



THE UPR PROJECT AT BCU

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The UPR Project at BCU
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About the UPR Project at BCU:

Birmingham City University's Centre for Human Rights was created in 2014 to promote human rights, ensure access to justice, and enhance the rule of law around the world. We seek to achieve this through leading research, education, and consultancy. We submit expert reports to international human rights regions, provide advisory services to governments and nongovernmental organisations, and draft legal opinions and file legal briefs in domestic courts and international human rights courts.

The Centre for Human Rights established the UPR Project in 2018 as part of our consultancy service. We engage with the Human Rights Council's review process in offering support to the UPR Pre-sessions, providing capacity building for UPR stakeholders and National Human Rights Institutions, and the filing of stakeholder reports in selected sessions. The UPR Project is designed to help meet the challenges facing the safeguarding of human rights around the world, and to help ensure that UPR recommendations are translated into domestic legal change in member state parliaments. We fully support the UPR ethos of encouraging the sharing of best practice globally to protect everyone's human rights. The UPR Project at BCU engages with the UPR regularly as a stakeholder and is frequently cited by the OHCHR. You can read more about the UPR Project here: www.bcu.ac.uk/law/research/centre-for-human-rights/projects-and-consultancy/upr-project-at-bcu

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INTRODUCTION

1. There are nine core international human rights treaties,¹ of which Vanuatu is a party to five.² This Stakeholder Report focuses upon domestic abuse, as it is reported that Vanuatu has one of the highest global rates of domestic abuse perpetrated against women.³ Domestic abuse is defined as “all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim”.⁴
2. We make recommendations to the Government of Vanuatu on this key issue, implementation of which would see the State move towards achieving Sustainable Development Goal 5 which aims for “gender equality and empowering all women and girls”.
3. This Report refers to ‘domestic abuse’ throughout, in recognition of the fact that domestic abuse includes mechanisms of control much more than just physical violence and psychological intimidation. However, domestic abuse is sometimes referred to as ‘domestic violence’ or ‘intimate partner violence’ and is also included under the broad umbrella terms ‘violence against women and girls’ and ‘gender-based violence’.
4. This UPR cycle will take place amid the 2023 “political crisis” in Vanuatu, with a vote of no-confidence being issued and a new Prime Minister, Sato Kilman, being elected via secret ballot.⁵ We encourage Vanuatu’s new leadership to commit to improving its human rights protection and promotion by engaging meaningfully with the fourth cycle of the UPR in 2024. This includes giving full and practical consideration to all recommendations made by Member States, effectively implementing the recommendations Vanuatu accepts, and actively engaging with civil society throughout the process.

A. Normative and Institutional Framework of Vanuatu

5. The Convention on the Elimination of All Forms of Discrimination Against Women (‘CEDAW’)⁶ is key when considering the protection of women from domestic abuse. In particular, General Recommendation 19 passed in 1992 provides that:

‘The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty’.⁷

6. General Recommendation 35 from 2017 updated General Recommendation 19 to provide “further guidance aimed at accelerating the elimination of gender-based violence against women.”⁸ Vanuatu has been a party to CEDAW since 1995.⁹
7. There are a number of other international human rights agreements and policies related to domestic abuse, in particular the Declaration on the Elimination of Violence Against Women 1993.¹⁰ Also pertinent are the Beijing Declaration and Platform for Action 1995,¹¹ the UN Commission on Human Rights Resolution 1994/945,¹² and the Commission on the Status of Women.¹³
8. Domestic abuse is a criminal offence in Vanuatu. The Family Protection Act (2008) provides a statutory definition of domestic abuse and, pursuant to Part 2(1) of the Act, “[a] person who commits an act of domestic violence is guilty of an offence punishable on conviction by a term of imprisonment not exceeding 5 years or a fine not exceeding 100,000Vatu, or both”.¹⁴ In Vanuatu, there is a concerning practice of a husband’s family paying the wife’s family to justify the perpetration of domestic abuse. Part 2(2) of the Family Protection Act has addressed this, mandating that there is no defence to a criminal domestic abuse charge where “the defendant has paid an amount of money or given other valuable consideration in relation to his or her custom marriage to the complainant”.¹⁵
9. There are also provisions for victims of domestic abuse to apply for protection orders,¹⁶ and the National Gender Equality Policy 2020-2030 is currently in place which, *inter alia*, aims to eliminate violence against women and girls.¹⁷ The Policy focuses on priority actions, including addressing discriminatory attitudes and providing survivor-centred services, whilst also including a monitoring and evaluation framework that lists policy indicators, baseline data, and data sources for measuring implementation.
10. Despite the seemingly robust protections against domestic abuse and policies aimed at eliminating VAWG, Vanuatu continues to have one of the highest global figures of perpetration of domestic abuse. Like many other forms of VAWG, criminalisation alone will not eradicate domestic abuse in practice,¹⁸ and we encourage Member States to consider other, practical actions the government could take in their fourth cycle recommendations.

B. Implementation of Recommendations from Cycle Three in 2019

11. In 2019, Vanuatu received 135 recommendations. Of these, 21 were made regarding domestic abuse or a related issue, such as violence against women and girls. All but three were accepted and below is a consideration of the action taken on each recommendation.

Specific Reference to Domestic Abuse

12. Nine recommendations made specific reference to “domestic violence”. Five recommendations focused on the prevention of domestic abuse. **Tunisia (para 90.50)** “[p]ursue efforts to prevent...domestic violence”; **Albania (para 90.60)** “[c]ontinue to combat domestic and gender-based violence”; **Maldives (para 90.63)** “[c]ontinue to strengthen measures to combat...domestic violence”; **New Zealand (para 90.66)** “[t]ake further steps to protect women and children from domestic violence and abuse”; **Italy (para 91.15)** “prevent and combat...domestic violence.” All but Italy’s recommendation were supported by Vanuatu, seemingly because Italy’s recommendation included other issues aside from domestic abuse. However, **it is difficult to ascertain the level of implementation of these recommendations** because they are so broad in scope.
13. Other recommendations were more specific. **Canada (para 90.61)** asked Vanuatu to “[c]ontinue efforts to eliminate gender-based violence, including domestic and sexual violence, by, for example, allocating adequate resources for the training of law enforcement and medical personnel, for investigations and the prosecution of perpetrators of these crimes, and for access to services for victims”. Similarly, the **USA (para 90.64)** suggested Vanuatu should “[i]nvestigate and prosecute domestic violence and sexual abuse cases, and offer victim-centred support services” and **Slovenia’s (para 90.65)** recommendation was to “[e]nsure protection orders, legal remedies and assistance for women victims of domestic violence and prosecute and punish perpetrators”. **Singapore (para 90.62)** recommended to “[e]xpand its existing partnership and collaboration with community leaders to reduce domestic and gender-based violence in rural areas”. All of these recommendations were supported.
14. **These recommendations have been implemented in part, but by civil society.** Vanuatu Women’s Centre (‘VWC’) has been instrumental in supporting women who are victims of domestic abuse, including setting up a domestic abuse hotline, which also provides counselling services to women and girls in Vanuatu.¹⁹ VWC also has regional branches across the country, with the aim of being accessible to all women in the country. Moreover, the Vanuatu Cricket Association has been supporting the women’s national cricket team, not only with sport, but other relevant issues including education and GBV.²⁰ However, there is still much to be done by the government, especially in terms of ensuring perpetrators are prosecuted for domestic abuse crimes.

Combat Violence Against Women and Girls (VAWG) and Gender-Based Violence (GBV)

15. Twelve recommendations were made in relation to the broad categories of VAWG and GBV. Four recommendations were broad, focusing on strengthening or increasing efforts to tackle VAWG (**Guyana (para 90.6)**; **Trinidad and Tobago (para 90.49)**; **Barbados (para 90.52)**; **Chile (para 91.25)**). All were excepted, bar Chile’s recommendation. Whilst such recommendations are welcomed, it is crucial that they remain specific and measurable in order to assess the level of implementation. Broad

recommendations, whilst easy to accept, lack any impetus to bring about real change.²¹ It is recommended that States adopt a SMART approach to recommendations as recognised by UPR Info.²² In particular, when referring to VAWG, Member States should specify the type of violence they are referring to and the key action the State should take.²³

16. **Belgium (para 90.52), France (para 90.54) and Ireland (para 90.57)** were more specific, recommending on the need to punish perpetrators of violence effectively, with Ireland’s recommendation suggesting that Vanuatu should ensure “police, prosecutors, judges and lawyers are provided with appropriate training on women’s rights”. These recommendations were supported by the government. **They have been implemented in part, but by civil society**, as World Vision Vanuatu has been running training with a “whole-of-community approach”, with training for community leaders, adult couples, children, and police officers.²⁴
17. Other Member States recommended Vanuatu to make use of legislation to address VAWG (**Nepal (para 90.58) and Portugal (para 90.59)**). **Germany (para 90.55), Indonesia (para 90.56) and Mexico (para 91.35)** specifically suggested that a way of doing this is by “enforcing” CEDAW “and incorporating the human rights obligations into domestic legislation.” All but Mexico’s were supported by Vanuatu, yet **these recommendations have not been implemented.**

C. Further Points for Vanuatu to Consider

National Emergencies and Domestic Abuse

18. The COVID-19 pandemic has been disastrous for those experiencing domestic abuse. The UN Special Rapporteur on Violence Against Women (‘SRVAW’) found that it was women from already marginalised backgrounds who suffered the most in terms of domestic abuse during the lockdowns of the pandemic, including “minorities, indigenous, Afrodescendant, migrant and rural communities, older women, women and girls with disabilities, homeless women, and women deprived of liberty and victims of trafficking.”²⁵ Reports from UN Women show that, across the Pacific including Vanuatu, “the number of women seeking help for domestic violence support services surged” during the COVID-19 pandemic.²⁶
19. The World Health Organization (WHO) has found that “[v]iolence against women tends to increase during every type of emergency.”²⁷ The WHO has stated that governments “must include essential services to address violence against women in preparedness and response plans for COVID-19, fund them, and *identify ways to make them accessible in the context of physical distancing measures.*”²⁸

20. Not only has Vanuatu had to manage the implications of the COVID-19 pandemic, it has also been navigating the effects of multiple Tropical Cyclones, which have also led to an increase in domestic abuse.²⁹ Therefore, thought must be given to how the Vanuatuan government can best deal with the effects of a national emergency, such as the COVID-19 outbreak or future Tropical Cyclones, on domestic abuse victims. This should be raised during Vanuatu's fourth cycle UPR and other Member States could share best practices on how they have dealt with similar issues.

D. Recommendations for Action by Vanuatu

We recommend that the Government of Vanuatu should, before the next cycle of review:

- i. Fully engage with the recommendations made during the UPR regarding domestic abuse, providing clear responses to recommendations and setting out specific plans for implementation.
- ii. Provide up-to-date and accurate statistics regarding investigations and prosecutions of domestic abuse cases across the country during the Fourth Cycle, to allow Member States and civil society to fully assess the implementation of domestic abuse recommendations.
- iii. Ensure that the 'National Gender Equality Policy' is implemented in practice, ensuring targets are met, particularly in relation to VAWG. The Government of Vanuatu should provide a publicly available action plan on how it will achieve this.
- iv. Establish opportunities to work with civil society organisations that are offering projects and strategies to tackle domestic abuse, providing financial support where possible. This is especially important for CSOs providing education and training to communities, including law enforcement.
- v. Pass legislation that incorporates CEDAW's provisions and protections into domestic law.
- vi. Provide support to organisations that are providing healthcare and support services, to allow victims of domestic abuse to access support shelter and refuges, as well as any relevant treatment.

¹ UN OHCHR, 'The Core International Human Rights Instruments and their Monitoring Bodies' <www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>.

² See, Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force on 27 January 1980) 1155 UNTS 331; 8 ILM 679 (1969) Article 2(1)(d).

³ The World Bank, 'Gender Data Portal' <<https://genderdata.worldbank.org/indicators/sg-vaw-1549-zs/>> accessed 6 October 2023.

⁴ Council of Europe, 'The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence' (November 2014) ISBN 978-92-871-7990-6.

⁵ Kirsty Needham, ‘Vanuatu Parliament Elects Sat Kilman as Prime Minister Amid China-US Rivalry in Pacific Islands’ (*Reuters*, 4 September 2023) <www.reuters.com/world/asia-pacific/vanuatu-parliament-elect-new-prime-minister-after-court-appeal-dismissed-2023-09-04/>. Prime Minister Sato Kilman has served four previous terms as Prime Minister of Vanuatu.

⁶ UN General Assembly, ‘Convention on the Elimination of All Forms of Discrimination Against Women’ (18 December 1979) UNTS vol 1249.

⁷ Committee on the Elimination of Discrimination Against Women, ‘General Recommendation No. 19: Violence against women’, Eleventh session (1992), contained in A/47/38, para 2.

⁸ Committee on the Elimination of Discrimination Against Women, ‘General Recommendation No. 35 on gender-based violence against women, updating General Recommendation 19’ (14 July 2017), CEDAW/C/GC/35.

⁹ Convention on the Elimination of All Forms of Discrimination: Reservations <https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&clang=_en#24> accessed 31 March 2023.

¹⁰ Declaration on the Elimination of Violence Against Women 1993.

¹¹ Beijing Declaration and Platform for Action 1995, Art 124-b.

¹² UN Commission on Human Rights Resolution 1994/945.

¹³ Commission on the Status of Women.

¹⁴ The Family Protection Act 2008 (No 28 of 2008) Part 2(1).

¹⁵ *ibid* Part 2(2).

¹⁶ *ibid* Part 3.

¹⁷ Sista, ‘Prime Minister Launches National Gender Equality Policy’ (30 August 2021) <www.sista.com.vu/prime-minster-launches-national-gender-equality-policy/>.

¹⁸ Alice Storey, ‘The UN’s Universal Periodic Review and FGM in Somalia: The Value of Civil Society Recommendations’ (in preparation on file with the author).

¹⁹ Leah Lowonbu, ‘Domestic Violence Victims to Access New Free Phone Help Line’ (*VBTC*, 26 November 2020) <<https://vbtv.vu/en/domestic-violence-victims-to-access-new-free-phone-help-line/>>; Vanuatu Women’s Centre, ‘About Us’ <www.vanuatuwomenscentre.org/about/> accessed 6 October 2023.

²⁰ Matthew Gregory, ‘How Vanuatu is Using Traditional Island Cricket to Change and Save Women’s Lives’ (*BBC*, 13 April 2021) <www.bbc.co.uk/sport/cricket/56386566>.

²¹ Amna Nazir, ‘The Universal Periodic Review and the Death Penalty: A Case Study of Pakistan’ (2020) 4(1) *RSIL Law Review* 126, 153; Alice Storey, ‘Challenges and Opportunities for the UN Universal Periodic Review: A Case Study on Capital Punishment in the USA’ (2021) 90 *UMKC L Rev* 129, 148-49.

²² See UPR Info, ‘For impact on the ground the UPR needs SMART recommendations’ <<https://www.upr-info.org/en/news/for-impact-on-the-ground-the-upr-needs-smart-recommendations>> (21 October 2015).

²³ Alice Storey, ‘Improving Recommendations from the UN’s Universal Periodic Review: A Case Study on Domestic Abuse in the UK’ (2023) 35 *Pace International Law Review* 193.

²⁴ World Vision Vanuatu, ‘Our Approach to Ending Violence Against Women and Girls’ <www.wvi.org/vanuatu/our-approaching-ending-violence-against-women-and-girls> accessed 6 October 2023; Vanuatu Police Force, ‘World Vision Councillor [sp] Training’ <<https://vpf.gov.vu/what-we-do/safety-security/crime-prevention/150-world-vision-councillor-training>> accessed 6 October 2023.

²⁵ UNGA, ‘Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences’ (24 July 2020) A/75/144, para 8. The LGBTQ+ community has also suffered greatly during the pandemic, as discussed in this report.

²⁶ UN Women, ‘Across the Pacific, Crisis Centres Respond to COVID-19 Amid Natural Disasters’ (10 June 2020) <www.unwomen.org/en/news/stories/2020/6/feature-pacific-crisis-centres-respond-to-covid-19-amid-natural-disasters>.

²⁷ WHO, ‘COVID-19 and Violence Against Women’ (7 April 2020) <<https://apps.who.int/iris/bitstream/handle/10665/331699/WHO-SRH-20.04-eng.pdf>>.

²⁸ *ibid*. Emphasis added.

²⁹ UN Women (n 26); ReliefWeb ‘Gender & Protection Cluster: Gender & Protection Analysis – TC Judy & Kevin’ (26 April 2023) <<https://reliefweb.int/report/vanuatu/gender-protection-cluster-gender-protection-analysis-tc-judy-kevin>>.