



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**Consideration of reports submitted by States  
parties under article 18 of the Convention**

**Combined third and fourth periodic reports of States parties  
due in 2012**

**Tuvalu\* \*\***

[6 November 2012]

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\* In accordance with the information transmitted to the States parties regarding the processing of their reports, the present document was not edited.

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## I. Introduction

1. Tuvalu acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 6 October 1999. The initial report which is the combined initial and second periodic report was submitted on 3 September 2008 and the delegation from Tuvalu appeared before the Committee on the Elimination of Discrimination against Women Committee of Experts for official reporting in the same year (2008). This is the second time for Tuvalu to submit a report on the implementation of CEDAW. This will be in two parts: the common core (HRI/CORE/TUV/2012) and the present treaty-specific (combined third and fourth) periodic report, which will be submitted together as they make up the whole State report on CEDAW. Although the report states the main progress of women in Tuvalu, it also outlines the challenges faced by Tuvaluan women in moving forward due to economic, cultural, and social barriers within society.

2. The Constitution of the Sovereign State of Tuvalu was adopted in 1978 and came into force in the same year in October when Tuvalu gained independence. In 1986 Parliament passed a new Constitution for Tuvalu and there have been three reviews of the Tuvalu Constitution. The Constitutional Review Committee of Parliament completed the third review in 2000. The Constitution upholds the fundamental human rights and freedoms of every person regardless of their sex, political opinions, and place of origin, colour and religious beliefs (s.11 (1)). Therefore since the initial report to the CEDAW Committee in 2008, there has been no amendment to the anti-discrimination provision of the Constitution which reflects the promotion of fundamental human rights and freedoms which also generally encompasses upholding women's rights.

3. Over time Tuvalu has been trying to achieve its international obligations regarding the human rights treaties that it has acceded to such as CEDAW. However, financial constraint is one of the major barriers in the implementation of CEDAW into the local context of Tuvalu and the development of women in general. Although the development of women in Tuvalu is progressing at a slow pace, it must be noted that the embedded attitude and perception against women are slowly changing positively for women. Women in Tuvalu are beginning to be more active and participate more in societal activities as a result of the ongoing processes of awareness programs undertaken by the Department of Women in conjunction with the Tuvalu National Council of Women (TNCW) and other concerned departments. Most of these awareness programs such as consultations, trainings and workshops are achieved through funding from overseas donors. Without the financial assistance from donor partners, there is very limited financial resource to improve and promote human rights related issues within the community.

4. There have been temporary special measures consultations that the Department of Women undertook in 2010 with a view to improve equality between men and women in Tuvalu. The training awareness program focused mainly on the issue of "Women in Decision Making". The program was aimed to be conducted at the island community level on the main island (Funafuti) and outer islands including governmental and non-governmental stakeholders. Some of the very important concerns that were raised during the consultation were:

- Cultural and traditional emphasis are barriers for women in everyday life
- The lack of self confidence, expectation and financial support in their pursuit for higher decision making positions
- Women need the support of other women to get into positions of decision making

5. The government continues to support addressing women issues by firmly advocating for the elevation of the status of women but at the same time ensuring that any change is in harmony with reasonable democratic cultural norms. This is done to minimise

unnecessarily social conflicts. A Family Protection Bill, Criminal Code Amendment Bill and Falekaupule Amendment Bill to take into account concluding observations from the last report are under consideration.

## **II. Convention-specific report**

### **Article 1: The definition of discrimination against women**

6. The Department of Women Affairs continues to advocate for the total elimination of discrimination against women. Since Tuvalu's last report to the CEDAW Committee, there has been no amendment made to the Constitutional protection of women from discrimination on the basis of sex or gender. Although there has been no such amendment to date, the government has given greater recognition to the importance of addressing issues affecting women by bringing the 'Department of Women Affairs' directly under the Prime Minister's portfolio. The said Department then featured predominantly in the 'Mid Term – review of the National Strategic for Sustainable Development Plan 2005-2015 dialogues' in 2011. Government has also drafted laws to amend the Falekaupule Act to allow women to debate and finalise annual budgets for the Falekaupule. This is strategically done so as to progressively realise gender equality in discriminatory laws and practices with the ultimate focus at amending the Constitution.

### **Article 2: Obligations to eliminate discrimination**

7. Since Tuvalu's last report to the CEDAW Committee, there has not been a full review of all legislation. However, in 2010 and 2011, the Ministry of Home Affairs, with the assistance of the Secretariat of the Pacific Community (SPC)/Regional Rights Resource Team (RRRT), conducted national consultations on the elimination of violence against women. The result of these consultations called for the enactment of a dedicated law for the elimination of violence against women. In 2011, a draft domestic violence Bill was prepared with the assistance of SPC/RRRT.

8. Cabinet has mandated consultations on the Bill be carried out on all the islands of Tuvalu before it can consider it for presentation to parliament. The outer island consultations have been withheld due to conflict of boat schedules and officers' schedules.

9. Cabinet has also endorsed the drafting of proposed amendments to the Falekaupule Act to ensure that women and men 18 years and above are eligible to vote in Falekaupule assemblies and in authorising Falekaupule annual budgets. This is a gradual approach to the progressive realisation of women's participation in decision-making in the traditional meeting place, usually reserved to men only.

#### **1. The Native Lands Act and the Tuvalu Lands Code**

10. There has been no legislative review of the Native Lands Act or the Tuvalu Lands Code in terms of CEDAW. The Department of Women Affairs, TNCW, and SPC/RRRT have done various consultations on the issue of discrimination in terms of land, but there is still resistance to changing laws regarding the inheritance of lands.

#### **2. Review of the Falekaupule Act 1997**

11. On 8-12 November 2012, the Ministry of Home Affairs held a Traditional Island Leaders Assembly (TILA). One of the issues discussed by the Assembly was a review of the Falekaupule, and for purposes of this report, to discuss amendments to the Falekaupule Act 1997 on the involvement of women in the budgetary processes of Kaupule (local government councils). The proposal for amendment was successful at that level and the

Department of Rural Development, under the Ministry of Home Affairs, started the consultations on the proposed amendment.<sup>1</sup> From these further consultations with communities, it was recommended that the Department should start working on the proposed amendments. At the time of the compiling of this report, the Department of Rural Development is working closely with the Office of the Attorney General on the proposed amendments to the Falekaupule Act, which will, specifically, state in the Falekaupule Act 1997 the participation of women in the budget sessions. Even though the amendments do not fully remove the discrimination in the Falekaupule Act 1997, it is a progressive realisation of recognising the right of women to take part in development matters of their communities.

### **3. The Marriage Act**

12. The Department of Women Affairs, TNCW and SPC/RRRT have conducted various community programs whereby women have voiced their concern about the discriminatory provisions in the Marriage Act. Because the Marriage Act is part of Family Law, SPC/RRRT, together with the Ministry of Home Affairs, conducted consultations on the Elimination of Violence Against Women in 2010 and 2011. One of the recommendations from those consultations is to amend the discriminatory provisions in the Marriage Act. Due to limited resources, it was agreed that Tuvalu focus first on legislative reform in the area of domestic violence, then family law later.

### **4. The Employment Act**

13. There are not many people who are aware of the discrimination in that legislation. Moreover, there have been no reported cases of discrimination whereby the employer relies on the discriminatory provisions in the Employment Act. In addition, there have not been much discussion about the discrimination in this Act, therefore, there are only informal discussions to repeal or amend the Employment Act.

### **5. The Constitution of Tuvalu 1986**

14. Since the last report of Tuvalu to the CEDAW Committee, there has been no amendment to the Constitution in order to prohibit the discrimination on the basis of sex or gender.

## **Article 3: Guarantee of basic human rights and fundamental freedoms**

15. Women and gender issues have been part of Tuvalu's National Strategy for Sustainable Development plan which is also called "Te Kakeega II" (TK II) with a 10-year period commencing from 2005 to 2015. Under the TK II Strategic Area Goal 3 on Social Development it states that there is a need "to promote gender equity and to expand the role of women in development". In 2011, a mid-term review of the TK II was conducted and the outcome on women and gender issues have only three main areas of focus. Firstly, gender needs to be mainstreamed into all sectors of TK II. Secondly, the land laws needs to be reviewed to allow women to have also custodial right to the land. Furthermore, there is also a need for women to participate in more entrepreneurial trainings to encourage more women owned businesses within the society.

16. The Department of Women also has a Corporate Plan that is expected to provide the development focus and priorities of the Department of Women between now and 2015. It articulates the aspirations, needs and concerns of women from every section and in every walk of life in society with a view of improving their lives and their families. The Plan is

<sup>1</sup> With assistance from the United Nations Development Programme (UNDP), CLGF, NZAID, etc.

mindful of the multiple constraints in the implementation stage, therefore heavily relies on partnership with members of the National Coordinating Committee (NCC) of CEDAW (CEDAW Taskforce) for continuous collaborative efforts.

17. Women's participation in all facets of developments is considered vital. In partnership with the Department of Business and Trade, several business trainings for women in business were conducted in the past several years.

18. Over the past 4 years, the Government of Tuvalu through the Department of Women has sustained its annual grant of A\$10,000 to the National Council of Women. Together with the National Council of Women, it is anticipated that the department will continue to reinforce its links with other ministries and departments in an effort to strengthen the empowerment of women throughout government in order for government to become fully gender responsive.

19. However, women from minor church denominations have restricted their rights to freedom of religion when the Constitution (Recognition of Traditional Standards, Values and Practices) Amendment Act 2010 was enacted to restrict the enjoyment of certain freedom and rights that may be divisive or threaten Tuvaluan values. In addition, the Religious Organisations Restrictions Act 2010 prohibited freedom of religious association or assembly if the Falekaupule thinks that the spread and practice of such belief directly threaten the values and culture of the island community.<sup>2</sup>

#### **1. Visibility of the Convention**

20. In terms of the concluding observations (CEDAW/C/TUV/CO/2), paragraph 17, the Tuvaluan translation of CEDAW has been distributed to Kaupule on each island and to participants in gender workshop trainings, and a lot of women at the community level. In terms of disseminating CEDAW to all branches of Government and the judiciary at all levels, that has not been done.

21. Since 2008, RRRT (under UNDP and later SPC) continued to conduct Community Paralegal Trainings with TNCW and later, the Ministry of Home Affairs. In these legal literacy programs, CEDAW, gender, domestic violence, Leadership Code, Family Law, HIV and the law are some of the issues that are covered. Some of these community paralegals have used the knowledge to help victims of domestic violence, provided first-hand legal advice on matters regarding land and family issues, directed people to relevant authorities, took part in writing non-governmental organisation (NGO) reports for the universal periodic review (UPR), pushed for more recognition of the rights of people with disabilities, etc.

22. In terms of the CEDAW Committee concluding observation in paragraph 18, the last CEDAW training for law enforcement officers was done by RRRT/UNDP and TNCW in 2007. Only police officers who take part in the community paralegal trainings have had the opportunity to learn more about CEDAW.

23. The Department of Women, TNCW, and SPC/RRRT, however, have conducted various community awareness raising on CEDAW, especially on International Women's Day. Efforts by other stakeholders of the Department of Women is also acknowledged with the understanding that stakeholders have a common goal of achieving certain goals and with women as the main target beneficiaries. For instance, health reproductive and sexual rights training and family health issues in relation to domestic violence. Education also plays a crucial role by which they ensure that they report to relevant authorities any suspected visual casualties of domestic violence.

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<sup>2</sup> Section 4 of the Religious Organizations Restrictions Act 2010.

24. Tuvalu Red Cross Society (TRC) has also a project “Community Safety and Resilience Project” focusing on outer islands. The project involves international humanitarian law and works in partnership with national stakeholders in promoting the elimination of violence against women. TRC plans to maintain support throughout the campaign on elimination of violence against women.

25. In terms of the concern about the limited financial and human resources afforded to Office of the People’s Lawyer (Legal Aid), since 2011, a female lawyer was posted into that office. According to information from the Office of the People’s Lawyer, there has been tremendous progress in terms of women accessing their services. Women’s representation at the People’s Lawyers Office made women more comfortable about asking for assistance.

26. Moreover, whereas the budget for the Office of the People’s Lawyer increased in 2008 to 2010, in 2011 and 2012, it went down again. The reduction in budget is set across the whole of government departments. This is a reflection of the impact of the financial crisis on Tuvalu as a whole.

## **2. International development aid**

27. While there has been a Corporate Plan in place since the establishment of the department in 1999, activities in the Corporate Plan could not be dealt with in time because of the lack of funds, and in the meantime, lack of human resources to carry out those activities. Limited funding from government for programmes and activities of the department has resulted in heavy reliance on funding from outside Tuvalu.

28. With the successful gender mainstreaming process whereby advocacy to all Ministries and departments to be responsible for the gender advocacy and consideration of gender equality in all facets of development, this has left the department with less funding choices for nationwide advocacy on gender. It should be noted that gender roles is a main constraining factor in the advancement of women. Hence, it is crucial to conduct gender analyses of most actions and decision-making processes.

29. The Government has made a lot of efforts in mainstreaming gender into other sectors of government. Most noticeable is the assistance offered by the United Nations Population Fund (UNFPA), UNDP, AusAID, NZAID, Republic of Taiwan, the World Health Organization (WHO), to women’s health and education, and other social and economic rights of women. It seems that not much international aid has been afforded into the progressive realisation of women’s political rights.

## **3. Legal complaints mechanism**

30. With the additional human resources to the Office of the People’s Lawyer, more women have been reported to have been able to secure legal assistance from that office. However, there is still a lack of data on the complaints filed by women and their outcome since the last report to the CEDAW Committee.

## **4. National machinery for the advancement of women**

31. The CEDAW National Coordinating Committee (CEDAW NCC / CEDAW Taskforce) is made up of officers from different departments of the Government as well as some prominent NGOs in the country. A lot of these CEDAW Taskforce members have included some of the gender issues into their programs and projects. In terms of financial assistance, SPC/RRRT in late 2009 has contributed financially in terms of paying the costs for the CEDAW Taskforce to be able to meet, hence, monitoring the implementation of CEDAW. Technical assistance available for the CEDAW Taskforce is very little as most of the technical assistance is only available to specific issues, e.g. if it is a women’s health issue, then technical assistance mostly deals with the Health Department. Since 2008, 2

women officers working in the Department of Women Affairs received scholarships to study. One graduated with a BA on Gender, Sociology and International Studies while another officer is expected to graduate at the end of this year, 2012 with a BA in Commerce. It is expected that when the required vacancies in the Department have been filled, the Department would be in a better position to carry out activities in the Corporate Plan.

#### **Article 4: Acceleration of equality between men and women**

32. The current Constitution, in the meantime, falls short of providing affirmative action or temporary special measures (TSMs) to accelerate equality between men and women. Being a patriarchy society and the limited financial assistance available to promote this issue have resulted in difficulties in progressing with the acceleration of equality between men and women. Sometimes during public discussions, TSMs are erroneously perceived as a tool to disadvantage men.

##### **Temporary special measures**

33. On 10-12 May 2010, the Department of Women Affairs, in partnership with the Pacific Islands Forum Secretariat and the UNDP Pacific Centre, conducted a national consultation on “Women in Decision-Making”. The consultation was an opportunity for people to learn more about temporary special measures. Most of the discussion focuses on the political participation of women. As a result, there was a list of actions, identified by the participants, that are needed for the progressing forward of this issue. Below is an adaption of that list of actions together with a timeline as well as responsible parties for implementation of those activities. An extra column to the right was inserted to provide for the current status of each activity.

<i>Action</i>	<i>Responsible parties</i>	<i>Status</i>
<b>Immediate Actions (within 1 year)</b>		
<ul style="list-style-type: none"> <li>Integrating activities to promote women in decision-making into Te Kakeega – when it is reviewed in 2010</li> </ul>	Ministry of Home Affairs, Planning Department, Cabinet, and DCC	There is nothing specifically in TK II promoting women in decision-making. However, TK II envisages gender mainstreaming into all sectors of development
<ul style="list-style-type: none"> <li>Women’s groups need to be ready to partake</li> </ul>		
<ul style="list-style-type: none"> <li>Awareness raising with local communities (including youths) on TSM and women in decision making / civic education for voters</li> </ul>	NGOs, Tuvalu Association of Non-Governmental Organizations (TANGO), Tuvalu Family Health Association (TUFHA), Church, Kaupule, TNCW, DOW	Prior and around general election period, by-election and Kaupule election, Department of Rural Development, TNCW, Department of Women Affairs, Media Department and SPC/RRRT conducted massive radio awareness programs encouraging women to compete in these elections. In addition, SPC/RRRT and Media Department also conducted radio awareness programs on



<i>Action</i>	<i>Responsible parties</i>	<i>Status</i>
		leadership and good governance around those times
<ul style="list-style-type: none"> <li>Run a “Women’s Parliament” (back to back with TNCW Annual Meeting in June/July – 10) – bring in women from outer islands</li> </ul>	TNCW, Office of the Speaker, Parliament Secretariat, Office of the Attorney General	This activity has not been conducted.
<ul style="list-style-type: none"> <li>Work with MPs to build support for TSM; include a session on TSM in the MPs Induction Programme</li> </ul>	Parliamentary Secretariat, DOW, TNCW, UNDP	On 30 March – 2 April 2011, the Office of the Speaker conducted an Induction Workshop for all the MPs after the last general election. One of the sessions was dedicated to Women in Politics. The feedback from MPs was positive with a lot of them commenting that there should be a tool/mandate that will accommodate the need for TSM for women in politics
<ul style="list-style-type: none"> <li>Run a “Youth Parliament”, which is gender balanced and teaches young people about issues relating to women in decision-making</li> </ul>	National Youth Council, Office of the Speaker, Parliament Secretariat, Office of the Attorney General, DOW	This activity has not been done as well
<ul style="list-style-type: none"> <li>Develop strategy/policy paper to DCC and Cabinet on reserved seats for women</li> </ul>	DOW, Office of the Attorney General, DCC, Cabinet	At the moment, the Department of Women has successfully presented a TSM Concept Paper to DCC. The outcome of this is for more community consultations on the issue.
<ul style="list-style-type: none"> <li>Education and capacity building for women on the main and outer islands – based on needs assessment for women on the outer islands</li> </ul>	DOW, TNCW, TANGO, Women NGOs, Development partners	Department of Women, in partnership with the Business Centre, has ongoing trainings and workshops to build the capacity of women in running a business. TNCW has also been providing trainings directly for women, e.g. sewing, cooking, etc. TANGO has done capacity building activities which involve women as well on issues such as HIV, climate change, etc. Fusi Alofa

<i>Action</i>	<i>Responsible parties</i>	<i>Status</i>
		Association Tuvalu (Fusi Alofa) has been doing hands-on practical work on sewing, cooking, making handicrafts, etc, for women with disabilities
		There has been no formal needs assessment undertaken so far. Response on education and capacity building for women on the above-mentioned issues depended on the requests they made to their affiliated NGOs or the Department of Women Affairs.
<ul style="list-style-type: none"> <li>Media and outreach campaign to update people on progress of promoting of TSM</li> </ul>	DOW, Media	There has been no update to people outside of the CEDAW Taskforce about the progress of TSM promotion
Short-Term Strategies (1-3 years) (Before next election)		
<ul style="list-style-type: none"> <li>Ongoing awareness raising with local communities – youth, elders, general population and private sector</li> </ul>	NGOs, TANGO, TUFHA, Church, Kaupule, TNCW, DOW	There has been a lot of ongoing awareness raising with communities, youths, women, and the general population on the issue of TSM.
<ul style="list-style-type: none"> <li>Capacity building for women – leadership training, campaigning, TSM, etc</li> </ul>	DOW, NGOs, Office of the Attorney General	Not yet
<ul style="list-style-type: none"> <li>Kaupules to be encouraged to include promoting women in decision-making in their new charters</li> </ul>	Kaupules, Government, DOW	TILA 2010 endorsed TSM at Kaupule budgetary processes; DCC endorsed TSM Concept Paper prepared by the Department of Women Affairs. However, these need follow-up to ensure that they progress forward.
<ul style="list-style-type: none"> <li>Radio programmes on proposals for law reforms</li> </ul>	Media, Office of the Attorney General	There are 2 main areas concerned for law reforms since the last report; the issue of domestic violence and the issue of HIV. These have been conducted by Ministry of Home Affairs and SPC/RRRT,

<i>Action</i>	<i>Responsible parties</i>	<i>Status</i>
		Department of Women and Police, and Department of Health, TANGO, TUFHA, and Afega o Kaiga (AOK – a support group for People living with HIV/AIDS).
<ul style="list-style-type: none"> <li>Changes to legal framework – add “sex” to definition in section 27 of the Constitution</li> </ul>	Attorney General, Parliament	Not yet
<ul style="list-style-type: none"> <li>Legislation to introduce reserved seats for women (2 seats for women – 1 per 4 islands) – women to represent everyone, not just women and not just her home island</li> </ul>	Attorney General, Parliament	This activity is pending as the TSM Concept Paper is still on its way to Cabinet
<ul style="list-style-type: none"> <li>Review and evaluate awareness trainings programmes that were done</li> </ul>	DOW, TNCW	Not yet
Long-Term Strategies (3-5 years)		
<ul style="list-style-type: none"> <li>Include issues re: women in leadership in schools curriculum (primary, secondary)</li> </ul>	Education Department, DOW	Not yet
<ul style="list-style-type: none"> <li>CEDAW implementation/review and amendment of relevant enabling legislation (incl. Review of electoral legislation)</li> </ul>	Office of the Attorney General, DOW, Government, Parliament	Since 2008, there has been no comprehensive legislative review done so far on CEDAW as a whole. However, SPC/RRRT has done legislative reviews on 2 issues only – violence against women and HIV/AIDS.
<ul style="list-style-type: none"> <li>Training for emerging young women leaders</li> </ul>	DOW, Women’s NGOs, UNDP, UNIFEM	At the time of the report, TUFHA, with the assistance of International Planned Parenthood Federation (IPPF) leadership development program, will conduct training for emerging young leaders, including women, in November 2012.
<ul style="list-style-type: none"> <li>Capacity building activities, incl. Ongoing in-service training for public servants</li> </ul>	DOW, TNCW, NGOs, Development Partners	Not yet
<ul style="list-style-type: none"> <li>Ongoing capacity building for women – leadership training, campaigning, public speaking, etc</li> </ul>	DOW, NGOs, Office of the Attorney General, Development Partners	Not yet

<i>Action</i>	<i>Responsible parties</i>	<i>Status</i>
<ul style="list-style-type: none"> <li>Database recording of women in decision-making (incl. their profiles) so they can call on them as role models (locals and regional/international) + database of people who can support women's capacity building</li> </ul>	DOW, Development Partners	Not yet
<ul style="list-style-type: none"> <li>Ongoing awareness raising with local communities – youth, elders, general population and private sector</li> </ul>	NGOs, TANGO, TUFHA, Church, Kaupule, TNCW, DOW	Ongoing
<ul style="list-style-type: none"> <li>Issues to be raised in all relevant meetings – e.g. International Women's Day, major national meetings, by candidates</li> </ul>	Women, Government, MPs	Ongoing
<ul style="list-style-type: none"> <li>Monitoring, evaluation and ongoing refinement of the plans</li> </ul>	DOW	Monitoring and evaluation of this Plan occurred only when the TSM Concept Paper finally reached the CEDAW Taskforce this year.
<ul style="list-style-type: none"> <li>Establish a Gender Recognition Policy, a Strategic Plan and Corporate Plan for the Department of Women</li> </ul>	DOW, TNCW	DOW has Corporate Plan but not the other documents

34. On 30 March – 2 April 2011, the Office of the Speaker, UNDP and other partners conducted an Induction Workshop for Members of Parliament after the last general election. Amongst the topics for discussion was also the issue of TSM. Participants indicated approval of the idea and the outcome is for a mandate or plan to move this issue forward.

35. In August 2012, the Department of Women Affairs completed work on TSM Concept Paper which was approved by the CEDAW Taskforce. The Concept Paper has subsequently been endorsed by DCC. DCC further directed that the TSM Concept Paper be taken first for community consultations before bringing it back to them for endorsement. The specifics of the TSM for women's participation in the legislature are under consideration.

## **Article 5: Measures to change sex roles and stereotypes**

36. Culture and tradition play an important role in the lives of Tuvaluan women and families. Whereas a lot of families have changed their attitudes and behaviours towards the traditional roles of women, others still resist the idea. There are ongoing awareness programs to communities and youths promoting gender equality.

### **1. Cultural practices and stereotypes**

37. Many participants in the community awareness programs on CEDAW thought that culture is fixated and considered it is as very important to maintain culture because it is one's identity. Since the last report of Tuvalu to the UN CEDAW Committee, the

Department of Women Affairs, TNCW, SPC/RRRT, Police, the Tuvalu Family Health Association (TUFHA), have all been involved in programs that encouraged people to change their mind-sets about other parts of the culture that do not respect people's human rights including women's rights. Various gender equality trainings have been conducted with women, youths, nurses, community leaders, etc. In terms of paragraph 28 of the concluding observations, there has not been a monitoring mechanism put in place for this concern. Moreover, there has not been a study carried out on interventions made.

38. However, at the time of the writing of this report, the Department of Rural Development, in its project of Strengthening Local Governance, is in the process of submitting amendments to the Falekaupule Act to ensure women are able to break through their traditional roles and participate effectively at local governance level.

## 2. Violence against women

39. In 2009, the Police Powers and Duties Act was finally passed in Parliament. Section 32 provides a definition for "domestic violence". It states that domestic violence:

"for a person, means violence against the person by any other person with whom that person is, or has been, in a domestic relationship."

40. Section 32 also broadens the definition of 'violence' to mean:

- (a) physical abuse; or
  - (b) sexual abuse; or
  - (c) psychological abuse, including:
    - (i) intimidation; or
    - (ii) harassment; or
    - (iii) damage to property; or
    - (iv) threats of physical abuse, sexual abuse, or psychological abuse;
 or
  - (v) for a child — abuse of the kind mentioned in subsection (2).
- (2) Without limiting paragraph (c) of the definition of violence in subsection (1):
- (a) a person psychologically abuses a child if the person:
    - (i) causes or allows the child to see or hear the physical, sexual, or psychological abuse of a person with whom the child has a domestic relationship; or
    - (ii) puts the child, or allows the child to be put, at real risk of seeing or hearing that abuse occurring; and
  - (b) the person who suffers that abuse is not regarded, for this subsection, as having caused or allowed the child to see or hear the abuse, or as having put the child, or allowed the child to be put, at risk of seeing or hearing the abuse.
- (3) Without limiting subsection (2):
- (a) a single act may amount to abuse for that subsection; and
  - (b) a number of acts that form part of a pattern of behaviour may amount to abuse for that purpose, even though some or all of those acts, when viewed in isolation, may appear to be minor or trivial.

(4) Behaviour may be psychological abuse for paragraph (c) of the definition of violence in subsection (1), that does not involve actual or threatened physical or sexual abuse.

41. In an attempt to clearly specify the roles of the Police in a domestic violence situation, the Police Powers and Duties Act further state the following:

40 Investigation of suspected domestic violence

A police officer is to investigate whether an act of domestic violence is being, has been, or is likely to be, committed, if the police officer reasonably suspects that a person is committing, or has committed, an act of domestic violence that:

- (a) is a criminal offence; or
- (b) has put the safety of a person at risk.

41 Action to be taken by police officer after investigating suspected domestic violence

After an investigation mentioned in section 40, or after entering or searching premises under this Part, a police officer is to make:

- (a) a police order; or
- (b) a written record of the reasons why he or she did not take the action set out in paragraph (a).

42. Since the enactment of the Police Powers and Duties Act 2009, the Police have also changed their attitude towards dealing with domestic violence cases. In partnership with the New Zealand Pacific Prevention of Domestic Violence Program (PPDVP) the program focuses on capacity building, equipments and facilities which may assist the Tuvalu Police raise community awareness on domestic violence. PPDVP also provides capacity building to Police Officers on the Police Powers and Duties Act. It was also from the Program that the Police established a Domestic Violence Coordinator within the Department.

43. With instructions from the Office of the Attorney General, the Police Department now has a No Drop Policy. In this Policy, domestic violence involving sexual assaults cannot be withdrawn unless by the court.

44. In terms of data collection and analysis, the Police Department now has a database on domestic violence and the database is sex disaggregated. At the time of the writing of this report, the database is not up-to-date and cannot specifically detail the number of cases that eventually reached the courts. The Police are working on a newly installed database and are in the process of consolidating all the reported cases from the past 5 years. This is also part of the assistance provided by PPDVP.

45. Information received from the Police Department stated that in 2009 they recorded 17 cases of domestic violence. In 2010 there were 159 complaints filed on domestic violence. By 2011, the number of domestic violence cases reported has increased to 223. The increased numbers in reporting domestic violence showed that more women are aware of their right and that the Police Department has gained the trust of Tuvaluan women.

46. In 2009, SPC released the outcomes of the Tuvalu Demographic and Health Survey 2007. The survey was conducted in 2007 and it has a specific section on domestic violence.<sup>3</sup> According to the findings of the survey, women in Tuvalu were brought up to accept, tolerate, and even rationalize domestic violence and to remain silent about such experiences. 40% of women reported having experienced some type of physical or sexual violence in their life. 25.4% reported to have been subjected to sexual violence. 11.9%

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<sup>3</sup> 'Tuvalu Demographic and Health Survey 2007, 2009, SPC, Noumea. (pp 264 – 292).

reported to have been exposed to both forms of violence. 84.6% of the violence was committed by a current husband or partner while 9.4 was committed by a former husband or partner. 8.9 of the violence was by a sister or brother. 0.5% was by the Police. 4.4% by the father or stepfather. 4.4% by another relative. 2.6% by a mother. The survey results indicate that almost all violence is committed by a person the woman knows.

47. The Office of the People's Lawyer recorded 5 domestic violence cases that reached their office in 2011 and in 4 of those cases, the complainants/victims are women. By August 2012, there were only 8 new domestic violence cases in their office and 5 of them belong to women complainants/victims.

48. In 2009, the Ministry of Home Affairs worked in close collaboration with SPC/RRRT in designing and planning a legislative reform response to eliminate violence against women. In 2010 and 2011, 2 national consultations were conducted, giving participants a forum to discuss the issue of violence against women. The feedback from the participants shows that the most common yet hidden form of violence in Tuvalu is domestic violence. In drafting the Family Protection and Domestic Violence (FPDV) Bill, the Division for the Advancement of Women violence against women legislation model was used to guide the drafting of Tuvalu's law on domestic violence. Therefore, the FPDV Bill promotes both criminal and civil preventative and protective measures. At the time of the writing of the report, there is no specific offence of domestic violence and the FPDV Bill attempts to create one. Currently, the FPDV Bill is still pending further community consultations before taking it back to Cabinet for approval. The CEDAW Taskforce is also monitoring the progress of this Bill.

49. The Department of Women Affairs, Police, TNCW, SPC/RRRT, PPDVP, Tuvalu Red Cross Society also conducted ongoing campaigns to strengthen laws to protect women. In every International Women's Day and White Ribbon Day – campaign specifically focus on elimination of violence against women. These ongoing programs target community leaders, youths, women themselves, police officers, community paralegals, school children, teachers, etc. The draft FPDV Bill is also one of the things promoted during these campaigns.

50. The Seventh-Day Adventist Church has also provided tremendous support in terms of encouraging people to change their mindset about religion and domestic violence. This is because there are other people who think that because Christianity is part of the culture and culture legitimises domestic violence, they have publicly stated to the effect that Christianity also legitimises domestic violence.

51. Records from the Health Department reveal only admission records. Although the data is disaggregated, sexual offences cases are not visible in the types of sicknesses/injuries on which it collects data. Only the assault offences can be extracted. From 2004 to 2006, no female has been admitted for medical treatment because of assault. In 2007, there were 3 females who were assaulted and were admitted for treatment. 2008 witnessed the highest number of women being assaulted and admitted for treatment. There were 22 cases of that found in 2008. In 2009, there were no females assaulted admitted for treatment.

52. TNCW has also a Crisis Centre project, funded by AusAID. The project also promotes the elimination of violence against women as well as offering counselling services to victims of domestic violence. At the time of the writing of this report, the Health Department and the Department of Women Affairs are also discussing with UNFPA the idea of Tuvalu undertaking the WHO Family Health Survey.

53. There are no shelters for victims of domestic violence in Tuvalu. However, in some cases, the centre of Fusi Alofa Association Tuvalu (a Disabled Persons Organisation) has been reported to accommodate some victims of domestic violence. However, the said

organisation does not have the necessary equipment like food, clothes, and security needed by the victims of domestic violence.

54. Since the last report of Tuvalu to the CEDAW Committee, there have been no trainings on violence against women for members of the judiciary in Tuvalu. Some of the public officials, including law enforcement personnel and health service providers, were participants in the national consultations on violence against women – conducted by the Ministry of Home Affairs and SPC/RRRT. Some members of the judiciary as well had the opportunity to attend overseas consultations on the issue, with the trainings provided by SPC/RRRT and other regional organisations working in the area of domestic violence.

55. While there has been a lot of progress in the area of domestic violence, there still remains a comprehensive framework to deal with violence against women in general.

### **3. Sexual offences**

56. Since the last report of Tuvalu to the CEDAW Committee, there has been no change to the Penal Code to remove discriminatory provisions existing in the Code.

57. The FPDV Bill also states that sexual abuse is also domestic violence provided that there was or is domestic relationship between the parties involved.

58. Currently, there is a proposed amendment to expand the definition of ‘rape’ as well as ‘marital rape’. In relation to marital rape, a lot of people still consider the idea that the husband has the authority of over his wife’s body, so there should not be an offence of marital rape.

59. Consultations and awareness programs mentioned above also include sexual offences issues in the FPDV Bill and in the proposed amendment to the Penal Code.

### **Article 6: Exploitation of women**

60. Generally, there has been very little information on the exploitation of women through prostitution or trafficking.

#### **Exploitation of prostitution and trafficking**

61. In terms of exploitation of prostitution and trafficking, there still remain a lack of information and data on the issue. Prostitution is still an offence and anybody involved in the committing of such an offence can be prosecuted under the Penal Code.

62. In 2009 the Counter Terrorism and Transnational Organised Crime Act 2009 was passed. In this Act, section 3 defines “exploitation” to include:

“all forms of sexual exploitation (including sexual servitude and exploitation of another person’s prostitution), forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs”.

63. Furthermore, section 3 also provides a definition for people smuggling. It states that:

“people smuggling’ means the arranging or assisting of an unauthorized person’s illegal entry into any country”.

64. The Counter Terrorism and Transnational Organised Crime Act 2009 also makes an offence the trafficking of people. Section 67 of the said Act states:

“(1) A person must not engage in trafficking in a person or be involved in the arranging of trafficking in a person, knowing that the person’s entry into Tuvalu or any other state is or was arranged by specified means.



(2) Any person who breaches subsection (1) commits an offence and is liable on conviction to an imprisonment term not exceeding 25 years”.

65. Moreover, the Counter Terrorism and Transnational Organised Crime Act 2009 specifically prohibits consent of trafficked person as a defence. Section 70 states that:

“...it is not a defense:

- (a) that the trafficked person consented to the intended exploitations; or
- (b) that the intended exploitation did not occur”.

66. Trafficked persons are also protected from criminal prosecution as prescribed by section 72 of the Counter Terrorism and Transnational Organised Crime Act 2009. It states:

(1) A trafficked person is not liable to criminal prosecution for:

- (a) the act of trafficking in persons or being a party to an offence of trafficking in persons; or
- (b) the person’s illegal entry into Tuvalu, in connection with the act of trafficking in person if Tuvalu is the receiving country; or
- (c) the person’s period of unlawful residence in Tuvalu after being trafficked, if Tuvalu is the receiving country; or
- (d) the person’s procurement or possession of any fraudulent travel or identity documents that the person obtained, or with which the person was supplied, for the purpose of entering the receiving country in connection with the act of trafficking in persons.

67. In addition, the Counter Terrorism and Transnational Organised Crime Act 2009 also forbid the smuggling of people. Section 74 of the said Act states:

- (1) A person must not, in order to obtain a material benefit, engage in people smuggling either knowing or being reckless as to the fact that the entry of the person being or to be smuggled into the country is illegal.
- (2) Subsection (1) applies whether or not the person being smuggled enters or arrives in the receiving country.
- (3) Any person who breaches subsection (1) commits an offence and is liable on conviction to an imprisonment term not exceeding 20 years.

68. Even people who help facilitate the smuggling can also be punished. Section 75 of the Counter Terrorism and Transnational Organised Crime Act 2009 states:

- (1) A person must not knowingly facilitate the continued presence of an unauthorized person in a receiving country in order to obtain a material benefit.
- (2) Any person who breaches subsection (1) commits an offence and is liable on conviction to an imprisonment term not exceeding 15 years.

69. At the time of the writing of this report, there has been no information or data regarding this issue.

## **Article 7: Political and public life**

70. Electoral practices have always been an obstacle for women taking part in Parliament and other decision-making bodies. This is attributed mostly to people’s patriarchy attitudes towards women in leadership. Hence, the low number of women participating in political and public life.

### **Participation in political and public life**

71. The CEDAW Taskforce is currently working on the introduction of TSM as well as monitoring any progress on TSM. Moreover, the CEDAW Taskforce also continues to lobby for more support on this issue. The idea of setting quotas to achieve the requirements of Article 7 is still at proposal level. (For more information, please see Article 4 above).

72. Since 2008, the most common form of empowering women in the outer islands to take part in political and public life is through the radio. Tuvalu has noticed that even though there were no women candidates in the last election, 1 woman was successful when a by-election happened later. Therefore, Tuvalu has recorded its second female Member of Parliament in its history. At present, she is the Minister for Home Affairs.

73. From the last Kaupule elections, more women have competed in these elections and a few were successful.

### **Article 8: International representation and participation**

74. There has been no change on this issue from the last report of Tuvalu to the CEDAW Committee.

### **Article 9: Nationality and citizenship**

75. Since Tuvalu's last report to the UNCEDAW Committee, no Constitutional amendment has been made to the discrimination of a child whose father is from a country that Tuvalu is at war with.

### **Article 10: Education**

76. Generally, there is no discrimination as to entrance in Primary Schools, Secondary Schools and tertiary level education in Tuvalu. As usual, condition of entrance is mostly based on merit.

77. From the last report of Tuvalu to the CEDAW Committee, there was a discriminatory practice in terms of trainees allowed to Tuvalu Maritime Training Institute (TMTI).

78. In 2010–2012, TMTI, Department of Women Affairs, SPC/RRRT, TNCW, conducted community consultations as to the idea of opening the said Institute to both young men and young women. From the 8 islands conducted, only 2 island communities objected to the idea. The Institute is now planning a way forward to be gender neutral in terms of trainees studying there.

79. As far as Primary School is concerned, it has been discussed in Parents and Teachers Associations that some parents keep the older girls at home in order to look after their young children. So far, very little effective means have been employed to help deal with these girls. However, the Education Department is working with their partners at the regional level in order to review the Education Act and to bring it to comply with the Convention on the Rights of the Child.

80. Moreover, there have been informal reports of young girls who became pregnant while as young as 13 years old. Again, there is no certain response to deal with this issue and at the time of the writing of this report there is no information whether these girls are still allowed to attend school.

## Education

81. As stated before, entrance to a tertiary education in Tuvalu depends mainly on the performance of the student. Primary School has integrated gender studies appropriate to their level as well as Secondary Schools. So far, there are no gender-specific field of studies available in Tuvalu. If anyone wants to undertake such courses, he or she will have to go overseas to do that.

**Table compiled using the information received from the Education Department**

	2008	2009
National Year 8 Examination sat in Form 2 as an entrance exam to Motufoua Secondary School	45% passed 55% failed	42% passed 58% failed
Fiji Junior Certificate Examination – Form 4	41% passed 59% failed	51% passed 49% failed
National Tuvalu School Certificate – Form 5	60% passed 40% failed	60% passed 40% failed
Pacific Senior School Certificate	28% passed 72% failed	46% passed 54% failed

82. At the time of the writing of this report, there is no available information as to school ‘push outs’ and a monitoring system pursuant to the concluding observations at paragraph 39.

83. Moreover, the position on corporal punishment in the Education Act and the Penal Code has not been changed. However, the Government Primary Schools have a standing policy that only the head teacher is allowed to inflict corporal punishment.

84. So far, the Police have received 2 complaints on corporal punishment that happened in the Government’s secondary school. In the case of *Regina v. Kautoa Molotii*, SMC Criminal Case No. 200/11, the Magistrate found the accused guilty of assault causing actual bodily harm and sentenced him to 6 months’ imprisonment. The sentence is suspended for 1 year. In the other case, *R v. Alamatiga Lusama*, SMC Criminal Case No. 91/12, the accused was charged for assault causing actual bodily harm. The accused has asked for Police disclosure and at the time of the writing of this report, the case is still pending in court.

85. In addition, at the time of the writing of this report there is no information on the ‘Education for Life’ program. There is no information as well on encouraging women to pursue tertiary education. Since 2010, TVET, a type of vocational training, was introduced to build the capacity for school ‘push-outs’ in skills such as carpentry and cooking.

## Article 11: Employment

86. Since Tuvalu’s last report to the CEDAW Committee, there have been no amendments to the Employment Act. The Employment Act still discriminates women on the basis of maternity leave and choice of employment.<sup>4</sup>

87. Although the law is still discriminatory towards women, in practice, getting a job rests mainly on the persons’ performance. The Government, through the Department of Personnel and Training, offers scholarships and information on scholarships for vocational

<sup>4</sup> Sections 78 – 79 of the Employment Act.

training and liaised closely with certain governments and organisation in the securing of funds for vocational training. So far, there have been no cases on discrimination in terms of promotion or remuneration.

88. It is a statutory requirement for employers and employees to pay contribution to the Tuvalu National Provident Fund (TNPF) as a pension of the employee upon retirement. Compulsory retirement in the civil service is at 55 years of age. The Government is also maintaining an old people's welfare scheme whereby each citizen of 70 years or above is entitled to an allowance of \$50 a month.

89. In addition, there has been no complaint received on poor working conditions. A proper review of the gender issues within the current labour laws and within the formal and informal employment sector is long overdue. Although the Employment Act has not amended discriminatory provisions, in practice there are no discriminations faced by women on maternity leave or when pregnant. By practice, women are also entitled to take leave prior to giving birth.

90. There are no child-care facilities in Tuvalu. Child-care is mainly home-based where family members take care of children whose parents are working. Since the last report of Tuvalu to the CEDAW Committee, there has been no change to the Employment Act in Tuvalu.

### **Employment**

91. With respect to the concluding observations, paragraph 42, opportunities in the labour market by practice are gender neutral. Since the last report, Tuvalu has also recorded its first ever female to work on a Tuvaluan ship (vessel/boat).

92. At the time of the writing of this report, there is no information regarding the gender wage gap.

93. Efforts to encourage women to choose non-traditional fields of employment have begun with consultations on the issue of young women to be included in the country's maritime training school.

94. Unfortunately, there is no updated information, including data disaggregated by sex, on the issue of employment, at the time of the writing of this report.

### **Article 12: Health care and family planning**

95. The Department of Health has various programs and projects addressing the issue of women's health care. These types of programs include promotion of health issues to the public as well as pregnant women, counselling where relevant, treatment, capacity building for healthcare professionals, etc. The Ministry of Health has also secured a lot of partnership assistance to improve women's health.

#### **1. Health**

96. Since the last report of Tuvalu to the CEDAW Committee, the Government has built clinic health centres in all the outer islands of Tuvalu. Each island also has a qualified midwife and another nurse to assist in providing healthcare services to the people on the island.

97. According to Tuvalu Millennium Development Goals (MDG) Progress Report of 2010/2011, Tuvalu has met the target to reduce the maternal mortality ratio.<sup>5</sup> Please see the table below.

### Target Score Card

<i>Target already met and not applicable</i>							
<i>Indicators</i>	<i>1990</i>	<i>1995</i>	<i>2003</i>	<i>2005</i>	<i>2006</i>	<i>2009</i>	<i>2015 Target</i>
Maternal mortality ratio (MMR)	1 death in 242 births	0	1 death in 231 births	0	1 death in 217 births	0	Achieve lowest possible level
Proportion of births attended by skilled health personnel	Not applicable as around 98% to 100% of births take place in hospital and are therefore attended by skilled health personnel						

*Sources: Ministry of Health 2009*

**Source:** *Tuvalu MDG Progressive Report 2010/2011, p. 54.*

98. Furthermore, from 1990 to 2009, Tuvalu recorded 3 maternal deaths from 4,567 live births, occurring in 1990, 2003 and 2006. The very low number of maternal health from 1990 to 2009 is attributed mainly to improved detection services regarding risky pregnancies and the increase of trained midwives, as well as the pre-natal and post-natal screening of mothers in certain diseases. Moreover, almost 98% of the birth deliveries took place in a hospital and attended by skilled health personnel.<sup>6</sup>

99. The Government provides free medical treatment to all people including everyone in the outer islands. Serious cases will be admitted to the main hospital on Funafuti and where there is a need for further treatment outside Funafuti, the Government has a policy to regulate the sending of patients for treatment overseas.

100. Abortion is still an offence in the Penal Code. So far, there has not been much support from the communities to remove the offence of abortion in the Penal Code or the punitive provisions imposed on women who undergo abortion. Due to the fact that abortion is an offence, the Department of Health and TUFHA cannot offer abortion services counselling and advice on the issue. The Police Department also does not have any cases on abortion.

101. TUFHA, in partnership with the International Planned Parenthood Federation (IPPF), advocates for a woman's right to choose and to access safe abortion services. Unsafe abortions is 1 of the 3 leading causes of maternal deaths worldwide, therefore, IPPF works to promote safe and legal abortion services, and advocate for choice. This is supporting a woman's rights to decide the outcome of her pregnancy, and eradicate the tragic consequences of unsafe abortions. Because this is a sensitive issue and illegal in Tuvalu, TUFHA does not encourage abortion, but educating young people and the communities, in its radio and workshop programs, about the tragic consequences of having an unsafe abortion, and has not yet advocated for any legislative reform on the issue of abortion. Part of TUFHA's 2013 activities is to obtain a variety of people's views on the topic of abortion.<sup>7</sup>

102. At the time of the writing of this report, there is no information on women having complications due to unsafe abortion. The Department of Health also conducted a lot of awareness programs in the area of sexual and reproductive health. These programs include

<sup>5</sup> Tuvalu MDG Progress Report 2010/2011, p. 54.

<sup>6</sup> Tuvalu MDG Progress Report of 2010/2011, p. 55.

<sup>7</sup> TUFHA Annual Report 2010, and TUFHA Work Plan 2013.

information on sexually transmitted infections (STIs), condom distribution, counselling, etc. However, there is still some resistance in terms of IEC materials on STIs as well as the availability of condoms at certain places. The Department of Health has also conducted various awareness programs for youths, in order to deal with the issue of teenage pregnancies as well as voluntary confidential counselling and testing (VCCT).

103. One of TUFHA's core activities for adolescents is to help young mothers, youths, students in high schools, through workshop trainings, to increase their awareness and understanding of the consequences of teenage pregnancy. TUFHA also noted that part of the issue of teenage pregnancy stems from the issue of teenage marriage and they have also come across information of teenagers as young as 13 years old being married.

104. In addition, TUFHA has conducted a lot of awareness programs in the area of sexual and reproductive health and family planning programs for all clients visiting its clinic, on weekly radio programmes, during workshops for young mothers, single mothers, parents of adolescents, ante-natal and post-natal mothers. Also information is available in IEC materials from the TUFHA office.<sup>8</sup>

105. Moreover, TUFHA has been doing a lot of life-skills educational programs with youths. These programs include issues such as prevention of STIs, contraception, decision-making, peer motivation, etc with community youths as well as students in schools. Appropriate reproductive health education has also been integrated into the school's curriculum. This has been initiated by the Ministry of Education in partnership with the Health Department. However, there are still some parents who think that their children should not be exposed to such education on reproductive health.

106. The Tuvalu MDG Progress Report 2010/2011 lists outer island access to preventive services in terms of HIV and STIs as a challenge. There are plans to expand education programs to outer islands and to also include testing protocols for people in the outer islands.<sup>9</sup>

107. The Health Department has also links to the Fusi Alofa Association Tuvalu (Fusi Alofa). Fusi Alofa was established in 2009. Since establishment, it has dedicated itself to promoting the rights of disabled women and girls, with the assistance of regional organisations such as PDF, SPC/RRRT, etc. Fusi Alofa also sought assistance both with government departments as well as from outside in terms of capacity building, getting assistive devices, to assist people with disabilities. Fusi Alofa has a department of women with disabilities and has offered a lot of trainings in areas such as HIV. Tuvalu Red Cross Society also has a special program dedicated for disabled persons – whereby they offer voluntary services where relevant. TUFHA has conducted a lot of educational awareness programs with youths and also students about alcohol abuse and its consequences.

## **2. HIV/AIDS**

108. According to the Tuvalu MDG Progress Report 2010/2011, Tuvalu is in alignment with the MDG target relating to HIV/AIDS. From the 11 confirmed cases of HIV, 8 of them are men, 1 mother and her child, and a student who contracted HIV while studying overseas. Tuvalu has also recorded an increase in gonorrhoea with 3.8% in 2010 compared to 0.9% in 2006. There was also an increase in syphilis from 1.7% in 2006 to 3.7% in 2010. Chlamydia still remains at around 17%. Although these data are not sex disaggregated, the MDG Report stated that seafarers, students, youths, and young men are the most vulnerable groups to these types of infection.<sup>10</sup>

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<sup>8</sup> TUFHA Annual Report 2010.

<sup>9</sup> At p. 65.

<sup>10</sup> Tuvalu MDG Progress Report 2010/2012, pp. 63-64.

109. DHS 2007 results revealed that women are more susceptible to STI infection. For example, 48.9% of young men between the ages of 15-24 use condoms during sexual intercourse while none of the young women use any condoms at all. Moreover, 1.9% of the women in that same age group used a condom during first sexual intercourse compared to the 21% of men using a condom during first sexual intercourse. The results also indicate that youths in the outer islands (rural areas) are more vulnerable to STIs due to the lack of access to condoms there.<sup>11</sup>

110. From 2010 – 2011, TUFHA has a “Play for Life” project to strengthen TUFHA’s peer motivator’s activities. Part of the activities was designed to reach out to young people and conduct much needed condom social marketing. TUFHA recorded an increase of condom distribution during the lifetime of this project.

111. The Tuvalu National Strategic Plan for HIV and STI 2009–2013 also include women in the response actions to reduce the spread of HIV and other STIs. The Tuvalu National AIDS Committee (TUNAC) had conducted various awareness programs on HIV and other STIs for women in communities, youths, seafarers, students, athletes, etc.

112. Efforts to raise awareness of Government personnel on the issue of HIV/AIDS have not been successful. The issue of confidentiality has been discussed in various community programs on HIV, especially celebrations of World AIDS Day in Tuvalu.

### **Article 13: Economic and social benefits**

113. With the exception of land inheritance, there is no information on discrimination on the right to family benefits. Although a lot of women cannot use land as security for bank loans, etc, the Development Bank of Tuvalu (DBT) has received a grant from the Republic of China (Taiwan) and other donors providing micro-financing credits to any woman who wants to establish a business. Moreover, there is also no information as to women and girls having problems participating in recreational activities, sports and cultural practices.

### **Article 14: Rural women**

114. The Department of Rural Development closely works with women in the outer islands (rural areas). Women’s role in community development projects is very important. Women also play a crucial role in the survival of their families.

115. So far, there is no information on discrimination of women in rural areas in terms of benefitting from developments going there. However, there are issues pertaining to their access to the formal justice system, access to condoms, job opportunities, education and information, etc. With the education programs conducted by the Department of Rural Development on Strengthening Local Governance as well as Local Elected Leadership, much support has been given to the participation of women in their Kaupule planning activities. At present, the said Department is working on amending the Falekaupule Act 1997 to accommodate women’s participation in Kaupule budgetary processes.

116. As stated above, each island has a new health clinic and a qualified midwife working there. All these improvements were made in order for women in the rural areas to have better access to health care services. Healthcare workers on the islands are also well trained on family planning matters.

117. As pension contribution to the TPNF is a compulsory requirement by law, women have also benefitted from this Fund. There is no information as to the types of training and

<sup>11</sup> Information extracted from Tuvalu MDG Progressive Report of 2010/2011, p. 64.

education reaching women in the rural areas apart from educational awareness on HIV, climate change, biodiversity, local governance, and some other current issues.

118. Some organisation members of the Tuvalu Association of Non-Governmental Organizations (TANGO) reside on outer islands. TANGO has provided rural NGOs with training such as in project proposal writing and sometimes seek financial assistance on behalf of their members.

119. Moreover, women in rural areas are encouraged to participate in all community activities. From the actions of the men and women who were allegedly failed to participate, the Government has amended the Constitution in order to offer more protection to traditional standards and practices, hence, limiting the freedom of people from pursuing religions of their own choice.<sup>12</sup> In 2010 as well, the Religious Organisation Restriction Act was passed providing more restrictions on the right to freedom of religion/worship.

120. As already noted above, when it comes to land matters, women are often discriminated against.

121. Different Government departments and the Falekaupule Trust Fund are operating various development projects in the outer islands. For example, the building of kitchen facilities, toilet facilities and water tanks, providing tractors, etc. The Tuvalu Red Cross Society also has branches in all the outer islands and each branch has a satellite phone for easier communication in cases of emergencies.

122. At the time of the writing of this report, there is no information as to gender impact assessment conducted prior to the implementation of community projects. Attempts to remove discrimination in land laws have been futile.

### **Article 15: Equality before the law and civil matters**

123. The justice system in Tuvalu operates also on the principle that everyone is equal before the law. Women have the same rights and men except for some family matters, e.g. consent to a marriage of a person who has not attained the age of 21 under the Marriage Act as well as custody of an illegitimate child under the Native Lands Act and the Tuvalu Lands Code. However, women of Tuvalu have the same freedom as their male counterparts to choose their residence and domicile.

124. With the enactment of the Religious Organisations Restriction Act 2010, section 4(6) of that Act specifically prohibits the challenging of a Falekaupule decision, whether or not to allow the spread or practice of a religion, in a court of law.

#### **Vulnerable groups of women**

125. At present, there is no formal social or political framework for addressing the problem of disability for women other than family solidarity. The Tuvalu Red Cross Society has a program that assists the aged and people with disability at their own homes. Home visits and the provision of mobility devices to most vulnerable people are the most common activities carried out. In the past TRC branches in the islands focuses mainly on caring for people with disabilities, and at present TRC is developing its capacity to prepare and respond well to disasters to assure that the most vulnerable, which includes the ageing and persons with disabilities, are treated fairly.

126. Since establishment in 2009, Fusi Alofa has advocated for the rights of people with disabilities, together with SPC/RRRT. Fusi Alofa has also worked together with other disabled persons organisations at the regional level and also from Australia, in making sure

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<sup>12</sup> Constitution (Recognition of Traditional Standards, Values and Practices) Amendment Act 2010.



that people with disabilities access some of the assistive devices that they need. SPC/RRRT has also included women with disabilities on national consultations on violence against women. Fusi Alofa also conducted workshop trainings HIV, sewing, cooking, etc, with women with disabilities. Moreover, due to marginalisation of children with special needs in the formal primary school on Funafuti, Fusi Alofa has also established an informal school with voluntary teachers to teach these children.

127. So far, there has been discussion for a National Disability Policy and the Government is still seeking assistance from regional partners working in the area of disability. The Department of Rural Development has also taken an initiative to survey people with disability under the Strengthening Local Governance Project. At the time of the writing of this report, these data are yet to be published. Access to health for women with disabilities is not an issue – although the Health Department cannot provide assistive devices for them at home.

### **Article 16: Personal and family law**

128. Generally, women and men have the same right to enter into marriage, choose a spouse and enter marriage with a free and full consent, as well as rights and responsibilities during marriage and also when the marriage breaks down.

129. However, discriminatory provision in the Native Lands Act and the Tuvalu Lands Code have not treated women as equal to men in a situation of custody of an illegitimate child. The law affords more rights to the father of the illegitimate child compared to the mother and the child involved.

130. Culturally, once a woman is married, she is expected to use her husband's name. Nowadays, more and more women are keeping their family names rather than using the husband's name. It is often the case that children of the marriage use their father's name as surname.

131. So far, there is no discrimination in terms of choosing a profession or occupation. With the exception of land matters, married couples have equal rights to ownership, acquisition and control of their properties.

132. The marriageable age in Tuvalu still remains at 16 years of age and above. There has been a lot of support to bring up the age of marriage to 18 years. Marriage of people under the age of 16 years is simply an ignorance of the formal legal system.

#### **Family relations**

133. At the time of the writing of this report, there are no reports of forced marriages. As a practice, the court only grants maintenance order if the couples have legally divorced. Divorce proceedings sometimes take a long time to be finalised. Due to the cultural expectation that a woman, if divorced, is supposed to go back to her family and her family can look after her, it is difficult for people to understand the concept of maintenance, either for the woman or for the children.

134. Although there have been legislative consultations in the area of family law, more time is needed in order to reform family laws in Tuvalu.

## **Other matters from the concluding observations of the Committee on the Elimination of Discrimination against Women**

### **1. Principal subjects of concern**

135. In terms of the concluding observations of the CEDAW Committee at paragraph 9 in which the Committee called for the concluding observations to be submitted to Ministries, Parliament and to the Judiciary so as to ensure their full implementation, this has not happened. The concluding observations were only sent to CEDAW Taskforce members. The CEDAW Taskforce has monitored the progress of the CEDAW report writing and late this year, more effort was put into compiling the report to be submitted as recommended.

136. The Department of Women, SPC/RRRT, Police and TNCW continuously play a role in creating more awareness on the laws that do not comply with CEDAW.

### **2. Data collection and analysis**

137. Tuvalu still needs to collect sex disaggregated data, develop gender statistics and publicise them so that more people are aware of gender inequality issues in Tuvalu. The main challenges to the continuous data collection and analysis are the issues of financial burden and lack of expertise in this specific field. While the Police have created a database on domestic violence, there is still a need to collect also data on sexual offences, sex work, etc. At the time of the writing of the report, the Statistics Department will start the national census in November this year.

### **3. Disaster management and mitigation**

138. At the time of the writing of this report, there are no plans to address the potential internal or international displacement of people. However, when Tuvalu had a State of Emergency on water shortage, the Special Rapporteur on the human right to safe drinking water and sanitation visited the country.

### **4. Optional Protocol and amendment to article 20, paragraph 1**

139. Since the last report of Tuvalu to the CEDAW Committee, Tuvalu has not made any progress towards ratifying the Optional Protocol or provided feedback on the amendment of article 20 paragraph 1 of CEDAW. There seemed to be a lack of information on the CEDAW Optional Protocol as well as capacity building and awareness on this Optional Protocol.

### **5. Preparation of next report**

140. At the time of the writing of this report, the CEDAW Taskforce has agreed to undertake consultations for this report after the report is submitted. There has not been a wide participation of all ministries and public bodies in the preparation of this report and no consultation with NGOs during the preparation of this report.

### **6. Beijing Declaration and Platform for Action**

141. There is not much awareness on the Beijing Declaration and Platform for Action, hence, the lack of information on the said Declaration in this report, in Tuvalu. So far, only the SPC Human Development Program and PIFS connect countries to the Beijing Declaration through regional meetings and conferences and the Pacific Platform for Women resonates from the Beijing Declaration and Platform for Action.

**7. Dissemination**

142. In terms of the concluding observations, paragraph 61, there has been no opportunity to present the CEDAW Committee concluding observations to Government officials (except those in the CEDAW Taskforce), politicians, Parliamentarians, women's and human rights organizations, and to the local communities.

**8. Ratification of other treaties**

143. Since the last report of Tuvalu to the CEDAW Committee, Tuvalu has not ratified any other human right treaty.

**9. Follow-up to concluding observations**

144. Tuvalu has not been able to provide the information required by the CEDAW Committee within the 1 year period that was given to respond. The main reason being the incapacity of the Department of Women Affairs to deal with the requirement.

**10. Technical assistance**

145. So far, Tuvalu has not had the opportunity to have technical assistance in the development and implementation of a comprehensive programme aimed at the implementation of the concluding observations. There has been no country visit by the CEDAW Committee to provide further guidance to Tuvalu on the implementation of the concluding observations. There is still a need for specialized agencies and programmes of the United Nations system, especially the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the Office of the United Nations High Commissioner for Human Rights (OHCHR), UNFPA, UNDP and WHO to provide more assistance to Tuvalu in implementing the concluding observations as well as advancing the rights of women of Tuvalu.

146. While Tuvalu has benefited from the assistance provided by other specialized agencies and programmes of the United Nations system, very little has been seen from UN-Women and OHCHR. The Government of Tuvalu needs to see more assistance from UN-Women in implementing the concluding observations of the CEDAW Committee as well as from OHCHR in human rights issues in general.

**III. References**

147. The references used for the present report included the following:

- Sexual Rights: an IPPF Declaration
- TuFHA Annual Report 2010
- TUFHA Annual Report 2011
- TUFHA Gender Equity Policy
- Tuvalu Millennium Development Goals Progress Report 2010 - 2011
- '2011 Te Kakeega II Mid-Term Review: Action Plan 2015'. Planning and Budget Department.
- '2012 National Budget Program Estimates'. Planning and Budget Department.