



# Convention on the Rights of the Child

Distr.: General  
28 March 2019

Original: English  
English, French and Spanish only

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Committee on the Rights of the Child

## Combined second to fifth periodic reports submitted by Tuvalu under article 44 of the Convention, due in 2017\*

[Date received: 9 March 2018]


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\* The present document is being issued without formal editing.

GE.19-05194(E)



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## A. General measures implementation

### Legislation

1. Tuvalu in its attempt to harmonize its domestic legislation with the Convention on the Rights of the Child have passed the following amendments and legislation: *Island Courts (Amendment) Act 2017*; *Tobacco Control (Amendment) Act 2017*; *Alcoholics Drinks Amendment Act 2017*; *The Leadership (Amendment) Act 2017 and Marriage (Amendment) Act 2017*; *The National Human Rights Institution Act 2017*; *Labour and Employment Relations Act 2017*.

2. As part of its national plan cabinet assigned the Office of the Attorney General to draft specific laws relating to the protection of children and to, as necessary, amend laws that are discriminatory and not in compliance with treaties that the Government of Tuvalu has ratified. The Office of the Attorney General in 2017 secured funding from UNICEF Pacific to contract a Technical Adviser to draft a *Child Protection and Welfare Bill 2017* and the *Policy for the Protection of All Children in Educational Institutions in Tuvalu*.<sup>1</sup>

3. The proposed Child Protection and Welfare Bill aims to promote awareness on child protection issues, to ensure that Tuvaluan customs, traditions and community values relating to children are promoted and applied, to work in collaboration with other Ministries and community agencies to promote the protection and welfare of children, to involve and empower non-government organizations, to promote, apply and enforce bilateral and multilateral measures to protect children from sexual abuse and sexual exploitation etc.<sup>2</sup> The *Child Protection and Welfare Bill 2017*<sup>3</sup> is the first law in Tuvalu to make comprehensive provision for issues related to the rights, protection and welfare of children in accordance with the principles and provisions of the UN Convention on the Rights of the Child (CRC). This new law will empower the government to take action to ensure that children are protected whenever necessary. It also guarantees that the laws of Tuvalu will be applied in the best interests of children.<sup>4</sup>

4. The *Child Protection and Welfare Bill 2017* also makes specific references and imposes specific obligations on key government departments on the implementation of the proposed Bill.<sup>5</sup> In addition, the *Judiciary* under the proposed Bill is mandated to ensure that

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<sup>1</sup> The Technical Adviser has completed a first draft of the Child Protection and Welfare and Bill including the Policy for the Protection of All Children in Educational Institutions in Tuvalu.

<sup>2</sup> The proposed Bill aims to ensure that all approved carers comply with prescribed standards when performing their functions and responsibilities as carers of children, to review the implementation of this Act, and to make recommendations for any amendments and modifications to ensure that the Convention on the Rights of the Child and other international conventions such as the Convention on the Rights of Persons with Disabilities, Convention on the Elimination of all forms of Discrimination Against Women are complied with, to develop and implement programs aimed at preventing harm to children, and to otherwise provide for the protection of children and the promotion of their welfare; and to develop policies and provide programs which involve training and capacity building within the government of Tuvalu etc.

<sup>3</sup> The proposed Bill will ensure that Tuvalu maintains good international standing for the way it treats and protects its children. In addition, the proposed Bill also states that any law which relates to the rights of children, or which provides for processes relevant to dealing with children in any manner and in any context, must be read and applied subject to the provisions of this proposed Bill, and in the event of any inconsistency between the provisions of this Bill and of any other law, the provisions of this Bill shall prevail.

<sup>4</sup> The provisions of this new law will promote the welfare of all children in Tuvalu.

<sup>5</sup> Under the proposed Bill the Ministry of Education is mandated to: (a) to give notice of commencement of the Act; (b) to appoint "authorised officers" (Permanent Secretary of the Ministry is deemed to be an authorised officer under the Act, and so is the Community Affairs Officer and any Child Protection Officer in the Ministry); (c) to approve "places of safety" for children; (d) to approve "places of detention" for child offenders; (e) to take action for children in need of protection; (f) to initiate investigations and assessment of children in need of protection; (g) to receive notification from police officers of urgent action taken in relation to children in need of protection; (h) to approve arrangements for the custody and care of children in need of protection; (i) to make an application to the court for a care and protection order; (j) to approve or revoke the registration of non-governmental

court proceedings are adhered to especially in relation to children. The proposed Bill calls on the judiciary to ensure that when it conducts a hearing concerning a child; special requirements must be adhered to involving children.<sup>6</sup>

5. The *Tuvalu Police Service* is mandated under the Child Protection and Welfare Bill to apply special requirements when children are investigated and interviewed and to ensure that special training for police officers when dealing with child offenders is noted. The Tuvalu Police Force is also mandated to ensure bail for child offenders is provided for and that appropriate places of detention must be used for child offenders who are not released on bail. Additionally, child offenders in custody of police must be kept separate from adults and parents must be advised if a child is placed under arrest.

6. In addition *Prisons Officers* are mandated under the Child Protection and Welfare Bill to ensure: that child offenders in detention must not be allowed to associate with adult prisoners; children convicted of serious crimes can be imprisoned at place approved by the Court; a Court can order a child prisoner in custody to be released on licence; the Minister has power to approve places of detention for child prisoners, and the Courts may make orders in relation to the discharge or transfer of them; all persons in authority or who are employed in a prison, detention centre or corrections facility who become aware of sexual abuse or exploitation of a child are under a duty to report it to the Commissioner of Police or the Attorney General.

7. Furthermore, *Schools and other Educational Institutions* are mandated under the Child Protection and Welfare Bill to report sexual abuse and exploitation, duty to be bound by the policy; disciplinary action to be implemented for breach of the policy and duty not to release information of children etc.<sup>7</sup>

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and church based organisations which provide child welfare services; (k) to approve the publication of information about children under this Act; (l) to deal with and control confidential information under this Act; and (m) to make Regulations.

<sup>6</sup> Rules of the Court are to read and applied subject to these requirements; Other requirements are stated in relation to court facilities used for hearings involving children; deals with bail for children charged with an offence; deals with the remand and committal of children to custody; specific element of procedure are prescribed for criminal cases involving children; provision is made in relation to the attendance of parents at court; courts may order parents to pay fines, damages or costs; imprisonment of children is permissible for serious crimes; Courts may order the release of a child prisoner on licence; Courts may determine appropriate places of detention for children; Courts may order that person leave a courtroom when a hearing involves a child; power is given to make Rules of Court concerning proceedings involving children; Courts are to regard offences by adults relating to alcohol, drugs, tobacco and gaming which involve children as an aggravating factor when sentences are determined; Courts may refer children for investigation and assessment if they may be at risk of harm; Courts may appoint an officer to conduct the investigation or assessment; Courts have power to issue a warrant for a child in danger or be taken to a place of safety; Courts may make interim care and protection orders; provision is made in relation to application to the court for care and protection orders; Courts have powers in relation to service of proceedings and may order that children be separately represented in them; (s) provision is made in relation to child protection hearings; Courts may nominate a person to prepare a care and protection plan for a child at risk; Courts may take account of views expressed by a child; the criteria for making care and protection orders are stated; the types of care and protection orders are provided for (supervision orders, restraining orders, temporary custody order, permanent custody orders and maintenance orders); Courts have power to vary or revoke order, and may hear application for re-hearing by any party based on changed circumstances; powers are given to the Courts in relation to information which might identify a child and confidential information.

<sup>7</sup> Schools and other Educational institutions are mandated to (a) teachers are under a duty to report sexual abuse and exploitation of students; (b) school employees (including teachers) are bound by approved policies for the protection of children in educational institutions; (c) disciplinary action can be taken for breaches of approved policies for the protection of children in educational institutions; (d) there is a prohibition on releasing information about children who have been subject to sexual abuse in educational institutions; (e) an amendment is made to the Prisons Act for arrangements to be made about educational support being given to child prisoners; (f) the Education Fees Regulations will be repealed to confirm the policy of free education; (g) an amendment is made to the Education (Compulsory Education) Order to remove inappropriate references to a child's physical and mental disability.

8. Additionally, the *Office of the Attorney General* is mandated by the proposed Bill to: (a) to receive reports of sexual abuse and exploitation; (b) to receive reports from police officers about the wellbeing of children; (c) to take action for children in need of protection; (d) to initiate investigations and assessment of children in need of protection; (e) to receive notification from police officers of urgent action taken in relation to children in need of protection; (f) to make an application to the court for a care and protection order; and (g) to be a party to a care and protection order proceedings.

9. The *Kaupule* under the Child Protection and Welfare Bill are mandated to: (a) be appointed as “authorised officers”; and (b) report abuse or neglect of children.

10. The *Family Protection Act Domestic Violence Act 2014* has been passed and commenced as an Act of parliament in December 2014. The Family Protection and Domestic Violence Act 2014 provides for a guarantee for women and children including those living with disabilities protection from all forms of violence. The Family Protection and Domestic Violence Act 2014 also imposes mandatory responsibilities on the part of service providers to expediently attend to cases of violence in the home.

11. The *Family Protection and Domestic Violence Act 2014* also makes references to children and provides for measures to be taken when children are a subject to violence and abuse.<sup>8</sup> Additionally, section 24 of the Family Protection and Domestic Violence Act 2014 further states that where a conciliation conference is ordered, the following matters must be considered: (a) child custody of and access arrangements; safety of victim and children and risk management; (b) accommodation and living arrangements of members of the household; (c) maintenance for victim and children; safety of property and arrangements for personal property; reconciliation; (d) counselling and intervention programmes provided by relevant registered institutions, registered counsellors, church groups, or traditional mediators; (e) counselling programmes to assist the defendant; (f) other support service requirements for the victim and children; separation or dissolution of marriage; and (g) the respondent’s participation, where possible, in the rehabilitation of the victim.

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<sup>8</sup> The Act clearly states that the Court or a person who exercises a power or performs a function must apply the following principles: promotion of the objects of the Act; ensuring that proceedings under the Act are as speedy, and simple as possible; ensuring the safety and wellbeing of victims, and other vulnerable persons in a domestic relationship from further violence; ensuring that victims of violence are not re-victimized by perpetrators or by any other person in the course of proceedings; ensuring as far as possible that accommodation and maintenance needs of victims and any dependent children are given the highest priority; ensuring that persons trafficked, irrespective of nationality – (i) must not be prosecuted on any charge of trafficking, illegal immigration or prostitution; and (ii) given every assistance and be fully informed when testifying in trafficking trials in which the victim has been involved; ensuring that victims of violence are fully informed of Court processes and procedures and the consequences of any orders made; ensuring that perpetrators – (i) understand the terms and effects of all orders made under this Act which imposes obligations upon them; and (ii) are encouraged to take responsibility for their violence and seek assistance through counselling and rehabilitation programmes to address the violence; and (iii) contribute, where possible, to the rehabilitation of the victim (s) and any dependent children.

12. Additionally, the Government of Tuvalu informs the Committee that consequential amendments to other laws have been made to be effective on the enactment of the Child Protection and Welfare Bill; namely: (a) Section 39 of the Penal Code [Cap 10.20];<sup>9</sup> (b) Prisons Act [Cap 20.28];<sup>10</sup> (c) Tobacco Control (Amendment) Act;<sup>11</sup> (d) Education (Compulsory Education) Order 1984 [Cap 30.05.4]<sup>12</sup> and (e) Gaming and Lotteries Act [Cap 54.10].<sup>13</sup>

### **Comprehensive policy and strategy**

13. The Tuvalu National Youth Policy 2015–2019 is the national governments mechanism to guide national youth development over a five-year period. The policy was reviewed in 2014 to allow for more collaboration and to consider new emerging issues faced by youths in Tuvalu. The goal of the Tuvalu National Youth Policy is to *foster the spiritual, mental, physical and cultural development of youth* of Tuvalu to enable them to be positive contributors to development.<sup>14</sup>

14. The review of the Policy considered the views of youths and youth stakeholders representing Funafuti and the outer islands. Additionally, the Policy forms the basis for a cohesive and coordinated approach to positive youth development in Tuvalu. The policy further affirms the importance of creating an environment where leaders, parents, stakeholders and youth become the implementers of the Policy as well as the beneficiaries of the Policy.

<sup>9</sup> Is amended as follows: (a) by amending the title of the section to be “39. Offenders under the age of 18 years”; and (b) by deleting the words “16 years” from subsections (1) and (6), and replacing them with the words “18 years”.

<sup>10</sup> The Prisons Act [Cap 20.28] is amended as follows: (a) Section 3 is amended by: (i) deleting the definitions of “juvenile” and “young person”; and (ii) inserting the following definition – “child prisoner” means any person under the age of 18 years who has been sentenced to serve a term of imprisonment;”; (b) Section 26A is inserted as follows: “26A Treatment of child prisoners (1) All child prisoners must be treated in accordance with the requirements of the Child Protection and Welfare Bill 2017 during their time in custody. (2) In addition to the requirements under subsection (1), child prisoners must be given the following entitlements: (a) access to visits by their parents or guardian at any time during prescribed hours; (b) appropriate counselling, rehabilitation and other support services; (c) opportunities to continue their education through arrangements made between the Superintendent and the Ministry of Education; and (d) any special support necessary in relation to a disability. (3) Despite any provision of this Act to the contrary, the Superintendent has authority to make and approve arrangements for any purpose under this section. The proposed and new amendments state that: “(3) Child prisoners must be kept separate from adult prisoners, and the Superintendent has authority to approve arrangements for the keeping of child prisoners at any appropriate place, or under the care of any appropriate person, to ensure that this requirement is complied with.”

<sup>11</sup> Section 11 is amended by deleting subsection (5), and replacing it with the following: “(5) No person may supply a tobacco product to a person under 18 years of age, whether in exchange for payment or not.”

<sup>12</sup> Section 5(c) of the Education (Compulsory Education) Order 1984 [Cap 30.05.4] is amended and replaced with the following: “(c) a child whose level of disability is assessed by a medical practitioner as resulting in there being no substantial benefit from schooling or further schooling;”

<sup>13</sup> Section 3 of the Gaming and Lotteries Act [Cap 54.10] is amended by deleting subsection (3) and replacing it with the following: “(3) No gaming is to take place at which any person under the age of 18 years is included among the players.”

<sup>14</sup> The objectives of the policy is to encourage dialogue with stakeholders to achieve the following: identify and allocate national and external resources for youth development; engage and align youth principles and development stakeholders partners with the stated youth policy priority outcome areas; provide the framework for national, outer islands and community level action on youth development with an emphasis on priority target groups; consolidate partnerships between government and non-government organisations, civil society organisations, and importantly include churches, in implementing youth development activities; align national plans to implement governments international and regional commitments on youth development; and capacity building targeting the Government Youth Department, and the Tuvalu National Youth Council as lead agencies in coordinating and implementation of the Policy; as well as supporting the creation of National Youth Advisory board to strengthen the youth mainstreaming capacity, across ministries, youth bodies and organisations.

15. The Ministry of Education, Youth and Sports is responsible for the coordination of the policy implementation.<sup>15</sup> The implementation mechanisms in place ensures a collaborative approach is taken. Also, quarterly opportunities to monitor and evaluate implementation progress. The Youth Development Department will together with the National Youth Advisory Board coordinate various stakeholder meetings to be held in Funafuti and will report together with the Tuvalu National Youth Council.<sup>16</sup>

16. Under the overall guidance of the Office of the Attorney General and Ministry of Education, Youth and Sports with support from UNICEF Pacific, in close consultation with the Tuvalu National Advisory Committee on Children's Rights (NACCR) and the Technical Working Group (TWG), a legal consultant was tasked to develop a work plan for the assignment of drafting a Child Protection Bill and a Child Protection Policy in Schools.<sup>17</sup>

17. The Government of Tuvalu through the Office of the Attorney General has in place a *Policy for the Protection of Children in all Educational Institutions in Tuvalu*.<sup>18</sup> This Policy provides a framework for the protection, identification, managing and reporting incidents of child abuse in schools and educational institutions and whenever school activities and programs are conducted or provided.<sup>19</sup>

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<sup>15</sup> The priority target groups for the National Youth Policy are: outer island youth; youth with disabilities; unemployed youth; young women; youth with excessive alcohol and tobacco consumption and youth who are victims of abuse.

<sup>16</sup> The six priority outcomes of the Tuvalu National Youth Policy over the next five years (2015–2019) are: improved equitable access to education, training and employment opportunities for young women and men (Youth and Career Pathways); increased equal opportunities for young women and men to participate in decision making and leadership (Youth and Governance); youth wellbeing improved through equitable access to health services, spiritual guidance, sports opportunities and cultural activities (Youth and Well Being); increased number of young people participating in activities that promotes peace building and conflict prevention (Youth and Peace building); increased number of young people promoting sustainable development (Youth and sustainable Development); improved capacity to implement the Policy (Youth Mainstreaming).

<sup>17</sup> That: (a) in collaboration with the Office of the Attorney General and Ministry of Education, Youth and Sports with support from UNICEF Pacific incorporate into the draft Child Protection and Welfare Bill and Child Protection Policy in Schools, feedback and comments from key stakeholders, b) the Draft Child Protection Bill and the Draft Child Protection Policy in Schools that take into consideration all other relevant existing child protection related laws in Tuvalu that affect the welfare and best interests of children in Tuvalu; (c) the draft child protection bill and the draft child protection policy in schools must address children living with disabilities, adolescent young people and the girl child, to ensure their protection and care including times of disaster and emergencies.

<sup>18</sup> Policy specifically applies to students under the age of 18 years. The Policy statement states that: (a) all children in Tuvaluan schools are entitled to enjoy the rights and protections afforded to them under the UN Convention on the Rights of the Child; (b) all staff employed in Tuvaluan schools are responsible for the care, safety and protection of children in the school or educational institution, (c) this responsibility extends to the identification and timely response to concerns regarding the possible sexual, physical, psychological and emotional abuse or neglect of a child, (d) the Department of Education and the Office of the Attorney General has a policy of zero tolerance in relation to the abuse, neglect and exploitation of children.

<sup>19</sup> The Policy for the Protection of Children in all Educational Institutions in Tuvalu has the following objectives: (a) promoting the well-being, safety and respect of dignity of children within a framework of best international educational practice, and in accordance with the principles of the UN Convention on the Rights of the Child; (b) creating a fun and safe learning environment for all children regardless of age, culture, ability, gender, language, racial origin or religious belief; (c) prescribing processes for all rational steps to be taken to protect children from harm, bias and humiliating treatment; (d) ensuring that respect is given to the rights, opinions and wishes of children in Tuvaluan school imposing obligations on all Principals, teachers and all school employees to report the abuse, exploitation or neglect of children at Tuvaluan Schools, and ensuring that such school staff are provided with appropriate support and protection when such reports are made; (e) respecting the rights of parents when action is required to be taken under this Policy; and, (f) providing assistance and guidance to each school and educational institution when applying and enforcing this Policy

18. The *Policy for the Protection of Children in all Educational Institutions in Tuvalu provides*<sup>20</sup> for implementation processes that include enforcement of the Policy; appropriate and necessary action and intervention; commitment to child protection; mandatory background checks for all school staff; zero tolerance of child abuse or exploitation; inclusion of parents and guardians in activities outside the school compound; confidentiality and proper storage of student file.<sup>21</sup>

### Coordination

19. In line with its commitments to the Convention on the Rights of the Child, Cabinet endorsed the establishment of a national coordinating body called the National Advisory Committee for Children's Rights (herein referred to as "NACCR") to provide oversight, advise and coordination for all national efforts on the reporting and implementation of the Convention on the Rights of the Child. The Committee consist of representatives from government ministries, non-government organisations, faith-based organisations, and child advocates.<sup>22</sup>

20. A Technical Working Group (TWG) has been established and it provides technical support to the NACCR. The TWG also performs other duties and responsibilities directed by the NACCR that is related to the reporting and implementation of the CRC.<sup>23</sup> The

<sup>20</sup> In addition, the Policy for the Protection of Children in all Educational Institutions in Tuvalu also states that the personal files must be updated regularly, and must include the following information: bio data; disciplinary records, statements from previous and current teachers regarding behaviour and attitude, details of family background, details of action taken under this Policy concerning the student (subject to any requirement of this Policy relating to the confidentiality and suppression of identity of the child or persons making reports under this Policy).

<sup>21</sup> Policy states that (a) all schools and other educational institutions must apply and enforce this Policy for the protection of all children, and for the identification, reporting and management of cases of child abuse, neglect and exploitation, in accordance with this Policy; (b) the Director of Education, Principals and school staff must take appropriate action in accordance with this Policy and provide intervention where abuse has already occurred; (c) it is mandatory for school staff to be committed to child protection, and to identify, manage and report incidents of child abuse, neglect or exploitation in accordance with this Policy; (d) recruitment procedures for all school staff must include checks to ensure that no adult with a proven or suspected child abuse or exploitation background is employed as a teacher or member of the school staff, or as an officer of the Department of Education entrusted with the care or oversight of children at any time and in any manner; (e) all Tuvaluan schools and educational institution must demonstrate zero tolerance of child abuse or exploitation perpetrators, including those who possess or have access to child pornography or use children to traffic contraband, and those who sell or induce children to use illicit drugs and other harmful substances; (f) any teacher, school staff or officer of the Department of Education who is alleged to have violated this Child Protection Policy is liable to be immediately suspended without pay pending the outcome of an investigation; (g) all parents and guardians must be advised of activities or events that may take students outside the school compound, and sign a consent note pertinent to the precise activity or give written permission by other means; (h) homes of students who take undue periods of sick leave, or who appear to have days off recurrently for injuries or unexplained reasons, must be visited and reports sent to the Director of Education for monitoring and intervention advice; (i) students' personal information (whether written, visual or oral) must be treated in a respectful and careful manner; and (j) all schools and educational institutions must maintain a personal file for each student.

<sup>22</sup> The Terms of Reference establishes the membership and functions of the National Advisory Committee on Children's Rights that: (a) in collaboration with the Office of the Attorney General and Ministry of Education, Youth and Sports with support from UNICEF Pacific incorporate into the draft Child Protection and Welfare Bill and Child Protection Policy in Schools, feedback and comments from key stakeholders, b) the Draft Child Protection Bill and the Draft Child Protection Policy in Schools that take into consideration all other relevant existing child protection related laws in Tuvalu that affect the welfare and best interests of children in Tuvalu; (c) the draft child protection bill and the draft child protection policy in schools must address children living with disabilities, adolescent young people and the girl child, to ensure their protection and care including times of disaster and emergencies.

<sup>23</sup> The Technical Working Group is also responsible for providing technical support to the NACCR on CRC reporting and implementation. The NACCR works directly with line-ministries in identifying issues to be discussed at NACCR meetings and coordinating and facilitating preparations for the NACCR meetings. The TWG also work as an advisory role advising the Minister and members of the

NACCR is responsible for overall national coordination of the CRC in Tuvalu.<sup>24</sup> The NACCR consists of representatives from government, non-government organizations, schools, educational institutions, regional organizations, students and Island Council.<sup>25</sup>

### Allocation of resources

21. The Government of Tuvalu in partnership with the Australian Aid through the Australia Volunteers International Development have employed a Child Protection and School Safety Officer (Technical Adviser) to volunteer and to provide support to the Senior Education Office (Safe Schools and Child Protection) particularly on the implementation of the policy in schools.<sup>26</sup>

22. Furthermore, the Office of the Attorney General in partnership with UNICEF Pacific (Child Protection Division) have established a Child Protection Desk and have employed a Child Protection Manager who is mandated to manage, coordinate and facilitate the child protection program and activities in Tuvalu.<sup>27</sup>

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NACCR. In consultation with the Office of the Attorney-General, provides support for research, consultation and other work required for the development of new or amendments to policies, guidelines and others relating to children. The TWG also work with UNICEF and other development partners where technical or other support is needed. The TWG also prepares briefing minutes and notes and other information for NACCR when required/necessary, on issues relating to child rights. In addition, the TWG also conducts other work deemed necessary to ensure that it functions in an effective manner.

<sup>24</sup> NACCR is established to: (a) coordinate the drafting of the Government's report on the CRC to the Committee on the Rights of the Child (CRC Committee); (b) undertakes national consultations with relevant stakeholders on draft CRC reports; ensure that all Government CRC reports are submitted and endorsed by Cabinet; (c) ensure the official submission of all Government CRC reports to the CRC Secretariat in Geneva; (d) coordinate the Government's response to the list of issues and any other communication with the Committee on the Rights of the Child and other international human rights mechanisms; (e) facilitate the preparation of the Government delegation for constructive dialogues with the CRC Committee, including seeking technical support from development partners for mock sessions and other support needed; (f) coordinate and monitor national implementation and follow up of the concluding observations/comments and recommendations from the CRC Committee; (g) coordinate national awareness on the CRC and child rights in general; (h) provide advice to Cabinet/Parliament on issues relating to children and to carry out other duties as is necessary for CRC reporting and implementation.

<sup>25</sup> Permanent Secretaries or representatives from the Ministry of Education, Youth and Sports; Office of the Attorney-General; Ministry of Health, Statistics Department, Gender Affairs Department, Ministry of Finance & Economic Development, Office of the Judiciary, Tuvalu Police Service, Ministry of Public Utilities, representative from Fusi Alofa, Red Cross, TufHA, TANGO, Principals of Nauti Primary School, Seven Day Adventist School, Fetuvalu High School, University of the South Pacific, Kindergarten school representative, Youth Officer, Gender Officer, Cultural Officer, Office of the People's Lawyer, Senior Aid Advisor, Social Welfare Officer, Domestic Violence Police Officers, Director of Environment, Media Corporation, Labour Officer, churches and other religious institutions, child representative – Head Boy and Head Girl, RRRT representative and Kaupule Officer responsible for education and other issues relating to children.

<sup>26</sup> The Child Protection and School Safety Officer activities include: (a) contributing to the new Child protection and School Safety policies and its rollout to the schools; (b) identify gaps in the policies and processes and procedures and feedback to relevant parties including UNICEF TA Child protection; (c) assist in establishing the role of the School Safety and Child Protection unit to understand new policies, processes and procedures; (d) work with the staff to monitor and evaluate the progress of service delivery; (e) work with UNICEF TA for Child protection to assist the unit in their contribution to policy development; and; (f) work with stakeholders regarding child protection and safe schools.

<sup>27</sup> The Child Protection Office is mandated to: (a) support the NACCR and its TWG on the coordination of Child Protection work plan and activities; support the conduct of the child protection Baseline research; (b) support the elaboration of the Child Protection Bill and Child Protection Policy in Schools; (c) support the development and implementation of communication activities related to the Child protection research, bill and policy; (d) support the implementation of costed plans for action for the Child Protection and Welfare Bill and Policy; (e) monitor and report on the implementation of UNICEF – supported activities in the 2017–2018 work plan. The Child Protection Manager is based with the Office of the Attorney General.



23. Further, the Ministry of Education has included and incorporated child protection in the – Child Protection incorporated in Minimum Quality Service Standard which was endorsed by cabinet. Additionally, a budget allocation has been provided for children’s education under the Ministry of Education Youth and Sports. In addition, the report notes that the Ministry of Home Affairs and Rural Development and the Ministry of Education Youth and Sports continue to provide on-going financial and technical support to the overall function and work activities of Fusi Alofa (National Disability Organization) and national kindergarten schools.

### Data collection

24. The Tuvalu Education Department (Ministry of Education Youth and Sports) with technical assistance from the South Pacific Community (SPC) and UNICEF Pacific and financial assistance from the Australian Government (DFAT) produced the *Education Department 2015 Statistical Report*.<sup>28</sup>

25. The Statistical Report 2015 report is produced by the Education Department (herein referred to as “EdDep”) within the Ministry of Education, Youth and Sports (herein referred to as “MEYS”). Further, the Education Department’s policy interventions are nested within the Tuvalu Education Strategic Plan (herein referred to as “TESP II”), a five-year plan for 2011–2015.

26. In addition, Tuvalu contributed to the set of global assessments undertaken by UNESCO to help frame the vision for the post-2015 agenda. This agenda was presented to over 190 Member States attending the 37th session of UNESCO’s General Conference. Along with the EFA Global Monitoring Report, these country assessments were also shared at a global education forum in Korea in 2015 and fed into the definition of the new global education agenda. This national report<sup>29</sup> recognizes that the post-2015 agenda will be a useful resource for countries like Tuvalu as it embarks on evidence-based policy and planning, monitoring, evaluation and reporting of its new sector plan.<sup>30</sup>

27. The total number of teachers in Tuvalu is 233, spread across all nine islands.<sup>31</sup> Education is compulsory until the end of the year the child turns 15, generally two years after primary school.<sup>32</sup> In the past, children failing the national examination in Form 2

<sup>28</sup> The 2015 Statistical Report contains indicators, statistics, and summary analysis for key objectives. Strategic activities are aimed at achieving the following objectives: (a) improve the relevance and quality of the curriculum; (b) improve student achievement through provision of more transparent assessment practices; (c) increase access and student participation at all levels; (d) provide infrastructure and programme to increase access and students’ participation; (e) improve the efficiency of management at all levels of administration, improve the efficiency of data collection and management, improve the management of qualifications at the national and regional levels; and (f) improve the quality of teaching.

<sup>29</sup> In addition to national goals, the Education Department will use the data and indicators from the Statistical Report 2015 to report on regional (Pacific Island Education Development Framework) and international (EFA and Sustainable Development Goal) frameworks. The Government of Tuvalu notes that achieving these reporting requirements is a major challenge. The Education Department works closely with the Secretariat of the Pacific Community (“SPC”), the Education Quality and Accountability Office (“EQAP”), UNESCO Institute of Statistics (“UIS”) and UNICEF Pacific to strengthen TEMIS across the four EMIS areas namely: (a) enabling environment, (b) system soundness, (c) quality data and (d) utilisation for decision-making.

<sup>30</sup> The indicators included in the Statistical Report 2015 are aligned with the priority outcomes of TESP II and calculated based on UNESCO Institute of Statistics (UIS) technical guidelines and definitions. UNESCO has also supported the development of Education for All (EFA) country assessments, which have taken stock of progress since 2000 and reflected on the future needs and challenges of individual countries. In addition, UNESCO conducted a comprehensive review in February 2015 in Tuvalu to track progress towards achieving the six EFA goals.

<sup>31</sup> 2015 Statistical Report.

<sup>32</sup> Primary education consists of eight years of schooling (Classes 1 to 6, and Forms 1 and 2). There are 10 government primary schools, one on each island, and a faith-based (Seventh Day Adventist) primary school in Funafuti. In 2015, there were 3,172 pupils (students) enrolled in early childhood care and education (ECCE) and primary, secondary and special schools, as well as in technical and vocational education and training (“TVET”) programmes. A TVET stream has been added to the

(Year 8) were required to repeat Form 2 and re-sit the examination until they passed or reached the age of 15. With the introduction of the TVET stream in secondary school education, there is now an alternative learning pathway for these students.

### Independent monitoring

28. The Government of Tuvalu has in place the National Human Rights Institution Act 2017. The *National Human Rights Institution Act 2017 proposes* to provide support for the promotion and protection of human rights and fundamental rights and freedoms for the people of Tuvalu.

29. The National Human Rights Institution Act 2017 is aimed at providing a relevant mechanism to ensure the full promotion and protection of fundamental freedom. The Act aims at allowing access to a government system that will address abuse of human rights and fundamental freedoms.<sup>33</sup> The primary functions of the National Human Rights Institution Act 2017 of Tuvalu are: (a) to advocate and promote respect for, and understanding and appreciation of, human rights in Tuvaluan society; and (b) to encourage the maintenance and development of harmonious relations between individuals and among the diverse groups in Tuvaluan society.<sup>34</sup>

30. The *Leadership Code Amendment Act 2017* proposes to include more powers and functions to the Ombudsman's Office in relation to the delegation of duties for the national human rights institution. This will mean more responsibilities and powers will be given to

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primary school curriculum for the past two years to provide an alternative learning programme for students who may not excel academically.

<sup>33</sup> Additionally, the purpose of the Act is to recognise, respect, protect and fulfil the dignity of humankind enshrined in the Constitution and international human rights law sustaining a foundation of a fair, just and sustainable and peaceful society and establish a National Human Rights Institution and its Officers for the purposes of administering the provisions of this Act and related laws.

<sup>34</sup> Additionally, the National Human Rights institution of Tuvalu has, in order to carry to its primary functions under subsection (1), the following functions: to inquire into alleged violations of human right including by: (a) investigating oral or written complaints of its or practices, whether governmental or non-governmental, which allegedly violate human rights in Tuvalu and endeavouring to effect a settlement of matters giving rise to the complaint; (b) inquiring into, and reporting on, widespread, systemic or entrenched acts or practices which allegedly violate human rights in Tuvalu where the Ombudsman is of the opinion that the act or practice is inconsistent with or contrary to any human right; to visit all public and private places of voluntary and involuntary confinement or detention and where the Ombudsman is of the opinion that any act or practice related to confinement or detention is inconsistent with or contrary to any human right, to report to the Minister of Police and Prisons and to Parliament accordingly; where judicial proceedings involve human rights issues, and the Ombudsman considers it; appropriate to do so, to intervene in proceedings or seek leave to participate as a friend of the court with the leave of the court hearing proceedings and subject to any conditions imposed by the court; to receive and inquire into matters referred by a Court; to appear in or bring proceedings under this Act before a Court; to advocate and promote respect for, and an understanding and acceptance, in the public discussion, of human rights in Tuvalu including through undertaking and the provision of information and education; to receive and invite representations from members of the public on any matter affecting human rights; to consult, engage and cooperate with other national, regional and International human rights bodies; to monitor and promote compliance with international and domestic human rights law, on its own initiative and when requested by the Minister, including by: reporting to Parliament: (a) making recommendations as to the desirability of Tuvalu becoming a party to an international human rights instrument; (b) reviewing existing and proposed legislation or reviewing other laws for consistency with international human rights law and recommending additional legislative and other measures to protect human rights; (c) advising the Government on its reporting obligations under international human rights instruments and on the content of those reports; (d) providing information on the international human rights system, including the Human rights council and its mechanisms and the human rights treaty monitoring bodies; (e) advocating for Tuvalu to become a party to an International human rights instrument; and (f) to promote the development of new international instruments on human rights; (g) to advise on any matter referred to the Ombudsman by the Government, having regards to the available resources and priorities of the Ombudsman; (h) to do anything incidental or conducive to the performance of any of the functions in this section or carry out any other human rights functions under this Act.

the Ombudsman in order to be able to carry out its duties outlined in the NHRI Act. The proposed amendment also recognizes the continuance of theories and functions of the Ombudsman as to the protection and promotion of human rights in Tuvalu.

### **Dissemination, awareness-raising and training**

31. The delegation from the Government of Tuvalu assures the Committee that the preparation for this national report involved coordinating and facilitating national and outer island consultations. To date the Office of the Attorney General and the Ministry of Education, Youth and Sports has conducted outer islands<sup>35</sup> consultation on the *Convention on the Rights of the Child, Convention on the Rights of the Child National Report, Child Protection and Welfare Bill 2017* and the *Policy for the Protection of all Children in Educational Institutions in Tuvalu*.<sup>36</sup> In addition to the above, ongoing work by the Government of Tuvalu to the outer islands has also included human rights particularly the rights of persons with disabilities, gender, climate change and development. In addition, UNICEF Pacific Regional office also provided the Office of the Attorney General with information packages, tool kits, funding support for a chartered boat to conduct the outer island consultations and awareness programs, support two Technical Advisers to guide the overall consultations.<sup>37</sup>

32. Additionally, the Department for Education have started coordinating and facilitating training awareness programs for senior staff members on the CRC. The purpose of the training and awareness programs is to equip staff members with information and knowledge and to also inform them on how to apply and implement the principles of the CRC in their work and activities.<sup>38</sup>

33. In addition to the above, the Government of Tuvalu also recognizes and supports the 16 days of Activism on Ending Violence Against Women. The 16 Days of Activism includes awareness on human rights, gender, inclusive sports, quiz and awareness on violence against children, legal rights including the protections under the Family Protection and Domestic Violence Act. In addition, the 16 Days of Activism awareness includes the involvement of the government departments,<sup>39</sup> community leaders, church leaders, school students (primary and secondary), persons with disabilities, youths, and other regional partners.

## **B. Definition of the child**

34. The Government of Tuvalu in keeping with its commitment and obligations under the Convention on the Rights of the Child and in ensuring that children are protected<sup>40</sup> has raised the age of marriage to 18 years. The new age of marriage is consistent with the CRC.

<sup>35</sup> Vaitupu, Nanumea, Nanumaga, Nui, Niutao, Nukulaelae Nukufetau and Nuilakita.

<sup>36</sup> The outer island consultations included representatives from the Island Kaupule, island magistrate, church leaders, women groups, youth groups, students from the island primary and secondary schools, persons with disabilities, health officials, teachers, parents, police officers.

<sup>37</sup> In addition to the above, as part of National Advisory Committee on Children's Rights resolution in its meeting in June 2015, was to coordinate awareness and training on the Convention on the Rights of the Child and other related matters. The NACCR has been working in close partnership with Office of the Attorney general in the coordination and delivery of outer island consultations. Furthermore, the NACCR has also tasked the Department for Education department to request assistance from UNICEF and other donor partners to assist in awareness and trainings with focus on the outer islands.

<sup>38</sup> Also, the Government of Tuvalu celebrates and supports the White Ribbon Day awareness and campaign that is coordinated and conducted by the Tuvalu Police Service on a yearly basis. The White Ribbon day awareness and campaign targets all parts of the community including schools and other educational institutions. The White Ribbon awareness and campaign also targets community leaders, church leaders, youths, women, persons with disabilities and relevant government Ministries and Departments.

<sup>39</sup> Office of the Attorney General, Police, Judiciary, Health, Education, Finance, Foreign Affairs, Community Affairs, Aid Office.

<sup>40</sup> The Government of Tuvalu informs the Committee that this is also consistent with the principles of the convention on the rights of the child particularly on the age of a child.

Additionally, the Policy and the Child Protection and Welfare Bill defines a child as a person who has not reached the age of 18 years. *The Marriage (Amendment) Bill 2016* was tabled in parliament with the aim of increasing the age of marriage from 16 years–18 years and to allow for parental consent for marriage of any person under the age of 21.<sup>41</sup>

35. In addition, the Government of Tuvalu notes that other laws that are discriminatory will be amended to ensure alignment and compliance with our obligations to the CRC. Additionally, the Government of Tuvalu informs the Committee that the right given to the father to solely decide on matters relating to children is now removed and is now shared between both the mother and father under the Marriage (Amendment) Act 2016. Additionally, other amendments to be compliant with CRC include the Island Courts Amendment.

## C. General principles

### Non-discrimination

36. The Government of Tuvalu recognizes that the Constitution is relatively silent on gender, disability and birth and notes that there is some resistance to recognizing women as full participants in the political and economic spheres. There are other gender issues related to traditional rights, such as the fact that fathers get automatic custody of children.<sup>42</sup>

37. A Constitutional review is currently underway and significant to the proposed Constitutional changes is the inclusion of gender and disability as a non-discrimination ground. The Government of Tuvalu notes that adding gender and disability to the non-discrimination clause of section 27 is consistent with Tuvalu’s international obligations under the Convention on the Elimination of all forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities.<sup>43</sup>

### Best interests of the child

38. The Labour and Employment Relations Act 2017 recognizes the principle of ‘the best interest of the child’ particularly the incorporation of Paternity and Adoption Leave in the Act (section 31 and 32).

39. The Labour and Employment Relations Act 2017 also provides guidance on the employment of young people. Under *Part 3: Employment of Young Persons* of the Labour and Employment Relations Act 2017 section 43 (*minimum age of employment*) states that a child who has not yet completed the calendar year of schooling in which he or she reaches the age of 15 years must not be employed or work in any capacity, except in light work. It further states that work engaged in by a child under the age of 16 years in schools, as part of an authorized program of education or training, will not be in contravention. It also states that if a child has been employed, it is the responsibility of the employer to ensure that the consent of a parent has been obtained, and the employer must produce evidence of such consent if requested to do so by an authorized officer.<sup>44</sup>

<sup>41</sup> The amendment to s5 of the Marriage Act now reads “the minimum marriageable age shall be 18. A marriage solemnised between persons either of who is under the age of 18 shall be void”. The Amendment was passed in 2016. Section 30 (1) of the Child Protection Bill states that for all purposes under the law, and despite the provision of any law to the contrary, both male and female children may not lawfully marry until they have reached the age of 18 years. Section 30 (2) states that this section does not affect the validity of any marriage that was lawfully entered into prior to the coming into effect of this Act, if the marriage was lawful at the time it was entered into.

<sup>42</sup> Native Lands Act, Sec. 20(2).

<sup>43</sup> The Government of Tuvalu recognises that while sex is already a basis for non-discrimination under section 11, there is growing international recognition that gender is distinct from sex, and the protections of section 27 are arguably broader.

<sup>44</sup> Further, section 43 of the proposed labour and Employment Relations Act 2017 states that a child aged at least 15 years under the prescribed minimum age of employment must not be employed or work in any capacity except light work that: (a) is unlikely to be harmful to the health and development of the child; (b) will not affect the child’s school or vocational training attendance; (c)

40. Part 5 of the Labour and Employment Act 2017 provides for equal employment opportunities. Section 50 (*Prohibition of discrimination*) provides for non-discriminatory section in the area of employment. Section 50 of the Act states that “*an employer shall not discriminate, directly or indirectly, against any employee or prospective employee in respect of recruitment, training, promotion, against any employee or prospective employee to recruitment, training, promotion, terms and conditions of employment, termination of employment, or other matters arising out of employment relationship, for a prohibited reason.*”<sup>45</sup>

41. The Government of Tuvalu has in place laws and policies that accord children with opportunities to have a voice in issues and matters that affect them. The Tuvalu National Youth Policy 2015–2019 provided an opportunity for youths in Tuvalu to discuss and voice their concerns on issues directly affecting them. It also involved discussions with national and traditional leaders on youth related issues. The Policy illustrates the commitment and recognition of the Government and the society as a whole to empower its youth, regardless of race, religion, gender and disabilities.<sup>46</sup>

42. Furthermore Section 11 (2) of the Family Protection and Domestic Violence Act 2014 states that the complainant or another person with information about domestic violence may file a complaint of domestic violence with the Police and that a complainant child may be assisted by another person to file a complaint of domestic violence with the Police.<sup>47</sup>

43. Furthermore, the *Custody of Children Act s3 (1) (a) (b) (2)* states that where custody orders are concerned the court may on application by or on behalf of any person make such order regarding: (a) the custody of any child; and (b) the right of access to the child of his mother or father, as the court thinks fit having regard to the welfare of the child and to the conduct and wishes of the mother and father.<sup>48</sup>

44. Additionally, the *Island Courts Act – 8 (2)* states that although child is defined as person under 14 years, this has been amended to increase the age of 14 years to 18 years making it compliant with the age requirement of the child under the Convention on the Rights of the Child.<sup>49</sup>

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will not affect the child’s ability to benefit from schooling or vocational training; and (d) complies with any other requirements for light work specified in regulations. Additionally, the Minister may make regulations setting out the requirements for light work, including permitted times and hours of work, the activities that may be carried out and the conditions under which these activities may be performed. The proposed bill also states that an employer who breaches this section commits an offence.

<sup>45</sup> In addition, sub section 2 further states that, a prohibited reasons is a reason that is affected by any of the following attributes of the employee or prospective employee, whether actual or perceived: ethnic origin, race, colour, national extraction, social origin, social class or economic status; or gender, sex, pregnancy, marital status, sexual orientation or family responsibilities; or age, state of health, HIV/AIDS status, or disability; or religion or political opinion; or trade union membership or activity; or involvement in any dispute, an investigation or legal proceedings.

<sup>46</sup> The commitment of the Policy aim is to: (a) provide every opportunity to develop the personal, physical, social, economic, mental and spiritual potential of youth; and (b) encourage them to positively participate in the nation building and to shape their future. The Policy stresses the need for the government departments, non-government organisations’, churches, the private sector and the community to make concerted efforts to address issues affecting the lives of youth.

<sup>47</sup> In addition, Section 29 of the Family Protection and Domestic Violence Act 2014 states that a protection order granted by a Court automatically protects any child of the victim’s family.

<sup>48</sup> That before making a custody order the court shall make a full enquiry into all the circumstances and shall call for any evidence or report it may in the interests of justice consider necessary and in exercising jurisdiction under this section, the court shall regard the welfare of the child as the first and paramount consideration.

<sup>49</sup> In addition, section 8 under the Treatment of young offenders states that unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say – “child” means any person under the age of 14 years; “young person” means a person who has attained the age of 14 years and is under the age of 17 years. (2) No island court shall impose imprisonment on any child.

## D. Civil rights and freedom

### Birth registration

45. Discussions with the Birth Registrar noted that the registration rate among children on the outer islands is in fact higher than that on the capital. Reports from the Registrar noted an increase in registration since early 2015 given that schools have been strictly advised as part of their enrolment that birth certificates are official documents required for enrolment. This has allowed for identification of children who were not registered. Therefore, late registration is processed for children who were not registered at birth with a fee of \$4.00 for the application.<sup>50</sup>

46. The Registrar for Births as part of its ongoing efforts to include everyone, with the support from the Office of the Attorney General funded travel of the Registration Officer and a Crown Counsel to Nauru and Kiribati with the purpose of collecting and recording births; death and marriages of Tuvaluan's in Nauru and Kiribati.<sup>51</sup> Furthermore, the Office of the Attorney General has finalised a plan to provide for compulsory registration.<sup>52</sup>

47. The Government of Tuvalu has plans to conduct a Child Protection Baseline Survey in the first quarter of 2018. The Office of the Attorney General has through UNICEF received funding for child protection activities for Tuvalu and will be undertaking this initiative. It is envisaged that the child protection baseline will include all outer islands and will focus on child protection issues facing children of Tuvalu. It is envisaged that the child protection baseline will be facilitated to collect information on the situation with regard to child protection issues, as well as existing responses, with a view to using this information as a basis to establish/strengthen the child protection system, and to measure progress over the years.<sup>53</sup>

### Freedom of thought, conscience, and religion

48. Freedom of thought, conscience and religion is guaranteed in the Constitution and all other relevant laws and now informs the Committee that the Constitution of Tuvalu allows for freedom of religion. *Section 23 (2) (a) (b) (c) of the Constitution of Tuvalu – Freedom of belief* states that for the purposes of this section, freedom of belief includes – (a) freedom of thought, religion, and belief; and (b) freedom to change religion or belief; and (c) freedom, either alone or with others, to show and to spread, both in public and in private, a religion or belief, in worship, teaching, practice, and observance.<sup>54</sup>

<sup>50</sup> Also, the Registrar of Births has been doing media and community awareness on capacity building on the importance of registering children immediately after birth and to avoid the encouragement of late registration. Important to note is that outer island follow up on registration is facilitated by the island registrars.

<sup>51</sup> This is an ongoing initiative to ensure that Tuvaluan's are registered and have access and ownership to legal birth certificate. In addition, the government delegation also processed late registrations whilst collecting and recording births, deaths and marriages of Tuvaluan's in Nauru and Kiribati. It is envisaged that there will another follow-up on a two year period bilateral visit to update the birth, death and marriage records.

<sup>52</sup> This plan includes ensuring that the Princess Margret hospital is mandated to for issuing copies of the Birth Notification Information for: (a) parents, (b) Kaupule, and (c) Birth Registration Officer. The receipt of the birth notification by the registration officer will ensure immediate and complete registration.

<sup>53</sup> Further, to the above the Government of Tuvalu will continue to work towards improving its statistics and data including a comprehensive data on birth registration, mapping of deficient and to also identifying measures to address the deficiencies. Currently, the Office of the Attorney General is responsible for all birth registration in Tuvalu. It is expected that the Princess Margret Hospital will on birth start the registration process and formally lodge it with the Attorney General's Office. Parents of new born babies have the onus and responsibilities to ensure that all children born are officially registered with the birth and registration office.

<sup>54</sup> In addition, the Government of Tuvalu notes the concerns of the Committee and informs the Committee that although the short title of the Religious Organisation Restriction Act is deemed to have a purpose of restricting Religious Organisations/Associations in a manner which undermines the traditional authority of the Falekaupule and the traditional values of island communities. Section 4 (3)

49. The Government of Tuvalu notes that ongoing dialogue is continuous with local communities and other religious and faith based organizations nationally. Additionally, the Constitutional Review Committee is also holding discussions internally and externally on the above issue. Additionally, *Section 19 (1) (2) (3) of the Education Act-Religious instructions in schools* clearly states that all non-Government and Local Government schools shall include religious instruction in their curricular.<sup>55</sup>

### **Right to privacy**

50. It is standard practice that any party to a court proceeding have the liberty to apply to the court to withhold or to suppress the identity of a juvenile. The Constitution of Tuvalu allows for the recognition of the right to privacy. Section 21 of the Constitution states that except with his consent no-one shall be subjected to the search of his person; or the search of his property or entry by others on his property.<sup>56</sup>

## **E. Violence against children**

### **Corporal punishment**

51. *Section 29 of the Education Act* states that no teacher, other than a head-teacher, shall administer corporal punishment to any pupil.<sup>57</sup> *Section 29 of the Education Act* has been repealed in its entirety as it contradicts the principles enshrined in the CRC in protecting and respecting the rights and dignity of children. The amendment prohibits corporal punishment in any form and manifestation. The *Island Court (Amendment) Act No 5 of 2017* provides protection for children within the island court setting on the treatment of young offenders. The amendment is aimed at abolishing physical punishment as a form of criminal sentence by the Island Courts.

52. Awareness campaigns have been carried out in schools in Funafuti and Vaitupu on school bullying and corporal punishment. This was conducted by the Gender Affairs Division of the Government of Tuvalu in June 2016. Additionally, the police during *White Ribbon* day conducted awareness program on all forms of violence (particularly domestic and child violence).

53. Furthermore, the Education Department will work with the Department of Foreign Affairs and Trade and UNICEF to fund a Technical Adviser to assist in designing and developing policies and frameworks on Child Protection. Additionally, an AVID volunteer will be assigned to work with and assist the Senior Education Office (Safe Schools and Child Protection) on the implementation of both the proposed bill and policy in schools. The Office of the Attorney-General has been approached to undertake the task with the assistance of UNICEF on participatory forms of child rearing.

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of the Act also provides that a Falekaupule shall not withhold approval for the establishment of any religious organisation/association unless it is satisfied that the spread of such beliefs and practices may directly threaten the values and culture of the island community. In addition, it is important to note that where conflict between the application of the provisions of the Constitution and that of the Religious Organisation Restriction Act, the provisions of the Constitution prevails.

<sup>55</sup> Further, teachers shall not be compelled to give or be present at any act of religious worship if to do so would be against the dictates of their consciences. Additionally, the Act also states that if a parent of any pupil requests that such pupil be wholly or partly excused from attending religious instruction or any act of religious worship in a school the pupil shall be excused such attendance wholly or partly as the case may be.

<sup>56</sup> In the matter between Regina v Katesa involving a minor as victim of a sexual offence committed by the accused was a family member of the victim. The prosecution in the case mentioned applied to the court asking for a closed court hearing stating that because the child was a minor, the identity, welfare and best interest of the child needed to be respected and protected. The court approved the application made by the prosecution.

<sup>57</sup> Additionally, if a head-teacher administers corporal punishment to any pupil, he shall record details of the punishment administered and the offence for which the corporal punishment was administered in a book to be kept at the school for that purpose.

### **Abuse and neglect**

54. The Family Protection and Domestic Violence Act 2014 defines a child as a person under the age of 18 years keeping in line with the Convention on the Rights of the Child.<sup>58</sup> Section 24 of the Family Protection and Domestic Violence Act 2014 clearly provides for matters that need to be considered where a conciliation conference is ordered.<sup>59</sup> In addition to the above, section 29 of the Family Protection and Domestic Violence Act 2014 provides for an automatic protection of child and a protection order granted by a Court automatically protects any child of the victim's family.

55. Further to the above the proposed Child Protection and Welfare Bill provides for a comprehensive law that will take into account matters concerning children. The proposed Child Protection and Welfare Bill also outlines the specific powers and duties of relevant government stakeholders in ensuring that all children in Tuvalu are protected.<sup>60</sup>

56. In addition to the above, the Penal Code s226 (2) (a) (b) states that a parent or other person legally liable to maintain a child or young person shall be deemed to have neglected him in a manner likely to cause injury to his health if he has failed to provide adequate food, clothing, medical aid or lodging for him; where it is proved that the death of an infant under 3 years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the infant) while the infant was in bed with some other person who has attained the age of 15 years, that other person shall, if he was, when he went to bed, under the influence of alcohol, be deemed to have neglected the infant in a manner likely to cause injury to its health.<sup>61</sup>

### **Sexual Abuse**

57. The Government of Tuvalu is currently working on a Cyber Crime Bill that defines a child as someone under the age of 18 years. Child pornography under the draft Cyber

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<sup>58</sup> The Court or a person who exercises a power or performs a function under this Act must apply the following principles when exercising jurisdiction under this Act: ensuring as far as possible that accommodation and maintenance needs of victims and any dependent children are given the highest priority; and (iii) contribute, where possible, to the rehabilitation of the victim and any dependent children.

<sup>59</sup> The following matters must be considered: child custody of and access arrangements; safety of victim and children and risk management; accommodation and living arrangements of members of the household; maintenance for victim and children; safety of property and arrangements for personal property; reconciliation; counselling and intervention programmes provided by relevant registered institutions, registered counsellors, church groups, or traditional mediators; counselling programmes to assist the defendant; other support service requirements for the victim and children; separation or dissolution of marriage; and the respondent's participation, where possible, in the rehabilitation of the victim.

<sup>60</sup> The proposed Child Protection and Welfare Bill mandates the Tuvalu Police Service to: apply special requirements when children are investigated and interview; the need for special training for police officers when dealing with child offenders is noted; bail for child offenders is provided for; appropriate places of detention must be used for child offenders who are not released on bail; child offenders in custody of police must be kept separate from adults; the parents must be advised if a child is placed under arrest; the Police Commissioner is to receive reports of sexual abuse or exploitation of children. all police officers are under a duty to report abuse or violence towards children; Police assistance is to be provided to protect children from harm; the police are to receive reports concerning child welfare and children in need of care and protection; the duties of police in relation to children in need of care and protection are provided for; the police can receive referrals from the Minister or the AG in relation to children in need of care and protection; police can execute warrants to take children to a place of safety under the emergency protection powers; powers to protect children who are in immediate danger are provided for; police are to provide assistance when a child is in need of emergency care and protection; duties to keep information confidential apply to the police; police are given rights to make use of information in the course of their duties; it is an offence to obstruct a police officer; regulations can give additional powers to police officers.

<sup>61</sup> In addition, section 226 (3) (a) (b) states that a person may be convicted of an offence notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person; notwithstanding the death of the child or young person in question.



Crime Bill is defined as “material that (a) depicts or presents a child engaged in sexually explicit conduct; or (b) depicts or presents a person appearing to be a child engaged in sexually explicit conduct; or (c) realistically represents a person appearing to be child engaged in sexually explicit conduct; this includes, but is not limited to, any visual (images, animations or videos) audio or text material.”<sup>62</sup>

58. Furthermore, section 156 (5) of the Penal Code has been amended to protect the interest of the child in line with the Constitution of Tuvalu. The amendment now reads any *female of or above the age of 18 years who with consent permits her grandfather, father, brother, or son to have sexual intercourse with her knowing him to be her grandfather, father, brother or son as the case may be shall be guilty of a felony and shall be liable to imprisonment of 7 years.*<sup>63</sup>

59. In addition, Section 76 (3) Criminal Procedure Code allows for complaints to be made orally and directly to a magistrate.<sup>64</sup>

## **F. Family environment and alternative care**

### **Family environment**

60. The Ministry of Health provides health care services for every citizen of Tuvalu, including children whose parents cannot provide adequate care for them. As is Tuvaluan tradition the extended family plays an important role in the care of children to support children whose parents cannot take care of them. The community in general provides adequate support through church assistance which forms part of the extended family support. In addition, there is ongoing support provided to the families of these children through providing advice and education on how to provide good, quality care of these children.

61. The Police Force has a unit known as *Alo Ki Mua* Programs which allocate funds to support children by paying for uniform, books or school expenses, donation of sport equipment to assist parents who are unable to provide the necessary and essential material for parents. They also facilitate awareness programs for parents and guardians on good parenting and effective parenting skills.<sup>65</sup>

### **Children deprived of a family environment**

62. The Government of Tuvalu wishes to inform the committee that Tuvaluan custom and tradition dictates that the extended family will assume responsibility of children who

<sup>62</sup> In addition, the proposed Cyber Crime Bill section 11 states that a person who wilfully, without lawful excuse: produces child pornography for distribution through a computer system; offers to make available child pornography through a computer system; distributes or transmits child pornography through a computer system; procures and / or obtain child pornography through a computer system for oneself.

<sup>63</sup> In addition, given the obligation of the state to systematically review and revise relevant legislation to protect all children under 18 years, the legislative amendment seeks to establish the Penal Code Amendment Bill 2015. The provision as prescribed is contrary to the principles of Convention on the Rights of the Child which defines the child as a person under the age of 18 which delivers the message that protection from sexual offences should be guaranteed upon females at this tender age. The statutory adjustment would therefore provide that only a female on or above the age of 18 years who consents and permits such act of incest shall be criminalised accordingly as opposed to females of and above the age of fifteen years.

<sup>64</sup> Section (3) of the Criminal Procedure Code states that a complaint may be made orally or in writing, but, if made orally, shall be reduced to writing by the magistrate, and, in either case, shall be signed by the complainant and the magistrate.

<sup>65</sup> In addition to the above the Police, through the Domestic Violence Committee – known as *kaiga fiafia* (happy family) conduct house visit to violence prone household to provide the necessary and immediate support via advice and assistance. The violence prone households are those homes that encounter frequent domestic violence incidences include households that have neglected their children. Further, the Ministry of Home Affairs and Rural Development has started conducting workshops on Effective Parenting in five communities in Funafuti. The Effective Parenting classes basically aim at teaching parents and guardians on how to be good parents to their children.

are deprived of a family environment. It is important to note that whilst Tuvalu may not have the alternative family care for children deprived of a family unit the extended family will intervene to care for the children deprived of a family environment.<sup>66</sup>

### Adoption and custody

63. The Government of Tuvalu informs the Committee that amendment has taken place with regard to adoption by virtue of *Adoption of Children's Act*. Section 5 of the Adoption of Children's Act has been amended to comply with best practices particularly that of the CRC. The amendment was made to accommodate the needs of Tuvaluan's living and migrating out of Tuvalu to have access to national adoption processes. The initial provisions provide a more expensive method for those Tuvaluan wanting to adopt children under this Act as they would have to meet the 'resident or domicile' criteria. The amendment provides a more flexible but limited way to enable citizens of Tuvalu who are also Tuvaluan natives to be able to apply for adoption orders in court.<sup>67</sup>

64. In addition to the above Section 7 of the Adoption of Children Act states that the welfare and interests of child to be paramount in all proceedings under this Act. Furthermore, section 10 of the Adoption of Children Act states that the Court has to be satisfied as to certain matters: no adoption order shall be made unless having made proper enquiries the Court is satisfied that:

- The applicants are of good repute and are fit and proper persons to fulfil the responsibilities of parents of the child to be adopted; and
- The applicants are suitable persons to adopt the child having regard to:
  - All relevant considerations, including age, state of health, education and religious upbringing of the child and of the applicants;
  - Any wishes that have been expressed by a parent or guardian of the child in an instrument of consent to the adoption with respect to the religious upbringing of the child; and
  - The welfare and interests of the child.<sup>68</sup>

65. Discussions are continuing on the ratification of the 1993 Hague Convention on Protection of Children and Cooperation in respect of Inter Country Adoption. In addition, a cost benefit analysis will need to be undertaken to ensure that appropriate budget is allocated to support this initiative.

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<sup>66</sup> The Government of Tuvalu will progressively realise the Guideline for the Alternative Care of Children by the next reporting cycle.

<sup>67</sup> The amendment also enables the court to make adoption order if at the time of applying for such order, either the child or at least one of the applicants is a Tuvalu native and a citizen of Tuvalu.

<sup>68</sup> Additionally, section 13 Adoption of Children Act empowers the court to discharge adoption orders:

The Secretary for Health, Education and Community Affairs may apply to the Court for an order discharging an adoption order, and the court shall make such an order if it is satisfied

- (a) The adoption order, or any consent for the purposes of the adoption order was obtained by fraud, duress or other improper means; or
- (b) There is some exceptional reason why, in view of the welfare and interests of the child, the adoption order should be discharged.

No order shall be made under this section if the Court is satisfied that to do so would prejudice the welfare and interests of the child.

Where the Court makes an order under this section, it may, at the same time or subsequently, make such other orders as it thinks necessary in the interests of justice or the welfare and interests of the child, including orders relating to:

- (a) The name of the child;
- (b) The ownership of property; and
- (c) The custody or guardianship of the child.

## G. Disability, basic health and welfare

### Children with disabilities

66. The Government of Tuvalu ratified the Convention on the Rights of Persons with Disabilities in 2013. The Government of Tuvalu also wishes to inform the Committee that the Office of the Attorney General in partnership with the Ministry of Home Affairs and Rural Development have completed the initial report<sup>69</sup> on the Convention on the Rights of Persons with Disabilities and has in place the Draft Tuvalu National Policy on Disability 2017–2021.

67. Additionally, the Draft Tuvalu National Policy on Disability 2017–2021 is completed and will be submitted to cabinet for official endorsement by the second quarter of 2018. The Draft Tuvalu National Policy on Disability sets out a comprehensive framework to address the needs and rights of persons with disabilities to improve the quality of their lives and their full and equal participation as empowered citizens. This is a reflection of Tuvalu’s vision of a disability-inclusive and barrier-free society where persons with disabilities are able to enjoy all human rights on an equal basis with others, and to live with dignity.<sup>70</sup> This also reflects the key principles and core values of the United Nations Convention on the Rights of Persons with Disability which Tuvalu acceded to in 2013, in particular the principles of non-discrimination, respect for inherent dignity, and full and effective participation and inclusion.

68. To date the Fusi Alofa School has one full time teacher assisted by four volunteers, all of whom are qualified local teachers. The school has a roll of 14 pupils who actually come in for classes, eight (8) are having classes in their homes (home visits) and 16 are in the adult learning classes.<sup>71</sup>

69. Both the *Child Protection and Welfare Bill* and the *Policy for the Protection on the Children in All Educational Institutions* for all children in Tuvalu is inclusive by nature taking into account the rights of children with disabilities.

70. In addition, section 9 of the proposed Child Welfare and Protection Bill 2017 (*special requirements applying to court proceedings involving children*) states that despite the provision of any other law to the contrary, court proceedings involving children must consider appropriate facilities and support must be provided to children with disabilities.<sup>72</sup>

<sup>69</sup> It is envisaged that the initial report on the Convention on the Rights of Persons with Disabilities will be formally be transmitted to the United Nations Committee on Persons with Disability by the first quarter of 2018.

<sup>70</sup> The Draft Tuvalu National Policy on Disability values the following: (a) respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons; (b) non-discrimination; (c) full and effective participation and inclusion in society; (d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; (e) equality of opportunity; (f) accessibility; (g) equality between men and women; (h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities and (i) uphold Tuvalu cultural and spiritual values that highlights inclusive family and communal life.

<sup>71</sup> Persons with disabilities in Tuvalu have been relatively put into a position of great disadvantage simply because they are neglected in the country’s school system, especially those who are born with disabilities. The Ministry of Education has recently included “inclusive education” in its educational program, however, this is still a long while before inclusive education can really be achieved. In its efforts to progressively achieve inclusive education, the Fusi Alofa has opened a school for Children with Disabilities, in 2011. The classes are held in the Fusi Alofa’s Office. Additionally, Fusi Alofa is currently working with the Department of Education to register the Special School, also the Fusi Alofa Strategic Plan for the Special School is currently a work in progress and will be finalised soon.

<sup>72</sup> s9 further states that in accordance with the following requirements: the hearing of the cases must be expedited and prioritised as far as is practicable; measures must be applied and enforced to protect the child’s privacy, including closed court proceedings and bans on publishing the child’s identity or any information leading to identification of the child; measures must be applied and implemented to protect the safety of children and their families, and to prevent intimidation and retaliation; children are entitled to have a parent, guardian, legal representative or other appropriate support person agreed to by the child, present with them at all stages of the court proceedings; child-friendly court

71. The *Policy for the Protection on the Children in All Educational Institutions in Tuvalu* is inclusive of children living with disabilities. Children as mentioned in the policy takes into account and also refers to and inclusive of children with disabilities.<sup>73</sup> The Policy states that all children in Tuvaluan schools are entitled to enjoy the rights and protections afforded to them under the CRC. All staff employed in Tuvaluan schools are responsible for the care, safety and protection of children in the school or educational institution. This responsibility extends to the identification and timely response to concerns regarding the possible sexual, physical, psychological and emotional abuse or neglect of a child.<sup>74</sup>

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procedures must be promoted and applied, including alternative arrangements for giving testimony such as the use of screens, video-taped evidence and closed-circuit television; social and legal counselling is to be provided where appropriate, and children must be given adequate information concerning the purpose and effect of the court processes; children must be fully accorded the right to effectively participate in any proceedings that affect them, to express their views, and to have those views given due weight; police officers, prosecutors, lawyers, social workers, community welfare officers and court officers are to receive specialised training in dealing with cases involving children; no proof of resistance to establish non-consent in sexual assault proceedings is to be required where the victim is a child; no corroboration of a child's evidence in criminal proceedings for sexual assault is to be required; the use of prior sexual conduct to establish non-consent in sexual assault proceedings involving a child is prohibited; expert evidence regarding patterns of disclosure or behaviour of children in cases involving sexual abuse is to be automatically admissible; and discriminatory provisions or processes applying to children are to be removed.

<sup>73</sup> The Department of Education has a policy of zero tolerance in relation to the abuse, neglect and exploitation of children. This Policy provides a framework for the protection, identification, managing and reporting incidents of child abuse in schools and educational institutions and whenever school activities and programs are conducted or provided.

<sup>74</sup> The Policy for the Protection on the Children in all Educational Institutions has the following objectives: promoting the well-being, safety and respect of dignity of children within a framework of best international educational practice, and in accordance with the principles of the UN Convention on the Rights of the Child; creation of a fun and safe learning environment for all children regardless of age, culture, ability, gender, language, racial origin or religious belief; prescribing processes for all rational steps to be taken to protect children from harm, bias and humiliating treatment; ensuring that respect is given to the rights, opinions and wishes of children in Tuvaluan schools; imposing obligations on all Principals, teachers and all school employees to report the abuse, exploitation or neglect of children at Tuvaluan Schools, and ensuring that such school staff are provided with appropriate support and protection when such reports are made; respecting the rights of parents when action is required to be taken under this Policy; providing assistance and guidance to each school and educational institution when applying and enforcing this Policy.

All schools and other educational institutions is mandated to apply and enforce the Policy for the Protection on the Children in all Educational institutions for the protection of all children, and for the identification, reporting and management of cases of child abuse, neglect and exploitation, in accordance with the Policy. The Director of Education, Principals and school staff must take appropriate action in accordance with the Policy and provide intervention where abuse has already occurred. It is mandatory for school staff to be committed to child protection, and to identify, manage and report incidents of child abuse, neglect or exploitation in accordance with this Policy.

Recruitment procedures for all school staff must include checks to ensure that no adult with a proven or suspected child abuse or exploitation background is employed as a teacher or member of the school staff, or as an officer of the Department of Education entrusted with the care or oversight of children at any time and in any manner. All Tuvaluan schools and educational institution is mandated to demonstrate zero tolerance of child abuse or exploitation perpetrators, including those who possess or have access to child pornography or use children to traffic contraband, and those who sell or induce children to use illicit drugs and other harmful substances.

Any teacher, school staff or officer of the Department of Education who is alleged to have violated this Policy for the Protection of all children in educational institutions in Tuvalu is liable to be immediately suspended without pay pending the outcome of an investigation. All parents and guardians must be advised of activities or events that may take students outside the school compound, and sign a consent note pertinent to the precise activity or give written permission by other means. Homes of students who take undue periods of sick leave, or who appear to have days off recurrently for injuries or unexplained reasons, must be visited and reports sent to the Director of Education for monitoring and intervention advice. Students' personal information (whether written, visual or oral) must be treated in a respectful and careful manner. All schools and educational institutions must maintain a personal file for each student. The personal files must be updated regularly, and must

72. Furthermore, one of the key aims of the Tuvalu Education Strategic Plan III in relation to access to education for children with special needs is to improve enrolment, attendance and retention of, special needs children. In addition, a core aim in Primary and Secondary schools is to improve enrolment, attendance and retention of ECCE, particularly, special needs children.<sup>75</sup>

73. Furthermore, the Te Kakeega III goal in relation to education aims to provide high quality education; equip people with knowledge and skills to develop more self-reliance; promote Tuvalu's cultural and spiritual values.<sup>76</sup>

74. Government has mandated that schools constructed in Tuvalu to be accessible to persons with disabilities. Education Department through TESP III has identified access to Schools and Inclusive Education as priority areas. Currently three classrooms have been built with wheel chair access in Funafuti.

### **Health and health services**

75. Health services are available in all islands of Tuvalu, where each island has a health centre resourced by a Midwife and/or Nurse Practitioner, Junior Nurse, Nurse Aide, and Sanitation Aide. The Ministry of Health is now upgrading health clinics in all islands, with mini hospitals for Nanumea Island and Vaitupu Island, and a new Health clinic for Nanumaga.

76. The Ministry of Health has plans to deploy one doctor for each island, after the newly graduates from Cuba have completed their internship programs, and an additional Nurse for each of the eight islands. In addition, the Tuvalu Medical Treatment Scheme will meet the costs for referral of patients for treatment on Funafuti and out of Tuvalu. The Tuvalu Medical Treatment Scheme basically aims at easing the cost of having to send patients abroad for medical assistance.<sup>77</sup> It includes health care costs and monetary assistance for the carers of the patients. Children of all age are eligible for this assistance when needed.

77. Primary and preventive health care services are ongoing programs run by the Public Health Unit of the Ministry of Health. Additionally, health officials visit schools in Tuvalu and conduct on site health care service that ensure preventive health care services reach all children in Tuvalu. In addition, the Ministry of Health also facilitates deworming program for all children in schools. Immunisation programs covers all children from birth to 18 months old and 6 years of age.<sup>78</sup>

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include the following information: (a) bio data; (b) disciplinary records; (c) statements from previous and current teachers regarding behaviour and attitude; (d) details of family background and (e) details of action taken under this Policy concerning the student (subject to any requirement of this Policy relating to the confidentiality and suppression of identity of the child or persons making reports under this Policy.

<sup>75</sup> Further, support to ECCE to improve enrolment and attendance, particularly in the area of children with special needs and particularly to strengthen relevant and enabling policies to maintain universal access to primary and secondary education.

<sup>76</sup> Focus area 1.2 universal access to education and strategic objective (a) inclusive education the Education Department is responsible for providing enabling learning environments for special needs students namely to (a) conduct research into special needs children following on from the 2012 census data; (b) development of an Inclusive Education Policy and Framework; (c) development of eLearning materials for children with special needs; (d) update all strategic plans and policies to inclusive language where necessary; (e) update plans and reports to capture students with special needs; (f) promote a multi-sector approach to support the Fusi Alofa Centre; (g) eLearning support for children who cannot attend schools.

<sup>77</sup> Countries which provide medical assistance to Tuvalu patients are Fiji, New Zealand, Malaysia, India, Singapore.

<sup>78</sup> The Government of Tuvalu is currently undertaking a recruitment process for a paediatrician, OBGYN, internal physician, surgeon, and anaesthetist. The Ministry of Health also conducts ongoing immunisation programs in schools with the aim of preventing diseases in children. The government of Tuvalu is also working on proper children's ward on Funafuti and in the outer islands. In addition, the government of Tuvalu is also investing in a local doctor who is currently on training to become a specialist paediatrician.

78. Important to note that health services are available in all islands of Tuvalu. The outer islands of Tuvalu have a health centre managed by a Midwife and/or Nurse Practitioner, Junior Nurse, Nurse Aide and Sanitation Aide. Medical equipment has been ordered to assist in the provision of quality health care treatment for all individuals.

79. Also, the Government of Tuvalu Medical Treatment Scheme was established to provide medical services for Tuvaluan's who require urgent medical treatment abroad. The Tuvalu Medical Treatment Scheme is also designed to meet the costs for referral of patients for treatment on Funafuti and out of Tuvalu and is inclusive of children in need of the medical treatment.

### **Adolescent health**

80. The Government of Tuvalu recognizes the need to undertake a comprehensive assessment of the health status of adolescents. The Government of Tuvalu commits to ensuring that a relevant study will be undertaken with the relevant government and NGO stakeholders.<sup>79</sup> Furthermore, the report recognizes that ongoing program on Sexual reproductive health and rights are facilitated and divided for by the Ministry of Health and Tuvalu Family Health Association (TuFHA)<sup>80</sup> for secondary school students in Funafuti and Motufoua Secondary School in Vaitupu.

81. The *Alcoholic Drinks (Amendment) Act 2017* passed the first reading in March 2017. The amendment states that any person who knowingly sells or supplies any alcoholic drink to a person under the age of 18 years is guilty of an offence, and is liable to a fine of AUD\$500. In addition, a person under the age of 18 years who obtains or attempts to obtain any alcoholic drink on or from any licensed premises; or has in his possession or drinks any alcoholic drink; or is drunk is guilty of an offence, and is liable to a fine determinable by the court of jurisdiction.<sup>81</sup> Further to the above, the *Alcoholics Drinks (Amendment) Act 2017* also states that the holder of any license who knowingly sells an alcoholic drink to a prohibited person or allows a prohibited person to remain on the premises is guilty of an offence, and is liable to a fine of AUD 1000. This ensures that any licensed business authorized by law to sell alcohol will be guilty of an offence should they sell alcohol to a person under the age of 18.

82. Important to note is that alcohol abuse is a major contributing factor to sexual and reproductive health and sexual rights issues among young people in Tuvalu namely: unsafe sex practices, teenage pregnancy, spread of STIs and sexual abuse. The Tuvalu Family Health Association incorporates sessions on preventative measures into its awareness and information provided to young people.

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<sup>79</sup> There is no comprehensive assessment on the health status of adolescents in Tuvalu, beside small KAP studies on young people on Sexual Reproductive Health, HIV/AIDS, and teenage pregnancy.

<sup>80</sup> Important to note is that the Tuvalu Family Health Association provides Sexual and Reproductive Health education to young people who have left school including young people both in secondary and the upper primary school. The Tuvalu Family Health Association also advocates for the inclusion of Sexual and Reproductive Health and Rights (SRHR) topics into the school curriculum. In addition, the Tuvalu Family Health Association also coordinates and facilitates a youth friendly clinic with a range of sexual and reproductive health and rights services including counselling. Additionally, the Tuvalu family health and Association also provides access to confidential sexual and reproductive health and rights information and services, which includes counselling for family planning, sexually transmitted infections management. The Tuvalu health and Family association also facilitates radio awareness for the benefits of those living in the outer islands including facilitating workshops. In addition, the Tuvalu Health and Family Association supports on going initiatives of the government in this area including program coordinated by the ministry of health on healthy dietary habits.

<sup>81</sup> The Ministry of Health has ongoing educational programs for the community on the effects of alcohol on health and the general wellbeing of the family. The Ministry of Health is also part of the Liquor Board that implement and strengthen efforts to prevent alcohol abuse among adolescents. The liquor board mandate is also to review applications from retailers and distributors of alcohol in Tuvalu and to also while in the process enforce the alcoholic drinks act to prevent adolescent from accessing and consuming alcohol.

## Breastfeeding

83. The proposed *Labour and Employment Relations Bill 2017* under section 22 provides for nursing break for female employees. Section 22 states that an employer shall allow a female employee who is nursing a child under 12 months of age, one hour twice a day during her working hours.<sup>82</sup>

84. The Tuvalu Family Health Association promotes the importance of breastfeeding in the *Workshops for Safe Motherhood* that it conducts for young mothers every year (twice a year). The aim of the workshop for safe motherhood is to provide information and key skills for new mothers on how to safely care for new born babies and children. It also provides information and educational program for antenatal mothers, young women, communities, on the benefits of breastfeeding.

85. Strengthen nutrition, including revitalizing the Baby-friendly Hospital Initiative (BHFI) which promotes exclusive breastfeeding for 6 months. The Breastfeeding Policy is in draft form, this policy promotes exclusive breastfeeding, and discourages artificial infant formula.

## Impact of climate change on the rights of the child

86. The Te Kakega III's first strategic area is climate change: It poses the most serious threat to the security and survival of Tuvalu. This report recognizes the range of climate change<sup>83</sup> and the prospect of warming temperatures, sea level rise, and the severe weather events overhang the entire discussion of future developments including the rights of the most vulnerable in Tuvaluan society namely women, children, elderly and persons living with disabilities.

87. Part of the Climate Change agenda is Disaster Risk Reduction (DRR). Children go to school most days of the year and so it is imperative that school safety should be a priority.<sup>84</sup> One of the DRR management tools is to make all school facilities structurally safe and able to protect children during disasters (including acting as shelters for communities when necessary).<sup>85</sup>

88. Promoting resilience in the face of emergencies is a critical agenda for school safety. Including Gender Equality, Disability Inclusiveness, Climate Change, Child Protection, Disaster Risk Reduction and HIV/AIDS as cross-cutting issues throughout TESP III, highlights the Education Department's acknowledgement of the relevance and need to promote these issues to affect change.<sup>86</sup>

<sup>82</sup> Further, nursing breaks are counted as hours worked for the purpose of calculating wages. Additionally, any employer who breaches this section commits an offence.

<sup>83</sup> Climate Change poses the most serious threat to the security and survival of Tuvalu. The danger of climate change and the prospect of warming temperatures, sea level rise, and severe weather events overhang the entire discussion of future development. These dangers – some long-term, some more immediate – cut across Tuvalu's development landscape. The challenges of climate action and future climate financing now and in the future are enormous. Urgent actions in response to climate change impacts are needed both at the local and global level.

<sup>84</sup> Education has a central and unavoidable role in the climate change discussion. It serves to inform the citizenry of climate change impacts, risks and responses. Perhaps more importantly is the subject of climate change and its impacts taught as part of a student's general education curriculum. This serves to educate the next generation of Tuvaluan's, including its future leaders, who, coming of age, need to be exposed to the climate-related problems and prospects they will inherit from today's older generation. Education has been the foundation of modern social and economic development in Tuvalu. This will be no more apparent than the importance of education in the fight against climate change impacts, threats and risks, and finding solutions to each of these as future circumstances change and the issues continue to evolve.

<sup>85</sup> Another is to ensure appropriate school disaster management practices are effectively implemented in each school, and that DRR and climate change education and climate change education is taught in schools in order to build a culture of safety in schools and in communities.

<sup>86</sup> In addition, the Government of Tuvalu provides material support for any and all issues that arise at the intersection of climate change and health over a 10-year period of the TK III including but not limited to the health and medical related issues identified by the World Health Organisation.

89. Furthermore, the TK III as a milestone for 2017 includes the development of a standalone climate change legislation. It is envisaged that discussions on the development of the climate change legislation will include issues relating to women, children, aged and persons with disabilities. The TK III Strategic Activity – Disaster Risk Reduction has a 2017 milestone that requires the government to ensure that gender and disability perspectives are incorporated into disaster risk management.

90. The Government of Tuvalu informs the Committee that under the *TK III Goal: Provide high quality education; equip people with knowledge and skills to develop more self-reliance; promote Tuvalu's cultural and spiritual values* under *Outcome 2: Improved relevant learning resources, human resources and sustainable infrastructure development in schools* calls for the implantation of all Climate Change and Disaster Risk Reduction Curriculum as directed by the Education department.<sup>87</sup>

91. In addition to the above, the TESP III under Outcome 3: Improved governance, partnership, administration and financing of an efficient and sustainable education system – Strategic Objective: (b) Policy and Planning states that all schools are to ensure that they comply with all Safer Schools (risk Reduction) and Child Protection plans, policies, processes and procedures as directed by the Education Department.

92. Tuvalu has in existence the Sustainable and Integrated Water and Sanitation Policy 2012–2021<sup>88</sup> as a response to recent water crises, and to ensure together we stand ready for future challenges. The purpose of the WSP is to ensure that the people of Tuvalu have continued access to safe, reliable, affordable and sustainable water and sanitation facilities.<sup>89</sup> The policy supports Tuvalu's key planning document, Te Kakeega III (National

<sup>87</sup> This provides a mandate for the Education Department to mainstream Climate Change Education and Disaster Risk Reduction into the curriculum and to further develop and implement relevant curriculum materials and resources for Climate Change Education and Disaster Risk Reduction.

<sup>88</sup> The Sustainable and Integrated Water and Sanitation Policy also complements other national frameworks, including Te Kaniva (National Climate Change Policy), the Strategic National Action Plan (SNAP), National Biodiversity Strategy and Action Plan (NBSAP), the National Action Plan to combat Land Degradation and Drought (NAP), and the National Adaptation Program of Action (NAPA). The WSP will cover the next 10 years (2012–2021). It is intended that measures for the implementation of the policy will be further progressed through the finalisation of Tuvalu's national IWRM Plan. The Sustainable and Integrated Water and Sanitation Policy developed with a set of guiding principles, consistent with those of the Tuvalu Constitution, Te Kakeega III, NAPA, Te Kaniva and other national frameworks. Importantly, The WSP is owned by the people of Tuvalu. The development of the policy was a bottom up process, in which communities in the eight islands were consulted, as well as the eight communities in Funafuti, culminating in a National Water Forum held in September 2011.

<sup>89</sup> WSP adopts the following guiding principles: access to safe drinking water and sanitation is a fundamental human right. Access to facilities should not be confined to certain sectors of the community, and the WSP aims to ensure that the daily needs of all Tuvaluan's, including the most vulnerable, are met; water is everyone's business, and all Tuvaluan's have a role in the management of water and sanitation. The effective implementation of the WSP will depend on the success of integration, coordination and collaboration between responsible ministries, departments, Kaupule, non-government organisations, the private sector, civil society and international partners. The WSP encourages the effective participation of community stakeholders in planning, setting of rules and standards, implementation, monitoring and evaluation. The WSP also recognises that women have a key role in the management of water; water and sanitation services in Tuvalu should, over the longer term, operate on a sustainable basis. The WSP acknowledges the importance of ongoing partner support to help address some of Tuvalu's more serious water and sanitation challenges, but also recognises that, over time, a more sustainable footing is needed for our water and sanitation services; managing risk is more effective than responding to consequences. The WSP recognises that managing the water-related impacts of climate variability and climate change requires a risk-based approach, and adaptation to these impacts requires integration of effective risk reduction strategies across all sectors; and effective water management is an important national response to the impacts of climate change. The WSP recognises that there is an urgent need to improve our capacity to deal with today's serious water challenges, in order to improve our ability to adapt to the challenges caused by climate variability and climate change.



Strategy for Sustainable Development), as well as key regional frameworks such as the Pacific Plan, and the Pacific Regional Action Plan on Sustainable Water Management.<sup>90</sup>

### **Standard of living**

93. The Government of Tuvalu informs the Committee that it recently concluded a Hardship Survey study in September 2017. The Hardship Survey was conducted by the Ministry of Home Affairs. The aim of the Hardship Survey was to ascertain the level of hardship faced by those living in the outer islands including Funafuti. The findings of the study have yet to be formally approved by cabinet and it is envisaged that the findings will be used to provide more policy directives on how best to respond to hardship issues faced by those living in the outer islands particularly the most vulnerable in society – women, children, elderly and persons living with disabilities.

94. The outer island BNPL is less than the national average, due to lower costs of living and higher reliance on subsistence production etc. In addition, a carryover from TKIII, the government of Tuvalu will formulate the National Hardship Assistance Policy (HAP) designed to deal with rising poverty rates.<sup>91</sup>

## **H. Education, leisure and cultural activities**

### **Education, including vocational training and guidance**

95. TESP III is also guided by the achievements of TESP I and TESP II. TESP III is an outcome of an in-house review of TESP II as well as consultations with key education stakeholders.<sup>92</sup> The TESP III guiding agenda includes:

#### *Early Childhood Care and Education*

96. ECCE continues to be a key priority in education in Tuvalu. The government recognizes ECCE as the foundation for sustainable development. As a signatory to the Sustainable Development Goals (SDGs), government is committed to giving every child in Tuvalu the best start in life.<sup>93</sup>

#### *Climate Change*

97. Education has a central and unavoidable role in the climate change discussion. It serves to inform the citizenry of climate change impacts, risks and responses. Perhaps more importantly is the subject of climate change and its impacts taught as part of a student's

<sup>90</sup> This provides a mandate for the Education Department to mainstream Climate Change Education and Disaster Risk Reduction into the curriculum and to further develop and implement relevant curriculum materials and resources for Climate Change Education and Disaster Risk Reduction.

<sup>91</sup> In addition, the Government of Tuvalu informs the Committee that it recognises that more will need to be done on regard to the need to gather data to address the issue of people living in poverty. Furthermore, the report notes that according to the 2010 Household Income and expenditure Survey (HIES), poverty rates continue to rise. The National Basic Needs Poverty Line (BNPL) in 2004 set cash income per head at AUD31.26 per week. In 2010, the income line had increased to AUD34.55, a rise of 10.5 per cent. At this level, 26% of the population, or about 28,000 people were below the poverty line. The current BNPL for Funafuti is significantly higher at AUD40.06 in 2010, due to a higher cost of living and low substance production, amongst other factors.

<sup>92</sup> The TE KAKEEGA III (TK III) – National Strategy for Sustainable Development 2016 to 2020 is Tuvalu's master plan for national development. Education and Human Resources is Goal 7 of TK III which states "Provide high quality education; equip people with knowledge and skills to develop more self-reliance; promote Tuvalu's cultural and spiritual values". TESP III is aligned to the regional Pacific Education Development Framework (PEDF) with its three goals of access and equity, quality, and efficiency and effectiveness. TESP III is similarly aligned to the global UN Sustainable Development Goal 4 (SDG 4) on Education which is "ensure inclusive and equitable quality education and promote lifelong learning opportunities for all".

<sup>93</sup> The government is committed to achieve the SDG 4 Target 4.2 which states, "By 2030, ensure that all girls and boys have access to quality early childhood development care and pre-primary education so that they are ready for primary education". The government also advocates investing in equitable and comprehensive quality ECCE.

general education curriculum. This serves to educate the next generation of Tuvaluan's, including its future leaders, who, coming of age, need to be exposed to the climate-related problems and prospects they will inherit from today's older generation. Education has been the foundation of modern social and economic development in Tuvalu. This will be no more apparent than the importance of education in the fight against climate change impacts, threats and risks, and finding solutions to each of these as future circumstances change and the issues continue to evolve.<sup>94</sup>

98. Part of the Climate Change agenda is Disaster Risk Reduction (DRR). Children go to school most days of the year and so it is imperative that school safety should be a priority.<sup>95</sup>

#### *Teaching and learning*

99. Teaching and learning continues to play a very important role in the provision of all education services. The teaching and learning process will focus on improving and promoting: (a) the adoption of a 21st century curriculum and assessment; (b) ICT in education; (c) Teacher and teaching development; (d) Technical and Vocational Skills Development (TVSD).

#### *Cross cutting issues*

100. Including Gender Equality, Disability Inclusiveness, Climate Change, Child Protection, Disaster Risk Reduction and HIV/AIDS as cross-cutting issues throughout TESP III, highlights the Education Department's acknowledgement of the relevance and need to promote these issues to affect change.

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<sup>94</sup> Climate Change poses the most serious threat to the security and survival of Tuvalu. The danger of climate change and the prospect of warming temperatures, sea level rise, and severe weather events overhang the entire discussion of future development. These dangers – some long-term, some more immediate – cut across Tuvalu's development landscape. The challenges of climate action and future climate financing now and in the future are enormous. Urgent actions in response to climate change impacts are needed both at the local and global level.

<sup>95</sup> One of the DRR management tools is to make all school facilities structurally safe and able to protect children during disasters (including acting as shelters for communities when necessary). Another is to ensure appropriate school disaster management practices are effectively implemented in each school, and that DRR and climate change education and climate change education is taught in schools in order to build a culture of safety in schools and in communities. Promoting resilience in the face of emergencies is a critical agenda for school safety.

101. The Education Department (EdDep) comprises different units namely: (1) Curriculum & Assessment Unit,<sup>96</sup> (2) Schools Unit;<sup>97</sup> (3) National Qualifications Agency;<sup>98</sup> (4) Monitoring and Evaluation Unit;<sup>99</sup> (5) School Safety Unit.

102. Accordingly, schools are encouraged to have policies and safety plans in place. A key focus area included in all school Strategic Plans and School Annual Improvement Plans (SAIP) is the Learning Environment with the focus on school safety. This means that different schools use a variety of practices and procedures to promote the safety of students and staff at the school level. The Disaster Risk Management Board, which consists of the line ministries (including MEYS) is currently assisting schools with the development of their Emergency Evacuation Plans.<sup>100</sup>

103. The Tuvalu Constitution does prescribe the responsibility for the conduct and administration of national matters, including education, to the Government. The Tuvalu Education Act<sup>101</sup> is provided as part of the set of laws relating to the national Government administration.<sup>102</sup>

<sup>96</sup> The Assessment and Examinations sub-unit is responsible for the overseeing of the implementation of national and regional examinations, analysis, updating and maintenance of national and regional examinations results. Facilitation and coordination of all assessment procedures in all schools, and submitting timely reports, updates and recommendations to the Director of Education on the performance of the sub-unit and possible strategies for the improvement of assessments in all sectors of education in Tuvalu. The Curriculum Development sub-unit is responsible for developing, implementing and maintaining appropriate curricula and school-based assessment procedures and practices in early childhood, primary, secondary and post-secondary schools throughout Tuvalu. To make sure that the above requirements are met, the Senior Education Officer Curriculum is required to submit a detailed written, annual report, to the Director of Education on the performance and outcomes of the Curriculum Development sub-unit.

<sup>97</sup> The Schools Unit (SU) is responsible, in the first instance, for the supervision of early childhood, primary, secondary and post-secondary schools in Tuvalu. This involves working with schools, local governments (Kaupule), and island communities to ensure that good quality learning outcomes are achieved by all children and students attending both government and non-government schools throughout Tuvalu. The unit is also involved in collaborative development, maintenance, implementation and evaluation of effective, efficient and equitable policies, processes and practices for the developmental supervision of all Tuvaluan schools, school leaders and teachers, and is required to provide detailed reports on the performance and outcomes of each government and non-government school for which s/he is responsible.

<sup>98</sup> The National Qualifications Agency will play the following functions: (a) set standards on post-secondary education and training institutions and programmes; (b) register post-secondary education and training institutions and programmes; (c) set guidelines for the recognition of foreign qualifications; (d) establish and maintain database of skilled persons and their qualifications; (e) collaborate with external accrediting agencies for the recognition of post-secondary education and training in Tuvalu; (f) foster and safeguard the national interest, the interest of students and parents, providers of education and training and other stakeholders; (g) foster cooperation amongst post-secondary education and training institutions; and (h) provide advice to the Minister of Education, Cabinet, Parliament and the Governor General on matters pertaining to post-secondary education and training.

<sup>99</sup> The Monitoring and Evaluation Unit will house the Information and Communication Technology (ICT) operational arm of the Department providing support in the following areas: (a) teaching and Learning (through ICT in Education); (b) Monitoring and Evaluation (through TEMIS); (c) Human Resource Management (through TEMIS); and (d) Research (through TEMIS) Procurement Support.

<sup>100</sup> The Education Department under the Ministry of Education, Youth and Sports and schools have appropriate security measures in place to protect school property and ensure a safe and secure environment for staff and students in terms of infrastructure, planning, implementation of plans and good practices at the school level.

<sup>101</sup> The legislation then provides for the control of non-Government schools, followed by further powers of the Minister in relation to non-Government and local Government schools. Sections 3 and 5 of Tuvalu's Education Act provides the Minister with the power to promulgate Regulations. Finally, the Act provides for the training and registration of teachers, as well as establishing the requirement for compulsory education.

<sup>102</sup> Tuvalu's education legislation is divided into seven main chapters, plus an eighth chapter for miscellaneous matters. It first provides for the general powers of the Minister responsible for

104. Primary education is free and compulsory to all children aged 6–13 years old. Children enter primary schools the year they turn 6 years of age. There are nine government primary schools, one on every island. These schools are run in collaborative partnership with the Kaupule. There is one faith-based primary school on Funafuti, the Seventh day Adventist primary school, which is run and operated by the Seventh Day Adventist (SDA) church. Primary education has a duration of 8 years and at the end of Year 8, children sit the National Year Eight (NYE) examination. This examination is a monitoring examination.<sup>103</sup>

105. There are three years of senior secondary education – Year 11, Year 12 and Year 13. At the end of Year 12, children sit for the Tuvalu Senior Secondary Certificate (TSSC) examination. This examination selects students to continue to Year 13 or to the franchised programme for the Certificate IV programmes. At the end of Year 13, students sit for the South Pacific Form Seven Certificate (SPFSC) examination. Pre-Tertiary opportunities are available both locally and abroad for students who successfully complete the Year 11 and Year 12 programmes at secondary school.<sup>104</sup>

106. The TESP III outlines the strategic direction for education in Tuvalu and identifies Access to Education and Inclusive Education as key priority outcomes that is addressed 2016–2019. The REAP project will begin in 2017 to collect data on Education Access. The REAP project aims at collecting data and the provision of analysis on quality education and how it can assist stakeholders with the provision of quality education.

107. Government has endorsed a “free education scheme” for primary and secondary education for all children to allow every child in Tuvalu to have access to proper and quality education with the ideology that no child is left behind or disadvantaged from attaining education.<sup>105</sup>

108. Furthermore, during term break (two weeks) the Ministry of Education provide for teachers to have their professional capacity building workshop on the main island.<sup>106</sup> This includes teachers from the outer islands and those in Funafuti. The aim of the professional capacity building workshop is to allow participants to be better equipped to manage classroom learning and student interaction efficiently and consistently.

109. The Fiji Voluntary Scheme started in 2014 involves the hiring of teachers to provide educational support to schools in Funafuti and the outer islands. To date, eight Fijian teachers have been recruited to teach English in various primary schools in Tuvalu. Additionally, in 2016 the Government of Tuvalu contracted an additional eighteen Fiji teachers to assist in teaching in Funafuti and the outer islands.<sup>107</sup> Technical Vocation Skills Development curriculum has been developed for all Primary and Secondary Schools with

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education. Then it establishes the Education Advisory Committee, which advises and assists the Minister on the formulation of plans and policies for the development of education.

<sup>103</sup> Year 9 and Year 10 make up the Junior Secondary education programme in Tuvalu. In 2015 Cabinet made a decision to relocate Year 9 and Year 10 programmes to the primary schools nationally in 2016, however only Year 9 was relocated that year. This move meant that Junior Secondary is run and administered from two different sub-sectors in 2016. In 2017, it is anticipated that the Year 10 will continue to be run and administered at Motufoua Secondary campus on Vaitupu whereas the Year 9 programme from the primary schools. Year 9 and Year 10 offers a 2-year programme culminating in students sitting for the Tuvalu Junior Certificate (TJC) examination. In addition, the introduction of the Technical and Vocational Skills Development (TVSD) programme from Year 9 offers an alternative learning pathway for students.

<sup>104</sup> There is also an initiative administered through the Youth Department for out of school youths to do vocational programmes at the Youth Centres in Fiji.

<sup>105</sup> MEDU scheme under the National Provident Fund Regulation is also an opportunity to assist children attain better education and to cater for additional hidden fees.

<sup>106</sup> The first quarter of 2017 saw all teachers in all schools receive 12–20 hours of Professional Development with an additional 10 hours for School Leaders, 2014 and 2015, ECCE, Primary and Secondary received grants from Achieving Education for All Tuvalu Programme (AEfATP) funded by DFAT and facilitated by UNICEF and the Education Department to upgrade school facilities and regular teaching materials and other supplies needed by each school.

<sup>107</sup> The Fiji Voluntary Scheme is a bilateral arrangement between the Government of Fiji and the Government of Tuvalu to provide skilled and qualified teachers to teach in schools in Tuvalu.

appropriate budget allocation. The Technical Vocational Skills Development Budget support to the Kaupule total AUD 4,000 annually and is available upon request. The Technical Vocational Skills Development Program is currently offered at Motufoua Secondary School on the island of Vaitupu.

### **Human rights education**

110. The Government of Tuvalu informs the Committee that under the *TK III Goal: Provide high quality education; equip people with knowledge and skills to develop more self-reliance; promote Tuvalu's cultural and spiritual values* under Outcome 2: *Improved relevant learning resources, human resources and sustainable infrastructure development in schools* calls for the inclusion, extension and implementation of teaching of life skills, human rights and values education to all school levels. The Ministry of Education is closely working with the Secretariat of the Pacific Community on the development of specific human rights curriculum to be implemented by all schools in Tuvalu.

### **Other special protection measures**

111. The Island Court Act section 8 (1) is repealed in its entirety and replaced to read as follow – 8 (1) in this section, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say – “child” means any person under the age of 18 years, “young person” means a person who has attained the age of 18 years and are under the age of 21 years. Further section 8 (3) (a) is amended by increasing the age from “15 years” to “18 years”.

112. *The Penal Code* under section 14 (*age of criminal responsibility*) (1) A person under the age of 10 years is not criminally responsible for any act or omission.<sup>108</sup>

113. The *Education (Amendment) Bill 2017* proposes to provide more protection for children within school. The Government of Tuvalu informs the Committee that *Section 29 of the Education Act* has been repealed in its entirety as it contradicts the principles enshrined in the Convention on the Rights of the Child in protecting and respecting the rights and dignity of children. The amendment prohibits corporal punishment in any form and manifestation. The amendment to the Education Act repealing section 29 was passed in its first reading in early 2017.

114. In terms of life imprisonment, the Penal Code has been amended to reduce the punishment for murder from life imprisonment to 15 years as minimum threshold. This amendment applies to all including child offenders.<sup>109</sup>

### **Migration**

115. The Tuvalu National Labour Migration Policy and Action Plan is designed to provide a coherent strategy for promoting overseas employment and protecting the welfare of Tuvaluan citizens abroad, within the broader context of generating productive and decent employment opportunities for all Tuvaluan's. Whilst it is not a comprehensive document on climate change and or disaster risk induced migration. The National Labour Migration Policy ties together plans for educating Tuvalu's, with a better understanding of what opportunities exist abroad helps to ensure that a cohesive plan for how to create work for Tuvaluan's.

116. The long-term vision of the National Labour Migration Policy is to provide Tuvaluan citizens with increased opportunities to circulate and migrate for decent work opportunities broad. Without promoting large scale migration, it is part of government policy for temporary labour migration, as well as long term residence overseas, to become

<sup>108</sup> s(2) A person under the age of 14 years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission he had capacity to know that he ought not to do the act or make the omission. (3) A male person under the age of 12 years is presumed to be incapable of having sexual intercourse.

<sup>109</sup> In addition, the Child Protection and Welfare Bill under s18 states that despite any other law, a child shall not be subject to corporal punishment or life imprisonment for any offence.

realistic options for increasing numbers people who wish to migrate with dignity to pursue opportunities.<sup>110</sup>

## **J. Ratification of international human rights instruments**

117. The Government of Tuvalu informs the Committee that cabinet in 2016 has also approved the ratification of the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography and the Optional Protocol to the CRC on communications procedure. It is envisaged that communication on the ratification of the mentioned optional protocols will be conveyed to the United Nations in the first second quarter of 2018. Furthermore, plans are currently underway to convene national consultations (including the outer islands) on the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography and the Optional Protocol to the CRC on a communications procedure.<sup>111</sup>

## **K. Regional and international cooperation**

118. The national report recognizes the financial and technical support of UNICEF Pacific Regional Office in the compilation of this report. The support provided for by UNICEF has enabled the Government of Tuvalu to widely consult and disseminate the report. It also allowed for the relevant stakeholders to meet and discuss strategies on how to compile the report.

## **L. Follow-up and dissemination**

119. A nationwide consultation was facilitated for the report. Consultations was held in Funafuti and the outer islands with regards the compilation of this report. Consultation was held for specific government and non-government stakeholders including the national disability organization and its members. Consultation was held for permanent secretaries, judiciary, health officials, teachers, officers of government, students, parents and the outer island communities.

120. Additionally, the report also acknowledges the support of Office of the Attorney General in the facilitation of national consultations and the compilation of this national report. This report also acknowledges the Ministry of Education, Youth and Sports and the Ministry of Home Affairs and Rural Development and Information and Technology Department, for their assistance in the provision of funding to allow the outer islands to have contributions to the content of this report. This report also acknowledges and recognizes the valuable support from parents, teachers, students, care givers, outer island communities and Fusi Alofa for their contributions to the national report.

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<sup>110</sup> The development of the National Labour Migration Plan has been framed with reference to a context that includes: Tuvalu's growing population and increasing urbanisation as the majority of working age seek employment in town; the youthfulness of Tuvalu's population, with 33 percent of the Total population in 2012 under 15 years of age and a further 19 percent of the total aged 15–24 years, and the challenges presented by increasing numbers of school leavers entering the labour market in a country with relatively limited options for domestic wage employment; the threat of environmental degradation and climate change, which is likely to further minimise job opportunities and livelihoods; fewer contracts for temporary employment offshore in 2014 than Tuvalu's have had since gaining independence in 1978, and the resulting reduction in remittance income for Tuvaluan households; Global changes in the seafaring industry leading to a decline in demand for Tuvalu's seafarers and impacting negatively on the country's most established overseas labour migration programme; and a growing Tuvaluan diaspora, particularly New Zealand, that may be able to facilitate the development benefits of migration and assist individuals seeking employment broad.

<sup>111</sup> In addition, The Government of Tuvalu informs the Committee that it has acceded to the Convention on the Rights of Persons with Disabilities in 2013. It further informs the Committee that has in place a Draft Tuvalu National Policy on Disability and that it has submitted its initial report on the Convention on the Rights of Persons with Disabilities. In addition, the Office of the Attorney General has plans to undertake a legislative compliance review on the Convention on the Rights of Persons with Disabilities.