

Human Rights in the Pacific

A situational analysis



Pacific
Community
Communauté
du Pacifique





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Foreword

Pacific cultures value fairness, equality, protection of the most vulnerable, helping and serving others, participation, dialogue and consensus building. These human rights values and principles are not foreign but are embedded in Pacific beliefs, laws and policies, and in international human rights instruments. They cut across priority sectors, including economic, social and cultural rights, and political and civil rights and freedoms.

This publication, *Human rights in the Pacific – A situational analysis*, provides a comprehensive analysis of the status of human rights in the Pacific region. Although it is not intended to be an assessment of the human rights situation in each country, it sheds light on human rights issues and gaps in countries, and provides information for decision-makers, including for planning action on government commitments to better protect, promote and advance human rights.

It is encouraging to note that in recent years many Pacific countries have made considerable efforts to meet human rights commitments and obligations, as well as ratify and report on core human rights treaties. Pacific Islands Forum Leaders, in their 2011 communiqué, noted the achievement of all Pacific states in reporting during the first cycle of the Universal Periodic Review. In May 2016, Samoa and Papua New Guinea became the last Pacific states to be reviewed under the second cycle of the Universal Periodic Review. All Pacific states submitted country reports and engaged in this process.

While considerable progress has been made, much work still needs to be done to promote and protect the human rights of all citizens. Awareness raising and human rights education and training are essential in this regard.

We hope *Human rights in the Pacific – A situational analysis* will serve as a useful resource for governments, partners, civil society groups and individuals working to promote human rights and build a sustainable future based on dignity and freedom for Pacific people.



Dr Colin Tukuitonga
Director-General
Pacific Community



Chitrallekha Massey
Regional Representative
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RRRT works to provide technical assistance and training to SPC's 22 Pacific Island member countries and territories in observing international human rights standards. By providing policy advice, technical support, and capacity building services, RRRT responds to priority human rights areas in the region, such as violence against women and children, discrimination against people with disabilities, human rights reporting, and the elimination of all forms of discrimination.

RRRT has built relationships of trust with judiciaries, civil society organisations, and governments throughout the region since its inception, and continues to enjoy a comparative advantage in interpreting international human rights in the context of Pacific cultures and the Pacific way of life.

In addition to RRRT's donor support, I would like to thank the following individuals for their contributions to this situational analysis:

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Mark A. Atterton,
Director of RRRT



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Abbreviations and acronyms

CAT	Convention against Torture, Cruel, Inhuman and Degrading Treatment or Punishment
CAT - OP	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CEDAW OP	Optional Protocol to the Convention on the Elimination of Discrimination Against Women
CPED	Convention on the Protection of all persons from Enforced Disappearances
CRC	Convention on the Rights of the Child
CRC-OP AC	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
CRC-OP SC	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
CRC-OP IC	Optional Protocol to the Convention on the Rights of the Child on a communications procedure
CRPD	Convention on the Rights of the People with Disability
CRPD- OP	Optional Protocol to the Convention on the Rights of Persons with Disabilities
CRMW	Convention on the Rights of Migrant Workers and Members of their Families
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP1	Optional Protocol to the International Covenant on Civil and Political Rights
ICCPR – OP 2	Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty
ICESCR	International Covenant on Economic, Social and Cultural Rights
ESCR- OP	Optional Protocol to the Covenant on Economic, Social and Cultural Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICC	International Criminal Court
NHRI	National Human Rights Institution
PICS	Pacific Island countries. In this Outline, it refers to countries who are also members of PIFS
PIFS	Pacific Islands Forum Secretariat
RHRM	Regional Human Rights Institution
SPC RRRT	Pacific Community Regional Rights Resource Team
UDHR	Universal Declaration of Human Rights
UNOHCHR	Office of the United Nations High Commissioner for Human Rights
UPR	Universal Periodic Review

Introduction and overview

In 2012, the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Suva, Fiji, published *Human rights in the Pacific: Country outlines*, which described the general background of human rights in Pacific states. Since this last review in 2012, there have been no other summaries to acknowledge developments, or assess the present situation of human rights protection in the region. The previous country outlines focused on the 16 Pacific Island states that are members of the Pacific Islands Forum Secretariat and so will this situational analysis.

There have been many developments since the publication of the above-mentioned report, including the election of new governments, new measures and programmes to advance human rights, and increased participation by Pacific Island nations in reporting to United Nations human rights systems. Furthermore, all United Nations member countries have gone through the two Universal Periodic Review (UPR) cycles, which allowed them to self-assess progress and provide a plethora of information to be aggregated. This situational analysis captures some of the developments since the 2012 country outlines were produced.

This situational analysis is not a comprehensive review of all the laws and policies of Pacific governments but provides an overview of some of the challenges, achievements and progress in various areas that reflect on Pacific government's duty to protect, promote and fulfil human rights. It is not meant to criticise or make comparisons between Pacific governments experiences, rather to provide a brief insight into the human rights issues and challenges across the Pacific for the purposes of informing legislatures policy-makers, advocacy, campaigns and other relevant action to continue to realise the vision of Pacific leaders vision in the new Pacific Regionalism Framework the creation of 'a region of peace, harmony, security, social inclusion, and prosperity, so that all Pacific people can lead free, healthy, and productive lives'. All these are possible when human rights are respected, protected and promoted by governments.

The Pacific Community's Regional Rights Resource Team (SPC RRRT), in partnership with the OHCHR in Suva, jointly undertook this situational analysis, acknowledging the tremendous strides taken by countries in the region. This report is intended to complement the *Human Rights in the Pacific: Country Outline* by updating the information

and presenting an analysis of the human rights situation in the Pacific region since 2002. The period covered in this situational analysis is from 2012 to May 2016.

Purpose

The purpose and objectives of this report are to:

- contribute to research available on the current human rights situation in the Pacific region by updating previously published reports with the latest information available;
- improve understanding of the human rights situation for partners working in the region and provide a solid evidence base for decision-making and planning;
- support the creation of new laws, policies and strategies to improve the human rights situation in Pacific countries (PICs), including the creation of national plans of action; and
- shed light on pertinent human rights issues in the countries and identify major gaps to be addressed.

Method

A situational analysis is 'the systematic collection and analysis of present and past information and data on a particular subject to predict future trends, strengths, opportunities and weaknesses'.¹ The subject under review in this study is the overall state of human rights in the Pacific region and in individual countries.

This analysis acknowledges that each PIC has unique political and cultural contexts that shape the human rights environment in the country and its protection system.

It uses a systems analysis approach to assess its effectiveness based on certain criteria. A national human rights protection system (NHRPS) consists of a nation's laws, policies, and institutions that promote and protect human rights.² This is often called the human rights infrastructure in a country and

1 Law Dictionary. Available at: <<http://thelawdictionary.org/situation-analysis/>> [Accessed: 25 Nov. 2015].

2 'Strengthening the National Human Rights Protection Systems: A Manual for Embassies of European Union Member States'. 2009. Human Rights Division, Ministry of Foreign Affairs, the Netherlands. Available at: <http://www.globalequality.org/storage/documents/pdf/manual%20nhrrps-web.pdf>. [Accessed: 30 October 2015]



includes structural and systemic efforts to encourage and promote the advancement and fulfilment of rights.

An NHRPS more specifically includes: a) the enacted laws that ensure the rights of citizens, b) the policies and procedures that protect rights, and c) strong civil society and human rights groups that operate without interference to advocate for human rights.

By adopting a systems analysis approach, this report is able to provide an objective assessment of the situation in each country and provide tangible recommendations.³

A systems analysis is a problem-solving technique that divides a system into its components for the purpose of determining how well each component works and interacts to accomplish an outcome.⁴ It is a method that borrows from multiple academic fields and is becoming increasingly popular in human rights research, especially in the field of group rights.⁵

As such, this situational analysis examines the core components of the human rights system in each PIC to assess which areas receive sufficient attention and which require consideration. By looking at each component, we can assess in depth its impact on the fulfilment of rights on the ground. The impact of new laws for example, as well as policies and procedures, is determined in terms of achieving certain human rights results and outcomes. The final outcome is the tangible enjoyment of rights by rights-holders, and the positive measurable impact on human rights issues in the countries. To measure the achievement of these outcomes, we consider major agreed on indicators used by human rights monitoring experts to determine how well a system works in providing protection against inequalities. These standards are used largely by the OHCHR in its UPR compilation reports, the United States State Department report, and other reports by international

human rights organisations such as Amnesty International and Human Rights Watch. These groups examine the status of basic civil and political rights, economic, social and cultural rights, and other group rights as a predictor of the status of the overall human rights situation in a country.

For each of the countries under examination in this report, we look at a number of diverse issues in addition to the status of basic civil and political rights, economic, social and cultural rights, including:⁶

- equality and non-discrimination;
- right to life, liberty and security of person;
- access to justice and the right to remedy;
- rights to health and education; and
- the rights of women, children and persons with disabilities.

In looking at the above themes, we made an assessment of the main factors affecting each area, including the observance of international standards, patterns of inequality, and practices that can hinder the advancement of each right. Furthermore, the examination of group rights, such as women and children's rights, takes into consideration issues that are prevalent and particular to each country given the national human rights protection system in place. For Australia and New Zealand, the style is a bit different as it covers other issues that have either advanced human rights or where there have been challenges as noted in various reports. Nauru and Papua New Guinea discuss issues around refugees and asylum seekers, while smaller PICs briefly address climate change.

Theoretical framework

This situational analysis is based heavily on the Universal Declaration Model, which was formulated by prominent scholars in the field of human rights.⁷ Human rights theories borrow from a variety of disciplines, including the legal field, the social sciences and other disciplines, depending on the nature of the rights in question. The Universal Declaration Model is a theory that has wide international consensus by all practitioners. It maintains that there are certain indisputable truths, now translated

3 One of the most all-encompassing definitions of human rights comes from Todd Landman, who says that human rights are a 'set of concepts manifesting themselves in the form of policies, legislation, and practices that are grounded in a variety of different and competing philosophical traditions'. These policies, legislation and practices form a complex system whereby different elements interact together to provide protection to rights-holders. This system of human rights protection is a vibrant and complex object of examination, as it consists also of a wide range of actors (from many sectors), and takes into account the protection of a wide set of rights for many groups. http://www.academia.edu/832318/Measuring_human_rights_principle_practice_and_policy.

4 Lonnie D. Bentley. 2007, 'Systems Analysis and Design for the Global Enterprise' p. 160. 7th edition. Irwin/McGraw-Hill Publications, United States of America.

5 This method is particularly used by United Nation agencies working on group rights, and determining the protection system for vulnerable groups in many countries.

6 These criteria were developed based on the Office of the High Commissioner for Human Rights, Universal Periodic Review compilation report as suggested by, and through discussions with staff and field experts who have determined these to be priority areas.

7 As defined by Jack Donnelly and other 'Universal Human Rights in Theories and Practice', 2nd Edition, 2003, Cornell University Press, New York.



as human rights principles. These principles include the inalienability, indivisibility, interdependence and universality of human rights. These largely agreed on principles form the foundation of this report.

Scope and limitations

The greatest limitation of this study is the inaccessibility of published information on human rights in PICs, and in-depth examinations into specific areas and aspects of an NHRPS. Human rights protection system analysis relies traditionally on analysis of information from other areas, including good governance, anti-corruption, and sector reform reports among others. In this case, there is limited knowledge in these areas for countries in our region and the information that is available needs updating.

There are also several urgent and understudied areas, including the rights of the lesbian, gay, bisexual and trans and/or intersex community, the rights of migrant workers, environment and climate justice, and human rights in emergencies. Adequate information in these areas is unavailable; therefore, this report does not touch on these subjects.

Governments and human rights

The primary architect of a national human rights protection system (NHRPS) in all countries, is the state. Various PICs, through their respective governments, made tremendous efforts during the reporting period covered in this analysis (2013–2015) in order to establish strong human rights protection systems. Recognising the importance of international human rights standards and applying them to the region, many PICs have made considerable effort to progress human rights commitments and obligations as well as ratify and report under core human rights treaties, including the Rome Statute of the International Criminal Court.

While ratification of core human rights treaties is steadily increasing, many PICs have yet to ratify the 1966 International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR). Ratification of human rights treaties in the Pacific has, so far, favoured conventions that protect group rights, especially those of women and children. All

Many of our island countries are democracies with varying human rights records. But our region's overall level of ratification of human rights treaties is low by international standards, with almost all Pacific Island countries having ratified in some cases two at the most of the nine core international human rights instruments. And then, many of the countries which have ratified international human rights treaties face difficulty in complying with accompanying reporting obligations.

Secretary General Tuiloma Nerodi Slade
Pacific Islands Forum Secretariat,
Suva, Fiji, 2012

countries in the region have ratified the Convention on the Rights of the Child (CRC) and, with the exception of two countries, all have ratified the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). Despite the Convention on the Rights of Persons with Disabilities (CRPD) being a new treaty, 10 PICs have ratified it. Australia and New Zealand have both ratified seven of the core nine treaties. Of the 16 countries discussed in this Overview, Samoa is the only Pacific state to have ratified the Convention against Enforced Disappearances while no Pacific state has ratified the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Palau is the only Pacific state to have signed all nine major international human rights conventions although it has only ratified two.

Although it is not a specific human rights treaty, the United Nations Convention against Corruption has been ratified by all but three Pacific states.⁸

⁸ <https://www.unodc.org/unodc/en/treaties/CAC/signatories.html>



Pacific Island Table of Treaty Ratification as at May 2016

Office of the United Nations High Commissioner for Human Rights-Regional Office for the Pacific

	Australia	Cook Islands	Fiji	Kiribati	Marshall Islands	Micronesia	Nauru	New Zealand	Niue	Palau	Papua New Guinea	Samoa	Solomon Island	Tonga	Tuvalu	Vanuatu
ICESCR	R 10/12/75							R 28/12/78	R 28/12/78	S 20/09/11	A 21/07/08		R 17/03/82			
ICPPR	R 13/08/80						S 12/11/01	R 28/12/78	R 28/12/78	S 20/09/11	A 21/07/08	A 15/02/08				R 23/11/08
ICERD	R 30/09/75		R 11/01/73				S 12/11/01	R 22/11/72	R 22/11/72	S 20/09/11	A 27/01/82		R 17/03/82	A 16/02/72		
CEDAW	R 28/07/83	A 11/08/06	A 28/08/95	A 17/03/04	A 2/03/06	A 01/09/04	A 23/06/11	R 10/01/85	A 10/01/85	S 20/09/11	A 12/01/95	A 25/09/92	A 06/05/02		A 06/10/99	A 08/09/95
CAT	R 08/08/89		R 14/3/16			S 15/09/15	R 26/09/12	R 10/12/89		S 20/09/11						A 12/07/11
CRC	R 17/12/90	A 06/06/87	R 13/08/93	A 11/12/95	R 04/10/93	A 05/05/93	A 27/07/94	R 06/04/93	A 20/12/95	A 04/08/95	R 02/03/93	R 29/11/94	A 10/04/95	A 06/11/95	A 22/09/95	R 07/07/93
ICMWR										S 20/09/11						
CRPD	R 17/07/08	A 08/05/09	S 02/06/10	A 27/9/13	A 17/03/15	S 23/09/11	A 27/06/12	R 25/09/08		R 11/06/13	R 26/09/13	S 24/09/14	S 23/09/08	S 15/11/07	A 18/12/13	R 23/10/08
CPED										S 20/09/11		R 27/11/12				S 06/02/07
ICPPR-OP1	A 25/09/91						S 12/11/01	A 26/05/89								
ICPPR-OP2	A 02/10/90							R 22/02/90								
OP-ICESCR													S 24/09/09			
OP-CAT	S 19/05/09															
OP-CEDAW	A 04/12/08	A 27/11/07					A 24/01/13	R 14/03/07					A 06/05/02			A 17/05/07
OP-CRC-IC								R 07/09/00				A 29/04/16				
OP-CRC-AC	R 26/09/06		S 16/09/05	A 16/09/15		R 26/10/15	S 08/09/00	R 12/11/01				A 17/05/16	S 24/09/09			R 26/09/07
OP-CRC-SC	R 08/01/07		S 16/09/05	A 16/09/15		R 23/04/12	S 08/09/00	R 20/09/11				A 29/04/16	S 24/09/09			R 17/05/07
OP-CRPD	A 21/08/09	A 08/05/09	S 02/06/10							A 11/06/13			S 24/09/09			

ICPPR=International Covenant on Civil and Political Rights

ICESCR=International Covenant on Economic, Social and Cultural Rights

ICERD=International Convention on the Elimination of All Forms of Racial Discrimination

CEDAW=Convention on the Elimination of All Forms of Discrimination Against Women

CAT=Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

CRC=Convention on the Rights of the Child

ICMWR=International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

CPED=Convention on the Rights of Persons with Disabilities

ICPPR-OP1=Optional Protocol to the Protection of All Persons from Enforced Disappearance

ICPPR-OP2=Second Optional Protocol to the International Covenant on Civil and Political Rights

OP-ICESCR=Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

OP-CAT=Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

OP-CEDAW=Optional Protocol to the Convention on the Elimination of All Forms against Women

OP-CRC-AC=Optional Protocol to the Convention on the Rights of Child on the Involvement of Children in Armed Conflict

OP-CRC-IC=Optional Protocol to the Convention on the Rights of the Child on a communications procedure

OP-CRC-SC=Optional Protocol to the Convention on the Rights of Child on the Sale of Children, Child Prostitution and Child Pornography

OP-CRPD=Optional Protocol to the Convention on the Right of People with Disabilities

S=Signature

A=Accession

R=Ratification

Date= Day/Month/Year

Source: UN treaty website, <http://treaties.un.org>

Orange

Green

Green

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom . . . **Preamble – Universal Declaration of Human Rights**

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 1 - Universal Declaration of Human Rights

Compliance with international human rights standards at the national level has been evident through various steps taken by PICs, including reporting to treaty bodies, engaging the Special Procedures of the Human Rights Council through Standing Invitations and in hosting the visits of special rapporteurs, and PICs' engagement with the UPR process. To date, almost all PICs have been through two rounds of UPR reporting, generating more assessments, dialogue, and commitments to human rights in the region than ever before. Despite resource and capacity challenges, countries have been able to dedicate time and effort to the process, starting with the preparation of the state report and including state consultations, finalising submissions, and attending the interactive peer review process in Geneva.

The implementation process, however, must be a priority to ensure that international human rights commitments are translated into real actions in each Pacific state. While state reporting to individual treaty bodies has been challenging or demanding on PICs, their participation in

the UPR process has been more positive as they use the opportunity to tell their human rights stories to the world. All PICs have engaged in both cycles of the UPR.⁹

PICs have also made various declarations to create stronger frameworks around specific human rights issues. These include the Nasonini Declaration on Regional Security 2002, which looked at, among other issues, regional efforts to combat human trafficking. This declaration notes that PICs recognise the importance of introducing legislations¹⁰ and developing strategies that combat serious crimes, including human trafficking, terrorism and terrorist financing, and people smuggling. The Biketawa Declaration¹¹ commits Pacific states to fundamental values, including equality, liberty and upholding democratic processes and institutions. In 2009, Pacific disability ministers met for the first time in the Cook Islands and endorsed the Pacific Regional Strategy on Disability.¹² The strategy committed Pacific countries to working on crucial areas that affected people with disabilities. The 2012 Pacific Leaders Gender Equality Declaration noted Pacific Leaders' concerns about violence against women, the slow progress in reaching gender equality, and the few economic opportunities for

We embrace good governance, the full observance of democratic values, the rule of law, the defence and promotion of all human rights, gender equality and commitment to just societies.

We support full inclusivity, equity, equality for all people of the Pacific.

Framework for Pacific Regionalism July 2014

9 <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>

10 Introduced legislations addressing this issue includes Fiji's Crimes Decree 2009; Cook Islands' Crimes Amendment Act 2003; Kiribati's Measures to Combat Terrorism and Transnational Organised Crime Act 2005; Tonga's Transnational Crimes Act 2006; Tuvalu's Counter Terrorism and Transnational Organised Crimes Act 2009; Vanuatu's Counter Terrorism and Transnational Organised Crimes Act, Cap 313.

11 Biketawa Declaration, <http://www.forumsec.org/resources/uploads/attachments/documents/Biketawa%20Declaration,%2028%20October%202002.pdf>

12 <http://www.forumsec.org/resources/uploads/attachments/documents/Pacific%20Regional%20Strategy%20on%20Disability.pdf>



women despite considerable progress¹³ by Pacific states since the endorsement of the Gender Equality Declaration.¹⁴ Through this Gender Equality Declaration, Pacific Leaders reinvigorated their commitment to lift the status of women in the Pacific and committed to five key areas: 1) gender responsive government policies and programmes, 2) improving women’s participation in decision-making, 3) economic empowerment, 4) ending violence against women, and 5) improving health and education outcomes for women and girls.

Domestic laws and human rights

PICs are making tremendous efforts to align their national legislations with international human rights standards. All PICs have varying protections within the Bill of Rights provisions of their national constitution. Parties to the Denarau Declaration have affirmed their commitment to adopting a human rights approach to domestic legislation.

Domestication of human rights

As MPs, we commit ourselves to explore and promote the integration of principles of human rights; participation; empowerment; non-discrimination and accountability into parliamentary systems; and to apply a human rights lens to the formulation of new legislation, review of existing legislation and allocation of adequate financial resources for sustainable implementation.

Denarau Declaration 2015

The past few years have seen an increase in the adoption of domestic legislation protecting various human rights in PICs, which are aligned with international standards. Between 2009 and 2015, nine Pacific states¹⁵ passed new family protection and domestic violence legislations that provided for stronger protection for women and children from domestic violence. These landmark laws are modelled to international best practices legislations and incorporate both CEDAW and CRC principles. Other legislations that have human rights components include the Federated States of Micronesia’s Trafficking in Persons Act of 2012, which provides protection for victims of trafficking; Kiribati’s Children, Young Persons and Family Welfare Act 2013 and Education Act 2013, both of which provide free primary education; and the Marshall Islands’ Public School System Act 2013, the Child Rights Act, Rights of Person with Disability Act, and the Human Rights Committee Act 2015. Nauru enacted multiple legislations, including the Adoption (amended) Act 2015, Naoero Citizenship (Amendment) Act 2015, Refugee Act 2012, Asylum Seekers (Regional Processing Centre) Act 2012, the Education (amended) Act 2015 and Child Protection Act 2016. Papua New Guinea created the LukautimPikinini Act 2015 and the Juvenile Act 2015. Fiji adopted a new constitution with a comprehensive bill of rights, while Solomon Islands continues its federal constitutional review process.

Regional organisations and United Nations (UN) partners are working to support PICs in enacting domestic laws that reflect and protect international standards, and taking measures in building strong human rights mechanisms and protection systems at the legal and policy level. In January 2015, the Regional Rights Resource Team (RRRT) of the Pacific Community (SPC) organised the Pacific Consultation for Regional Members of Parliament (MPs), which brought together MPs from Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, Samoa, Solomon Islands, Tuvalu, Tonga and Vanuatu to discuss the importance of protecting human rights in the Pacific. During this consultation, MPs signed the Denarau Declaration, which solidified their promise to carry out efforts to enhance human rights, including the domestication of ratified treaties and endorsing the submission of treaty reports in compliance with state reporting obligations.¹⁶

13 <http://www.forumsec.org/pages.cfm/strategic-partnerships-coordination/gender/pacific-leaders-gender-equality-declaration-endorsed-30th-august-2012-reaffirmed-10th-september-2015.html>

14 <http://www.spc.int/rrrt/publications-media/publications/item/703-pacific-mdgs-tracking-report>

15 Vanuatu Family Protection Act 2009; Fiji Domestic Violence Decree 2009; Marshall Islands Domestic Violence Prevention and Protection Act 2011; Palau Family Protection Act 2012; Samoa Family Safety Act 2013; Kiribati Te Rau n Te Mweenga Act 2013; Tonga Family Protection Act 2013; Solomon Islands Family Protection Act 2014; Kosrae State Family Protection Act 2014.

16 Denarau Declaration. Available from: < <http://www.spc.int/rrrt/publications-media/publications/item/599-denarau-2015-declaration-on-human-rights-and-good-governance> > [Accessed: 10 February 2016]

MEMBERS OF PARLIAMENT DENARAU 2015 DECLARATION ON HUMAN RIGHTS AND GOOD GOVERNANCE

We, Members of Parliament (MPs) from Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, Samoa, Solomon Islands, Tuvalu, Tonga, and Vanuatu, attending the Pacific Consultation for Regional MPs organised by the Pacific Regional Rights Resource Team (RRRT) of the Secretariat of the Pacific Community (SPC) at Denarau, Fiji from 28-30 January 2015, recognise the vital role of Parliament and parliamentarians to respect, fulfil, protect and promote the inherent rights of all people in the Pacific.

We uphold our Pacific culture and traditions, noting that human rights and good governance can be achieved when we embrace our culture, engage its evolution and its many values that are linked to principles, treaties and conventions of human rights. We seek to labour within these values for the benefit of all our people.

As MPs, we embrace the opportunity to draw upon, and localise to our context and cultures, the international human rights treaties, conventions and laws which serve as tools for policy, legislative and normative change to enhance good governance and the realisation of human rights for all Pacific peoples.

We note the progressive steps taken by Pacific governments in the ratification of core human rights treaties, inclusive of Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD).

We acknowledge and assent to our roles as MPs to champion and guide domestication of ratified treaties, and submit treaty reports in compliance with our State reporting obligations.

The Universal Periodic Review (UPR)

We recognise and applaud Pacific Island governments for their engagement in the UPR process, noting that all Pacific Island governments have completed a first cycle of the UPR, and are preparing for the second cycle. We note the importance of implementing accepted recommendations.

The International Criminal Court and the Rome Statute

We note that the most serious human rights violations including genocide, crimes against humanity, war crimes and crimes of aggression are crimes against the international order, and that it is important that our domestic legislations reflects our States' concerns on these areas either by way of ratification of the Rome Statute and/or the creation of enabling legislation to address these grave violations.

Domestication of Human Rights

As MPs, we commit ourselves to explore and promote the integration of principles of human rights; participation; empowerment; non-discrimination and accountability into parliamentary systems; and to apply a human rights lens to the formulation of new legislation, review of existing legislation and allocation of adequate financial resources for sustainable implementation.

We affirm the importance of making human rights a reality on the ground, and the obligations of Parliament and MPs to increase awareness, knowledge and understanding of human rights with a view to changing norms and attitudes.

Rights of People with Disabilities

We celebrate the advances made by Pacific governments in CRPD ratification and endorsement of the Pacific Regional Strategy on Disability 2010-2015, together with addressing institutional, legislative and practical discrimination for people with disabilities. We are cognizant that access and involving people with disabilities in the decisions that affect them is an important factor in the realisation of the rights of people with disabilities.

We encourage the ratification of CRPD by all Pacific States and urge States that have ratified CRPD to consider implementation of the treaty in domestic laws and policies, and ensure that CRPD reporting obligations are met.

Women's Rights

We recognise the standing of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and urge our fellow parliamentarians and Governments to act boldly to ensure that women's human rights are realised through laws, policies, social and community norms and values that reject all forms of discrimination.

We note that development outcomes can be better achieved with the full participation of women in political, social, cultural and economic spheres; and are challenged to create further opportunities to increase the participation and voice of women in local and national governance.

Children's Rights

We note with concern the alarming data on violence against children perpetrated in the family and community. We recognize the generational cycle of violence and contributing factors such as alcohol, economic hardship and family stress.

All Pacific states have ratified the CRC. The urgent task before us is to translate the CRC into domestic law and norms that guarantee protection for children.

Emerging Human Rights Issues: Climate Change & NCDs

Noting climate change is a real and immediate threat to human and cultural rights, and to the future existence of Pacific people, we affirm our commitment to working collaboratively across sectors of government/society, and to be effective at the local, national and international levels.

Non Communicable Diseases (NCDs) are a crisis in the Pacific and warrant a whole-of-government approach to arrest the unfolding epidemic. We urge Parliaments to develop conducive legislation, policies and practices that address key NCDs behavioural risk factors – harmful use of alcohol, unhealthy diet, physical inactivity and tobacco use.

National MPs Consultations

As MPs from Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, Samoa, Solomon Islands, Tuvalu, Tonga, and Vanuatu, we recognize the value of this Consultation in looking at opportunities and challenges on human rights and good governance; and implore regional partners to continue working with our Governments and civil society to advance work on human rights and good governance.

We call upon SPC RRRT to build upon the success of this Regional Consultation with further MP consultations at the national level to progress human rights, good governance and sustainable development.

Signed by
Members of Parliament
at the Consultation for
Human Rights and
Good Governance,
Denarau, Fiji
on 30 January 2015.



Fig: Hon. Satire Raduodro, Hon. Moese Bulikau, Hon. Biny Lili, Hon. Alivereti Nabulivoi | Kiribati: Hon. Dr. Marco Tofiga, Hon. Sir Ieremia Tabai | Marshall Is: Hon. Dennis Monotaro, Hon. Carlos Lucky | Nauru: Hon. Charmaine Scotty, Hon. Riddell Akau Nazei, Hon. Fisa Piliga | Palau: Hon. Noah Kemong | Samoa: Hon. Talia Kibelele Talia | Solomon Is: Hon. Simon Foa, Tanavaka, Hon. Ishmael Muli Akai | Tonga: Hon. Matoni Tapuvaha | Tuvalu: Hon. Dinoko Taloimalele Tasi, Hon. Mealia Tofoa | Vanuatu: Hon. Alfred Masih



See it here:
<http://rrrt.spc.int/publications-media/publications/item/599-denarau-2015-declaration-on-human-rights-and-good-governance>

The Denarau Declaration encourages lawmakers to establish the necessary legal frameworks for the protection and realisation of human rights. Lawmakers have both an obligation to legislate on measures that protect, promote and advance human rights as well as increase government accountability. Many activities in the region center on working with parliaments to strengthen their ability to defend human rights and take legislative measures to create strong human rights protection systems in their countries.

Other pronouncements¹⁷ by eminent Pacific judges or leaders include the Denarau Declaration on Gender Equality (1997); the Pacific Islands Judges Declaration on Gender Equality in the Courts (1997); the Tanoa Declaration on Human Rights in the Law (1999); and the Regional Lawyers Outcome Document 2014.¹⁸

17 See Pacific Human Rights Law Digest, volume 1, SPC RRRT, Suva, Fiji

18 <http://www.spc.int/rrrt/publications-media/publications/item/582-outcomes-document>

Judicial systems and administrations of justice

Strong and effective legal systems, institutions and structures are instrumental in ensuring accountability, addressing impunity and providing remedies for victims of human rights violations. All PICs have functioning judicial and administrative justice systems. Legal and judicial systems in the region are mostly modelled after the British judicial system with the exception of the North Pacific countries, which are modelled after the United States (US) judicial system. Each country has its own unique system that complies with traditional legal customs and addresses the country's legal needs. All PIC constitutions guarantee the independence of the judiciary; Fiji's Constitution (2013), for example, states that: 'The courts and all judicial officers are independent of the legislative and executive branches of government, and are subject only to this Constitution and the law, which they must apply without fear, favour or prejudice.'¹⁹ Constitutional or legislative independence of the judiciary guarantees the process of appointment of judicial officers, their security of tenure, and the defined jurisdictions in which they operate under. The application of these constitutional standards, however, varies in each country. Some constitutions and laws allow for the selection and management of senior judicial officials by the executive branch without any checks or balances from other branches, especially the legislature. In some countries, the constitution creates legal committees exclusively headed by cabinet members to decide on personnel issues and procedures for judges. In Tuvalu, the Chief Justice is appointed by the head of state, acting in accordance with the advice of the Cabinet 'for such period as is specified in the instrument of his appointment'. In Kiribati, the Chief Justice and the judges of the High Court are appointed by the President 'acting in accordance with the advice of the Cabinet tendered after consultation with the Public Service Commission'. In Vanuatu, the constitution states that the judiciary is only subject to the constitution and the law. The Chief Justice is also appointed by the President in close consultation with the Judicial Service Commission, the Chairperson who is the Minister of Justice at the time. In countries such as the Federated States of Micronesia, however, the constitution makes a compromise in that it allows the President to appoint high-ranking judges with

two-thirds approval from congress.²⁰ It also stipulates that all matters relating to judicial officials be dealt with 'in conjunction with congress', leading the way and setting standards for the independence of the judiciary and separation of powers.

Recently, concerns have been raised on the issue of judicial independence in Fiji, Nauru²¹ and Papua New Guinea, with requests made by the Special Rapporteur on the independence of judges and lawyers to visit Fiji.²² Concerns in other PICs include the backlog of cases, lack of resources and staff, and judicial officers remaining an impediment to the access to justice. A recent report by the Pacific Judicial Development Program, however, notes that vast improvements have been seen in the administration of justice across PICs.²³

The penal codes of most countries in the region have measures to ensure fair and uncompromised application of legal processes. In the Cook Islands, for example, the Crimes Act of 1969 declares that acts affecting the administration of law and justice, including bribery, corruption and misleading justice, are an offence.²⁴ In Tuvalu, Part 12 of the penal code makes certain acts relating to the administration of justice, including conspiracy to defeat justice, destroying evidence and deceiving witnesses, illegal. Other measures by governments include, for example, Tonga's judicial system, which allows for public participation in the administration of justice, including trial by jury.²⁵ Pacific judiciaries have been progressive in advancing human rights principles and standards in their courts. Traditional approaches to the use of international law in domestic courts hold that it must first be enacted in domestic law. Cook Islands, Solomon Islands and Kiribati appear to follow the doctrine of non-enforceability; Tonga and Tuvalu do so to a lesser extent.²⁶

19 Constitution of Fiji Chapter 5, Section 97(2). Available at: < <http://www.paclii.org/fj/Fiji-Constitution-English-2013.pdf>> [Accessed: 26 November 2015]

20 FSM Constitution, Article 11 Section. Available at: <http://fsm.supremecourt.org/fsm/constitution/article11.htm> [Accessed: 20 November 2015]

21 United Nations compilation to the UPR for Nauru. Available at: http://www.upr-info.org/sites/default/files/document/nauru/session_23_-_november_2015/unct_pacific_region_upr23_nru_e_main_rev.pdf

22 <http://www.ohchr.org/EN/Issues/Judiciary/Pages/Visits.aspx>

23 Pacific Judicial Development Program 2010-2015 Completion report; June 2015, http://www.fedcourt.gov.au/__data/assets/pdf_file/0004/27967/Programme-Completion-Report.pdf

24 Full act available at: <<https://www.google.com/search?q=cook+island+constitution&ie=&oe=#q=cook+island+administration+of+justice+offences>>. [Accessed: 15 December 2015]

25 Pacific Islands Legal Information Institute. Available at: <http://www.paclii.org/journals/fjSPL/vol13no1/pdf/kautoke.pdf>. [Accessed: 15 December 2015]

26 Pacific Human Rights Law Digest, Volume 1; 2005; <http://www.spc.int/rrrt/publications-media/publications/item/63-pacific-human-rights-law-digest-vol-1>



Samoa has been at the forefront of applying international conventions to national law,²⁷ while Fiji has not hesitated to use human rights treaties in 'innovative and creative ways'.²⁸ The 1997 Pacific Island Judges Declaration on Gender Equality states that:

Judges recognised that many opportunities exist for judges to draw on CEDAW and CRC and other international human rights instruments so as to interpret and apply creatively constitutional provisions, legislation, common law and customary law. No law, custom, tradition, culture or religious consideration should be invoked to excuse discrimination against women.²⁹

RRRT has produced five Pacific Human Rights Law Digests that capture the evolving human rights jurisprudences by Pacific courts, especially as they use and apply human rights treaties in their decisions. In *Minister of State for Immigration and Ethnic Affairs v Teoh*, the Australian High Court (decision often referred to by Pacific courts with persuasion) stressed that:

...ratification of a convention is a positive statement by the executive government of this country to the world and to the Australian people that the Executive government and its agencies will act in accordance with the Convention. That positive statement is an adequate foundation for a legitimate expectation, absent statutory or Executive indications to the contrary, that administrative decision makers will act in conformity with the convention...³⁰

In considering human rights conventions and international standards, Pacific courts have moved beyond the question of whether or not a convention has been ratified. The focus now is more on the nature of the right being considered and how it might be applied to local circumstances.³¹

Access to justice and the right to remedy

There are very few studies in the Pacific region that outline the situation of access to justice and provide updated information on legal needs and services to the vulnerable. However, the Pacific Judicial Development Program³² continues to address issues pertaining to access to justice generally. Other studies include examining children's access to justice.³³ Studies conducted in the past have shed light on some of the challenges, including the physical inaccessibility of courts for those living in remote islands, the level of experience of adjudicators, and the reliance on foreign expertise. Some other challenges include gaps in law enforcement in legal and administrative procedures, deficiencies in the prosecution system, lack of administrative capacity, and the lack of an ombudsman or human rights institutions in most countries.³⁴ A recent study in Solomon Islands found that 'the majority of Solomon Islanders do not have access to effective (state or non-state) justice systems to mediate or resolve disputes'.³⁵ Some efforts to address this problem have been made through the Justice Delivered Locally Initiative by the Ministry of Justice and the World Bank, which strives to gather information and conduct analyses on local justice and dispute resolution mechanisms through qualitative field work³⁶ and the UN Women's Advancing Gender Justice Programme.³⁷ The Pacific Judicial Development Program has also designed various strategies and interventions to strengthen judicial responses to access to justice.³⁸

27 Ibid at p. 13

28 Ibid at p. 12

29 Ibid at p. 10–11

30 Ibid at p. 88

31 Pacific Human Rights Law Digest, volume 5, <http://www.spc.int/rrrt/publications-media/publications/item/633-pacific-human-rights-law-digest-vol-5>

32 http://www.fedcourt.gov.au/_data/assets/pdf_file/0004/27967/Programme-Completion-Report.pdf

33 See, for best example, the Complete Access to Justice for Children Country Reports compiled and published by the Child Rights International Network at <https://www.crin.org/en/home/law/access>

34 Don Paterson, Legal Challenges for Small Jurisdictions in Relation to Privacy, Freedom of Information and Access to Justice (2000) 4 Journal of South Pacific Law. Available at: <http://www.paclii.org/cgi-bin/sinodisp/journals/J SPL/2000/13.html?stem=&synonyms=&query=access%20and%20to%20and%20justice>. [Accessed: 20 November 2015]

35 Justice for the Poor. World Bank. Available at: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPIC/EXTLAWJUSTICE/EXTJUSFORPOOR/0,,contentMDK:23051769~menuPK:7914193~pagePK:148956~piPK:216618~theSitePK:3282787,00.html>. [Accessed: 27 November 2015]

36 Ibid

37 Advancing Gender Justice In the Pacific Program; UN Women, Pacific House, Suva http://www2.unwomen.org/~media/field%20office%20eseasia/docs/publications/2014/6/agjp_brief_june%202014.ashx?v=1&d=20141202T120256

38 <http://www.fedcourt.gov.au/pjdp/pjdp-toolkits/Access-To-Justice-Toolkit-v2.pdf>



In the Marshall Islands, the judiciary is trying to make use of communication technology such as Skype to enhance people's access to legal and court services. In the Cook Islands, there are efforts to improve access for the most vulnerable, especially women and victims of domestic violence. The Cook Islands' women's counselling center, known as Punanga Tauturu Inc, has launched a pilot programme that has been providing free legal advice to women since March 2015.³⁹ In Fiji, the law guarantees the rights of persons with limited financial means to receive *pro bono* legal advice from the Legal Aid Commission.⁴⁰ There are also several efforts to improve access to justice in Fiji.⁴¹ In Kiribati and Tuvalu, the Peoples' Lawyer provides free legal advice for people who are at a financial disadvantage or who are unable to access private legal representation. The Federated States of Micronesia, Marshall Islands and Palau have free legal services provided by the Micronesian Legal Services Corporation. In Niue, the government welcomes visiting legal teams from New Zealand that set up *pro bono* services for locals, and provide training for local lawyers and judicial staff to improve access to justice.⁴² Other countries such as Samoa have integrated access to justice in their justice sector plans and are dedicating both human and financial resources to improving services for those who are marginalised.⁴³

Human rights institutions

National human rights institutions (NHRIs) are crucial for strengthening human rights. They should be seen as an indispensable element of national human rights protection systems (NHRPS) because they are involved in strengthening all other elements of the NHRPS and provide crucial oversight of state organs. The three main types of NHRIs are:

- *national human rights commissions,*
- *ombudsmen, and*
- *specialised institutions.*

Strengthening the Human Rights Protection Systems
<http://www.globalequality.org/storage/documents/pdf/manual%20nhrps-web.pdf>

... the enforcement of human rights ultimately depends upon the proper administration of justice, an independent, competent and impartial justice system is paramount if it is to uphold the rule of law...

Gabriella Knaul, UN Special Rapporteur on the independence of judges and lawyers, Annual Report to the Human Rights Council, 2014

National human rights institutions (NHRIs) are state-funded and created bodies established for the purpose of protecting, monitoring and raising awareness of human rights in a country. NHRIs take many forms and functions. Samoa and Fiji have established NHRIs while Vanuatu, Papua New Guinea, Solomon Islands, Tuvalu and the Cook Islands have an Ombudsman Office that (may) have some human rights mandates. To meet international standards, NHRIs must comply with the Paris Principles. Australia and New Zealand and Samoa are the only Paris Principles-compliant NHRIs in the Pacific. Fiji needs to apply to the Global Alliance of National Human Rights Institutions (formerly the ICC) for accreditation. Fiji withdrew its membership from the International Coordinating Committee on National Institutions for the Promotion and Protection of Human Rights⁴⁴ in 2010. In 2013, Fiji re-established the Human Rights Commission and extended its functions to include antidiscrimination. Human Rights Commissioners were appointed by government in May 2015. During Fiji's UPR process, several recommendations were made to strengthen the Human Rights Commission's role and align it with the Paris Principles.⁴⁵ In Samoa, the Office of the

39 Cook Island News. Available at: <<http://www.cookislandsnews.com/item/51975-free-legal-advice-for-women/51975-free-legal-advice-for-women>>. [Accessed: 2 December 2015]

40 Legal Aid Act of 1996 and its 2009 Amendment. Available at: <[http://www.fiji.gov.fj/getattachment/a194bd3e-c546-4d7a-826f-7a9401c12ce9/Decree19_Legal-Aid-\(Amendment\)-Decree-2009.aspx](http://www.fiji.gov.fj/getattachment/a194bd3e-c546-4d7a-826f-7a9401c12ce9/Decree19_Legal-Aid-(Amendment)-Decree-2009.aspx)> [Accessed: 23 December 2015].

41 Project by international partners and the Ministry of Women, Children, and Poverty Alleviation. The project REACH aims to improve access to justice for groups including women, children, youth, minorities, and those living in rural and remote areas. Better Access to Justice and Services for People in Fiji, UNDP. Available at: <http://www.undp.org/content/undp/en/home/presscenter/pressreleases/2015/04/20/better-access-to-justice-and-services-for-people-of-fiji.html>. [Accessed: 3 December 2015]

42 Bringing Justice to Niue. Craig Sisterson. Available at: <https://www.lawsociety.org.nz/law-society-services/law-society-branches/canterbury-westland/canterbury-ales/Canterbury-Tales-June14.pdf>. [Accessed: 3 December 2015]

43 Samoa Law and Justice Sector Plan 2012–2016. Available at: http://www.samoaljs.ws/english/index.php?option=com_content&view=article&id=103:samoa-law-and-justice-sector-plan-2012-2016&catid=57:articles-1. [Accessed: 6 November 2015]

44 http://www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf

45 Recommendations by countries including Israel, Slovenia, and Australia during Fiji's 2nd UPR process.



Ombudsman was established in 2013 as the country's official NHRI. Samoa's NHRI launched the 2015 State of Human Rights in Samoa, which is a comprehensive report that identifies gaps in human rights protection and provides tangible recommendations for improvement.⁴⁶ In July 2016, Tuvalu invited SPC RRRT and the Asia Pacific Forum for National Human Rights Institution to conduct a scoping study for the feasibility of establishing an NHRI⁴⁷. Samoa, Nauru, Solomon Islands and Vanuatu have all conducted a similar scoping study. Other countries in the region are making efforts to create national coordination bodies (although they are not NHRIs *per se*) in order to streamline reporting and related human rights functions and responsibilities of the state. These include Kiribati, which established its Human Rights Task Force in 2014 by a cabinet decision; Palau established the Human Rights Committee by Presidential Executive Order 368; Vanuatu created a human rights committee; and Papua New Guinea's process is ongoing. Other PICs have *ad hoc* bodies created to look at specific treaties that the country has ratified. Further, most PICs have offices or desks under respective departments that have a human rights mandate; however, much work is still needed in PICs to establish NHRIs that are compliant with the Paris Principles. All PICs have accepted recommendations at their respective UPR to consider establishing Paris Principles-compliant NHRIs.

Regional Human Rights Mechanisms

The Pacific region is the only region in the world that does not have a regional human rights mechanism. Regional systems exist in Africa, Europe, the Americas, Southeast Asia and the Arab States. 'Regional human rights systems, consisting of regional instruments and mechanisms, play an important role in the promotion and protection of human rights. Regional human rights instruments (e.g. treaties, conventions, declarations) help to localise international human rights norms and standards, reflecting the particular human rights concerns of the region. Regional human rights mechanisms (e.g. commissions, special rapporteurs, courts) then help to implement these instruments on the ground.⁴⁸ The Pacific has explored options for a regional human rights mechanism and this will continue to be strengthened in the future through the Pacific Community, the Pacific Islands Forum Secretariat and the United Nations system working in consultation with Pacific governments. The 'Pathways for

the Pacific: Regional Human Rights Mechanisms' discussion paper noted that, 'regional systems are encouraged as they are a means of reinforcing and protecting universal human rights standards.'⁴⁹ The argument for a regional human rights mechanism is strengthened by the need for stronger regional jurisprudence on human rights given:

- 1) the steady increase in the number of ratifications of core human rights treaties and the reporting to treaty committees;
- 2) the successful completion of two rounds of the UPR by all UN members of the Pacific Islands Forum Secretariat;
- 3) the increasing use of human rights standards in judgements by Pacific courts; and
- 4) the increasing number of human rights-based Pacific non-governmental organisations that constantly lobby and advocate for stronger human rights protection and observation by Pacific states.⁵⁰

Human rights defenders and civil society

Civil society organisations and human rights defenders in PICs continue to face many challenges, including access to information and support, isolation, and the provision of 'safe spaces' to discuss human rights issues. Other challenges include the absence of both national and regional human rights mechanisms, and financial uncertainties and changes in donor funding and policies. Some PIC governments do not coordinate with civil society organisations on human rights initiatives. Efforts are underway to strengthen the network of human rights defenders in the region, specifically women's human rights defenders, by providing trainings and capacity building on key human rights issues and information on accessing international mechanisms. In addition, the Pacific region has a network of human rights defenders (HRDs) — the Pacific Islands Human Rights Defenders Network — that brings together HRDs from around the region and provides them with the opportunity to network and collaborate. It is a forum for the exchange of information on human rights issues, and HRDs receive training on identifying funding opportunities, and lobbying on human rights issues. A similar forum exists for Pacific lawyers (the Human Rights Lawyers Network).⁵¹

46 http://www.ombudsman.gov.ws/images/20150806_stateofhumanrightsreport_english.compressed.pdf

47 <http://www.spc.int/en/media-releases/2557-pacific-community-partners-with-tuvalu-to-strengthen-human-rights.html>

48 Office of the High Commissioner for Human Rights, <http://bangkok.ohchr.org/programme/regional-systems.aspx>

49 <http://rrrt.spc.int/publications-media/publications/item/379-pathways-for-the-pacific-regional-human-rights-mechanisms>

50 Ibid p. 23

51 <http://www.spc.int/rrrt/law-resources/pilhrn-lawyers-network>



Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 1 of the Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

Centrality of the Human Rights Based Approach

The regional civil society forum recognised and agreed that a Human Rights Based Approach should be adopted and integrated into all national and regional processes on all development, human rights, social justice, monetary, financial, and trade policy in the Pacific region. The human rights based approach seeks to analyze inequalities that lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress. Here, human rights determine the relationship between individuals and groups with valid claims, the rights-holders and State and non-state actors with correlative obligations and as duty-bearers. In a rights-based approach, every human being is recognized both as a person and as a right-holder and there are mechanisms included to ensure that entitlements are attained and safeguarded.

Joint Pacific Islands Forum Secretariat-Pacific Community Regional Civil Society Organisation Dialogue — 2014 Outcomes Statement

<http://pacificyouthcouncil.com/?p=819>

We further reaffirm the call of young people and CSOs to be seen as equal and prominent partners contributing to the development of the region. We also acknowledge the importance of a multistakeholder approach to youth development, as well as the need for enabling frameworks and crosssectorial youth policies, creating mechanisms for genuine and meaningful engagement in policy and decision-making, and a clear recognition from governments of the value and role of young people in all development.

Pacific Youth Call to Action on Human Rights 2014; Our Voice, Our Rights, our lives

http://pacificyouthcouncil.com/wp-content/uploads/2014/07/Pacific_Youth_Call_To_Action_on_Human_Rights_2014.pdf

Human rights policies

There are two types of policies that contribute directly to the advancement of comprehensive human rights: National Action Plans⁵² and Human Rights Education Plans.⁵³ PICs to date have enacted numerous policies aimed at advancing the protection of certain rights although no country has developed a comprehensive national human rights action policy aimed at advancing the human rights system as a whole. The lack of a clear human rights policy contributes to a lack of coordination and cohesiveness in formulating human rights action plans, especially around reporting and the implementation of recommendations from the treaty bodies among others. Drafting and implementing both types of policies at the national level is crucial to addressing gaps in the human rights protection system. While governments in the region have integrated different aspects of human rights principles in their national policies relating to education, health and social issues, much work needs to be done to adopt comprehensive human rights policies at the national and regional level. The Fiji National Action Plan for Human Rights Education 2003–2005 (now outdated) is one such policy example for advancing human rights in a comprehensive manner.⁵⁴ It established a committee for conducting a baseline study to identify both vulnerable populations and gaps in the implementation of human rights in Fiji and to develop measures to address these gaps.

Other policies and agendas advancing particular rights on a regional level include The Pacific Sexual Health and Well-Being Shared Agenda (2015–2019), which provides guidance and strategic direction to strengthen the sexual health response in the Pacific region. It was endorsed by ministers of health in 22 Pacific Island countries and territories at the Pacific Health Ministers Meeting held in Honiara, Solomon Islands on 10 July 2014.⁵⁵ The Asian and Pacific Ministerial

Declaration on Population and Development (an outcome document of the Sixth Asian and Pacific Population Conference) set the population and development agenda and policy for the region over the next decade. It ensures that the people in the region have access to strong healthcare systems, including sexual and reproductive health services, protection of the rights of women and girls, and a path to ending violence and discrimination. In 2016, Tuvalu became the first Pacific country to request technical assistance from SPC RRRT to assist them in the formulation of a national action plan for human rights.

Women, children, and persons with disabilities

Women's rights

Almost all countries in the region (except Tonga and Palau) have ratified CEDAW. Discrimination against women and gender inequality are regarded as the most prevalent and pressing social issue in the Pacific although significant gains have been made in the last two decades.⁵⁶ Violence against women specifically is the most pervasive and direct manifestation of women's disempowerment. Baseline studies for Fiji, Kiribati, Papua New Guinea, Solomon Islands and Vanuatu reveal that over 60% of women in those countries have experienced physical and/or sexual violence. These rates of violence against women are among the highest in the world.⁵⁷

While there are efforts in the region to enact domestic laws for the protection of women against violence and harm, there are societal elements that hinder women's development. According to one report: 'Harmful gender stereotypes continue to define what a woman "should" do and be, rather than recognising their individual rights as a human being. These stereotypes inform and reinforce formal and informal restrictions on women's active participation and involvement in all aspects of public and private life – from decision-making in the home to political representation, from having access to their earnings to

52 A National Action Plan enables a state to approach human rights in a comprehensive manner and should be seen as a coordinating document that aims to address different gaps in the overall National Human Rights Protection System simultaneously. 'Strengthening Human Rights Protection Systems', <http://www.globalequality.org/storage/documents/pdf/manual%20nrhps-web.pdf>

53 Strengthening Human Rights Protection Systems: Manual for European Union embassies, <http://www.globalequality.org/storage/documents/pdf/manual%20nrhps-web.pdf>

54 See full policy at <http://ohchr.tind.io/record/5709?ln=en>

55 Toolkit for Sexual Reproductive Health and Rights in the Pacific, Pacific Community, Regional Rights Resource Team. Available from: <http://www.spc.int/rrrt/publications-media/publications/item/619-awareness-analysis-action-sexual-reproductive-health-and-rights-in-the-pacific>

56 Supplement to Law for Pacific Women, A Legal Rights Handbook, 2013, Secretariat of the Pacific Community, Regional Rights Resource Team, Suva

57 Pacific Islands Forum Secretariat Millennium Development Goals Tracking Report: <http://www.spc.int/rrrt/publications-media/publications/item/703-pacific-mdgs-tracking-report>



WORLD CLASSIFICATION					
Rank	Country	Upper House or Senate			
		Elections	Seats*	Women	% W
31	New Zealand	---	---	---	---
45	Australia	9 2013	76	29	38.2%
91	Fiji	---	---	---	---
124	Kiribati	---	---	---	---
129	Tuvalu	---	---	---	---
131	Samoa	---	---	---	---
134	Nauru	---	---	---	---
138	Marshall Islands	---	---	---	---
139	Papua New Guinea	---	---	---	---
140	Solomon Islands	---	---	---	---
143	Micronesia (Federated States of)	---	---	---	---
*	Palau	11 2012	13	3	23.1%
*	Tonga	---	---	---	---
*	Vanuatu	---	---	---	---

WORLD CLASSIFICATION					
Rank	Country	Lower or single House			
		Elections	Seats*	Women	% W
31	New Zealand	9 2014	121	38	31.4%
45	Australia	9 2013	150	40	26.7%
91	Fiji	9 2014	50	8	16.0%
124	Kiribati	10 2011	46	4	8.7%
129	Tuvalu	3 2015	15	1	6.7%
131	Samoa	3 2011	49	3	6.1%
134	Nauru	6 2013	19	1	5.3%
138	Marshall Islands	11 2011	33	1	3.0%
139	Papua New Guinea	6 2012	111	3	2.7%
140	Solomon Islands	11 2014	50	1	2.0%
143	Micronesia (Federated States of)	3 2015	14	0	0.0%
*	Palau	11 2012	16	0	0.0%
*	Tonga	11 2014	26	0	0.0%
*	Vanuatu	10 2012	52	0	0.0%

Table data from Inter-Parliamentary Union on the basis of information provided by National Parliaments by 1st September 2015. Data for Niue and Cook Islands is absent.

owning land and businesses, from feeling safe in public places to being able to trust the formal justice system.⁵⁸ Pacific courts have also taken to imposing sentences that reflects ‘society’s outrage’ to perpetrators of domestic violence as reflected in the Samoan case of *Key v Police*, which also set the tariffs for rape offences in Samoa and see also the Solomon Islands case of *R v Gua*.⁵⁹

According to the SPC National Minimum Development Indicators, the numbers relating to women’s development and political participation remain very low.⁶⁰ The database looks at several indicators, including female completion of tertiary education, female participation in the workforce, and the prevalence of violence against women. It also looks at the number of women in parliaments, which is particularly low.

Several regional policies and actions have been taken to address the gaps facing the advancement of women’s rights in the region, including The Pacific Gender Equality Leaders Declaration (2012).⁶¹ This declaration renewed the commitment of Pacific leaders to lift the status of women in the Pacific and empower them to be active participants in economic, political and social life. Vanuatu became the first PIC to reserve 30–34% of parliamentary seats for women, contesting the municipal elections under an amendment to the Municipal Act in 2013. In 2016, Samoa became the first PIC to elect a woman to parliament⁶² under temporary special measures following a constitutional amendment granting five reserve seats for women, though four of the five women won their seats in the elections proper. Samoa also appointed its first female deputy Prime Minister in March 2016. In its recent elections, the Marshall Islands⁶³ elected its first woman president, the first female head of state in the Pacific, while Fiji elected its first female Opposition leader⁶⁴ and also first female Speaker of the National Parliament.⁶⁵

- More than 60% of women in some Pacific countries have experienced physical or sexual abuse.
- Across the Pacific, men outnumber women in paid employment outside the agricultural sector by approximately two to one.
- Women make up just 4% of parliamentarians in the Pacific (the lowest rate in the world), compared with a global average of around 21%.

From: Pacific Women Shaping Pacific Development 2016

58 UN Women, Fiji Multi-Country Office’s Annual Report for 2014: <http://www2.unwomen.org/~media/field%20office%20eseasia/docs/publications/2015/06/fiji-annual-report-2014.pdf?v=1&d=20150609T040834>

59 Pacific Human Rights Law Digest, Volume 5, 2014, Secretariat of the Pacific Community, Regional Rights Resource Team, Suva, Fiji

60 See database at <http://www.spc.int/nmdi/>

61 Full policy is available at <http://www.forumsec.org/pages.cfm/newsroom/press-statements/2013/2012/forum-leaders-gender-equality-declaration-celebrated.html>. [Accessed: 2 December 2015]

62 Fa’aulusau Rosa Duffy-Stowers secures 5th Parliamentary seat for women in Samoa, PACNEWS, 14 March 2016. <http://www.pina.com.fj/?p=pacnews&m=read&o=68187003556e5e3d01409122641acb>

63 Hilda Heine was the first elected female Pacific leader as President of the Marshall Islands; <http://www.abc.net.au/news/2016-01-27/hilda-heine-elected-first-ever-female-pacific-leader/7118664>

64 <http://www.fijitimes.com/story.aspx?id=281102>

65 Speaker of Parliament, <http://www.parliament.gov.fj/Company/Speaker-of-the-House.aspx>



Children's rights

The CRC is the most ratified international human rights treaty in the world, with all Pacific states having ratified it, although most are struggling with reporting to CRC. There are a number of sustainable efforts in the region to strengthen child protection systems and there is significant improvement in birth registrations rates, domestic protection legislation for children against violence and abuse, and strengthening of health and education services for children.⁶⁶ Some of the main challenges to child protection in the region include violent discipline, sexual abuse, and challenges related to new technology such as cyber safety and online bullying and exploitation.⁶⁷ Free education initiatives have been introduced by some PICs. The United Nations Children's Emergency Fund (UNICEF) – Pacific notes that:

...progress for children in the Pacific is well on track... yet significant challenges remain. We cannot yet claim that all children have equal access to a safe and healthy start to life, nor that all mothers will survive childbirth. This must be a priority. The Cook Islands and Niue are the only two of 14 Pacific Island countries covered by UNICEF Pacific that are projected to achieve all eight Millennium Development Goals by the global deadline of end of 2015. A deficit in even one area of the MDGs has serious implications for children. As just one example, sanitation remains a big risk to children's health, education and development in the Pacific.⁶⁸

When sanitation is compromised, growth stunting is more prevalent, vaccines are less effective, child mortality rates are higher, and children miss more school due to illness. This is why such issues cannot be addressed in isolation; the health and wellbeing of children must be addressed from every angle and at all levels of society.⁶⁹ RRRT works collaboratively with UNICEF on advancing the CRC in the Pacific.

[We have a duty] to all the world's people, especially the most vulnerable, and in particular the children of the world, to whom the future belongs.

The United Nations Millennium Declaration

66 UNICEF Pacific Report 2014-15 Looking Back Moving Forward http://www.unicef.org/pacificislands/Look_Back_Moving_Forward.pdf

67 Ibid

68 Ibid

69 Looking Back, Moving Forward; A snapshot of UNICEF's work for Pacific Children, 2014–2015; http://www.unicef.org/pacificislands/Look_Back_Moving_Forward.pdf

Disability rights

Persons with a disability not only enjoy less human rights than others, they suffer from invisibility within their communities.

Pacific Disability Forum: <http://www.pacificdisability.org/About-Us/Disability-in-the-Pacific.aspx>

More work needs to be done in fulfilling the rights of persons with disabilities in the region. To date, 10 out of the 16 Pacific Islands Forum Secretariat states have ratified the UN Convention on the Rights of Persons with Disabilities, which promises to advance the rights of people with disabilities. According to 2015 statistics, there are more than 16 million persons with disabilities living in PICs.⁷⁰ The many challenges that persons with disabilities in the region face include high poverty rates, limited access to adequate education and health care, and discrimination and disenfranchisement from mainstream social services. According to the Pacific Disabilities Forum, 'persons with disabilities in the Pacific face many entrenched cultural and physical barriers to full participation, as well as exclusion from communities, education and the workplace. A lack of physical accessibility and social attitudes towards disability mean that persons with disability are often left out of community life.'⁷¹ The 2009 Pacific Leaders Communique recognised the need for more attention to be directed towards people with disabilities.

'Leaders reaffirmed the need for more attention to be directed to the region's most disadvantaged group – people with disabilities – who are among the poorest and most vulnerable in the world. People with disabilities face many barriers to full participation in society, and this is no exception in the Pacific.'⁷²

70 United Nations Education and Social Commission for Asia and the Pacific, Disability at a Glance 2015. Strengthening employment prospects for persons with disabilities in Asia and the Pacific, http://www.unescap.org/sites/default/files/SDD%20Disability%20Glance%202015_Final.pdf

71 <http://www.pacificdisability.org/About-Us/Disability-in-the-Pacific.aspx>

72 <http://www.forumsec.org/resources/uploads/attachments/documents/Pacific%20Regional%20Strategy%20on%20Disability.pdf>

Freedom of information

Access to government information remains a challenge for most Pacific Islanders because of the lack of freedom of information (FOI) laws or policies. FOI is not just about free speech or media freedom, but also includes whether the public is able to access government information and services. Many Pacific Islanders struggle with accessing crucial government information such as the national budget or expenditures either because of weak communication infrastructure or due to the bureaucratic process that makes it difficult to readily access such information.⁷³ FOI can contribute to government openness and accountability, and help prevent and combat corruption, thereby enhancing good governance. Yet FOI laws are not enough to achieve such goals, which also depend on broader elements of governance.⁷⁴ In 2004, a gathering of Pacific parliamentarians discussed and recognised that FOI is the cornerstone of democracy, participation and good governance.⁷⁵ Apart from Australia and New Zealand, the Cook Islands became the first Pacific country to enact freedom of information legislation called the Official Information Act 2008, which is based heavily on the New Zealand legislation. The act gives access to the public to government information and will be administered by the Ombudsman's Office.⁷⁶ Tonga launched its Freedom of Information Policy in 2012.⁷⁷ Fiji's⁷⁸ constitution provides for the right to access government information and the creation of an FOI law and the Fiji Parliament is now considering an Information Bill 2016, which the government anticipates to bring about 'increased transparency and accountability in the private and public sector.'⁷⁹ A US State Department

73 See for example, "Court rules on EIA regulations; <http://www.fijitimes.com/story.aspx?id=355152>

74 Freedom of Information, the Right to Know, <http://unesdoc.unesco.org/images/0019/001936/193653e.pdf>

75 Freedom of Information in the Pacific, Report of a CPA/CHRI Regional Workshop, http://www.humanrightsinitiative.org/programs/ai/rti/news/2006/pacific_mps_wkshp_foi_booklet_jan06.pdf [Accessed: April 2016]

76 Cook Islands government, http://www.pmooffice.gov.ck/index.php?option=com_content&view=article&id=14:freedom-of-information-act&catid=1:latest-news&Itemid=18 [Accessed: April 2016]

77 Tongan government, <http://www.mic.gov.to/government/initiatives-freedom-of-information/3879-tonga-launched-its-freedom-of-information-policy> [Accessed: April 2016]

78 United Nations High Commissioner for Human Rights, <http://www.refworld.org/country,,,FJI,,5716126cc,0.html> [Accessed: April 2016]

79 <http://www.parliament.gov.fj/getattachment/Research-Library/Information-Bill-Summary.pdf.aspx>

report notes that there are no FOI laws or policies in Kiribati,⁸⁰ Tuvalu,⁸¹ Vanuatu,⁸² Solomon Islands,⁸³ Samoa,⁸⁴ Papua New Guinea,⁸⁵ Nauru,⁸⁶ Palau⁸⁷ or the Marshall Islands.⁸⁸

Commonwealth freedom of information principles

1. Member countries should be encouraged to regard freedom of information as a legal and enforceable right.
2. There should be a presumption in favour of disclosure and governments should promote a culture of openness.
3. The right of access to information may be subject to limited exemptions but these should be narrowly drawn.
4. Governments should maintain and preserve records.
5. In principle, decisions to refuse access to records and information should be subject to independent review

Source: http://www.humanrightsinitiative.org/programs/ai/rti/news/2006/pacific_mps_wkshp_foi_booklet_jan06.pdf

80 Public Access to Information: No law specifically provides for citizen or media access to government information. The government provided copies of its annual budget documents to the public on request. The poor telecommunications infrastructure also affected the government's ability to respond to requests for information. United Nations High Commission for Human Rights, <http://www.refworld.org/country,,,KIR,,5716124e15,0.html> [Accessed: April 2016]

81 United Nations High Commission for Human Rights, <http://www.refworld.org/country,,,TUV,,571611f111,0.html> [Accessed: April 2016]

82 There are requirements for disclosure if by a civil court process, United Nations High Commission for Human Rights, <http://www.refworld.org/country,,,WSM,,571612159f,0.html> [Accessed: April 2016]

83 United Nations High Commission for Human Rights, <https://freedomhouse.org/report/freedom-press/2014/solomon-islands> [Accessed: April 2016]

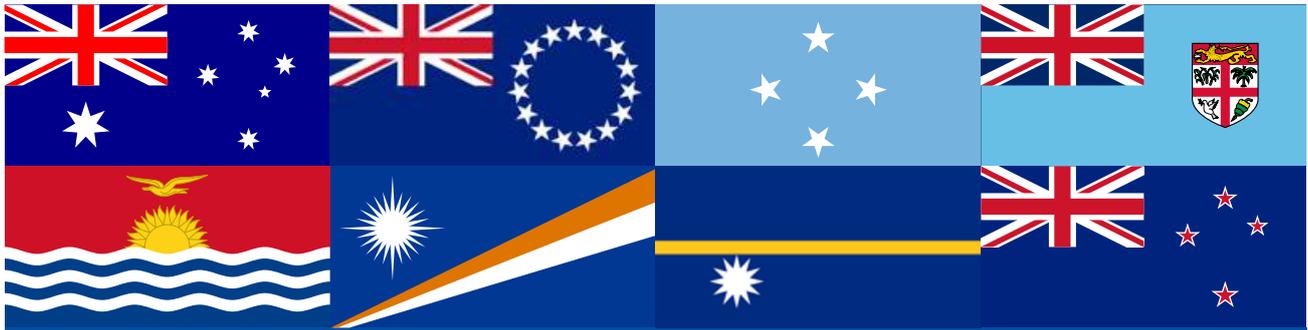
84 United Nations High Commission for Human Rights, <http://www.refworld.org/country,,,WSM,,571612159f,0.html> [Accessed: April 2016]

85 United Nations High Commission for Human Rights, <http://www.refworld.org/country,,,PNG,,5716122411,0.html> [Accessed: April 2016]

86 United Nations High Commission for Human Rights, <http://www.refworld.org/country,,,NRU,,57161230e,0.html> [Accessed: April 2016]

87 The law provides for the right of citizens and noncitizens, including foreign media, to examine government documents and observe official deliberations of any government agency. UNHCR; <http://www.refworld.org/country,,,PLW,,57161226c,0.html> [Accessed: April 2016]

88 United Nations High Commission for Human Rights, <http://www.refworld.org/country,,,MHL,,5716123b6,0.html> [Accessed: April 2016]

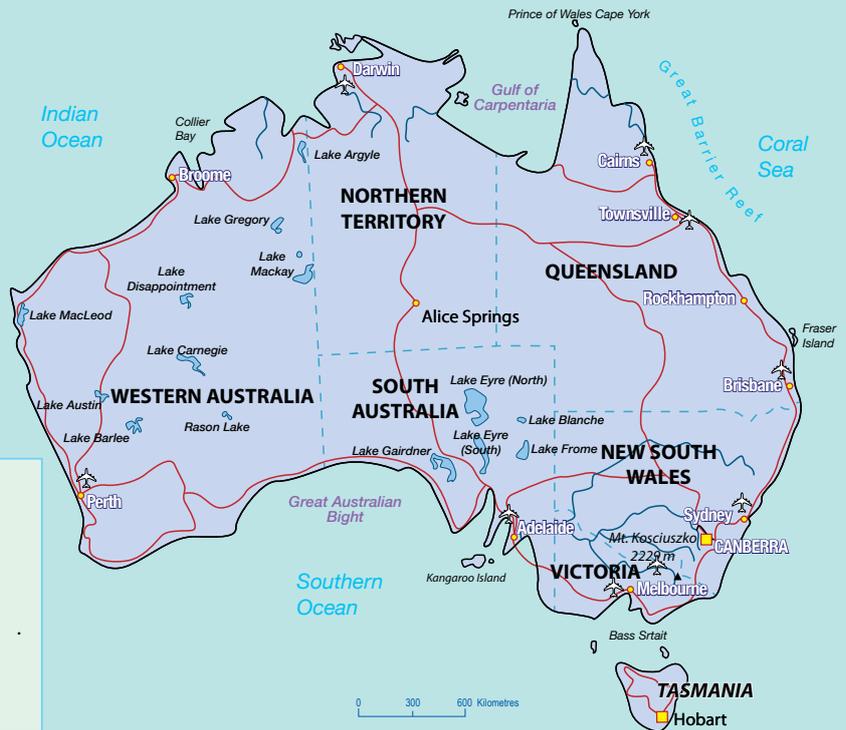
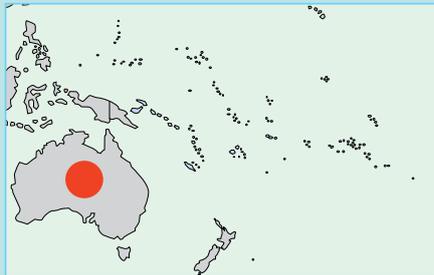


Country Chapters





Australia



Australia



Key facts

Capital	Canberra (390,000) ⁸⁹	Land area: 7.69 million km ² ⁹⁰
Population	23,490,000 million (2014 est.) ⁹¹	Population growth rate: 1.3% (2015) ⁹²
GDP (gross domestic product) per capita	USD 61,925 (2014 est.) ⁹³	GNI per capita (Atlas method): USD 64,600 (2011-2015) ⁹⁴
Type of government	Federal parliamentary democracy with the Queen of England through a Governor-General as the head of state and the Prime Minister as the head of government.	
Electoral system	Proportional representation (Senate); preferential voting (House of Representatives)	
Number of ministers of parliament (MPs) in legislature	Federal Parliament: Senate 76; House of Representatives 150 (40 women) ⁹⁵	
Religions	Catholic: 25.8%, Anglican: 18.7%, Uniting Church: 5.7%, Presbyterian and Reformed: 3%, Eastern Orthodox: 2.7%, other Christian: 7.9%, Buddhist: 2.1%, Muslim: 1.7%, other: 2.4%, unspecified: 11.3%, none: 18.7% (2006 census) ⁹⁶	
Ethnic groups	English: 25.9%, Australian: 25.4%, Irish: 7.5%, Scottish: 6.4%, Italian: 3.3%, German: 3.2%, Chinese: 3.1%, Indian: 1.4%, Greek: 1.4%, Dutch: 1.2%, other 15.8% (includes Australian aboriginal 0.5%), unspecified: 5.4% ⁹⁷	
Languages	English: 76.8%, Mandarin: 1.6%, Italian: 1.4%, Arabic: 1.3%, Greek: 1.2%, Cantonese: 1.2%, Vietnamese: 1.1%, other: 10.4%, unspecified: 5% (2011 est.) ⁹⁸	
Life expectancy at birth (years)	80.1 for men and 84.3 for women ⁹⁹	% of youth aged 15–24: 13.3 (2014) ¹⁰⁰

89 <https://visitcanberra.com.au/visitor-information/canberra-facts-and-figures>

90 Department of Foreign Affairs and Trade, Australia in Brief, Australian Government (June 2008) <http://www.dfat.gov.au/aib/island_continent.html>

91 The World Bank, Data (2014) <<http://data.worldbank.org/country/australia>>

92 <http://www.abs.gov.au/ausstats/abs@nsf/mf/3101.0>

93 Ibid, The World Bank, Data (2014)

94 <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>

95 <http://www.aph.gov.au/house/members/mi-alpha.asp>

96 Ibid, The World Fact Book, Data (2014) <https://www.cia.gov/library/publications/the-world-factbook/>

97 Ibid

98 Ibid

99 <http://www.aihw.gov.au/deaths/life-expectancy/>

100 The World Fact Book, <https://www.cia.gov/library/publications/the-world-factbook/>



International treaty ratification and reporting obligations

Treaty	Date of signature (S)/ ratification (R) ¹⁰¹	Reservations	Latest report submitted	Reporting status as of March 2016
ICCPR	(R) 13 August 1980	Art. 10(2)(a),(b) and (3); Art 14 para 6: Art. 20 ¹⁰²	2009	6 th periodic report overdue since 1 April 2013
ICESCR	(R) 10 December 1975		1 February 2016	5 th periodic report submitted on 1 February 2016
CEDAW	(R) 28 July 1983	Article 11(2)	9 March 2009	8 th periodic report overdue since 1 July 2014
CRC	(R) 17 December 1990	Article 37(c)	3rd report 25 June 2009	5 th and 6 th report due on 15 Jan 2018
CERD	(R) 30 September 1975	Art 4(a)	8 January 2010	Combined 18 th and 19 th periodic reports overdue since 30 October 2012
CAT	(R) 8 August 1989		2014	6 th periodic report due on 28 Nov 2018
CRPD	(R) 17 July 2008		Initial report 3 December 2010	Combined 2 th and 3 rd reports due on 17 August 2018
OP-ICCPR	(R) 25 September 1991		N/A	
OP-ICCPR -2	(R) 2 October 1990		N/A	
OP-CEDAW	(R) 4 December 2008		N/A	
CRC-OP-AC	(R) 26 September 2006		Initial report 25 June 2009	To be considered as part of the CRC review
CRC-OP-SC	(R) 8 January 2007		Initial report 25 June 2009	To be considered as part of the CRC review
OP-CAT	(S) 19 May 2009			
OP-CRPD	(R) 21 August 2009		N/A	
Special Procedures	<ul style="list-style-type: none"> • Standing invitation: 7 August 2008 • Requests for visits have been made by the Special Rapporteur on violence against women, its causes and consequences. <p>Country visits</p> <ul style="list-style-type: none"> • Special Rapporteur on freedom of religion or belief: 1997 • Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance: 2001 • Working Group on Arbitrary Detention: 2002 • Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context: 2006 • Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health: 2009 • Special Rapporteur on the rights of indigenous peoples: 2009 • Independent Expert on the effects of foreign debt and other related international financial obligations of states on the full enjoyment of all human rights, particularly economic, social and cultural rights: 2011 • Special Rapporteur on trafficking in persons, especially women and children: 2011 • Special Rapporteur on the situation of human rights defenders: October 2016 • Special Rapporteur on the human rights of migrants: November 2016 • Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance: November/December 2016 			

101 A state party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the state's intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.

102 Australia also made the following declaration upon its ratification of the International Covenant on Civil and Political Rights: 'Australia has a federal constitutional system in which legislative, executive and judicial powers are shared or distributed between the Commonwealth and the constituent states. The implementation of the treaty throughout Australia will be effected by the Commonwealth, state and territory authorities having regard to their respective constitutional powers and arrangements concerning their exercise.' See: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en#EndDec.



Treaty	Date of signature (S)/ ratification (R)	Reservations	Latest report submitted	Reporting status as of March 2016
Universal Periodic Review	1 st cycle: January 2011; 2 nd cycle: November 2015 ; next cycle, 2020			
International Criminal Court	(R) the Rome Statute on 1 July 2002			

System of government

Australia has a democratic parliamentary system of government and a federal constitutional system in which legislative, executive and judicial powers are shared or distributed between federal institutions, six states and three self-governing territories. There is a bicameral parliament and the head of government is the Prime Minister. The Prime Minister is appointed by the Governor-General, who by convention under the Constitution, must appoint the parliamentary leader of the party, or coalition of parties that has a majority of seats in the House of Representatives. This majority party becomes the government and provides the ministers, all of whom must be members of parliament.¹⁰³ The head of state is the British monarch, represented in Australia by the Governor-General. The length of the term of Governor-General in Australia is determined by the British monarch. Australia has 6 states and 8 territories that join together to form the Commonwealth of Australia. However, the states 'retain the power to make their own laws over matters not controlled by the Commonwealth under Section 51 of the Constitution. State governments also have their own constitutions, as well as a structure of legislature, executive and judiciary.'¹⁰⁴

Domestic protection of human rights

Human rights are protected across Australia through various means. According to reports,

'the recognition and protection of many rights and freedoms are enshrined in common law. The common law has developed principles of statutory interpretation to protect human rights. When interpreting legislation, courts will presume that the Parliament did not interfere with fundamental human rights. Another principle applies in cases of ambiguity, where courts will presume that legislation is intended to be consistent

with established rules of international law, including Australia's international human rights obligations. Mechanisms exist at the federal, state and territory level which aims to ensure that governments act in accordance with Australia's international obligations.'¹⁰⁵

There is a legislative requirement that federal legislation be accompanied by a Statement of Compatibility with Human Rights. Domestic legislation further protects human rights. For example, anti-discrimination laws across all jurisdictions implement rights to non-discrimination and equality, and the Privacy Act 1988 gives effect to the right to freedom from arbitrary or unlawful interferences with privacy. Two jurisdictions in Australia have enacted human rights charters (the Australian Capital Territory with the Human Rights Act 2004, and Victoria with its Charter of Human Rights and Responsibilities Act 2006).¹⁰⁶

Australia's famous High Court decision of Minister of State for Immigration & Ethnic Affairs v Ah Hin Teoh ('Teoh's case') [1995] HCA 20 demonstrates how the progressive the courts have stepped into situations of legislative interpretation on the backdrop of Australia's international human rights commitment. The famous dicta of the case states that,

.../ ratification by Australia of an international convention is not to be dismissed as a merely platitudinous or ineffectual act(17), particularly when the instrument evidences internationally accepted standards to be applied by courts and administrative authorities in dealing with basic human rights affecting the family and children. Rather, ratification of a convention is a positive statement by the executive government of this country to the world and to the Australian people that the executive government and its agencies will act in accordance with the Convention. That positive

103 http://www.aph.gov.au/About_Parliament/Work_of_the_Parliament/Forming_and_Governing_a_Nation/parl

104 <http://www.australia.gov.au/about-government/how-government-works>

105 Australia's response to request for submissions on civil society space: HRC resolution 27/31 http://www.ohchr.org/Documents/AboutUs/CivilSociety/ReportHC/states/26_Australia.pdf

106 Human Rights Council National Report: Australia, 23rd session, UN Doc A/HRC/WG.6/23/AUS/1

statement is an adequate foundation for a legitimate expectation, absent statutory or executive indications to the contrary, that administrative decision-makers will act in conformity with the Convention¹⁰⁷ and treat the best interests of the children as “a primary consideration”. It is not necessary that a person seeking to set up such a legitimate expectation should be aware of the Convention or should personally entertain the expectation; it is enough that the expectation is reasonable in the sense that there are adequate materials to support it.’

National human rights institution

The Australian Human Rights Commission Act 1986 (AHRC Act) establishes the Australian Human Rights Commission and gives it a wide range of functions in relation to various international instruments to which Australia is a party. It is an independent statutory authority and enjoys A-status accreditation with the Global Alliance of National Human Rights Institutions. The AHRC is a collegiate body made up of a president and special purpose commissioners for aboriginal and Torres Strait Islander social justice, children, human rights, sex discrimination, disability discrimination, age discrimination and race discrimination.

Administration of justice and rule of law

The Australian government fund a range of legal assistance services to help disadvantaged people with their legal issues; such services include legal aid commissions, community legal centres and indigenous legal services.¹⁰⁷ The Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) is concerned that mandatory sentencing continued to disproportionately affect indigenous peoples, and reports that legal assistance services were not adequately funded. The Committee urged Australia to, inter alia, address the over-representation of indigenous peoples in prisons, in particular its underlying causes, review mandatory sentencing laws with a view to abolishing them, giving judges the discretion necessary to determine relevant individual circumstances, and guarantee legal and interpretation services were provided from the outset of deprivation of liberty.¹⁰⁸

Refugees and asylum seekers

Australia has a policy of mandatory detention and offshore processing of asylum seekers. Since 2013, Australia has had a memorandum of understanding in place with Papua New Guinea (2013) and Nauru (2013), which provides for offshore processing for all asylum seekers irregularly arriving into Australia. Significant concerns have been raised about Australia’s treatment of asylum seekers and detention facilities domestically and internationally. At the national level, there have been a number of inquiries, which include the 2014 Phillip Moss inquiry and the 2015 Senate inquiry, and the reports generated. The Australian Human Rights Commission has consistently called for an end to mandatory detention and its report on ‘the Forgotten Children’ stated that the detention of children in Nauru and Australia had detrimental effects on children’s physical and mental health. In February 2016, the High Court of Australia ruled that offshore detention processing was lawful under Australian domestic law. This ruling has since been met with calls for Australia to meet its international human rights obligations and has been criticised as not being aligned with international human rights law.

International human rights mechanisms have outlined significant concerns about Australia’s policy on offshore processing. In 2014, the Special Rapporteur on Torture sent a communication to the Australian government regarding allegations concerning the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014 and the Migration Amendment (Character and General Visa Cancellation) Bill 2014. The Special Rapporteur emphasised that both bills put Australia at risk of violating CAT. He indicated that the Migration and Maritime Powers Legislation Amendment violated CAT because it allowed for arbitrary detention and the determination of refugee status at sea, without access to lawyers. The Migration Amendment (Character and General Visa Cancellation) Bill also violated CAT because it tightened control on the issuance of visas on the basis of character and risk assessments. Both bills were passed by the Parliament in December 2014. In addition to referring to specific legislation, the committee recommended that ‘the State party should adopt the necessary measures to guarantee that all asylum seekers or persons in need of international protection who are under its effective control are afforded the same standards of protection against violations of the Convention regardless of their mode and/or date of arrival.’¹⁰⁹

107 Ibid, Human Rights Council National Report: Australia, 23rd session

108 Ibid, Human Rights Council Compilation of UN information: Australia, 23rd session

109 Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Concluding Observations of the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Australia, 60th session, UN Doc CRC/C/AUS/CO/4 (28 August 2012)



The United Nations High Commissioner for Human Rights stated in June 2015 that Australia's response to migrant arrivals had set a poor benchmark for its neighbours in the region. Authorities had also engaged in the 'turn-around' and 'push-back' of boats in international waters. Asylum seekers are detained in centres in third countries, where they face conditions that the UN Special Rapporteur on Torture had reported as amounting to cruel, inhuman or degrading treatment as defined by the Convention against Torture, and which also violated the Convention on the Rights of the Child. Even recognised refugees in urgent need of protection were not permitted to enter Australia, which had set up relocation arrangements with countries that might be ill-prepared to receive them.¹¹⁰

1. Equality and non-discrimination

Indigenous peoples

Aboriginal and Torres Strait Islander prisoners account for over a quarter (27% or 9,264 prisoners) of the total Australian prisoner population, yet they represent only 3% of the country's total population. Indigenous children were 24 times more likely to be detained than non-indigenous children. The age of criminal responsibility is 10 in Australia and the UN Committee on the Rights of the Child has called on the state to increase this.¹¹¹ While there were modest improvements in education and health outcomes, there has been little progress on the life expectancy gap. Aboriginal and Torres Strait Islander peoples still live on average 10–12 years less than non-indigenous peoples, have an infant mortality rate almost two times higher, and continue to die at high rates from preventable and curable conditions such as diabetes and respiratory illness.¹¹² Additionally, the Committee on the Rights of the Child expressed concern about the high rate of suicide deaths among young people, particularly those in Aboriginal communities.¹¹³

In 2012, the Special Rapporteur on the rights of indigenous peoples expressed a number of concerns about the Stronger Futures in the Northern Territory 2012 Bill, which

was passed in Parliament in the same year.¹¹⁴ The Stronger Futures legislation aimed at addressing alcohol abuse, land reform and food security in the Northern Territory. The Special Rapporteur urged the government to address concerns about the discriminatory and rights limiting effects of the legislation and maintains consultation on the implementation of the legislation with the Aboriginal peoples. At the state level, in 2016 the Australian Capital Territory Human Rights Act 2004 was amended to recognise the cultural rights of Aboriginal and Torres Strait Islander peoples. A referendum to recognise Aboriginal and Torres Strait Islander peoples in Australia's constitution was proposed by a parliamentary committee.¹¹⁵

Persons with disabilities

The Disability Discrimination Act 1992 offers protection from discrimination at the federal level for persons with disabilities. The National Disability Strategy 2010–2020, adopted by the Australian government in 2011, provides a national policy framework for improving the lives of persons with disabilities.¹¹⁶

Women and girls with disabilities face higher rates of violence in the community and in institutional settings than others.¹¹⁷ Some face coerced sterilisation and forced psychiatric interventions. To date, the Australian government has done little to address such violence. According to the Australian Human Rights Commission, people with intellectual disabilities are over-represented in the prison population and have limited access to justice. There is also a lack of community-based independent living arrangements and support services for people with disabilities.¹¹⁸

Concerned that Australian legislation allowed for disability to be the basis for rejecting an immigration request, the Committee on the Rights of the Child urged Australia to ensure that no legislation discriminated against children with disabilities. The Committee also recommended that Australia repeal all legislation that authorised medical intervention

110 Ibid

111 Committee on the Rights of the Child, Concluding Observations of the Committee on the Rights of the Child: Australia, 40th session, UN Doc CRC/C/15/Add.268 (20 October 2005)

112 Human Rights Watch, World Report 2016, https://www.hrw.org/sites/default/files/world_report_download/wr2016_web.pdf

113 Committee on the Rights of the Child, Concluding Observations of the Committee on the Rights of the Child: Australia, 60th session, UN Doc CRC/C/AUS/CO/4 (28 August 2012)

114 <http://www2.ohchr.org/english/issues/indigenous/rapporteur/docs/ReportVisitAustralia.pdf>

115 <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16158&LangID=E>

116 Human Rights Council National Report: Australia, 23rd session, UN Doc A/HRC/WG.6/23/AUS/1

117 http://wwda.org.au/wp-content/uploads/2013/12/Think_Piece_Revised_Edition.pdf

118 Ibid, Human Rights Watch, World Report 2016. p. 90.



without the free and informed consent of the persons with disabilities concerned, committal of individuals to detention in mental-health facilities or imposition of compulsory treatment, by means of Community Treatment Orders.¹¹⁹ Australia has a number of disability-specific legislations including;

- Disability (Access to Premises – Buildings) Standards (2010)
- Disability Discrimination and Other Human Rights Legislation Amendment Act (2009)
- Disability Standards for Accessible
- Public Transport (2002)
- Disability Standards for Education (2005)

A National Disability Scheme Draft Legislation was being debated.¹²⁰

Discrimination and violence against women

Although Australia was ranked second out of 188 countries for gender equality in 2014,¹²¹ challenges to achieving gender equality remain. The rates of violence against women are very high: one in three women has experienced physical violence during their lives and almost one in five have experienced sexual violence.¹²² Indigenous women are '40 times more likely to be a victim of family violence compared with other Australian women'.¹²³ In the political sphere, women hold 30% of the seats in Parliament.¹²⁴

Gender discrimination in the workplace continues to be a problem. In 2014, one in two (49%) mothers reported experiencing discrimination in the workplace at some point during pregnancy, parental leave, or on return to work, and one in five (18%) mothers indicated that they were made redundant, dismissed, or that their contract was not renewed because of their pregnancy, when they requested

or took parental leave, or when they returned to work.¹²⁵ While women comprise roughly 46% of all employees in Australia, they take home on average AUD 277.20 less than men each week (full-time adult ordinary time earnings).¹²⁶

The Australian government Office for Women works to progress the four policy priorities for women: women's economic empowerment, leadership, safety, and international engagement. The Australian government led the commitment by G20 nations to reduce the gender gap in participation by 25% by 2025.¹²⁷ The primary legislation prohibiting discrimination against women is the Sex Discrimination Act 1984, which prohibits sexual harassment and makes it unlawful to discriminate on the basis of sex, marital or relationship status, family responsibilities, breastfeeding and pregnancy, or potential pregnancy in a number of areas of public life.¹²⁸

Sexual orientation and gender identity

In 2013, the Sex Discrimination Act 1984 was amended to prevent discrimination on the grounds of sexual orientation, gender identity and intersex status. Australia is one of the first nations to provide specific antidiscrimination protection to intersex people. In 2013, the Australian government launched the Guidelines on the Recognition of Sex and Gender. These guidelines standardise the evidence required for a person to establish or change their sex or gender in personal records. In March 2014, the Australian Capital Territory legislated to remove the requirement for sex and gender diverse people to undergo sexual reassignment surgery before they can change their sex on their birth certificate. Since Australia's last UPR review, New South Wales, Victoria and South Australia have legislated to expunge historic criminal convictions for consensual same-sex activity.¹²⁹ To date, Australia does not recognise the right of same-sex couples to marry.¹³⁰

119 Human Rights Council Compilation of UN information: Australia, 23rd session, UN Doc A/HRC/WG.6/23/AUS/1

120 PDF: <http://www.pacificdisability.org/Resources/Policies-Legislation.aspx>

121 With a gender inequality index of 0.110 (0 = no inequality between men and women). United Nations Development Programme, Human Development Report 2015, 'Table 5: Gender Inequality Index', 224.

122 Consideration of reports submitted by States Parties under Article 18 of the Convention on the Elimination of all forms of Discrimination Against Women: Combined sixth and seventh periodic reports of States Parties, UN Doc CEDAW/C/AUL/7 (9 March 2009) [14.25]

123 Ibid

124 Ibid, United Nations Development Programme, Human Development Report 2015

125 Australian Human Rights Commission, National Review on Discrimination Related to Pregnancy, Parental Leave and Return to Work (2014) p. 4–5.

126 Workplace Gender Equality Agency, Gender pay gap statistics (March 2016) p. 2.

127 Ibid, Human Rights Council National Report: Australia, 23rd session

128 Ibid, Human Rights Council National Report: Australia, 23rd session

129 Ibid

130 Ibid, Human Rights Watch World Report 2015, p. 82.



Race

The Racial Discrimination Act 1975 makes it unlawful to discriminate against a person on the grounds of race, colour, descent, or ethnic or national origin. Under the Commonwealth Criminal Code Act 1995, it is an offence to urge violence against a group that is distinguished by race, religion, nationality, national or ethnic origin, or political opinion. Australia's National Anti-Racism Partnership aims to combat racism within the Australian community.

"The rights that Aboriginal and Torres Strait Islander Australians have achieved and continue to fight for are enshrined in Magna Carta itself:

"To no one will We sell, to no one will We deny or delay, right or justice."

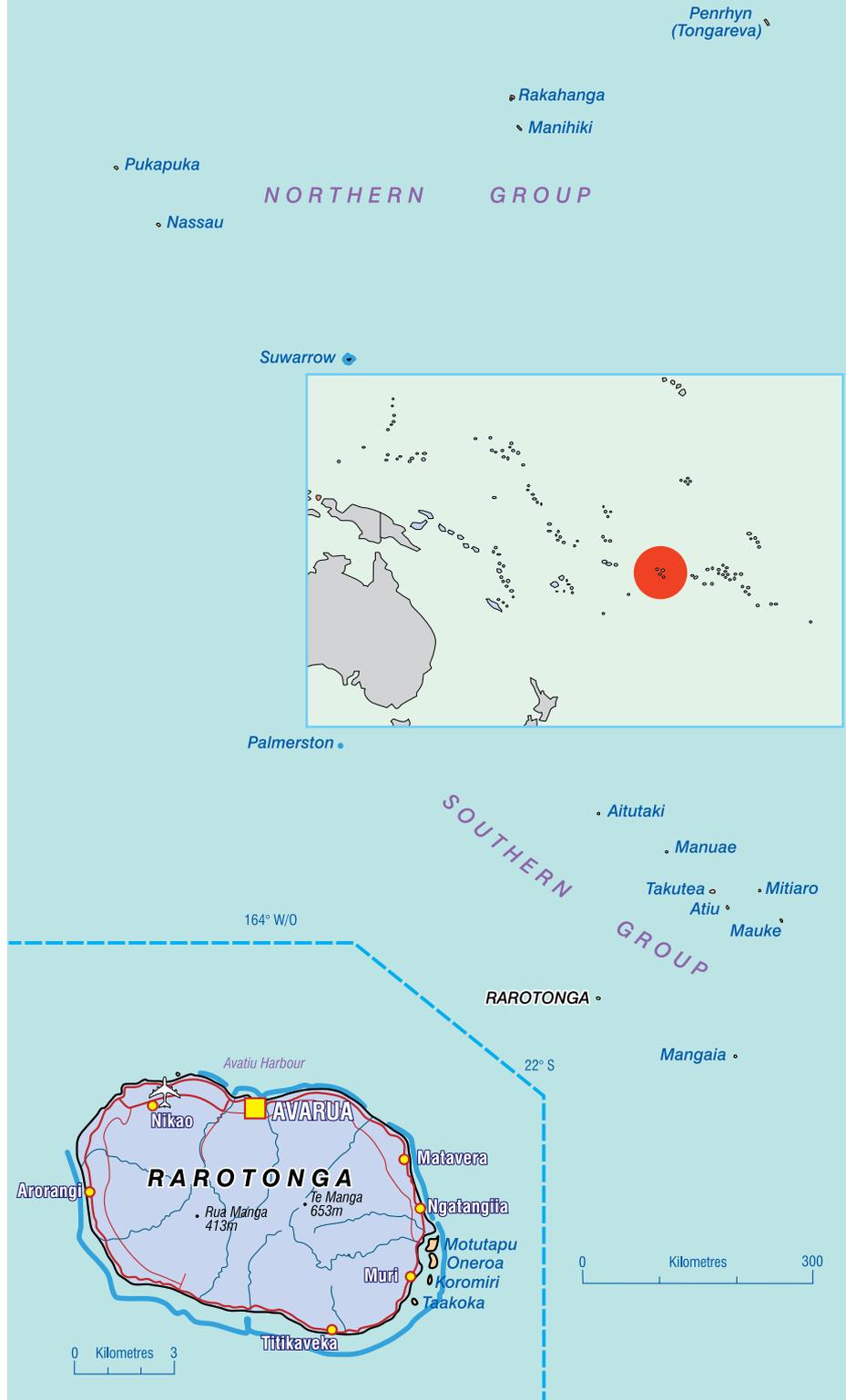
These words were not intended to refer to Aboriginal and Torres Strait Islander peoples when they were written in 1215, and yet they encompass the struggle for human rights in Australia since colonisation. It is a long road to achieving reconciliation, building a movement committed to the belief that all individuals are treated fairly and have equal access to justice—concepts that can be traced back to Magna Carta."

**Mr Justin Mohamed, Chief Executive Officer,
Reconciliation Australia**

Pacific Disability Forum: <http://www.pacificdisability.org/About-Us/Disability-in-the-Pacific.aspx>



Cook Islands



Cook Islands



Key facts¹³¹

Capital	Avarua (pop. ~ 10,000)	Land area: 237 km ²
Population	15,300 ¹³²	Population growth rate: 3% (2011) ¹³³
GDP (gross domestic product) per capita	USD 19,523 (2014)	GNI per capita (Atlas method) USD 16,001.8 (2013) ¹³⁴
Type of government	State in free association with New Zealand, with the Queen of England through her Governor-General as head of state and the Prime Minister as head of government.	
Electoral system	First-past-the-post	
Number of ministers of parliament (MPs) in legislature	24	Total women MPs: 3 ¹³⁵
Religions	Cook Islands Christian Church: 49%, Catholic: 17%, Seventh-Day Adventist: 8%, other: 8%, none: 6% (2011 census) ¹³⁶	
Ethnic groups	Cook Islands Maori: 87.7%, part Maori: 5.8%, others: 6.5%	
Languages	English, Cook Islands Maori	
Life expectancy	71.7 for men/ 79.6 for women	% of youth aged 15–24: 16.8

131 http://www.spc.int/prism/images/downloads/2015_Pocket-Statistical-Summary.pdf

132 Mid-year estimates; SPC Statistics Division, <http://www.spc.int/nmdi/population>

133 Ibid

134 <http://data.un.org/CountryProfile.aspx?crName=Cook%20Islands>

135 <http://www.parliament.gov.ck/index.html>

136 Pacific Women in Politics: <http://www.pacwip.org/women-mps/national-women-mps/>

International treaty ratification and reporting obligations¹³⁷

Treaty	Date of signature (S)/ ratification (R)/ accession (A) ¹³⁸	Declaration/ reservation	Latest report submitted	Reporting status as of October 2015	Treaties not ratified
CEDAW	11 August 2006 (A)	Art 11 (2)(b)	Initial report 18 September 2006	2 nd Periodic report due 10 Sept 2011	ICCPR ICESCR
CRC	6 June 1997 (A)	Articles 2 and 10	Initial report 5 November 2010	2 nd and 3 rd report overdue	CAT CERD Migrant Workers
CRPD	8 May 2009 (R)	-	Initial and 1st Periodic Report June 2011	Initial report due 7 June 2011 - Next report due June 2019	Enforced Disappearance
OP-CRPD	8 May 2009 (R)	-	-	-	
CEDAW OP	27 Nov 2007 (R)	-	-	-	
Special Procedures		N/A			
Country visits by UN Special Rapporteur		Nil			
Universal Periodic Review (UPR) ¹³⁹		Cook Islands does not participate in the UPR			
International Criminal Court		Ratified the Rome Statute on 18 July 2008 ¹⁴⁰			

Cook Islands is a parliamentary democracy in free association with New Zealand. The head of government is the Prime Minister, who is appointed by the Governor-General based on the majority in Parliament. Cook Islands became self-governing in 1965 and adopted a Westminster parliamentary style government similar to that of New Zealand and England.¹⁴¹ Parliament consists of a single chamber of 24 elected members, 10 of whom are from the main island of Rarotonga and the rest are from the outer islands. An advisory body of chiefs known as the House of Ariki advises the government in relation to customary issues and land use.

Judicial system and administration of justice

The Cook Islands has a three-tier judicial system comprising the High Court, the Court of Appeal, and the Privy Council.¹⁴²

The High Court either constituted by Justices of the Peace or a judge have different jurisdictions.¹⁴³ The Court of Appeal has jurisdiction to hear appeals from the High Court when the High Court certifies that a substantive question of law is involved, including in cases of life imprisonment, and when a question of law arises as to the interpretation of the constitution.¹⁴⁴ The Privy Council hears both civil and criminal appeals from the Court of Appeal in cases where there are 'questions of great general or public importance'.¹⁴⁵ In 2013, the Ministry of Justice released a report detailing some of the challenges it faces, including the lack of resources and administrative support.¹⁴⁶ The Ministry's Annual Report for 2013–2014 also expresses concerns including: 'one of the issues facing the Ministry is the number of staff required for the delivery of service. This is more so in the Probation and Prisons Service'.¹⁴⁷ Despite these challenges, services have improved as indicated by the increased number of criminal and civil court sittings and the Ministry's plan to do more, especially in Land Court issues.¹⁴⁸ The Ministry of

137 Office of the High Commissioner for Human Rights, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=COK&Lang=EN

138 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the state's intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.

139 <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/FJSession7.aspx>

140 https://www.icc-cpi.int/en_menus/asp/states%20parties/asian%20states/Pages/cook%20islands.aspx

141 See government of Cook Islands Web Portal at <http://www.cook-islands.gov.ck/>

142 Pacific Islands Legal Information Institute <http://www.pacilii.org/ck/government.html>

143 Has changing jurisdiction depending on the number of justices presiding; the court's jurisdiction is mostly over criminal offenses punishable by either fines or a maximum of three years in prison. The High Court (constituted by a Judge) has unlimited original jurisdiction in relation to both civil and criminal matters, and may hear appeals from all decisions of justices of the peace. Ibid

144 Ibid

145 Ibid

146 <http://www.cookislandsnews.com/item/51975-free-legal-advice-for-women/51975-free-legal-advice-for-women>

147 See full report at <http://www.cookislandsnews.com/item/51975-free-legal-advice-for-women/51975-free-legal-advice-for-women>

148 Ibid



Justice has a complaints mechanism in place where citizens can make complaints against the Registrar or any Deputy Registrar of the High Court and any staff of the Ministry of Justice employed in relation to the administration of the Courts of the Cook Islands.¹⁴⁹ Complaints can be made for different misconducts, including 'bringing the judiciary into disrepute; acting inappropriately in relation to the conduct of a proceeding; delaying unreasonably in the conduct of a proceeding or in producing a judgment; or failing to recuse him/her in circumstances when a recusal is justified'.¹⁵⁰ Judicial independence is guaranteed in Part IV of the Cook Islands Constitution.¹⁵¹

Access to justice and the right to remedy

Access to justice is a constitutionally protected right under Articles 64 and 65 of the Cook Islands Constitution. The Law Society of the Cook Islands has about 54 members. Access to justice in Cook Islands is limited in some cases but there are efforts to improve access for the most vulnerable, including survivors of domestic violence. The local women's counselling centre, Punanga Tauturu Inc, launched a pilot programme for a free legal advice service in March 2015.¹⁵² The programme will provide mediation services and legal service to those victims in all areas, including child custody matters.¹⁵³ Services are provided in the capital only, with the hope of expanding into outer areas.

National human rights institution

Cook Islands has an Ombudsman created by the Ombudsman Act 1984 to receive complaints by citizens regarding central government departments and organisations, and to ensure and enhance accountability on good governance.¹⁵⁴ The Ombudsman's Office houses the Human Rights Commission of Cook Islands.¹⁵⁵ According to analysts, Cook Islands, like many PICs, faces challenges

(most notably due to a lack of resources) in creating an independent NHRI that is fully compliant with the Paris Principles.¹⁵⁶

Security sector

The Cook Islands Police has strong connections and cooperation with forces in New Zealand and the US.¹⁵⁷ Law enforcement authorities of the Cook Islands, according to a report by the United Nations Office on Drugs and Crime on the implementation of United Nations Convention against Corruption, cooperate through regional and international agreements and arrangements, as well as on a case-by-case basis without the need for memoranda of understanding.¹⁵⁸ According to the same report: 'The Cook Islands undertakes joint investigations with foreign States, namely NZ [New Zealand], Australia and the USA where joint prosecutions have also taken place. Appropriate bilateral arrangements on the use of special investigative techniques have been used on a number of occasions with NZ, Australia and USA.'

Civil society and human rights defenders

The Cook Islands Civil Society Organisations Inc — CICOSO, established in 1994 — currently has 25 member organisations working on the rights of women and youth and environmental issues. CICOSO also includes church-based organisations, uniformed organisations, traditional groups, environmental organisations, and the Chamber of Commerce.¹⁵⁹ The Punanga Tauturu Inc (Cook Islands Women's Counselling Centre) is a women and children-focused non-governmental organisation whose objectives include creating a positive legal framework that recognises the rights of women and children in accessing justice in terms of domestic violence and other forms of gender-based violence. They work to empower women through the provision of information and training programmes on legal literacy and human rights.¹⁶⁰

149 See full note at <http://www.justice.gov.ck/images/justice/reports/complaints%20procedures.pdf>

150 Ibid

151 <http://www.parliament.gov.ck/Constitution.pdf>

152 <http://www.cookislandsnews.com/item/51975-free-legal-advice-for-women/51975-free-legal-advice-for-women>

153 Ibid

154 Office of the Ombudsman, <http://www.whupi.com/ombudsman/index.php/about>

155 <http://www.whupi.com/ombudsman/index.php/news-and-events/100-new-ombudsman>

156 New Zealand Journal of Public and International Law, vol. 8, no. 1, June 2010 <http://www.victoria.ac.nz/law/centres/nzpl/publications/nz-journal-of-public-and-international-law/previous-issues/volume-81-june-2010/renew-by-rneshaw-by-rneshaw-durbach.pdf>

157 United Nations Office on Drugs and Crime, United Nations Convention Against Crime report 2015, <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/1-5June2015/V1503859e.pdf>

158 Ibid

159 <http://www.piango.org/PIANGO/NLU/NLUs/cook-islands.html>

160 <http://www.dawnnet.org/feminist-resources/content/cook-islands-women%E2%80%99s-ngo-pacific-islands-forum-0>

Domestic law and human rights

The Constitution of Cook Islands (Part 4A) provides protection for fundamental civil and political rights including: the right to life, liberty and security of person; equality before the law; freedom from discrimination; property rights, freedom of thought, conscience and religion; freedom of peaceful assembly and association; and due process and fair trial.¹⁶¹ The Constitution also contains provisions relating to the construction of laws to support Part 4A above, including for example, prohibiting the imposition on any person of cruel and unusual treatment or punishment (Article 65).¹⁶² Limitations on the enjoyment of constitutional rights exist with a provision that 'these rights are limited if they threaten public safety, order, or morals; the general welfare; or the security of the Cook Islands'.¹⁶³

Human rights policies

The Cook Islands National Policy on Gender Equality and Women's Empowerment and Strategic Plan 2011–2016 is considered to be a milestone in the fulfilment of women's rights.¹⁶⁴ The policy's objective is to advance gender equality and enhance women's empowerment, ensuring the active contribution and meaningful participation of both Cook Islands women and men in all spheres, and at all levels of development and decision-making.

Policy vision: A society in which social justice enables all individuals to live in dignity, enjoy their human rights, achieve their full potential and contribute to the development and the wellbeing of the society; where women and girls have equal access to and benefits from the development and growth of the country; where women and girls are protected from all forms of discrimination and violence

Policy on Equity, Access, and Participation in the Education System

161 Cook Islands Constitution at <http://www.parliament.gov.ck/Constitution.pdf>

162 <http://www.ck.govt.htm>

163 See section 64(2) of the Constitution Act

164 http://www.pacificdisaster.net/pdnadmin/data/original/COK_2011_National_gender_policy.pdf

The Ministry of Education also enacted several pertinent policies in 2015, including its Policy on Equity, Access, and Participation in the Education System.¹⁶⁵ The policy's objectives are to create learning environments that mitigate social, cultural, economic and physical barriers to participation in the education process, and to develop teaching and learning practices that are effective in creating positive learning environments that promote access and participation for all current and potential learners, including mature and part-time entrants, those who have special needs, and those who live in remote and isolated communities.¹⁶⁶

Right to life, liberty and security of person

The right to life, liberty and security of person is guaranteed by the Cook Islands Constitution. Cook Islands abolished the death penalty in November 2007. Cook Islands has not yet ratified the Convention Against Torture.

Equality and non-discrimination

Cook Islands enacted the National Policy on Gender Equality and Women's Empowerment to ensure the creation of measures to combat discrimination against women. Male homosexuality is a crime under Article 154 (Indecency between Males) and Article 155 (Sodomy) of the Crimes Act 1969. The Crimes Act 1969 penalises acts that constitute 'sodomy' by imprisonment for up to seven years, and provides a penalty of imprisonment for up to five years for acts that constitute 'indecent between males'.¹⁶⁷ In 2013, the Prime Minister stated that Cook Islands will not be following New Zealand into legalising gay marriage because the country's religious values and traditions prevent it from adopting gay marriage.¹⁶⁸

Freedom of expression, association and peaceful assembly

In Cook Islands, freedom of expression, association and assembly are constitutionally guaranteed rights. The Broadcasting Act of 1989 of New Zealand applies to

165 http://www.education.gov.ck/?page_id=263

166 Ibid

167 Dignity Trust Report, Cook islands, http://www.humandignitytrust.org/uploaded/Map/Country_Reports/Cook_Islands.pdf

168 <http://www.radionz.co.nz/international/pacific-news/281713/puna-says-same-sex-marriage-not-an-issue-in-cooks>



Cook Islands and provides the framework for operation of broadcasting services. The Telecommunications Act of 1989 and its three amendments, as well as the Official Information Act 2009 are the key legislations regulating information in Cook Islands.¹⁶⁹ The enactment of the Official Information Act 2009 puts Cook Islands in first place in the region for a country that has introduced a freedom of information legislation.

Economic rights

The Labor and Employment Relations Office under the Ministry of Internal Affairs deals with matters pertaining to employment in Cook Islands.¹⁷⁰ Its main role is to ensure that both employers and employees understand their obligations and rights, work place entitlements, and work safety standards. The Employment Relations Act 2012 is the main legislation for the protection of workers' rights.¹⁷¹ In April 2015, the minimum wage increased from NZD 6 per hour to NZD 6.25 per hour.¹⁷² The Ministry of Internal Affairs has set in place a complaint mechanism against discrimination, harassment, and duress of workers.¹⁷³ Grounds for discrimination in the workplace that are identified by the ministry include discrimination on the basis of race, ethnic origin, skin colour or appearance; national origin; opinion and belief; religion; gender or sexual preference; disability; age; health status; and maternity. Grievances and employment-related disputes are resolved by following the Employment Dispute Resolution Process outlined in Part 6 of the Employment Act.¹⁷⁴

Right to health and education

According to one report, Cook Islands has a large number of adolescent mothers, which is a consequence of sexual abuse, rape, or even incest.¹⁷⁵ The elevated rate of early pregnancies is due to the difficulty of adolescents younger than 16 to access contraceptive methods, and a lack of

adequate sexual education.¹⁷⁶ The Cook Islands National Healthy Strategy 2012–2016 was put forth by the Ministry of Health to guide and help advance healthcare services for everyone in Cook Islands.¹⁷⁷ The strategy prioritises citizen's access to quality and affordable health care, and states that,

'everyone has the right to health and protection. This embraces not only the right of access to healthcare services but also demonstrates the importance of the wider determinants of health, the socioeconomic, cultural and environmental factors which involve the fulfilment of other human rights that influence the health status of the population.'¹⁷⁸

Education in Cook Islands is regulated mostly by the Education Act 2012 and the Education For All Goals/Pacific Education Development Framework (2009–2015).¹⁷⁹ The Education Act 2012 requires the government to pay the cost of providing instruction, administration and facilities for a person's education at a government school for all Cook Islanders who are resident in Cook Islands.¹⁸⁰

Women and children's rights

Cook Islands is a party to both the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). The National Policy on Gender Equality and Women's Empowerment and Strategic Plan 2011–2016 addresses the low participation of women in the public sector, and plans to advance gender equality and enhance women's empowerment, thereby 'ensuring the active contribution and meaningful participation of both Cook Islands women and men in all spheres, and at all levels, of development and decision-making'. There are some concerns about the rate and prevalence of domestic violence and violence against women; there is no specific data or numbers to give a clear picture although Punanga Tauturu Inc (Cook Islands Women's Counselling Centre) states that over the past few

169 http://www.pacmas.org/wp-content/uploads/2013/10/13.-PACMAS_Cook-Islands-Country-Report_FINAL.pdf

170 Ministry webpage, http://www.intaff.gov.ck/?page_id=72

171 Ibid

172 Press release, http://www.intaff.gov.ck/?page_id=72

173 Ministry brochure on Discrimination, Harassment & Duress available at <http://www.intaff.gov.ck/wp-content/uploads/2014/04/Discrimination-Harassment-and-Duress-Fact-Sheet.pdf>

174 Ibid

175 <http://www.humanium.org/en/asia-pacific/cook-islands/>

176 <http://www.humanium.org/en/asia-pacific/cook-islands/>

177 Strategy document available at http://www.health.gov.ck/index.php/component/docman/doc_download/361-cook-islands-national-health-strategy-2012-2016

178 Ibid

179 Ministry of Education Annual Report to Parliament 2013, Education For All Goals/Pacific Education Development Framework (2009–2015)

180 Ibid



years violence has become more prevalent in relationships involving young couples.¹⁸¹ Punanga Tauturu Inc is a women and children rights non-governmental organisation that is working on improving access to justice for victims of domestic violence and gender-based violence. They manage a 24-hour helpline to provide emergency response support to domestic violence cases.¹⁸² Reports indicate that domestic violence against children is very prominent in Cook Islands, and stems 'mainly from the dominant culture of shame and silence and also the pressure to prevent children from filing complaints.'¹⁸³

Disability rights

Cook Islands ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol in 2009, and submitted its initial report in 2011. In 2015, the Committee on the Rights of Persons with Disabilities issued recommendations to the government of Cook Islands, including conducting more awareness raising activities on the rights of people with disabilities, improving accessibility by reviewing the Building Code, and conducting legal reforms to provide better protection, especially to people with disabilities, going through the justice system.¹⁸⁴ The National Disability Act 2008 provides the legislative framework for the protection of the rights of persons with disabilities in Cook Islands,¹⁸⁵ requiring the government to set a national disability strategy for the protection of people with disabilities. It also prohibits any form of discrimination against people with disabilities in employment, and sets up a complaint mechanism that is directly linked to the Office of the Ombudsman. The country also has a Cook Islands Disability Inclusive Development Policy and Action Plan 2014–2019, and disability issues are housed under the Ministry of Internal Affairs.

Respect for fundamental human rights is enshrined in the Constitution as well as incorporated into other legislation of the Cook Islands. As a nation comprising numerous small islands, respect for fundamental human rights is crucial to the harmonious existence and sustainable development of its people within small, sometimes subsistence communities dependent on the skills and cooperation of their members.

Cook Islands Initial Report on the Convention on the Rights of the Child

181 <http://www.cookislandsnews.com/item/51591-confidentiality-key-to-helping-women/51591-confidentiality-key-to-helping-women>

182 Ibid

183 Ibid

184 Committee's report available at <http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/CKIndex.aspx>

185 http://www.pacii.org/ck/legis/num_act/da2008121.rtf



Republic of Fiji



Key facts¹⁸⁶

Capital	Suva (pop. ~ 175,399)	Land area: 18,333 km ²
Population¹⁸⁷	867,000 (mid-year estimate 2015)	Pop growth rate: 0.5% (2011)
GDP (gross domestic product) per capita	USD 3,757 (2013)	GNI per capita (Atlas method) 4,870 (2014). ¹⁸⁸
Type of government	Parliamentary republic with President as head of state and the Prime Minister as head of government	
Electoral system	Multi-member open list system of proportional representation. ¹⁸⁹	
Number of ministers of parliament (MPs) in legislature	50	Total women MPs: 8 ¹⁹⁰
Religions	Christian: 64.5% (Methodist: 34.6%, Catholic: 9.1%, Assembly of God: 5.7%, Seventh-Day Adventist: 3.9%, Anglican: 0.8%, other: 10.4%), Hindu: 27.9%, Muslim: 6.3%, Sikh: 0.3%, other or unspecified: 0.3%, none: 0.7% (2007 census) ¹⁹¹	
Ethnic groups	Fijian: 57.3%, Indian: 37.6%, Rotuman: 1.2%, other: 3.9% (European, other Pacific Islanders, Chinese) (2007 census) ¹⁹²	
Languages	English, Fijian, Hindi	
Life expectancy at birth (years)	65.3 for men/ 69.6 for women	% of youth aged 15–24: 17.5

186 Unless otherwise specified, basic facts are taken from: Secretariat of the Pacific Community, Pocket Statistical Summary, 2015 http://prism.spc.int/images/downloads/2015_Pocket-Statistical-Summary.pdf

187 SPC Statistics Division, <http://www.spc.int/nmdi/population>

188 World Bank, <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>

189 Fiji Parliament, <http://www.parliament.gov.fj/Our-Democracy/Elections.aspx>

190 Pacific Women in Politics, <http://www.pacwip.org/women-mps/national-women-mps/>

191 Based on: Fiji Islands Bureau of Statistics, Key Statistics 2011, Population by religion and province of enumeration, Fiji: 2007 census, <http://www.statsfiji.gov.fj/Key%20Stats/Population/1.10Religion2007.pdf>

192 Fiji Islands Bureau of Statistics, Key Statistics 2011, 1.2A Census Population of Fiji by Ethnicity: 2007 census, <http://www.statsfiji.gov.fj/Key%20Stats/Population/1.2%20pop%20by%20ethnicity.pdf>



International treaty ratification and reporting obligations

Treaty	Date of signature (S)/ratification (R)/accession (A) ¹⁹³	Declaration/reservation	Latest report submitted	Reporting status as of October 2015	Treaties yet to be ratified
CEDAW	28 August 95 (R)	None	2010 – combined 2 nd , 3 rd and 4 th periodic reports	5 th periodic review due 31 July 2014	<ul style="list-style-type: none"> • ICCPR • ICESCR • CRPD • Migrant Workers • Enforced Disappearance
CRC	13 August 1993 (R)	None	4 August 2011 –combined 2 nd , 3 rd and 4 th reports submitted	On track	
CERD	11 January 1973(R)	Yes (articles. 2, 3, 4(a),(b), (c), 5(c), (d)(v),(e) (v), 6, 15, and 20)	2006 – 16 th and 17 th periodic reports combined – 18 th and 20 th periodic reports submitted	18 th , 19 th , 20 th , 21 th and 22 th periodic reports due 10 February 2016	
CAT	14 March 2016 (R)				
CRPD	2 June 2010 (S)	-	-	-	
OP-CRC-AC	16 September 2005 (S)	-	-	-	
OP-CRC-SC	16 September 2005 (S)	-	-	-	
OP-CRPD	2 June 2010 (S)	-	-	-	
Special Procedures		<ul style="list-style-type: none"> • Open invitation extended: 17 March 2015¹⁹⁴ • Requests for visits have been made by Special Rapporteur on Independence of Judges and Lawyers; Special Rapporteur on torture and other cruel, inhumane and degrading treatment; Special Rapporteur on the rights of peaceful assembly and association; Special Rapporteur on the situation of human rights defenders; Working Group on arbitrary detention; Independent Expert on the effects of foreign debt and other related financial obligations of states on the full enjoyment of all human rights; 11 requests have not received any response from Fiji. 			
Country visits by UN Special Rapporteur		<ul style="list-style-type: none"> • Special Rapporteur on the sale of children, child prostitution and child pornography: 1999¹⁹⁵ • Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination: 2007¹⁹⁶ • Special Rapporteur on the Right to Education: 2015 			
Universal Periodic Review¹⁹⁷		<ul style="list-style-type: none"> • 1st cycle: February 2010; 2nd cycle: November 2014; next cycle: 2019 			
International Criminal Court		<ul style="list-style-type: none"> • Ratified the Rome Statute on 29 November 1999 			

193 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the state's intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.

194 Office of the High Commissioner for Human Rights, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=FJ as at March 2015

195 Office of the High Commissioner for Human Rights, <http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/FJIndex.aspx>

196 Ibid

197 <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/FJSession7.aspx>



System of government

Fiji received its independence from Great Britain in 1970. Since then Fiji has gone through four *coups d'Etat* and four constitutions, which have influenced the constitutional make up of its government.¹⁹⁸ The President of Fiji is the head of state and Commander-in-Chief of the armed forces. The Prime Minister heads the government. The state of Fiji is divided into three main branches, the Executive, the Judiciary and the Legislature. The executive branch is headed by the Prime Minister and ministers who form the Cabinet. According to the 2013 Constitution, the Prime Minister is elected by parliament depending on the political majority. The legislative branch is composed of a unicameral parliament with 50 members elected for a four-year term.¹⁹⁹ Of the seven registered political parties that competed in the 2014 election,²⁰⁰ three are now in parliament: the ruling Fiji First Party (32 seats) and the Opposition Party comprising the Social Democratic Liberal Party (15 seats) and the National Federation Party (3 seats). Governance at the local level comprises four government divisions, each run by a commissioner. The commissioners are appointed by the central government and look after the 14 provinces within their respective divisions.

Judicial system and administration of justice

The Constitution of Fiji and the Administration of Justice Decree establish the structure and functions of the judiciary. The judicial system consists of the Supreme Court, Court of Appeal, High Court and Magistrates' Court.²⁰¹ The High Court has overarching jurisdiction over civil, criminal, family, employment relations and tax issues. The Magistrates' Court has subordinate jurisdiction over the civil and criminal divisions.²⁰² Other specialised institutions include the Juvenile Court, the Family court, Tax tribunal, Small Claims Tribunal and other tribunals.²⁰³ The

Commission on the Prerogative of Mercy, established in 2009 and maintained in the constitution, acts as a body to review petitions of convicted persons, and grant pardons, postpone punishments, or remit parts of punishments.²⁰⁴ The UN compilation report to Fiji's Universal Periodic Review (UPR) expressed concerns over the decision-making limitations placed on the judiciary by the Public Order (Amendment) Decree (Article 21),²⁰⁵ including the immunity provisions of the 2013 constitution, which does not allow any legal challenge of these provisions.²⁰⁶ Moreover, the constitutional process and the independence of the judiciary was criticised by both national and international organisations at Fiji's UPR.²⁰⁷

Access to justice and the right to remedy

The Constitution of Fiji allows for human rights violations to be brought directly to the High Court, which adjudicates on matters relating to the Bill of Rights in the Constitution. Fiji also has a Legal Aid Commission that was established in 1998 by the Legal Aid Act to 'provide free legal aid services to those members of the public who cannot afford the services of a legal practitioner, in accordance with such rules and guidelines as may be prescribed by or under a written law.' According to reports, the Legal Aid Commission has tremendous political backing, and in the past five years it has both expanded its geographic outreach and the range of cases that it helps resolve.²⁰⁸ In *Lyndon v Legal Aid Commission and Anor*, the Fiji High Court ruled that legal aid should be available to all, regardless of whether they were citizens or not and noted that, 'the Bill of Rights in the Constitution of Fiji was based on the UDHR. Fiji should not pay lip service to universal standards and every person whether a citizen or not was entitled to protection under the BOR [Bill of Rights].'²⁰⁹

198 Under the 1997 Constitution, Fiji had a bicameral house of representatives with a Lower House and an Upper House or Senate appointed by the Great Council of Chiefs, the Prime Minister and the Leader of the Opposition. Under the 2013 Constitution, there is now only one house, the House of Representatives. The Upper House and the Great Council of Chiefs is now abolished.

199 Fiji Electoral Decree, <http://www.electionsfiji.gov.fj/wp-content/uploads/2014/03/Electoral-Decree-2014.pdf> /political-parties-decree/registered-political-parties/

200 <http://www.electionsfiji.gov.fj/political-parties-decree/registered-political-parties/>

201 Commonwealth Governance Fiji Profile <http://www.commonwealthgovernance.org/countries/pacific/fiji/judicial-system/>

202 Ibid

203 <http://www.judiciary.gov.fj/>

204 Fiji Constitution Article 119 (3)

205 UN compilation to Fiji UPR; A/HRC/WG.6/20/FJI/2; <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/139/30/PDF/G1413930.pdf?OpenElement>

206 <http://www.fiji.gov.fj/getattachment/8e981ca2-1757-4e27-88e0-f87e3b3b844e/Click-here-to-download-the-Fiji-Constitution.aspx>

207 Stakeholders compilation, p. 2 and 6, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>

208 <http://fijione.tv/legal-services-now-more-accessible/>

209 Pacific Human Rights Law Digest, volume 1, pages 17–19, <http://www.spc.int/rrrt/publications-media/publications/item/63-pacific-human-rights-law-digest-vol-1>

National human rights institution

Section 45 of the Constitution establishes and sets out the functions of the Human Rights and Anti-Discrimination Commission as the enforcement body for the Bill of Rights. The Human Rights Commission Decree 2009 further prescribes the powers and duties of the Commission.

Fiji National Report to UPR 2014

The Fiji Human Rights and Anti-Discrimination Commission (FHRADC) is Fiji's NHRI established under the 2013 Constitution and the Fiji Human Rights and Anti-Discrimination Decree to ensure that Fiji's human rights laws are promoted and protected.²¹⁰ The FHRADC's mandate is to assist in four core areas: 1) educating the public on human rights, 2) monitoring compliance with human rights standards, 3) ensuring equal protection for all, and 4) exercising its mandate in resolving human rights issues of concern. The FHRADC has the authority to bring cases on behalf of individuals or groups to the High Court and is the 'predominant enforcement body for the Bill of Rights guaranteed under the constitution'²¹¹. The independence of the FHRADC was questioned during Fiji's UPR process, and subsequent recommendations were made on the issue of independence.²¹² Over the past few years, FHRADC received and investigated complaints regarding prison conditions, the treatment of prisoners, and complaints alleging misconduct by police and military officials.²¹³

Security sector

Fiji's security sector comprises the military (including the navy), the police and the corrections service. Fiji's military is the largest among Pacific Island nations, and contributes many personnel to UN peacekeeping operations in conflict

areas, including the Middle East.²¹⁴ The military is mandated to defend the country against external forces among other roles. The Fiji Police Force is mandated to maintain law and order, enforce law, and prevent and detect crime.²¹⁵ Following the military coup of 2006, cases of torture by security forces, police brutality, and deaths in military and/or police custody were reported.²¹⁶ Concerns about the culture of impunity for military and police personnel involved in brutality and deaths in custody were raised against the government at the UPR.²¹⁷ It was acknowledged that 'torture during interrogation had been a long standing problem in Fiji.'²¹⁸ Changes adopted by the Fiji Police Force include training and capacity building on human rights,²¹⁹ measures to ensure the protection of rights of persons encountering the law, and the introduction of videotaped interviews among others.

Civil society and human rights defenders

Fiji has a vibrant civil society environment that works on issues related to women's empowerment, environmental issues, and providing social and development related services. Most civil society organisations are registered under the Charitable Trust Act. Human rights defenders in Fiji are protected by the Bill of Rights in the Constitution although there have been cases during Fiji's 2006 coup of intimidation, harassment and reprisals faced by some human rights defenders and union leaders for speaking out against the military regime at the time.²²⁰ The government states that 'since the last reporting cycle, there has been no evidence of threats, harassment, intimidation and arbitrary arrests of human rights defenders.'²²¹ However, in 2015 a Fijian lawyer raised allegations of intimidation by security personnel.²²²

214 <http://www.rfmf.mil.fj/index.php/history>

215 <http://www.police.gov.fj/index.php/about-us>

216 UN compilation to the UPR; A/HRC/WG.6/20/FJI/2 at pages 7-8 and Stakeholders Compilation to the UPR; A/HRC/WG.6/20/FJI/3

217 Ibid

218 UN Human Rights Council, Working Group Report to Fiji's UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>, Page 5.

219 Pacific Community, Regional Rights Resource Team, <http://www.spc.int/rrrt/news/item/632-fiji-police-officers-trained-to-higher-human-rights-standards-of-policing> and OHCHR <http://www.ohchr.org/EN/NewsEvents/Pages/ImprovingpoliceworkinFiji.aspx>

220 Stakeholders submission to the Universal Periodic Review of Fiji 2010, A/HRC/WG.6/7/FJI/3 11 November 2009, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>

221 National Report to the UPR, p. 16.

222 New Zealand Law Society, <https://www.lawsociety.org.nz/news-and-communications/news/law-society-concerned-about-alleged-threats-to-fijian-lawyer> and report on the statement by the Fiji Law Society, <http://pidp.eastwestcenter.org/pireport/2015/December/12-09-18.htm>

210 Fiji Human Rights Commission webpage, <http://www.fhrc.org.fj/>

211 UN Human Rights Council, Working Group Report to Fiji's UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>, Page 7

212 See stakeholders submission: A/HRC/WG.6/20/FJI/3; <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx> and interventions by Russia in the Report of the Working Group of the HRC; A/HRC/28/8; Kenya, Australia, India, Morocco, Sierra Leone, Russia, Slovenia on the issue of resourcing and independence of the Commission, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>

213 US State Department, 2014 Human Rights Reports: Fiji



Domestic law and human rights

The Constitution of the Republic of Fiji 2013 is the supreme law of Fiji and provides the legal basis for the enjoyment of rights. The Constitution has a very comprehensive Bill of Rights that protects many basic rights, including the right to life; right to personal liberty; freedom from slavery, servitude, forced labour and human trafficking; freedom from cruel and degrading treatment; and others.²²³ Following the 2006 coup, the government promulgated over 300 decrees,²²⁴ some of which have been criticised for limiting human rights,²²⁵ and others which have very progressive human rights implications.²²⁶ Parts of the Constitution that have been criticised include the claw back clause that undermines the Bill of Rights, absolute and unconditional immunity provisions, the difficult amendment procedures that are required, which include a super majority in parliament and a referendum.²²⁷

Human rights policies

Fiji created several policies relating to the advancement of human rights. These include: a National Policy on Sexual Harassment, the Employment Relations Promulgation in Fiji, which stipulates that all employers are responsible for ensuring that workplace policies on elimination of sexual harassment are in place, a National Policy on Persons Living With Disabilities 2008–2018; (b) Ageing Policy (2011–2015); (c) National Gender Policy and a Women’s Plan of Action that promotes gender equality, social justice and sustainable development, and aims at improving the quality of life at all levels of Fijian society through the promotion of gender equality.²²⁸ The Poverty Benefit Scheme hopes to assist families in situations of poverty.²²⁹

223 Fiji 2013 Constitution, <http://www.paclii.org/fj/Fiji-Constitution-English-2013.pdf>

224 Fiji Laws, <http://www.fiji.gov.fj/>. In 2009, 52 decrees were made; in 2010, 70 decrees; in 2011, 53 decrees; in 2012, 81 decrees; in 2013, 41 decrees; in 2014, 52 decrees.

225 Laws reported to be restrictive in Fiji’s Universal Periodic Review included the Media Industry Development Decree 2010 reported by Amnesty International as disproportionately restricting and criminalising the rights to freedom of expression, association and peaceful assembly, p. 6 of the Stakeholders Submission to the Universal Periodic Review. Others included the Media and Television Amendment Decrees, Political Parties Decree, Essential National Industries Decree 2011, Administration of Justice Decree

226 These include the Child Welfare Decree, Domestic Violence Decree, Crimes Decree,

227 Stakeholders submission, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/090/28/PDF/G1409028.pdf?OpenElement>, p. 3.

228 National report to the Universal Periodic Review; A/HRC/WG.6/20/FJI/1, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>

229 <http://www.welfare-women.gov.fj/index.php/social-welfare/poverty-benefit-scheme-pbs.html>

Right to life, liberty and security of person

The Bill of Rights in the Constitution provides for the right to personal liberty, including the rights of arrested and detained persons, the right to remain silent, the right to communicate with a legal practitioner of his or her choice in private in the place where he or she is detained, and to be informed of that right promptly. If he or she does not have the sufficient means to engage a lawyer, the person can be given the services of a lawyer under the Legal Aid Scheme.²³⁰ Several concerns were raised against Fiji at its second UPR on the violations of the right to life, liberty, and security of person following ‘four deaths in custody, the increase in power given to security forces under the POAD [Public Order Act Amendment Decree], two notable torture cases against escaped prisoners, and the increase in violence against women.’²³¹

Equality and non-discrimination

Fiji ratified the Convention on the Elimination of Racial Discrimination (CERD) in 1973. The right to equality and freedom from discrimination is a constitutionally protected right. Article 26 of the Constitution provides a wide encompassing definition of equality and discriminatory behaviour, and prohibits discrimination on a wide range of basis, including all CERD covered grounds.²³² There are laws in place to ensure freedom from discrimination in employment and the workplace, including the Employment Relations Promulgation 2007 and its 2015 amendment.²³³ The Fiji Human Rights and Anti-Discrimination Commission is mandated with monitoring and advancing equality and non-discrimination. In its report to the CERD Committee, the FHRADC highlighted a few key efforts that have helped it advance equality and non-discrimination.²³⁴ This includes increasing awareness and human rights education by providing trainings in schools and to the general public²³⁵, while the CERD Committee encouraged Fiji to ‘integrate ethnic, cultural and religious diversity into

230 Ibid

231 Stakeholders submission, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>, Pg. 4

232 Constitution of Fiji available at <http://www.fiji.gov.fj/getattachment/8e981ca2-1757-4e27-88e0-f87e3b3b844e/Click-here-to-download-the-Fiji-Constitution.aspx>

233 http://www.labour.gov.fj/erp2008/ERPREGS/ERP_LMCCC_Regs_2008.pdf

234 National report of the Committee on the Elimination of Racial discrimination available at: http://www2.ohchr.org/english/bodies/cerd/docs/ngos/FijiHumanRightsCommission_Fiji_CERD81.pdf

235 Ibid, p. 3



the school curriculum to promote inter-ethnic friendship and solidarity.²³⁶

Freedom of expression, association and peaceful assembly

The Constitution guarantees freedom of expression and thought, opinion and publication, and limits it only in regard to any speech, opinions or expressions that are tantamount to war propaganda, incitement to violence or insurrection against the constitution, or that advocate hatred. Further these rights can be limited if they promote discrimination against a person's actual or supposed personal characteristics including race, culture, ethnic or social origin, sex, gender, sexual orientation and gender identity, language, economic, social or health status, disability, age, and/or religion. The state, however, is constitutionally obliged under Section 17(3) (h) to make provisions for the enforcement of media standards and the regulation, registration and conduct of media organisations²³⁷ although recommendations made to Fiji at the UPR included Fiji taking measures to protect this right.²³⁸ Fiji's media laws, including the Media Decree have been described as draconian, and the Public Order Act Amendment Decree²³⁹ was criticised as limiting the right to public assembly. Further, the Essential National Industries Decree 2011 was criticised for limiting freedom of association because it (among other things) restricted collective bargaining rights, curtailed the right to strike, banned overtime payments.²⁴⁰ At Fiji's UPR, concerns were also raised on the short-term TV licenses issued to media groups under the Television Decree, rendering them dependent on continued approval from the government to operate, and recommendations were made to protect and respect fundamental expressions, assembly and association.²⁴¹

236 UN compilation, p. 12, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>

237 National report to the Universal Periodic Review, p 18, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>

238 Working Group report of the Universal Periodic Review, A/HRC/28/8, p. 18 and 19, Recommendations by Ghana, France, Brazil, Italy, Chile; <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>

239 <http://www.amnesty.org.au/news/comments/23286/>

240 Stakeholders submission, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>, p. 9.

241 Stakeholders submission, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx> and recommendations by Ghana, France, Lebanon, Brazil, Italy, Spain, Chile, Mexico, Ireland, Portugal, Belgium, Switzerland, USA, Korea, UK, Germany, Canada, Ireland – See Working Group Report, A/HRC/28/8,

The Fiji Government is now considering the enactment of a freedom of information law. The Freedom of Information Bill is currently before the relevant House Select Committee for public submission.²⁴²

Economic rights

The Strategic Development Plan for 2009–2014 provides the policy framework for economic development, and concentrates on three issues: 1) good governance, 2) macro-economic stability, and 3) social development.²⁴³ According to the government, the global financial and economic recession and the prevalence of natural disasters adversely affected Fiji's economy between 2007 and 2009.²⁴⁴ Furthermore, the government stated that it has 'adopted pro-growth and pro-poor measures aimed at raising exports, enhancing domestic production and increasing private sector investment.'²⁴⁵ Current priorities for maintaining macro-economic stability in Fiji include: macro-economic management, increasing investment and private sector development, infrastructure development, increasing exports and food security, land reforms, and labour market reforms.²⁴⁶ The Fiji government also endorsed its first national Housing Policy in 2011 which would provide improved housing standards for people in informal settlements.

Right to health and education

The right to education is enshrined under Section 31 of the Constitution, which stipulates that 'the State must use all measures within its means and resources to achieve the right to free early childhood, primary, secondary and further education'. According to state reports the government is committed to providing free education for primary and secondary school students.²⁴⁷ The Tertiary Education Loan Scheme covers the cost of tuition for university students, with flexible conditions including flexible payments over an extended period of time.²⁴⁸ The United Nations Educational, Scientific and Cultural Organization indicated

242 <http://www.parliament.gov.fj/getattachment/Research-Library/Information-Bill-Summary.pdf.aspx>

243 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>

244 Ibid

245 Ibid

246 Ibid

247 Ibid

248 Ibid



that Fiji had not reported on specific measures to integrate the subject of human rights into the national curriculum.²⁴⁹

According to Section 38 of the constitution on the right to health, the state must take reasonable measures within its available resources to achieve the progressive realisation of the right of every person to health, and to the conditions and facilities necessary to good health, and to health care services, including reproductive health care²⁵⁰ and mental health²⁵¹. The Planning and Policy Development (PPD) is the government’s framework for coordinating the development, formulation and documentation of Ministry of Health policies, and medium to short term strategies in alignment with the Ministry of Health and Medical Services’ long-term mission and vision.²⁵² The PPD division is responsible for an inclusive planning process of national plans and strategies and ensuring coherent implementation of the national strategy and a proactive approach towards the coordination of all health partners and external donors of the health sector in Fiji, according to the principles of the Paris Declaration.²⁵³ The main areas of work of the division can be characterised as follows: a) policy analysis, review and development; b) healthcare financing; and c) planning and development.²⁵⁴ Improvements including the need for better access to both the rights to education and health were raised at Fiji’s recent UPR.²⁵⁵

Women and children’s rights

The Constitution provides for equality, which includes protection from discrimination on the basis of gender. In 2014, the government enacted the Fiji National Gender Policy to promote gender equality, social justice and sustainable development. This policy aims to improve the quality of life at all levels of Fijian society through the

promotion of gender equality.²⁵⁶ According to a government report, the policy promotes the development of women’s human rights in accordance with Fiji’s obligations under CEDAW, and all other conventions and international laws relevant to women.²⁵⁷

Section 41(d) of the Constitution provides that every child has the right to be ‘protected from abuse, neglect, harmful cultural practices, any form of violence, inhumane treatment and punishment, and hazardous or exploitative labour’. It further stipulates that no child must be detained except as a measure of last resort, and while detained, to be held only for such period of time as necessary, to be kept separate from adults, and in such conditions that take account of the child’s sex and age.²⁵⁸ Furthermore, the Child Welfare Decree 2010 ensures ‘mandatory reporting of cases of possible, likely or actual harm in relation to events discovered by a professional affecting the health and welfare of children.’²⁵⁹ The decree regulates the duty of care of the professional handling cases of possible child abuse and lists the reporting requirements in such cases to protect the confidentiality and integrity of such cases.²⁶⁰ Fiji has a national coordinating committee on children (NCCC) and in 2016, created a national help line for children to prevent child abuse.

Fiji is in the process of modernising its adoption laws. This includes regulating adoptions to be in the best interests of the child, and includes provision for inter-country adoption.²⁶¹

Disability rights

The government of Fiji is committed to addressing disability needs in Fiji and developing a more inclusive society.²⁶² However, the United Nations country team reported that the ‘lack of awareness and understanding of the challenges and needs of persons with disabilities in Fiji means that they reportedly faced prejudice, discrimination

249 UN compilation, p. 12, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>

250 Fiji Constitution (2013), <http://www.paclii.org/fj/Fiji-Constitution-English-2013.pdf>

251 The Mental Health Decree of 2010 has several key objectives, one of which is to clarify the rights and obligations of mental healthcare users and the obligation of the mental healthcare providers Fiji Mental Health Decree (2010), [http://www.fiji.gov.fj/getattachment/628e4b5b-5f78-4892-ba0d-ae6a124057f6/Decree-No-54---Mental-Health-Decree-2010-\(pdf\).aspx](http://www.fiji.gov.fj/getattachment/628e4b5b-5f78-4892-ba0d-ae6a124057f6/Decree-No-54---Mental-Health-Decree-2010-(pdf).aspx)

252 http://www.health.gov.fj/?page_id=192#13

253 Ibid

254 Ibid

255 See Page 10 of the Stakeholders Submission and Page 12 of the UN Working Group Report <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>

256 National report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>

257 Ibid

258 Ibid

259 Ibid

260 Ibid, pg17

261 <http://www.parliament.gov.fj/getattachment/Parliament-Business/Bills/2016-Bills/Bill-No-21-Adoption.pdf.aspx>

262 Ibid



and rejection and often extreme poverty.²⁶³ There are more than 11,000 persons with disabilities in Fiji, and the government provides them with monthly social welfare assistance and public transportation subsidies and concessions.²⁶⁴ The government has enacted the National Policy on Persons Living With Disabilities 2008–2018, which lists key priority areas for disability rights including: a) advocacy, awareness, empowerment; b) prevention, early detection, identification, intervention, rehabilitation and health; c) effective education services and programmes; d) training and employment; e) promoting the rights of women and children with disabilities; and f) access to information communication technology.²⁶⁵ Fiji received recommendations on improving disability rights at its recent UPR. In April 2016, the Fiji Parliament debated a Disability Bill and in May 2016, Parliament opened public submission to the Parliamentary Committee on Foreign Affairs and Defence for the ratification of the CRPD.²⁶⁶ The Committee has recommended for the ratification of the CRPD.²⁶⁷ Fiji has a Fiji National Council for Disabled Persons Act 1994, which establishes a National Council for disabled persons that is under the Ministry of Social Welfare.

It became clear from the evidence that stakeholders held a common view that Fiji should ratify the Convention since it had already signed the UNCRPD on 2nd June 2010. Fiji is committed to realizing the rights of people with disabilities by setting up a number of initiatives which government has progressed in previous years. The National Policy on Persons Living with Disabilities (2008–2018) provides a framework and guide for government, NGOs, communities, families and individuals on how to create a society that respects the rights and freedoms of all its citizens.

**Parliament of the Republic of the Fiji Islands,
Standing Committee On Foreign Affairs and
Defence, Report on the ratification of the United
Nations Convention on the Rights of Persons with
Disabilities, Parliamentary Paper No.62 of 2016**

263 UN compilation, p. 19, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>

264 National report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FJSession20.aspx>

265 Ibid

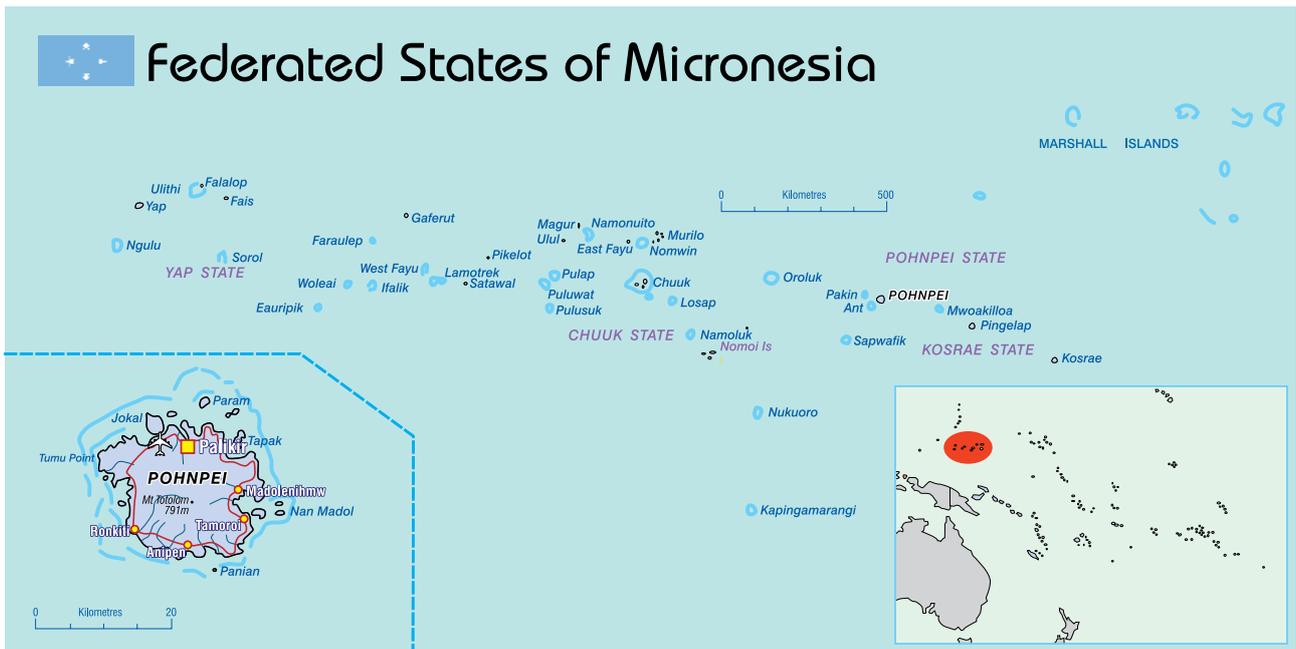
266 [http://www.parliament.gov.fj/getattachment/Parliament-Business/Select-Committees/Standing-Committee-on-Foreign-Affairs-and-Defence/Standing-Committee-on-Foreign-Affairs-and-Defence/Report-on-the-UNCRDP-Final-\(1\).pdf.aspx](http://www.parliament.gov.fj/getattachment/Parliament-Business/Select-Committees/Standing-Committee-on-Foreign-Affairs-and-Defence/Standing-Committee-on-Foreign-Affairs-and-Defence/Report-on-the-UNCRDP-Final-(1).pdf.aspx)

267 "The Committee recommends that the UN Convention on the Rights of Persons with Disabilities be ratified without reservations, however the Committee draws the attention of Parliament to the observations of the Committee in paragraphs 3.3 and 3.8 of this Report." [http://www.parliament.gov.fj/getattachment/Parliament-Business/Select-Committees/Standing-Committee-on-Foreign-Affairs-and-Defence/Standing-Committee-on-Foreign-Affairs-and-Defence/Report-on-the-UNCRDP-Final-\(1\).pdf.aspx](http://www.parliament.gov.fj/getattachment/Parliament-Business/Select-Committees/Standing-Committee-on-Foreign-Affairs-and-Defence/Standing-Committee-on-Foreign-Affairs-and-Defence/Report-on-the-UNCRDP-Final-(1).pdf.aspx)





Federated States of Micronesia



Federated States of Micronesia



Key facts²⁶⁸

Capital	Palikir, Pohnpei (pop. ~ 10,000)	Land area: 701 km ²
Population²⁶⁹	102,800 (mid-year est. 2015)	Population growth rate: -0.1%
GDP (gross domestic product) per capita	USD 3056 (2013)	GNI per capita (Atlas method) USD 3200 (2014)²⁷⁰
Type of government	Constitutional government in free association with the United States, with the President as head of state and government	
Electoral system	First-past-the-post ²⁷¹	
Number of members of parliament (MPs) in legislature	14 members ²⁷²	Total women MPs: 0 ²⁷³
Religions	Catholic: 54.7%, Protestant: 41.1% (includes Congregational: 38.5%, Baptist: 1.1%, Seventh-Day Adventist: 0.8%, Assembly of God: 0.7%), Mormon: 1.5%, other: 1.9%, none: 0.7%, unspecified 0.1% (2010 est.) ²⁷⁴	
Ethnic groups	Chuukese/Mortlockese: 49.3%, Pohnpeian: 29.8%, Kosraean: 6.3%, Yapese: 5.7%, Yap outer islanders: 5.1%, Polynesian: 1.6%, Asian: 1.4%, other: 0.8% (2010 est.) ²⁷⁵	
Languages	English (official and common language), Chuukese, Kosraean, Pohnpeian, Yapese, Ulithian, Woleaian, Nukuoro, Kapingamarangi	
Life expectancy at birth (years)	68.5 for men/ 71.6 for women	% of youth aged 15–24: 21

268 Unless otherwise specified, basic facts are taken from: http://www.spc.int/prism/images/downloads/2015_Pocket-Statistical-Summary.pdf

269 SPC Statistics, <http://www.spc.int/nmdi/population>

270 World Bank, <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>

271 <http://www.idea.int/esd/world.cfm>

272 http://www.ipu.org/parline-e/reports/2213_B.htm

273 Pacific Women in Politics, <http://www.pacwip.org/women-mps/national-women-mps/>

274 <https://www.cia.gov/library/publications/the-world-factbook/geos/fm.html>

275 <https://www.cia.gov/library/publications/the-world-factbook/geos/fm.html>

International treaty ratification and reporting obligations

Treaty	Date of signature (S)/ratification (R)/accession (A) ²⁷⁶	Declaration/reservation	Latest report submitted	Reporting status as of February 2016	Treaties yet to be ratified
CEDAW	1 September 2004 (A)	5,11(1)(d), 11(2)(b)(f), 16 and 29(1)	04 August 2015	Reviewed in 2017	<ul style="list-style-type: none"> • ICCPR • ICESCR • CERD • Migrant Workers • Enforced Disappearance • CAT • CRPD
CRC	5 May 1993 (A)	None	Initial report 16 April 1996	2 nd , periodic report overdue since 3 June 2000, 3 rd and 4 th also overdue	
CAT	15 September 2005 (S)	-	-	-	
CRPD	23 September 2011 (S)	-	-	-	
OP-CRC-AC	26 October 2015 (R)	-	-	Report due in 2017	
OP-CRC-SC	23 April 2013 (R)	-	-	Overdue since 2014	
Special Procedures		No invitation extended ²⁷⁷ Working Group on the issue of discrimination against women in law and in practice – Requested for a visit (2016) ²⁷⁸			
Country visits by UN Special Rapporteur		Nil			
Universal Periodic Review ²⁷⁹		1st cycle: November 2010; 2 nd cycle: November 2015; next cycle: 2020			
International Criminal Court ²⁸⁰		Not a state party to the Rome Statute			

System of government

The Federated States of Micronesia (FSM) is an independent country in a Compact of Free Association with the United States (US).²⁸¹ The Compact of Free Association agreement stipulates that FSM is self-governing and in control of domestic and foreign policy, while the US is entrusted with its defense and security.²⁸² The government system in FSM is based on the US system of government with an executive, a legislative and a judicial branch. The four states in FSM are Chuuk, Kosrae, Pohnpei and Yap; each

has their own government and laws. The executive branch is headed by the President and Vice-President who are elected by congress every four years; states are headed by governors and lieutenant governors. The National Congress is unicameral and consists of 14 members, 4 of whom represent the states, and are known as 'senators-at-large'. There are no formal political parties in FSM.²⁸³

Judicial system and administration of justice

The judicial branch is created by Article XI of the Constitution. FSM has a two-tier system with two divisions: a trial division and an appellate division. There are currently four justices on the bench: a Chief Justice and three Associate Justices. The trial division is a court of limited jurisdiction that hears matters a) affecting foreign relations, admiralty, or maritime cases; and b) matters arising under the constitution regarding national law or treaties, and disputes between citizens and their states and/or other states. The appellate division is the highest and the court of last resort. It may consider cases litigated in the trial division and local courts. It is also responsible for interpretation of the constitution, national laws, or treaties. The Supreme Court of FSM is

276 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the state's intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.

277 Office of the High Commissioner for Human Rights, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/StandingInvitations.aspx as at March 2015

278 Office of the High Commissioner for Human Rights, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=PLW

279 <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/FMSession9.aspx>

280 https://www.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx

281 <http://dfat.gov.au/geo/federated-states-of-micronesia/pages/federated-states-of-micronesia-country-brief.aspx>

282 Ibid

283 Ibid



the final appeal court. Each of the four states in FSM has a separate court system.

Access to justice and the right to remedy

Article IV, Section 6 guarantees a defendant's rights to legal counsel for his/her defense although FSM does not have a legal aid system.²⁸⁴ Some assistance is provided by the Micronesian Legal Services Corporation, a non-profit organization established in 1970 to provide low-income persons in Micronesia with free legal assistance in civil matters.²⁸⁵ A recent study on access to justice for children in FSM highlights remedies available under Title 11, Chapter 7 of the Civil Code.²⁸⁶ All four states have free access to legal representation from the Public Defender's Office, the Micronesian Legal Services Corporation and state trial counsellors.²⁸⁷

National human rights institution

FSM does not have a national human rights institution. According to its national Universal Periodic Review (UPR) report, 'FSM is still in the process of requesting a scoping mission from regional organizations, such as the Pacific Islands Forum Secretariat and the Secretariat of the Pacific Community/Regional Rights Resource Team.'²⁸⁸ FSM does, however, have existing governmental mechanisms in place under departments to address human rights issues, such as the Gender Development and Human Rights Office Desk under the Department of Health and Social Affairs, which coordinates human rights-related activities and obligations.²⁸⁹

284 Access to Justice for Children, https://www.crin.org/sites/default/files/fsm_access_to_justice-updatedoct2015_0.pdf

285 Who We Are, <http://www.mlscnet.org/contact-us>

286 'In a civil action brought under Title 11, Chapter 7 of the Civil Code for violations of constitutional rights or the Bill of Rights, the Supreme Court may award costs and reasonable attorney's fees to the prevailing party as compensatory damages. An injured victim is entitled to recover damages for mental anguish, including humiliation, resulting from unlawful conduct in violation of the victim's civil rights. The Court may also issue writs of garnishment against the state in order to obtain payment of a civil rights judgment against the state. Moreover a person who wilfully deprives another of, or injures, oppresses, threatens, or intimidates another in the free exercise or enjoyment of any constitutional right or provision of the Bill of Rights will be convicted and sentenced for up to 10 years' imprisonment.' https://www.crin.org/sites/default/files/fsm_access_to_justice-updatedoct2015_0.pdf

287 National Universal Periodic Review report, A/HRC/WG.6/23/FSM/1 <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>, Pg. 8

288 Ibid

289 Ibid

Security sector

The security and defence of FSM is entrusted to the US in accordance with the Compact of Free Association agreement. The National Police is in charge of law enforcement nationally, while each state has its own police force.²⁹⁰ The National Police is under the Department of Justice and its conduct is regulated by Article IV of the Declaration of Rights in the Constitution, which governs most relationships between the police and citizens.²⁹¹ There is no exclusive victim's rights legislation to date. The Attorney General of FSM is the President's chief law enforcement officer.²⁹² Police accountability depends on each state, and 'some departments, such as the Chuuk Department of Public Safety, have an internal affairs division. Otherwise, complaints may be made to an offending officer's supervisor or to the attorney general. Also, civil remedies are available to the victim of unlawful police conduct.'²⁹³

Civil society and human rights defenders

There are currently about 113 non-governmental organisations (NGOs) registered with the FSM Alliance of NGOs.²⁹⁴ According to a study conducted by the United Nations Development Programme, most civil society organisations (CSOs) in FSM work largely on environmental issues.²⁹⁵ The majority of CSOs are incorporated as non-profit organisations. The steps to register as non-profits and the reporting requirements to maintain this status are not particularly difficult.²⁹⁶ NGOs in FSM face many challenges, including a lack of funding, financial literacy, capacity building, and guidance from external partners.²⁹⁷

290 Daniel E. Hall, "Federated States of Micronesia", University of Central Florida, USA, <http://www.bjs.gov/content/pub/ascii/WFBCJFSM.TXT>

291 Ibid

292 Ibid

293 Ibid

294 Pacific Islands Associations of Non-Governmental Organisations, <http://www.piango.org/PIANGO/NLU/NLUs/Federated-States-of-Micronesia.html>

295 Capacity Assessment of CSOs in the Pacific, United Nations Development Programme, http://www.undp.org/content/dam/rbap/docs/Research%20&%20Publications/democratic_governance/UNDP_PC_DG_A_Capacity_Assessment_of_CSOs_in_the_Pacific_Six_Country_Profiles.pdf

296 Ibid

297 Ibid



Domestic law and human rights

The Constitution contains a Declaration of Rights modelled after the US Bill of Rights while adding provisions recognising and protecting traditional rights. The Declaration of Rights in Article IV protects various rights, including life, liberty, or property; freedom of expression, peaceful assembly, association, and petition; free exercise of religion; equal protection of the laws without discrimination on account of sex, race, ancestry, national origin, language, or social status.²⁹⁸ FSM has also enacted a Trafficking in Persons Act 2012 to prevent trafficking of persons and to provide protection for victims of trafficking following the ratification of the Palermo Protocol in 2011²⁹⁹. The UN country team encouraged the passage of a constitutional amendment to include gender and disability as grounds for non-discrimination.³⁰⁰ However, the government notes that it continues to conduct comprehensive reviews of existing legislations and to harmonise its laws and customary practices in the four states with international standards.³⁰¹

Human rights policies

The country's primary national policy is the National Strategic Development Plan (2004–2023), which was enacted in 2004 and provides the policy framework for economic and social development.³⁰² FSM is in the process of developing a national gender policy. Gender focal points from the national government and NGOs received training in June 2015 on gender mainstreaming in order to strengthen their capacity and enable them to jointly construct this policy.³⁰³ FSM's National Policy on Disability (2009–2016) was enacted to advance the fulfilment of rights for persons with disabilities and is administered mostly by the Department of Health and Social Affairs.³⁰⁴ Its other key policies include the National Youth Policy, Climate Change Policy, Agriculture Policy and Energy Policy.³⁰⁵

Right to life, liberty and security of person

The right to life, liberty and security of person are constitutionally protected rights.³⁰⁶ Several agencies have highlighted the lack of national legislation to protect victims of violence, especially domestic violence. The UN country team urged FSM during the UPR process to introduce federal legislation criminalising violence against women.³⁰⁷ The Anti-Human Trafficking legislation of 2012 received much praise and was commended for further application.³⁰⁸

Equality and non-discrimination

Section 5, Article IV of the FSM Constitution includes provisions for non-discrimination on the grounds of sex, race, ancestry, national origin, language and social norms. However, the Constitution does not provide protection against discrimination on the basis of gender, sexual orientation or disability.

Freedom of expression, association and peaceful assembly

The above freedoms are all protected under the Constitution, Article IV, and the Declaration of Rights. FSM, does not, however, have a Freedom of Information Act in accordance with international standards.³⁰⁹ According to one report, 'the news media operate freely' and 'religious freedom is respected'.³¹⁰ FSM has government-published newsletters and privately owned weekly and monthly newspapers.³¹¹ Each state runs its own radio station and television stations run in certain states. According to the same report, 'internet use is growing, but low income and small populations make it difficult for service providers to expand coverage'.³¹²

298 FSM Constitution, Article IV, <http://www.fsmsupremecourt.org/fsm/constitution/article4.htm>

299 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

300 UN compilation, p. 4, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

301 National report, p. 8, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

302 Ibid

303 Ibid

304 Ibid

305 Ibid, Pg 5

306 FSM Constitution, Article IV, <http://www.fsmsupremecourt.org/fsm/constitution/article4.htm>

307 UN compilation report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

308 Ibid

309 UN compilation report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

310 Report FSM 2014, <https://freedomhouse.org/report/freedom-world/2014/micronesia>

311 Ibid

312 Ibid



Economic rights

The Protection of Resident Workers Act regulates all labour rights in FSM. According to the UN, FSM does not have labour laws that specify the minimum age and conditions of employment.³¹³ Recommendations made during the UPR process included putting in place labour laws that comply with the Convention on the Rights of the Child, especially to protect children from economic exploitation, setting the minimum age for admission to employment, and regulating work conditions. States also recommended that FSM enact legislative reforms with a view to addressing the issue of children in hazardous work environments.

Right to health and education

The FSM Constitution recognises the right of people to health care and inclusive education.³¹⁴ FSM is one of the first countries in the Pacific to introduce a maternity leave law, Public Law 16-15, which grants paid leave of up to six weeks to women post-partum.³¹⁵ FSM has a dedicated Maternal and Child Health Programme that provides clinical and outreach activities within communities and schools; this programme has made significant progress in reducing infant and under-five mortality, showing a fundamental commitment to child health.³¹⁶ The Department of Health and Social Affairs also has one of the most advanced disease surveillance systems in the region, EpiNet, for alarming diseases, viruses, and other health dangers.³¹⁷ According to the national report to the UPR 2nd cycle, all four FSM states have comprehensive cancer and immunisation programmes in all their health departments.³¹⁸ The FSM government has taken proactive public health measures, including banning smoking within and around national government buildings. The UN country team noted that maternal mortality remained a concern and that malnutrition was a common problem among young children due to the consumption of unhealthy or inappropriate food.³¹⁹

FSM Code Title 40 on Compulsory Education ensures that all children attend school. All four states have special education programmes for students living with a disability. The FSM government's Strategic Development Plan 2004–2023 sets four goals for the education sector, including 'improving the quality of education and teaching; consolidating performance monitoring and data based decision-making; strengthening participation and accountability of the education system to the communities; and ensuring education is relevant to the lives and aspirations of the FSM people.'³²⁰ Some states, especially Yap and Kosrae, require that children aged 6 to 14 years must attend school, must be immunised, and must be registered.³²¹ Chuuk State Department of Education raised its educational standards for all teachers so that teachers must hold an Associate of Arts degree or else their positions will be reclassified or re-advertised to attract the most qualified people.

Women and children's rights

FSM completed its CEDAW country report and submitted it to the CEDAW Committee in June 2015. FSM initially made some reservations to CEDAW, which it is currently working on withdrawing.³²² The Family Health and Safety Study (FHSS) in 2014 found that violence against women is prevalent, and most of it is inflicted by people women know very well. More specifically, the study showed that 33% of ever-partnered women experienced physical and/or sexual violence by a partner in their lifetime and 24.1% experienced this violence in the 12 months preceding the violence against women prevalence study.³²³ FHSS highlights the significant need for raising awareness and education regarding violence against women, gender roles, and providing important strategies and recommendations on how to improve the welfare of women and children.³²⁴ FSM is encouraged to consider introducing federal legislation criminalising violence against women.³²⁵

313 UN compilation report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

314 National Universal Periodic Review report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

315 Ibid

316 Ibid

317 UN compilation report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

318 National Universal Periodic Review report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

319 UN compilation to the Universal Periodic Review, p. 7, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

320 National Universal Periodic Review report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

321 Ibid

322 Ibid, though the UN country team report notes in its report that it urges FSM to seek and utilise technical support in addressing national and federal constraints to the full adoption and implementation of CEDAW. UN Compilation to the UPR <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

323 National Universal Periodic Review report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

324 Ibid

325 UN compilation to the Universal Periodic Review, p. 4, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx> and recommendations from Portugal, Sierra Leone, Slovenia, Spain, USA, Australia, Canada, China, Germany, UK, Brazil, Fiji, Namibia



FSM ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography in April 2012. And the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. FSM launched its 2013 Children’s Atlas of Social Indicators and findings of the FSM Child Protection Baseline Report (CPBR) in October 2014.³²⁶ The atlas identifies gaps and weaknesses in all areas where children are concerned. The CPBR provides evidence of child protection measures in FSM, and encourages some states to amend their laws to increase the age of consent from 13 to 18 years of age.³²⁷ Women’s groups in FSM continue conducting awareness programmes. In October 2014, several groups convened during the National Women’s Conference and shared outcomes from regional meetings such as the 12th Triennial Women’s Pacific Conference, discussed issues including the progress of women in FSM, women and children’s access to health and education, women’s leadership roles, emerging and pressing issues from FSM youth, and climate, energy and food security.³²⁸ FSM received numerous recommendations on strengthening the legislative environment for the protection of women and children from violence, commercial exploitation, child labour etc. at its recent UPR.³²⁹

Disability rights

FSM signed (but has not yet ratified) the Convention on the Rights of Persons with Disabilities (CRPD) in 2011. FSM’s Constitution does not have specific provisions prohibiting discrimination against persons with disabilities. FSM held awareness meetings and workshops on the CRPD and collaborated with NGOs in introducing the CRPD to the FSM Congress in 2013. It also participated in the formulation of the Pacific Regional Strategy on Disability to implement human rights initiatives in the Pacific,³³⁰ and hosted the Pacific Forum Disability Ministerial Meeting in October 2014, where states addressed their regional disabilities agenda.³³¹ FSM developed its National Disability Policy (2009–2016) after wide stakeholder consultation that was coordinated by the Department of Health and Social Affairs.

326 UN compilation to the Universal Periodic Review, p. 4, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

327 Ibid

328 Ibid

329 <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

330 UN compilation to the Universal Periodic Review, p. 4, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>

331 Pacific Forum Disability Ministerial Meeting in October 2014, Ibid, p. 7

The National Disability Policy (2009–2016) recognizes that, if progress is to be made in addressing the rights and needs of persons with disabilities, strong partnerships between national and state focal points on disability, civil society, including churches, grass-roots organizations and community organizations involving persons with disabilities, the private sector and professional associations has important roles to play in promoting human rights and supporting and delivering services to persons with disabilities.

FSM national report to the UPR 2nd cycle

The policy was highly commended by partners and by the UN country team.³³²

However, the UN country team expressed concerns about the shortages of trained professionals and the limited access to transportation, which negatively affects the human rights of people with disabilities. The team was also concerned that the challenge of facilitating the transition of students and adults with disabilities between home, early childhood education, school, college and work remained problematic.³³³ Of FSM’s four states, only Pohnpei has a Disability Act although there are focal points for people with disabilities within the Department of Health and Human Services.

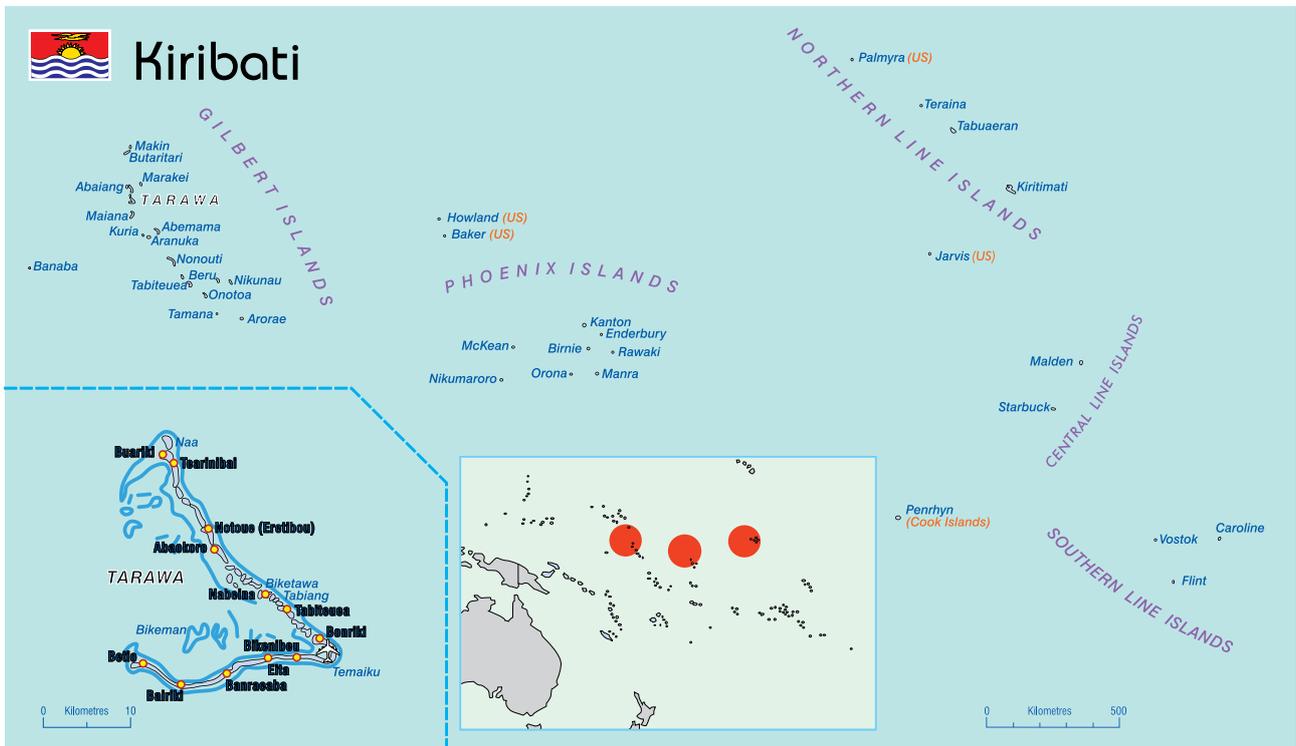
Together let us promote friendship, partnership and cooperation as our collective strength for the future. We have enough common enemies today, enemies that have no respect for our culture, boundaries, religion, or social status. Climate change, sea level rise, poverty, hunger and famine, illiteracy and incurable diseases, genocide and human trafficking, and economic imbalance, and apathy. These are our challenges of today. Let us divert the energy of our anger for things past toward these challenges for a better tomorrow.

Address by President Peter Christian before the United Nations General Assembly at its 70th session New York, 1 October 2015

332 Ibid

333 UN compilation report to the Universal Periodic Review, p. 4, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FMSession23.aspx>





Republic of Kiribati



Key facts³³⁴

Capital	Tarawa	Land area: 811 km ² (2013)
Population ³³⁵	113,400 (2015)	Pop growth rate: 2.1% (2010)
GDP (gross domestic product) per capita	USD 1442 (2013)	GNI per capita (Atlas method) USD 2950 (2014) ³³⁶
Type of government	Constitutional republic with the President as head of state and head of government	
Electoral system	Two-Round System ³³⁷	
Number of members of parliament (MPs) in legislature	46	Total women MPs: 34
Religions	Catholic: 55.8%, Protestant: 33.5%, Mormon: 4.7%, Baha'i: 2.3%, Seventh-Day Adventist: 2%, other: 1.5%, none: 0.2%, unspecified: 0.05% (2010 est.) ³³⁹	
Ethnic groups	I-Kiribati: 89.5%, I-Kiribati/mixed: 9.7%, Tuvaluan: 0.1%, other 0.8%: (2010 est.) ³⁴⁰	
Languages	I-Kiribati, English (official)	
Life expectancy at birth (years)	59.7 for men/ 67.5 for women (2010)	% of youth aged 15–24 years: 20.0

334 Unless otherwise specified, key facts are taken from: http://www.spc.int/prism/images/downloads/2015_Pocket-Statistical-Summary.pdf

335 SPC Statistics Division, <http://www.spc.int/nmdi/population>

336 World Bank, <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>

337 The Two-Round System is a plurality/majority system in which a second election is held if no candidate or party achieves a given level of votes, most commonly an absolute majority (50% plus one), in the first election round. A Two-Round System may take a majority-plurality form – more than two candidates contest the second round and the one wins the highest number of votes in the second round is elected, regardless of whether they have won an absolute majority – or a majority run-off form where only the top two candidates in the first round contest the second round. <http://www.idea.int/esd/world.cfm>

338 Women in Politics, <http://www.pacwip.org/women-mps/national-women-mps/>

339 <https://www.cia.gov/library/publications/the-world-factbook/geos/kr.html>

340 <https://www.cia.gov/library/publications/the-world-factbook/geos/kr.html>

International treaty ratification and reporting obligations³⁴¹

Treaty	Date of signature (S)/ratification (R)/accession (A) ³⁴²	Declaration/reservation	Latest report submitted	Reporting status as of February 2016	Treaties yet to be ratified
CEDAW	17 March 2004 (A)	None	-	Initial, 2 nd and 3 rd reports due since 2005, 2009 and 2014, respectively.	<ul style="list-style-type: none"> • ICCPR • ICESCR • CERD • CAT • Migrant Workers • Enforced Disappearance
CRC	11 December 1995 (A)	Articles 24 (b), (c), (d), (e), (f), 26, and 28 (b), (c), (d)	15 August 2005	Consolidated 2 nd , 3 rd and 4 th overdue since 2011	
CRPD	27 September 2014 (A)	-	-	Initial report overdue since 27 October 2015	
OP-CRC-AC	16 September 2015(A)	-	-	-	
OP-CRC-SC	16 September 2015(A)	-	-	-	
Special Procedures		No standing invitation extended			
Country visits by UN Special Rapporteur		Special Rapporteur on the human right to safe drinking water and sanitation, 23–26 July 2012 ³⁴³			
Universal Periodic Review³⁴⁴		1 st cycle: May 2010; 2 nd cycle: January 2015; next cycle: 2020			
International Criminal Court³⁴⁵		Not a state party to the Rome Statute			

System of government

Kiribati has a democratic parliamentary system of government with a unicameral parliament. The executive branch consists of the President (Te Beretitenti), Vice-President and Cabinet. The President is the head of government and head of state, as well as chief of the Cabinet. Under the Constitution, the President, who is nominated from among the elected legislators, is limited to three, four-year terms. The House of Assembly (Maneaba Ni Maungatabu) has 46 seats; 44 elected by popular vote, one *ex officio* member, and one nominated to represent Banaban communities on Rabi Island; members serve four-

year terms. Regional governments are distributed over three geographical units: Gilbert Islands, Line islands and Phoenix Islands.

Judicial system and administration of justice

According to Kiribati's Constitution, the judiciary 'interprets and applies the *maneaba's* laws; creates and interprets case law; and settles disputes of fact and law between individuals and between individuals and the state'³⁴⁶. Kiribati has four types of courts: the Privy Council; the Court of Appeal; the High Court; and the magistrates' court.³⁴⁷ Judges and magistrates at all levels (other than the Privy Council) are appointed by the President.³⁴⁸ The appointment process, especially within the higher courts, varies with Section 90 of the Constitution, giving the role of the appointment of Court of Appeal judges to the President on the advice of the Chief Justice and the Public Service Commission.³⁴⁹ The High Court is a superior court of record comprising the Chief

341 Office of the High Commissioner for Human Rights: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=KIR&Lang=EN

342 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the state's intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.

343 Report of the UN Special Rapporteur on Water and Sanitation's visit to Kiribati, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/24/44/Add.1

344 Universal Periodic Review at the Office of the High Commissioner for Human Rights, <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/KISession8.aspx>

345 International Criminal Court state parties; https://www.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx

346 Bench Book, <http://www.paclii.org/ki/other/kiribati-magistrates-bench-book-2004.pdf>

347 Ibid

348 Ibid

349 Ibid



Justice and a number of other judges as may be prescribed by Section 80 of the Constitution. The magistrates' court (limited jurisdictions) deals with the majority of all civil and criminal matters although the most serious crimes and civil suits take place in the High Court.

Access to justice and the right to remedy

Pro bono legal assistance is provided by the Office of the People's Lawyer.³⁵⁰ The office provides legal assistance to those who are disadvantaged or unable to access representation. It is an independent public office established to provide *pro bono* services, including representation and advice on land, civil and criminal issues at the magistrates' courts, high court, and the Court of Appeal. There are also law firms that provide legal representation at a fee. Currently there are no regulations governing the fees charged by private lawyers.

National human rights institution

Kiribati has yet to establish a Paris Principles-compliant NHRI. However, human rights are being mainstreamed into government ministries and departments that administer and implement national laws that address human rights, and all ministries and departments are bound by the Kiribati Constitution, which is also the supreme law in Kiribati.³⁵¹ In July 2014, the government established the Kiribati National Human Rights Taskforce (KNHRT) with a mandate to oversee all ratified human rights conventions, and to provide advice on Kiribati's human rights commitments. A human rights unit within the Ministry of Women, Youth and Social Affairs is also being developed.³⁵² In its recent Universal Periodic Review (UPR), Kiribati received a recommendation to strengthen the KNHRT into a Paris Principles-compliant national human rights institution.³⁵³

350 <https://peopleslawyerkiribati.wordpress.com/our-team-2/>

351 National report on the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

352 Ibid

353 Germany's recommendation, 'consider strengthening the independence of the Kiribati national human rights task force so that it complies with the Paris Principles. Outcome of the review, A/HRC/29/5 – p. 16, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

Security sector

The Kiribati Police Service is mandated with ensuring the preservation of the peace, the protection of life and property, and the prevention and detection (prosecution) of crime among others.³⁵⁴ The Kiribati Police Service conducts ongoing training in partnership with the Pacific Policing Initiative and the Pacific Regional Policing Initiative training and the Pacific Community's Regional Rights Resource Team, on domestic violence, handling of domestic violence, human rights and gender issues, and other training.³⁵⁵ In general, there are no reports of human rights concerns within Kiribati's security sector although various gender and human rights training are ongoing.

Civil society and human rights defenders

There are more than 50 non-governmental organisations (NGOs) working in several areas, including climate change and the provision of social and development services.³⁵⁶ NGOs are also involved in the building of schools, providing primary health care, assisting persons with disabilities, and raising awareness on climate change and assisting the government in finding solutions to its devastating impact. The majority of these NGO have been participating in human rights training, which also include shadow report writing and submission of civil society reports to the UPR³⁵⁷ and/or treaty body process. Most active NGO's are women's groups. Religious bodies have also been involved in capacity building around human rights and violence against women as they are influential in changing attitudes and perceptions, especially around violence against women.³⁵⁸

Domestic law and human rights

The 1979 Constitution (1995 amendment) is the supreme law of Kiribati, and provides for the establishment of three branches of government and guarantees the fundamental rights and freedoms of its citizens. The Constitution has a combination of enforceable rights and general principles.

354 Kiribati police, <http://www.president.gov.ki/kiribati-police-service-and-prison/>

355 Ibid

356 <http://www.piango.org/PIANGO/NLU/NLUs/kiribati.html>

357 Of the 10 non-governmental organisations submitting reports to the Universal Periodic Review, 5 were locally based and 4 were predominately women-based or working on gender issues. <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRKIStakeholdersInfoS21.aspx>

358 See Assembly of God submission to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRKIStakeholdersInfoS21.aspx>



Chapter II of the Constitution guarantees protection of fundamental rights and freedoms, including the right to life and personal liberty, and the right to freedom from slavery and inhumane and degrading treatment.³⁵⁹ The Constitution recognises that every person in Kiribati is entitled to the fundamental rights and freedoms without discrimination on the grounds of race, place of origin, political opinion, colour, creed or sex.³⁶⁰ Kiribati has enacted several laws since 2012 that help advance and protect rights, including the landmark Children, Young People and Family Welfare Act 2013 and the Family Peace Act (Te Rau n te Mwenga) 2014, which criminalises domestic violence.³⁶¹ The Education Act 2013 and the amendment to the Constitution that established the Ministry of Women, Youth and Social Affairs are also breakthrough legislations in Kiribati,³⁶² while recommendations have been made towards implementing and resourcing new laws.³⁶³

Human rights policies

Kiribati enacted a number of policies directly relating to the advancement of human rights, including the National Approach to Eliminating Sexual and Gender Based Violence in Kiribati: Policy and Action Plan 2011–2021, which is considered to be a milestone in helping the nation respond to a serious and widespread problem, namely gender-based violence.³⁶⁴ The Children, Young People and Family Welfare Policy was enacted to protect children against abuse, violence, neglect and exploitation, and to ensure the best interest of the child is safeguarded. The Kiribati Health Strategic Plan (2012–2015), the Kiribati Integrated Environment Policy (2012–2015), and the Inclusive Education (draft) Policy are also policy examples of Kiribati's commitment to advancing human rights. Other policies are captured in the national UPR report.³⁶⁵

359 Constitution of Kiribati, <http://www.paclii.org/ki/constitution/Kiribati%20Independence%20Order%201979.pdf>

360 <http://www.paclii.org/ki/constitution/Kiribati%20Independence%20Order%201979.pdf>, though Kiribati received recommendations at the Universal Periodic Review to amend its constitution to include gender and disability as prohibited grounds for discrimination. See A/HRC/29/5. Outcome of the Working Group, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

361 National Universal Periodic Review report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

362 Ibid

363 Recommendations from Spain, Sri Lanka, Great Britain and Northern Ireland, Fiji, France, South Africa, Italy, New Zealand, Brazil, Working Group report on the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

364 National Universal Periodic Review report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

365 Ibid

As a party to the United Nations Convention on Climate Change, Kiribati is actively pursuing international cooperation through the meetings and negotiations attended. Given its vulnerability to climate change, specifically sea level rise and its limited capacity to adapt to climate change, Kiribati has identified adaptation as its national priority.

National report submitted in accordance with paragraph 5 of the annex to Human Rights Council, Kiribati, Working Group on the Universal Periodic Review Twenty-first Session 19–30 January 2015.

Right to life, liberty and security of person

Both the Te Rau N te Mwenga (Family Peace) Act in 2014 and the Children, Young People and Family Welfare Act were welcomed by the regional and international community as landmark acts to safeguard the security of women and children. Kiribati has actively participated in various regional and international mechanisms, including the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime; the Pacific Immigration Directors' Conference; the Nansen Initiative Pacific Consultation and the International Conference on Small Island Developing States.³⁶⁶ Furthermore, the threat of climate change to life, livelihood and food security among other concerns is real for Kiribati, and calls have been made by civil society and faith-based organisations to the government to keep them involved in ways to address the impacts of climate change.³⁶⁷

Equality and non-discrimination

The Constitution recognises that every person in Kiribati is entitled to the fundamental rights and freedoms of the individual without discrimination on the grounds of race, place of origin, political opinion, colour, creed or sex. During a special visit by the UN Special Rapporteur on water and sanitation it was noted that the definition of discrimination in the Constitution of Kiribati is much narrower than

366 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

367 Stakeholders submission, p. 9, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>



the definition contained in the Universal Declaration of Human Rights or core international human rights treaties, and encouraged Kiribati to broaden the concept of discrimination contained in its constitution, so as to reflect international norms and consensus on this matter.³⁶⁸ Other UN agencies have noted that while the Constitution guards against discrimination on the grounds of sex it does not cover protection against discrimination based on gender.³⁶⁹ Efforts have been made to amend the constitution a few times but have failed because they did not attain the two-thirds majority required by law³⁷⁰ to pass the amendment. The Kiribati Development Plan 2012–2015 includes disability within the government’s development priorities.³⁷¹

Freedom of expression, association and peaceful assembly

Kiribati is encouraged to decriminalise defamation and include it under the Civil Code in accordance with international standards; develop self-regulatory mechanisms for the media; and strengthen the professional standards of journalism in the country.³⁷² Concerns were also raised on the lack of freedom of information laws and often the lack of participation by NGOs and faith-based bodies on government initiatives.³⁷³

Economic rights

Kiribati has sustained several consecutive years of positive economic growth, driven by donor projects and increased activity in the private sector; however, the country faces many challenges typical of small island economies.³⁷⁴ Kiribati is taking legislative and other steps to ensure sustained growth and the elimination of disparities in all economic activities. The 2008 Employment Ordinance in Kiribati prohibits discrimination on the grounds of race,

colour, sex, religion, political opinion, disability and social origin, to name a few; and Section 75D makes a provision for equal remuneration for men and women for work of equal value.³⁷⁵ Moreover, the Ministry of Labour and Human Resources Development is developing a Gender Access and Equity Policy in order to advance gender equality and the empowerment of women through improved access and successful completion of training programmes, decent employment, and inclusive decision-making processes.³⁷⁶ The policy is based on four key themes: access, equality, leadership and capacity building.³⁷⁷

Right to health and education

People in Kiribati enjoy free access to health and medical services.³⁷⁸ Healthcare services in the Line and Phoenix islands are mostly provided by the Kiritimati Island Hospital, while the Southern Kiribati Hospital on Tabiteuea North Island caters to the islands in the southern part of Kiribati.³⁷⁹ To combat the spread of non-communicable diseases in Kiribati, the government has launched several programmes that provide awareness to different groups, including school children.³⁸⁰ However, concerns have been raised on the quality of health care and the need for better infrastructure and capacity building for health staff.³⁸¹ Various recommendations³⁸² around proper sanitation, access to clean and safe drinking water, adequate food, reducing infant and mortality rates, and improving the public health system³⁸³ were made to the Kiribati government.

The government of Kiribati also provides compulsory and free primary and junior secondary schooling for children.³⁸⁴ The Education Act 2013 prohibits corporal punishment in

368 UN compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

369 Ibid

370 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

371 Ibid, p. 15.

372 UN compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

373 See stakeholders submission, A/HRC/WG.6/21/KIR/3 on Pg. 5-6; UN Compilation to the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

374 Asian Development Bank and Kiribati: Fact Sheet, <https://openaccess.adb.org/handle/11540/5210>

375 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

376 Ibid

377 Ibid

378 Ibid

379 Ibid

380 Ibid

381 Report by Kiribati Health and Family Association to the Universal Periodic Review, p. 3–4 <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRKISStakeholdersInfoS21.aspx>

382 Recommendations by Ireland, Spain, Trinidad and Tobago, Venezuela, Indonesia, Maldives, Mexico, see Outcome of the Review; <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

383 Recommendations by Singapore, Thailand and Armenia see Outcome of the Review; <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

384 National report to the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>



schools and aims at improving the quality of education in Kiribati and promoting compulsory education for all.³⁸⁵ UN Women notes that education facilities are often inadequate or in need of repair, and the lack of sanitation amenities raises health issues and affects teenage girls' ability to attend schools fully.³⁸⁶ The Ministry of Education's Sector Strategic Plan 2012–2015 strives to improve human resources capacity in the education sector as well as improve the quality of education. Other plans include improving and providing adequate facilities and learning materials, and creating an environment that not only encourages learning but is welcoming, gender-sensitive, healthy and safe for children. The Ministry of Education's annual budget has, for decades, taken the largest portion of the overall national budget, while the Ministry of Health takes the second highest portion of the annual government budget, highlighting the government's commitment to the right to education and health.

Women and children's rights

There are currently 'four female Members of Parliament of which three are Ministers, with one Minister also holding the role of Vice President. All three Heads of Diplomatic Missions/Embassies for Kiribati are females. For the past 10 years, 3 females have held the position of Head of the Public Service. Currently, there are 6 female secretaries against 9 male secretaries in the government.

National report submitted in accordance with paragraph 5 of the annex to Human Rights Council, Kiribati, Working Group on the Universal Periodic Review Twenty-first session 19–30 January 2015.

Kiribati ratified the Convention on the Rights of the Child (CRC) in 1995 and the Convention on the Elimination of forms of Discrimination against Women (CEDAW) in 2004. In 2014, Kiribati withdrew its reservations to the CRC and is currently in the process of acceding to the first and second Optional Protocols.³⁸⁷

385 Ibid

386 UN compilation, p. 8, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

387 Ibid

Kiribati took a major step towards incorporating the CRC into local legislation by enacting the Children, Young Persons and Family Welfare Act 2013. This landmark act, according to a UNICEF report, provides a legal foundation for a comprehensive child protection system in Kiribati by establishing structures, processes and systems through which protection can be undertaken.³⁸⁸ Furthermore, the newly enacted Education Act prohibits corporal punishment in all schools, and compliments the above legislation in strengthening child protection.³⁸⁹ Kiribati still has the highest under-five mortality rates in the Pacific. Diarrhoea and under nutrition in [under-five] children remain causes of under-five deaths and illness.³⁹⁰

Kiribati has taken significant steps towards improving women's rights. The landmark Te Rau n Te Mwenga Act 2014 criminalises domestic violence and calls for the enactment of more laws in line with CEDAW.³⁹¹ The Act provides the legal basis and framework for the establishment of a strong protection system for victims of domestic violence. Provisions in the Act protect children who witness or experience domestic violence, and facilitate legal redress and health safety and rehabilitation. At its UPR, Kiribati received recommendations to implement the act as a matter of priority and tackle measures to address domestic violence.³⁹²

Kiribati also established in 2013 the Ministry for Women, Youth and Social Affairs in an attempt to bolster institutional capacity for women's rights. The ministry is mandated to address women's affairs, social welfare (child protection, people with disabilities, welfare and counselling, student support, and the elderly), youth issues and other matters. It currently provides several multi-sectoral services and community awareness activities that help curb domestic violence and abuse of women's rights.³⁹³

388 Ibid

389 Ibid

390 United Nations Children's Energy Fund submission to the second Universal Periodic Review, p. 5, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRKIUNContributionsS21.aspx>

391 Ibid

392 Recommendations received from Sierra Leone, Spain, Sri Lanka, Fiji, Argentina, Italy, Germany, South Africa, Ireland, Brazil, Australia, Chile, Singapore, Israel, Netherlands, NZ

393 Ibid

Disability rights

The government of Kiribati ratified the CRPD in 2013 and is currently drafting a national disability policy.³⁹⁴ The policy provides a framework to guide all stakeholders and all communities to improve the lives of persons with disabilities, dismantle the barriers in society, and raise awareness about disability rights and needs.³⁹⁵ The principles applied in this policy include: 1) respect for the inherent dignity of the individual; 2) respect for autonomy, including the freedom to make one's own choices; 3) equality of opportunity accessibility; 4) full and effective participation and inclusion in society; 5) non-discrimination and equality between men and women; 6) respect for the cultural values of Kiribati; 7) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; 8) respect for the evolving capacities of children with disabilities; and 9) respect for the right of children with disabilities to preserve their identities.³⁹⁶ On disability statistics, the government of Kiribati piloted a sample study on the Washington Group of Questions, whose results were equivalent to the World Health Organization estimate of 15% of the world's population has some form of disability. In the 2015 census, conducted in December, census questions included the Washington Group of Questions.

394 Ibid. The UN Economic and Social Commission for Asia and the Pacific recommended that Kiribati address the special needs of people with disabilities, in compliance with Convention on the Rights of Persons with Disabilities, to ensure the protection and safety in situations of risk, natural disaster and humanitarian emergencies for people with disabilities. See UN compilation report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

395 Ibid

396 <http://www.ohchr.org/EN/HRBodies/UPR/Pages/KISession21.aspx>

Climate change- remains the biggest threat to mankind

As I have highlighted on numerous occasions, and as I did earlier this week, the issue of climate change remains the most single pressing challenge for us in Kiribati. Climate change is an existential challenge for low-lying islands like mine Tuvalu, Marshall Islands, the Maldives and Tokelau and I again call for urgent global action to help these countries adapt and for international legally binding commitments to cut greenhouse emissions.

The global community cannot afford to NOT listen to our stories and the plight of our people.

Our plight is the plight of the global community, further down the line...

...For us climate change is not an event in the future. It's an event that we're dealing with today. We simply cannot talk of sustainable development without talking about climate change...

...Excellencies, the challenges we face in the 21st Century have taken on a new dimension. It is no longer a fight to save a species here and a collapsed stock there. The fight has become larger, and is now about how to ensure the survival of whole peoples, communities, villages, cities and nations. The whole ecosystems hang in the balance - ecosystems that provide us with the air we breathe, the water we drink and much of the food we eat. It is time to view our global development in a whole new way. It is time to change business as usual. Indeed, a paradigm shift and transformational development approaches are necessary, starting from within our own nations and moving out to regional and international multilateral processes, institutions and partnerships...

...Let us bring in our youth, let us bring in our women, civil society, the private sector, our traditional institutions. Let us be inclusive. Let all who have a contribution to make, make it...

...In my country, even before the advent of climate change, the atoll environment is harsh and life on the low-lying atoll islands is difficult. We have always worked on the principal of working together, as part of a community, on the premise that some challenges will come which are larger than us. . .

The age old test of our resilience and our strength as a community, is defined by the wellbeing of the weakest member of our community. For us sustainable development must be inclusive! It requires sincerity, goodwill, respect and the willingness to move a little bit slower to assist and bring everyone on board, to move forward together.

Statement by H.E President Anote Tong, 69th United National General Assembly, New York, 26 September, 2014



Marshall Islands



Republic of the Marshall Islands



Key facts³⁹⁷

Capital	Majuro	Land area: 181 km ²
Population	54,800 (2015)	Population growth rate: 0.6%
GDP (gross domestic product) per capita	USD 3,524 (2013)	GNI per capita (Atlas method): USD 4390 (2014) ³⁹⁸
Type of government	Constitutional government in free association with the United States with the President as head of state and head of government	
Electoral system	First-past-the-post ³⁹⁹	
Number of ministers of parliament (MPs) in legislature	33	Total women MPs: 3 ⁴⁰⁰
Religions	Protestant: 54.8%, Assembly of God: 25.8%, Catholic: 8.4%, Bukot nan Jesus: 2.8%, Mormon: 2.1%, other Christian: 3.6%, other: 1%, none: 1.5% (1999 census) ⁴⁰¹	
Ethnic groups	Marshallese: 92.1%, mixed Marshallese: 5.9%, other: 2% (2006) ⁴⁰²	
Languages	Marshallese (official): 98.2%, other languages: 1.8% (1999 census); English: (official government language), widely spoken as a second language ⁴⁰³	
Life expectancy at birth (years)	71.3 for men/ 72.5 women (2011)	% of youth aged 14–24: 18.0

397 Unless otherwise specified, key facts are taken from: http://www.spc.int/prism/images/downloads/2015_Pocket-Statistical-Summary.pdf

398 World Bank, <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>

399 <http://www.idea.int/esd/world.cfm>

400 Pacific Women in Politics: <http://www.pacwip.org/women-mps/national-women-mps/>

401 <https://www.cia.gov/library/publications/the-world-factbook/geos/rm.html>

402 Ibid

403 Ibid

International treaty ratification and reporting obligations

Treaty	Date of signature (S)/ratification (R)/accession (A) ⁴⁰⁴	Declaration/reservation	Latest report submitted	Reporting status as of February 2016	Treaties yet to be ratified
CEDAW	2 March 2006 (A)	None	-	Initial report overdue since 1 April 2007	<ul style="list-style-type: none"> • ICCPR • ICESCR • CAT • CERD • Migrant Workers • Enforced Disappearance
CRC	4 October 1993 (R)	None	7 December 2004	3 rd and 4 th periodic reports overdue since 2 November 2010.	
CRPD	17 March 2015 (A)	-	-	Initial report due in 2017	
Special Procedures		Standing invitation extended: 24 March 2011			
Country visits by UN Special Rapporteur		Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes 2012 ⁴⁰⁵			
Universal Periodic Review ⁴⁰⁶		1 st cycle: November 2010; 2 nd cycle: May 2015; next cycle: 2020			
International Criminal Court ⁴⁰⁷		Ratified the Rome Statute on 7 December 2000			

System of government

The Republic of the Marshall Islands (RMI) is a self-governing constitutional government under a Compact of Free Association with the United States (US). The RMI government operates under a mixed parliamentary-presidential system. Elections are held every four years in universal suffrage (for all citizens above 18 years of age) with each of the 24 constituencies electing one or more representatives (senators) to the lower house of RMI's bicameral legislature, the Nitijela. (Majuro, the capital atoll, elects five senators.) The President, who is head of state as well as head of government, is elected by the 33 senators of the Nitijela. Legislative power lies with the Nitijela. The Upper House of Parliament, called the Council of Iroij, is an advisory body comprising 12 tribal chiefs. The executive branch consists of the President and the presidential cabinet (10 ministers appointed by the President with the approval of the Nitijela.)

404 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the state's intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.

405 Office of the High Commissioner for Human Rights, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/21/48/Add.1

406 UN report to the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/MHSession9.aspx>

407 International Criminal Court state parties, https://www.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx

Judicial system and administration of justice

RMI's Constitution guarantees judicial independence, and the judiciary includes a supreme court, high court, traditional rights court (which hears matters of traditional land rights and customary law), district court, and community courts as well as a judicial service commission and court staff. The judiciary officially commenced operation on 3 March 1982, assuming judicial functions in RMI previously discharged by the Trust Territory of the Pacific Islands courts. RMI has been trying for decades to harmonise domestic legislations with international treaties and protocols, despite the many obstacles and impediments to implementing those treaties.⁴⁰⁸

Access to justice and the right to a remedy

Section 14 (Article II) of the Constitution provides that every person has the right to invoke the judicial process as a means of vindicating any interest preserved or created by law, subject only to regulations that limit access to courts on a non-discriminatory basis. Section 4 of Article II (Bill of Rights) provides for the right to a fair trial.⁴⁰⁹

408 Report of the Working Group on the Universal Periodic Review, A/HR/30/13, p. 11, <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/MHSession9.aspx>

409 RMI constitution, <http://www.rmiembassyus.org/Constitution.htm> [Accessed: 30 April 2016]



National human rights institution

The Human Rights Committee Act 2015 establishes a Human Rights Committee and to provide for its 'membership, functions, powers and administration' as well as to 'establish a complaints mechanism for the redress of human rights violations.'

RMI has yet to establish a Paris Principles-compliant national human rights institution (NHRI). However, human rights are dealt with by the Human Rights Committee and a range of government departments.⁴¹⁰ RMI received nine recommendations on the establishment of an NHRI at its Universal Periodic Review (UPR).⁴¹¹

Civil society and human rights defenders

The RMI government has a healthy and longstanding relationship with the civil society community and NGOs.⁴¹² An important example of this relationship is the Working United Together Marshall Islands (WUTMI) project; and the Initiative for Better Response to Address Violence Everywhere (iBrave), which was funded by the United Nations Trust Fund to end violence against women.⁴¹³ iBRAVE has a public awareness section and a legislation and policy section. WUTMI works closely with the Ministry of Internal Affairs on legislation and policy to develop first response protocols and a technical working group to facilitate implementation of the Domestic Violence Prevention and Protection Act.

Human rights policies

Human rights policies created by the government between 2012 and 2015 include the Marshall Islands National Gender Policy, which was drafted with the help of the Pacific Community; the National Policy on Disability Inclusive Development (2014–2018); the National Youth Policy (2009–2014); the National Reproductive Health Policy/Strategy (2014–2016); Prevention of adolescent pregnancy: A three-year strategy (2014–2016); and the Joint National Action Plan for Climate Change Adaptation and Disaster Risk Management (2014–2018).⁴¹⁴

Equality and non-discrimination

The Constitution prohibits discrimination on the basis of gender but not sex and disability.⁴¹⁵ Furthermore, discussions for a constitutional convention that began in April 2013 included expanding the anti-discrimination provision to include sex and disability⁴¹⁶ as prohibited grounds for discrimination and for the establishment of the Office of the Ombudsman. The government is taking steps to promote and advance gender equality, including implementing its National Gender Policy.⁴¹⁷ The government is also making strides in promoting and advancing gender equality, including taking part in the Gender Equality Declaration developed at the 2012 Pacific Islands Leaders Forum, and following up with the creation of its National Gender Policy.⁴¹⁸ The purpose of the gender policy is to 'guide the process of developing laws, policies, procedures and practices that will address the needs, priorities and aspirations of all women and men and effectively eliminate all forms of discrimination and inequality.'⁴¹⁹ The five priority outcomes are: 1) strengthened capacity across the government to deliver gender-responsive programmes and services; 2) secured family wellbeing; 3) elimination of gender-based violence and protection and care of survivors; 4) creating an enabling environment for an equitable participation in and benefit from economic development; and 5) promoting equitable participation of women and men in

410 RMI national report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MHSession22.aspx>

411 Morocco, Rwanda, Sierra Leone, Uruguay, Egypt, France, Germany, Indonesia, Mexico. Outcome of the review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MHSession22.aspx>, Pg. 16-17

412 Marshall Islands national report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MHSession22.aspx>

413 Ibid

414 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MHSession22.aspx>

415 UN compilation at the Universal Periodic Review, Marshall Islands national report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MHSession22.aspx>

416 Ibid

417 Ibid

418 Ibid

419 Ibid



decision-making.⁴²⁰ The government has also conducted a cost analysis with the UN Development Programme of the Domestic Violence Prevention and Protection Act.⁴²¹

Economic rights

In 2014, RMI published the Atlas of Social Indicators, which provides baseline data on poverty, education, health and other socioeconomic indicators. In 2011, the government also completed a thorough census that provides an important socioeconomic analysis of the country. Following the publication of the census, the government developed the National Strategic Plan (NSP), which addresses five sectors: Social Development, Environment, Climate Change and Resiliency, Infrastructure Development, Sustainable Economic Development and Good Governance. The NSP was endorsed in 2014 and implemented from 2015 to 2017.⁴²² The International Labour Organization (ILO) recommended that RMI ratify the eight fundamental ILO conventions during the Marshall Islands' UPR.⁴²³

Right to health and education

The Ministry of Health has recently developed several policies to improve access to health care. The Reproductive Health Unit within the Ministry of Health developed the Reproductive Health Policy to honour its commitments under the International Conference on Population and Development and the Millennium Development Goals. The policy envisions quality sexual and reproductive health care for all RMI people.⁴²⁴ Stakeholders have suggested that RMI seek bilateral engagement and international partnership in building and sustaining a comprehensive health treatment system in the country that attends to the acute, chronic and intergenerational effects of exposure to radiogenic and other toxic contaminants resulting from atomic tests in RMI.⁴²⁵ The United Nations country team noted a health

crisis resulting from increased incidences of obesity and non-communicable diseases.⁴²⁶ Further recommendations were made to RMI to seek assistance from the United Nations specialised agencies, funds and programs with a view of realising the right to health and in addressing the legacy of nuclear tests.⁴²⁷ The UN Special Rapporteur on toxic waste made similar recommendations.⁴²⁸

RMI's Public School System Act 2013 (MIPSSA) was enacted in 2013 to replace the former Education Act.⁴²⁹ The MIPSSA created an autonomous public school system and a governing National Board of Education. The MIPSSA stipulates that a child over the age of five years before the beginning of a school year is eligible to enrol in and attend any school in RMI, and that enrolment and attendance for these children is the responsibility of the parents or guardians.⁴³⁰ Furthermore, a child who has completed an elementary level education is eligible to enrol in secondary level education in any school. According to the UPR national report, enrolment data from 2011 shows nearly equal enrolment of males and females at both public schools and private elementary and secondary schools. In elementary schools, 48.3% of students were female, and in secondary schools, 51.1% of students were female.⁴³¹

Women and children's rights

In March 2013, the government launched the Ajri in Iibunini: Child Protection Baseline Report, which was conducted with support from the United Nations Children's Emergency Fund. The report provides the necessary baseline data for addressing child protection issues.⁴³² Another study, the Debij Aeneman ilo Moko: Family Health and Safety Study was conducted with support from UNFPA as part of a regional effort to collect prevalence data on violence against women. The government acknowledges that the data collected in these reports, and the accompanying recommendations provide an important road map for addressing child protection and violence against women⁴³³,

420 According to the stakeholder's submission to the Universal Periodic Review, that the policy has been in draft form since 2013 and there was a recommendation that the government finalise and endorse the policy and urge all government ministries to implement it. Stakeholders submission to the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MHSession22.aspx>

421 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MHSession22.aspx>

422 Ibid

423 UN compilation, p. 7, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MHSession22.aspx>

424 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MHSession22.aspx>

425 Summary of stakeholders submission, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MHSession22.aspx>

426 UN compilation, p. 7, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MHSession22.aspx>

427 Ibid

428 <http://www.ohchr.org/EN/Issues/Environment/ToxicWastes/Pages/Visits.aspx>

429 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MHSession22.aspx>

430 Ibid

431 Ibid

432 Ibid

433 Ibid



and it has since passed the Domestic Violence Prevention and Protection Act⁴³⁴ in addition to the Child Protection Act. RMI received recommendations on strengthening these areas of women and children's rights⁴³⁵ as well as calls to implement its Domestic Violence Prevention and Protect Act. Further the UN noted that Marshall Islands did not have a cohesive child protection programme and the legal framework for child protection was weak.⁴³⁶

Disability rights

In 2014, the government enacted the RMI National Policy on Disability Inclusive Development (2014–2018). The policy was developed through a collaborative process led by the Ministry of Internal Affairs with technical assistance from the United Nations Economic and Social Commission for Asia and the Pacific, Pacific Islands Forum Secretariat, and the Pacific Disability Forum.⁴³⁷ The purpose of the policy is to 'provide a comprehensive framework for improving the quality of life of a person with disabilities and to increase their meaningful participation in society', which is in line with the goal that RMI becomes a barrier-free society that respects the rights of all persons with disabilities by empowering them and providing them with the means of achieving their rights.⁴³⁸ The disability policy was developed in line with the Convention on the Rights of Persons with Disabilities (CRPD), the Pacific Regional Strategy on Disability, and the Incheon Strategy.⁴³⁹ The disability policy focuses on 10 priority areas: coordination, legislation, signature and accession of the CRPD, awareness and advocacy, education and training, employment and livelihoods, access to health services, mainstreaming of disability across government and civil society, strengthening of RMI's Disabled Persons Organization, and assisting women and youth with disabilities.⁴⁴⁰ RMI ratified the CRPD in January 2015 and enacted the Rights of Persons with Disabilities Act in September 2015.

...I also welcome the establishment of a comprehensive assistance program with IAEA [International Atomic Energy Agency] which will not only build our own national capacity to monitor' and evaluate serious issues of nuclear contamination, but also address health strategies and other key SDG [sustainable development goals] benchmarks. Because I can assure the United Nations that the Marshall Islands refuses the very notion that we would willingly relocate - wholesale - to another nation, and that if the water comes, it comes...

...As a low-lying island nation, with no higher ground, climate change poses a severe threat to our very security. Some have said there is no more hope, and no more time. I forcefully disagree. The future of my nation - the future of our very land -- is perhaps more, in the hands of my fellow world leaders than it is my own. There is still hope - hope that my nation is able to tackle the most difficult planning challenges to build resilience wherever we can - and hope that the world will not turn a blind eye commitment to reduce it's emissions...

H.E Mr. Christopher J. Loeak,
President of the Republic of the Marshall Islands
General Debate,
70th Session of the United Nations General Assembly,
30 September 2015

434 Ibid, p. 8

435 See Working Group report on the Universal Periodic Review, p. 18–20 <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MHSession22.aspx>

436 UN Compilation, p. 7, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MHSession22.aspx>

437 Working Group report on the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MHSession22.aspx>

438 Ibid

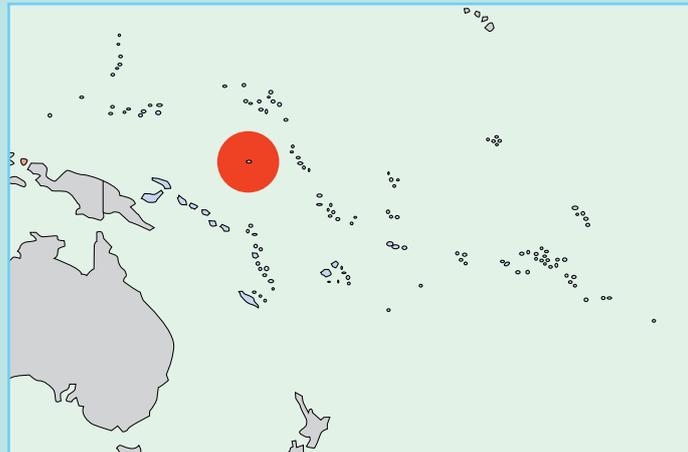
439 Ibid

440 Ibid



Nauru

0 Kilometres 2



Republic of Nauru



Key facts⁴⁴¹

Capital	Yaren	Land area: 21 km ²
Population	10,840 (2015)	Population growth rate: 1.6% (2011)
GDP (gross domestic product) per capita	USD 11,015 (2014)	GNI per capita (Atlas method): USD 15,737.4 (2013) ⁴⁴²
Type of government	Unicameral parliamentary democracy	
Electoral system	Dowdall System, a decimalised modification of a preferential Borda count ⁴⁴³ with the President as head of state and head of government	
Number of members of parliament (MPs) in legislature	19 members	Total women MPs: 1 ⁴⁴⁴
Religions	Protestant: 60.4% (includes Nauru Congregational Church: 35.7%, Assembly of God: 13%, Nauru Independent Church: 9.5%, Baptist: 1.5%, and Seventh-Day Adventist: 0.7%), Catholic: 33%, other: 3.7%, none: 1.8%, unspecified: 1.1% (2011 est.) ⁴⁴⁵	
Ethnic groups	Nauruan: 58%, other Pacific Islander: 26%, Chinese: 8%, European: 8% ⁴⁴⁰ (excludes refugees statistics)	
Languages	English, Nauruan	
Life expectancy at birth (years)	58.0 for men/ 64.9 for women (2011–2013)	% of youth aged 15–24: 17.0

441 Unless otherwise specified, basic facts are taken from: http://www.spc.int/prism/images/downloads/2015_Pocket-Statistical-Summary.pdf

442 <http://data.un.org/CountryProfile.aspx?crName=nauru>

443 Borda Count (BC) – A candidate-centred preferential system used in either single- or multimember districts in which voters use numbers to mark their preferences on the ballot paper and each preference marked is then assigned a value using equal steps. These are summed and the candidate(s) with the highest total(s) is/are declared elected. <http://www.idea.int/esd/world.cfm>

444 Pacific Women in Politics, <http://www.pacwip.org/women-mps/national-women-mps/>

445 <https://www.cia.gov/library/publications/the-world-factbook/geos/nr.html>

446 <https://www.cia.gov/library/publications/the-world-factbook/geos/nr.html>

International treaty ratification and reporting obligations⁴⁴⁷

Treaty	Date of signature (S)/ratification (R)/accession (A) ⁴⁴⁸	Declaration/reservation	Latest report submitted	Reporting status as of Feb 2016	Treaties not yet ratified
CEDAW	23 June 2011(A)	None	13 January 2016	Review before Committee 2017	<ul style="list-style-type: none"> • ICCPR • ICESCR • CERD • Migrant Workers • Enforced Disappearance
CRC	27 June 1994(A)	None	11 January 2016	Review before Committee 2016	
CERD	12 November 2001(S)	-	-	-	
CRPD	27 June 2012(A)	-	-	Overdue since 2014	
CAT	26 September 2012(A)	-	-	Initial report due 26 October 2013	
OP-CRC-AC	September 2000 (S)	-	-	-	
OP-CRC-SC	September 2000 (S)	-	-	-	
ICCPR OP1	12 November 2001 (S)	-	-	-	
CAT OP	24 January 2013(A)	-	-	-	
Special Procedures	Open invitation extended: 30 May 2011. Requests for visits made by the Special Rapporteur on the human rights of migrants; Working Group on Arbitrary Detention; Special Rapporteur on the human rights of migrants; Working Group on the use of mercenaries as a means of violating human rights ⁴⁴⁹				
Country visits by UN Special Rapporteur or treaty bodies	Nil Visit by the Subcommittee on the Prevention of Torture: May 2015				
Universal Periodic Review⁴⁵⁰	1 st cycle: 24 January 2012; 2 nd cycle: 3 November 2015; next cycle: 2020				
International Criminal Court⁴⁵¹	Ratified the Rome Statute on 12 November 2001				

System of government

The Republic of Nauru is a democracy with a parliamentary representative system.⁴⁵² The President of the country is the head of government and the head of the executive branch. The President is elected by parliament for a three-year term.⁴⁵³ The legislative branch comprises a unicameral parliament with 19 members representing the different constituencies/districts.⁴⁵⁴ Members of parliament are also elected into office for three-year terms.

447 Office of the High Commissioner for Human Rights: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=NRU&Lang=EN

448 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the state's intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.

449 Office of the High Commissioner for Human Rights, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=PLW

450 UN compilation, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

451 International Criminal Court state parties, https://www.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx

452 Government of Nauru website – About Nauru, <http://www.naurugov.nr/about-nauru.aspx>

453 Paclii Nauru Government System, <http://www.paclii.org/nr/government.html>

454 Ibid



Judicial system and administration of justice

The role of the Nauru judiciary is to ‘uphold the rule of law by resolving disputes between the legislature and the executive and between the citizens of the Republic of Nauru.’⁴⁵⁵ The judiciary comprises the Court of Appeal, the Supreme Court, the district magistrates’ court, and the Family Court. This system was established by the National Constitution, Appeals (Amendment) Act 1974, the Courts Act 1972, and the Family Court Act 1973.⁴⁵⁶ The UN joint team in the Pacific expressed concern regarding the independence of the judiciary, following the dismissal of Nauru’s only Magistrate and Chief Justice in 2014.⁴⁵⁷ The joint team called for the introduction of appropriate safeguards in the constitution and supporting legislation to safeguard the independence of the judiciary.⁴⁵⁸ Nauru has since recruited three new Supreme Court justices, including a Chief Justice and for the first time, two women justices (a judge and the resident magistrate). Nauru received six recommendations on strengthening judicial independence, including establishing a regulatory commission or body to oversee the appointment and removal of members of the judiciary.⁴⁵⁹

Access to justice and the right to remedy

Nauru’s constitution (Part 2) confirms that a legal challenge can be brought to the Supreme Court if there is a potential violation of fundamental rights and freedoms.⁴⁶⁰ There are no current studies to determine or identify barriers in accessing justice for all groups in Nauru, except for asylum seekers and refugees. Legal services remain a challenge, given that there is a lack of qualified legal professionals in Nauru. Recommendations to the government include opening the legal market to allow for more qualified legal firms, including those from overseas to work in

Nauru.⁴⁶¹ Further recommendations were for Nauru to seek assistance from the international community to expand and strengthen its legal and judicial sectors, including by improving access to affordable legal advice on civil and criminal matters and ensuring that court cases are not subject to lengthy delays.⁴⁶² In 2014, Nauru established the Public Legal Defenders Office, which offers free legal representation to indigent clients in criminal cases and also family cases. In addition the increase in staff and resources for the Director of Public Prosecution’s office and the Public Defenders’ Office has assisted in decreasing the backlog of cases that had been mounting for a number of years.⁴⁶³

National human rights institution

Nauru does not have a national human rights institution. The Ministry of Justice, through the Department of Justice and Border Control, is examining the development of an office to manage Nauru’s human rights issues and concerns.⁴⁶⁴ In addition, Nauru has begun preliminary discussions with the Ombudsman Office of the Samoan government over bilateral agreements to support the establishment of a national human rights institution in Nauru.⁴⁶⁵ At the Universal Periodic Review (UPR), Nauru received three recommendations on establishing its national human rights institution.⁴⁶⁶

Security sector

Nauru’s police force was established by the Police Force Act of 1972, which lays down the structure of the force and rules of recruitment. Nauru’s police force is currently composed of approximately 150 officers and a small volunteer reserve contingency. The UN country team urged the government to develop the capacity on human rights of law enforcement officials as a matter of priority, so as to prevent violence against women and children, and torture

455 Nauru Judiciary Annual Report 2009, <http://www.pacii.org/nr/court-annual-reports/2009-2010.htm>

456 Ibid

457 UN compilation for the Universal Periodic Review of Nauru, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/187/69/PDF/G1518769.pdf?OpenElement>.

458 UN compilation, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>, p. 7

459 Recommendation by the United Kingdom; see other recommendations by Belgium, Netherlands, Trinidad and Tobago, France, Mexico and New Zealand, Working Group report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

460 Access to justice for children in Nauru, https://www.crin.org/sites/default/files/nauru_access_to_justice-updatedoct2015.pdf

461 Stakeholders submission, p. 5, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

462 Ibid

463 Working Group report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>, Pg.5

464 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

465 Ibid

466 Recommendations by France, Portugal and Indonesia, A/HRC/31/7, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>



and other acts of ill-treatment.⁴⁶⁷ The police have created a domestic violence unit.

Civil society and human rights defenders

Nauru's civil society is small and still developing. According to a report by the International Service for Human Rights and the Human Rights Law Centre, there are many restrictions placed on lawyers, journalists and 'whistle-blowers' wishing to address issues regarding the migrants on Nauru.⁴⁶⁸ Nauru needs to take legislative measures to protect activists in civil society from all types of reprisals.⁴⁶⁹

Domestic law and human rights

Nauru has enacted a number of laws in the past few years that directly relate to the improvement of rights of citizens, including the Cyber Crimes Act 2015, Adoption (Amendment) Act 2015, Naoero Citizenship (Amendment) Act 2015, Refugee Act 2012, Asylum Seekers (Regional Processing Centre) Act 2012, Education (Amended) Act 2015, and the Interpretation Act 2011.⁴⁷⁰ Nauru passed its Leadership Code Act 2016⁴⁷¹ and a Child Protection and Welfare Act 2016⁴⁷² while a Domestic Violence and Family Protection Bill is at consultation stages.

Human rights policies

Nauru has enacted several policies⁴⁷³ addressing various human rights issues and groups. The Nauru National Policy on Disability 2015 provides a comprehensive framework to address the needs and rights of persons with disabilities, in particular to improve the quality of their lives and their full and equal participation as empowered citizens. The Nauru National Youth Policy, 2009–2015 (currently

awaiting endorsement) focuses on skills development for youth, employment and income generation initiatives, and creating a supportive environment for youth, which enhances their social development. Nauru's National Women's Policy 2014–2019 provides a national framework for the articulation of areas of concern identified in the National Plan of Action for Women, and calls for a multi-sectoral implementation response to achieve the countries gender priorities and equality. The Education Reform Agenda 2014 aims at increasing access to education and improving services to students.

Right to life, liberty and security of person

Nauru acceded to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2013. The UN and treaty bodies have highlighted the need to establish a national preventive mechanism in accordance with CAT⁴⁷⁴. In May 2015, the government welcomed a visit by the UN Subcommittee on the Prevention of Torture. The mission focused mostly on the situation of refugees and asylum seekers at Regional Processing Centres. The subcommittee also visited Nauru's police station and prison.⁴⁷⁵ Reports of this mission and other visits by the UN highlighted a number of issues concerning citizens, including the use of solitary confinement in jail as a disciplinary measure; the subcommittee called on the Nauru Police to stop this practice.⁴⁷⁶ The UN joint country team also highlighted concerns regarding the safety of unaccompanied refugee minors released into the community, citing incidences of physical and verbal assaults; the team expressed concern over their mental health, and their right to safety and security of person and property.⁴⁷⁷

Equality and non-discrimination

The issue of equality focus on three main groups of people: women, asylum seekers, and members of the lesbian, gay, bisexual, and trans/intergender community. The Criminal Code 1899 makes it an offence for a male person to commit any act of indecency with another male; it does not,

467 Ibid

468 The situation of human rights defenders in Nauru, http://www.upr-info.org/sites/default/files/document/nauru/session_23_-_november_2015/js2_upr23_nru_e_main.pdf

469 Working Group Report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>, Pg 19

470 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

471 http://ronlaw.gov.nr/nauru_lpms/files/acts/5dbfcee470b4f979ea07234e19fb0a98.pdf

472 <http://www.spc.int/en/media-releases/2522-passage-of-nauru-child-protection-law-welcomed.html>

473 All of these policies are mentioned in the government report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>, p. 4–5

474 UN compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx> and Working Group report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>, Pg. 14-15

475 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

476 UN compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

477 Ibid



however, mention anything regarding female activities. The Criminal Code 1899 was criticised for having certain discriminatory provisions against women. Further work on a standard domestic violence law is currently underway.⁴⁷⁸ However the courts have often ruled in favour of evolving jurisprudence that recognises the principles of equality and non-discrimination for example, in *The Republic v Saeed Mayani*, the Supreme Court struck down the corroboration rule as discriminatory.⁴⁷⁹

At the time of printing, Nauru had just passed its new Criminal Act 2016, which repealed the Criminal Code 1899. The Criminal Act is described as 'gender friendly' legislation and has been welcomed as improving human rights.⁴⁸⁰

In another milestone, Nauru submitted its three-year overdue CEDAW report in January 2016 and will be reviewed by the Committee in 2017.

Freedom of expression, association and peaceful assembly

Nauru's media remains mostly limited to two fortnightly news bulletins, one TV station and one radio station. Access to information remains limited, with only state-owned media resources being available.⁴⁸¹ There were some international concerns regarding limiting access of international journalists to Nauru and to the Regional Processing Centres.⁴⁸² In 2015, the government imposed prohibitive visa fees for foreign journalists wanting to enter the country to report on the Regional Processing Centres for asylum seekers and refugees.⁴⁸³ Other concerns include the restrictions imposed on peoples' right to assembly. The 2015 amendment of the Criminal Code limiting freedom

of association has been criticised by the UN Special Rapporteur who emphasised that, 'any legislation aiming at regulating the freedom of expression must be strictly necessary to achieve a legitimate objective, and should be worded precisely and with care.'⁴⁸⁴ The Special Rapporteur on the promotion and protection of the right to freedom of expression called on the government to withdraw recent amendments to the Criminal Code that unduly restricts freedom of expression.⁴⁸⁵ Concerns were also raised with the suspension of five members of parliament for criticising the government to the international media, meaning that, 'Parliament has been operating on 68% of the total parliamentarians to make national decisions, allocate resources to constituencies and enact laws. This means that the voice of 32% of the Nauruan voters is not heard in Parliament.'⁴⁸⁶ Nauru received recommendations for the protection of freedom of expression and association at its recent UPR.⁴⁸⁷

Economic rights

In 2005, Nauru launched its National Sustainable Development Strategy 2005–2025, which provides the development framework for the country for over 20 years. The strategy has five long-term goals: 1) a stable, trustworthy, fiscally responsible government; 2) the provision of enhanced social infrastructure and utilities services; 3) the development of an economy based on multiple sources of revenue; 4) the rehabilitation of mined lands for livelihood sustainability; and 5) the development of domestic food production. The National Youth Policy 2009–2015 focuses on income-generating opportunities for youth.⁴⁸⁸ The Enterprise Resource Centre was set up in 2010 as part of the Nauru Entrepreneurship Development Programme, a joint initiative between the government of Nauru and the United Nations Development Programme, with USD 211,693 funding. The centre provides services that include financial literacy training and access to a micro-credit fund that provides loans of up to AUD 2,000.

478 P. 5, Working Group report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

479 Ibid. The court held that the 'rule of practice requiring the giving of a corroboration warning relates top cases in this jurisdiction in which only a woman or girl can be the complainant. Thus, to require a corroboration warning to be given in relation to these complainants only, is to discriminate against them on the basis of their sex.

480 <http://www.amnesty.org.au/news/comments/41970/>

481 UN compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

482 In the stakeholders report to the UPR, two submissions noted that in 2014, Nauru increased the visa fee for journalists and the fee is non-refundable even if the visa application is rejected. This measure has discouraged foreign journalists from travelling to Nauru to report on the treatment of asylum seekers. A/HRC/WG.6/23/NRU/3, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

483 Al-Jazeera, <http://www.aljazeera.com/news/2015/10/nauru-government-refuses-media-visa-applications-151009043225083.html>

484 UN rights expert urges Nauru to withdraw norms threatening freedom of expression - See more at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15995&LangID=E#sthash.rTqLHOIN.dpuf>

485 UN compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

486 Stakeholders compilation to the Universal Periodic Review, p. 6, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

487 Recommendations from France, Germany, Australia, Netherlands, New Zealand, Timor Leste, Belgium, Costa Rica, Spain; Working Group Report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

488 National report to Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>



The centre has, to date, helped establish 16 successful businesses, and funded 17 business projects, 14 of which were led by women (including 10 young women), and 3 were led by men, of which 2 were youth.⁴⁸⁹ The Australian government will provide an estimated AUD 25.2 million in total overseas development aid to Nauru in 2015–2016. This will include an estimated AUD 21.2 million in bilateral funding to Nauru, which will be managed by the Australian Department of Foreign Affairs and Trade.⁴⁹⁰

Right to health and education

The government of Nauru, in partnership with Australia's Ministry of Foreign Affairs and Trade, has embarked on a Hospital Redevelopment programme to refurbish and renovate the infrastructure of Nauru's only hospital.⁴⁹¹ The leading cause of morbidity and mortality in Nauru is non-communicable diseases (NCDs) such as diabetes, hypertension and obesity.⁴⁹² Challenges remain in obtaining fresh vegetables and food given Nauru's heavy reliance on imported food and vegetables. The National Council of Women recommended that the Nauruan government make medical services accessible for women, especially the provision of facilities and equipment, such as mammogram machines, equipment for early detection of cancer with appropriate medical services and intervention to be available.⁴⁹³ According to the World Health Organization, the government of Nauru is committed to improving preventive health services, reducing NCDs, and meeting the requirements of the UN conventions, especially the Convention on Tobacco Control.⁴⁹⁴ Concerns have also been raised on the devastating impact of the phosphate mining on the physical environment and the impact of mining on the health of Nauruans. In education, the government of Nauru reports that enrolment rates continue to improve, although the problem of truancy continues to be a serious problem.⁴⁹⁵ The Department of Education is determined to

overcome this problem and is currently developing a new strategy specifically to combat truancy. The strategy will: 1) include measures to penalise and fine parents of truant children; 2) implement a student allowance programme to financially reward attendance; and 3) improve services in schools such as feeding programmes to encourage school attendance.⁴⁹⁶ The inclusive education of disabled children has been encouraged in Nauru's second UPR cycle.⁴⁹⁷

Women and children's rights

One of the major achievements in Nauru regarding children's rights is the establishment in 2015 of the new Division of Child Protection Services within the Ministry of Home Affairs. The division was created to provide technical advice, policy formulation on child protection issues, and support services.⁴⁹⁸ The division is working with United Nation's Children's Emergency Fund and other organisations on conducting studies to assess the current situation and make improvements.⁴⁹⁹ Another major achievement is the enactment of the Cyber Crime Act 2015, which was enacted specifically to protect children against cyber abuse via social media and also the Child Protection Act 2016. Children at the Regional Processing Centres have access to Nauru's schools but lack proper integration services. Save the Children Australia provided services in the camps, including monitoring of and reporting on vulnerable cases.⁵⁰⁰ This role has been taken over by the Correctional Services. Corporal punishment remains a serious concern in Nauru. In January 2016, Nauru submitted its 20-year overdue CRC report, a significant milestone for the CRC Committee. Nauru will now be reviewed in August 2016 by the CRC Committee.

Nauru has made some progress towards the realisation of women's rights. Women's issues are addressed by the Ministry of Home Affairs through the Department of Women and is guided by three main policies: Nauru National Women's Policy (2014–2024); Nauru Women's Action Plan 2005–2015; and the Nauru Young Women's Action Plan 2009–2015.⁵⁰¹ The National Women's Policy 2014–2019

489 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

490 Overview of Australia's aid program to Nauru, <http://dfat.gov.au/geo/nauru/development-assistance/pages/development-assistance-in-nauru.aspx>

491 National report to the Universal Periodic Review. The project will cost AUD 11.5 million, which will be fully funded by the Australia government.

492 World Health Organization Country Strategic Collaboration report, http://www.who.int/countryfocus/cooperation_strategy/ccsbrief_nru_en.pdf

493 Stakeholders compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>, Pg. 7

494 World Health Organization Country Strategic Collaboration report, http://www.who.int/countryfocus/cooperation_strategy/ccsbrief_nru_en.pdf

495 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

496 Ibid

497 Stakeholders compilation and UN compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

498 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

499 Ibid

500 Ibid

501 Ibid



lays out Nauru's vision for women in society, including: 1) heightened participation of women in decision-making processes and leadership; 2) eliminating all forms of violence against women; 3) improving the economic status of women; 4) improving women's health and protecting their reproductive health rights; 5) improving women's and girls' access to health and education; and 6) improving government capacity and gender protection programmes.⁵⁰² Nauru elected its second woman to parliament in 2013, 20 years after the election of its first woman MP raised calls for Nauru to consider temporary special measures.⁵⁰³ Nauru has improved services to women and children, and survivors of violence by employing a full-time psychosocial counsellor at the Republic of Nauru Hospital, and creating a strong referral system between the hospital, schools, and the Nauru Police Force – Domestic Violence Unit to monitor and efficiently manage cases.⁵⁰⁴ Nauru is in the process of writing a domestic violence law. In 2016, Nauru passed a new Child Protection and Welfare Act.⁵⁰⁵

Disability rights

In 2012, Nauru acceded to the Convention on the Rights of Persons with Disability (CRPD). In 2015, it drafted National Policy on Disability, which provides the framework for fulfilling the rights of persons with disabilities and improving services to them. The policy hopes to put services in place to improve their quality of life and fully integrate them into society and encourage equal participation. Children with disabilities are particularly cared for and receive education at the Able Disable Centre, which was established in 2002 and currently has 42 students enrolled, ages ranging from 4 to 34.⁵⁰⁶ Nauru also constructed an accessible secondary school and a vocational training centre to allow for the mainstreaming of children with disabilities into secondary/vocational education. However, due to lack specialised teachers, the school only caters to students with physical and hearing impairments. There are plans by the government to mainstream and integrate disabled children into the national education system. According to the government, 'inclusive education will be progressively realised in the coming years.'⁵⁰⁷

However, concerns were raised regarding the need for the government to employ expertise and/or specialist healthcare providers who are skilled in a range of disabilities treatment.⁵⁰⁸ Nauru does not have specific disability legislation nor is there a disability policy as the current one is in draft form. The UN country team encouraged the government to continue efforts to implement CRPD, including mainstreaming of CRPD across all sectors.⁵⁰⁹

Other human rights issues

The Regional Processing Centres on Nauru commenced operations in 2001. There are two centres that the government confirmed as of November 2015, which house 642 asylum seekers.⁵¹⁰ Nauru houses an additional 523 refugees who reside both in the centres and in the community.⁵¹¹ The processing centres have been the subject of criticism by the international community and the UN for many years.⁵¹² While the government of Nauru has the overall responsibility of protecting the rights of migrants and asylum seekers in the centres, due to lack of resources and capacity, the centres and all services within them are provided by the Australian government, including through their contractors.⁵¹³ UN agencies have warned Nauru against breaching its international legal obligations, and the 1951 Convention on the Status of Refugees in its treatment of the migrants.⁵¹⁴ Nauru has an open-centre policy that allows refugees to live freely within the community and to benefit from services provided on the island.⁵¹⁵ It is currently working with the government of Australia and other governments on the provision of long-term durable solutions for migrants.⁵¹⁶

502 Ibid

503 UN compilation, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>, Pg. 8

504 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

505 <http://matangitonga.to/2016/06/16/nauru-enforces-child-protection-act>

506 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

507 Ibid

508 Stakeholders compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

509 UN compilation to the Universal Periodic Review, national report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

510 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

511 Nauru National Report to the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

512 See UN Compilation Report and Stakeholders Submission to the UPR of Nauru; <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

513 National Report to the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

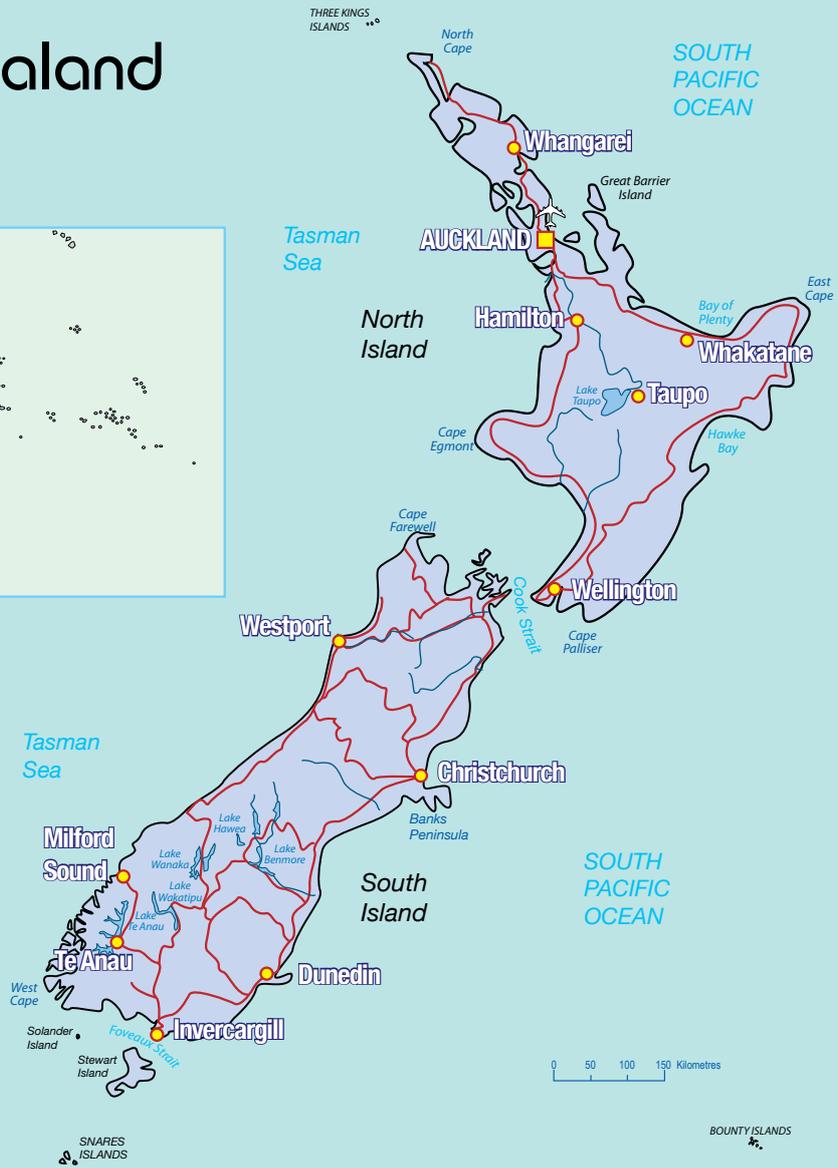
514 See UN Compilation at Nauru's UPR; <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

515 National Report to the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>

516 National Report to the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NRSession23.aspx>



New Zealand



New Zealand (Aotearoa)



Key facts⁵¹⁷

Capital	Wellington (496,000) ⁵¹⁸	Land area: 268,021 km ² ⁵¹⁹
Population	4,438,393 (2015) ⁵²⁰	Population growth rate: 0.6 (2012) ⁵²¹
GDP (gross domestic product) per capita	USD 34,400 (2015 est.) ⁵²²	GNI per capita (Atlas method): 41,070 ⁵²³
Type of government	Parliamentary democracy with the Queen of England through a Governor-General as head of state and the Prime Minister as head of government.	
Electoral system	Mixed-member proportional ⁵²⁴	
Number of members of parliament (MPs) in legislature	121	Number of women MPs: 41 ⁵²⁵
Religions	Christian: 44.3% (Catholic: 11.6%, Anglican: 10.8%, Presbyterian and Congregational: 7.8%, Methodist: 2.4%, Pentecostal: 1.8%, other: 9.9%), Hindu: 2.1%, Buddhist: 1.4%, Maori Christian: 1.3%, Islam: 1.1%, other religions: 1.4% (includes Judaism, Spiritualism and New Age religions, Baha'i, Asian religions other than Buddhism), no religion: 38.5%, not stated or unidentified: 8.2%, objected to answering: 4.1% (2013 census) ⁵²⁶	
Ethnic groups	European: 71.2%, Maori: 14.1%, Asian: 11.3%, Pacific Islanders: 7.6%, Middle Eastern, Latin American, African: 1.1%, other: 1.6%, not stated or unidentified: 5.4% (2013) ⁵²⁷	
Languages	English: 91.2% (official), Māori: 3.9% (official), Samoan: 2.1%, French: 1.3%, Hindi: 1.1%, Yue: 1.1%, Northern Chinese: 1%, other: 12.9%, New Zealand Sign Language (official). Note: census allowed multiple responses to this question ⁵²⁸	
Life expectancy at birth	79.5 for men/83.2 for women ⁵²⁹	% of youth aged 12-25: 20.7(2015) ⁵³⁰

517 All statistics are from 2015 Central Intelligence Agency World Factbook, unless otherwise indicated, <https://www.cia.gov/library/publications/the-world-factbook/index.html>.

518 <http://www.wellingtonnz.com/discover/life-in-wellington/facts-and-figures/>

519 Human Rights Council, National Report: New Zealand, 5th session UN Doc A/HRC/WG.6/NZL/1 (9 April 2009) 8

520 The World Bank, Data (2014), <http://data.worldbank.org/country/new-zealand>

521 http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/yearbook/people/population/yearbook-pop.aspx

522 www.stats.govt.nz/NZIP2015

523 <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>

524 Ibid, Human Rights Council, National Report: New Zealand, 16

525 <http://www.parliament.nz/en-NZ/MPP/MPs/MPs/>

526 CIA World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/index.html> [Accessed: 1 March 2016]

527 Ibid

528 Ibid, CIA World Factbook [Accessed: 1 March 2016],

529 http://www.stats.govt.nz/browse_for_stats/health/life_expectancy/NZLifeTables_HOTP12-14.aspx

530 <http://www2.stats.govt.nz/domino/external/web/nzstories.nsf/3d7ba81fd31d11adcc256b16006bfcf3/c9458496b60a28d8cc256b17007a04ab?OpenDocument>

International treaty ratification and reporting obligations

Convention	Date of signature (S)/ratification (R)/accession (A) ⁵³¹	Reservation	Latest report submitted	Reporting status as of January 2016
ICCPR	28 December 1978 (R)	Articles 10(2)(b), 10(3), 14(6), 20 and 22	6 th periodic report 08 May 2015	6 th Periodic Review 14/15 March 2016
ICESCR	28 December 1978 (R)	Article 8	3 rd periodic report 28 April 2009	List of Issues prior to reporting to be released March 2016
CEDAW	10 January 1985 (R)	None	7 th periodic report 26 November 2010	8 th Periodic report due 1 July 2016
CRC	6 April 1993 (R)	32(2), 37(c)	5 th periodic report 05 May 2015	List of issues prior to reporting released 5 February 2016; 5 th Periodic Review in September 2016
CERD	22 November 1972 (R)	None	18 th -20 th report 09 March 2012	21 st and 22 nd reports submitted 6 January 2016
CAT	10 December 1989 (R)	Article 14	6 th report 20 Dec 2013	6 th Periodic review 2015; 7 th Periodic report due 15 May 2019
CRPD	25 September 2008 (R)	None	Initial report 08 May 2012	2 nd and 3 rd periodic reports due 28 October 2018
OP-ICCPR	26 May 1989 (R)	None	N/A	
OP-ICCPR-2	22 Feb 1990 (R)	None	N/A	
OP-CEDAW	7 Sept 2000 (R)	None	N/A	
CRC-OP-AC	12 November 2001 (R)	None	Initial report 15 July 2003	Report as part of its obligations under CRC
CRC-OP-SC	20 September 2011 (R)	None	Initial report 24 Jul 2014	To be considered as part of the CRC review
OP-CAT	14 March 2007 (R)	None	N/A	
Special procedures	Open invitation: 3 February 2004 Requests for visits have been made by Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment			
Country visits by UN Special Rapporteur	Special Rapporteur on the rights of indigenous peoples: 2005 Special Rapporteur on the rights of indigenous peoples: 2010 Working Group on Arbitrary Detention: 2014			
Universal Periodic Review	1 st cycle: May 2009; 2 nd cycle: January 2014; next cycle: 2019			
International Criminal Court	Ratified the Rome Statute on 7 September 2000			

⁵³¹ A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the state's intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.



System of government

New Zealand has a democratic parliamentary system of government. The head of government is the Prime Minister and the head of state is the British monarch, represented in New Zealand by the Governor-General for an undefined term, usually of five years.

Domestic protection of human rights

The New Zealand government has a robust institutional framework to promote and protect human rights. The New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 specifically protect the civil and political rights of its citizens. The Bill of Rights Act includes some, but not all, of those rights contained in the International Covenant on Civil and Political Rights to which New Zealand is a party. For example, it includes the right to life, the right to freedom from torture or cruel treatment, and the right to freedom of expression, but does not include the right to privacy. The act is not a supreme law and can be amended by a simple majority of parliament. The act does, however, require other legislation to be read — as far as possible — consistently with the rights and freedoms contained therein. It also requires the Attorney-General to inform Parliament when a proposed bill is inconsistent with the rights enshrined in the act.⁵³² The Human Rights Act protects against unlawful discrimination.

National human rights institution

The New Zealand Human Rights Commission (Te Kahui Tika Tangata) is New Zealand's national human rights institution (NHRI). It is accredited as an 'A' status NHRI. It is an independent Crown Entity pursuant to the Crown Entities Act 2004, and derives its statutory mandate from the Human Rights Act 1993. It has six human rights commissioners. The Director of Human Rights Proceedings heads an independent office within the Commission: the Office of Human Rights Proceedings (Te Tari Whakatau Take Tika Tangata). The office provides complainants with free legal representation to take selected cases to the Human Rights Review Tribunal.

Human rights issues

A key priority for the government is to strengthen the partnership between it and the Māori people by continuing to support Māori in realising their potential and continuing the momentum on achieving fair, just and durable settlements of historical claims under the Treaty of Waitangi. New Zealand has a system for settling historical land claims, known as the treaty settlement process. While Māori make up only 15% of New Zealand's population, they account for a disproportionate amount of those coming into contact with the criminal justice system — both as victims and offenders. Māori are also over-represented at the other end of the criminal justice spectrum — in New Zealand's arrests, prosecutions, convictions, imprisonments and re-imprisonments.⁵³³

Although New Zealand's imprisoned rate for Māori are generally more severe than for non-Māori, Māori are less likely to receive diversion or cautions and are more likely to be sentenced to prison. Although New Zealand's imprisonment rate is 199 people per 100,000, the rate for Māori is closer to 700 per 100,000. Māori make up over 50% of New Zealand's prison population and over 60% of its female prison population.⁵³⁴ Twenty-three percent of the 14–16 year old population is Māori.⁵³⁵ The number of young Māori aged 14–16 who appear in the Youth Court is 5% of the total population of 14–16 year-old Māori.⁵³⁶ However, Māori make up 52% of apprehensions of 14–16 year olds,⁵³⁷ and 55% of Youth Court appearances.⁵³⁸

533 <http://www.rethinking.org.nz/Default.aspx?page=3629>

534 Ibid

535 Calculated using statistics for 14–16 year olds in the mean year ended 31 December 2012 from Statistics New Zealand (www.stats.govt.nz). Māori Population Estimates: Mean Year Ended 31 Dec 1991–2012 and 'Infoshare' 'National Population Estimates' 'Population' 'Population Estimates DPE' 'Estimated Resident Population by Age and Sex (1991+) (Annual-Dec).'

536 Calculated using statistics for 14–16 year olds in the mean year ending 31 December 2012 from Statistics New Zealand (www.stats.govt.nz). 'Māori Population Estimates: Mean Year Ended 31 Dec 1991–2012' and Statistics New Zealand 'Child and Youth Prosecution Table – Multiple-Offence Type Prosecution'.

537 Calculated using statistics for the mean year ending 31 December 2012 from Statistics New Zealand (www.stats.govt.nz) 'New Zealand Police Recorded Crime and Apprehensions Tables', 'Annual Apprehensions for the Latest Calendar Years'.

538 Calculated using statistics for the mean year ending 31 December 2012 Statistics New Zealand (www.stats.govt.nz) 'Child and Youth Prosecution Tables', 'Multiple-Offence Type Youth Court Order'.

532 New Zealand Bill of Rights Act 1990 (NZ), Section 7



Māori youth offenders are given 65% of supervision with residence orders (the highest Youth Court order before conviction and transfer to the District Court).⁵³⁹

Over the last three years, as a result of the Drivers of Crime Initiative – a whole-of-government approach to reduce offending and victimisation – the number of young Māori appearing in court has decreased by 30%.⁵⁴⁰ Building on the Drivers of Crime Initiative, the government launched the Youth Crime Action Plan (YCAP) in October 2013. This plan aims at reducing youth crime and recidivism. An updated work programme for the YCAP is currently being developed by the Ministry of Justice. In addition, a recent crime and crash prevention strategy, *The Turning of the Tide*,⁵⁴¹ sets targets for reducing Māori offending, repeat offending and apprehensions. The *Turning of the Tide* approach is based on: 1) collecting detailed data showing where bias is occurring; 2) developing relationships and partnerships with *iwi* (largest social units in Maori culture); and 3) a shared understanding of the data and co-development of solutions. The Working Group on Arbitrary Detention recommended that ‘a review be undertaken of the degree of inconsistencies and systemic bias against Māori at all the different levels of the criminal justice system... [and] extend the *Turning of the Tide* to other areas of the criminal justice system.’⁵⁴² The Committee Against Torture recommended the extension of the *Turning of the Tide* to other sections of the justice sector. As a result, in October 2015, a team – reporting to the Justice Sector Leadership Board and the Police Commissioner’s Māori Focus Forum – was established to develop a justice sector-wide Māori strategy.

Persons with disabilities

The disability strategy was developed in partnership with persons with disabilities and their representative organisations in 2001. However, work remains to ensure the full realisation of human rights for persons with

disabilities, including with respect to physical protection and support, independent living, equal employment opportunities, access to health services and information, pay equity, accommodation and accessibility and family impacts. These ongoing challenges were consistently raised in Universal Periodic Review (UPR) consultations. The ongoing implementation of the Convention on the Rights of Persons with Disabilities, including accession to the Optional Protocol and the New Zealand Disability Strategy, is a key priority for the government. In 2016 the government committed to revise the disability strategy in consultation with civil society.

Rights of the child

The government has set a target for the public service to halt the 10-year rise in children experiencing physical abuse and reduce the total number to 3,000 by 2017. While there has been some good progress, the level of family violence in New Zealand is unacceptably high.⁵⁴³ New Zealand has the fifth worst child abuse record of 31 Office of Economic Cooperation and Development countries. In 2014, there were 3,178 reported cases of children being physically abused, 1,294 of being sexually abused, and 9,499 who suffered emotional abuse and neglect.⁵⁴⁴ This is a decrease of 12% from 2013 where 3,181 children were reported as being physically abused, 1,423 were sexually abused, and 11,386 suffered emotional abuse and neglect.⁵⁴⁵ Violence and bullying is endemic in New Zealand schools.

The number of children in New Zealand who live in poor households and who face material deprivation remains high for a developed nation. The correlation between household income poverty, poor quality housing and poor child health outcomes, including hospitalisation and mortality rates, is extremely concerning. It is further compounded by ethnic disparities, with disproportionate numbers of Māori and Pacific Island children living in households with incomes below the relative income poverty line. Family status has a significant bearing on outcomes amongst these groups. In 2015, 46% of children aged 6 and over from single-parent families were in hardship compared with 17% from two-parent families.⁵⁴⁶ Similarly, a greater percentage

539 Calculated using statistics for the mean year ending 31 December 2012 Statistics New Zealand (www.stats.govt.nz) ‘Child and Youth Prosecution Tables’, ‘Multiple-Offence Type Youth Court Order’. See also: Judge Andrew Becroft, ‘From Little Things, Big Things Grow Emerging Youth Justice Themes in the South Pacific, Australasian Youth Justice Conference: Changing Trajectories of Offending and Reoffending (2013), http://www.aic.gov.au/media_library/conferences/2013-youthjustice/presentations/becroft-paper.pdf

540 Minister of Justice, Opening remarks to the UN Human Rights Council, January 2014.

541 <http://www.police.govt.nz/sites/default/files/resources/the-turning-of-the-tide-strategy.pdf>

542 Working Group on Arbitrary Detention, Mission to New Zealand, A/HRC/30/36/Add.2 (6 July 2015).

543 NZ Human Rights Commission, <https://www.hrc.co.nz/news/violence-against-women-and-children-major-problem-nz/>

544 <http://www.scoop.co.nz/stories/PA1501/S00097/child-abuse-down-by-12-%-but-still-way-too-high.htm>

545 Ibid

546 http://www.nzchildren.co.nz/#toc_17



of children in families with more than 4 children were identified as being in hardship – 35% of children aged 6 and over in households with more than 4 children were identified as being in hardship compared with 22% in one-child households.⁵⁴⁷

Children with disabilities are more likely to live in low-income households and in socioeconomically deprived areas than non-disabled children.⁵⁴⁸ According to the most recent government data on living standards, approximately 25% of New Zealand children live in low income households, and 150,000 live in material hardship.⁵⁴⁹

Discrimination and violence against women

New Zealand has a long history of addressing women's rights but there are ongoing challenges. Key priorities of the Ministry of Women's Affairs include: reducing violence against women (while New Zealand has legislation in place to protect women, one in four New Zealand women experience sexual violence or violence by a partner at least once in their lifetime); improving women's economic independence; and promoting the participation of women in governance.⁵⁵⁰

New Zealand women have made significant progress in participation in many areas of the labour market. However, the levels of participation are not always matched by levels of representation in corporate governance and in senior management in the public and private sectors. Women represent 33% of elected officials in local government; the judiciary increased slightly over the reporting period to 29%, and representation in national politics remained static at 32%. Although women comprise 60% of all public servants, only 24.1% are chief executives of public service departments and 44.2% hold senior management positions.⁵⁵¹ While the government made a commitment in 2011 to attaining 45% participation by women on state

sector boards,⁵⁵² this figure has remained stagnant over the last 10 years and as of December 2014, women made up 41.7% of ministerial appointees.⁵⁵³

At the Forty-third Pacific Islands Forum, New Zealand endorsed the Gender Equality Declaration, which outlines a commitment to 'adopt measures, including temporary special measures (such as legislation to establish reserved seats for women and political party reforms), to accelerate women's full and equal participation in governance reform at all levels and women's leadership in all decision-making.'⁵⁵⁴ The Convention on the Elimination of forms of Discrimination Against Women (CEDAW) Committee expressed concern at the situation of disadvantaged groups of women and that the new social security legislation would likely predominantly affect Māori women and reduce their social benefits, and that there were few education and employment programmes targeted at women and girls with disabilities. It also noted with concern the impact of the Christchurch earthquake on women, particularly rural women and older women, including their reported higher degrees of stress, anxiety and depression, and their resulting higher numbers of displacement and unemployment.⁵⁵⁵

The CEDAW Committee urged New Zealand to facilitate women's access to justice, including by providing free legal aid to women without sufficient means and to make sure that migrant and Māori women were not discriminated against in the administration of justice; and to enhance awareness-raising initiatives for women on how to use available legal remedies against discrimination, including with regard to the Human Rights Commission.⁵⁵⁶

Sexual orientation and gender equality

New Zealand has recently taken several steps to improve the rights of lesbian, gay, bisexual, transgender, intersex and questioning persons. In May 2013, the New Zealand Parliament adopted marriage equality legislation: The Marriage (Definition of Marriage) Amendment Act 2013,

547 Ibid

548 Expert Advisory Group on Solutions to Child Poverty, *Solutions to Child Poverty in New Zealand: Evidence for Action*, p. 2, <http://www.occ.org.nz/assets/Uploads/EAG/Final-report/Final-report-Solutions-to-child-poverty-evidence-for-action.pdf>

549 New Zealand Household Incomes report, <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/monitoring/household-incomes/>

550 Human Rights Council National Report: New Zealand, 18th session, UN Doc A/HRC/WG.6/18/NZL/1

551 Ministry of Women, Draft CEDAW report 2016.

552 Ministry of Women's Affairs, 2014–2018 Strategic Intentions, presented to the House of Representatives pursuant to Section 39 of the Public Finance Act 1989 in 2014.

553 Supra note 39.

554 Pacific Islands Forum, 43rd Pacific Islands Forum Communique, (1 September 2012), <http://www.scoop.co.nz/stories/WO1209/S00002/43rd-pacific-islands-forum-communique.htm>

555 Human Rights Council Compilation of UN report: New Zealand, 18th session, UN Doc A/HRC/WG.6/18/NZL/2

556 Ibid.



which specifies that a marriage is between two people regardless of their sex, sexual orientation, or gender identity. As a result, same-sex married couples will be eligible, under the Adoption Act 1955, to apply jointly to adopt a child. The government has also taken steps to improve the rights of trans-gender people since 2009. Policies were also updated to reflect that, since 2009, certain overseas-born transgender people may also seek a declaration from the Family Court recognising their preferred sex as well as the 2008 Family Court decision, which confirmed that courts will take a case-by-case approach to applying the relevant statutory threshold and that applicants do not necessarily need to have full reassignment surgery.⁵⁵⁷

Despite these improvements, some issues still remain. A Sexual Orientation and Gender Identity coalition made a submission to New Zealand's second UPR in which it recommended *inter alia* that the New Zealand government ensure that:

- surgical procedures, aimed solely at correcting genital ambiguity, on children who are not competent to consent for themselves are statutorily prohibited;
- the Department of Correction's Transgender Prisoner policy is updated to ensure that transgender prisoners' right to safety, and their access to health services and rehabilitation is on an equal basis with others; and
- the process for amending sex details on a New Zealand birth certificate is based on the principle of self-determination, reflecting international human rights standards and a growing number of best practice laws and policies around the world.

Racism

It is unlawful for anyone in New Zealand to publish, distribute, or use words in public that incite hostility against or bring into contempt any group of persons who are in or may be coming to New Zealand on the grounds of colour, race or ethnic or national origin of that group of persons. The Committee on the Elimination of Racial Discrimination, however, was concerned at reports of persistent discrimination against migrants, particularly those of Asian origin, in the labour market.⁵⁵⁸

Administration of justice and the rule of law

New Zealand has instituted strong and independent police and judicial authorities. The rights of all New Zealanders are protected in a democratic system that allows for the expression and representation of diverse points of view. A key component of government efforts to facilitate access to justice in New Zealand is through the provision of legal aid. The Corrections Act 2004 requires administration of all prisoners' sentences in a safe, secure, humane and effective manner. Under the act, privately managed prisons must comply with the same domestic laws and international standards relating to prisoner welfare and management as publicly managed prisons. New Zealand has separate units for the small number of young male prisoners (2.6% of all prisoners) under the age of 18.⁵⁵⁹ However, women under the age of 18 are still generally housed in adult prisons.

While noting the initiatives taken, the Committee on the Elimination of Racial Discrimination urged New Zealand to intensify its efforts to address the over-representation of members of Māori and Pasifika (people living in New Zealand who have migrated from the Pacific Islands or who identify with the Pacific Islands because of ancestry or heritage) communities at every stage of the criminal justice system and also to facilitate women's access to justice, including by providing free legal aid.

Right to life, liberty and security of person

Violence within families affects the lives of thousands of people in New Zealand. Research on the New Zealand experience confirms that men are responsible for two-thirds of the deaths of children aged 14 and under. Victims of the most severe and lethal cases of family violence are predominantly women and children. Women with disabilities are a particularly vulnerable group. Family violence affects families from all cultures, classes, backgrounds and socioeconomic circumstances, but Māori are significantly over-represented as both victims and perpetrators of violence in families. Violence experienced by lesbian, gay, bisexual, transgender, intersex and questioning people in family relationships also remains a challenge. Reducing violence within families and its impact on women and children is a key priority of the government.⁵⁶⁰

557 Ibid, Human Rights Council National Report: New Zealand, 18th session, p. 13

558 Ibid, Human Rights Council: Compilation of UN report: New Zealand, 18th session, p. 7

559 Ibid

560 Ibid



While noting the various initiatives undertaken, the Committee Against Torture was concerned about the insufficient number of prison facilities; the inadequate provision of mental health care and legal services to mentally ill inmates in prisons; and the use by prison authorities of instruments of physical restraint that might cause unnecessary pain and humiliation.

New Zealand ratified the optional protocol to the Convention Against Torture in 2007 and designated five existing institutions as its National Preventative Mechanism through the Crime of Torture Amendment Bill.⁵⁶¹ The UN Subcommittee on the Prevention of Torture conducted a visit to New Zealand from 29 April to 8 May 2013.⁵⁶²

Right to an adequate standard of living, right to work

The Committee on Economic, Social and Cultural Rights expressed concern that unemployment continued to disproportionately affect young persons, and recommended that New Zealand include in its strategy for boosting skills and employment targeted measures to address the obstacles impeding young persons' access to employment. In 2013, the International Labour Organization Committee of Experts on the Application of Conventions and Recommendations once again expressed its serious concern that children between ages 15 and 18 were allowed, in law and in practice, to perform types of work that were clearly hazardous, as previously acknowledged by the government and confirmed by the Department of Labour's research.⁵⁶³

Since New Zealand's accession to the Optional Protocol the United Nations Human rights Committee is in a sense part of this country's judicial structure, in that individuals subject to New Zealand jurisdiction have direct rights of recourse to it. A failure to give practical effect to international instruments to which New Zealand is a party may attract criticism. Legitimate criticism could extend to the New Zealand Courts if they were to accept the argument that, because a domestic statute giving discretionary powers in general terms does not mention international human rights norms or obligations, the executive is necessarily free to ignore them.

Tavita v. Minister of Immigration,
17 December 1993, [1994] 2 NZLR 257

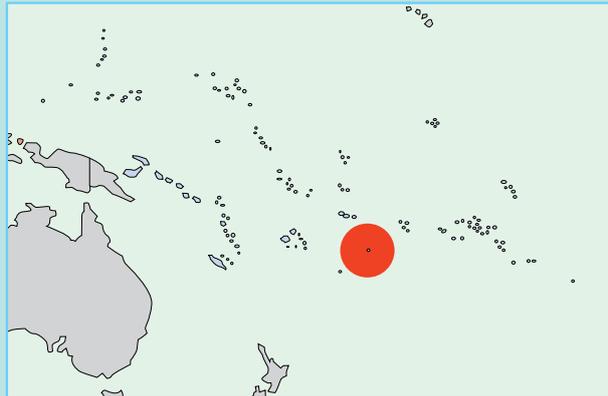
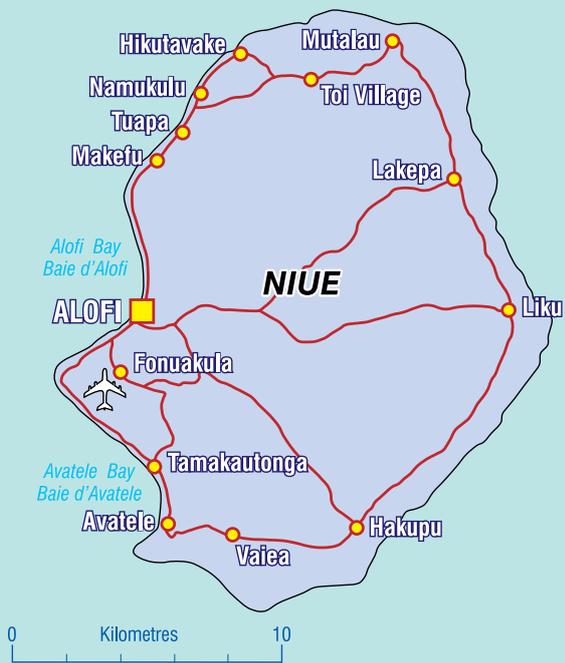
⁵⁶¹ http://www.apc.ch/en/opcat_pages/opcat-situation-52/

⁵⁶² Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to New Zealand, CAT/OP/NZL/ 1 (28 July 2014)

⁵⁶³ Ibid



Niue



Niue



Key facts

Capital	Alofi	Land area: 259.46 km ²
Population ⁵⁶⁴	1,470 (2015)	Population growth rate: -2.2
GDP (gross domestic product) per capita	USD 12,945	GNI per capita (Atlas method): N/A
Type of government	Self-governing parliamentary democracy in free association with New Zealand ⁵⁶⁵	
Electoral system	First-past-the-post, universal suffrage	
Number of ministers of parliament (MPs) in legislature	20	Number of women MPs: 2
Religions	Ekalesia Niue (Congregational Christian Church of Niue – a Protestant church founded by missionaries from the London Missionary Society): 67%, other Protestant: 3% (includes Seventh-Day Adventist: 1%, Presbyterian: 1%, and Methodist: 1%), Mormon: 10%, Catholic: 10%, Jehovah's Witnesses: 2%, other: 6%, none: 2% ⁵⁶⁶	
Ethnic groups	Niuen: 85.2%, non-Niuen: 14.8% (includes New Zealander and Australian: 5.5%, Samoan: 1.0%, Tongan: 3.3%, Tuvaluan: 1.7%, Fijian: 1.0%; other: 2.3%) ⁵⁶⁷	
Languages	Niuean (official): 46%, Niuean and English: 32%, English (official): 11%, Niuean and others: 5%, other: 6% ⁵⁶⁸	
Life expectancy at birth (years)	70.1 for men/ 76.3 for women	% of youth aged 15–24: 12.9

564 Unless otherwise specified, basic facts are taken from: http://www.spc.int/prism/images/downloads/2015_Pocket-Statistical-Summary.pdf

565 Niue Constitution Act (NZ) 1974, Section 3

566 Central Intelligence Agency, the World Factbook – Niue, 26 April 2016, <https://www.cia.gov/library/publications/the-world-factbook/geos/ne.html>

567 Committee on the Rights of the Child, Consideration of reports submitted by states parties under Article 44 of the Convention: Initial report of States parties due in 1998 – Niue, CRC/C/NIU/1, 18 July 2011, http://www.bayefsky.com/reports/niue_crc_c_niu_1.pdf, 3

568 Central Intelligence Agency, the World Factbook – Niue, 26 April 2016, <https://www.cia.gov/library/publications/the-world-factbook/geos/ne.html>



International treaty ratification and reporting obligations⁵⁶⁹

Treaty ⁵⁷⁰	Date of signature (S)/ratification (R)/accession (A) ⁵⁷¹	Declaration/reservation	Latest report submitted	Reporting status as of March 2016	Treaties and optional protocols yet to be ratified
ICCPR	12 November 1968 (S) 28 December 1978 (R)	-	-	-	<ul style="list-style-type: none"> CAT CAT-OP CCPR-OP2-DP CMW CRC-OP-AC CRC-OP-SC CRPD CED CERD
ICESCR	12 November 1968 (S) 28 December 1978 (R)	-	-	-	
CEDAW	17 July 1980 (S) 10 January 1985 (R)	-	-	-	
CERD	22 November 1972 (A)	-	-	-	
CRC	20 December 1995 (A)	-	24 November 2010	-	
Special Procedures	Niue is not a member of the United Nations				
Country visits by UN Special Rapporteur	Niue is not a member of the United Nations				
Universal Periodic Review (UPR)	Niue is not a member of the United Nations, and is not reviewed under the UPR				
International Criminal Court	Niue has not signed the Rome Statute				

System of government

Niue became a self-governing parliamentary democracy in free association with New Zealand in 1974.⁵⁷² The executive and legislative assembly govern internal affairs, while the New Zealand government has responsibility for Niue's foreign affairs and defence on the delegated authority of the Niuean government.⁵⁷³ Niue is not a member of the United Nations.⁵⁷⁴ In 1988, New Zealand recognised Niue's exclusive capacity to implement United Nations treaties in its own right.⁵⁷⁵ The Niue legislative assembly comprises 20 independent members of parliament elected by universal suffrage. Members are elected from 14 village constituencies, with the remaining six seats elected from

the common role.⁵⁷⁶ In 2014, Niue elected two women to the legislative assembly.⁵⁷⁷ The premier, the elected head of government, selects three other members of the legislative assembly to form the Cabinet.⁵⁷⁸

Judicial system and administration of justice

The High Court administers the law in Niue, and has full civil and criminal jurisdiction to fulfil this mandate.⁵⁷⁹ Appeals on substantial questions of law may be heard with the leave of the High Court in the Court of Appeal of New Zealand.⁵⁸⁰ The Land Court has jurisdiction to hear all matters related to land and property rights in Niue.⁵⁸¹ The Land Appellate Court has the jurisdiction and powers to hear appeals from the land court.⁵⁸²

⁵⁶⁹ On 10 November 1988, the Government of New Zealand lodged a Declaration with the Secretary-General of the United Nations recognising that Niue has exclusive competence to implement international treaties (United Nations General Assembly LE 222 New Zealand). Prior to this, Niue considered itself a party to international treaties by virtue of New Zealand's ratification. The Government of Niue now has the exclusive capacity to ratify or accede to treaties in its own right, and may also be included as a party to a treaty ratified by New Zealand upon the express request of the Niuean government.

⁵⁷⁰ Prior to the recognition of Niue's capacity to ratify international treaties, Niue considered itself a party to several treaties ratified by New Zealand: ICCPR, ICESCR, CEDAW, and CERD.

⁵⁷¹ United Nations Treaty Collection

⁵⁷² Niue Constitution Act (NZ) 1974, Section 3

⁵⁷³ Ibid, Section 6

⁵⁷⁴ Ibid, Section 5

⁵⁷⁵ United Nations General Assembly LE 222 (New Zealand)

⁵⁷⁶ Niue Constitution 1974, Section 16

⁵⁷⁷ Government of Niue Premier's Office, Niue Legislative Assembly/Fono Ekepule Niue, 2014, <http://www.niuegov-premiersoffice.com/niue-legislative-assembly.html>

⁵⁷⁸ Niue Constitution 1974, Sections 4, 5

⁵⁷⁹ Ibid, Section 37

⁵⁸⁰ Ibid, Section 51

⁵⁸¹ Ibid, Section 40.

⁵⁸² Ibid, Section 43



Access to justice and the right to remedy

Niueans have extremely limited access to justice because there are few local lawyers and no legal aid system.⁵⁸³ Access to justice is also impacted by the Department of Justice, Lands and Survey's limited human resources; a number of positions were left vacant in 2011–2012 due to difficulties finding appropriately qualified candidates, which effectively prevented the department from carrying out key aspects of its mandate.⁵⁸⁴ The National Strategic Plan 2009–2013 contained several strategies to increase good governance and strengthen the national justice system, particularly in respect of the Land Court.⁵⁸⁵ Niueans' relationship to land and fishing grounds is central to family identity as well as social and economic security.⁵⁸⁶ The Land Court has jurisdiction to hear all matters related to complex customary land rights, particularly in relation to the recent trend towards survey delineation and registration of customary lands.⁵⁸⁷

National human rights institution

Niue does not have a national human rights institution. The National Strategic Plan 2009–2013 identified the establishment of a national Ombudsman Office by 2013 as a national priority.⁵⁸⁸

Human rights policies

The government has adopted a number of policy and strategic development plans to support sustainable development in Niue. These policies, developed and implemented with donor support and technical assistance

583 Craig Sistrerone, 'Bringing justice to Niue', *Canterbury Tales*, June 2014, 20(5), <https://www.lawsociety.org.nz/law-society-services/law-society-branches/canterbury-westland/canterbury-theses/canterbury-theses-june14.pdf>, 1, 3

584 Department of Justice, Lands and Survey, Government of Niue, Annual Report 2011–2012, <http://www.paclii.org/niue/court-annual-reports/2011-2012.htm>

585 Government of Niue, National Strategic Plan 2009–2013, <http://www.sprep.org/att/irc/ecopies/countries/niue/40.pdf>, 14; Department of Justice, Lands and Survey, Government of Niue, Annual Report 2011–2012, <http://www.paclii.org/niue/court-annual-reports/2011-2012.htm>

586 Committee on the Rights of the Child, Consideration of reports submitted by states parties under Article 44 of the convention: Initial report of states parties due in 1998 – Niue, CRC/C/NIU/1, 18 July 2011, http://www.bayefsky.com/reports/niue_crc_c_niu_1.pdf, 6

587 *Ibid.*, 6–7

588 Government of Niue, National Strategic Plan 2009–2013, www.sprep.org/att/irc/ecopies/countries/niue/40.pdf, 3

from the Pacific Community,⁵⁸⁹ include the National Strategic Plan 2014–2019,⁵⁹⁰ the Niue Food and Nutrition Security Policy 2015–2019,⁵⁹¹ the Niue Strategic Energy Road Map 2015–2025,⁵⁹² and the Niue National Youth Policy 2009–2013.⁵⁹³

Domestic law and human rights

The Constitution of Niue does not protect any fundamental rights, such as the right to life or non-discrimination.⁵⁹⁴ There are few domestic laws that protect and promote human rights in Niue. The Race Relations Act 1972 (Niue) prohibits discrimination on the basis of colour, race, or ethnic or national origins, and provides that any person who incites racial disharmony is liable to imprisonment.⁵⁹⁵ Despite the lack of codified protection for human rights, Niue is one of only two Pacific Island countries to have achieved all Millennium Development Goals by the 2015 deadline.⁵⁹⁶

Right to health and education

Education is compulsory and free from the age of 5 to 16,⁵⁹⁷ with 100% enrolment, high retention rates and very high literacy rates (98% in 2011).⁵⁹⁸ Corporal punishment is permitted in schools.⁵⁹⁹ Medical services are provided

589 Niue and the Secretariat of the Pacific Community, Joint Country Strategy 2009–2013 in support of Niue's National Strategic Plan 2009–2013, September 2009, <http://www.spc.int/sppu/images/JCS/niue%20jcs%20final%203%20nov%202009%20low%20res.pdf>

590 The Government of Niue, National Strategic Plan 2009–2013, www.sprep.org/att/irc/ecopies/countries/niue/40.pdf

591 The Government of Niue and Karen Fukofuka, Niue Food and Nutrition Security Policy 2015–2019, June 2015, http://www.fao.org/fileadmin/user_upload/sap/docs/Niue%20Food%20and%20Nutrition%20Security%20Policy%202015-2019.pdf

592 The government of Niue and the Secretariat of the Pacific Community, Niue Strategic Energy Road Map 2015–2025, 2015, http://prdrse4all.spc.int/production/system/files/niue_strategic_energy_road_map_2015-2025_updated_3.pdf

593 Committee on the Rights of the Child, Consideration of State report, Initial report of states parties due in 1998 – Niue, CRC/C/NIU/1, 18 July 2011, http://www.bayefsky.com/reports/niue_crc_c_niu_1.pdf, [156] 23

594 Niue Constitution 1974

595 Race Relations Act 1972 (Niue) Sections 3–9, 19

596 Pacific Islands Forum Secretariat, 2015 Pacific Regional MDGs Tracking Report, September 2015, <http://www.forumsec.org/resources/uploads/embeds/file/2015%20Pacific%20Regional%20MDGs%20Tracking%20Report.pdf>, 8

597 Education Act 1989 (Niue), Sections 24, 19

598 *Ibid.*

599 Committee on the Rights of the Child, Consideration of reports submitted by States, CRC/C/NIU/1, 18 July 2011, http://www.bayefsky.com/reports/niue_crc_c_niu_1.pdf, [227] 31



free of charge to Niueans and persons with permanent residence.⁶⁰⁰ The hospital provides preventative health services, dentistry, school health services, and village outreach services.⁶⁰¹ In 2011, there were no reported cases of HIV/AIDS in Niue.⁶⁰² Niueans, as New Zealand citizens, have free access to medical care in New Zealand.⁶⁰³

Women and children’s rights

Niue has achieved gender parity in primary and secondary education, with a high proportion of girls attending tertiary institutions.⁶⁰⁴ Women have contested and won seats in the Legislative Assembly since the first general election in 1975, with two women currently represented in parliament.⁶⁰⁵ In 2011, the rate of participation by women in the non-agricultural sector was relatively high at 46%.⁶⁰⁶ There have been no reported maternal deaths since the 1980s, owing to universal skilled birth attendance.⁶⁰⁷ No specific legislation addresses domestic violence, however a Family Protection Bill was considered by Cabinet in 2013.⁶⁰⁸

There is no specific legislation implementing the Convention on the Rights of the Child, to which Niue is a state party.⁶⁰⁹ Traditionally, Niue’s customs do not distinguish between a boy or girl child with regard to land rights or importance within the community.⁶¹⁰ Children are not prohibited from the working in the private sector, and have no legal protection from poor working conditions or exploitation.⁶¹¹

The Niue Act 1966 establishes criminal liability for a range of offences that amount to abuse and neglect of children, including rape, incest, sexual intercourse with a girl under 15 years of age and assault.⁶¹²

Disability rights

Niue has not ratified the Convention on the Rights of Persons with Disabilities, however in 2011; Niue adopted a National Disability Policy. There are limited specialist services for persons with disabilities, which reportedly results in Niueans with physical disabilities relocating to New Zealand to access appropriate care.⁶¹³ An accessible special education unit was established within Niue High School in the 1990s, although it has since been converted into a dental clinic.⁶¹⁴ Children with disabilities have little specialist support within the public school system due to under-resourcing.⁶¹⁵

As Niue is a party to a number of international human rights conventions which declare the existence of universal human rights, the influence of international law norms does make an impact on domestic legislation thereby supplementing the framework of the Constitution.

Niue Initial Report to the Committee on the Rights of the Child

600 Ibid, [240] 32

601 Ibid, [242] 32

602 Ibid, [259] 34

603 Ibid [245] 33

604 Ibid, 70

605 Committee on the Rights of the Child, Consideration of reports submitted by states parties under Article 44 of the convention: Initial report of states parties due in 1998 – Niue, CRC/C/NIU/1, 18 July 2011, http://www.bayefsky.com/reports/niue_crc_c_niu_1.pdf, [44] 9; Premier’s Office, Government of Niue, Niue Legislative Assembly/Fono Ekepule Niue, <http://www.niuegov-premiersoffice.com/niue-legislative-assembly.html>

606 Pacific Islands Forum Secretariat, 2015 Pacific Regional MDGs Tracking Report, September 2015, <http://www.forumsec.org/resources/uploads/embeds/file/2015%20Pacific%20Regional%20MDGs%20Tracking%20Report.pdf>, 70

607 Ibid, 71

608 Committee on the Rights of the Child, Consideration of reports submitted by states parties under Article 44 of the convention: Initial report of states parties due in 1998 – Niue, CRC/C/NIU/1, 18 July 2011, http://www.bayefsky.com/reports/niue_crc_c_niu_1.pdf, [69] 12, [219] 30

609 Ibid, [68] 12

610 Ibid, [114] 18

611 Ibid, [392] 51

612 Niue Act 1966 (Niue)

613 Committee on the Rights of the Child, Consideration of reports submitted by states parties under Article 44 of the convention: Initial report of states parties due in 1998 – Niue, CRC/C/NIU/1, 18 July 2011, http://www.bayefsky.com/reports/niue_crc_c_niu_1.pdf, [237] 32

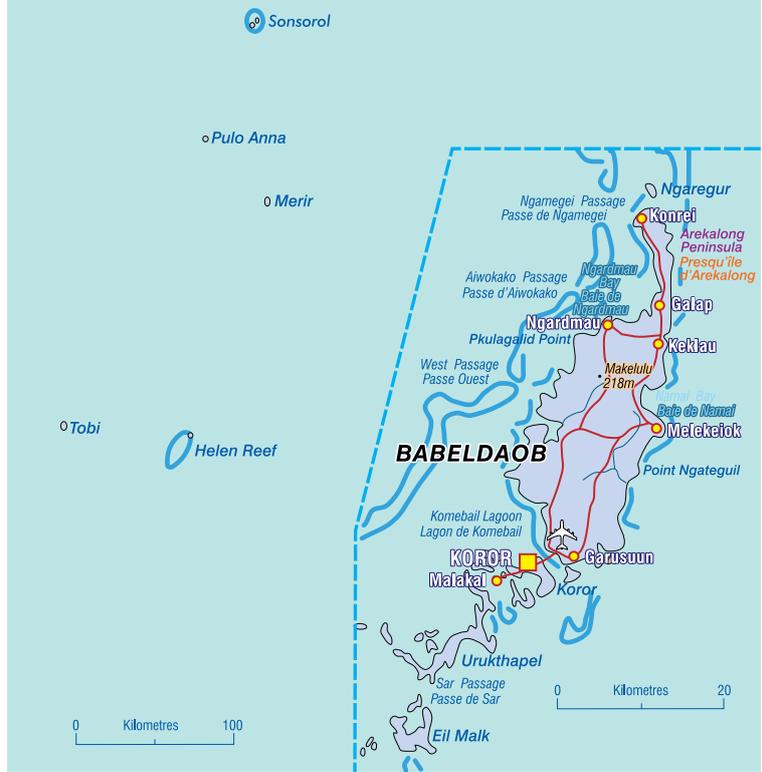
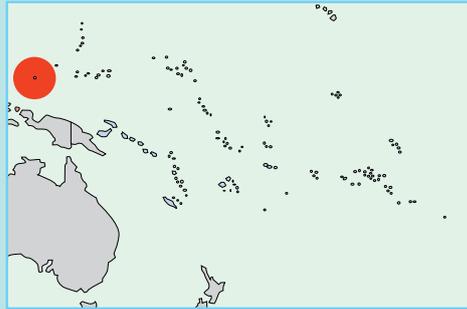
614 Ibid, [334] 44

615 Ibid, [345] 44





Palau (Belau)



Republic of Palau (Belau)



Key facts⁶¹⁶

Capital	Melekeok	Land area: 444 km ²
Population	19,950 (2015 est.)	Population growth rate: 0.5
GDP (gross domestic product) per capita	USD 13,835	GNI per capita (Atlas method): USD 11,110 (2014) ⁶¹⁷
Type of government	Constitutional government in free association with the United States with the President as head of state and head of government	
Electoral system	First-past-the-post	
Number of ministers of parliament (MPs) in legislature	House of Delegates: 16 Senate: 13	Total number of women MPs: (Senate only) 3 ⁶¹⁸
Religions	Catholic: 49.4%, Protestant: 30.9% (includes Protestant [general]: 23.1%, Seventh-Day Adventist: 5.3%, Protestant: 2.5%), Modekngai: 8.7% (indigenous to Palau), Jehovah's Witness: 1.1%, other: 8.8%, none or unspecified: 1.1% (2005 est.) ⁶¹⁹	
Ethnic groups	Palauan (Micronesian with Malayan and Melanesian admixtures): 72.5%, Carolinian: 1%, other Micronesian: 2.4%, Filipino: 16.3%, Chinese: 1.6%, Vietnamese: 1.6%, other Asian: 3.4%, Caucasian: 0.9%, other: 0.3% (2005 est.) ⁶²⁰	
Languages	Palauan (official on most islands): 66.6%, Carolinian: 0.7%, other Micronesian: 0.7%, English (official): 15.5%, Filipino: 10.8%, Chinese: 1.8%, other Asian: 2.6%, other: 1.3% ⁶²¹	
Life expectancy at birth (years)	66.3 for men/ 72.1 for women (2005)	% of youth aged 15–24: 14.4

616 Unless otherwise specified, basic facts are taken from: http://www.spc.int/prism/images/downloads/2015_Pocket-Statistical-Summary.pdf

617 World Bank, <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>

618 Pacific Women in Politics, <http://www.pacwip.org/women-mps/national-women-mps/>

619 <https://www.cia.gov/library/publications/the-world-factbook/geos/ps.html>

620 Ibid

621 Ibid



International treaty ratification and reporting obligations⁶²²

Treaty	Date of signature (S)/ ratification (R)/ accession (A) ⁶²³	Declaration/ reservation	Latest report submitted	Reporting status as of February 2016	Treaty yet to be ratified
CEDAW	20 September 2011 (S)	None	-	-	<ul style="list-style-type: none"> • ICCPR • ICESCR • CEDAW • CERD • Migrant workers • Enforced disappearance • CAT
CRC	4 August 1995 (R)	None	1998	2 nd periodic report overdue since 2 September 2002	
CRPD	11 June 2013 (A)	-	Initial due in 2015	-	
CERD	20 September 2011 (S)	-	-	-	
ICCPR	20 September 2011 (S)	-	-	-	
ICESCR	20 September 2011 (S)	-	-	-	
CRMW	20 September 2011 (S)	-	-	-	
CED	20 September 2011 (S)	-	-	-	
CAT	20 September 2011 (S)	-	-	-	
OP-CRPD	11 June 2013 (R)	-	-	-	
Special Procedures		3 May 2011 – Open invitation extended ⁶²⁴			
Country visits by UN Special Rapporteur		Nil			
Universal Periodic Review⁶²⁵		1 st cycle: November 2011; 2 nd cycle: January 2016; next cycle: 2021			
International Criminal Court⁶²⁶		Not a state party to the Rome Statute			

System of government

Palau has a constitutional government in free association with the United States (US). The Compact of Free Association was entered into with the US on 1 October 1994. Palau has three branches of government: the executive, the legislature, and the judiciary. The President is both the head of state and the head of government, and serves a four-year term. The President and Vice-President

run on separate tickets. The Council of Chiefs, which comprises the highest traditional chiefs from each state, acts in an advisory capacity to the President on traditional laws and customs. The Olbiil Era Kelulau, Palau's national legislative body, is a bi-cameral national Congress made up of the House of Delegates and the Senate. Although both houses are given equal standing under constitution, the Senate was accorded the authority of advice and consent to presidential appointments. There are 29 members of the Seventh Olbiil Era Kelulau; 16 delegates representing the 16 states of Belau, and 13 senators representing the residential population, with each member serving a four-year term.⁶²⁷

622 http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=PLW&Lang=EN

623 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the state's intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.

624 Office of the High Commissioner for Human Rights, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/StandingInvitations.aspx as at March 2015

625 <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/FMSession9.aspx>

626 International Criminal Court state parties, https://www.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx

627 <http://palau.gov.org/about-palau/constitution/>



Judicial system and administration of justice

The judicial system consists of the Supreme Court, the Court of Common Pleas, and the land court. The Supreme Court has trial and appellate divisions and is presided over by the Chief Justice. The Supreme Court also has three associate justices in addition to the Chief Justice. Judges are appointed to life terms by the President with approval from Palau's national Congress. Each of Palau's 16 states also elects its own governor and legislature.⁶²⁸

Access to justice and the right to remedy

The Micronesian Legal Services Corporation provides access to justice and high quality civil legal assistance to low-income people.⁶²⁹ It was established in 1970 and has offices throughout Micronesia with its central headquarters in the Commonwealth of the Northern Mariana Islands. The office in Palau provides legal services for child support, marriages, divorces, probation, contracts, land matters, small claims, and wills.

National human rights institution

The Palau's Ombudsman Office was established by Executive Order 203 to assist individuals with grievances regarding services, programmes or activities of the government.⁶³⁰ The office does not have decision-making authority but can review grievances and provide reports to the President.⁶³¹ Executive Order 368 creates a reporting committee on UN human rights treaties. Recommendations for the creation of an national human rights institution were made to Palau at its second Universal Periodic Review (UPR) cycle, and it was acknowledged by the 9th Olbil Era Kelulau that a focussed and permanent office to handle human rights was needed in Palau.⁶³²

Domestic law and human rights

Human rights in Palau are protected in the constitution. New laws have also been passed recently by Congress that further protect human rights, including the Family Protection Act of 2012 (Chapter 8, Domestic Relations Act); the new penal code includes labour trafficking, anti-smuggling and anti-trafficking crimes and offenses, as well as child exploitation crimes and offenses.⁶³³ This new trafficking law contains detailed provisions on what constitutes human and labour trafficking and the appropriate sanctions, through a recommendation that Palau establishes a national strategy to combat these vices, including better coordination between government agencies and the provision of support services for victims of human trafficking.⁶³⁴

Equality and non-discrimination

The Constitution of Palau guarantees equality and non-discrimination under the law, including non-discrimination on the basis of sex, race, place of origin, language, religion or belief, social status or clan affiliation, except for the preferential treatment of citizens, for the protection of minors, elderly, indigent, physically or mentally handicapped, and other similar groups, and in matters concerning intestate succession and domestic relations.⁶³⁵

Economic rights

Palau has achieved most of the Millennium Development Goals, while noting the challenges of progressing Millennium Development Goal 1, 'Eradicating extreme poverty and hunger'.⁶³⁶ Some measures introduced by the government to help alleviate poverty and address the issue of food security includes programmes such as the No Income Assistance Programme, which allocates USD 100 for households with no regular source of income. According to the same report, there were 17 households at the start of the programme in 2012 and there are only 7 households at present.⁶³⁷

628 Government of Palau website, <http://palaugov.org/about-palau/>. [Accessed: 10 February 2016]

629 National Universal Periodic Review report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PWSession24.aspx>

630 Ibid

631 Ibid

632 Ibid, p. 8

633 Ibid, Penal Code 17 PNC 1801-1808; 17 PNC, Chap 16

634 Stakeholders compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PWSession24.aspx>

635 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PWSession24.aspx>

636 Ibid

637 Ibid



Right to health and education

As part of its efforts to advance the right to health and provide universal coverage, Palau established national health insurance in 2011, which is 'currently being revised to accommodate everyone, including those who did not contribute but are now retired.'⁶³⁸ Additionally, efforts to provide quality education in Palau continue. According to a United Nations Educational, Scientific and Cultural Organization report, Palau had 'continued its efforts for implementing the right to education and that it had adopted the new Palau Education Master Plan 2006–2016.'⁶³⁹ Children with disabilities have the right to free public education as stipulated in the Individuals with Disabilities Education Act of 2004, and the Ministry of Education has a special education programme overseeing the education of children and youth with disabilities aged 3–21 years in both public and private schools or programmes.⁶⁴⁰

Women and children's rights

Palau has made progress towards Millennium Development Goal 3, 'Achieving gender equality and empowerment of women'.⁶⁴¹ Palau signed the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) in 2011 and has made steps towards ratifying it through awareness programmes and consultations with key stakeholders.⁶⁴² According to a state report, the issue of violence against women and girls has been highlighted in the recent Belau Family Health and Safety Study. Additionally, a gender mainstreaming policy is currently being drafted and would essentially mainstream gender within the national and state government policies and programmes.⁶⁴³

The Constitution of Palau, Section 11, stipulates that the government will protect children from exploitation. Child protection in Palau includes safeguards against abuse, neglect, exploitation, drugs and pornography, and should be given special consideration by the justice system, in the workplace, and in times of war.⁶⁴⁴ Children with special needs

Every year on November 25th, the President of the Republic of Palau issues a proclamation encouraging all residents of Palau 'to make a choice, to take a stand to end all violence against women and girls.

National report to the Universal Periodic Review, 2nd cycle

have the right to receive special care (e.g. disabled, ethnic minorities, children without families, adopted children, and children living in poverty).⁶⁴⁵ Penal Code 17 PNC, Chapter 17 provides for the mandatory registration of sex offenders. Palau has yet to fully domesticate the Convention on the Rights of the Child and provide for the full protection of children.⁶⁴⁶

Disability rights

In 2013, the Palauan government ratified the UN Convention on the Rights of Persons with Disabilities. Following its ratification, a series of consultations were held by disability stakeholders, including disabled persons organisations in partnership with the Pacific Disability Forum and the Pacific Islands Forum Secretariat, where a National Disability Policy was drafted.⁶⁴⁷ The purpose of the policy according is to provide guidance and recommendations for the implementation matrix for all government, non-government organisations, disabled persons organisations, individuals, families and communities throughout Palau, and to address and engage in the needs and services of persons and families with disabilities and build a more inclusive society for all persons in Palau.⁶⁴⁸

638 Ibid

639 UN compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PWSession24.aspx>

640 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PWSession24.aspx>

641 Ibid

642 Ibid

643 Ibid

644 Ibid

645 Ibid

646 UN compilation, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PWSession24.aspx>

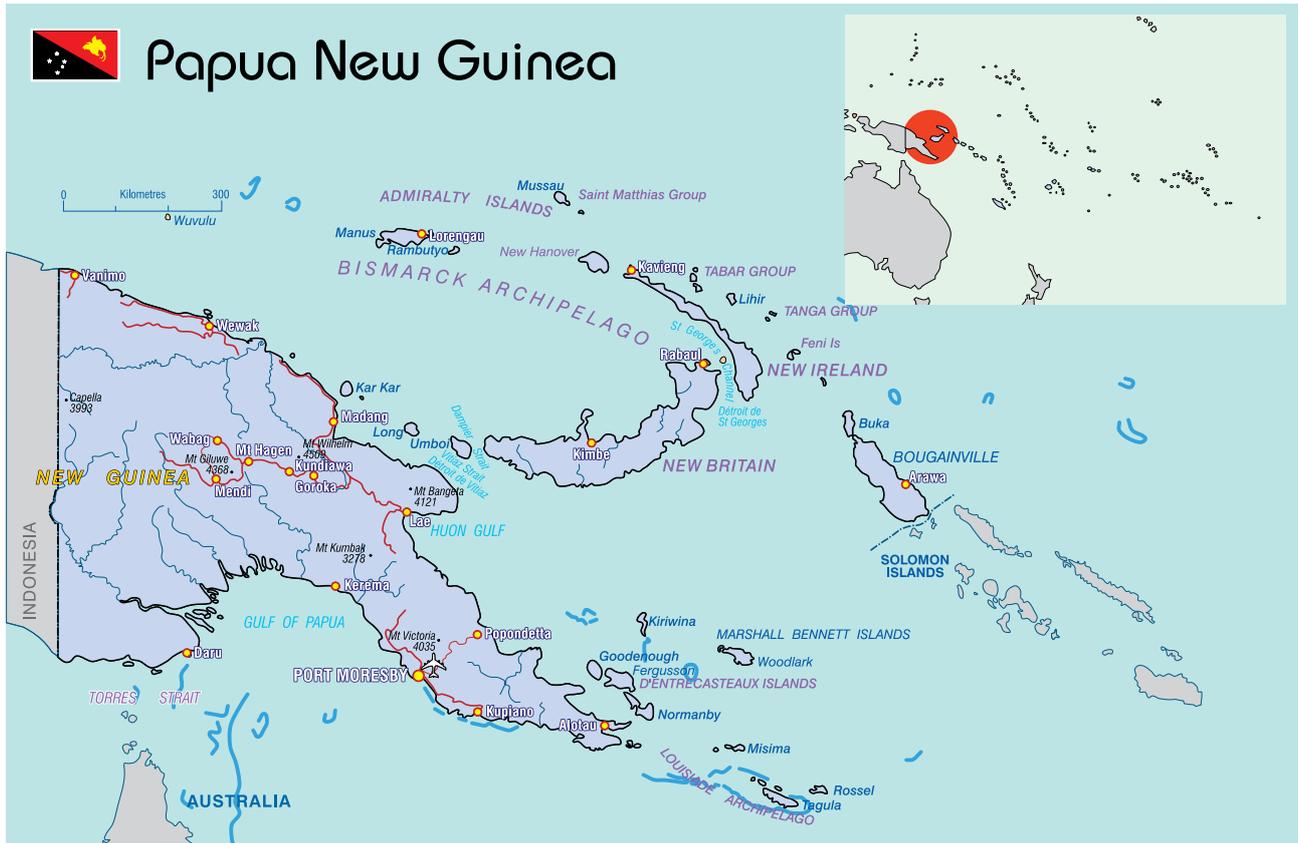
647 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PWSession24.aspx>

648 Ibid





Papua New Guinea



Papua New Guinea



Key facts⁶⁴⁹

Capital	Port Moresby	Land area: 462,840 km ² ⁶⁵⁰
Population ⁶⁵¹	8,083,700 (2015 est)	Population growth rate: 2.7%
Gross domestic product (GDP) per capita	USD 1931 (2013) ⁶⁵²	GNI per capita (Atlas method): USD 2240 (2014) ⁶⁵³
Type of government	Constitutional parliamentary democracy with the Queen of England through a Governor-General as the head of state and the Prime Minister as head of government.	
Electoral system	Preferential voting	
Number of members of parliament (MPs) in legislature	111	Total number of women MPs: 3 ⁶⁵⁴
Religions	Catholic: 27%, Evangelical Lutheran: 19.5%, United Church: 11.5%, Seventh-Day Adventist: 10%, Pentecostal: 8.6%, other Protestant: 8.9% ⁶⁵⁵	
Ethnic groups	Melanesian, Papuan, Negrito, Micronesian, Polynesian ⁶⁵⁶	
Languages	Tok Pisin, English, and Hiri Motu (official languages); approximately 860 indigenous languages spoken Note: Tok Pisin, (a Creole language) widely used and understood; English spoken by 1–2%; Hiri Motu spoken by less than 2% ⁶⁵⁷	
Life expectancy at birth (years)	53.7 for men/ 54.8 for women (2000)	% youth aged 15–24: 20

649 Unless otherwise specified, basic facts are taken from: http://www.spc.int/prism/images/downloads/2015_Pocket-Statistical-Summary.pdf

650 Ibid

651 SPC Statistics Division, <http://www.spc.int/nmdi/population>

652 The World Bank, Data (2013), <http://data.worldbank.org/country/papua-new-guinea>

653 The World Bank (2014); <http://data.worldbank.org/country/papua-new-guinea>

654 <http://www.parliament.gov.pg/about/parliament>

655 Central Intelligence Agency World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/index.html> [Accessed: 1 March 2016]

656 Ibid

657 Ibid

International treaty ratification and reporting obligations

Treaty	Date of signature (S)/ratification (R)/accession (A) ⁶⁵⁸	Declaration/reservation	Latest report submitted	Reporting status as of March 2016 ⁶⁵⁹	Treaties yet to be ratified
ICCPR	21 July 2008 (R)	-	-	Initial report overdue since 21 October 2009	<ul style="list-style-type: none"> • CAT • CAT-OP • CCPR-OP2-DP • CED • CMW • CRC-OP-AC • CRC-OP-SC
ICESCR	21 July 2008 (R)	-	-	Initial report overdue since 1 July 2010	
CERD	27 January 1982 (R)	-	Initial report: 16 August 1983	Committee issues Concluding Observation 2003	
CEDAW	12 January 1995 (R)	-	Combined initial, I, II, III report: 20 May 2009	IV report overdue since 1 July 2014	
CRC	2 March 1993 (R)	-	Initial report 23 April 2002	II and III report overdue since 30 September 2008	
CRPD	26 September 2013 (R)	-	-	Initial report overdue since 26 October 2015	
CAT					
Special Procedures		Adopted standing invitation 11 May 2011			
Country visits by UN Special Rapporteur⁶⁶⁰		<ul style="list-style-type: none"> • Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Completed and reported – Visit from 15 May 2010 to 30 May 2010 • Special Rapporteur on violence against women, its causes and consequences: Completed and reported – Visit from 18 March 2012 to 26 March 2012 • Special Rapporteur on extrajudicial, summary or arbitrary executions: Accepted • Special Rapporteur on the rights of indigenous peoples: Accepted • Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination: Reminder • Special Rapporteur on the right to education: Requested • Working Group on Arbitrary Detention: Reminder • Independent Expert on the effects of foreign debt and other related international financial obligations of states on the full enjoyment of all human rights, particularly economic, social and cultural rights: Requested • Special Rapporteur on the human rights of migrants: Requested 			
Universal Periodic Review (UPR)		<ul style="list-style-type: none"> • National report submitted to first reporting cycle for the UPR: Considered 11 May 2011 • Second reporting cycle for the UPR due April-May 2016; Next Cycle: 2021 			
International Criminal Court		Not a state party to the Rome Statute			

658 UN Human Rights Office of the High Commissioner, Ratification Status for Papua New Guinea, available at: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=134&Lang=EN [Accessed 18 March 2016]

659 UN Human Rights Office of the High Commissioner, Reporting Status for Papua New Guinea, available at: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=PNG&Lang=EN [Accessed: 18 March 2016]

660 UN Human Rights Office of the High Commissioner, View Country visits of Special Procedures of the Human Rights Council since 1998: Papua New Guinea, available at: http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=PNG [Accessed: 18 March 2016]



System of government

Papua New Guinea (PNG) gained political independence from Australia on 16 September 1975. Under a Westminster system of government, PNG has a constitutional monarchy. The head of state is Her Royal Majesty Queen Elizabeth II, represented by the Governor-General. There are three levels of government: national, provincial and local. The national parliament comprises 111 members, 89 of whom are elected from open electors while the remaining 22 are governors elected from provincial electorates. Members of parliament are elected by universal suffrage for five-year terms. After an election, the Governor-General invites the political party with the highest number of elected seats to form government.⁶⁶¹ The Governor-General appoints the prime minister, as proposed by parliament, and the National Executive Council is appointed by the Governor-General on advice of the Prime Minister.⁶⁶²

Judicial system and administration of justice

The administration of justice in PNG is carried out by the judicial system, the Minister for National Justice Administration, and law officers.⁶⁶³ The judicial system is independent, and made up of the Supreme Court, the National Court, and a host of inferior courts.⁶⁶⁴ The Supreme Court is the final court of appeal and has inherent power to review all judicial acts of the national court, where the National Court has inherent power to review any exercise of judicial authority. Law officers are the principal legal adviser to the National Executive, the Public Prosecutor and the Public Solicitor.⁶⁶⁵ The judiciary has been tested recently with high-profile constitutional cases challenging parliamentary processes, suspension of constitutional post holders and/or various investigations of high-ranking government officials.

These can be seen in various decisions, including *ONeil v Klapat*, SCM No 13 of 2014 PGSC 13; *In Re Powers, Functions, Duties and Responsibilities of the Commissioner of Police [2014]* PGSC 19; and *In Re Constitutional Amendment Law 2008*; *Reference by the Ombudsman Commission of PNG [2013]* PGSC 67.⁶⁶⁶

Access to justice and the right to remedy

PNG's Constitution provides for the equal protection of citizens by the law.⁶⁶⁷ Access to justice is not, however, a reality for all citizens, especially those who live in remote communities. Barriers to the full enjoyment of this right include the geographic isolation of many communities, limited human resources, high costs associated with court action, low rates of formal education, little awareness of either human rights or domestic laws,⁶⁶⁸ and widespread corruption and impunity within the Royal Papua New Guinea Constabulary.⁶⁶⁹ The Special Rapporteur on summary executions noted that a limited number of lawyers were available and many people could not afford to pay their fees. The Office of the Public Solicitor provided free legal assistance in respect of civil and criminal matters to those who were unable to afford a private lawyer. However, few lawyers were interested in joining the office due to the poor benefits that were offered. The Special Rapporteur recommended considering the possibility of establishing a *pro bono* system.⁶⁷⁰

National human rights institutions

The National Executive Council of Papua New Guinea in 1995 and again in 2007 agreed to the establishment of a national human rights institution (NHRI).⁶⁷¹ In 2010, legal drafting instructions — including an organic law and proposed constitutional amendments — were presented to the National Executive Council; however, parliament has

661 National Parliament of Papua New Guinea, About our Parliament, 2014, available at: <http://web.archive.org/web/20150727022017/http://www.parliament.gov.pg/about/parliament> [Accessed: 23 March 2016]

662 Australian Government Department of Foreign Affairs and Trade, Papua New Guinea country brief, available at: <http://dfat.gov.au/geo/papua-new-guinea/pages/papua-new-guinea-country-brief.aspx> [Accessed 23 March 2016]

663 Papua New Guinea, Constitution Section 154

664 Papua New Guinea, Constitution Section 155(1)

665 Papua New Guinea, Constitution Section 156(1)

666 Pacific Human Rights Digest, volume 5, <http://rrrt.spc.int/publications-media/publications/item/633-pacific-human-rights-law-digest-vol-5>

667 Papua New Guinea, Constitution, Section 37

668 Papua New Guinea, National report submitted in accordance with paragraph 15(1) of the annex to Human Rights Council resolution 5/1, A/HRC/WG.6/11/PNG/1, 6

669 Manfred Nowak, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mission to Papua New Guinea, UN Doc A/HRC/16/52/Add.5 (7 February 2011)

670 UN compilation to the Universal Periodic Review, p. 9, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PGSession25.aspx>

671 National Executive Council of Papua New Guinea, National Executive Council Decision 33/2007



not yet passed a law providing for the establishment of a National Human Rights Commission.⁶⁷² The United Nations Human Rights Council has expressed concern that, owing to the instability of political coalitions and the upcoming election, there will be further delays in the implementation of the commission.⁶⁷³ PNG received recommendations for the establishment of an NHRI at its first UPR and also on the second UPR. The Special Rapporteurs on summary executions and violence against women also called for the establishment of an NHRI.⁶⁷⁴

Civil society and human rights defenders

PNG has many non-governmental organisations involved in all sectors of national development, including human rights. Civil society plays a key role in PNG's development strategy.⁶⁷⁵ The United Nations noted that human rights defenders have been threatened with harm, attacked, and in some cases killed.⁶⁷⁶

Human rights policies

PNG does not have a National Human Rights Plan of Action.⁶⁷⁷ There are, however, a variety of plans in place to support the implementation of human rights in special fields, such as the advancement of women's rights, child protection, and the rights of people with disabilities, and law and order.⁶⁷⁸ Specifically, the government has also developed the following specific policies, plans and strategies;⁶⁷⁹

- Papua New Guinea vision 2050 (long-term national development roadmap)
- National Strategy for Responsible Sustainable Development (STARS) 2015-2030
- Medium Term Development Plan 2 2016-2017
- National Public Service Gender Equality and Social Inclusion Policy
- National Security Strategy 2013
- Development Strategic Plan 2010-2030

Domestic law and human rights

The Constitution protects a variety of civil, political and economic rights.⁶⁸⁰ Notably, the right to life, freedom from inhuman treatment, freedom of expression, and the equality of all citizens are protected. Domestic legislation gives effect to some of these rights.⁶⁸¹ The PNG government has not engaged strongly with international human rights mechanisms. In preparation for the first reporting cycle under the UPR, the United Nations Human Rights Council Joint Report noted that PNG has neither engaged in frequent dialogue with convention committees, nor adhered to reporting schedules under ratified conventions.⁶⁸² While the PNG government made a standing invitation for Special Procedures in 2011, and has tended to accept the majority of recommendations made by convention committees, progress towards the full incorporation of each convention into domestic law and the implementation of committee recommendations has been slow.⁶⁸³ Some positive advancements have been made through the introduction of new domestic legislation and policies following the ratification of human rights conventions. For example, the government published the National Disability Plan in May 2015 after ratifying the Convention on the Rights of Persons with Disabilities in 2013. Similarly, the Family Protection Act was passed through parliament in 2013.⁶⁸⁴ The act introduces a range of key legal reforms, including the criminalisation of domestic violence, a provision that the payment of customary compensation is not a legal defence, and the establishment of flexible procedures for

672 UN Human Rights Council, Working Group report on the Universal Periodic Review, 2–13 May 2011, A/HRC/WG.6/11/PNG/2, 6 [36]

673 United Nations Human Rights Council, UN compilation to the Universal Periodic Review, 11th Session, May 2011, available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session11/PG/UNCT_UNCountryteam-eng.pdf [Accessed 21 March 2016], 3

674 UN compilation to PNG's 2nd cycle Universal Periodic Review, <http://www.upr-info.org/en/review/Papua-New-Guinea/Session-25---May-2016/Compilation-of-UN-information#top>

675 Commonwealth Secretariat, http://www.commonwealthofnations.org/sectors-papua_new_guinea/civil_society/national_ngos_civil_society/ [Accessed April 2016]

676 UN compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PGSession25.aspx>

677 UN Human Rights Council, Joint Report for the Universal Periodic Review of Papua New Guinea 11th Session, May 2011, available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session11/PG/UNCT_UNCountryteam-eng.pdf [Accessed: 21 March 2016], 4

678 UN Human Rights Council, Working Group on the Universal Periodic Review, UN compilation1, 2–13 May 2011, A/HRC/WG.6/11/PNG/2 available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/109/29/PDF/G1110929.pdf?OpenElement> [Accessed: 21 March 2016], 4

679 National Report to the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PGSession25.aspx>

680 Papua New Guinea Constitution Sections 32–56

681 Papua New Guinea, National report to the Universal Periodic Review, A/HRC/WG.6/11/PNG/1, 5

682 UN Human Rights Council, Joint Report for the Universal Periodic Review, 11th Session, May 2011, available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session11/PG/UNCT_UNCountryteam-eng.pdf [Accessed:21 March 2016], 4

683 UN Human Rights Council, Joint Report for the Universal Periodic Review of Papua New Guinea 11th Session, May 2011, available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session11/PG/UNCT_UNCountryteam-eng.pdf [Accessed 21 March 2016], 6

684 Family Protection Act 2013, Papua New Guinea



the attainment of protection orders.⁶⁸⁵ The act came into force in March 2014 and draft regulations were submitted in 2015 and approved by the National Executive Council in December 2015. A draft implementation plan has also been created by the Department of Justice in collaboration with the Magisterial Services, Village Court Secretariat and the Consultative Implementation and Monitoring Council's Family and Sexual Violence Action Committee.⁶⁸⁶

Advocates for gender equality and the eradication of domestic violence have been extremely critical of this delay because women in PNG continue to experience some of the highest rates of violence in the world.⁶⁸⁷ Other new laws include amendments to the Marriage Act 1963 addressing gaps on existing laws on discrimination against women in relation to custody and rights to matrimonial property etc.⁶⁸⁸ The *LukautimPikinini* Act 2015 provides a framework on the protection of children, the Juvenile Justice Act 2014 provides for the protection of juveniles in detention and places of custody. The Criminal Code Amendment Act 2014 criminalises human trafficking while Criminal Code Amendment Act 2014 criminalises sorcery related violence and killing. The Civil Registry Act 2014 expands the identifications services for citizens and provides for the registration of one wife to have access to property and matrimonial rights. This issue is being addressed by the government, especially in cases where there is a second wife her children.⁶⁸⁹

Right to life, liberty and security of person

PNG's Constitution protects the right to freedom, life, liberty of the person, and freedom from inhuman treatment.⁶⁹⁰ There are, however, exceptions — in law and in practice — to the full enjoyment of each of these rights. The right to life is compromised by provision for the death penalty in the Criminal Code. The last state-sanctioned execution in PNG

occurred in 1953.⁶⁹¹ Even so, the government added two new crimes for which a perpetrator could be sentenced with the death penalty: murder in connection with accusations of sorcery, and aggravated rape.⁶⁹² A government inter-agency commission travelled to countries with experience in capital punishment: United States, Malaysia, Indonesia, Thailand and Singapore. Following the report by the Commission, the PNG National Executive Council endorsed hanging, firing squad and lethal injection as appropriate execution methods. In the same year, the National Executive Council flagged approval of new policies and facilities that would enable a revival of the death penalty, especially by lethal injection.⁶⁹³ While these measures were intended to demonstrate zero tolerance for violence against women, the announcement was met with fierce opposition from community and church groups, non-governmental organisations, and foreign governments. In March 2016, the Prime Minister announced that plans to reinstate the death penalty had been abandoned indefinitely.⁶⁹⁴ At the time of that announcement, there were reportedly 13 prisoners on death row.⁶⁹⁵

Security sector

Police brutality and impunity has been an ongoing concern in PNG. The treatment of detainees in police custody and jails across PNG further threatens the integrity of several constitutionally protected human rights, including the right to life, liberty and freedom from inhuman treatment. In 2010, at the invitation of the government of PNG, the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment conducted a mission to the country to independently assess practices of torture and ill-treatment.⁶⁹⁶ The Special

685 Human Rights Watch, Bashed up: Family violence in Papua New Guinea, 3 November 2015, available at: <http://www.hrw.org/report/2015/11/04/bashed/family-violence-papua-new-guinea> at 2 (accessed 20 March 2016), 19.

686 <https://10toeacontribution.wordpress.com/2013/04/05/what-is-family-sexual-violence-action-committee-fsvac/>

687 Human Rights Watch, Bashed up: Family violence in Papua New Guinea, 3 November 2015, available at: <http://www.hrw.org/report/2015/11/04/bashed/family-violence-papua-new-guinea> at 2 [Accessed: 20 March 2016], 21; Human Rights Watch, World Report 2015: Papua New Guinea, available at: <https://www.hrw.org/world-report/2015/country-chapters/papua-new-guinea#ba4db0> [Accessed: 21 March 2016].

688 National Report to the UPR 2016, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PGSession25.aspx>

689 Ibid, pg 6

690 Papua New Guinea, Constitution, Sections 32, 35, 42, 36.

691 Manfred Nowak, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Mission to Papua New Guinea, UN Doc A/HRC/16/52/Add.5 (7 February 2011) [5]

692 Papua New Guinea, Criminal Code, Sections 299A, 347C

693 pngedge.com, 'Death penalty by lethal injection given go-ahead', 9 April 2014, available from Death Penalty News: http://deathpenaltynews.blogspot.co.uk/2014/04/papua-new-guinea-death-penaltyby.html?_sm_au_=iVVZr2r5NqTf3JHq [Accessed: 20 March 2016]

694 The Sydney Morning Herald, 'Australian pressure killed off PNG plans to reintroduce death penalty', 4 March 2016, available at: <http://www.smh.com.au/national/australian-pressure-killed-off-png-plans-to-reintroduce-death-penalty-20160304-gnarfy.html> [Accessed: 20 March 2016]; Richard Ewart, 'Death penalty reintroduction shelved in Papua New Guinea', 23 February 2016, available at: <http://www.abc.net.au/news/2016-02-23/death-penalty-reintroduction-shelved-in-papua-new-7191788> [Accessed: 21 March 2016]

695 Amnesty International, Death Sentences and Executions 2014, March 2015, available at: <http://www.refworld.org/docid/552245c74.html> [Accessed: 21 March 2016]

696 United Nations Human Rights Council, Report of the Special Rapporteur on torture and other cruel inhuman or degrading treatment or punishment,



Rapporteur found evidence of excessive use of force, systematic police brutality, and in some cases deliberate use of torture to elicit confessions and inflict severe punishment, towards detainees and persons suspected of serious crimes.⁶⁹⁷ In addition, detainees were often found to be held in appalling conditions in police lockups for prolonged periods of time. Special concern was expressed for the treatment of juveniles and women, as observed police practises and prison conditions were not in compliance with minimum international human rights standards.⁶⁹⁸ The Special Rapporteur on violence against women⁶⁹⁹ and Special Rapporteur on summary executions⁷⁰⁰ during their 2012 and 2015 visits, respectively, visited detention places and expressed concerns and provided recommendations on specific groups (i.e. asylum seekers, women offenders, children).

In *Re Application of Enforcement of Human Rights, in Jacob Okimbari*⁷⁰¹ the PNG court heard of how the robbery suspect (plaintiff in this case) was assaulted by police, told to lie on the floor and had both his legs shot by the police. The plaintiff then lost consciousness, was taken to hospital and treated and was to be admitted by the doctor, but the police refused to allow him to be admitted and returned him to a cell that night and he was again beaten by police with a bat until he was unconscious. The court found for the plaintiff and awarded constitutional remedies of reasonable and exemplary damages.

The current process is that the Ombudsman Commission is mandated to investigate allegations of human rights abuse by the police, correctional service and other law enforcement agencies. The investigation is then referred to the concerned agency, such as the Police Internal Affairs Unit and other disciplinary forces for further action.⁷⁰²

7 February 2011, A/HRC/16/52/Add.5, 4.

697 Ibid, p.10.

698 Ibid. p. 52

699 http://www.ohchr.org/Documents/Issues/Women/A-HRC-23-49-Add-2_en.pdf

700 <http://www.ohchr.org/EN/Issues/Executions/Pages/AnnualReports.aspx>

701 Pacific Human Rights Law Digest (vol 5), SPC RRRT, Suva, Fiji, p. 41

702 National Report to the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PGSession25.aspx>

Equality and non-discrimination

In 2014, PNG was ranked 140 out of 155 countries in the Gender Inequality Index, an aspect of the United Nations Development Programme's Human Development Report.⁷⁰³ This ranking reflects inequality across three dimensions: reproductive health, empowerment through political participation and formal education, and economic activity. The equality of citizens is a constitutional right in PNG, and a recently confirmed priority for the government.⁷⁰⁴ Even so, systemic inequality and discriminatory customary practices continue to prevent the full and equal participation of women in key areas of political, economic and social life.⁷⁰⁵ While there is a growing trend in the number of women contesting and being elected to seats in parliament, following the 2012 elections, only 3 out of 111 members of parliament were female (2.7%).⁷⁰⁶ In terms of economic activity, female participation in the labour market was measured at 70.5% compared with 74.0% for men in 2014.⁷⁰⁷ Despite this relatively high rate of participation, Human Rights Watch has recognised that many women, especially those in the Highlands, remain financially dependent on their male partners.⁷⁰⁸ Other measures of inequality can be found in the only report submitted by PNG to the Committee on the Elimination of all forms of Discrimination Against Women in 2009. The report found that, at the time of the 2000 census, women had a lower literacy rate than men (50.9% compared with 61.2%) and a lower rate of enrolment in and completion of primary education.⁷⁰⁹ Women experience lower life expectancy at birth, owing

703 United Nations Development Programme, 'Human Development Report 2015, Work for human development: Briefing note for countries on the 2015 Human Development Report (Papua New Guinea)' available at http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/PNG.pdf [Accessed: 30 March 2016], 5.

704 Papua New Guinea, Constitution, Section 55; H.E. Mr. Robert G. Aisi, Permanent Representative of Papua New Guinea to the United Nations, Statement at the Fifty-Seventh Session of the Commission on the Status of Women, 11 March 2013, New York, available at: <http://www.un.org/womenwatch/daw/csw/csw57/generaldiscussion/memberstates/png.pdf> [Accessed: 30 March 2016]

705 UN Committee on the Elimination of Discrimination Against Women, Consideration of reports submitted by PNG for combined initial, 2nd and 3rd periodic report, 22 May 2009, CEDAW/C/PNG/3, available at: <http://www.refworld.org/docid/4a8be72b2.html> [Accessed: 23 March 2016] 17–19.

706 National Parliament of Papua New Guinea, About our Parliament, 2014, available at: <http://web.archive.org/web/20150727022017/http://www.parliament.gov.pg/about/parliament> [Accessed: 23 March 2016]

707 United Nations Development Programme, 'Human Development Report 2015, Work for human development: Briefing note for countries on the 2015 Human Development Report, Note 491; 5 [Table E].

708 Human Rights Watch, Bashed up: Family violence in Papua New Guinea, November 3 2015, available at: <http://www.hrw.org/report/2015/11/04/bashed/family-violence-papua-new-guinea> at 2 [Accessed: 20 March 2016], 5.

709 UN Committee on the Elimination of Discrimination Against Women, Consideration of reports submitted by States parties under Art 18 of the CEDAW; Note 493; 15



to poorer nutrition and health, high rates of pregnancy and maternal mortality, and high rates of family violence.⁷¹⁰ Women and girls also experience poorer health outcomes, including an alarmingly high rate of HIV/AIDS infection, largely attributable to low use of family planning and condoms, and low access to reproductive health services and resources in regional and remote provinces.⁷¹¹ A lack of relevant data has prevented analysts from tracking whether these indicators have improved, stalled, or worsened in recent years.⁷¹²

Finally, there is anecdotal evidence of the discriminatory effects of customary practices, including the payment of bride price, polygamy and violence against those accused of sorcery.⁷¹³ Each of these practices, when coupled with the under-representation of women in key areas of public life, reinforces pervasive gender inequality in PNG.

Women and children's rights

The greatest threat to the achievement of equality for women and girls in PNG is the prevalence and severity of family violence. There have been no recent or comprehensive studies to establish the actual rate of violence against women; best estimates, based on a report published in 1992, suggest that family violence occurs in two-thirds of households.⁷¹⁴ More recently, a 2013 study conducted by the United Nations found that in Bougainville, 80% of ever-partnered men had engaged in physical or sexual violence towards their female partners.⁷¹⁵

Papua New Guinea ranks very low in all global indicators of advancing gender equality and eliminating violence against women.

<http://asiapacific.unwomen.org/en/countries/png#sthash.YKelCs1v.dpuf>

710 Ibid, Pg. 16

711 Ibid, Pg.19

712 United Nations Development Programme, 'Human Development Report 2015, Work for human development: Briefing note for countries on the 2015 Human Development Report (Papua New Guinea)' available at http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/PNG.pdf [Accessed: 30 March 2016], 5.

713 Human Rights Watch, Bashed up: Family violence in Papua New Guinea, November 3 2015, available at: <http://www.hrw.org/report/2015/11/04/bashed/family-violence-papua-new-guinea> at 2 [Accessed: 20 March 2016], 5.

714 Human Rights Watch, Bashed up: Family violence in Papua New Guinea, Note 501, Pg. 2.

715 Fulu E., Warner X., Miedema S., Jewkes R., Roselli T. and Lang J. 2013. Why Do Some Men Use Violence Against Women and How Can We Prevent It? Quantitative Findings from the United Nations Multi-country Study on Men and Violence in Asia and the Pacific. Bangkok: UNDP, UNFPA, UN Women and UNV.

Violence against women has recently been recognised as a humanitarian crisis in PNG.⁷¹⁶ There are a wide variety of systemic barriers to overcoming this pervasive culture of family violence, including:⁷¹⁷

- A lack of information about services, protection and justice for victims of family violence, particularly in remote regions;⁷¹⁸
- Insufficient government and police presence in remote regions;⁷¹⁹
- No government safe houses and a shortage of privately owned safe houses;⁷²⁰
- Inappropriate use of community mediation as a substitute for prosecution and arrest;
- A lack of case management services and cohesive support networks for victims;⁷²¹
- The burden of seeking redress through the legal system, including lack of legal representation, high financial cost, unreceptive police and court systems;⁷²²
- Social (harmful) practices such as polygamy, bride price and accusations of sorcery;⁷²³
- Inability to leave abusive relationships, owing to economic dependence on abusers, fear of losing custody of children, or social stigma.⁷²⁴

The number and severity of violent incidents resulting from accusations of sorcery have escalated in recent years, further threatening the rights and security of women and girls.⁷²⁵ In 2013, Parliament repealed the Sorcery Act 1971,⁷²⁶

716 Human Rights Watch, Papua New Guinea's domestic violence crisis is being ignored, 5 November 2015, available at: <https://www.hrw.org/news/2015/11/05/papua-new-guineas-domestic-violence-crisis-being-ignored> [Accessed: 23 March 2016]; Liam Cochrane, 'Papua New Guinea's rates of violence at "pandemic" levels, Australian Federal Police officer says', Australian Broadcasting Corporation available at: <http://www.abc.net.au/news/2015-02-19/png-facing-a-domestic-violence-pandemic/-/afp-officer-says/6150064> [Accessed: 23 March 2016]

717 Human Rights Watch, Bashed up: Family violence in Papua New Guinea, Note 501, p. 26.

718 Ibid, 26–28.

719 Ibid, 28–30.

720 Ibid, 29–33.

721 Ibid, 33–34.

722 Ibid, 41–49.

723 Ibid, 53–57.

724 Ibid, 50–53.

725 Auka R., Gore B. and Koralyo P.R. 2015. 'Sorcery and Witchcraft Related Killings in Papua New Guinea: The Criminal Justice System Response. In: Forsyth M. and Eves R. (eds). Talking it Through: Responses to Sorcery and Witchcraft Beliefs and Practices in Melanesia, Canberra, ANU Press; United Nations News Centre, UN urges Papua New Guinea to take action after woman burned alive for witchcraft, 8 February 2013, available at: http://www.un.org/apps/news/story.asp?NewsID=44096#Vu_HPBj95-U [Accessed: 23 March 2016]

726 Sorcery (Repeal) Act 2013 (Papua New Guinea)



which provided a reduced sentence for murder or assault committed against any person alleged to have practiced 'sorcery'.⁷²⁷ In addition, the Criminal Code was amended to make sorcery-related killings punishable with the death penalty.⁷²⁸ While these legal amendments are evidence of the government's commitment to ending sorcery-related violence, there is no evidence to suggest that the alarming pattern of violent attacks against women accused of sorcery, especially in remote regions of PNG, has lessened since the reforms were enacted.⁷²⁹ In 2012, the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) Committee requested more information from the government of PNG on steps taken to address the torture and killings of women and girls accused of witchcraft, and women's participation in political and public life. No response has been received by the PNG government, and the CEDAW Committee sent reminders in 2014 and 2015.⁷³⁰

Right to health and education

There is incomplete data on the status of health issues in PNG, which makes it difficult to assess health-related development goals.⁷³¹ Available data suggest a high degree of variation in health outcomes from district to district in PNG, often dependent on local poverty levels, and a nation-wide failure to meet health-related Millennium Development Goal indicators.⁷³² The leading causes of death among Papua New Guineans are preventable diseases and pregnancy complications, while maternal and child health indicators are some of the worst in the Pacific Islands region.⁷³³ While noting the establishment of the National Maternal Death Committee, the UN country

team considered that effective coordination between the National Department of Health, the Provincial Health Authority, and the District Development Authority would be keys in improving the performance of the health sector.⁷³⁴

Education in PNG is also of concern within the context of the country's Millennium Development Goals.⁷³⁵ According to the most recent data on educational outcomes, published by the Pacific Islands Forum Secretariat in 2015, the net enrolment rate in PNG increased to 86% in 2012 although retention and youth literacy rates continue to be low.⁷³⁶ PNG has adopted legislation aimed at improving the quality of education, notably the Higher Education Bill (2014). In addition, through the Universal Basic Education Plan 2010–2019, PNG was implementing compulsory primary education.⁷³⁷ At its recent UPR, it was noted that, accessibility remains a problem in that many children had to walk for hours to obtain education in a primary school and there was a need for the government to monitor school enrolments with increased monitoring in rural areas, improve school facilities and supply clean water and toilet facilities.⁷³⁸

Disability rights

PNG is not a state party to the Convention on the Rights of Persons with Disabilities; however, the statutory responsibility for disability is with the Department for Community Development. There is also a National Advisory Council on disability that is a link between the government and civil society for the implementation of the national disability policy. In the recent UPR, stakeholders submitting reports noted that progress was being made on disability rights by the government, but there were concerns that many disabled children were still not properly registered in one of the special education resource centres nor in mainstream schools. Further, many children with disabilities

727 Amnesty International, Papua New Guinea: Vicious 'sorcery' killing leaves two more women at imminent risk, 26 May 2015, available at: <http://www.refworld.org/docid/55686cb64.html> [Accessed: 18 March 2016].

728 Criminal Code (Amendment) Act 2013 (Papua New Guinea)

729 Amnesty International, Papua New Guinea: Vicious 'sorcery' killing leaves two more women at imminent risk, 26 May 2015, available at: <http://www.refworld.org/docid/55686cb64.html> [accessed 18 March 2016].

730 UN compilation to the UPR, p. 5, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PGSession25.aspx>

731 United Nations Development Programme, 2014 National Human Development Report: Papua New Guinea, 'From Wealth to Wellbeing: Translating resource revenue into sustainable human development', 3 December 2015, available at: <http://hdr.undp.org/en/content/papua-new-guinea-national-human-development-report-2014> [Accessed: 30 March 2016]

732 Ibid, 42–44.

733 Ibid, 43.

734 UN compilation to the Universal Periodic Review, p. 11, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PGSession25.aspx>

735 United Nations Development Programme, 2014 National Human Development Report: Papua New Guinea, 'From Wealth to Wellbeing: Translating resource revenue into sustainable human development', 3 December 2015, available at: <http://hdr.undp.org/en/content/papua-new-guinea-national-human-development-report-2014> [Accessed: 30 March 2016]

736 Pacific Islands Forum Secretariat, 2015 Pacific Regional MDGs Tracking Report, available at: <http://www.forumsec.org/resources/uploads/embeds/file/2015%20Pacific%20Regional%20MDGs%20Tracking%20Report.pdf> [Accessed: 30 March 2016]

737 UN compilation to the Universal Periodic Review, p. 11, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PGSession25.aspx>

738 Stakeholders Submission to the UPR <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PGSession25.aspx>



face abuse, discrimination, exclusion, lack of accessibility, and a wide range of barriers to education, and that both female and male children with disabilities usually did not benefit from health treatments. Females with disabilities are more at risk of not being included in education.⁷³⁹

Refugee and asylum seeker issues

The detention centre in PNG was opened in 2001 as part of the Australian government's Pacific Solution with a lone inmate from 2003–2004. The centre was then reopened in 2012.

In 2014, several special procedure mandate holders sent a communication regarding allegations concerning the indefinite detention of asylum seekers, the detention of children, detention conditions, and the violent response to protests against those conditions. The experts noted the information received, according to which at the end of January 2014, asylum seekers at the Manus Island Regional Processing Centre had staged protests about their conditions. On 17 and 18 February 2014, the protests had escalated violently in the centre. G4S security guards (the private company providing security at the detention facility) allegedly responded with excessive use of force when protests escalated.⁷⁴⁰ The Office of the United Nations High Commissioner for Human Rights (UNHCHR) noted that asylum seekers were deprived of their liberty, on a mandatory basis, without an assessment as to the necessity and proportionality of the purpose of such detention in the individual case, and without being brought promptly before a judicial or other independent authority, and recommended that PNG ensure that reception arrangements for asylum seekers fully respect human dignity and applicable international human rights law and standards, and ensure that the detention of asylum seekers is in compliance with international standards.⁷⁴¹ UNHCHR welcomed progress made in terms of implementing the refugee status determination procedures, but urged that those procedures be enshrined in domestic legislation and that asylum seekers who wished to seek judicial review be given access to legal representation.⁷⁴² In April 2016, the PNG Supreme Court ruled that the detention of asylum seekers at Manus Island was unconstitutional because it

violated rights to personal liberty of asylum seekers.⁷⁴³ PNG Prime Minister Peter O'Neil was reported to have said that the facility will be closed following this ruling.⁷⁴⁴

The Government of Papua New Guinea... reaffirms its strong commitment towards the advancement and protection of fundamental principles and values of universal human rights enshrined in the Universal Declaration of Human Rights and the Charter of the United Nations.

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739 Stakeholders submission to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PGSession25.aspx>

740 UN compilation to the Universal Periodic Review, p. 18, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/PGSession25.aspx>

741 Ibid

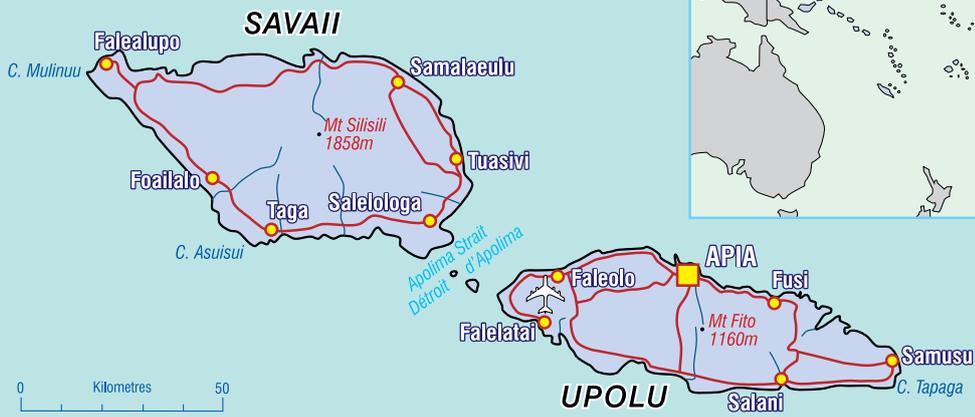
742 Ibid

743 Papua New Guinea court finds Australia's detention of asylum seekers on Manus Island is illegal, Sydney Morning Herald, <http://www.smh.com.au/federal-politics/political-news/papua-new-guinea-court-finds-australias-detention-of-asylum-seekers-on-manus-island-is-illegal-20160426-gofaaj.html>

744 Manus Island detention centre to close, PNG Prime Minister says following court bombshell, <http://www.smh.com.au/federal-politics/political-news/manus-island-detention-centre-to-close-png-prime-minister-says-following-court-bombshell-20160427-gogbyo.html>



Samoa



Independent State of Samoa



Key facts⁷⁴⁵

Capital	Apia	Land area: 2,934 km ²
Population	187,300 (2015 est.)	Population growth rate: -0.1%
Gross domestic product (GDP) per capita	USD 4231 (2015 est.)	GNI per capita (Atlas method): USD 4,060 (2014) ⁷⁴⁶
Type of government	Parliamentary democracy with the Prime Minister as the head of government and the <i>O le Ao o le Malo</i> as the head of state	
Electoral system	Plurality voting system ⁷⁴⁷	
Number of members of parliament (MPs) in legislature	49 members ⁷⁴⁸	No of women MPs: 5
Religions	Protestant: 54.7 % (Congregationalist: 31.8 %, Methodist: 13.7 %, Assembly of God: 8%, Seventh-Day Adventist: 3.9 %), Catholic: 19.4%, Mormon: 15.2%, Worship Centre: 1.7 %, other Christian: 5.5 % (2011 est.) ⁷⁴⁹	
Ethnic groups	Samoaan: 9 2.6%, Euronesian: 7.0%, European: 0.4% (2001 census)	
Languages	Samoaan (official), English ⁷⁵⁰	
Life expectancy at birth (years)	72.7 for men/ 75.5 for women (2011)	% youth aged 15–24: 19.4

745 Unless otherwise specified, basic facts are taken from: http://www.spc.int/prism/images/downloads/2015_Pocket-Statistical-Summary.pdf

746 The World Bank, Data - Samoa, <http://data.worldbank.org/indicator/NY.GNPPCAP.CD>

747 Election Guide, Independent State of Samoa, last updated 2016, <http://www.electionguide.org/countries/id/186/>. Plurality/Majority - Plurality/majority systems are based on the principle that a candidate(s) or party with a plurality of votes (i.e. more than any other) or a majority of votes (i.e. 50 per cent plus one—an absolute majority) is/are declared the winner(s). Such a system may use single-member districts—for example, First Past The Post, Alternative Vote or the Two-Round System—or multi-member districts—for example, the Block Vote and Party Block Vote. See also:

748 Central Intelligence Agency, The World Factbook, 'Samoa', 9 March 2016, <https://www.cia.gov/library/publications/the-world-factbook/geos/ws.html>

749 Ibid

750 Ibid

International treaty ratification and reporting obligations

Treaty	Date of Signature (S)/ ratification (R)/ accession (A) ⁷⁵¹	Declaration/ reservation	Latest report submitted	Reporting status as of March 2016 ⁷⁵²	Treaties and optional protocols yet to be ratified
ICCPR	15 February 2008 (A)	Declaration: compatibility of Art 8(3) and 10(2), (3) with domestic instruments	-	Initial report overdue since 15 August 2009	<ul style="list-style-type: none"> • CAT • ICESCR • CMW • CERD • CAT-OP • CRC-OP-AC • CEDAW – OP • CRPD – OP • ICCPR – OP 1 • ICCPR – OP 2 • CRPD – OP
CEDAW	25 September 1992 (A)	-	Combined IV-V report submitted 11 August 2010	VI report due 1 July 2016	
CRC	30 September 1990 (S) 29 November 1994 (R)	Reservation: modification of Art 28(1)(a) requirement	Combined II-IV report submitted 23 April 2014	-	
CRPD	24 September 2014 (S)	-	N/A	N/A	
CED	6 February 2007 (S) 27 November 2012 (R)	-	-	Initial report overdue since 27 December 2014	
1951 Refugee Convention & 1967 Protocol	21 September 1988 (A) 29 November 1994 (A)	-	-	-	
CRC OP SC, CP and Child Pornography	29 April 2016 (A)		-		
CRC OP Communications procedure	29 April 2016 (A)		-		
Special Procedures		Open Invitation extended: 14 February 2011			
Country visits by UN Special Rapporteur⁷⁵³		Working Group on the issue of discrimination against women in law and in practice: requested for second half of 2016			
Universal Periodic Review		1 st cycle: 9 May 2011; 2 nd cycle: 3 May 2016; next cycle: 2021			
International Criminal Court		Signatory to the Rome Statute: 17 July 1998 (S); 16 September 2002 (R); Acceded to Agreement on the Privileges and Immunities of the International Criminal Court 08 April 2016. ⁷⁵⁴			

751 UN Office of the High Commissioner for Human Rights, Ratification Status for Samoa, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=149&Lang=EN

752 UN Office of the High Commissioner for Human Rights, Reporting Status for Samoa, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=WSM&Lang=EN

753 UN Office of the High Commissioner for Human Rights, View Country visits of Special Procedures of the Human Rights Council since 1998, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=Samoa

754 <https://treaties.un.org/Pages/searchActions.aspx>



System of government

Samoa has a parliamentary system of government with a unicameral parliament called the National Legislative Assembly. The Prime Minister is the head of government, elected by the National Legislative Assembly for a five-year term. The National Legislative Assembly is made up of 49 members, elected for five-year terms through a simple majority vote. A recent constitutional amendment mandates that a minimum of 10% of the seats in Parliament be held by women.⁷⁵⁵ If less than five women are elected during a general election, the unsuccessful women candidates with the next highest number of votes are appointed as additional members of Parliament.⁷⁵⁶ The Human Rights Protection Party has held government in Samoa since 1982, again winning a majority in Parliament in the 2016 elections.⁷⁵⁷ Elements of traditional governance in Samoa are woven together with democratic practice. Universal suffrage was recognised in 1990, however only *matai* (recognised chiefs of Samoan villages) may stand for election. The traditional system of local governance has been codified by the National Legislative Assembly, empowering village *fonos* (councils) to exercise authority according to custom and usage of that village.⁷⁵⁸

Judicial system and administration of justice

The judiciary is the independent third arm of governance in Samoa. The judiciary is made up of the Court of Appeal (which sits once annually and is overseen by foreign judges⁷⁵⁹), Supreme Court, Magistrates Court, the Land and Titles Court, and a number of specialised district courts that include the Family Court and the Youth Court.⁷⁶⁰ Village *fonos* are empowered to rule on customary matters, as well

as some civil and criminal cases that have a right of appeal to the Land and Titles Court.⁷⁶¹ The Samoa Law and Justice Sector — comprising government bodies such as the Office of Attorney General, Ministry of Justice and Courts Administration, Samoan Law Reform Commission and the Office of the Ombudsman — oversees the administration of justice in Samoa.⁷⁶² The Samoa Police Service, commanding 500 officers, is responsible for the enforcement of law and order, the preservation of peace, and the protection of life and property.⁷⁶³ The Samoa Police Service has also provided officers for regional and international peacekeeping efforts.

Access to justice and the right to remedy

Every Samoan has a fundamental right to a fair and public hearing within a reasonable time by an independent and impartial tribunal.⁷⁶⁴ The administration of legal aid under the Ministry of Justice and Courts Administration gives effect to this constitutional right.⁷⁶⁵ The government of Samoa has taken significant steps towards improving access to justice. The Samoa Law and Justice Sector was formed in 2008, bringing together the government agencies responsible for the administration of justice in Samoa. One of the most substantial contributions of the sector has been to author and review successive four-year sector plans, which have enabled efficient sector visioning, reform and development. Reforms that have specifically improved access to justice in Samoa include the development of administrative systems to reduce the backlog of cases, and increasing access to information through the digitisation of court records and development of legal databases.⁷⁶⁶ The government of Samoa is in the process of establishing a Community Law Centre, a project recognised as a Law and Justice Sector priority, to ensure equal access to justice for Samoans who would not otherwise be able to afford legal assistance or representation.⁷⁶⁷

755 Constitutional Amendment Act 2013 (Samoa). This means that if women won four seats in the national elections, then they are entitled to another seat by temporary special measures. Following the 2016 election, four women were elected and one came through the reserved seat, resulting in the 2016 Parliament having 50 members.

756 Inter-Parliamentary Union, Samoa Fono (Legislative Assembly), 2016, http://www.ipu.org/parline-e/reports/2351_B.htm

757 Office of the Electoral Commissioner, List of Territorial Constituencies – Official Results 2016, <http://www.oec.gov.ws/index.php/webmail/general-election-2016-results>

758 Village Fono Act 1990 (Samoa). Note: A report by the Samoa Law Reform Commission with recommendations for amendments to the Village Fono Act can be found at: http://www.samoalawreform.gov.ws/?page_id=29

759 Economic Policy and Planning Division in Ministry of Finance, Government of Samoa, Strategy for the Development of Samoa 2012–2016, July 2012, <http://www.mof.gov.ws/Portals/195/Services/Economy/SDS%202012%20-%202016%20ENGLISH%20VERSION.pdf>, iv

760 Constitution of the Independent State of Samoa, Sections 65, 74, 75, 103; District Courts Act 2016 (Samoa); Family Court Act 2014 (Samoa)

761 Village Fono Act 1990 (Samoa) Section 11; Constitution of the Independent State of Samoa, Section 103

762 Samoa Law and Justice Sector, Purpose of the Samoa Law and Justice Sector, http://www.samoaljs.ws/english/index.php?option=com_content&view=article&id=155&Itemid=121

763 Interpol, Samoa Police and Prison Service, <http://www.interpol.int/Member-countries/Asia-South-Pacific/Samoa>

764 Constitution of the Independent State of Samoa, Section 9(1), 15(1)

765 Ministry of Justice and Courts Administration, About Us – Access to Justice, <http://www.mjca.gov.ws/about%20us2.html>

766 Samoa Law and Justice Sector, Samoa Law and Justice Sector Plan 2012–2016, 23 November 2012, 7

767 Human Rights Commission, National report, Samoa, 17 February 2016, A/HRC/WG.6/25/WSM/1, [38] 9; Samoa Law and Justice Sector, Establishment of a Community Law Centre, 2014, http://www.samoaljs.ws/english/index.php?option=com_content&view=article&id=171:establishment-of-a-community-law-centre&catid=59:current-projects&Itemid=95



National human rights institution

Samoa officially opened its national human rights institution (NHRI) on 10 December 2013 in response to recommendations made during Samoa's first Universal Periodic Review (UPR). The mandate of the Office of the Ombudsman was expanded to include the monitoring, protection and promotion of human rights in Samoa, in addition to new responsibilities to investigate complaints against police and other prescribed forces through the new Special Investigations Unit, and to ensure that public agencies adhere to good governance.⁷⁶⁸ The NHRI is now fully functional.⁷⁶⁹ Since its establishment, the NHRI has produced a 'State of Human Rights Report', delivered human rights training for law enforcement officials, run education and outreach activities, and inspected places of detention.⁷⁷⁰

Human rights policies

The Samoan government demonstrates a strong commitment to human rights and improved quality of life for all Samoans, reflected in the Strategy for Sustainable Development of Samoa 2012–2016, and the range of specific policies designed to promote the rights and empowerment of vulnerable groups.⁷⁷¹ Each policy has been strengthened by at least one previous implementation and review cycle. The National Policy for Women of Samoa 2010–2015 promotes equal access to opportunities and full participation in the cultural, political and economic life of Samoa for women and girls. The policy, currently under review with independent technical support from the Pacific Community,⁷⁷² sought to address five critical issues for women's equality:⁷⁷³

1. Advancing gender mainstreaming in the public sector through capacity building for government officials, and improving the collection of gender disaggregated

data to inform the development of strategic policies for women;

2. Increasing safety and security for women by strengthening legislation, fostering a collaborative interagency response and support system for victims of violence, and enforcing zero tolerance for domestic violence;
3. Improving health outcomes by increasing access to health services;
4. Promoting sustainable economic development, especially through small businesses; and
5. Increasing women's participation in public life by reforming institutional barriers to participation in decision making roles across politics, the church and the workforce, and promoting positive public opinion about women in leadership.

Additionally, the Gender Implementation Strategy for the Reproductive and Sexual Health of Women in Samoa 2014–2018 recognises the centrality of sexual and reproductive health to the realisation of women's human rights and autonomy, and acts as a tool to support reproductive and sexual health outcomes for Samoan women and girls.⁷⁷⁴

The National Youth Policy 2011–2015 is designed to enable young people's participation in and contributions to Samoan society through five policy objectives:⁷⁷⁵

1. Increasing knowledge of youth development to inform strong long-term interventions;
2. Improving access to vocational and 'second chance' education to increase employability;
3. Addressing vulnerability by increasing support for economic development initiatives;
4. Improving the health and wellbeing of young people; and
5. Strengthening family relationships and community support networks for young people.

There are several national policies that feed into a coordinated multi-sectorial response to reduce the prevalence of sexually transmitted diseases (STIs) in Samoa.⁷⁷⁶ The National HIV/AIDS Policy and Plan of Action

768 Human Rights Commission, national report, Samoa, 17 February 2016, A/HRC/WG.6/25/WSM/1, [18] 6

769 Ibid, [32]-[34] 8

770 Ibid, [35] 8

771 Economic Policy and Planning Division in Ministry of Finance, Government of Samoa, Strategy for the Development of Samoa 2012–2016, July 2012, <http://www.mof.gov.ws/Portals/195/Services/Economy/SDS%202012%20-%202016%20ENGLISH%20VERSION.pdf>, 2

772 Human Rights Commission, National report, Samoa, 17 February 2016, A/HRC/WG.6/25/WSM/1, [53] 11

773 Division for Women in Ministry of Women, Community and Social Development, Government of Samoa, Beijing 20+: Review of progress in implementing the Beijing Platform for Action in Samoa, 2014, <http://www.mwcd.gov.ws/images/stories/division-for-women/2014/MASTERCOPY%20FINAL%20SAMOA%20National%20Report%20BPFA.pdf>, 9

774 Division for Women, Ministry of Women, Community and Social Development, Government of Samoa, Gender Implementation Strategy for the Reproductive and Sexual Health of Women in Samoa 2014–2018, 8–9

775 Division for Youth, Ministry for Women, Community and Social Development, Government of Samoa, Samoa National Youth Policy 2011–2015, 2011, http://www.youthpolicy.org/national/Samoa_2011_National_Youth_Policy, 9

776 Ministry of Health, Government of Samoa, UNAIDS Global Aids Response Progress Report 2015 - Samoa, http://www.unaids.org/sites/default/files/country/documents/WSM_narrative_report_2015.pdf, 1



2011–2016 is the cornerstone of this response. The policy establishes targets for the national response to the AIDS epidemic, recognises the rights of people living with HIV/AIDS, and seeks to address social factors that act as obstacles to the eradication of HIV/AIDS in Samoa, such as community stigma, the high rate of STIs in low risk groups, gender disparity, and poverty.⁷⁷⁷ The National Policy for Persons with Disabilities 2011–2016 established several policy priorities to promote the full enjoyment of human rights for persons with disabilities, including disability mainstreaming, early detection and intervention, improved access to support services and community infrastructure, independent living and economic development, education, and advocacy and awareness.⁷⁷⁸ A 2014 mid-term review found that the policy had achieved 75% completion across legislation and programme goals, and recommended greater investment of resources for women with disabilities, access, and economic development.⁷⁷⁹

Domestic law and human rights

The Constitution, together with domestic laws, the new NHRI, and established law and justice sector institutions, protect certain fundamental human rights. The Constitution recognises some civil, political and social rights, including the right to life, freedom of speech, property rights, and freedom from inhuman treatment.⁷⁸⁰ While equality before the law is mandated by the Constitution, freedom from discriminatory legislation is not extended to Samoans on the basis of sexuality or disability.⁷⁸¹

A range of new laws were passed in line with recommendation made during Samoa’s first UPR. These include those that established the National Human Rights Institution,⁷⁸² a Special Investigations Unit,⁷⁸³ a Community Law Centre,⁷⁸⁴ anti-corruption measures,⁷⁸⁵ the

criminalisation of corporal punishment in schools,⁷⁸⁶ and a range of new measures intended to assist survivors of domestic violence.⁷⁸⁷

Right to life, liberty and security of person

Samoans have an equal right to life, liberty, and freedom from torture and inhuman or degrading treatment or punishment.⁷⁸⁸ There are no reports of unlawful or arbitrary deprivation of life in Samoa.

In 2015, the NHRI released a report investigating the conditions within Samoan detention centres. Conditions in the majority of prisons and policy custody centres require urgent attention; issues include overcrowding in Tafaigata prison, inadequate supply of clean drinking water, insufficient resources to support inmate hygiene and sanitation, poor ventilation and lighting, and inadequate access to adequate health care.⁷⁸⁹ The report further identified a need for rehabilitation programmes, with a particular focus on education and vocational training programmes, to ensure the effective reintegration of inmates into society and to reduce the risk of re-offending.⁷⁹⁰ The report carried an urgent recommendation to separate child offenders from older ‘juveniles’ (inmates as young as 11 are held together with inmates as old as 26) and serious offenders from other inmates, all of whom are currently held together in the Oloamanu Juvenile Centre.⁷⁹¹ The NHRI commended several aspects of the prison system, including the new Mental Health Treatment Centre,⁷⁹² and the integration of the *matai* system into prison facilities to assist with prisoner management and rehabilitation.⁷⁹³

Banishment for violations of cultural rules or *fa’a Samoa* is still practiced though the courts have ruled against this practice. See *Punitia v Tutuila [2014] WSCA 1*⁷⁹⁴; and *Lafaialii &*

777 Ibid

778 Division for Research, Policy, Planning and Information Processing, Ministry of Women, Community and Social Development, Government of Samoa, Mid-term Review of National Policy for Persons with Disabilities 2011–2016, December 2014, 5

779 Ibid, 3

780 Constitution of the Independent State of Samoa 1960, Sections 4–15

781 Constitution of the Independent State of Samoa 1960, Sections 15(1), 15(2).

782 Ombudsman Act 2013

783 Ombudsman (Special Investigations Unit) Regulations 2015

784 Community Law Centre Act 2015

785 Crimes Act 2013

786 Education Act 2009, Section 23

787 Family Safety Act 2013

788 Constitution of the Independent State of Samoa 1960, Sections 5, 6, 7

789 National Human Rights Institution, Office of the Ombudsman, Detention Centre Inspections Report, June 2015, <http://www.ombudsman.gov.ws/images/detention%20centre%20inspections%20report%202015%20final.pdf>, 6

790 Ibid, 7

791 Ibid, 20

792 Ibid, 29 (established under the Mental Health Act 2007)

793 Ibid, 6, 10

794 Pacific Human Rights Law Digest, vol 5, <http://rrrt.spc.int/publications-media/publications/item/633-pacific-human-rights-law-digest-vol-5>



*Others v Attorney General & Others [Civil Case No 8 of 2003]*⁷⁹⁵; *Leituala & Others v Mauga & Others*.⁷⁹⁶

Right to health and education

The 2015 United Nations Human Development Report gave Samoa a human development index value of 0.702, which places Samoa 105 out of 188 countries and territories, which reflects a high level of human development.⁷⁹⁷ In 2014, life expectancy at birth for Samoans was 73.4 years, expected years of schooling was 12.9 years, and the mean years of schooling was 10.3 years; both educational indicators surpass the regional average.⁷⁹⁸ Samoa is on track to achieve Millennium Development Goals 4, 5 and 6, which address infant and under-five mortality, maternal mortality and skilled attendance at birth, HIV prevalence and tuberculosis treatment.⁷⁹⁹ Areas that have been identified for greater resourcing include sexual and reproductive health, particularly for adolescents, and rural women's access to health services.⁸⁰⁰

The Samoan government has focused considerable energy on national policies and sector strategies to improve access to and the quality of inclusive education across the past decade, which has contributed to improved educational outcomes for many Samoan children.⁸⁰¹ Barriers to universal education include the affordability of hidden school fees, high rates of teenage pregnancy, and high dropout rates in secondary and tertiary education.⁸⁰²

Equality and non-discrimination

Every Samoan has the right to equality before the law, and non-discrimination is guaranteed on the basis of descent, sex, language, religion, political or other opinion, social origin, place of birth or family status.⁸⁰³ Samoans are not

protected, however, from discrimination on the basis of disability, age or sexual orientation.⁸⁰⁴ In 2014, Samoa had a Gender Inequality Index value of 0.457, ranking it 97 out of 155 countries.⁸⁰⁵ Factors that contribute to women's empowerment include the relatively high level of attainment of high school and tertiary education, the relatively low maternal mortality ratio, and the new 10% quota for female members of Parliament; factors that contribute to inequality include women's low rate of participation in the labour market as compared to men (23.5% compared with 58.4%), and the high adolescent birth rate (28.3 in every 1,000 women aged 15–19).⁸⁰⁶

Civil society and human rights defenders

The Constitution protects several fundamental civil and political rights, including freedom of speech, assembly, association and movement, and the right to a fair trial.⁸⁰⁷

Women's rights

The Samoan government has a long history of engagement with women's rights; in 1992, Samoa became the first Pacific Island country to ratify the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) without reservation.⁸⁰⁸ The Constitution guarantees women's equality before the law, and their right to non-discrimination on the basis of sex.⁸⁰⁹ In 2013, the Samoan government passed constitutional amendments that introduced a 10% parliamentary quota for female members of Parliament;⁸¹⁰ this provision came to life for the first time in the March 2016 elections. The Family Safety Act 2013 contains important reforms for the protection of domestic violence survivors, establishing protection orders and specific duties for attending police officers.⁸¹¹ Other progress has been made through the introduction of gender neutral

795 Pacific Human Rights Law Digest, vol 1, <http://rrrt.spc.int/publications-media/publications/item/63-pacific-human-rights-law-digest-vol-1>

796 Ibid; p. 14

797 United Nations Development Programme, Human Development Report 2015: Work for human development, Briefing note for countries on the 2015 Human Development Report (Samoa), http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/WSM.pdf, 2

798 Ibid, 4

799 Human Rights Commission, Samoa, 7 March 2016, A/HRC/WG.6/25/WSM/2, [41] 10

800 Ibid, [42]-[45] 10-11

801 Ibid, [46]-[49] 11

802 Ibid

803 Constitution of the Independent State of Samoa 1960, Section 15(1), 15(2)

804 Ibid

805 United Nations Development Programme, Human Development Report 2015: Work for human development, Briefing note for countries on the 2015 Human Development Report (Samoa), http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/WSM.pdf, 5

806 Ibid

807 Constitution of the Independent State of Samoa 1960, Sections 9, 13

808 Committee on the Elimination of Discrimination against Women, Concluding Comments: Samoa, 15 February 2005, CEDAW/C/WSM/CC/1-3, 1

809 Constitution of the Independent State of Samoa 1960, Section 15(1), 15(2)

810 Constitution Amendment Act 2013, Section 2; Samoa Constitution, 1960, Section 441

811 Family Safety Act 2013, Pt II and Pt III



language in all legislation, the criminalisation of marital rape,⁸¹² and making available restraining orders for married people who have experienced domestic violence at the hands of their spouse.⁸¹³

Samoa ranks 105 out of 188 countries on the Gender Development Index, placing it within a high level of development.⁸¹⁴ Gender parity has been achieved in primary education, with girls expected to complete 13.2 years of schooling compared with 12.5 years for boys.⁸¹⁵ Even so, women's gross national income is roughly half that earned by men;⁸¹⁶ while urban women experience high levels of business ownership and equality with men in management positions in the public sector, the CEDAW Committee has expressed concern that rural women lack employment opportunities and remain concentrated in the informal work sector.⁸¹⁷

There are still some concerns about women's equality in Samoa. The NHRI's flagship publication, State of Human Rights Report 2015, identified three barriers to women's equality: 1) deeply-rooted, harmful gender role stereotyping, particularly for *nofotane*; 2) widespread perceptions about women's leadership capacity as leaders in political and economic areas; and 3) epidemic rates of violence against women.⁸¹⁸ A recent Samoa Family Health and Safety study found that nearly half of women aged 15–49 had experienced intimate partner violence.⁸¹⁹ The study also found that there is a widespread perception that *fa'a Samoa* allows men to beat their wives (a position rejected by the NHRI⁸²⁰) and is, therefore, in conflict with human rights.⁸²¹ The CEDAW Committee and NHRI share concerns that this perception contributes to the social legitimisation of violence, and a culture of silence and impunity. The NHRI further identified that the lack of reliable, gender disaggregated data on violence in Samoa is a concern that

requires immediate attention and resourcing.⁸²² Promisingly, the NHRI report contains a number of other comprehensive recommendations that, if adopted by the government, will contribute substantially to efforts to achieve total gender equality in Samoa.

Children's rights

Samoa has a very young population, where nearly half of the population is aged 19 and under. The main barriers to achieving the rights of the child in Samoa include issues relating to access to education, child labour, child abuse, and community resistance based on fundamental misconceptions about the nature of children's rights.⁸²³ Samoa is on track to achieve universal primary education under Millennium Development Goal 2, largely because of the government-funded Samoa School Fee Grant Scheme, which has helped many families overcome the biggest financial barriers to access to primary education up to grade 11.⁸²⁴ In 2014, an Inclusive Education Policy was approved by Cabinet to improve access to education and outcomes for children with disabilities.⁸²⁵ Samoa has also achieved gender parity in primary school enrolment, although girls are more likely than boys to complete secondary and tertiary education.⁸²⁶ The State of Human Rights Report 2015 identified an additional challenge that female students face in pursuit of their education: one-quarter of babies born in Samoa have teenage mothers, girls who face enormous pressure to drop out of school once they become pregnant.⁸²⁷ The NHRI is calling for greater support for pregnant students to either remain in school or engage in alternative options that will allow them to finish their education once they become mothers.

The Samoan government has taken several steps to protect children from labour exploitation, including the worst

812 Crimes Act 2013, Sections 49-52

813 Divorce and Matrimonial Causes Act 2012, Pt IIIA

814 United Nations Development Programme, Human Development Report 2015, <http://hdr.undp.org/en/content/table-1-human-development-index-and-its-components>, 221

815 Ibid

816 Ibid

817 National Human Rights Institution, Office of the Ombudsman, Government of Samoa, State of Human Rights Report 2015, http://www.ombudsman.gov.ws/images/20150806_stateofhumanrightsreport_english.compressed.pdf, 25

818 Ibid, 22

819 Ibid, 26

820 Ibid, 29

821 Ibid

822 Ibid, 15

823 National Human Rights Institution, Office of the Ombudsman, Government of Samoa, State of Human Rights Report 2015, http://www.ombudsman.gov.ws/images/20150806_stateofhumanrightsreport_english.compressed.pdf, 31

824 United Nations Development Programme, Millennium Development Goal overview for Cook Islands, Niue, Samoa and Tokelau, <http://www.ws.undp.org/content/samoa/en/home/mdgoverview/overview/mdg2.html>; National Human Rights Institution, Office of the Ombudsman, Government of Samoa, State of Human Rights Report 2015, http://www.ombudsman.gov.ws/images/20150806_stateofhumanrightsreport_english.compressed.pdf, 33

825 Human Rights Commission, National report, Samoa, 17 February 2016, A/HRC/WG.6/25/WSM/1, [69]-[72] 13

826 Ministry of Education, Sports and Culture, Government of Samoa, Education for All 2015 National Review Report: Samoa, May 2015, <http://unesdoc.unesco.org/images/0022/002298/229876E.pdf>, 44

827 Ibid, 34



forms of child labour, by regulating the employment of compulsory school-aged children through the Education Act 2009, becoming a member of the International Labour Association, and ratifying the eight fundamental International Labour Organization conventions, enacting the Labour and Employment Relations Act 2013 and establishing a Child Labour Taskforce.⁸²⁸ Despite these measures, school-aged children are still engaged as market vendors during school hours, largely because of financial pressures from home and low levels of law enforcement.⁸²⁹

Abuse of children in the home and wider community is a widespread and understated issue. Physical punishment is common place, which often blurs the line between discipline and abuse; excessive physical discipline is seen as a parent's right more than a human rights concern.⁸³⁰ The NHRI acknowledges the need to respect cultural sensitivities in dialogue around this issue, and have recommended an approach that acknowledges a parent's right to discipline their child within the limits established by the Convention on the Rights of the Child for the protection of the health and wellbeing of the child.⁸³¹ A related issue is that of child sex abuse, especially within the family. There is insufficient data and suspected under-reporting of sexual abuse and incest despite its condemnation in *fa'a Samoa* and national law, which has led to calls to increase public awareness of and *fono* engagement with legal procedures available to protect victims, and for relevant authorities to collect and report disaggregated data.⁸³² Corporal punishment is unlawful in schools; however, a recent NHRI survey found its continued widespread use.⁸³³ The Ministry of Education, Sports and Culture is developing a National Schools Violence-Free Policy to address the issue.⁸³⁴

The Young Offenders Act 2007 establishes a justice system for offenders under the age of 17. The regime has faced criticism for failing to raise the minimum age of criminal responsibility from 10 years of age to an internally

acceptable level.⁸³⁵ The Ministry of Justice and Courts Administration has been praised for its incorporation of the *fono* system into judicial responses to crime by young offenders; the programme, which allows young people to serve a community sentence under the supervision of village *matai* or pastors, has had a 90% success rate, with only 10% of participants re-offending.⁸³⁶

Disability rights

Persons with disabilities in Samoa are restricted by limited access (infrastructures, services) and services, and few opportunities for employment or participation in the formal education system.⁸³⁷ Women and children with disabilities are particularly vulnerable to disadvantage.⁸³⁸ In recognition of these challenges, the Samoan government has taken several steps to improve access for persons with disabilities and mainstream disability rights since 2008.⁸³⁹ A National Disability Taskforce was established in 2008 to help incorporate disability rights into national and sector plans, and to facilitate Samoa's ratification of the Convention on the Rights of Persons with Disabilities (CRPD). The government signed the CRPD in 2014 and mandated a legislative compliance review that would pave the way for the full implementation of the convention in domestic law. This review has recently been completed, taking Samoa one step closer to ratifying the CRPD.⁸⁴⁰ The mid-term review of Samoa's National Policy for Persons with Disabilities 2011–2016 found that considerable progress had been made to improve access for persons with disabilities since the implementation of policy frameworks within the health, education, communications and disaster

828 Ibid, 35

829 Ibid, 36

830 Ibid

831 Ibid, 37–38

832 Ibid, 39

833 Education Act 2009, Section 23(1); Ministry of Education, Sports and Culture, Government of Samoa, Education for All 2015 National Review Report: Samoa, May 2015, <http://unesdoc.unesco.org/images/0022/002298/229876E.pdf>, 38

834 Ministry of Education, Sports and Culture, Government of Samoa, Education for All 2015 National Review Report: Samoa, May 2015, <http://unesdoc.unesco.org/images/0022/002298/229876E.pdf>, 38

835 Ministry of Women, Community and Social Development, Government of Samoa, Country Report on the Status on the Rights of the Child in Samoa, 2013, <http://www.mwcsd.gov.ws/images/stories/PUBLICATIONS%20WEBSITE/2014/CRC%20Report%202013/1.CRC%20Second%20periodic%20report%20FINAL.pdf>, 19

836 Human Rights Council, Samoa, 7 March 2016, A/HRC/WG.6/25/WSM/2, 9

837 Ibid, 12

838 Ministry for Women, Community and Social Development, Mid-term Review of National Policy for Persons with Disabilities 2011–2016, December 2014, <http://www.mwcsd.gov.ws/images/stories/PUBLICATIONS%20WEBSITE/2015/Disability/MID%20TERM%20REVIEW%20OF%20DISABILITY%20POLICY%20-%20Copy.pdf>, 6–7

839 Human Rights Commission, national report, Samoa, 17 February 2016, A/HRC/WG.6/25/WSM/1, [128] 20

840 Ibid, [125] 20



management sectors.⁸⁴¹ Several challenges which have so far prevented the full implementation of the policy include limited resources, particularly in rural areas, and the lack of central coordination for multisector service delivery.⁸⁴²

Human rights awareness

The NHRI has repeatedly identified the need to address a presiding caution towards and in some cases rejection of human rights, especially those pertaining specifically to women and children; this caution stems from a belief that human rights conflict with *fa'a Samoa*.⁸⁴³ As Maiava Iulai Toma, the Samoan Ombudsman and Human Rights Commissioner emphasised:

While there is divergence in the origin of human rights beliefs between Europeans and Samoans, they are equivalent in nature and complement each other by sustaining human dignity and entitlements and improving the welfare of individuals and their families. Human rights are underpinned by core values of respect, dignity equality and security for everyone. Similarly, Samoa holds core values which guide social interaction such as respect, dignity, security, love, and service.⁸⁴⁴

...Climate change is not a future phenomenon. It is real, irreversible and is already happening with far more frequency. It is no longer a question of when, but rather the severity of the magnitude of the impacts and the full cost society must bear. Even now in my country, we are suffering drought conditions. This will give way to the onset of the cyclone season predicted to have a high likelihood of severe cyclones in our Pacific region...

...climate change cannot be wished away. It is real, irreversible and is already happening. It has significant security implications and its impact threatens the continued existence and viability of some small island developing states...

Honourable Tuilaepa Aiono Sailele Malielegaoi, Prime Minister of Samoa's
Except of his speech to the United Nations
General Assembly, New York, 30 September 2015.

841 Ministry for Women, Community and Social Development, Mid-term Review of National Policy for Persons with Disabilities 2011–2016, December 2014, <http://www.mwcsd.gov.ws/images/stories/PUBLICATIONS%20WEBSITE/2015/Disability/MID%20TERM%20REVIEW%20OF%20DISABILITY%20POLICY%20-%20Copy.pdf>, 5

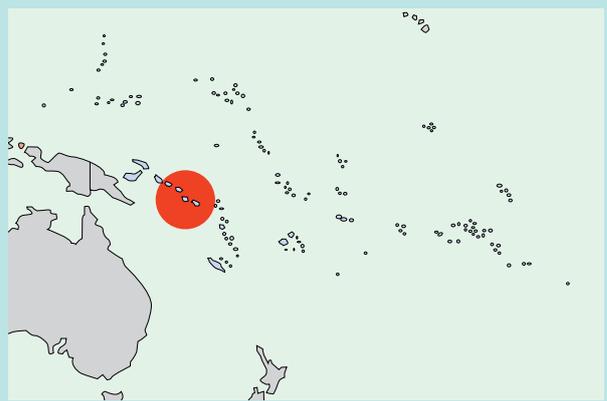
842 Ibid, 6

843 National Human Rights Institution, Office of the Ombudsman, Government of Samoa, State of Human Rights Report 2015, http://www.ombudsman.gov.ws/images/20150806_stateofhumanrightsreport_english.compressed.pdf, 1; National Human Rights Institution, Office of the Ombudsman, Detention Centre Inspections Report, June 2015, <http://www.ombudsman.gov.ws/images/detention%20centre%20inspections%20report%202015%20final.pdf>, 4

844 National Human Rights Institution, Office of the Ombudsman, Detention Centre Inspections Report, June 2015, <http://www.ombudsman.gov.ws/images/detention%20centre%20inspections%20report%202015%20final.pdf>, 4



Solomon Islands



Solomon Islands



Key facts⁸⁴⁵

Capital	Honiara	Land area: 28,230 km ²
Population	642,000 (2015 est)	Population growth rate: 2.5% (2011)
Gross domestic product (GDP) per capita	USD 1,643 (2013)	GNI per capita (Atlas method): USD 1830 (2014) ⁸⁴⁶
Type of government	Parliamentary democracy with the Queen of England through the Governor-General as the head of state and the Prime Minister as head of government.	
Electoral system	First-past-the-post	
Number of MPs in legislature	50	Total women MPs: 1 ⁸⁴⁷
Religions	Protestant: 73.4% (Church of Melanesia: 31.9%, SSEC: 17.1%, Seventh-Day Adventist: 11.7%, United Church: 10.1%, CFC 2.5%), Catholics: 19.6%, other Christian: 2.9%, other: 4%, none: 0.03%, unspecified: 0.1% (2009 est.) ⁸⁴⁸	
Ethnic groups	Melanesian: 95.3%, Polynesian: 3.1%, Micronesian: 1.2%, other: 0.3% (2009 est.) ⁸⁴⁹	
Languages	Melanesian pidgin (in much of the country it is the lingua franca), English (official but spoken by only 1–2% of the population), 120 indigenous languages ⁸⁵⁰	
Life expectancy at birth (years)	66.2 for men/ 73.1 for women (2009)	% of youth aged 15–24: 19.1

845 Unless otherwise specified, basic facts are taken from: http://www.spc.int/prism/images/downloads/2015_Pocket-Statistical-Summary.pdf

846 World Bank, <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>

847 Pacific Women in Politics, <http://www.pacwip.org/women-mps/national-women-mps/>

848 <https://www.cia.gov/library/publications/the-world-factbook/geos/bp.html>

849 Ibid

850 Ibid

International treaty ratification and reporting obligations⁸⁵¹

Treaty	Date of signature (S)/ accession (A) ratification (R) ⁸⁵²	Declaration/ reservation	Latest report submitted	Reporting status as of Feb 2016	Treaty yet to be ratified
CEDAW	6 May 2002 (R)	None	1 st -3 rd (2014)	IV Report due in November 2018	<ul style="list-style-type: none"> • ICCPR • CAT • CRMW • CED
CRC	10 April 1995 (R)	None	27 February 2001	Combined 2 nd and 3 rd periodic reports overdue since 9 May 2007	
CERD	17 May 1982 (R)	None	Initial report in 1983	Combined 2 nd to 13 th periodic report overdue since 1985 to 2007 respectively. Committee issues Concluding Observations in 2002	
ICESCR	17 March 1982 (R)	Arts 7 (a), (i), 10 (1), 13 (2), (a) and 14	Initial report on 2 July 2001, due in 1990	Combined 2 nd report due since 30 June 2005	
CRPD	23 September 2008 (S)	-	-	-	
OP-CRC-AC	24 September 2009 (S)	-	-	-	
OP-CRC-SC	24 September 2009 (S)	-	-	-	
CEDAW OP	06 May 2002 (A)	-	-	-	
CESCR OP	24 September 2009 (S)	-	-	-	
CRPD OP	24 September 2009 (S)	-	-	-	
Special Procedures		Open invitation extended: 6 May 2011 ⁸⁵³			
Country visits by UN Special Rapporteur⁸⁵⁴		Independent Expert on the effects of foreign debt and other related international financial obligations of states on the full enjoyment of all human rights (2011) Special Rapporteur on violence against women, its causes and consequences (2012)			
Universal Periodic Review⁸⁵⁵		1 st cycle: 4 May 2011; 2 nd cycle 26 January 2016; next cycle: 2021			
International Criminal Court⁸⁵⁶		Not a state party to the Rome Statute			

System of government

Solomon Islands has a democratic parliamentary system of government, with a first-past-the-post electoral system for the election of representatives at the national and provincial levels. The head of state is the British monarch, represented in Solomon Islands by the Governor-General who is elected by Parliament for a five-year term. The head of government is the Prime Minister, who is elected by Parliament. Solomon Islands gained independence from the United Kingdom on 7 July 1978.

In the 2014 elections, Solomon Islands introduced a new biometric voter registration system, which improved registration accuracy and the improved the voting process. According to the national report submitted during the

851 Office of the High Commissioner for Human Rights, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=SLB&Lang=EN

852 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the state's intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.

853 Office of the High Commissioner for Human Rights, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/StandingInvitations.aspx as at March 2015

854 Office of the High Commissioner for Human Rights, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=PLW as at March 2015

855 <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>

856 International Criminal Court state parties, https://www.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx



Universal Periodic Review (UPR) 2nd cycle process, 85% of persons eligible to vote were registered using this system, out of the total number of those registered, 139,059 were women (48%).

Judicial system and administration of justice

Part 2 Chapter 5 of the Constitution of the Solomon Islands outlines the structure of the judiciary, comprising the High Court, with jurisdiction in civil and criminal cases, and a Court of Appeal. The High Court also has original jurisdiction to hear and determine any application concerning the violation of any person’s constitutional rights. The hierarchy of the courts follows the standard model of inferior, superior, and appeal court. The local courts are established by the Chief Justice’s warrant under the Local Courts Act [Cap 19]. In 2014, the government passed a constitutional amendment to upgrade the magistrate posts to constitutional posts (equivalent to judges of higher courts) in order to improve the number and calibre of magistrates recruited. This is a step towards addressing the backlog of cases at the magistrate’s level throughout the country. Five new magistrates took their oaths in February 2015.⁸⁵⁷

Access to justice and the right to remedy

Legal aid is available in criminal, family and civil matters, and is administered by the Public Solicitor’s Office⁸⁵⁸ though it is noted that the Public Solicitors Office was overburdened and under resourced with recommendations for government to recruit more lawyers for the Family Protection Unit within the Public Solicitor’s Office⁸⁵⁹. Much effort has been made to improve access to justice for women victims of domestic violence, and special recommendations were made by the United Nations Special Rapporteur on violence against women during her visit in 2012.⁸⁶⁰ Some of the recommendations to improve access to justice for women included: 1) limiting the practice of customary reconciliation and compensation, and 2) the government actively discouraging the use of mediation in cases of domestic violence; 3) monitoring compensation and

settlements under customary mechanisms; and 4) ensuring that the government do not violate the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)⁸⁶¹. Further recommendations from the United Nations reiterated the need to expand services beyond the capital of Honiara, and to reactivate the circuit courts in order to facilitate access to judicial services for women victims of violence living outside the capital.⁸⁶²

National human rights institutions

Solomon Islands does not have a Paris Principles-compliant national human rights institution (NHRI) although a clause in the Federal Draft Constitution proposes the establishment of a Human Rights Commission to ‘promote, monitor, and adjudicate human rights cases and matters.’⁸⁶³ However, the government notes that ‘existing institutions such as the Ombudsman’s Office and the Leadership Code Commission (LCC) could have a greater mandate to address human rights issues’, and that several departments have created internal mechanisms of mainstreaming human rights in their work⁸⁶⁴. Furthermore, much work is being done by the Ombudsman Office to investigate cases and public complaints of government mal-administration, and the LCC is investigating matters of misconduct involving members of Parliament or senior civil servants.⁸⁶⁵

Security sector

The Royal Solomon Islands Police Force (RSIPF) is mandated with both law enforcement and some emergency management duties. It is entrusted with maintaining and enforcing law and order, preserving peace, protecting life and property, and preventing and detecting of crime, among other roles.⁸⁶⁶ The RSIPF is assisted by forces from the Regional Assistance Mission to Solomon Islands, which is a partnership between the people and government of Solomon Islands and 15 contributing countries of the Pacific Islands region.⁸⁶⁷ Strong recommendations have been made for police training around the new Family

857 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>

858 Ibid

859 Stakeholders Compilation to the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>, Pg 5

860 National Report to the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>, Pg.9

861 Ibid

862 UN compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>

863 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>

864 Ibid

865 Ibid

866 Royal Solomon Islands Police, <http://www.rsipf.gov.sb/?q=about>

867 Regional Assistance Mission to Solomon Islands, <http://www.ramsi.org/>



Protection Act and the need for a change of attitude by the police towards domestic violence.⁸⁶⁸

Civil society and human rights defenders

Solomon Islands' civil society organisations can be roughly split into two groups: one that focuses only on specific sectors and one that works on broader cross-sectoral issues focusing on social justice-related objectives.⁸⁶⁹ There are currently 68 non-governmental organisations (NGOs) currently registered with the Pacific Islands Association of Non-Governmental Organisations⁸⁷⁰, and several laws affect the formation, functioning and regulation of NGOs in Solomon Islands, most notably the Charitable Trust Act.

Domestic law and human rights

The 1978 Constitution is the supreme law of the land, and Chapter II guarantees the rights and freedoms of the people of Solomon Islands. In 2007, the government embarked on a constitutional reform process through the Constitutional Reform Unit⁸⁷¹ that included broad stakeholder consultations on the current 2014 draft.⁸⁷² Since 2011, the government has enacted a few domestic legislations aimed at advancing and protecting human rights including⁸⁷³: the Immigration Act in 2012 and the Immigration Regulations in 2013, which criminalises people smuggling and trafficking; the National Parliament Electoral Provisions (Amendment) Act 2013; the Police Act 2013, which articulates principles upholding the rule of law, human rights for individuals, and gender equality; performance of duties impartially and independently from improper influence; professionalism, ethical behaviour, integrity and fair policing; the Child and

Family Welfare Bill 2013, which gives powers to the Social Welfare Division under the Ministry of Health and Medical Services to provide protection, welfare and care of a child where the rights of the child have been violated.⁸⁷⁴

The Family Protection Act 2014 criminalises domestic violence in all its forms, and protects survivors, and empowers the courts, police and healthcare professionals to assist survivors' access services such as medical attention and justice. The Political Parties Integrity Act 2014 encourages broad participation of any person from the national or provincial level to establish parties without discrimination. According to the national report to the UPR, the Penal Code (Sexual Offence) (Amendment) Bill 2015 is in its consultation stage. This bill's intent is to introduce new categories of sexual offences. These include persistent sexual abuse of a child under the age of 18; sexual abuse of a child over the age of 15 but under 18 by a person in a position of trust, authority or dependency in relation to the child; child commercial sexual exploitation and participation, use, distribution and storing of child sexual exploitation materials (visual, audio, print and data).⁸⁷⁵

Human rights policies

Solomon Islands has yet to enact a comprehensive human rights policy. However, the government has enacted a number of policies related to the advancement and protection of certain rights. The National Development Strategy 2011–2020, which aims at alleviating poverty; supporting vulnerable members of society; accessing quality health care (including combating malaria, HIV and non-communicable diseases); improving access to quality education; increasing economic growth and equitable distribution of wealth; utilising and infrastructure development; effectively managing the environment and its ecosystems; protecting from natural disasters; and improving governance and order at the national, provincial and community level.⁸⁷⁶ The government also endorsed the National Peacebuilding Policy, which was launched in 2015 as part of the government's post conflict, initiative to achieve sustainable and stable peace.⁸⁷⁷ The National Action Plan against Human Trafficking and People Smuggling 2015–2020 is being finalised.⁸⁷⁸

868 Stakeholders compilation, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>. The Family Support Centre notes that despite the 2010 family violence policy adopted by the police, female victims of gender-based violence reportedly still found it difficult and complicated to access justice through the Royal Solomon Islands Police Force. The Family Support Centre then called for the family protection policy to be strictly adhered to, and that measures are taken to eradicate discriminatory actions when dealing with complaints of domestic violence, including through gender sensitisation and training.

869 United Nations Development Programme Capacity Assessment, http://www.undp.org/content/dam/rbap/docs/Research%20&%20Publications/democratic_governance/UNDP_PC_DG_A_Capacity_Assessment_of_CSOs_in_the_Pacific_Six_Country_Profiles.pdf

870 <http://www.piango.org/PIANGO/NLU/NLUs/solomon-islands.html>

871 National report on the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>

872 Ibid

873 Ibid

874 Ibid

875 Ibid

876 Ibid

877 Ibid

878 Ibid



Right to life, liberty and security of person

Solomon Islands has not ratified the Convention Against Torture (CAT), through at its recent UPR, there were recommendations that it accede to CAT.⁸⁷⁹ The government has enacted the Corrective Services Regulations, which aims at improving the social rehabilitation of detainees and has pledged to continue implementing those regulations.⁸⁸⁰ In 2012, the government also enacted the Immigration Act, which criminalised trafficking in persons and related crimes, and provided further protection for victims of trafficking.⁸⁸¹ The Truth and Reconciliation Commission report was submitted to Parliament in 2012. The CEDAW Committee has urged the government to adopt and publish the findings of the commission and adopt a framework for implementing these recommendations.⁸⁸²

Equality and non-discrimination

Discrimination against women and gender inequality remains the biggest social issue in Solomon Islands. According to the Special Rapporteur on violence against women, women generally have a lower social status than men, and face inequality and discrimination in many aspects of life, including politics, education and access to economic resources.⁸⁸³ The CEDAW Committee expressed concern over the discriminatory provisions in the Penal Code, the Criminal Procedure Code, the Islanders' Divorce Act, the Affiliation, Separation and Maintenance Act, the Labour Act, and the Citizenship Act, and recommended that Solomon Islands include a clause in the draft federal constitution to repeal all legislation that was incompatible with the principle of equality and non-discrimination.⁸⁸⁴ Solomon Islands does not have explicit anti-discrimination laws or regulations. During the UPR review, however, Solomon Islands accepted recommendations to repeal all provisions that criminalised sexual activity between consenting adults.⁸⁸⁵

879 UN compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>

880 National report on the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>

881 Ibid

882 UN compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>

883 Ibid

884 Ibid

885 Working Group report

Economic rights

According to the 2015 Pacific Regional Millennium Development Goals (MDGs) Tracking Report by the Pacific Islands Forum Secretariat, Solomon Islands has made progress towards achieving the MDGs, especially as they pertain to economic rights.⁸⁸⁶ The report noted that unemployment, however, remains high and appears to be concentrated among youth; the report also confirmed that government recognises the need to develop an investment climate that attracts foreign investment and provides employment and income to its citizens.⁸⁸⁷ The government is working in partnership with the Pacific Community to increase sustainable livelihood opportunities and educational programmes for young people that are closely linked with the market economy through the Youth at Work (Y@W) programme, which began in 2012.⁸⁸⁸ The programme is specifically aimed at addressing the high unemployment of young people in the capital. Y@W provides training, skills development, and group/peer mentoring opportunities for youth to start small businesses and access public sector employment. In the last three years, over 400 youth have been placed in public service internships; 10 of these youth were permanently employed in the public sector after completing their internships. In 2014–2015, 316 youth groups ran youth market stalls, and 45 new businesses were funded and started in 2015.⁸⁸⁹

Right to health and education

Adequate nutrition is one of the key public health challenges in the Solomon Islands, with households experiencing food poverty, especially poor diets with inadequate nutrition. The Ministry of Health and Medical Services developed a National Health Strategic Policy 2011–2015 that focuses on health improvement, health care, policy and planning, and human resources management.⁸⁹⁰ In 2014, the government also enacted the Rural Water Supply, Sanitation and Hygiene Policy, which includes the provision of sustainable rural water supply, sanitation and hygiene development activities in Solomon Islands.⁸⁹¹

886 <http://www.spc.int/rrrt/publications-media/publications/item/703-pacific-mdgs-tracking-report>

887 Ibid

888 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>

889 Ibid

890 Ibid

891 Ibid



The government has struggled to provide adequate mental health services to vulnerable populations since the closure of the National Psychiatric Unit at the National Referral Hospital in 2012.⁸⁹² The government, however, has stated that community rehabilitation programmes, home visits and mental health promotion remain important priority initiatives.⁸⁹³ Corruption in the health sector and concerns about the health risks of the populations due to mining operations have also been raised.⁸⁹⁴

Solomon Islands provides free basic education to children from grade 1 to 9.⁸⁹⁵ The government continues to make tremendous effort toward its goal of 'Education for All' by adopting various education policies.⁸⁹⁶ 'Solomon Islands made remarkable progress in recuperating lost ground in education following civil unrest that spanned between 1998 and 2003. The net enrolment rate improved significantly from 56% in 1999 to 89% in 2013. Government prioritised education during the post-conflict period and in 2009, delivered fee-free education up to form three. However, survival rate to last grade (83% in 2010) remains a concern.'⁸⁹⁷ The CEDAW Committee noted with concern: the inadequate education infrastructure that affects girls in particular; the absence of compulsory primary education; and the indirect costs of primary and secondary schooling, which are inhibitors to the right to an education.⁸⁹⁸

Women and children's rights

Solomon Islands acceded to CEDAW on 6 May 2002, and ratified the Convention on the Rights of the Child (CRC) on 10 April 1995. Domestic violence, however, continues to be an issue of national concern.⁸⁹⁹ According to the Solomon Islands family health and safety study, a study of violence against women and children; 64% of women in Solomon Islands, or nearly two in three women aged 15–49 who have been in a relationship, reported experiencing

892 Ibid

893 Ibid

894 Stakeholders compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>

895 Ibid

896 Ibid

897 Compilation of national reports for the review of the implementation of the Brussels Program of Action for the Decade 2001–2010, http://www.un.org/wcm/webdav/site/ldc/shared/UN%20National_Report%20_PT_II.pdf

898 UN compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>

899 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>

No culture is immune from domestic violence. In the same way, we can say that no community is immune to domestic violence; in the same we can say that no government or church organization or whatever organization by itself is immune to violence. What really matters is the leadership and the culture we breed in these organizations – if they are weak then the chances of violence becoming a common thing, becomes a worrying reality.

It therefore follows that unless we the leaders of these communities and organizations are prepared to take a bold stand to say "No to Violence"; the enforcement of the Act will follow the trend many other pieces of legislation have also found themselves in the past – they remain mere legal instruments useful only to the shelves, which also have become their home over the years...

...As a society, we have for too long tolerated, excused and justified domestic violence. This means that for a lot of people, accepting violence in the family is entrenched in them.

There is need for awareness at all levels of our Solomon Islands community to help our people understand that domestic violence is harmful for the community, and that its consequences are inter generational...

...Domestic violence is a human rights problem; it affects the personal security of persons, the right to life, and the right to lead full lives free from oppression. Women and girls suffer the most from domestic violence; and therefore to be successful in the application of this Act; we must recognise that gender equality and non-discrimination are essential elements for a united, progressive and peaceful co-existence in our society...

**Prime Minister Manassah Sogovare
Commencement of the FAMILY PROTECTION ACT
Speech, Honiara, Solomon Islands, April 12, 2016**



physical and/or sexual violence by an intimate partner.⁹⁰⁰ The Ministry of Women, Youth, Children and Family Affairs along with partner NGOs continue their efforts to address this issue nationally. In *Regina v Gua [2012] SBHC*, the High Court stated that a husband and wife are equal parties in marriage and held that a husband can be criminally liable for raping his wife.

In 2014, the government adopted the Political Parties Integrity Bill, which recognises the shortage of women in the political arena and hopes to increase women’s political participation.⁹⁰¹ In August 2015, the government introduced the National Strategy for the Economic Empowerment of Women and Girls, which aims at increasing gender equality and employment opportunities, primarily through economic empowerment.⁹⁰² The government also launched the National and Provincial Elections Campaign Strategy Plan of Action 2014–2015 by the National Council of Women, to strengthen and build competence and confidence of women candidates. It provides information and communication resources for public campaigning and undertakes civic education programmes in identified constituencies with the goal of increasing participation.⁹⁰³

There is no legislation to legally prohibit corporal punishment of children, as noted by several NGOs during the UPR submission.⁹⁰⁴ In 2012, the Law Revision Committee conducted a review of the Penal Code Criminal Procedure Code and gave several recommendations regarding the adjustment of the current code as it pertains to children, especially raising the minimum age for criminal responsibility to be increased from 8 years to 12 years.⁹⁰⁵ The Ministry of Education conducted a study on barriers to education that included a set of recommended actions towards addressing corporal punishment. The actions are targeted towards school teachers, school boards, and parents or guardians on the use of non-violent teaching and learning strategies.⁹⁰⁶

Birth rate registrations have also improved in the Solomon Islands, with the launch of the Civil Registration and Vital Statistics System in early 2014. The system enables access to birth registration for children and their families living in rural areas to improve significantly.⁹⁰⁷

Disability rights

The National Policy on Disability Inclusive Development (NPDID 2013–2018) was completed in April 2014 and is awaiting Cabinet endorsement.⁹⁰⁸ The Ministry of Health established the Community Based Rehabilitation (CBR) unit to promote the rights of persons with disabilities at the community level. The unit is currently collecting disability data as the basis to draw planning strategies on how to address the social services needs of people with disabilities in Solomon Islands.⁹⁰⁹ Furthermore, the CBR unit is working closely with relevant government departments within the framework of the NPDID 2013–2018, to ensure that mechanisms for implementing the Convention on the Rights of Persons with Disabilities (CRPD) are planned and budgeted for as pre-emptive steps to ratifying the CRPD.⁹¹⁰ Tangible efforts have been made by the government and there are plans underway for infrastructure development such as building ramps, creating a user-friendly public transportation system, and improving accessibility to government buildings.⁹¹¹ There are concerns, however, about the lack of public policies and measures to protect the rights of women and girls with disabilities.⁹¹²

900 The Pacific Community, http://www.spc.int/hdp/index2.php?option=com_docman&task=doc_view&gid=49&

901 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>

902 Ibid

903 Ibid

904 Stakeholders compilation, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>

905 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>

906 Ibid

907 Ibid

908 Ibid

909 Ibid

910 Ibid

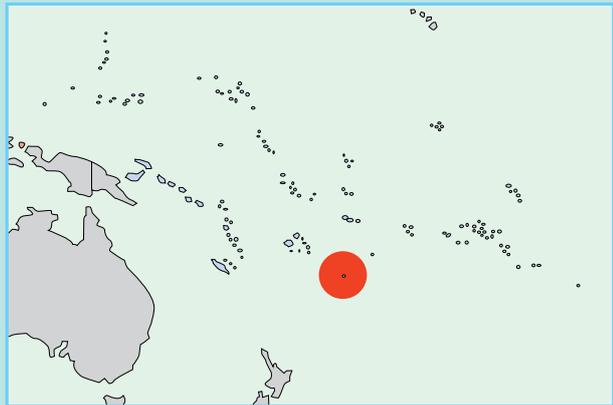
911 Ibid

912 UN compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/SBSession24.aspx>



Tonga

- Niua Foou
- NIUA GROUP**
- Niua Toputapu



VAVAU GROUP

- Neiatu
- Vavau
- Late
- Kapa
- Kapa
- Maninita

HAAPAI GROUP

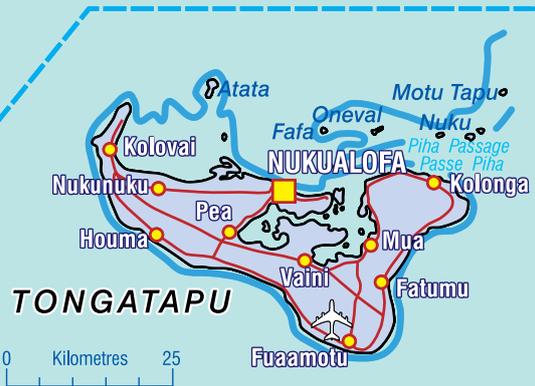
- Kao
- Tofua
- Haano
- Lifuka
- Uiha
- Limu Barrier Reef
- Récif-barrière Limu
- Fonuafoou
- Nomuka
- Lolona
- Hunga Tonga

NOMUKA GROUP

NUKUALOFA TONGATAPU GROUP

- NUKUALOFA
- TONGATAPU
- Ohonua
- Eua

- Ata



Kingdom of Tonga



Key facts⁹¹³

Capital	Nuku'alofa	Land area: 749 km ²
Population	103,300 (2015 est.)	Population growth rate: 0.0
GDP (Gross domestic product) per capita	USD 4280 (2013–2014)	GNI per capita (Atlas method): USD 4260 (2014) ⁹¹⁴
Type of government	Constitutional monarchy with the king as the head of state and the Prime Minister as head of government	
Electoral system	First-past-the-post	
Number of ministers of parliament (MPs) in legislature	26	Total women MPs: (1) ⁹¹⁵
Religions	Protestant: 64.9% (includes Free Wesleyan Church: 37.3%, Free Church of Tonga: 11.4%, Church of Tonga: 7.2%, TCC: 2.6%, Assembly of God: 2.3%, Seventh-Day Adventist: 2.2%, CCT: 0.9%, Anglican: 0.8%, and Full Gospel Church: 0.2%), Mormon: 16.8%, Catholic: 15.6%, other: 1.1%, none: 0.03%, unspecified: 1.7% (2006) ⁹¹⁶	
Ethnic groups	Tongan: 96.6%, part-Tongan: 1.7%, other: 1.7%, unspecified: 0.03% (2006 est.) ⁹¹⁷	
Languages	English and Tongan combined: 87%, other: 1.1%, unspecified: 0.03% (2006 est.) ⁹¹⁸	
Life expectancy at birth (years)	69.3 for men/73.1 for women (2011)	% of youth aged 15–24: 19.7

913 Unless otherwise specified, basic facts are taken from: http://www.spc.int/prism/images/downloads/2015_Pocket-Statistical-Summary.pdf

914 World Bank, <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>

915 Pacific Women in Politics, <http://www.pacwip.org/women-mps/national-women-mps/>

916 <https://www.cia.gov/library/publications/the-world-factbook/geos/tn.html>

917 Ibid

918 Ibid

International treaty ratification and reporting obligations⁹¹⁹

Convention	Date of signature (S)/ accession (A) ratification (R) ⁹²⁰	Declaration/ reservation	Latest report submitted	Reporting status as of February 2016	Treaty yet to be ratified
CRC	6 November 1995 (A)	None	None	Initial and 2 nd review overdue since 1997 and 2002 respectively	ICCPR ICESCR CEDAW CAT
CERD	16 February 1972 (A)	Arts 5 (d) and (v); 6, 15 and 20 and Declaration: Art 4 (a) 9 (b) and (c); 6, 15 and 20	17 March 1999	15 th to 20 th report overdue since 2001, 2003, 2005 and 2007, 2011 respectively	CAT CRMW CED CRPD
CRPD	15 November 2007 (S)	–	–	–	
Special Procedures		Open invitation extended: 25 January 2013 ⁹²¹ Visit requested by the Working Group on the issue of discrimination against women in law and in practice, 2016			
Country visits by UN Special Rapporteur		Nil			
Universal Periodic Review ⁹²²		1 st cycle: 14 May 2008 2 nd cycle- 21 January 2013 Next cycle: 2018			
International Criminal Court ⁹²³		Not a state party to the Rome Statute			

System of government

In 2010, a major political reform occurred to create a more inclusive and representative Parliament and Government. Political reform reflected public demands that both Parliament and Government be more accountable and transparent.

Parliament of Tonga

The Kingdom of Tonga is a constitutional monarchy with a parliamentary democracy.⁹²⁴ Tonga has a unicameral legislative assembly that has 26 elected members, 17 are peoples' representatives elected by the people and 9 nobles' representatives elected by the nobles.⁹²⁵ The government is headed by the Prime Minister who is elected by parliament and appointed by the monarch. The political structure in Tonga is based on European monarchical systems although in recent years and beginning in 2004, Tonga started shifting to a more modern style of government where power is transferred to the people through Parliament.⁹²⁶

919 http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=TON&Lang=EN

920 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the state's intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.

921 Office of the High Commissioner for Human Rights, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/StandingInvitations.aspx as at March 2015

922 <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TOSession15.aspx>

923 ICC state parties, https://www.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx

924 Government of Tonga portal, <http://www.tongaportal.gov.to/index.php/about-tonga/category/culture-politics> & the Commonwealth report on Tonga at <http://thecommonwealth.org/our-member-countries/tonga/constitution-politics>

925 <http://www.parliament.gov.to/about-our-parliament/how-parliament-works/parliament-executive>

926 Tonga's national report to the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TOSession15.aspx>



Judicial system and administration of justice

Tonga's judiciary is composed of the Court of Appeal, the Supreme Court, the Land Court, and the Magistrates' Court. The judiciary in Tonga also has a body, the Privy Council, which is responsible for advising the monarch on legal issues, including hereditary estates and titles.⁹²⁷ The Constitution of Tonga was written in 1875 and has accrued several amendments to date. The Act of Constitution (Amendment No. 3) of 2010 guarantees the independence of the judiciary.⁹²⁸ The decision by government in 2010 to abolish the Judicial Service Commission was criticised by civil society organisations as an example of the interference of the executive with judicial independence.⁹²⁹

National human rights institution

Tonga does not have a national human rights institution (NHRI) to date. According to its report for the Universal Periodic Review (UPR) 2nd cycle, Tonga is facing some constraints in creating an NHRI, including lack of finances, technical resources, and limited human resources.⁹³⁰ Tonga has an Office of the Commissioner for Public Relations, which is responsible for the investigation, review and inspection of the administrative conduct of government ministries and agencies, and provides advice and guidance in order to ensure people are treated fairly.

Security sector

Tonga has a police force and a military. The Tonga Police Force is entrusted with enforcing law and order.⁹³¹ Tonga enacted a new Police Act in 2010 that replaced the 1988 revised act.⁹³² Division 4 of this act sets out a mechanism through which members of the public can report any breaches or violations committed by a member of the

police, and the disciplinary measures to be taken.⁹³³ Recent incidents of violations have been referred to the Supreme Court of Tonga for judgement and settlement.⁹³⁴ The Tonga Defence Services is the armed force of the Kingdom of Tonga.⁹³⁵ Tonga police plans to install a closed circuit television camera system in places of detention and conduct training on the new Police Act, which 'sets out modern police standards that respect human rights.'⁹³⁶ The Tonga Defence Services Act of 1992 provides the rules and regulations for the Tonga Defence Services.⁹³⁷ The Tonga Prisons Act of 2010 allows the use of force against inmates to 'make a prisoner comply with an order made against the prisoner; to stop a prisoner from committing or attempting to commit an offence under the act or a breach of discipline; stop a prisoner from harming or attempting to harm himself; or make a person who has been lawfully ordered to leave a prison and who refuses to leave a prison.'⁹³⁸

Civil society and human rights defenders

Civil society in Tonga is very active, with many non-governmental organisations (NGOs) registered under the Charitable Trust Act of 1993, working to advance several human rights issues. The Civil Society Forum of Tonga is actively working on developing an effective Civil Society Sector.⁹³⁹ The forum has more than 80 organisation members to date, and community development groups are working on areas such as education, health, poverty reduction, and youth empowerment.⁹⁴⁰

Domestic law and human rights

Tonga's Constitution is the oldest in the Pacific. Tonga's supreme law protects many rights and freedoms including the right to live in freedom; freedom to own and dispose property; freedom from slavery; and equality of application

927 <http://www.paclii.org/to/courts.html>

928 '83A Rule of law and Judicial Independence. The existing underlying constitutional principles of the Rule of Law and Judicial Independence shall always be maintained.' See full text at <http://www.parliament.gov.to/parliamentary-business/documents/constitution-of-tonga/file/120-act-of-constitution-of-tonga-amendment-3-2010>

929 Civil Society Organisation compilation, p. 6, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TOSession15.aspx>

930 http://www.upr-info.org/sites/default/files/document/tonga/session_15_-_january_2013/ahrcwvg.615ton1tongae.pdf

931 <http://www.police.gov.to/index.php/about-us/82-tonga-police/79-who-we-are.html>

932 See full text at <http://www.police.gov.to/attachments/article/80/Tonga%20Police%20Act%202010.pdf>

933 Ibid

934 <http://www.radionz.co.nz/news/national/246533/police-brutality-'rife'-in-tonga>

935 <http://www.tongaportal.gov.to/index.php/government/470-tongan-military-tonga-defense-services>

936 National report, p. 4, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TOSession15.aspx>

937 http://crownlaw.gov.to/cms/images/LEGISLATION/PRINCIPAL/1992/1992-0017/TongaDefenceServicesAct1992_1.pdf

938 National report to 2nd Universal Periodic Review cycle in 2013 available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TOSession15.aspx>

939 http://www.csft.to/?page_id=913

940 http://www.csft.to/?page_id=903



of laws to all, regardless of gender, class, ethnicity or any classification.⁹⁴¹ Tonga also passed its Family Protection Act 2013, which increases protection against domestic violence by improving on several areas, including prevention through awareness; increasing the powers of police officers to provide protection to victims through the issuance of protection orders; providing health and mental health support and counselling to victims; imposing heavy penalties on offenders; and strengthening institutional response through the creation of the Family Protection Advisory Council under the Ministry of Ministry of Internal Affairs.⁹⁴²

Right to life, liberty and security of person

Despite Tonga not being a state party to the Convention Against Torture, the laws of Tonga and its judicial system acknowledge the convention and have effectively used it to decide on cases of torture and inhumane treatment.⁹⁴³ In *Tavake v Kingdom of Tonga*, the Chief Justice accepted the definition of torture under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and deduced that prohibition against torture is part of customary international law, and countries cannot derogate from it whether or not they are parties to the convention.⁹⁴⁴

Concerns were also highlighted regarding the sinking of the inter-island ferry, the MV *Princess Ashika* in 2009. A Royal Commission of Inquiry condemned the sale of the ship, which killed 74 people mostly women and children when it sank. No prosecutions of government officials have been made although the report contained recommendations to this affect.⁹⁴⁵

Equality and non-discrimination

One of the issues highlighted in previous years is the difference in age of majority between nobles and ordinary citizens.⁹⁴⁶ In their submission to the UPR 2nd cycle, the

Human Rights Task Force stated that the legal age of majority for citizens was 21, while for nobles the age was 18; this was contrary to clause 4 of the Constitution, which stipulates that all Tongans and non-Tongans were equal under the laws of the land. Other issues of concern include the rights of women in land ownership and land registration,⁹⁴⁷ and the rights of sexually diverse groups. According to the Tonga Leitis Association, the *leitis* community and same-sex relationships are neither recognised nor protected by the law.

Freedom of expression, association and peaceful assembly

Clause 7 of the Constitution of Tonga guarantees the freedom of expression. When it comes to slander against the monarchy, however, the Constitution states that is lawful for all people to speak, write and print their opinions and that no law will ever be enacted to restrict this liberty. However, while freedom of speech and of the press is guaranteed forever, there is nothing in this clause to outweigh the law of slander or the laws for the protection of the king and the royal family.⁹⁴⁸ There are currently seven newspaper operators in Tonga, two television channels and five radio stations that provide daily news.⁹⁴⁹ The government enacted the Freedom of Information Policy in 2012, which strengthens the freedom of speech, expression and the press, and enhances public access to government information.⁹⁵⁰

Economic rights

Women in Tonga continue to face challenges when it comes to the enjoyment of full economic rights.⁹⁵¹ Studies reveal that there are wide gaps in gender with regard to wages, low employment rates of women in the formal economy, and few women in senior management positions in the public and private sectors.⁹⁵²

941 National report to Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TOSession15.aspx>

942 See text of the act at: http://crownlaw.gov.to/cms/images/LEGISLATION/PRINCIPAL/2013/2013-0018/FamilyProtectionAct2013_1.pdf

943 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TOSession15.aspx>

944 Ibid

945 Stakeholders submission, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TOSession15.aspx>, p. 7

946 Ibid

947 Ibid

948 See constitution full text at: <http://www.parliament.gov.to/parliamentary-business/documents/constitution-of-tonga/file/115-constitution-of-tonga-revised-1988>

949 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TOSession15.aspx>

950 <http://www.mic.gov.to/government/initiatives-freedom-of-information/3879-tonga-launched-its-freedom-of-information-policy>

951 Stakeholders submission, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TOSession15.aspx>

952 Ibid



Right to health and education

The government provides free medical services through a main hospital on all five main islands, and health clinics in all districts on the main island of Tongatapu. The Ministry of Health works in partnership with Tonga Health and the Tonga Family Health Association to raise awareness and educate the general public on health issues, and implement projects and programmes to combat the non-communicable diseases.

Education in Tonga is free and compulsory for all children up to 14 years old.⁹⁵³ Tonga has one of the highest youth literacy rates in the world at more than 99%.⁹⁵⁴ In 2013, Tonga passed a new Education Act guaranteeing every child's right to quality education and reforming the education system to become more modern.⁹⁵⁵ The act sets out a new structure for the Ministry of Education, and creates the office of the Chief Executive Officer under the minister responsible for the effective administration of the ministry and proper execution of the ministry's functions.⁹⁵⁶ The act also provides the legislative framework for the functioning of government and non-government schools, and sets minimum standards of operation for each.

Women and children's rights

Tonga is a state party to the Convention on the Rights of the Child (CRC) but has not submitted its initial report. Tonga has no national policy or comprehensive legislation to protect the rights of children. A national committee under the leadership of the Ministry of Education and Training has been tasked with compiling the CRC report although the draft report has not been finalised nor approved by the Cabinet. The Education Act 2013 prohibits corporal punishment in schools, yet corporal punishment is still a common practice in many schools, both at the primary and secondary level. The minimum age for consensual sex in Tonga is 16 years. Assaults on children under the age of 16 are charged under 'indecent assaults' and carry a maximum sentence of two years.⁹⁵⁷ The law also prohibits carnal knowledge of girls under 12 years

old, and violators are charged with life imprisonment.⁹⁵⁸ Child pornography is also prohibited under the law, with heavy penalties and fines. According to the US State Department report on Tonga 2014, there were isolated reports of children being subjected to domestic sex trafficking.⁹⁵⁹ United Nations High Commissioner for Refugees recommended that Tonga reform its Nationality Act so that children born in the territory could acquire Tongan nationality and avoid statelessness.⁹⁶⁰

Section 4 of the Constitution states that there shall be no discrimination in Tonga. This, however, is only in relation to formal equality. Formal equality does not necessarily translate into substantive or *de facto* equality for women. The Revised National Policy on Gender and Development 2014 focuses on achieving equity of access, participation and benefits from the development process for all men and women and children, although the Land Act forbids women from inheriting land, which greatly limits their capacity to access financial services. Women used to hold a high status that conferred certain privileges and duties, known as the *fahu* system.⁹⁶¹ Although this system continues to be practiced during particular occasions, it does not reflect a position of equality with men in all spheres of the society.

Women perform very well in education, outnumbering men at the secondary and tertiary education levels. Tonga has excellent standards of healthcare services coverage (e.g. 98% of births were attended by trained personnel in 2004) although there are still important gaps in terms of access to employment, political representation of women, and violence against women and children remains a critical issue that threatens the wellbeing and harmony of families. No woman was elected during the last election and there are very few women in decision-making positions in district and at the district and township level. Society still holds the stereotypical view that men are more capable leaders and decision-makers. In 2009, The National Women's Council made a submission to the Constitution and Electoral Commission recommending an amendment to the Constitution to allow special temporary reserve seats or quotas for women in Parliament, but it was not accepted for different reasons, including that the majority of women did not believe or support the special temporary measure for women to have reserve seats in Parliament. The Family

953 US State Department Report on Tonga 2014, <http://www.state.gov/documents/organization/220450.pdf>

954 http://www.unicef.org/infobycountry/Tonga_statistics.html

955 See full text of the act at: http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=98654&p_country=TON&p_count=2

956 Ibid, Section 9 (b)

957 US State Department Report on Tonga 2014, <http://www.state.gov/documents/organization/220450.pdf>

958 Ibid

959 Ibid

960 UN compilation, p. 3, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TOSession15.aspx>

961 The eldest sister in a family is given the rank of *fahu*, meaning she has the highest level of respect in all family matters, both formal and informal.



Protection Act of 2013 significantly increased protection domestic violence, and provides the legal framework for preventing against domestic abuse and violence through awareness, allows police to intervene and provide better protection to victims, and establishes better health and mental health support to victims. The government of Tonga officially announced that it is ready to ratify CEDAW at the 59th session of the Commission on the Status of Women at the UN General Assembly in New York,⁹⁶² although there was a public outcry for the government not to ratify CEDAW. Tonga has the oldest Parliament in the Pacific and since 1951, when women first voted in Tonga, only four women have been elected to Parliament and three appointed to Cabinet. Civil society organisations note that there are no affirmative action policies to increase women's participation in Parliament⁹⁶³ and though women occupied almost 30 per cent of the employment in the public sector, few were at the decision making level and there were no female magistrates.⁹⁶⁴

However, in a recent local government election, it was confirmed that two women were successfully elected as the first-ever female district officer and the first-ever town officer.⁹⁶⁵

At the time of this publication, it is reported that Tonga's only woman has been elected to parliament following an election.⁹⁶⁶

Disability rights

Tonga signed the Convention on the Rights of Persons with Disabilities (CRPD) on 15 November 2007.⁹⁶⁷ In 2012, a disability policy was drafted in collaboration with Naunau 'o e Alamaite Association (NATA), Tonga National Disability Congress, the Ministry of Education, and some very active non-governmental organisations to improve the status of persons with disabilities. The Tonga National Disability Identification Survey in 2006 identified more than 2,700 persons with disabilities, which amounted to approximately

3% of the population.⁹⁶⁸ CRPD consultations were held in Tonga in 2013 to increase awareness on the rights of persons with disabilities. Recommendations resulting from the consultations included the provision of capacity building activities for disabled person's organisations, raising public awareness on disability rights, improving accessibility for persons with disabilities, mainstreaming children with disabilities in the education system, improving healthcare services for persons with disabilities, and improving their access to work opportunities.

In response to the increasing numbers of hardships and challenges facing vulnerable people in Tongan society, the government established a Social Protection and Disability Division under the Ministry of Internal Affairs in 2015, with a vision to 'design social protection schemes, social policies and social programmes, and support social policies already in place to decrease extreme poverty and hardships of vulnerable people and improve their quality of life by 2025.'

... In this room, we are often guilty of an abstraction we call "political will:" the political will to address climate change, to be careful stewards of our environments, to address devastating global inequalities in development. This abstraction distracts us. It distracts us from our need for moral commitment, for moral courage. It is this language of morality that speaks to the privileged with the imperative, "you must leave no one behind."

...Indeed, it is my government's mantra that good governance, transparency, accountability, and law and order, will drive all other development goals of a country...

...The objectives of good governance, effective accountable and inclusive institutions, are impossible without full support for the human rights of all peoples living in areas of conflict throughout the world including in the Pacific Islands. Tonga reiterates its call for the root causes of such conflict to be resolved by peaceful means, and while fully recognizing the principle of sovereignty of states, Tonga re-emphasizes the need for the protection of the human rights of all persons.

Hon Samuela 'Akilisi Pohiva
Prime Minister of the Kingdom of Tonga
70th Session of the United Nations General Assembly
New York, 29 September 2015

962 <http://www.mic.gov.to/news-today/press-releases/5260-tonga-announces-the-ratification-of-cedaw-at-csw-59th-sessions>

963 UN compilation, p. 7, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TOSession15.aspx>

964 Stakeholders Compilation to the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TOSession15.aspx>, Pg.8

965 <http://www.pacificwomen.org/news/tonga-women-make-history-in-local-government-elections/>

966 <http://matangitonga.to/2016/07/15/akosita-wins-vavau-16-election-becomes-only-woman-parliament>

967 National Report to the UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TOSession15.aspx>

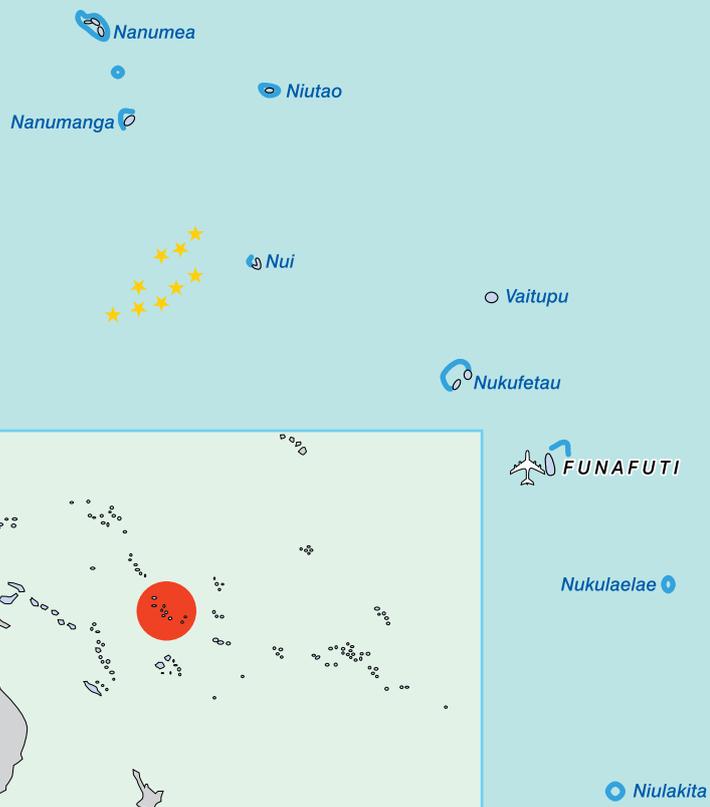
968 United Nations Economic and Social Commission for Asia and the Pacific, Tonga Country Profile





Tuvalu

0 Kilometres 200



Tuvalu



Key facts⁹⁶⁹

Capital	Funafuti	Land area: 26 km ²
Population	11,010 (2015 est.)	Population growth rate: 1.3%
GDP (gross domestic product) per capita	USD 3253 (2013)	GNI per capita, Atlas method: USD 5720 (2014) ⁹⁷⁰
Type of government	Parliamentary democracy with the Queen of England through the Governor-General as head of state and Prime Minister as head of government	
Electoral system	Block vote ⁹⁷¹	
Number of ministers of parliament (MPs) in legislature	15	Total women MPs: 1 ⁹⁷²
Religions	Protestant: 98.4%, Church of Tuvalu (Congregationalist): 91%, Seventh-Day Adventist: 3%, Bahai: 3%, Jehovah's Witness: 2%, Catholic: 1%, Baha'i: 1%, other: 0.6% ⁹⁷³	
Ethnic groups	Polynesian: 96%, Micronesian: 4%	
Languages	Tuvaluan (official), English (official), Samoan, Kiribati (on the island of Nui) ⁹⁷⁴	
Life expectancy at birth (yrs)	67.4 for men/ 71.9 for women (2010) ⁹⁷⁵	% of youth aged 15–24: 18.6

969 Unless otherwise specified, basic facts are taken from: http://www.spc.int/prism/images/downloads/2015_Pocket-Statistical-Summary.pdf

970 World Bank, <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>

971 Block vote is a plurality/majority system used in multi-member districts. Electors have as many votes as there are candidates to be elected. The candidates with the highest vote totals win the seats. Usually voters vote for candidates rather than parties and in most systems may use as many, or as few, of their votes as they wish. <http://www.idea.int/esd/world.cfm>

972 Pacific Women in Politics: <http://www.pacwip.org/women-mps/national-women-mps/>

973 <https://www.cia.gov/library/publications/the-world-factbook/geos/tv.html>

974 Ibid

975 Ibid



International treaty ratification and reporting obligations⁹⁷⁶

Treaty	Date of signature (S)/ accession (A) ratification (R) ⁹⁷⁷	Declaration/ reservation	Latest report submitted	Reporting status as of February 2016	Treaty yet to be ratified
CEDAW	6 October 1999 (A)	None	III-IV, 2012	Report V due on 01 March 2019	ICCPR ICESCR
CRC	22 September 1995 (A)	None	Initial submitted in February 2012	Report II-UV due in 2017	CAT CRMW CED CERD
CRPD	18 December 2013 (A)	-	-	Initial report due in January 2016	
Special Procedures		Open invitation extended ⁹⁷⁸ : 26 April 2013			
Country visits by UN Special Rapporteur ⁹⁷⁹		Independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, 2012			
Universal Periodic Review ⁹⁸⁰		1 st cycle: 11 December 2008; 2 nd cycle: 24 April 2013; next cycle: 2018			
International Criminal Court ⁹⁸¹		Not a state party to the Rome Statute			

System of government

Tuvalu is a parliamentary democracy, headed by the representative of the British monarch – the Tuvalu Governor-General. The Governor-General of Tuvalu is a ceremonial position appointed after advice from the Prime Minister in consultation with Parliament.⁹⁸² The Cabinet, which is headed by the prime minister, holds the executive branch. The Prime Minister is elected by Parliament and oversees the work of the Cabinet and directs it as necessary. Tuvalu has a unicameral Parliament, the *Fale o Palamene*, with 15 elected members. It has a first-past-the-post/block voting electoral system. The voting age is 18 and members of parliament are elected by universal suffrage. Elections are held every four years, or sooner if Parliament is dissolved by the governor general in accordance with the constitution.⁹⁸³

976 Office of the High Commissioner for Human Rights: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=TUV&Lang=ENas at March 2016

977 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the state's intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.

978 Office of the High Commissioner for Human Rights, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/StandingInvitations.aspx as at March 2016

979 Office of the High Commissioner for Human Rights, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=PLW as at March 2016

980 <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TVSession16.aspx>

981 International Criminal Court state parties, https://www.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx

982 Government webpage, http://www.tuvaluislands.com/gov_info.htm

983 Ibid

Judicial system and administration of justice

Tuvalu's judiciary consists of the Sovereign in Council, Court of Appeal and the High Court, which are the courts of general trial and appellate jurisdiction, and the Magistrates' Courts, Island Courts, and Land Courts, which are lower courts with more limited jurisdiction.⁹⁸⁴ According to the Laws of Tuvalu Act 1987, there are five sources of law in Tuvalu: 1) the Constitution, 2) Acts of Parliament, 3) customary law, 4) applied laws, and 5) common law. Tuvalu also recognises and applies international law in its rulings.⁹⁸⁵

Access to justice and the right to remedy

The High Court of Tuvalu has jurisdiction to enforce the Bill of Rights in the Constitution. The judicial systems allow citizens to apply directly to the High Court for redress of violations of fundamental rights and freedoms in Part II of the Constitution.⁹⁸⁶ According to Tuvalu's 2012 report to the Committee on the Rights of the Child:

Under the Constitution, the High Court – may make any orders, issue any writs, and give any directions that it thinks appropriate for enforcing or securing the enforcement of the Bill of Rights. A law may be declared not to be reasonably justifiable in a democratic society. Additional remedies available generally to the High Court

984 Ibid

985 Ibid

986 Ibid

under the Superior Courts Act include making orders to prevent abuse of the process of the law and making binding declarations of rights. Because no application for enforcement of the Bill of Rights has been successful to date, specific remedies, including compensation and rehabilitation, have not been canvassed by the judiciary.⁹⁸⁷

At Tuvalu's UPR, some concerns regarding access to justice, specifically in regard to the location of courts and inaccessibility, infrequent sittings, and difficulties for women to access legal services were raised.⁹⁸⁸ The Attorney General's Office and the People's Lawyers Office among others are working to fill these gaps while improving compliance with international treaties.⁹⁸⁹ Tuvalu People's Lawyer Act 2008 creates the office of people's lawyer, who is contracted by the government to provide affordable services to citizens in need of legal advice and to help them navigate the legal system.⁹⁹⁰ In 2015 and 2016, there was a noticeable increase in the lawyers recruited at the People's Lawyer Office. The People's Lawyer cannot decline to represent a person because of their inability to pay fees. Access to the services of the People's Lawyer Office is extremely limited, especially for those living outside the capital of Funafuti.⁹⁹¹

National human rights institution

Tuvalu does not have a Paris Principles-compliant national human rights institution. Parliament, however, enacted the Leadership Code Act 2006, which enables the Ombudsman Commission to: 1) inquire into any complaints or allegations of any misconduct on the part of any leader; 2) inquire into any defects in administrative practice appearing from any matter being inquired into; 3) inquire into any case of an alleged or suspected discriminatory practice by a leader; 4) give prior advice on potential breaches of this code; and 5) investigate and report on any complaints of any alleged breaches of this code.⁹⁹² Tuvalu also established several committees and taskforces to monitor the implementation of international instruments and to work on promoting them. At the national

level, each human rights treaty to which Tuvalu is a party has a National Coordinating Committee or National Coordinating Taskforce.⁹⁹³ There are currently two taskforces established to monitor adherence with the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and to comply with UPR reporting obligations.⁹⁹⁴ In July 2016, the government of Tuvalu invited the Pacific Community's Regional Rights Resource Team and Asia Pacific Forum to conduct a scoping study into the feasibility of establishing an NHRI. The team's scoping report will be presented to Cabinet for its consideration and decision into the creation of an NHRI.

Security sector

Tuvalu's security sector comprises the Tuvalu National Police. The Police Powers and Duties Act (PPDA) and the Family Protection Act 2014 widens the scope and power of the police and empowers them to respond to pertinent issues, especially domestic violence.⁹⁹⁵ The PPDA mandates the police to provide victims with protection until further action is taken, and to ensure prompt referral of the case to the courts for prosecution. The Tuvalu police have undergone several trainings in collaboration with the New Zealand police and others to strengthen their response capacity and ensure operational effectiveness.⁹⁹⁶

Civil society and human rights defenders

As of 2013, Tuvalu had two non-governmental organisations (NGOs) registered under the Non-Governmental Organisations Act 2007.⁹⁹⁷ To date, 14 NGOs are registered under the act. The act provides the regulatory framework for NGOs operating in Tuvalu and sets the statutory requirement for certification. Fusi Alofa Association Tuvalu (Fusi Alofa) is an organisation supporting the rights of persons with disabilities. It was established in May 2009 and was finally registered as an NGO in June 2012.⁹⁹⁸ Tuvalu Family Health Association is another key association advocating for sexual and reproductive health and rights among others.

987 Convention on the Rights of the Child initial report for Tuvalu, 16 February 2012, http://www.bayefsky.com/reports/tuvalu_crc_c_tuv_1_2012.pdf

988 UN compilation, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TVSession16.aspx>

989 Ibid

990 See full act at: http://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/1988/1988-0008/PeoplesLawyerAct_1.pdf

991 See full report at: https://www.crin.org/sites/default/files/tuvalu_access_to_justice-updatedoct2015_0.pdf

992 http://www.tuvaluislands.com/gov_info.htm

993 National report to Universal Periodic Review

994 Ibid

995 Ibid

996 Ibid, p. 16

997 Ibid, p. 18

998 www2.ohchr.org/english/bodies/crc/docs/ngos/FusiAlofaAssociation_Tuvalu64.doc&cd=3&hl=en&ct=clnk

Domestic law and human rights

The government of Tuvalu has made progress in ensuring that human rights standards are included in national legislation. Several human rights related legislations were enacted since 2008, including the Environment Protection Act 2008; the Constitution (Recognition of Traditional Standards, Values and Practices) Amendment Act 2010; the Leadership Code Act; the Police Powers and Duties Act 2009; the Public Enterprises (Performance and Accountability) Act 2009; the Counter Terrorism and Transnational Organized Crimes Act 2009; the Religious Organizations Restrictions Act 2010; and the Family Protection and Violence Act 2014.⁹⁹⁹

Right to life, liberty and security of person

Climate change threatens the very core principles at the heart of the Universal Declaration of Human Rights – including the right to life, liberty and security.

Prime Minister Enele Sopoaga

<http://www.looppng.com/content/human-rights-are-central-climate-change-struggle-tuvalu-pm>

According to the government of Tuvalu, the biggest threat to the right to life and security of person is climate change and its impacts. Tuvalu is high on the list of countries that are most at risk of submergence. Tuvalu's Climate Change Policy 2012 outlines Tuvalu's response to climate change and related disaster risks over the next 10 years (2012–2021).¹⁰⁰⁰ The policy sets seven main goals to be achieved, including strengthening disaster risk responses, strengthening adaptation actions, increasing information management and awareness, strengthening financial responsibility, strengthening infrastructure, and guaranteeing the security of the people of Tuvalu.¹⁰⁰¹

999 National report to Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TVSession16.aspx>

1000 See full policy text at: http://www.pacificclimatechange.net/components/com_booklibrary/ebooks/TCCP%20Te%20Kaniva%20English%20final%20web%20new.pdf

1001 Ibid.

Equality and non-discrimination

Article 27 of the Tuvalu Constitution (Freedom from discrimination) is criticised by many for not including 'sex' or 'gender' as one of the grounds for discrimination.¹⁰⁰² In 2013, the CEDAW Committee expressed concern regarding the status of women and the existing gender inequalities in the country, and recommended that the Constitution be amended to prohibit discrimination against women.¹⁰⁰³ Various reports have expressed concern regarding the exclusion of Article 27, which protects victims of discrimination, including members of the gay community, those living with HIV/AIDS, and persons with disabilities.¹⁰⁰⁴ The government of Tuvalu confirmed that amendments to the Constitution are still under discussion; in the meantime, policies have been enacted and implemented by respective ministries to ensure protection is available on the ground. The Tuvalu Youth Policy (2012–2016) is one such example that ensures young men and women have equal access to economic and development opportunities.¹⁰⁰⁵

Freedom of expression, association and peaceful assembly

Division 2 and 3 of the Constitution (Bill of Rights and Fundamental Freedoms), specifically provide protections for the freedom of expression, association and assembly. Under Subdivision B of the Constitution (Special Exceptions - Tuvaluan Values) it is mentioned that exercising the freedom of worship and communication may be regulated if it is 'divisive, unsettling, or offensive to the people, or may directly threaten Tuvaluan values or culture'.¹⁰⁰⁶ There were some reported discriminatory practices and cases of abuse based on religion, with one report of traditional island councils banning public meetings of several religious groups.¹⁰⁰⁷

1002 UN compilation to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TVSession16.aspx>

1003 Ibid

1004 See Ibid, as well as civil society submissions to UPR, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TVSession16.aspx>

1005 National report to Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TVSession16.aspx>

1006 Constitution of Tuvalu available at: http://www.tuvaluislands.com/const_tuvalu.htm

1007 US International Religious Freedom Report 2013, Tuvalu Chapter at: <http://www.state.gov/documents/organization/222389.pdf>



There is also concern regarding the Constitution (Recognition of Traditional Standards, Values and Practices) Amendment Act 2010 and the Religious Organization Restrictions Act 2010, which put restrictions on religious assemblies.¹⁰⁰⁸

Economic rights

The Employment Act 2008 provides the legislative and regulatory framework for employment in Tuvalu, and sets the standards for the protection of labour rights.¹⁰⁰⁹ One of the major concerns about the act is that it does not provide protection for children aged 15–18, limiting the prohibition to working in certain areas, including mines and the shipping industry.¹⁰¹⁰ According to a 2012 report by the International Labour Organization, ‘One of the current labour issues in Tuvalu is the alignment of its labour laws with the ILS [International Labour Organization]. Tuvalu requires support to prepare the ratification of the eight Fundamental Conventions over the next few years.’¹⁰¹¹

Right to health and education

The Ministry of Health Strategic Plan 2008–2018 lays the path to strengthening healthcare services and improving people’s access to health in Tuvalu. Generally, Tuvalu’s primary care system caters to most needs but serious medical conditions require the patient to be evacuated out of Tuvalu. The Tuvalu National AIDS Committee, which is a public-private partnership between government departments and NGOs, works on promoting and protecting the rights of those living with HIV/AIDS.¹⁰¹² The National Strategic Plan 2009–2013 focuses on removing stigma and discrimination for people living with HIV/AIDS and improving their access to healthcare and social services. The Tuvalu Education Strategic Plan 2011–2015 was developed to ensure the improvement of education and to help achieve universal coverage. According to a report by the Ministry of Education:

Tuvalu is on track to achieve the MDG 2 target of ensuring universal primary school education. Primary school enrolment rates are nearly universal, estimated at 98.1 percent, along with very high primary school completion rates at 91.2 percent, and high literacy rates at 94.9 percent.¹⁰¹³

Women and children’s rights

Tuvalu ratified the Convention on the Rights of the Child (CRC) in 1996 and submitted its first report to the Committee in 2012. The government is anxious to create awareness of the CRC and rights within, but has stated that it is limited due to lack of funds and skills.¹⁰¹⁴ Tuvalu has incorporated children’s rights in several national policies, including the Te Kakeega II (National Strategy for Sustainable Development) 2005–2015; the Department of Education Strategic Plan 2006–2010; the National Policy on Early Childhood Care Education 2007; and the Ministry of Health Strategic Plan 2008–2018.¹⁰¹⁵ The Disabled People’s Organisation (Fusi Alofa) is running a special school for children with disabilities, and in 2015, the school had — for the first time — successfully mainstreamed three pupils to the public primary school in the capital. The government renders financial support to the Fusi Alofa Special School.

Despite the challenges faced, Tuvalu had adopted a Human Rights Road Map in line with its National Strategy for Sustainable Development. Health and education were core components of that strategy and measures were taken to ensure its progressive implementation.

**Committee on the Rights of the Child,
September 2013**

1008 See act at: http://www.paclii.org/tv/legis/num_act/rora2010414/

1009 See full text of act at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_150713.pdf

1010 Ibid

1011 Decent Work Country Program Tuvalu 2010–2012 at: <http://www.ilo.org/public/english/bureau/program/dwcp/download/tuvalu.pdf>

1012 National report to the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TVSession16.aspx>

1013 Tuvalu Millennium Development Goals Acceleration Framework, Improving the Quality of Education, 2013, <http://www.undp.org/content/dam/undp/library/MDG/MDG%20Acceleration%20Framework/MAF%20Reports/RBAP/MAF%20Tuvalu-FINAL-%20April%204.pdf>

1014 National report to Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TVSession16.aspx>

1015 Ibid



The fulfilment of women's rights and achieving gender equality continue to be areas in need of improvement. According to UN Women, over one-third of Tuvaluan women experienced physical violence during their lifetime, 25% experienced physical violence in the previous 12 months, and 8% during pregnancy.¹⁰¹⁶ Half of Tuvaluan women experienced either physical or sexual violence, and 12% of women experienced both forms of violence.¹⁰¹⁷ Tuvalu does not recognise marital rape as a crime, and the law for sexual offences still needs clearer provisions on sentencing.¹⁰¹⁸ Tuvalu's Family Protection Act 2014 now criminalises domestic violence and is in line with CEDAW.

Disability rights

Tuvalu acceded to the Convention on the Rights of Persons with Disabilities in 2013. A multi-sectoral committee was created in the same year to monitor and coordinate disability work in the country (Tuvalu National Disability Coordinating Committee). The Constitution of Tuvalu does not prohibit or mention discrimination against persons with disabilities.¹⁰¹⁹ Tuvalu has made significant strides in providing basic services for persons with disabilities, especially in education. Schools for special needs children were established in 2011 and continue to provide specialised services for children.¹⁰²⁰ During the UPR 2nd cycle, civil society organisations called on Tuvalu to incorporate disability rights into its National Strategic Development Plan II: Action Plan 2015.¹⁰²¹ More specifically, they requested that a policy be put in place to 'help offset the exclusion of persons with disabilities from certain key areas in its National Strategic Planning Framework, and to fully mainstream development priorities of persons with disabilities.'¹⁰²² A disability policy has been drafted and national consultations on the policy began in March 2016.

...Today, we stand here facing one of the greatest challenges of humankind, - climate change. We are at a critical point of history. While we condemn in the strongest sense the barbaric acts inflicted by terrorists on the French people and others, we must seize the opportunity of COP21 to exert the strongest leadership to protect and save human beings from the catastrophic impacts of climate change.

We must have the greatest possible political will here in Paris. For a country like Tuvalu, our survival depends on the decisions we take at this Conference. Let me emphasize this point. Our survival as a nation depends on the decisions we take at this Conference. This is not a simply stepping-stone to a better future. We stand on a cliff edge. Either we stand united and agree to combat climate change or we all stumble and fall and condemn humanity to a tragic future...

...This is the time. We must all stand together and reshape our future. A new, comprehensive treaty on climate change is in our reach. Lets do it now. Let's do it for the future of humanity. Let's do it for Tuvalu. For if we save Tuvalu we save the world...

Prime Minister Enele Sopoanga,
Speech delivered at the Leaders Events for Heads of State and Government at the Opening of the COP21, 30th November 2015.

1016 UN Women, <http://asiapacific.unwomen.org/en/countries/fiji/co/tuvalu#sthash.56iVs9WY.dpuf>

1017 Ibid

1018 Ibid

1019 National report to Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TVSession16.aspx>

1020 Summary of stakeholders report to Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TVSession16.aspx>

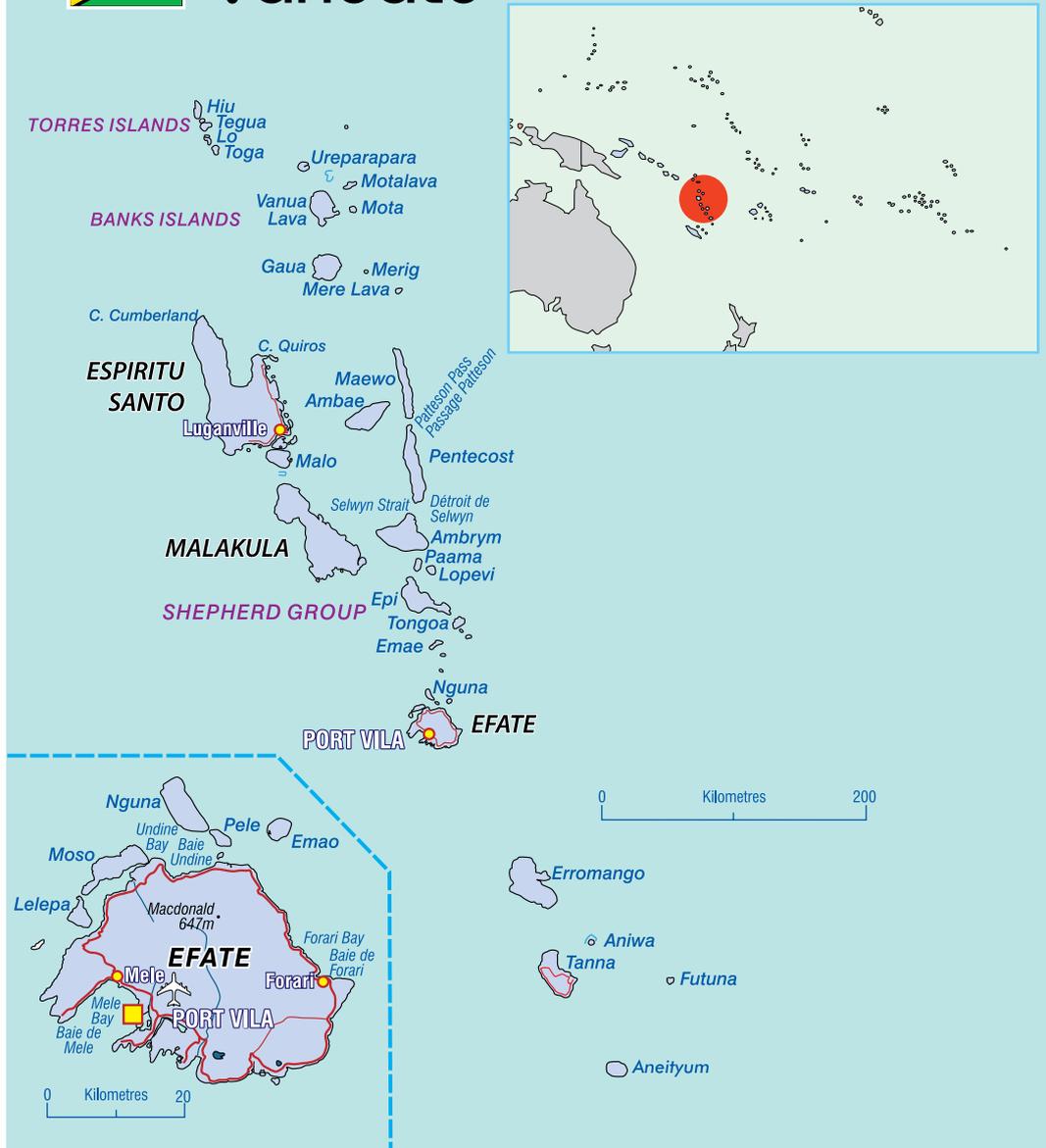
1021 Ibid

1022 Ibid





Vanuatu



Republic of Vanuatu



Key facts¹⁰²³

Capital	Port Vila	Land area: 12,281 km ²
Population	277,500 (2015 est.)	Population growth rate: 2.3%
GDP (gross domestic product) per capita	USD 2864 (2013)	GNI per capita (Atlas method): 3160 (2014) ¹⁰²⁴
Type of government	Parliamentary republic with the President as head of state and the Prime Minister as head of government.	
Electoral system	Single non transferable vote ¹⁰²⁵	
Number of ministers of parliament (MPs) in legislature	52	Total women MPs: 0
Religions	Protestant: 70% (includes Presbyterian: 27.9%, Anglican: 15.1%, Seventh-Day Adventist: 12.5%, Assembly of God: 4.7%, Church of Christ: 4.5%, Neil Thomas Ministry: 3.1%, and Apostolic: 2.2%), Catholic: 12.4%, customary beliefs: 3.7% (including Jon Frum cargo cult), other: 12.6%, none: 1.1%, unspecified: 0.2% (2009 est.) ¹⁰²⁶	
Ethnic groups	Ni-Vanuatu: 97.6%, part Ni-Vanuatu: 1.1%, other: 1.3% (2009 est.) ¹⁰²⁷	
Languages	Local languages (more than 100): 63.2%, Bislama (official; creole): 33.7%, English (official): 2%, French (official): 0.6%, other: 0.5% (2009 est.) ¹⁰²⁸	
Life expectancy at birth (years)	69.6 for men/ 72.7 for women (2009)	% of youth aged 15–24: 19.8

1023 Unless otherwise specified, basic facts are taken from: http://www.spc.int/prism/images/downloads/2015_Pocket-Statistical-Summary.pdf

1024 World Bank, <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>

1025 Under the Single Non-Transferable Vote system voters cast a single vote in a multi-member district. The candidates with the highest vote totals are declared elected. Voters vote for candidates rather than political parties. <http://www.idea.int/esd/world.cfm>

1026 <https://www.cia.gov/library/publications/the-world-factbook/geos/nh.html>

1027 Ibid

1028 Ibid

International treaty ratification and reporting obligations¹⁰²⁹

Convention	Date of signature (S)/ accession (A) ratification (R) ¹⁰³⁰	Declaration/ reservation	Latest report submitted	Reporting status as of March 2016	Treaty yet to be ratified
CEDAW	8 September 1995 (R)	-	IV-V on 17 October 2014	Reviewed in 2016	<ul style="list-style-type: none"> • ICESCR • CED • CRMW • CERD
CRC	7 July 1993 (R)	-	1997	2 nd report overdue since 5 August 2000	
CRPD	23 October 2008 (R)	-	Initial report submitted on 25 August 2015	Awaiting review before Committee	
CED	6 February 2007 (S)	-	-	-	
CAT	12 July 2011 (A)	-	-	Initial report overdue since 11 August 2012	
ICCPR	21 November 2008 (A)	-	-	Initial report overdue since 2010	
OP-CRC-AC	26 September 2007 (A)	Binding declaration under article 3:18 years	-	Initial report overdue since 2009	
OP-CRC-SC	17 May 2007 (A)	-	-	Initial report overdue since 2009	
OP-CEDAW	17 May 2007 (A)	-	-	-	
Special Procedures		Open invitation extended: 12 May 2009 ¹⁰³¹ Request for visit by the Independent Expert on the effects of foreign debt and other related international financial obligations of states on the full enjoyment of all human rights. ¹⁰³²			
Country visits by UN Special Rapporteur¹⁰³³		Nil			
Universal Periodic Review¹⁰³⁴		1 st cycle: 12 May 2009; 2 nd cycle: 30 January 2014; next cycle: 2019			
International Criminal Court¹⁰³⁵		Ratified the Rome Statute on 2 December 2011			

1029 Office of the High Commission for Human Rights, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=VUT&Lang=EN as at March 2016

1030 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the state's intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.

1031 Office of the High Commission for Human Rights, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/StandingInvitations.aspx as at March 2016

1032 http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=PLW

1033 Office of the High Commission for Human Rights, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=PLW as at March 2016

1034 <http://www.ohchr.org/EN/HRBodies/UPR/Pages/VUSession18.aspx>

1035 International Criminal Court state parties; https://www.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx



System of government

The Republic of Vanuatu is a parliamentary democracy headed by a President and a Prime Minister as the head of government.¹⁰³⁶ The President is elected for five-year terms by a two-thirds majority of an electoral college, while the Prime Minister is elected by a majority vote of a three-fourths quorum of the Parliament. The Parliament of Vanuatu is a unicameral parliament, Westminster model, comprising 52 members who are elected by popular vote every four years. Vanuatu currently has 262 registered political parties, with the current coalition government formed by the Reunification of Movement for Change Party following the 2016 elections.

Judicial system and administration of justice

The Constitution of Vanuatu is the supreme law, and it came into force in 1980 after independence.¹⁰³⁷ The judiciary of the Republic of Vanuatu is created by Article 47[1] of the Constitution under Chapter 8 on justice: 'The administration of justice is vested in the judiciary, who are subject only to the Constitution and the law...'¹⁰³⁸ Vanuatu law combines British and French laws, which were in existence in 1980, and any customary laws in existence at the time. Agencies of the justice system include the courts (Supreme, Magistrates', and Island Courts), the tribunals, and the correctional centres.¹⁰³⁹ The justice sector includes the child rights and family protection mechanisms, and various advocacy and services around disability rights, empowerment of women, and public prosecution and defence services.¹⁰⁴⁰ Hindrances to the administration of justice centre on administrative weaknesses of the police and the need for financial and operational support.¹⁰⁴¹ Studies show that the operation of Vanuatu's courts has steadily deteriorated, with significant backlogs and delays in processing.¹⁰⁴²

1036 Republic of Vanuatu Government website, <http://parliament.gov.vu/index.php/about-us>.

1037 Vanuatu sources of law, retrieved on 1 November 2015, <http://www.paclii.org/vu/sources.html>

1038 http://www.paclii.org/vu/judicial-services-courts/court-annual-reports/2012_files/2012-Vanuatu-Judiciary-Annual

1039 Republic of Vanuatu, <http://www.mjcs.gov.vu/index.php/justice-sector>

1040 Ibid

1041 Ibid

1042 Transparency Vanuatu Report, second cycle Universal Periodic Review, http://www.upr-info.org/sites/default/files/document/vanuatu/session_18_-_january_2014/tv_upr18_vut_e_main.pdf

In August 2013, the judiciary investigated reasons behind delays in judgements, less than optimum case management, and administrative hindrances to the administration of justice.¹⁰⁴³ The findings were provided in a report that came out with recommendations of improvement in seven main areas: 1) case management and enforcement, 2) governance, 3) institutional services and development, 4) asset management and infrastructure, 5) innovation and technology, 6) communication, and 7) access to justice.¹⁰⁴⁴ Issues and recommendations that arose included: avoiding processing delays by setting time limits for issuing decisions and written judgments; avoiding delays in hearings by strengthening the case management system; and increasing staff accountability at all levels to ensure better attendance and more efficiency.

Access to justice and the right to remedy

The right to a remedy is a constitutionally guaranteed right, with the Constitution allowing for direct application to the Supreme Court to deal with violations of rights. Legal inequalities relating to women's land rights and the protection of their rights was also highlighted. The Constitution makes specific provisions that rights to land are to be determined by custom. For example, the Vanuatu Constitution states that the 'rules of custom shall form the basis of ownership and use of land in the Republic of Vanuatu.' [Article 74 of the Constitution]. Even where the legal structure may nominally confer equal rights regardless of gender, the management of land is invariably vested in men. In some respects this is a more general reflection of societies that remain very patriarchal. In those parts of Vanuatu that are matrilineal — for example Santo, the Shepard Islands, North Pentecost and Efate — although land may be inherited or acquired through matrilineal links, chiefly titles tend to go to males who in turn confer the right to control the use of land.

National human rights institution

Vanuatu has an Ombudsman Office that was established by Articles 61–65 of the Vanuatu Constitution. The Constitution and the Ombudsman Act allow the Ombudsman to look

1043 http://www.mjcs.gov.vu/images/research_database/Vanuatu_Judicial_Management_System_Transparency_Vanuatu_R

1044 http://www.paclii.org/vu/judicial-services-courts/court-annual-reports/2012_files/2012-Vanuatu-Judiciary-Annual-Report.pdf



into the conduct of government, related bodies, and leaders.¹⁰⁴⁵ In February 2013, Vanuatu established an overarching National Human Rights Committee to transition into or create a new national human rights institution.¹⁰⁴⁶

Security sector

The police force is under the authority of the Ministry of Internal Affairs.¹⁰⁴⁷ It is divided into two main sections: the Vanuatu Police Force (VPF) and the paramilitary unit, the Vanuatu Mobile Force.¹⁰⁴⁸ The VPF is revamping its structure by providing new units to bolster operational efficiency.¹⁰⁴⁹ The Professional Standards Unit (PSU) was created in 2014 to investigate allegations of police misconduct.¹⁰⁵⁰ The PSU operates directly under the authority of the Police Commissioner and reports directly to him. The PSU currently has six investigators, including an experienced female investigator.¹⁰⁵¹ The VPF also has a Family Protection Unit that deals with all issues relating to domestic and family violence especially in obtaining restraining order for survivors of domestic violence.

Civil society and human rights defenders

Non-governmental organisations (NGOs) are required to register with the Vanuatu Financial Service Commission under one of the areas of service of charitable associations.¹⁰⁵² There is a large number of NGOs working in many areas, including health, education, and gender inequality.¹⁰⁵³ The Vanuatu Association of NGOs in Port Vila maintains a database of NGOs working in the different service areas.¹⁰⁵⁴

1045 International Association of Anti-Corruption Authorities, http://www.iaaca.org/AntiCorruptionAuthorities/ByCountriesandRegions/V/Vanuatu/201202/t20120215_805412.shtml

1046 Compilation prepared by the Office of the United Nations, High Commissioner for Human Rights <http://www.ohchr.org/EN/HRBodies/UPR/Pages/VUSession18.aspx>

1047 Government of Vanuatu, <https://governmentofvanuatu.gov.vu/internal-affairs.html>

1048 See http://press.anu.edu.au/kastom/mobile_devices/ch05s02.html

1049 http://dailypost.vu/news/local_news/new-structure-for-vanuatu-police/article_119673b4-fcd7-5923-8639-c423bc3cc657.html

1050 http://dailypost.vu/news/professional-standards-unit-is-launched-within-police-force-complaints-against/article_eb7f9012-2eb6-5170-a0eb-8bc55329734d.html

1051 Ibid

1052 <https://www.vfsc.vu/>

1053 http://www.commonwealthofnations.org/sectors-vanuatu/civil_society/national_ngos_civil_society/

1054 <http://www.piango.org/PIANGO/NLU/NLUs/vanuatu.html>

NGOs actively contribute to national reporting to UN treaty bodies, including the Universal Periodic Review (UPR).

Domestic law and human rights

Chapter 2 of the Vanuatu Constitution provides protection for fundamental rights of all individuals, including life, liberty, security of person, protection of the law, freedom from inhuman treatment and forced labour, freedom of conscience and worship, freedom of expression, freedom of assembly and association, freedom of movement, and protection for the privacy of the home and other property.¹⁰⁵⁵ The Constitution also protects the enjoyment of fundamental rights by ensuring individuals' rights to apply directly to the Supreme Court for enforcing constitutional rights and freedoms in case of violations.¹⁰⁵⁶ According to Vanuatu's State Law Office and the national report to UPR, Vanuatu has enacted several laws for the protection of human rights, including: Employment (Amendment) Act No 25 of 2010; Municipalities (Amendment) Act No 11 of 2013; and Decentralization (Amendment) Act No 16 of 2013. Updated land rights laws have been recently enacted, and consist of several constitutional amendments to the Land Reform Act and the Land Leases Act, and a new Customary Land Management Act.¹⁰⁵⁷ Drafting is underway for several new laws relating to health and children although the drafting process is faced with many hindrances, including understaffing.¹⁰⁵⁸ According to the Office of the High Commissioner for Human Rights compilation for Vanuatu, the backlog of legislative drafting work is significant. Most of the necessary institutional structures are in place, but political changes have affected the availability of resources and the implementation of activities.¹⁰⁵⁹

Human rights policies

The Priorities and Action Agenda 2006–2015 embodies the national vision for economic growth and provides

1055 Chapter 2 Constitution of Vanuatu https://governmentofvanuatu.gov.vu/Constitution_of_Vanuatu0c9f.pdf?download=22%3Alawsconstitutionofvanuatu

1056 Vanuatu National Report to Universal Periodic Review guarantees the enforcement of fundamental rights by stipulating the right to apply to the Supreme Court for enforcing Constitutional rights and freedoms in case of infringement.

1057 <http://www.eastasiaforum.org/2015/03/14/vanuatu-embraces-landmark-reforms/>

1058 Office of the High Commissioner for Human Rights compilation for Universal Periodic Review <http://www.ohchr.org/EN/HRBodies/UPR/Pages/VUSession18.aspx>

1059 Ibid



the framework for development in Vanuatu.¹⁰⁶⁰ This wide encompassing policy document provides for the betterment of the private sector and economic forces, but also focuses on improving the provision of basic services, improving social development, and improving the health and education sectors. The Ministry of Justice through the Child Desk is currently developing a National Children's Policy to protect the rights of children in Vanuatu in line with the Convention on the Rights of the Child, with assistance received from Save the Children and a technical advisor. Individual sectors are guided by updated policy frameworks, including the Health Sector Strategy, the new Mental Health Policy 2015, and the Education Sector Strategy 2007–2016. There are many challenges to the creation of new policies, including limited resources and capacity of key ministries in research, policy analysis and legislative review, which impede responsive policy advice.¹⁰⁶¹

Right to life, liberty and security of person

In 2011, Vanuatu acceded to the Convention Against Torture (CAT), becoming the 147th state party and the first Pacific Island nation to accede to the Convention.¹⁰⁶² As of 2014, the government was in the process of training correctional services officers and law enforcement on CAT.¹⁰⁶³ Recently, a coalition group, Police Brutality Campaign Group comprising of the Police, Correctional Services Department and the Vanuatu Society of Red Cross, held workshops on the convention against torture with government officials, NGO representatives and community leaders. The group is planning to increase awareness to the outer islands of Santo. Gender-related violence and violence against children are the main issues facing the right to security of person in Vanuatu.¹⁰⁶⁴ According to the Vanuatu Women's Centre's 'Study on Violence against Women and Children 2010–2011', more than 60% of women have experienced physical or sexual violence.¹⁰⁶⁵

¹⁰⁶⁰<http://www.adb.org/sites/default/files/linked-documents/cobp-van-2015-2017-sd.pdf>

¹⁰⁶¹ Office of the High Commissioner for Human Rights compilation for Universal Periodic Review <http://www.ohchr.org/EN/HRBodies/UPR/Pages/VUSession18.aspx>

¹⁰⁶² National report for Universal Periodic Review <http://www.ohchr.org/EN/HRBodies/UPR/Pages/VUSession18.aspx>

¹⁰⁶³ Ibid

¹⁰⁶⁴ Office of the High Commissioner for Human Rights compilation for Universal Periodic Review <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/183/75/PDF/G1318375.pdf?OpenElement>

¹⁰⁶⁵ Summary of stakeholders' reports by the Office of the High Commissioner for Human Rights for Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/VUSession18.aspx>

Equality and non-discrimination

Reports show that one of the most vulnerable groups to discrimination is persons with disabilities, especially women and girls with disabilities.¹⁰⁶⁶ According to the Disability Promotion and Advocacy Association, women with disabilities are more limited to access to legal, health and protection services.¹⁰⁶⁷

Citizenship

Inequalities in citizenship acquisition were rectified through the Citizenship Amendment Act 2013, which provides better regulation for spouses of ni-Vanuatu citizens and their right to attain citizenship.¹⁰⁶⁸

Gender inequality

Gender inequalities are among the serious social issues in Vanuatu. The Vanuatu Family Health Association, the Department of Women's Affairs, and other organisations work on gender mainstreaming and improving services for women and girls.¹⁰⁶⁹ According to UN reports, there were concerns regarding women claiming legal rights because the legal system continuously fails to guarantee equal status between men and women, and the island courts have adopted decisions based on customary laws and practices, which are often discriminatory against women.¹⁰⁷⁰

Freedom of expression, association and peaceful assembly

Vanuatu does not have a freedom of information law and was advised by the United Nations Children's Emergency Fund to enact one in line with international standards.¹⁰⁷¹ Reports have confirmed that the government is currently taking steps to implementing a National Right

¹⁰⁶⁶ Ibid

¹⁰⁶⁷ Ibid

¹⁰⁶⁸ <https://governmentofvanuatu.gov.vu/images/Regulations/citizenship%20amendment%20act%20no.%2039%20of%202013.pdf>

¹⁰⁶⁹ Stakeholders' submission for UPR, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/184/17/PDF/G1318417.pdf?OpenElement>

¹⁰⁷⁰ Office of the High Commissioner for Human Rights compilation for UPR, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/183/75/PDF/G1318375.pdf?OpenElement>

¹⁰⁷¹ Ibid



to Information (RTI) Policy.¹⁰⁷² The policy guarantees the right to information for all persons, minimum government interference, and greater transparency and accountability in governance.¹⁰⁷³ The government recently established the Right to Information Unit within the Office of the Government Chief Information Officer, which is considered a major milestone in implementing RTI in Vanuatu.¹⁰⁷⁴

Economic rights

The Vanuatu government has not yet acceded to the International Covenant on Economic Social and Cultural Rights. There is significant momentum to improve economic rights and just and fair treatment, and access to work by all.¹⁰⁷⁵ Vanuatu's economy has been affected by the damage caused by Cyclone Pam in 2015; tourism and agriculture; the biggest economic sectors have suffered.¹⁰⁷⁶ The Employment Act of 1983 (CAP 160) and subsequent amendments regulates all labour and employment rights for citizens.¹⁰⁷⁷ It protects rights of employees to receive fair remuneration for work, hours and overtime pay, leaves, and employment of women and youth. It establishes the offices of the Labour Commissioner and the Advisory Board.¹⁰⁷⁸ On the first week of August 2015, the Vanuatu government held a one-day conference for those involved in the ongoing reconstruction effort, including foreign development partners. A two-year strategy called the National Development Plan after Cyclone Pam was launched, and a Recovery Program Committee has also been established to streamline development submissions and to ensure their implementation.¹⁰⁷⁹

Right to health and education

Health care in Vanuatu is provided at a very low cost (patient contribution of nominal fee) while medicines are provided free of charge.¹⁰⁸⁰ Many of the challenges faced by Vanuatu relate to logistical and administrative difficulties in providing services to populations in remote islands.¹⁰⁸¹ The government is dedicated to improving service delivery and peoples' access to medical care. The Health Sector Strategy 2010–2016 stipulates equity as one of its five core values.¹⁰⁸² Studies by the World Health Organization and the Vanuatu Ministry of Health confirm that there are differences in utilization of healthcare services between provinces and between urban and rural areas.¹⁰⁸³

Infant mortality rates remain low (27 in 1,000 as reported by the government in 2011). There are few patients with HIV/AIDS, and they receive free antiviral medication; malaria and tuberculosis rates are dropping by more than half, especially in the outer islands.¹⁰⁸⁴

Vanuatu now provides free education at all government-owned primary schools from Class 1 to Class 6. Education in Vanuatu is accessible by most, except a small percentage of children in very remote locations.¹⁰⁸⁵ Vanuatu is committed to improving access to education for all children as per its National Education for All Policy.¹⁰⁸⁶ Literacy rates in Vanuatu are high but studies show that males are struggling to gain access to secondary education while females struggle to gain access to primary education in rural areas.¹⁰⁸⁷ The Ministry of Education has developed a Gender Equity in Education Policy (2005–2015), with the goal of providing equal access and opportunities for both males and females

1072 Government Implementation of National Right to Information Policy, http://dailypost.vu/news/government-implementation-of-national-right-to-information-policy/article_4915ea44-42ff-54d6-aa09-067320a535a5.html

1073 UN compilation for the Universal Periodic Review, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/183/75/PDF/G1318375.pdf?OpenElement>

1074 Government Implementation of National Right to Information Policy, http://dailypost.vu/news/government-implementation-of-national-right-to-information-policy/article_4915ea44-42ff-54d6-aa09-067320a535a5.html

1075 Department of Industry website, <http://doi.gov.vu/>

1076 Asian Development Bank report, <http://www.adb.org/countries/vanuatu/economy>

1077 See full text at: <http://www.ilo.org/dyn/travail/docs/1071/Employment%20Act.pdf>

1078 Ibid, chapters 1 and 2

1079 <http://www.abc.net.au/radionational/programs/futuretense/after-pam-vanuatu-struggles-to-rebuild/6686574>

1080 World Health Organization Western Pacific Regional Office and Ministry of Health, Health Service Profile Vanuatu 2012, http://www.wpro.who.int/health_services/service_delivery_profile_vanuatu.pdf

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1083 Ibid

1084 National report to 2nd Universal Periodic Review cycle, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/VUSession18.aspx>

1085 <http://www.nationsencyclopedia.com/Asia-and-Oceania/Vanuatu-EDUCATION.html>

1086 United Nations Children's Emergency Fund, Vanuatu Country Report http://www.unicef.org/worldfitforchildren/files/Vanuatu_WFFC5_Report.pdf

1087 United Nations Educational, Scientific and Cultural Organization and Ministry of Education, Education for All 2015 National Review, <http://unesdoc.unesco.org/images/0022/002298/229881E.pdf>



at the various levels.¹⁰⁸⁸ The government is committed to improving education quality by embarking on a new support programme: the Vanuatu Education Support Programme, which aims at raising services by bolstering human resource capacity, increasing funding, and engaging communities through educational approaches.¹⁰⁸⁹

Strategy 3.2.4: Support the creation and strengthening of formal social welfare systems especially issues affecting the protection of women, children, old and disabled people, and strengthen linkages with traditional social protection.

Priorities and Action Agenda 2006 – 2015

Women and children's rights

The Penal Code 1981 (amended 2007) and the Family Protection Act 2008 provide protection for children from violence and ill-treatment.¹⁰⁹⁰ Corporal punishment is prohibited in schools by Article 38 of the Education Act 2001; however, it remains a serious issue in the home. According to the United Nations Children's Emergency Fund Baseline Report on Vanuatu, 78% of adult respondents admitted to physically hurting children in their household; 21% of them say this was for 'discipline' or 'education'.¹⁰⁹¹ Corporal punishment is used in rural areas as a traditional form of punishment favoured by chiefs.¹⁰⁹² A child protection system governance analysis for Vanuatu was also conducted in 2014, with key findings including improvement in child registration rates and improved framework for women and children's protection offered by the Priorities and Action Agenda 2006–2015.¹⁰⁹³ The Ministry of Justice and Community Services reported an increased budget in its 2013 report for the Child Desk for

...I am delighted to see that the focus on gender remains an integral part of the 2030 Agenda. In my country, achieving gender equality continues to be a challenge given our tradition and cultural make up. However, the political will to further advance the interests of women remains steadfast. Notable progress has been made in terms of access to basic education and health services, women assuming leadership positions in Municipal Councils and that women today have better access to basic financial services than ever before. As a leader of my country, I want to see more tangible progress in women and girls' advancement and their active participation in national leadership. This progress can be expedited if more financial resources are channelled to assist my Government to advance gender equality and women's empowerment...

Prime Minister Etek Sato Kilman Livtuvanu,
70th Session of the United Nations General Assembly, New York
30 September 2015,

the purpose of developing and strengthening national action plans for children, with wide involvement from civil society, including NGOs and children.¹⁰⁹⁴

The Ministry of Justice also reported that it had increased budgets and staff in order to advance the status of ni-Vanuatu women and to enhance their lives through focused policy formulation, targeted action plans, and working in strategic partnerships.¹⁰⁹⁵ There are still concerns about the level of gender-based violence in Vanuatu, which poses a serious threat to women.¹⁰⁹⁶ Laws that protect women include the Family Protection Act (FPA), the Penal Code 1981 and amendments, the Employment Act, Matrimonial Clauses, Maintenance of Children, Control of Marriage and Divorce Bill¹⁰⁹⁷ although implementation, especially of the FPA remains a concern. According to reports, the formal legal system in Vanuatu offers significant protection to women, however, in most cases, it fails to enforce women's rights.¹⁰⁹⁸ The Vanuatu government in its report to the UPR (second cycle) confirmed that it has been carrying out

¹⁰⁸⁸National report to 2nd Universal Periodic Review cycle, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/VUSession18.aspx>

¹⁰⁸⁹Ministry of Education 2013 report, http://moet.gov.vu/docs/annual-reports/MoET%20Annual%20Report_2013.pdf

¹⁰⁹⁰Global Initiative to End All Corporal Punishment of Children report, <http://www.upr-info.org/en/review/Vanuatu/Session-18---January-2014/Civil-society-and-other-submissions#top>

¹⁰⁹¹ http://www.unicef.org/pacificislands/Vanuatu_FACTSHEETS_FINAL.pdf

¹⁰⁹²Dr Sharon Owen Briefing For The Human Rights Council Universal Periodic Review – 18th session, 2014, file:///C:/Users/S410/Downloads/Global%20Initiative_UPR18_VUT_E_Main.pdf

¹⁰⁹³United Nations Children's Fund study: Regional Comparison of Four Countries 2014, http://www.unicef.org/pacificislands/151117_UNICEF_Pacific_GIF_Report_Four_Pacific_Countries_Preview.pdf

¹⁰⁹⁴http://www.mjcs.gov.vu/images/reporting/Annual_Report_2013.pdf

¹⁰⁹⁵Ibid

¹⁰⁹⁶Care (Cooperative for Assistance and Relief Everywhere), Rapid Gender Analysis Cyclone Pam Vanuatu, <http://care.ca/sites/default/files/files/RGA%20Cyclone%20Pam%20Vanuatu%207%20April%202015.pdf>

¹⁰⁹⁷Ibid and also Pacific Islands Legal Information Institute, <http://www.paclii.org/vu/indices/legis/>

¹⁰⁹⁸CARE (Cooperative for Assistance and Relief Everywhere), rapid gender analysis, Cyclone Pam Vanuatu, <http://care.ca/sites/default/files/files/RGA%20Cyclone%20Pam%20Vanuatu%207%20April%202015.pdf>

Vanuatu ratified the Convention on the Rights of Peoples with Disabilities on 23 October 2008 to ensure that persons with disabilities are respected, promoted, equally recognised and included in decision-making at both the community and national level.

Vanuatu National Report to the 2nd Universal Periodic Review cycle

extensive trainings to members of the justice system on the Family Protection Act, with the purpose of providing better service to women through the justice system.¹⁰⁹⁹ Women representation in Parliament is also among the lowest in the world because currently there are no women in Vanuatu's national Parliament.¹¹⁰⁰ However, considerable progress has been made in the municipal elections in 2014, as more women were voted into office under temporary special measures (TSM) provisions.¹¹⁰¹ In 2016, the government proposed introducing TSM through constitutional amendments.¹¹⁰²

Disability rights

Vanuatu submitted its report on the Convention on the Rights of Peoples with Disabilities (CRDP) in August 2015, and is awaiting comments and questions from the Committee. The National Disability Framework established by the government provides for equal status of persons with disabilities and equal protection of their rights. The government of Vanuatu held wide consultations over the past few years relating to reporting on CRPD. Several recommendations were made to improve advocacy on behalf of persons with disabilities, integrating and promoting disability rights in all sectors, mainstreaming children with disabilities into the education system, and focusing on reducing mental-health related disabilities through the reduction of drug consumption.¹¹⁰³

...Until very recently people with disabilities have been invisible in almost all areas and levels of the development process in our nation simply because they have largely been forgotten, discriminated against and therefore marginalized. It is time now that we re-assess our values and look beyond just the physical signs and recognize the whole person as God intended for us to do. We can do this by encompassing the whole of our population as our responsibility and not just those who can walk, who can talk and who can see.

Persons with disability have the same fundamental right to life, to respect and dignity, and have the responsibilities as any other citizen in Vanuatu. Where they cannot enjoy these rights, it remains our responsibility as Government to provide the direction to break down the many barriers in their lives so that they can participate and enjoy equally the benefits of development. We must not let the physical or attitudinal barrier stop us from recognizing people with disabilities as part of our society, some of whom are our brothers, sisters, mothers, fathers, husbands, wives and also part of the human race. I urge you not let old prejudices stop us from recognizing this and work together to make sure that the strategies in this Policy are implemented.

Hon Ham Lini Vanuaroroa, Minister for Justice & Social Welfare, Forward on the National Disability Policy and Plan of Action 2008-2015

1099 <http://www.ohchr.org/EN/HRBodies/UPR/Pages/VUSession18.aspx>

1100 SPC National Minimum Development Indicator Database, <http://www.spc.int/nmdi/>

1101 In 2013, the Vanuatu Parliament passed a historic amendment to the Municipalities Act, providing for reserved seats for women in the municipal councils. The quota provision is regarded as a 'special temporary measure' and was implemented for the first time in the Port Vila Municipal Council elections that took place in December 2013. <http://www.pacwip.org/resources/wip-legislation/>

1102 <https://vanuatudaily.wordpress.com/2016/06/16/special-sitting-of-parliament-introduces-bill-to-amend-constitution-amicably/>

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Pacific Community (SPC): Statistics Division: <http://sdd.spc.int/en/sdd-programmes/sectoral-statistics>
Pacific Islands Forum Secretariat: <http://www.forumsec.org/>
University of the South Pacific, Pacific Legal Information Institute: <http://www.pacii.org/>
World Bank: <http://www.worldbank.org/en/country/pacificislands>

United Nations agencies in the Pacific

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United Nations Development Project: <http://www.pacific.undp.org/>
United Nations Children's Fund (UNICEF Pacific Office): <http://www.unicef.org/pacificislands/>

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Kiribati: <http://www.president.gov.ki/>
Fiji: <http://www.fiji.gov.fj/>
Marshall Islands: <http://www.rmiembassyus.org/Government.htm> and <https://rmiparliament.org/cms/>
Nauru: <http://www.naurugov.nr/>
New Zealand: <https://www.govt.nz/>
Niue: <http://www.gov.nu/wb/>
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Tuvalu: http://www.tuvaluislands.com/gov_info.htm
Tonga: <http://www.mic.gov.to/media-a-ict/working-with-media/3781-tonga-government-ministries-and-departments> and <http://www.pmo.gov.to/>
Vanuatu: <http://governmentofvanuatu.gov.vu/>

Donors

Australian Aid: <http://dfat.gov.au/aid/Pages/australias-aid-program.aspx>
European Union in the Pacific: <http://eeas.europa.eu/delegations/fiji/>
Kingdom of Netherlands: <http://newzealand.nlembassy.org/>



It is not called the partial declaration of human rights. It is not the sometimes declaration of human rights. It is the Universal Declaration, guaranteeing all human beings their basic human rights ? without exception.

Violence will end only when we confront prejudice. Stigma and discrimination will end only when we agree to speak out. That requires all of us to do our part.

Ban ki Moon, UN Secretary General, 2010

Customs and human rights both concern rights. Human rights are understood to be the rights that are innate and inherent to each of us as individuals. Customary, traditional and cultural rights relate to our social mores as a distinct people or community. They include the ownership of land and natural resources, folklore, traditional knowledge and social systems. Both these species of rights belong to us by virtue of who and what we are.

Ratu Joni Madraiwiwi
former Vice President of Fiji and
current Chief Justice of Nauru

Human rights are rooted in the nature and the condition of the human person. There is no peace where human rights are denied or systematically violated and where there is no development to bring about poverty elimination.

Tuiloma Neroni Slade,
Former Secretary General of
the Pacific Islands Forum Secretariat, 2011

Photo: SPC



Photo: Chris Palethorpe



EUROPEAN UNION