

Fourth cycle Universal Periodic Review of Tuvalu



Joint Submission of the UN Country Team

United Nations Country Team



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List of submitting UN entities:

- United Nations Resident Coordinator's Office [RCO]
- United Nations Office of the High Commissioner for Human Rights [UNOHCHR]
- United Nations Development Programme [UNDP]
- United Nations Children's Fund [UNICEF]
- United Nations Entity for Gender Equality and the Empowerment of Women [UN Women]
- International Labour Organization [ILO]
- International Organization for Migration [IOM]
- United Nations Educational, Scientific and Cultural Organization [UNESCO]
- United Nations Population Fund [UNFPA]
- International Fund for Agriculture Development [IFAD]
- World Health Organization [WHO]
- United Nations on Drugs and Crime [UNODC]

Introduction

1. In preparation for the fourth Universal Periodic Review (UPR) of Tuvalu, this submission is prepared by the United Nations entities that work in and/or cover Tuvalu. The submission is based on available information at the time of submission, and does not attempt to provide a comprehensive review of the human rights situation in Tuvalu.
2. The United Nations Country Team (UNCT) in the Pacific hopes that the fourth UPR will be seized by the government and other stakeholders to engage in and exchange views to take stock of the human rights situation in the country since the last review in March 2018. The UNCT encourages the government to use the outcomes of the fourth UPR to ensure the promotion and protection of all human rights for all in Tuvalu.

1. BACKGROUND AND FRAMEWORK

A. Treaty ratification, reporting and cooperation with UN human rights mechanisms

Tuvalu remains a State Party to three core international human rights treaties, namely CRC, CEDAW and CRPD. Tuvalu ratified the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) on 11 June 2019. It has not yet become a State Party to ICCPR, ICESCR, CAT, ICERD, ICED and CMW¹. Recognizing national capacity constraints with respect to both reporting and implementation constitute a significant challenge that discourage the Government authorities from taking further steps towards treaty ratification, Tuvalu during the 2nd & 3rd UPR accepted the recommendation to increase efforts to swiftly ratify fundamental human rights treaties.

Tuvalu has submitted its initial report to CRPD and its second to fifth report to CRC on 9 March 2018. Its fifth to sixth periodic report to CEDAW will be considered under the simplified reporting procedure during CEDAW's pre-sessional working group meeting in 2023. Therefore, Tuvalu is on track with its treaty reporting obligations.

Tuvalu maintains its standing invitation to Special Procedures of the Human Rights Council since 26 April 2013.²

UNCT recommends that Tuvalu improve its cooperation with UN human rights mechanisms, including through the ratification of ICCPR, ICESCR, CAT, ICERD, ICED and CMW as well as the Optional Protocols; while continuing to accept further requests by special procedure mandate holders to conduct country visits; and continuing its engagement with Human Rights Treaty Bodies by timely submission of its periodic reports and participation in constructive dialogues with treaty body members. Tuvalu is encouraged to submit its first report on ILO Convention No. 182, which was due in 2021.

B. Constitutional and legislative framework

Tuvalu's 1978 Constitution states that every person in Tuvalu is entitled to fundamental rights and freedoms regardless of race, place of origin, political opinions, colour, religious beliefs, or sex. The Constitution does not, however, mention sex or gender within the definition of discrimination.

The Government of Tuvalu initiated a Constitutional review process in 2016. The review was halted after the Parliament was dissolved in July 2019. After the elections in September 2019, a new Parliamentary Select Committee was tasked with reviewing Tuvalu's Constitution. In 2021 the

¹ Further, Tuvalu has not ratified any Optional Protocols, nor has it availed itself of the individual complaints procedures or inquiry procedures of Human Rights Treaty Bodies.

² The Special Rapporteur in the field of cultural rights has conducted a visit to Tuvalu from 18 to 24 September 2019, and has transmitted her report to the Human Rights Council. The visit was the first one to the country by a special procedure mandate holder since 2012 and was interpreted by the Special Rapporteur in her report as "an indication of the intention of the Government to further engage with United Nations human rights mechanisms" (A/HRC/46/34/Add.1).

Parliamentary Select Committee held public consultations with key stakeholders including youth, island communities and civil society on core thematic areas. The review of the constitution is still ongoing.³

UNCT recommends that Tuvalu accelerate its constitutional review process, by meaningful and effective consultations with key stakeholders, through which it should expand human rights protection through constitutional provisions and include prohibitions against all forms of discrimination based on gender, sex, sexual orientation, disability, age, birth, race or religion.

UNCT recommends that Tuvalu conduct a review of its legislation, in line with its international human rights obligations, and amend its discriminatory laws, in particular the Tuvalu Lands Code 1962, the Native Lands Act 1956 and the Penal Code 1965. It should further enact anti-discrimination legislation.

C. Institutions

In October 2017, Tuvalu passed its National Human Rights Institution Act (NHRI) Act. The Act establishes the legal basis for the formation of an NHRI to advocate and promote respect for human rights in Tuvalu and to encourage the maintenance and development of harmonious relations between individuals and among diverse groups in Tuvaluan society. The Act gives the Ombudsman additional powers to promote and protect human rights. The NHRI under the Act can receive complaints and initiate inquiries into pressing human rights issues as well as undertake activities to promote awareness of fundamental human rights. However, the institution itself was still not operational and its budget had not yet been defined. Through the national strategy for sustainable development, 2016–2020 (Te Kakeega III), the Office of the Ombudsman had been tasked to review Tuvaluan laws to align them with international obligations.

UNCT recommends that Tuvalu take steps to give effect to its National Human Rights Institution Act, by establishing an independent and operational national human rights institution; and that it take steps to ensure that, once established, the national human rights institution can effectively exercise its mandate, and has sufficient human, technical and financial resources.

2. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

A. Equality and non-discrimination

- ***Discrimination against women***

Women are not guaranteed equal rights to land ownership and inheritance under existing legislation, customary laws and cultural systems. Land in Tuvalu is either kaitasi land leased from the government, or individually owned, although this is rare. Whilst some suggest that there is gender equality in acquiring kaitasi land, the titular owner of the land is typically a man – usually the father or eldest brother.⁴

The age of consent in Tuvalu is 15 for girls, with no minimum age of consent for boys. Under the Penal Code, the offence of rape can only be committed against a woman or girl, and marital rape is not specifically criminalised. Under the Marriage Amendment Act 2015, the legal marriage age in Tuvalu is 18. Individuals under the age of 21 require the written consent of both parents in order to marry. If the

³ The Committee on the Rights of the Child in 2020, while welcoming the ongoing constitutional review process, raised concern over the insufficient steps taken to harmonize its legislative framework with that of international conventions. The Special Rapporteur in the field of Cultural Rights in 2020 recommended to ensure the equality of all Tuvaluans by including prohibitions against discrimination based on gender, sexual orientation, disability, age and birth in the Constitution, on par with discrimination on the grounds of race or religion in the constitution.

⁴ The Special Rapporteur in the field of Cultural Rights in 2020 recommended amending or repealing all discriminatory provisions in the Native Lands Act and the Tuvalu Lands Code to ensure that women have equal rights to land ownership and land inheritance and to eliminate discriminatory customs and traditional practices that affect the full enjoyment by women of land and inheritance rights, including by ensuring that local customary leaders and magistrates in the Lands Court are trained to uphold women's land rights.

required consent is denied, the Registrar-General may still allow the marriage if satisfied that it is in the best interests of those involved. Child marriage and arranged marriage are issues in Tuvalu and are some of the harmful social norms to be addressed.

UNCT recommends that Tuvalu repeal all discriminatory laws against women and girls which are contrary to its international human rights obligations; accelerate steps to fight all forms of discrimination against women and girls, paying particular attention to education, opportunities for decent work, and access to health care, including comprehensive sexual and reproductive health services; and train and empower teachers in provision of rights-based family life education and train health workers in human rights and in the provision of quality and respectful and non-discriminatory sexual and reproductive health services.

- ***Gender-based violence (GBV)***

According to the 2019-2020 MICS, the data indicating the prevalence of gender-based violence is concerning,⁵ while reporting gender-based violence is a continuing challenge.⁶

The government has passed legislation aiming to address gender-based violence in Tuvalu. The Family Protection and Domestic Violence Act 2014 aims to provide enhanced protection for survivors of domestic violence. Under the Act, domestic violence is defined as physical, sexual, verbal, psychological or economic abuse against an intimate partner or another person in the same family or household. The Act outlines the processes involved in protection orders and police complaints of domestic violence. Legislation in Tuvalu does not explicitly prohibit sexual harassment.

The police have a no-drop prosecution policy in cases of violence against women. Services available to survivors of domestic violence include a 24-hour emergency telephone line operated by the Domestic Violence Unit, as well as counselling services provided through the social welfare department of the government. Since COVID-19, the government has created a temporary safe space for women experiencing domestic violence.

UNCT recommends that Tuvalu:

- (a) Fully implement the Family Protection and Domestic Violence Act 2014, strengthening the GBV capacity of the judiciary, law enforcement officers, legislators and health-care professionals;
- (b) Ensure the participation of women survivors of violence in the formulation, implementation and monitoring of strategies and programmes on violence against women;
- (c) Invest in resourcing a robust needs analysis and response mechanisms for gender-based violence to reflect the magnitude of the issue;
- (d) Develop a national survivor-centered protocol and referral mechanism to respond to cases of gender-based violence, inclusive of designated frontline service providers and minimum operating standards based on existing regional and global best practice;

⁵ Amongst ever-married women aged 15-49, 35.6% reported that they had experienced physical violence from a partner in their lifetime. 24.3% of ever-married women reported that they had experienced this violence in the 12 months prior to the survey. Among ever-married women, 9.2% reported that they had experienced sexual violence from a partner in their lifetime, while 7.3% reported that they had experienced this violence in the 12 months prior to the survey. Overall, 37.0% of ever-married women reported experiencing physical or sexual violence from a partner. Emotional violence was also found to be common, with 28.6% of ever-married women in the 2019-2020 MICS reporting that they had experienced emotional violence from a partner in their lifetime. In total, 44.2% of ever-married women reported that they had experienced emotional, physical, or sexual violence from a partner in their lifetime, while 33.9% had experienced this violence in the 12 months prior to the survey. Among women aged 15-49 in the 2019-2020 MICS, 17.1% reported that they had experienced physical violence by a non-partner since age 15. The most common perpetrators of this violence were relatives. 11.4% of women aged 15-49 reported that they had experienced sexual violence from a non-partner in their lifetime. The most common perpetrators of sexual violence were former partners and relatives.

⁶ Among women who reported in the 2019-2020 MICS that they had experienced physical or sexual violence from an intimate partner, only 33.7% had sought help to stop the violence, while 33.0% had never told anyone about the violence that they experienced. Among those who did seek help, 73.2% sought help from their own family, while just 13.6% sought help from the police.

- (e) Increase the capacity of the frontline service providers to respond to cases of gender-based violence and facilitate appropriate referrals utilizing a survivor-centered approach;
- (f) Facilitate a social norm change awareness campaign to increase awareness on available services and prevent acts of violence against women and girls.

- ***Sexual orientation and gender identity***

Tuvalu is a signatory of the UN Human Rights Council's 2011 Joint Statement on Ending Acts of Violence and Related Human Rights Violations Based on Sexual Orientation and Gender Identity.

However, the Penal Code continues to criminalize 'unnatural offences' and 'indecent practices between males', with consensual sexual relations between adult men being punishable by imprisonment of 5-14 years. There is no information indicating the penal provision being enforced.

Discrimination on the basis of sexual orientation is prohibited in the workplace under the Labour and Employment Relations Act of 2017, however there are no equivalent protections in the Constitution or criminal law.

UNCT recommends that Tuvalu review legislation and amend or repeal its laws that discriminate on the grounds of sexual orientation and gender identity; and adopt policy and legal measures to combat discrimination based on sexual orientation and gender identity with a view to safeguard the rights of persons with diverse sexual orientations and gender identities, including but not limited to ensure their access to sexual and reproductive health services.

B. Administration of justice, including impunity, and the rule of law

Tuvalu does not have a national anti-corruption strategy. Tuvalu's preventative measures are mainly found in a suite of national laws to counter corruption and promote integrity. The main institutions responsible for the prevention and fight against corruption include the Attorney-General, Ombudsman, Auditor-General, Public Service Commission and Central Procurement Unit. Tuvalu is party to the United Nations Convention against Corruption (UNCAC), however, it is yet to accede to the United Nations Convention against Transnational Organized Crime and its Protocols.

Although Section 29 of the Constitution establishes the right to hold, receive and communicate opinions, ideas and information, there is no freedom of information legislation and no systematic process for the public to obtain information on the government administration.⁷ Section 59 of the Leadership Code Act mandates the Ombudsman to investigate any complaints, including anonymous, against any breach of the Code by any person. No detailed procedures are established for receiving and investigating reports of corruption and protecting whistleblowers.

UNCT recommends that Tuvalu:

- (a) Accede to the United Nations Convention against Transnational Organized Crime and its Protocols;
- (b) Seek to implement UNCAC in line with the findings of the UNCAC Implementation Review Mechanism;
- (c) Develop a national anti-corruption policy;
- (d) Draft freedom of information legislation and provide for a systematic process for the public to obtain information on the government administration;
- (e) Provide effective protection to whistleblowers and procedure for receiving and investigating reports of corruption;

⁷ The main mechanism for the involvement and participation of civil society in local governance is the Falekaupule Assembly, which is held quarterly for each island. During legislative consultations, line ministries provide information for the Office of the Attorney-General to facilitate the discussion with communities on proposed bills.

- (f) To ensure effective access to justice, provide legal aid and services to the public with focus on women, children, persons with disabilities, and other marginalized groups.

C. Rights to freedom of opinion and expression, association and assembly

While the Constitution offers the right to unhindered exercise of beliefs and the right not to have a particular religion (Art 23), public life is dominated by one belief system belonging to the religious majority.⁸ The right to freedom of beliefs or not to have a religion can be constrained on grounds of state security, law and order, safety, morality and health (Article 24, a), where the belief is deemed divisive, unsettling or offensive to the rights or feelings of other people (Article 29, 3, 4 a). The right to organize and assembly is also affected by the Religious Organisation Restriction Act 2010. The Act requires a religious group to gain approval of the *Falekaupule* (traditional assembly) of each island if the group wishes to conduct services on the island. The courts of justice have been responsive to the cases of alleged discrimination and violations.

UNCT recommends that Tuvalu ensure that the restrictions on the rights to peaceful organizing and assembly are strictly in line with international human rights law and that any disproportionate or discriminatory restrictions are repealed, in order to enable free-flow of thoughts and ideas.

Press freedom⁹: The Constitution of Tuvalu protects freedom of the press, and this freedom is generally respected. Media is largely state owned or funded given the small size of the country. The Tuvalu Media Corporation runs the only radio and television stations and the newspaper, *Sikuleo o Tuvalu* or *Tuvalu Echoes*, which is published in Gana Tuvalu and English languages. All broadcasts are approved by the government. Tuvalu residents can freely access regional and international media.¹⁰

UNCT recommends that Tuvalu continue taking steps to respect the freedom of press.

Respect for the view of the child: While noting the policy measures taken to provide the youth with opportunities to express their views on issues that affect them, concerns remain that children cannot participate in the *Falekaupule* meetings where decisions relating to education and health are made; and owing to traditional customs that hinder respect for the views of the child, children remain excluded from decision-making processes that affect them, including in the family, community and schools.

UNCT recommends that Tuvalu ensure that children's views are not disregarded because of traditional customs, but rather given due consideration in all matters affecting them, including but not limited to education and health.¹¹

D. Right to work and just and favourable conditions of work

Tuvalu is suffering from high levels of emigration resulting in the loss of skilled labour. These workers often migrate to Australia and New Zealand under the implemented labour schemes, leaving significant gaps in the Tuvalu labour force as the majority of the current population works in subsistence farming and fishing. Within this, most of the islands are built on coral and are not suitable for crop production beyond household needs, heightening the severity of working conditions for people that remain.

⁸ Ninety-seven per cent of Tuvaluans are part of Congregational Christian Church of Tuvalu, 1.4 per cent are followers of the Seventh-day Adventist Church, one per cent are Baha'i and remaining are Muslim, Catholics, Baptists, Jehovah's Witnesses.

⁹ Tuvalu is promoting digital development and its use for e-commerce. At present, the single largest source of income for Tuvalu is licensing Internet addresses with the .tv. UNESCO recommends that the government puts in place laws and measures to safeguard freedoms, privacy and other rights of the residents as it progresses in this direction.

¹⁰ Gana Tuvalu remains the language of communication but it is not standardized for official use and it does not have a long written tradition. A large part of the traditional knowledge, music and other cultural heritage of Tuvalu are embedded in Gana Tuvalu. The country's isolation and climate-induced forced migration are major challenges to Gana Tuvalu remaining alive endangering Tuvaluan cultural identities and their expressions. It is, therefore, recommended by UNESCO that the Tuvalu government takes steps to standardize the language and promotes teaching, media broadcasting and digital development in Gana Tuvalu.

¹¹ Please refer to CRC recommendations - respect for the views of the child within the family, community and schools, as well as in the courts and all relevant administrative and other processes concerning them through, among others, adopting appropriate legislation, training professionals working with and for children, and raising the awareness of the public, especially traditional, religious and community leaders and parents.

Favorable conditions that encourage workers to stay in Tuvalu would drastically help increase the strength of the local labour force, and foster significant economic growth built from local skilled workers.

Labour Migrants Reintegration Strategy¹² aims to build the capacity of migrant workers and governments to harness the remittance potential of labour migration. The project will enhance the Government of Tuvalu's understanding of remittance flows and practices, as well as enhance their capacity to enable a conducive environment for migrants. This strategy also attempts to aid the reintegration of migrant workers back into local society by helping facilitate economic self-sufficiency and independence to ensure they can harness the skills they learn abroad to further the economic and social development of Tuvalu.

UNCT recommends that Tuvalu continue taking measures under the strategy to better realize Tuvalu residents' rights to work and just and favourable conditions of work. Recognizing the limited capacity as a small island state, **UNCT recommends that** Tuvalu continue to promote the labour mobility opportunities to its people, to help reduce unemployment and support economic growth; and also invest in remittance schemes and re-integration assistance to facilitate sustainable development while improving the conditions of work and quality of life.

E. Right to health

People in Tuvalu continue to experience disparities in health service delivery, particularly in outer islands. Public spending for strengthening the primary and preventive health-care system remains low, while Government funds overseas treatment schemes.

Anemia continues to be a concern, affecting 61% of children under 5 years of age, alongside 29% of pregnant women. Noncommunicable diseases are of significant concern across age groups. Access to sexual health and rights remains a significant challenge, both as a result of criminalization of abortion as well as limited resources and insufficient programmes.

UNCT recommends that Tuvalu:

- (a) Address disparities in health service delivery, ensure that those living in outer islands can access to health care and services; and expand its partnerships to strengthen its primary and preventive health-care system;
- (b) Decriminalize abortion and ensure access to safe abortion and post-abortion care services for adolescent girls, making sure that their views are always heard and given due consideration as part of the decision-making process;
- (c) Strengthen its programmes on sexual and reproductive health education and expand them across the country, targeting adolescent girls and boys, with special attention paid to preventing early pregnancy and sexually transmitted infections;
- (d) Provide free, confidential and adolescent-responsive sexual and reproductive health services to all adolescents;
- (e) Take measures to reduce preventable deaths;
- (f) Take action across sectors to address the drivers of obesity and NCDs more broadly, including by awareness raising and building lifeskills.

F. Right to food

Tuvalu faces a number of challenges that makes the country vulnerable to food insecurity.¹³ These include its limited land mass and lack of arable land, fragile natural environments, and a narrow resource base. Tuvalu has a high level of dependence on food imports.¹⁴

¹² IOM.

¹³ Tuvalu is highly vulnerable to climate change, external economic shocks and natural disasters. The remoteness of the country and its distance from global markets result in high costs for food, energy, transportation and communication.

¹⁴ Overall, 90% of the country's food supply chain is made up of imported goods. Particularly processed food, make up more than 90% of food imports (ref.2021, Reinforcing Pacific Food Systems for COVID-19 recovery/IFAD, FAO, UNICEF, WFP). WFP's macro analysis of the agricultural import dependency for Tuvalu showed worrying overall market and trade vulnerabilities (WFP, 2020)

Low production and consumption of traditional and local healthy and nutritious foods, contribute to major health issues such as malnutrition, anemia, obesity, stunting, and various non-communicable diseases. Overweight is a significant issue in Tuvalu associated with the increasing dependence on foods with high sugar and fat contents.¹⁵

Despite limited availability of arable land, about 75% of the population are involved in agriculture and subsistence farming which secures the livelihood of the majority of Tuvalu's population.¹⁶

In 2022 Tuvalu Ministry of Finance launched the Healthy National Food Strategy (HNFS) which integrates the Food System Pathways.¹⁷ The Department of Agriculture is preparing a nationwide agriculture plan in partnership with all islands through their respective Falekaupule (traditional Island Local Government) where land will be leased for agricultural purposes to increase the production of local food.

UNCT recommends that Tuvalu:

- (a) Take appropriate measures to increase the production of the nutritious local food, green and blue food;¹⁸
- (b) Take further steps to improve water security through nature-based solution and climate-resilient water management;
- (c) Prepare well-defined investment plans for food, nutrition and water security;¹⁹
- (d) Take further steps to increase production of value-added high-value crops (such as cocoa) and fish produce (such as tuna) for both local consumption and export;
- (e) To implement the proposed Tuvalu Food System Pathways during the Food System Summit of 2021.

G. Right to education

Tuvalu provides compulsory free primary and secondary education, however, extra fees and hidden costs of education, such as school uniforms, lunch and transportation, continue to keep some children from financially disadvantaged families from attending school. Quality of education remains a challenge, owing to poor school infrastructure, inadequate and outdated teaching and instructional methods and materials, and an insufficient number of qualified teachers. There are no school re-entry policies for adolescent mothers. Other challenges are limited opportunities for vocational training, including for school dropouts; and inadequate development of early childhood education and care.²⁰

UNCT recommends that Tuvalu; take steps to ensure that education is accessible to all children, and eliminate financial barriers to education especially for children from disadvantaged backgrounds; continue upgrading the infrastructure of schools; conduct a review of teaching and instructional methods and materials with a view to increasing their quality and allocating sufficient resources to train qualified teachers, and ensuring that they receive systematic and appropriate training to upgrade their teaching skills further through in-service training. Tuvalu is also recommended to adopt and implement re-entry

¹⁵ Particularly women and children, are affected by a triple burden of malnutrition: stunting, micronutrient deficiencies (mainly anemia) and overweight/obesity (UNICEF, 2020). In 2019 the prevalence of anemia of women of reproductive age (15-49 years) was estimated at 27.5 %, and the prevalence of obesity in the adult population (18 years and older) in 2016 was estimated at 51%. (ref. FAOSTAT).

¹⁶ Only small fractions of agricultural surplus, mainly copra and fish, are being exported. The services sector, mainly driven by public services and revenues from the sale of fishing licenses, contributes the largest share to Tuvalu's GDP.

¹⁷ The strategy proposes and promotes building food banks, agricultural market outlets on each island and the capital Funafuti integrated with credit facilities to support increase the supply of local nutritious food.

¹⁸ Specific action related could include, (i) developing an integrated agroforestry-livestock farming production system and community fisheries management schemes; (ii) taking further measures for an ecosystem-approach to fisheries management; (iii) supporting food security and livelihoods of the communities with particular focus on vulnerable individuals and groups; (iv) increasing knowledge and positive attitudes that are limiting the production and consumption of local nutritious/healthy food; (v) strengthening institutions' capacity to develop strategies and programmes – as well as mobilise financing – that can increase poor rural people's access to nutritious and healthy food.

¹⁹ Specific action related could include, creating conditions for credits to farmers and fisherman through facilitating access to finance and support to agri-enterprises through dedicated credit lines.

²⁰ CRC Committee (2020).

policies, enabling adolescent mothers to return to school after pregnancy. UNCT also recommends that Tuvalu strengthen and expand vocational training to enhance the skills of children, especially those who drop out of school; and allocate sufficient human, technical and financial resources for the development and expansion of early childhood education, based on a comprehensive and holistic policy of early childhood care and development.

H. Rights of the child

Best Interests of the Child – Positive progress made through the recognition of the principle of the best interests of the child in the Labour and Employment Relations Act 2017 and the child welfare and protection bill. Concerns remain that this principle is not sufficiently incorporated into all legislation, policies and programmes that are relevant to and have an impact on children, and is not fully implemented in decisions affecting children, including in the family, schools, the community and administrative and judicial proceedings.

Corporal Punishment – Positive steps have been made by the Government to raise awareness-raising programmes against corporal punishment, including campaigns, carried out in schools in Funafuti. However, corporal punishment remains legal in the home and in the community under article 226 (4) of the Penal Code.²¹

Children in Justice System – Article 226 of the Penal Code 1965 provides “the right of any parent, teacher, or other person, having the lawful control of a child or young person to administer reasonable punishment to him”. There are low number of cases in which children under 18 years of age have been formally charged with offences under the Penal Code, mainly owing to conflicts being addressed through community mediation. Minimum age of criminal responsibility is still set at 10 years of age, which is below the international standards.

Expulsion of girls from schools due to pregnancy – Adolescent girls who become pregnant while attending secondary school face discrimination. As of 2017, Tuvalu’s only public secondary school maintained a policy stipulating that they are to be expelled. The number of girls whose education is directly impacted by this policy is not known, although the 2019-2020 MICS reported that 4.7% of women aged 15-19 have had a live birth.

UNCT recommends that Tuvalu implement the recommendations of the Committee on the Rights of the Child (2020), and:

- (a) Incorporate the principle of the best interests of the child is incorporated in all legislation, policies, programmes and projects that are relevant to and have an impact on children;
- (b) Repeal article 226 (4) of its Penal Code and take the legislative and policy measures necessary to explicitly prohibit corporal punishment in all settings;
- (c) Raise the minimum age of criminal responsibility to at least 14 years, in accordance with the CRC and international standards;
- (d) Expedite the coming into force and effective implementation of the child welfare and protection bill;
- (e) Take measures to address discrimination against adolescent pregnant girls in access to education;
- (f) Seek technical assistance from international, regional and bilateral partners, particularly UNICEF and OHCHR.

²¹ In the 2019-2020 MICS, 81.2% of boys and 77.9% of girls had experienced a violent form of discipline in the 12 months prior to the survey. Corporal punishment in educational institutions has been common across Pacific Island countries. The Education (Amendment) Act of 2017 provides greater protection for children in schools as the Amendment repealed previous allowances under which headteachers could administer corporal punishment to students. This brings Tuvalu in-line with stipulations made by the Convention of the Rights of the Child.

I. Persons with disabilities

Disability is not acknowledged as grounds for discrimination in the Constitution. Persons with disabilities continue to face multiple barriers that prevent the full realization of their rights, including participation in family and community life.

The 2017 disability survey found that there is minimal assistance, medical or otherwise, for persons with psychosocial disabilities, and none of those surveyed reported having access to medication. In cases where the person is deemed to express violence and no medical intervention is available, they are sent to prison.

Laws and policies regarding children do not sufficiently take into account the rights of children with disabilities. Children with disabilities encounter challenges in education due to a lack of specially trained teachers..

UNCT recommends that Tuvalu:

- (a) Harmonize national legislative and policy frameworks with the human rights model of disability to uphold the rights of children with disabilities;
- (b) Review and repeal any legislation, including the Mental Treatment Act, and eliminate policies and practices allowing for the deprivation of liberty of persons with disabilities on the basis of impairment, in particular persons with psychosocial and/or intellectual disabilities;
- (c) Develop capacity and technical expertise to establish non-coercive, community-based mental health support services, including on the outer islands, and to counteract the need for family members to request that the police imprison people with disabilities, in particular people with psychosocial disabilities;
- (d) Ensure access for children with disabilities, including those with intellectual and psychosocial disabilities, to inclusive education;
- (e) Ensure that persons with disabilities are assisted with in-home support and personal assistance, including skills training for family members, and other community support services to enable inclusion in the community and to prevent isolation and segregation from the community;
- (f) Ensure that village life, facilities and activities on all islands are accessible and responsive to the needs of people with disabilities;
- (g) Improve the accessibility of public buildings, facilities, services, transportation and information for persons with disabilities to facilitate their inclusion in society on an equal basis with others.

J. Climate change and human rights

Climate change poses a significant threat to Tuvalu. Climate change has a disproportionate impact on women, children, person with disabilities and other marginalized groups²² due to their reliance on natural resources for their income and food source. Those affected by climate change had limited opportunities to participate in decision-making processes concerning climate change and how such policies can protect their rights. Women often rely on male household members to collect and relay information regarding humanitarian situations, including owing to climate change.

²² CRC Committee (2020). While noting the measures taken to promote climate change resilience in the community and in schools, including disaster risk reduction and school safety initiatives, deep concerns remain about the increasingly adverse impact of global climate change on the rights of the child, including the rights to life, survival and development; non-discrimination; education; health; adequate housing; and safe drinking water and sanitation; the insufficient inclusion of the rights of children, including those of children with disabilities, in policies and programmes on climate action, including climate-related disaster risk reduction, preparedness, response and recovery; and the insufficient opportunities for children to effectively participate in discussions and decision-making related to climate action.

The Tuvalu National Gender Policy includes two key actions on environment and disasters. Firstly, the Policy commits to monitoring the progress on gender equality commitments made in the National Strategic Action Plan for Climate Change and Disaster Risk Management. Secondly, the Policy supports the participation of women in decision-making for disaster risk management, climate change adaptation, and natural resource management at local and national levels. The current representation of women in disaster preparedness and response in Tuvalu is not known.

Increased water temperatures and ocean acidification have affected the coral ecosystems of these islands, making it harder to catch and eat fish, and rising sea levels has resulted in coastal inundation, increased soil salinity, reducing the capacity for vegetation especially food crops to be grown. This has resulted in the displacement of people, in search for better working and living conditions, accounting for the large rate of emigration out of Tuvalu.

The climate change and national disaster committees that were established to address these issues only operate on a need-by-need basis, however a Climate Change policy (Te Vaka Fenua o Tuvalu) was developed to protect the basic needs and rights of Tuvaluans by responding to the issue of displacement due to climate change and sea-level rise. This policy has advanced national priorities set out in the National Strategy for Sustainable Development 2021-2030 Te Kete. Within this, the government is supporting communities to grow crops in raised gardens to avoid water salinity and contamination. In addition, Tuvalu has built a water storage and reservoir to catch and store rainwater as it has no ground or river water sources. Tuvalu and other Pacific Island Countries are working with IOM, through the Pacific Climate Change Migration and Human Security Programme (PCCMHS), to develop a Regional Framework on Climate Mobility, which will strengthen climate resilience and adaptation for Tuvaluans.

UNCT recommends that Tuvalu continue to assess and invest in different climate change adaptation strategies that can reduce the impact of climate change on its population, ensuring that its relevant policies sufficiently take into account the rights and needs of marginalized groups, including women, children and persons with disabilities. **UNCT recommends that** Tuvalu ensure that such policies are result of comprehensive consultation processes involving and informing these groups, so that they sufficiently take into account gender, child, youth and disability perspectives.

Annex:

Organization	Focal Point	Address
United Nations Resident Coordinator's Office [RCO]	Sanaka Samarasinha , Resident Coordinator, United Nations	Level 8, Kadavu House, 414 Victoria Parade, Suva
United Nations Office of the High Commissioner for Human Rights [UNOHCHR]	Heike Alefsen , Regional Representative, Office of the UN High Commissioner for Human Rights (UNOHCHR)	Level 5, Kadavu House, 414 Victoria Parade, Suva
United Nations Development Programme [UNDP]	Dawn Del Rio UNDP Resident Representative ai. UNDP Pacific Office in Fiji	Level 2, Kadavu House, 414 Victoria Parade, Suva
United Nations Children's Fund [UNICEF]	Jonathan Veitch , Pacific Representative for the Pacific Island Countries, UN Children's Fund (UNICEF)	Level 3, FDB Building, 360 Victoria Parade, Suva
United Nations Entity for Gender Equality and the Empowerment of Women [UN Women]	Delphine Serumaga Representative, UN Women Fiji Multi-Country Office	Level 3, Kadavu House, 414 Victoria Parade, Suva
International Labour Organization [ILO]	Matin Karimli , Director, International Labour Organization (ILO)	Level 8, FNPF Place (Dolphin), Victoria Parade, Suva
International Organization for Migration [IOM]	Solomon Kantha , Chief of Mission, IOM UN Migration Agency in Fiji	Level 5, FNPF Place (Dolphin), Victoria Parade, Suva
United Nations Educational, Scientific and Cultural Organization [UNESCO]	Nisha , Director of the Office and UNESCO Representative to the Pacific States, UNESCO Office for the Pacific States	Level 3, Ra Marama House, 91 Gordon Street, Suva
United Nations Population Fund [UNFPA]	Iori Kato , Director and Representative, United Nations Population Fund (UNFPA) Pacific, Pacific Sub-Regional Office	Level 6, Kadavu House, 414 Victoria Parade, Suva
International Fund for Agricultural Development [IFAD]	Candra Samekto , Country Director (Pacific), IFAD	Level 1, Kadavu House, 414 Victoria Parade, Suva
World Health Organization [WHO]	Dr Mark Jacobs , Representative/Director, Pacific Technical Support World Health Organization (WHO)	Level 4 Provident Plaza One Downtown Boulevard 33 Ellery Street, Suva
United Nations Office on Drugs and Crime [UNODC]	Marie Pegie Cauchois Regional Anti-Corruption Adviser, UNODC	Level 7, Kadavu House, 414 Victoria Parade, Suva