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Combating Violence against Indigenous Women and Girls: Article 22 of the United Nations Declaration on the Rights of Indigenous Peoples

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Violence Against Women and Girls in the Pacific

By

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1. INTRODUCTION

This presentation focuses on the small island states of the Pacific region. The Pacific region is a diverse region spanning across the Pacific ocean including Australia and New Zealand.

The small island nation states have populations ranging from approximately 1500 to 6.7 million people, the contrasts in scale, structure, geographical make-up, physical resources, social and customary systems present a complex region with many challenges¹. Table 1 below gives some indication of the diversity in the geographical make-up and the complexities associated with such a region. The small island regions are divided into 3 main sub-regions – Melanesia, Polynesia and Micronesia and is rich in cultural diversity and heritage.

Table 1: Key Geographical Data for Pacific Island Countries and Territories²

Country/Territory	Land Area (km)	Sea Area (000km)	Estimated # of People		
			Total	Males	Females
American Samoa	199	300	65,896	33,632	32,264
CNMI	457	777	63,072	31,740	31,333
Cook Islands	237	1,830	15,708	8,039	7,669
Fiji Islands	18,273	1,290	847,793	432,429	415,363
French Polynesia	3,521	5,030	268,767	137,472	131,295
FSM	701	2,973	111,364	56,898	54,466
Guam	541	218	187,140	96,577	90,563
Kiribati	811	3,550	100,835	50,005	50,830
Marshall Islands	181	2,131	54,439	27,938	26,501
Nauru	21	320	9,976	5,067	4,909
New Caledonia	18,576	1,740	254,525	128,124	126,401
Niue	259	390	1,479	726	753
Palau	444	629	20,518	10,996	9,522
Pitcairn	5		66		
PNG	462,840	3,120	6,744,955	3,478,101	3,266,854
Samoa	2,785	120	183,123	95,131	87,992
Solomon Islands	30,407	1,340	549,574	282,713	266,861
Tokelau	12	290	1,165	590	575
Tonga	650	700	103,365	52,441	50,924
Tuvalu	26	900	11,149	5,549	5,600
Vanuatu	12,281	680	245,036	124,905	120,132
Wallis and Futuna	142	300	13,256	6,577	6,680

Women in the small island regions in the Pacific, like in many other regions struggle for the recognition of their rights and while there have been some significant gains in this

¹Secretariat of the Pacific Community 2010: 8-9.

² Secretariat of the Pacific Community 2010:11

area over the past two decades, there remain serious gaps in the recognition of these rights. As mentioned in the region's review of the progress in implementing the Beijing Platform for Action:

*"The human rights of women in the Pacific are violated in many different ways, covering the full spectrum of civil, political, economic, social and cultural rights."*³

2. Situation of Violence Against Women and Girlsⁱ

Violence against women and children is prevalent throughout the Pacific region across all ethnic and socio-economic groups. Documentation and client statistics from the Fiji Women's Crisis Centre, members of the Pacific Women's Network Against Violence Against Women (VAW) and AusAID's Office of Development Effectiveness report indicates that there is significant under-reporting of the problem and that it occurs in all different forms.⁴ Domestic violence within the family includes a range of types of physical abuse using hands, feet and objects, weapons, mutilation (using hot water or objects) and the deprivation of food; emotional violence including humiliation and verbal abuse, a range of controlling behaviours and restricting access to education, health care, work, or from having contact with family or friends; sexual violence including rape within marriage, incest and the use of objects; and economic or financial abuse which also includes a range of controlling behaviours including restriction of women's access to economic resources.

The Fiji Women's Crisis Centre's 1999 national research on domestic violence and sexual assault found that 66% of the women surveyed reported that they had been abused by their partners, 30% of these suffered repeated physical abuse, and 44% reported being hit while pregnant. 74% of female victims did not report violence to the Police or seek medical attention.

Other studies have been conducted in other small island countries in the Pacific and they indicate high rates of intimate partner violence⁵. The Samoa study of 2001 highlighted that 46% of women experienced some form of Intimate Partner Violence (IPV) (38% physical, 19% emotional and 20% sexual)⁶. More recently, studies have been conducted in Solomon Islands, Kiribati and Vanuatu using the World Health Organization study methodology on IPV and together with the Samoa study, they have produced globally comparable figures.

The Solomon Islands study showed a high prevalence of violence against women and girls with 64% of ever-partnered women, aged 15-49 years experiencing physical or sexual violence or both by an intimate partner.⁷ In Kiribati, similar trends were reported with 68% of women between the ages of 15-49 years reported experiencing physical or

³ Secretariat of the Pacific Community 2010:93

⁴ AusAID Office of Development Effectiveness 2008: 8-14; Lievore and Fairbairn-Dunlop 2007a, 2007b and 2007c; and Fairbairn-Dunlop and Lievore 2007; and Vanuatu Women's Centre 2007.

⁵ Respondents have been mainly indigenous women and girls

⁶ Secretariat of the Pacific Community 2010: 62

⁷ Secretariat of the Pacific Community 2009 Solomon Islands Family Health and Safety Survey

sexual violence by an intimate partner.⁸ In Vanuatu 3 in 5 (60%) women and girls aged 15-49 experienced physical and/or sexual violence at the hands of an intimate partner.⁹ In all three studies a significant proportion (Vanuatu- 90%, Kiribati – 76%, Solomon Islands – 76%) of the physical violence was rated as severe and happened many times.

These studies also demonstrate the high prevalence of coercive control which limit or inhibit women's rights and freedoms including their right to economic, social and political participation. However, what is also evident is the deeply entrenched attitudes which justify and support male entitlement to exert these controls over women. A significant proportion of the female respondents themselves believe in at least one justification for a man to beat up his wife (60% - Vanuatu¹⁰, 76% - Kiribati¹¹ and Solomon Islands – 73%¹²). The justifications are often reinforced by religious and cultural interpretations and prevalent patriarchal notions.

These attitudes have often become so deeply entrenched that they erect barriers around young women and girls, leaving them with little opportunity or ability to negotiate their rights or express opinions or choices. Throughout the small island countries in the Pacific the sexual exploitation of girls is increasingly being reported, it remains a largely hidden problem. In the studies conducted in Vanuatu, Kiribati and the Solomon Islands, for young women and girls experiencing non-partner violence, the perpetrators were mainly family members and acquaintances. This is reflected in the cases of sexual violence reported to the Police throughout the Pacific where the perpetrators were largely family members including fathers, step-fathers, grandfathers, uncles, cousins and other male relatives and friends. The element of protection which is often emphasized in traditional relationships is very often abused in these contexts.

The Solomon Island Family Health and Safety Study found that 37% of women between the ages of 15-49 years reported that they had been sexually abused when they were under the age of 15 and two-thirds reported that they were abused by someone they knew.¹³ Similarly, 30% of the respondents in Vanuatu and 19% of the respondents in Kiribati had similar experiences.

There are also a number of cultural practices in the small island states which subjugate women's rights. For example, forced marriage is not uncommon in some countries after rape, and is also used as compensation payment for a rape or other transgressions between family groups. The payment of bride price is often used as a justification for violence and abuse and is seen as conferring the right to “discipline” women in many parts of Melanesia. There are reports of killings as a result of accusations of sorcery in both Papua New Guinea and Vanuatu. The status of women in the small island states

⁸ Secretariat of the Pacific Community 2010: 79 Kiribati Family Health and Support Study

⁹ Vanuatu Women's Centre 2011:16

¹⁰ Vanuatu Women's Centre 2011: 55

¹¹ Secretariat of the Pacific Community 2010: 95

¹² Secretariat of the Pacific Community 2009: 72

¹³ Secretariat of the Pacific Community 2009:88-89

context often makes it difficult for them to challenge the harmful practices perpetrated against them.¹⁴

In circumstances where conventional laws make some provision for gender equality, there are tensions between the two systems of law which has a negative impact on women's empowerment.¹⁵

The use of cultural practices to justify violence against women is not a new trend and is one of the major stumbling blocks to enabling indigenous women and girls in the small island states to access justice.

Throughout the Melanesian region with the exception of Fiji, bride-price along with women's economic dependence was cited as the biggest factor for perpetuating violence by men against their wives.¹⁶ The practice of bride-price has used to reinforce notions of "ownership" thus making it difficult for women to leave a violent situation or even attempt to leave it. In the Vanuatu National Survey on Women's Lives and Family Relationships (Vanuatu Women's Centre study), only 1 in 5 women (22%) thought they could afford to raise the money on their own to repay high amounts of bride price that had been paid.¹⁷ While previously bride-price was viewed as a medium for forging and securing alliances between groups, it has now become commercialized through the commodification of women's and girl's bodies.¹⁸

While there is no reliable data on the trafficking of women and girls, there are indications that this is an emerging issue in Fiji and other countries of the region. Anecdotal evidence suggests that some women have been trafficked into Fiji from China and some media reports confirm that this has occurred in Papua New Guinea.¹⁹ There are confirmed cases of trafficking of children in Fiji, Solomon Islands and Papua New Guinea, although in some cases trafficking and commercial sexual exploitation does not cross borders. In the Solomon Islands and Fiji there are confirmed cases of children trafficked using fishing or yachting boats or in logging compounds.

"The father takes the money and sends the girl to the logging camp. Or they negotiate for the logger to build a house or buy an outboard motor. Some girls are only 14 or 15". (Solomon Islands).

"We know there are men going round the internally displaced persons camps looking for women and girls to take for trafficking, but its hard to get the information we need to catch them". (East Timor)²⁰

¹⁴ Jalal 2009:5

¹⁵ Jalal 2009: 5

¹⁶ AusAID 2008: 17

¹⁷ Vanuatu Women's Centre 2011: 138

¹⁸ Jalal 2010: 9

¹⁹ *Fiji Times* 17 December 2008: 19.

²⁰ AusAID 2008:13

3. Violence against women is a human rights and development issue – causes, contributing factors and consequences

Violence against women in small island states is caused by inequality between women and men, specifically unequal power relations. This imbalance in gender power relations is long-standing, historical and embedded in key social institutions such as the family, the Church, traditional culture and custom, the economy, the law, the education system, the media and the political system. Most cultures accept and promote the subordination of women in some way or to some degree, through stereotyped gender roles, beliefs and practices which reinforce notions of male ownership of women, practices which encourage control over female sexuality and attitudes which value men's work more than women's.²¹ In addition, some traditional and religious values and beliefs have been misunderstood or misinterpreted to condone violence as a legitimate form of punishment or discipline for both women and girls.

Underlying this systematic and institutionalised gender-based discrimination is a lack of understanding, knowledge and belief in the human rights of all people – which also contributes to an acceptance of violence generally in society as a way of resolving conflict. This reinforces and supports militarisation, and beliefs about masculinity that are wedded to wielding power and control over women. AusAID's Office of Development Effectiveness report on VAW has highlighted the critical importance of using a human rights framework for all interventions.²²

A World Health Organization report on violence and health²³ concluded that a wide range of studies from both industrialised and developing countries produced a consistent list of events which "trigger" violence. These triggers are overwhelmingly expressions of unequal power relations and the expectation that women should be subservient to men. The Fiji Women's Crisis Centre's research on domestic violence and the studies conducted in Vanuatu, Solomon Islands and Kiribati found a very similar list of "triggers", including: disobedience, cheekiness/arguing back, refusal to have sex, not doing chores, socializing, and suspicion that the woman committed adultery.²⁴ These "triggers" or "reasons" are also extensively used by people in positions of authority to justify or condone violence against women. A range of risk factors which increase women's vulnerability to violence have also been identified in the AusAID Office of Development Effectiveness report and in previous work by the World Health Organization. Many of these factors particularly at the family, community and social levels are also rooted in a lack of internalisation of human rights principles and unequal gender power relations.²⁵

Other social and institutional factors which contribute to, or perpetuate VAW include:

²¹ United Nations 2002.

²² AusAID Office of Development Effectiveness 2008: 21-28.

²³ WHO 2002 World Report on Violence and Health WHO, Geneva: 95.

²⁴ Fiji Women's Crisis Centre 2001: 27,32-33.

²⁵ AusAID Office of Development Effectiveness 2008: 5-6.

- Inadequate responses by law and justice agencies and the failure of government to address the problem systematically at all levels, including lack of trained personnel and impunity for intimidation, harassment and crimes of violence committed by the police and military.
- Lack of support by families and social institutions for survivors and inappropriate responses to the problem by other service-providers, which further traumatises women and perpetuates violence against them.
- Traditional myths and beliefs which blame women for violence and thereby perpetuate violence.
- Men not taking responsibility for their violence, which is reinforced by the family, social institutions and service-providers in various ways.
- Portrayal of women in the media, which reinforces traditional roles of women and perpetuates myths about violence against women and children.

Cultural and religious fundamentalism is on the rise in Fiji and in other small island states of the Pacific. This promotes and reinforces conservative ideas and myths about women and their rights. Many chiefs are reinforcing the traditional role of women as primary caregivers and homemakers. The assertion of rights by women is often blamed for family breakdowns, sexual abuse within the family and also for violence against women. Sexual assault and violence against women is condoned, reporting of violence is discouraged and women are counseled that it is a sin to divorce or separate by many religious leaders.

The consequences of violence against women are far-reaching and are a major barrier to development and poverty reduction throughout the Pacific.²⁶ Violence against women is a serious impediment to the participation of women in all aspects of development in Fiji and the small island states. Violence and the fear or threat of violence pervades all spheres of social, economic and political life. It prevents women from taking educational and employment opportunities, from being involved in public life and decision making, achieving equality and gaining their basic human rights.

There are substantial human resource costs associated with women being unable to participate fully in society, development and nation-building. Violence against women and children also incurs significant direct, indirect and opportunity costs to government, families and the community. The Governor of the Reserve Bank of Fiji estimated that direct and indirect costs in Fiji amount to around \$300 million per year in 2002, which was equivalent to 7% of Gross Domestic Product.²⁷ For example, the Government incurs health care costs, court and law enforcement costs, and welfare payments. Families suffer loss of earnings, legal and medical costs and children's education often suffers. Employers have loss of productivity and loss of output when women are absent due to violence. In the Vanuatu Women Centre study, 30% of women who had experienced violence and were also earning an income had their work disrupted in some way due to violence by a husband/partner.²⁸ All these costs affect the wider community and at the macro level, the whole nation.

²⁶ AusAID Office of Development Effectiveness 2008.

²⁷ Savenaca Narube 2002: 13.

²⁸ VWC 2011: 139

Violence against women has profound mental, physical and reproductive health effects. Women subjected to violence suffer from low self-confidence, low self-esteem and have increased risk of depression, anxiety and suicide. These mental health factors also contribute to poor physical health generally, in addition to a range of physical injuries with both short-term and long-term chronic effects. International studies confirm findings of research conducted in the Pacific of violence during pregnancy which no doubt has serious impacts on the mother and foetus including miscarriage.²⁹ Violence against women can result in unintended pregnancies, repeated childbearing, gynaecological disorders, unsafe abortion and pelvic inflammatory disease. And in some cases, the violence ends only with the woman's life. Children who are present in violent situations are at a higher risk of repeating the cycle of violence, in addition to the direct physical and mental anguish they suffer.

The links between Violence Against Women and HIV are 2-way and well-established³⁰ – Violence Against Women leads directly to HIV infection and other sexually transmitted infections, and women's HIV-positive status also increases women's vulnerability to further violence and discrimination from the family, the community and service-providers.

3. Poverty, gender inequality and violence against women

Both rural and urban poverty is on the increase throughout the small island states in the Pacific and there is now a consensus that it is a serious problem affecting access to basic needs, health care and shelter.³¹ Women and their dependent children are frequently the worst affected with significant gender gaps in income and access to formal employment.³²

Despite changes in patterns of economic development in many countries in the region, women are still over-represented in lower-income jobs, the service sector, the informal sector and in the subsistence economy. Women are severely disadvantaged economically whether they live in rural areas or urban settlements throughout the region. Many women have little control over the cash gained from their labour, and women are more likely to be unemployed than men.

The relationship between poverty and VAW is multi-dimensional. AusAID's Office of Development Effectiveness report cites poverty as one of a number of factors at the family level that may increase women's vulnerability to violence.³³ Financial stress can be a trigger for violence. The Fiji Women's Crisis Centre's experience throughout the region indicates that poverty and women's lack of economic independence is one of a number of key factors that prevents them from leaving a violent relationship, whether or not welfare systems are in place – along with other social, cultural and legal factors

²⁹ WHO 2002: 101.

³⁰ AusAID Office of Development Effectiveness 2008: 5.

³¹ AusAID 2006b: 29; AusAID ODE 2008: 106, 144, 152-153; and Schoeffel Meleisea: 4-5.

³² AusAID 2007: 6-7.

³³ AusAID Office of Development Effectiveness 2008: 5.

including the stigma associated with divorce and separation. This is particularly true where bride price and strong customary and religious constraints prevent women from taking action to end violence and claim their rights. Nevertheless, Violence Against Women affects women from across all socio-economic groups.

It is very clear that violence against women and children contributes to poverty both directly and indirectly, and that poverty reduction efforts are seriously hampered as long as VAW is tolerated. About 60% of the Fiji Women's Crisis Centre's clients do not have formal employment. As noted above, women are under-represented in formal employment in most small island Pacific countries, due to discrimination and poor educational status, and a shortage of jobs in rural economies, so it is likely that the employment profile of women subjected to violence in Fiji is similar throughout the region. There are many cases of VAW that result in separation or divorce. In countries where welfare payments are not available, this leaves women and children dependent on irregular family or child maintenance payments (because of a failure to implement maintenance laws by the Judiciary and Police); or on the generosity of relatives, who frequently do not support women in their decision to leave a violent partner. This applies across the region, whether or not separation requires the repayment of bride price. Where government or non-government welfare systems are in place, welfare support is inadequate.

Many clients seen by the Fiji Women's Crisis Centre feel they are unable to leave their relationships because of their children, as they are fully dependent on their husbands for financial support. If a client leaves, maintenance payments alone by the partner will not be enough to support the basic needs of the woman and the children due to the high cost of living. Some children become "street kids" as a means of escaping the violence and poverty in their homes. Where previously extended family networks provided great support for indigenous communities, many women find it difficult to access this support due to economic hardships and the gradual disappearance of such networks.

Violence results in physical injury and mental disability, which undermine women's ability to find work, and can result in women losing their jobs due to frequent absences and poor job performance. Women who have made the difficult decision to leave a violent partner are amongst some of the poorest in the community. They are often unable to provide for their children's education, which reinforces a cycle of poverty and vulnerability. Prostitution is a last resort for destitute women, and for street children who have suffered physical or emotional abuse in the family.

4. Conflict, emergencies, gender inequality and violence against women

Poverty is exacerbated throughout the region by the problems of climate change, natural disasters and rapid urbanisation, which is often associated with an increase in serious crime. Several small island countries in the Pacific have recently experienced or are at risk of political, ethnic and tribal conflict and political instability, including Fiji, Papua New Guinea, the Solomon Islands, Vanuatu and Tonga. Four political coups in twenty years have caused serious disruptions to social and economic life in Fiji. Civil Society Organizations such as **the Fiji Women's Crisis Centre** and other women's organisations

in the region have played a key role in supporting a return to the rule of law, and in promoting transparency and accountability in government agencies in times of political instability and conflict.

The most immediate and direct impact of political, ethnic and tribal conflict on women and girls is an increase in all types of violence against them, including physical, sexual, emotional and economic violence and abuse. These impacts have been extensively documented internationally in relation to the passing of United Nations Security Council Resolution 1325 on women, peace and security.³⁴ There is also considerable anecdotal evidence of sexual and other forms of violence against women in the Pacific countries during conflict that has been passed on to the Fiji Women's Crisis Centre by Regional Network members and some of this has been documented in the AusAID Office of Development Effectiveness report on VAW for the Solomon Island, Papua New Guinea and Fiji, in addition to increases in VAW in the context of natural disasters and emergencies.³⁵

There are also a range of indirect impacts of conflict on attention to VAW. In the context of political and ethnic tension and violence and serious crime problems, issues concerning women and their rights become secondary to issues of national security and the maintenance of law and order, despite the fact that women are disproportionately affected by conflict and violence and are often targeted for further violence by their intimate partners, by combatants, and by representatives of the state including the military and the police. Civil society organisations including women's groups, have to work much harder to highlight human rights and gender equality issues and to have them taken seriously by the government, media and community leaders.

Other impacts of political instability and militarisation are a general deterioration in service provision such as health, social welfare and policing – due to scarce resources and the prioritisation of other issues under military rule. Militarisation reinforces a “macho” culture and undermines progress already made in the community towards a reduction in tolerance for violence generally. Political instability, militarisation and the undermining of the rule of law including compromising of the judiciary and an increase in human rights violations all tend to further reinforce the use of violence as a way of resolving conflict.

5. Jurisdiction and Policing of VAW in the Pacific

Since customary law is recognised in a generalised manner in the constitutions of most Pacific Island countries and territories, most of the interpretations and applications work against women's human rights unless otherwise challenged.³⁶ Throughout the small island states in the Pacific, it is also recognised that the deterioration of women's human

³⁴ For example, see United Nations Security Council 2004; and United Nations 2006.

³⁵ AusAID Office of Development Effectiveness (ODE) 2008: 12, 19.

³⁶ Jalal 2010:5

rights, in particular the rights of indigenous women and girls is sometimes if not often supported by the application and enforcement of certain “customary laws”.

A clear example of this is the regulations accorded to women in villages and in indigenous settlements around dress code, behaviour and even extending to hair styles. Over the past 5-8 years, this approach has emerged in different countries throughout the Pacific. In Vanuatu, in 2005 the *Malvatumauri* (House of Chiefs), supported by Church Leaders tried to pass a new “custom law” which restricted ni-Vanuatu women from wearing trousers, shorts, pants or jeans.³⁷ Even though the law had not actually been passed, chiefs in various parts of the country were enforcing this “law” and in some cases the Vanuatu Women’s Centre recorded reports of women publicly flogged for wearing pants. Furthermore in some isolated parts of the country some chiefs were supported by the Police in enforcing these regulations even though the beating of these women was clearly a violation of their rights and was in fact against the penal code. The Vanuatu Women’s Centre led the campaign against this practice arguing it was unconstitutional and against their rights to equality. While this “custom law” was never passed, there is a need for persistent monitoring to ensure that the rights of indigenous women and girls are not violated in this manner.

Similar experiences were recorded in Fiji. While there is a certain expectation of general decorum and dress in indigenous Fijian villages, the interpretations of village by-laws which were being drafted by the Ministry of *iTaukei* Affairs (Indigenous Affairs) led to the gross violation of the rights of women and girls in some cases. While the draft village by-laws were not gender specific in terms of dress code, the enforcement was mainly targeted at women and girls. In one case, a young girl who was returning from athletics training in shorts was beaten severely by the village headman for breaching the “by-laws”. Due to the fact that these by-laws were written up and were being taken around to enable consultations, many village chiefs began enforcing it with their own interpretations and with no regard for the rights of women and girls. In some extreme contexts, women and girls were not allowed to roam the village in “round-neck” t-shirts. These restrictive rules hindered their participation and often placed them in a vulnerable situation. Organisations like the Fiji Women’s Crisis Centre lobbied and made submissions to the Ministry of *iTaukei* Affairs which has placed the work on the by-laws on hold and have made it very clear the by-laws do not supersede laws such as the Penal Code.

Very often village life in the Pacific is viewed as care free and laid back. However, the restrictive nature of this lifestyle is often placed on women and girls whose movements and participation may be limited. In addition, when women and girls do experience violence, the restrictive communal lifestyle can serve as a barrier for their ability to access justice.

While most countries in Pacific have provisions either through the Penal Code or specific domestic violence legislation to provide protection for victim/ survivors of domestic violence, there are many disincentives which prevent women and girls from reporting.

³⁷ Jalal 2010: 5

The burden of keeping the family together and maintaining harmony in the village is placed on women thus making it difficult for them to report. In addition, due to the patriarchal nature of most of the Pacific island communities, women often move to their husband's village after marriage which can often lead to her not having an extensive support system. However even in situations where women do manage to escape violent situations and return to their family home, traditional reconciliation practices often force them back into a violent situation. Traditional reconciliation involves the offender's family seeking forgiveness from the victim's family and very often these ceremonies take place without the victim's opinion or consent and therefore ends up being a disempowering process for her.³⁸

Traditional reconciliation (*i bulubulu* – Fiji, *ifoga* – Samoa, *te kabara bure* – Kiribati, *klinim fes* – Vanuatu) is also used in cases of sexual offences and sometimes lead to the withdrawal of charges in the formal legal system. This is after the family has accepted compensation or the traditional apology and it puts pressure on the victim to maintain family honour and withdraw the charges.

In some jurisdictions, the Police have put in place a No Drop Policy which means that once cases of violence against women have been reported, charges cannot be withdrawn and the case has to be dealt with in Court. This Policy was started in Fiji in 1995 for Domestic Violence cases due to the high rates of "reconciliation" facilitated by the Police. The Policy clearly specified that reconciliation could only take place before a Magistrate but the case had to first be dealt with accordingly by the Police.

This Policy was eventually extended to sexual offences and has also been adopted by several other countries in the Pacific region. However, these policies need to be monitored vigorously as Police Officers are not exempt from entrenched patriarchal attitudes.

Access to the formal justice system can also be physically difficult due to the geographical make-up of most Pacific Island countries. For indigenous women and girls living in outer island communities the formal justice system may be inaccessible due to 6 monthly and yearly island court systems. Therefore, to lodge a report of a sexual offence only to be have the case heard 6-9 months later can pose many difficulties as there is a great deal of pressure to reconcile and "move on" with one's life. For young girls who have been sexually assaulted, this places them in an extremely vulnerable situation where they are potentially exposed to further sexual exploitation once it becomes a known fact that she has been sexually assaulted. In some island communities, recounting details of a sexual assault to the lone police officer who is known throughout the island can be enough to discourage the victim from reporting.

The option of custom courts is very often what is available to women and girls who seek to access justice.³⁹ In Vanuatu, the *kastom court* is practiced in rural indigenous communities as well as in urban settlements and is often the forum where cases of

³⁸ Jalal 2010: 6

³⁹ AusAID 2008: 32

domestic violence are brought for resolution. Due the male dominated nature of such structures, the dispensing of justice is very often in the favour of men. It is not uncommon for a woman escaping a violent situation to be expected to pay “compensation” to her husband for leaving him in the first place.

In some cases, traditional authorities such as village chiefs or even custom court officials have taken on a mediatory role in cases of violence against women. Traditional reconciliation and reparatory systems are sometimes weaved into the formal justice system or are applied in traditional court systems. A worrying aspect of the use of restorative justice in cases of violence against women and girls is the lack of a gender perspective. Where the mediator (very often the village chief or headman) does not recognise the power dynamics that exist in a relationship, the silence of the woman may be viewed as agreement rather than her adherence to cultural protocols and expectation of silence and subordination. In some contexts in the Pacific, traditional reconciliation is accepted as a mitigating factor for a lesser sentence or in some cases even acquittal.⁴⁰

In light of this the Vanuatu Women’s Centre has specifically targeted village chiefs for gender training to ensure greater sensitivity and awareness in their dispensing of justice. This has worked positively in cases where the Vanuatu Women’s Centre has managed to reach however there is still a great deal to be done in this area. Where traditional justice is applied without any acknowledgement of women’s rights, women and girls are alienated by the process.

“Compensation makes the family feel happy about the money, but not the girl” (young women’s focus discussion Solomon Islands)

“Once a woman is married, the elders say she must obey her husband because of the cows (paid as bride price). All decisions are made by men. They don’t listen to women, and the woman is always blamed” (women’s focus group, East Timor)⁴¹

One form of violence against women which has seen little justice is the sorcery related killings which is common in some parts of Papua New Guinea and to a lesser extent Vanuatu and the Solomon Islands. Traditional belief in sorcery is often used to justify extreme forms of violence against women which often go unreported in Papua New Guinea. Sorcery is often blamed for unexplainable deaths or illnesses with the suspected sorcerer most often killed. “Women are six times more likely to be accused of sorcery than men” (Amnesty International UPR Report). In one province in Papua New Guinea, Chimbu, estimated deaths relating to sorcery were as high as 200.⁴² Due to the fear surrounding an ominous issue like sorcery, women would find it even harder to report potential threats to the police and other relevant authorities.

Responses to cases of violence against women and girls by traditional authorities have often come in the form of protectionist approaches which restrict their movement and

⁴⁰ Jalal 2010: 12

⁴¹ AusAID 2008: 32

⁴² Amnesty International 2011: 2

participation. In addition, in some villages and settlements in Fiji, local chiefs and leaders have attempted to “resolve” cases of violence in efforts to portray a “better image” with minimal reporting of violence. These protectionist approaches not only repress the violence that is experienced by women and girls within the indigenous societies but also serve to create an environment of where women and girls are more vulnerable and susceptible to violence.

Violence against women is a serious developmental issue. For the Pacific region, the cumulative work over the years by organizations throughout the Pacific have led to some key achievements and milestones including law reform, increased programming, greater awareness, recognition of the issue of violence as violation of women’s human rights as well as the increased involvement of men in these efforts. However, despite continuing efforts in the respective communities, violence against women and girls continues to be a major problem, with emerging challenges including the lack of recognition of the vulnerabilities of women with disabilities and trafficking of women and girls. Unless governments in the Pacific region take up the issue using a sound gender and human rights approach they will continue to be confronted with a problem that is deeply rooted in patriarchal values and practices and permeates to all levels within the community.

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ⁱ The studies and case studies conducted throughout the Pacific have been predominately with indigenous women and girls and therefore references are made to Pacific women