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ANNEXURES

ANNEX 1

Implementation of Selected Recommendations by the Government of Vanuatu on Family Violence, Access to Justice & Related Matters: 2009–2016

Vanuatu National Survey on Women's Lives and Family Relationships 2011		
Rec. No. in Report	Selected Recommendations	Implemented Yes/No/Part
14	A Victim Support Unit urgently needs to be established within the Vanuatu Police Force with staff trained and experienced in responding to crimes of violence against women and sexual and physical abuse of children.	No
15	The Police Family Protection Unit must be adequately resourced to respond effectively to cases of violence against women and child abuse throughout the country. At provincial level, police stations should have officers trained and dedicated to family protection cases, with adequate resources for transport and accommodation costs for cases to be followed up in remote areas.	No (Some police training from VWC.)
16	The findings of this report should be included in police training curricula including refresher training for officers at all levels. Mandatory and refresher training should also be provided for all judicial officers and others in the law and justice sector on violence against women, human rights, gender equality and the findings of this survey.	Unknown
Strengthening the legal and policy framework		
17	Urgent action is needed to recruit and train authorised persons and registered counsellors to facilitate implementation of the Family Protection Act (FPA) throughout the country. Implementation of the FPA needs to be expedited in rural areas and its implementation needs to be carefully monitored, including provisions related to the criminalisation of offences of violence against women.	No
18	The FPA needs to be reviewed to strengthen its focus on the protection of pregnant women and women with disabilities. Violence against pregnant women and violence against women with disabilities should be highlighted as aggravating factors for conviction, and these cases must be prioritised when Family Protection Orders are issued.	No

■ Yes ■ No ■ Partly ■ Unknown

Vanuatu National Survey on Women's Lives and Family Relationships 2011

Rec. No. in Report	Selected Recommendations	Implemented Yes/No/Part
19	A no-drop policy should be introduced by the Vanuatu Police Force for all cases of physical and sexual violence against women by husbands or intimate partners; implementation of the policy should be closely monitored.	Yes (June 2015 FV SOP) Need implementation to be monitored
20	The Marriage Act should be amended to raise the minimum of age of marriage for women from 16 to 18 years.	No
21	The Vanuatu Government should urgently develop comprehensive family law legislation, which takes into account the prevalence, severity and impacts of violence against women and children.	No
22	The Vanuatu Government should establish a Social Welfare Department within the Ministry of Justice and Community Services to strengthen child protection measures.	No
23	Recruitment criteria for all government staff appointed to gender-related adviser and child protection positions should include knowledge and experience in the area of violence against women and child protection.	Unknown
24	The Correctional Services Act should be reviewed to ensure that women's and children's safety is given the highest priority when restorative or alternative justice approaches are implemented, including the use of community service for offenders convicted of physical and sexual crimes of violence against women and children.	No
General recommendations for all stakeholders and development programs		
27	All government agencies and service providers, particularly those in the law and justice sector and health agencies, need to systematically collect and report sex-disaggregated data on the problem of violence against women and children, to inform future policy development and programs and assist with monitoring prevention activities.	No

UNICEF: Protect me with love and care; A Baseline Report for creating a future free from violence, abuse and exploitation of girls and boys in Vanuatu, 2008

Rec. No. in Report	Selected Recommendations	Implemented Yes/No/Part
Child welfare/child protection system		
1.1-R1.1	Establish an inter-agency protocol/guidelines between the police, Ministry of Justice and Community Services, Ministry of Health, the Ministry of Education and any other relevant departments or organisations for: a) responding to reports of child abuse, neglect or exploitation; b) referrals and inter-agency cooperation in cases of children in conflict with the law. The finalized protocol should be implemented with appropriate training support, and copies of the protocols should be widely disseminated throughout the relevant services and stakeholders. This protocol will act as the overarching guideline for responding to child protection and child offender cases, from community level upwards and will include chiefs and CSOs. Any additional, more detailed sets of guidelines and protocols, which need to be elaborated at a later stage (in order to respond more concretely to the specific contexts of each stakeholder group) must conform first and foremost with this overarching protocol so as not to cause confusion amongst stakeholders.	Partly
1.1-R1.2	Create a simple and minimalist Child Protection Act that empowers government agencies to undertake crisis intervention, with provision for judicial review of actions. The legislation should be supported by a comprehensive training process for all implementing agencies and departments, and its implementation further supported by clear internal and inter-agency protocols, policies and guidelines.	No
Child-friendly investigative and court processes		
1.1-R7.1	Review and reform the Criminal Procedure Code 1981.	Partly
1.1-R7.2	Issue a Court Direction which regulates and restricts the application of the reconciliation discretion available to Magistrates under the Criminal Procedure Code 1981 and the recognition of customary law processes under the Penal Code in matters involving the abuse, neglect or exploitation of children.	No
1.1-R7.3	The Public Solicitors Office and Public Prosecutors Office to develop a clear, written policy for the handling of matters involving child witnesses, both inside and outside of the courtroom. The policy must conform with the overarching inter-agency protocol outlined in Recommendation 1.1-R1.1 above.	No
1.1-R7.4	Develop clear courtroom procedures for matters involving child witnesses for insertion into the existing judicial bench book, accompanied by comprehensive training for all judges, magistrates and court clerks in the new provisions. Such procedures should conform with the overarching inter-agency protocol outlined in Recommendation 1.1-R1.1 above.	No

■ Yes ■ No ■ Partly ■ Unknown

UNICEF: Protect me with love and care; A Baseline Report for creating a future free from violence, abuse and exploitation of girls and boys in Vanuatu, 2008

Rec. No. in Report	Selected Recommendations	Implemented Yes/No/Part
1.1-R7.5	Develop and implement police protocols for the handling of matters involving child victims/survivors of abuse, neglect or exploitation with an accompanying training package. The provisions should be incorporated into the Force Standing Orders at the first opportunity and must conform with the overarching inter-agency protocol outlined in Recommendation 1.1-R1.1 above.	No
1.1-R7.6	All agencies dealing with child victims/survivors of neglect, abuse and exploitation to put in place clear privacy and confidentiality policies, supported by institutional/departmental training and awareness raising, copies of which are provided to all service users. All such policies must conform with the overarching inter-agency protocol outlined in Recommendation 1.1-R1.1 above.	No
1.1-R7.7	Establish an inter-agency protocol as per Recommendation 1.1-R1.2 above.	Yes
1.1-R9.9	Undertake further research into the accessibility of the current justice system and the impact of its procedures on children with disability with a view to informing appropriate law and policy reform for this especially vulnerable group.	No
Violence against children		
1.1-R3.1	Undertake a comprehensive review and reform of the Penal Code 1981. Existing work in the region can be drawn on to support this process.	Partly
1.1-R3.2	Develop training and policies for implementing agencies to ensure the recently gazetted Family Protection Act 2008 is exploited to its fullest potential in the field of child protection.	No
Sexual abuse and sexual exploitation of children		
1.1-R4.1	Reform the Penal Code 1981 as per Recommendation 1.1-R3.1 above	Partly
Police		
1.2-R8	Increase resources of the Family Protection Unit for investigation of sexual assault and abuse cases, including resources to work on other islands so that sexual crimes against children can be investigated by a specialised unit	No
1.2-R10	Victims/survivors with disabilities need trained interpreters and the police need access to these professionals. Identify possible support people and interpreters in the community for children with disabilities at police interview.	No
1.2-R11	Develop a police procedure manual (or adapt existing international manuals to suit the Vanuatu context) for matters relating to children.	No
1.2-R12	Explore options to provide police with ... training and child-friendly techniques, including basic counselling techniques.	No

PJDP MOU Family/Domestic Violence in Vanuatu (2013)

Rec. No. in Report	Selected Recommendations	Implemented Yes/No/Part
	Agency and interagency action outcomes under the act that could be improved	
i	Offences for which offenders have been charged and brought to court do not define whether the offence is family/domestic violence or not. By means of the charge sheet or by other classification charges should be defined in this way. Family violence offences will be distinguished from other criminal offences by means such as use of a specific colour file.	
ii	Magistrates wish to provide both family violence offenders and also victims with counselling but in the absence of registered counsellors undertake this themselves. It is recognised that this is wrong and unacceptable, and is inconsistent with judicial function. The judiciary wishes to be able to refer people to counselling and/or mediation as provided for in Section 16. Appointment of counsellors is a court operational matter not a ministerial function and the judiciary will now ensure that qualified and appropriate counsellors/mediators are appointed.	
iii	Until the appointment process in Section 8 is changed, the judiciary will compile a list of suitably qualified counsellors for the purpose of Section 16(2). The judiciary acknowledges that the payment for the counsellors/mediators is an issue for further discussion.	
iv	When police attend a family violence incident, consultation with the victim including the victim's safety and available options, will occur with the assistance of a trained family violence worker such as a member of the Women's Crisis Centre.	
v	Magistrates would be assisted if offenders are charged under Section 4, with the nature of the alleged violence clearly stated and with the reference to Section 10 being included merely as the punishment section.	
vi	It is accepted that a priority for use of counsellors is appropriate training in a specialised area of family violence.	

■ Yes
 ■ No
 ■ Partly
 ■ Unknown

PJDP MOU Family/Domestic Violence in Vanuatu (2013)

Rec. No. in Report	Selected Recommendations	Implemented Yes/No/Part
vii	<p>When a protection order is made, it is an operational matter for the court to effect service on the defendant. For the most part the police are asked to undertake service. Existing service arrangements are unsatisfactory. We therefore recommend:</p> <ul style="list-style-type: none"> a. the court decides in each case bearing in mind issues of safety who is best placed to effect service, b. if police are asked to effect service, they will give it utmost priority. Police will immediately communicate with the court as to whether service has occurred or whether there is a problem and if so what it is, c. the court will then direct who should serve and by what means considering the options available in Section 36(3), d. at the regular court users group meetings the operational aspects of service of protection orders will form part of the agenda, e. we acknowledge that in order to achieve a proper process for service there will be resource implications. 	
viii	<p>It is important for victims of violence that their immediate safety is given priority. If victims are forced by circumstances to return to a violent setting the objects of the Act are not being achieved. The workshop accordingly regards it as important that safety houses or safe accommodation for victims of violence are available.</p>	
Issues for legislative action or ministerial attention		
i	<p>Section 8 provides for the appointment of registered counsellors by the Minister responsible for women’s affairs. Appointment of such counsellors is considered an operational concern not requiring ministerial decision. The workshop recommends the repeal of Sections 8 and 9 and the provision of a new process where in the appointment of counsellors is undertaken by the court.</p>	
ii	<p>Section 7 sets out the process for the appointment of “authorised persons”. No appointments have been made to date. We also consider this an operational matter and recognising that “authorised persons” are quasi judicial officers we recommend that their appointments be made by the Judicial Services Commission.</p>	

CEDAW Concluding Observations on Vanuatu's Combined Fourth and Fifth Periodic Reports, 7 March 2016

Rec. No. in Report	Selected Recommendations	Implemented Yes/No/Part
Constitutional and legislative protection of women from discrimination		
No. 8	The Committee welcomes the information provided by the delegation during the dialogue that the Convention has been incorporated into the State party's domestic legal system and can be directly applied by the courts. However, it notes with concern that the State party has taken no steps to amend its Constitution with a view to incorporating the principle of equality of women and men and defining and prohibiting all forms of sex- and gender-based discrimination, including direct and indirect discrimination by private and public actors.	No
No. 9.	The Committee reiterates its previous recommendation (CEDAW/C/VUT/CO/3, para. 11) that the State party give central importance to the Convention as the basis for the elimination of all forms of discrimination against women and the achievement of gender equality. It recommends that the State party amend its Constitution as well as other appropriate legislation to incorporate fully and without delay the principle of equality between women and men, as well as a prohibition of discrimination on the basis of sex and gender, in line with article 1 and 2 of the Convention, that cover direct and indirect discrimination in both the public and private spheres.	No
Access to Justice		
No. 10.	The Committee recalls that the Constitution recognises customary law as part of the State party's law, and hence customary law and the formal justice system coexist side by side. It notes the establishment of the high-level working group to address women's access to justice, and that legal assistance is provided through the Public Solicitor Office. The Committee remains concerned, however, about women's limited access to justice, in particular on the outer islands, due to their limited knowledge about their rights and limited access to legal assistance. It is also concerned about the difficulties women face in obtaining effective remedies and redress in both the traditional and the formal justice systems, and at the lack of study on this dual legal system. The Committee is further concerned about the lack of procedural accommodation of the justice system for women and girls with disabilities, such as accessible information, provision of sign language interpreter, alternative forms of communication.	No
11(a)	The Committee recommends that the State party raise women's awareness of their rights and of the means to enforce them, in cooperation with civil society organizations, in particular on the outer islands;	Partly

■ Yes ■ No ■ Partly ■ Unknown

CEDAW Concluding Observations on Vanuatu's Combined Fourth and Fifth Periodic Reports, 7 March 2016

Rec. No. in Report	Selected Recommendations	Implemented Yes/No/Part
11(b)	The Committee recommends that the State party establish effective remedies in both the formal and traditional justice system to enable women to obtain redress for violations of their rights, provide capacity building to judges, lawyers and law enforcement officers on women's rights, and undertake research on the impact of the dual justice system on women's access to justice;	Partly
11(c)	Develop a strategy with clear time frames to ensure that traditional justice mechanisms comply with the human rights standards set forth in the Convention when addressing complaints by women. The strategy should include capacity-building and training programmes on the Convention and on women's human rights for traditional justice authorities.	No
11(d)	Allocate further resources to enhancing the infrastructure, quality and accessibility of the formal justice system, especially on outer islands.	No
Stereotypes and harmful practices		
19(a)	The Committee urges the State party to: Put in place, without delay, a comprehensive strategy to eliminate patriarchal attitudes and stereotypes that discriminate against women, in conformity with the provisions of the Convention. The strategy should include education and awareness-raising campaigns targeting women and men at all levels of society, including council chiefs and community leaders, and focus particular attention on the recognition of the importance of women's contributions to society, their empowerment and their participation in decision-making processes, including at the community level. The strategy should engage civil society organizations and the mass media to combat discriminatory stereotypes and negative social attitudes towards women, and promote positive and non-stereotypical portrayals of women;	No
19(b)	The Committee urges the State party to: Integrate the principles of non-discrimination and gender equality into mandatory and continuing education for teachers, health-care professionals and service providers;	No
19(c)	The Committee urges the State party to: Set up a system of monitoring and evaluation to assess the impact of the measures taken to eliminate stereotypes.	No

CEDAW Concluding Observations on Vanuatu's Combined Fourth and Fifth Periodic Reports, 7 March 2016

Rec. No. in Report	Selected Recommendations	Implemented Yes/No/Part
Violence against women		
20	The Committee welcomes the adoption of the Family Protection Act (2008) which criminalizes domestic violence and provides for protection orders. However, it is deeply concerned at the pervasive levels of domestic violence in the State party and the lenient sentences for perpetrators regardless of the severity of the offence. The Committee is equally concerned that the prevalence of sexual abuse of girls under 15 years is one of the highest in the world, and that nearly one in three women have been sexually abused before that age, mostly by male family members and partners. It is further concerned about the persistence of harmful practices such as bride price and accusations of witchcraft against women that subject them to violence or murder	
21(a)	The Committee urges the State party to: Ensure that women victims of domestic violence have full access to protection orders and legal remedies;	Partly
21(b)	The Committee urges the State party to: the State party to: Provide assistance to victims of gender-based violence, including medical and psychological support, as well as shelter, counselling and rehabilitation services, throughout its territory;	No
21(c)	The Committee urges the State Party to: Ensure that perpetrators are prosecuted and adequately punished with sentences that are commensurate with the seriousness of their crimes, in accordance with the Committee's general recommendation No. 19 (1992) on violence against women;	Partly
21(d)	The Committee urges the State party to: Put an end to the application of customary law that provides for payment of bride prices;	No
21(e)	The Committee urges the State party to: Take immediate and effective measures to investigate the incidences of violence and murder of women and girls based on accusations of witchcraft or sorcery, to prosecute and punish the perpetrators of such acts and to prevent their reoccurrence in the future.	Unknown
Education		
27(c)	Adopt a zero tolerance policy as well as a protocol for school authorities and teachers for handling cases of sexual violence against women and girls in schools in a gender-sensitive manner;	No

■ Yes ■ No ■ Partly ■ Unknown

CEDAW Concluding Observations on Vanuatu's Combined Fourth and Fifth Periodic Reports, 7 March 2016

Rec. No. in Report	Selected Recommendations	Implemented Yes/No/Part
Health		
30(b)	Develop protocols to support response, management and referral of cases of physical or sexual violence, and ensure the provision of skilled medical aid to women and girls victims of violence;	No
Women with Disabilities		
35	The Committee calls upon the State party to adopt a new National Disability Policy and Plan of Action which include mechanisms to protect the rights of women and girls with disabilities, including effective and accessible complaint mechanisms, and ensure their right to inclusive education and their equal access to employment, health care and other services.	Partly
35(a)	It also calls upon the State party to promote the full inclusion of women and girls with disabilities by: Establishing a formal consultation mechanism to ensure that women and girls with disabilities across the country and their representative organisations are meaningfully consulted in decision making processes that affect their rights and interests;	No
35(b)	Taking concrete steps to mainstream the rights of women and girls with disabilities across all laws, policies and programmes regarding gender equality.	Partly



ANNEX 2

Stretem Rod Blong Jastis Stage 2 Design Background Paper on Women's Pathways to Action when experiencing Family Violence (2013)

The research highlights a range of key strengths and assets that exist currently in Malekula and also identifies the following four “intervention/entry points” that relate specifically to the context of women's access to justice and violence against women on Malekula:

1. Backing up and strengthening existing assets

The case study identifies several “key assets” that currently exist in Malekula. The key assets comprise state bodies (such as the Magistrates Court and representatives from the State Prosecutor's Office, the Public Solicitor's Office and the Family Protection Unit) and non-government bodies and individuals (including existing networks such as the CAVAWs; some Regional Rights Resource Team-trained Community Paralegals; the Malampa Women's Council; the Vanwoods Microcredit Scheme; the Malampa Technical and Vocational Education and Training centre; and initiatives like Just Play).

Building on the research the case study recommends:

Formalising the existing support networks by setting up a Task Force on Malekula to oversee work on improving women's access to justice in situations of family violence. Assessing and developing a plan to strengthen and extend the current network of CAVAWs in Malekula.

Engaging actors and building on existing networks outside of the justice sector, which include women's organisation (e.g. women's church groups) and other government (e.g. Ministry of Health) and non-government (e.g. TVET and Vanwoods) bodies.

Ensuring a basic level of strategic resourcing by filling key gaps that currently exist to increase women's access to justice (e.g. engagement of a second female Family Protection Unit Officer; increased budget for operations and CAVAWs). Accelerating the establishment of key assets including the Vanuatu Women's Centre's Male Advocacy Program and a Malampa Women's Counselling Centre.

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2. Strengthening the formal justice sector on Malekula

The case study acknowledges that there are significant resources currently available on Malekula in the formal justice sector, including an Island Court, a Magistrates Court, a Public Solicitor, a State Prosecutor and police services including a Family Protection Unit Officer. However, the case study research indicated that there can be limitations to formal justice sector interventions. Examples of these limitations include: high levels of bureaucracy and instances of corruption; the prevalence of victim-blaming; and lack of trust in, and fear of, the police. Under entry point 2, the case study recommends that the formal

justice sector personnel could be strengthened through training in areas such as gender equality, domestic violence and basic counselling services. Furthermore, the case study identified that the formal justice sector would be strengthened through greater collaboration and sharing of resources, best practices and innovative approaches.

Within intervention 2, specific entry points within the formal justice sector identified by the case study research include extending existing justice mechanisms through:

- I. Legal literacy (e.g. developing simple Bislama legal forms, undertaking an audit of existing domestic violence related legal literacy materials and using non-written communication methods such as radio messages) and legal empowerment (e.g. through the use of community paralegals – Vanuatu already has close to 100 community paralegals trained by the Fiji-based Pacific Regional Rights Resource Team).
- II. Implementing and enforcing the Family Protection Act through the piloting of Authorised Persons and Registered Counsellors.
- III. Delaying further engagement on these issues with Island Court Justices until an assessment is carried out to determine current levels of knowledge and responsibilities.

3. Building up communities and community resources

This third intervention again looks at what already exists “on the ground” on Malekula, focussing on communities and community resources and building up what is there.

Specific entry points identified by the case study research are:

- I. Strengthening the engagement of churches on Malekula by identifying church leaders to undertake further training by the Vanuatu Women’s Centre and to then assist these leaders to undertake training and awareness raising activities in Malekula with their church members.
- II. Strengthening the engagement of kastom leaders (including chiefs) by providing them with training from the Vanuatu Women’s Centre in the areas of family violence referral processes and legal literacy information.
- III. Potentially piloting the idea of a “Village of Non Violence” within a community on Malekula that would involve intensive training on human rights, the laws of Vanuatu (including the Constitution and the Family Protection Act), gender equality and gender-based violence.
- IV. Supporting the engagement of other community leaders (e.g. Area Secretaries) through training and awareness activities and community mobilisation activities.
- V. Paying attention to children and the impacts of violence on children through community level interventions (e.g. school based programs including Just Play).
- VI. Using community mobilisation approaches to create spaces for sustained dialogue in order to shift community norms and behaviours.

4. Transforming social norms and supporting gender equality as a basic bottom line

Within this fourth and final intervention, the case study recognises that interventions 1 to 3 listed above are based either explicitly or implicitly on the assumption that human rights and gender equality form a non-negotiable and unequivocal bottom line, and focuses on transforming social and cultural norms where these are in conflict with this understanding.

It was revealed through the case study research that the majority of women advocating for and supporting women through situations of family violence on Malekula believed their work could only be carried out from a starting point of gender equality. The case study argues that based on the experiences of women on Malekula in their efforts to access justice in situations of family violence and supported by international literature, it is clear that the practice of prioritising culture over gender equality needs to be discontinued.

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