

Introduction

1. **FSC Vision** - Family Support Centre (FSC) is a local NGO with the vision to eliminate violence against women and children in the Solomon Islands; to promote and raise awareness of people's rights to live in peaceful, non-violent and non-abusive families; and provide a safer environment that empowers individuals to make decisions that enable them to uphold their human rights and enjoy safety in their lives.
2. **FSC work towards achieving Vision** - In trying to achieve this vision, FSC provides counselling and legal services and community awareness programs including fortnightly radio talks.
3. **FSC & Network** - in partnership with other stakeholders and is a member of the Honiara Gender Based Violence Referral SAFENET¹.
4. **FSC Partnership in programs** – FSC had joint effort with other stakeholders in attaining its goal. Recently FSC had 3 main projects. First, with Oxfam with a program “standing together against violence” (STAV) project, second, with UNWOMEN “Engaging Youths to end all forms of violence against women and girls in Solomon Islands, and third with Solomon Islands Government (SIG) “Support to counselling and referral services”.
5. **Similar projects** - There are other NGOs who run similar projects that are seeking to end violence at women and children, such as the World Vision, Save the Children and Live and learn.
6. **Domestic violence outweighs output** - Despite of efforts by the gov't and various stakeholders, domestic violence is inevitable in SI. This is due to acute problems of culture and practises, due to unchanged mindset within the service providers, non-effectiveness of mechanisms of justice system and non-accessibility to justice and the rule of law.
7. **Report intention** - this report is intended to cover issues from main substantive rights. However, it will only report on the issues that directly affects the group of people in Solomon Islands that are covered in the work of FSC and will provide recommendations as each issue is discussed.

Administration of Justice and Rule of Law

8. The report focusses on the 3 main institutions and legislation –Family Protection Act.²

The Royal Solomon Islands Police Force (RSIP)

In 2010, the RSIP adopted a national family violence policy ... for handling domestic violence cases. This policy requires all police officer to treat domestic violence as a crime, hold the perpetrators accountable and ensure the protection of victims ...Despite the above, women victim of gender based violence still find it difficult and complicated to access justice through the RSIP³

In the MOU of the Referral SAFENET (which FSC is a party to), the RSIP stipulates what it called “RSIP Standard Operating Procedures (RSIP SOP)” to which it outlines the procedures that ought to take when dealing with incidents to Family Violence. Despite of this, women victim of domestic violence still find it difficult with police.

Issues -when domestic cases were reported to Police, police would:

- i. ask the victim to see the FSC or to get a protection order from FSC

¹ Which comprises of Royal Solomon Island Police (RSIP), FSC, Ministry of Health and medical Services, the Public Solicitor's office and Christian care centre, which a MOU was signed.

² Which was passed last year 2014.

³ UNWOMEN Report, “Seeking Redress: Challenges and Recommendations to Increase Women's Access to Justice in Solomon Islands”, May 2015, pg13

- ii. ask the victim to reconcile and often taken the initiative to mediate or facilitate reconciliation rather than investigate and prosecute the perpetrator;
- iii. obtain statements from victims and open a case (or a file) and yet they refer the victim to FSC with the intention to obtain protection order;
- iv. would not differentiate the effect of charging the victim with a bail condition (not to go close to victim) and the protection order on a civil case.

Recommendations

- i. To strengthen the “No drop policy” of the RSIP unless the victim choose to do otherwise and to consider domestic violence as a crime and not a private matter.
- ii. RSIP to strictly adhere to their family violence policy;
- iii. Some of the prejudice and discriminatory attitudes which remain visible in police actions when dealing with complaints of domestic violence must be eradicated;
- iv. Every police stations with their supervisors must be gender sensitised and ongoing training is necessary, particularly for older police officers;
- v. RSIP must eradicate elements of corruption including: wantokism; nepotism; lack of professionalism, and inappropriate behaviour;
- vi. RISP academy must attain the maximum capacity of trainings in legal areas.

The Public Solicitor’s Office (PSO)

FSC as of October last year 2014 had its legal officer representing victims of domestic violence and related matters in the lower courts. This came about as a result of inaccessibility of services at PSO by the victims of Domestic violence or women⁴.

Prior to that, FSC referred its clients to PSO.

The Public Solicitor’s office (PSO) is a government-funded office that provides free legal aid including legal representation, advise and assistance to persons in need. The PSO is comprised of ...Criminal Unit, the Family Protection Unit and the Landowners Advocacy and Legal Support Unit. The PSO has 3 offices, in Honiara, Gizo and Auki.

The PSO provides legal assistance to women on issues such as [domestic violence], maintenance and child custody. However, some women have found it difficult to access justice with the assistance of the PSO.⁵

As that of Police, PSO in the MOU of Referral SAFENET also stipulates it stand when dealing with domestic Violence. For various reasons women still find it difficult for access the services at PSO.

Apart from PSO and the FSC, there is no other legal services in SI that can be accessed free by the women and children.

Issues -PSO still refers cases to FSC or asked complainants or victims to see FSC or some PSO clients chose to come to FSC or some gave up, because of

⁴ UNWOMEN Report, p15 (ibid)

⁵ UNWOMEN report, p 15 (ibid)

- i. "...the belief held by some PSO lawyers that they have a constitutional obligation to priorities criminal cases..."⁶
- ii. "... the PSO is heavily under- resourced...despite of the fact that Family Protection Unit is currently prioritising applications for protection orders"⁷
- iii. "... the PSO is overburdened and under-resourced. The number of lawyers and the funding is inadequate to deal with a heavy case load. There are only two lawyer in the Family Protection Unit..."⁸
- iv. "...[f]urther, low income for lawyers leads to high turnover and low motivation..."⁹. The 'Government Lawyers Scheme of Services' in or around 2005 should have been the motivation. However, the government have failed to renew it, thus, leads to the high turn-over.
- v. "[t]he lack of lawyers within the PSO means that some clients may have to be turned away whilst others experience such delays that they chose not to come back to the PSO"¹⁰
- vi. "... the lack of resources impacts rural women as there is limited funding for the PSO to carry out outreach activities in the provinces"¹¹
- vii. "[e]ven if women are entitled to legal aid, they may still have to bear the costs of courts fees and travel which may be prohibitive for some"¹².
- viii. "[t]he PSO does not provide its employees with training on CEDAW"¹³

Recommendations

- i. PSO guideline must state that though they have constitutional mandate to provide legal aid to those who are in need in criminal offences, there is no explicit constitutional requirement that criminal cases should be prioritised; or
- ii. A constitutional amendment to include civil cases such as domestic Violence in the mandated provisions;
- iii. The draft guidelines must be adopted without delay;
- iv. The government to allocate a big budget to cater for PSO implementation of the guidelines and additional resources;
- v. PSO to recruit additional staffs to the current number in the Family Protection Unit which is only 2;
- vi. The government must revisit the overdue 'Government lawyers Scheme of Service';
- vii. Clients' or their witnesses' travel or court fees or allowances must come from the budge of the government;
- viii. PSO Lawyers must undergo a CEDAW trainings as a prerequisite so that more training and increased capacity building on gender sensitivity assist lawyers;

⁶ *The constitution mandates the PSO to provide legal aid to persons in need, in particular to those charged with criminal offences.*

⁷ *UNWOMEN report, p16 (ibid)*

⁸ *ibid*

⁹ *ibid*

¹⁰ *ibid*

¹¹ *ibid*

¹² *Ibid. This is also the case with FSC.*

¹³ *Ibid, p17*

- ix. PSO must acknowledge that FSC is working in collaboration to PSO and where necessary PSO or the government must allocate necessary funds to supplement the work of FSC.

The courts

The Magistrates' court have jurisdiction to hear both criminal and some civil matters, including the issuance of protection orders and orders relating to custody. Magistrates do not have the jurisdiction to deal with cases of divorce [, matrimonial property and adoption]. This means that a woman could have various cases at different courts if she is seeking both a divorce and custody of her children ... As of June 2013, there were eight Solomon Islanders magistrates. Five of them were posted in Honiara. All High Court judges were located in Honiara. All high court judges were located in Honiara¹⁴

As of 2015, 5 additional Magistrates were recruited, all of whom are of younger generations, which FSC is believed to be gender sensitised.

Issues

1. When an ex parte application or urgent application for protection order is brought before the court, FSC would experience
 - i. No Magistrate is available or wait for a Magistrate who is detoured;
 - ii. If a Magistrate is there, no court room is available. The wait would take some time – up to 1 to 3 hours;
2. When an inter-pate applications (normal) or cases that are returnable to court are brought before the court; FSC would experience
 - i. All cases would normally listed at 11am on Fridays only. Normally would wait until any of the 3 court rooms are vacated by criminal cases or any or specific Magistrate is available from criminal cases. The wait would run through the lunch hours and sometimes would take up to 2 to 3pm¹⁵
3. ... *[i]ndividuals often are forced to travel large distances, sometimes to Honiara in order to access the formal justice system ...In addition, women may have to use different courts for different issues which will increased the problems in accessing those courts because they may have to travel on separate occasions to Honiara to appear in different courts. As such the delivery of court services in the Solomon Islands seems to be haphazard. For many women, the courts are too distant and hard to reach.*¹⁶

Recommendations

- i. To have a full time family court to deal with domestic violence cases and other cases; or
- ii. To allocate at least 2 days in a week just for civil or family cases;
- iii. Need to have more magistrates/PSO lawyers (with FSC if necessary) who can be available in all provincial centres at all times;
- iv. To give Magistrates' Court or certain Magistrates the power to hear divorce, matrimonial properties and adoption applications;
- v. To have specialised magistrates to deal with domestic violence, child abuse and family cases;

¹⁴ *ibid*

¹⁵ *In couple of instances we waited until the official hour is over which is 4:30pm.*

¹⁶ *UNWOMEN report, P20*

- vi. Make sure Magistrates to undergo CEDAW and other human rights trainings;

Legislation

In the past few years, there have been a number of changes and calls for changes to the legislation regulating family laws, sexual violence and domestic violence... The family Protection Act 2014 (FPA) prohibits domestic violence of one partner by another and provides remedies for victims of abuse... Under the Act, police officers may issue a Public Safety Notice against a respondent for an initial period of 21 days ... This new power should enable police officers to issue safety Notices quickly and at the scene of the incident without having to resort to the courts. The Act also provides for the court to issue interim protection orders and final protection orders for up to 5 years. The Act imposes certain duties on health care providers and police officers when dealing with victims of domestic violence. The Act sets up the family protection advisory council as governing body ... The council is currently being set up. The Acts creates a number of criminal offences ... It is also an offence to obstruct a service provider providing services to a victim. The penalty for a perpetrator of domestic violence is SBD\$30,000 or a three year imprisonment or both. The penalty is the same for breaching a protection order or police safety notice. The penalty for obstructing a service provider is a fine of SBD\$10,000 or one year imprisonment, or both.¹⁷

Issues

- i. *"Prior to the FPA ... evidence suggested that women in Solomon Islands did not understand the process for obtaining a protection order. This lack of information impedes women's access to justice ... The new Act may be easier... however, it remains to be seen whether information ...is disseminated to potential users"¹⁸*
- ii. *"Prior to the FPA ... evidence suggested that protection orders were not always respected or enforced by the police. Some police lacked training and sensitivity in dealing with cases of domestic violence ... As such, reconciliation between a perpetrator and victim in domestic violence cases was common"¹⁹*
- iii. *"Under the new procedures in the [FPA], police have wider powers to respond to domestic violence..., these changes in the legislation will need to be accompanied by a change in behaviour and attitude by the police. If some of the traditional attitudes about protection orders persist, then this change in legislation is unlikely to make a difference for women..."²⁰*
- iv. the current budget for the implementation of the Act is only SBD\$350,000 as that of estimated budget of SBD\$7M as highlighted when the Act was passed last year 2014.
- v. the Government is held not accountable to quickly implement the Act and blames NGOs for not taking pro-active measures to raise awareness;
- vi. the NGOs viewed that the 3 line Ministries of the government the Ministry of Women, the Ministry of Justice and Legal Affairs and the Ministry of Police lacked coordination on the implementation programs of the Act;
- vii. the NGOs find themselves not supported by the Government to implement the Act;

Recommendations

- i. Awareness of the Act to potential users and public must reach the four corners of Solomon Islands;

¹⁷ Ibid, p21

¹⁸ Ibid

¹⁹ Ibid

²⁰ Ibid

- ii. The RSIP must make sure reconciliation between a perpetrator and victim in domestic violence must not be entertained;
- iii. The government must make sure a change in legislation must be accompanied by a change in policy and attitude by the police;
- iv. The government must ensure the 3 line ministries must work together and share resources to necessitate the implementation;
- v. The government must ensure to work closely with NGOs or CSOs.
- vi. The government to raise another additional budget in another Appropriation Bill to cover up the short fall in the current budget of USB\$350,000
- vii. The government to raise the budget of \$150,000 subvention that it is currently giving to FSC and Christian Care Centre through which will help these Centre to expand their services to the rural areas and increase these Centres' assistance to victims/survivors in terms of meeting the victim/survivors' courts fees plus travel expenses and where applicable witnesses' travel expenses and allowances;