andonia Piau-Lynch dated 16 November 2003.

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