

## Regional Gender & the Law Outcomes Document

### Preamble

The 2014 Regional Gender and the Law Week Consultation held in Nadi, the Fiji Islands from 17-21 November 2014 and attended by over 42 lawyers and legal professionals from Cook Islands, Fiji, Federated States of Micronesia, Kiribati, Nauru, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

Noting that access to justice is a fundamental human rights enshrined in the *Universal Declaration of Human Rights* and core human rights treaties, codified in Pacific Islands Constitution and manifested in various legislation, there remains various challenges and barriers to women and children accessing justice in most of our Pacific countries. These barriers include physical and socio-economic factors from lack of resources, economic opportunities, and low income work that many women face including cultural and religious barriers as well as political will to address these challenges.

Recalling important Pacific judicial statements including the *Pacific Island Judges Declaration on Gender Equality in the Courts (1997)*; *Tanoa Declaration on Human Rights in the Law (1999)*; and *Conclusions and Recommendations of the Colloquium and Workshop for Judges and Lawyers on the Justiciability of Economic, Social and Cultural Rights in the Pacific Region (2006)* where judicial officers in the region recognize the importance of using human rights in courts, judicial decisions and as a tool to address violence against women.

We recognize the important and visible roles that lawyers play in the community especially to social transformation of our societies and urge Pacific lawyers to provide their skills, talents and resources to assist in addressing gender inequalities and gaps.

### **Call to Action: End Violence Against Women and Family Violence**

We acknowledge the *WHO Health and Family Study* and related VAWG/SGBV studies in various Pacific States highlighting that some of the most pervasive forms of domestic violence exists in the Pacific. We take note that with the exception of two Pacific States, all Pacific States are State Parties to the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) which identifies domestic violence as a serious form of discrimination against women and girls.

We recall various regional initiatives by Pacific Island leaders especially the *Pacific Leaders Gender Equality Declaration 2012* and in particular the leaders pledge to “end violence against women by progressively implementing a set of essential services to women and girls who are survivors of violence, and enacting and implementing domestic violence legislation to protect women from violence and impose appropriate penalties for perpetrators of violence.” We urge our Governments to act and/ or strengthen implementation of these commitments.

We recognize and congratulate the progressive steps taken by various Pacific governments to enact new domestic violence legislation and urge our Governments to strengthen the implementation of this legislation as well as sensitize people on the provisions of the law. We encourage our Governments to make available and accessible information of how women and children can assess the services under the new legislation.

We note that while there is new legislation on family and sexual violence, generally sentencing for domestic violence offences are too low to act as deterrents for perpetrators. We further acknowledge the institutional and administrative challenges to the full implementation of domestic violence legislation. We therefore urge our Governments and stakeholders to continue the dialogue on ensuring the legislation works effectively and efficiently in addressing the high rate of domestic violence in our countries including a review of penalties for domestic violence offences.

Further we call upon members of the legal profession to develop pro-bono assistance within the confines of their legal ethics and rules of professional responsibilities to survivors of VAWG as a form of mitigating the barriers of accessing legal services which makes access to justice difficult for most women.

Delegates of the Consultation endorse the following thematic areas of concern;

### **Women with Disabilities**

We acknowledge the regional concerns regarding women with disabilities (including those documented in the report, *A Deeper Silence* (United Nations Population Fund (UNFPA), 2013)) and the stigma, discrimination, violence and sexual abuse inflicted upon women with disabilities due to the intersectionality of their gender and disability which exacerbates their challenges in accessing justice and related services.

We note that Pacific Island governments have endorsed the *Pacific Regional Strategy on Disability 2010-2015* (endorsed by the Pacific Islands Forum, 2010) and most have signed or ratified the *Convention on the Rights of Persons with Disabilities (CRPD)*, demonstrating their commitment to the protection and promotion of the rights of persons with disabilities.

We recognize that stigma, discrimination and accessibility issues limit the rights and abilities of persons with disabilities to access justice and we call upon our Governments to consider addressing structural, legislative and cultural barriers to ensure access to justice for persons with disabilities, including:

1. The provision of accessible information and support, including information on law enforcement processes, government services, legal aid and judicial processes, in formats accessible for persons with disabilities.
2. Support for training and education for law enforcement personnel, government officers, and court officials on the issues faced by persons with disabilities in accessing justice, and empower them to recognize and address these issues.
3. Review legislation and policies that may impact adversely on persons with disabilities, and initiate legislative and/or policy change, in consultation with disabled person's organizations (DPOs), to develop and implement required changes.
4. Review the accessibility of police station, government and private sector service providers and the courts to ensure equal access for persons with disabilities. This may include the provision of sign language interpreters, assistive devices, and/or the renovation of buildings to ensure wheelchair accessibility.

### **Gender Based Violence**

We note that the Pacific has some of the highest rates of domestic violence in the world and this being one of the most pervasive manifestations of gender inequality and a form of discrimination. Further manifestations of gender inequality are often justified by the lower socio economic status experienced by women in society and the unequal power dynamics at play in our communities.

We acknowledge the importance of a human rights based approach to properly mitigate gender based violence and women's access to justice and note the United Nations *Guiding Human Rights Principles* as crucial to any responses for women's access to justice including providing safety, privacy and information about their rights, providing progress updates on investigations and proceedings and effective coordination between relevant authorities.

## **Climate Change**

We note that climate change affects the livelihood of people in the Pacific. Gender inequality and violence are closely linked with climate change because women and children are more vulnerable as a result of the socio-cultural factors that limit their participation in decision making and access to the resources that they need to overcome the adverse effects of climate change.

We acknowledge the critical need of climate adaptation and natural disaster risks reduction programs that are based on gender equality and justice for all in our Pacific Islands.

We encourage partnership of the government and civil societies in supporting and strengthening the role of lawyers in developing and sustaining legislative frameworks, policies and access to resources that respect human rights and gender equality.

## **Family Law legislation**

We note the challenges that exist with Family Law legislation in the region and acknowledge that some inherited family law is discriminatory towards women and outdated. We urge our Governments to consider urgently the review of outdated and archaic Family Law legislation and work towards adopting a comprehensive family law legislation that is gender sensitive and based on human rights global best practices.

## **Human Rights and Social Justice**

We acknowledge the diverse and rich cultures and religion of the Pacific Island countries and recognize their values to our way of life; however we recognize that misinterpretation of culture and religion are often used to justify violence against women and other human rights violations. We therefore urge our Governments to facilitate dialogue and human rights and gender sensitized trainings in addressing gender inequality, violence against women and children, discriminations and other related human rights violations in our communities and with key stakeholders including civil society, faith based organisations and community based organisations.

We recognize the value of this Consultation in looking at various challenges on gender and the law and encourage regional and international partners to continue working with our Governments and civil society in advancing and progressing work on laws, policies and attitude changes around violence against women, gender inequality and discrimination.

***For further information of this Outcomes Document please contact;***

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