



**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**

**Summary record of the 780th meeting**

Held at Headquarters, New York, on Friday, 18 May 2007, at 3 p.m.

*Chairperson:* Ms. Šimonović

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Convention (*continued*)

*Combined initial, second and third periodic report of Vanuatu (continued)*

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*The meeting was called to order at 3 p.m.*

**Consideration of reports submitted by States parties under article 18 of the Convention** (*continued*)

*Combined initial, second and third periodic report of Vanuatu (continued)* (CEDAW/C/VUT/1-3)

1. *At the invitation of the Chairperson, the members of the delegation of Vanuatu took places at the Committee table.*

*Article 12*

2. **Ms. Dairiam** said that further data should be provided on women's health indicators, particularly with respect to the maternal mortality rate. It should be clarified why young girls were not making adequate use of contraception and why there was resistance to the use of condoms by men. It would be interesting to learn whether there were any plans to provide counselling to young girls in the area of sexual education and whether the Vanuatu National Council of Women was providing the Government with advice on maternal health and teenage pregnancies.

3. **Ms. Pimentel** said that it would be interesting to learn how the Government was dealing with opposition to sexual and reproductive health policies by some religions. It was important that the Government should fully comply with the Committee's general recommendation No. 24 on women and health and clarification should be provided on whether the Government was providing special health care to elderly women. It would be useful to learn more about the Government's plans to improve the services provided by dispensaries and to make health services free.

4. **Ms. Abel** (Vanuatu) said that the Ministry of Health was preparing a policy for gathering and disaggregating data on contraceptive use, the maternal mortality rate and sexually transmitted diseases. With respect to teenage pregnancies, non-governmental organizations and other stakeholders were promoting the use of condoms and safe sex and had established information services for teenage girls. With the exception of the Catholic Church, there was no particular opposition to promoting the use of condoms from religious groups.

5. **Ms. Taleo** (Vanuatu) said that the Government had a policy of consulting with the Vanuatu National

Council of Women and other stakeholders to identify priorities in the area of women's health.

6. **Ms. Abel** (Vanuatu) said that the Government was fully committed to promoting exclusive breastfeeding during the first 12 weeks following childbirth. In addition, it should be noted that health services, including family planning and maternal and infant services, were provided free of charge.

*Article 13*

7. **Ms. Patten** said that it would be interesting to learn more about efforts to include women working in the informal sector, in the domestic service sector and non-wage-earners in the National Provident Fund. In addition, it should be clarified whether the retirement age of 55 applied to the private sector and how the Government ensured that private employers fulfilled their obligation of providing benefits and entitlements to employees.

8. **Ms. Schöpp-Schilling** asked whether the Government had any plans to extend the services of the Vanuatu Women's Development Scheme to the outer islands. Additional information should be provided on the funding, operations and coverage of the National Provident Fund.

9. **Ms. Taleo** (Vanuatu) said that the Government was in the process of reviewing the operations of the National Provident Fund with a view to allowing non-wage-earners and seasonal workers to become voluntary members of the Fund. The Vanuatu Women's Development Scheme was expanding its services to the outer islands and had opened its first outer-island branch in March 2007. The Fund would be self-sufficient by 2008. Following consultations with stakeholders, the Government had established that rural populations required training and advisory services on utilizing their savings to set up small businesses. The Vanuatu Women's Development Scheme would be responsible for providing those training services to rural women.

10. **Mr. Aru** (Vanuatu) said that the retirement age in the private sector was also 55.

*Article 14*

11. **Ms. Patten** said that additional information should be provided on the measures that were being taken to enhance the access of rural women and women

living in remote areas to markets. It would be interesting to learn more about women's participation in the formulation of policies relating to environmental conservation and protection.

12. **Ms. Tan** said that it would be useful to have sex-disaggregated data on the incidence of asthma and other respiratory problems caused by the use of wood from coconut trees for fuel. It should be clarified whether any measures were being taken to promote alternative sources of fuel. Additional information should be provided on measures to improve health care in remote areas, on plans to establish mobile medical units and on the 2006-2007 budget for health care. She asked about the Government's plans to counter and respond to gender-based violence in rural areas.

13. **Ms. Begum** said that it seemed that education was not free and that girls in rural areas suffered from poor access to education. She wondered whether there were any plans to make education free and to provide adult education programmes and study programmes for young girls. Additional information should be provided on the measures being taken to improve the lives of rural women, to increase the number of health clinics and to provide qualified doctors and nurses in rural areas.

14. **Ms. Abel** (Vanuatu) said that there were gender-disaggregated statistics on rates of asthma and acute respiratory infection. Under the amended environment act, the health effects of smoke from household fuel sources such as wood and coconut would be researched as well. There were four levels of health-care facilities: village health workers, dispensaries, health centres and hospitals. Individual villages were responsible for access to primary health care, and village health workers received 12 weeks of training. Dispensaries and health centres were staffed for the most part by registered nurses and nurse practitioners, while there were doctors in the five hospitals. A new hospital was under construction in Toba Province and scheduled to open in 2008. In addition, mobile clinics visited remote islands. The budget of the Ministry of Health was 997,000,000 vatu.

15. **Ms. Taleo** (Vanuatu) said that special funding had been allocated for women under the Government's rural economic development initiative. The intention was to establish women's projects in each province.

16. **Mr. Nirua** (Vanuatu) said that non-governmental organizations had helped to fund adult education

programmes. He agreed that school fees, especially at the secondary level, could be a financial burden on parents, but no subsidies in that area had been allocated in the State budget. The Ministry of Education continued to work with churches and non-governmental organizations to meet its funding needs because its budget allocation was insufficient.

17. **Ms. Tahi** (Vanuatu) said that rural women were participating in campaigns to raise awareness of domestic violence and had been trained to collect data on that subject, which were shared with the Government. They were also considered in all aspects of training, whether in business, fisheries, marketing or agriculture.

#### *Articles 15 and 16*

18. **Ms. Coker-Appiah** requested clarification regarding the apparent contradictions between customary law and civil law, especially with regard to marriage, marital property regimes, and property and inheritance rights.

19. **Ms. Tan** said that the rights of women in the event of divorce were apparently not fully protected under customary law. For instance, under customary law, custody of children was usually granted to the father, but that was not necessarily the case under civil law, and she was curious to know which system prevailed in the event of a conflict. Further clarification was also needed regarding division of property and maintenance for the wife and children under both systems. She wondered whether the Government had considered harmonization of civil and customary law.

20. **Ms. Belmihoub-Zerdani** said that she found the conflict between civil and customary law surprising in light of the fact that Vanuatu had ratified the Convention and the Optional Protocol without reservation. It was difficult for women married under customary law to obtain their share of marital property and custody of children, and she feared that discrimination might arise, depending on the system of law under which women were married. Establishing a minimum age of marriage of 18 for boys and 16 for girls was also in violation of the Convention on the Rights of the Child, which Vanuatu had also ratified without reservation. She urged the Government to give international law precedence over domestic law and to

harmonize its family law with article 16 of the Convention.

21. **Ms. Halperin-Kaddari**, referring to paragraph 28 of the report, requested clarification of the system of village courts, how customary courts were supervised, the mechanism for referral of matters to the formal courts, and whether there were any women judges in the customary courts. She would also like to hear more about the concept of “bride price”, as it appeared to treat women as a commodity with a price tag. Lastly, she asked for more information on the division of marital property under civil law.

22. **Mr. Aru** (Vanuatu) said that most of the legislation concerning family law had been inherited from the pre-independence period and had not been amended since the country had gained independence in 1980. Custom, church and civil marriages were recognized in Vanuatu. If a person who entered into a custom marriage wished to remarry, he or she would need first to obtain a divorce in accordance with that person’s specific customs. In cases of civil marriages, a married person who wished to remarry would be required to obtain a formal divorce through the courts under the Matrimonial Causes Act. Customs in Vanuatu varied among the some 80 inhabited islands and even among different villages on the same islands. Custom marriages were complemented by civil marriages on some islands, for example. There were no cases, however, of persons entering into civil marriages and then marrying another spouse under a custom marriage. Such a case could not in any case be easily hidden from public view, as the population of his country was small.

23. In custom marriages, property rights were governed by the customary practices or tradition of the individual in question. In civil marriages, in the event of the death of the husband in a couple who had registered their property jointly, that property normally passed to his widow as a registered interest under the Land Leases Act. In custom marriages, in the event of the death of the husband, his widow normally returned to her family of origin and any property was taken care of by the husband’s family of origin. There was no specific legislation to date dealing with the inheritance of property, whether by men or women.

24. The island court was the lowest court in the judiciary system. Appeals were normally filed with the magistrates courts. Any appeals of decisions by those

courts could be filed with the Supreme Court, and ultimately, the Court of Appeal. Any appeal of an island court decision concerning customary land ownership disputes was heard directly by the Supreme Court, whose decisions were final. Although there were no women Supreme Court judges, there were a number of women magistrates who sat in the magistrates courts. There were women judges on the customary courts, depending on the given custom of the area. Disputes were usually settled by chiefs, however.

25. As the report indicated, Vanuatuan law provided for a different minimum age of marriage for boys and girls. Concerning the bride price, the monetary sum of 80,000 vatu had been abolished by the Malvatumauri Council of Chiefs. In custom marriages, there was a tradition of exchanging gifts between families and between couples.

26. Lastly, as his Government had signed the Convention without any reservations, it was currently considering ways to incorporate its provisions in domestic legislation.

#### *Follow-up questions*

27. **Ms. Simms**, noting with concern that pit latrines continued to be the most common type of toilet in rural areas and that electricity was limited to urban centres and towns, said that despite limited resources the Government must invest in infrastructure as a matter of priority to guarantee proper development and ensure human dignity. Safe water supplies, for example, were particularly important for women. She therefore urged the delegation to emphasize, when it returned to Vanuatu, the need for a shift in budget priorities towards building the necessary infrastructure, which could make an impact on the lives of women in particular and on development in general.

28. **Ms. Schöpp-Schilling**, recognizing the value of the culture which had existed before colonization and Christianization in Vanuatu, including both matrilineal and patrilineal traditions, and the stereotyped roles imposed on women by missionaries, recalled that article 5 of the Convention called for the elimination of prejudices and practices based on stereotypes. While culture and tradition were an important source of identity, there was a need to identify what truly constituted a valuable cultural heritage. Culture must not serve as a justification for discrimination against women.

29. **Ms. Dairiam** noted with satisfaction that Vanuatu was embarking on a policy of health information management and asked about the time frame for its implementation. Concerning teenage pregnancy and access to contraceptives, while services were in place it was unclear how easy it was for young women to seek help. It would be useful to have some idea of the attitudes of the health-care staff towards young women consulting reproductive health services. She asked whether there was a proactive plan to assist young women to avoid teenage pregnancies through contraceptive use, education and other means and whether clinics and staff were monitored. Lastly, it was unclear from the report whether the assessors knowledgeable in custom whose presence was required when magistrates courts heard appeals from the island courts included any women.

30. **Ms. Abel** (Vanuatu) said that the health information management policy would be effective early in 2008. Her Government was currently finalizing the policy. As the Ministry of Health did not have the capacity to provide all necessary reproductive health services, it was working closely with partners and stakeholders to make available peer counselling for health-care workers, training, information and facilities such as a youth-friendly drop-in centre. The health-care workers were being trained to deal with young persons. The Ministry of Education was also implementing a programme on adolescent health development, which sought to encourage young persons to consult reproductive health services and to abstain from sexual relations. In addition, two non-governmental organizations were currently working to train young persons to counsel others on reproductive health.

31. **Mr. Aru** (Vanuatu) said that assessors who sat in island courts were appointed by and at the discretion of the Chief Justice.

32. **Ms. Sikawonuta** (Vanuatu) added that the island court judges were appointed by the Chief Justice on the recommendation of the Minister of Justice and that female judges had been appointed to the island courts as of the previous year.

33. **Ms. Abel** (Vanuatu) said that, in addition to pit latrines, ventilated improved toilets and water-sealed toilets were also available in the rural areas.

34. **Mr. Flinterman** said that Vanuatu was adopting a dualist approach to the Convention: the provisions of the Convention first had to be incorporated into

domestic law before they could be applied in the courts and not all substantive provisions had been fully incorporated into the domestic law, especially in the field of family law. However, the dualist approach was mitigated by the doctrine of legitimate expectations, which seemed to have been adopted by the judiciary in Vanuatu and which allowed parties to invoke provisions of the Convention before a court of law on the basis of their legitimate expectations that the country was complying with its obligations under the Convention. He asked whether, in applying that doctrine, a judge who came to the conclusion that a particular law was not in conformity with the Convention had to apply the domestic law or could refer the matter directly to the legislature urging it to amend its existing laws.

35. Furthermore, in light of the ratification of the Optional Protocol to the Convention, women were allowed to file complaints about violations of their rights under the Convention, but only after exhausting all local remedies. Under domestic law, they could not complain directly about violations of their rights under the Convention but only about violations of their rights under domestic legislation that had incorporated the provisions of the Convention. He asked whether the Government had any intention of reconsidering the status of the Convention in order to allow women to invoke the provisions of the Convention directly in a complaint.

36. Finally, with regard to the tension between the Constitution and customary law, especially concerning the principle of gender equality, and the response from the delegation that the Constitution was the supreme law of the land, he asked whether in practice the Constitution was paramount, because its very preamble was somewhat ambiguous in that it placed on an equal footing constitutional values, traditional values and values enshrined in international treaties to which Vanuatu was a party.

37. **Mr. Aru** (Vanuatu) confirmed that domestic legislation first had to be enacted for the Convention to be incorporated into Vanuatu law. If a court had to consider the Convention, it could rule in accordance with the provisions of the Convention but could not refer the matter directly to the legislature. Nevertheless, it could state in its decision that the Government should consider amending current laws to give effect to the Convention because it was binding on the State. Lastly, he reiterated that the Constitution was

the supreme law of the land, superseding any other local laws.

38. **The Chairperson**, speaking as a member of the Committee, said that the Government was obliged to enact laws to ensure compliance with the Convention, since article 2 required all States parties to repeal any laws that were discriminatory against women without delay. In light of the ratification of the Optional Protocol, the Government had to pursue all appropriate means of implementing the Convention.

39. **Ms. Shin**, noting the importance of data collection for implementation of the Convention, asked whether there was a data-collection office in the country and urged the Department of Women's Affairs to make sure that data were collected and disaggregated by sex. She commended the Government for the information provided with respect to women with disabilities and encouraged it to formulate policies to further improve their situation.

40. **Ms. Coker-Appiah**, reacting to the delegation's explanation that if a couple married under customary law and then changed to statutory law, any property acquired by the couple had to be registered in both names, said that in practice such property was usually registered in the man's name. She wondered whether there were any legal guarantees to protect a widow's interests if the husband died and left property that was registered only in his name.

41. **Ms. Halperin-Kaddari** asked whether the risk of women not obtaining their property rights and of losing their children applied to all women or only to those married under customary law. She asked about the percentage of couples that were married under statutory law and those that were married under customary law and whether divorce and marriage fell under the jurisdiction of customary law or the island courts.

42. **Mr. Aru** (Vanuatu), responding to a cluster of questions and comments raised by various Committee members, said that the country had a National Statistics Office that collected information in many areas and that more comprehensive data would be provided at future meetings of the Committee. With regard to property rights when a man died and left property registered only in his name, under the Land Leases Act all title had to be registered and, if the man died, the property reverted to his wife or legal representative. She could also apply first to the courts for letters of

administration to administer the deceased husband's estate, and then to the Land Records Office to have title to the property transferred to her.

43. Concerning the risk of women losing their children, under the formal legal system if an application for custody was filed, the courts determined which parent was given custody of the children, or, in case of death of the father, the children remained with their mother. Under customary law, the decision depended on the area of the country where the application was filed, because customs varied from island to island. Finally, divorce under customary law was handled by the island courts, which were part of the formal legal system and had specific jurisdictions under the Island Courts Act.

44. **The Chairperson** reminded the delegation of the importance of incorporating the Convention into domestic law to ensure that the country complied with its obligation to protect women's rights.

*The meeting rose at 5.20 p.m.*