11th Triennial Conference of Pacific Women
16-20 August 2010
Noumea, New Caledonia

Women's Legal and Human Rights August 17 2010

Gina Houng Lee Senior Trainer Regional Rights Resource Team (RRRT)/SPC

Women's Legal and Human Rights

- CEDAW Legislative Reform
- Violence Against Women
- Public Life and decision making

CEDAW Legislative Reform

Conceptual overview: CEDAW Legislative Reform

- Lowest level of ratification of human rights conventions
- CEDAW – (Palau, Tonga and Nauru yet to ratify). Fiji, Samoa, Tuvalu, Vanuatu, Cook Islands and PNG have submitted reports).
- Gender based discrimination in public and private lives of women

Conceptual overview: CEDAW Legislative Reform

- Discrimination is evident in Pacific Islands Constitutions – no overall protection of women's human rights

- Lack of protection in Constitutions - some countries do not have non discrimination on the grounds of sex provisions.

Progress at national level

CEDAW Law Reform Program (Cook Islands)

4 areas – Legal Reform, raising awareness of temporary special measures (TSM), family law bill and domestic violence issues.

Countries with Anti Discrimination Provisions

General Constitutional Provisions	Specific Provisions Against Sex Discrimination
Cook Islands 1975 (s.64)	Cook Islands 1975 (s.64)
Federated State of Micronesia Article IV Section 4	FSM Article IV Section 4
Fiji 1998 (Art.38)	Fiji 1998 (Art 38)
Kiribati 1979	None
Nauru 1968 (Art.3)	None
Papua New Guinea (Section 55)	PNG Section 55
Solomon Islands 1978 (Art 15)	Solomon Islands 1978 (Art .15 (4)
Tonga 1875 (Art 4)	None
Tuvalu 1978 (Art 5)	None
Vanuatu 1980 (Art.5)	Vanuatu (Art 5.k; Penal Codes 150)
Western Samoa 1960 (Art.15)	Western Samoa 1960 (Art .15 (2)

Accelerating progress: regional strategies

Addressing the unequal protection of women in the law.

Ensure substantive equality in contained in national constitutions .

Utilise any law reform /constitutional review reform initiative

Regional strategies cont.

Regional Consultation on the Right to Adequate Housing and Land.

31 Thematic and 8 country special rapporteurs

-UN Special Rapporteur on Violence Against Women – mainly women's NGOs through regional networks

-UN Special Rapporteur on the Situation of Human Rights Defenders

Regional strategies cont.

-Encourage reporting and consultation using the Special Procedures in human rights reporting

-Commit to "standing invitations" by PIC countries

-UN Special Rapporteur on Violence Against Women

-UN Special Rapporteur on the Situation of Human Rights Defenders.

Regional strategies cont.

-Use of the Universal Periodic Review

-Human rights situation and record – mandatory reporting every 4 year

-Countries that have reported to date: Tonga, Fiji, Vanuatu, Kiribati, Tuvalu

-Upcoming Countries - PNG, FSM, Palau, Solomon Islands , Republic of the Marshall Islands

Recommendations
CEDAW and Legislative Reform

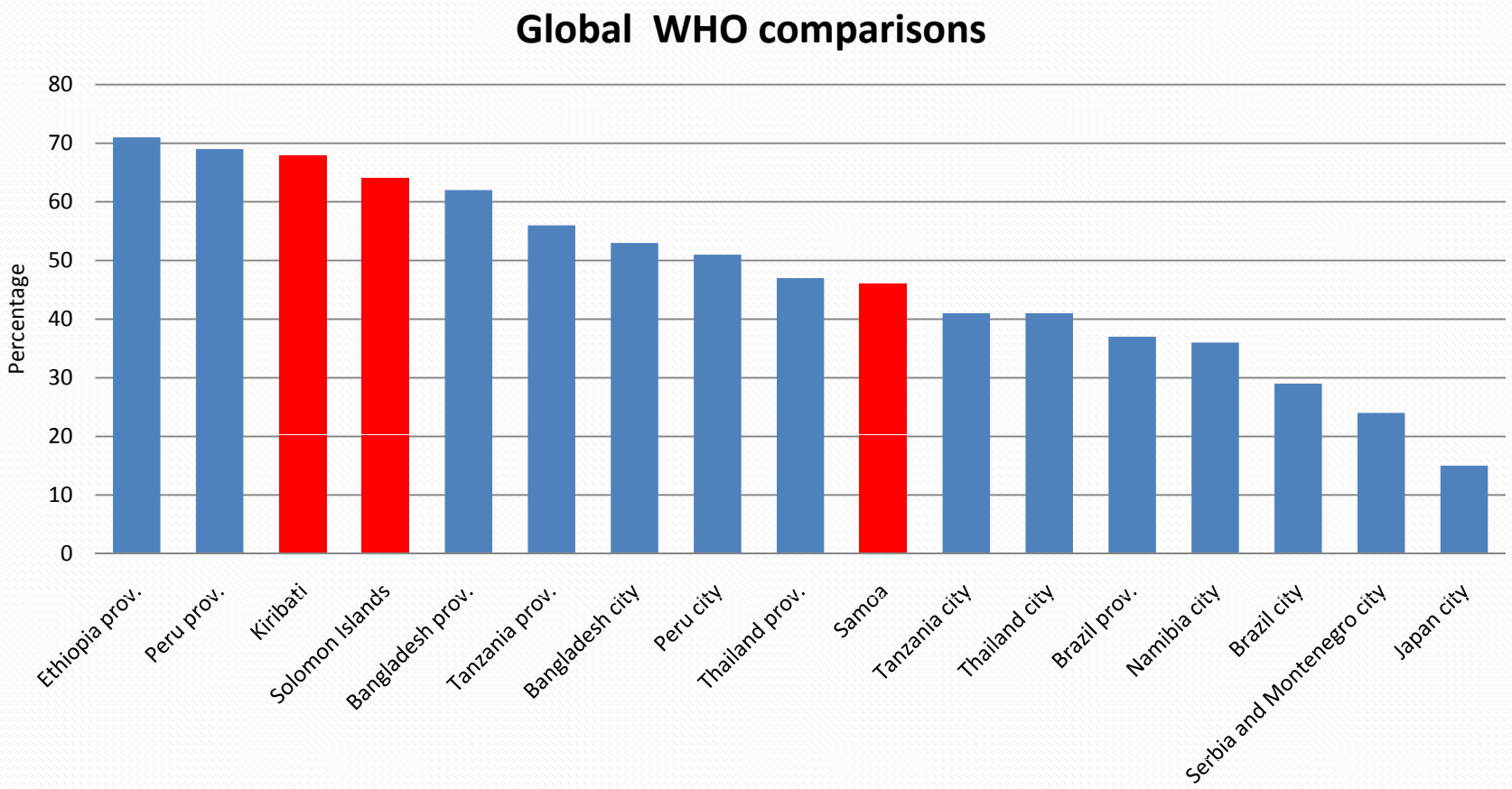
- Support the ratification of the Optional Protocol on CEDAW
- Countries that have not reported on CEDAW to establish national mechanisms to encourage reporting on CEDAW
- Model –CEDAW compliant legislation be applied to all areas of law where women are discriminated
- Encourage and support the inclusion of substantive gender equality secured in national constitutions
- Use of Special Procedures and Universal Periodic Review Reporting.

Violence Against Women

Violence Against Women - overview

- High rate of VAW in the Pacific .
- Is a high priority for PICTs.
- Cairns Communique 2009 outlines strong political will - VAW a development issue - must address sexual and gender based violence
- Country studies undertaken in Solomon Islands, Kiribati and Samoa.

Experience of physical and/or sexual violence ever for women aged 15-49 years



VAW overview cont.

The current laws (legislation, courts decisions and legal practices) are largely ineffective in securing justice for women

Paucity of legislative reform – absence of comprehensive all encompassing VAW legislation

National level progress on VAW legislation

- 2002 PNG and Marshalls 2005 - changed the sexual assault regimes to remove legal discrimination against women in sexual offence law and practice.
-
- 2003 Fiji Family Law Act – implemented in 2006 – civil protection order for women.
- Vanuatu passed the Family Protection Act 2008, first stand alone domestic violence legislation. Need to assess the effectiveness of new legislation.
- Solomon Islands passed the Evidence Act. Removed three discriminatory practices and introduced a new law designed to protect vulnerable witnesses from being directly cross examined by their alleged assailants. Removed very discriminatory corroboration warning, the practise of admitting into evidence the past sexual history of the complainant and provides for adverse inference from delay in reporting.
- 2009 : Samoa considering a Family Safety Bill - proposes a definition of domestic violence, imposes legal duties upon police officers to prevent domestic violence and provides for the District Court of Samoa to make victim protection orders.

National level progress on VAW cont.

Kiribati Progress towards addressing EVAW

68% prevalence rate - violence against women.

Participated in prevalence study with the support of UNFPA and SPC and AusAID

Accelerating progress : on VAW regional strategies/ Recommendations

- Cairn's Communique – encourage political will National research and studies contribute to good policy level decision making
- Comprehensive stand alone legislation or separate all encompassing integrated legislation to cover all forms of violence against women
- Model legislation/drafting instructions -accelerate the passing of national legislation
- Elimination of Violence Against women aligned and mainstreamed in national plans and policies and strategies

Public Life and decision making

Public Life and Decision Making - overview

- Low level of women in decision making
- All PICTS included- 12.3% number of women in national assemblies/congresses, all single, lower and upper houses of parliament.
- 6.4% (without the French Territories)
- Guam and Niue -achieve at least 20% female representation in the absence of measures
- Nauru, Solomon Islands, Tuvalu and FSM – no women in parliament.
- Electoral reform / Majoritarian systems are not favoring women

Accelerating progress: national level

To address this initative use of Temporary Special Measures (TSM)

National level progress

- 2005 Bougainville (PNG) under the Constitution – reserved three seats
- 2008 –FSM – Speaker of Congress tabled an act for a bill on the introduction of reserved seats for women at the national level
- Solomon Islands – policy paper submission for a constitutional amendment for 10 reserved seats.
- PNG – section 102 of the Constitution on nominated (appointed) seats were put forward
- Pacific French Territories:– French Law on Parity 2000. New Caledonia has 52.6% women in its legislature and French Polynesia has 42.1%.

Accelerating progress on Public Life and Decision Making; regional strategies/Recommendations

- Regional media campaign to improve public awareness on TSM.
- Electoral reform and quota systems/reserved seats
- Political parties to include more internal quotas and affirmative action within party structures
- Gender budgeting that integrates TSM strategy
- Protective legislation for NGOs – civil society critical for gender justice and women can mobilise politically

Discussion

Merci / Thank you

Gina Houng Lee
Senior Trainer
RRRT/SPC
ginahl@spc.int