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National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*

Vanuatu

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Introduction

1. The Government of the Republic of Vanuatu submitted its first national Universal Periodic Review (UPR) report to the UN Human Rights Council on 12 May 2009. The UN Human Rights Council adopted the report of the Working Group on the Universal Periodic Review for Vanuatu in the same year. Vanuatu has received 48 recommendations from the international community during the last UPR. Since the last review, Vanuatu has been working towards the implementation of these recommendations and its commitments through all stakeholders including government agencies, institutions and civil society organizations. It is important to note that Vanuatu continues to face challenges in the implementation of the UPR recommendations, as well as in meeting its overall international human rights commitments.

2. As part of the UPR preparation processes in Vanuatu, the Office of the Prime Minister in February 2013 appointed a UPR Committee comprised of 10 Government officials and 1 civil society representative to complete the second UPR national report.

I. Methodology and process for preparing the report

A. Methodology for preparing the report

3. In the process of producing the report, the UPR Committee distributed survey questionnaires and conducted interviews to collect the relevant data and information.

B. Process for preparing the report

4. The UPR Committee delegated to 2 Sub-Committees, namely the Data Collection Sub-Committee and the Drafting Committee, to complete this report. The Data Collection Committee was responsible for data, information collection, and the verification of information. The Drafting Committee collated the draft received compiled comments finalized the report.

II. Developments since the previous review, background of the State under review and framework, particularly normative and institutional framework, for the promotion and protection of human rights: constitution, legislation, policy measures, national jurisprudence, human rights, infrastructure including national human rights institution and scope of international obligations identified in the “basis of review” in resolution 5/1

A. National laws and legislations

5. The Constitution of Vanuatu governs the fundamental rights and duties of all individuals in Vanuatu. The Constitution also guarantees the enforcement of fundamental rights by stipulating the right to apply to the Supreme Court for enforcing Constitutional rights and freedoms in case of infringement.¹ The Supreme Court may make orders, issue

writes and give directions, including the payment of compensation, as it considers appropriate to enforce the right being infringed.

6. Identified below are legislations that have been enacted for the protection of human rights:

- Employment (Amendment) Act No 33 of 2009
- Employment (Amendment) Act No 25 of 2010
- Municipalities (Amendment) Act No 11 of 2013
- Decentralization (Amendment) Act No 16 of 2013

B. National measures and policies

1. Women's rights and equality

7. The Department of Women's Affairs (DWA) has formulated the following policies, having given due consideration to the UN Convention on the Elimination of All Forms of Discrimination against Women (UNCEDAW):

- (a) Women in Government Policy 2011–2015;
- (b) Women in Shared Decision Making 2012–2016;
- (c) National Plan of Action for Women 2007–2011;
- (d) National Plan of Action for Women 2012–2016;
- (e) National Women's Policy 2010–2012.

8. The DWA has also developed the National Disability Policy and Plan of Action 2008 – 2015, and the National Children's Policy 2007-2011.

2. Education

9. The Ministry of Education has formulated the following policies with a view to promoting and implementing the UN Convention on the Rights of the Child (UNCRC):

- (a) Education For All National Action Plan 2001–2015;
- (b) Vanuatu Early Childhood Care & Education Policy (2010);
- (c) Vanuatu Education Road Map 2010–2013;
- (d) Vanuatu Education Sector Strategy 2007–2016;
- (e) Inclusive Education Policy & Strategic Plan (2011–2015).

3. Health

10. The Ministry of Health has developed the following policies to complement CEDAW and CRC:

- (a) National Policy and Strategy for Healthy Islands 2011–2015;
- (b) National Environmental Health Policy and Strategy 2012–2016;
- (c) National Strategic Plan for HIV and Sexually Transmitted Infections 2008–2012;
- (d) National Strategic Plan for HIV 2014–2018.

C. Official authorities and government organization concerned with human rights

- (a) State Law Office
- (b) Prime Minister's Office
- (c) Department of Foreign Affairs
- (d) Department of Correctional Services
- (e) Department of Women's Affairs
- (f) Department of Education
- (g) Department of Public Health
- (h) Ministry of Lands & Natural Resources

III. Promotion and protection of human rights on the ground: implementation of international human rights obligations identified in the "basis of review", national legislation and voluntary commitments, national human rights institutions activities, public awareness of human rights, cooperation with human rights mechanisms

11. 10. The Treaties and Conventions Division conducts awareness and consultations on Human Rights Conventions in collaboration with regional organizations. During the period of 2009 to 2013, 6 human rights related programs have been completed in the provinces of Shefa, Sanma and Tafea.

12. In 2010, the DWA, in partnership with the Pacific Regional Rights Resource Team (RRRT), conducted human rights awareness training with church leaders of the Vanuatu Christian Council (VCC) in Sanma and Penama provinces.

IV. Action taken regarding recommendations arising from the last UPR

Recommendation 1: Ratification of the UN Convention against Torture (UNCAT) and its Optional Protocol

13. On 11 July 2011, Vanuatu acceded to the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment. This enables Vanuatu to become the 147th State party and the first Pacific Island Nation to accede to the Convention. Currently, training on the CAT has been carried out for the correctional services officers. The Government is in the process to appoint a national committee to oversee the drafting of the CAT initial report.²

Recommendation 2: Ratification of ICERD

14. Vanuatu is yet to consider the ratification of ICERD.

Recommendation 3: Ratification of ICESCR

15. Vanuatu is yet to consider the ratification of ICESCR.

Recommendation 4: Ratification of the UN Convention against Corruption (UNCAC)

16. Vanuatu ratified the UNCAC in July 2011. In August 2013, the United Nations Office on Drugs and Crime (UNODC) reviewed Vanuatu's implementation of obligations under Chapters 3 of the UNCAC on "Criminalization and Law Enforcement" and Chapter 4 on "International Cooperation". The review was assisted by Vanuatu's Focal Point on Corruption based within the Treaties & Conventions Division of the Department of Foreign Affairs. The Checklist for Vanuatu on the above chapters have been completed and sent to the UNODC in September 2013.

Recommendation 5: Ratification of the Convention on the Rights of All Migrant Workers and Members of Their Families

17. Vanuatu is yet to consider the accession to the Convention on the Protection of the Rights of all migrant workers and members of their families.

Recommendation 6: Implementation of the CEDAW and UNCRC

18. Since the ratification of the CEDAW, the DWA has implemented various activities such as awareness, consultations and formulation of policies to promote the elimination of all forms of discrimination against women. In 2013, the DWA engaged in the design of the National Policy and Action Plan on Gender Equality and Women's Development 2014-2017. Vanuatu's National Machinery for Women which responsible for the advancement of women was reviewed in 2010. The DWA's organizational structure was also reviewed with an increase of the total recruitment from 6 to 15. The DWA employs a Gender and Governance Officer who assist the promotion of gender equality³. The Government is at the final stage of drafting the combined 4th and 5th national CEDAW report for the UN CEDAW Committee. The Government has involved government and non-government stakeholders in the report preparation process.

19. 18. In 2010, the Ministry of Justice appointed a Child Desk Officer, currently housed at the DWA⁴. The Child Desk Officer coordinates the Government's efforts to promote and implement the UNCRC as well as assist with the Government's 2nd and 3rd CRC Report for the UN CRC Committee.

Recommendation 7: Accession to the 2nd Optional Protocol to the ICCPR

20. Vanuatu is yet to consider its accession to the International Covenant on Civil and Political Rights and its 2nd Optional Protocol.

Recommendation 8: Implementation of the Family Protection Act

21. The Government through the DWA has been consistently raising the awareness of the communities and general public on the Family Protection Act (FPA), its implications and how it can assist women who are victims of domestic violence. Awareness raising activities has so far been carried out in Shefa, Sanma and Malampa provinces. Training materials on the Act has been translated into Bislama so that the requirements and obligations under the Act can be understood by the general public.

22. The Government is developing a handbook providing guidance on and a better understanding of the Authorised Persons and Registered Councillors under the Family Protection Act. The handbook is currently undergoing consultation.

23. In recognizing the importance of police intervention in cases of domestic violence, the Government established Family Protection Units (FPUs) in Port Vila, Santo, Malekula and Tanna. The FPUs were established to ensure that the domestic violence related cases are investigated and reported for prosecution. The FPUs have received reports of 77 cases

concerning sexual assault and domestic violence in the year of 2009, 126 cases in 2010, 100 cases in 2011, and 2010 cases in 2012⁵.

Recommendation 9: Incorporation of CEDAW Principles into domestic legislation

24. As previously stated under paragraph 5, the Constitution provides under Chapter II (“Fundamental Rights”) equal treatment under the law. Amendment has been made to the Employment Act of 2009 and 2010 in respect of provisions dealing with annual leave, maternity leave and minimum wages and the DWA has participated fully in the discussions leading up to this amendment. The Court of Appeal in Vanuatu accepts women in Vanuatu to take a land case to a Court of Appeal to seek redress to equal rights to land entitlements.

25. In 2010 the Government has undertaken a review of national legislations to identify which legislations have complied with the CEDAW. As a result of the review, a handbook entitled ‘Protecting Women’s Human Rights in Vanuatu Law’ was developed to guide legislative change in order to fully incorporate CEDAW into the domestic legal system. The handbook is currently under the under review.

26. In August 2011 the Vanuatu Law Commission appointed a woman secretary whose primary role is to manage and administer the secretariat of the Commission. The main function of the Commission is to scrutinize and keep under review the laws of Vanuatu and recommend reforms where needed.

Recommendation 10: Review and amendment of relevant legislation to eliminate all forms of discrimination or marginalization of women

27. In August 2013, the Parliament approved an amendment to the Municipality Act to cater for a 30%–34% quota as Reserved Seats for Women within the municipality councils. This process is slow due to the limited resources and capacity within the machinery of the Government.

Recommendation 11: Ensuring equal rights for men and women

28. A gender mapping study carried out in 2013 identified the Ministry of Education, Ministry of Public Infrastructures and Utilities, Ministry of health as government institutions advanced in mainstreaming gender in both sectoral Ministries policies. The Ministry of Education has achieved equal enrolment at primary, secondary school and data collection in a disaggregated manner in health has improved. The Ministry of Infrastructures and Public Utilities involves women participation in the implementation and maintenance of public infrastructure and currently is in the process of designing an internal inclusive policy to achieve gender equality within the institution.

29. The Government is currently working on a National Policy and Action Plan on Gender and Women’s Development which will include key research in the areas of macroeconomics, labour and employment in order to further encourage the Ministries to apply gender mainstreaming in the design and implementation of line ministries policies. The establishment of the DWA Provincial Women’s Desk Officers will help the Government to undertake activities to enhance awareness about human rights and gender related issues at the community level.

Recommendation 12: Ensuring women’s rights are upheld in the justice system

30. The Magistrates, Public Prosecutor, Public Solicitor, Supreme Court Judges, police officers and traditional leaders have been progressively involved in trainings on the Family Protection Act. The FPA continues to assist the justice system to effectively deal with cases, and trials on domestic violence.

Recommendation 13: Reviewing the legislation on minimum age for criminal responsibility

31. The minimum age for criminal responsibility is 10 to 12. The police, Correctional Services Department (CSD) and DWA have recently signed a Memorandum of Understanding (MOU) to work together on best practices concerning youth juveniles. There are currently no separate detention facilities to house juvenile offenders and this has been raised to the highest level of the Government. The Juvenile Justice has now been included in the Law and Justice sector strategy as one of the key priorities for the Government to implement in 2014.

Recommendation 14: Strengthening efforts to implement the CRPD

32. Vanuatu ratified the CRPD on 23 October 2008 to ensure that persons with disabilities are respected, promoted, equally recognised and included in decision making at both the community and national levels.

33. A Disability Desk Officer position was established at the DWA in 2009. The Desk Officer's main focus is on the implementation of the CRPD. The process of preparing the initial report on the CRPD started in 2010. In 2013, national consultations for the report were carried out and completed in all provinces. The consultation's feedbacks indicated a great need for advocacy on the CRPD and disability rights issues. Access to education for children with disabilities and young people developing mental disabilities as a result of drug consumption are issues identified and highlighted during the consultations. The society at large has little awareness of disability rights. The new Building Code of the Public Work Department which is now in the process to be completed and submitted to Parliament in 2013 will specify the performance criteria and the standards for buildings and amenities to be disability friendly when it is enacted.

Recommendation 15: Addressing issues relating to the Representation of People Act

34. The Electoral Office provides an inspection period for candidates to check their names and run a probity check with the Department of Finance for any outstanding payments owed to the Government before they can contest in the elections. This applies especially, to former leaders. To address the issue that voters' names have previously missed from the electoral rolls despite registration, the Electoral Officers will allow voters during the period of July 1 to 15 of each election year to check and ensure their names appear on the registration rolls.

Recommendation 16: Establishment of a National Human Rights Institution

35. In February 2013, the Ministry of Justice appointed an interim National Human Rights Committee. Its mandate will be to coordinate all human rights issues, complete national reports for the human rights conventions, monitor and evaluate the status of the national reports.

Recommendation 17: Strengthening the role of the Ombudsman's Office

36. The Ombudsman's Office deals with complaints and cases lodged by both civil servants and members of the public. To strengthen its role, the Office is currently reviewing the Ombudsman Act and the Leadership Code Act, following a consultation workshop held in December 2010 and the Government's "100 Day Plan" in April 2013. Main amendments will include section 3 regarding the appointment of the Ombudsman and the establishment of the Leadership Tribunal which will deal with complaints against leaders.

37. Since the Office was established, staffing has increased from 5 to 12. Staff members have benefited from trainings and workshops on human rights. The Office has so far published 10 public reports, and has completed investigations on 100 cases, with 260 cases pending.

Recommendation 18: Involvement of Civil Society in the follow-up to the UPR

38. Vanuatu Government has involved civil society in the UPR follow-up process. A representative from the civil society is a member of the UPR Committee. The Ministry of Justice with the support of the Pacific Islands Forum Secretariat (PIFS) have in March 2013 held a workshop on the UPR, and in July 2013 a government consultation workshop on the UN Human Rights Conventions and the progress of the second UPR report preparation. The workshops provided an opportunity for the UPR stakeholders to reflect on the UPR follow-up process and to discuss key challenges, past achievements and progress.

Recommendation 19: Conducting human rights education and awareness-raising activities

39. Vanuatu has conducted human rights awareness-raising activities on CEDAW, CRC and CRPD, with the assistance of regional organizations. The DWA conducted human rights awareness-raising activities in the rural communities of Santo in 2010. In 2011, the CSD and stakeholders participated in a training on the CAT which was facilitated by OHCHR. Since 2011, the Vanuatu Police Force has been attending human rights training facilitated by the RRRT in Suva, Fiji. With the assistance of the RRRT, each year human rights training have been conducted for new police recruits are part of their induction program. There are still needs for further improving awareness on human rights issues and international human rights conventions in Vanuatu.

Recommendation 20: Promoting awareness on importance of education of children

40. The Universal Primary Education Policy (UPE) which provides for free Education for Class 1–6 has been implemented since 2010, with an emphasis on Children with Disability (CWD) and gender equity to complete a primary education. One of the functions of school management is to provide training and awareness-building activities to school heads, communities and parents on the importance of child education with the emphasis on children with disability and gender equity⁶. There are no sanctions for parents who fail to send their children to school.

Recommendation 21: Establishing Child Desk Officers and ensuring access to free and compulsory education

41. The Child Desk Officer coordinates the national efforts in the implementation of the UNCRC. Vanuatu now provides free education at all Government owned primary schools from Class 1 to Class 6. Currently there is no compulsory education policy.

Recommendation 22: Combating corruption

42. On 12 July 2011, Vanuatu acceded to the UNCAC. The Ombudsman's Office continues to handle complaints about corruption practices and actions of public officials. Civil society continues to advocate against corruption in Vanuatu. The Office of the Prime Minister, based on complaints lodged, has established Commissions of Inquiries, as part of its "100 Day Plan", to institute proceedings against civil servants involved in land dealings, citizenship, immigration and passports allegations.

Recommendation 23: Cooperating with UN Special Procedures

43. After the first UPR in 2009, Vanuatu has been visited by the Special Rapporteur on torture. The Government set up a Commission of Inquiry into claims of ill-treatment of prisoners, conditions of prisons, an increase of prison escapees in 2009 and the case of a death of prisoner in custody in 2010. The Government is yet to enact laws to address the above issues and to comply with the CAT which has considerable financial implications. The avenue that the Government has resorted to is to reform existing facilities. In addition, the CSD has conducted training and awareness-raising on the CAT and other relevant international human rights standards. The Ministry of Justice has appointed an External Prison Inspection Team to inspect prison conditions, the welfare of prisoners and make recommendations to ensure the basic standards for the treatment of detainees are met⁷.

Recommendation 24: Taking measures to reduce discrimination against women

44. The Government in June 2013 approved “Reserved Seats for Women as a Temporary Measure for Municipality Councils”. This will ensure that women are properly represented in the municipality. This is in accordance with CEDAW, the Priorities & Action Agenda (PAA), the National Plan of Action for Women (2007–2011) and the Millennium Development Goals (2000–2015).

45. Between 2008 and 2012, the DWA conducted Bridging Resources in Democracy and Gender Election (BRIDGE) Workshops for 235 people. In the election year of 2012, the DWA implemented a ‘Vanuatu Voter Education Awareness’ project through 3 workshops on voter education in Santo and 2 workshops were delivered in Efate. In addition, the DWA organized conference training on “women in share decision making” for 17 women contestants in Efate. As a result, 10 women candidates contested in 2012 general elections.

46. The DWA in partnership with UN Women has launched a research on Gender Profile of Political Parties and Elections in 2012 which focused on engaging with political parties, and raising gender awareness with institutions such as Parliament and NGOs⁸.

47. A survey conducted by the Public Service Commission in 2011 shows that in 2009, women constitutes 2,047 of 5,616 government employees, 1,617 of 4,999 in 2010, and 2,138 of 5,887 in 2011. Currently there are 139 females occupying senior management positions. This indicates that women are still under-represented in the workforce. It has been a practice that all advertisements of government vacancies carries the statement that ‘any woman or man is eligible to apply’ to avoid discrimination based on gender. The DWA continues to advocate for women by providing training, research and awareness on election and politics.

48. In 2012, during 18th meeting of the United Nations Framework Convention for Climate Change Conference of Parties, Vanuatu was an author to the Gender Decision to promote and improve participation of women in UNFCCC negotiations⁹.

Recommendation 25: preventing discrimination on the basis of disability, economic status, sexual orientation or living with HIV/AIDS

49. The Constitution (Article 5) provides equal rights under the law for all persons including People with Disabilities (PWD). The National Disability Framework provides for equal status of persons with disabilities and equal protection of their rights. Discrimination based on sexual orientation or HIV/AIDS status has not been specifically addressed by the Constitution. In this regard, a National Aids Committee was established in 2011. Vanuatu has recently launched a standard guide for counseling services¹⁰. Currently, Vanuatu has no counseling services or HIV/AIDS testing facilities.

Recommendation 26: Addressing discriminatory rules and customs

50. Article 51 of the Constitution and Section 10 of the Island Courts Act of 1983 state the principle of equality of men and women and the prohibition of discrimination over customary law.

51. The Vanuatu Law Commission is in the process of developing issues paper on Family Reform Law.

Recommendation 27: Taking appropriate measures to improve prison conditions

52. The CSD has been working with donor partners to improve conditions in correctional centres, including plans to build a new Port Vila Correctional Centre and to undertake major refurbishment of existing facilities. The planned new Correctional Centre will be complying with international standards, such as configuring accommodation to form separate units according to detainee category and accommodating needs of mothers with babies, and designating separate space for youth education in close proximity to the youth accommodation. The accommodation is also designed to be wheel-chair accessible. The new centre layouts will also provide spaces community activities (*kastom* activities) gardens and agriculture which will promote healthy food for the detainees.

53. In 2012, the Ministry of Justice and Community Services appointed an External Inspection Team, which comprised of independent members from the Ministry of Health, Ministry of Youth Development, Sport and Training, the Malvatumauri National Council of Chiefs and the Vanuatu Christian Council, to carry out regular monitoring of places of detention in Vanuatu. The Team was established to inspect the conditions and treatment in prisons and promote the human rights of detainees.

54. The Team's monitoring reports will be published and accessible to the general public through a website of CSD. In 2012 the International Committee of the Red Cross (ICRC), the OHCHR and representatives of local civil society organisations (Wan Smol Bag) visited correctional centres in Port Vila. The main objective for the visitation was to see if the Correctional Centres are complying with the Human Rights conditions in accordance with the Human Rights laws and standards.

55. In February 2013, the Judiciary of Vanuatu initiated a workshop on Youth Justice in Vanuatu to consider how a criminal justice process for young people could be developed and introduced into Vanuatu, so as to improve the outcomes for young offenders, their families and victims in line with the UNCRC. A Memorandum of Agreement was signed by the end of the workshop. Signatories to the memorandum of agreement included the Judiciary of Vanuatu, Vanuatu Police, CSD, Law Commission, the Public Solicitor's Office, State Prosecutors Office, and civil society stakeholders (including Malvatumauri National Council of Chiefs, Vanuatu Law Society, UNICEF, Vanuatu Women's Crisis Centre and Wan Smol Bag). The Wan Smol Bag has been proactive with assisting with rehabilitation programs in collaboration with the Probation Community Services of the CSD. The Youth Centre at the Wan Smol Bag has been instrumental where life skills and rehabilitation programs are being utilised by the young offenders as arranged by the Probation Community Services with the Wan Smol Bag. Since 2008, Wan Smol Bag has assisting with youth and young offenders especially, under community based sentences of Supervision and Parole.

56. A Youth Symposium organised by the Law and Justice Partnership (AUSAID) Program was held at the Chiefs Nakamal in Port Vila where the Youths of Port Vila raised vital issues in relation to the social, economic, cultural and political elements towards the Government and other stakeholders. The main objectives of the Youth Symposium were to educate youths, draft a MOA, and analyse the gaps between the youth and juvenile justice agencies¹¹. The Symposium resulted in the signing of a Memorandum of Agreement

between different Youth groups in Port Vila and this was then presented to the Government. The Agreement highlighted the need for the Government to recognise the participation of Youths in the policy, working closely with the Government in the establishment of a Juvenile Correctional Centre, involvement in law reform discussion relating to juvenile justice, developing opportunities for working with the Government in discussing budget plans for youth issues in Vanuatu, working in collaboration with the Chiefs, the Malvatumauri National Council of Chiefs and working closely with the Police in dealing with youth issues. There was also a Youth Justice sub-committee established to keep all youths in Vanuatu updated with all youth and youth justice issues through the media and other possible means¹².

Recommendation 28: Further human rights training for police, corrections and justice

57. In May 2011, with the support of OHCHR, officers of the CSD and the VPF underwent human rights training and specific training on the implementation of CAT. The Government intends to have an on-going training within the CSD and awareness-raising regarding CAT and national preventive mechanisms. After the last review, there have now been improvements of correctional centre facilities.

Recommendation 29: Investigating into the detainee report

58. In August 2009, a Commission of Inquiry was established. A coroner's inquest in 2010 revealed that there was ill treatment by the VMF officers. However the Government and the public have acknowledged the widespread issue of torture but progressively realizing to address these abuses through reform in the CSD processes and regulations¹³.

Recommendation 30: Protecting the rights of detained persons

59. Vanuatu has acceded to CAT in 2011 and is currently implementing reform through the CSD. A team of 5 members commenced the work but did not complete this report, due to the change of Government and the Commission was terminated under Article 1 of the Commissions of Inquiry Act. Legal proceedings against the finding of the coroner's inquest into the late prisoner's death were sought; as a result the Coroner's report was revoked on 29 April 2011 by the Government.¹⁴

Recommendation 31: Strengthening the functioning of the judiciary and human rights institutional framework

60. From 2009 to 2013, the DWA with the assistance of the regional organizations provided 5 human rights training for regional Magistrates, Judges and Lawyers. The objective of this training is to ensure the judiciary system apply the human rights laws, legislations and conventions.

Recommendation 32: Adopt a 'No Drop' policy in domestic violence cases

61. The Public Prosecutor's Office has a "no drop" policy in prosecuting cases concerning sexual offences and domestic violence. The "no drop" Policy is an internal policy within the Office, ensuring that all sexual offences are to be prosecuted and not to be withdrawn by victims, complainant or the prosecution.

62. This "no drop" policy has also been raised by the Chief Justice on number of occasions for it to be respected by law implementing agencies such as the Vanuatu Police Force which is responsible for implementing the method of interviewing witnesses especially, complainants through video system. This is to assist in prosecuting of cases so

that if a complainant withdraws her complaint, the Public Prosecutor can proceed with the case in court without the complainant giving evidence in court.

63. The Vanuatu Police Force (VPF) has been working with relevant line Ministries to progressively develop a “no drop” policy in investigating cases of domestic and sexual violence. The FPU has proposed a “no drop” policy in handling domestic violence cases.. However, statistics provided by the FPU shows that in 2009, 49 sexual assault cases were reported; 129 in 2010 of which only 101 were investigated. From 2009 to 2011, 33 cases were filed following activities for improving awareness of the communities on the Family Protection Act.

Recommendation 33: Ensuring effective investigation into allegations of torture or mistreatment

64. The Ministry of Justice has established an External Inspection Team to investigate issues in relation to allegations of torture or mistreatment of individuals in custody.

Recommendation 34: Adopting measures to address violence against women and enact legislation to criminalize such violence

65. Raising the awareness on domestic violence is an on-going activity taken up by the Government and civil society. The FPU and the Crime Prevention Unit also conduct awareness on Family Protection Act, Penal Code Act, Drugs Act, and Criminal Procedures Code Act to the communities. From 2009 to 2012, 437 awareness programs have been conducted on domestic violence and sexual assault in Vanuatu. Communities have responded positively on the awareness programs in that they understand the topic and the relevant law. General crimes have reduced from 5,170 to 3,700 in 2010 and in 2012 further reduced to 1800. The Vanuatu Women’s Centre with over 100 fieldworkers also provides awareness and counselling programs for domestic violence victims.

66. The Public Solicitor’s Office provides legal aid to the general public including victims of domestic violence and other forms of violence against women.

Recommendation 35: Raising public awareness to combat domestic violence

67. The DWA has been conducting training on CEDAW, human rights, gender and the Family Protection Act for Church Leaders, Police Officers and NGOs. DWA has also carried out campaigns such as 16 days of activism and dedicated special dates such as the National and International Women’s Day to fight against domestic violence. In 2013, the DWA was awarded with a grant from UN Women to implement a 2-year project aiming at raising awareness, advocating and lobbying for eradicating gender based violence. Also In 2013, the DWA was engaged in the design of a new National Policy and Action Plan on Gender Equality and Women’s Development 2014-2017, with the purpose of promoting behavioral change through raising community awareness.

Recommendation 36: Measures to eradicate corporal punishment in schools

68. The Government of Vanuatu bans corporal punishment in all schools¹⁵. With the implementation of the UNCRC, parents are informed on the rights of the child including the right to education. They are aware of accountability for not respecting these rights.

Recommendation 37: Ensuring the independence of the judiciary

69. The Vanuatu Court System or the Judiciary is an independent body from the executive and the legislature arms of the government.

Recommendation 38: Amending judicial rules for the Ombudsman's reports to be more admissible in court

70. With the current system, all leadership related cases reported by the Ombudsman follow the normal criminal justice system for prosecution by the Public Prosecutor's Department. Since the Leadership Code was enacted¹⁶, no case has been successfully tried in a court of law for its breach for reasons including the evidentiary requirements of the criminal justice system. The Courts have questioned the validity and fairness of some provisions of the Leadership Code Act. For example, section 27 (1) provides that "a leader who is convicted by a court of an offence under the Penal Code [Cap 135] and as listed in subsection (2) is in breach of this Code" thus a conviction must be secured before the LCA can be applied. The Court has indicated that this process may amount to the notion of double jeopardy.

Recommendation 39: Further empowering women and enhancing their condition and participation in political life

71. With support from UNWOMEN, BRIDGE (Building Resources in Democracy, Governance and Elections) number of workshops were undertaken in 2010. Voter education workshops were organized between 2008 and 2009¹⁷. Since 2010 the DWA has conducted voter awareness and BRIDGE workshops on gender in political governance.

Recommendation 40: Efforts to improve the health system

72. The Ministry of Health (MOH) is progressively achieving the adequate access to quality basic health through the National Policy and Strategy for Healthy Islands 2011-2015. Vanuatu through the MOH celebrates the World Health Day by providing free medical service to the public and improving media awareness.

73. The MOH has recently established a cervical clinic to provide specific services and information on cervical cancer and family planning issues. In 2011 the MOH reported the infant mortality rate as being relatively low (27 per 1000 live births)¹⁸.

74. With regards to MDG 4, 5 and 6, the MOH is currently conducting awareness and campaigns in remote rural communities and provide medication where required. Up until the end of 2011, there have been a total of 6 reported cases of HIV/AIDS, with two cases resulting in death¹⁹. All people living with HIV/AIDSs requiring antiretroviral therapy have been receiving drugs for free. Malaria and TB cases in Vanuatu have dropped from 17,500 cases in 2003 to less than 6,000 cases in 2011, and malaria prevalence in Tafea Province is now only 0.05 per cent of the population²⁰.

Recommendation 41: Ensuring adequate access to quality basic health and education services

75. The Government of Vanuatu provides basic medical treatment and health promoting program in schools. Children with disability have integrated into the promoting program to ensure that they have access to education provided for under the Inclusive Education Policy 2010.

76. In rural areas there is insufficient waste collection in households and burning wastes has been employed as means of waste disposal. Communities in rural areas use private pits or VIP toilets. There are 25% of water that comes from water pipes is used for drinking and washing. Other water sources include rivers, wells, tanks and pipes²¹.

77. In 2012 a Memorandum of Agreement (MOA) was signed between the MOH and Red Cross Society to implement community based health and sanitation. To maintain MDG goals on health, the government chose 5 provinces to carry out a survey on basic health

care. It includes screening of the ear, mouth and skin. The category of children used for this screening was Class 1 (aged 5–7). In Torba Province, 9/23 were diagnosed and another one 12/42. In Sanma there was 13/33 diagnosed, in Penama 44/82. Shefa was 14/31 and Malampa, 9/23²².

Recommendation 42: Guaranteeing access to free and compulsory primary education

78. The Universal Primary Education Policy (UPE) provides for free education and right to access to education for Classes 1–6. The Government is yet to formulate the compulsory education policy.

Recommendation 43: Promoting effective efforts to keep children, especially girls, in schools

79. The Government through the Ministry of Education has developed a Gender Equity in Education Policy (2005–2015) with the goal of providing equal opportunities for both sexes. In 2011, 9,033 females attended secondary education and in 2012 the figure increased to 9,173. In 2012 the Gender Parity Index for secondary enrolment was 1:10; while the GER for females was 42.8% and for males it was 39.1%. There are few organizations and members of parliament that sponsor students based on their performance and merit for them to complete secondary and tertiary education²³.

Recommendation 44: Technical and financial assistance to strengthen capacity

80. The MOH has received technical assistance from UNFPA, UNICEF, WHO, AHA, AUSAID, SPC, GLOBAL FUND RESPONSE, PICAS, UN AIDS, RRRT, ADRA and World Vision. The Ministry of Education received technical assistance from NGO (SCA, VEPAC, etc), UNICEF and WASH. The Department of Energy through the Ministry of Lands has received financial assistance from the World Bank, Governance for Growth Program (GFG) and the European Union for the installation of renewable resources and upgrading concession areas including, Lugainville, Lakatoro and Lenakel. The Public Works Department through the Millennium Challenge Account (MCA) Project has completed the Efate Ring Road, Lugainville Ring Road and has upgraded airstrips and airport facilities in Santo, Longana, Lonore, Norsup and Lenakel.

81. The CSD has received support from New Zealand Aid (NZ Aid) to address the long standing infrastructure issues, and to carry out training and institutional strengthening activities. The DWA receives assistance from RRRT, UN Women, UNICEF, AUSAID, NZ Aid and other donor partners in providing capacity building, technical assistance and awareness to all levels to the community.

Recommendation 45: Technical assistance from OHCHR to accede to ICESCR, ICERD and CAT

82. Vanuatu has benefited from the technical assistance provided by OHCHR and is yet to take full advantage of the possible support from OHCHR. At the moment, OHCHR is supporting the placement of a United Nations Volunteer (UNV) with the Ministry of Justice and Community Services to assist the implementation of the CAT.

Recommendation 46: Engaging international donor community to build capacity with regards to improving economic and social rights

83. The following donors have continued to provide capacity building to the Health Department: UNFPA, UNICEF, WHO, AHA, AUSAID, SPC, GLOBAL FUND RESPONSE, PICAS, UN AIDS, RRRT, ADRA and World Vision.

Recommendation 47: Protecting human rights by reducing greenhouse gas emissions

84. Vanuatu's National Adaptation Program of Action (NAPA) was endorsed in 2007²⁴. It is now being expanded into a National Climate Change & Disaster Risk Reduction Policy. The National Advisory Board (NAB) develops major policies and projects on Climate Change & Disaster Risk Reduction in line with the PAA²⁵. These policies and projects are now being implemented by the Ministry of Climate Change which was established in 2013.

85. The nation's key climate and disaster risk reduction (DRR) stakeholders represented by all levels of society, including Government Director Generals and Directors, civil society, NGO representatives, private sector and communities; all citizens are actively involved in projects and policies for climate change and DRR. Climate change issues are mainstreamed into the Government's PAA, and include a suite of adaptation and mitigation directives and focal areas including agriculture, forestry, livestock, environment, fisheries, water, coastal and marine resources, infrastructure as well as tourism.

86. Technical assistance is received through the Vanuatu Meteorological and Geo-Hazard Department and the National Disaster Management Office in collaboration with development partners. Number of awareness and capacity building initiatives on Climate Change and Disaster Risk Reduction have been implemented through national radio shows, public talks in schools and communities.

87. Climate Change and Disasters have a disproportionately negative impact on women and children via their unique engagements in farming, forestry, fishing, and food/water security. It is the Government's intention to include these vulnerable groups in trainings and policy formulation leading up to the UNFCCC COP Climate Change Negotiations. The Government attends Climate Change Convention meetings annually. In 2012 Vanuatu took the lead in elevating gender and climate change issues.

Recommendation 48: Establishing a National Human Rights Institution

88. As previously stated in response to recommendation 16, the Ministry of Justice and Community Services is taking the lead in coordinating the establishment of a National Human Rights Institution. OHCHR has been providing technical assistance and awareness on NHRI's.

V. Achievements, best practices, challenges and constraints

89. The Government of Vanuatu recognizes the progress that has been made in relation to meeting its human rights commitments and obligations. Achievements include:

- Completion of the UNCAC Report on Chapters 3 and 4
- Completion of the first initial CRPD Report
- Completion of the 2nd and 3rd CRC Report
- Completion of the 4th and 5th Report on CEDAW
- Establishment of a Child Desk Officer
- Establishment of a Disability Desk Officer
- Establishment of a Gender Officer
- Completion of the National Children Policy 2012–2013
- Amendment to the Municipality Act in allocation of a 30% quota of reserved seats for women in the municipal councils.

- Completion of the Inclusive Education Policy
- Visit of the Special Rapporteur on torture
- Establishment of an External Inspection Team to inspect and report on the conditions of and treatment in prison
- Establishment of the Ministry of Climate Change
- Completion of reproductive health awareness on Tafea and Malampa provinces with the assistance from UNFPA and FNU, 2013–2017 cycle

90. This report also identifies the constraints and challenges on the implementation of its human rights obligations and in particular the agreed recommendations from the UPR dialogue in 2009. These challenges and constraints include:

- Lack of human resources
- Donor centered funding
- Not all children with disabilities attend formal education
- Lack of financial assistance to properly address areas needing reform
- Lack of understanding and expectation of the UN human rights conventions
- Traditional barriers that stop women from engaging in key climate change sectors.
- Lack of awareness on climate change and adaptation in communities
- Lack of internal capacity to incorporate human rights conventions into domestic legislation

VI. Key national priorities and initiatives and commitments that the State concerned has undertaken and intends to undertake to overcome those challenges and constraints and improve human rights situations in the State

91. The Government of Vanuatu uses the PAA as machinery to instigate key sector policies to address and improve human rights. It stated that:

- Vanuatu being a party to the United Nations Framework Convention on Climate Change (UNFCCC) must promote gender equity
- Government to fund small scale human rights oriented programs such as workshops and awareness to government officials

92. The Government of Vanuatu needs further attention on additional priorities:

- Implementation of the newly proposed Building Code for Public Works Department to satisfy the relevant standards under the CRPD.
- Human rights education for civil servants and the public at large on human rights conventions
- Budgeting for meeting its international human rights obligations including reporting obligations
- Incorporating international human rights conventions into domestic law
- Establishing an NHRI

VII. Expectations of the state concerned in terms of capacity building and request if any, for technical and support received

93. The Government of Vanuatu appreciates the continuous technical and financial assistance of partners and organizations for it to implement its human rights obligations. The Government of Vanuatu is further requesting the international community for additional technical and financial assistance for the implementation of human rights conventions.

94. Vanuatu needs assistance especially in climate change adaptation, disaster risk reduction and capacity development to particularly vulnerable groups including women, children and persons with disabilities.

VIII. Voluntary commitments

95. The Government of Vanuatu commits to continuing and completing the implementation identified under the PAA. Furthermore, Vanuatu commits to working with partners nationally, regionally and internationally to implement its human rights obligations.

96. Vanuatu's National Advisory Board on Climate Change is committed to steering and guiding development partners interested in engaging in human rights and climate/disaster issues in Vanuatu, including by providing expedited program approvals and nominating counterparts, intervention sites and priority areas.

IX. Conclusion

97. The Government of Vanuatu regards its second report to complement the recommendations of the 1st report and plans to strengthen, promote and protect human rights across all levels. The Government of Vanuatu will work to cooperate with UN Agencies and donors in capacity building, training and exchanging human rights implementation experience and sharing expertise with other Pacific Island countries.

Notes

- ¹ Constitution of the Republic of Vanuatu of 1980. Vanuatu.
 - ² Torture prevention in the Pacific: sharing good practice and lessons learned. November 2011.OHCHR.
 - ³ Ibid 2.
 - ⁴ Job description. Office of the Public Service Commission.2010.
 - ⁵ Vanuatu Police Force, family Protection Unit. Statistics 2009-2012.
 - ⁶ Education Act# 21 of 2011 revised and amended section 3.
 - ⁷ Ibid 3.
 - ⁸ Ibid 2.
 - ⁹ [http://unfccc.int/gender and climate change/items/7516.php](http://unfccc.int/gender%20and%20climate%20change/items/7516.php)
 - ¹⁰ Ibid 2.
 - ¹¹ Youth Symposium Objectives & Youth Symposium 2013 MOIA.
 - ¹² Ibid 25.
 - ¹³ Ibid 3.
 - ¹⁴ Commissioner of Police vs Judiciary Services Commission.VUSC 37.CC 71 of 2011.
 - ¹⁵ Teaching service Act#15 of 1983 revised and amended part 9 section 53.
 - ¹⁶ Ombudsman Act of 1998 CAP 252. Vanuatu.
 - ¹⁷ Ibid 2.
 - ¹⁸ <http://www.governmentofvanuatu.gov.vu/index.php/government/health>
 - ¹⁹ <http://www.governmentofvanuatu.gov.vu/index.php/government/health>
 - ²⁰ Ibid 1.
 - ²¹ Ibid 2.
 - ²² Record of screening of school children in 2012 and 2013. Ministry of Education.
 - ²³ Gender Equity in Education Policy 2005-2015. Ministry of Education.
 - ²⁴ [Unfccc.int/resources/docs/napa/vut01.pdf](http://unfccc.int/resources/docs/napa/vut01.pdf)
 - ²⁵ www.nab.vu
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