

**PRESENTATION BY COOK ISLANDS NON-GOVERNMENT
ORGANISATION REPRESENTATIVES TO THE 39th SESSION
OF THE COMMITTEE OVERSEEING THE REPORTING AND
IMPLEMENTATION OF CEDAW
30TH JULY 2007**

Kairangi Johanna Samuela

¹Kia orana Madame Chair, and members of the Committee.....

My colleague Vaine Wichman and I speak for 25 gender based NGOs in the Cook Islands.

I will highlight the first 2 key issues on legal reform and access to justice and my colleague Mrs Wichman will be presenting on 3 other important points relating to depopulation, the National Women's Policy, and maternity protection.

Issue 1: Legislative Reform

A draft report on the implications of current legislation with the CEDAW articles was circulated amongst NGOs and Government representatives since 2005. This report advised that in relation to marriage and family matters, the right to security, and the right to justice, our laws are discriminatory and in most cases very out of date.

As a matter of urgency it is recommended that the Government:

- Amend current laws to address inconsistencies in law on adoption, divorce, administration of estates, recognition of de facto relationships and ownership of property;
- Conduct a major revision and reform of the Crimes Act, which does not recognize marital rape, sexual harassment and domestic violence as an issue on its own;
- Adopt the CEDAW definition of discrimination in the Bill of rights of the Constitution to include the private sector;
- Adopt the CEDAW definition of discrimination into our Constitution and to ensure that this is extended to the private sector for clear legal and practical application.

Government has shown within the last 3 months that where there is a will it is able to expedite amendments to Legislation with amendments made on the Unit titles bill, Juvenile Crimes Act and a number of other laws with pressure from the private sector.

We urge Government to give these recommendations for legal reform in this report the same urgency and to commit to a timeline for the implementation of the review.

Changes in policy must also be made to reflect legislation enabling women in access justice e.g. Ministry of Justice requires Lawyers to apply for non-molestation order on behalf of women – average cost for a lawyer to do this is \$250.00, and these non-molestation orders

¹ The bolded text makeup the oral presentation, the normal text and the bolded together makeup the written presentation to the Committee.

can only be accessed Monday to Friday 8am to 4pm. In addition, legal fees for maintenance and custody application cost a minimum of \$500, therefore there is a reluctance by mothers to seek court maintenance/custody payments.

Legal aid is available for criminal matters only and requires that a person prove that they have no alternative form of income or asset that they can obtain funds to pay for legal fees.

At the moment there is no definition of indirect discrimination nor adequate provision for remedies. Constitutional protection from discrimination does not extend to all public areas of life, such as housing, employment, access to goods and services and access to public places.

It has been identified that there is no legislation dealing with provisions of legal aid nor any public defenders office providing free legal assistance particularly for low income, battered and abused women. (Pathways to Development report draft 2005). Counseling and legal assistance is being provided by Punanga Taututu Inc (NGO) with financial assistance from NZAID and donor organisations.

Issue 2: National Machineries

There is a lack of sex disaggregated data across most Government ministries. This compounds the problem in identifying specific areas where women do not participate in or access government services.

The Gender and Development Division is currently housed under the Ministry of Internal Affairs and has only one staff member.

This division needs to be upgraded to a Line Ministry with powers and resources to:

1. Implement gender mainstreaming policies across Government Ministries
2. Monitor compliance with non-discriminatory practices
3. Obtain and analyse sex disaggregated data to provide baseline and progressive indicators for effective intervention strategies.

Government currently pays the salary and does not provide resources for projects and activities. The majority of CEDAW awareness and training is provided for NGOs with Donor funding.

I now pass on to Mrs. Wichman to continue our presentation.

Ms. Vaine Iriano Wichman

Issue 3: Depopulation

The Government report is silent on this major socio-economic issue that is beginning to undermine many government policies relating to social resource allocation.

Today as a result of out-migration by our people, the outer islands demographic makeup especially comprises a weak economically active base, with young children, the disabled, and the elderly often making up the population. It is customary in our islands for the women to look after household affairs including feeding and looking after children, the disabled and the elderly.

Dependency Ratio

In 2001 this ratio was 79 dependents (made up of elderly and young child) to 100 economically active. Provisional 2006 figures shows 64 dependents to 100 economically active. Although the ratio is decreasing, there are shifts in population cohorts that could affect this ratio, for instance the numbers of migrant workers living in the country has increased from 830 in 1996 to 981 in 2001 (CI Census 2001).

Depopulation influences government decision to allocate social resources throughout the country. Today disparity in health and education services and access to opportunities for women in the outer islands still exists, and reports from our women’s groups in the islands advises it is getting worst. Health, education and social welfare benefit allocations have become unequal particularly given that the outer islands residents have to also deal with higher cost of living than the main island.

A simple example: It costs \$9.50 for a frozen raw chicken on the island of Rarotonga. The same chicken landed and sold in the stores in the Northern Group Islands of the Cook Islands (like Penrhyn) will cost \$20.00. The 2001 Census advises that the highest amount of income was earned on Rarotonga, and mainly by males.

<i>Average annual income</i>	<i>Rarotonga Male</i>	<i>Rarotonga Female</i>	<i>South Group Male</i>	<i>South Group Female</i>	<i>North Group Male</i>	<i>North Group Female</i>
NZ\$	\$16,117	\$12,237	\$8,748	\$6,283	\$10,755	\$6,092

An outcome of the CINCW² Conference 2007 was for the Council to work with Ministry of Health to consolidate regular and robust delivery of women health services (breast screening, cervical smears³) to all our islands by our qualified Cook Islands medical professionals. At the moment these essential services are only available to some islands when funding (mainly external) has been secured.

We believe that Government must make changes in its social welfare policies in order to lighten our women’s burdens in their homes (especially our women on the Southern and Northern Islands).

We call on our Government to practice affirmative action in terms of recognizing the unpaid work and higher cost of living in the outer islands. By positively discriminating for higher

² Cook Islands National Council of Women

³ also refer shadow report recommendation

child and welfare benefits in the Outer Islands, people who receive these benefits, most of whom are women, will ensure the resources spread throughout the community.

Issue 4: The National Policy On Women

The first National Policy on Women (1995) was driven by the CINCW and was an important piece of work that drove government's work over the years on improving the status of our women. The revision of this policy is overdue, as emerging issues have now become urgent problems.

The implementation of the National Women's Policy has been an uphill battle for women in the Cook Islands. The major obstacles that they encountered were the financial constraints and the capacity constraints of implementing bodies, which were the GADD⁴ Unit and the CINCW.

Seven specific objectives were set out in the National Policy on Women, as follows:

- 1. Ensure women participate equally in decision making at all levels.*
- 2. Foster closer working relations between government, non government organisations and the private sector*
- 3. Enhance women's roles by improving health and environment*
- 4. Bring women's issues into mainstream development process*
- 5. Make women equal partners as contributors and beneficiaries of development within the family, community, and the nation.*
- 6. Maintain and preserve those cultural values /tradition that promote the status of women.*
- 7. Uphold the Human Rights of women by improving their social, economic, political and cultural status in line with UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) by providing opportunities and support system for women's multiple roles in society.*

The objectives reflected in the 1995 National Policy on Women are still relevant today. There have been incremental gains over the last 10 years. For example, the current draft National Sustainable Development Plan has systematically mainstreamed gender issues into all the sectoral plans. The next step is to ensure that these provision are maintained in the plan and the relevant budgetary allocations are provided to ensure implementation of plans.

If resources are allocated, the GADD Unit must be strengthened so that it can provide technical assistance to the Ministry policy makers to fully integrate gender issues into their respective work plans and budgets.

Another example of incremental progress is the work that has been done on CEDAW, where government had called on the assistance of NGOs in the development of the draft CEDAW report. There is now more awareness on the rights of women because of the advocacy work of

⁴ Gender and Development Division of the Ministry of Internal Affairs

NGOs. To maintain this momentum, it is proposed that the GADD work programme continues to support the implementation of CEDAW.

The policy needs to be revised first before the national gender policy is completed as the revised woman's policy will impact on any gender policy as woman's issues always underlie gender issues.

Issue 5: Maternity Protection

The Government report advises we have good economic growth rates led by private sector growth, yet in the management of labour affairs we are guided by a 1964 Labour Ordinance that does not provide for the right of our working women in the private sector to maternity protection. For a progressive society as ours, this is a major oversight in facilitating legislation. An Employment Relations Bill is still in draft form ten years later since it was first developed.

We call on our Government to progress with earnest the enactment of the labour bill in Parliament and urge them to consider options for assisting the call for paid maternal leave to all women workers in the Cook Islands. The CINCW has commissioned a recent study into this matter, and the preliminary findings suggest that providing for working mothers can be covered under positive policy affirmation via social welfare avenues that exist.

The Case for Maternity Protection in the Cook Islands

REPORT FINDINGS⁵

- *Our population continues to decline. This is confirmed in the declining fertility rate that has been registered over the last 10 years.*
- *Over 80% of our babies are born on the main island Rarotonga.*
- *The majority of our women work in the private sector (62%), and 30% work in the public sector, the remaining are self employed. Women's employment numbers still lag behind our men and most of us are still in the lower paid jobs.*
- *Public service women are covered by the regulations of Public Service Act 1996, which provides for 6 weeks maternity leave with pay to women public servants who have completed 12 months service.*
- *The outdated Labour Ordinance (1964) currently guiding employment in the private sector does not require an employer to preserve a woman's employment during her pregnancy and childbirth, and there is no provision requiring an employer in the private sector to pay maternity or paternity leave.*
- *During the 2007 CINCW Conference it was recommended that **all** women must enjoy equal access to maternity protection.*
- *At least 62% of our working women do not have access to this basic right as spelt out by CEDAW.*
- *A preliminary trend analysis of working mothers giving birth in the private sector suggests that in 2002, at least 158 of the 226 working mothers that gave birth were*

⁵ Extracted from the Cook Islands National Council of Women Policy Guideline Report on a Case for Maternity Protection for all Women in the Cook Islands, July 2007

from the private sector. In 2005 of the 230 working mothers that gave birth, 161⁶ are estimated to be from the private sector.

- *There is a growing concern in the private sector for the welfare and working conditions of good female employees. There is a small percentage of the private sector that are already practicing conducive maternity protection conditions.*
- *Although not fully explored various options exist to make an equitable package for working mothers in the private sector. For instance, one innovative suggestion was that our Government should increase the child at birth benefit from \$100 to \$1000 in recognition of the importance of increasing our population, as well as to recognize the valuable work the mother must undertake in confinement to heal herself and to nurture her baby.*
- *There is growing support in the private sector to ensure maternity protection for their workers.*
- *Next steps would be to set up a working group to begin developing the guidelines for an equitable maternity protection facility respecting Government obligations to CEDAW, private sector encouragement, and the basic working rights of our women.*

Wrapping Up

May the few points we bring forward today be reflected in your concluding remarks, because these small steps will achieve great strides in the months ahead as we continue to work to eliminate any injustices that harm our women.

Our women don't deserve less.

Kia orana and may God oversee your deliberations.

⁶ Given the estimate that about 160 working mothers in the private sector will give birth annually. If the formula of \$1000 per birth be applied the national budget would be affected by about \$159,840. This is not a huge outlay of funds to support the rights of almost half the population.