



Human Rights Council
Working Group on the Universal Periodic Review
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Tuvalu

Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the outcome of the previous review.¹ It is a compilation of information contained in relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with human rights mechanisms

2. The Committee on the Rights of the Child recommended that Tuvalu consider ratifying the six core human rights instruments to which it was not yet a party.²

3. The Special Rapporteur in the field of cultural rights recommended that Tuvalu ratify the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and the respective optional protocols thereto allowing for communications procedures, and the optional protocols to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities. She also recommended that it ratify the Convention for the Protection of the World Cultural and Natural Heritage and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions.³

4. The United Nations country team recommended that Tuvalu improve its cooperation with United Nations human rights mechanisms, including through ratifying the outstanding core international human rights instruments, namely the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the optional protocols thereto, while continuing to accept requests by special procedure mandate holders to conduct country visits and continuing its engagement with human rights treaty bodies. The United Nations country team also recommended that Tuvalu accede to the United Nations Convention against



Transnational Organized Crime and the Protocols thereto and seek to implement the Convention.⁴

III. National human rights framework

1. Constitutional and legislative framework

5. The United Nations country team reported that, after the elections in September 2019, a new parliamentary select committee had been tasked with reviewing the Constitution, and that that review was ongoing. The United Nations country team recommended that Tuvalu accelerate its constitutional review process through effective consultations with key stakeholders and that it expand human rights protection in constitutional provisions.⁵

6. The Committee on the Rights of the Child expressed concern about delays in the adoption of draft bills concerning children and the insufficient steps taken to harmonize the legislative framework with the Convention on the Rights of the Child. The Committee recommended that Tuvalu continue taking measures to ensure that its constitutional provisions complied with the principles of the Convention, expedite enactment of the child welfare and protection bill and review its legislative framework to ensure compliance with the Convention.⁶

7. Expressing concern about section 29 of the Constitution, which stipulated that the exercise of human rights might be restricted if deemed “divisive, unsettling or offensive to the people” or to “threaten Tuvaluan values and culture”, the Special Rapporteur in the field of cultural rights asserted that cultural diversity or values could not be invoked to infringe upon human rights guaranteed by international law or to limit their scope and that States had a duty to protect all human rights, regardless of their historical and cultural backgrounds.⁷

2. Institutional infrastructure and policy measures

8. The Committee on the Rights of the Child welcomed the legislative measures taken to establish the Office of the Ombudsman as the national human rights institution. It recommended that Tuvalu take the measures necessary to ensure that the Office complied with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including by allocating the necessary resources for it to effectively fulfil its mandate, including addressing complaints by or on behalf of children.⁸ The Special Rapporteur in the field of cultural rights recommended increasing the funding of the national human rights institution so that it could, inter alia, hire human rights officers, conduct awareness-raising campaigns and deliver training.⁹

9. The United Nations country team reported that Tuvalu had passed its National Human Rights Institution Act in October 2017, establishing the legal basis for the formation of a national human rights institution. However, the institution itself was still not operational and its budget had not yet been defined. The United Nations country team recommended that Tuvalu take steps to give effect to the Act by establishing an independent and operational institution and ensure that the institution could effectively exercise its mandate, with sufficient resources.¹⁰

IV. Promotion and protection of human rights

A. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

10. The Special Rapporteur in the field of cultural rights highlighted that the principle of equality between women and men and guarantees of non-discrimination on the grounds of gender, disability, age and birth were not explicitly stated in the Constitution.¹¹ The United Nations country team noted that sex and gender were not mentioned in the Constitution within the definition of discrimination.¹²

11. The Committee on the Rights of the Child recommended that Tuvalu: (a) use the constitutional review process to ensure that the Constitution provided protection from discrimination on all prohibited grounds, in line with the Convention on the Rights of the Child; (b) amend its discriminatory laws and enact anti-discrimination legislation; and (c) develop policies and awareness-raising measures to address the root causes of discrimination.¹³ The United Nations country team recommended including prohibitions in the Constitution against all forms of discrimination based on gender, sex, sexual orientation, disability, age, birth, race or religion.¹⁴

12. The Committee on the Rights of the Child expressed concern about: (a) the prevalence of discriminatory provisions in legislation, in particular the Tuvalu Lands Code 1962 and the Native Lands Act 1956, which discriminated against women and girls in relation to land inheritance rights and child custody, as well as the Penal Code 1965, which criminalized consensual sexual activity between boys; and (b) the persistent de facto discrimination against, among others, girls, children with disabilities and children living in the outer islands, in particular with regard to access to education, health care and services, and development.¹⁵ The Special Rapporteur in the field of cultural rights and the United Nations country team recommended conducting a review of laws, in order to ensure their compatibility with the principle of equality and non-discrimination enshrined in international human rights law, and amending or repealing all discriminatory legislation.¹⁶ The United Nations country team also recommended enacting anti-discrimination legislation.¹⁷

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

13. The United Nations country team reported that Tuvalu did not have a national anti-corruption strategy and that preventive measures were mainly covered in national laws to counter corruption and promote integrity. Tuvalu was a party to the United Nations Convention against Corruption but had yet to accede to the United Nations Convention against Transnational Organized Crime. There was no freedom of information legislation, no systematic process for the public to obtain information on government administration and no procedures for receiving and investigating reports of corruption and protecting whistle-blowers. The United Nations country team recommended that Tuvalu develop a national anti-corruption policy, draft freedom of information legislation and provide for a systematic process for the public to obtain information on government administration, provide effective protection to whistle-blowers and a procedure for receiving and investigating reports of corruption and, to ensure effective access to justice, provide legal aid and services to the public, with a focus on marginalized groups.¹⁸

14. The Committee on the Rights of the Child welcomed the repeal of section 8 (8) of the Island Courts Act, which had provided for the corporal punishment of child offenders, and noted that the draft child welfare and protection bill prohibited corporal punishment and the life imprisonment of children. However, the Committee expressed concern that cases of child offenders were dealt with in the general criminal justice system without the protections provided by the Convention on the Rights of the Child, and that the minimum age of criminal responsibility was set at 10 years of age. The Committee urged Tuvalu to: (a) develop measures dealing with children in line with the Convention; (b) provide training for judges, prosecutors, police officers and other professionals on the Convention; (c) raise the minimum age of criminal responsibility to at least 14 years; (d) expedite the coming into force of the child welfare and protection bill; and (e) seek technical assistance from international, regional and bilateral partners.¹⁹ The United Nations country team made similar recommendations.²⁰

3. Fundamental freedoms and the right to participate in public and political life

15. The United Nations country team noted that the right to assembly was framed by the Religious Organisation Restriction Act 2010, which required a religious group to gain the approval of the traditional assembly of each island to conduct services on the island. The United Nations country team recommended that Tuvalu ensure that restrictions on the right to peaceful assembly were strictly in line with international human rights law and that any disproportionate or discriminatory restrictions were repealed.²¹

16. The Special Rapporteur in the field of cultural rights noted information received regarding impediments to the enjoyment of freedom of religion or belief by members of

religious minorities on the outer islands and the fact that they were sometimes discouraged from holding meetings or proselytizing. She expressed the hope that that would be addressed through human rights education about the importance of non-discrimination.²²

17. The same Special Rapporteur recommended that Tuvalu consider introducing a freedom of information law in accordance with international standards, decriminalize defamation and take measures to foster the acceptance of dissent and the right of everyone to raise human rights concerns publicly and to ensure the protection of those who criticized human rights failings.²³ The United Nations Educational, Scientific and Cultural Organization (UNESCO) recommended that Tuvalu decriminalize defamation and introduce an access to information law and an oversight institution.²⁴

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

18. The United Nations country team reported significant gaps in the Tuvalu labour force due to the emigration of skilled labourers, with the majority of the population working in subsistence farming and fishing. The unsuitability of the coral-based soil for crop production beyond household needs heightened the severity of working conditions. The United Nations country team recommended that Tuvalu continue to promote labour mobility opportunities to help reduce unemployment and support economic growth, and invest in remittance schemes and reintegration assistance to facilitate sustainable development while improving conditions of work.²⁵

19. The United Nations Development Programme (UNDP), the International Organization for Migration (IOM) and the Peacebuilding Fund noted that, due to rising sea levels and associated climate risks such as saltwater intrusion, soil salinity and frequent inundation, land had become less fertile, with claims over land leading to disputes and threatening social cohesion.²⁶ The International Labour Organization (ILO) stated that better data on green and decent jobs were needed to assess the impact of climate change and climate-related policies on social inclusion, and to determine required policy changes to assure a just transition to environmental sustainability.²⁷

5. Right to an adequate standard of living

20. The United Nations country team reported that Tuvalu faced several challenges that rendered the country vulnerable to food insecurity, including limited land mass, a lack of arable land and a high dependence on food imports, that contributed to major health issues such as malnutrition, anaemia, obesity, stunting and non-communicable diseases. A healthy national food strategy had been launched in 2022, which integrated the food system pathways.²⁸ The World Food Programme (WFP) highlighted that Tuvalu had been experiencing declining rainfall and rising temperatures resulting from climate change, with lower-than-average rainfall in 2021 resulting in water shortages in the capital.²⁹ The United Nations country team recommended that Tuvalu: (a) take appropriate measures to increase the production of nutritious local food; (b) take further steps to improve water security through nature-based solutions and climate-resilient water management; (c) prepare investment plans for food, nutrition and water security; (d) take further steps to increase production of value-added high-value crops and fish produce for local consumption and export; and (e) implement the proposed food system pathways.³⁰

21. The United Nations Human Settlements Programme (UN-Habitat) reported that housing was limited in the capital, with a shortage due to continuous population expansion. With no national housing policy and a building code unsuited to Tuvalu, the quality and affordability of housing were major issues. There was no legislation to protect informal settlers and no social protection schemes to compensate for evictions. UN-Habitat stated that it was critical that legislation for housing included people in informal settlements and that the building code ensured the provision of basic health and sanitation services.³¹

22. The Committee on the Rights of the Child recommended that Tuvalu carry out a study to assess the situation of children living in poverty, in particular those on the outer islands and in elderly-headed households, and, based on the findings, formulate and implement poverty-reduction programmes to address the issue.³²

6. Right to health

23. The United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) highlighted that Tuvalu had a public sector health-care system that was free of charge to all citizens.³³ The World Health Organization (WHO) indicated that there had been no deaths from the coronavirus disease (COVID-19) in Tuvalu, despite a number of cases.³⁴

24. While welcoming the decline in infant and under-5 mortality rates, the high coverage of pre- and postnatal health care for mothers and the efforts to deploy medical personnel on every island, the Committee on the Rights of the Child expressed concern about the disparities in health services between Funafuti and the other islands, the reliance on government-funded overseas treatment schemes, which led to less budget funding being allocated to the primary and preventive health-care system, and high rates of anaemia among children aged under 5 years and pregnant women.³⁵ The United Nations country team made similar observations.³⁶

25. The Committee on the Rights of the Child recommended that Tuvalu: (a) strengthen and expand its primary and preventive health-care system and address disparities between the islands; (b) strengthen measures to eliminate preventable infant and under-5 mortality and apply the related technical guidance of the Office of the United Nations High Commissioner for Human Rights; (c) undertake a study on the causes of anaemia and, based on the findings, implement programmes to address the issue; and (d) seek financial and technical assistance from the United Nations Children's Fund (UNICEF) and the World Health Organization, among others.³⁷

26. The same Committee also recommended that Tuvalu: (a) undertake a comprehensive study to understand the nature of adolescent health problems and, based on the findings, implement health policies and programmes for adolescents; (b) decriminalize abortion and ensure access to safe abortion and post-abortion care services for adolescent girls; (c) strengthen programmes on sexual and reproductive health education and expand them across the country, targeting adolescents; (d) provide sexual and reproductive health services to all adolescents; (e) address the problem of children being overweight by raising public awareness of healthy eating habits; and (f) provide life-skills education to adolescents on preventing substance abuse.³⁸ The United Nations country team made similar recommendations.³⁹

27. WHO and the secretariat of the United Nations Framework Convention on Climate Change noted that Tuvalu was already seeing the devastating effects of climate change, including the increased spread of infectious diseases and occupational health risks. The high burden of communicable and non-communicable diseases was also exacerbated. They recommended finalizing and implementing the National Health and Climate Change Plan 2020–2024, assessing health vulnerability, impacts and adaptive capacity to climate change, strengthening integrated risk surveillance and early warning systems, addressing barriers to accessing climate finance, and building the climate resilience of health-care facilities.⁴⁰

7. Right to education

28. Although it welcomed the fact that Tuvalu provided compulsory free primary and secondary education, the Committee on the Rights of the Child expressed concern about extra fees and hidden costs of education, such as school uniforms, lunch and transportation, the deteriorating quality of education, the lack of school re-entry policies for adolescent mothers, the limited provision of vocational training and the inadequate development of early childhood education and care.⁴¹ UNESCO noted that the right to education was not guaranteed in the Constitution or legislation, and that pre-primary education was neither compulsory nor free.⁴²

29. The Committee on the Rights of the Child and the United Nations country team recommended that Tuvalu: (a) eliminate extra fees and hidden costs of education; (b) take all measures necessary to ensure access to quality education, including by upgrading the infrastructure of schools, conducting a review of teaching methods and materials with a view to increasing their quality and allocating sufficient resources to train teachers; (c) adopt policies enabling adolescent mothers to return to school after pregnancy; (d) expand vocational training to children, especially those who drop out of school; and (e) allocate

sufficient resources for the development of early childhood education.⁴³ UNESCO recommended that Tuvalu: (a) ratify the Convention against Discrimination in Education; (b) explicitly guarantee the right to education without discrimination in the legal framework; (c) ensure that education was free for 12 years and enshrine the guarantee of free education in the legislation; and (d) guarantee at least one year of free and compulsory pre-primary education.⁴⁴

8. Cultural rights

30. While acknowledging that the national strategy for sustainable development 2016–2020 had accorded importance to culture, the Special Rapporteur in the field of cultural rights noted that culture was the sector of the strategy receiving the lowest level of investment. She remarked that, in 2018, Tuvalu had adopted its first national culture policy and a strategic plan for the period 2018–2024, but that the Cultural Council Act of 1991 was non-operational. The Department of Culture was a one-person department under the Ministry of Home Affairs and Rural Development, with a budgetary allocation covering only that salary. The Special Rapporteur recommended that Tuvalu: (a) provide the Department of Culture with all the necessary resources for implementation of the national cultural policy strategic plan; (b) establish the culture development coordinating committee envisaged in the national strategy for sustainable development; and (c) implement the Cultural Council Act.⁴⁵

31. Notwithstanding the use of public spaces for leisure, sports and games, the same Special Rapporteur highlighted that public spaces for other forms of cultural activities seemed very limited. She noted that Internet access was largely limited to the capital, of poor quality and quite expensive. The Special Rapporteur recommended that Tuvalu dedicate more attention to the availability of public spaces for artistic and cultural expression and proceed with the integrated cultural building, to include offices of the Department of Culture, the Tuvalu National Library and Archives and multipurpose cultural spaces.⁴⁶

32. The same Special Rapporteur noted that Tuvalu had conducted activities to meet its obligations under the Convention for the Safeguarding of the Intangible Cultural Heritage, and highlighted the festival to celebrate Tuvaluan intangible heritage, but observed that there was no specific law or policy on cultural heritage and no national museum. She also noted the strength and diversity of specific island identities. The Special Rapporteur recommended that Tuvalu integrate the diversity of the country's cultural heritage from all the islands into the national education curriculum, continue to compile the diverse Tuvaluan dialects, support the development of repositories of cultural heritage-related materials, employ the infrastructure of each island as spaces for the transmission of cultural heritage and support regional and international initiatives for Tuvaluans to participate in cultural exchanges.⁴⁷

33. The same Special Rapporteur asserted that the climate emergency posed existential threats, both physical and cultural, to island nations such as Tuvalu. She noted the lack of clarity regarding the implications for cultural rights of the mass migration of Tuvaluans. The Special Rapporteur recommended that the Government: (a) periodically assess the human rights impact of climate change and natural disasters, including on the enjoyment of cultural rights; (b) support diverse sectors of the population in becoming more resilient; (c) integrate human rights in a more explicit manner into the national strategy for sustainable development; (d) ensure that all relevant stakeholders were consulted when designing programmes to address climate change; (e) systematically involve the population in disaster risk management and response; (f) consider the balance, when designing measures regarding climate change-related migration, between reinforcing Tuvaluan ways of life and preparing Tuvaluans to be world citizens; and (g) develop initiatives aimed at digitizing and preserving traces of cultural practices, sites and objects that might be lost due to the climate emergency.⁴⁸

9. Development, the environment, and business and human rights

34. UNDP noted that, although Tuvalu had met the criteria for graduation from Least Developed Country status, the unexpected challenges of 2020 had shocked all the economies of the region. Poverty levels and inequality had greatly increased, with Sustainable Development Goal indicators sliding backwards in some areas. UNDP stated that decisive action was needed to halt that regression.⁴⁹

35. The United Nations country team asserted that climate change posed a significant threat to Tuvalu and had a disproportionate impact on women, children, persons with disabilities and other marginalized groups. A climate change policy had been developed to protect the rights of Tuvaluans by responding to the issue of displacement due to climate change and sea-level rise. The United Nations country team recommended that Tuvalu continue to assess and invest in different climate change adaptation strategies that could reduce the impact of climate change, ensuring that its policies took into account the rights and needs of marginalized groups. It also recommended that Tuvalu ensure that such policies were the result of consultation processes involving those groups.⁵⁰

36. Although it noted the measures taken to promote climate change resilience, the Committee on the Rights of the Child expressed deep concern about: (a) the increasingly adverse impact of global climate change on the rights of the child; (b) the contamination of underground water supplies owing to rising sea levels, which hindered access to safe drinking water and sanitation for children; (c) the insufficient inclusion of the rights of children in policies and programmes on climate action; and (d) the insufficient opportunities for children to effectively participate in decision-making related to climate action.⁵¹ The Committee recommended that Tuvalu ensure that the special vulnerabilities and needs of children, and their views, were taken into account in developing policies and programmes addressing climate change and disaster risk management, collect disaggregated data identifying the types of risk faced by children, strengthen the implementation of policies for sustainable safe water supplies and sanitation, strengthen measures to increase children's preparedness for climate change and natural disasters, provide opportunities for children to participate in decision-making related to climate action, and seek international cooperation in implementing those recommendations.⁵²

B. Rights of specific persons or groups

1. Women

37. The United Nations country team highlighted that, although the Government had passed the Family Protection and Domestic Violence Act 2014, aiming to address gender-based violence, the data were concerning, with 44.2 per cent of ever-married women reporting that they had experienced emotional, physical or sexual violence from a partner in their lifetime.⁵³ The Economic and Social Commission for Asia and the Pacific (ESCAP) noted that 43 per cent of women considered violence against women justifiable under certain circumstances.⁵⁴ The United Nations country team recommended that Tuvalu: (a) fully implement the Family Protection and Domestic Violence Act; (b) strengthen the capacity of the judiciary, law enforcement officers, legislators and health-care professionals to address gender-based violence; (c) ensure the participation of women survivors of violence in the formulation, implementation and monitoring of related strategies and programmes; (d) invest in resourcing a robust needs analysis and response mechanisms; (e) develop a national survivor-centred protocol and referral mechanism; (f) increase the capacity of front-line service providers to respond to cases of gender-based violence; and (g) facilitate an awareness-raising campaign to change social norms.⁵⁵

38. The United Nations country team noted that women were not guaranteed equal rights to land ownership and inheritance under existing legislation, customary laws and cultural systems. Land was either leased from the Government or individually owned, but that was rare and the titular owner was typically a man.⁵⁶ UN-Women reported that there had been no legislative review to amend the discriminatory provisions of the Constitution, the Native Lands Act or the Tuvalu Lands Code to comply with the Convention on the Elimination of All Forms of Discrimination against Women.⁵⁷

39. The Special Rapporteur in the field of cultural rights recommended that Tuvalu adequately integrate principles of non-discrimination and equality of women and men into education policies, the national core curriculum and education for teachers, health-care professionals and other service providers. She also recommended that Tuvalu amend or repeal all discriminatory provisions in the Native Lands Act and the Tuvalu Lands Code, to ensure that women had equal rights to land ownership and inheritance, and that it eliminate

discriminatory customs that affected the enjoyment by women of those rights, including by ensuring that local customary leaders and magistrates in the Lands Court were trained to uphold women's land rights.⁵⁸

40. UN-Women noted that, in the local government system, women were not expected to be involved in decision-making.⁵⁹ UNDP reported that 1 out of 15 Members of Parliament was a woman.⁶⁰ The Special Rapporteur in the field of cultural rights observed that challenges remained in addressing discrimination against women, including regarding the participation of women in decision-making at all levels, their political representation and traditional attitudes about their roles in society. She recommended that temporary special measures be considered until meaningful equality could be achieved.⁶¹

41. UN-Women highlighted that women in Tuvalu had been disproportionately affected by the socioeconomic consequences of the COVID-19 pandemic, as income-generating activities relating to tourism and handcrafts, in which women were concentrated, had been the most affected by the pandemic.⁶²

42. The United Nations country team reported that the age of consent in Tuvalu was 15 for girls, with no equivalent for boys. Under the Penal Code, the offence of rape could only be committed against a woman or girl, and marital rape was not specifically criminalized.⁶³

43. The United Nations country team recommended that Tuvalu: (a) repeal all discriminatory laws against women and girls that were contrary to its international human rights obligations; (b) 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; and (c) train teachers on providing rights-based family life education and health workers on human rights.⁶⁴

2. Children

44. The Committee on the Rights of the Child reiterated its recommendation that Tuvalu develop a comprehensive policy on children that applied to all children under 18 years of age and encompassed all areas covered by the Convention on the Rights of the Child. It encouraged Tuvalu to develop a strategy and action plan for its effective implementation, supported by sufficient resources. It recommended that Tuvalu: (a) increase the budget allocations for the implementation of all legislation, policies, plans and programmes in favour of children; (b) use a child-rights approach in the budgeting processes; and (c) strengthen budgeting processes in which the public and children could participate effectively. It also recommended that Tuvalu incorporate a definition of the child, in line with the Convention, into its legislation and policies.⁶⁵ The Committee and the United Nations country team recommended ensuring that the principle of the best interest of the child be incorporated into all relevant legislation, policies and programmes.⁶⁶

45. The same Committee expressed concern that the Convention on the Rights of the Child was still perceived by some of the public as an instrument to diminish the authority of parents. It recommended that Tuvalu strengthen awareness-raising programmes and provide training to professionals working for and with children. Regarding decision-making processes, it recommended that Tuvalu ensure that children's views were not disregarded because of traditional customs, but given due consideration in all matters affecting them through, among others, raising awareness.⁶⁷ The United Nations country team made similar recommendations on decision-making.⁶⁸

46. While noting with appreciation that, following amendments to the Education Act and the Island Court Act, it was no longer legal to exercise corporal punishment in schools and as a form of criminal sentence, the Committee on the Rights of the Child expressed serious concern that corporal punishment remained legal in the home and in the community under the Penal Code.⁶⁹ The Committee and the United Nations country team urged Tuvalu to repeal article 226 (4) of its Penal Code and take the legislative and policy measures necessary to explicitly prohibit corporal punishment in all settings.⁷⁰

47. Although welcoming the enactment of the Family Protection and Domestic Violence Act 2014, which provided for child protection measures, the same Committee recommended that Tuvalu: (a) develop a comprehensive policy and strategy for preventing and combating

child abuse and neglect, including domestic violence, that included awareness-raising programmes; (b) collect data on child victims of abuse and neglect, including domestic violence, and undertake a comprehensive assessment of such violence; (c) establish effective mechanisms and clear reporting procedures; (d) ensure that children had access to child-friendly support; and (e) provide training for judges, prosecutors, police officers and social workers on how to prevent and address cases of child abuse and neglect.⁷¹

48. The same Committee expressed serious concern that the law did not penalize all forms of sexual exploitation and abuse, did not penalize such abuse of boys and did not provide for related mandatory prosecution and minimum sentences, that child exploitation online was still not prohibited by law and the cybercrime bill had not yet been adopted, that child victims had limited access to justice and that specialized services for child victims were not available. It recommended that Tuvalu: (a) amend its legislation to ensure that all boys and girls under 18 years of age were protected from all forms of sexual exploitation and abuse by law; (b) ensure that all forms of sexual exploitation and abuse perpetrated against children were criminalized and that perpetrators were prosecuted and punished with commensurate sanctions; (c) expedite the adoption of legislation prohibiting child sexual abuse material online; (d) eliminate legal barriers preventing child victims from reporting incidents and ensure child-friendly reporting channels; and (e) develop programmes for the recovery and social reintegration of child victims.⁷²

49. Noting the absence of effective protection mechanisms for children deprived of a family environment who were placed in the care of extended family and the absence of formal alternative care arrangements, the Committee recommended that Tuvalu establish the effective child protection mechanisms necessary to protect such children, and formal alternative care arrangements, including foster care.⁷³

3. Persons with disabilities

50. The United Nations country team highlighted that disability was not acknowledged as grounds for discrimination in the Constitution and that persons with disabilities continued to face multiple barriers that prevented the full realization of their rights. A 2017 disability survey had found that there was minimal assistance for persons with psychosocial disabilities and no access to medication. Persons deemed to be violent were imprisoned if no medical intervention was available.⁷⁴ UNICEF noted the adoption of the Tuvalu Disability-Inclusive Education Policy 2021 and an emerging policy framework that had not yet been operationalized.⁷⁵ UN-Women reported that children with disabilities encountered challenges owing to a lack of specially trained teachers, poor school infrastructure and the inaccessibility of schools.⁷⁶

51. The Committee on the Rights of the Child welcomed the accession of Tuvalu to the Convention on the Rights of Persons with Disabilities and the measures taken to develop a national disability policy. It expressed concern, however, that the laws and policies regarding children did not sufficiently include the rights of children with disabilities, about the lack of related information and about insufficient progress made in ensuring access by children with disabilities to specialized health care and services and inclusive education.⁷⁷

52. The same Committee urged Tuvalu to: (a) harmonize national legislative and policy frameworks with the human rights model of disability; (b) undertake a study on the situation of children with disabilities, and use the findings to inform the implementation of the Convention and its national legal and policy frameworks; (c) ensure access for children with disabilities to inclusive education in mainstream schools; (d) provide services in the community to enable families to care for such children; (e) take measures to improve the accessibility of public buildings, facilities, services and transportation; and (f) undertake awareness-raising campaigns to combat stigmatization.⁷⁸ The United Nations country team made similar recommendations and also recommended that Tuvalu: (a) 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; (b) develop capacity and technical expertise to establish community-based mental health support services; and (c) ensure that village life, facilities and activities on all islands were accessible and responsive to the needs of people with disabilities.⁷⁹

4. Lesbian, gay, bisexual, transgender and intersex persons

53. The United Nations country team and UN-Women noted that the Penal Code criminalized “indecent practices between males”, with consensual sexual relations between adult men punishable by imprisonment of 5–14 years.⁸⁰ The Special Rapporteur in the field of cultural rights indicated that prejudices remained regarding lesbian, gay, bisexual and transgender persons, expressed concern about the lack of a specific legal framework to ensure their protection and highlighted the importance of raising awareness about the need for their full inclusion in society.⁸¹ The United Nations country team reported that discrimination on the basis of sexual orientation was prohibited in the workplace under the 2017 Labour and Employment Relations Act.⁸²

54. The Special Rapporteur in the field of cultural rights recommended including prohibitions against discrimination based on gender, sexual orientation, disability, age and birth in the Constitution.⁸³ The United Nations country team recommended that Tuvalu review legislation and amend or repeal laws that discriminated on the grounds of sexual orientation and gender identity, and adopt policy and legal measures to combat related discrimination, with a view to safeguarding the rights of persons with diverse sexual orientations and gender identities.⁸⁴

5. Migrants, refugees and asylum-seekers

55. UN-Women noted that extreme weather change and increases in natural hazards had been associated with the emigration of Tuvaluan citizens to neighbouring countries.⁸⁵ The Special Rapporteur in the field of cultural rights noted the agreement reached with a neighbouring country for an annual emigration quota, during the period 2002–2032, of Tuvaluans wishing to leave their country because of sea level rise.⁸⁶

6. Stateless persons

56. The Committee on the Rights of the Child expressed concern about the low rates of birth registration, especially in the outer islands, the fees imposed on late registrations, the lack of effective measures to ensure birth registration of children of unmarried parents and the low level of public awareness of the importance of birth registration. It recommended that Tuvalu intensify its efforts to ensure that all children in its territory, including the children of unmarried parents and children in the outer islands, had access to birth registration, including through setting up mobile registration units, abolishing all birth registration fees and raising awareness of the importance of birth registration.⁸⁷

57. UN-Women noted that increased emigration could potentially lead to issues with statelessness.⁸⁸

Notes

¹ [A/HRC/39/8](#), [A/HRC/39/8/Add.1](#) and [A/HRC/39/2](#).

² [CRC/C/TUV/CO/2-5](#), para. 51.

³ [A/HRC/46/34/Add.1](#), paras. 73 (a) and (b) and 75 (d).

⁴ United Nations country team submission for the universal periodic review of Tuvalu, pp. 3, 6 and 7.

⁵ *Ibid.*, p. 4.

⁶ [CRC/C/TUV/CO/2-5](#), paras. 6 and 7.

⁷ [A/HRC/46/34/Add.1](#), para. 17.

⁸ [CRC/C/TUV/CO/2-5](#), para. 12.

⁹ [A/HRC/46/34/Add.1](#), para. 73 (e).

¹⁰ United Nations country team submission, p. 4.

¹¹ [A/HRC/46/34/Add.1](#), para. 37.

¹² United Nations country team submission, p. 3.

¹³ [CRC/C/TUV/CO/2-5](#), para. 17.

¹⁴ United Nations country team submission, p. 4.

¹⁵ [CRC/C/TUV/CO/2-5](#), para. 16.

¹⁶ [A/HRC/46/34/Add.1](#), para. 73 (c) and (d); and United Nations country team submission, p. 4.

¹⁷ United Nations country team submission, p. 4.

¹⁸ *Ibid.*, pp. 6 and 7.

- 19 [CRC/C/TUV/CO/2-5](#), paras. 48 and 49.
- 20 United Nations country team submission, p. 11.
- 21 *Ibid.*, p. 7.
- 22 [A/HRC/46/34/Add.1](#), para. 36.
- 23 *Ibid.*, para. 73 (f) and (g).
- 24 UNESCO submission for the universal periodic review of Tuvalu, paras. 15 and 16.
- 25 United Nations country team submission, p. 8.
- 26 UNDP, IOM and Peacebuilding Fund, “Climate security in the Pacific: Pilot project briefs in Kiribati, Republic of the Marshall Islands and Tuvalu”, p. 7.
- 27 ILO, “Tuvalu: Employment and environmental sustainability fact sheets 2019”, p. 5.
- 28 United Nations country team submission, p. 9.
- 29 WFP, “Pacific Islands annual country report 2021”, p. 17.
- 30 United Nations country team submission, p. 9.
- 31 UN-Habitat, *National Urban Policy: Pacific Region Report* (Nairobi, 2020), p. 61.
- 32 [CRC/C/TUV/CO/2-5](#), para. 44.
- 33 UN-Women, “Gender equality brief for Tuvalu”, p. 7.
- 34 WHO, Western Pacific Region, “Coronavirus disease 2019 (COVID-19): External situation report #146” (1 March 2023), p. 4.
- 35 [CRC/C/TUV/CO/2-5](#), para. 39.
- 36 United Nations country team submission, p. 8.
- 37 [CRC/C/TUV/CO/2-5](#), para. 40.
- 38 *Ibid.*, para. 41.
- 39 United Nations country team submission, p. 8.
- 40 WHO and secretariat of the United Nations Framework Convention on Climate Change, “Health and climate change country profile 2020: Tuvalu”, pp. 1 and 2.
- 41 [CRC/C/TUV/CO/2-5](#), para. 45.
- 42 UNESCO submission, paras. 1 and 2.
- 43 [CRC/C/TUV/CO/2-5](#), para. 46; and United Nations country team submission, p. 10.
- 44 UNESCO submission, para. 14 (i)–(iv).
- 45 [A/HRC/46/34/Add.1](#), paras. 19, 29 and 75 (a)–(c). See also UNESCO submission, para. 17.
- 46 [A/HRC/46/34/Add.1](#), paras. 50, 51, 54 and 75 (e) and (f).
- 47 *Ibid.*, paras. 33, 42–48 and 76 (a)–(e).
- 48 *Ibid.*, paras. 60, 63, 64 and 77.
- 49 UNDP, *Aspiring to a Resilient Pacific: 2020 Annual Report* (Suva, 2020), p. 15.
- 50 United Nations country team submission, p. 12.
- 51 [CRC/C/TUV/CO/2-5](#), para. 42. See also UNESCO submission, para. 5.
- 52 [CRC/C/TUV/CO/2-5](#), para. 43.
- 53 United Nations country team submission, p. 5.
- 54 ESCAP, “Inequality of opportunity: Who are those left behind? Tuvalu” (2022), p. 20.
- 55 United Nations country team submission, pp. 5 and 6.
- 56 *Ibid.*, p. 4.
- 57 UN-Women, “Gender equality brief for Tuvalu”, p. 2.
- 58 [A/HRC/46/34/Add.1](#), para. 74 (b) and (c).
- 59 UN-Women, “Gender equality brief for Tuvalu”, p. 3.
- 60 UNDP, “Fast facts: Pacific Regional Women in Politics Project”, p. 1.
- 61 [A/HRC/46/34/Add.1](#), para. 39.
- 62 UN-Women, “Gender equality brief for Tuvalu”, p. 7.
- 63 United Nations country team submission, p. 5.
- 64 *Ibid.*, p. 5.
- 65 [CRC/C/TUV/CO/2-5](#), paras. 8, 10 and 15.
- 66 *Ibid.*, para. 19; and United Nations country team submission, p. 11.
- 67 [CRC/C/TUV/CO/2-5](#), paras. 13, 14 and 21.
- 68 United Nations country team submission, p. 7.
- 69 [CRC/C/TUV/CO/2-5](#), para. 27.
- 70 *Ibid.*, para. 28 (a); and United Nations country team submission, p. 11. See also UNESCO submission, para. 14 (v).
- 71 [CRC/C/TUV/CO/2-5](#), paras. 29 and 30.
- 72 *Ibid.*, paras. 31 and 32.
- 73 *Ibid.*, paras. 34 and 35.
- 74 United Nations country team submission, p. 11.
- 75 UNICEF, *Pacific Regional Inclusive Education Review* (Suva, 2022), p. 14.
- 76 UN-Women, “Gender equality brief for Tuvalu”, p. 5.
- 77 [CRC/C/TUV/CO/2-5](#), para. 37.

⁷⁸ Ibid., para. 38.

⁷⁹ United Nations country team submission, p. 11.

⁸⁰ UN-Women, “Gender equality brief for Tuvalu”, p. 2; and United Nations country team submission, p. 6.

⁸¹ [A/HRC/46/34/Add.1](#), para. 40.

⁸² United Nations country team submission, p. 6.

⁸³ [A/HRC/46/34/Add.1](#), para. 74.

⁸⁴ United Nations country team submission, p. 6.

⁸⁵ UN-Women, “Gender equality brief for Tuvalu”, p. 12.

⁸⁶ [A/HRC/46/34/Add.1](#), para. 8.

⁸⁷ [CRC/C/TUV/CO/2-5](#), paras. 22 and 23.

⁸⁸ UN-Women, “Gender equality brief for Tuvalu”, p. 12.
