

Submission for Universal Periodic Review of the Solomon Islands

Save the Children Solomon Islands

1. Legislation to Enshrine the Rights of the Child in Solomon Islands' Law

1.1 The Solomon Islands ratified the United Nations Convention on the Rights of the Child (“CRC”) in 1995. However, since then, the rights of the child recognised in this Convention have not been codified in the national legislation of the Solomon Islands, thus the protections afforded children by the CRC are not fully reflected in the laws of the Solomon Islands. A draft Child Rights Bill and a draft Child Protection Bill exist, and the National Children’s Policy and National Plan of Action (2010)¹ commits to achieving changes in the legislative framework by 2015, 20 years after the CRC was ratified.

1.2 Recommendation: The Solomon Islands Government (the “Government”) should prioritise the legislative changes necessary to ensure that the rights of children are fully protected.

2. Definition of a Child

2.1 The National Children’s Policy affirms the CRC definition of a child as under the age of 18 years. Currently there are several different definitions of a child for different purposes – e.g. age of majority for voting, age of consent for marriage², age of criminal responsibility³ and minimum working age⁴.

2.2 Recommendation: The Government should amend existing laws to ensure that those under 18 years old are treated as children and are afforded the corresponding protections.

3. Violence Against Children

3.1 Violence in the Home:

Family violence, experienced or witnessed, is a recurrent theme raised in drama, songs, and discussions by members of children’s clubs supported by Save the Children. In the Child Protection Baseline Study⁵ in 2009, 17% of children questioned had been physically hurt in

¹ National Children’s Policy with National Plan of Action, Ministry of Women, Youth and Children Affairs, April 2010, launched in July 2010.

² s.10 of the Islander’s Marriage Act – with consent, girls can get married at 14 years of age, without consent girls can get married at 16 years of age.

³ s. 14 Penal Code – criminal responsibility from 8 years old.

⁴ s.84 Labour Act – minimum age for employment is 12 years old.

⁵ A Baseline Report for Creating a Future Free from Violence, Abuse and Exploitation of Girls and Boys in the Solomon Islands, UNICEF Pacific, November 2009, launched in June 2010.

their home during the previous month. The Solomon Islands Family Health and Safety Study⁶ reports that 46% of women aged between 15 and 49 years who had been in a relationship had experienced physical violence by an intimate partner. Among this same group, 55% had experienced sexual violence by an intimate partner. This study also found that women who experience violence by an intimate partner are 4.5 times more likely to report that their children have been emotionally, physically or sexually abused by their partners, compared to women who have not experienced partner violence. Research shows that children who witness family violence are negatively impacted in terms of their development, relationships and learning capacity.⁷

3.2 Recommendations: The Government should enact specific laws to protect children from violence in the home and from family members, supported by appropriate social services and police powers, so that children do not have to continue to live in an abusive environment.

3.3 The Government should be more proactive in censuring family violence, by creating greater awareness and promoting prevention. Furthermore, the Government should promote and fund services to support families and children affected by violence and abuse.

3.4 Violence Against Children in School

3.5 In the Child Protection Baseline Study, 7% of children questioned had been physically hurt by a teacher at school during the previous month.

3.6 Currently there is no criminal law which prohibits all corporal punishment, although the Teaching Service Handbook bans the use of corporal punishment by teachers. Under the Penal Code, parents, teachers, caregivers and guardians can physically punish children, however unreasonable punishment and degrading forms of corporal punishment are not allowed by the law.

3.7 Recommendations: The Government should enforce the prohibition of corporal punishment by teachers in schools, for example through greater community involvement in school management boards.

3.8 The Government should promote positive discipline strategies in schools and in communities, providing teachers and parents with tools to guide the behaviour of children without resorting to the use of corporal punishment.

⁶ Solomon Islands Family Health & Safety Study: A Study on Violence Against Women & Children, Secretariat of the Pacific Community 2009.

⁷ Tucci, J., Mitchell, J., Goddard, C.R. and de Bortolli, L. (2005). Safe and Sound Services for Children and Young People in Tasmania: Recommending a best practice model for children and young people who experience family violence. A Report for Tasmanian Department of Health and Human Services. Australian Childhood Foundation, Melbourne.

4 Customary Dispute Resolution

4.1 Many disputes and acts of wrongdoing are resolved at community level by elders and other respected leaders and are never introduced into the formal justice system. In many cases, payment of compensation is the penalty imposed on the wrongdoer. These dispute resolution mechanisms do not necessarily take into account the best interests of the child when a child is a victim of wrongdoing. The perpetrator's position in the community is often unchanged, leaving the victim in fear of a possible encounter with, or further abuse by, the perpetrator.

4.2 Recommendation: The Government should codify appropriate responses for community justice to ensure that procedures and sanctions take into account the best interests of the child are in compliance with the rights of the child.

4.3 The Government should ensure that specific types of offences against children are dealt with through formal legal processes.

5 Right to Education

5.1 The Ministry of Education and Human Resources Development states that 96% of children in Solomon Islands are enrolled in primary school, but this statistic masks a very different reality on the ground. In a study carried out by Save the Children in the catchment areas of two schools in Malaita province in 2009, attendance at primary school was approximately 64%. The reasons for non-attendance are varied – a child may not be interested in attending school, parents may not be committed to education, the distance to school may be too far, teachers may not be available, or the cost of attending school may be too great. Regardless of the reason, a child's right to education under the CRC is not being fulfilled.

5.2 Recommendation: The Government should investigate school attendance figures more fully and work with children, parents, communities and teachers to fully realize the children's right to education.

6 Social Services for Children at Risk

6.1 Under the CRC the Government must ensure that children are not subjected to physical, sexual or emotional abuse or neglect. When cases of abuse or neglect are discovered the Government has an obligation to provide appropriate social services to ensure that children are protected and that they are able to recover from abuse or neglect. The Social Welfare Division in the Ministry of Health and Medical Services is charged with the protection and rehabilitation of survivors of abuse and neglect. Given the high levels of family violence in the Solomon Islands and the geographically dispersed population, the Social Welfare Division is not currently adequately staffed to meet the needs of children.

6.2 Recommendation: The Government should allocate additional resources to the Social Welfare Division and enact legislation that clearly sets out the Division's responsibilities and powers, so that staff are both empowered to act and held accountable for their actions in response to children in need of protection.

7 People with Disabilities

7.1 The Government has signed the UN Convention on the Rights of People with Disabilities, but has not yet ratified this Convention. People with disabilities are often invisible in the Solomon Islands and have greater difficulty in securing their basic human rights than people who do not have disabilities.

7.2 Recommendation: The Government should ratify the UN Convention on the Rights of People with Disabilities and ensure that their rights are fully protected by laws and practices of the Solomon Islands.

8 Same Sex Attracted People

8.1 The Universal Declaration of Human Rights prohibits discrimination and guarantees equality. Current legislation in the Solomon Islands discriminates against same sex attracted people on the basis that sexual acts between them are illegal.

8.2 Recommendation: The Government should decriminalise sexual acts between consenting adults and enact laws protecting citizens from discrimination based on sexual orientation.