Preface and Acknowledgements

This Report is the result of collaboration between the Australian Agency for International Development (AusAID) and the International Finance Corporation (IFC), a member of the World Bank Group.

The Report has been produced for:

- **The Solomon Islands Government**, primarily the Ministries of Commerce and Finance: to make recommendations for reform actions for Government to further enable women in Solomon Islands to participate effectively in the country’s economic development.

- **The International Finance Corporation**: to inform its support to the Solomon Islands Regulatory Simplification and Investment Policy and Promotion Program and ensure that gender issues are incorporated in the program’s design and implementation.

- **AusAID**: to assist development programs to mainstream gender and to enable women to benefit equitably from improvements in the business climate.

Research for the Report was primarily carried out during a mission to Solomon Islands from 9 to 13 March 2009. The mission team was led by Sonali Hedditch (IFC, remote team leader), and included Clare Manuel (The Law & Development Partnership); Tamara Haig (AusAID consultant); Vijaya Nagarajan (AusAID Consultant); and was supported by locally based experts John Zuma (lawyer); and Ishmael Ware (economist). Chakriya Bowman (AusAID), Anna Hutchens (AusAID consultant) and Sonali Hedditch (IFC) undertook useful preparatory research from April 28 – May 2, 2008.

The authors wish to thank all the individuals who provided us with helpful information and were available for interviews during the in-country research. They include Solomon Islands Government’s various ministries and departments, the Solomon Islands Women in Business Association, the Regional Assistance Mission to Solomon Islands, and donors.

Finally, we wish to thank the wonderful women entrepreneurs who took the time to share their stories and challenges during the Women in Business Forum in Honiara, Solomon Islands, and in one-on-one interviews.
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Foreword

Pacific Island women are a powerful force for economic growth and development, making important contributions to the economy as entrepreneurs and employees, and to the welfare of their families. Studies show that when women are given economic opportunity, the benefits are large also for their families, their communities, and ultimately for national development efforts. Opening economic options for women puts poverty reduction on a faster track.

Across the Pacific, some obstacles in the investment climate, such as a prevailing culture of informality amongst female entrepreneurs, unequal access to property, credit and justice and women’s lack of experience and comfort with formal business processes, such as business and license registration, have a disproportionately greater adverse impact on women. These constraints hinder women from contributing more to their country’s growth and development. Further, overly cumbersome regulations can unintentionally hurt women, young and low skilled workers more than others, and raise the risk of excluding them from doing business, due to a lack of education and lack of confidence to deal with government authorities and financial institutions. Women are less able to lobby government to have cumbersome regulations reduced, in part because female political representation in the Pacific is among the lowest in the world. Removing such obstacles can help not only to empower women but also to unlock the full economic potential of Pacific nations.

IFC and the World Bank Group more generally are committed to reducing gender based barriers in the investment climate, increasing access to finance for women entrepreneurs, and helping governments understand the gender dimensions of business reform and growth. Our Practitioners Guide on Gender and Investment Climate Reform was piloted in the Pacific region, resulting in a series of six Gender and Investment Climate Reform Assessments, on Papua New Guinea, Samoa, Solomon Islands, Timor Leste, Tonga, and Vanuatu. These Assessments will guide the World Bank Group in the mainstreaming of gender into its investment climate projects in the Pacific, in particular through the Pacific Regional Program on Regulatory Simplification and Investment Policy Promotion (in Tonga, Solomon Islands, Papua New Guinea, and Vanuatu), and the Timor Leste Public Private Dialogue and Business Registration projects.

The experience of Pacific Island countries in implementing the targets and activities recommended by this report should provide valuable lessons globally in mainstreaming gender in investment climate reform. I am grateful for the support and funding from the Australian Agency for International Development (AusAID), New Zealand’s International Aid and Development Agency (NZAID) and Japan International Cooperation Agency (JICA), and the Gender unit of IFC which has made this important effort possible.

Pierre Guislain
Director
Investment Climate Advisory Services
World Bank Group
## Abbreviations

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<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tr>
<td>ADR</td>
<td>Alternative dispute resolution</td>
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<td>BLAR</td>
<td>Business Law and Administrative Reform</td>
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<td>BWF</td>
<td>Business Women’s Forum</td>
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<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination Against Women</td>
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<td>CCL</td>
<td>Community Company Limited</td>
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<td>CSP</td>
<td>Community Support Program</td>
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<td>GWG</td>
<td>Gender Working Group</td>
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<td>IBRD</td>
<td>International Bank for Reconstruction and Development</td>
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<td>IFC</td>
<td>International Finance Corporation</td>
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<td>ILG</td>
<td>Incorporated Land Group</td>
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<td>IPA</td>
<td>Investment Promotion Agency</td>
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<td>M &amp; E</td>
<td>Monitoring and Evaluation</td>
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<td>NCD</td>
<td>National Capital District</td>
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<td>NCDC</td>
<td>National Capital District Commission</td>
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<td>PPD</td>
<td>Public Private Dialogue</td>
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<td>PNG</td>
<td>Papua New Guinea</td>
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<td>RAMSI</td>
<td>Regional Assistance Mission to Solomon Islands</td>
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<td>SME</td>
<td>Small and medium sized enterprise</td>
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<td>SIWIBA</td>
<td>Solomon Islands Women in Business Association</td>
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<tr>
<td>ToR</td>
<td>Terms of Reference</td>
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<td>WDD</td>
<td>Women’s Development Division</td>
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Executive summary

Introduction

Report purpose
This Report is one of six Gender and Investment Climate Reform Assessments undertaken in six Pacific nations including Solomon Islands.¹ The Report analyses gender-based investment climate barriers which constrain private sector development, and identifies solutions to address them. Four key investment climate areas are considered:

- Public private dialogue;
- Starting and licensing a business;
- Access to justice, the courts and mediation; and
- Access to and enforcement of rights over registered land.

In each area the Report considers legal, regulatory and administrative barriers to private sector development with a gender perspective. It asks whether women face different or additional constraints to those faced by men. And it makes recommendations aimed at ensuring that women benefit from on-going efforts to improve Solomon Island's investment climate on the same basis as their male counterparts.

IFC, in partnership with Pacific Island Governments aims to enable women's greater participation in private sector development in the Pacific by improving the business enabling environment for women through its existing Investment Climate programs. Therefore, the Report's recommended solutions are presented in the form of specific targets with associated activities (see Planning Matrix at Annex A) which will be incorporated into and implemented through Solomon Islands’ Regulatory Reform and Investment Policy and Promotion Program. The Program was formally established upon the signing of a memorandum of understanding between the Solomon Islands Government and IFC on May 1, 2009 and is supported by IFC Advisory Services (Pacific).

This Report does not aim to cover all gender issues in the Solomon Islands, or all gender issues in private sector development or investment climate reform. Gender constraints in the Solomon Islands are wide ranging and deeply entrenched in cultural and historical factors. All targets and activities recommended in this report only relate to reducing gender constraints through the investment climate reforms that IFC is undertaking as part of the Regulatory Simplification and Investment Policy and Promotion Program. Any further recommendations made that are not linked to targets or activities are for the Government, and its development partners to consider and advance as appropriate. By IFC taking action to reduce or remove gender constraints in key aspects of the investment climate, it is anticipated that this will help to improve the Solomon Island's attractiveness for local and international investment and business growth. It is hoped that these reforms could be part of broader reform in the Solomon Islands to create equal opportunities for women and men.

The primary audience for this Report is IFC and the Solomon Islands Government, especially Ministries focused on private sector development. It is hoped that the Report's analysis of investment climate barriers with a gender lens will also be a useful tool for stakeholders working to increase women's economic empowerment.

Country context

Solomon Islands has a population of about 580,000 living on six large islands and dozens of smaller islands. The country is very ethnically diverse, with approximately 98 distinct linguistic and cultural groups,² although over 90 percent of the population can be classified as Melanesian. The country is one of the least-developed in the world, ranked 135 out of 182 countries in the UNDP's human development index.³ 85 percent of the population lives in rural areas with minimal access to services. Despite having significant natural resources (including fish, timber, palm oil, gold, bauxite, phosphates, lead, zinc, and nickel), Solomon Islands is a low income country, with about 75 percent of the population without formal employment.⁴ Solomon Islands also has a very high population growth rate at approximately 2.4 percent.⁵ The fertility rate (births per woman) was 5.3 in 2002.

¹ The others are Papua New Guinea, Samoa, Timor-Leste, Tonga and Vanuatu.
The country gained independence in 1978. It is a parliamentary democracy with a unicameral Parliament and a ministerial system of Government. The British monarch is represented by a Governor General, chosen by the Parliament for a five year term. The national Parliament has 50 members, elected for four year terms. The Prime Minister is elected by Parliament, chooses the other members of the cabinet. Local Government is divided into ten administrative areas, of which nine are provinces administered by elected provincial assemblies, and the 10th is the town of Honiara, administered by the Honiara Town Council.

Between 1998 and 2000, Solomon Islands experienced armed conflict between the indigenous inhabitants of Guadalcanal against settlers from Malaita Island. Two hundred people died over five years, and there was widespread trauma, with more than 35,000 people internally displaced. The conflict was centered on the capital Honiara and parts of Guadalcanal, Malaita, and extended to other provinces. The conflict ended in July 2003 with the intervention of the Australian-led Regional Assistance Mission to the Solomon Islands (RAMSI), at the invitation of the Solomon Islands’ Governor-General. Since then the country has been largely peaceful, apart from riots following the general election in April 2006.

The private sector in Solomon Islands faces the typical challenges of operating in a small island state including:

- Remoteness and isolation resulting in relatively high transport costs, coupled with a small domestic market
- Susceptibility to natural disasters and environmental change
- Limited diversification because of small domestic markets
- Limited capacity in the public and private sector, and
- Openness, resulting in heavy exposure to event in global markets and trade regimes, over which it has little influence.

The current global financial crisis has brought the last of these challenges into particular focus. Solomon Island’s economy is heavily dependent on unsustainable timber exports, which are subject to price fluctuations and have this year suffered a dramatic decrease.

With the urgent need to encourage more diversified private sector led growth, it is vital that Solomon Islands’ investment climate encourages both domestic and foreign investment. With a current ranking of 96 out of 183 economies in the World Bank’s Doing Business 2010 index, there is clearly scope to undertake significant investment climate reform. Solomon Island’s ranking compares with Samoa’s of 57 and Singapore – which ranks as first in the world.

### Solomon Islands’ Doing Business 2010 rankings

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<th>Doing Business indicators</th>
<th>Solomon Islands’ ranking out of 183 economies</th>
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The Government of Solomon Islands has recognized these challenges in its Medium Term Development and Fiscal Strategies. The Medium Term Development Strategy has the key performance indicators of improving the country’s ease of doing business ranking from 79th in 2007 to 74th or higher in 2010. Urgent investment climate reform is being taken forward by the Ministry of Commerce and Industry and the Economic Reform Unit in the Ministry of Finance and Treasury. Recent and planned reforms include: a new Companies Act and registry to improve business entry; a new Secured Transactions Act 2008 and Filing Office / Business Registry to facilitate improved access to credit; reforms to procedures for determining disputes over customary land and measures to speed up land registration processes; and new Rules of Civil Procedure aimed at improving the efficiency of dealing with commercial disputes. These very significant measures have the potential to create a much improved environment for the private sector in Solomon Islands.

This Report considers these efforts from a gender perspective. The aim is to ensure that measures are designed and implemented so that they benefit all businesses – those run by women as well as men.

**Methodology**

An assessment team undertook a mission to Solomon Islands for five days from March 9 to 13, 2009. The Methodology for the assessment was guided by the IFC’s Gender and Investment Climate Reform Practitioner’s Guide. Interviews, using semi-structured questionnaires, were held with a wide variety of stakeholders including: private sector representative organizations; private sector operators; market vendors and street traders; banks, lawyers; civil society; the Judiciary; Government Departments and bodies; and donors. A full list of people consulted is at Annex B. The mission commenced with a half-day Women’s Business Forum, attended by 45 participants including business women ranging from sizeable enterprises to market stallholders. This was organized in conjunction with the Solomon Islands Women in Business Association, and was an opportunity to canvass views from business women on the investment climate issues considered in this Report. Notes from the Forum and a full list of participants are at Annex C. A wide-ranging literature review was undertaken (see Bibliography).

To supplement the analytical work, a number of in-depth, one-on-one interviews with a range of Solomon Island businesswomen were conducted and compiled into case studies which are used throughout this Report to highlight the investment climate constraints faced by women, and celebrate the successes that they have achieved. Some of these case studies will also be published in November 2009 in a joint IFC-AusAID publication entitled *Economic Opportunities for Women in the Pacific*.

**Key findings and recommendations**

**Social, cultural and legal constraints**

Although largely absent from the formal sector, Solomon Islands’ women play a major role in the country’s rural economy as producers and in marketing. Women are responsible for about 90 percent of fresh fruit and vegetable marketing – as bulk-buyers and as retailers. Recent work undertaken by AusAID’s Community Sector Support Program suggests that the turnover at the Honiara Central Market (where 90 percent of the vendors are women) is between SBD 78–129 million per annum (US$10–16 million approximately). But Solomon Islands women operate their businesses in a male-dominated culture. They have minimal representation in decision making (with no female members of Parliament for example). Violence against women is endemic. They are under-represented in the formal labor market, and face major cultural barriers as entrepreneurs. Although international commitments and the Constitution guarantee women equal rights, laws remain on the country’s statute books that discriminate against women in relation to property and employment rights. And at village level customary law, which tends to discriminate against women, is the norm.

**Public Private Dialogue**

Solomon Islands Women in Business Association (SIWIBA) is mainly representative of salaried and or self-employed women based in Honiara. Its main role is to provide a forum for networking, and it does not have a major advocacy role although it does have a representative on the main Public-Private Dialogue mechanism in the Solomon Islands, which is the Business

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8 Funded by IFC and AusAID. The team comprised: Sonali Hedditch (IFC, remote team leader), Clare Manuel (The Law & Development Partnership); Tamara Haig (AusAID consultant); Vijaya Nagarajan (AusAID consultant); and supported by locally based experts John Zuma (lawyer); and Ishmael Ware (economist).

9 The high end comes from estimated daily expenditure on fresh fruit and vegetables per head of population multiplied by the estimated population of Honiara. The low estimate is based on the AusAID Smallholder Study of the gross national value of staples (sweet potato, cassava, banana, taro, kongkong, coconut, pana and yams) pro-rated for Honiara’s population with an estimate of purchases of fruit and other vegetables, especially greens.
Law and Administration Reform (BLAR) Steering Committee. SIWIBA is also member of Solomon Islands Chamber of Commerce, which sees advocacy as one of its key roles, providing the link between the public and private sectors. SIWIBA has a representative on the Chamber’s board and all the Chamber’s female members are in SIWIBA.

However, even with the important activities of SIWIBA, there is currently limited private sector representation of the interests of most business women in the country, who are small-scale agricultural producers, and traders.

The arm of Government responsible for women’s affairs is the Women’s Development Division (WDD) in the Ministry of Women, Youth and Children’s Affairs. The Division is weak and understaffed. Women’s business development is seen as a core task of the WDD, but its engagement with the private sector is focused on providing training and supporting microfinance, rather than on investment climate issues. The Ministries of Commerce and Finance do not currently undertake any activities targeted at improving the investment climate for women.

Women’s voice is therefore not currently properly represented in public private dialogue (PPD) processes, and the significant legal and regulatory impediments that relate specifically to women’s economic empowerment are not satisfactorily addressed. In addition, training and business networking activities for business women in Solomon Islands are limited. Targets and activities for incorporation in the PPD component of the Regulatory Simplification and Investment Policy and Promotion Program to improve the policy environment and support network for business women are:

**Target 1.1 Improved policy dialogue on investment climate reform for women’s economic empowerment**

Measured by: The proportion of members representing business women’s interests on the Business Law and Administration Reform (BLAR) Steering Committee; and the number of papers featuring women’s economic empowerment considered by Cabinet.

**Activities**

- Ensure appropriate representation of women’s interests on existing PPD structure (the BLAR Steering Committee). If necessary revise ToRs.
- Form new Gender Working Group (high level representation of public and private sector with 4–8 members) if the existing PPD structure (BLAR Steering Committee) does not have adequate capacity to address the identified regulatory and policy level gender constraints and provide technical assistance.

**Target 1.2 Improved legal framework for women’s businesses**

Measured by: The number of reforms to improve the investment climate for women enacted and implemented.

**Activities**

- PPD structures (BLAR Steering Committee) and/or Gender Working Group to develop policy papers for Cabinet on proposed reform.
- Introduce law reforms to Parliament, including those recommended in Table 2.1
- Enact and implement new laws.

**Target 1.3 Improved training and networking for business women**

Measured by: Business women’s perception of training and networking.

**Activities**

- Continue regular Solomon Islands Business Women’s Forums, (with open invitation to business women ranging from the informal sector through to big business), as commenced by IFC in March 2009, in partnership with local organizations and existing business women’s associations.
- Develop and undertake networking and monthly training on investment climate for the Business Women’s Forum, including regional networking across Pacific to share lessons and experiences.

**Starting and licensing a business**

For both male and female entrepreneurs, formalizing a business brings with it advantages, including the potential for growth, and access to credit and investment. Some women may prefer to run microenterprises and remain informal. But while informal enterprises may provide a short-term solution to a household’s livelihood needs, creating an economy with a higher proportion of formal enterprises and jobs is important to long term welfare creation, stability and poverty reduction.
As the case studies in this Report show, there are women in Solomon Islands running enterprises that are, or have the potential to be, growth-oriented. Enabling such women to formalize and thus grow their businesses and increase their income can reap benefits at the household level: there is international evidence that resources in the hands of women do more for family welfare than if they are controlled by men.

Men and women may face different barriers to formalization. It is sensible for investment climate reforms designed to facilitate business formalization to address the barriers faced by women, as well as those faced by men. Currently most women in Solomon Islands are not formalizing their businesses. The vast majority of registrations of companies, business names, and holders of business licenses are for businesses owned by men. Women appear to be operating their businesses on an informal basis. The new Companies Act offers the possibility of the benefits of the corporate form to women’s businesses – provided women are involved in its implementation. This report does not recommend that all businesses should formalize without consideration of the business’ nature, potential, and goals, but it does recommend that for female-headed businesses that are ready to graduate from the informal sector to the formal sector, it should be just as easy for female-headed businesses as it is for male-headed. This report suggests that men and women face different barriers to formalization. It is therefore sensible for investment climate reforms designed to facilitate business formalization to address the barriers faced by women, as well as those faced by men. Targets and activities for incorporation into the business start up and licensing reform component of the Regulatory Simplification and Investment Policy and Promotion Program (to enhance the ability of women to start and run businesses) are:

**Target 2.1 Increase by five percentage points the proportion of (a) registered companies and (b) partnerships and sole traders that are female-headed**

Measured by: Companies registry and business owners survey data.

**Activities**

- Ensure operations of the Companies Registry are gender sensitive.
- Undertake outreach activities in respect of business women’s formalization focused on the benefits of the limited liability company form (including mobile registration units; partnerships with National Council of Women’s Resource Centers; and the establishment of a Women’s Help Desk at the new Business Registry).
- Ensure all information on registering a business is equally accessible to men and women, and produce a gender sensitive business entry handbook.

**Target 2.2 Improved legal framework for women’s business entry**

Measured by: Number of reforms undertaken.

**Activities**

- Develop regulations under new Companies Act for community companies that build in protection for women.
- Develop and promulgate basic partnership agreement.

**Target 2.3 Reduced regulatory compliance cost on female headed businesses**

Measured by: Sex disaggregated time and cost compliance assessments.

**Activities**

- Improve legislation/policy on Business Names Registration process based on international best practice.
- Facilitate women’s focus group on licensing constraints.
- Reform provincial business licensing in the light of the impact on female headed businesses (revealed in time/cost compliance assessment).
Target 2.4 Reduced harassment of female informal sector traders
Measured by: Newspaper and media Reports.

Activities

- Work with BLAR Steering Committee to contribute to development of policy on informal sector, including:
  a) Proposal for a market-based solution, providing more legitimate market space for small vendors.
  b) Policy with transparent rights and responsibilities for market vendors operating in legitimate space.

Access to justice, the courts, and mediation
Most disputes are determined in the traditional setting, in which men and male values predominate. There are very few female Judges, Magistrates, or lawyers. Nearly all the users of the formal justice system are men. Women tend to walk away from disputes, or settle them informally. IFC provides assistance to Pacific Courts to establish and enhance court-referred mediation, as a simple, time and cost efficient method to resolve commercial disputes. The introduction of mediation in Solomon Islands’ Courts offers the potential to open up the justice system for women. The target and activities for incorporation into the ADR (Alternative Dispute Resolution) component of the Regulatory Simplification and Investment Policy and Promotion Program to improve access to commercial justice for women are:

Target 3.1 20 percent of court-referred mediation users are women, and 80 percent of female users are satisfied with mediation service
Measured by: Mediation user statistics and perception surveys.

Activities

- Develop and promulgate simple contract for use in common commercial transactions for women and provide training on contract law.
- Ensure gender is mainstreamed in mediation reform process as detailed in Report (Table 5.4 and Table 5.5 in chapter 5).
- Undertake outreach to inform business women of the availability and appropriateness of mediation.

Target 3.2 At least 10 percent of accredited mediators are women
Measured by: Accreditation records

Activities

- Train and accredit female mediators.

Access to and enforcement of rights over registered land
The vast majority of land is owned under customary tenure. Even in matrilineal systems women are in practice largely excluded from decision-making about the land, particularly when it is ‘formalized’ and put to economic use, when women’s land rights are frequently over-ridden. Women are minority users of the formal (titled) land market and, with fewer powerful connections than their male counterparts, are victims of non-transparent land allocation processes. Land is not currently being addressed under the Government’s Regulatory Simplification and Investment Policy and Promotion Project supported by IFC although there could be future scope to look at improving processes at the property registry. However, the Government is undertaking an on-going land reform process. Key recommendations for Government include:

- Ensure that women are included in the land reform process. Involve women’s NGOs, particularly those with links to the grass roots.
- Recognize women’s land rights in legislation, especially in relation to the formalization of customary land to enable its commercial exploitation.
- Ensure that women are properly represented on any task force or group set up to take the institutional reform of the Registry forward.
- Ensure that the Registry, as an institution, is “friendly” to women, for example suitable opening hours and facilities;
adequate proportion of female staff; user guides and staff procedures manuals that recognize that the Registry is for
even women as well as men.

• In partnership with NGOs, enhance information to women about their land rights, and how to claim them. Use innovative
methods such as drama and radio soaps as well as pamphlets and similar. Involve Women’s Resource Centers in the
Provinces.

In addition, civil society organizations should:

• Consider taking forward challenges in the Courts to assert women’s land rights and aim to establish precedents in
superior Courts that uphold women’s land rights.

• Establish a “women’s land legal aid fund” to enable women to challenge infringements of their land rights in the Courts.
Chapter 1. Economic, social and cultural framework

Summary
This chapter considers the role of women in Solomon Islands’ economy. It reviews women’s major contributions to the rural economy and to the marketing sector. It goes on to consider the social and cultural constraints that impede business women in Solomon Islands.

The economic, social and cultural context is vital for ‘gendered’ investment climate reform

This chapter provides an overview of the economic, social and cultural context for women engaged in private sector development in Solomon Islands. This provides essential background for the Report’s recommendations and more specifically for the formulation of IFC’s interventions designed to ensure that women benefit from investment climate reforms on the same basis as their male counterparts. Before considering in detail any particular investment climate constraint from a gender perspective, it is helpful to have a basic understanding of the different roles than men and women play in the economy and in society. For example:

• The cultural context may mean that women may be unlikely to participate in public meetings or to put forward their views in the same way in or the same forums as men. It may also impact on business women’s ability to access commercial justice.

• To the extent that investment climate reforms are focused on particular sectors (for example in relation to licensing reform) it is important to understand which sectors of the economy, women on the one hand and men on the other, operate in.

• If women suffer from a ‘double time burden’ – combining domestic duties with income-generating activities – reforms aimed at simplifying processes such as in relation to business formalization, land registration or commercial justice have the potential to have a disproportionately beneficial impact on women, and so it is particularly important to engage with women when taking forward such reforms.

• When considering initiatives to encourage businesses to formalize, it is important to understand the different incentives to remain informal that may operate on women on the one hand and men on the other.

This chapter provides the background to assist with a consideration of these types of issues, and thus provides the framework for designing effective investment climate reform interventions – for women as well as men.

Economic recovery has relied on unsustainable logging, with negative consequences for women

Solomon Islands emerged from conflict and social unrest in 2003 almost bankrupt. Economic recovery has taken place largely through logging operations by foreign investors. Around a third of the country’s ten percent growth in 2007 was due to logging. The industry employs about 5,000 people. But it is projected that the country’s natural forests will be depleted of all their viable forestry resources within five years. The Government has recognized that this is one of the most significant economic challenges the country faces.

Although logging has been the most significant factor in Solomon Island’s economic recovery, its impact has been controversial. This is particularly so for rural women. Logging has been associated with the loss of women’s land rights.
especially in areas where the land is held on a matrilineal basis. There have also been serious and credible allegations of sexual exploitation of young women and girls in rural areas by foreign loggers.

A new emphasis on rural economic development is an opportunity to reconsider women’s significant role in the rural economy

Logging has at best been of mixed benefit for Solomon Islands women. But it is the unsustainable nature of the industry that makes the need to put Solomon Island’s economy onto a more broad-based footing an urgent one. Government has recognized this as a key challenge and its response is a renewed focus on rural development, especially through improving the environment for businesses. Government has identified fisheries, tourism, palm oil, and mining as key sectors which could contribute to long term, sustainable growth.

Women currently play a major role in Solomon Islands’ rural economies. They are typically responsible for producing food crops in family gardens, inshore and river fishing, gathering forest products, and raising domestic animals. In a recent study of rural livelihoods across 300 communities 91 percent of the population cited dependence on selling food at markets for income, while handicrafts and baskets accounted for 70 percent of income. Women are key players in all these activities: they grow food and cash crops on family farms; they market the produce; they make and sell handicrafts and baskets; and engage in trading (see Box 1.1 below).

Box 1.1. Women’s role in the rural economy

- In some sectors (for instance, flowers), women do both the production and the marketing. For example, Frieda runs a nursery. She previously worked for 20 years in the public service, but finds that she can earn more money in her own business.
- In other sectors, particularly the heavier root crops (sweet potato, cassava, and taro), men are involved in production, but it is women that dominate in marketing.
- AusAID’s Community Support Program is supporting the production of vanilla. Women and girls tend to be in charge of growing and pollinating vanilla, while men are in charge of processing and sales.
- Women in urban areas can form part of the supply chain. For example Kate runs a chip making business from her home in Honiara. She has imported a machine from Australia and makes chips from local crops such as potatoes and bananas.

Women predominate in marketing. Recent work undertaken by AusAID’s Community Sector Support Program suggests that the turnover at the Honiara Central Market is SBD 78–129 million per annum (US$ 10–16 million). The Program estimates that women are responsible for about 90 percent of this marketing activity – both as bulk-buyers from farmers, and as retailers (see case study in Box 1.2 below).

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12 See further in chapter 5.
19 Interview during mission.
20 The high end comes from estimated daily expenditure on fresh fruit and vegetables per head of population multiplied by the estimated population of Honiara. The low estimate is based on the AusAID Smallholder Study of the gross national value of staples (sweet potato, cassava, banana, taro, kongkong, coconut, pana and yams) pro-rated for Honiara’s population with an estimate of purchases of fruit and other vegetables, especially greens.
Box 1.2. Case studies: Women’s role in the rural economy

In Honiara, Auki, and Gizo, market women dominate the fresh produce (fruit and vegetable) sector. Vendors come in four forms – (a) producers who sell, (b) producers who buy from other producers then market it as their own, (c) vendors who buy from farmers (at different locations) and then sell, and (d) vendors who buy from bulk buyers and then sell to final consumers. Women are engaged at all four levels, including bulk buying – for example in the cocoa, fruit and nut, and floriculture sectors.

Money from women’s marketing activities is typically the only source of cash for the family. It gives women access to and control over resources, and is used to pay basic household expenses. But many women’s businesses are not currently growth-orientated, and those that are often do not have the marketing or financial literacy skills to know how to grow their businesses.

Cultural norms mean that men are perceived as leaders, and women are generally confined to the domestic sphere

The Government’s Medium Term Development Strategy acknowledges the very important economic role that women play in the Solomon Islands. But the document stresses that to contribute efficiently to the country’s development outmoded traditional beliefs need to be re-invented and transformed to address the challenges that are facing the country in the twenty first century.

Notwithstanding their very significant contribution to the rural economy, women in the Solomon Islands are considered to have a primarily domestic role. This is due to traditional, colonial, and church influences. In pre-contact society, even in matrilineal societies, negotiations with the external community tended to be conducted by men. Women were generally excluded from leadership roles and decision making processes at the family, tribal, and community levels. They remained in their parent’s village until a marriage was arranged for them, after which they would move to the groom’s village. The shift from an extended family structure to a nuclear context has encouraged male dominance and male control of the family unit.

Polygamy and bride price undermine women’s status

The very common practice of polygamy may further undermine the position of women (see Box 1.3 below).

Box 1.3. Polygamy

Polygamy has become so common that the women in men’s life are referred to colloquially by numbers (01, 02, 03...) according to the order in which the relationship began. If a woman’s husband takes another woman, she and her children lose out financially.

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21 Provided by Grant Vinning of AusAID’s Community Sector Support Program.
The practice of payment of bride price (common in most of Guadalcanal) has also affected the status of women – see Box 1.4 below.

Box 1.4. Bride price

In Guadalcanal, when a man pays bride price, the wife goes to live with him but this does not give the wife rights to land in her husband’s place other than for access to gardens and housing. At the death of her husband, the widow is at the mercy of her husband’s sisters. If they want to rid their line of her, they send message to her people who are fully responsible for her repatriation.

Women are largely excluded from decision-making

Women were not granted the right to vote in Solomon Islands until 1974. The country has had only two women Members of Parliament in its entire history – one before independence and one after. Both women came from matrilineal systems. The 2001 and 2008 general elections failed to return a single woman representative, although the number of candidates increased from 18 to 28. Solomon Islands is thus among one of only ten countries in the world that do not have a woman representative in Parliament. Women’s participation in the electoral process is low. In a recent nationwide survey the most common reason given by both men and women to explain why male candidates always get more votes than female candidates is that the custom is for men to be leaders.

Traditionally, leadership is based on big man leadership (which is acquired), and chiefly leadership (which is generally inherited).

Box 1.5. “Big man” and chiefly leadership

Big man leadership

[This is based] on the masculine roles of the warrior, feast giver, and priest which are associated with masculinity, strength, fame, and supernatural power. A big man leader attains the title through demonstrated leadership skills, achievements, proven character, and accumulation of wealth. The type of leadership is relational, reciprocal, and dependent on their followers, over whom they have a great deal of influence. As a forerunner of the contemporary politician, he builds strong relationships and connections with other big man alliances or factions and tribes. Because of his position, he is able to acquire great wealth through hosting grand feasts, and in turn he reciprocates through distribution of food and wealth to his followers. Thus, this type of male leadership is not acquired by birth, but earned through hard work and demonstrated leadership skills. This archetype became the model for the future political leader – male, wealthy, and benevolent.

Chiefly leadership

The other type of traditional leadership is that of chief, either born of a chiefly clan or selected from within the community due to demonstrated leadership skills and knowledge and industry. [The chief] plays a major role in supervising community activities, keeping law and order… The chief deals with overall leadership, tribal, and land issues that may arise in the community.

Through the systems described in Box 1.5 above, day to day decisions concerning allocation of economic resources (such as the allocation of logging rights) tend to be made without reference to women, even in matrilineal systems (see chapter 6 below on land rights for further details). There are however a few communities in which women have more power.

31 37 percent for men and 29 percent for women. This was followed by male candidates bribe voters and males make false promises.
In some cultural groups, for example in the Are society in Malaita Province, a woman can carry the big woman title for demonstrated leadership skills.33 And in other areas (for example Isabel) they are able to become chiefs.

**Box 1.6. Women participate in Provincial Government in Isabel and Guadalcanal**34

Women in Isabel (which is a matrilineal society) have been appointed to serve as tribal chiefs. Women can therefore be represented on the Isabel Council of Chiefs (which is composed of three area chiefs from the eight different districts). Currently only one woman chief (from Kia) is represented.

The Guadalcanal Council of Chiefs also has a woman representative for the same reason.

Women have low representation in Provincial Government, with only three women members of Provincial Councils: one in Rennel/Bellona Province and two in Isabel Province.35 As half the members of Councils are appointed from among traditional chiefs and elders, rather than being elected, the sex imbalance is built into the system (Box 1.7 below).

**Box 1.7. Solomon Island system of Provincial Government excludes women**

In *The Minister for Provincial Government v Guadalcanal Provincial Assembly* the Court considered whether it was Constitutional for Provincial Councils to be weighted in favor of men.36

The Provincial Government Act 1996 replaced the system of Provincial Assemblies, (which was made up of elected members) with a system of Provincial Councils with members consisting of the Chairpersons of all the Area Assemblies in a province. Area Assemblies were to consist of elected members and an equal number of members appointed from chiefs and elders. It was therefore possible for the Provincial Assembly to consist exclusively or predominantly of non-elected members. Initially the Act was held to be unconstitutional and therefore void, but this decision was unanimously reversed by the Court of Appeal in the light of the preamble to the Constitution upholding customary law.

There is also a low proportion of women at senior levels in the Public Service. Women comprise under a third of the public service but hold only six percent of senior public service positions.37

Women’s exclusion from decision-making even at the household level is manifest in national statistics showing that only 28 percent of married women independently decide on their own health care. In 23 percent of families surveyed, decisions on household spending were made exclusively by men.38

**High levels of violence against women and poor maternal mortality outcomes point to women’s extraordinarily low status**

Violence against women is prevalent in Solomon Islands society. A recent family health and safety survey reported that two out of three women aged 15–49 years who had a relationship were violently treated by their husbands or boyfriends.39 One out of ten pregnant women reported being beaten during pregnancy, and one out of five of these experienced being punched or kicked in the stomach. National data shows that most women find wife beating to be acceptable, with 69

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37 Although 20 percent of Permanent Secretaries (5 out of 25), and 15 percent of Undersecretaries (three out of 20) are currently women. Regional Assistance Mission to the Solomon Islands (RAMSI) Machinery of Government Program Strategy for Advancing the Position of Women in Government, 2009.
39 Carried out by the Ministry of Women Youth and Children’s Affairs based on a WHO multi country study on Women’s Health and Domestic Violence against Women.
percent of women surveyed agreeing that wife beating was justified in certain situations.\textsuperscript{40} Traditional norms seem to encourage acceptance, tolerance, and rationalization of domestic violence among women themselves. Violence appears to be acceptable, even in professional classes (see Box 1.8 below). It may be that bride price contributes to the problem of violence against women in the domestic context, seen as giving a man ownership over his wife, and the right to beat her.\textsuperscript{41}

### Box 1.8. Personal perspective: violence amongst lawyers

A partner in a law firm in Honiara recounted to the Mission team how a female lawyer reprimanded a male lawyer colleague in the office on a professional matter. The day after the reprimand, the male lawyer came into the office and seriously assaulted his female colleague for this perceived insult. The assault did not take place in the heat of the moment but was a calculated act, which the male lawyer appeared to have thought through overnight.

A female sole practitioner in Honiara was asked what her biggest challenge was as a woman running her own business. She answered my husband. She recounted stories of regular domestic violence.

During the recent conflict in Solomon Islands, violence against women became entrenched with sexual assault and gang rapes by rival military organizations.\textsuperscript{42} A survey suggests that during this period, three quarters of women suffered direct personal trauma including rape, death of family members, threat of violence and intimidation, and being held up at gunpoint.\textsuperscript{43}

Solomon Island’s penal code does not deal satisfactorily with violence against women (see Box 1.9 below).

### Box 1.9. Law reform is needed to deal with violence against women\textsuperscript{44}

Solomon Island does not have domestic violence legislation and marital rape is not a crime. Statutory rape or “defilement” is difficult to prosecute because according to customary law there is no legal minimum age for marriage, and Magistrates will commonly stop rape trials if there has been a customary reconciliation.

The Law Reform Commission intending to review the Penal Code and Criminal Procedure Code with a view to updating it.

Women’s low status in Solomon Islands is reflected in the country’s unacceptable maternal mortality rate – estimated to be 130 per 100,000 live births.\textsuperscript{45} National Reports also find that Solomon Islands women start antenatal care at a relatively late stage in pregnancy.\textsuperscript{46}

**The troubles may have expanded the role of women beyond their traditional ones**

Although the conflict brought enhanced levels of violence against women, it has been suggested that it also changed the role of women and their perceptions of themselves beyond their traditional roles, to take on the roles of peacemakers, economic producers, and decision-makers (see Box 1.10 below).\textsuperscript{47}

\textsuperscript{40} Solomon Islands National Statistics Office & Secretariat of the Pacific Community, New Caledonia, Solomon Islands Demographic and Health Survey 2007-2007, May 2009.

\textsuperscript{41} AusAID, Addressing Violence Against women in Melanesia and East Timor, 2008.

\textsuperscript{42} AusAID, Addressing Violence Against women in Melanesia and East Timor, 2008.

\textsuperscript{43} Amnesty International 2004 survey quoted in AusAID, Addressing Violence Against women in Melanesia and East Timor, 2008.

\textsuperscript{44} AusAID, Addressing Violence Against women in Melanesia and East Timor, 2008.

\textsuperscript{45} AusAID, Addressing Violence Against women in Melanesia and East Timor, 2008 (Compared with an average of 9 deaths per 100,000 births in developed countries).


\textsuperscript{47} See for example Whittington, S et al. 2006 and, Corrin, J. 2008.
Box 1.10. Women’s new roles resulting from conflict

**Peacemakers:** Women were instrumental in suspending the violence between Malaitan settlers and the indigenous people of Guadalcanal. The women formed the Women for Peace Group and issued a Women’s Communiqué for Peace in May 2000.

**Economic producers:** Women became heads of households when their husbands were killed, injured or forced to move away. They undertook men’s work and learned new skills through taking on productive roles to generate income such as fishing, gardening, and selling pigs.

**Decision makers:** The conflict resulted in a relaxation of cultural restrictions on speaking out and decision making.

The Westside Women for Peace in Honiara is a striking example of women taking the initiative during the conflict, both as peacemakers, and in the economic sphere as traders (see Box 1.11 below).

Box 1.11. Westside Women for Peace

The Westside Women for Peace group in Honiara was associated with the Women’s Peace Group and initially formed a mutual support and discussion group. With shortages of food and other necessities because of the conflict, the women began to trade using a bartering system. This was followed by the establishment of market at White River on the outskirts of Honiara. Women from rural West Guadalcanal would trade fresh vegetable and root crops, and women from Malaita based in the capital Honiara would bring cooked food, fish, and raw meat.

**But culturally women are not expected to become successful in business**

Women’s role as market traders and small-scale producers of agricultural products and handicrafts is accepted. But women face significant cultural barriers to starting and growing their businesses outside this limited sphere. The male-dominated culture does not encourage women to go into business (see Box 1.12 below)

Box 1.12. Personal insight: Male dominated culture

*It’s a male dominated culture here – it comes from the bride price system. Men think they ‘own’ women. If a woman starts a business and her husband doesn’t like it, he says ‘stop’ and she does. Society here says if a woman wants to achieve something she can’t because she’s ‘just a woman’.*

Ning Zabiniero, Philippine-born owner of successful bakeshop in Honiara

Cultural pressures can make it difficult for women to develop their businesses. They can come under intense pressure from their wantok (extended family) as well as from their husbands to use business profits to fulfil cultural obligations or for other purposes. For this reason women value the opportunity to lock their money away through saving (see Box 1.13 below).

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49 World Bank, Doing Business, Economic Opportunities for Women in East Asia and the Pacific: Solomon Islands: A Market for Peace?
50 Interviews with business women during Mission. Business men face similar issues with regard to the wantok system.
Box 1.13. Women’s control over business assets

The Fikutaikini East Kwara’ae Women’s Association in Malaita has 4,000 members. Most of them are engaged in trading activities selling kerosene, rice, and other goods at local markets. Some women recently began to make umbrellas from local materials and have been successful in selling these. The Association runs a revolving credit fund. It enables women to deposit the money they make from their businesses to keep the money safe from their husbands who would otherwise spend it on drink and drugs.\(^{51}\)

The Solomon Islands Women in Business Association runs a successful credit union with 98 members. The main advantage of the association is not the opportunity to borrow (from January to March 2009 it made only 8 loans), but rather the opportunity for women to deposit their money.

Women have lower education levels than men

Women are disadvantaged in business because of their lower levels of education and literacy than men. Enrolment rates are lower for females than males throughout Solomon Island’s education system. The 1999 gap between girls and boys was three percent in primary enrolments and nine percent in secondary enrolments.\(^{52}\) The 2008 People’s Survey found that females were twice as likely have no education (14 percent) as males (seven percent).\(^{53}\) Furthermore, a recent survey found that national literacy rates for men aged 15–49 were almost ten percentage points higher than those for women in the same age category.\(^{54}\)

Women are under-represented in the formal labor market

Of those in formal employment in 1999, more than two thirds are men. Recent surveys show that 52 percent of women in wage employment work in the non-agricultural sector.\(^{55}\) Only 42 percent of married women (as opposed to 87 percent of married men) were employed at sometime during 2005–2006. Of these, over 50 percent are estimated to have worked without receiving payment.\(^{56}\)

Formal female employment is increasing, and at a faster rate than men’s (see Table 1.1 below). Women generally earn lower wages than men (see Table 1.2 below).

Table 1.1. Employment by occupation and gender\(^{57}\)

<table>
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<tr>
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<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Legislative</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Management</td>
<td>563</td>
<td>15</td>
<td>2,085</td>
<td>417</td>
<td>270%</td>
<td>2,689%</td>
</tr>
<tr>
<td>Professional</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Technician</td>
<td>4,016</td>
<td>1,517</td>
<td>6,562</td>
<td>2,996</td>
<td>63%</td>
<td>97%</td>
</tr>
<tr>
<td>Services</td>
<td>2,061</td>
<td>988</td>
<td>1,155</td>
<td>1,446</td>
<td>44% (decrease)</td>
<td>46%</td>
</tr>
<tr>
<td>Skilled</td>
<td>3,278</td>
<td>1,479</td>
<td>4,902</td>
<td>2,924</td>
<td>50%</td>
<td>98%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>9,918</td>
<td>3,999</td>
<td>14,704</td>
<td>7,783</td>
<td>48%</td>
<td>95%</td>
</tr>
</tbody>
</table>

\(^{51}\) Interview with Ruth Maetala, Women’s Development Division.


\(^{53}\) ANU Enterprise, People’s Survey 2008.


\(^{57}\) UNDP statistics.
Table 1.2. Estimated earnings: women compared to men

<table>
<thead>
<tr>
<th>Estimated average earned income in 2005 (US$ per year)</th>
<th>Men</th>
<th>Women</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2,672</td>
<td>1,345</td>
</tr>
</tbody>
</table>
Chapter 2. Legal and policy framework

Summary

This chapter reviews Solomon Islands’ international commitments and Constitutional guarantees in relation to gender equality. It considers the conflict between gender equality and customary law, and how the Courts have addressed this issue. The chapter goes on to review statute laws in Solomon Islands that discriminate against women, particularly in relation to property rights, vital for women’s economic empowerment. Finally, the chapter considers Solomon Islands’ Women’s Policy and the institutions responsible for taking forward Government’s commitments to gender equality.

The broader legal and policy context is vital for ‘gendered’ investment climate reform

Legal and regulatory reforms designed to improve the investment climate will have limited impact on women if more fundamental legal constraints limit their full participation in economic life. A key issue is whether women enjoy property rights, including rights to land, on the same basis as their male counterparts. An understanding of the broader legal framework for gender equality is therefore key in designing effective investment climate reforms. Provisions that discriminate against women analyzed in this chapter will be addressed in the context of the public-private dialogue on investment climate reform discussed in chapter three.

Solomon Islands has undertaken international commitments to gender equality

Solomon Islands has entered into key international and regional commitments to gender equality (see Box 2.1 below).

Box 2.1. Solomon Island’s key international commitments to gender equality

- Convention on the Elimination of All Forms of Discrimination Against Women
- International Covenant on Economic Social and Cultural Rights
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women
- Beijing Platform for Action
- The Millennium Development Goals

Solomon Islands’ accession to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2002 obliges the Government to submit regular reports on its compliance with CEDAW indicators. The Women’s Development Division in the Ministry of Women, Youth and Children’s Affairs is currently preparing Solomon Islands’ first CEDAW Report.

The Constitution guarantees equality, but enshrines customary law

Solomon Islands’ Constitution includes commitments to non-discrimination, including on the grounds of sex (see Box 2.2 below). But despite this, the Constitution is not compliant with CEDAW. The Constitution gives legal status to customary law (which tends to discriminate against women), and there is no Constitutional provision giving precedence to the guarantee of equality in case of conflict with customary law.
Box 2.2. Constitutional guarantee of non-discrimination and exceptions

- Constitutional provisions for equality and non-discrimination
- The preamble to the Constitution pledges to ‘uphold the principles of equality’
- Chapter II sets out fundamental rights modeled on the Universal Declaration of Human Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms:
  - No law shall make any provision that is discriminatory either of itself or in its effect
  - No person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the function of any public office or any public authority
- Discrimination includes on the ground of sex
- Constitutional exemptions from non discrimination provisions
- Nothing in any law shall be held to be discriminatory to the extent that it makes provision for the application of customary law.
- Affirmative action for disadvantaged groups in society.

The inherent contradiction in the Constitution between its guarantee of equality and non-discrimination on the one hand, and its entrenchment of customary law on the other is the subject of on-going judicial interpretation (see Box 2.3 below).

Box 2.3. Attempts by the Courts to reconcile the Constitutions and customary law

It is unclear whether the exception from the non-discrimination provision in relation to customary law is intended (a) to exempt all customary laws from the anti-discrimination provision, or (b) whether it should be interpreted more narrowly to limit the exemption to laws concerning when or how customary law applies.

The Constitution empowers Parliament to take the matter further by Acts of Parliament which may (a) provide for the proof and pleading of customary law for any purpose; (b) regulate the manner in which or the purposes for which customary law may be recognized; and (c) provide for the resolution of conflicts of customary law.

Unfortunately, Parliament has not exercised its powers under paragraph (c). Progress with regard to sub-paragraphs (a) and (b) has not fared much better. Although the Solomon Islands Minister for Justice circulated the first draft of the Customs Recognition Bill for comment in 1993, no further action was taken on it until 1995 and later in 2000 when a second draft was issued. The 2000 Bill has still not been enacted.

In the absence of clarification by Act of Parliament, the Courts have considered the matter on a number of occasions:

In Tanavalu v Tanavalu, the High Court favored the wide interpretation, and the decision was upheld by the Court of Appeal.

In Minister for Provincial Government v Guadalcanal Provincial Assembly, the issue that women were discriminated against because they could not be chiefs was considered by the Court. Here the Court of Appeal held that discrimination against women was not unconstitutional as the Constitution itself legitimated sex discrimination.

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59 Section 15(4).
60 Section 15 paragraph (5)(d).
61 Section 15 paragraph (5)(f).
62 Schedule 3, paragraph 3.
63 Unreported, High Court, Solomon Islands, Civ Cas 185/1995 12 January 1998.
In Allardyce Lumber Company Ltd v Laore\(^{65}\), the Chief Justice suggested that Parliament needed to pass a law concerning the ‘proof and pleading of customary law’ before it could be considered by the Courts.

In Remisio Pusi v James Leni and Ors\(^{66}\), the Court stated that the non-discrimination provision of the Constitution would not necessarily be applied in preference to customary law – it would depend on the circumstances of the case. The Constitution itself recognizes customary law as part of the law of the Solomon Islands and its authority therefore cannot be disregarded. It has evolved from time immemorial and its wisdom has stood the test of time. It is a fallacy to view a constitutional principle or a statutory principle as better than those principles contained in customary law. In my view, one is no better than the other.

**The proposed new Constitution would improve the legal position of women**

Solomon Islands is currently in the process of considering a new Constitution which would introduce a federal system of Government. The 2004 draft is with the Constitutional Reform Commission for public consultation. The draft would make international treaties which Solomon Islands had entered into automatically as part of the Solomon Islands’ law. This would mean that CEDAW’s provisions would become directly applicable, and would over-ride any discriminatory provisions contained in other laws, including customary law. The draft includes a minimum quota for women in Parliament (ten seats out of sixty), a comprehensive non-discrimination clause and the establishment of a Human Rights Commission.

**Formal statute law contains provisions that hinder women’s full economic participation**

A number of laws on Solomon Islands’ statute books continue to contain provisions that hinder women’s full economic participation. Those that hinder women in relation to property rights are of particular relevance to private sector development. Table 2.1 at the end of this chapter provides a summary of discriminatory provisions.

**Women’s property rights on divorce**

Women do not fare well on divorce. Under the Islander Divorce Act, divorce can only be on a fault basis – on proof of adultery, cruelty, being of unsound mind, or desertion.\(^{67}\) This Act discriminates against women by providing the husband the right to claim damages from the person who commits adultery with his wife, with no equivalent provision for the wife.\(^{68}\) Maintenance payments by the husband are provided for by legislation.\(^{69}\) However this order may be discharged by a Court in case of the wife committing adultery which means that women have to choose between retaining the payments or entering into another relationship.\(^{70}\) The Divorce Act is silent on how the property that has been accumulated by the couple during the marriage will be divided. The lack of clarity means that the Courts have a high degree of discretion in this area (see Box 2.4 below).

**Box 2.4. Conflicting Court decisions on women’s rights to property on divorce**

Kuper v Kuper: The wife was given half a share in the registered property held in the husband’s name. (Unreported decision of the High Court on November 18, 1988)

Tavake v Tavake: The wife did not have any right to the matrimonial home as she had not made a direct contribution and the intention was that the husband should be the sole owner of the property (Unreported decision of the High Court on August 19, 1998)

\(^{65}\) UnReported, High Court, Solomon Islands, 14 February 1997.


\(^{67}\) Section 5 of the Islanders’ Divorce Act [Cap 170].

\(^{68}\) Section 18 of the Islanders’ Divorce Act [Cap 170].

\(^{69}\) Section 13 of the Affiliation, Separation and Maintenance Act [Cap 1].

\(^{70}\) Section 17 of the Affiliation, Separation and Maintenance Act [Cap 1].
Women’s property rights on widowhood
The legislation provides that women and men are treated equally upon death of a spouse. However, the reach of customary law, which tends to give preferential treatment to men, is wide in the Solomon Islands which reduces the application of the legislation.

Citizenship
The Citizenship Act provides that a woman can gain citizenship by marrying a Solomon Islander. However if she divorces him and marries a non citizen she loses her citizenship, unless she has resided in the country for at least ten years.71 Men do not lose their citizenship in similar circumstances.

Employment law
The Labor Act which provides for maternity leave and equal pay does not apply to female-dominated areas such as domestic servants, out workers, casual employees, and part-time employees. Effectively this leaves out many women who are employed as domestic servants in the informal sector or on a casual or part time basis.

Solomon Islands does not have an up-to-date policy on women
Solomon Islands’ National Women’s Policy dates from 1998 and was never implemented.72 The Government is committed to a full review73 of the Policy and has recognized the need for a comprehensive policy framework for women enshrined in the Constitution, legislation and national policy [as] the most effective way of promoting and protecting the rights of women in the Solomon Islands.74

The institutional framework for women’s economic empowerment is weak
The arm of Government responsible for women’s affairs is the Women’s Development Division (WDD) in the Ministry of Women, Youth and Children’s Affairs. The Division is weak and understaffed. It does however in theory at least have links to the Provinces with a permanent office in each Province (funded by Provincial Government), although five of these are without an officer.

Women’s business development is seen as a core task of the WDD, but its engagement with the private sector is focused on providing training and supporting microfinance, rather than on legal and regulatory issues to improve the investment climate. The WDD Work plan for 2009 includes as key activities business skills training in the provinces; and working with women’s church groups to manage and run savings schemes. The aim is to conduct much of this work through the church groups and two consultations with church women were held early in 2009, including the Solomon Islands Christian Association as well as other churches and denominations.75 WDD is currently preparing Solomon Island’s first CEDAW Report, which should include an assessment of women’s economic empowerment, and the extent to which the legal framework supports this. There are also moves to develop an up-to-date National Women’s Policy.

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71 Section 11 of the Citizenship Act (Cap 57).
73 Medium Term Development Framework.
74 The Ministry of Women, Youth and Children’s Affairs’ Corporate Plan, 2008-2010.
75 Interview with Women’s Development Division.
Table 2.1. Key statue laws in Solomon Islands that hinder women’s full economic participation

<table>
<thead>
<tr>
<th>Area of law</th>
<th>Statutory provision</th>
<th>The practice</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Property rights:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Marriage</td>
<td>The Married Women’s Property Act 1882 (UK) applies and married women can own property.</td>
<td>In reality the property is often controlled by the husband making it difficult for women to access it for personal and business purposes.</td>
</tr>
<tr>
<td>Divorce</td>
<td>No legislative provision for equal division of property after divorce including recognition of unpaid contribution, future needs and earning capacity. The failure to provide criteria for the division of property means that the Courts have to look to the common law which is unlikely to recognize women’s non-financial contribution.</td>
<td>The division of the property is left to the Courts to decide, which can cause uncertainty for women.</td>
</tr>
<tr>
<td>Inheritance (in the absence of a will)</td>
<td>The Wills Probate and Administration Act cap 33 1987 s 84 gives equal inheritance rights to men and women.</td>
<td>Although equal in the legislation, customary law has Constitutional status in the Solomon Islands. Customary inheritance law that discriminates against women tends to be applied, particularly in rural areas.</td>
</tr>
<tr>
<td><strong>Citizenship:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Citizenship</td>
<td>The Citizenship Act cap 57 s 11 gives unequal rights to citizenship to foreign women married and then divorced from a Solomon Islander</td>
<td>Divorced non-Solomon Islander women lose their citizenship unless they have lived in the country for at least ten years.</td>
</tr>
<tr>
<td><strong>Employment rights:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Labor Act 1960, Cap 73</td>
<td></td>
<td>Discriminatory practices take place in practice.</td>
</tr>
<tr>
<td>Non-discrimination:</td>
<td>There are no general anti-discrimination provisions in employment legislation on the grounds of sex, marital status, or pregnancy.</td>
<td>A large number of women work as domestic servants and out workers on a casual and part time basis. There, women are not covered by the legislation and are not protected.</td>
</tr>
<tr>
<td>Equal pay:</td>
<td>The law provides for a minimum wage without differentiating between men and women.</td>
<td></td>
</tr>
<tr>
<td>Antenatal care:</td>
<td>Leave taken during pregnancy with a medical certificate can be deducted from annual leave or sick leave.</td>
<td></td>
</tr>
<tr>
<td>Maternity leave and pay:</td>
<td>Paid maternity leave is guaranteed for 12 weeks but pay is only guaranteed at 25 percent. Women cannot be dismissed during maternity leave (but they can if they fail to return to work after the approved leave period).</td>
<td></td>
</tr>
<tr>
<td>Restrictions on working:</td>
<td>Women cannot be employed during the night in any undertaking except raw materials or materials in course of treatment which are subject to rapid deterioration, emergency, responsible position, nursing, caring for sick, or health and welfare work in a cinema, hotel bar restaurant and club pharmacist. They may not be employed in underground work in any mine except in management health and welfare services.</td>
<td></td>
</tr>
<tr>
<td>Sexual harassment:</td>
<td>There is a general offence of insulting the modesty of any woman or girl (Penal Code)</td>
<td></td>
</tr>
</tbody>
</table>

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77 Section 30 of the Labor Act [Cap 73].
78 Section 42(3) of the Labor Act [Cap 73].
79 Section 43 of the Labor Act [Cap 73].
Chapter 3. Public private dialogue

Summary

This chapter reviews the private sector representative organizations in Solomon Islands and assesses the extent to which they represent the interests of business women in the country. It concludes that there is currently no formal organization that effectively represents the interests of the vast majority of business women who operate small-scale informal businesses. Civil society organizations are probably best placed to represent these types of enterprises. Training and business networking opportunities for business women in Solomon Islands are currently limited.

Targets for incorporation in the PPD component of the Government’s IFC supported Regulatory Simplification and Investment Policy and Promotion Program to improve the policy environment and support network for business women are:

- Improved policy dialogue on investment climate reform for women’s economic empowerment
- Improved legal framework for women’s businesses, and
- Improved training and networking for business women.

This chapter sets out the activities to take place to achieve each of these targets, and provides the analysis to justify them.

Figure 3.1. Public private dialogue: goal and targets

Goal: improved policy environment and support network for business women

TARGET 1.1: Improved policy dialogue on investment climate reform for women’s economic empowerment

TARGET 1.2: Improved legal framework for women’s businesses

TARGET 1.3: Improved training and networking for business women
This section reviews the existing mechanisms for policy dialogue on investment climate reform, and highlights how target 1.1 and its associated activities would give women a greater voice in public private dialogue. Figure 3.2 below lists two activities to achieve the target, along with tools to support (Tools can be found at the end of the Report).

**Figure 3.2. Target 1.1 Activities and Tools**

**TARGET 1.1:**
Improved policy dialogue on investment climate reform for women’s economic empowerment

**Baseline:**
- Proportion of members representing business women’s interests on BLAR Steering Committee.
- Number of policy papers featuring women’s economic empowerment considered by Cabinet

**Means of Verification:**
- ToRs, membership lists, and minutes of meetings; Cabinet Office & BLAR Steering Committee Minutes

**Activity 1.1.1:**
Ensure appropriate representation of women’s interests on existing PPD structures (BLAR Steering Committee). If necessary revise ToRs.

**Responsibility:**
BLAR Steering Committee

**Activity 1.1.2:**
Form new Gender Working Group (high level representation of public and private sector with 4-8 members) if the existing PPD structure (BLAR Steering Committee) does not have adequate capacity to address the identified regulatory and policy level gender constraints and provide technical assistance.

**Responsibility:**
IFC Office

**Tool 1:**
Gender Working Group ToRs

**Tool 3:**
Investment Climate Gender Consultant: ToRs and initial work plan
A PPD forum is in place…

The Business Law and Administration Reform (BLAR) Steering Committee is the key public private dialogue forum in Solomon Islands which drives forward investment climate reform. Formed in 2005, the BLAR Steering Committee has made a significant contribution to Government’s business enabling reform program in relation to taxation, investment law, company law, business registration, and work and residency permit reform. The Committee has been dormant for some time but was revived in July 2009 as part of the IFC supported Regulatory Simplification and Investment Policy and Promotion Program. Meeting quarterly, its mandate is to guide and advise the Minister for Commerce, Industry and Employment, and the Minister for Finance and Treasury in relation to implementing practical reforms in Solomon Islands that enhance business related laws and property rights, and reduces business regulatory compliance time and cost as quickly and effectively as possible. The Committee’s membership is described in Box 3.1 below.

Box 3.1. BLAR Steering Committee membership

The Committee is chaired by the Permanent Secretary of the Ministry of Commerce Industry and Employment. On the Government side, the Ministry of Commerce Industry and Employment, and the Ministry of Finance and Treasury, as well as other Government bodies, are represented. On the private sector side members include the Chamber of Commerce, Manufacturers Association, Chinese Business Association, Solomon Islands Women in Business Association, Indigenous Business Association, and NGOs.

A Companies Act 2009 Implementation Sub Committee has been set up under the BLAR Steering Committee to drive forward reform in this area.

…and robust private sector organizations represent women to some extent

There are a number of private sector organizations in Solomon Islands (see Box 3.2 below). However, even with the important activities of the Solomon Islands Women in Business Association, there is currently limited private sector representation of the interests of most business women in the country who are small-scale agricultural producers and traders.

Box 3.2. Key private sector associations in Solomon Islands

The Chamber of Commerce has over 120 members. It also has 40 honorary members who are young entrepreneurs sponsored through a workshop funded by UNDP. Twelve of these are women. They have been discussing reform of the companies Act with the Ministry of Finance. Membership is open to all businesses and membership fees are on a sliding scale the lowest fee being $1,000 for businesses with less than 20 employees. The Board consists of 9 members of whom two or three are women. The Chamber considers that its advocacy is successful around issues such as the minimum wage and tax and import duties.

Solomon Islands Women in Business Association (SIWIBA) is mainly representative of salaried and or self-employed women based in Honiara. The membership fee is SBD10 (US$1.30). SIWIBA meets monthly. Its main role is to provide a forum for networking, and it does not have a major advocacy role although it does have a representative on the BLAR Steering Committee. SIWIBA is a member of Solomon Islands Chamber of Commerce. SIWIBA has a representative on the Chamber’s board and all the Chamber’s female members are in SIWIBA.

The Association of Solomon Islands Manufacturers is representative of the manufacturing sector in Solomon Islands. It has women on its governing committee.

There is limited public sector representation of women

As described in chapter two above, the arm of Government responsible for women’s affairs is the Women’s Development Division (WDD) in the Ministry of Women, Youth and Children’s Affairs. The Division is weak and understaffed. It does however in theory as least have links to the Provinces with a permanent office in each Province (funded by Provincial Government), although five of these are without an officer.
Solomon Island’s National Women’s Policy dates from 1998, and was never implemented. The Government is committed to a full review of the Policy and has recognized the need for a comprehensive policy framework for women enshrined in the Constitution, legislation and national policy as the most effective way of promoting and protecting the rights of women in the Solomon Islands.

Women’s business development is seen as a core task of the WDD, but its engagement with the private sector is focused on providing training and supporting microfinance, rather than on investment climate issues. The WDD Work plan for 2009 includes as key activities business skills training in the provinces; and working with women’s church groups to manage and run savings schemes. The aim is to conduct much of this work through the church groups and two consultations with church women were held early in 2009 including the Solomon Islands Christian Association, as well as other churches and denominations. WDD is currently preparing Solomon Island’s first CEDAW Report, the legal framework support this. There are also moves to develop an up-to-date National Women’s Policy.

Currently, the Ministries of Finance and Commerce do not have a gender policy nor support any specific programs targeted at women’s economic empowerment.

Grass root business women lack effective representation…

Neither the public sector, the Chamber of Commerce, SIWIBA nor any of the organizations listed in Box 3.2 above can be said to represent the vast majority of business women in Solomon Islands who are operating small-scale, often home-based, businesses. There are, however, a number of women’s civil society organizations that, to varying degrees, can be said to represent the interests of these women (see Table 3.1 below). The National Council of Women can be considered as the key representative body for women in Solomon Islands. But it has weak networks and limited influence.

To the extent that these organizations’ mandate is the economic empowerment of women, their focus tends to be on support and training, rather than on investment climate issues (although the National Council of Women has been involved in women’s land rights). Most of them do however engage in awareness raising and the dissemination of information to the village level.

Table 3.1. Key civil society organizations representing women

<table>
<thead>
<tr>
<th>Name</th>
<th>Brief description</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Council of Women</td>
<td>A civil society organization that receives Government funding. Local Councils of Women elect members to the Provincial Councils, and the presidents of the Provincial Councils make up the National Council.</td>
</tr>
<tr>
<td>Vois Blong Mere (women’s media arm)</td>
<td>An information service that puts out a regular newsletter and radio messages to rural women</td>
</tr>
<tr>
<td>Solomon Island Christian Association – Federation of Women</td>
<td>Represents the different churches’ women’s groups</td>
</tr>
<tr>
<td>Solomon Islands Development Trust</td>
<td>Supported by New Zealand Aid. It works with village communities to provide training in governance and income generation. Its programs include women and youth.</td>
</tr>
</tbody>
</table>

In addition, AusAID’s Community Support Program (CSP) is providing significant support to women’s businesses, particularly in relation to marketing. The program sees potential to engage in advocacy on the business environment for example around council by-laws.

81 Medium Term Development Framework.
82 The Ministry of Women, Youth and Children’s Affairs’ Corporate Plan (2008-2010).
83 Interview with Women’s Development Division.
84 AusAID through its Community Support Program has supported the National Council of Women, and the establishment of community level Ward Councils of Women, enabling a network from national to provincial to community level through which women’s voices are channeled both ways. However, the National Council has been criticized as Honiara-focused, and not representative of young women.
85 Interview with CSP during Mission.
Membership of the PPD forum should be enhanced to ensure grassroots women’s voice is heard

The IFC supported Regulatory Simplification and Investment Policy and Promotion Program, with the revived BLAR Committee, presents an opportunity to bring business women’s voice into Solomon Island’s policy making and planning process for investment climate reform. It is vital that the BLAR Steering Committee includes not only the formal business women represented by SIWIBA but also organisations such as NGOs and donor projects (particularly AusAID’s Community Support Program) that have links to grassroots women involved in commercial activities. On the Government side, a representative from the Women’s Development Division should also be a member.

As well as ensuring proper representation for business women’s interests within existing PPD structures, it is proposed to set up a Gender Working Group (GWG) which will focus on taking forward reforms to the legal and regulatory framework that impact on women – for example, the issues relating to property rights and employment law discussed in chapter 2 above. Box 3.2 below sets out the key features of the proposed GWG.

Box 3.3. Gender Working Group

If the existing PPD structures (BLAR and Working Groups) are assessed to have inadequate capacity to address the identified regulatory and policy level gender constraints and provide technical assistance, a Gender Working Group will be established. The Gender Working Group would be a policy dialogue body within PNG’s public-private dialogue structures. It will comprise four public and four private sector representatives, and will be supported by the Government’s PPD Secretariat. Its key mandate will be to ensure that women’s voice is effectively heard in PPD; to develop policies to promote women’s economic empowerment; and to ensure that business women’s concerns are taken on board in the investment climate reform process.

IFC will provide initial support to the PPD Secretariat for the GWG by funding a locally appointed consultant who will advise and assist the PPD Secretariat in relation to the GWG.

Activity 1.1.1: ensuring appropriate representation of women’s interests on the BLAR Committee and Activity 1.1.2: if necessary, the formation of a Gender Working Group supported by technical assistance – could supplement existing PPD mechanisms to improve women’s representation in private sector policy development.
**Target 1.2:**

Improved legal framework for women’s businesses

This section notes key issues in Solomon Island’s legal framework for women’s businesses, and highlights how Target 1.2 and its associated activities would address this. Figure 3.3 below lists three activities to achieve this target along with tools in support. (Tools can be found at the end of the report).

**Figure 3.3. Target 1.2: Activities and Tools**

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**Reforms to tackle the discriminatory legal framework are required**

As discussed in Chapter 2 (Legal and Policy Framework) above, a number of statute laws in Solomon Islands discriminate against women or do not adequately protect their interests. Table 2.1 and Tool 4 summarises key statutory provisions in Solomon Islands that require reform. A key task of the Gender Working Group will be to develop proposals for policy reform in these areas.

**Activities 1.2.1, 1.2.2 and 1.2.3:** the development of Cabinet policy papers on reforms to eliminate discrimination, and taking forward reforms through the enactment and implementation of new laws – will improve the legal framework within which women-headed businesses operate in Solomon Islands.
Target 1.3:
Improved training and networking for business women

This section reviews opportunities for training and networking for business women in Solomon Islands and highlights how Target 1.3 and its associated activities would increase these opportunities. Figure 3.5 below lists two activities to achieve this target, along with tools in support (Tools can be found at the end of the Report).

Figure 3.4. Target 1.3: Activities and Tools

Target 1.3: Improved training and networking for business women

Activity 1.3.1: Continue regular Solomon Islands Business Women’s Forum (with open invitation to business women ranging from the informal sector through to big business), as commenced by IFC in March 2009, in partnership with local organizations and existing business women’s associations.

Responsibility: IFC (local consultant), Gender Working Group

Activity 1.3.2: Develop and undertake networking and monthly training on investment climate for the Business Women’s Forum including regional networking across the Pacific to share lessons and experiences.

Responsibility: IFC (local consultant), Business Women’s Forum

Baseline: Business women’s perception of training and networking

Means Of Verification: Perception surveys

Tool 2: Business Women’s Forum ToRs

Tool 3: Investment Climate Gender Consultant: ToRs and initial work plan

Tool 11: Women’s Consultation/Training Checklist

Tool 5: Business Women’s Perception Questionnaire

Business women have limited networking and training opportunities

As Table 3.1 above shows, there are on-going efforts at the community level to support business women and provide them with information and business support services. The development of Women’s Resource Centers in each Province through the National Council of Women86 provides an opportunity for improved dissemination of business support to women. These Centers have yet to be fully developed. They are staffed by volunteers, tasked to provide support and information to women.

In order to strengthen business women’s networking and training opportunities IFC intends to support the development of a network of business women in Solomon Islands – through a Solomon Islands Business Women’s Forum. Box 3.4 below sets out the key features of this initiative.

86 Supported by AusAID’s Community Support Program together with Soroptimist International.
Box 3.4. Business Women’s Forum

IFC facilitated the first Business Women’s Forum (BWF) meeting in March 2009. The meeting was an opportunity for business women to network and to discuss common concerns. The intention is now to strengthen and institutionalize this initiative.

The BWF comprises a network of women entrepreneurs, both formal and informal, who meet on a monthly basis for networking and to receive training on business issues, particularly related to business formalization.

The intention is that the BWF will be supported by and linked to existing business women’s associations and other relevant groups, such as microfinance institutions. The aim is for about 50 women to be targeted to attend each training/networking meeting. The Forum will develop its own governance structures (for example a small board) and this will, during the pilot phase, be supported by an IFC funded consultant who will be locally recruited. If there is ongoing appetite amongst business women for such a forum the aim is for it to continue on a self-financing basis after the initial pilot period.

The key aims of the BWF will be to provide support and training to business women; to share information and knowledge; and to develop linkages with regional and international organizations with similar aims. Where the BWF identifies investment climate constraints for business women, these will be fed across the GWG to consider and if appropriate take forward reform.

In partnership with existing business associations and training providers, and using international/regional resources where appropriate, IFC could assist the Business Women’s Forum to develop, promote and undertake training for business women focusing on ‘Running a Formal Business’. The objective of the training would be to address investment climate constraints that women face. It is noted that throughout the report, although women are not necessarily constrained by the law or its application, they lack the information to understand investment climate processes, and are intimidated by such processes. By providing the information that they currently lack, women will be empowered to undertake official formal processes. As several women repeated during the PNG Business Women’s Forum, ‘Knowledge is Power’. Possible topics for training that address some of the constraints identified in this report and gender and investment climate constraints more broadly are covered in Tool 2 in the Annex, and could include:

- How to balance family, custom, and business (including the wantok system)
- How to deal with harassment from public officials
- Financial literacy, basic book-keeping, developing business plans
- Graduating to the formal sector. Why and how
- Which business form is right for you? (including training on basic partnership agreement and the benefits and obligations of operating a Limited Liability Company)
- Licensed to operate. How and why to license your business
- Dealing with clients: the basics of contracts
- Small Debt Claims. What are your options to see that money again? (including training on mediation)
- Confronting corruption. What should you do when asked to pay a bribe?
- Setting up shop. How to register a property transfer. Your rights when leasing
- Microfinance institutions and banks tell you how they can support your business
- Trading across borders. The ins and outs of customs.
Chapter 4. Starting and licensing a business

Summary

The vast majority of registrations of companies, business names, and holders of business licenses are men. Women appear to be operating their businesses on an informal basis. The new Companies Act offers the possibility of the benefits of the corporate form to women’s businesses – provided women are involved in its implementation.

Targets for incorporation in the business entry and operations component of the Government’s IFC supported Regulatory Simplification and Investment Policy and Promotion Program to enhance the ability of women to start and run businesses are:

- Increase by five percentage points the proportion of (a) registered companies and (b) partnerships and sole traders that are female-headed
- Improved legal framework for women’s business entry
- Reduced regulatory compliance cost on female-headed businesses, and
- Reduced harassment of informal sector traders.

This chapter sets out the activities to take place to achieve each of these targets, and provides the analysis to justify them.

Figure 4.1. Starting and licensing a business: goals and targets

Goal: enhanced ability of women to start and run businesses

TARGET 2.1: Increase by five percentage points the proportion of (a) registered companies and (b) partnerships and sole traders that are female-headed

TARGET 2.2: Improved legal framework for women’s business entry

TARGET 2.3: Reduced regulatory compliance cost on female-headed businesses

TARGET 2.4: Reduced harassment of female informal sector traders
This section reviews existing barriers for women wishing to do business in the formal sector, and highlights how Target 2.1 and its associated activities would help to lower these barriers. Figure 4.2 below lists three activities to achieve this target, along with tools in support. (Tools can be found at the end of the Report).

**Target 2.1:**
Increase by five percentage points the proportion of (a) registered companies and (b) partnerships and sole traders that are female-headed.

Figure 4.2. Target 2.1 Activities and tools
Starting a formal business is costly and expensive

Solomon Islands scores poorly in the World Bank’s Doing Business indicators for starting a business. The cost of starting a business as a limited liability company is over 50 percent of GNI per capita, way beyond the means of most Solomon Islanders (see Table 4.1 below). The Government’s Medium Term Development Strategy acknowledges that doing business in the Solomon Islands, including start-up is difficult, and commits Government to reform the burdensome regulatory system, complex rules and licenses that undermine business growth in the country.87

Table 4.1. Starting a business in Solomon Islands88

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Solomon Islands</th>
<th>New Zealand89</th>
<th>East Asia and Pacific</th>
<th>OECD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Procedures (number)</td>
<td>7</td>
<td>1</td>
<td>8.1</td>
<td>5.7</td>
</tr>
<tr>
<td>Duration (days)</td>
<td>57</td>
<td>1</td>
<td>41.0</td>
<td>13.0</td>
</tr>
<tr>
<td>Cost (% of income per capita)</td>
<td>52.7</td>
<td>0.4</td>
<td>25.8</td>
<td>4.7</td>
</tr>
<tr>
<td>Paid in minimum share capital (% of GNI per capita)</td>
<td>0</td>
<td>0</td>
<td>21.3</td>
<td>15.5</td>
</tr>
</tbody>
</table>

Women’s businesses are chronically under-represented in the formal business sector

As well as limited liability companies, business in the Solomons can be undertaken through other legal forms – partnerships, sole traders or cooperatives (see Table 4.4 on page 250). The vast majority of Solomon Island businesses are run either in family partnerships, or as sole traders, with minimal (if any) legal formalities. Small-scale enterprises operating in this way that use a trading name which is different to the name of the owner(s) are (in theory at least) required to register their business name with the Business Registry under the Registration of Business Names Act. Those that do not are operating illegally. In practice however, many businesses fail to register, and the Business Registry confirmed that no enforcement action is taken.

Starting a formal business is difficult and expensive for both men and women in the Solomon Islands. But a review of the register of business names and companies held by the Business Registry highlights the fact that the formal business sector is dominated by men. For example in the business names registry, out of the 772 business names that were registered in 2008, only 3 or 4 registrations were made by women. Similarly in the companies’ registry, of the 157 companies registered in that year, the vast majority have male shareholders and directors.

Tool 6 in the annex of this Report provides guidance on how to use business registry data to ascertain the percentage of businesses that are female-headed. In using registry data, one will be able to ascertain to what degree women own businesses. However, it could be the case that although businesses are owned by men, they are managed day to day by women. Tool 7 provides guidance on conducting surveys to ascertain both female ownership and management. It would be interesting to undertake a management survey of all the businesses in the registry to assess if there are more women in management than in ownership.

For both male and female entrepreneurs formalizing a business brings with it advantages, including the potential for growth, access to credit and investment. When a woman grows her business, not only her, but also her household benefits: there is international evidence that resources in the hands of women do more for family welfare (for example improving health, nutrition, and education levels) than if they are controlled by men. But some women may prefer to run microenterprises and remain informal. This may be because of disincentives operating on women which mean that they are more likely than men to keep their businesses in the informal sector. Intra-household resource allocation may mean that a woman will not see the benefit of any additional income that business growth and formalization may bring, and so the incentive to formalize is low. Or the prevailing culture may mean that the women’s sphere is considered to be restricted to low level economic activity and the domestic environment.

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89 The best performing country in the Pacific Region.
90 During an interview with the Mission Team.
Overall, while informal enterprises may provide a short-term solution to a household’s livelihood needs, creating an economy with a higher proportion of formal enterprises and jobs is important to long-term welfare creation, stability, and poverty reduction. As the case studies in this report show, there are women in Solomon Islands running enterprises that are, or have the potential to be, growth-orientated. This report does not recommend that all businesses should formalize without consideration of the business’ nature, potential, and goals, but it does recommend that for female-headed businesses that are ready to graduate from the informal sector to the formal sector, it should be just as easy for female-headed businesses as it is for male-headed. This report suggests that men and women face different barriers to formalization. It is therefore sensible for investment climate reforms designed to facilitate business formalization to address the barriers faced by women, as well as those faced by men.

Box 4.1. Case Study: Noela and Angela Aniaelani and Bernadette Mola, Market Women

Noela and Angela Aniaelani and Bernadette Mola have come from their coral island of Langa Langa to the Central Markets of Honiara for 20 years to sell shell money. The market is the frenetic hub of the city’s agricultural and craft trade and is the thriving center of the town for six days of the week, providing hundreds of people with their only means of employment. Angela, Noela, and Bernadette spend one month of every ten weeks at the Central Market.

The shells that form the shell money are cut and polished into small disks, which are threaded onto long strings in descending values of color – red, orange, brown, black, and white. Traditionally, shell money is used to pay for land, canoes, and pigs, and is still the currency for dowry money – known as bride price. In the central market of Honiara, the Langa Langa women can exchange their traditional currency for a more contemporary one, Solomon Island dollars.

Although the women have been coming for 20 years, their business never grows. They have put up with the discomfort, noise, heat, and danger of the market because there has been no option to finance the opening of an outlet of their own, even though they have dreamed of having a shop for a long time. Market stall rental for the day is SBD10 (US$1.30). This is up from a charge of SBD4 (US$0.50) from 2008. To hire a chair for the day is SBD4 (US$0.50), up from SBD3 (US$0.40) in 2008. These price increases have come regardless of the fact that there are no new or improved facilities. The women point out that the markets remain dirty with no seating, no good toilets or running water. People crouch on the ground or stand from 7.30am to 5pm on market days and the women have to catch a bus to a family member’s house 30 minutes out of town if they need to use a bathroom. This additional cost on the day is SBD4 (US$0.40) return.

Tired of the rising prices and the dangers and difficulties that come with operating out of the market, Noela, Angela, and Bernadette have begun to pursue other options for establishing their own outlet, graduating their business from informal market stall to a shop.

The women say the main constraint to growing their business has been lack of access to finance. If they could access a small loan, they would be able to buy more shells and make more jewelry to sell. They would also be able to pay more women in Langa Langa to assist them, benefiting their community. The women have tried to get funds. Over the last few years, they have learned about various opportunities through the newspaper, and applied for donor grants. Due to their lack of success in obtaining a grant or microfinance, they wonder if they are filling out their application forms correctly. The women are members of the Auki Langa Langa Credit Union, which serves women and men of their community. However, the women are only able to withdraw against their savings, without access to loans. Noela and Bernadette have never been to a bank. They say they are afraid of them.

However, in November 2008, an opportunity arrived which may result in the realization of their dream, an outlet at which to sell their shell jewelry. The Auki Langa Langa Women’s Association (ALLWA) was formed with a pledged grant of SBD 200,000 (US$27,000) from the Member for Auki Langa Langa Constituency, Hon. Mathew Wale, and was created over a three day strategic workshop that brought together 80 women from villages all over the constituency to outline difficulties they had encountered and desires they had for the future of the association.

This led to the formation of a three year strategic plan that was based around five key goals, one of which is directly concerned with the creation of a shell money outlet for local producers such as Angela, Noela, and Bernadette.

The women are very excited about this opportunity, and also hope there will be an option for them to undertake training on registering their business, budgeting, business planning, paying taxes, and book keeping. If the women can open a shop after having a market stall for 20 years, they want to do it by the book.

A new Business Registry is planned, and should be female-friendly

Recognizing the importance of the limited liability company for business development and economic growth, Solomon Islands' Government has recently taken steps to make it much easier to form and run companies. The Companies Act 2009, which has recently become law (but is not yet operational) will dramatically simplify company law, and requires fundamental reform of the Business Registry.

The current Registry is under the auspices of the Ministry of Lands. It registers companies, business names, lands, births, deaths, and marriages. A new companies registry building (which will also be the registry for personal property secured transactions under the new Secured Transactions Act) has been build in Honiara. The intention is that there will also be registries in Provincial Offices. The new Registry will be hybrid – with provision for filing on line, by post, and personally. Consideration will need to be given to facilitating registration from rural areas and the outer islands – vital if the Act is to be used by these communities.

Activity 2.1.1: ensuring gender sensitive operations of Companies Registry – will ensure that women find the new Business Registry as facilitative as their male counterparts.

In a recent nationwide survey over 40 percent of respondents thought it was equally easy for women and men to start a business. Although it was not specified it is likely that the context was an informal business. Of the 19 percent who said it was harder for a woman to start a business the reasons given were:

- women can’t manage/arrange finance, men control all the resources
- women are too busy with home and family
- women can’t manage a business alone or are not good at business, and
- women lack education.

The Ministry of Commerce and Industry and the Asian Development Bank that is supporting the introduction of the new Companies Act is currently in discussion with the National Council of Women about how to engage with women on the implementation of the Act and the new Business Registry. This is likely to involve the recently developed Women’s Resource Centers in the Provinces (see Chapter 2 above for details), NGO networks, and a radio campaign. IFC is intending to work with the Government of Solomon Islands to strengthen these initiatives, reach out to women, and encourage them to use the new Act.

Activity 2.1.2: undertaking outreach activities in respect of business women’s formalization and Activity 2.1.3: ensuring all information on registering a business is equally accessible to men and women, and the production of a business entry handbook – will assist in lessening some of the barriers discouraging women from registering their companies.

92 ANU Enterprise, People’s Survey 2008.
This section reviews the legal framework for women’s business entry in Solomon Islands and highlights how Target 2.2 and its associated activities would make it easier for women to formalize their businesses. Figure 4.3 below lists four activities to achieve this target, along with tools in support (Tools can be found at the end of the report).

**Figure 4.3. Target 2.2 – Activities and tools**

**Target 2.2:**
Improved legal framework for women’s business entry

The new Companies Act will dramatically simplify company formation

Company formation and operation will become much simpler in Solomon Islands once the Companies Act 2009 becomes operational. Company formation will take place by way of a simple form, rather than by filing a lengthy memorandum and articles of association and other documents. Model rules will be provided, rather than companies having to file (memorandum and) articles of association, and a very low flat fee will be charged for registration (rather than the current complex fee structure based on a company’s nominal capital). The new Act has introduced the one shareholder company making it easier for smaller businesses to take advantage of limited liability (see Box 4.2 below). As the analysis in Table 4.5 on page 251 shows, the new Act is in line with international best practice.
Box 4.2. New company formation procedures

- Needs one shareholder
- Select an appropriate name
- Fill in form and file form specifying names, addresses, and consent of all the persons who will be directors
- Adopt the model rules contained in the Schedule or write up own rules, and
- Pay the prescribed fee.

The new Companies Act introduces a new form of entity to the Solomon Islands – the community company (see Box 4.3 below). This is designed to enable communities with a common interest or asset to register as a corporate entity. This type of company is intended to be a vehicle to enable the use of community land or resources to conduct a business that may bring benefits for an extended family or clan group.

Box 4.3. Community companies

The Community Company must have the promotion of a community interest as its principal objective. It can have up to 50 shareholders and all shareholders must be members of one community. Such companies can only be used for the purpose of the community interest and shares cannot be offered to people outside the community. They must have the letters CCL after their name.

Women’s groups may be able to use this business form to put communally held land to productive use – growing cash crops such as vanilla, coffee, or cocoa. It also has the potential to be used for larger scale businesses involving the processing and marketing of agricultural produce for example. A key aspect of community companies is that they have an asset lock, restricting the ability of shareholders to withdraw assets from them, thus ensuring that benefits remain with the community. This, together with the light touch regulatory regime of the new Act has the potential to make this new business form more appropriate for grass-roots community organizations that wish to benefit from the corporate form than the alternative cooperative society route (see Box 4.4 below).

Box 4.4. Characteristics of Cooperatives

A cooperative society is a business owned and controlled by members, who use it, have equal say in its operations, contribute equitably to its capital, and who share in the results of its operation. With their foundation as grass roots community-based organizations, with values of mutual support, cooperatives have in many countries been promoted as being a helpful business form for women entrepreneurs. However, cooperatives are not currently a common business form in Solomon Islands.

The new Act has the potential to be of particular benefit to women...

The current Companies Act is of little relevance to women (or to many men). As noted above, those businesses that do choose to take the corporate form are nearly all owned and managed by men. By running their businesses as sole traders or partnerships, women are restricting their ability to grow their businesses, and to expand ownership through joint enterprises. The new simplified procedures for company formation will benefit both women and men, but have the potential to be of particular benefit to women, who are less well educated than men and therefore less able to cope with complex registration requirements, are likely to have less time than men to deal with lengthy procedures (as they combine their businesses with domestic responsibilities), and are also less likely than men to be able to travel to Honiara to undertake registration. As is suggested in Table 4.4 on page 251, the company form may be of particular relevance to women, assisting them to separate business assets from personal assets and thus from unreasonable demands of their families or

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93 Section 165 (5) of the Companies Act 2009.
94 See: Schedule 5 of the Companies Act 2009.
95 Section 10 of the Companies Act 2009.
wantoks (particularly if combined with savings schemes as described in Box 1.13.

The new community company may be of particular relevance to women, enabling them to form joint enterprises, for example in agricultural marketing. But the legislation leaves it up to each community (which may be any grouping) to shape its own governing rules. There is therefore the potential for community companies to be developed in a manner that leaves women out of the decision making and sharing in the economic benefits.

Activity 2.2.1: developing regulations under the new Companies Act for community companies that build in protection for women (such as provision for a minimum level of female representation on their management boards) that will ensure women reap full benefit from this new business form.

Partnerships may provide an alternative route for women

Two or more people can also conduct business in a partnership. There are a number of advantages to partnerships. No legalities are required to set them up and no requirements exist for annual public filing of documents. In the absence of a written partnership agreement, the arrangements between the partners may be unclear. It is therefore prudent for partners to draw up a partnership agreement, setting out the arrangements between them. Partnership agreements can be lengthy and complex. When women are in business partnerships with their husbands, they are unlikely to enter into a partnership agreement. However, if a partnership agreement is not in place, women have little protection on divorce or separation as it is difficult to prove their contribution to the partnership.

Activity 2.2.2: the development of a basic partnership agreement will facilitate women protecting their business interests
This section reviews the impact of Solomon Island’s business licensing regime on female-headed businesses, and highlights how Target 2.3 and its associated activities would reduce the regulatory impact on women. Figure 4.4 lists three activities to achieve this target, along with tools in support (Tools can be found at the end of the report).

**Figure 4.4. Target 2.3: Tools and Activities**

**Target 2.3:**
Reduced regulatory compliance cost on female-headed businesses

*Activity 2.3.1:*
Improve legislation/policy on Business Names Registration process based on international best practice.
**Responsibility:**
Sub Committee on Companies Act Implementation, Gender Working Group

*Activity 2.3.2:*
Facilitate women’s focus groups on licensing constraints
**Responsibility:**
Provincial Authorities Sub Committee on Companies Act Implementation Gender Working Group

*Activity 2.3.3:*
Reform provincial business licensing in the light of the impact on female-headed businesses (revealed in time/cost compliance assessment).
**Responsibility:**
Provincial Authorities Sub Committee on Companies Act Implementation Gender Working Group

**Baseline:**
Sex disaggregated time/cost compliance assessment

**Means Of Verification:**
Provincial business license survey (sex disaggregated) Standard cost model (sex disaggregated) GWG Minutes Cabinet policy papers

**Tool 2:**
Business Women’s Forum ToRs

**Tool 3:**
Investment Climate Gender Consultant: ToRs and initial work plan

**Tool 11:**
Women’s Consultation/Training Checklist

**Tool 5:**
Business Women’s Perception Questionnaire
Consideration should be given to reform of the business names registration regime

In the context of the welcome simplification of company formation, consideration should be given to fundamental reform of the Business Names registration regime. The current blanket requirement for all businesses to register their names unless they use the names of their owners is not in line with international best practice. A similar regime was abolished twenty years ago in the UK (from where Solomon Islands regime originated) and the system has also been abolished in New Zealand. As the Act is not enforced, it does not serve its key purpose of preventing more than one business trading with the same name, and indeed it is difficult to see any purpose the Act currently serves. For businesses for which this is a concern, one solution is to have a single database for all kinds of businesses—for example, companies, sole proprietors, and partnerships. Alternatively, in many countries, assumed business names are registered under intellectual property legislation.

Women are not using the Act. As stated above, in 2008 only three or four registrations out of over 700 were made by women. This means either that women are trading under their own names, or that they are trading illegally.

Activity 2.3.1: Improve legislation/policy on Business Names Registration process based on international best practice.

In Honiara, the vast majority of business license holders are men and the regime does not appear unduly burdensome

All businesses in Solomon Islands, whether companies, sole traders or partnerships are required to have a business license. A separate license is required for each business activity so for example a garage may require licenses for selling spare parts, selling fuel, and operating a workshop. The regime is administered by local Government, for whom it is a significant source of income. In addition, some types of businesses are required to hold a sectoral license. These are granted by central, rather than local Government, on an annual basis and for a fee. Sectoral licenses are mainly relevant to large commercial operations such as logging, fishing, and hotels. They do not appear to have a significant impact on women whose businesses are concentrated in the informal sector.

The Mission team considered the business licensing system as it operates in Honiara. License fees are an important revenue source for the City Council, along with property taxes (rates), local income tax, and grants from Central Government. The city has a rapidly growing population driven by rural-urban migration – from 49,000 in 1999 to 69,000 in 2006. Ensuring adequate revenue generation for the City’s administration and service provision (such as waste collection, education, and markets) is therefore a priority. The Council is emerging from a difficult period, including the dissolution of the Council by Central Government and the installation of an interim competent authority. The democratic election of a new Council in 2006 was an important step in restoring the community’s and other stakeholders’ faith in the council.

All businesses should in theory be licensed, but in practice, the City Council does not include informal traders (for example hawkers) in the regime. The City Council does not have sex disaggregated data on license holders, but the Mission team was informed by the City Treasurer that the vast majority of license holders are men.

The City Council has one Business Licensing Officer whose job it is to ensure compliance with the licensing requirement by undertaking inspections. Delinquency is described by the City Council as “huge”. The Council is currently seeking to modernize its collection regime and has begun a series of field audits. The license is annual, with all renewals falling on January 1. There is a SBD 10 (US$ 1.30) fine or imprisonment for failure to pay. The fee schedule for licences is published and comprises a wide range of fees for a wide variety of different types of business (see Table 4.2 below).

96 Information from Honiara City Council and from Women’s Business Forum.
97 NZ Aid is supporting the modernization process including through supplying an expatriate adviser for 3 years.
Table 4.2. Honiara Business license fees for 2009

<table>
<thead>
<tr>
<th>Business category</th>
<th>SBD per annum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lawyer services</td>
<td>2,160 (US$ 288)</td>
</tr>
<tr>
<td>Secretarial typing service</td>
<td>2,160 (US$ 288)</td>
</tr>
<tr>
<td>Laundry services</td>
<td>4,320 (US$ 577)</td>
</tr>
<tr>
<td>Pest control</td>
<td>2,160 (US$ 288)</td>
</tr>
<tr>
<td>Scrap metal and tin buying agents</td>
<td>2,000 (US$ 267)</td>
</tr>
<tr>
<td>General supermarket</td>
<td>6,480 (US$ 866)</td>
</tr>
<tr>
<td>Clothing retail shop</td>
<td>2,700 (US$ 360)</td>
</tr>
<tr>
<td>Bakery</td>
<td>2,160 (US$ 288)</td>
</tr>
<tr>
<td>Second hand clothing retail</td>
<td>1,080 (US$ 144)</td>
</tr>
<tr>
<td>Hairdresser and beauty shop</td>
<td>810 (US$ 108)</td>
</tr>
<tr>
<td>Betel nut</td>
<td>108 (US$ 14)</td>
</tr>
<tr>
<td>Restaurant</td>
<td>3,240 (US$ 457)</td>
</tr>
<tr>
<td>Hotel</td>
<td>12,960 (US$ 1732)</td>
</tr>
<tr>
<td>Range of liquor licenses e.g. full retail license starting at</td>
<td>16,200 (US$ 2166)</td>
</tr>
</tbody>
</table>

In practice the main purpose of the licensing regime is revenue generation, but business licenses do, in theory at least, have a regulatory purpose. For example the Licensing Department links with the Health Department (on an ad hoc basis) to ensure that hygiene requirements are being complied with for establishments preparing food.

Government has committed itself in its Medium Term Fiscal Strategy to abolish business licenses and to look to compensate Provincial Governments for their resulting revenue loss. The Strategy states that the aim is to remove a significant upfront cost to any business trying to get started.

**Activity 2.3.2:** facilitating women’s focus groups on licensing constraints and  
**Activity 2.3.3:** the reform of provincial business licensing in light of its impact on female headed businesses (revealed in time/cost compliance assessment) – will ensure that gender is mainstreamed in the Government’s efforts to reduce the regulatory burden on businesses.

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Target 2.4:
Reduced harassment of female informal sector traders

This section reviews the particular challenges facing business women operating informally in Honiara and highlights how Target 2.4 and its associated activities address these challenges. Figure 4.7 below shows an activity to achieve this target, along with tools in support. (Tools can be found at the end of the report.).

Figure 4.5. Target 2.4 – Activities and Tools

Baseline:
Current level of harassment suffered by female informal sector traders

Means Of Verification:
Newspaper Reports, television, radio, internet surveys
Business Women’s Perception Questionnaire

Activity 2.4.1:
Work with BLAR Steering Committee to contribute to the development of policy on informal sector, including:

a) Proposal for a market place solution, providing more legitimate market space for small vendors – fee based, nil registration;
b) Policy with transparent rights and responsibilities of market vendors. Focus groups could be conducted with market vendors, including female vendors, to see what they would like included in the policy.

Responsibility:
BLAR Steering Committee, Gender Working Group, Honiara City Council

Tool 17:
Gender Perspectives on CIMC Informal Policy Concept Paper*

Tool 5:
Business Women’s Perception Questionnaire

* Prepared for Papua New Guinea’s Consultative Implementation and Monitoring Commission, but relevant for Solomon Islands
More and better space is needed for market traders

Honiara has a vibrant market sector (see Box 4.5 below). Markets are important because they provide entry level participation for new and emerging entrepreneurs. Like street hawkers, market traders are not regarded by the City Council as part of the business licensing regime (although in theory they do fall under it). Where they operate in the City Council run Central Market they pay a market fee (rather than a business license fee) to the City Council (see Table 4.3 below). Where they operate on private land, at White River on the outskirts of Honiara, they pay a fee to the private landlord. Legitimate market space for informal vendors to operate from legitimizes their business activities.

Box 4.5. Markets in Honiara

**Honiara Central Market:** Most of the stall holders are women. A wide variety of women interviewed in Honiara Central Market (both in the covered area and in the Market compound) do not have business licenses. None of them suffered from harassment by Council Officials. They pay a market fee, depending on the produce they are selling. Many of the women come to the market from rural areas; it had taken one woman three hours to travel in from Guadalcanal. She pays SBD 6 day (US$ 0.80) to City Council for table rent (although in fact her stall was on the ground). If she wants to sleep in the market overnight, she has to pay an additional SBD 10 (US$1.30). The table rent for firewood is SBD 10 per day (US$1.30). On top of this a lady interviewed who sold firewood in the market compound on the ground had to pay SBD 7 (US$0.90) for transport to the Market. The wood costs her SBD 35 (US$4.50) per bundle to buy.

Each woman interviewed had paid that day’s table rent to the City Council’s collector, and had a receipt clearly showing that she had done so. The only problem they face with the Council’s fee collectors is that sometimes they come too early in the morning before they have had a chance to sell their wares and make money to pay the fee. Honiara City Council confirmed that although the law does not specify, they would not expect small-scale informal traders such as these market women to obtain a business license.

The biggest problem the women face is security. Young men hang round the market and drink and take drugs. They can sometimes get violent and cause problems. Another problem is the lack of space. Conditions in the market are crowded. Table space is limited, and women sell from the ground outside the covered market area. The City Council plans to expand the covered area adding a further 30 stalls, and to renovate Kukum Market in Honiara.

**White River Market:** The Market is run on private land. The stall holders, who are mainly women, pay a fee to the landlord owner for their stall, but they do not receive a receipt. They can pay SBD 100 (US$13.50) a year to reserve a stall and in addition there is a daily fee of SBD 10 (US$1.30) per day. There are some kiosks at the market and they pay SBD 1,500 (US$200) a month. Women typically sell betel nut, fruit and vegetables, and cooked food (for instance, donuts). The market environment is dirty and unsanitary. Many of the women come to the market from rural districts (Central Province, Isobel, and Guadalcanal) and remain with their produce overnight often under dangerous conditions. For example, one woman interviewed had traveled from Guadalcanal leaving her three year old child under the care of her mother. Her trip took several hours and she traveled on a truck to sell the bananas grown in her home garden. She would stay on the market grounds for two days sleeping next to her goods before returning home with the money earned from her stall.

Table 4.3. Examples of Honiara City Council fees for market services

<table>
<thead>
<tr>
<th>Market storage fees</th>
<th>SBD10 per night</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crops – market</td>
<td>SBD 6 (US$ 0.80) per stall per day</td>
</tr>
<tr>
<td>Coconut sales</td>
<td>SBD 10 (US$ 1.30) per day</td>
</tr>
<tr>
<td>Handicrafts</td>
<td>SBD 10 (US$ 1.30) per stall per day</td>
</tr>
<tr>
<td>Clothing stall (new clothes only )</td>
<td>SBD 10 (US$ 1.30) per stall per day</td>
</tr>
<tr>
<td>Rental lock up shop – small</td>
<td>SBD 1,000 (US$ 130) per month</td>
</tr>
<tr>
<td>Rental lock up shop – large</td>
<td>SBD 1,400 (US$ 187) per month</td>
</tr>
</tbody>
</table>

---

Although the City Council’s enforcement of its business licensing requirements is poor, it has recently and controversially tightened up the enforcement of its by-laws which ban betel nut sellers on the streets as a public health measure. Strong arm tactics and confiscation of the sellers’ wares has caused controversy. The street clearances have been undertaken in conjunction with the closure of Kukum Market (although the Council plans to re-develop and re-open it) (see Box 4.6 below).

Box 4.6. Newspaper Report: Betel nut sellers

Solomon Star, Monday 16 March 2009: Removal of Street Vendors by the Honiara City Council

Market vendors have condemned the closure of Kukum Market last month following orders from the Honiara City Council (HCC). “The action is unreasonable because this is where we earn our income” commented the vendors. The HCC had issued a notice on 12 February to stop the sale of betel nut and re-introduced vegetable market. Vendors said the council should allocate another place for them to sell their betel nut rather than putting a total ban…

Activity 2.5.1: the development of a policy on the informal sector – will assist in working towards a more favourable environment for informal sector workers in Solomon Islands.
## Table 4.4. Business forms in Solomon Islands

<table>
<thead>
<tr>
<th>Legal form</th>
<th>Advantages</th>
<th>Disadvantages</th>
<th>Gender perspective</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company</td>
<td>Business has own legal status, separate from its owner(s), facilitating the separation of business from personal assets. Limited liability status protects the owners from personal liability should the business fail. The corporate structure facilitates business growth through joint enterprises and investment by third parties</td>
<td>Currently expensive, slow and cumbersome process. Annual public disclosure requirements through filing at companies registry</td>
<td>Enables women to separate their business assets from personal/family assets. If the enterprise is a family one, the share structure specifies the proportions held by each family member</td>
</tr>
<tr>
<td>Partnership between two or more people (English Partnership Act applies(^{100}))</td>
<td>Straightforward registration of a business name required if the partnership uses a name other than of its owners. No requirement for annual public filing of documents. Does not require formal formation documents (although ideally there will be a partnership agreement setting out, for example, arrangements for division of profits and how assets will be dealt with in case of dissolution)</td>
<td>No limited liability In the absence of a written partnership agreement, the arrangements between the partners may be unclear Partnership documents can be lengthy and complex, and changing the members of a partnership is complex</td>
<td>When women are in business partnerships with their husbands, they are unlikely to enter into a partnership agreement. Where there is no clear evidence of a partnership agreement, on divorce or separation it may be difficult to make out a case that the married couple has participated equally in the business, particularly where the man was the face of the business and the woman was involved in the behind the scenes work such as accounting and management.(^{101}) Under the Registration of Business Names Act where the registration includes a married woman, the forenames and surname of her husband in addition to her own forenames and surname needs to be provided. A married man is not required to make similar disclosure</td>
</tr>
<tr>
<td>Sole Trader</td>
<td>Straightforward registration of business name required if sole trader trades using name other than of the proprietor No requirement for annual public filing of documents. No formal formation documents</td>
<td>A sole trader business is likely to remain small</td>
<td>A woman sole trader may find it difficult to separate her assets from those of her husband/family. Under the Registration of Business Names Act where the registration includes a married woman, the forenames and surname of her husband in addition to her own forenames and surname needs to be provided. A married man is not required to make similar disclosure</td>
</tr>
<tr>
<td>Cooperative</td>
<td>Designed for community based groups with some special purpose</td>
<td>Burdensome and antiquated regulatory regime. Little used in practice</td>
<td>Democratic governance and self help principles may make cooperatives an appropriate business form for women. But less advantageous than the new community companies</td>
</tr>
</tbody>
</table>

\(^{100}\) The Partnership Act 1890 (UK) applies by virtue of Schedule 3 of the Constitution.

Table 4.5. A comparative review of Solomon Island’s new Companies Act against gender equality and good practice principles

<table>
<thead>
<tr>
<th>Best practice indicator</th>
<th>New Zealand</th>
<th>Timor Leste</th>
<th>Vanuatu</th>
<th>Solomon Islands</th>
<th>Tonga</th>
<th>Samoa</th>
<th>Papua New Guinea</th>
</tr>
</thead>
<tbody>
<tr>
<td>Simplicity of law: basic principles and core provisions of the Act can be easily understood by all business people and investors. Can include plain English drafting, transparent structure and availability in local language</td>
<td>Yes</td>
<td>Yes (is available in English and Portuguese)</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes Tongan language version available</td>
<td>Yes Tongan language version available</td>
<td>Yes Tongan language version available</td>
</tr>
<tr>
<td>Streamlined legislation: companies legislation should only contain core company law and should not include insolvency law or securities law</td>
<td>Yes, Separate legislation for securities and receiverships</td>
<td>No</td>
<td>Yes</td>
<td>Yes Some securities law included. Separate legislation for insolvency, receiverships and secured transactions</td>
<td>Yes</td>
<td>Yes Separate legislation for securities and receivers</td>
<td>Yes Separate legislation for securities and receivers</td>
</tr>
<tr>
<td>Ease of incorporation: incorporation can take place on a single, simple form that can be completed without a lawyer</td>
<td>Yes. Additional forms must be lodged showing directors consent</td>
<td>Needs assistance of lawyer or company formation agent</td>
<td>Needs assistance of a lawyer or company formation agent</td>
<td>Yes</td>
<td>Yes</td>
<td>Simple forms used, however, additional form must be lodged for directors consent</td>
<td>Yes Advisors assist with forms and forms are available online</td>
</tr>
<tr>
<td>Constitution: no requirement to file a copy of Memorandum and Articles of Association</td>
<td>Yes, Standard constitution in legislation</td>
<td>Yes – needs to file a Memorandum and Articles</td>
<td>Yes – have to file documents. Standard rules provided in the legislation</td>
<td>Yes Model Rules provided in legislation</td>
<td>Yes Standard constitution in legislation</td>
<td>Yes Model Rules provided in Act</td>
<td>Yes Standard rules provided in Act</td>
</tr>
<tr>
<td>Focus on small private companies: Act should be drafted to facilitate business for small private companies with no blanket requirements to hold formal meetings, file formal reports and no mandatory use of lawyers</td>
<td>Yes, but also provides for larger companies given economic context in NZ</td>
<td>Yes – to a limited extent</td>
<td>Yes – private companies are exempt from these requirements</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Share capital: abolition of complex requirements of par value shares and nominal capital. Replace with a straightforward solvency test before payments (for example, dividends) can be made to shareholders</td>
<td>Yes</td>
<td>No – there are requirements on par value and share capital</td>
<td>No – the requirements of par value, issue share capital and nominal capital remain</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>
A comparative review of Solomon Islands’ new Companies Act against gender equality and good practice principles

<table>
<thead>
<tr>
<th>Best practice indicator</th>
<th>New Zealand</th>
<th>Timor Leste</th>
<th>Vanuatu</th>
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<th>Tonga</th>
<th>Samoa</th>
<th>Papua New Guinea</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company secretary: role of company secretary is optional</td>
<td>Yes</td>
<td>Mandatory for companies with over ten shareholders</td>
<td>No – every company has to have a company secretary</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Civil penalties: civil penalties (fine, late filing fee) not criminal sanctions are imposed on company office bearers for relatively minor matters (for instance, failure to file annual return)</td>
<td>No. Criminal penalties apply</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No. Criminal penalties apply for minor matters, for example, failure to file annual return</td>
<td>Yes</td>
</tr>
<tr>
<td>Shareholder remedies: include remedies that make it easy for shareholders to take directors to Court if their rights are being abused</td>
<td>Yes</td>
<td>Yes – but must be a minimum number of members</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Directors duties: clearly state directors duties including duties of care and good faith</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes – deals with some duties particularly conflict of interest and loans but does not clearly deal with care and good faith</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Related party transactions and minority shareholders: permit shareholders with 10 percent or less of a company’s shares to sue the company for related-party transactions</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Disclosure of related party transactions: require disclosure of related party transactions to the board of directors and in annual reports</td>
<td>Yes – disclosure to Board and in interests register</td>
<td>No specific procedure prescribed</td>
<td>Yes – disclosure to Board and in interests register</td>
<td>Yes – disclosure to Board and in interests register only</td>
<td>Yes – disclosure to Board, interests register and in annual report</td>
<td>Yes – disclosure to Board, interests register and in annual report</td>
<td>Yes – disclosure to Board</td>
</tr>
<tr>
<td>Approval of related party transactions: require third-party approval for all related-party transactions</td>
<td>No</td>
<td>No specific procedure prescribed</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Approval of related party transactions: appointment of a Government inspector to investigate related-party transactions</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Transparency of records: allow company records and documents to be open to shareholder inspection without need to instigate Court proceedings</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Note that the Acts all deal with director's self interest as the related party, not a related company.
<table>
<thead>
<tr>
<th>Best practice indicator</th>
<th>New Zealand</th>
<th>Timor Leste</th>
<th>Vanuatu</th>
<th>Solomon Islands</th>
<th>Tonga</th>
<th>Samoa</th>
<th>Papua New Guinea</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permission: do women need permission from a male relative / husband in order to be a company director or shareholder? If yes, do men require reciprocal permission?</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Officeholders: Can women be directors and shareholders of companies in the same way as men?</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Age: is the age at which women and men can be directors/shareholders the same?</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Sole person companies: is there provision in the Act for registration of sole director/shareholder companies?</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Method of registration: are women permitted to undertake the registration process without involving a man (for instance, to accompany them to the registration office)?</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Registration process: Is the company registration process the same for a woman (including married woman) promoter as for a man? For instance, do women have to file additional documents, answer additional questions, go to a different place, or go through additional procedures? Is it different in any way for widowed, divorced or separated women?</td>
<td>Yes. The procedure is the same for all people regardless of gender, marital status, age, and more</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes. The procedure is the same for all people regardless of gender, marital status, age, and more</td>
<td>Yes</td>
</tr>
<tr>
<td>Place of registration: Is it necessary/unusual to travel (for instance, to a town) in order to register a company? If yes, are there any travel restrictions on women?</td>
<td>No. Companies can be registered online.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Currently yes, however new Bill contemplates electronic filing.</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Solomon Islands</td>
<td>Tonga</td>
<td>Samoa</td>
<td>Papua New Guinea</td>
</tr>
</tbody>
</table>
Chapter 5. Access to justice, the courts and mediation

Summary

Most disputes are determined in the traditional setting in which men and male values predominate. There are very few female judges, Magistrates or lawyers. Nearly all the users of the formal justice system are men. Women tend to walk away from disputes or settle them informally. IFC provides assistance to Pacific Courts to establish and enhance court-referred mediation as a simple, time and cost efficient method to resolve commercial disputes. Mediation, being less formal and more culturally relevant, appears to be a form of alternative dispute resolution favored by women. The introduction of mediation in Solomon Islands’ Courts offers the potential to open up the justice system for the private sector, including female-headed businesses.

The targets for incorporation in the commercial mediation component of the Government’s IFC supported Regulatory Simplification and Investment Policy and Promotion Program to improve access to commercial justice for women in Solomon Islands are:

• 20 percent of court-referred mediation users are women and 80 percent of female users are satisfied with mediation service

• At least 20 percent of accredited mediators are women

This chapter sets out the activities to take place to achieve these targets, and provides the analysis to justify them.

Figure 5.1. Access to justice and ADR: goal and target

Goal: improved access to commercial justice for women

TARGET 3.1
20 percent of court-referred mediation users are women and 80 percent of female users are satisfied with ADR service

TARGET 3.2
At least 20 percent accredited mediators are women
This section reviews the commercial justice environment for women in Solomon Islands, and highlights how Target 3.1 and its associated activities would improve business women’s ability to access commercial justice. Figure 5.2 below lists three activities to achieve this target, along with tools in support (Tools can be found at the end of the Report).

**Figure 5.2. Target 3.1: Activities and Tools**

**TARGET 3.1:**

**Activity 3.1.1:**
Develop and promulgate simple contract for use in common commercial transactions for women and provide training on contract law.

**Responsibility:**
Gender Working Group

**Tool 18:**
Outline of Basic Contract

**Activity 3.1.2:**
Ensure gender is mainstreamed in mediation reform process as detailed in Report (Table 5.4 and Table 5.5 in Chapter 5)

**Responsibility:**
Court’s Steering Committee on Mediation Gender Working Group

**Tool 19:**
Mediation Sex Equality Checklist

**Activity 3.1.3:**
Undertake outreach to inform business women of availability and appropriateness of mediation.

**Responsibility:**
Court’s Steering Committee on Mediation, Gender Working Group

**Tool 20:**
Methodology for Sex Disaggregation of ADR Users

**Tool 21:**
ADR / Commercial Justice Users’ Perception Questionnaire

**Baseline:**
Percentage of mediation users that are women, Percentage of female users satisfied with mediation service

**Means Of Verification:**
ADR records / ADR Perception Survey – baseline and follow up

**Most justice is dispensed by men through traditional mechanisms**

With 85 percent of its population living in rural areas governed by customary law, it is the informal legal system that is pivotal in Solomon Islands. The chief is the traditional leader and peacemaker at the village level in the rural areas. It is estimated that over 95 percent of disputes are dealt with informally at village level.\(^{103}\) In a recent survey\(^ {104}\) 93 percent of people said that they preferred to resolve disputes within their own community rather than involve the legal system (see Table 5.1 below) in which the main areas of differences in responses between men and women have been highlighted.

---

\(^{103}\) Estimate, Ministry of Justice adviser.

\(^{104}\) ANU Enterprise, People’s Survey 2008.
Table 5.1. How respondents would resolve a dispute with a neighbour

<table>
<thead>
<tr>
<th></th>
<th>Male %</th>
<th>Female %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customary laws</td>
<td>62.4</td>
<td>56.1</td>
</tr>
<tr>
<td>Church, church leader, pastor</td>
<td>13.4</td>
<td>11.4</td>
</tr>
<tr>
<td>RAMSI</td>
<td>6.8</td>
<td>7.5</td>
</tr>
<tr>
<td>Work it out themselves</td>
<td>6.0</td>
<td>7.7</td>
</tr>
<tr>
<td>Pray together / prayer and reconciliation</td>
<td>4.4</td>
<td>7.2</td>
</tr>
<tr>
<td>Police</td>
<td>3.5</td>
<td>6.2</td>
</tr>
<tr>
<td>Govt Court system</td>
<td>1.4</td>
<td>1.2</td>
</tr>
<tr>
<td>Unspecified</td>
<td>1.3</td>
<td>0.6</td>
</tr>
<tr>
<td>Don’t know</td>
<td>0.6</td>
<td>1.3</td>
</tr>
</tbody>
</table>

In the context of violence against women a recent AusAID survey found that **most women do not feel that the traditional system of justice meets their needs because it is administered by men and upholds traditional gender roles and values that favor men.**

**Local Courts are male dominated**

As Figure 5.3 below shows, Local Courts are the first formal tier of the justice system for most disputes. They are created by warrant of the Chief Justice to decide both civil and commercial matters in accordance with the custom of the area (see Box 5.1). Before hearing a case, the Local Court must be satisfied that the dispute has first been referred to the Chiefs and that traditional means of resolving the dispute have been exhausted. Justices in the Local Court are lay people. The appointment of members to a Local Court is based on criteria that include: standing in the community, personal character, and knowledge about local custom. The number of members appointed varies from district to district, but the quorum is three members and a clerk who is responsible for keeping records of all proceedings. There has been only one female appointment to the Local Court bench out of a total of 940 members.

The procedure adopted in Local Court is adversarial, and very much based upon the procedure to be found in procedures of the higher, introduced Court. Local Courts are poorly funded, and in some areas they are not functioning at all. The vast majority of cases they hear are related to land.

**Box 5.1. Local Courts**

A Local Court shall be constituted in accordance with the law or customs of the Islanders of the area in which the Court is to have jurisdiction (Section 3, Local Courts Act)

...a local Court shall administer the law and custom of the Islanders prevailing in the area of the jurisdiction of the Court, so far as the same has not been modified by any Act (Section 16 of the Local Court

---

106 Note that it does not have the jurisdiction to hear land disputes that is expressly excluded by the Land and Titles Act: Local Court Act (Cap 19) section 6. Also see Sections 7 and 8 of the Local Court Act (Cap 19).
Appeals from Local Courts can be made to Magistrates Courts, but these are not currently functioning in a consistent manner, with Magistrates in rural areas often not having adequate budget to cover food, lodging or petrol for boats.109

The formal legal profession is male dominated

There are about 150 lawyers in Solomon Islands, of which only about 30 are women. Most women lawyers work in Government, although two are in private practice. Women do however appear to have some prominence in the profession, with both the Secretary and the Treasurer of the Bar Association being women. There is a Women Lawyers Association that meets only about three times a year, and is considered to have only limited impact.110 One out of a total of about ten First Class Magistrates is a woman and of the seven High Court Judges, six are men and the one female High Court Judge is from Nigeria.

The formal legal system is slow and expensive

High Court proceedings in the Solomon Islands are very slow. There is a 20 year backlog of land cases that are blocking up the system. Multiple adjournments in cases are common. The World Bank’s 2010 Doing Business indicators rank Solomon Islands 108 out of 183 countries in this category (see Table 5.2 below).

110 Interview with female lawyer.
Once judgment has been obtained, enforcing it is slow and difficult. If a judgment is to be enforced outside Honiara, it often does not happen at all.\textsuperscript{113}

The Solomon Islands Government has been providing support to the justice sector to re-invigorate judicial and legal service.\textsuperscript{114} RAMSI has provided, through its Law and Justice Program, technical assistance, institutional strengthening capacity development, and capital works.

**Most users of the formal commercial justice system are men...**

There are about 400–500 civil cases filed each year at the High Court of which hardly any have a female claimant or defendant.\textsuperscript{115} Most of these civil cases are instituted by men claiming to be representative(s) of a family, tribe, and/or a community in cases where a dispute involves land. In other commercial disputes it is typically rare to find women filing any civil suit in the High Court. Women can only institute a civil suit in the event where such disputes affect the interest of that particular woman either as a share holder of that particular company and/or through joint ownership of a business or property which is affected by such civil suit.

It can also be noted from these cases filed at the High Court that most of the land disputes cases are instituted by men adopting a matrilineal system, although land is determined through the women. However, men are always said to be representatives and/or spoke-persons of their tribe, line or communities, and are given such responsibilities to do so. Most men tend to abuse such representations and in the event that cases are finally determined and concluded, women are always seen to be disadvantaged in the benefit sharing.

The situation is similar at the Magistrates Court level. An examination of the Reported decisions of the Central Magistrates Court of the Solomon Islands from 2003 to 2007 reveals that of the 16 reported cases, only three matters are civil and none involve a sole woman litigant.\textsuperscript{116} Discourses with women during the Mission revealed that they have little faith in the justice system. Business women who run informal businesses would not consider accessing it, and would rather rely on informal means to settle the dispute including complaints to the Church pastor. Often, women just walk away from the dispute (see example in Box 5.2 below).

**Box 5.2. Case study: women avoiding the formal justice system\textsuperscript{117}**

**Informal dispute resolution:** A business woman who had been running a food kiosk business with another business partner had to return to her village to take care of her sick mother. When she returned she found that her premises were occupied by another relative who refused to vacate the premises. Rather than seeking redress through legal avenues, she opted for a variety of informal avenues including making complaints to her landlord. She was reluctant to create further animosity among the members of her community and was worried about stimulating a violent reaction among the younger members. The matter was resolved informally after a year with her regaining her premises. However in the process she had lost a year’s rent as well as the year's profits.

**Walking away:** A business woman was involved in a palm oil business with another business partner. Following the breakdown of relations with the business partner, the woman left the business without asserting any claim. Although she still has shares in the business, she does not receive any income or dividends. She was hesitant about taking any further action, viewing the tasks of seeking a lawyer and taking matters to Court as insurmountable.\textsuperscript{118}

\textsuperscript{112} Best performing country in the Pacific region.
\textsuperscript{115} High Court, Honiara.
\textsuperscript{116} One of these disputes involved a woman who brought the action with her husband.
\textsuperscript{117} Source: Business Women’s Forum.
\textsuperscript{118} Source: Business Women’s Forum.
...and the system contains biases against women

The justice system in Solomon Islands is dominated by men, and contains biases against women. Table 5.3 below summarizes the issues.

Table 5.3. Gender biases in the administration of justice in Solomon Islands

<table>
<thead>
<tr>
<th>Issue</th>
<th>Gender bias</th>
</tr>
</thead>
</table>
| Staffing| Justice is dispensed almost exclusively by men. The Judiciary, the Magistrates, the Local Courts, and community level are all male dominated, as is the legal profession. Court interpreters tend to be male and it has been suggested that inexact interpretations may be infused with cultural values.  
119 Interview, High Court Judge.  
120 AusAID, Addressing Violence Against women in Melanesia and East Timor (Solomon Islands Country Supplement), 2008. |
| Culture | In the context of violence against women, it has been found that the courts have a clear bias against women. Rape cases tend to get lost in the system. When they do come to court, alleged rape victims are frequently subjected to inappropriate and aggressive questioning. Traditional beliefs and cultural attitudes may shape judicial attitudes towards women.  
121 The same applies in the legal profession (see example in Box 1.8 above) |
| Training| The Judiciary have not received any training in gender issues  
120 AusAID, Addressing Violence Against women in Melanesia and East Timor (Solomon Islands Country Supplement), 2008. |
| Procedure| Lengthy and complex court proceedings are likely to have a more adverse effect on women than men. Women are less well educated than men, and therefore likely to be less able to cope with formal processes. With domestic responsibilities to deal with, as well as running their businesses, women are less likely to be able to devote time to lengthy procedures. |

There is limited access to legal advice and assistance

Many women are not aware of their legal rights and very often legal services are not been accessible to women.  
121 Going to a private lawyer is not an option for many business women, for whom the costs are prohibitive. The Public Solicitors Office gives free legal advice on a means tested basis. But this is now limited to criminal matters.

Female entrepreneurs reported that they often rely on verbal contracts, rather than written ones. Reasons for using verbal contracts include limited literacy and a lack of knowledge of what should be included in a written contract. Business women also reported that they often feel vulnerable entering into written contracts, in the sense that they often do not understand well what they are signing up to. This reservation applies to simple contracts for the supply of goods to more complex contracts such as those relating to borrowing money and leasing property. Many women expressed a desire for training in basic contract law and on how to read and understand the implications of basic contracts.

When relying on a verbal contract, it can be more difficult for a woman to enforce her rights under the contract. A simple pro forma contract that can be used for common commercial transactions, and training on the use of the contract may help to alleviate contractual disputes, or resolve them more quickly.

To address these issues, IFC will support the development of a simple contract for use in common commercial transactions and provide training in basic contract law. In doing so IFC will, if possible, work in partnership with SIWIBA, AusAID’s Community Support Program, and women’s NGOs (see Table 3.1 in chapter 3 for examples).

Activity 3.1.1: the development of a simple contract for use in common commercial transactions and providing training on contract law will increase women’s knowledge of the law and their rights.

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119 Interview, High Court Judge.
120 AusAID, Addressing Violence Against women in Melanesia and East Timor (Solomon Islands Country Supplement), 2008.
121 AusAID, Addressing Violence Against women in Melanesia and East Timor (Solomon Islands Country Supplement), 2008.
The new Civil Procedure Rules appear to be gender neutral, but careful implementation is required to ensure that women as well as men benefit from the reforms.

Efforts are now being made to address the problems civil justice system. There are now three judges dealing with civil matters (up from one), and new Civil Procedure Rules\(^{122}\) provide a framework for a fundamental shift in approach from party control to judicial control of the case management process, bringing the potential for speedier processing of cases, and a more transparent system.

The Rules themselves do not contain any biases against women, but implementation needs to be undertaken in a way that ensures women as well as men benefit from the improved system. And the impact of the new Rules needs monitoring to assess whether this is the case. Table 5.4 below sets out the issues in relation to activities proposed by the Federal Court of Australia\(^{123}\) to strengthen Solomon Island’s new case management system.

### Table 5.4. Incorporating gender in the implementation and M&E of the new Civil Procedure Rules

<table>
<thead>
<tr>
<th>Proposed implementation / M&amp;E activity(^{124})</th>
<th>Gender perspective</th>
</tr>
</thead>
<tbody>
<tr>
<td>Develop case management information / M&amp;E system</td>
<td>Need to incorporate sex disaggregation to ascertain if new procedures are enabling more women to bring cases to court.</td>
</tr>
<tr>
<td>Communicate changes in case management system</td>
<td>Communicate to the general public as well as to lawyers that the court system is improving(^{125}). Undertake information campaign to let women know that the court is for them as well as men, and provide training on how court proceedings work.</td>
</tr>
<tr>
<td>Establish public/private sector committee. Membership to include Chief Justice, Chief Magistrate, Ministry of Justice, Attorney-General’s Department, RAMSI Law, and Justice Sector program and the Bar Association</td>
<td>The Committee’s terms of reference should include gender issues, for instance, it should extend to overseeing women’s use of the court and their perceptions of it. Membership should include women’s representatives / gender specialist (for example, Women’s Development Division, Community Support Program gender specialist)</td>
</tr>
<tr>
<td>Training session for Judges to enhance judicial case management skills</td>
<td>The opportunity should be taken to include gender training.</td>
</tr>
<tr>
<td>Establish a court users group as mechanism to consult the profession</td>
<td>Include female users (lawyers and representatives of litigants in person)</td>
</tr>
</tbody>
</table>

Mediation has many benefits for the private sector...

IFC provides assistance to Pacific Courts to establish and enhance court-referred mediation, as a simple, time and cost efficient method to resolve commercial disputes. Mediation can benefit the private sector in the following ways:

- Lowering the costs for both of the parties in resolving the dispute
- Shortening the time and simplifying the process involved in resolving the dispute
- Creating value for both parties through an amicable way of resolving the dispute, as opposed to a litigious way of resolving it
- Ensuring confidentiality
- Ensuring an informal process compared to the formal process of litigation
- Releasing funds or assets that are in dispute. Although only one of the parties will benefit from the release of funds or assets even for the party that is releasing the assets, the process could produce positive outcomes such as, for instance, the improvement of business relationships with the other party, and maintaining its commercial reputation, and
- Creating greater control over the process by the parties.

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125 The example given in Annex 7 of the FCA Report of a Mediation Practice Note from Supreme Court of Australia is gender neutral. But in addition, pro-active steps are needed to encourage women to use the system.
Mediation has the potential to be female friendly

The new Civil Procedure Rules provide the framework for the introduction of mediation into Solomon Islands’ civil dispute resolution system.

Court-referred mediation implementation and monitoring and evaluation will need to take on board gender considerations. Table 5.5 below sets out the issues in relation to activities proposed by the IFC to assist the Solomon Islands to establish court-referred mediation.

Table 5.5. Incorporating gender in the implementation and M&E of Court-annexed mediation

<table>
<thead>
<tr>
<th>Proposed implementation / M&amp;E activity</th>
<th>Gender perspective</th>
</tr>
</thead>
<tbody>
<tr>
<td>Train judges</td>
<td>It is vital that judges receive training in gender relations, including in</td>
</tr>
<tr>
<td></td>
<td>power relations between men and women in the cultural context</td>
</tr>
<tr>
<td>Develop selection criteria for mediators</td>
<td>Consider if there are women of suitable standing who could be</td>
</tr>
<tr>
<td></td>
<td>appointed as mediators</td>
</tr>
<tr>
<td>Undertake public awareness campaigns</td>
<td>Ensure this engages with women. Involve women’s civil society organizations such as Vols Blong Mere (see Table 3.1 in chapter 3).</td>
</tr>
<tr>
<td></td>
<td>Develop literature/radio campaigns showing how women as well as men can benefit from mediation</td>
</tr>
<tr>
<td>Pilot process</td>
<td>Select some cases involving women as part of the pilot to assess how the process impacts on them.</td>
</tr>
<tr>
<td></td>
<td>Sex disaggregate results</td>
</tr>
</tbody>
</table>

Activity 3.1.2: ensuring that gender is mainstreamed in IFC support to the mediation reform process and Activity 3.1.3: undertaking outreach on mediation to business women will enable women to benefit from these reforms.
This section highlights how Target 3.2 and its associated activity – to train women as mediators – would improve business women’s ability to access commercial justice. Figure 5.3 below sets out the relevant target, activity and associated tool (Tools can be found at the end of the report).

**Figure 5.3. Target 3.2: Activities and Tool**

**Target 3.2:**
At least 20 percent of accredited mediators are women.

| Baseline: | Currently no mediators accredited |
| Means Of Verification: | Accreditation records |

**Activity 3.2.1:**
Train and accredit female mediators

**Responsibility:**
Court’s Steering Committee on Mediation, Gender Working Group

**Tool 19:**
Mediation Sex Equality Checklist

**Mediation offers an opportunity to enhance women’s access to justice**

The initial intention is to introduce Court-referred mediation at the High Court, followed by the Magistrates Court.

Although the target of 20 percent female mediators could be perceived as low, it is a number that will meet the demand of female parties currently bringing commercial disputes to the Courts, and the target to increase the number of women bringing commercial cases to court to 20 percent. This target will not risk alienating male users, who may not at this stage be comfortable with a female mediator. To drive for equitable representation amongst mediators in a jurisdiction where cultural norms militate against women performing such a function may be counter-productive when considering the successful implementation or advancement of the court-referred mediation system as a whole. It is for this reason that a holistic approach must be adopted, with all stakeholders collaborating in advancing the use of court-referred mediation, including women’s access. As mediation is more firmly established and expands, and the role of women in the private sector and in accessing the national court and mediation grows, as measured by IFC’s monitoring and evaluation systems, it will be appropriate to increase the gender target accordingly.

Moves towards mediation are also taking place at other levels at the same time. The Tribal Land Dispute Resolution Panels Bill, once it becomes law, will introduce a formal system of mediation at the community level, with panels of three mediators, one of whom must be a woman. This builds on women’s role as mediators in the community, which came to prominence in the women’s peace movement during the conflict. Women tend to respond well to the less adversarial
and less formal mediation process. Taken together, these two initiatives have the potential to open up dispute resolution processes to women. The High Court Court-referred mediation process has the potential to be the flagship of a justice system that is as open to women as to men.

**Activity 3.2.1:** training and accrediting female mediators will encourage women to use mediation systems.

**Further recommendations to improve women’s access to commercial justice**

It is recommended that Government should:

- Amend the Local Courts Act and the Magistrates Act to provide for a gender balance at Local Court and Magistrates Court level. A starting point could be the Beijing Platform’s initial target of decision making bodies comprising 30 percent women.

- Consider the introduction of mediation at Local Court and Magistrates Court level, rather than a formal adversarial process as it is currently (building on the approach taken in the Tribal Lands Disputes Resolution Bill – see Chapter 6). Appoint and train women as mediators.

- Expand the current mandate of the Public Solicitor’s office to include women’s rights, including property and commercial rights. Establish a women’s help desk in the office.

- In partnership with appropriate NGOs, support women and have links to the community level to undertake an information campaign (including to rural women) on what women’s rights are (including property and commercial rights) and how to enforce them. The pictorial representation of rights in the form of publicity material in the markets and other areas of informal commercial activity would bring the types of legal processes available to the attention of women. Drama and radio soaps could also promote women’s right to justice.

It is recommended that the Judiciary should:

- Actively promote the appointment of suitably qualified women to Local Courts and Magistrates Courts.

- Undertake training (in partnership with appropriate civil society organisations) at the Local Court and Magistrates Court level in gender issues.
Chapter 6. Access to, and enforcement of, rights over registered land

Summary

The vast majority of land is owned under customary tenure. Even in matrilineal systems, women are in practice largely excluded from decision-making about the land, particularly when it is ‘formalized’ and put to economic use, when women’s land rights are frequently over-ridden. Women are minority users of the formal (titled) land market and, with fewer powerful connections than their male counterparts, are victims of non-transparent land allocation processes.

Land is not currently being addressed under the Government’s Regulatory Simplification and Investment Policy and Promotion Program supported by IFC, although there could be future scope to look at improving processes at the property registry. However, the Government is undertaking an ongoing land reform process. This chapter sets out a number of key recommendations and findings to improve women’s position in relation to access to and enforcement of rights over registered land within the context of ongoing reforms.

Land is a key asset in Solomon Islands

About 85 percent of Solomon Island’s population is dependent on agriculture, mostly through small-holder, semi-subsistence and subsistence farms. Only 0.6 percent of the land is cultivated, although there is substantial land available to expand agriculture. But, traditionally, land is not just an economic asset for Solomon Islanders. It also has religious, political, social, and historical significance. Land in the Solomon Islands holds an important place in the life of women, who put immense value on its ownership and use.

About 90 percent of the land is owned under customary tenure. Government is committed to investigating arrangements for land ownership that both maintain the rights of legitimate customary owners, while at the same time creating an environment that is conducive to investment in land-based assets. In undertaking this highly complex and probably controversial task, it is vital that the land interests of women, as well as men, are considered. As suggested in Chapter 1 above, to date the experience of women with inward investment from logging has not been encouraging.

Solomon Islands’ Government has identified ambiguity in land ownership, and ongoing land disputes as the greatest barrier to income growth in Solomon Islands. It sees land recording and registration as a key process to enable landowners to use land as an asset for investment and economic growth.

Customary land ownership is based on community membership...

Ownership and disposition of the vast majority of land in Solomon Islands is governed by customary law, which is to some extent being re-shaped by modern economic forces. The cash economy has placed a new value on customary land, which customary law is struggling to deal with. The result in many instances is land disputes, with the court being called in to help resolve issues of ownership and transfers of money.

Traditionally, the absolute ownership of the land is vested in the kinship group or clan who retain control over its use and allocation. Certain usage rights may be collective, such as right to hunt in the group’s territory, and particular areas may be reserved for communal purposes. Within the group, individuals and their families have the right to use particular pieces of land for farming and houses.

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Boundaries to units of customary land and group territories are usually marked by natural features, such as rivers or rocks, or by planted bush and trees. These boundaries have rarely been surveyed and the rights to the land have not usually been documented or recorded. Instead, knowledge of them is passed from one generation to another by word of mouth.\(^\text{133}\)

For the most part, a person’s right to use land comes from his membership of a line, tribe, or clan that is descended from the first people to settle the land and cleared the virgin forest. In some cases land has been obtained through conquest; stronger and more aggressive groups have extended their territory by driving off weaker and less numerous groups. In addition, the right to use land is the entitlement of the members of the same tribe. Members of different lines, clans, and tribes have no rights over other tribal land except through special arrangements such as compensation, marriage, warfare, or gifts.\(^\text{135}\)

Rights over customary land can be traced through either the mother (matrilineally) or through the father (patrilineally). Out of the ten provinces making up Solomon Islands, five (Guadalcanal, Isabel, Makira, Central, and Western) are actively practicing a matrilineal land tenure system (see Box 6.1 below).\(^\text{137}\)

**Box 6.1. The matrilineal land holding system\(^\text{138}\)**

Land ownership in Guadalcanal, Isabel and Santa Ana (Makira) is vested in the line that claims ownership by proving their genealogical link with the original woman settler. Women and men who are born to the land-owning woman have automatic ownership. Land succession occurs through the descendants of the first-born females who head the family clan. Her descendants become responsible for the inheritance and administration of the land. She passes land on to her oldest daughter, but she also appoints a male child or brother to be the spokesman for all land related issues. Male children can claim secondary (usage) rights to the land. But when he marries a woman from another line, his rights to the land end with him and they are not passed on to his children.

Under the patrilineal system, the right to use land is passed from father to son, and women have no part to play in the administration of land. Even under the matrilineal system, where the right to use land is passed down the female line, it is the men who make decisions and administer the land. For example, a woman cannot sell the land without the consent of her uncle. There are some rare exceptions, where men and women traditionally have equal land rights (see Box 6.2 below).

**Box 6.2. Land rights in Are Are Malaita Province, Solomon Islands\(^\text{139}\)**

Land rights in Are Are lie in the ability to trace descent either through male or female links to the common ancestor. Both males and females have equal rights to land and are passed on from one generation to another. Land is not owned by any individual but collectively, with women having the right to be consulted and make decisions on issues relating to land development.

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Women are losing out as customary land is developed without reference to them…

Customary land can be formalized and then used for economic purposes through the process of registering it. All registered land in Solomon Islands is held by the State, which then grants estates – either perpetual or fixed term – in the case of customary land to ‘trustees’ who hold title on behalf of the community. Women can be (but rarely are) appointed as trustees.

Box 6.3. Formalization of customary land

If it is desired to use customary land, for example for logging or for palm oil production, the Forest and Timber Utilization Act Cap 40 (that deals with utilization of forest resources) and the Land and Titles Act (that deals with registered land) have to be complied with. Trustees are identified for a parcel of land. Land rights hearings take place at the Provincial level at a Chief's Council before three nominated chiefs (almost always men) who are deemed to know the customs of the area. Appeal lies to the Local Court (presided over by a lay magistrate) and from there on a point of law to the Customary Land Appeal Court (presided over by a Magistrate) and then to the High Court and Court of Appeal.

Once land rights are determined, the land is registered in the name of the community and ‘trustees’ are appointed to negotiate with the investors and to royalties on behalf of the community.

There are many cases of trustees abusing their position and failing to distribute proceeds. In some cases companies are set up to manage traditional lands, and in these cases also abuse of position can occur. But the Courts will uphold the rights of community members. For example, in the ‘Zaita Land Case’ (Kasa v Biuku SBHC2001) the Court held that sale of a property company set up to manage traditional lands, without the consent of the clan members, is impeachable. In that case, the head of the family who had sold the land was regarded as a trustee who is in a fiduciary position and under obligation to account to his people for the money he had received from the sale.

The process of formalization of customary land title tends to be male dominated. Hearings at Chief's Councils are nearly always conducted by men. The Local Courts (to where appeal lies) are also male dominated. At the community level, even in the matrilineal system, decision making is dominated by men (see Box 6.4 below). The result is that women tend to lose their land rights, and be excluded from the benefits when customary land is formalized.

Box 6.4. Women’s land rights in Guadalcanal, Isabel, and Santa Ana (Makira)

In the past, women in the matrilineal societies of Solomon Islands held a prominent role with respect to land tenure. Women were equal partners in decision-making in traditional society. Women were recognized by the community as equal partners in the inheritance of land through which they gained authority to exercise powers as landowners. But their leadership role was and is still not acknowledged publicly – only implicitly.

Market demand for land and large-scale development in Guadalcanal, Isabel, and Makira have led to major changes in attitudes and policies with respect to land tenure, access to land, and land management. With the exploitation of natural resources such as nickel, gold, and logs and the spoilage of hundreds of hectares of land for plantations, men have taken over the role of decision makers in land matters. They have become trustees, signatories and beneficiaries of royalty payments without proper consultation with women.

The community company to be introduced by the new Companies Act (see Chapter 4) has the potential to enable community groups (such as clans or tribes) to register as corporate entities for the purpose of holding land. The intention is that the company’s ‘asset lock’ will be a safeguard against the unauthorized use of community funds generated by the land. Careful implementation will be required. The ability of individual communities to develop their own constitutions according to community group norms has the potential to perpetuate discriminatory practices that exclude women.

...but women are beginning to claim their land rights

Land rights are a highly controversial issue in Solomon Islands. Logging activity has now resulted in women beginning to claim their land rights, both through direct action and in the Courts (see Box 6.5 and Box 6.6 below).

Box 6.5. Women assert their land rights through direct action

Reports in the Solomon Star newspaper:

• Women on Boloboe land on Vella La Vella island, Western Province went into the forest to demonstrate against logging by Omex Industry Limited. Their demonstration was suppressed by the Company’s security guards. (Report, July 30, 2007)

• Ten women from Guadalcanal Province blocked the road through their land to a logging camp in protest against the use of their land. (Report, May 1, 2008)

Box 6.6. Women assert their land rights through the Courts

All five cultural groups of Isabel Province have a matrilineal kinship system. Lineage is traced down the mother’s line to a common woman ancestor. Land and sea tenure are held according to customary law based on matrilineal inheritance. Marriage is exogenous to the clan and matrilocality applies with husbands compelled to live with the wives’ extended family. Even though women play an important role as landowners, participate in the decision making in community affairs, and are the motors, soul, and life of the village men usually are the spokespersons. According to Henry Marua, former secretary of the Paramount Chief, women are the decision makers but the men do the talking which should reflect women’s decisions.

But men have recently become the majority of regional political leaders, which has threatened to undermine women’s traditional high status.

Women are bringing a case to the Court against men abusing women’s rights as ‘owners and guardians of the land’. Currently there is a case in which a brother gave away the clan land to a logging company without consultation. The Court decision is still pending.

The Tribal Land Disputes Resolution Bill has the potential to improve women’s position in relation to customary land

Solomon Islands’ Government has recognized the large number of pending land disputes as a major impediment to private sector rural investment. The backlog of unresolved land cases goes back nearly 20 years. In order to address this, the Ministry of Justice is currently consulting on a Tribal Land Dispute Resolution Panels Bill. Its purpose is to incorporate alternative dispute resolution, especially mediation, into the land disputes process, to encourage agreements between parties and incorporate custom in determining disputes.

Under the Bill, land disputes will be considered initially by a panel constituted on a case by case basis from local people included in a list of qualified people. The panel will comprise three people, at least one of whom must be a woman. It attempts to reconcile the conflict between customary law and the constitutional rights of quality by preferring constitutional rights and gives the power to make a variety of orders, some of which recognize the commonly held rights women may have to the land such as the right to use. (Box 6.7) Appeal will lie to the High Court only on the narrow grounds of denial of natural justice and lack of jurisdiction.

The Bill is a welcome attempt to include women in the land administration process. It is intended to be tabled at the end of 2009. Currently the Tribal Lands Dispute Panel Bill is seeking comments from private practitioners and the public on this proposed legislation.

142 In the Medium Term Development Strategy.
Box 6.7. Key female-friendly provisions of the Tribal Lands Dispute Bill

| Panel membership | Includes provision for women to be members of the tribal land dispute panel. Each Provincial Register contains names of persons with knowledge to act as members of a panel to determine tribunal disputes. Where a request for resolution for dispute is made the Clerk must nominate 7 persons from the register, at least one of whom is a woman. (section 30) |
| Informality of proceedings | Reduces the need for legal representation and formal proceedings. The rules of evidence do not apply, the parties are not allowed legal representation and the Panel conducted with as little formality and technicality as the circumstances of the proceedings permits. (sections 54, 56 and 57) |
| Reconciling custom and constitutional rights of equality | The Panel has to resolve tribal land dispute by determining the rights of the parties according to custom, as long as the custom is not inconsistent with the Constitution or any other Act. (section 60) |
| Diverse orders can be made | The Panel can make a variety of orders which recognize women’s rights The orders can include exclusive rights or interests over land as well as payments of compensation in custom for use and damage or injury caused to land or rights of usage of land. Usage of land is a right many women have over customary land and this provision recognizes such rights. (section 66) |

The formal land registration system is in disarray

Currently only about 10 percent of Solomon Islands’ land is held under the formal land titling system. Most of this land is in towns and provincial centers, and comprises ‘alienated’ land of which the ultimate owner is the Government. The Government (acting through the Commissioner of Lands) can grant either a ‘perpetual estate’ (a perpetual lease which approximates to freehold) or a ‘fixed term estate’ i.e. a lease. Both a fixed term estate and a perpetual estate can be bought and sold. Transactions need to be registered to secure title.143

Between 2004 and 2009 the number of land transactions doubled, and, as a result, the Land Registry is in disarray. The current backlog of cases is about 1,300. It is not surprising that registering land is Solomon Islands’ worst ranking on the World Bank’s Cost of Doing Business 2010 indicators at 172 out of 183 countries. It requires 10 procedures, takes 297 days and costs nearly five percent of GNI per capita to register property.144 Under the Land Titles Act the Commissioner for Lands must approve each transfer of an interest in land in a letter of consent. It takes on average 25 days to obtain the consent of the Commissioner.

Interim assistance provided by AusAID has assisted with putting in place systems to deal with the backlog in the Land Registry and prevent cases stacking up again.

143 Registration is not compulsory for leases under 2 years.
Women are minor actors in the formal land system...

Women hold only a small proportion of registered title in Solomon Islands (see Table 6.1 below).

<table>
<thead>
<tr>
<th>Percentage registered land titles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women</td>
</tr>
<tr>
<td>Men</td>
</tr>
<tr>
<td>Joint ownership</td>
</tr>
</tbody>
</table>

Men seem to dominate in terms of land transactions too. An analysis of land transfers recorded in the land register during one week in February 2009 (selected at random) revealed the following:

**Box 6.8. Land transfers: sex disaggregated**

<table>
<thead>
<tr>
<th>Transferee</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women</td>
<td>4</td>
</tr>
<tr>
<td>Men</td>
<td>21</td>
</tr>
<tr>
<td>Joint</td>
<td>2</td>
</tr>
</tbody>
</table>

...and are at risk from non-transparent land allocation practices

Processes for allocating Government land are less than transparent. The issue has come to the fore with high levels of migration to Honiara resulting in squatters on Government land on the outskirts. There is an urgent need to formalize the titles of these squatters to enable their land to be developed and properly serviced. The decision to allocate formal title (usually a fixed term estate granted at a premium and then annual rent) lies with the Commissioner for Lands and is highly discretionary. The amount of the premium appears arbitrary. Allocations of land have currently officially stopped, but the Mission was informed that these may well be carrying on “under the table”. It is joked that the only people who own land in Solomon Islands are land officials.

The disarray in the Registry and lack of transparency in the land allocation process is to the detriment of both men and women. The Government in its Medium Term Development Strategy has highlighted mal-administration, rent seeking, and poor planning as key issues that need to be addressed. It is likely that with their lower education levels, and fewer linkages into the male dominated decision-making system, women are more likely to lose out in the system. Women at the Business Women’s Forum unanimously stated that you should forget it if you were thinking about dealing with the Government over land, and the system is weighted in favor of the rich and influential (see Box 6.9 below).

**Box 6.9. Westside Women for Peace**

Westside Women for Peace (a women’s peace group established in response to the conflict) established a market at White River, on the outskirts of Honiara on Government land in 2001. They were initially granted a year lease by the Commissioner of Lands. This was subsequently extended until in 2004 when the women decided to apply for their short term lease to be turned into a long fixed term lease. The history of their application is as follows:

- End February 2004 – application for lease submitted
- August 2004 – chasing letter sent
- December 2004 – further chasing letter sent, with support from Solomon Islands National Council of Women

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145 Source: Land Registry estimate.
146 Source: Land Registry estimate.
147 See Box 3.2in chapter 3.
• 2005 – response received from member of Government asking women to re-submit application to him personally, rather than to Commissioner of Lands

• 2005 – Women re-submitted application with fee of SBD 4,000 (US$ 534)

• October 2005 – Women evicted from the land by new owner, the member of Government to whom the land had apparently been transferred.

• November 2005 – Women wrote to member of Government seeking return of SBD 4,000 fee (US$ 534)

• No response to date.

The Market is now privately owned. It has no facilities, no rubbish collection and is dirty and unhygienic. Women continue to trade there.

Recommendations

Policy development and legal reforms

Government\(^{148}\) has committed itself to:

• Establish a commission of inquiry to enquire into the land acquisitions in Guadalcanal,

• Develop a land use development policy of all undeveloped alienated land for the benefit of all original landowners, and

• Review relevant acts / legislation to better support and facilitate the protection and development of this sector with maximum benefit to the Solomon Islands.

In this context, Government should:

• Ensure that women are included in the land reform process. Involve women’s NGOs, particularly those with links to the grass roots.

• Recognize women’s land rights in legislation, especially in relation to the formalization of customary land to enable its commercial exploitation.

Institutional reforms

Government is intending to strengthen and modernize the land registry. In this context, and in view of the low use that women currently make of the formal land registration system, it is recommended that Government should:

• Ensure that women are properly represented on any task force or group set up to take the institutional reform of the Registry forward.

• Ensure that the Registry, as an institution is ‘friendly’ to women, for example, suitable opening hours and facilities, adequate proportion of female staff, user guides and staff procedures manuals that recognize that the Registry is for women as well as men.

Outreach

• In partnership with NGOs, enhance information to women about their land rights, and how to claim them. Use innovative methods like drama and radio soaps as well as pamphlets and other initiatives. Involve Women’s Resource Centers in the Provinces.

Strategic litigation

• Civil society organizations should:
  • Consider taking forward challenges in the Courts to assert women’s land rights and aim to establish precedents in superior Courts that uphold women’s land rights.
  • Establish a ‘women’s land legal aid fund’ to enable women to challenge infringements of their land rights in the Courts.

Box 6.10. Case Study: Jedok Sports, Premier Real Estate and the Bilum Tree

Jedok Sports is overflowing. The small sporting goods store in Honiara that was perfectly suitable when the business was established in 1986 is now struggling to contain its growing stock. However, while the shelves begin to sag under the increasing weight, Jedok Sports’ owners, Dora Korinihona and Hani Tuke, can’t find anywhere to move their business.

The sisters have been renting out of one of Honiara’s larger shopping centers, the NPF Plaza, for 20 years but, despite expansions, they have run out of room. There are just so few options for alternate space here in Honiara says Dora. With no properties to rent that could accommodate their store, the sisters have decided that there is little option but to build their own commercial building. However, finding suitable, vacant land brings up another set of obstacles. The sisters often ask the Land Department if there is any new vacant land for lease but continue to be turned away. As the situation becomes increasingly serious, the sisters are beginning to become desperate. Look at us, said Dora, gesturing at the overflowing boxes stacked in every spare patch of space, we are full to the brim with nowhere to go.

The recurring problem of access to land in Honiara has also affected Julie Gegu-Haru, who established Premier Real Estate and Property Development late last year. Julie started the business after leaving another local real estate firm. Before starting Premier Real Estate, Julie found some Government land on which she wanted to build the premises for her new business. She completed the proper process at the Department of Lands and followed up on the purchase request continuously but, ultimately, the Department decided to give the land to another business.

Julie believes that the decision to sell the land to another bidder was made, in part, because she was a younger woman and the Department of Lands felt that, at 35, a woman would not be able to build on the land.

Luckily, through her real estate contacts, Julie was later able to find some customary land with a perpetual title that she made a successful bid on. However, as is made clear by Jedok sports, without proper connections resolving these issues is rarely easy.

Julie hopes to build a house on the Government land and plans to lease out a portion of the building. However, following her experiences with the difficulty of securing land she wants to be fair on her tenants. She is aware that there is no Lease Act in Solomon Islands and, as a result of this, no legislated rights for tenants or those leasing land. This means the only things that ensure the fair treatment of a tenant is their relationship with the landlord. While Julie’s tenant will be treated fairly, it is safe to assume that this is not the case throughout Solomon Islands.

Vavilyn Brook and Loretta Rembi understand the struggle that small, craft based industries face in relation to land issues. The women sell handicrafts, mostly bilum bags (small, string bags) from under a tree in central Honiara that serves as something of a make shift market. The tree is surrounded by mainly craft makers and on any given day there are dozens of brightly colored bilum bags for sale flying from its branches. Known to everyone as the Bilum Tree, this provides an informal and recognizable place for the craft sellers to congregate.

The two women, originally from Morovo Lagoon but now based in Honiara, are both members of the Kalala Women’s Association. In 2004, Vavilyn and Loretta, along with many others, used to sell their handicrafts at the Honiara craft market every Sunday. Like the Bilum Tree there was no formal seating but there was thick grass and essential shade from scattered trees that made the market a comfortable place from which to work.

In 2007, this arrangement changed without warning. Due to other food vendors wanting to sell at craft markets – against Council regulations – the local Council decided to remove all of us, says Vavilyn. The women selling handicrafts were given three weeks’ notice to leave. Many of them were quite literally facing the prospect of losing their only source of income.
Vavilyn was left with little other option but to plead with the Honiara City Council. She wrote a letter on behalf of the women and, as she was aware of the problems besetting businesses throughout Honiara in relation to land, Vavilyn sent it not only to Honiara city Council but to the Central Police, the Tourism Department, and the Museum in an effort to avoid the many potential problems. The letter asked that the people making and selling handicrafts be able to stay outside the fenced grounds of the Sunday craft market, next to the road, and under what would soon become known as the Bilum Tree.

The Council approved the application and, while the women have no seating or proper facilities, the women pay no rent and have remained undisturbed for two years.

Despite the difficulties Dora and Hani have encountered in finding a new location for Jedok Sport, they continue to encourage Solomon Islands women to enter business for themselves. One of the most important things the sisters feel can be achieved from this is the sense of pride it instills. It's empowering they say. You can buy your own house or car, (and) school fees for your children's education. Of her experience in business, Julie Gegu-Haru maintains a similar message. It's hard she says but if I can take the risk, anybody can. Some women have succeeded with few connections and no finances, such as Vavilyn and Loretta, and some are still struggling to secure land that will enable crucial expansion, such as Dora and Hani, but one thing remains clear, land issues are a constant problem and an inhibitor for women doing business throughout Solomon Islands.
Annex A: Solomon Islands Planning Matrix

Solomon Islands: Gender And Investment Climate Reform Planning Matrix

Planning period: 3 years

Goal 1: Improved Policy Environment And Support Network For Business Women

<table>
<thead>
<tr>
<th>Targets</th>
<th>Means of Verification</th>
<th>Activities</th>
<th>Responsibility</th>
<th>Tools to support activities / baseline</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Improved policy dialogue on investment climate reform for women’s economic empowerment</td>
<td>Proportion of members representing business women's interests on the Business Law and Administration Reform (BLAR) Steering Committee Number of policy papers featuring women’s economic empowerment considered by Cabinet</td>
<td>ToRs, membership lists and minutes of meetings BLAR Steering Committee minutes</td>
<td>BLAR Steering Committee IFC Office</td>
<td>TOOL 1: Gender Working Group ToRs TOOL 3: Investment Climate Gender Consultant ToRs and initial work plan</td>
</tr>
<tr>
<td>1.2 Improved legal framework for women's businesses</td>
<td>Number of reforms to improve the investment climate for women enacted and implemented</td>
<td>Solomon Islands Gazette BLAR Steering Committee minutes Gender Working Group minutes</td>
<td>Gender Working Group BLAR Steering Committee Govt of Solomon Islands</td>
<td>TOOL 4: List of Discriminatory Laws</td>
</tr>
<tr>
<td>1.3 Improved training and networking for business women</td>
<td>Business women's perception of training and networking</td>
<td>Perception surveys Solomon Business Women’s Forums (with open invitation to business women ranging from the informal sector through to big business), as commenced by IFC in March 2009, in partnership with local organizations and existing business women’s associations. 1.3.2 Develop and undertake networking and monthly training on investment climate for the Business Women's Forum, including regional networking across the Pacific to share lessons and experiences.</td>
<td>IFC (local consultant) Gender Working Group Business Women's Forum</td>
<td>TOOL 2: Business Women's Forum ToRs TOOL 3: Investment Climate Gender Consultant ToRs and initial work plan TOOL 11: Women's Consultation / Training Checklist TOOL 5: Business Women’s Perception Questionnaire</td>
</tr>
</tbody>
</table>

149 (Or Method to obtain Baseline).
150 Lead entity is listed first.
### Goal 2: Enhanced Ability Of Women To Start And Run Businesses

<table>
<thead>
<tr>
<th>Targets</th>
<th>Baseline(^1)</th>
<th>Means of Verification</th>
<th>Activities</th>
<th>Responsibility(^2)</th>
<th>Tools to support activities / baseline</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1 Increase by five percentage points the proportion of (a) registered companies and (b) partnerships and sole traders that are female-headed</td>
<td>Number of female- and male-headed companies, partnerships and sole traders</td>
<td>Company registers Business Owners Survey</td>
<td>2.1.1 Ensure operations of Companies Registry is gender sensitive 2.1.2 Undertake outreach activities in respect of business women’s formalization, focused on the benefits of the limited liability company form (for instance, mobile registration units, developing partnerships with National Council of Women and Resource Centers with NGOs and with the CSP, staff training, establish Women’s Help Desk at new Business Registry) 2.1.3 Ensure all information on registering a business is equally accessible to men and women, and produce a gender sensitive business entry handbook</td>
<td>Sub Committee on Companies Act Implementation / Gender Working Group Ministry of Commerce and Industry Business Women’s Forum</td>
<td>TOOL 8: Business Registry Sex Equality Checklist TOOL 5: Business Women’s Perception Questionnaire TOOL 9: How to Undertake Outreach on Formalization for Business Women TOOL 10: Women’s Help Desk draft ToRs TOOL 11: Women’s Consultation/ Training Checklist (for handbook development) TOOL 6: Using Business Registry Data to establish percentage of Registered Companies Headed by Women. TOOL 7: Business Owners’ Survey</td>
</tr>
<tr>
<td>2.2 Improved legal framework for women’s business entry</td>
<td>Number of reforms undertaken</td>
<td>BLAR Steering Committee minutes</td>
<td>2.2.1 Develop regulations under new Companies Act for community companies that build in protection for women.(^3) 2.2.2 Develop and promulgate basic partnership agreement.</td>
<td>Sub Committee on Companies Act Implementation / Gender Working Group Ministry of Commerce and Industry Business Women’s Forum</td>
<td>TOOL 12: Companies Act Checklist TOOL 13: Draft Partnership Agreement</td>
</tr>
<tr>
<td>2.3 Reduce regulatory compliance cost on female-headed businesses</td>
<td>Sex disaggregated time/cost compliance assessment</td>
<td>Provincial business license survey (sex disaggregated) Standard Cost Model (sex disaggregated) Gender Working Group minutes Cabinet policy papers</td>
<td>2.3.1 Improve legislation/policy on Business Names Registration process based on international best practice 2.3.2 Facilitate women’s focus group(s) on licensing constraints 2.3.3 Reform provincial business licensing with due consideration of the impact on female-headed businesses (revealed in time/cost compliance assessment)</td>
<td>Provincial authorities</td>
<td>TOOL 15: Analysis of Business Names Registration Process TOOL 11: Women’s Consultation/ Training Checklist TOOL 5: Business Women’s Perception Questionnaire TOOL 14: Mainstreaming Gender in Regulatory Compliance Cost Tools</td>
</tr>
</tbody>
</table>

\(^1\)(Or Method to obtain Baseline).  
\(^2\)Lead entity is listed first.  
\(^3\)E.g. consider providing for minimum level of female representation on management board.
### Goal 2: Enhanced Ability Of Women To Start And Run Businesses

<table>
<thead>
<tr>
<th>Targets</th>
<th>Baseline (^{151})</th>
<th>Means of Verification</th>
<th>Activities</th>
<th>Responsibility (^{152})</th>
<th>Tools to support activities / baseline</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.4 Reduced harassment of female informal sector traders</td>
<td>Current level of harassment suffered by female informal sector traders</td>
<td>Newspaper reports, television, radio, internet, surveys Perception questionnaire</td>
<td><strong>3.4.1</strong> Work with BLAR Steering Committee to contribute to development of policy on informal sector, including: a) Proposal for a market-based solution, providing more legitimate market space for small vendors b) Policy with transparent rights and responsibilities for market vendors operating in legitimate space</td>
<td>BLAR Steering Committee Gender Working Group Honiara City Council</td>
<td>TOOL 17: Gender Perspectives on CIMC Informal Policy Concept Paper (^{154}) TOOL 5: Business Women’s Perception Questionnaire</td>
</tr>
</tbody>
</table>

### Goal 3: Improved Access To Commercial Justice For Women

<table>
<thead>
<tr>
<th>Targets</th>
<th>Baseline (^{155})</th>
<th>Means of Verification</th>
<th>Activities</th>
<th>Responsibility (^{156})</th>
<th>Tools to support activities / baseline</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1 20 percent of mediation users are women / 80 percent of female users satisfied with ADR service</td>
<td>Percentage of mediation users that are women Percentage of female users satisfied with mediation service</td>
<td>Mediation records ADR Users Perception Survey - baseline and follow up</td>
<td><strong>3.1.1</strong> Develop and promulgate simple contract for use in common commercial transactions for women. <strong>3.1.2</strong> Provide training to women on basic contract law. <strong>3.1.3</strong> Ensure gender is mainstreamed in mediation reform process (as per Table 5.4 and Table 5.5 of SI Gender and Investment Climate Reform Assessment) <strong>3.1.4</strong> Undertake outreach to inform business women of availability and appropriateness of mediation.</td>
<td>Court's Steering Committee on Mediation / Gender Working Group</td>
<td>Tool 18: Outline of Basic Contract TOOL 19: Mediation/Sex Equality Checklist TOOL 20: Methodology for sex Disaggregation of ADR Users Tool 21: ADR/Commercial Justice Users’ Perception Questionnaire</td>
</tr>
<tr>
<td>3.2 At least 20 percent of accredited mediators are women</td>
<td>No mediators currently accredited Accreditation records</td>
<td><strong>3.2.1</strong> Train and accredit female mediators.</td>
<td>Court's Steering Committee on Mediation / Gender Working Group</td>
<td>Tool 19: Mediation/Sex Equality Checklist</td>
<td></td>
</tr>
</tbody>
</table>

\(^{154}\) Prepared for Papua New Guinea’s Consultative Implementation and Monitoring Commission, but relevant for Solomon Islands. 

\(^{155}\) (Or Method to obtain Baseline). 

\(^{156}\) Lead entity is listed first.
Annex B: People met

Aileen Croghan, First Secretary, AusAID
Her Ladyship Justice Amelia Nkem Izuako, Judge, High Court of Solomon Islands
Anne Kiriau, Rep., ANZ Bank
Bernadette Molairi, Kaibia Heights
Bob Pollard, Country Manager, Enterprise Challenge Fund/Transparency International
Celia Kopoma, Women in Law Association
Central Bank of Solomon Islands (Small Business Finance Scheme)
Derick Aihari, Director of Foreign Investment Division, Ministry of Commerce, Industries & Employment, Solomon Islands
Elizabeth Kausime, U/Sec, Ministry of Council of Women
Gloria Tovusia, Exec Sec. Ministry of Finance and Treasury
James Apato, Director, Ministry of Commerce, Industry & Employment
James Hall, Deputy Development Coordinator, RAMSI
Jane Christie, Senior Program Development Specialist, Ministry of Justice and Legal Affairs
Janet Tuhaika, Director, Women’s Development Division, Ministry of Women, Youth and Children Affairs
Jefferey Wickham, Ministry of Commerce, Industry and Employment
Jennifer Wate, Solomon Islands Development Trust
John Leigh, Revenue Adviser, Honiara City Council
John Amo, Solomon Islands Chamber of Commerce
John Waneta, Business Licensing Officer, Honiara City Council
John George Katahanas, Partner, Sol-Law
Johnley Omeagaro Waneta, Business Licensing Officer
June Maru, Solomon Islands Law Society and Women in Law Association
Kate Ahukela, Entrepreneur
Kamal Azmi, Counsellor, AusAID
Ken Lyons, Spatial Information Services Pty Ltd.
Lynden Prince, Creating Communities Australia Pty Ltd.
Lands Regional Centre, Department of Lands, Ministry of Lands, Housing and Survey
Leliana Firisua, Small & Medium Enterprises Council of Solomon Islands
Maelyn Bird, Crystal Lawyers
Meg Johnson, Acting Program Director, RAMSI Law and Justice Program Unit, Ministry of Law and Justice, Solomon Islands
Melissa Stutsel, Adviser, AusAID
Mia Rimon, Gender Based Violence Project
Michael Lowe, Agriculture Livelihoods Implementation Coordinator, Community Sector Program, Solomon Islands
Michael Wate, Manager Investments, Solomon Islands National Provident Fund
Michael Prince, Director, The Winding Staircase
Ministry of Commerce
Ministry of Finance, Economic Reform Unit
Miriam Lidimani, Women in Law Association
Moses Kaukui, Treasurer, Honiara City Council
Nicole Ridley, Advisor to the High Court Registry
Pamela Wilde, Ministry of Justice, Adviser
Paul Amao, Chamber of Commerce
Rachel Stewart, Project Officer, Central Bank
Rose Pitakaka, Rep., ANZ Bank
Riley Mesapitu, Women in Law Association
Ruth Maetala, Gender Officer, Women's Development Division, Ministry for Women, Youth and Children's Affairs
Shaun Anthony, Senior Adviser, Economic Reform Unit, Ministry of Finance and Treasury
Small Business Finance Scheme
Terry Reid, Consultant, Asian Development Bank
Theresa Ali, Aoke Langa Langa Women Assoc.
Tony Makabo, National Provident Fund
Veronica Maepeza, Solomon Islands Development Trust
Violet Silas, Supervisor, Registrar of Companies/Titles, Ministry of Justice and Legal Affairs
Annex C: Notes from Business Women’s Forum

IFC/AusAID Pacific Gender Mainstreaming Program
SOLOMON ISLANDS
BUSINESS WOMEN’S FORUM
TUESDAY 10 MARCH, 2009
10am – 1pm, Leilei Resort conference room, Honiara

Agenda

Team: Clare Manuel; Vijaya Nagarajan; Tamara Haig; Dr Ishmael Wore; John Zama

1. Intros (15 mins): PLENARY
   - Business women: Prayer
   - CM: Brief welcome
   - Business women: Introductions
   - CM: Pacific Gender Mainstreaming; IFC generally (including PPD); Last mission – where are they up to?
   - VN: Pacific gender mainstreaming examples in Vanuatu, Tonga, Samoa etc; Possibility of Pacific women network
   - TH: Pacific women – celebrating success and case studies

2. Hates & Loves (20 mins): PAIRING for DISCUSSIONS
   - Discuss highlights and difficulties they have encountered
   - Write up on separate pieces of paper
   - Facilitators will pin the stickers to the swiveling board

3. Problems & Solutions (30 mins):
   - Four groups will discuss the main challenges faced by women in each of the 4 areas (CM to ask who has had a dispute – they are allocated and then groups, that is, Business registration & licensing (CM); Access to registered land (TH); Access to Justice (Vij); Business skills (IW))
   - Stick problem and solutions cards on to butchers paper
   - Discuss each of the 4 areas, with a participant from each group speaking to the problems and solutions (Plenary – CM to lead)

4. Prioritization (5 mins):
   - Where to now? Next steps? (CM lead)
   - Prioritize solutions/ recommendations with dot each (TH lead)
   - Identify main solutions to these challenges
<table>
<thead>
<tr>
<th>Name</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agnes Podarua (Aggie)</td>
<td>Bokolo School/Training Centre</td>
</tr>
<tr>
<td>Alice Baekalia</td>
<td>YWCA</td>
</tr>
<tr>
<td>Anne Maedia</td>
<td>Orchid Art</td>
</tr>
<tr>
<td>Annette Dennis</td>
<td>Vanita Motel, Tulagi</td>
</tr>
<tr>
<td>Bernadette Molani</td>
<td>Aoke Langa Langa Women Assoc</td>
</tr>
<tr>
<td>Bernadette Tadakusu</td>
<td>c/- MNURP</td>
</tr>
<tr>
<td>Betty Fakarii</td>
<td>c/- MNURP</td>
</tr>
<tr>
<td>Betty Linah</td>
<td>c/- MNURP</td>
</tr>
<tr>
<td>Claudette Likau</td>
<td>Catholic Women, self employed</td>
</tr>
<tr>
<td>Dora Korinihona</td>
<td>Jedok Sports Centre</td>
</tr>
<tr>
<td>Elaine Maepio</td>
<td>Vae Tailor &amp; Accessories</td>
</tr>
<tr>
<td>Freda Kasoa</td>
<td>Fragrant Flowers</td>
</tr>
<tr>
<td>Geraldine Macmona</td>
<td>Professional Copy Service</td>
</tr>
<tr>
<td>Grace Hemmer</td>
<td>GRP &amp; Associates Ltd</td>
</tr>
<tr>
<td>Grace Pinau</td>
<td>Graceful Works</td>
</tr>
<tr>
<td>Helen Liolea</td>
<td>Solomon Insurance Brokers</td>
</tr>
<tr>
<td>Hellen Hilli</td>
<td>H.S. Sewing &amp; Co.</td>
</tr>
<tr>
<td>Hilda Kari</td>
<td>SINCW &amp; Director, Land Reform Unit</td>
</tr>
<tr>
<td>Janet Rafe</td>
<td>Tropical Refrigeration &amp; Air Conditioning</td>
</tr>
<tr>
<td>Jessie Kuali</td>
<td>Chief Accountant, SIG</td>
</tr>
<tr>
<td>Joyline Ta’aru</td>
<td>DLT Kitchen</td>
</tr>
<tr>
<td>Julie Haro</td>
<td>Premiere Real Estate</td>
</tr>
<tr>
<td>Justina Radclyffe</td>
<td>Mermaid Co. Limited</td>
</tr>
<tr>
<td>Kate Ahuikela</td>
<td>KHA Ent.</td>
</tr>
<tr>
<td>Leah Collinson</td>
<td>Cut n Style Hair &amp; Beauty Salon</td>
</tr>
<tr>
<td>Louisa Hayward</td>
<td>Rumours Café</td>
</tr>
<tr>
<td>Margaret …</td>
<td>Quality Hatchery</td>
</tr>
<tr>
<td>Marilyn Ronia</td>
<td>Frangipani Ice</td>
</tr>
<tr>
<td>Mary D. Bollen</td>
<td>President, Guadalcanal Council of Women</td>
</tr>
<tr>
<td>Mary Imma Borja</td>
<td>Matana Ara Women Assoc.</td>
</tr>
<tr>
<td>Mary Kevara</td>
<td>Mary’s Hair Salon</td>
</tr>
<tr>
<td>Marylyne Maza</td>
<td>MM Kakai Shop</td>
</tr>
<tr>
<td>Miriam Poznanski</td>
<td>South Pacific Oil Ltd</td>
</tr>
<tr>
<td>Muriel Mana</td>
<td>c/- MNURP</td>
</tr>
<tr>
<td>Nester Chasi</td>
<td>Poultry</td>
</tr>
<tr>
<td>Pamela Zoleveke</td>
<td>National Express</td>
</tr>
<tr>
<td>Rosina Faarodo</td>
<td>c/- MNURP</td>
</tr>
<tr>
<td>Serah Osiabu</td>
<td>Ozzy Kitchen</td>
</tr>
</tbody>
</table>
A Women’s Business Forum (‘the Forum’) was conducted at the Leilei conference room (office of the RAMSI Special Coordinator) where more than 30 women attended the Forum. Before the Forum started there was an introductory session where each woman introduced herself to the rest of the participants and described what sort of business she was involved in and/or represented in the Forum. The women were then divided into groups where each group contributed on topics allocated by the Team and reported back to the rest of the participants. There were areas of difficulties that were identified by the women during the reporting stage of the Forum and the women also strongly urged the Team to have regard to the solutions that were prioritised through the indicators and that such prioritisation must be emphasised in the Team’s final report. There were indicators used to identify how many women were in favour of the proposed solutions highlighted in the Forum.

The Forum mainly focused on three key areas where most women in Solomon Islands were currently experiencing difficulties and these were: (i) dealing with disputes and access to justice; (ii) business entry and licensing and (iii) registering of land.

Provided below is a table indicating the problems and solutions to those problems and the indicators, where each star (*) represents and indicates each woman who is in favour of such solution.

### Dealing With Disputes / Access To Justice

<table>
<thead>
<tr>
<th>Problem</th>
<th>Solution</th>
<th>Indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td>✔ Cultural/Christian ethics v Legal adversary process</td>
<td>✔ Different legal mechanisms for different businesses – cheaper/ faster for small disputes</td>
<td>****</td>
</tr>
<tr>
<td>✔ delays in system – trade dispute panel - Court (takes years)</td>
<td>✔ increased systems for speeding things up</td>
<td>********</td>
</tr>
<tr>
<td>✔ disputes sometimes can’t be solved – may be change of behavior</td>
<td>✔ Awareness - of Insurance Act – legal processes</td>
<td></td>
</tr>
<tr>
<td>✔ legal avenues – Court needs endurance</td>
<td>✔ developing systems to form Association to share solutions</td>
<td></td>
</tr>
<tr>
<td>✔ cost of legal proceedings</td>
<td></td>
<td></td>
</tr>
<tr>
<td>✔ contact with overseas parties impossible to enforce</td>
<td></td>
<td></td>
</tr>
<tr>
<td>✔ lack of understanding, fear and distance</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Business Entry And Licensing

<table>
<thead>
<tr>
<th>Problems</th>
<th>Solutions</th>
<th>Indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓ office space</td>
<td>✓ Government established revolving fund for women plus credit union</td>
<td>*******</td>
</tr>
<tr>
<td>✓ Capital issues</td>
<td>✓ Government established revolving fund for women plus credit union</td>
<td></td>
</tr>
<tr>
<td>✓ Long period to obtain licenses</td>
<td>✓ More land for locals and women and not “wakus” (Asians)</td>
<td>***</td>
</tr>
<tr>
<td>✓ High license fees</td>
<td>✓ Less security requirements – banks promote microprojects</td>
<td></td>
</tr>
<tr>
<td>✓ Bribery for licenses</td>
<td>✓ Safe area</td>
<td>*</td>
</tr>
<tr>
<td>✓ Different licenses for similar activities</td>
<td>✓ Legal issues – one stop shop for all licenses</td>
<td></td>
</tr>
<tr>
<td>✓ Awareness issues</td>
<td>✓ Transparency funds</td>
<td></td>
</tr>
<tr>
<td>✓ High rentals</td>
<td>✓ Training knowledge skills</td>
<td>****</td>
</tr>
<tr>
<td>✓ Need high security (20%-30%) to get loan</td>
<td>✓ Rural bank / microfinance</td>
<td>**</td>
</tr>
<tr>
<td></td>
<td>✓ Rural banking (ANZ)</td>
<td>*</td>
</tr>
<tr>
<td></td>
<td>✓ Join SIWIBA (Solomon Islands Women in Business)</td>
<td></td>
</tr>
</tbody>
</table>

### Registering Land

<table>
<thead>
<tr>
<th>Problems</th>
<th>Solutions</th>
<th>Indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓ Confusion over ownership of land – crown/ customary land</td>
<td>✓ Ministry and lands and tribes need to meet and agree separately (Consultation)</td>
<td></td>
</tr>
<tr>
<td>✓ Money to develop the land</td>
<td>✓ Security&lt;br&gt;- land valuation should be accepted / other assets&lt;br&gt;- Trust between customers and commercial banks</td>
<td></td>
</tr>
<tr>
<td>✓ Must develop land within 18 months</td>
<td>✓ Longer period (5 years) to develop land</td>
<td>****</td>
</tr>
<tr>
<td>✓ Process of getting land is hard</td>
<td>✓ Need more right staff at department of lands to speed up process of getting land</td>
<td></td>
</tr>
<tr>
<td>✓ Lands Centre – poor administration</td>
<td>✓ Policy&lt;br&gt;- better control process&lt;br&gt;- Administration needs better qualified staff to properly handle files and registration processes</td>
<td></td>
</tr>
<tr>
<td>✓ Corruption</td>
<td>✓ Government to support transparency&lt;br&gt;- Look at staff salary and give more motivation to staff&lt;br&gt;- Need to conduct awareness within lands department for staff&lt;br&gt;- Enforce discipline</td>
<td></td>
</tr>
<tr>
<td>✓ Too much power for the Commissioner/ Minister in the Lands and Titles Act</td>
<td>✓ Establish board to deal with land applications and give approval (include women)</td>
<td>***</td>
</tr>
</tbody>
</table>
Annex D: Bibliography


ANU Enterprise, People’s Survey 2008


Asian Development Bank, Private Sector Assessment for Solomon Islands, July 2005


Companies Bill, 2009

Corrin, J. and Paterson, D. Introduction to South Pacific Law, Routledge Cavendish, 2007


Irvin, A. Gender and Reproductive Health and Rights in the National Development Plans of Ten Pacific Island Countries, June 2008.


Judiciary, Solomon Islands Courts (Civil Procedure) Rules 2007


Ministry of Women, Youth and Children’s Affairs Corporate Plan, 2008–2010


Moser, A. The Peace and Conflict Gender Analysis: UNIFEMs research in the Solomon Islands, Gender and Development, VI 15 no 2, 2007.

Secretariat of the Pacific Community: Revised Pacific Platform for Action on Advancement of Women and Gender Equality 2005–2015: A Regional Charter
Annex E: Tools

Tool 1: Gender Working Group: Terms of Reference

Introduction
Women comprise half the population of Solomon Islands and make a significant (although frequently unrecognized) contribution to Solomon Islands’ economy. Many female-headed businesses are micro or small. Business ownership and management in the formal sector is dominated by men.

The Solomon Islands Gender and Investment Climate Reform Assessment, funded by IFC and AusAID undertook a review of Solomon Islands’ investment climate with a gender lens. The Assessment concluded that Solomon Islands’ legal and regulatory framework for private sector development discriminates against women and makes it more difficult for them to start and grow businesses, particularly in the formal sector, than it is for their male counterparts.

In response to this finding, the Government of Solomon Islands proposes that if the existing PPD structures in the Solomon Islands (including the Business Law and Administration Reform Committee and Working Groups) do not have adequate capacity to address the identified regulatory and policy level gender constraints, then a new Gender Working Group be formed to address these issues. This initiative is taking place under the IFC funded Regulatory Simplification and Investment Policy and Promotion Project.

Composition
If the government decides to form a Gender Working Group (GWG), it could comprise of (up to) four public and four private sector representatives including:

- The Ministry leading the investment climate reform process (Chair)
- The Ministry responsible for women
- The Ministry/agency responsible for small business development
- The Ministry responsible for Justice
- The National Council of Women
- Business women’s organizations
- NGO’s/donor projects working with business women at the grass roots level (if appropriate, two representatives)

Secretariat
The work of the GWG will be supported by an IFC funded local consultant who provides technical assistance to the secretariat for the GWG.
Mandate

The overall role of the GWG is to ensure that women’s voice is effectively heard in PPD, and that business women’s concerns are taken on board in the investment climate reform process. Specifically the GWG will:

General

• Work with other groups in the PPD structure charged with driving forward reforms in specific areas (for example business entry) to ensure that gender is mainstreamed in these reform efforts, and that the recommendations made in the Gender and Investment Climate Reform Assessment are taken on board.

• Review terms of reference of other PPD groups in light of need to mainstream gender within their make-up and operations and propose amendments if necessary.

Business Women’s Forum

• Support the development and launching of a Business Women’s Forum to facilitate networking and training opportunities for women.

• Work with the Business Women’s Forum to assist them to develop appropriate networking and training schedule and activities.

Reform of general legal framework

• Develop policy papers for Cabinet on reforms required to the legal framework to facilitate women’s business entry and operations. These will include reform of the discriminatory laws listed in Tool 4.

• Advocate for reform of legal framework in accordance with policy papers.

• Work with relevant Government institution to strengthen the process for the reporting to the UN on obligations under the Convention for the Elimination of All Forms of Discrimination. Work with Government to ensure that the country reports adequately addresses economic (as well as social) issues and that a robust and sustainable mechanism exists for driving forward reforms to enhance women’s economic empowerment.

Business entry and licensing

• Work with Business Registry to ensure its operations are gender sensitive [see Tools 6 - 11]

• Work with Business Registry to undertake outreach activities in respect of business women’s formalization in accordance with recommendations in Gender and Investment Climate Reform Assessment, working in partnership with other groups (such as NGOs) where appropriate.

• Work with the new Companies Registry to develop a Women’s Help Desk.

• Produce business women’s handbook aimed specifically at women.

• Work with the Business Law and Administration Reform Committee to develop regulations under the new Companies Act to ensure that women can benefit from proposed reforms on the same basis as their male counterparts. In particular, ensure that reforms facilitate women’s informal business and community groups formalizing their businesses and registering them as companies.

• Develop a basic partnership agreement and deliver training to Business Women’s Forum on the partnership agreement and distribute among broader women’s networks.

• Work with the Business Law and Administration Reform Committee to develop legislation/policy on Business Names Registration process based on international best practice, with aim of removing barriers to formalization for women entrepreneurs.

• Oversee conduct of women’s focus group discussions on business licensing to identify key constraints for women.

• Work with the Business Law and Administration Reform Committee to simplify business licensing procedures that have an adverse impact on female-headed businesses.

• Work with the Business Law and Administration Reform Committee to develop a policy on the informal sector including: (a) a Proposal for a market-based solution, providing more legitimate market space for small vendors and (b) a policy with transparent rights and responsibilities for market vendors operating in legitimate space.
Commercial justice / ADR

• Work with the Business Women’s Forum to develop and provide training for women on basic contract law; and to develop and promulgate a simple contract for use in common commercial transactions for women.

• Work with the Court Steering Committee on Mediation to ensure gender is mainstreamed in ADR process as recommended in the Gender and Investment Climate Reform Assessment.

• Work with the Business Women’s Forum to assist them to develop appropriate outreach to women on availability and appropriateness of ADR.

• Work with the Court Steering Committee on Mediation to ensure that female mediators are trained and accredited.
Tool 2: Business Women’s Forum: Terms of Reference

Indicative outline Terms of Reference

[Terms of reference should be developed at initial meeting of the Forum in a participatory manner to ensure buy in and ownership from members. The outline below is provided by way of pointers, for fleshing out to develop fully fledged ToRs]

Forum aims

a) To provide support and training for business women to assist them in the legal, regulatory, and administrative interactions required to run a formal business

b) To share information and knowledge

c) To develop linkages with regional and international organizations with similar aims.157

Membership

Open to all women in business – those trading formally and informally. Initial focus on capital city, but with the intention of expanding country-wide.

[Members should be actively sought through Business Women’s Associations, NGOs operating at grass roots, MFIs (could their clients automatically be members), markets, National Council of Women, church groups and other similar groups.]

Support

Initial support for launch and development of Forum to be provided by IFC. IFC will partner with local organizations and draw on local expertise to deliver training.

Governance

A small board comprising:

- Representatives of groups working with grass roots business women (NGOs, donor projects, church groups, National Council of Women, and other similar groups)

- If possible, a formal private sector sponsor

- Individual business women

[If possible, an inspirational chairwoman should be found to head up the board: someone who has succeeded in business. Candidates may be drawn from the case studies undertaken as part of the Pacific Gender Mainstreaming Program.]

Funding

[Costs should be kept to minimum. Sponsorship of training events could be provided by the local organizations that deliver the training. In the longer term, as part of their corporate social responsibility, funding could be sought from major private sector operators]

Meetings

Say once a month for training and/or advocacy discussion as appropriate.

[Need to consider the best time, place, and format for such meetings. Women operating small-scale businesses are likely to be:

- time poor – running businesses and dealing with domestic and family demands,

- unused to speaking in public, particularly in formal situations, and

• have family demands and/or cultural norms that may make it difficult for them to travel
Ask women what would suit them best].

Activities
In partnership with existing business associations and training providers, and using international/regional resources where appropriate, develop, promote, and undertake training for business women focusing on Running a Formal Business. Possible topics for training could include:

- How to balance family, custom and business (including the wantok system)
- How to deal with harassment from public officials
- Self defence
- Financial literacy, basic book-keeping, developing business plans
- Graduating to the formal sector. Why and how.
- Which business form is right for you? (including training on basic partnership agreement and the benefits and obligations of operating a Limited Liability Company)
- Licensed to operate. How and why to license your business
- Dealing with clients: the basics of contracts
- Small Debt Claims. What are your options to see that money again? (including training on ADR)
- Confronting corruption. What should you do when asked to pay a bribe?
- Setting up shop. How to register a property transfer. Your rights when leasing.
- Microfinance institutions and banks tell you how they can support your business.
- Trading across borders. The ins and outs of customs.

• Undertake training for front line public sector staff dealing with business women, for instance in Business Registry and licensing authorities.
• Provide forum for business women to network and give support to each other, for instance, through mentoring.
• Explore and develop regional networking opportunities for a Pacific Business Women’s Forum
• Develop a networking website for information and support [but consider the extent to which women have access to computers].

Launch
• Major launch event in an appropriate place (for instance, in a market) building on Business Women’s Forum.
**Tool 3: Investment Climate Gender Consultant: Terms of Reference and Initial Work Plan**

**Terms of Reference**

**Introduction**

Women comprise half the population of Solomon Islands and make a significant (although frequently unrecognized) contribution to Solomon Islands’ economy. Many female-headed businesses are micro or small. Business ownership and management in the formal sector is dominated by men.

The Solomon Islands Gender and Investment Climate Reform Assessment (GICRA), funded by IFC and AusAID undertook a review of Solomon Islands’ investment climate with a gender lens.

The Assessment concluded that Solomon Islands’ legal and regulatory framework for private sector development discriminates against women and makes it more difficult for them to start and grow businesses, particularly in the formal sector, than it is for their male counterparts.

**Role**

The key role of the Investment Climate Gender Consultant will be to drive forward implementation of the reforms recommended in the Gender and Investment Climate Reform Assessment. In particular, the Consultant will undertake the activities in the GICRA to achieve the targets, which focus on three key areas:

- Public private dialogue
- Business start up and licensing
- Access to justice and alternative dispute resolution.

The Consultant will work closely and collaboratively with other IFC funded technical advisors on the Regulatory Simplification and Investment Policy and Promotion Project, to ensure that the gender activities align with IFC’s broader investment climate reform program. In particular, the Consultant will support the delivery of the targets and activities detailed below:

**Public Private Dialogue**

**Target 1.1 Improved policy dialogue on investment climate reform for women’s economic empowerment**

Measured by: the proportion of members representing business women’s interests on the Business Law and Administration Reform (BLAR) Steering Committee; and the number of papers featuring women’s economic empowerment considered by Cabinet.

**Activities:**

- Ensure appropriate representation of women’s interests on existing PPD structure (the BLAR Steering Committee). If necessary revise ToRs.
- Form new Gender Working Group (high level representation of public and private sector with 4–8 members) if the existing PPD structure (BLAR Steering Committee) does not have adequate capacity to address the identified regulatory and policy level gender constraints and provide technical assistance.
Target 1.2 Improved legal framework for women's businesses

Measured by: the number of reforms to improve the investment climate for women enacted and implemented.

<table>
<thead>
<tr>
<th>Activities:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• PPD structures (BLAR Steering Committee) and/or Gender Working Group to develop policy papers for Cabinet on proposed reform.</td>
</tr>
<tr>
<td>• Introduce law reforms to Parliament, including those recommended in Table 2.1</td>
</tr>
<tr>
<td>• Enact and implement new laws</td>
</tr>
</tbody>
</table>

Gender dialogue, and potentially the Gender Working Group (GWG), will form a key part of the Public Private Dialogue (PPD) structure developed by the Government of Solomon Islands with support from the IFC to enable the Government more effectively to take forward investment climate reform to facilitate private sector development. If formed, the GWG will:

- comprise (up to) four public and four private sector high level representatives
- develop policy papers for Cabinet on reforms required to the legal framework to facilitate women’s business entry and operations, and engage in advocacy for gender sensitive legal, regulatory, and administrative reform of the investment climate
- work with other groups in the PPD structure charged with driving forward reforms in specific investment climate areas (for example, business entry) to ensure that gender is mainstreamed in these reform efforts, and that the recommendations made in the Gender and Investment Climate Reform Assessment are taken on board.

The Investment Climate Gender Consultant’s role in undertaking activities to support Targets 1.1 and 1.2 will be to:

- Drive forward the formation of the GWG: agree with Government it’s appropriate composition and mandate; liaise with key private sector organizations and with relevant NGOs to ensure appropriate membership
- Provide advisory support to the secretariat of the GWG: that is, to call meetings, develop and coordinate the agenda, take minutes and highlight action points, and proactively ensuring follow up of action points
- Ensure that the agenda of the GWG drives forward the reforms recommended in the Gender and Investment Climate Reform Assessment
- Establish working relationships between the GWG and other key PPD groups (in particular those dealing with business entry, licensing, the informal sector158, and commercial justice. Ensure that the GWG is positioned to influence the deliberations of such other groups
- Review the terms of reference and composition of other key PPD groups to ensure that their mandate includes gender and their composition ensures adequate representation of women’s interests. Drive forward changes to current mandates and composition where appropriate
- Work with relevant Government institution to strengthen the process for the reporting to the UN on obligations under the Convention for the Elimination of All Forms of Discrimination. Work with Government to ensure that the country reports adequately addresses economic (as well as social) issues and that a robust and sustainable mechanism exists for driving forward reforms to enhance women’s economic empowerment
- Provide technical assistance to the GWG, and to the reform process in particular, advising on the mainstreaming of gender issues in investment climate reform – for example:
  - reviewing legislation and policy decisions,
  - developing policy papers for Cabinet proposing legislative reform of discriminatory laws,
  - advising on reform of the operations of the Business Registry, and
  - supporting the development of a Women’s Help Desk in [INSERT NAME OF INSTITUTION].

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158 In the case of PNG and Solomon Islands.
Target 1.3  Improved training and networking for business women
Measured by: business women’s perception of training and networking.

Activities:

• Continue regular Solomon Islands Business Women’s Forums (with open invitation to business women ranging from the informal sector through to big business) as commenced by IFC in March 2009, in partnership with local organizations and existing business women’s associations.

• Develop and undertake networking and monthly training on investment climate for the Business Women’s Forum, including regional networking across Pacific to share lessons and experiences.

The Business Women’s Forum (BWF) comprises a network of business women and has the mandate of providing support and training for business women to assist them in the legal, regulatory and administrative interactions required to run a formal business and enabling women to share information on knowledge on business issues, and benefit from mutual support. The BWF will:

✓ be open to all business women – informal and formal SMEs through to big business, and will draw from existing associations, networks, NGOs and MFIs, as well as invite and include business women who have not been involved in existing associations.

✓ offer regular training to business women focusing on Running a Formal Business. Example topics for training include:
  - How to balance family, custom, and business (including the wantok system).
  - Which business form is right for you? (including training on a basic partnership agreement and the benefits and obligations of operating a Limited Liability Company).
  - Dealing with clients: the basics of contracts.

✓ provide a forum for business women to network and give support to each other, for instance, through mentoring, and possibly regional networking opportunities.

The Investment Climate Gender Consultant’s role in undertaking activities to support Target 1.3 will be to:

• Set up the BWF: identify potential members, identify partner organizations (especially any existing organizations that represent business women’s interests and donor projects, and NGOs supporting business women at the community level).

• Facilitate development of terms of reference for BWF.

• Facilitate linkages between the BWF and the GWG – the BWF should feedback investment climate constraints to the GWG to take forward in policy dialogue.

• Support the development of a BWF website, possibly linked to similar regional organizations.

• Help the BWF to build and develop networks of partner organizations locally and internationally.

• Develop and operationalize business women’s networking activities with the BWF in partnership with relevant organizations.

• Develop, operationalize and promote training schedule with the BWF in partnership with relevant organizations to include:
  - Business entry, registration, and licensing requirements.
  - Partnership agreements.
  - Promulgation of basic contract and training on basic contract law.
  - Commercial justice and ADR.
Business Entry and Licensing

The Investment Climate Gender Consultant’s role will be to undertake the activities listed below to achieve targets 2.1–2.5.

**Target 2.1 Increase by five percentage points the proportion of (a) registered companies and (b) partnerships and sole traders that are female-headed**

Measured by: Companies registry and business owners survey data.

**Activities**

- Ensure operations of the Companies Registry are gender sensitive.
- Undertake outreach activities in respect of business women’s formalization focused on the benefits of the limited liability company form (including mobile registration units, partnerships with National Council of Women’s Resource Centers, and the establishment of a Women’s Help Desk at the new Business Registry)
- Ensure all information on registering a business is equally accessible to men and women, and produce a gender sensitive business entry handbook

**Target 2.2 Improved legal framework for women’s business entry**

Measured by: Number of reforms undertaken.

**Activities**

- Develop regulations under new Companies Act for community companies that build in protection for women.
- Develop and promulgate basic partnership agreement.

**Target 2.3 Reduced regulatory compliance cost on female-headed businesses**

Measured by: Sex disaggregated time and cost compliance assessments.

**Activities**

- Improve legislation/policy on Business Names Registration process based on international best practice.
- Facilitate women’s focus group on licensing constraints.
- Reform provincial business licensing in the light of the impact on female-headed businesses (revealed in time/cost compliance assessment).

**Target 2.4 Reduced harassment of female informal sector traders**

Measured by: Newspaper and media reports.

**Activities**

- Work with BLAR Steering Committee to contribute to development of policy on informal sector, including:
  a) Proposal for a market-based solution, providing more legitimate market space for small vendors.
  b) Policy with transparent rights and responsibilities for market vendors operating in legitimate space.
Access to Justice, the Courts, and Mediation

The Investment Climate Gender Consultant’s role will undertake the activities listed below to achieve targets 3.1–3.3.

Target 3.1 20 percent of court-referred mediation users are women, and 80 percent of female users are satisfied with mediation service

Measured by: Mediation user statistics and perception surveys.

Activities

• Develop and promulgate simple contract for use in common commercial transactions for women and provide training on contract law.
• Ensure gender is mainstreamed in mediation reform process as detailed in report (Table 5.4 and Table 5.5 in Chapter 5)
• Undertake outreach to inform business women of the availability and appropriateness of mediation.

Target 3.2 At least 20 percent accredited mediators are women

Measured by: accreditation records

Activities

• Train and accredit female mediators

The table below outlines an initial work plan for the first 6 months of a 12 month consultancy.

Initial Work plan (first 6 months)

<table>
<thead>
<tr>
<th>Activity</th>
<th>Month</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree with Government appropriate composition and mandate of PPD on gender; liaise with key private sector organizations and with relevant NGOs to ensure appropriate membership</td>
<td>1</td>
</tr>
<tr>
<td>Identify and make linkages with potential BWF members and partner organizations</td>
<td>2</td>
</tr>
<tr>
<td>Develop BWF networking and training schedule</td>
<td>3</td>
</tr>
<tr>
<td>Review terms of reference and membership of other PPD groups in light of gender considerations and make recommendations for alteration if appropriate</td>
<td>4</td>
</tr>
<tr>
<td>Commence gender dialogue through PPD structure: facilitate first meeting</td>
<td>5</td>
</tr>
<tr>
<td>Launch BWF: major launch event, for instance in a market</td>
<td>6</td>
</tr>
<tr>
<td>Develop policy paper on reforms to laws that discriminate against women as recommended in Gender and Investment Climate Reform Assessment</td>
<td></td>
</tr>
<tr>
<td>Facilitate focus group discussion with women on business licensing reform</td>
<td></td>
</tr>
<tr>
<td>Facilitate gender aspect of PPD meetings</td>
<td></td>
</tr>
<tr>
<td>Facilitate BWF training / networking events</td>
<td></td>
</tr>
<tr>
<td>Facilitate presentation of policy paper to Cabinet</td>
<td></td>
</tr>
</tbody>
</table>
## Tool 4: List of Laws that hinder women’s full economic participation

**Key laws and regulations that hinder women’s full economic participation or do not adequately protect their interests**

<table>
<thead>
<tr>
<th>Area of law</th>
<th>Current provision (discrimination or inadequate protection)</th>
<th>Reform required</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Constitutional law</strong></td>
<td>Currently there is a conflict between its guarantee of equality and non-discrimination on the one hand, and its entrenchment of customary law which is often discriminatory to women.</td>
<td>Support for the introduction of the proposed Constitution which would make international treaties which Solomon Islands had entered into automatically part of Solomon Islands’ law. (See Rwanda’s Constitution)</td>
</tr>
<tr>
<td><strong>Marriage</strong></td>
<td>The Islanders Marriage Act recognizes customary marriages which include polygamous marriages and discriminatory practices such as ‘bride price’. Under this Act the minimum age for marriage is 15.</td>
<td>Legislation should be amended to comply with CEDAW and remove such discriminatory practices.</td>
</tr>
<tr>
<td><strong>Citizenship</strong></td>
<td>The Citizenship Act provides that a woman can gain citizenship by marrying a Solomon Islander. However, if she divorces him and marries a non citizen she loses her citizenship, unless she has resided in the country for at least ten years.</td>
<td>Amend the legislation to treat men and women equally.</td>
</tr>
<tr>
<td><strong>Divorce – division of property</strong></td>
<td>The Divorce Act is silent on how the property that has been accumulated by the couple during the marriage will be divided. This is often left to the Court to decide and conflicting results can emerge. Islander Divorce Act divorce can only be on a ‘fault’ basis which means proving adultery, cruelty, being of unsound mind or desertion. Affiliation, Separation and Maintenance Act provides that maintenance orders may be discharged by a Court in case of the wife committing adultery.</td>
<td>Amend the law to introduce no fault-based divorce. Introduce guidelines into the legislation on the division of the property so that the needs and means of parties, their financial commitments, as well as their respective capacities to earn and the needs of the children, should be taken into account. Training to judges on gender implications on their decision making. Amend the legislation to remove discriminatory provision.</td>
</tr>
<tr>
<td><strong>Inheritance (in the absence of a will)</strong></td>
<td>The Wills Probate and Administration Act gives equal inheritance rights to men and women. However, customary law has constitutional status and customary inheritance laws discriminate against women.</td>
<td>Amend the law providing for non discriminatory division of assets where there is no will. Introduction of proposed constitution is required to address the effect of customary law in this area. (See Ghana Law 111 Intestate Succession Law)</td>
</tr>
<tr>
<td><strong>Employment</strong></td>
<td>The Labor Act does not apply to domestic servants where many women work. This Act does not contain any anti-discrimination provisions. Restrictions on women working in certain sectors including underground work in any mine.</td>
<td>Amend the law to apply to domestic servants. Include anti discriminatory provisions in the legislation. Remove discriminatory provision from legislation.</td>
</tr>
</tbody>
</table>
**Tool 5: Business Women’s Perception Questionnaire**

The questions below are indicative only for inclusion in a survey on perceptions of aspects of the investment climate and/or for use in focus group discussions.

The questions could be included as part of a more general survey of the business community, or could be used on a standalone basis.

The questions are designed to explore the perceptions of business women, but ideally should also be asked of business men, and results sex disaggregated.

If used as formal means of verification, a survey should be undertaken as a base line at the beginning of the program, and then a follow up survey undertaken following program activities.

**General**
1. What sector does your business operate in?
2. What legal form does your business have (limited liability company, partnership, sole trader, other)?
3. Describe who owns your business?
4. Describe who manages your business?

**Networking and training**
5. Do you belong to any business associations/networks? If no, please move on to question [7]
6. If yes, which? How do you rate each one in terms of the networking and business training it provides? [Excellent / Good / Satisfactory / Poor]
7. How would you rate your opportunities to network with and gain support from other people in business in Solomon Islands / regionally / internationally? [Excellent / Good / No opportunities]
8. Have you had any training opportunities relevant to your business in the past year? If yes, please specify.
9. How many business training sessions have you attended in the past year?
10. How would you rate the business training sessions you have attended? [Excellent / Good / Satisfactory / Poor]

**Business registration**
11. Is your business registered? If no, please move on to question [14]
12. If yes, please specify what the registration is (e.g. as a company, with a business name) and who you registered with.
13. What was your experience of the registration authority?
   a) Did you suffer any harassment or discrimination?
   b) What was the biggest problem for you in registering your business?
14. If no, why did you decide not to register your business?

**Licensing regulatory compliance**
15. Does your business have any licenses? If no, please move on to question [21].
16. Please list the licenses that your business holds.
17. For each license, list the steps you need to take to obtain it. How often does each license need to be renewed?
18. [If IFC have undertaken process maps] Please refer to the license process maps developed by the IFC. In your experience of obtaining your license did you have to go through a process that was different from the one described in this annex? Did you have to go through any steps to obtain your license that are not included in the annex? If yes, please describe these steps.

19. For each license list the cost associated with obtaining it (both authorized and unauthorized payments you make / are asked to make).

20. For each license, explain the most burdensome / problematic aspects for you of obtaining it.

21. Are you aware of any licenses that your business should have but does not have? If your business does not hold any license, why doesn’t it?

**Harassment**

22. In the last year, have you / your business suffered any harassment by public officials? If no, please move on to question [27].

23. Who harassed you?

24. Why do you think you were harassed?

25. What form did the harassment take?

26. Do you think the situation was made worse because you are a man/woman?

27. Are you concerned that you might suffer harassment from a public official in the future? If yes, which organization is most likely to cause you problems?

**Commercial justice**

28. Have you had a dispute / legal problem associated with your business in the past five years? If no, please move on to question [31].

29. If yes, how was it resolved?

30. How would you rate the dispute resolution method you used [Excellent / Good / Satisfactory / Poor]

31. What do you consider to be the best option for resolving legal disputes / problems associated with your business (assuming you can’t sort it out yourself)?

32. Do you think that your business has access to good and affordable methods for dealing with legal disputes / problems? [Yes / No / Don’t know]
Tool 6: Using Business Registry Data to Establish percentage of Registered Companies Headed by Women

1. Introduction
Ascertaining how many female-headed businesses there are (or what proportion of businesses are headed by women) is not straightforward. Both the UK and US rely on survey data to make estimates (see box below and tool 7 below).

In the US the prime source of information about businesses (including as to whether they are male or female-headed) comes from the US Census Bureau’s Survey of Business Owners and the Self-Employed (see http://www2.census.gov/econ/sbo/sample_forms/sbo1_2007.pdf)

In the UK estimates are obtained from three principal sources of data: the Labor Force Survey (which focuses on self-employment); the Global Entrepreneurship Monitor (which focuses on founder-owned businesses); and the Annual Small Business Survey.

2. Using Business Registry data: measuring male and female directors and shareholders:
A ‘quick and dirty’ estimate may be obtained by taking sample data of businesses registered over a period of time from the Business Registry. In the case of companies, the number of companies registered with male / female directors / shareholders could be counted over, say, a month period. But this type of data should be treated with caution because:

- Just because a man or woman is registered as a director/shareholder doesn’t mean that they take a role in the running of the company. For example, in some countries it is necessary to have a minimum of two directors/shareholders in order to register a company. In these cases it is common for man and wife to be joint directors/shareholders, although the business in practice ‘belongs to’ and is run by only one of them.

- Companies may be registered as ‘shelf’ companies by company formation agents with staff as directors/shareholders. When the shelf company is purchased, shareholdings and directorships are transferred.

3. Method
a) Decide if you are measuring ‘stock’ or ‘flow’

<table>
<thead>
<tr>
<th>Stock</th>
<th>Number of existing companies that have male/female directors/shareholders (sample)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Flow</th>
<th>Number of new registrations that have male/female directors/shareholders (total number over a period of time)</th>
</tr>
</thead>
</table>

It is usually more straightforward to measure flow. Many Business Registries will keep a daily register of applications which may contain the required data.

b) Develop simple data collection sheets. For example:

**Number of companies registered with directors who are…**

<table>
<thead>
<tr>
<th>Only male</th>
<th>Only female</th>
<th>Male + Female</th>
<th>Corporate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Number of companies registered with shareholders who are…**

<table>
<thead>
<tr>
<th>Only male</th>
<th>Only female</th>
<th>Male + Female</th>
<th>Corporate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
c) Count – for companies registered over a time period (if measuring flow) or for sample of registered companies (if measuring stock). If registration documents do not require sex of directors/shareholders to be recorded, this can usually be deduced from the names.

4. Developing new registration systems

The development of a new companies registry or the modernization of an existing one – for example through the development of an e-registry – offers the opportunity to put in place systems for sex disaggregated data on shareholders and directors. In the company registration forms, and forms relating to changes in shareholders and directors, there should be a requirement to tick a box, indicating whether each director or shareholder is male or female.
Tool 7: Business Owners’ Survey

Survey purpose
The purpose of this Survey is to ascertain basic facts about who owns and manages businesses – and in particular the extent to which businesses are owned and managed by men on the one hand and women on the other.

Background
In most countries there is no blanket requirement for a business to register. In countries with legal systems derived from the UK, or in part from the UK (including Papua New Guinea, Samoa, Solomon Islands, Tonga, and Vanuatu), all businesses that have incorporated as companies are registered. But these tend to be only fairly large and formal businesses. Partnerships and sole traders only have to register if they are using a business name – and in most cases this outdated mode of controlling business names is not enforced. The business names register is therefore not a reliable source of data about businesses.

In all countries considered in the Gender and Investment Climate Reform Assessments, all businesses are required to hold a trade/business license if they are to operate legally. However the register of businesses holding such licenses cannot be relied on as a source of information about the ownership of businesses because:

• It tends to be only large and quite formal businesses (e.g. those who have business premises) that hold licenses. Small and informal businesses will not be captured, and
• The license tends to be in the name of the business rather than the name of the owner, and details about ownership are not held by licensing authorities.

This situation is not unusual. In many developing countries the process to open a business has been liberalized, and there is no blanket requirement to register a new business (apart from informing the tax authorities). Both the UK and US rely on survey data to obtain data on business ownership, including on the extent to which businesses are headed by women (see box below and tool 7 below).

In the US the prime source of information about businesses (including as to whether they are male or female-headed) comes from the US Census Bureau’s Survey of Business Owners and the Self-Employed (see http://www2.census.gov/econ/sbo/sample_forms/sbo1_2007.pdf)

In the UK estimates are obtained from three principal sources of data: the Labor Force Survey (which focuses on self-employment); the Global Entrepreneurship Monitor (which focuses on founder-owned businesses); and the Annual Small Business Survey.

Definition of “female-headed business”
If a survey is to be undertaken, the starting point is to define what female-headed business is. There are two basic options:

a) to use ownership as the sole criterion. For example, the US 2002 Survey of Business Owners defines women-owned businesses simply in terms of ownership – as firms in which women own 51 percent or more of the interest or stock of the business. http://www.census.gov/econ/sbo/02/womensof.html

b) to consider both ownership and management. For example, The US 1988 Women’s Business Ownership Act defines a female headed business as one that is:

• at least 51 percent owned by a woman or women, and
• ‘controlled’ by a woman or women (‘control’ in this context means exercising the power to make policy decisions), and
• ‘operated’ by a woman or women (‘operate’ in this context means being actively involved in the day-to-day management). http://www.ilo.org/Public/English/Employment/Gems/Eeo/Law/UsaWbоЪ.htm
Survey methodology

Rather than beginning a new survey process, it may be possible to ‘piggy back’ on an existing survey and insert appropriate questions (for instance, household survey, labor force survey, enterprise survey). The Government’s Statistics authority should be able to advise.

It will be important to ensure that the sample does not include just formal businesses but also encompasses informal businesses. In the countries covered by the Gender and Investment Climate Assessments, most women’s businesses are unregistered and operate informally.

Careful thought will need to be given to sampling technique, to ensure the survey is completed by a representative sample. When seeking the views of women, the checklist in Tool 11: (Women’s Consultation / Training Checklist) should be considered. In particular, if a formal survey instrument is being used, it should be borne in mind that women tend to have lower education and literacy levels than their male counterparts. Surveys should be translated into local languages. If surveys are distributed at the household level, the male head of the household may fill in the questionnaire, even if it is the woman who runs the family business.

If it is desired to gather data about the extent to which female-headed businesses hold appropriate sectoral licenses, an analysis will first need to be undertaken of the sectoral licensing regime and a list drawn up of those sectors which require a sector specific license. The survey sample will then need to be designed so as to include those surveys, and a question included on whether or not the business holds the appropriate license.
**Tool 8: Business Registry Sex Equality Checklist**

### Issues to consider during design of Business Registry

#### Questions to ask women:

1. What form of registration would be most accessible for you? Personal attendance? Post? Web-based?
2. What opening hours are most convenient for women?
3. When dealing with public officials, who do you find it easier to do deal with:
   a. Women
   b. Men
   c. No difference
4. Do you consider women are disadvantaged in any way during the registration process? Is it easier for men to register? If so, how? *[Consider taking informal business women to the Registry and seeing how they react to it]*
5. What improvements in the registration process would be of greatest assistance to women and make it easier for them to register? *[May need to show informal business women the forms and take them through the process]*

#### Institutional checklist:

1. Ensure the physical environment one where women would feel comfortable, for example women's desk, washroom facilities
2. Ensure opening hours are convenient for women
3. Ensure customer charters, staff training, and procedures manuals include reference to gender equality issues
4. Ensure the Registry has formal links with groups representing women for consultation and input to policy development, management, and operations. (As most women operate informally, best groups to link with may be NGOs, MFIs, donor community programs)
5. Develop staff training on gender issues. Involve gender experts and NGOs in developing training course. Issues to cover could include: why women's businesses are important and constraints that women face. Approaches to use could include role play on gender roles and drama.
6. Ensure women are employed in the organization, especially at levels where they interact with the public and at decision-making levels.
Tool 9: How to Undertake Outreach on Formalization for Business Women

**Partners**
Identify organizations that engage with informal/semi-formal women’s businesses organizations. May include:

- NGOs supporting women’s businesses and income generating activities
- microfinance institutions lending to women; donor community-based projects
- church-based organizations
- National Council of Women, and
- small business training/development organizations.

Identify organizations that have links/networks with grass roots women, for example National Council of Women, NGOs, donor projects.

**Methods**

- Work with partners (for instance donor projects, NGOs) to mainstream business formalization within their existing programs / courses / operations which outreach to women. Business entry handbook (to be developed) will be useful source.
- Develop an information campaign on formalization aimed specifically at female entrepreneurs focusing on: a) benefits (including access to finance, facilitation of separation of business and household assets, facilitation of joint enterprises and similar), and b) processes. Radio may be a particularly effective medium as women may have lower literacy rates than men. Drama may be effective at the community level.
- Train registry staff on sensitivity to their female clients (in partnership with NGO’s promoting women’s issues)

**Reach**

- Develop nationwide registration points (even if system is initially manual) using Local Government Offices, Women’s Resource Centers and similar.
- Develop peripatetic registration service. Set up registration desks in market places as a starting point, open during market hours.
- In longer term, in conjunction with development of e-registry, consider registration by mobile phone.

Tool 10: Women’s Help Desk: Draft Terms of Reference

- These are indicative outline terms of reference only. Custom-made ToRs should be developed for each country, and will depend on precise circumstances including institution that will host the Help Desk, for instance in PNG – the Small Business Development Corporation; in Solomon Islands – the new Business Registry.

1. Prime point of contact for women seeking information and assistance with business formalization, in particular registration, licensing, and tax.
2. Co-ordination and dissemination of business entry handbook (to be developed)
3. Prime responsibility for delivering business formalization outreach activities [The desk will not be static but peripatetic, that is, in market places where the informal sector is.]
Tool 11: Women’s Consultation / Training Checklist

When to use the checklist
This checklist is for use when:

• developing a resource to be used by women (such as a business entry handbook), to ensure that it is relevant, accessible, and useable by them
• undertaking focus group discussions or interviews with women to ascertain their view on the investment climate issues, for example business licensing
• holding training / networking events for business women.

Who to engage with
• Business women who operate informally including those normally ‘off the radar, for instance market women, petty traders
• Organizations (such as NGOs and MFIs) who work with business women including at the community level, and
• Business women who have formalized their businesses.

How to engage
When engaging with women, careful thought needs to be given to the best time, place, and format to do this in view of the likelihood that:

• Women are likely to be time poor – running businesses and dealing with domestic/family demands
• They may be unused to speaking in public, particularly in formal situations
• Family demands / cultural norms may make it difficult for women to travel
• Women often have lower literacy levels (for example for completing survey forms)
• Middle class urban women are not necessarily representative of women generally, and
• Women may not be able to attend meetings, either due to their time poverty and household tasks, or it may be socially unacceptable for them to do so, and they may not be permitted by their husbands.
Tool 12: Companies Act Checklist

This tool considers providing a checklist for enabling women’s businesses and women’s community groups to register as companies.

In general, companies are the optimum business form. Their limited liability status encourages risk taking; their share structure facilitates joint ownership and investment; and their separate legal identity enables the business to continue even when its owners change. Yet in the countries considered in the Gender and Investment Climate Reform Assessments, few women appear to be company shareholders and directors. Best practice Companies Acts adopt the ‘think small first’ principle, enabling even the smallest businesses to incorporate and benefit from corporate status.

As well as individual small-scale business women, informal, community based groups of women engaging in income generating activities could benefit from a formal legal structure. Key benefits include:

- clear governance structure
- clear ownership structure
- makes investing in the group more straightforward (for example buying shares)
- the group would have its own legal identity, separate from its members which facilitates:
  - the group entering into transactions, for instance to own assets such as machinery or land
  - the group borrowing money
  - the group continuing as an entity despite changes in its membership and after the life of its original members

However, if Companies Acts have complex requirements for registration and ongoing compliance they will not be appropriate for such small enterprises.

Companies Act checklist

- Provision for sole person shareholder and officer (director-secretary) [This enables a woman to set up a business on her own, without the need to involve her husband / male relative as a co-owner or director]
- Straightforward registration requirements which do not require the services of a lawyer. Ideally registration should be by way of a simple, single form.
- Straightforward registration process which is accessible to women. Provide options other than personal attendance at a single registry in the capital city. [Consider on line registration, postal registration, registration at local government offices, peripatetic registration offices, involving community based organizations including NGOs in outreach]
- Straightforward ongoing filing/oversight requirements, for example a simple annual return form with straightforward instructions for completion which should not require professional advice, requirement for directors to prepare simple annual financial statement.
- Accessible procedures for intervention if something goes wrong – company inspection regime.
- Provision for ownership of company by its members and for them to participate in its governance on a democratic basis.
- In the case of a company with the principal objective of the promotion of community interest (for example the exploitation of a community resources such as land), provision for an ‘asset lock’ prohibiting the disposal of company assets other than in the ordinary course of business or with shareholder approval. [Note: see Solomon Islands Companies Act provisions on community companies for best practice]
Tool 13: Basic Partnership Agreement

This basic agreement sets out the key terms that may be agreed by the parties before entering into a simple partnership arrangement. It does not require the services of a lawyer to complete, but both parties should ensure that they understand what they are agreeing to. Some of the proposed terms may need altering depending on the precise circumstances of the situation. The partners will need to set up basic books of account for the business in accordance with the terms of this agreement.

The basic agreement should be validated by a local lawyer in the country in which it is to be used, before it is promulgated.

1. Partnership name, business and start date
   a) Names of partners:
   b) Name of partnership:
   c) Purpose of partnership: e.g. to operate a shop / to manufacture a product
   d) Start date of partnership:

2. Partnership books of account
   The partnership will maintain books of account and each partner will, at all times, have access to them.

3. Capital
   a) Each partner will contribute capital in cash to the partnership as follows:

<table>
<thead>
<tr>
<th>Name of partner</th>
<th>Amount of contribution</th>
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<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

   b) A separate capital account shall be maintained in the partnership's books of account for each partner.
   c) Neither partner shall withdraw any part of their capital account.
   d) No interest shall be paid on the initial contributions to the capital of the partnership or on any subsequent contributions of capital.

4. Profit and loss
   a) The net profits of the partnership shall be divided equally between the partners and the net losses shall be borne equally by them.
   b) A separate income account shall be maintained in the partnership's books of account for each partner.
   c) Partnership profits and losses shall be charged or credited to the separate income account of each partner.
   d) If a partner has no credit balance in their income account, losses shall be charged to their capital account.

5. Salaries and withdrawals
   a) Neither partner shall receive any salary for services rendered to the partnership.
   b) Each partner may, from time to time, withdraw the credit balance in their income account.

6. Banking
   a) All funds of the partnership shall be deposited in its name in a bank account or accounts.
   b) All withdrawals from such bank account(s) may be made on authority of one / both partners(s). [Delete as appropriate.]
7. Management duties and restrictions
   a) The partners shall have equal rights in the management of the partnership business, and each partner shall devote their entire time to the conduct of the business.
   b) Without the consent of the other partner, neither partner shall on behalf of the partnership borrow or lend money, or make, deliver, or accept any commercial paper, or execute any mortgage, security agreement, bond, or lease, or purchase or contract to purchase, or sell or contract to sell any property for or of the partnership other than the type of property bought and sold in the regular course of its business.

8. Termination of partnership
   a) The partnership may be terminated at any time by any of the partners, or (subject to paragraph 9 below) by death of any of the partners.
   b) In the event of termination, the assets of the partnership business shall be used and distributed in the following order:
      i) to pay or provide for the payment of all partnership liabilities and liquidating expenses and obligations
      ii) to replenish any partner's capital account if the balance is less than the total capital contribution
      iii) to discharge the balance of the capital accounts of the partners
      iv) to equalize the income accounts of the partners, and
      v) to discharge the balance of the income accounts of the partners.

9. Death of a partner
   a) Upon the death of a partner, any surviving partner(s) may purchase the interest of the deceased in the partnership by giving notice to the deceased's heir or personal representative.
   b) If there is more than one surviving partner, all partners must agree for such purchase to take place, and if they cannot agree, the partnership is terminated.
   c) The purchase price shall be equal to:
      • the deceased partner’s capital account as at the date of his /her death, plus
      • the deceased partner’s income account as at the end of the prior fiscal year
      • increased by the deceased partner’s share of partnership profits or decreased by their share of partnership losses for the period from the beginning of the fiscal year in which their death occurred until the end of the calendar month in which their death occurred, and
      • decreased by withdrawals charged to the deceased partner’s income account during such period.

Date:

________________________________
Name and signature of each partner
**Tool 14: Mainstreaming Gender in Regulatory Compliance Cost Tools**

**Tool 14A: Standard Cost Model / Compliance Cost Tool: gender checklist**

The Standard Cost Model and the Compliance Cost Tool both provide a quantitative assessment of the costs imposed on businesses by regulation (for example by business licenses). Both methods can capture: (i) the differential costs on female-headed businesses on the one hand and male-headed businesses on the other of obtaining a license, and (ii) the different experiences of male and female license applicants. This sex disaggregated information should inform the business licensing reform process. But neither method captures two important pieces of information which should inform business licensing reform and policy development:

a) The sex disaggregated extent of non compliance. There is international evidence that suggests that women may be more likely than their male counterparts to choose not to license their businesses due to, for example, their double time burden, limited knowledge about licensing requirements, or limited business networks. If it is found that women are much less likely than men to license their businesses, then the reasons for this need to be investigated (for instance, through interviews, focus group discussions, surveys) and then appropriate policy response can be developed, for instance, targeted information for female-headed businesses.

b) Sex disaggregated qualitative costs. There is international evidence that women are liable to be subjected to sexual harassment when they deal with public officials. This type of experience is not quantifiable, but clearly imposes a significant personal cost on women, and is a clear disincentive to comply with licensing requirements. If these qualitative issues are revealed, appropriate policy responses can be developed, for instance, if sexual harassment is an issue, the assignment of female licensing staff to deal with female license applicants.

Non compliance may be assessed by comparing (i) the total number of license holders with (ii) the total number of businesses. An attempt should be made to find sex disaggregated data on both (i) and (ii). The licensing authority may have sex disaggregated information on the proportion of licenses held by male-headed firms on the one hand and female-headed firms on the other. However, if licenses are in the names of businesses, rather than business owners, this may be problematic. Reliance could instead be placed on anecdotal evidence from the licensing authority or private sector survey evidence, if available.

Information on qualitative costs may be obtained from one-on-one interviews, focus group discussions, or private sector surveys where the experience of men and women when they apply for licenses may be explored.

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159 It will be necessary to identify a working definition of ‘female headed / male headed business’. The US Survey of Business Owners and the Self-Employed provides a helpful definition. A female headed business is: at least 51 percent owned by a woman or women; and ‘controlled’ by a woman or women (‘control’ in this context means exercising the power to make policy decisions); and ‘operated’ by a woman or women (‘operate’ in this context means being actively involved in the day-to-day management).
<table>
<thead>
<tr>
<th>Key aspects Standard Cost Model (SCM)</th>
<th>Key aspects Compliance Cost Tool (CCT)</th>
<th>Gender perspective</th>
<th>Gender checklist</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Provides a framework methodology for measuring administrative costs imposed on businesses by Government. Aim is to measure the average cost to a business of complying with the regulation.</td>
<td>Provides a framework methodology for measuring policy as well as administrative costs imposed on businesses by Government. Aim is to measure the average cost to a business of complying with the regulation.</td>
<td>If impacts on female-headed and male-headed businesses are assessed separately, both tools will enable differentiated impacts to be revealed and then explored.</td>
<td>Ascertain proportion of licenses held by female-headed businesses on the one hand and male-headed businesses on the other (see introduction above for suggestions about how to obtain this information). Based on the proportions above, use a statistically appropriate number of women-headed firms in the sample frame. For example if 50 percent of license holders are women-headed firms by women, 50 percent of sample should be women-headed firms. (See footnote 1 on definition of female-headed firm). If non-compliance is gender-skewed (for instance, if women hold far fewer licenses than men), further analysis should be undertaken to ascertain why this is (see introduction above) and the sex disaggregated data should be treated with caution. If few women have obtained licenses, those who have are likely to be atypical (for example, they may be well educated or run large businesses.)</td>
</tr>
</tbody>
</table>

2. The administrative burden is measured through in-depth interviews with a small number of firms within the target group of the law. They are asked to specify how much time and money they spend performing each administrative activity that is required when fulfilling a given information obligation, and the different effects that a law may have on various types of businesses (or a relevant segment of businesses). For example, often it will be necessary to distinguish between smaller and larger firms. The methodology for measuring both the administrative and policy burdens is as per the SCM, but questions on each type of cost burden are separated so that separate information can be collected on each, and each can be measured separately. Male and female-headed firms tend to be different – in terms of size and sectors in which they operate. The sample should reflect the proportions of male- and female-headed firms of different sizes and in different sectors. |

3. Each administrative activity is a function of the internal and external costs to business, multiplied by the number of times each business has to perform the activity. ‘Time spent’ on fulfilling a requirement is translated into a cost using the wage of the person who is normally assigned to carry out the task, multiplied by the frequency with which that task is carried out. As per SCM. Even where there is no explicit legal or regulatory restriction, cultural or economic reasons may force women to depend on men to act as intermediaries between themselves and state officials. As a result, women’s interactions with officials are less efficient and women’s choices are restricted. The data should capture the sex of the person assigned to the task of license application and interaction with the public authority concerned. If the person who obtains the license is not the business owner, the reasons for this should be explored if possible. |
Key aspects Standard Cost Model (SCM) | Key aspects Compliance Cost Tool (CCT) | Gender perspective | Gender checklist
---|---|---|---
4. Administrative costs are defined as ‘the costs imposed on enterprises when complying with information obligations stemming from government legislation’. Examples include keeping records, carrying out inspections, completing returns and reports, standing in queues to obtain approvals or file documents, entering information in a register, getting hold of the law or reading a brochure or paying a solicitor to understand what one’s compliance obligations are, cooperating with audits/inspections. Administrative costs are defined as per the Standard Cost Model. But importantly, they can include costs of avoiding compliance with these requirements, including paying bribes to avoid queuing up or to avoid being caught. The making of unauthorized payments is fertile ground for consideration of gender issues. There is international evidence that firms paying small bribes are likely to spend more management time dealing with officialdom, not less. This imposes a double burden – both the cost of the bribe and the additional management time. But it is unclear if male- or female-headed firms are more likely to pay bribes:
a) Men may be more likely to try to avoid compliance with regulatory requirements than women (for example, by paying bribes). This may be due to their greater exposure to bureaucracy and experience and confidence in dealing with officialdom, and given they tend to have wider and deeper networks of influence than female entrepreneurs.
b) On the other hand there is international evidence that women are more susceptible than men to queue barging, harassment, and requests for ‘speed payments’, being seen as soft targets.
Ensure sex disaggregated data is gathered on unauthorized payments when obtaining a license. If possible, gather sex disaggregated data on costs of avoiding compliance.
5. An information obligation is defined as ‘a compulsory duty to procure or prepare information and subsequently make it available to a public authority or 3rd party’. An information obligation is defined as per SCM. But compliance costs can also include policy costs – that is, the cost inherent in meeting the aims of a regulation, for example, a direct cash cost such as changing stationery to include a tax number, training staff on health and safety compliance, or paying direct fees, levies, or taxes. Opportunity costs for men and women may be different as women are more likely to juggle their businesses with family/domestic duties. For a woman, spending less time on a licensing requirement may not necessarily translate into additional time spent attending to her business.

Sex disaggregate information on opportunity cost (if obtained). Undertake careful analysis in the light of different gender roles.

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### Tool 14B: Regulatory Impact Assessment: gender checklist

The aim of a Regulatory Impact Assessment (RIA) is to help improve policy-making by placing a greater emphasis on quantifying benefits and costs. An RIA is a detailed and systematic appraisal of the impacts of a regulation in order to assess whether the regulation is likely to achieve the desired objectives. In assessing these impacts it is important to understand them in relation to women, as well as to men. Key aspects to consider are:

- Is the data on which the proposed measure is based disaggregated by sex?
- Will men and women each be directly or indirectly affected by the proposed measure?

**Sample questions to determine impacts on gender equality:**

- Does the measure take into account differences between men and women in access to, and use of, infrastructure?
- Does the measure take into account the freedom of men and women to dispose of their time?
- Does the measure influence the choice and exercise of an occupation by women and men?
- Does the measure take into account the differences in access to information and education for women and men?
- Does the measure take into account the differences in the daily lives of women and men?


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<table>
<thead>
<tr>
<th>Key aspects</th>
<th>Key aspects</th>
<th>Gender perspective</th>
<th>Gender checklist</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard Cost Model (SCM)</td>
<td>Compliance Cost Tool (CCT)</td>
<td>Enables reduction targets to be set and key areas for reform to be identified</td>
<td>Enables reduction targets to be set and key areas for reform to be identified</td>
</tr>
</tbody>
</table>
Tool 15: Analysis of Business Names Registration Process

1. Business name registration legislation

a) PNG, Solomon Islands, Tonga and Vanuatu (and most developing countries with an English legal system heritage) all have a similar Business Names Registration Act. The regime is modeled on a system that operated in England and Wales from 1916, but was abolished there in 1982. The Act and the registration requirements have not only been abolished in the UK but also in many developed countries that previously had such legislation.162

b) The Act requires a business name to be registered by anyone who wishes to carry on business which is:
   i) NOT registered as a company under the Companies Act
   ii) Carried on under any name except the name(s) of the proprietor(s).

c) The business names registration regime is not designed to register all businesses. As described above it does not, and is not designed to, capture either companies or businesses trading under the name of their owner(s).

d) In some cases (for example, PNG) the registration of a Business Name is valid for a limited period of time (in the case of PNG three years). It must be renewed after that period if the business is still in operation.

2. Purpose of business name registration

a) Registration under the Registration of Business Names Act has a quite different effect to registration under the Companies Act. It does not create a new legal body or confer any legal status on a business. It is simply a register of names of some unincorporated businesses.

b) The rationale behind the regime (as behind the original English legislation) is threefold:
   i) The main purpose of the regime is to allow members of the public by searching the register to see who the individuals are that are trading under a business name (where the business is not a company)
   ii) It also provides some ‘protection’ for existing business names – by preventing other businesses trading with a registered name, and
   iii) The Act gives the State the right to restrict the use of certain business names, particularly ones that may be misleading163.

c) However, in developed countries where similar legislation has been abolished, it has been discovered that a blanket registration requirement is not required, nor necessarily the best way to deal with these issues.

d) In all the countries considered by the Pacific Gender and Investment Climate Assessments it was acknowledged that the regime was not enforced in practice, and no action taken against businesses that fail to comply. In practice therefore the register is out of date and incomplete. In all countries considered, it is therefore currently failing in its regulatory purpose.

e) Because the register is not designed to be a comprehensive register of all businesses, but rather for the specific purposes described in paragraph b) above, it is not used by other public authorities, for example the tax authorities, as a compliance tool. This contrasts with the situation in Hong Kong for example, where ALL businesses (whatever their legal form and whatever name they use) are required to register with the Tax Authority. This is quite different from a business names registry.

3. Regulatory cost of business names registration

a) Against the purpose of business names registration (as described in paragraph 2 b) above) must be weighed the regulatory cost it imposes on businesses.

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162 The UK, New Zealand, Hong Kong have all abolished the requirement. Australia and Canada continue to maintain a business names registration regime similar to that in PNG, Tonga, Solomon Islands and Vanuatu.

163 Registration may for example be refused if the proposed name includes the word “Presidential” or “Government”.
b) The procedure for registering a business name is straightforward. It requires the completion of a single form and paying a small fee. In most cases the forms need to be taken to the Business Names Registry which is located in the capital city. Despite this seemingly straightforward procedure, there is evidence that the requirement imposes a burden on businesses (see box below).

Kenya has almost identical Business Names Registration legislation to that in the countries considered by the Pacific Gender and Investment Climate Assessments. Research commissioned by the Deregulation Project of the Kenya Institute of Public Policy Research and Analysis164, suggests that this regime, taken together with the Trade Licensing regime together cost the Kenyan economy in the region of 1% of GDP each year165. This cost includes authorized and unauthorized payments and management time taken up with compliance.

c) As stated above, in practice many businesses using a trading name fail to register it, making the business owners, in theory, liable to criminal prosecution.

d) In practice, enforcement of the regime can occur when a business comes into contact with a formal authority such as a bank. When approaching a bank for a loan, a small business will typically be required to register under the Business Names Act for the transaction to proceed. Such registration seems to be regarded as bestowing a level of formality on a business. It also imposes a barrier on access to credit by small/informal businesses (especially those outside the capital city for whom business name registration imposes a more significant regulatory burden).

4. International Best Practice

a) As stated above, similar regimes have been dispensed with in other common law jurisdictions such as the UK, New Zealand (which has been at the forefront of business law reform in common law jurisdictions) and Hong Kong166. The regime remains in many less developed countries.

b) The experience of other jurisdictions has been that there are less burdensome and less costly ways of addressing the issues which the Act seeks to deal with – see box below.

In England and Wales the system of registering business names has been successfully abolished since the mid 1980's. The blanket requirement for registration has been replaced by other, less onerous and more specific requirements to address the need for transparency and protection of business names –

- The desire to see who is ‘behind’ a business is addressed by requiring the owners of businesses to have their name and address displayed on invoices and letters for instance, and at the place of business.

- The issue of protection of business names is now a matter for businesses themselves, rather than the State. If a business wishes to protect its name it may do (at its own discretion) by registering it as a trademark. Where a business already has a reputation and goodwill in a business name which another company tries to take advantage of by using the same business name, a common law ‘passing off’ action can be taken.167

- Finally, the issue of use of misleading names is dealt with by the Business Names Act 1985. The Act controls the use of certain words or expressions in business names by requiring permission of the Secretary of State of other body. (For example: the use of words giving the impression that a business is connected with the Government or a local authority require the permission of the Secretary of State; the use of the word ‘Charity’ requires the permission of the Charity Commission.)

164 Supported by the UK Department for International Development.
165 “Improving the Legal and Regulatory Environment for Business through Trade Licensing Reform” Presentation by KIPPRA, 27 September 2000.
166 Business names registration operates in some other common law jurisdictions e.g. Australia and Canada.
167 Sources: The Law & Development Partnership; UK Companies House website www.companieshouse.gov.uk.
5. Recommendations for policy paper on Business Names

a) The benefits of a blanket requirement for the registration of every unincorporated business which uses a business name needs to be balanced against the costs of compliance. It is important to note that the potential benefits of the regime relate only to businesses that are NOT companies and that are NOT trading under the name(s) of their owners. The current regime is NOT intended to be, nor is it, a comprehensive register of businesses. The potential uses of the regime are:

• To enable members of the public to learn who is ‘behind’ a business
• To provide limited protection to businesses from use of their business name by another business, and
• To enable the State the right to restrict the use of certain business names.

b) In practice the regime is currently largely un-enforced. The business registration regime should either be enforced or abolished.

c) The UK, New Zealand, and Hong Kong have all abolished the business names regulation regime with no apparent adverse consequences, thus liberalizing the business formation process and reducing the regulatory burden on business start-ups.

d) The experience from UK, New Zealand, and Hong Kong is that a much lighter and more focused regulatory regime is a satisfactory way to address the mischiefs that the Registration of Business Names Act was intended deal with. These more liberalized regimes do not involve the compulsory registration of business names.

e) If the requirement for business names registration were to be abolished, businesses that are concerned to protect their business name would be able to do so on a voluntary basis by registration under trademark legislation. Consideration would need to be given to whether it would be appropriate to introduce new legislation which:

• Requires disclosure of who is behind a business on letterheads, business premises and similar (as in the UK under the Business Names Act, 1985, section 4), and
• Controls the use of certain business names by a system of certain names requiring approval from a Government authority.
Tool 16: Mechanism to Sex Disaggregate Data on Holders of Sectoral Licenses

Finding out the sex of owners/managers of business that holds licenses

Sectoral licenses tend to be held in the name of individual businesses. In most cases the businesses will be companies, or trading under a business name. The sex of the owner(s)/manager(s) of the business will not therefore be readily ascertainable from licensing records. In the case of registered companies, it is relatively straightforward to find out if the shareholders and directors are male or female by conducting a company search (currently the companies registry does not collect data on sex of directors and shareholders, but this can largely be ascertained from the registered names of directors and shareholders).

In the case of unincorporated businesses, the business names registry or other business registry may reveal who the owners are. Again, the sex of the owner(s) may be ascertained from the owner(s)’ names.

Going forward, new applicants in the application form for sectoral licenses could be required to specify who are the owners/ managers of the business and their sex.

Establishing a baseline

When developing a baseline relating to the extent to which female-headed businesses hold sectoral licenses, the starting point is to decide if you are measuring ‘stock’ or ‘flow’.

<table>
<thead>
<tr>
<th>Stock</th>
<th>Number of existing companies that have male/female directors/shareholders (sample)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flow</td>
<td>Number of new registrations that have male/female directors/shareholders (total number over a period of time)</td>
</tr>
</tbody>
</table>

The analysis should be conducted for licenses granted over a time period (if measuring flow) or for total licenses granted – or possibly more realistically a random sample (if measuring stock). Simple data collection sheets should be developed. For example:

<table>
<thead>
<tr>
<th>Number of license holders that are companies registered with directors who are…</th>
</tr>
</thead>
<tbody>
<tr>
<td>Only male</td>
</tr>
<tr>
<td>TOTALS</td>
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</table>

<table>
<thead>
<tr>
<th>Number of license holders that are companies registered with shareholders who are…</th>
</tr>
</thead>
<tbody>
<tr>
<td>Only male</td>
</tr>
<tr>
<td>TOTALS</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Number of license holders that are un-incorporated businesses with owners who are …</th>
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</thead>
<tbody>
<tr>
<td>Only male</td>
</tr>
<tr>
<td>TOTALS</td>
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</tbody>
</table>
Tool 17: Gender Perspectives on CIMC Informal Policy Concept Paper

This tool has been developed to provide a gendered response to Papua New Guinea’s CIMC Informal Policy Concept Paper. It comments on various sections of the Concept Paper. Some of the comments may have relevance to developing an informal policy in the Solomon Islands.

Background

Need to distinguish between men and women in the informal economy. Make the points that:

- Most informal sector operators are women (63 percent according to CIMC 2001 study)
- The retail marketing sector is dominated by women
- The service sector is dominated by women
- Rural semi-subsistence food production is dominated by women
- Women in business in the informal sector face problems that their male counterparts do not face / face to a lesser extent including –
  - Insecurity / violence including in the workplace
  - Lack of market space and poor conditions in markets
  - A culture that does not taken women in business seriously
  - Limited input into policy and decision-making
  - Poor education levels (worse than men’s)
  - Limited ability to control their business profits and assets.

Policy goal

- The vast majority of formal sector enterprises are owned and run by men. Women’s businesses are not making the transition to formality. The goal is to assist women as well as men to make this transition, and to protect those who continue to operate in the informal sector.

Policy rationale

- As well as emphasizing private sector led economic growth, the Medium Term Development Strategy also emphasizes gender equality and the contribution of women to Solomon Islands’ economic development.

Policy objectives

- To address those constraints on business development that particularly impact on women.

Other policy areas

- Infrastructure and services – need to acknowledge that women fare much worse than men in these areas – particularly health and education
- Property rights – need to acknowledge that, here again, women are in a worse position than men including in relation to rights over land and their own income (due to male domination of allocation of household resources).

Governance of the informal economy

- Need to ensure that informal sector business women are adequately represented in the framework for an integrated approach to developing a National Policy on Informal Economy including on National Consultative Committee and the Technical Working Group. In accordance with Beijing Platform for Action target, at least 30 percent of members of these bodies should be women. Need to ensure that proper representation is given to informal women, for example, through NGOs and training organizations.
Policy process
• Need to ensure women informal sector operators are key players in the consultation process (note points made in Annex E: Women’s consultation checklist)

• Process should be ‘context specific based on the reality of different categories of informal workers…’. Need to identify men on the one hand and women on the other as categories of informal workers. As highlighted in the Papua New Guinea Gender and Investment Climate Reform Assessment, they face different constraints and have different roles in the informal sector.

• ‘It should be gender sensitive…’ paragraph does not acknowledge that women are in fact the major players in the informal sector. ‘Women’s work’ is what the informal sector mainly is!

• Membership of Technical Working Group does not include a gender expert. Currently this expertise is with the Department of Community Development

Registration
Urgently reconsider the proposal to introduce a registration system for informal sector operators. The justifications given for the proposal are: a) for monitoring purposes, and b) to provide support/training to informal sector operators.

International experience suggests that blanket registration will in practice be impossible to enforce, and (assuming the penalty for non-registration will be criminal) will simply criminalize many informal sector operators and lay them open to harassment by public officials. (Women are likely to be particularly vulnerable to this). There will be problems of interpretation – at what point does informal income generation become a business that requires registration? And the expense of administering the registration regime and keeping the register up to date does not justify its purpose.

This is an extremely heavy handed, control-orientated, and probably ineffective way to ‘monitor’ the informal sector – periodic surveys would be a better way forward. And it is difficult to see why improved training/information provision needs to be linked to registration. This could be made generally available, and marketed so that those informal enterprises who wish to take advantage of it may do so.

Integrated policy research support
Deficiencies in the evidence base. Another deficiency is the limited sex disaggregated data on the informal sector. A deeper understanding of the issues in relation to women on the one hand and men on the other is required.

REFORM OPTIONS: LEGITIMIZATION OF MICRO BUSINESSES
• It is suggested, under the paragraph on registration above, that it would not be appropriate in the PNG context to introduce a scheme for the registration of all businesses in order to legitimize them.

• What is meant by legitimization? In a business friendly environment, it is not the general role of the State to control businesses, or to say who can or can’t start up a business. But the State does have a role in ensuring that all businesses:
  - Pay tax if their income/turnover is above a certain threshold, and
  - Comply with health, safety, and planning requirements.

• In general, if a business does these things, it should be considered to be ‘legitimate’. Different countries have adopted different regimes in relation to ensuring businesses are operating ‘legitimately’. Some best practice principles from international experience suggest that:
  - Compliance with health and safety requirements is best enforced through risk-based inspection, or through targeted licensing (for example, of restaurants) rather than a blanket requirement for all businesses to be registered. However in practice microenterprises, particularly if operating from home, are unlikely to be caught by such a regime.
  - Licensing of certain businesses may be considered necessary for specific reasons including for public health (for example, licenses to sell liquor, prepare food), or for planning purposes (for example, to limit numbers of hawkers/street traders/buskers/taxis). Licensing schemes can be designed to include microenterprises (for example, street hawkers), if it is considered necessary to control them, but in practice enforcement is likely to be a major problem and may result in the criminalization of the poorest in society.

168 This is a general point. There may be situations where it is appropriate for the State to exercise more control over businesses – for example strategic businesses or where there are competition issues.
- Local bye-laws or planning controls may prohibit business activities in particular areas such as in public places. Unless satisfactory alternative areas are provided for the informal operators, enforcement of such planning laws is likely to be problematic.

- Ideally if a business's registration regime exists, it is linked to payment of tax. In neither of the best practice examples given below is there a general business registry kept for the purposes of Government information, control or legitimization.

- **UK.** There is no general requirement to register a business. In general, anyone can set up a business anywhere provided they comply with health, safety, and planning requirements. In some specific instances where there is a genuine regulatory issues (for instance,. to control the sale of alcohol) prior approval is required through the obtaining of a license. Health and safety requirements are enforced largely through inspection and there are sanctions on businesses that are non-compliant (for example, a restaurant that does not have proper hygiene standards can be closed down).

- Partnerships and sole traders are required to register with the tax authority as self-employed.

- **Hong Kong.** All businesses are required to register with the Inland Revenue Department (tax authority) within one month of starting business. Starting a business is defined widely to include any form of trade, commerce, craftsmanship, profession, calling or other activity carried on for the purpose of gain.
Tool 18: Outline of Basic Contract

Contract for sale of future goods

This basic contract sets out the key terms that may be agreed by the parties in relation to the sale of future goods, for example, a craft item that has been ordered by the buyer subject to manufacture by the seller. It does not require the services of a lawyer to complete, but both parties should ensure that they understand what they are agreeing to. Some of the proposed terms may need altering depending on the precise circumstances of the situation.

The document should be validated by a local lawyer in the country in which it is to be used, before it is promulgated.

Date:

Buyer: [Insert name] of [Insert address]

Seller: [Insert name] of [Insert address]

1. The Seller agrees to provide for the Buyer, on or before [Insert date], the following goods: [Insert description of goods, for example type, number, measurement] at the following price [Insert price].

2. The goods will be delivered to the Buyer as follows: [Insert explanation of how the goods will be delivered, for example, the Buyer will collect them by a certain date / the Seller will deliver them to a certain address by a certain date]

3. The Seller acknowledges part payment of [Insert amount] for the goods.

4. The Buyer agrees to pay the balance due for the goods of [Insert amount] at the time and at the place where s/he receives them in accordance with paragraph 2 above.

5. If:
   a) the Buyer does not collect the goods by [Insert date], or
   b) the Buyer makes it impossible for the Seller to deliver the goods by [Insert date]

as specified in paragraph 2 above, then ownership of the goods is deemed to pass to the Buyer on that date, and the Buyer is immediately liable to pay the balance of the purchase price to the Seller.

6. Until the goods have been received by Buyer (or are deemed to have been received by the Buyer under paragraph 5 above), all risks of damage to the goods shall be on the Seller.

7. The Seller warrants that at the time they are received by the Buyer the goods will be free from any security interest or other lien or encumbrance.

8. The Buyer has [insert number] days from receipt of the goods (or deemed receipt of the goods under paragraph 5 above) to notify Seller of any claim for compensation due to the condition, grade, or quality of the goods. Otherwise, the Buyer is deemed to have accepted the goods.

______________________________ Buyer
______________________________ Seller

[Signatures]

[On delivery of the goods, the following receipt should be signed by the Buyer]

Goods received in accordance with above contract

______________________________ Buyer

[Signature]

Date:
**Tool 19: Mediation Sex Equality Checklist**

1. Provide gender specific training for ADR providers. This should ensure sensitivity to gender issues, particularly the perceived power imbalances between genders; and also that the ADR provider is knowledgeable about cultural values and norms of both genders in local context.

   A skilled mediator should ensure that the power differences between men and women, which put women at a ‘disadvantage’ in negotiating with men, are not brought in to play. Mediation validates the parties’ ability to speak for themselves by the mediator’s use of specific skills which help parties explore options and the possible repercussions of different courses of behaviour or action. But if handled incorrectly, mediation can silence the voices of women and result in unfair settlements that fail to address their needs.

2. Provide an environment in which women feel free to speak

3. Consider provision of separate front office desks, waiting areas, and bathroom facilities for women

4. Consider if opening hours are convenient for women (who may have to combine their business with domestic duties). Also consider child care issues – see box below

   In the United States some cities such as New York and Washington DC provide free or subsidized day care services close to court premises to enable mothers to attend court and facilitate access to justice.169

5. Ensure operational / procedural manuals / codes of conduct / customer charters to address gender issues, and set out the level of service that women should expect

6. Grievance mechanisms, complaints boxes, help desks should be undertaken by teams which include women

7. Include women’s groups (for example NGOs) and local women’s interest groups in design and implementation.

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Tool 20: Methodology for Sex Disaggregation of ADR Users

Where a new ADR system is being set up, sex disaggregated data should be collected from the beginning about who is using the system. This means that the data collected should include for each case:

- The sex of the claimant(s) (or if they are a legal entity such as a company)
- The sex of the defendant(s) (or if they are a legal entity such as a company)
- The sex of the mediator

Tool 21: ADR / Commercial Justice Users Perception Questionnaire

The questions below are indicative only for inclusion in a survey on perceptions of users of the commercial justice system (including ADR users). The design of perceptions surveys are best undertaken once these systems are up and running and the issues associated with the reforms have emerged.

The survey should be administered to women and men, and results sex disaggregated.

Questions for users of the system (for instance ADR / Small Claims)

In this survey the scale of 1 to 4 is as follows:

1 = very satisfied
2 = satisfied
3 = not satisfied
4 = very dissatisfied

a) Did you bring the initial claim, or were you defending?
b) Overall, how would you rate the service you received (on scale of 1 to 4)?
c) How would you rate (on a scale of 1 to 4):
   • Cost of service
   • Timeliness of service
   • Fairness of service
   • The performance of the judge / mediator
   • The facilities (court / ADR centre)
d) What impressed you most about the service?
e) What was the worst thing about the service?
f) How would you improve the service?
g) Do you have a preference for a male or female judge / mediator? If so, why?
h) Any other comments
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