



Joint Submission of the UN Country Team for Tuvalu for the UN Compilation

Universal Periodic Review of Tuvalu 30th Session, April-May 2018

This submission is made by the members of the UNCT in the Pacific that undertake work in Tuvalu. The submission contains available information based on the work of the UNCT members taking into consideration the recommendations received by Tuvalu during its 2nd UPR Cycle. It, therefore, does not cover a comprehensive review of the human rights situation in Tuvalu.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations and engagement with UN human rights mechanisms

During 2nd UPR Cycle, Tuvalu accepted the recommendations of the member States to ratify core international human rights treaties, including ICCPR and ICESCR.¹ This recommendation is yet to be implemented. As of October 2017, Tuvalu is only party to CEDAW, CRC, CRPD and ILO Maritime Labour Convention, 2006. Last time Tuvalu ratified the major international human rights treaty was in 2013 when it acceded and became party to CRPD.

Tuvalu has been meeting its reporting obligations with the relevant UN treaty bodies and only the report due is on the Convention on the Rights of Persons with Disabilities since January 2016. However, it has been learned that the preparation of initial report to CRPD and 2nd - 5th State party report to CRC has been underway and is expected to submit to the respective committees in near future.

Recommendations:

- Ratify the remaining major international human rights treaties, including ICCPR, ICESCR and CAT.
- The UN in the Pacific encourages the Government of Tuvalu and remains committed to provide necessary support for the same, including in the area of capacity enhancement.

A. Constitutional and legislative framework

Tuvalu's Constitution dates from 1986, making it older than most in the world. Over the years, the Constitution has undergone fragmented amendments where needed, however there has not been an entire review of the Constitution undertaken since it got adopted.

¹ A/HRC/24/8, Recommendation 82.6

Noting the economic, social and political advancement as well as national and international developments (i.e. Tuvalu increasing commitments under international human rights law), the Government of Tuvalu initiated Constitutional review from 2016 through a UNDP led technical support. The Constitutional review was also necessitated owing to various factors, namely the role of religion and religious freedom²; the current Constitution virtually silent on gender equality; lack of recognition when it comes to ensuring inclusion of marginalized populations, such as the disabled; and the constitution being silent on environmental issues, including issues related to land, among others.

While work on developing a new Constitution is still at an early stage, the review process has been initiated, including through the formation of a committee in the Parliament for the review process. However, the Constitution making process is likely to encounter several challenges, including how the Government will ensure that it is done ensure a broader and meaningful consultation with all Tuvalu citizens despite the fact that the population of Tuvalu is dispersed among nine islands spread out over an ocean area of 900,000kms.

Additionally, there are sensitivities over political and religious diversity among Tuvalu's Christian and religious minority citizens. Discussions on these issues need to be undertaken very carefully to ensure that the review process does not create further divisions in society. For such issues, it is quite critical that an adequate level of civic awareness on the current constitution as well as generally on the process and strong technical expertise on relevant subject matters are made available.

A project is being developed by UNDP to provide support and technical assistance throughout the process and the Government of Tuvalu should utilize and benefit from the technical expertise and international best-practice made available by the UN for the Pacific.

B. Institutional and human rights infrastructure and policies

In 2016, Tuvalu introduced Tuvalu Human Rights National Action Plan (NAP) 2016-2020, which is a landmark initiative in the Pacific being the first of its kind. The National Action Plan captures Tuvalu's existing commitments under international human rights treaties to which it is a state party– CRC, CEDAW and CRPD. It also captures Tuvalu's commitments under the Universal Periodic Review (UPR) and the Sustainable Development Goals (SDGs). It aims to consolidate the government's human rights commitments in ensuring a systematic and coordinated approach to delivery of the government's commitment and achieving other desired development outcomes in order to strengthen the realisation of human rights in Tuvalu. However, the National Action Plan remains silent about the resources or funding required to implement the activities outlined and there is lack of monitoring of implementation despite this role being assigned to the Office of the Ombudsman.³

Tuvalu has recently passed the bill to establish the National Human Rights Institution (NHRI) which is a positive development for strengthening the protection of human rights in

² There has been a demand to be more inclusive in terms of religion and not only promoting Christian and traditional values as shown by recent cases, such as the one between *Mase Teonea v. Pule o Jaupule of Nanumaga and Nanumaga Falekaupule* (Ct Appeal, Civil Appeal No. 1 of 2005)

³ Based on the information provided by the UN Coordinator in Tuvalu.

the country. Tuvalu now needs to expedite the establishment of the NHRI ensuring full compliance with the Paris Principles.

No permanent national mechanism on reporting and follow-up (NMRF) currently exists in Tuvalu and each convention/treaty has its own committee and working group comprising the relevant stakeholders, including the civil society with their own TOR. It is desirable that Tuvalu develops these current ad hoc structures into a permanent NMRF so as to meet its obligations on reporting and follow-up under various international human rights mechanisms.

Recommendation:

- Expedite the establishment of National Human Rights Institution in full compliance with the Paris Principles.
- The UN in Pacific encourages the Government of Tuvalu to consider the existing ad hoc structures to develop into a National Mechanisms for Reporting and Follow with a view to engage with the UN human rights mechanisms in a constructive and systematic manner.

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with international human rights mechanisms

In 2013, Tuvalu has extended standing invitation to all special procedures mandate holders. However, for the past five years there has been no visit of special procedure mandate holders. The last visit conducted by Special Rapporteur on human right to safe drinking water and sanitation was in July 2012. The UNCT encouraged Tuvalu to engage with mandate holders to explore the possibility of such visits.

Tuvalu voted in support of the mandate of the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity when the matter came up for a vote at the UN General Assembly in November 2016.

The cooperation between the Government of Tuvalu and United Nations in the Pacific continues to be cordial and strong one with Tuvalu being one of the Pacific island countries signing the UN Pacific Strategy (UNPS) 2018-2022. UNPS has strong human rights component and aims to assist the countries in the Pacific in meeting their human rights obligations, including on reporting and follow-up. In particular, Tuvalu might further benefit from the technical cooperation and expertise available with the members of UNCT Pacific, such as OHCHR, UNICEF, UN Women and UNDP to further strengthen its engagement with UN human rights mechanisms and fulfilling its obligations under international human rights instruments applicable to it.

Recommendations:

- Cooperate with Special Procedure mandate holders, including implementing the recommendations of the UN human rights mechanisms.
- Work closely with UN partners, including OHCHR, UNICEF and UN Women for strengthening eventual participation to the core international human rights treaties.

III. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

A. Equality and non-discrimination

In 2015, the Committee on Elimination of Discrimination, following the examination of 3rd and 4th periodic reports noted that Tuvalu has taken no steps to amend its Constitution with a view to incorporating the principle of equality of women and men and defining and prohibiting all forms of discrimination on the grounds of sex or gender, including direct and indirect discrimination, in line with article 1 of CEDAW, and covering acts of both public and private actors, in accordance with article 2.⁴ The Committee recommended Tuvalu to amend section 27 (1) of its Constitution as well as other appropriate legislation to incorporate fully and without delay the principle of equality between women and men, as well as a prohibition of discrimination on the basis of sex or gender, in line with the definition provided in article 1 and 2 of CEDAW.⁵

In February 2012, Tuvalu ratified the Marine Labour Convention (MLC) which prompted in drafting the relevant legislation to its local context and endorsement of the Merchant Shipping Regulation in 2013. In August 2015, Tuvalu adopted the National Labour Migration Policy to address the impacts of climate change on migration. In 2014, the Government of Tuvalu had sought technical assistance from the ILO Office of the Pacific Island Countries to undertake a review of the Employment Act, Industrial Code and Trade Unions Act. The objective of the review was to ensure that it aligns to the provisions of International labour standards that the country has signed. After numerous consultations and meetings earlier this year in March, the Tuvalu Labour & Employment Relation Bill has passed through its first reading in Parliament and is expected to be passed into law in late 2017 or early 2018.

However, the Government of Tuvalu has yet to ratify the eight other fundamental conventions of the ILO covering subjects that are considered as fundamental principles and rights at work, such as freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

Besides constitutional provisions, sex-discrimination continue to exist in the Penal Code of 1978, the Native Lands Act of 1956, the Marriage Act (Cap. 29), the Tuvalu Lands Code of 1962, the Falekaupule Act of 1997 and the Labour and Employment Act, 2017. For example, consensual same-sex relations between men are criminalised under the Penal Code in Tuvalu, with penalties of up to five years' imprisonment for "gross indecency" between men, up to seven years for "unnatural offences and indecent assault," and up to fourteen years' imprisonment for "buggery."⁶ The Constitution of Tuvalu contains a Bill of Rights, but does not include "sex" as a prohibited basis of

⁴ CEDAW/C/TUV/CO/3-4, para 11

⁵ CEDAW/C/TUV/CO/3-4, para 12

⁶ Laws of Tuvalu, Sections 153-155, Penal Code, Cap. 10.20, Revised Edition 2008, available at: http://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/1965/1965-0007/PenalCode_1.pdf

discrimination under Article 27.⁷ Similarly, other national laws do not specifically prohibit discrimination based on sexual orientation or gender identity.

The violence against women, including domestic violence, is reportedly persistent in Tuvalu. More than 46 per cent of women report experiencing some form of gender based violence.⁸ Such violence would appear to be socially legitimized and accompanied by a culture of silence and impunity, owing to women's reluctance to report such cases out of fear of reprisals, stigmatization and inadequate response by the police. This has contributed to insufficient information regarding the extent and prevalence of violence against women in Tuvalu.

The adoption of the Family Protection and Domestic Violence Act, 2014 was a positive development. However, there is a lack of a comprehensive framework for addressing all forms of violence against women, including domestic and sexual violence in Tuvalu. The Penal Code does not contain provisions to criminalize marital rape, whereas victims have further suffered in the absence of shelter homes and limited availability of medical care, psychological counselling and legal assistance.

The National Human Rights Action Plan has the objective to review the Penal Code to consider expanding the definition of rape to include marital rape and the use of objects and other instruments, including sanctioning situations where men and boys are also raped.⁹ This objective of the National Action Plan is yet to be achieved.

The existing Penal Code has limitations with regard to definition of rape provisions including marital rape, and abortion especially where a woman's life is under threat.¹⁰

Recommendations:

- Amend section 27 (1) of its Constitution as well as other appropriate legislation to incorporate fully and without delay the principle of equality between women and men, as well as a prohibition of discrimination on the basis of sex or gender, in line with the definition provided in article 1 of the Convention, that covers the public and private spheres, in accordance with article 2 of the Convention;
- UNCT Pacific encourages Tuvalu to conduct a comprehensive review of its legislation and policies with clear time frame and targets and amend or repeal all discriminatory legislation mentioned above in order to ensure compatibility with the principle of equality and non-discrimination as enshrined in CEDAW, CRC and CRPD.
- Take comprehensive measures, including legislative ones to prevent and address all forms of violence against women and girls, including domestic violence and sexual violence, and ensure that women and girls who are victims of violence have access to effective remedies and protection and that perpetrators are prosecuted and punished and there is guarantee of non-repetition.

⁷ Laws of Tuvalu , The Constitution of Tuvalu (Cap 1.02) 2008 revised edition, available at: http://www.paclii.org/tv/legis/consol_act_2008/cot277/

⁸ Demographic and Household Study, Tuvalu.

⁹ Objective 8 under Table 3: Matrix for the Promotion of Human Rights in Tuvalu, Tuvalu Human Rights National Action Plan, 2016-2020, page 27

¹⁰ Penal Code, Part XVI- Offences against morality, 128. Definition of rape

- Amend the Penal Code and the Family Protection and Domestic Violence Act to define and criminalize marital rape, in line with the CEDAW and its general recommendation No. 35.
- Encourage Tuvalu to ratify the eight fundamental conventions, particularly those dealing with the rights at work: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.
- Encourage women to report incidents of sexual and domestic violence ensuring that victims are not subjected to revictimization and stigmatization.
- Establish shelter homes that are adequate to accommodate the victims, including on the outer islands, providing adequate protection and assistance to women who are victims of violence and enhance cooperation with non-governmental organizations, in particular women's organizations, that are providing assistance and rehabilitation services to the victims.
- Engage community, including men and boys, in ending VAW, and promoting juvenile access to justice.
- Empower women and girls in both the urban and rural areas through revenue generation schemes and access to finance.

B. Freedom of expression

In Tuvalu, there are no formal political parties, though no law bars their formation. Candidates typically run as independents and align themselves based on geography, tribal loyalties, family ties, and personalities. Intense personal and political rivalries frequently prompt new alliances, and no-confidence motions are often used as a tool to oust opponents.

The constitution provides for freedoms of speech and the press, and the government generally respects these rights in practice. The Tuvalu Media Corporation (TMC) is a public entity and operates the country's sole radio and television stations, as well as the bi-weekly newspaper *Tuvalu Echoes*. Human rights groups have criticized TMC for its limited coverage of politics and human rights issues, but there are no allegations of censorship or political agendas in reporting. Internet access is largely limited to the capital because of high-cost and connectivity challenges.

Workers have the right to strike, organize unions, and choose their own representatives for collective bargaining. With two-thirds of the population engaged in subsistence farming and fishing, there is only one registered trade union (for merchant marine workers) known as TOSU- Tuvalu Overseas Seafarers Union.

Religious freedom is upheld in this overwhelmingly Christian country, where religion plays a major role in society. Academic freedom is generally respected.

In May 2017, Tuvalu became party to the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (ICH). Tuvalu is encouraged to implement ICH safeguarding measures as a State Party, bearing in mind that, for the purpose of the ICH Convention, consideration will be given solely to such ICH as is compatible with existing international human rights instruments, as well as with the requirements of mutual respect among communities, groups and individuals, and of sustainable development (Article 2.1). Tuvalu has yet to ratify the UNESCO 2005 Convention for the Protection and Promotion of the Diversity of Cultural Expressions and is encouraged to do so.

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

The judiciary is independent and provides fair trials. In a two-tier system, higher courts include the Court of Appeal, and the High Court, and the Privy Council in London, while lower courts consist of senior and resident magistrates as well as island and land courts. There are no reports of abuse in the prison system. Jails meet minimum standards, but limited capacity can mean long waits in the legal system and restricted access to proper counsel.

Women's limited access to justice, particularly on the outer islands continues to remain a critical issue which interacts with a number of factors owing to, among other things, customary laws and practices, local and geographical barriers, a lack of information about their rights and limited access to legal assistance.¹¹ The Office of the People's Lawyer is the main agency providing legal aid, but reportedly lacks financial and human resources to reach out to the needy. It also lacks a comprehensive and effective system for receiving complaints, and no disaggregated data on complaints filed by victims, including women are available, nor their outcomes.

The UNCT worked with the Tuvalu Police Force and Attorney General's Office to build understanding of child-sensitive justice procedures. The Attorney General's Office has been implementing the Child Protection Project funded by UNICEF. However, such capacity-building interventions are yet to yield results.

Recommendations:

- Strengthen the justice system, including the Office of the People's Lawyer, by enhancing its human, financial and technical resources, and deploy judges and legal practitioners to the outer islands and ensure the provision of free legal aid to women without sufficient means to claim their rights. In particular, in line with the commitment under the *Te Kakeega III* and Tuvalu Human Rights National Action Plan, continues to provide adequate funding to the judiciary including building its resources to allow the judiciary to expand its outreach and services especially on the outer island.
- Train the resident and island magistrate on new and existing laws, especially focusing on Domestic Violence Act and international human rights treaties, namely CEDAW, CRC and CRPD.

D. Right to participate in public and political life

Although there has been an increase in the number of women holding the position of Assistant Secretary (increased from 20 per cent to nearly 50 per cent), the representation of women in political and public life, especially at the highest levels of decision-making is significantly low. There is also low representation of women also in local level decision-making bodies, such as "Falekaupule" and island councils called "Kaupule", the judiciary and the diplomatic service. Since independence, only three women have held seats in the Tuvalu Parliament.

E. Right to social security and to an adequate standard of living

One of the smallest and most isolated countries in the world, Tuvalu is classified as a Least Developed Country (LDC), but has met the threshold for graduation based on its human

¹¹ CEDAW/C/TUV/CO/3-4, para 15

development indicators and high per capita income. Life expectancy and adult literacy are comparatively high for the region.¹² The country has requested a postponement to its LDC graduation because of extreme economic exposure and the immediate threat of climate change and natural disasters. The Global Financial Crisis reversed earlier gains to reduce poverty when household incomes fell because of decreased overseas worker remittances.¹³ Poverty has increased in the last decade,¹⁴ particularly in urban areas.

Around three quarters of the labour force works in the informal economy, primarily subsistence farming and fishing. Most of the islands are built on coral and are not suitable for crop production beyond household needs. Historically, Tuvaluan men have found employment as seamen on foreign cargo vessels, but there are few current employment opportunities for a range of economic and social reasons.¹⁵ Underemployment, particularly of young people in the outer islands, has fuelled the increasing urbanisation of Funafuti. High population density is placing extreme pressure on the fragile environment while depopulation is hindering development of the outer islands.¹⁶

Tuvalu has few exports and depends on revenues from fishing license fees, overseas remittances, dividends from the Tuvalu Trust Fund, and income from rent of the “dot tv” Internet extension.¹⁷ Overseas aid provides around fifty per cent of GDP. The public sector is large and most enterprises are state owned. Tuvalu’s remoteness from major markets, its lack of scale, weak institutional capacity, banking sector vulnerabilities, income growth volatility, and high debt stress constitute tremendous challenges for sustainable growth.¹⁸

Tuvalu’s development priorities are found in the *Te Kakeega III*, which is the National Strategy for Sustainable Development 2016 - 2020, a blueprint for the government’s action on improving the quality of life of the people of Tuvalu. While the *Te Kakeega III* is written in terms of development, most of the aspirations within this key government document are rightly linked to human rights, including the rights to housing, employment, voting and participation in both national and local government. However, these government action plans await full implementation.

Climate change has negatively impacted on a range of human rights, especially the right to food, water and housing. People’s basic survival and property are threatened with the increased frequency of changing weather patterns and natural disasters.

Tuvalu is one of the priority countries of the UN Pacific Strategy 2018-2022 which is being developed with a strategic outlook prioritising areas where the UN can have the greatest impact and where UN agencies have both a mandate and a comparative advantage. The five-year plan will bring together the complementary assets of the UN system, to accelerate progress towards the SDGs through the broad spectrum of UN expertise, resources, joint policy, advocacy and programming. Assistance will be provided to Tuvalu to implement the TKIII (National Development Strategy) including improving economic opportunities for the vulnerable populations and their access to services.¹⁹

¹²ILO Decent Work Country Programme, Tuvalu, 2010-2012.

¹³MDG Tracker 2015, Pacific Islands Forum Secretariat.

¹⁴The State of Human Development in the Pacific: Vulnerability in a time of rapid change, UNDP, 2014.

¹⁵Population and Development Profile: Asia Pacific Countries, UNFPA, 2014.

¹⁶ibid

¹⁷Fact Sheet- Tuvalu ADB, 2016.

¹⁸IMF Country Report- Tuvalu 12/243 August 2014.

¹⁹UN Pacific Strategy 2018-2022, Outcome 4: Equitable Basic Services

There are no rivers or streams on the islands and the groundwater supply is brackish and generally not safe for consumption. During periods of drought, water security is a critical health issue in Tuvalu.

One of the key priority areas is urban management particularly in dealing with land and waste management on Funafuti, the capital city. The priority given to land rights and management is a growing concern as it has its impact on families' livelihoods, health and subsequently on incidences of hardship for a growing number of families.²⁰

Right to health

Despite commitments made by Tuvalu through its constitution and other legislation and policies, there lacks obstetric health services for women including concerning pre- and post-natal services. Although the *Te Kakeega III (2016 to 2020)* and Tuvalu Human Rights National Action Plan have included right to health as national priorities, Tuvalu has yet to achieve progress in terms of ensuring that the right to health-- which contains both the freedoms and entitlements—is accessible and affordable to all.

In particular, the women on the outer islands continue to experience difficulties in gaining access to affordable and adequate health care and, especially, that the health centres on the outer islands are not sufficiently equipped to attend to deliveries in the event of complications.²¹

As stated by the CEDAW Committee, abortion is still criminalized under the Penal Code in cases of rape, incest, risk to the life or health of the pregnant woman or severe foetal impairment and that the prohibition may lead women to seek unsafe, illegal abortions, thereby endangering their life and health.²²

Through a UN partnership with the Department of Youth, an improved data on reproductive health, including family planning, gender quality and youth health has been included in the Tuvalu National Population Policy, and an evidence based analysis on urbanization and migration has been included in the 2015 National Development Strategy. However, these policies documents are yet to yield results.

The UNCT Pacific has worked with the Government to improve the capacity of nurses and midwives to deliver quality reproductive health care including emergency obstetrics services, and improve the screening of pregnant women, particularly in outer islands. However, there is a need to broaden the coverage of such programmes and support so that vulnerable population groups can have access to the services offered.

Tuvalu ratified the International Convention against Doping in Sport in 2013. The country is one of the signatories to the Kazan Action Plan endorsed at the Sixth International Conference of Ministers and Senior Officials Responsible for Physical Education and Sport (MINEPS VI) in Russia in 2017 which calls for an inclusive access to sport, physical activity and physical education. Although no data relating to the “access” of all to sport and physical

²⁰ Education for All 2015 National Review submitted by Tuvalu to UNESCO as a part of the requirement of the World Education Forum, 2015

²¹ CEDAW/C/TUV/CO/3-4, para 29

²² Ibid

activity in Tuvalu is available, the country is currently drafting its first comprehensive national sport policy.²³

Recommendations:

- Continue strengthening universal access to healthcare services, including sexual and reproductive health services, particularly for newborn and children.
- Effectively implement the the policies and targeted action plans, particularly the Tuvalu Human Rights National Action Plan 2016-2020, including allocating adequate resources and strengthening monitoring and oversight mechanisms.
- Decriminalize abortion in cases of rape, incest, risk to the life or health of the pregnant woman or severe foetal impairment, in line with the CEDAW's general recommendation No. 24, and ensure that women and girls have confidential access to adequate post-abortion care.

A. Right to education

Corporal punishment continues to remain one off the critical human rights issues in Tuvalu. The Tuvalu Human Rights National Action Plan aims to amend section 29 of the Education Act to prohibit corporal punishment in schools. The amendment of Education Act was made in October 2017 and awaits full implementation.

Tuvalu has achieved gender parity in primary education although there is some concern that fewer boys are accessing secondary and tertiary education levels. Noticeably, at the post-secondary and TVET level, the Review reveals that there were gender disparities of males or females being over-represented in certain technical and vocational education and training (TVET) courses. For instance, in 2014 the majority of men received training in maritime occupations while qualifications for women were mostly in teaching and nursing. While this does not necessarily imply inequality in freedom of choice in higher education, it suggests that there is potentially pressure on boys and girls to conform to societal expectations about professional choices for males and females.²⁴

Student attendance in schools continues to remain a critical concern. The students start dropping out in Year 6 and most dropout happens at Year 8. The dropout rate of male students is higher than that of female students. It is largely because males go on to do domestic duties for the family and as financial issues—i.e. not being able to afford to school uniforms, lunch and secondary school fees are some of the pressing issues.²⁵ It is also do with the fact that Tuvalu is an exam driven education system. Still, students in Year 8 sit for the National Year Eight Examination (NYEE), which is the most important exam as it serves as a filter for secondary education by reducing pressure on places. Those who pass the exam proceed to Year 9, whereas those who fail either repeat Year 8 (and are allowed to do so twice) or dropout.²⁶

²³ Update provided by UNESCO

²⁴ UNESCO, 2015, "Pacific Education For All 2015 Review", Apia, Samoa. Available at: <http://unesdoc.unesco.org/images/0024/002432/243250E.pdf>

²⁵ Education for All 2015 National Review submitted by Tuvalu to UNESCO as a part of the requirement of the World Education Forum, 2015

²⁶ Ibid

Tuvalu has invested heavily from its own budget in education and has allocated on average 25% of its total budget to education, exclusive of donor contributions. However, the majority of the education budget has been allocated to salaries. On average, between 2008 and 2013, 82.1% of primary school total expenditure (including donor assistance) was absorbed by staff salaries and housing allowances, leaving little for operations and school learning materials. Whilst primary education is officially free, schools ask parents to pay a “school contribution” which ranges between \$ AUD 2-5 per term (approx. USD 1.5-3.8).²⁷

In addition, parents must provide children with school uniforms and purchase stationary as well as textbooks. The percentage of education expenditure spent on salaries has increased for both primary and secondary schools with 90% and 66% respectively in 2013. This leaves little for operations, maintenance of schools and equipment, procurement of furniture, curriculum development, libraries and provision of specialised training for teachers. The limited funds for operational costs mean that schools rely on community fund raising to assist in infrastructures. Continuous community contributions at the primary school level put considerable pressure on the already depleted household disposable incomes, especially when there is more than one primary school aged child in the household.²⁸

The CEDAW committee was rightly concerned about the lack of data disaggregated by school, age and sex on school “push outs” (i.e., pupils who did not pass the secondary entrance exam) and inadequate education infrastructure affecting girls in particular, including the lack of basic sanitary facilities.²⁹

Recommendations:

- Closely monitor the quality of education, particularly between Year 6 and Year 8 so as to identify the factors which impact on the quality of education and cause the failure of students in NYEE and address the issue introducing appropriate measures, including but not limited to improving curriculum, teachers training, social awareness and community engagement.
- Upgrade and maintain school facilities including basic sanitary facilities in secondary and primary schools, especially in the Outer Islands, essential for improving the learning environment and quality of service.

B. Persons with disabilities

Tuvalu ratified the CRPD in 2013. However, Tuvalu is yet to develop a comprehensive disability related law in order to ensure the rights of persons with disabilities provided for by CRPD.

Tuvalu’s limited economy, tiny population and scattered geography has created three recurrent constraints to social development and implementation of international commitments under human rights conventions-- a shortage of skilled human resources, a lack of financial resources, and delays in accessing the islands. Tuvalu has a limited capacity to undertake law reform and then absorb the ensuing procedural and institutional obligations country-wide. Poor infrastructure, small numbers of professional staff and lengthy travel between islands

²⁷ Ibid

²⁸ Ibid

²⁹ CEDAW/C/TUV/CO/3-4, para 25

pose particular challenges for the effective delivery of health care, education, and services for the vulnerable, including the persons with disabilities.³⁰

The Tuvalu National Human Rights Action Plan recognizes the rights of persons with disabilities and aims at ensuring their access to health, education and employment. For example, it has an objective to ensure access to employment, particularly through providing vocational and basic training and introducing programmes including affirmative action that will allow persons with disabilities to have employment opportunities with the civil services.³¹

Recommendations:

- Encourage Tuvalu to domesticate CRPD provisions, including through developing a comprehensive legislation to advance the rights of persons with disabilities.

C. Right to development and environmental issues

A small low-lying island country, Tuvalu is constantly challenged by many competing factors and priorities that can hamper the realisation of fundamental human rights. One of the biggest threats to Tuvalu is climate change and its adverse impact on the basic rights of Tuvaluans, such as the rights to food, housing, health and water and sanitation, to name but only a few.

Tuvalu is at acute risk from natural disasters, including rising storm surges, cyclones, and tsunamis. Seawater infiltration has already increased soil salinity, limiting the range of plants that can be grown on the islands. Increased water temperatures and ocean acidification have affected coral ecosystems that serve as fish nurseries, making it harder for Tuvaluans to catch and eat fish. Worsening environmental conditions are increasing the incidence of hunger and food insecurity. The Government and the people of Tuvalu are highly cognisant of the potential long-term negative impact of climate change on their country. The Tuvalu Survival Fund (TSF) was created in 2015 to finance recovery and rehabilitation from climate change impacts and natural disasters.

In particular, Tuvalu, together with Fiji and other Pacific island countries, has been advocating to hold the big polluters and carbon emitters to account. Its efforts have been towards the big polluters committing more money and resources to assist small island nations in tackling the threats posed by climate change to the human rights and the dignity of people in the Pacific and other small island countries. For example, Tuvalu has been advocating for the establishment of a climate change insurance facility to develop climate change risk transfer products to suit individual needs of Pacific Island Countries.³²

In June 2017, Tuvalu has become the first Pacific Island country to sign the Financing Framework Agreement to access funds for coastal protection activities from the Green Climate Fund when Tuvalu signed the agreement with the UN in the Pacific. The National Disaster Management Office and Ministry of Home Affairs of Tuvalu, with the support of the

³⁰ Education for All 2015 National Review submitted by Tuvalu to UNESCO as required by World Education Forum, 2015

³¹ Tuvalu National Human Rights Action Plan 2016-20, Chapter on the Rights of Persons with Disabilities, page 33

³² Tuvalu reportedly proposed this in the 48th Pacific Island Forum (PIF) Leaders' Meeting in Apia, Samoa in September 2017 and also in the Pacific Climate Change Roundtable (PCCR held in Suva, Fiji in the first week of October 2017, also joined by Australia and New Zealand besides Pacific Island countries.

UN, has mainstreamed Disaster Risk Reduction into national policies and planning processes. Similarly, the UN has been also supporting Tuvalu to undertake surveys on climate change and migration and gathering and analysis of data and information. A labour and migration policy has been developed with the support of the UN which was endorsed by the Government of Tuvalu. Tuvalu Meteorological Service also benefitted from UN technical support for provision of severe weather information and coordination of early warning systems for cyclones.

Despite these efforts and initiatives, Tuvalu has long way to go when it comes to being resilient to climate change and its adverse effects, including dealing with natural disasters associated to climate change. Most importantly, Tuvalu further needs to take human rights considerations into account while developing policies, processes and actions against climate change. The rights of affected individuals and communities to access to information and participation in decision-making, to the enjoyment of rights associated with livelihood, land, culture and self-determination, and to the right to redress for violations of those rights or ensuring “climate justice” are among these considerations. In Particular, CEDAW was concerned that there is little evidence that those affected, including women, have been informed of or given opportunities to participate in decision-making processes to mitigate the impacts of climate change and in policymaking relating to them.³³

For this, Tuvalu should further strengthen its legal frameworks, including considering the ratification of International Covenant on Economic, Social and Cultural Rights so as to provide greater protection to the affected individuals and groups also to enable the Government to negotiate for the international assistance.³⁴

Recommendations:

- Periodically assess the impact of climate change and natural disasters particularly in the enjoyment of human rights (i.e. food, shelter, health, education and water) by the poor and low-income population and other different social groups and support them to be more resilient towards such disasters and shocks.
- Develop sector-based plans and programmes that fully integrate climate resilience with a priority focus on biodiversity, education, energy, fisheries, forestry, health, infrastructure, land, water and youth. Ensure that stakeholders, including target groups are consulted while designing such interventions.
- Ensure that gender perspective is integrated into all sustainable development policies, as well as into disaster risk reduction, post-disaster management and climate change policies.

³³ CEDAW/C/TUV/CO/3-4, para 31

³⁴ In accordance with Article 2 (1) of ICESCR, each State Party undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.
