



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

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## Committee on the Elimination of Discrimination against Women

Thirty-eighth session

14 May-1 June 2007

### Concluding comments of the Committee on the Elimination of Discrimination against Women: Vanuatu

1. The Committee considered the combined initial, second and third periodic report of Vanuatu (CEDAW/C/VUT/1-3) at its 779th and 780th meetings, on 18 May 2007 (CEDAW/C/SR.779 and 780). The Committee's list of issues and questions is contained in CEDAW/C/VUT/Q/3 and the responses of Vanuatu are contained in CEDAW/C/VUT/Q/3/Add.1.

#### Introduction

2. The Committee commends the State party for ratifying the Convention on the Elimination of All Forms of Discrimination against Women without reservations. It expresses its appreciation to the State party for its combined initial, second, and third periodic report, which followed the Committee's guidelines for the preparation of reports, but which was long overdue and did not provide enough statistical data disaggregated by sex. The Committee expresses its appreciation to the State party for the oral presentation, the written replies to the list of issues and questions raised by its pre-session working group, and the further clarifications to the questions orally posed by the Committee.

3. The Committee commends the State party for its high-level delegation, headed by the Minister of Justice and Social Welfare, and which included representatives of different government departments with expertise in a broad range of areas covered by the Convention. The Committee appreciates the frank and constructive dialogue that took place between the delegation and the members of the Committee.

4. The Committee congratulates the State party for its accession, on 17 May 2007, to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

5. The Committee notes with appreciation that the report was prepared in a participatory process involving government bodies and non-governmental organizations.



**Positive aspects**

6. The Committee commends the State party for achieving parity in primary education and meeting one of its targets under goal 3 (eliminating gender disparity in primary education) of the Millennium Development Goals, which corresponds to article 10 of the Convention.

7. The Committee commends the State party on its microfinance programmes, particularly the introduction and expansion of the VANWODS scheme targeting disadvantaged women and the *Sevem Fastaim* or “Save it First” scheme.

8. The Committee welcomes the State party’s attention given to women with disabilities in the national disability policy and its endorsement of the Biwako Millennium Framework for Action Towards an Inclusive Barrier-free and Rights-based Society for Persons with Disabilities in Asia and the Pacific during the Decade of Disabled Persons, 2003-2012. It also commends the State party on the establishment of the National Disability Committee.

**Principal areas of concern and recommendations**

**9. While recalling the State party’s obligation to systematically and continuously implement all the provisions of the Convention, the Committee views the concerns and recommendations identified in the present concluding comments as requiring the State party’s priority attention between now and the submission of the next periodic report. Consequently, the Committee calls upon the State party to focus on those areas in its implementation activities and to report on action taken and results achieved in its next periodic report. It also calls upon the State party to submit the present concluding comments to all ministries and to Parliament so as to ensure their full implementation.**

10. The Committee is concerned that, although the Convention was ratified in 1995, the Convention has not yet been fully incorporated into domestic legislation. The Committee is deeply concerned that the Constitution gives equal status to cultural and religious norms, some of which have an adverse impact on women’s enjoyment of their human rights, with legal norms. The Committee is further concerned that the principle of equality of women and men and the prohibition of discrimination lacks primacy over contradictory norms of customary law. The Committee is also concerned that neither the Constitution nor other domestic legislation contain a definition of discrimination against women in accordance with article 1 of the Convention, which prohibits both direct and indirect discrimination.

**11. The Committee urges the State party to proceed without delay with the full incorporation of the Convention into the domestic legal system. It also calls on the State party to clarify the primacy of the principle of equality of women and men and the prohibition of discrimination, over customary law. It calls on the State party to include in domestic law a definition of discrimination against women that encompasses both direct and indirect discrimination in line with article 1 of the Convention. It encourages the State party to sensitize the judiciary, lawyers and prosecutors to the provisions of the Convention and to the Optional Protocol.**

12. While noting the efforts undertaken to identify and amend discriminatory legal provisions, the Committee is concerned about the lack of priority afforded to comprehensive legal reform to eliminate sex-discriminatory provisions and close

legislative gaps to bring the country's legal framework fully into compliance with the provisions of the Convention. The Committee is concerned, in particular, about the delay in passage of the family protection bill and the revision of the Citizenship Act.

**13. The Committee requests the State party to complete without delay its legislative reform so as to ensure that all discriminatory legislation is amended or repealed to bring it into compliance with the Convention and the Committee's general recommendations. It encourages the State party to set a clear timetable for such reforms, in particular for the passage of the family protection bill and the revision of the Citizenship Act, and to raise awareness of legislators on the need to achieve de jure and de facto equality for women.**

14. The Committee notes with concern that, while the Convention refers to the concept of equality, the terms "equality" and "equity" are used in the State party's plans and programmes in such a way that could be interpreted as being synonymous or interchangeable.

**15. The Committee requests the State party to take note that the terms "equity" and "equality" are not synonymous or interchangeable, and that the Convention is directed towards eliminating discrimination against women and ensuring de jure and de facto (formal and substantive) equality between women and men. The Committee therefore recommends that the State party expand the dialogue among public entities, civil society and academia in order to clarify the understanding of equality in accordance with the Convention.**

16. The Committee is concerned that the Convention on the Elimination of All Forms of Discrimination against Women has yet to be given central importance as the basis for the elimination of all forms of discrimination against women and the achievement of gender equality through appropriate means.

**17. The Committee requests the State party to base its efforts to achieve gender equality and the advancement of women on the comprehensive scope of the Convention. It encourages the State party to reflect the scope of the Convention in appropriate legislation and in all Government plans and policies, across all sectors and levels.**

18. The Committee is concerned that the Department of Women's Affairs does not have the institutional authority, capacity and resources to effectively promote implementation of the Convention and coordinate the use of the gender mainstreaming strategy across all sectors and levels of Government, including in remote/rural areas. The Committee is concerned about the lack of assessments undertaken on the impact of measures taken, notably of the Department of Women's Affairs' Plan of Action 2003-2006.

**19. The Committee recommends that the State party expeditiously strengthen the national machinery, namely the Department of Women's Affairs, by providing it with the necessary authority and adequate human and financial resources that are necessary to coordinate and work effectively for the promotion of gender equality and to use a gender mainstreaming strategy in all policies and programmes across all sectors and levels of Government. It also requests the State party to strengthen its impact assessments of measures taken so as to ensure that such measures achieve their goals and targets.**

20. While noting with satisfaction the provision for temporary special measures in article 5 (1) (k) of the Constitution, the Committee is concerned about the State party's lack of clarity of the purpose of such measures and their limited use.

**21. The Committee recommends that the State party draw up a concrete plan for the application of temporary special measures in various areas, particularly in education and women's participation in political and public decision-making, in accordance with article 4, paragraph 1, of the Convention, and with the Committee's general recommendation 25. Such a plan should contain concrete goals, such as quotas and timetables, in order to accelerate the realization of women's substantive equality with men.**

22. The Committee is concerned about the persistence of adverse cultural norms, practices and traditions, as well as patriarchal attitudes and deep-rooted stereotypes, regarding the roles, responsibilities and identities of women and men in all spheres of life. The Committee is concerned that such customs and practices perpetuate discrimination against women, and are reflected in women's disadvantageous and unequal status in many areas, including in public life and decision-making, and in marriage and family relations, and the persistence of violence against women, and that so far, the State party has taken ad hoc, rather than sustained and systematic, action to modify or eliminate stereotypes and negative cultural values and practices.

**23. The Committee requests the State party to view its specific culture as a dynamic aspect of the country's life and social fabric and therefore subject to change. It urges the State party to put in place without delay a comprehensive strategy, including legislation, to modify or eliminate cultural practices and stereotypes that discriminate against women, in conformity with articles 2 (f) and 5 (a) of the Convention. Such measures should include awareness-raising efforts targeting women and men at all levels of society, including traditional leaders, and be undertaken in collaboration with civil society and women's organizations. The Committee encourages the State party to effectively use innovative measures in targeting young people and adults through the educational system to strengthen understanding of the equality of women and men, and to work with the media so as to enhance a positive and non-stereotypical portrayal of women. It also requests the State party to put in place monitoring mechanisms and to regularly assess progress made towards the achievement of established goals in this respect.**

24. The Committee is concerned about the prevalence of violence against women and girls, including cultural practices that constitute, or perpetuate, violence against women. The Committee is especially concerned about the use of customary methods of punishment (*kastom faen*) in cases of rape, which may act as a substitute for or lessen the punishment of offenders provided for in the law.

**25. The Committee urges the State party to give priority attention to combating violence against women and to adopt comprehensive measures to address all forms of violence against women and girls, in accordance with its general recommendation 19. It requests the State party to raise public awareness, through media and education programmes, that all forms of violence against women, including domestic violence, are a form of discrimination under the Convention and unacceptable. The Committee calls on the State party to enact legislation concerning all forms of violence against women, including sexual abuse and sexual harassment, as soon as possible, so**

as to ensure that violence against women and girls constitutes a criminal offence. It calls on the State party to ensure that women and girls who are victims of violence have access to immediate and effective means of redress and protection and that perpetrators are prosecuted and punished. The Committee requests the State party to remove impediments women face in gaining access to justice, and recommends that legal aid be made available to all victims of violence, particularly in rural/remote areas. The Committee recommends the implementation of training for the judiciary and public officials, in particular law enforcement personnel, and health-service providers, in order to ensure that they are sensitized to all forms of violence against women and can provide adequate support to victims.

26. The Committee is concerned about the underrepresentation of women at all levels of political and public life, in particular in Parliament, the judiciary, the diplomatic service and appointed decision-making bodies in education and administration, such as the Teachers' Services Commission.

27. **The Committee requests the State party to strengthen and implement measures to increase the number of women in elected and appointed office, including the judiciary, so as to comply with articles 7 and 8 of the Convention. The Committee recommends that the State party fully utilize general recommendation 23, concerning women in public life. It calls on the State party to use temporary special measures, in accordance with article 4, paragraph 1, of the Convention and general recommendation 25, in order to accelerate women's full and equal participation in public and political life, particularly at high levels of decision-making. It also recommends that steps be taken to make the 30 per cent quota for women in parliamentary elections, recommended by the Electoral Commission of Vanuatu, a requirement for all political parties. It further recommends that the State party conduct training programmes on leadership and negotiation skills for current and future women leaders. It further suggests the implementation of awareness-raising activities on the importance of women's participation in decision-making for society as a whole.**

28. The Committee is concerned that the Citizenship Act does not comply with the provisions of the Convention. The Committee is particularly concerned that a man married to a ni-Vanuatu woman is not entitled to citizenship, while a woman married to a ni-Vanuatu man enjoys that entitlement. The Committee is also concerned that a man applying for citizenship after 10 years of residence can include his wife and children in his application, whereas a woman cannot.

29. **The Committee requests the State party to amend without delay the Citizenship Act so as to bring it into compliance with article 9 of the Convention.**

30. While appreciating the State party's achievement of parity in primary education, and its commitment to achieve, by 2015, access for all children to free and compulsory primary education of good quality, and also the State party's geographical constraints, the Committee is concerned at the high levels of adult women's illiteracy, low enrolment of girls in secondary and higher levels of education, and girls' high drop-out rates. It is also concerned by the marked difference in the quality of and access to education in urban and rural/remote areas, including the lack of sufficient boarding facilities for girls. It is also concerned

about the lack of curricula reform and the low number of female teachers, especially in secondary and higher levels of education.

**31. The Committee requests the State party to raise awareness of the importance of education as a fundamental human right and as a basis for the empowerment of girls and women. It recommends that the State party enhance attention to its obligations under article 10 of the Convention in the implementation of its national action plan for education for all so as to achieve equal access of all girls to all levels of education, and increase girls' retention rates. The Committee recommends the expansion of the use of temporary special measures, including incentives to parents, especially in rural or remote areas, and scholarships to girl students. The Committee requests the State party to undertake a comprehensive curricula review and to introduce gender-sensitive curricula and teaching methods that address the structural and cultural causes of discrimination against women, and to introduce gender sensitization training for teachers. It also encourages the State party to increase the number of female teachers, especially in rural/remote areas, at the secondary level and in leadership positions. It also encourages the State party to take further measures to improve adult literacy. It invites the State party to work in collaboration with civil society and seek the support of the international community to accelerate compliance with all provisions of article 10 of the Convention.**

32. The Committee expresses concern at the discrimination faced by women in employment, as reflected in the wage gap and occupational segregation. It is also concerned about the differential treatment of women working in the public and private sectors, especially as regards maternity leave. The Committee is also concerned that no clear information was provided about the status and content of the Employment Act, whether it includes clear prohibitions of discrimination based on sex and marital status, and provisions on equal pay for work of equal value and against sexual harassment in the workplace, and whether it covers workers in the public and private sectors. While noting the expansion in membership of the National Provident Fund, the Committee is concerned that many women have limited or no access to the insurance benefits provided by the Fund.

**33. The Committee requests the State party to ensure equal opportunities for women in the labour market, in accordance with article 11 of the Convention. It calls on the State party to ensure that legal provisions apply to both the public and private sectors, especially in relation to maternity leave. The Committee requests the State party to provide in its next periodic report detailed information about legal provisions, and their implementation, on equal pay for work of equal value and provisions on sexual harassment, including complaint mechanisms and statistical information concerning their use. The Committee recommends the expansion of access to the National Provident Fund, including through the extension of membership to additional categories of workers, such as domestic workers, informal or casual workers and non-wage workers.**

34. While recognizing geographical constraints, the Committee is concerned about the status of women's health, particularly of women in the rural/remote areas, who experience difficulties in accessing affordable and appropriate health care, in a timely manner. The Committee is also concerned about the high rate of teenage pregnancies, and that existing sex education programmes are not sufficient and may

not give enough attention to all aspects of prevention, including prevention of sexually transmitted infections. The Committee is further concerned about the lack of sufficient data on women's health situation.

**35. The Committee urges the State party to take concrete measures to enhance all aspects of health care for women, including sexual and reproductive health services, in accordance with article 12 of the Convention and the Committee's general recommendation 24 on women and health. It requests the State party to strengthen measures aimed at the prevention of teenage pregnancies and sexually transmitted infections by increasing knowledge about family planning and awareness of existing services. This should include the provision of comprehensive, youth-friendly sexual and reproductive health services, confidence-building programmes and age-appropriate sex education as part of the formal and non-formal education curricula, targeted at girls and boys.**

36. The Committee expresses concern about the difficult situation of women in rural/remote areas, including access to health care, education and literacy programmes, and income-generation opportunities, including access to training, markets and credit.

**37. The Committee recommends that the State party pay special attention to the situation of women living in rural/remote areas so as to enhance compliance with article 14 of the Convention. In particular, the Committee calls upon the State party to enhance access for women in these areas to health care, education and literacy programmes, and income-generation opportunities, including access to training opportunities, credit facilities and markets. It invites the State party to use the successful example of existing microfinance programmes to give women enhanced access to savings and income-generation projects.**

38. The Committee is concerned that discriminatory provisions persist in the customary law governing marriage and family relations, which permit polygamy and the practice of *kastom*, or exchange of gifts, and in regard to access to and property of land, and inheritance. It is also concerned that in practice, women's access to justice is limited by factors such as lack of knowledge and awareness about their rights, lack of legal assistance, practical difficulties in accessing courts, legal costs and the prevalence of the use of customary or "island" courts in particular in rural and remote areas.

**39. The Committee urges the State party to complete its law reform in the area of family law in accordance with articles 15 and 16 of the Convention, within a specific time frame, and ensure that spouses have the same rights and responsibilities both during marriage and in the event of its dissolution. It requests the State party to enhance women's access to justice, including by raising women's awareness of their rights, and access to the courts to claim all their rights. The Committee recommends that the State party undertake targeted awareness-raising measures to ensure that customary or "island" courts are familiar with the concept of equality of the Convention so that their rulings are not discriminatory against women, especially with regard to land ownership and inheritance, and further to ensure that decisions of customary courts can be appealed in the formal legal system.**

40. The Committee is concerned that the law provides for different ages of marriage for women and men — 16 years for women and 18 for men.

41. **The Committee urges the State party to raise the minimum age of marriage for women to 18 years, in line with article 16 of the Convention, the Committee's general recommendation 21 and the Convention on the Rights of the Child.**

42. **The Committee requests the State party to enhance collection of data disaggregated by sex in all areas covered by the Convention and to include adequate statistical data and analysis, disaggregated by sex, in its next report, so as to provide a full picture of the implementation of all the provisions of the Convention. It also recommends that the State party regularly conduct impact assessments of its legislation, policies and programmes to ensure that measures taken lead to the desired goals, and that it inform the Committee about the results achieved in the implementation of the Convention in its next report.**

43. **The Committee notes that States' adherence to the seven major international human rights instruments enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life.<sup>1</sup> Therefore, the Committee encourages the Government of Vanuatu to consider ratifying the treaties to which it is not yet a party; that is, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

44. **The Committee requests the wide dissemination in Vanuatu of the present concluding comments in order to make the people, including government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure de jure and de facto equality of women, as well as the further steps that are required in that regard. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly on the theme "Women 2000: gender equality, development and peace for the twenty-first century".**

45. **The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its fourth periodic report, which is due in October 2008, and its fifth periodic report, which is due in October 2012, in a combined report.**

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<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.