Human Rights in the Pacific – Country Outlines 2012

Office of the High Commissioner for Human Rights (OHCHR)
Regional Office for the Pacific
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Introduction

The United Nations Human Rights Office in the Pacific has produced this publication with the hope that it will support the good work being done around the Pacific to advance human rights.

The Pacific with its huge geographic coverage and small populations is often overlooked in global and regional research and publications. Documented information about what is happening in the Pacific can be hard to find for both Pacific Islanders and people new to the region. International organisations that document human rights issues in much of the world often do not include the Pacific Islands. This is not to say that information on human rights in the Pacific does not exist. It does and there are many sources for it. However, until now, it has not been brought together in one place to provide an overview of human rights issues in the region. We hope that this publication, Human Rights in the Pacific – Country Outlines, provides such an overview and guides readers to sources and people that can provide further information.

The entire content of this document has been compiled from existing sources. The documentation provided by the United Nations (UN) Human Rights Council Universal Periodic Review, which had reviewed the human rights situation in all UN Member States by the end of 2011, provided a particularly valuable resource for compiling information on human rights in most of the Pacific Island countries. Additional sources include documents from United Nations treaty bodies and Special Procedures, other United Nations entities, international and regional organisations, and national governmental and non-governmental organisations, as well as academic and media sources. The authors have tried not to use third country assessments of human rights situations in the Pacific. However, due to limited sources, reference has been made to US Government reports in some instances, in particular on countries that have entered into a Compact of Free Association with the US. Similarly, some reference to New Zealand Government reports has been made in relation to countries in free association with New Zealand. The Guide is current up to October 2011, with some updates as of January 2012.

The outlines are arranged in country chapters that bring together information on the status of ratification of international human rights instruments, an overview of national human rights issues, as well as a list of stakeholders working on human rights in the Pacific. The chapters are intended to include information that summarises concerns, but also, where information is available, measures undertaken by governments to address those concerns. The outlines are not intended to be an assessment of the human rights situation in each country. Rather, they are meant as a resource.

The United Nations Human Rights Office in the Pacific under its mandate has been working to promote and protect the human rights of people in the Pacific. I hope that this publication will be used by those who seek to promote human rights and to build a sustainable future founded on dignity and freedom for Pacific peoples.

I warmly acknowledge the support provided by the New Zealand Human Rights Commission with the final design and layout of the document, and lastly we want to reiterate our support to all those in the Pacific that work towards making human rights a reality throughout the region.

Matilda Bogner
Regional Representative
Office of the High Commissioner for Human Rights – Regional Office for the Pacific
Note on Indicators

Expected Years of Schooling
This indicates for each country the number of years of schooling a child would expect to receive at present enrolment rates. Data comes from the UNESCO Institute for Statistics, with estimates based on enrolment by age at all levels of education and population of official school age for each level of education.

Gross National Income (GNI) per Capita
This measure is used in the United Nations Development Programme’s (UNDP) Human Development Index to indicate a country’s standard of living. It is an indicator that goes beyond a measure of domestic production to take account of money sent overseas, and international aid money and remittances received from abroad.

Human Development Index (HDI)
Published annually by the UNDP, this index uses data on health, education, and income to measure national development in United Nations (UN) member states. If data is not available for one or more of the four HDI component indicators the country is not ranked. The four indicators used are life expectancy at birth, mean years of schooling, expected years of schooling, and gross national income per capita.

Under-five Mortality Rate
This indicator is one of those used to measure progress towards the Millennium Development Goal (MDG) 4: Reduce child mortality. It is a measure of the probability that a child will die before the age of five. Data can be misleading for some Pacific countries due to large fluctuations caused by applying calculations to small populations. 1

LIST OF UNITED NATIONS TREATY ACRONYMS

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

CED
Convention for the Protection of All Persons from Enforced Disappearances

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

CERD
Convention on the Elimination of All Forms of Racial Discrimination

CRC
Convention on the Rights of the Child

CRPD
Convention on the Rights of Persons with Disabilities

CMW
Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

ICCPR
International Covenant on Civil and Political Rights

ICESCR
International Covenant on Economic, Social and Cultural Rights

OP
Optional Protocol

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

OP-CRC-SC

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1 AusAid, Tracking Development and Governance in the Pacific 2009, 74
Fiji
Republic of Fiji, Matanitu ko Viti, Viti

Under the 1997 Constitution, Fiji had a parliamentary democracy, with the President as head of state with a largely ceremonial role and a Prime Minister as head of government. The parliamentary system was that of a bicameral legislature with an elected House of Representatives and a nominated Upper House or Senate. On 6 December 2006, Frank Bainimarama, the commander of the Fiji Military Forces, overthrew the elected government. In April 2009, following a Fiji Court of Appeal ruling that the appointment of the Interim Government was illegal, the President abrogated the 1997 Constitution and dismissed all constitutional office holders, including members of the judiciary.² The Government has since indicated its intention to hold an election by September 2014 at the latest.³

Key Facts

**Capital**
Suva

**Population**
847,793 (2010 mid-year est.)⁵

**Land Area**
18,273 km²⁶

**Youth**
18.3% (15-24)⁷

**Gross Domestic Product (GDP) per Capita**
US$3499 (2008)⁸

**Gross National Income (GNI) (Purchasing Power Parity)**
US$3,833,031,827.2 (2010 est.)⁹

**GNI per Capita (Atlas Method)**
US$3580 (2010)¹¹

**Type of Government**
Military government headed by Commander of the Republic of Fiji Military Forces as Prime Minister

**Electoral System**
Not applicable

**Number of MPs in Legislature**
Not applicable

**Religions**
64.5% Christian (Methodist 34.6%, Roman Catholic 9.1%, Assembly of God 5.7%, Seventh Day Adventist 3.9%, Anglican 0.8%, other 10.4%),
27.9% Hindu
6.3% Muslim
0.3% Sikh
0.3% other or unspecified
0.7% none (2007 census)¹¹

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⁶ Ibid
⁷ Ibid
⁸ Ibid
⁹ Ibid
¹⁰ Ibid [8]
### Ethnics Groups

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>57.3%</td>
<td>Fijian</td>
</tr>
<tr>
<td>37.6%</td>
<td>Indian</td>
</tr>
<tr>
<td>1.2%</td>
<td>Rotuman</td>
</tr>
<tr>
<td>3.9%</td>
<td>Other (European, other Pacific Islanders, Chinese) (2007 census)</td>
</tr>
</tbody>
</table>

### Languages

- English
- Fijian
- Hindi

### Human Development Index

<table>
<thead>
<tr>
<th>Index</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>86 out of 169 ranked countries (2010)</strong></td>
<td></td>
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</table>

### International Treaty Ratification and Reporting Obligations

<table>
<thead>
<tr>
<th>Convention</th>
<th>Date of Ratification</th>
<th>Declaration/Reservation</th>
<th>Latest Report Submitted</th>
<th>Reporting Status as of October 2011</th>
<th>Periodic Review Due</th>
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</thead>
<tbody>
<tr>
<td><strong>CEDAW</strong></td>
<td><strong>Ratified 28 August 1995</strong></td>
<td>None</td>
<td><strong>2009 – combined 2nd, 3rd and 4th periodic reports</strong></td>
<td><strong>5th periodic review due 31 July 2014</strong></td>
<td></td>
</tr>
<tr>
<td><strong>CRC</strong></td>
<td><strong>Signed 13 August 1993</strong></td>
<td>None</td>
<td><strong>4 August 2011 – combined 2nd, 3rd and 4th reports</strong></td>
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<tr>
<td><strong>CERD</strong></td>
<td><strong>Signed 11 January 1973</strong></td>
<td><strong>Yes (articles. 2, 3, 4(a), (b), (c), 5(c), (d)(v), (e)(v), 6, 15, and 20)</strong></td>
<td><strong>2006 – 16th and 17th periodic reports combined</strong></td>
<td><strong>Reporting Status as of October 2011 18th, 19th and 20th periodic reports due 10 February 2012</strong></td>
<td></td>
</tr>
<tr>
<td><strong>CRPD</strong></td>
<td><strong>Signed 2 June 2010</strong></td>
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### Under-Five Mortality Rate

<table>
<thead>
<tr>
<th>Rate</th>
<th>Live Births</th>
</tr>
</thead>
<tbody>
<tr>
<td>18/1000</td>
<td>(2009)</td>
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### Life Expectancy at Birth (Years)

<table>
<thead>
<tr>
<th>Gender</th>
<th>Value</th>
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<tbody>
<tr>
<td>Male</td>
<td>63.8</td>
</tr>
<tr>
<td>Female</td>
<td>67.7</td>
</tr>
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### Adult Literacy Rate (Ages 15 and Over)

<table>
<thead>
<tr>
<th>Rate</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>93%</td>
<td>2004</td>
</tr>
</tbody>
</table>

### Expected Years of Schooling

<table>
<thead>
<tr>
<th>Years</th>
</tr>
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<tbody>
<tr>
<td>13</td>
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</tbody>
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18 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the State’s intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.
HUMAN RIGHTS ISSUES

1. Discrimination and violence against women

Violence against women remains a crucial issue. Fiji has institutional policies and legislation to try to address the problem, including the Fiji Police ‘No Drop’ policy on domestic violence that has been in place for over a decade. More recently, the Domestic Violence Decree 2009 has aimed to provide greater protection for victims of domestic violence, with clear guidelines for police and access to restraining orders. However, the Fiji Women’s Crisis Centre argues that Fiji’s post-coup situation has “halted collaborative efforts towards ending violence against women...[and featured the] police’s inadequate response to violence against women.” During the period of the Fiji Police’s ‘Christian crusade’ against crime, which ended in 2010, Amnesty International reported that: “Police refrained from arresting or filing charges against suspects [in cases of violence against women]. Instead they forced survivors to reconcile with their violent partners.”

2. Rights of the child

Although Fiji has ratified the CRC and continues to work towards implementing the various recommendations of the Committee on the Rights of the Child, there are a number of issues of concern. Of particular note is the lack of legislation and harmonisation of legislation to protect children. A Save the Children study found that commercial sexual exploitation of children and child sexual abuse are widespread issues, but noted a lack of research and documentation in this area. The study observed that for both commercial sexual exploitation and sexual abuse of children, the situations of those most at risk were similar, being “children from economically disadvantaged families, children who live with extended family, children who live on the streets, children who suffer parental neglect and children who live in violent households.”

In its UPR report, the Fiji Government stated that Fiji has criminalised the act of trafficking in persons under the Immigration Act 2003 and the Crimes Decree 2009. There are also a dedicated anti-trafficking unit of the police and a National Action Plan to combat trafficking. However there has never been a prosecution for sex trafficking of children or women in Fiji.

Corporal punishment is against the law in Fiji, although it often continues in practice. In 2009, UNICEF reported that 31% of 16 to 17-year-olds reported being physically hurt by a teacher in the previous month. 31

3. Impunity

Following the coup, the President issued the Immunity (Fiji Military Government Intervention) Promulgation 2007, which granted full and unconditional immunity to military and police from prosecution or other proceedings during the state of emergency that was declared on 5 December 2006. The Public Emergency Regulations (PER), which were renewed monthly until 23 UNFPA Pacific Sub Regional Office, An Assessment of the State of Violence Against Women in Fiji (2008) http://www.un.org/womenwatch/daw/vaw/fij/VIAM_UHAI_Assessment_2008.pdf
28 Ibid, 5
31 UNICEF, Protecting Those with Love and Care (UNICEF Pacific, 2009) 50
7 January 2012, also grant immunity. For example, "any police officer or any member of the Armed Forces... may use such force as he or she considers necessary, including the use of arms, to disperse [a] procession, meeting or assembl... and [shall not] be liable in criminal or civil proceedings for having by the use of such force caused harm or death to any person."

On 5 January 2012, the President issued the Public Order (Amendment) Decree that replicated the PER provisions regarding immunity from prosecution for the police and army.

In 2007, the Special Rapporteurs on the promotion and protection of human rights and fundamental freedoms while countering terrorism, on extrajudicial, summary or arbitrary executions, and on the question of torture, sent a joint letter regarding the deaths in custody of Tevita Malaube, Sakususa Rabaka and Nilamite Verebasaga. While the security personnel responsible for these unlawful killings have been convicted and sentenced by the High Court, in two of the three cases those responsible were released by the military regime under compulsory supervision orders.

4. Independence of the judiciary

Since the coup, the question of judicial independence has been raised by the Special Procedures of the United Nations, as a result of interference by the State into the affairs of the judiciary. In 2009, the entire judiciary was dismissed by the Revocation of Judicial Appointments Decree. Some were subsequently reappointed.

Decrees recently issued by the Government limit the courts’ ability to hear matters challenging any laws decreed by the President or any actions of the President and Prime Minister following the coup. Individual lawyers made a submission to the UPR process where they stressed that “the overall effect of the experience of lawyers and the [Fiji Law Society] after the December 2006 coup has been one of intimidation and interference from the military authorities. These acts inhibit lawyers from doing their work to the best of their ability to represent clients against arbitrary rule. In such an environment, human rights abuses will only flourish.”

Since 2007, the UN Special Rapporteur on the independence of Judges and Lawyers has repeatedly requested an invitation to visit Fiji, but has not received a response by the Government.

5. Right to freedom of expression and association

Since the coup, human rights defenders, activists, media representatives and lawyers have been harassed, intimidated and, in some cases, tortured by security personnel.

With the abrogation of the Constitution in 2009 and the introduction of the Public Emergency Regulations (PER), the Government introduced strict media control. The PER gave the Permanent Secretary for Information powers to prohibit publication or broadcast of anything “deemed a threat to the law-and-order situation”. Failure to comply with a directive from the Permanent Secretary could result in an order to cease all publications and activities. Since the lifting of the PER, the Minister of Information now has the same powers, under the Media Industry Development Decree.

The United Nations expressed strong concern at the most senior levels over the emergency regulations. Others called upon the Government to rescind the regulations immediately. Since the lifting of the regulations, concern has been expressed regarding the Public Order (Amendment) Decree, which replicates some of the provisions of the PER.

The Government introduced the Media Industry Development Decree in June 2010. The decree established a Media Industry Development Authority and a Media Tribunal to investigate complaints referred to it by the authority, with powers to impose jail terms and fines. It also empowered the Minister of Information to censor any broadcast or publication.

Since the coup, a number of local journalists (at least 20 since April 2009) regarding a 2010 Amnesty International Report have been questioned, detained, harassed and searched in relation to their professional activities. Overseas journalists have been deported.

The Public Order Act allows the Government to refuse applications for permits for marches and meetings to regulate the use of any public place by three or more persons.

In 2011, there was increasing pressure on trade unionists, with incidents of harassment, beating, detention and criminal prosecutions.

The Media Industry Development Decree 2010 (Fiji), section 80


52 Media Industry Development Decree 2010 (Fiji), section 80

53 Public Order Act 1969, (Fiji), sections 8, 9 and 10

Survey 2008 report found that 31% of Fiji's population poverty. The Fiji Household Income and Expenditure

As the areas in which these settlements are located are on marginal lands – low lying, manly and often near mangrove swamps – the physical conditions are less than hygienic. The unhealthy environment is compounded by the absence of proper latrines and garbage disposal. Periodic flooding as a result of heavy rains and very high tides or both aggravates conditions.”

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The remaining land is owned by the State (9%) or is privately owned freehold land (8%). In 1999, many long-term leases in sugar cane-growing areas began expiring, “with thousands of Indo-Fijians [tenant farmers] facing evictions as a consequence of non-renewals.” Many of these families, descendants of indentured labourers brought to Fiji by the British colonial administration, had been living there for generations. Non-government organisations in Fiji have submitted that “land ownership in Fiji since the colonial times has been the source of much racial discrimination” and remains a highly contentious issue today.

There have also been reports of discrimination on the basis of religion in the public service. Amnesty International has reported that in July 2009, the Police Commissioner introduced a Christian programme for police officers aimed at curbing crime. In 2010 the Police Commissioner resigned and the religious programme was ended.

Fiji’s participation in regional organisations

Alliance of Small Island States (AOSIS)

Economic and Social Commission for Asia and the Pacific (ESCAP)

Melanesian Spearhead Group (MSG)

Pacific Islands Forum (PIF) – Suspended

Secretariat of the Pacific Community (SPC)

Secretariat of the Pacific Regional Environment Programme (SPREP)

South Pacific Regional Trade and Economic Co-operation Agreement (SparEca)

Government policies in the area of low-income housing have included activities such as the granting of some 99-year leases to people in informal settlements. This also involves regular payments on the part of the settlement dwellers. Indigenous Fijians, officially known as iTaukei since 2010, make up 57.3% of the population; Indo-Fijians account for 36.7%, and the remaining 5.1% is composed of European, Chinese, Rotuman and other Pacific Island communities. Tension between ethnic Fijians and Indo-Fijians has been a long-standing issue. Successive governments have struggled with the balance between the rights of indigenous landowners and those of the minorities living on the land. The iTaukei Land Trust Board (TLTB), which was set up in 1940 as the Native Land Trust Board, administers 87% of all land. This land is owned by traditional indigenous Fijian land-owning groups and cannot be sold but is ‘available for public use by lease agreement’. The remaining land is owned by the State (9%) or is privately owned freehold land (8%). In 1999, many long-term leases in sugar cane-growing areas began expiring, “with thousands of Indo-Fijian [tenant farmers] facing evictions as a consequence of non-renewals.” Many of these families, descendants of indentured labourers brought to Fiji by the British colonial administration, had been living there for generations. Non-government organisations in Fiji have submitted that “land ownership in Fiji since the colonial times has been the source of much racial discrimination” and remains a highly contentious issue today.

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Economic and Social Commission for Asia and the Pacific (ESCAP)

Melanesian Spearhead Group (MSG)

Pacific Islands Forum (PIF) – Suspended

Secretariat of the Pacific Community (SPC)

Secretariat of the Pacific Regional Environment Programme (SPREP)

South Pacific Regional Trade and Economic Co-operation Agreement (SparEca)
Fiji Council of Social Services (FCOSS)
256 Waimanu Rd, Suva
PO Box 13476, Suva
T: +679 331 1024
F: +679 333 6069
fcoss@connect.com.fj

Fiji Nurses Association
26 McGregor Rd, Suva
PO Box 1364, Suva
T: +679 330 5855
F: +679 330 4881
fn@connect.com.fj
www.fijinursingassociation.com

Fiji Red Cross Society
22 Gorrie St
PO Box 569, Suva
T: +679 331 4133
F: +679 330 3818
helpdesk@redcross.com.fj
www.redcross.com.fj

Fiji Trades Union Congress
32 Des Voeux Road
GPO Box 1418, Suva
T: +679 315 377, 315 402
F: +679 300 306
ftuc1@connect.com.fj

Fiji Women’s Crisis Centre
88 Gordon Street
PO Box 12882
Suva, Fiji
T: +679 331 3300
F: +679 331 3650
fwcc@connect.com.fj
www.fijiwomen.com

Fiji Women’s Rights Movement
GPO Box 14194
Suva, Fiji
T: +679 313 156
F: +679 313 466
info@fijwrm.org.fj

Human Rights Watch – Fiji
http://www.hrw.org/asia/fiji

National Council of Women (NCW)
9 Le Hurst Street, Suva
PO Box 840, Suva
T: +679 330 1891
F: +679 356 2725
secretary@ncw.fiji.org
www.ncw.fiji.org

Pacific Concerns Resource Centre (PCRC)
83 Amy Street, Toorak, Private Mail Bag, Suva
T: +679 3304649
F: +679 3304755
E-mail: pcrc@h.fiji.com; pcrc.secretariat@gmail.com
Website: http://www.pcrc.org.fj

Save the Children
25 Pender Street
PO Box 2249, Government Buildings
Suva
T: +679 331 3178
F: +679 330 2214
info@savethechildren.org.fj
www.savethechildren.org.fj

Transparency International
72 Pratt Street, Suva
GPO Box 12642, Suva
T: +679 330 4702
F: +679 330 3533
oa@transparencyfiji.org
www.transparencyfiji.org

Women’s Action for Change (WAC)
333 Waimanu Road
PO Box 12398, Suva
Fiji
T: +679 331 4363
F: +679 330 5033
wac@connect.com.fj

Young Women’s Christian Association (YWCA)
3 Desvouex Road
PO Box 534, Suva
T: +679 331 3486
F: +679 330 3004
ywca@connect.com.fj
Papua New Guinea
Independent State of Papua New Guinea, Papuaniugini

Papua New Guinea (PNG) has a democratic parliamentary system of government. The head of government is the Prime Minister and the head of state is the British Monarch, represented in Papua New Guinea by the Governor-General, who is elected to the position by Parliament. The population is made up of more than 800 indigenous tribes.

Key Facts

CAPITAL
Port Moresby

POPULATION
6,744,955 (2010 mid-year est.)
5,190,786 (2000: last census)

LAND AREA
462,840 km²

YOUTH
19.8% (15–24)

GROSS DOMESTIC PRODUCT (GDP) PER CAPITA
US$897 (2006)

GROSS NATIONAL INCOME (GNI) (PURCHASING POWER PARITY)
US$16,440,701,320.1 (2010 est.)

GNI PER CAPITA (ATLAS METHOD)
US$1300 (2010)

TYPE OF GOVERNMENT
Constitutional parliamentary democracy

ELECTORAL SYSTEM
Preferential voting

NUMBER OF MPS IN LEGISLATURE
109 1 female

RELIGIONS
27% Catholic
19.5% Evangelical Lutheran
11.5% United Church
10% Seventh-Day Adventist
8.6% Pentecostal
8.9% other Protestant

70 Ibid, Secretariat of the Pacific Community, Pocket Statistical Summary, 2010
71 Ibid
72 Ibid
74 Ibid
76 Papua New Guinea, National Report Submitted in Accordance with Paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1
UN Doc A/HRC/6/1/1/PNG/1 (5 May 2011) [17]
**ETHNIC GROUPS**
- Melanesian
- Papuan
- Negrito
- Micronesian
- Polynesian

**LANGUAGES**
Tok Pisin, English, and Hiri Motu (official languages); approximately 860 indigenous languages spoken

Note: Tok Pisin, a Creole language, widely used and understood; English spoken by 1–2%; Hiri Motu spoken by less than 2%

**HUMAN DEVELOPMENT INDEX**
- 137 out of 169 ranked countries (2010)

**UNDER-FIVE MORTALITY RATE**
- 68/1000 live births (2009)

**LIFE EXPECTANCY AT BIRTH (YEARS)**
- Male: 53.7
- Female: 54.84

**ADULT LITERACY RATE (AGES 15 AND OVER)**
- 60% (2004)

**EXPECTED YEARS OF SCHOOLING**
- 5.2 years

---

**International Treaty Ratification and Reporting Obligations**

<table>
<thead>
<tr>
<th>Convention</th>
<th>Date of Signature/Ratification</th>
<th>Reporting Status as of October 2011</th>
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<td>ICCPR</td>
<td>Ratified 21 July 2008</td>
<td>Initial report overdue since 21 October 2009</td>
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<td>ICESCR</td>
<td>Ratified 21 July 2008</td>
<td>Initial report overdue since 30 June 2010</td>
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<td>Ratified 12 January 1995</td>
<td>4th report due on 31 July 2014</td>
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<td>CRC</td>
<td>Ratified 2 March 1993</td>
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<td>CERD</td>
<td>Ratified 27 January 1982</td>
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<tr>
<td>CRDP</td>
<td>Signed 2 June 2011</td>
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</tbody>
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84 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the State’s intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.
Papua New Guinea was reviewed at the 11th session of the UPR in May 2011. During the review, 146 recommendations were made. These included that the Government of PNG:

- Consider ratifying the other international human rights conventions to which it is not a party, particularly CAT and the CRPD, as well as other international instruments;
- Align domestic legislation with international human rights treaties to which PNG is a party and ensure prosecution for breaches of the law;
- Enhance measures to combat and prohibit discrimination against women and to empower women;
- Strengthen law enforcement and the judicial system, particularly to address the problem of violence against women and ensure that all complaints are investigated and perpetrators prosecuted;
- Undertake public education on the impacts of gender-based violence, promote the rights of women, including by adopting a national gender policy and action plan, and support efforts to create safe places for women who have been victims of domestic violence;
- Review the law of sorcery and sorcery-related killings and ensure that perpetrators are brought to justice;
- Seek assistance to establish a national human rights institution in accordance with the Paris Principles;
- Take steps to ensure the rights of people with disabilities are protected and effective;
- Extend a standing invitation to all special procedures of the Human Rights Council;
- Implement measures to prevent abuse and violence by police officers, and investigate allegations and prosecute perpetrators;
- Ensure human rights training for the police;
- Ensure all children are registered at birth;
- Continue measures to provide universal health services, with particular focus on maternal health and mortality;
- Intensify efforts against the spread of HIV/AIDS;
- Take measures to ensure universal education is available, including free and compulsory primary education;
- Improve the access to justice for people in rural and remote areas and increase their awareness of human rights;
- Implement the National Disability Policy and promote the creation of a database regarding persons with disabilities, with the objective of guiding relevant policies to make their rights effective;
- Discriminate sexual relations between consenting adults of the same sex;
- Protect human rights defenders; provide information regarding climate change and ensure the rights to property and environment of traditional land owners are respected;
- Papua New Guinea accepted 114 of the 146 recommendations.

**DOMESTIC PROTECTIONS OF HUMAN RIGHTS**

The Papua New Guinea Constitution protects a number of civil and political rights including the right to life, the right to freedom from inhuman treatment and the right to freedom of expression. Papua New Guinea has not enacted any specific human rights legislation.

**NATIONAL HUMAN RIGHTS INSTITUTION (NHRI)**

Concrete steps have been taken to advance the establishment of a human rights commission in Papua New Guinea. In 1997 the Government approved in principle the establishment of a human rights commission and in 2007 this was reaffirmed. Consultations resulted in a Draft Organic Law on the Establishment of the Human Rights Commission. It is anticipated that the Commission will be in place by 2012.

There is an Ombudsman Commission of Papua New Guinea. Its role is to assist ordinary people who feel aggrieved by actions or inaction of any institution of government. The Ombudsman Commission is an independent institution established directly by the Constitution.

**Ombudsman Commission**

Deloitte Tower
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PO Box 1831
Port Moresby 121
National Capital District
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T: +675 308 2600 or +675 320 3255
F: +675 320 3266
support@ombudsman.gov.pg
www.lawandjustice.gov.pg/ombudsman.asp

**HUMAN RIGHTS ISSUES**

1. **Discrimination and violence against women**

Violence against women is a particular issue of concern. In its report to the Committee on the Elimination of Discrimination against Women, the Government of PNG acknowledged that “domestic or intimate partner violence is very common in PNG and has been estimated to affect 70% of women”. There is limited current statistical information available, and the most comprehensive research was undertaken by the Law Reform Commission between 1982 and 1986. The research found that an average of two thirds of women had been hit by their partner and in two Highland Provinces almost one hundred percent of the women interviewed reported being hit by their partners. In 2010, the Committee on the Elimination of Violence against Women: “expressed its deep concern at the persistence of violence against women, including sexual violence at the domestic and community levels, and at the lack of information and statistical data on its nature, extent and causes. The Committee is particularly concerned that such violence would appear to be socially legitimised and accompanied by a culture of silence and impunity and that cases of violence are thus underestimated.”

Rape and sexual violence are also a significant problem in PNG. In its report to the Committee on the Elimination of Discrimination against Women, the Government of PNG acknowledged that “the unequal status and power relations of women’s conditions in PNG is perhaps most graphically illustrated in the personal insecurity faced by women and girls due to extreme forms of gender-based violence, including rape, with half of all reported victims of sexual abuse under 15 years of age and one in five assault victims are between ages 16 and 20.”

According to Amnesty International, willingness to report crimes is affected by concerns that women will be asked to perform sexual favours or raped by the police. Human Rights Watch reports indicate that police ignore
complaints of sexual or domestic violence from women and in some cases have demanded sex from victims. 96 With an HIV prevalence of 0.9%, Papua New Guinea has the region’s largest HIV epidemic. 97 The combination of high HIV prevalence and high levels of sexual violence against women is of concern.

Cases of violence against women are also widely reported. Amnesty International has reported that “hospital staff and welfare workers have reported that they frequently deal with women whose injuries, including stab wounds, have been inflicted by other women with whom they share a common partner”. 98 Sorcery-related killings are a growing form of violence against women. PNG Provincial commandos in Eastern Highlands and Chimbu admitted there were more than 50 sorcery-related killings in their provinces in 2008. 99 Women are six times more likely to be accused of sorcery than men. 100 Those accused of witchcraft have been killed, raped or subjected to extreme punishments and inhumane treatment.

Gender inequality has been identified by CEDAW as a severe impediment to development and the most visible human rights violation in PNG. 101 Women continue to face severe inequalities in all spheres of life (social, cultural, economic and political). The United Nations in PNG has observed that “gender discrimination exists at all levels in Papua New Guinea evident in such indicators as literacy and also in the absence of women in decision making positions in government and all sectors of society at all levels”. 102 According to World Bank statistics, women continue to lag behind men in literacy and education, with 43% of women literate compared to 61% of men. 103

Law and justice agencies of the PNG Government have stated that “women are grossly underrepresented in the sector (particularly in management and decision-making positions), women have less access to the justice system than men, and women frequently receive inequitable treatment before the law, on the basis of their gender”. 104 Gender inequality has been identified as a severe impediment to development and the most visible human rights violation in PNG. 105 In 2011, there was only one woman in the 109-seat Parliament. Dame Carol Kidu served as Minister of Community Development. There is no law limiting political participation by women, but the deeply rooted patriarchal culture impedes women’s full participation in political life. Although women do run for political positions, they are rarely successful. The Government suggests that one reason for this could be “traditional cultural views of women’s leadership”. 106 There has, however, been recognition of these challenges with the inclusion of provisions in the Organic Law on Provincial Government that provide for the nomination of women representatives at the provincial and local levels of government. 107 The National Parliament is also proposing that there be 22 reserved seats for women. 108

2. Rights of the child

While PNG is a signatory to the CRC, there have been numerous reports of child abuse, particularly by police officers. Human Rights Watch (HRW) has documented numerous instances of police abuse of children and has stated that “the vast majority of children who are arrested are severely beaten by members of the police”. 109 Specifically, “children reported being kicked and beaten by gun butts, crowbars (‘pins bars’), wooden batons, fists, rubber hoses and chains. Boys described being shot and knifed while in custody. Girls told us that they had been forced to chew and swallow condoms. Many of those we interviewed showed us fresh wounds and scars on their heads, faces, arms, legs, and torsos that they said were from police. Serious injuries to the face, particularly around the eyes, were common”. 110 HRW also found children in conflict with the law being assaulted, beaten and threatened with sexual violence to confess to crimes. Girls reported being raped, including pack-raped, and boys reported being subjected to oral and anal rape. 111 Boys also reported being sexually humiliated. 112 The Special Rapporteur on Torture found that children were held with adults and were subjected to abuse in detention. He recommended the removal of all children from adult detention centres. 113 The InternationalLabour Organization Committee of Experts has expressed concern that some children who were informally adopted were “trapped into situations of long hours of work, lack of rest and leisure, lack of freedom of mobility and association, and deprived of the right to education and medical treatment”. 114 UNICEF has raised the concern that criminal liability begins from the age of seven years. 115

In Papua New Guinea, 20.8% of women are married between the ages of 15 and 19. 116 The legal age for marriage is 18 for boys and 16 for girls. However, in accordance with tradition, girls may be married once they have commenced menstruation. 117

103 Amnesty International, Update to the Briefing to the UN Committee on the Elimination of Discrimination Against Women, Women AI Index No. ASA 34/004/2010, 9.
105 Ibid., 44.
107 Ibid, 5-6.
109 Ibid
110 Manfred Nowak, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Mission to Papua New Guinea, UN Doc A/HRC/16/52/Add.5 (5 February 2011) [50].
113 Ibid.
114 Ibid.
117 OECD, Gender Equality and Social Institutions in Papua New Guinea, Social Institutions and Gender Index http://genderindex.org/country/papuanewguinea
3. Impunity

Concern has been expressed about the “abuses and excesses by the Royal Papua New Guinea Constabulary”. Police officers use excessive force and “the government rarely investigates, prosecutes and punishes the perpetrators of these killings”. In 2001, the Ombudsman Commission received more complaints about the police than about any other government body. A 2004 Ministerial Police Review found that the police were close to collapse and had ineffective systems of oversight to hold police accountable for crimes or human rights abuses. In 2007, a Memorandum of Understanding (MOU) was signed, giving the Commission oversight of internal police investigations. Although the MOU appears to have promoted a growing acceptance of the need for accountability, its implementation has been patchy. The Special Rapporteur on Torture expressed concern that the MOU had not been implemented.

4. Torture and ill-treatment

The Special Rapporteur on Torture carried out a mission to PNG from 14 to 25 May 2010. He found “systematic beatings of detainees upon arrest or within the first hours of detention, including during interrogation. The beatings were frequently inflicted by the police as a form of punishment, reflecting complete disrespect for the presumption of innocence and the dignity of persons suspected of crimes. Beatings were practiced with various tools including automobile fan belts, bush knives, gun butts, iron rods and wooden sticks. Detainees were also punched and kicked, mainly as a form of punishment or intimidation by the police and as a way to establish authority.” The special rapporteur also found that “in correctional institutions, ... [there was] a standard practice of inflicting torture upon recapture on those who had attempted to or succeeded in escaping. These detainees are subjected to brutal beatings with bush knives and gun butts, shot in the leg and feet at close range, and their tendons are cut with bush knives and axes with the deliberate intent to disable them. After they are tortured, the victims are usually kept in punishment cells for months, without any medical treatment, and in some cases eventually die.”

Prison conditions and police lockups are poor and the system suffers from serious underfunding. The Special Rapporteur on Torture expressed concern about conditions in detention. He also noted that many people are held in detention for prolonged periods due to insufficient oversight mechanisms. The special rapporteur expressed concern about conditions in both police lockup and prisons. In police lockups, detention cells were “overcrowded and filthy... without proper ventilation or natural light”; detainees had to sleep on a concrete floor; access to food and water was limited; and the poor detention conditions “were conducive to the spread of cholera and other diseases.” There was also generally no access to medical attention, which resulted in “avoidable amputations and even deaths in custody.”

In relation to the conditions in prisons, the special rapporteur expressed his satisfaction with the separation of men from women. However, he found that “the conditions in correctional institutions were generally poor” and most were overcrowded. He expressed concern about captured escaping being subjected to severe beatings, being shot or having their tendons cut, and then being denied medical treatment. There was also generally limited access to running water and food, as well as insufficient beds and mattresses.

Papua New Guinea committed to implementing the recommendations of the Special Rapporteur during its review by the Human Rights Council under the Universal Periodic Review Process. In 2011, it established a coordination mechanism within Government to implement human rights recommendations, including those of the Special Rapporteur on torture.

5. Right to an adequate standard of living

The United Nations Human Settlements Programme (UN-HABITAT) has documented that about 45% of Port Moresby’s total population lives in settlements. There are 20 planned settlements and 79 unplanned settlements. Of the unplanned settlements, 44 are on state land and 37 on customary land. The growth of these settlements is the result of uncontrolled migration and population growth and the Government’s failure to provide affordable housing and developable land supply to meet increased demand. These settlements are characterised by a lack of planning, poor infrastructure and a lack of urban services.

Serious cases of forced evictions by the police have been reported, especially in relation to the operation of mining interests and retribution for criminal acts. It has been stated that “forced eviction and destruction of property is commonly used by the police as a punitive measure, as a form of collective punishment for a community following a crime, and to pressure the community to provide information or hand over those responsible for the crime.” Further, “in rural areas where land is taken over by international companies for resource extraction, traditional landowners have been forcibly evicted.”

Various instances of forced evictions have occurred. For example, in December 2008, in response to the murder of prominent businessman Sir George Constantinou, allegedly committed by residents in the settlement, police evicted approximately 400 persons from a squatter settlement in Port Moresby. The police bulldozed and burned down their homes. Police stated that they had given the settlers three days notice to move out.
The Government did not provide any temporary accommodation, transportation or food to the squatters. A number of landowners in Porgera subsequently filed suit against the police, charging that during the operation police also destroyed more than 300 homes of legal residents who lived near the mining area. A report by the Centre for Environmental Law and Community Rights on the logging industry noted human rights abuses include denial of due process in appropriating property, arbitrary detention and physical brutality by police against landowners, intimidation and abuse of women, contamination of food and water sources, and unjust working conditions.

6. Situation in or in relation to specific regions or territories

In the Highlands, tribal fighting is a serious source of human rights violations. The number of conflicts going on and the number of victims of violence has not been adequately documented. In one example, in 2009, women activists in the PNG highlands reported an outbreak of violence in the Simbu province between 13 tribes over claims to a sand gravel quarry. The women from various tribes had worked together over the previous decade to broker a tenuous peace. However, during that time, guns had been brought in to the area, which added to the escalation of the conflict. The Women’s Human Rights Defenders International Coalition stated that “people have been killed; hundreds of houses burnt to the ground; food gardens and coffee trees have been destroyed; pigs killed; the [Kop Women for Peace] centre, schools and health centres wrecked... Most people have fled and are living in tents and temporary shelters in the mountains or along the Wahgi River.” A PNG women’s rights advocate said that “many women have been raped and numerous women were shot in the battlefields while trying to gather food for their families. Women and girls are targets in the fighting, often for vengeance and to provoke and shame the enemy.”

PAPUA NEW GUINEA’S PARTICIPATION IN REGIONAL ORGANISATIONS

Alliance of Small Island States (AOSIS)
Melanesian Spearhead Group (MSG)
Pacific Islands Forum (PIF)
Secretariat of the Pacific Community (SPC)
Secretariat of the Pacific Regional Environment Programme (SPREP)
South Pacific Regional Trade and Economic Co-operation Agreement (SparTECA)

KEY DOMESTIC HUMAN RIGHTS DEFENDERS, CIVIL SOCIETY ORGANISATIONS AND NON-GOVERNMENT ORGANISATIONS

Centre for Environmental Law and Community Rights Inc (CELCOR) / Friends of the Earth Papua New Guinea Suite 6B, Level 2 Garden City Shopping Centre PO Box 4373 Boroko, NCD Papua New Guinea T: +675 323 4509 F: +675 311 2106 info@celcor.org.pg www.celcor.org.pg

Foundation of People and Community Development PO Box 719, Mt Hagen, Western Highlands Province T: +675 325 8470 F: +675 325 2670 admin@fpcd.org.pg www.fpcd.org.pg

Habitat for Humanity PO Box 3804, Lae 411 Morobe Province T: +675 472 1270 F: +675 325 3713 habitatpg@global.net.pg www.habitat.org

Individual and Community Rights Advocacy Forum PO Box 1104, Boroko T: +675 325 1537 F: +675 325 1415 icraf@dace.at.com.pg

National Aids Council of PNG PO Box 1345, Boroko T: +675 323 6161 F: +675 323 1629 www.nacs.org.pg

National Association of Disabled People Cº National Orthotic and Prosthetic Services Box 457, La Morobe Province T: +675 473 2159 F: +675 472 3868 www.apds.org

National Alliance of NGO (NANGO) PO Box 434, University Boroko NCD

National Council of Women Tairangika Drive PO Box 154, Gerehu ncwpg@daltron.com.pg

PNG Council of Churches Tairangika Drive PO Box 1015, Boroko T: +675 685 1836

PNG Trade Unions Congress PO Box 4279, Boroko T: +675 325 7642 F: +675 325 6390

Susu Mamas Inc Port Moresby O&G site at Port Moresby General Hospital T: +675 325 2528, 720 6262 or 650 2656 F: +675 325 2697 susumaspom@daltron.com.pg

Transparency International PNG PO Box 591, Port Moresby T: +675 320 2188 F: +675 320 2189 transparency@deltron.com.pg


138 Centre for Environmental Law and Community Rights and the Australian Conservation Foundation, Bulldozing Progress, July 2006, 3


140 Ibid

141 Ibid
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registry.pg@undp.org
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World Vision International PNG
Lev 13, Deloitte Tower
Port Moresby NCD
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T: +675 311 2530
F: +675 325 4225
www.wvi.org

Young Women’s Christian Association of Papua New Guinea
PO Box 5884, Boroko
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Papua New Guinea
T: +675 325 2180 or +675 325 2180
F: +675 325 6158
ywcapng@datec.com.pg
www.ywcapng.org
Solomon Islands has a democratic parliamentary system of government. The head of state is the British Monarch, represented in Solomon Islands by the Governor-General who is elected by Parliament for a five-year term. The head of government is the Prime Minister, who is elected by Parliament. Solomon Islands gained independence from the United Kingdom on 7 July 1978.

In 1998, ethnic tensions between the Malaitan and Guadalcanese ethnic groups erupted in Solomon Islands, resulting in human rights violations including torture and unlawful killings. The RAMSI (Regional Assistance Mission in the Solomon Islands) programme, a Pacific Islands Forum initiative largely funded by the Australian Government, arrived in the country in 2003 at the Government’s invitation to assist in restoring law and order and rebuilding the country. Following its deployment, RAMSI apprehended and charged more than 240 persons allegedly responsible for human rights abuses and other criminal acts.

Key Facts

| CAPITAL | Honiara |
| POPULATION | 549,574 (2010 mid-year est.) | 515,870 (2009: last census) |
| LAND AREA | 30,407 km² |
| YOUTH | 19.1% (15-24) |
| GROSS DOMESTIC PRODUCT (GDP) PER CAPITA | US$1014 (2008) |
| GROSS NATIONAL INCOME (GNI) (PURCHASING POWER PARITY) | US$1,182,844,090 (2010 est.) |
| GNI PER CAPITA (ATLAS METHOD) | US$1030 (2010) |

TYPE OF GOVERNMENT
Constitutional monarchy with a parliamentary democracy

ELECTORAL SYSTEM
First-past-the-post

NUMBER OF MPS IN LEGISLATURE
50 no females

RELIGIONS
32.8% Church of Melanesia
19% Roman Catholic
17% South Seas Evangelical
11.2% Seventh-Day Adventist
10.3% United Church
2.4% Christian Fellowship Church
4.4% other Christian
2.4% other
0.3% unspecified
0.2% none (1999 census)

Solomon Islands

144 Ibid, Secretariat of the Pacific Community, Pocket Statistical Summary, 2010
145 Ibid
146 Ibid
148 Ibid
### Pacific Regional Human Rights Status

**MELANESIAN GROUP: SOLOMON ISLANDS**

<table>
<thead>
<tr>
<th>Ethnic Groups</th>
<th>Count</th>
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<td>Polynesians</td>
<td>15,909</td>
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<td>Micronesians</td>
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<td>Chinese</td>
<td>654</td>
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<td>Europeans</td>
<td>721</td>
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<tr>
<td>Others (November 2009 census)</td>
<td>671</td>
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</table>

**Languages**

Solomon Islands Pidgin, which is generally spoken by everyone. There are approximately 120 indigenous languages. English is used for official communication.

**Human Development Index**

- **123 out of 169 ranked countries** (2010)
- **Under-Five Mortality Rate**: 27/1000 live births (2010)
- **Life Expectancy at Birth (Years)**
  - Male: 60.6
  - Female: 61.6
- **Adult Literacy Rate (Ages 15 and over)**: 76.6% (2004)
- **Expected Years of Schooling**: 9.1 years

### International Treaty Ratification and Reporting Obligations

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<th>Convention</th>
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<th>Reporting Status</th>
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<td>17 March 1982</td>
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**Remarks**: A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the State’s intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.

- Ratified: The date on which a state has signed the treaty or deposited the instruments of ratification with the depositary organ.
- Reporting: The date on which a state has sent its national report to the competent organs of the United Nations.


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152 Ibid, 9
157 Ibid, 145
158 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the State’s intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.
Solomon Islands were reviewed at the 11th session of the UPR in May 2011. During the review, 115 recommendations were made. These included that the Government of Solomon Islands:

- Consider acceding to or ratifying other international human rights conventions to which it is not a party;
- Establish a national human rights institution in accordance with the Paris Principles;
- Extend a standing invitation to all special procedures of the Human Rights Council;
- Strengthen efforts to modify or repeal existing laws and regulations that discriminate against women and girls;
- Amend legislation to set the minimum age for marriage;
- Implement fully its Gender Equity and Women’s Advancement strategy;
- Take steps to promote and protect the rights of people with disabilities by providing equal access to education, accommodation, employment, health and justice services for persons with disabilities, and engaging persons with disabilities or their representatives in the policy-making process;
- Intensify its efforts to allow better enjoyment of human rights and fundamental freedoms by persons with disabilities or their representatives in the policy-making process;
- Develop national guidelines for implementing the Human Rights Council’s recommendations.

Solomon Islands accepted 111 of the 115 recommendations.

DOMESTIC PROTECTIONS OF HUMAN RIGHTS

The Constitution of Solomon Islands protects a number of civil and political rights, including the right to life, the right to personal liberty and the right to freedom of assembly. Solomon Islands has not enacted any specific human rights legislation.

NATIONAL HUMAN RIGHTS INSTITUTION (NHRI)

Solomon Islands does not have a Paris Principles-compliant NHRI. However, in 2010, in a National Plan of Action for Human Rights, the Government outlined its initiative to consider establishing an NHRI.

It has an Ombudsman whose mandate is to respond to complaints of citizens against the Government. In 2009 the Ombudsman, Joe Poraiwai, stated that his office “has a lot of limitations hindering its role as watchdog on the Government”, such as understaffing and a need to review the Ombudsman’s Act as well as a lack of awareness of the role of the Ombudsman. In July 2010, a new building was opened for the Solomon Islands Leadership Academy and the Ombudsman’s Office. It is intended to provide a “focal point for registering complaints against leaders and government officials”. The Office of the High Commissioner for Human Rights, Asia Pacific Forum and the Pacific Island Forum Secretariat are providing technical assistance to the Solomon Islands to assess the feasibility of the establishment of a national human rights institution.

Solomon Islands Ombudsman

Honaiara

Solomon Islands

HUMAN RIGHTS ISSUES

1. Discrimination and violence against women

Violence against women is a significant issue in Solomon Islands. According to a Government-sponsored study carried out by the Secretariat of the Pacific Community and published in November 2009, 61.4% of women between the ages of 15 and 49 who have ever been in a relationship experienced violence in the home, and 41.8% reported experiencing violence in the past 12 months. The report notes that “women in Solomon Islands are more likely to experience severe forms of physical violence, such as punching, kicking or having a weapon used against them, rather than just moderate violence”.

The report goes on to find that violence against women is considered socially acceptable, with 73% of women believing “that a man is justified in beating his wife under some circumstances (in particular, for infidelity and disobedience)”.

Gender-based violence in conflict has also been reported in Solomon Islands. An Amnesty International 2004 report found that “gender-based violence against women and girls was an entrenched feature” in the five-year civil unrest in Solomon Islands from 1998 to 2003 and that “[t]hose responsible – whether police personnel, members of armed groups or private individuals – were rarely brought to justice.”

The International Center for Transitional Justice has noted the absence of prosecution of gender-based crimes that occurred during the civil unrest.

While Solomon Islands ratified CEDAW on 6 May 2002, it has not submitted its initial report to the committee. However, a UN Development Programme and UNIFEM legislative compliance handbook notes that Solomon Islands has started work on its laws and policies to be CEDAW-compliant. It notes in particular that Solomon Islands has achieved full compliance on 23 indicators, partial compliance with 33 indicators and no compliance with 57 indicators. The indicators relate directly to the articles in CEDAW.

Due to societal male dominance, there are no women in the 50-member Parliament. In June 2010, the ‘Twelve Pillars to Peace and Prosperity Party’, Solomon Islands’ first women’s political party, was launched.

162 Solomon Islands rejected this recommendation
163 Solomon Islands Constitution, sections 3–19
164 Amnesty International, Solomon Islands: Amnesty International Submission to the UN Universal Periodic Review, AI Index Number ASA 43/001/2010 (8 November 2011)
In 2003 the Committee on the Rights of the Child expressed its concern that while the Solomon Islands had a child rights bill being drafted as well as a bill for the protection of children, these bills and other draft laws concerning child rights had long been awaiting enactment.\textsuperscript{173} For the Universal Periodic Review process in 2011, Save the Children expressed concern that these bills remained drafts.\textsuperscript{174} Moreover, the Committee expressed its concerns that the principle of the best interests of the child is not defined in legislation or reflected in policy, programmes or activities. It also highlighted concerns on issues such as ill-treatment of children (including the widespread use of corporal punishment, abuse and neglect, including sexual abuse), access to proper health services and education, and internal displacement of children following armed conflict, the recruitment of children by militias during armed conflict, economic and sexual exploitation of children, and child trafficking.\textsuperscript{175} A UNICEF report on commercial sexual exploitation of children in five countries in the Pacific notes the prevalence of various forms of sexual violence and abuse in the Solomon Islands, including child prostitution, child sex tourism, child pornography, child trafficking, and sale of children through improper marriage and adoption.\textsuperscript{176} 

2. Rights of the child

In 2003 the Committee on the Rights of the Child formally established the Truth and Reconciliation Commission (TRC) on 29 April 2009 to investigate the ethnic violence in the Solomon Islands between 1998 and 2003.\textsuperscript{177} The Commission’s first public hearings were held in May 2010. The Commission explained that the aim of the process was to provide victims with an opportunity to be heard and give recognition to their suffering. “Victims were permitted to name groups who had caused their suffering, but not individuals. The Commission would not pass judgment, but treat the hearings as ‘moments to listen with respect and compassion’.”\textsuperscript{178} The International Center for Transitional Justice has observed that “corruption and impunity continue to undermine public confidence in most government institutions”.\textsuperscript{179} Corruption is perceived as widespread in Solomon Islands ranks 110th out of 179 countries in Transparency International’s Corruption Perceptions Index for 2010.\textsuperscript{180} The law provides criminal penalties for official corruption, but it has not been implemented effectively, and officials often engage in corrupt practices with impunity.\textsuperscript{181} In November 2009, Prime Minister Sikua said that the Government has lost approximately $400 million in malpractice and if such a trend continues it would most likely cripple the economy.\textsuperscript{182} While the Government is addressing this issue, including organising seminars on corruption and undertaking a review through the Law Reform Commission,\textsuperscript{183} corruption poses a real threat to the enjoyment and realisation of rights.  

3. Impunity

Following the civil unrest of 2000, the Government formally established the Truth and Reconciliation Commission (TRC) on 29 April 2009 to investigate the ethnic violence in the Solomon Islands between 1998 and 2003.\textsuperscript{177} The Commission’s first public hearings were held in May 2010. The Commission explained that the aim of the process was to provide victims with an opportunity to be heard and give recognition to their suffering. “Victims were permitted to name groups who had caused their suffering, but not individuals. The Commission would not pass judgment, but treat the hearings as ‘moments to listen with respect and compassion’.”\textsuperscript{178} The International Center for Transitional Justice has observed that “corruption and impunity continue to undermine public confidence in most government institutions”.\textsuperscript{179} Corruption is perceived as widespread in Solomon Islands ranks 110th out of 179 countries in Transparency International’s Corruption Perceptions Index for 2010.\textsuperscript{180} The law provides criminal penalties for official corruption, but it has not been implemented effectively, and officials often engage in corrupt practices with impunity.\textsuperscript{181} In November 2009, Prime Minister Sikua said that the Government has lost approximately $400 million in malpractice and if such a trend continues it would most likely cripple the economy.\textsuperscript{182} While the Government is addressing this issue, including organising seminars on corruption and undertaking a review through the Law Reform Commission,\textsuperscript{183} corruption poses a real threat to the enjoyment and realisation of rights.  

4. Torture and ill-treatment

Although the Committee on the Rights of the Child raised concerns in 2003 regarding the use of corporal punishment in places of detention, the 2007 Correctional Services Act since prohibited the use of corporal punishment against prisoners. During the UPR review, New Zealand noted improvement in prison conditions and no stakeholders raised concerns regarding prison conditions. RAMSI reports that in Auki, Malaita Province a new Correctional Centre has been constructed, and that other prisons have been refurbished. RAMSI states that ‘the reinvigorated Correctional Services of Solomon Islands has become one of the success stories in Solomon Islands’.\textsuperscript{184} 

5. Independence of the judiciary

In the period leading up to the civil unrest in the Solomon Islands, access to justice and the independence of the judiciary was severely affected by government interference, including threats made against judicial officers and the prosecution office. The International Commission of Jurists, in a report, notes that during this period “there was a serious breakdown in the administration of justice at all levels”.\textsuperscript{185} While the Government continues to rebuild the judicial system, there remains the need for adequate resources for ensuring that the judiciary remains independent, especially in times of conflict, and that a backlog of cases is addressed effectively.  

6. Right to an adequate standard of living

Informal settlements have grown in Solomon Islands since the 1990s due to high rural to urban migration and high unemployment. Problems have arisen in relation to poor sanitary and living conditions as well as poor access to water, and limited or no access to electricity. Amnesty International observed that “scores of people were forced to scavenge at the Ranadi rubbish dump in the outskirts of Honiara to feed themselves and to find building materials for their homes. The authorities made no meaningful attempt to prevent scavenging or educate scavengers on the health-and-safety risks of this practice. Many homes were poorly constructed with scraps of tin, wood and plastic.”\textsuperscript{186} Women were often forced to walk long distances to access water and sanitation, which made them vulnerable to sexual assault.\textsuperscript{187} 

SOLOMON ISLANDS’ PARTICIPATION IN REGIONAL ORGANISATIONS

Alliance of Small Island States (AOSIS)
Economic and Social Commission for Asia and the Pacific (ESCAP)
Melanesian Spearhead Group (MSG)
Pacific Islands Forum (PIF)
Secretariat of the Pacific Community (SPC)
Secretariat of the Pacific Regional Environment Programme (SPREP)
South Pacific Regional Trade and Economic Co-operation Agreement (SPARCA)
KEY DOMESTIC HUMAN RIGHTS DEFENDERS, CIVIL SOCIETY ORGANISATIONS AND NON-GOVERNMENT ORGANISATIONS

Disabled Persons Rehabilitation Association
PO Box 349
Honiara
Solomon Islands
T: +677 24589
F: +677 20085

Family Support Centre
PO Box 1725
Honiara
Solomon Islands
T: +677 26999
F: +677 20619
fsc@welkam.solomon.com.sb

Habitat for Humanity
PO Box 1464
Honiara
Solomon Islands
T: +677 30074
F: +677 30048
habitat@solomon.com.sb
www.habitat.org

Regional Assistance Mission to Solomon Islands (RAMSI)
http://www.ramsi.org

Solomon Islands Council of Trade Unions
PO Box 271
Honiara
Solomon Islands
T: +677 2629
F: +677 22516
sictu@welkam.solomon.com.sb

Solomon Islands’ National Council of Women
Development Services Exchange
PO Box 556
Honiara
Solomon Islands
T/F: +677 21339

Solomon Islands National Teachers Association
PO Box 967, Honiara
T: +677 228 26
F: +677 249 97

Transparency International
PO Box 1665, Honiara
T: +677 28318
F: +677 28319
tsi@solomon.com.sb
www.transparency.org

World Vision International (Si)
Development Corner, Tom Yu Building
Hibiscus Ave Central
Honiara
T: +677 230 92
F: +677 219 41
www.wvi.org

Young Women’s Christian Association (Si)
PO Box 494
Honiara
T: +677 228 34
F: +677 206 19
ywca@solomon.com.sb
www.ywcasolomons.com

For further information on the Solomon Islands:
See the New Zealand Ministry of Foreign Affairs & Trade information paper at:
Vanuatu has a democratic parliamentary system of government. The head of the government is the Prime Minister and the head of state is the President, who is elected by an electoral college comprising members of parliament and members of the six regional councils within Vanuatu. The powers of the President are mostly ceremonial. 188 Vanuatu, formerly known as the New Hebrides, gained independence in 1980.

**Key Facts**

<table>
<thead>
<tr>
<th><strong>CAPITAL</strong></th>
<th>Port Vila</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>POPULATION</strong></td>
<td>245,036 (2010 mid-year est.) 189 234,023 (2009) 190</td>
</tr>
<tr>
<td><strong>LAND AREA</strong></td>
<td>12,281 km² 191</td>
</tr>
<tr>
<td><strong>YOUTH</strong></td>
<td>21.2% (15–24) 192</td>
</tr>
<tr>
<td><strong>GROSS DOMESTIC PRODUCT (GDP) PER CAPITA</strong></td>
<td>US$2218 (2007) 193</td>
</tr>
<tr>
<td><strong>GROSS NATIONAL INCOME (GNI) (PURCHASING POWER PARITY)</strong></td>
<td>US$1,065,591,848.90 (2010) 194</td>
</tr>
<tr>
<td><strong>GNI PER CAPITA (ATLAS METHOD)</strong></td>
<td>US$2760 (2010) 195</td>
</tr>
</tbody>
</table>

**Type of Government**
- Parliamentary democracy

**Electoral System**
- Single non-transferable vote

**Number of MPs in Legislature**
- 52

**Religions**
- 31.4% Presbyterian
- 13.4% Anglican
- 13.1% Roman Catholic
- 10.8% Seventh-Day Adventist
- 13.8% other Christian
- 5.6% indigenous beliefs (including Jon Frum cargo cult)
- 9.6% other
- 1.3% unspecified
- 1.0% none (1999 census) 197

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190 Ibid, Secretariat of the Pacific Community, Pocket Statistical Summary, 2010
191 Ibid
192 Ibid
193 Ibid
195 Ibid
### Ethnic Groups

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Description</th>
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<tbody>
<tr>
<td>94%</td>
<td>Ni-Vanuatu</td>
</tr>
<tr>
<td>4%</td>
<td>European</td>
</tr>
<tr>
<td>2%</td>
<td>other Pacific Islanders and Asian</td>
</tr>
</tbody>
</table>

### Languages

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>72.6%</td>
<td>Local languages (more than 100)</td>
</tr>
<tr>
<td>23.1%</td>
<td>pidgin (known as Bislama or Bichelama)</td>
</tr>
<tr>
<td>1.9%</td>
<td>English (official)</td>
</tr>
<tr>
<td>1.4%</td>
<td>French (official)</td>
</tr>
<tr>
<td>0.3%</td>
<td>other</td>
</tr>
<tr>
<td>0.7%</td>
<td>unspecified (1999 census)</td>
</tr>
</tbody>
</table>

### Human Development Index

- 126 out of 182 ranked countries (2009, unable to be calculated for 2010)
- 72.6% Local languages (more than 100)
- 23.1% pidgin (known as Bislama or Bichelama)

### Under-Five Mortality Rate

- 14/1000 live births (2010)

### Life Expectancy at Birth (Years)

- 65.6 Male
- 69 Female

### Adult Literacy Rate (Ages 15 and over)

- 81.3% (2005-8)

### Expected Years of Schooling

- 10.4 years

---

### International Treaty Ratification and Reporting Obligations

#### Convention

<table>
<thead>
<tr>
<th>Conventions</th>
</tr>
</thead>
<tbody>
<tr>
<td>ICCPR</td>
</tr>
<tr>
<td>CRPD</td>
</tr>
<tr>
<td>CEDAW</td>
</tr>
<tr>
<td>CRC</td>
</tr>
<tr>
<td>CAT</td>
</tr>
</tbody>
</table>

**ICCPR**
- Date of Signature/Ratification: 21 November 2008
- Initial report overdue since 28 February 2010

**CRPD**
- Date of Signature/Ratification: 23 November 2008
- Initial report due 22 November 2010

**CEDAW**
- Date of Signature/Ratification: 8 September 1995
- Latest Report Submitted: 2 March 2005

**CRC**
- Date of Signature/Ratification: 7 July 1993

**CAT**
- Date of Signature/Ratification: 12 July 2011
- Reporting Status as of October 2011: Initial report due 11 July 2012

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202 Ibid, Secretariat of the Pacific Community, Pocket Statistical Summary, 2010
203 UNDP, Human Development Report 2010
204 Ibid, 146

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205 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the State's intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.
UNITED NATIONS HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW (UPR)

Vanuatu was the third country in the Pacific after Tonga and Tuvalu to undertake the UPR process. It was reviewed at the 5th session in May 2009. In all, 48 recommendations were made. These included that the Government of Vanuatu: 206

- Consider the ratification of additional international conventions;
- Amend the Constitution to prohibit discrimination against people with disabilities;
- Take measures to prevent discrimination on the grounds of disability, economic status, sexual orientation or living with HIV;
- Promote regular and independent monitoring of detention facilities;
- Support human rights training for police, corrections and justice officials, including judges and lawyers;
- Adopt comprehensive measures to combat domestic violence, including criminalising violence against women and making legal aid available to all victims;
- Make efforts to guarantee free and compulsory primary education for all children;
- Consider establishing a National Human Rights Institution in compliance with the Paris Principles;
- Strengthen the role of the Ombudsman’s office, including allocating more funding;
- Ensure access to free compulsory education for all children and consider sanctions for parents who fail to send their children to school; 207
- Ensure investigations into all allegations of torture or mistreatment;
- Take measures to eradicate corporal punishment in the family and in juvenile justice;
- Strengthen the independence and capacity of the judiciary;
- Improve the health system, including improving maternal health and reducing child mortality;
- Build up its capacities to respond to natural disasters and adapt to climate change, with the support of the international community.

Vanuatu accepted 43 of the 48 recommendations.

DOMESTIC PROTECTIONS OF HUMAN RIGHTS

The Constitution of Vanuatu protects a number of civil and political rights including the right to life, liberty and freedom from inhuman treatment and forced labour. 208 Vanuatu has not enacted any specific human rights legislation.

NATIONAL HUMAN RIGHTS INSTITUTION (NHRI)

An Ombudsman is appointed by the President, in consultation with other political leaders, for a five-year term. Since its establishment in 1995, the Ombudsman’s Office has issued a number of reports critical of government institutions and officials. 209 However, “it did not have adequate resources or independent power to prosecute, and the results of its investigations may not be used as evidence in court proceedings”. 210 In its National Report for the Universal Periodic Review, the Government of Vanuatu stated that “with the current situation of the Office of the Ombudsman dealing mainly with complaints against leaders, Vanuatu needs technical and financial assistance to set up a Human Rights Commission to adjudicate over human rights issues”. 211 In this regard, the Office of the High Commissioner for Human Rights, Asia Pacific Forum and the Pacific Island Forum Secretariat conducted a scoping mission in September 2011 on the establishment of a national human rights institution in Vanuatu.

Office of the Ombudsman

PMB 9081
Port Vila
Vanuatu
T: +678 272 00
F: +678 271 40

HUMAN RIGHTS ISSUES

1. Discrimination and violence against women

Violence against women, particularly domestic violence, is widespread. In 2007 the Committee on the Elimination of Violence against Women expressed concern about “the prevalence of violence against women and girls, including cultural practices that constitute, or perpetuate, violence against women...especially...about the use of customary methods of punishment (‘kastom faen’) in cases of rape, which may act as a substitute for, or lessen the punishment of, offenders provided for in the law.” 212

In 2009, the Government enacted a new Family Protection Act to try to address this issue. 213 In 2006, the UN Population Fund reported that a ‘no-drop policy’, requiring all cases of violence against women that come to the attention of the police to be taken forward, had not been adopted. 214 In its UPR report, a combined NGO group submitted that “domestic violence...is not specifically included as discrimination against women nor is it viewed as discrimination even through it is gender-based violence. The causes of child abuse and domestic violence are complex and culturally woven in the status of women and men, kastom and substance abuse of alcohol and kava, amongst others.” 215

Vanuatu reported under CEDAW in 2008. The report contained commitments to addressing issues relating to women including violence against women and other discriminatory practices. 216 The concluding observations of the CEDAW Committee urge the Government to proceed without delay with the full incorporation of the convention into the domestic legal system and with legislative reform to ensure that all discriminatory legislation is amended or repealed and brought in conformity with the convention. 217

Vanuatu’s report under CEDAW expresses concern about discrimination against women more broadly. The report states that “there continues to be strong male influence in what has traditionally been considered as male domains such as public offices, which then perpetuates the continued support of the systematic patriarchal institutions of dominance in political, economic, social, cultural and civil milieu in Vanuatu. A number of indicators attest to the low status of women: the endemic nature of gender-based and gender-directed violence that exists in the country...and the limited presence of women in decision-making arenas, most notably, Parliament, which has seen only four women elected in the last 25 years. Whilst the Constitution provides in Article 5 for specific programmes to advance disadvantaged groups, traditional views on the role of women have seen little progress for women in the public arena. It is common to hear men say that women do have a voice, but from the kitchen...again re-emphasising the value of the woman’s voice from her ‘place’. Other indicators are showing indicated low access by women to


207 Vanuatu rejected the second part of this recommendation, relating to sanctions against parents.

208 Vanuatu Constitution, articles 5–6


210 Ibid

211 Ibid, 121

212 Committee on the Elimination of Discrimination against Women, Concluding Observations of the Committee on the Elimination of Discrimination against Women: Vanuatu, 38th session, CEDAW/C/VUT/CO/3 (11 June 2007), 24


decision-making positions in Government, business and commerce, and other civil society organisations. 218 In response, the committee expressed concern about “the persistence of adverse cultural norms, practices and traditions, as well as patriarchal attitudes and deep-rooted stereotypes, regarding the roles, responsibilities and identities of women and men in all spheres of life…. [and] that such customs and practices perpetuate discrimination against women, and are reflected in women’s disadvantageous and unequal status in many areas, including in public life and decision-making, and in marriage and family relations, and the persistence of violence against women”. 219 There is currently only one woman in Parliament in Vanuatu. 220

2. Rights of the child

The Committee on the Rights of the Child expressed its concern that while Vanuatu has ratified the CRC, it has yet to domesticate the convention into national laws. According to the committee, “not enough attention has been paid to allocating budgetary resources in favour of children”. 221 A joint UN/NHG report on the commercial sexual exploitation of children in the Pacific stated that studies conducted in Vanuatu found that most informants had encountered or knew of instances where children (from the age of five) were sexually abused. 222 There were also reportedly findings of child sex tourism where taxi drivers organised ‘meetings’ with children for tourists. 223

Prior to 2010, primary education in Vanuatu was neither compulsory nor free and often parents paid significant school contribution fees. 224 In 2010, the Council of Ministers decided that education would be free for all children up to 8th grade. 225 According to AusAID, the move to phase out primary school fees resulted in an increase of 7% in enrolment rates in 2010. 226 However, only 38.1% of children are accessing secondary education. 227 In addition, according to AusAID, there are 90 girls for every 100 boys in primary education. 228 The Government has identified key policies in its UPR report through which to address the issue of education. 229

3. Torture and ill-treatment

In March 2010, the Coroner released a report on the death of John Bule, an escapee who was found to have suffered from at least 32 injuries after being recaptured. He was beaten to death and the Coroner found that the injuries “were sustained in an interrogation room at the Vanuatu Mobile Force Cook Barracks while the deceased was in the custody of a number of VMF officers”. 230

The Coroner denounced the abuse of force by the VMF and their perception of themselves as being above the law. A commission of inquiry as to the implementation of the Coroner’s recommendations was created on 20 April 2011 but was disbanded from 29 April 2011 after the Vanuatu Police Force challenged the Coroner’s report in the Court of Justice. 231

Poor conditions in prisons were documented by Amnesty International in 1999. 232 In 2008, prisoners released a report entitled ‘Vanuatu’s Notorious Prison in Disguise’ that highlighted examples of torture and inhumane treatment of prisoners. A prison riot and mass escape occurred after the release of the report and brought the issues of poor prison conditions under public scrutiny again. 233 In 2009, reforms in correctional services began to see improvements in prison conditions and the Government stated its intention to build a new prison. 234 In 2011, Vanuatu ratified the Convention Against Torture. Strong recommendations were raised during the UPR of Vanuatu urging the Government to take appropriate measures to improve conditions in prisons and detention centres, to organise human rights trainings for police, correction and justice officials; and to create independent monitoring of detention facilities with immediate and effective means of redress available to detainees. 235

4. Right to an adequate standard of living

According to a 2010 Amnesty International Report, “increased rural to urban migration and lack of employment opportunities forced many people to live in informal settlements in Port Vila. Many of the settlements were overcrowded, had little or no access to clean water, no sanitation and poor housing conditions. More than 500 people who lived in Seaside Togga, a settlement in the middle of Port Vila, shared four toilets and two showers. A number of other settlements in Port Vila, including Black Sands, Fresh Wota and Olen were badly overcrowded and had poor public security, with many children not attending school. Many people from settlements had to scavenge in a rubbish dump outside Port Vila for food, water and building materials.” 236

5. Right to hold opinions and freedom of expression

Although the Government stated during Vanuatu’s UPR that media freedom is “vibrant”, 237 there have been a number of incidents of harassment of media representatives for their critical journalism. In January 2009, the publisher of Vanuatu’s Daily Post was assaulted, allegedly by prison officers in Port Vila over a story he ran about the operation of a prison. 238 In 2011, an MP was convicted in relation to an assault on the same publisher, after he ran stories accusing the MP of corruption. He received a fine of the equivalent of US$150 for the assault. 239 Another MP was accused of harassing media representatives to stop them publishing information about his behaviour.

219 Ibid, Concluding Observations of the Committee on the Elimination of Discrimination against Women: Vanuatu, 22
220 Pacific Islands Forum Secretariat, ‘Parliament training for women in Kiribati’ (press release, 60/11, 5 August 2011)
221 Committee on the Rights of the Child, Concluding Observations of the Committee on the Rights of the Child: Vanuatu, 22nd session, CRC/C/15/Add.111 (10 November, 1999) 11
223 Ibid, 37
232 Amnesty International, Vanuatu: No Safe Place for Prisoners, AI Index ASA 44/039/98 (September 1998)
233 Howard van Triend, ‘Vanuatu’ (2010) 22(2), The Contemporary Pacific, 467, 473
Vanuatu’s Participation in Regional Organisations

Alliance of Small Island States (AOSIS)
Economic and Social Commission for Asia and the Pacific (ESCAP)
Melanesian Spearhead Group (MSG)
Pacific Islands Forum (PIF)
Secretariat of the Pacific Community (SPC)
Secretariat of the Pacific Regional Environment Programme (SPREP)
South Pacific Regional Trade and Economic Co-operation Agreement (SparTeca)

Key Domestic Human Rights Defenders, Civil Society Organisations and Non-Government Organisations

Vanuatu National Council of Women
Box 975, Port Vila, Vanuatu
T: +678 23 108
F: +678 27 210
Email: vncw@vanuatu.com.vu

Vanuatu Women’s Centre
PO Box 1358, Port Vila, Vanuatu
T: +678 24000
F: +678 25764
www.vanuatu.com.vu

Disability Promotion and Advocacy
PO Box 1378, Port Vila, Vanuatu
T: +678 23589
dpavanuatu@dpaav.org
www.dpaav.org

Foundation for the Peoples of the South Pacific (Vanuatu)
PO Box 951, Port Vila, Vanuatu
T: +678 22915
F: +678 24510
www.fsp.org.vu

Habitat for Humanity (Vanuatu)
PO Box 080, Port Vila, Vanuatu
T: +678 23078
F: +678 23078
hhvvanuatu@vanuatu.com.vu
www.habitat.com.vu

Save the Children Fund (Australia)
PO Box 283, Port Vila, Vanuatu
T: +678 22794
cpmvila@vanuatu.com.vu
www.savethechildren.org.au

Transparency International (Vanuatu)
PO Box 355, Port Vila, Vanuatu
T: +678 22794
cpmvila@vanuatu.com.vu
www.transparency.org

Vanuatu Association of NGOs (VANGO)
PO Box 096, Port Vila, Vanuatu
T: +678 26034
F: +678 26034
vango@vanuatu.com.vu

Vanuatu Human Rights Education Association
T: +678 23940
F: +678 24797
legal@vanuatu.com.vu

Vanuatu Red Cross Society
PO Box 618, Port Vila, Vanuatu
T: +678 27418
F: +678 25999
redcross@vanuatu.com.vu

Vanuatu Rural Development and Training Centres Association
PO Box 925, Port Vila, Vanuatu
T: +678 27740
F: +678 29986
director@vrdtca.org.vu

Vanuatu Teachers Union
PO Box 287, Port Vila, Vanuatu
T: +678 23679
F: +678 26903
vtu.sev@vanuatu.com.vu

Wan Smolbag Theatre
PO Box 1024, Port Vila, Vanuatu
T: +678 27119
F: +678 25308
smolbag@vanuatu.com.vu

Pacific Institute of Public Policy
PO Box 9034, Port Vila, Vanuatu
T/F: +678 29842
www.pacificpolicy.org
The Federated States of Micronesia (FSM) is made up of four separate states (Chuuk, Kosrae, Pohnpei and Yap) that were all former trust territories of the United States. FSM became independent in 1986 and entered into a Compact of Free Association with the US. FSM receives economic assistance from the US, and the US assumes military defence of FSM. The Government is made up of a unicameral Congress that has 14 members: one from each state and 10 elected by population-defined districts. The President is chosen by Congress from the four state representatives.

Key Facts

**CAPITAL**
Palikir, Pohnpei

**POPULATION**

<table>
<thead>
<tr>
<th>Year</th>
<th>Value</th>
</tr>
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<tbody>
<tr>
<td>2010 mid-year est.</td>
<td>111,364</td>
</tr>
<tr>
<td>2010, last census</td>
<td>102,624</td>
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**LAND AREA**

701 km²

**YOUTH**

22.8% (15–24)

**GROSS DOMESTIC PRODUCT (GDP) PER CAPITA**

US$2183 (2007)

**GROSS NATIONAL INCOME (GNI) (PURCHASING POWER PARITY)**

US$379,918,685.80 (2010 est.)

**GNI PER CAPITA (ATLAS METHOD)**

US$2700 (2010)

**TYPE OF GOVERNMENT**
Constitutional government in free association with the United States

**ELECTORAL SYSTEM**
First-past-the-post and proportional representation

**NUMBER OF MPS IN LEGISLATURE**
14

**RELIGIONS**

- 50% Roman Catholic
- 47% Protestant
- 3% other

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240. Secretariat of the Pacific Community, Pocket Statistical Summary, 2010
241. Note that this number is provisional. Secretariat of the Pacific Community: Statistics for Development, 2011 populations and demographic indicators (May 2011)
242. Ibid, Secretariat of the Pacific Community, Pocket Statistical Summary, 2010
243. Ibid
244. Ibid
245. The World Bank, Data (2010)
246. Ibid
247. UNDP Pacific Centre, Federated States of Micronesia Country Snapshot (2009), UNDP
249. Norm Kelly, Women’s Representation in Melanesia: prospects for the future
250. Bureau of East Asian and Pacific Affairs, Background Note: Micronesia, 8 February 2011, US Department of State
ETHNIC GROUPS
48.8% Chuukese
24.2% Pohnpeian
6.2% Kosraean
5.2% Yapese
4.5% Yap outer islands
1.8% Asian
1.5% Polynesian
6.4% other
1.4% unknown (2000 census)

LANGUAGES
English (official and common language), Chuukese, Kosrean, Pohnpeian, Yapese, Ulithian, Woleaian, Nukuoro, Kapingamarangi

HUMAN DEVELOPMENT INDEX
103 out of 169 ranked countries (2010)

UNDER-FIVE MORTALITY RATE
42/1000 live births (2010)

LIFE EXPECTANCY AT BIRTH (YEARS)
67.4 Male
68 Female

ADULT LITERACY RATE (AGES 15 AND OVER)
92.4% (2000)

EXPECTED YEARS OF SCHOOLDING
11.7 years

INTERNATIONAL TREATY RATIFICATION AND REPORTING OBLIGATIONS

CONVENTION
CEDAW
DATE OF SIGNATURE/RATIFICATION
Ratified 1 September 2004
DECLARATION/RESERVATION
2(f), 5, 11(1)(d), 11(2)(b), 16 and 29(1)
LATEST REPORT SUBMITTED
none
REPORTING STATUS AS OF OCTOBER 2011
Initial report overdue since 1 October 2005

CONVENTION
CRC
DATE OF SIGNATURE/RATIFICATION
Ratified 5 May 1993
LATEST REPORT SUBMITTED
Initial report 16 April 1996
REPORTING STATUS AS OF OCTOBER 2011
2nd, periodic report overdue since 3 June 2000, 3-4 also overdue

CONVENTION
CRPD
DATE OF SIGNATURE/RATIFICATION
Signed 23 September 2011

CONVENTION
OP-CRC-AC
DATE OF SIGNATURE/RATIFICATION
Signed 8 May 2002

CONVENTION
OP-CRC-SC
DATE OF SIGNATURE/RATIFICATION
Signed 8 May 2002

252 Ibid
255 Secretariat of the Pacific Community, Pocket Statistical Summary, 2010 http://www.spc.int/dpd/index.php?option=com_content&view=article&id=95&Itemid=51
256 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the State’s intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.
UNIVERSAL PERIODIC REVIEW (UPR)

The Federated States of Micronesia was reviewed at the 9th session of the UPR, in November 2010. During the review, 73 recommendations were made. The recommendations included that the Government of FSM:

- Sign and ratify the CRPD, CAT, OP to CAT, ICCPR, ICESCR, CED, CED, OP to CEDAW and CMW, as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the UN’s Convention against Transnational Organised Crime, Convention relating to the Status of Refugees and the 1967 protocol;
- Consider seeking membership of the International Labour Organization;
- Adopt constitutional and legal reforms with a view to eliminating all forms of discrimination against women and girls and children, particularly in education, employment, the family and political life;
- Pass laws to ban domestic violence, sexual abuse and other forms of violence against women;
- Take steps to provide adequate protection against sexual and gender-based violence, while ensuring that assistance is available to victims for their physical and mental rehabilitation;
- Promote the participation of women in decision-making;
- Establish a national human rights institution in accordance with the Paris Principles;
- Ensure human rights education and training, including education on women’s rights;
- Include sexual orientation and gender identity as prohibited grounds for discrimination in legislation and equality initiatives;
- Seek further co-operation with the international community and relevant UN agencies to enhance its technical capacity-building in mitigating the impact of climate change on its efforts to promote and protect human rights within its country.

FSM accepted 70 out of the 73 recommendations.

DOMESTIC PROTECTIONS OF HUMAN RIGHTS

The FSM Constitution protects a number of civil and political rights including the right to freedom of expression and assembly, the right to life and the right to freedom of religion. 260 The Federated States of Micronesia has not enacted any specific human rights legislation.

NATIONAL HUMAN RIGHTS INSTITUTION (NHRI)

FSM does not have an NHRI.

HUMAN RIGHTS ISSUES

1. Discrimination and violence against women

It appears that at least in certain states, traditional ideas of women as subservient to men are still quite powerful. For instance, in Chuuk traditional culture, women are expected to bow in the presence of men. 247 There are no mandatory prosecutions or minimum sentences for sexual assault offences. 262 Further, domestic violence offences have not been adopted by any of the states. There are also no offences for trafficking or sex tourism. 263

While FSM ratified CEDAW on 1 September 2004, it has not submitted its initial report to the committee. A UN Development Programme/UNIFEM legislative compliance handbook notes that FSM “is at the beginning of its compliance process”. It notes in particular that FSM has achieved full compliance on 26 of 111 indicators, partial compliance with 18 indicators and no compliance with 69 indicators. 264 The indicators relate directly to the articles in CEDAW.

Women are not well represented in political life. A bill was introduced and passed in December 2008 which created four designated seats for women in Congress to encourage women’s participation. 265 These seats will be “at large”, meaning the women holding them will be eligible to be President. However there are no women in Congress. 266

2. Rights of the child

One of the challenges in FSM is that the laws between the states differ. Child abuse is against the law, but enforcement is questionable. Child sexual abuse is said to be “grossly unreported”. 267 Early marriage is common and a marriage between a young girl and an older man is not uncommon. 268 Child neglect incidences are rising as a result of the breakdown of the traditional extended family structure. The only report submitted so far under the Committee on the Rights of the Child was the initial one submitted in 1996. The CRC noted issues with legislative compliance – specifically the absence of a minimum age of employment, minimum age for sexual consent (which varies from state to state), and the lack of legislation on neglect, abuse and sexual exploitation. Furthermore, there is potential for conflict between customary and statutory law, specifically regarding marriage and adoption. 269 Although education is mandatory, it is not properly enforced. In Pohnpei, school is compulsory from the ages of six to 16 and there is a penalty for absences. 270 Girls access education in lower numbers than boys and few students proceed beyond the early years of secondary school. 271

3. Right to an adequate standard of living

In FSM the majority of people “live in coastal areas vulnerable to sea level rise and storms. Over 26% of the population lives below the poverty line, and 22% of the population is unemployed”. 272 The greatest threat to the right to adequate housing is climate change. The islands of FSM are at risk from typhoons and tropical storms annually. The storms intensify with higher water surface temperatures. Further, land can be lost through coastal erosion and sea level rise. Such loss of land “may force many thousands of FSM citizens to become climate migrants, moving from lower to higher elevations, from atolls to higher islands within the country, and potentially from higher islands of the FSM to other countries”. 273

4. Caste system

The traditional caste system is still influential in Yap. When appearing before the Committee on the Rights of the Child, it was stated that “those in the lower caste

264 Vedra Iovan and Christine Forster, Translating CEDAW into Law (UNDP and UNIFEM, 2006) p. 51. Note that the report also breaks down compliance by state.
265 A Bill for an Act to propose an amendment to the Constitution of the Federated States of Micronesia, for the purpose of increasing the representation of women in Congress by increasing the number of all-large seats in Congress, and reserving said seats for women, and for other purposes, FSM, CB No 15–169 http://www.fsmcongress.fm/pdf%20documents/15th%20Congress/Bills/CB%2015-169.pdf
268 ibid [14]
273 ibid.11–12
had fewer traditional privileges and sometimes more obligations. The Government acknowledged that the caste system posed challenges. The existence of a caste system violates international law prohibiting discrimination.

### Legal System

Abuse by police does not seem to be widespread or systemic. Although the criminal justice system is set up fairly, there is still a lot of resistance to using it. According to the US State Department's Report on Human Rights for 2009, "the formal legal system coexists with traditional, mediation-based mechanisms for resolving disputes and dealing with offenders at the local level. As a result, few cases reach the trial stage. Except in major criminal cases such as murder or rape, if a perpetrator apologises, the families involved can determine an appropriate punishment."

Some serious cases never made it to trial, bail was routinely set quite low and some people were released indefinitely. There is also a serious backlog of cases.

### FSM's Participation in Regional Organisations

- Alliance of Small Island States (AOSIS)
- Economic and Social Commission for Asia and the Pacific (ESCAP)
- Pacific Islands Forum (PIF)
- Secretariat of the Pacific Community (SPC)
- Secretariat of the Pacific Regional Environment Programme (SPREP)
- South Pacific Regional Trade and Economic Co-operation Agreement (SPARTEA)

### Key Domestic Human Rights Defenders, Civil Society Organisations and Non-Government Organisations

**Chuuk Women's Council**
- Fiin Chuuk Gift Shop or TTU Building
- Mwan Village, Weno Island
- PO Box 546, Chuuk State
- FM 96943
- Federated States of Micronesia
- T: +691 300 8396 or 330 5263
- F: +691 330 2286
- President Christina 'Kiki' Stinnett
- kfinchuuk@mail.fm
- www.cwcfinchuuk.org

**Federated States of Micronesia Alliance of NGOs (FANGO)**
- PO Box 1696, Kolonia Pohnpei
- FM 96941
- Federated States of Micronesia
- T: +691 320 7684
- F: +691 320 2100
- fango@mail.fm

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274 Committee on the Rights of the Child, Summary Record of the 440th Meeting, UN Doc CRC/C/SR.440 (16 January 1998) 82
278 Ibid
279 Ibid, section (1)(e)
Republic of the Marshall Islands
Marshall Islands, RMI

The Marshall Islands has a constitutional government in free association with the US. The Government is made up of the Nitijela (legislature or lower house) as well as the Iroij (an advisory council of 12 chiefs, or upper house). The President is the head of state and is elected by the Nitijela. The judiciary includes a traditional rights court, which hears matters of traditional land rights and customary law. Through the Compact of Free Association with the US, much of the annual budget is funded by United States Agency for International Development (USAID). It is made up of 29 atolls and five islands.

Key Facts

<table>
<thead>
<tr>
<th>CAPITAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Majuro</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>POPULATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>54,439 (2010 mid-year est.)&lt;sup&gt;280&lt;/sup&gt;</td>
</tr>
<tr>
<td>50,840 (1999, last census)&lt;sup&gt;281&lt;/sup&gt;</td>
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</table>

<table>
<thead>
<tr>
<th>LAND AREA</th>
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</thead>
<tbody>
<tr>
<td>181 km&lt;sup&gt;2&lt;/sup&gt; &lt;sup&gt;282&lt;/sup&gt;</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>YOUTH</th>
</tr>
</thead>
<tbody>
<tr>
<td>22.7% (15–24)&lt;sup&gt;283&lt;/sup&gt;</td>
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</table>

<table>
<thead>
<tr>
<th>GROSS DOMESTIC PRODUCT (GDP) PER CAPITA</th>
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<td>US$2851 (2007)&lt;sup&gt;284&lt;/sup&gt;</td>
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<table>
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<table>
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<th>GNI PER CAPITA (ATLAS METHOD)</th>
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<tbody>
<tr>
<td>US$3450 (2010)&lt;sup&gt;285&lt;/sup&gt;</td>
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<table>
<thead>
<tr>
<th>TYPE OF GOVERNMENT</th>
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<tbody>
<tr>
<td>Constitutional government in free association with the United States</td>
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<table>
<thead>
<tr>
<th>ELECTORAL SYSTEM</th>
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<tbody>
<tr>
<td>First-past-the-post</td>
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<table>
<thead>
<tr>
<th>NUMBER OF MPS IN LEGISLATURE</th>
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</thead>
<tbody>
<tr>
<td>33</td>
</tr>
<tr>
<td>2 females &lt;sup&gt;286&lt;/sup&gt;</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>RELIGIONS</th>
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</thead>
<tbody>
<tr>
<td>54.8% Protestant</td>
</tr>
<tr>
<td>25.8% Assembly of God</td>
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<tr>
<td>8.4% Roman Catholic</td>
</tr>
<tr>
<td>2.8% Bukot nan Jesus</td>
</tr>
<tr>
<td>2.1% Mormon</td>
</tr>
<tr>
<td>3.6% other Christian</td>
</tr>
<tr>
<td>1% other</td>
</tr>
<tr>
<td>1.5% none (1999 census) &lt;sup&gt;287&lt;/sup&gt;</td>
</tr>
</tbody>
</table>

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<sup>282</sup> Ibid, Secretariat of the Pacific Community, Pocket Statistical Summary, 2010

<sup>283</sup> Ibid

<sup>284</sup> Ibid


<sup>286</sup> http://www.islandsbusiness.com/news/index_dynamics/containerName=ReplaceMiddle&MiddlefocusModule=0&n=1330
cfocusContent=28355&tableName=mediaRelease&edit=0&name=newsArticle-full.tpl

**ETHNIC GROUPS**

<table>
<thead>
<tr>
<th>Ethnic Group</th>
<th>Percentage</th>
</tr>
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<tbody>
<tr>
<td>Marshallese</td>
<td>92.1%</td>
</tr>
<tr>
<td>Mixed Marshallese</td>
<td>5.9%</td>
</tr>
<tr>
<td>Other</td>
<td>2%</td>
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**LANGUAGES**

<table>
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<tr>
<th>Language</th>
<th>Percentage</th>
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<tr>
<td>Marshallese (official)</td>
<td>98.2%</td>
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<tr>
<td>Other languages</td>
<td>1.8%</td>
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*Note: English (official) widely spoken as a second language.*

**HUMAN DEVELOPMENT INDEX**

<table>
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<tr>
<th>Indicator</th>
<th>Value</th>
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<tbody>
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<td>Not ranked</td>
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**UNDER-FIVE MORTALITY RATE**

<table>
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<tr>
<th>Year</th>
<th>Rate per 1000 live births</th>
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<td>2010</td>
<td>26</td>
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**LIFE EXPECTANCY AT BIRTH (YEARS)**

<table>
<thead>
<tr>
<th>Gender</th>
<th>Life Expectancy</th>
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<tr>
<td>Male</td>
<td>63.7</td>
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<tr>
<td>Female</td>
<td>67.4</td>
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**ADULT LITERACY RATE (AGES 15 AND OVER)**

<table>
<thead>
<tr>
<th>Year</th>
<th>Literacy Rate</th>
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<tr>
<td>1999</td>
<td>93.7%</td>
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**EXPECTED YEARS OF SCHOOLING**

<table>
<thead>
<tr>
<th>Years</th>
</tr>
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<tr>
<td>13</td>
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**International Treaty Ratification and Reporting Obligations**

**CONVENTION**

<table>
<thead>
<tr>
<th>Convention</th>
<th>Date of Signature/Ratification</th>
<th>Reporting Status As of October 2011</th>
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<tbody>
<tr>
<td>CEDAW</td>
<td>Ratified 2 March 2006</td>
<td>Initial report overdue since 2 April 2007</td>
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<tr>
<td>CRC</td>
<td>Ratified 4 October 1993</td>
<td>3rd and 4th periodic reports overdue since 2 November 2010</td>
</tr>
</tbody>
</table>

**Notes**

288 Ibid
289 Ibid
294 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the State's intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.
UNITED NATIONS HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW (UPR)
The Republic of the Marshall Islands was reviewed at the 9th session of the UPR, in November 2010. During the review, 38 recommendations were made. The recommendations included that the Government:

• Sign and ratify the ICCPR, ICESCR, CAT, OP to CAT, CEDO, CED, CRPD, CMW, OP to CEDAW, OPs to CRC and the Convention Against Corruption;

• Establish a national human rights institution in accordance with the Paris Principles; 296

• Nominate an Ombudsperson for Children and strengthen accessibility for children to submit complaints;

• Protect human rights in domestic law;

• Ensure human rights education and awareness-raising programmes;

• Prioritize legislation on women’s rights and domestic violence, including a national plan of action to combat violence against women, and implement domestic policies aimed at eliminating violence against women;

• Develop legislation in relation to child labour in line with international law;

• Review existing laws to ensure that they are non-discriminatory, including sex, disability, sexual orientation, disability and gender identity as prohibited grounds for discrimination;

• Ensure that the equal right of women and girls to education is carried out in practice, and take steps to guarantee equal pay for equal work;

• Develop comprehensive legislation and policies in favour of persons with disabilities, particularly with regard to non-discrimination, accessibility, education and awareness-raising, and adopt a national plan to address the needs of the disabled community;

• Improve conditions in detention facilities;

• Take a rights-based approach to adaptation to climate change.

Marshall Islands accepted 35 of the 38 recommendations.

DOMESTIC PROTECTIONS OF HUMAN RIGHTS
The Republic of the Marshall Islands Constitution protects a number of civil and political rights, including the right to freedom of thought, conscience and belief, and the right to a fair trial, as well as specific rights to health, education and legal services. 297 The Republic of Marshall Islands has not enacted any specific human rights legislation.

NATIONAL HUMAN RIGHTS INSTITUTION (NHRI)
Marshall Islands does not have an NHRI or an Ombudsperson’s office. 298

HUMAN RIGHTS ISSUES
1. Discrimination and violence against women
The RMI has a comparatively good record of de jure compliance with the CEDAW, but de facto compliance remains an issue. While the RMI ratified CEDAW on 2 March 2006, it has not submitted its initial report to the committee. A UN Development Programme/UNIFEM legislative compliance handbook notes that the RMI is “at the beginning of its compliance process”, as ratification occurred relatively recently. It notes in particular that the RMI has achieved full compliance on 39 of 113 indicators, partial compliance with 19 indicators and no compliance with 55 indicators. 299 The indicators relate directly to the articles in CEDAW.

A 2003 Women United Together in the Marshall Islands (WUTMI) survey reported that more than 86% of women had suffered abuse, and the husband was the perpetrator in 92% of the cases. About 60% of the women had experienced abuse more than 10 times. 300 In 2011, the Nitijela has been debating a bill (Bill 93) to stop domestic violence. 301 Alcohol use, especially on Majuro and Ebeye, is seen as a major social problem and significant contributor to violence against women. 302

Women are not well represented in political life. In 2011, there was only one woman in the Nitijela – the Minister of Health. There has never been more than one woman in the Parliament at any one time. 303 In the 2011 elections, nine of the 96 candidates for Nitijela were women. 304

2. Rights of the child
There is generally a low awareness of children’s rights issues. 305 Corporal punishment is illegal in schools but is permitted in the home. 306 Reports state that sexual abuse is common in RMI. Youth to Youth in Health conducted a study in 2006 which found that five of the 12 schoolgirls surveyed knew someone who had been sexually abused. 307 In 2006, it was estimated that 50% of two-year-olds had not received immunisations. 308 Malnutrition is an issue – 60% of children between ages one and five suffered vitamin A deficiency and 25% were iron-deficient. One third of children had both conditions. 309 Also, there is no minimum age for employment for children. Although they generally do not work in the wage economy, children do work in fishing and agriculture for families. 310 This form of informal work has raised concerns that children are not attending compulsory education. 311

Subsistence living is not an option in urban centres, creating increased reliance on imported foods that are expensive and often offer little nutritional value. Even on outer islands, subsistence living is often impractical due to the seasonality of staple foods such as breadfruit. Food shortages can affect school attendance, and in extreme cases cause school to be cancelled or reduced to half days. Only 80% of students who attend primary school reach eighth grade and only 70 to 75% of those enter high school. Further, only 60% of students who commence high school complete 12th grade. “The result is that fewer than 30% of first-grade students end up graduating from high school 12 years later.” 312 Outer-island students often do not make it into high school as they do not usually perform as well as other students on the eighth-grade exam. Also, their families tend to have the lowest average incomes and afford the costs associated with school is difficult. 313 Girls have lower...
There have been individual cases of abuse reported.

In March 2009, the Chief Justice of the High Court discovered that a prisoner had been detained for over a year without a court hearing. The Constitution requires that if a person is arrested, they must be brought before court within 24 hours or released. A similar event had occurred a month earlier when a prisoner was held one month beyond his release date. In 2010, the Marshall Islands journal reported that five prisoners had been kept handcuffed to the stairs of the Fire Department building for over six days after the prisoners had been involved in a fight in prison.

4. Right to an adequate standard of living

Climate change poses a significant risk to the people of the RMI. Land is only two metres above sea level and rising sea levels pose a threat to land and food security. Migration from the outer islands to urban areas is increasing and has led to overcrowding. Both Majuro and Ebeye suffer from overcrowding and related unhealthy living conditions. Majuro has seen a huge increase in dwellings in the last five years (from 1,700 to 2,381 in the two-mile-long central area) and 54% of these homes do not have any water catchments or water storage facility. Municipal water is only turned on twice a week (less often in drought conditions). Many homes are not constructed according to any sort of standard and are often made from scrap materials. In the most crowded areas there are a poor rate of connection to the municipal water and limited rubbish collection systems. Many homes use a septic tank, which leaches into the water table, contaminating well water that is widely used, sometimes for drinking.

5. Rights of indigenous peoples and minority rights

According to the US State Department Report of 2010, immigration laws appear to be enforced 'selectively' against migrants from China. The report notes that “some ethnic Chinese reported being threatened or attacked based on their race and receiving regular racial slurs. The local press reported that attacks on Chinese sailors by youth gangs were common.”

6. Right to work

In its State Report for the UPR, the Government expressed concerns that the minimum hourly wage has remained set at US$2.00 for years and is not sufficient to cover basic expenses, particularly with a rising cost of living.

7. Human rights issues related to past nuclear testing

After World War II, the United States took control of the Marshall Islands from the Japanese and later awarded official control over the islands as a trust territory by the UN. The US Navy evacuated Bikini Atoll in 1946 and began its nuclear testing programme, which lasted until 1958.

There is a health fund that pays expenses, particularly with a rising cost of living. There have been individual cases of abuse reported.

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MARSHALL ISLANDS’ PARTICIPATION IN REGIONAL ORGANISATIONS

Alliance of Small Island States (AOSIS)
Economic and Social Commission for Asia and the Pacific (ESCAP)
Pacific Islands Forum (PIF)
Secretariat of the Pacific Community (SPC)
Secretariat of the Pacific Regional Environment Programme (SPREP)
South Pacific Regional Trade and Economic Co-operation Agreement (Sparteca)

KEY DOMESTIC HUMAN RIGHTS DEFENDERS, CIVIL SOCIETY ORGANISATIONS AND NON-GOVERNMENT ORGANISATIONS

Marshall Islands Council of Non-Governmental Organizations Inc (MICNGOs Inc)
PO Box 1453, Majuro
MH 96960
Marshall Islands
T: +692 625 4296
F: +692 625 4296
marie@ntamar.net

Mission Pacific
PO Box 927, Majuro
MH 96960
Marshall Islands
T: +692 528 2404/2252
F: +692 528 2405/2253
rm@missionpacific.org
www.missionpacific.org

Roots
PO Box 1138, Naminjau 96960
Marshall Islands
T: +692 625 3355 / 625 7332
F: +692 625 3153

Women United Together in the Marshall Islands (WUTMI)
PO Box 195, Majuro
MH 96960
Marshall Islands
T: +692 625 4296
F: +692 625 5290
wutmi@ntmar.net

Youth to Youth in Health (YYH)
PO Box 3149, Majuro 96960
Marshall Islands
T: +692 625 3098
F: +692 625 3098
The Republic of Nauru has a democratic parliamentary system of government. It has a unicameral parliamentary system with the President who is elected by Parliament as the head of state and head of government. In 2010 the Parliament was split evenly between government and opposition, creating a stalemate that led to the President declaring a state of emergency for several months. Nauru was a trust territory after World War II, jointly administered by Britain, Australia and New Zealand. Nauru gained independence on 31 January 1968. It is the world’s smallest island nation.
International Treaty Ratification and Reporting Obligations

**CONVENTION**

**ICCPR**
**DATE OF SIGNATURE/RATIFICATION**
Signed 12 November 2001

**CEDAW**
**DATE OF SIGNATURE/RATIFICATION**
Ratified 23 June 2011

**CRC**
**DATE OF SIGNATURE/RATIFICATION**
Ratified 27 July 1994
REPORTING STATUS AS OF OCTOBER 2011
Initial periodic report overdue since
25 August 1996

**CERD**
**DATE OF SIGNATURE/RATIFICATION**
Signed 12 November 2001

**CAT**
**DATE OF SIGNATURE/RATIFICATION**
Signed 12 November 2001

**OP-ICCPR**
**DATE OF SIGNATURE/RATIFICATION**
Signed 12 November 2001

**OP-CRC-AC**
**DATE OF SIGNATURE/RATIFICATION**
Signed September 2000

**OP-CRC-SC**
**DATE OF SIGNATURE/RATIFICATION**
Signed September 2000

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**ETHNIC GROUPS**

- 58% Nauruan
- 26% other Pacific Islander
- 8% Chinese
- 8% European

**LANGUAGES**

- Nauruan (official: a distinct Pacific Island language), English used for most government and commercial purposes

**HUMAN DEVELOPMENT INDEX**

not ranked

**UNDER-FIVE MORTALITY RATE**

44/1000 live births (2008)

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**LIFE EXPECTANCY AT BIRTH (YEARS)**

- 55.2 Male
- 57.1 Female (2010 est.)

**ADULT LITERACY RATE (AGES 15 AND OVER)**

99% (2003)

**EXPECTED YEARS OF SCHOOLING**

9.9 years

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343 Ibid
345 UNESCAP Statistical Yearbook for Asia and the Pacific 2011 (United Nations, 2011) 156
348 Ibid, UNESCAP 156, 174
349 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the State’s intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.
Nauru was reviewed at the 10th session of the UPR, in January 2011. During the review, 102 recommendations were made. The recommendations included that the Government of Nauru:

- Sign and ratify the ICCPR and its protocol, ICESCR, CERD, CRPD and its protocol, CEDAW and its protocols, CAT and its protocol, the OPs to the CRC, CED, the 1951 Convention relating to the Status of Refugees and its 1967 protocol, the Convention against Transnational Organised Crime and ILO conventions, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.
- Establish a national human rights institution in accordance with the Paris Principles;
- Enact and implement specific legislation to combat violence against women, including domestic violence, and protect and promote the rights of women;
- Establish stronger laws against perpetrators of child abuse and to increase penalties and sentencing in courts;
- Continue its efforts to improve the quality of education, including not to let other countries violate the rights of refugees and asylum-seekers in the territory of Nauru. Nauru accepted 98 out of 102 recommendations.

DOMESTIC PROTECTIONS OF HUMAN RIGHTS

The Constitution protects a number of civil and political rights, including the right to freedom of expression and conscience, and freedom from torture and inhuman or degrading treatment. The Republic of Nauru has not enacted any specific human rights legislation.

NATIONAL HUMAN RIGHTS INSTITUTION (NHRI)

Nauru does not have an NHRI, but has expressed an interest in establishing one. In 2009, at the request of the Government, the Asia-Pacific Forum of National Human Rights Institutions and OHCHR conducted a scoping and consultancy mission on the creation of a national human rights institution in Nauru.

HUMAN RIGHTS ISSUES

1. Discrimination and violence against women

In its National Report to the UPR, the Government of Nauru states that “domestic violence is widespread in Nauru, and is often but not always associated with alcohol abuse.” Suggested reasons for violence against women include “the cultural, customary, social and economic barriers and the archaic and discriminatory systems and constraints of laws and policies”.

In 2008, the first safe house for victims of domestic violence was established. The Government has stated that “eliminating domestic violence in Nauru is a national priority.”

There has only ever been one woman elected to Parliament although there were nine female candidates in a 2010 general election.

2. Rights of the child

A 2005 UNICEF report found that while the rights of children, women and youth were protected under Nauru law, the main issues affecting them were “the unreliability of basic services, environmental health and safety, inadequate resources in the education and health sectors and a scarcity of opportunities for youth.”

A high number of children leave school early, and there are limited job opportunities.

Moreover, while corporal punishment is not permitted in schools, some incidents of teachers beating students have been reported. Hospitals are not obliged to report violence against children.

There are also some suggestions that both violence and sexual abuse are not uncommon but go unreported most of the time. “The general community perception is that the incidence of domestic violence against both women and children is increasing as the economic situation deteriorates.”

3. Torture and ill-treatment

Nauru has one prison divided into three areas for males, females and juveniles. The main prison houses the male population and has a maximum capacity of 30. The other wings hold 20 people each. The police station at the front of the prison was destroyed by fire in 2007. Consequently, remand prisoners were being held in a modified shipping container.

Through an Australian funding agreement, Nauru constructed detention facilities for asylum seekers to Australia. The detention facility in Nauru primarily catered for asylum seekers and received a substantial amount of funding from Australia for its upkeep.

The centre was closed in 2008.

4. Right to an adequate standard of living

The people of Nauru are particularly vulnerable to climate change. The vast majority of Nauruans live on the coast which is on average only 3–4 metres above sea level.

355 Nauru Young Women’s National Council (NWYNC), Submission Report for UPR (2010) 1
357 Human Rights Council, National Report: Nauru, 10th session, UN Doc: A/HRCWG.6/10/NRU/1 (5 November 2010) 49
358 UNICEF, A Situation Analysis of Children, Women and Youth (UNICEF Pacific Office August 2005) v
359 Ibid, Human Rights Council, National Report: Nauru, 10th session
360 Ibid, UNCRAC 41
363 Jewel Topfield, ‘Nauru fears gap when camps close’, The Age (Melbourne) 11 December 2007
364 Ibid, Human Rights Council, National Report: Nauru, 10th session, 93
Land at higher elevation is largely uninhabitable due to phosphate mining. The Government has noted that “rising sea levels pose an immediate and serious threat to Nauru in terms of food security, human health and possible displacement.” Further loss of land due to sea-level rise, storm surges and coastal erosion has the potential to compel Nauruans to leave Nauru as climate migrants. Such involuntary relocation would likely result in the loss of Nauru’s culture and language.

5. Environmental Issues

During the 1960s and 1970s, income from the exploitation of phosphate gave Nauruans the highest per capita GDP in the world. The phosphate was extensively mined, devastating much of the natural environment.

While it was anticipated that Nauru would have a strong economic future, “corruption, poor investment decisions, overspending and lack of planning meant that by 1990s when the phosphate was almost completely gone, Nauru’s assets had almost disappeared, the Government was running deficit budgets, and the Government was eating into reserves to finance the budget deficits.”

Upon the depletion of the phosphate, the poverty level in Nauru has increased with severe economic repercussions compounded by Nauru’s geographical isolation.

Additional concerns in Nauru relate to the standard and quality of buildings. A UNICEF report has found that “many buildings constructed during the mining boom are now dilapidated and in need of repair or demolition. Abandoned buildings contain many hazards, including crumbling concrete, protruding and rusty reinforcing rods and loose metal sheeting, but almost none are fenced to prevent public access to them.” A particular problem of the built environment is the widespread use of corrugated asbestos sheeting on roofs. While corrugated asbestos sheeting is not a serious danger to health if kept painted and undisturbed, much of that in Nauru is unpainted and now so old and weathered that it is beginning to shed asbestos fibres, presenting a very serious environmental health risk.

In terms of water resource in Nauru, a Secretariat of the Pacific Communities Applied Geoscience and Technology Division (SOPAC) report has found that there is limited surface water in Nauru with inadequate water catchments and storage facilities. Ground water is often contaminated. Nauru also suffers regular drought which is anticipated to increase in frequency due to climate change.

NAURU’S PARTICIPATION IN REGIONAL ORGANISATIONS

Alliance of Small Island States (AOSIS)
Economic and Social Commission for Asia and the Pacific (ESCAP)
Pacific Islands Forum (PIF)
Secretariat of the Pacific Community (SPC)
Secretariat of the Pacific Regional Environment Programme (SPREP)
South Pacific Regional Trade and Economic Co-operation Agreement (Sparteca)

KEY DOMESTIC HUMAN RIGHTS DEFENDERS, CIVIL SOCIETY ORGANISATIONS AND NON-GOVERNMENT ORGANISATIONS

Nauru Disabled People’s Association
Private Mailbag, Nauru Post Office
Republic of Nauru
Help and Support: services.ndpa@gmail.com
General Enquiries: info.ndpa@gmail.com
T: +674 556 7083

Nauru Island Association of NGOs (NIANGO)
PO Box 443
Nauru
nauriuslandngo@cenpac.net.nr;
nauriuslandngo@hotmail.com

Nauru National Youth Council
Email: otanj06@hotmail.com
Ph: (679) 4443510 ext 212
See Pacific Youth Council: http://www.pacificyouthcouncil.org/

Nauru Women’s National Council
PO Box 213
Nauru
T: +674 555 6105
F: +674 444 3227

Nauru Young Women’s National Council
c/o Women’s Affairs Office, Ministry of Home Affairs
Government Offices
Yaren, Nauru

Woman Information and News Agency
Contact: Julie Olsson
PO Box 443
Nauru
P: +674 444 3768

366 Ibid, Human Rights Council, National Report: Nauru, 10th session, 93
367 Ibid, 98
368 Ibid, 7
369 Human Rights Council, National Report: Nauru, 10th session, UN Doc A/HRC/21/14/Add.1 (1 November 2010) 8
371 Water, Sanitation and Hygiene, SOPAC helps survey every well in Nauru, Pacific Islands Applied Geoscience Commission (18 May 210)
Republic of Palau  
Palau, Beluu er a Belau, Belau

Palau is the westernmost of the ‘Freely Associated States’. A Compact of Free Association with the United States was signed on 1 October 1994. Palau has a democratic parliamentary system of government. The President is both head of state and head of government. The Council of Chiefs is an advisory body to the President and is consulted on matters concerning traditional laws and customs.  

### Key Facts

| **CAPITAL** | Melèkeok |
| **POPULATION** | 20,518 (2010 mid-year est.)  
19,907 (2005: last census) |
| **LAND AREA** | 444 km² |
| **YOUTH** | 16.4% (15–24) |
| **GROSS DOMESTIC PRODUCT (GDP) PER CAPITA** | US$8423 (2007 est.) |
| **GROSS NATIONAL INCOME (GNI) (PURCHASING POWER PARITY)** | US$220,717,937.6 (2010) |
| **GNI PER CAPITA (ATLAS METHOD)** | US$6560 (2010) |

| **TYPE OF GOVERNMENT** | Constitutional government in free association with the United States |
| **ELECTORAL SYSTEM** | First-past-the-post |
| **NUMBER OF MPS IN LEGISLATURE** | 16 House of Delegates  
13 Senate  
no females  |
| **RELIGIONS** | 49% Roman Catholic  
23% Protestant  
9% the Modekngei religion  
5% Seventh-Day Adventist and several smaller denominations |

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374 All statistics presented have been sourced from the UNDP Pacific Centre MDG Country ‘Fast Facts’ sheet (2009), unless otherwise indicated.
376 Secretariat of the Pacific Community, Pocket Statistical Summary, 2010  
377 Secretariat of the Pacific Community: Statistics for Development, 2017 populations and demographic indicators (May 2011)  
378 Ibid, Secretariat of the Pacific Community, Pocket Statistical Summary, 2010
381 Ibid
382 Ibid,
383 Ibid,
Human Rights Council, National Report: Palau; 11th session, 10
### Ethnic Groups

<table>
<thead>
<tr>
<th>Ethnic Group</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Palauan (Micronesian with Malayan and Melanesian admixtures)</td>
<td>69.9%</td>
</tr>
<tr>
<td>Filipino</td>
<td>15.3%</td>
</tr>
<tr>
<td>Chinese</td>
<td>4.9%</td>
</tr>
<tr>
<td>White</td>
<td>1.9%</td>
</tr>
<tr>
<td>Carolinian</td>
<td>1.4%</td>
</tr>
<tr>
<td>other Micronesian</td>
<td>1.1%</td>
</tr>
<tr>
<td>other or unspecified</td>
<td>3.2%</td>
</tr>
</tbody>
</table>

*(2000 census)*

### Languages

<table>
<thead>
<tr>
<th>Language</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Palauan: official in all islands except Sonsorala and English are official</td>
<td>64.7%</td>
</tr>
<tr>
<td>English</td>
<td>13.5%</td>
</tr>
<tr>
<td>Filipino</td>
<td>9.4%</td>
</tr>
<tr>
<td>Chinese</td>
<td>5.7%</td>
</tr>
<tr>
<td>Carolinian</td>
<td>1.5%</td>
</tr>
<tr>
<td>Japanese</td>
<td>1.5%</td>
</tr>
<tr>
<td>other Asian</td>
<td>2.3%</td>
</tr>
<tr>
<td>other languages</td>
<td>1.5%</td>
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</tbody>
</table>

*(2000 census)*

### Human Development Index

<table>
<thead>
<tr>
<th>Index</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not ranked separately from the United States</td>
<td></td>
</tr>
<tr>
<td>Under-Five Mortality Rate</td>
<td>19/1000</td>
</tr>
<tr>
<td>Life Expectancy at Birth (Years)</td>
<td>66.3 Male</td>
</tr>
<tr>
<td></td>
<td>72.1 Female</td>
</tr>
<tr>
<td>Adult Literacy Rate (Ages 15 and over)</td>
<td>95.2%</td>
</tr>
<tr>
<td>Expected Years of Schooling</td>
<td>14.9 years</td>
</tr>
</tbody>
</table>

*(2000 census)*

### International Treaty Ratification and Reporting Obligations

<table>
<thead>
<tr>
<th>Convention</th>
<th>Date of Signature/Ratification</th>
<th>Ratified/Ratified</th>
</tr>
</thead>
<tbody>
<tr>
<td>ICCPR</td>
<td>Signed 20 September 2011</td>
<td></td>
</tr>
<tr>
<td>ICESCR</td>
<td>Signed 20 September 2011</td>
<td></td>
</tr>
<tr>
<td>CEDAW</td>
<td>Signed 20 September 2011</td>
<td></td>
</tr>
<tr>
<td>CRC</td>
<td>Ratified 4 August 1995</td>
<td></td>
</tr>
<tr>
<td>CERD</td>
<td>Signed 20 September 2011</td>
<td></td>
</tr>
<tr>
<td>CAT</td>
<td>Signed 20 September 2011</td>
<td></td>
</tr>
<tr>
<td>CRPD</td>
<td>Signed 20 September 2011</td>
<td></td>
</tr>
<tr>
<td>CMW</td>
<td>Signed 20 September 2011</td>
<td></td>
</tr>
</tbody>
</table>

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

### Notes

384 Ibid
387 US Department of State, Background Note: Palau (12 May 2011) http://www.state.gov/r/pa/ei/bgn/1840.htm
389 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the State’s intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.
Palau was reviewed at the 11th session of the UPR, in May 2011. During the review, 106 recommendations were made. The recommendations included that the Government of Palau:

- Sign and ratify the ICCPR and its protocol, ICESCR, CEDAW and its protocols, CAT and its protocol, the OPs to the CRC, CED, the 1951 Convention relating to the Status of Refugees and its 1967 protocol, the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and the Convention against Transnational Organised Crime as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;
- Issue a standing invitation to all UN special procedures;
- Adopt legislation to protect children from economic and sexual exploitation and to punish offenders;
- Revise the status of children born to foreign parents;
- Adopt legislation to combat and eliminate violence against women, and raise public awareness of domestic violence;
- Consider the creation of shelters for victims of domestic violence;
- Take steps to increase the number of women in decision-making positions;
- Maintain its policy to promote and protect vulnerable persons and continue with its efforts to develop a national policy for the benefit of persons with disabilities;
- Establish a national human rights institution in accordance with the Paris Principles;
- Adopt additional measures to prevent the mistreatment of foreign nationals, combat discrimination against them, follow through on pursuing and prosecuting crimes against them, and enforce regulation more effectively to protect foreign workers, particularly with regard to conditions of work and respect for occupational and safety standards;
- Raise awareness and improve education on human rights, particularly on the rights of women, children and disabled persons;
- Strengthen its technical co-operation with relevant agencies and stakeholders in order to prevent the adverse impact of climate change on its promotion and protection of human rights;
- Discriminate sexual relations between consenting adults of the same sex and repeal the discriminatory provisions against LGBT persons.

Palau accepted or noted with a view to implementing all 106 recommendations.

**DOMESTIC PROTECTIONS OF HUMAN RIGHTS**

The Constitution of Palau protects a number of civil and political rights, including the right to freedom of religion, expression and assembly. Palau has not enacted any specific human rights legislation.

**NATIONAL HUMAN RIGHTS INSTITUTION (NHRI)**

Palau has shown an interest in the establishment of an NHRI over the last few years. In this regard, OHCHR, Asia Pacific Forum of National Human Rights Institutions, and Pacific Islands Forum Secretariat conducted a scoping mission in August 2011 and further steps are being developed.

**HUMAN RIGHTS ISSUES**

1. **Discrimination and violence against women**

The Government of Palau acknowledges that domestic violence is an area of challenge. There is no statute that specifically addresses domestic violence and there is limited capacity to collect information regarding the levels of violence and to respond with appropriate services. Perpetrators are prosecuted under ordinary assault laws, however, victims are often reluctant to testify in court due to pressure from the family and dependency issues. The Government believes that domestic violence is increasing as a result of drug and alcohol use and is cooperating with community stakeholders to try to address these issues.

Palauan society is patriarchal and matrilineal, and women have traditionally held positions of power and respect. “As a result Palauan women have achieved almost equal status in education attainment, in both public and private sector employment and in other areas of public participation.” However, women are underrepresented in the national Congress, the cabinet and the highest levels of civil service. There are currently two women in the Senate but none in the House of Delegates. Furthermore, though women are guaranteed equal protection under the Constitution, there are still laws in place that discriminate against women particularly concerning inheritance and rape in marriage. Palau is also one of only six countries globally that has not ratified CEDAW.

2. **Rights of the child**

The children of Palau are in a similar situation to others throughout the Pacific where traditional social structures have broken down, leaving them more vulnerable. Two specific issues that have become more visible in recent years are the treatment of non-Palauan children and the treatment of children who are the subject of customary adoptions. There are concerns about discrimination against children who have been customarily adopted. These children can feel as though they are not truly a part of the family, and teachers report that they often have discipline problems or are trouble-makers. Teachers at Palau High School have called for a formal guardianship process “to ensure that all parties are clear about their authorities and obligations.”

Another issue is the treatment of non-Palauan children, who fall under two categories. First are the dependents of foreign guest workers, who are only allowed to enter Palau if the worker is making more than US$15,000 a year. These children must pay increased medical costs, and a bill was introduced (and later failed) that would require them to pay fees to attend public school. The second kind of non-Palauan children are those adopted by Palauan families. Although they are not subject to discrimination with regards to medical and school fees, they are not eligible to get a Palauan passport, and when they turn 18 they have no automatic right to residency. This can leave them either stateless or citizens of a country to which they have no connection.

Corporal punishment is lawful in the home, and is not explicitly prohibited in schools.

3. **Right to an adequate standard of living**

The people of Palau are particularly vulnerable to climate change. Palau comprises 500 islands of which only 12 are inhabited. Agriculture is threatened by rising sea levels and salinity. Further rising sea levels are of significant concern because “entire atolls, including the state of Kayangel, will disappear if sea levels rise by one metre. Loss of lands due to sea level rise could force thousands of Palauan citizens to become climate migrants and to move to other countries. According to Palau’s Permanent Representative to the United Nations, displacement to

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391 Constitution of Palau, Article IV


393 Ibid, 36

394 Secretariat of the Pacific Community and the Republic of Palau, Joint Country Strategy 2009–2013, (Secretariat of the Pacific Community, 2009) 8


396 The Millennium Development Goals Initial Status Report Palau 2008


another country ‘might be the only option if climate change continues at the current or increased rate without significant and urgent mitigation by the international community’. Such involuntary relocation would result in the loss of Palau’s traditional cultural practices developed over thousands of years, including the indigenous language of Palau and matrilineal land inheritance. 401

4. Trafficking in persons

Palau is a destination country for trafficked workers from China, the Philippines and Bangladesh who are then subjected to forced labour. Palau is also a destination for women subjected to forced prostitution from countries in the Asia-Pacific region. Both women and men are trafficked. For these workers ‘excessive hours without pay, threats of physical or financial harm, confiscation of their travel documents, and the withholding of salary payments are used as tools of coercion to obtain and maintain their compelled service’. Women expecting to work as waitresses or clerks may be sexually exploited and forced to work in karaoke bars and massage parlours. The Government is making an effort to comply with minimum standard for eliminating trafficking, including adopting legislation. 402

5. Refugees

Palau is not a party to the 1951 Refugee Convention. President Toribiong decided in 2009 to accept a number of Uighur detainees being held in Guantanamo Bay. 403 Uighurs are a Muslim ethnic minority in China. However, Palau’s laws do not provide for granting of asylum or refugee status. The Government has historically provided protections against expulsion of those who are in danger if returned to their home countries, but this is not made official with refugee status or asylum. 404 The Uighurs have since requested permanent settlement in Australia. 405

Despite not being a party to the Refugee Convention, Palau hosted 11 people from Myanmar while their claims for refugee status were processed. The refugees were then resettled in Australia and the US. 406

6. Discrimination

The 2005 census found that 26% of the population were non-Palauan and the majority of those were foreign workers. 407 There have been reports of abuse and discrimination against some foreign workers. 408 Non-citizens are prevented from owning land or gaining citizenship. Foreign residents are subject to harassment and petty crime, and have reported that the police does not follow through with their complaints. They also experience discrimination in other areas of life, such as work, housing, pay and social services. 409

PALAU’S INTERNATIONAL ORGANISATION PARTICIPATION

Alliance of Small Island States (AOSIS)
Economic and Social Commission for Asia and the Pacific (ESCAP)
Pacific Islands Forum (PIF)
Secretariat of the Pacific Community (SPC)
Secretariat of the Pacific Regional Environment Programme (SPREP)
South Pacific Regional Trade and Economic Co-operation Agreement (SPARCA)

KEY DOMESTIC HUMAN RIGHTS DEFENDERS, CIVIL SOCIETY ORGANISATIONS AND NON-GOVERNMENT ORGANISATIONS

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C/O PO Box 99, Koror
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T: +680 488 1170, 488 2514 (home: +680 488 6222)
F: +680 488 1169
DNagata@PCAA.org

Palau Conservation Society
PO Box 1811, Koror
Palau 96940
T: +680 488 3993 or 488 4716
F: +680 488 3990
PCS@palaunet.com
www.palau-pcs.org

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PO Box 100, Koror
Palau 96940
PNYC@palaunet.com

Vicariate of Palau Justice and Development Council (Palau VJD)
PO Box 128, Koror
Palau 96940
T: +680 488 3707; 488 2226 (Dr Ueki: +680 488 2032, home: +690 488 2454)
F: +680 488 1819 (Dr Ueki: +680 488 2031)
Rusk@palaunet.com
Kiribati

**Republic of Kiribati**

Kiribati has a democratic parliamentary system of government with a unicameral parliament. The executive branch consists of the President (“Te Beretitenti”), Vice-President and Cabinet. The President is the head of government and head of state, as well as chief of the Cabinet. Under the Constitution, the President, who is nominated from among the elected legislators, is limited to three four-year terms. The Cabinet is composed of the President, the Vice-President and 10 ministers (appointed by the President) who are members of the House of Assembly.

<table>
<thead>
<tr>
<th>Key Facts</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CAPITAL</strong></td>
</tr>
</tbody>
</table>
| **POPULATION** | 110,835 (2010 mid-year est.)<sup>410</sup>  
92,533 (2005: last census)<sup>411</sup> |
| **LAND AREA** | 811 km<sup>2</sup><sup>412</sup> |
| **YOUTH** | 21% (15–24) <sup>413</sup> |
| **GROSS DOMESTIC PRODUCT (GDP) PER CAPITA** | US$1490 (2008 est.) <sup>414</sup> |
| **GROSS NATIONAL INCOME (GNI) (PURCHASING POWER PARITY)** | US$349,076,491.30 (2010) <sup>415</sup> |
| **GNI PER CAPITA (ATLAS METHOD)** | US$2010 (2010) <sup>416</sup> |

| **TYPE OF GOVERNMENT** | Constitutional democracy |
| **ELECTORAL SYSTEM** | Two round system |
| **NUMBER OF MPS IN LEGISLATURE** | 44  
4 female <sup>417</sup> |
| **RELIGIONS** | 55% Roman Catholic  
36% Protestant  
3.1% Mormon  
2.2% Bahai  
1.9% Seventh-Day Adventist  
1.8% other (2005 census) <sup>418</sup> |

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410 Secretariat of the Pacific Community, Pocket Statistical Summary, 2010  
411 Secretariat of the Pacific Community: Statistics for Development, 2011 populations and demographic indicators (May 2011)  
412 Ibid, Secretariat of the Pacific Community, Pocket Statistical Summary, 2010  
413 Ibid  
414 Ibid  
416 Ibid  
417 http://www.islandsbusiness.com/islands_business/index_dynamic/containerNameToReplace=MiddleMiddle/focusModuleID=19917/overrideSkinName=issueArticle-full.tpl  
POLYNESIAN GROUP: KIRIBATI

ETHNIC GROUPS
98.8% Micronesian
1.2% other (2000 census) 419

LANGUAGES
I-Kiribati, English (official) 420

HUMAN DEVELOPMENT INDEX
not ranked

UNDER-FIVE MORTALITY RATE
49/1000 live births (2010) 421

LIFE EXPECTANCY AT BIRTH (YEARS)
58.9 Male
63.1 Female 422

ADULT LITERACY RATE (AGES 15 AND OVER)
not available

EXPECTED YEARS OF SCHOOLING
12.3 years 423

INTERNATIONAL TREATY RATIFICATION AND REPORTING OBLIGATIONS

CONVENTION
CEDAW
DATE OF SIGNATURE/RATIFICATION 424
Ratified 17 March 2004
DECLARATION/RESERVATION
none
REPORTING STATUS AS OF OCTOBER 2011
Initial and 2nd reports overdue since 2005 and 2009 respectively

CONVENTION
CRC
DATE OF SIGNATURE/RATIFICATION 424
Ratified 11 December 1995
DECLARATION/RESERVATION
Articles 24 (b), (c), (d), (e), (f), 26, and 28 (b), (c), (d)
LATEST REPORT SUBMITTED
15 August 2005
REPORTING STATUS AS OF OCTOBER 2011
Consolidated 2nd, 3rd and 4th overdue

419 Ibid
420 Ibid
424 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the State’s intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.
Kiribati was reviewed under the UPR on 3 May 2010. During the review, 83 recommendations were made. The recommendations included that the Government of Kiribati:

- Sign and ratify the ICCPR and its OPs, ICESCR and its protocol, CEDAW, CAT and its protocol, the OPs to the CRC, CRPD and its protocol, CED, and the Rome Statute to the International Criminal Court; 426
- Take measures to combat practices that perpetuate discrimination against women and their marginalisation, particularly with regard to their inheritance and citizenship;
- Train the police with regard to domestic and sexual violence against women;
- Promote the participation of women in political life and adopt additional legislative measures on gender equality to ensure equal participation for women in all decision-making positions in all areas of public administration;
- Review legislation to bring it into line with the provisions and principles of the CR, particularly with regard to violence against children, corporal punishment, sexual abuse and exploitation, abduction, sales and trafficking;
- Decriminalise sexual relations between consenting adults of the same sex;
- Establish a national human rights institution in accordance with the Paris Principles; 427
- Eliminate all forms of de facto discrimination against children belonging to economically disadvantaged families;
- Extend a standing invitation to all United Nations special procedures;
- Amend the Constitution to include sex, gender, sexual orientation, disability, health status and economic status as prohibited grounds of discrimination;
- Segregate women, children and men in prison facilities;
- Extend government funding to schools for persons with disabilities, and
- Strengthen efforts to combat the spread of HIV/AIDS.

Kiribati accepted 72 of the 83 recommendations.

**DOMESTIC PROTECTION OF HUMAN RIGHTS**

The Kiribati Constitution protects a number of civil and political rights, including the right to life, freedom from inhuman treatment and the right to freedom of expression. 428 Kiribati has not enacted any specific human rights legislation.

**NATIONAL HUMAN RIGHTS INSTITUTION (NHRI)**

Kiribati does not have an NHRI. In response to the UPR recommendations, Kiribati indicated that a regional human rights office in the Pacific was more appropriate. 429

**HUMAN RIGHTS ISSUES**

**1. Discrimination and violence against women**

Preliminary studies indicate the prevalence of violence against women in Kiribati is one of the highest in the world. 430 Traditional gender roles are still accepted and “male dominance, including men’s right to beat their wives, has been traditionally accepted”. 437 Discriminatory treatment or abuse of women is justified as customary practice and “acceptable” levels of physical or sexual abuse of women have even been argued for on the grounds that there are expected levels of behaviour that women “should” maintain. 432 According to a 2010 study by the Secretariat of the Pacific Community, in Kiribati, the majority of men interviewed in a qualitative research project agreed that “a man should show his wife who is the boss”. 433 According to a Kiribati Family Health and Support Study, “more than two in three (68%) ever-partnered women aged 15–49 reported experiencing physical or sexual violence, or both, by an intimate partner”. 434 Further, “23% of women who had ever been pregnant reported being beaten by a partner during their pregnancy”. 435

Violence against women is seen as normal by many in the community. The Kiribati Family Health and Support Study found that “the majority of women in Kiribati believe that a man is justified in beating his wife under some circumstances (in particular for infidelity and disobedience)”. 436 It also found that “the most common reason why women do not seek medical care for abuse-related injuries is that the violence ‘was normal or not serious’”. Three quarters of women agree with at least one justification for a husband hitting his wife, including “if a wife is unfaithful” (60%), “if a wife disobeys her husband” (60%), and “if a wife does not complete the housework to her husband’s satisfaction” (57%). Only half of women consider that a wife can refuse sex under all circumstances 437

Further, the 2010 study by the Secretariat of the Pacific Community notes a correlation between controlling behaviour by men of women’s health-related decisions and abuse. Of women who have not experienced partner violence, 57% do not have a say in decisions relating to their own health. In the case of abused women, this figure rises to 76%. 438

The Government of Kiribati acknowledged in its report under the UPR that “discrimination against women in Kiribati is lawful. Women’s human rights are not adequately protected byKiribati domestic law”. 439 In its submission to the UPR, Amnesty International highlighted that “a number of legislative provisions still discriminate against women and girls in Kiribati. The discriminatory provisions exist in laws that cover a wide range of areas, including family law, sexual offences, domestic violence, property and inheritance laws. The fact that the Constitution gives constitutional status to customary law often allows for more discrimination against women, 431


426 Kiribati rejected this recommendation.

427 Kiribati rejected this recommendation.

428 Kiribati Constitution, sections 3–18.


430 Administrator, Pacific lead; Kiribati men to take action to end violence against women, Secretariat of the Pacific Community Human Development Programme [20 April 2009] http://www.spc.int/hdp/index.php?option=com_content&task=view&id=59


433 Secretariat of the Pacific Community, Transforming power relations: Equal status of women and men at the family level in the Pacific http://www.spc.int/hdp/index.php?option=com_docman&task=cat_view&gid=58&Itemid=44

434 Secretariat of the Pacific Community, Kiribati Family Health and Support Study: A study on violence against women and children (Secretariat of the Pacific Community, 2010) 2

435 Penelope Schoefel Melasoa, Gender and HIV in the Pacific Islands Region (UNDP Pacific Centre) 32

436 Secretariat of the Pacific Community, Kiribati Family Health and Support Study: A study on violence against women and children (Secretariat of the Pacific Community, 2010) 3


438 Secretariat of the Pacific Community, Transforming power relations: Equal status of women and men at the family level in the Pacific http://www.spc.int/hdp/index.php?option=com_docman&task=cat_view&gid=58&Itemid=44

439 Human Rights Council, National Report: Kiribati; 8th session, UN Doc A/HRC/9/6 (Kiribati) [22 February 2010] 38
in particular due to cultural norms and traditional views inherent in which is a perception about the inferior status and role of women in traditional Kiribati society.”

2. Rights of the child

The Committee on the Rights of the Child noted that while Kiribati was working towards protecting its children, there were various gaps that the state should work towards closing to meet its obligations under the CRC. The Committee noted, in particular, that the best interests of the child have not been given adequate attention in national legislation and policies. Among other issues addressed by the Committee are the non-systematic procedures in birth registration; the non-explicit prohibition of corporal punishment; the high number of reported cases of violence and child abuse including sexual abuse; and reports that victims were often shunned by their community. Issues relating to informal adoption were a concern for the committee, as were the inadequate resources for children with disabilities, the increased prevalence of HIV/AIDS among adolescents; economic exploitation of children including child labour; the reported increase in commercial sexual exploitation of children; and practical shortcomings of the juvenile justice system, with no specific legislation on juvenile justice.

A UNICEF report on commercial sexual exploitation of children in five countries in the Pacific notes the prevalence of various forms of sexual violence and abuse in Kiribati, including child prostitution, child sex tourism, child pornography, child trafficking for sexual purposes and “sale of children through improper marriage and adoption.” Further, child marriage continues in Kiribati, including the sale of girls to foreigners in exchange for money. Finally, corporal punishment is lawful in the home, although it has been prohibited in schools.

A joint submission by non-government organisations to the UPR reported that “the quality of education in Kiribati was reportedly low by regional standards.” Further, “enrolments both at junior and senior secondary school levels fall far short of the actual population of children in those age groups. In 2006 … the net enrolment ratio at primary level was 96% … junior secondary levels 79%; and senior secondary 34%. The irrelevancy of the curriculum is a major contributor to these low enrolment levels.” Thus, “young people who perform poorly or are disinterested in school are likely to drop out, while parents with limited cash resources who cannot see the relevance of formal education for their children’s future are likely to withdraw them from school.”

3. Torture and ill-treatment

The Government acknowledged in its UPR report that there was an urgent need to upgrade detention facilities in order to meet international human rights standards. Persons between 16 and 18 years of age are detained with adults and both police and prison detention facilities provide poor living conditions.

4. Right to an adequate standard of living

In its UPR report, the Government of Kiribati stated that “climate change and rising sea levels pose a frightening danger for island ecosystems like Kiribati.” Kiribati comprises 33 coral atolls. The atolls are generally no more than three metres above sea level. Sea level rise could inundate large parts of the capital. Fresh water supplies are increasingly affected by salt water. There will also be other environmental impacts on food security, housing, health and sanitation. Kiribati has ongoing resettlement schemes and is seeking negotiations with two governments in the region to eventually relocate Kiribati’s population. The President has already begun to encourage citizens to migrate before they are forced to evacuate.

KIRIBATI’S PARTICIPATION IN REGIONAL ORGANISATIONS

Alliance of Small Island States (AOSIS)
Economic and Social Commission for Asia and the Pacific (ESCAP)
Pacific Islands Forum (PIF)
Secretariat of the Pacific Community (SPC)
Secretariat of the Pacific Regional Environment Programme (SPREP)
South Pacific Regional Trade and Economic Co-operation Agreement (Sparoteca)

KEY DOMESTIC HUMAN RIGHTS DEFENDERS, CIVIL SOCIETY ORGANISATIONS AND NON-GOVERNMENT ORGANISATIONS

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Kiribati National Union of Teachers
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Kiribati Trades Union Congress (KTUC)
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Teitoiningaina Women’s Centre
Teitoiningaina Women’s Centre is the national Catholic women’s group, which aims to improve the standard of living and quality of life for members and their families. This is done through improving the skill level of members to promote self-sufficiency and independence.
Niue has been in free association with New Zealand since 1974 and lacks full sovereignty. Niue is fully responsible for internal affairs while New Zealand retains responsibility for external affairs and defence, although this is only exercised at the request of the Government of Niue. Most diplomatic relations are conducted by New Zealand on Niue’s behalf. The British Monarch is Niue’s head of state and the Premier is the head of government. Niue is not a member of the United Nations, but is a member of the Pacific Islands Forum.

Niue

Key Facts 454

| CAPITAL | Alofi |
| POPULATION | 1479 (2010 mid-year est.) 455 | 1625 (2006: last census) 456 |
| LAND AREA | 259 km² 457 |
| YOUTH | 17.1% (15-24) 458 |
| GROSS DOMESTIC PRODUCT (GDP) PER CAPITA | US$9618 (2006) 459 |
| GROSS NATIONAL INCOME (GNI) (PURCHASING POWER PARITY) | not available |
| GNI PER CAPITA (ATLAS METHOD) | not available |

TYPE OF GOVERNMENT
Self-governing parliamentary democracy in free association with New Zealand

ELECTORAL SYSTEM
First-past-the-post in 14 village constituencies and block vote for six common-roll, island-wide positions

NUMBER OF MPS IN LEGISLATURE
20 4 female

RELIGIONS
61.1% Ekalesia Niue (Niuean Church – a Protestant church closely related to the London Missionary Society)
8.8% Latter-Day Saints
7.2% Roman Catholic
2.4% Jehovah’s Witnesses
1.4% Seventh-Day Adventist
8.4% other
8.7% unspecified
1.9% none (2001 census) 460

454 All statistics presented have been sourced from the UNDP Pacific Centre MDG Country ‘Fast Facts’ sheet (2007), unless otherwise indicated.
455 Secretariat of the Pacific Community, Pocket Statistical Summary, 2010
http://www.spc.int/sdp/index.php?option=com_docman&task=cat_view&gid=28&Itemid=16
456 Secretariat of the Pacific Community: Statistics for Development, 2011 populations and demographic indicators (May 2011)
http://www.spc.int/sdp/index.php?option=com_docman&task=cat_view&gid=28&Itemid=16
457 Ibid. Secretariat of the Pacific Community, Pocket Statistical Summary, 2010
458 Ibid
459 Ibid
Pacific Regional Human Rights Status

**ETHNIC GROUPS**
- 78.2% Niuean
- 10.2% Pacific Islander
- 4.5% European
- 3.9% mixed
- 0.2% Asian
- 3% unspecified (2001 census)

**LANGUAGES**
Niuean, English

**HUMAN DEVELOPMENT INDEX**
not ranked

**UNDER-FIVE MORTALITY RATE**
17/1000 live births (2009)

**LIFE EXPECTANCY AT BIRTH (YEARS)**
- 67 Male
- 76 Female

**ADULT LITERACY RATE (AGES 15 AND OVER)**
100% (2010)

**EXPECTED YEARS OF SCHOOLING**
15.9 years

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**International Treaty Ratification and Reporting Obligations**

**CONVENTION**

**ICCPR**
- **DATE OF SIGNATURE/RATIFICATION**: 28 December 1978 (Niue considers itself a state party after New Zealand ratified)
- Latest report submitted 23 November 2010

**ICESCR**
- **DATE OF SIGNATURE/RATIFICATION**: 28 December 1978 (Niue considers itself a state party after New Zealand ratified)

**CERD**
- **DATE OF SIGNATURE/RATIFICATION**: 22 November 1972 (Niue considers itself a state party after New Zealand ratified)
- **LATEST REPORT SUBMITTED**: 18 January 2015

**CEDAW**
- **DATE OF SIGNATURE/RATIFICATION**: 28 December 1978 (Niue considers itself a state party after New Zealand ratified)
- **ACCEDED**: 10 January 1985 (NZ ratified on behalf of Niue)

**CRC**
- **DATE OF SIGNATURE/RATIFICATION**: 20 December 1995
- **LAUNCH REPORT SUBMITTED**: 23 November 2010
- **REPORTING STATUS AS OF OCTOBER 2011**: 2nd periodic report due on 18 January 2015

**Conventions**

**International Treaty Ratification and Reporting Obligations**

The treaty-making capacity of Niue was recognised in 1994 by the Secretary-General of the United Nations as depository of international treaties. However, prior to this date, Niue as a state in free association with New Zealand could accede to international treaties by virtue of New Zealand’s ratification.

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461 Ibid

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HUMAN RIGHTS ISSUES

1. Discrimination and violence against women

Niue faces problems of violence against women. However, there is very little data available. A UNICEF report in 2004 stated that “the Director of Health reported that no cases of domestic violence were presented for treatment at the hospital, some women’s [sic] representatives claim that domestic violence doesn’t happen in Niue (or if it does it’s handled at home); and yet Police records of incidences tell otherwise.” There is a lack of prosecutions or “effective formal avenues of redress for victims.” In a public forum in 2010, the police acknowledged that violence against women was the second most common crime on Niue. Since Niue ratified CEDAW, volunteer counsellors have been selected and trained and a counselling centre for women has been established. Women do contest and succeed in parliamentary elections in Niue. In 2008, five women contested the election. In 2010 there were four women in Parliament, one of whom was a minister.

2. Rights of the child

There is limited information available on sexual exploitation or abuse of children. The UNICEF report states that “neglect and abuse of children in the form of sexual assault of minors under the age of 15 is a regular occurrence and is effectively condoned by the community as a whole, illustrated by the lack of reporting to police and lack of formal condemnation.” In its initial report under the CRC, the Government has acknowledged that it may not be clear to whom child abuse is to be reported, and that “it may stay within the family unless a child is brought to the hospital due to injury.” Such issues “tend to be settled by and within families. If alternative living arrangements are required for children, the extended family system provides a range of alternative care.”

Corporal punishment is legal at school and in the home. The Government has acknowledged that corporal punishment may still be used in schools. Education is free and compulsory. The Government also provides free transport to school. Health services are also free for permanent residents.

3. Right to an adequate standard of living

Niue is not as susceptible to rising sea levels as other Pacific nations are, as it is a high coral atoll. Nonetheless, it is conscious of sea level rises and particularly the increase in severity and occurrence of tropical cyclones. A rise in sea level could threaten Niue’s fresh water source, as well as agriculture and fishing. There are concerns that climate change, particularly rising sea temperatures, could “lead to socio-economic problems in areas such as health, an increase in the national deficit and with diminishing social services, eventually leading to outward migration.”

4. Human trafficking

In December 2006, 12 Indian men were taken to Niue after they were promised jobs and possibly land. After reportedly paying a Nuean national tens of thousands of dollars, the men were not given jobs and had to live in squalid conditions. In December 2008, following involvement from the New Zealand Human Rights Commission, other human rights agencies and community groups, the New Zealand Government paid for the airfares of nine of the Punjab men to fly back to India because the Niue government could not afford it.

473 Ibid, 29
474 Ibid, 28
480 Ibid, 401
483 Ibid, 292
484 Ibid, 244

NUIÈ’S PARTICIPATION IN REGIONAL ORGANISATIONS

Alliance of Small Island States (AOSIS)
Economic and Social Commission for Asia and the Pacific (ESCAP) – Associate Member
Pacific Islands Forum (PIF)
Secretariat of the Pacific Community (SPC)
Secretariat of the Pacific Regional Environment Programme (SPREP)
South Pacific Regional Trade and Economic Co-operation Agreement (SPARCA)

KEY DOMESTIC HUMAN RIGHTS DEFENDERS, CIVIL SOCIETY ORGANISATIONS AND NON-GOVERNMENT ORGANISATIONS

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hivailev@yahoo.co.uk
Samoa
The Independent State of Samoa

Samoa has a parliamentary system of government which incorporates democratic and traditional practices into its governmental system. The Government is headed by the Prime Minister. The head of state is elected by the National Legislative Assembly (NLA) for a five-year term. The members of the NLA are elected by universal suffrage for five-year terms. All 49 seats are reserved for Matai, who are the recognised chiefs of Samoan villages. All laws passed by the Legislative Assembly require approval of the head of state. The Human Rights Protection Party has governed Samoa since 1982.

Key Facts

| CAPITAL |
| Apia |

| POPULATION |
| 183,123 (2010 mid-year est.)<sup>490</sup> |
| 180,741 (2006: last census)<sup>491</sup> |

| LAND AREA |
| 2785 km<sup>2</sup><sup>492</sup> |

| YOUTH |
| 19.6% (15–24)<sup>493</sup> |

| GROSS DOMESTIC PRODUCT (GDP) PER CAPITA |
| US$2672 (2008 est.)<sup>494</sup> |

| GROSS NATIONAL INCOME (GNI) (PURCHASING POWER PARITY) |
| US$769,354,911.5 (2010)<sup>495</sup> |

| GNI PER CAPITA (ATLAS METHOD) |
| US$2860<sup>496</sup> |

| TYPE OF GOVERNMENT |
| Parliamentary democracy |

| ELECTORAL SYSTEM |
| First-past-the-post in single constituencies and block voting in multi-member constituencies |

| NUMBER OF MPS IN LEGISLATURE |
| 49 2 female<sup>497</sup> |

| RELIGIONS |
| 34.8% congregationalist |
| 19.6% Roman Catholic |
| 15% Methodist |
| 12.7% Latter-Day Saints |
| 6.6% Assembly of God |
| 3.5% Seventh-Day Adventist |
| 1.3% Worship Centre |
| 4.5% other Christian |
| 1.9% other |
| 0.1% unspecified (2001 census)<sup>498</sup> |

489 All statistics presented have been sourced from the UNDP Pacific Centre MDG Country ‘Fast Facts’ sheet (2007) unless otherwise indicated.

490 Secretariat of the Pacific Community, Pocket Statistical Summary, 2010 http://www.spc.int/pdp/index.php?option=com_docman&amp;task=cat_view&amp;gid=28&amp;Itemid=57&amp;lang=en


492 Ibid, Secretariat of the Pacific Community, Pocket Statistical Summary, 2010

493 Ibid

494 Ibid


496 Ibid


### Pacific Regional Human Rights Status

**Ethnic Groups**
- 92.6% Samoan
- 7% Europeans (persons of European and Polynesian heritage)
- 0.4% Europeans (2001 census)

**Languages**
- Samoan (Polynesian) (official), English

**Human Development Index**
- 94 out of 182 ranked countries (2009)

**Under-Five Mortality Rate**
- 20/1000 live births (2010)

**Life Expectancy at Birth (Years)**
- 71.5 Male
- 74.2 Female

**Adult Literacy Rate (Ages 15 and Over)**
- 98.7% (2009)

**Expected Years of Schooling**
- 12.2 years

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### International Treaty Ratification and Reporting Obligations

**Convention**

<table>
<thead>
<tr>
<th><strong>Convention</strong></th>
<th><strong>Date of Signature/Ratification</strong></th>
<th><strong>Declaration/Reservation</strong></th>
<th><strong>Latest Report Submitted</strong></th>
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<tr>
<td>ICCPR</td>
<td>Ratified 15 February 2008</td>
<td>Art 8(3) and 10(2)(3)</td>
<td>Initial report due since 15 May 2009</td>
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<td>CRC</td>
<td>Ratified 25 September 1992</td>
<td>Art 28(1)(a)</td>
<td>None</td>
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<td>CEDAW</td>
<td>Ratified 29 November 1994</td>
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<td>1 November 2005</td>
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<td>Signed 6 February 2007</td>
<td></td>
<td>11 August 2010</td>
</tr>
</tbody>
</table>

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499 Ibid
500 Ibid
505 Ibid, 146
506 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the State’s intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.
Samoa was reviewed under the UPR on 9 May 2011. During the review, 121 recommendations were made. The recommendations included that the Government of Samoa:

- Amend its national law to guarantee equality between men and women and ensure that customs and traditions are not used to discriminate against women;
- Prioritise legislation on women’s rights and domestic violence, which is a form of discrimination against women and a violation of their human rights. Such a strategy should include measures, including legislation, to prevent violence against women, provide protection, support and rehabilitation services to victims, and punish offenders.
- Improve access to justice, including legal assistance and information and education about legal and human rights, to those who cannot afford private representation;
- Pursue efforts aimed at promoting the rights of persons with disabilities and their access to public places and fully implement the National Policy for Persons with Disabilities;
- Repeal all legal provisions that criminalise sexual activity between consenting adults and investigate all cases of discrimination based on sexual orientation and gender identity.
- Adopt domestic laws and administrative regulations aimed at eradicating all forms of discrimination against persons of foreign origin, members of ethnic or linguistic minorities, refugees, asylum-seekers and migrant workers, by ensuring the enjoyment of their fundamental rights, irrespective of their migration status.
- Samoa accepted 107 of the 121 recommendations.

DOMESTIC PROTECTION OF HUMAN RIGHTS

The Constitution of Samoa protects a number of civil and political rights, including the right to freedom from inhuman treatment and the right to freedom of religion. Samoa has not enacted any specific human rights legislation.

NATIONAL HUMAN RIGHTS INSTITUTION (NHRI)

Samoa has been considering the establishment of an NHRI for the past few years.

HUMAN RIGHTS ISSUES

1. Discrimination and violence against women

In Samoa, both domestic and non-partner violence is common. “Men are regarded as the heads of households and generally consider themselves superior to their wives.” A 2010 study by the Secretariat of the Pacific Community (SPC) mentions that “in Samoa, about 98% of male respondents agreed with the following statement: ‘A good wife obeys her husband and does as he is told’.” Of women who have ever been in a relationship, 46% have experienced partner abuse. “The most common form of spousal abuse is physical abuse (38%), followed by sexual abuse (20%) and emotional abuse (19%).” Approximately 70% of women have indicated that they think that “men sometimes have a good reason to beat their wives.” Samoa is reported to have very high levels of non-partner violence, with a prevalence rate of 65% of women over 15 years of age.

In its 2005 outcome document, the Committee on CEDAW recommended that Samoa “put in place without delay a comprehensive strategy to prevent and combat all forms of violence against women, including domestic violence, which is a form of discrimination against women and violence, which is a form of discrimination against women and a violation of their human rights. Such a strategy should include measures, including legislation, to prevent violence against women, provide protection, support and rehabilitation services to victims, and punish offenders.”

However, efforts are noted in terms of addressing violence against women. The Government submission to the Committee on CEDAW notes that a national plan has been developed to support various programmes. There is also a Domestic Violence Unit within the Ministry of Police which receives reports of domestic violence and compiles information on domestic violence cases. Discrimination against women is a problem in Samoa. At the political level, only 20% of the matai (chiefs) are women. Some villages ban women from becoming matai. Only matai are eligible for election and there were only four women in the 49-member Parliament in 2007, although 18 women contested the 2006 elections.

2. Rights of the child

As noted by UNICEF, “all forms of abuse occur and are happening to young people in Samoa.” The Government recognises that violence against children, including sexual violence, is a significant challenge.

508 Samoa rejected this recommendation.
509 Samoa rejected this recommendation.
510 Samoa rejected this recommendation.
515 Ibid, 52.
518 Committee on the Elimination of Discrimination against Women, Concluding Comments: Samoa, 32nd session, UN Doc CEDAW/C/SWM/ CC/3-115 (February 2005).
520 Ibid, 2.3.6.
522 Ibid, Consideration of reports submitted by States Parties under Article 18 of the Convention: Combined fourth and fifth periodic reports: Samoa, 4.1
However detailed information about the extent of sexual abuse is limited.

The Committee on the Rights of the Child raised concerns regarding the growing number of working children in Samoa. In particular, it was concerned that children are working in domestic service and as street vendors and the need for the government to address these issues. The Samoa Umbrella for Non-Governmental Organisations also raised concerns regarding the growing number of child street vendors whose work interferes with their basic education and social development, and is contrary to the Government’s assurances to provide compulsory education up to year 8.

Under Samoan laws, anyone aged 15 or over is classified as an adult worker. Further, Samoan law prohibits forced or compulsory labour, but this provision does not cover education up to year 8.

The report of the Samoa Umbrella for Non-Governmental Organisations to the UPR review stated that “currently, the living conditions at the Tafagata Prison are very poor. Many facilities are extremely outdated; provisions for food, water and basic sanitation are inadequate; and large groups of prisoners are confined together in small and harsh cells. Some inmates are employed without remuneration outside prisons, including in a private capacity for government officials. In addition, there are reports of physical and sexual abuse.” The report noted that the Prisons Act 1967 was under review. In 2009, 41 prisoners escaped from prison “armed with working knives” and commandeered a bus to drive it to the capital. They were reportedly protesting about the poor conditions in prison.

In its 2004 alternative report to CEDAW, a group of Samoan NGOs noted that “women in prison have little access to rehabilitative programs and counselling. Women prisoners are discriminated against by their reproductirole. The prisons do not provide facilities to enable a breastfeeding female prisoner to breastfeed her child and give maternal care and nurture to the child.”

The same issue was noted in the UNICEF 2006 Situation Analysis of the situation of children, women and youth in Samoa.

4. Right to an adequate standard of living

In Samoa’s Second National Communication to the United Nations Framework Convention on Climate Change in 2010, the Government raised concerns regarding trends already felt in Samoa as a result of climate change, such as increased frequency in extreme daily rainfall events and sea level rise. In addition to posing threats to access to water, rising sea levels could cause land loss which could “force many Samoan citizens to become climate migrants.” Samoa is prone to earthquakes which can be followed by tsunamis, as experienced in 2009, and which caused death and destruction in Samoa and Tonga.

5. The traditional practice of banishment

Banishment for failing to conform to village laws or obey fono (Parliament) rulings forms part of the customary laws of Samoa and has been used by village councils. In some cases, courts have intervened to override the decisions of the village council. In 2004, the Supreme Court ruled that the 1990 Village Fono Act, which gives legal recognition to village fono decisions, could not be used to infringe on villagers’ freedom of movement and residence.

The practice, however, continues. For example, in 2005 it was reported that a young chief faced possible banishment if he stood in the country’s general elections as it was against customary practice for a young matai (chief) to run against a higher-ranking matai. In 2008, matai overturned their own sentence of banishment “after a reconciliation process.” Two men were arrested in 2010 for burning two homes of a family who resisted a banishment order. And in August 2011, a woman went to court to protest her family’s banishment and the destruction of her home by fire. A review of the Village Fono Act 1990 was undertaken in September 2011.

Samoan Umbrella for Non-Governmental Organisations

Alliance of Small Island States (AOGIS)

Economic and Social Commission for Asia and the Pacific (ESCAP)

Pacific Islands Forum (PIF)

Secretariat of the Pacific Community (SPC)

Secretariat of the Pacific Regional Environment Programme (SPREP)

South Pacific Regional Trade and Economic Co-operation Agreement (SPARTEC)


529 Samoa Umbrella for Non-Governmental Organisations, Joint NGO Submission to the Universal Periodic Review of Samoa (May 2011) 21 (1).


533 Ministry of Natural Resources and Environment, Samoa’s Second National Communication to the United Nations Framework Convention on Climate Change (June 2010) 11.


POLYNESIAN GROUP: SAMOA

KEY DOMESTIC HUMAN RIGHTS DEFENDERS, CIVIL SOCIETY ORGANISATIONS AND NON-GOVERNMENT ORGANISATIONS

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www.siosiomaga.hostoi.com/

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Tuvalu

Tuvalu has a democratic parliamentary system of government. Under the Constitution, the Prime Minister is the head of government and the Governor-General, who represents the British Monarch, is appointed on the advice of the Prime Minister and is the head of state for an undefined term, usually five years. The Prime Minister is selected from the MPs, who are elected for four-year terms.

Key Facts

- **CAPITAL**: Funafuti
- **POPULATION**: 11,149 (2010 mid-year est.)
- **LAND AREA**: 26 km²
- **YOUTH**: 19.3% (15–24)
- **GROSS DOMESTIC PRODUCT (GDP) PER CAPITA**: US$1831 (2002)
- **GROSS NATIONAL INCOME (GNI) (PURCHASING POWER PARITY)**: not available
- **GNI PER CAPITA (ATLAS METHOD)**: US$3700

**TYPE OF GOVERNMENT**

Constitutional monarchy with a parliamentary democracy

**ELECTORAL SYSTEM**

First-past-the-post in single constituencies and block voting in multi-member constituencies

**NUMBER OF MPS IN LEGISLATURE**

15 1 female

**RELIGIONS**

98.4% Protestant (97% Church of Tuvalu (Congregationalist), 1.4% Seventh-Day Adventist)
1% Bahai
0.6% other

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541 Secretariat of the Pacific Community, Pocket Statistical Summary, 2010 http://www.spc.int/sp/index.php?option=com_docman&flag=default&Itemid=34
543 Ibid, Secretariat of the Pacific Community, Pocket Statistical Summary, 2010
544 Ibid
545 Ibid
547 http://australianetworknews.com/stories/201108/3302279.htm
**POLYNESIAN GROUP: TUVALU**

**ETHNIC GROUPS**
- 96% Polynesian
- 4% Micronesian

**LANGUAGES**
- Tuvaluan (official), English (official), Samoan, Kiribati (on the island of Nui)

**HUMAN DEVELOPMENT INDEX**
- not ranked

**UNDER-FIVE MORTALITY RATE**
- 33/1000 live births (2010)

**LIFE EXPECTANCY AT BIRTH (YEARS)**
- Male: 61.7
- Female: 65.1

**ADULT LITERACY RATE (AGES 15 AND OVER)**
- 95% (2009)

**EXPECTED YEARS OF SCHOOLING**
- 11.2 years

**INTERNATIONAL TREATY RATIFICATION AND REPORTING OBLIGATIONS**

**CONVENTION**

**CEDAW**
- Date of Signature/Ratification: Ratified 6 October 1999
- Declaration/Reservation: none
- Reporting Status as of October 2011: Initial report overdue since 1997; 2nd report overdue since 2002

**CRC**
- Date of Signature/Ratification: Ratified 22 September 1995
- Declaration/Reservation: none
- Reporting Status as of October 2011: Combined 3rd and 4th reports due 5 November 2012

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UNITED NATIONS HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW (UPR)

Tuvalu was the second country in the Pacific after Tonga to be reviewed under the Universal Periodic Review on 11 December 2008. During the review, 27 recommendations were made. The recommendations included that the Government of Tuvalu:

- Sign and ratify the ICCPR, ICESCR, CEDO, CAT;
- Report as required under the CRC;
- Extend a standing invitation to all United Nations special procedures;
- Establish a national human rights institution in accordance with the Paris Principles;
- Provide human rights education programmes and awareness-raising activities;
- Continue its efforts to harmonise national legislation with international human rights instruments;
- Conduct human rights training for officers responsible for law enforcement;
- Modernise legislation and eliminate all forms of discrimination;
- Develop a comprehensive strategy to reduce domestic violence in Tuvalu, including by raising public awareness of the issue and identifying ways to combat such violence;
- Work to raise the awareness of the population of the impact of climate change and involve the population more in the decision-making process in mitigating and adapting to the consequences of such changes;
- Incorporate fully in its legislation the provisions of the CRC to enhance the protection of children’s rights and strengthen public policy guaranteeing the rights of the child;
- Reform the penal code to cover offences such as sexual abuse against minors and to eliminate corporal punishment;
- Strengthen measures to promote the equal rights of women and to counter discrimination, including eliminating legislation that discriminates against women, and introduce gender as a recognised ground for discrimination in the Constitution;
- Impose penalties for rape, including marital rape – whoever is responsible;
- Amend the Constitution to prohibit discrimination against persons with disabilities;
- Improve the implementation of the law on granting asylum.

Tuvalu accepted 27 out of the 29 recommendations.

DOMESTIC PROTECTION OF HUMAN RIGHTS

The Constitution of Tuvalu protects a number of civil and political rights including the right to life, freedom from inhuman treatment and freedom of expression. Since Tuvalu has not enacted any specific human rights legislation.

NATIONAL HUMAN RIGHTS INSTITUTION (NHRI)

Tuvalu does not have an NHRI.

HUMAN RIGHTS ISSUES

1. Discrimination and violence against women

A 2007 demographic and health survey conducted by the Secretariat of the Pacific Community (SPC) reported that approximately 47% of the women surveyed (aged 15–49) had experienced some type of violence in their lifetime. Of those, 9% had experienced only sexual violence, 25% had experienced other physical violence only, and a further 12% had been victims of both sexual and other physical violence. An NGO report to the Universal Periodic Review confirmed this and stressed that domestic violence in Tuvalu is often overlooked due to unavailability of data and that victims of domestic violence “are often encouraged to accept the traditional custom of offering and accepting apologies as an adequate resolution for the offence done against them.” As a consequence “a lot of victims of domestic violence do not report their cases, or if they did, most of them withdrew them again and prosecutions of these cases have been dropped.” While rape is a crime, marital rape is not included in the definition of this offence.

Discrimination against women remains a significant concern. As of October 2011, there was only one woman MP in the 15-member Parliament. Since independence, there have only been two female MPs. Two women contested the 2006 elections. Amnesty International also notes that the Constitution does not list gender or sex as a prohibited form of discrimination, therefore “allowing for unequal or discriminatory treatment of women and girls in all forms of civil, political, economical, social and cultural life. Consequently a number of laws still discriminate against women in Tuvalu.” An example of such discrimination is Tuvalu’s inheritance of land laws, where the land code confers greater land rights to the eldest son.

2. Rights of the child

Information suggests that child abuse is prevalent. Research has found that some parents view children as property which “may lead to various forms of child abuse, including emotional abuse, exploitation and neglect.” Beating children is also common and is not recognised as child abuse.

Corporal punishment, in the form of strokes of a cane or paddle, is common in schools. An NGO group stated that corporal punishment was lawful in homes, schools and even alternative care settings. It has been found that “most parents tend to regard corporal punishment as the normal way of disciplining children and enforcing adherence to social norms.”

3. Right to an adequate standard of living

Rising sea levels are a major concern for the people of Tuvalu whose low-lying islands and atolls are at risk of being submerged underwater. On average, Tuvalu’s islands are only three metres above sea level and rely on rain for fresh water.

556 Tuvalu Constitution, sections 10-11, 16-28
558 Ibid
560 Ibid
562 Ibid
564 Amnesty International Tuvalu: Submission to the UN Universal Periodic Review: AI Index Number ASA 47/001/2008 (December 2008) 6
565 Ibid, Legal Literacy Project, 8
568 Ibid, 64
570 Ibid, A Situation Analysis of Children, Women and Youth, 48
water with salt water and other environmental impacts on food security, housing, health and sanitation. In 2011, Tuvalu experienced extreme drought and water shortages resulting in the declaration of a state of emergency. As a result, preschools were closed and the hospital was only accepting very ill patients. 572 As a result of rising sea level, “Tuvaluans are facing complete loss of all their lands over the next several centuries, if not sooner. Without any land at all, Tuvaluans will have little to no property, food, water, health, means of subsistence, ability to practice their culture, or meaningful self-determination.” 573

4. Access to justice

Concerns continue to be raised about access to justice in Tuvalu which has only a Magistrate’s Court sitting in Funafuti and a High Court that sits only twice a year. The location of the High Court makes it difficult for people from the outer islands to access, and increases the cost of justice. 574 In the stakeholder UPR report an NGO noted with concern that sometimes the Office of the People’s Lawyer acted for both parties in a dispute. It also noted the Office, the country’s only legal representative for the people, was under-resourced and understaffed, and at times was vacant for extended periods. 575 As a result of these factors, there are backlogs of criminal and civil cases before the courts. In its UPR state report, the Government acknowledged that, from January to September 2007, more than 100 criminal cases had been adjourned due to the lack of defence lawyers. 576

5. The traditional practice of banishment

Under the Constitution, restrictions on the exercise of the right to worship and freedom of expression and information are permissible if their exercise is “divisive, unsettling or offensive to the people, or directly threaten Tuvaluan values and culture”. 577 In 2003, a resolution preventing the establishment of churches on the island of Nanumaga was passed. 578 This resolution was contested in the Mase Teonea v Pule o Kaupule case, where the High Court ruled that the banning by the Nanumaga Kaupule (traditional island assembly) of the Brethren Church from coming and setting up a church in Nanumaga was not a violation of the freedom of worship. The Kaupule felt that allowing the church to come to Nanumaga would be divisive, unsettling and constituted a direct threat to the values and culture of the Nanumaga community.

The Court of Appeal met in September 2009 to hear the appeal. The court decided that the 2003 resolution was unconstitutional. 579 This was the first appeal from the High Court, and the first time the Court of Appeal had been formed. In its UPR report, the Government notes that there have been numerous complaints received by the Office of the People’s Lawyer from religious organisations with regards to the limitation of their activities in outer islands. The Government confirmed that “discrimination on the basis of belief is being tolerated in many communities, particularly in the outer islands, and that the Government is taking urgent steps towards condemnation of all forms of discrimination and providing support in raising awareness to the public on human rights issues”. 580

TUVALU’S PARTICIPATION IN REGIONAL ORGANISATIONS

Alliance of Small Island States (AOSIS)
Economic and Social Commission for Asia and the Pacific (ESCAP)
Pacific Islands Forum (PIF)
Secretariat of the Pacific Community (SPC)
Secretariat of the Pacific Regional Environment Programme (SPREP)
South Pacific Regional Trade and Economic Co-operation Agreement (Sparteca)

KEY DOMESTIC HUMAN RIGHTS DEFENDERS, CIVIL SOCIETY ORGANISATIONS AND NON-GOVERNMENT ORGANISATIONS

Tuvalu Association of NGOs (TANGO)
Tamaga Tahi Building
Seimeana
PO Box 136, Funafuti
Tuvalu
T: +688 20758
F: +688 20959
tango@tuvalu.tv or tltango@yahoo.com

Tuvalu Overseas Seamen’s Union
GPO Box 99, Funafuti
T: +688 20609
F: +688 20748
tuvalusfu@aol.com

Tuvalu Teachers Association
Education Department
Nauti Primary School
Funafuti
T: +688 2 0858
F: +688 2 0832

Tuvalu Family Health Association (TUFHA)
PO Box 92, Funafuti
T: +688 20411
F: +688 20410

Tuvalu Climate Action Network
Member of TANGO – contact details as at TANGO
Cook Islands

The Cook Islands has a democratic parliamentary system of government in free association with New Zealand. The head of state in the Cook Islands is the British Monarch who is represented by the Queen’s Representative, appointed by the Queen on advice from the Prime Minister. The head of government is the Prime Minister, who is appointed by the Queen’s Representative based on the majority in Parliament. There is a unicameral parliament as well as an advisory body composed of the chiefs, called the House of Ariki. The House of Ariki advises the Government in relation to customary issues and land use. The chiefs are appointed by the Queen’s Representative. The Cook Islands became self-governing in 1965.

Key Facts

**CAPITAL**
Avarua, Rarotonga

**POPULATION**
15,708 (2010 mid-year est.)
15,324 (2006)

**LAND AREA**
237 km²

**YOUTH**
20.1% (15–24)

**GROSS DOMESTIC PRODUCT (GDP) PER CAPITA**
US$10,875 (2008)

**GROSS NATIONAL INCOME (GNI) (PURCHASING POWER PARITY)**
not available

**GNI PER CAPITA (ATLAS METHOD)**
not available

**TYPE OF GOVERNMENT**
Self-governing parliamentary democracy in free association with New Zealand

**ELECTORAL SYSTEM**
First-past-the-post

**NUMBER OF MPS IN LEGISLATURE**
24

**RELIGIONS**
55.9% Cook Islands Christian Church
16.8% Roman Catholic
7.9% Seventh-Day Adventists
3.8% Latter-Day Saints
5.8% other Protestant
4.2% other
2.6% unspecified
3% none (2001 census)

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581 All statistics presented have been sourced from the UNDP Pacific Centre MDG Country ‘Fast Facts’ sheet (2007) unless otherwise indicated.
582 Secretariat of the Pacific Community, Pooled Statistical Summary, 2010
583 Secretariat of the Pacific Community: Statistics for Development, 2011 populations and demographic indicators (May 2011)
584 Ibid, Secretariat of the Pacific Community, Pooled Statistical Summary, 2010
585 Ibid
586 Ibid
POLYNESIAN GROUP: COOK ISLANDS

**ETHNIC GROUPS**

<table>
<thead>
<tr>
<th>Ethnic Group</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cook Island Maori</td>
<td>87.7%</td>
</tr>
<tr>
<td>part Cook Island Maori</td>
<td>5.8%</td>
</tr>
<tr>
<td>Other (2001 census)</td>
<td>6.5%</td>
</tr>
</tbody>
</table>

**LANGUAGES**

- English (official), Maori

**HUMAN DEVELOPMENT INDEX**

Not ranked

**UNDER-FIVE MORTALITY RATE**

13/1000 live births (2009)

**LIFE EXPECTANCY AT BIRTH (YEARS)**

<table>
<thead>
<tr>
<th>Gender</th>
<th>Male</th>
<th>Female</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>68</td>
<td>74.3</td>
</tr>
</tbody>
</table>

**ADULT LITERACY RATE (AGES 15 AND OVER)**

100% (2009)

**EXPECTED YEARS OF SCHOOLING**

<table>
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<tr>
<th>Gender</th>
<th>Female</th>
<th>Male</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>12.9</td>
<td>12.2</td>
</tr>
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</table>

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**International Treaty Ratification and Reporting Obligations**

**CONVENTION**

**CEDAW**

- Date of Signature/Ratification: 11 August 2006
- Declaration/Reservation: Art 11(2)(b)
- Reporting Status as of October 2011: 2nd periodic report due 10 September 2011

**CRC**

- Date of Signature/Ratification: 6 June 1997
- Declaration/Reservation: Articles 2 and 10
- Latest Report Submitted: Initial report 5 November 2010
- Reporting Status as of October 2011: 2nd and 3rd report overdue

**CRPD**

- Date of Signature/Ratification: 8 May 2009
- Ratified 8 May 2009
- Reporting Status as of October 2011: Initial report due 7 June 2011

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**588** Ibid

**589** Ibid

**590** Cook Islands is a self-governing parliamentary democracy in free association with New Zealand. Hence its HDI ranking is incorporated into New Zealand’s.

**591** UNESCAP, Statistical Yearbook for Asia and the Pacific 2011, 156

**592** Secretariat of the Pacific Community, Pocket Statistical Summary, 2010

**593** WHO, Western Pacific Region, Country Health Information Profiles

**594** UNESCAP, Statistical Yearbook for Asia and the Pacific 2011, 174

**595** A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the State’s intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.
UNITED NATIONS HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW (UPR)
The Cook Islands does not participate in the UPR because it is not a member of the United Nations.

DOMESTIC PROTECTION OF HUMAN RIGHTS
The Cook Islands Constitution protects a number of civil and political rights including the right to life, equality before the law and freedom of expression and assembly.\(^{596}\) the Cook Islands has not enacted any specific human rights legislation.

NATIONAL HUMAN RIGHTS INSTITUTION (NHRI)
The Cook Islands does not have a Paris Principles compliant NHRI. However, the Ombudsman Act 1984 allows for actions or inaction by government bodies to be reviewed by an ombudsman, with power to make recommendations for remedial action. The Ombudsman takes complaints from members of the public, and may also conduct investigations of her/his own motion. The Ombudsman can investigate and make recommendations. If dissatisfied with the response, the Ombudsman may make the report available to the Prime Minister and Parliament.\(^ {597}\)

Ombudsman Office
T +682 2 0605
F +682 2 1605
info@ombudsman.gov.ck
www.ombudsman.gov.ck/

HUMAN RIGHTS ISSUES

1. Discrimination and violence against women

In its concluding comments in 2007 after examining the report of the Cook Islands, the Committee on CEDAW noted its concern about “the persistence of violence against women and the lack of information about its extent and prevalence”. It expressed its concern that “the Crimes Act 1969 is outdated, does not recognise marital rape, and lacks a comprehensive legal framework to deal with all forms of violence against women, and that judicial recourse for victims, enforcement measures, victim services and protection are insufficient”. The committee also expressed its concerns about the persistence of discrimination against women as a root cause of violence in the Cook Islands.\(^ {598}\) While the Cook Islands Government in its state report expressed its commitment to bringing domestic legislation and laws in conformity to CEDAW,\(^ {599}\) the Committee urged the Government to give priority “to the design and implementation of a comprehensive strategy to address all forms of violence against women... and to prevent such violence, punish offenders and provide services for victims.”\(^ {600}\) The state report under CEDAW also detailed the work done by the Cook Islands Women’s Counselling Centre in educating and training government agencies, as well as providing support to women affected.\(^ {601}\) There is now also a Domestic Violence Unit in the Cook Islands Police Service, as well as increased reporting of domestic violence.\(^ {602}\) However, there is no domestic violence shelter.\(^ {603}\) The Cook Islands has sought technical assistance from the United Nations to develop domestic violence legislation.

Of the 70 candidates for the 2010 parliamentary general election, eight were women. Only one woman was successful.\(^ {604}\)

2. Rights of the child

In the Cook Islands, physical punishment is widely practised and culturally acceptable within most families as a means of disciplining children.\(^ {605}\) Sexual and other forms of child abuse also occur.\(^ {606}\) Children who are at risk are usually looked after by relatives or family under the supervision of the courts and there are no institutional facilities to protect children. The breakdown in the extended family is causing difficulties for the continued implementation of this approach.\(^ {607}\) In addition, “there are a high number of teenage pregnancies in Cook Islands, many of which are the result of abuse, rape and incest.”\(^ {608}\) However there is limited data available on child abuse in the Cook Islands. The Government has acknowledged that “there would appear to be a need for additional measures relating to the administration of relevant acts and other measures to address aspects of neglect and abuse.”\(^ {609}\) An analysis of the Cook Islands by the Government with UNICEF in 2004 noted that the Government was thinking about delegating responsibilities for child protection to a single agency to better co-ordinate services.\(^ {610}\)

Corporal punishment is lawful in the home but prohibited in schools.\(^ {611}\) However the Government report to the Committee on the Rights of the Child stated that “no school principal or teacher may administer corporal punishment to any child for any reason unless there is an agreement with the school committee defining the occasions when such punishment can be administered. Such an agreement should be recorded in writing, signed by the principal and the school committee chairperson, and communicated to the parents, teachers and pupils.”\(^ {612}\) This statement indicates that corporal punishment may be permissible in schools under certain circumstances. The report goes on to state that “responsible corporal punishment is likely to include the authorised and controlled use of a leather strap or wooden cane after a period of consultation involving the pupil, teacher, principal and parent.”\(^ {613}\)

Legislation in the Cook Islands governs child labour specifically, the Industrial and Labour Ordinance 1964 states that no child under 16 “may be employed in any factory between the hours of 6pm and 7am or on any Sunday or public holiday.”\(^ {614}\) Such a provision suggests that a child could be employed at other times. The Government notes that children do participate in cultural
activities, including for tourists and acknowledges that this could be viewed as exploitative. However, it states that “child labour of an exploitative nature does not exist in the Cook Islands”. 615 There are reports that children in the Cook Islands may be involved in commercial sexual exploitation but there is limited specific information. 616

3. Right to an adequate standard of living

The Cook Islands comprises 15 islands spread across the South Pacific. As a small island developing state, the Cook Islands is vulnerable to climate change. 617 Threats include sea-level rise, change in sea and air temperatures, and change in weather patterns — all of which could have consequences for food security, access to water and housing.

Cook Islands' Participation in Regional Organisations

- Alliance of Small Island States (AOSIS)
- Economic and Social Commission for Asia and the Pacific (ESCAP) – Associate Member
- Pacific Islands Forum (PIF)
- Secretariat of the Pacific Community (SPC)
- Secretariat of the Pacific Regional Environment Programme (SPREP)
- South Pacific Regional Trade and Economic Co-operation Agreement (Spartega)

Key Domestic Human Rights Defenders, Civil Society Organisations and Non-Government Organisations

- Cook Islands Association of NGOs (CIANGO)
  Tupapa, Avarua
  Rarotonga, Cook Islands
  PO Box 574, Rarotonga
  Cook Islands
  T: +682 29 420
  F: +682 29 420
  ciango@oysternet.ck
  www.pango.org/niu/cook-islands.html

- Cook Islands National Council of Women
  Titikaveka
  PO Box 733, Rarotonga
  Cook Islands
  T: +682 28 420
  cido@intaff.gov.ck

- Cook Islands Women's Counselling Centre Punanga
  Tauturu Inc
  Violence Against Women Co-ordinator
  CIWCC Punanga Tauturu Inc
  T: +682 21133
  rongo@punangatauturu.org.ck

- Cook Islands National Disability Council (CINDC)
  PO Box 1040, Rarotonga
  Cook Islands
  T: +682 20537
  F: +682 24537
  mamatuki@oyster.net.ck

- Cook Islands Workers Association
  PO Box 98/3124, Rarotonga
  Cook Islands
  T: +682 24422
  F: +682 24423
  ciwa@oyster.net.ck

- Pacific Islands AIDS Foundation
  PO Box 888, Rarotonga
  Cook Islands
  T and F: +682 23102
  www.pacificaids.org
Kingdom of Tonga
Tonga, Pule‘anga Tonga

The Kingdom of Tonga is a constitutional monarchy extending over 176 islands, of which 36 are inhabited. Tonga is the only country in the Pacific that was not colonised. Tonga was previously governed by a unicameral legislative assembly consisting of a cabinet appointed by the King; nine nobles elected by the 33 hereditary peers; and nine representatives elected by the rest of the public every three years. However there have been recent reforms, and a new parliamentary system was established by 2011. Under the new system, the nine noble representatives remain and the people elect 17 representatives. Up to four others may be appointed by the King on the advice of the Prime Minister. The King appoints the Prime Minister on the recommendation of the Legislative Assembly’s elected members, who vote for the Prime Minister. The King no longer appoints the cabinet and assumes a more ceremonial role as head of state.

Key Facts

<table>
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<tr>
<th>CAPITAL</th>
<th>Nuku’alofa</th>
</tr>
</thead>
<tbody>
<tr>
<td>POPULATION</td>
<td>103,365 (2010 mid-year est.)</td>
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<td></td>
<td>101,991 (2006)</td>
</tr>
<tr>
<td>LAND AREA</td>
<td>650 km²</td>
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<tr>
<td>YOUTH</td>
<td>19.6% (15–24)</td>
</tr>
<tr>
<td>GROSS DOMESTIC PRODUCT (GDP) PER CAPITA</td>
<td>US$2629 (2007–8)</td>
</tr>
<tr>
<td>GROSS NATIONAL INCOME (GNI) (PURCHASING POWER PARITY)</td>
<td>US$482,517,236.60 (2010 est.)</td>
</tr>
<tr>
<td>GNI PER CAPITA (ATLAS METHOD)</td>
<td>US$3390 (2010)</td>
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<tr>
<td>TYPE OF GOVERNMENT</td>
<td>Constitutional monarchy</td>
</tr>
<tr>
<td>ELECTORAL SYSTEM</td>
<td>First-past-the-post in single constituencies and block voting in multi-member constituencies</td>
</tr>
<tr>
<td>NUMBER OF MPS IN LEGISLATURE</td>
<td>33</td>
</tr>
<tr>
<td></td>
<td>1 female</td>
</tr>
<tr>
<td>RELIGIONS</td>
<td>Christian (Free Wesleyan Church claims over 30,000 adherents)</td>
</tr>
</tbody>
</table>

All statistics presented have been sourced from the UNDP Pacific Centre MDG Country ‘Fast Facts’ sheet (2009) unless otherwise indicated.

618 Ibid
621 Ibid, Secretariat of the Pacific Community, Pocket Statistical Summary, 2010
622 Ibid
623 Ibid
625 Ibid
626 http://www.ipu.org/wmn-e/classif.htm
**Polyneian Group: Kingdom of Tonga**

**Ethnic Groups**

- Polynesian, Europeans

**Languages**

- Tongan (official), English (official)

**Human Development Index**

- 85 out of 169 ranked countries (2010)

**Under-Five Mortality Rate**

- 16/1000 live births (2010)

**Life Expectancy at Birth (Years)**

<table>
<thead>
<tr>
<th>Male</th>
<th>Female</th>
</tr>
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<tbody>
<tr>
<td>67.3</td>
<td>73.0</td>
</tr>
</tbody>
</table>

**Adult Literacy Rate (Ages 15 and Over)**

- 99% (2006)

**Expected Years of Schooling**

- 13.7 years

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**International Treaty Ratification and Reporting Obligations**

**Convention**

**CRC**

- Date of Signature/Ratification: November 1995
- Ratified: 6 November 1995
- Declaration/Reservation: None

**CERD**

- Date of Signature/Ratification: February 1972
- Ratified: 16 February 1972
- Declaration/Reservation: Arts 4, 5(d) and (v), 6, 15 and 20


**CRPD**

- Date of Signature/Ratification: Signed 15 November 2007
- Ratified: Signed
- Declaration/Reservation: None

**Reporting Status as of October 2011**

- Initial and 2nd review overdue since 1997 and 2002 respectively

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628 Ibid

629 Ibid


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

Tonga was the first Pacific country to be reviewed under the UPR in 2008. During the review, 42 recommendations were made. The recommendations included that the Government of Tonga:

- Continue with and speed up the reform process;
- Ratify the ICCPR, ICESCR, CEDAW, the OP to CEDAW, the OP to the CRC, CAT and the Rome Statute;
- Regularly submit its reports to the treaty bodies;
- Enact laws to protect women in employment from any form of discrimination;
- Pursue its efforts to curb violence against women;
- Facilitate extended access to prisons for NGOs;
- Repeal the discriminatory elements of the inheritance laws, ownership of land and child support;
- Continue with and speed up the reform process;
- Strengthen its efforts in the area of human rights legislation;
- Pay increased attention to persons with disabilities and freedom of expression, information and the press;
- Ensure that all suspect domestic violence-related physical assaults and all other suspected domestic violence-related crimes are investigated and prosecuted in a consistent and uniform manner.

DOMESTIC PROTECTION OF HUMAN RIGHTS

The Constitution of Tonga protects a number of civil and political rights. Tonga has not enacted any specific human rights legislation.

NATIONAL HUMAN RIGHTS INSTITUTION (NHRi)

In its UPR report, Tonga stated that “there is no formal human rights infrastructure in the sense of a national human rights institution. However, there is a Public Complaints Commissioner who receives and investigates public complaints about government departments. In 2007 the Government passed legislation to establish an Anti-Corruption Commission.”

HUMAN RIGHTS ISSUES

1. Discrimination and violence against women

Tonga is one of the two countries in the Pacific and six in the world (with USA, Iran, Sudan, Somalia, and Palau) that has yet to ratify CEDAW. Women are discriminated against in relation to land inheritance. The eldest male heir inherits.

Statistics compiled by the Women and Children Crisis Centre indicated that there were 404 reports of domestic violence made to the police in 2009. The police commander “indicated that these reported cases are the tip of the iceberg and that ultimately the level of VAW is unknown.” In addition, in 2009 four women and a child were killed as a result of family violence. In 2009, 94 cases are known to have appeared before the courts, and 77.7% resulted in a conviction. However, there is no specific domestic violence legislation. Legislation also does not criminalise rape in marriage. There have been some positive developments. For instance, in 2007 a National Domestic Violence Unit was established within the police. In 2011, the unit had four staff. Also, a ‘no-drop policy’ was adopted in 2008. This policy “ensures that all suspected domestic violence-related physical assaults and all other suspected domestic violence-related crimes are investigated and prosecuted in a consistent and uniform manner.”

Women are discriminated against in relation to land inheritance. The eldest male heir inherits. No women were elected to Parliament in 2010. One was appointed to the Cabinet.

2. Rights of the child

Approximately half the population of Tonga is under 20. Children are generally required “to remain silent and what is believed to be responsible parenting”.

Children are generally required “to remain silent and what is believed to be responsible parenting”.

**References**

636. Tonga rejected this recommendation.

637. Tonga rejected this recommendation.

638. Tonga rejected this recommendation.

639. Tonga rejected this recommendation.

640. Tonga rejected this recommendation.


647. Ibid, 21

648. Ibid, vii–ix


650. Inter-parliamentary Union, Women in National Parliaments (31 August 2011) http://www.ipu.org/wmn-e/world.htm


653. Ibid, 44


In the ‘Challenges’ section of the state UPR report, the Government of Tonga acknowledged that, due to various factors, children in Tonga face the “risk of moving from petty crime to more serious offences, and of being unemployed or in low-paid jobs, which will create more hardship for their families in the future”. 657

3. Torture and ill-treatment

In November 2006, rioting and looting broke out in Nuku’alofa, causing significant damage. In the three months after the riots, approximately 1200 people were arrested. 658 It was reported that eight persons were killed. 659 The LLP received numerous reports of ill-treatment of persons arrested and detained by security forces. 660 In its UPR submission, the LLP noted that “41% of arrested persons reported that they had suffered physical violence during arrest by security forces, predominantly resulting in head and facial trauma”. The report also noted the “inhumane conditions of detention in the cells of the Central Police Station, including overcrowding [and] lack of access to medical assistance”. In most cases there was “incommunicado detention including denial of access to families, lawyers and in many cases medical attention”. It was reported that “some prisoners were handcuffed continuously for up to four days; that in a cell with a 16 person capacity, 64 prisoners were detained, including 30 children; that prisoners were forced to sleep on the floor and that toilet visits were restricted”. In addition, interrogations were reported to be frequently violent, and some detainees were allegedly forced to sign confessions and subjected to threats. 662

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the situation of human rights defenders and the Working Group on Arbitrary Detention sent a joint urgent appeal relating to these events in 2006, to which the Government of Tonga did not respond. 663 In its report to the UPR, the Tonga Government indicated that it was waiting for the findings of the court in the criminal trials against those charged following the riots. 664 Emergency regulations were introduced after the riots, and extended over 30 times through to early 2011. 665

In 2007 in one of the criminal cases against the 2006 rioters, the Tongan Supreme Court recognised the international absolute prohibition of torture, even though the country has not ratified the CAT and has no torture prohibition in its Constitution. The case of Nifai Tavake v the Kingdom of Tonga (2007) related to police assault, ill-treatment and alleged torture of the plaintiff. During the hearings, the plaintiff’s counsel described his client’s treatment as “torture” but also acknowledged that Tonga was not a party to the CAT. The Chief Justice, who presided over the case, stated “It is now accepted by most international jurists that the prohibition against torture is part of customary international law, and, furthermore it is a jus cogens rule from which states cannot derogate – whether they are a party to the various treaties which prohibit it or not.” 666

In February 2010, a judge sentenced two men to 13 years jail and half a dozen lashes of the cat-o’-nine-tails for escaping from prison and stealing. Flogging had not been used as a penalty since the 1980s and was introduced to Tonga by the British. The sentence which, under the CAT, would amount to cruel, degrading and inhumane treatment, if not torture, has been appealed by the two convicts. 667

4. Right to an adequate standard of living

Climate change is a major concern to countries in the Pacific, including Tonga. Rising sea levels and access to food and water are particular concerns. In its initial report under the UN’s Framework Convention on Climate Change, the Government of Tonga stated: “The Kingdom of Tonga, like many small-island developing countries, is highly vulnerable to the adverse effects of climate variability, sea level and climate changes. Tonga’s vulnerability is principally due to its physiographic, socioeconomic and ecological characteristics. The effects of climate variability are manifested by tropical cyclones, storm surges, drought, inundation and flooding. International scientists have reported that anthropogenic climate change will exacerbate the aforesaid effects.” 668

Tonga is prone to earthquakes which can be followed by tsunamis, as experienced in 2009, which caused death and destruction in Samoa and Tonga.

658 Legal Literacy Project, Kingdom of Tonga: NGO Submission to the United Nations Universal Periodic Review (February 2008) 13
660 Legal Literacy Project, Kingdom of Tonga: NGO Submission to the United Nations Universal Periodic Review (February 2008) 14
661 Legal Literacy Project, Kingdom of Tonga: NGO Submission to the United Nations Universal Periodic Review (February 2008) 16
664 National Report by the Kingdom of Tonga, Report to the Universal Periodic Review, 2008, p 13
665 Pacific Islands Forum Secretariat, The Forum Principles of Good Leadership: Tonga, 208
666 Nifai Tavake v Kingdom of Tonga (2008), TOSC 14, 52
668 Kingdom of Tonga, Initial National Communication in response to its commitments under the United Nations Framework Convention on Climate Change (May 2006) 63
KEY DOMESTIC HUMAN RIGHTS DEFENDERS, CIVIL SOCIETY ORGANISATIONS AND NON-GOVERNMENT ORGANISATIONS

Catholic Women’s League (CWL)/Legal Literacy Project for Women and Children (LLP)
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F: +676 25991

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F: +676 26567
cwctonga@tongatapu.net.to

Civil Society Forum of Tonga (CSFT)
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T: +676 872 8282
csft@kalianet.to

Tonga Community Development Trust
PO Box 519
Nuku’alofa
Kingdom of Tonga
South Pacific
Ph: (+676)-23478
Fax: (+676)-24898
email: admin@tcdt.to
http://www.tcdt.to/index.html

Tonga Human Rights Democracy Movement
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F: +676 872 3117
demos@tongatapu.net.to

Tonga National Youth Council
T: +676 872 1195
F: +676 872 1467

tonga@kalianet.to

Tonga Association for Non-Government Organisations (TANGO)
Corner of Lelea’a Fafine and Salote Roads
SEI ‘Uhila, Building Ma’ufanga
PO Box 2413, Nuku’alofa
Tonga
T: +676 872 5512
tango@kalianet.to
Australia
Commonwealth of Australia

Australia has a democratic parliamentary system of government. Australia has a federal constitutional system in which legislative, executive and judicial powers are shared or distributed between federal institutions, six states and three self-governing territories. There is a bicameral parliament. The head of government is the Prime Minister, who is elected by the House of Representatives (the lower house) and the head of state is the British Monarch, represented in Australia by the Governor-General. The length of the term of Governor-General in Australia is determined by the British Monarch.

### Key Facts

<table>
<thead>
<tr>
<th>CAPITAL</th>
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<tbody>
<tr>
<td>Canberra</td>
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<table>
<thead>
<tr>
<th>POPULATION</th>
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<tbody>
<tr>
<td>22,328,800 (2010 est.)</td>
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<table>
<thead>
<tr>
<th>LAND AREA</th>
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<tbody>
<tr>
<td>7.69 million km²</td>
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<table>
<thead>
<tr>
<th>YOUTH</th>
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<tr>
<td>14% (15–24)</td>
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<table>
<thead>
<tr>
<th>GROSS DOMESTIC PRODUCT (GDP) PER CAPITA</th>
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<tr>
<td>US$42,131 (2009 est.)</td>
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<td>US$842,438,526,183.10 (2009 est.)</td>
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<table>
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<tr>
<td>US$43,590 (2010)</td>
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<table>
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<tr>
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<tr>
<td>Federal parliamentary democracy</td>
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### Electoral System

- Proportional representation (Senate); preferential voting (House of Representatives)

<table>
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<th>NUMBER OF MPS IN LEGISLATURE</th>
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<tr>
<td>150 House of Representatives (65 female)</td>
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<th>RELIGIONS</th>
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<tr>
<td>25.8% Catholic</td>
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<tr>
<td>18.7% Anglican</td>
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<tr>
<td>5.7% Uniting Church</td>
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<tr>
<td>3% Presbyterian and Reformed</td>
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<tr>
<td>2.7% Eastern Orthodox</td>
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<tr>
<td>7.9% other Christian</td>
</tr>
<tr>
<td>2.1% Buddhist</td>
</tr>
<tr>
<td>1.7% Muslim</td>
</tr>
<tr>
<td>2.4% other</td>
</tr>
<tr>
<td>11.3% unspecified</td>
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<tr>
<td>18.7% none (2006 census)</td>
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673 Ibid
674 Ibid
### Ethnic Groups

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<thead>
<tr>
<th>Group</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>White</td>
<td>92%</td>
</tr>
<tr>
<td>Asian</td>
<td>7%</td>
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<tr>
<td>Aboriginal and other</td>
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### Languages

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<th>Language</th>
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<td>English</td>
<td>78.5%</td>
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<tr>
<td>Chinese</td>
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<td>Italian</td>
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<tr>
<td>Greek</td>
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<tr>
<td>Arabic</td>
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<tr>
<td>Vietnamese</td>
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<tr>
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### Human Development Index

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>2 out of 169 ranked countries (2010)</td>
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### Under-Five Mortality Rate

<table>
<thead>
<tr>
<th>Rate</th>
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<tbody>
<tr>
<td>5/1000 live births (2010)</td>
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### Life Expectancy at Birth (Years)

<table>
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<th>Gender</th>
<th>Years</th>
</tr>
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<tbody>
<tr>
<td>Male</td>
<td>79</td>
</tr>
<tr>
<td>Female</td>
<td>84</td>
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### Adult Literacy Rate (Ages 15 and over)

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>86%</td>
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### Expected Years of Schooling

<table>
<thead>
<tr>
<th>Years</th>
</tr>
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<tbody>
<tr>
<td>20.5</td>
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### International Treaty Ratification and Reporting Obligations

#### Convention
**ICCP**
- **Date of Signature/Ratification**: 13 August 1980
- **Declaration/Reservation**: Arts 10(2)(a), (b), (3), 14(6) and 20
- **Latest Report Submitted**: 7 August 2007
- **Reporting Status as of October 2011**: 6th periodic report due on 1 April 2013

#### Convention
**ICESCR**
- **Date of Signature/Ratification**: 10 December 1975
- **Latest Report Submitted**: 7 August 2007
- **Reporting Status as of October 2011**: 5th periodic report due on 30 June 2014

#### Convention
**CEDAW**
- **Date of Signature/Ratification**: 28 July 1983
- **Declaration/Reservation**: Article 11(2)
- **Latest Report Submitted**: 9 March 2009
- **Reporting Status as of October 2011**: 8th periodic report due on 31 July 2014

#### Convention
**CAT**
- **Date of Signature/Ratification**: 8 August 1989
- **Latest Report Submitted**: 7 April 2005
- **Reporting Status as of October 2011**: 4th periodic report due on 30 June 2012

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677 Ibid
678 Ibid
681 Ibid

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

Australia:

During the review, 145 recommendations were made. The recommendations included that the Government of Australia:

- Ratify the Optional Protocol to CAT and establish an independent supervision mechanism. Also ratify CED, the CMW and ILO Convention No 169,
- Withdraw its reservations to the CRC, CERD, CEDAW and the ICCPR,
- Incorporate its international obligations under human rights instruments into domestic law, including by developing a comprehensive judicially enforceable human rights act,
- Fully implement the Racial Discrimination Act, particularly in relation to the arrangements under the Northern Territory Emergency Response, and revise federal laws to be compatible with the United Nations Declaration on the Rights of Indigenous Peoples;
- Adopt a rights-based approach to climate change policy at home and abroad, including by reducing greenhouse gas emissions to safe levels that are consistent with the full enjoyment of human rights;
- Consider implementing the recommendations of the Office of the UN High Commissioner for Refugees (UNHCR), human rights treaty bodies and special procedures with respect to asylum-seekers and irregular immigrants, especially children;
- Abolish non-therapeutic sterilisation of women and girls with disabilities;
- Complete as soon as possible a general framework of measures to ensure equality of chances for people with disabilities;
- Further strengthen its efforts to promote equality, non-discrimination and tolerance through the monitoring of racially motivated violence and inclusion of human rights education in school and university curricula;
- Further strengthen the measures to combat discrimination against minority communities, including persons belonging to indigenous communities and Muslim communities in Australia;
- Introduce federal law which prohibits discrimination on the grounds of sexual orientation, and recognise same-sex relationships;
- Establish a National Compensation Tribunal, as recommended in the ‘Bringing Them Home’ report, to provide compensation to Aboriginal and Torres Strait Islanders who are negatively affected by the assimilation policy, particularly as it applies to children unfairly removed from their families and the parents of those children;
- Step up efforts to ensure that people living in the remote and rural areas, in particular indigenous peoples, receive adequate support services relating to accommodation and all aspects of health and education;
- Reform the Native Title Act 1993, amending strict requirements which can prevent the Aboriginal and Torres Strait Islands peoples from exercising the right to access and control their traditional lands and take part in cultural life;
- Promote the inclusion and participation of indigenous peoples and Torres Strait Islanders in any process or decision-making that may affect their interests;
- Review its mandatory detention regime of asylum-seekers, limiting detention to the shortest time reasonably necessary;

686 Australia accepted this recommendation, except for the proposal to ratify the Convention on Migrant Workers, which it rejected.
687 Australia accepted the first part of this recommendation; however, it rejected the development of a comprehensive judicially enforceable human rights act.
688 Australia rejected this recommendation.
Australia accepted 137 of the 145 recommendations.

DOMESTIC PROTECTION OF HUMAN RIGHTS

The Australian Constitution protects some rights, including limited rights to freedom of religion and the right to vote, and other rights have been widely upheld by courts under the common law tradition. There is no comprehensive human rights act, but one of the states (Victoria) and one of the territories (the Australian Capital Territory) have enacted human rights acts in their jurisdiction. Anti-discrimination laws have been enacted by the Federal Government and by state and territorial governments. The Australian Government has released a Human Rights Framework which commits the Parliament to consolidating anti-discrimination laws and reviewing new legislation for compliance with human rights obligations.

NATIONAL HUMAN RIGHTS INSTITUTION (NHRI)


Australian Human Rights Commission
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NSW 2001
T: +61 9284 9600
Complaints Infoline: 1300 656 419
General enquiries and publications: 1300 369 711
TTY: 1800 620 241
F: +61 9284 9611
SMS for info pack or complaint form: 0488 744 487 (0488 RIGHTS)

HUMAN RIGHTS ISSUES

1. Discrimination and violence against women

Australia was ranked 18th out of 138 countries for gender equality in 2008, based on UNDP’s Gender Inequality Index, which focuses on indicators for reproductive health, empowerment and labour market participation.

However, Australia does face challenges in gender equity, particularly in the area of violence against women. The Committee on the Elimination of Discrimination against Women noted that approximately one in three Australian women have experienced physical violence during their lives and almost one in five have experienced sexual violence. Indigenous women are 40 times more likely to be a victim of family violence compared with other Australian women. In the 12 months before a 2005 survey, only 32% of women who experienced violence reported it. According to women’s rights NGOs, this may be due to inadequate legal responses, low levels of prosecutions in sexual assault cases and failures to enforce intervention orders against violent partners.

A Finders University report has found that domestic violence is a major factor for women seeking accommodation assistance. The report also found that victims of domestic violence in the Aboriginal community have identified that they clearly want culturally appropriate and community controlled safe houses and respite centres.

The Government has developed a National Plan of Action to Reduce Violence against Women, which runs from 2010 to 2022. The Government states that this plan will “enable all levels of government and the community to better support victims of violence, strengthen and streamline domestic violence and sexual assault legislation; and reduce violence in future generations”.

The political participation of women has improved. “In 2010, approximately 30% of all Commonwealth parliamentarians are women. There are six female ministers, including for the first time the Prime Minister, six female parliamentary secretaries and the Deputy Opposition Leader. A woman occupies the position of Governor-General. Three of the seven current members of the High Court of Australia are female. At the state level, there are two female premiers and two female governors.”

2. Rights of the child

The Government is concerned about child abuse and “funds a range of programmes and measures that directly or indirectly assist in the prevention of child abuse”. The Government has endorsed a National Framework for Protecting Australia’s Children.

Corporal punishment is not universally prohibited. The Committee on the Rights of the Child expressed “concern that corporal punishment in the home is lawful throughout Australia under the label ‘reasonable chastisement’ and other similar provisions in state’s legislation. Furthermore, the Committee is concerned that while corporal punishment has been prohibited in government schools and some private ones in most states and territories, it is still lawful in many private education institutions and in both government and private schools in South Australia and the Northern Territory.”

3. Rights of indigenous peoples and minority rights

Significant inequalities exist between indigenous and other Australians. The Government has committed to closing the inequality gap between indigenous and non-indigenous Australians. Life expectancy for indigenous males is 67 years compared with 78.7 years for non-indigenous males. Similarly, for indigenous women, life expectancy is 72.9 years, for non-indigenous women it is 82.6 years.

696 Ibid, 48
701 Human Rights Council, National Report: Australia, 10th session, UN Doc A/HRC/15/46/AUS/1.5 (15 November 2010) 85
702 Committee on the Rights of the Child, Concluding Observations: Australia, 40th session, UN Doc CRC/C/15/Add.268 (20 October 2005) 35
703 Australia, Consideration of reports submitted by States Parties under Article 9 of the Convention: Combined fifteenth, sixteenth and seventeenth periodic reports of States Parties due in 2008, UN Doc CRC/C/15/Add.128 (20 February 2010) 107
704 Aunard Grover, Report of the Special Rapporteur on the enjoyment of the highest attainable standard of physical and mental health: Mission to Australia, UN Doc A/HRC/14/20 (3 June 2010) 32

690 With a gender inequality index of 0.296 (0 is no inequality between men and women). United Nations Development Programme, Human Development Report 2010, Table 4. Gender Inequality Index, 156
693 Ibid.
the 2002–06 period was 12.3 deaths per 1000 live births, compared with 4.2 deaths for non-Indigenous infants.705 There are also gaps in literacy, employment and early childhood development, among other areas. Indigenous people represent 2.5% of the total population.706 Yet, at 30 June 2007, 24% of the total prisoner population was Indigenous. Indigenous people continue to be underrepresented among the political leadership. In 2011, there was one Indigenous member in the Federal Parliament.

The Special Rapporteur on Adequate Housing, who visited the country in 2006, was “particularly disturbed by the adverse housing conditions in the Indigenous communities he visited. In both urban and rural areas in all states, those he visited are facing a severe housing crisis, evidenced by the lack of affordable and culturally appropriate housing, the lack of appropriate support services, the significant levels of poverty and the underlying discrimination.”707 He emphasised “the absence of adequate and comprehensive participation processes for Indigenous communities in decision-making forums, resulting in some cases in culturally inadequate options and non-sustainable solutions, as well as a lack of support and encouragement for the initiatives of Indigenous communities.”708

In June 2007, the Federal Government announced the Northern Territory Emergency Response (NTER), which “encompasses a range of measures focusing on community safety, health, housing and living conditions, welfare reform and restrictions on alcohol and pornography.”709 Controversially, the Government suspended the operation of the Racial Discrimination Act in order to implement the NTER.710 After a visit to Australia in 2009, the Special Rapporteur on the rights of Indigenous peoples expressed concern about the NTER, particularly about “its income management regime, imposition of compulsory leases and community-wide bans on alcohol consumption and pornography. These measures overtly discriminate against Aboriginal peoples, infringe their right to self-determination and further stigmatise already stigmatised communities.” He was also concerned that insufficient consultation with affected Indigenous communities had taken place before the imposition of the measures.711 He found the NTER to be incompatible with CERD and the ICCPR. In 2009, the subsequent Federal Government introduced legislation to redesign the NTER and to reinstate the Racial Discrimination Act. However, some continued to criticise the NTER, considering that it remained discriminatory.712

The UN Special Rapporteur on Health visited Australia in 2009. He noted: “Indigenous peoples encounter a number of obstacles to access to health services, which the Government has noted: These obstacles include language and cultural barriers, distance to services, lack of transportation, high service costs and Western-dominated models of care.”713

In February 2008, the Government made a historic apology to the ‘Stolen Generations’ – Aboriginal and Torres Strait Islander people who, as children, were forcibly removed from their families. The Government has not followed this step with any form of compensation. The Government has initiated programmes to address Indigenous disadvantage, including through the adoption of six targets under the “Closing the Gap” campaign.714 In 2009, the Government endorsed the UN Declaration on the Rights of Indigenous Peoples.715 It also supported the creation of a National Congress of First Peoples, which was launched in May 2010.716

4. Right to an adequate standard of living

In 2006, the Special Rapporteur on the right to adequate housing visited Australia and highlighted the widespread problem of homelessness.717 He made preliminary recommendations, including the development of a national housing policy based on human rights and that the Government should live up to its obligation to address the issue of homelessness as a priority.718

In its report under the Universal Periodic Review, the Australian Government acknowledged that “around 105,000 people are homeless on any given night, with around 16,000 sleeping without shelter. While the overall rate of homelessness has been relatively stable over the last 12 years, increasing numbers of children, families and older people are experiencing homelessness. The causes of homelessness include a shortage of affordable housing, unemployment, poverty, discrimination, structural inequalities and family violence, as well as physical and mental health issues.”719

The Committee on Economic, Social and Cultural Rights expressed concern about climate change and its impact on the right to an adequate standard of living. The committee referred to the impact on “the right to food and the right to water affecting, in particular, Indigenous peoples.” The committee recommended that “the state party take all the necessary and adequate measures to ensure the enjoyment of the right to food and of the right to affordable drinking water and sanitation in particular by Indigenous peoples, using a human rights-based approach ... It also recommends that the state party intensify its efforts to address issues of climate change, including through carbon reduction schemes.”720

5. Counter-terrorism measures

The Australian Government passed a wide range of legislation following the attacks on the United States on 11 September 2001, the Bali bombings in Indonesia and other local threats. In a 2006 report, the Special Rapporteur on human rights and terrorism noted with concern that Australia does not have domestic legislation capable of guarding against infringements upon the rights and freedoms of individuals.721 He urged Australia to “move towards enacting federal legislation implementing the International Covenant on Civil and Political Rights and providing remedial mechanisms for the protection of rights and freedoms.”722 In 2008, the Human Rights Committee noted that some parts of the anti-terrorism legislation “appear to be incompatible with the ICCPR.”

707 Misho Kothari, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living: Mission to Australia, UN Doc. A/HRC/41/ADD.2 (11 May 2007) [80]
708 Ibid, 96.
712 See also Human Rights Council, Concluding Observations: Australia, 10th session, UN Doc. A/HRC/10/19 (1 November 2010) 34
713 Ibid, 123
716 Anand Grover, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health: Mission to Australia, UN Doc. A/HRC/14/20 (3 June 2010) 50
717 Ibid, 96.
718 Ibid, Miloon Kothari, UN Expert on Adequate Housing concludes his visit to Australia, identifies hidden national housing crisis (23 August 2006)
721 Committee on the Elimination of Racial Discrimination, Concluding Observations: Australia, 52nd session, UN Doc. CERD/C/AUS/CO/52 (12 October 2010) 27
722 Pacific Regional Human Rights Status
including the vague definition of a ‘terrorist act’ and the broad power of the Australian Security Intelligence Organisation. 729

6. Refugees and Asylum-seekers

Significant concerns have been raised with Australia’s treatment of asylum-seekers and detention facilities domestically and internationally, including by the United Nations’ human rights mechanisms. Issues include prolonged and indefinite periods of detention; holding of children in closed immigration detention facilities, both on the mainland and on Christmas Island; and lack of services for detainees such as interpreters and translated documents. The Australian Human Rights Commission (AHRC) has consistently called for an end to mandatory detention because it places Australia in breach of its obligations under the ICCPR and the CRC to ensure that no one is arbitrarily detained. In a 2011 report, the AHRC made a number of recommendations including judicial review of the decision to detain a person and until mandatory detention is ended, full compliance with the Government’s policy New Directions in Detention in order to avoid prolonged detention, including through the use of community-based alternatives to the use of immigration detention facilities and the fast determination of security assessments. The Commission also recommended that remote locations should not be used for immigration detention and people who receive adverse security assessments should not remain in indefinite detention. 724 The Refugee Council of Australia has also stated that conditions in detention have been shown to cause serious mental health problems for detainees, particularly those who have suffered torture or trauma. 728

The UN High Commissioner for Human Rights visited Australia in 2011 and reiterated “the long-standing concerns expressed by UN human rights treaty bodies that Australia’s mandatory immigration detention regime is in breach of Australia’s international human rights obligations.” The Committee on the Elimination of Racial Discrimination expressed concern about Australia’s treatment of refugees and asylum-seekers. It was particularly concerned about “excised offshore places” that “are removed from the operation of Australia’s migration legislation, and that asylum-seekers arriving by boat or intercepted before reaching the mainland without a valid visa are subject to differential processing arrangements and denied the full protections of the application and review procedures available on the mainland.” 726 Both the Committee on the Elimination of Racial Discrimination and the Special Rapporteur on human rights and terrorism have expressed concern about a decision of the High Court “that a person may be indefinitely detained under the Migration Act 1958.” The High Court has ruled that in certain situations the “mandatory and indefinite detention of unlawful non-citizens under the act is valid, provided that this occurs for the purpose of removing or deporting the non-citizen from Australia”. 727

In 2011, the Government’s efforts to send refugees and asylum-seekers to Malaysia for processing were halted after a decision of the High Court. Subsequently, the Government announced that it would not pursue offshore processing and that, instead, all refugees and asylum-seekers would be processed onshore. Bridging visas and community detention would be used to release people into the community to avoid the overcrowding of detention centres. 728

723 Human Rights Committee, Concluding Observations of the Human Rights Committee, 95th session, UN Doc. CCR/C/AUS/CO/5 (7 May 2009) I
724 Australia Human Rights Commission, 2013 Immigration detention at Curtin: Observations from visit to Curtin Immigration Detention Centre and key concerns across the detention network (2011)
726 Committee on the Elimination of Racial Discrimination, Concluding Observations of the Committee on the Elimination of Racial Discrimination - Australia, 77th session, UN Doc CERD/C/AUS/CO/15-17 (13 September 2010) I
727 Alex Conte, Human Rights in the Prevention and Punishment of Terrorism. Commonwealth Approaches: The United Kingdom, Canada, Australia and New Zealand, Springer, 2010, 664

AUSTRALIA’S PARTICIPATION IN REGIONAL ORGANISATIONS 729

Economic and Social Commission for Asia and the Pacific (ESCAP)
Pacific Islands Forum (PIF)
Secretariat of the Pacific Community (SPC)
Secretariat of the Pacific Regional Environment Programme (SPREP)
South Pacific Regional Trade and Economic Co-operation Agreement (Sperte)
New Zealand
Aotearoa, NZ

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

Key Facts

- **Capital**: Wellington
- **Population**: 4,367,800 (2010)
- **Land Area**: 268,021 km²
- **Youth (12–24)**: 19% (2006)
- **GDP per capita**: US$29,352 (2009 est.)
- **Gross National Income (Purchasing Power Parity)**: US$121,045,346,452.80 (2009 est.)
- **Type of Government**: Parliamentary democracy
- **Electoral System**: Mixed-member proportional (MMP)

**Key Facts**

735 Ibid
736 Ibid
### Ethnic Groups
- **56.8%** European
- **8%** Asian
- **7.4%** Māori
- **4.6%** Pacific Island
- **9.7%** mixed
- **13.5%** other (2006 census)

### Languages
Note: Census allowed multiple responses to this question.

### Under-Five Mortality Rate
- **6/1000** live births (2010)

### Life Expectancy at Birth (Years)
- **78** Male
- **82** Female

### Adult Literacy Rate (Ages 15 and Over)
- **86%** (2010)

### Expected Years of Schooling
- **19.7** years

### Human Development Index
3 out of 169 ranked countries (2010)

### International Treaty Ratification and Reporting Obligations

#### Convention
- **ICCPR**
  - **DATE OF SIGNATURE/RATIFICATION**: 247
  - **Ratified**: 28 December 1978
  - **DECLARATION/RESERVATION**: Articles 10(2)(b), 10(3), 14(6), 20 and 22
  - **LATEST REPORT SUBMITTED**: 26 December 2007
  - **REPORTING STATUS AS OF OCTOBER 2011**: 6th periodic report due on 30 March 2015

#### Convention
- **CRC**
  - **DATE OF SIGNATURE/RATIFICATION**: 247
  - **Ratified**: 6 April 1993
  - **DECLARATION/RESERVATION**: Articles 32(1), 37(c)
  - **LATEST REPORT SUBMITTED**: 29 November 2007
  - **REPORTING STATUS AS OF OCTOBER 2011**: 5th periodic report due on 5 May 2015

#### Convention
- **ICESCR**
  - **DATE OF SIGNATURE/RATIFICATION**: 247
  - **Ratified**: 28 December 1978
  - **DECLARATION/RESERVATION**: Article 8, Reservation for Article 10(2)
  - **LATEST REPORT SUBMITTED**: 2nd periodic report 31 October 2009
  - **REPORTING STATUS AS OF OCTOBER 2011**: Combined 18th, 19th and 20th periodic reports due on 22 December 2011

#### Convention
- **CEDAW**
  - **DATE OF SIGNATURE/RATIFICATION**: 247
  - **Ratified**: 10 January 1985
  - **DECLARATION/RESERVATION**: none
  - **LATEST REPORT SUBMITTED**: 7th periodic report 26 November 2010

#### Convention
- **CAT**
  - **DATE OF SIGNATURE/RATIFICATION**: 247
  - **Ratified**: 10 December 1989
  - **DECLARATION/RESERVATION**: Article 14
  - **LATEST REPORT SUBMITTED**: 2 January 2007
  - **REPORTING STATUS AS OF OCTOBER 2011**: 6th periodic report due on 15 May 2013

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740 Ibid
744 Ibid
746 United Nations Development Programme, Human Development Report 2010

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747 A party to a treaty is legally bound by the treaty once it ratifies the document. A signature does not create a binding legal obligation, but demonstrates the State’s intention to consider ratifying it. It obliges a state to refrain from acts that would defeat or undermine the objective and purpose of the treaty.
New Zealand was reviewed under the UPR in May 2009. During the review, 64 recommendations were made. The recommendations included that the Government of New Zealand:

- Ratify the CMW; the OP to the CRC; the OP to ICESCR; the ILO fundamental conventions, particularly no. 169 on indigenous and tribal peoples; and CED;
- Support and implement the Declaration on the Rights of Indigenous Peoples;
- Accept the individual complaints mechanism under Article 14 of the CERD;
- Continue the public discussion over the status of the Treaty of Waitangi, with a view to its possible entrenchment as a constitutional norm;
- Pursue efforts to combat all forms of discrimination, in particular those based on ethnic origin;
- Further strengthen actions to ensure that the economic and social rights of vulnerable persons are protected, especially Māori, people with Pacific Island background and people with disabilities, and ensure that special attention is given to these persons with a view to including them fully in society;
- Take further measures to correct the gaps in employment, salary, healthcare and education that exist between Māori and non-Māori peoples;
- Protect the interest of migrants and minority groups, including the Asian and Pacific people, from all forms of racial stereotyping and derogatory treatment;
- Continue the public discussion over the status of the Treaty of Waitangi, with a view to its possible entrenchment as a constitutional norm;
- Pursue efforts to combat all forms of discrimination, in particular those based on ethnic origin;
- Further strengthen actions to ensure that the economic and social rights of vulnerable persons are protected, especially Māori, people with Pacific Island background and people with disabilities, and ensure that special attention is given to these persons with a view to including them fully in society;
- Take further measures to correct the gaps in employment, salary, healthcare and education that exist between Māori and non-Māori peoples;
- Protect the interest of migrants and minority groups, including the Asian and Pacific people, from all forms of racial stereotyping and derogatory treatment;
- Consider amending or repealing its legislation to close the gaps in the protection of women against discrimination;
- Adopt a more comprehensive definition of human trafficking;
- Pursue efforts to settle comprehensively land claims of the indigenous population, as well as finding appropriate ways to provide adequate compensation, in particular for loss of land;
- Reinforce the procedural guarantees in the anti-terrorist legislation and ensure that measures provided for by the law are applied in strict accordance with international human rights obligations.

New Zealand accepted 45 of the 64 recommendations.

**Domestic Protection of Human Rights**

The New Zealand Government protects some civil and political rights under the New Zealand Bill of Rights Act 1990 (NZ), which is part of New Zealand's constitutional framework. The Act includes the right to life, the right to freedom from torture or cruel treatment, and the right to freedom of expression. The Act is not a supreme law and can be amended by a simple majority of Parliament. The Act also requires the Attorney-General to inform Parliament when a proposed bill is inconsistent with the human rights obligations.


749 New Zealand partially accepted this recommendation, rejecting the ratification of the CMW, the OP to ICESCR, the ILO fundamental conventions, particularly no. 169 on indigenous and tribal peoples.

750 New Zealand rejected this recommendation.
rights under the Act. 751 There is also a Human Rights Act (1993), which targets discrimination.

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**HUMAN RIGHTS ISSUES**

1. Discrimination and violence against women

Although New Zealand ranks well in international comparisons around gender parity, in the UPR process the Government acknowledged a range of challenges. These include “how to value the significant contribution that women make through their unpaid work; addressing the potential undervaluing of female-dominated occupations; reducing violence against women; and ensuring women have access to equal opportunities in those areas of the workforce where they are still poorly represented. Women’s labour market participation rate is lower than men’s participation. Women are more likely to work part-time and earn less. Women remain underrepresented in leadership and governance positions in the public and private sector. Women are also underrepresented in local government positions, legal and judicial positions, the media and science.” 752 The Government reported some slow progress in most of these areas. 753

Family violence is described as “a major problem affecting many New Zealanders.” 754 In the Families Commission’s report, 30% of women report experiencing one or more incidents of partner violence over their lifetime. 755 “One in three women experience psychological or physical abuse from their partners in their lifetime” and “police estimate only 18% of domestic violence incidents are reported.” 756 More specifically, “from 1997 to 2005, 19% of women and 5% of men reported being subjected to sexual violence. Māori women were at a greater risk of sexual violence than non-Māori women.” 757 The Domestic Violence Act (1995) puts in place procedures for protecting complainants and details the process of determining complaints. A study published in the New Zealand Medical Association’s New Zealand Medical Journal in 2004 found that “the high prevalence of violence and its pervasive association with a wide range of physical and mental health effects suggest that it warrants consideration as a significant factor underpinning ill-health in women.” 758

The study concluded that “prevention efforts must concentrate not only on reducing the perpetration of violence against women, in particular intimate partner violence, but also on developing and sustaining appropriate responses to victims of violence within the health system.” 759

In its concluding comments on New Zealand, the CEDAW Committee stressed that New Zealand “needs to consistently implement and enforce the Programme of Action on Violence within Families and revise its Domestic Violence Act of 1995, in order to protect all women victims of violence, including Māori, Pacific, Asian, immigrant, migrant and refugee women and women with disabilities”. Furthermore, it called on the State to ensure that “violence against women is effectively prosecuted and adequately punished in line with the committee’s general recommendation 19.” 760

New Zealand was the first country in the world in which women were given the right to vote in elections, in 1893. 761 After the 2008 election, there were 41 female members of parliament. This represented 34% of all members. 762

2. Rights of the child

While children’s rights are broadly protected by legislation, New Zealand experiences challenges in protecting children’s rights. In an OECD comparative study in 2009, New Zealand compared unfavourably with other OECD countries. The study found that “New Zealand government spending on children is considerably less than the OECD average. The biggest shortfall is for spending on young children, where New Zealand spends less than half the OECD average.” The study also found that child poverty was high, and that “New Zealand has the highest rates of suicide in the OECD for youth aged 15 to 19. Overall, child mortality is also higher than the OECD average. Immunisation rates are poor for measles (second worst in the OECD) and whooping cough (fifth worst in the OECD).” 763

In relation to violence against children, family violence has been identified as “a critical social issue.” 764 The Government reported that “the New Zealand experience of violence within families tells us that men are responsible for two thirds of the deaths of children aged 14 or under: Victims of the most severe and lethal cases of family violence are predominantly women and children.” 765

Corporal punishment is no longer legal as a result of an amendment to the Crimes Act 1961 in 2007. 766 The amendment had the effect of abolishing the use of parental force for the purposes of correction. 767 Concerns have been raised that the minimum age of prosecution for children for murder and manslaughter is 10. 768 While the Government acknowledges the criticism, the age is maintained. 769

Primary and secondary education is free at government schools. 770

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751 New Zealand Bill of Rights Act 1990 (NZ), section 7
753 Ibid, 41-44
754 Families Commission, Family Violence Statistics Report, (Families Commission, August 2009) 8
755 Ibid, 141
759 Ibid
760 Ibid, 141
764 Ibid, 62
765 Ibid, 39
767 Ibid
768 Coroner for the purposes of correction.
769 Ibid
770 Primary and secondary education is free at government schools.
3. Torture and ill-treatment

The Government ratified the Optional Protocol to CAT in 2007. National preventative mechanisms (NPMs) to monitor places of detention were established, with a number of bodies sharing responsibilities for this purpose. 771

Concerns have been raised about detention conditions in New Zealand. In 2009, the Committee against Torture expressed concern about “the insufficient number of prison facilities in light of the forecast growth in prisoners numbers, which may lead to inter-prisoners’ violence. The committee is also concerned at the inadequate provision of mental healthcare and legal services to mentally ill inmates in prisons. The committee is concerned at the use by prison authorities of instruments of physical restraint that may cause unnecessary pain and humiliation.” 772

The committee recommended that New Zealand undertake “measures to reduce overcrowding, including consideration of non-custodial forms of detention in line with the UN Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), and in the case of children in conflict with the law ensure that detention is only used as a measure of last resort. It should also provide adequate mental healthcare and legal services for all persons deprived of their liberty, particularly to inmates suffering from mental illnesses. The state party should keep under constant review the use of instruments of restraint that may cause unnecessary pain and humiliation, and ensure that they are used only when necessary, and that their use is appropriately recorded.” 773

Amnesty International expressed concern about detention conditions in its 2010 Annual Report. The organisation referred to a Department of Corrections announcement that bunk beds would be introduced on a permanent basis in contravention of international standards. Amnesty International also expressed concern that the Department of Corrections had announced that modified shipping containers would be used as cells and built into the prison system from March 2010. 774 The Amnesty International report also noted that Māori were arrested and imprisoned at a disproportionately high rate. 775

4. Right to an adequate standard of living

A New Zealand Human Rights Commission report found that the four key issues that underpin the right to housing in New Zealand are affordability, accessibility, habitability and disadvantaged groups. In relation to habitability, the report noted: “Almost a third of New Zealand homes fall below the World Health Organisation (WHO) recommended indoor temperature of 18°C.” The report also stated: “Pacific peoples and Māori are far more likely than other ethnic groups to be living in crowded households – currently 43% and 38% respectively.” 776

The report noted that there is a relatively low rate of homelessness in New Zealand. In its UPR report, the New Zealand Government noted: “Vulnerable groups such as Māori and Pacific peoples are overrepresented in rented and crowded housing. This overrepresentation correlates closely with low income, poor health and lower educational achievement by children and young people.” 777

More broadly, the New Zealand Human Rights Commission reported increasing poverty levels. Specifically, “New Zealand is in the bottom quarter of OECD countries for income inequality and 11% of New Zealanders live in poverty. Although inequality has fallen since 2000, reversing a long-term trend, it is still well above the OECD average. The effect on children is particularly invidious. Children in poor families are more likely to be sick and injured, they are at greater risk of abuse and neglect, and their educational achievement and subsequent employment opportunities are affected.” 778

5. Rights of indigenous peoples and minority rights

The Government of New Zealand has strong policies and laws recognising and protecting the indigenous people of New Zealand, the Māori. It noted that 1236 claims had been registered with the Waitangi Tribunal over 30 years. Of those, 49 had been settled by the Government and 35 had been partially settled, and it was anticipated that all historical claims could be settled by 2020. 780

Despite political will and relevant legislation, the situation of the Māori minority remains critical. There are inequalities in areas including education, health and income. In relation to education, “in 2007, 10.1% of Māori students left school with little or no attainment compared with 3.5% of New Zealand European students.” 781 Also, “in 2000-02 (the most recent years for which data is available), Māori female life expectancy was 73.2 years, 8.7 years below that of non-Māori females (81.9 years), and Māori male life expectancy was 69.0 years, 8.2 years below that of non-Māori males (77.2 years). Māori are also more likely to be unemployed than Europeans and earn less.” 782

Approximately 15% of the population is Māori, and 53% of these were under 25 in 2006. It is anticipated that “by 2026, 19% of the population aged between 15 and 39 will identify as Māori.” 783

6. Other concerns

784 The Government of New Zealand has strong policies and laws recognising and protecting the indigenous people of New Zealand, the Māori. In 2007, the Human Rights Commission conducted an “extensive review of Human Rights in New Zealand”, in which the recognition of indigenous rights was highlighted as a key issue. The subsequent New Zealand Action Plan for Human Rights addressed this concern, with a specific outcome that “the particular rights of Māori as the indigenous people of New Zealand are respected and valued alongside the rights of all New Zealanders.” 779

The Special Rapporteur on indigenous people, on his mission to New Zealand, was “encouraged by the Government’s commitment to reduce the existing inequalities between Māori and non-Māori and to ensure that the country’s development is shared by all groups in New Zealand society.” However he noted that New Zealand’s human rights legislation does not provide sufficient protection mechanisms regarding the collective rights of Māori. 780 He raised concerns regarding the lack of legislative protection of the rights in the Treaty of Waitangi, 781 land issues, 782 fisheries rights, 783 ownership of the foreshore and seabed, 784 administration and access to justice, 785 culture and language issues, 786 and general inequalities.

787 The Waitangi Tribunal has received 1,400 claims since 1975. In 2009, 223 had been partially settled or settled, and 35 had been partially settled. Of the remaining 1,024, 1236 claims had been registered with the Waitangi Tribunal. Of those, 49 had been settled by the Government and 35 had been partially settled, and it was anticipated that all historical claims could be settled by 2020. 788

Amnesty International also expressed concern that the Government was failing to address the Waitangi claims that could be settled by 2020. 789

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6. Other concerns

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778 New Zealand Human Rights Commission, UPR Submission: New Zealand (May 2009) 28


781 Ibid

782 Ibid, 22–35

783 Ibid, 37

784 Ibid, 43–55

785 Ibid, 56–58

786 Ibid, 59–67

787 Ibid, 69


789 Ibid, 37

790 Ibid, 36


772 Committee against Torture, Concluding observations of the Committee against Torture: New Zealand, 42nd session, UN Doc. CAT/C/NZL/ COs (4 June 2009) [9]

773 Ibid


775 Ibid


apprehensions involve a person identifying as Māori, as do 50% of all persons in prison. To a large extent this can be attributed to the lower social and economic circumstances of Māori overall, but there is an element of bias in the justice system which leads to Māori being more likely to be apprehended and more severely punished than non-Māori.” 793 The Special Rapporteur observed: “Prosecution rates are considerably higher for Māori than for non-Māori (88 against 18 per 1000). Conviction rates are 50 per 1000 for Māori compared with 12 per 1000 for non-Māori.” 794 The Government has acknowledged evidence that there are harsher consequences for Māori offenders. 795

In April 2010, the Māori Affairs Minister, Pita Sharples, announced the decision of the Government to support the UN Declaration on the Rights of Indigenous Peoples. 796 Māori representation in Parliament is guaranteed by the reservation of seats for Māori. Initially four seats were reserved and now there are seven Māori seats “elected only by Māori electors on the Māori roll.” 795 There is also a Māori Party. The Special Rapporteur determined that “the MMP [mixed member proportional representation] system, whatever its limitations, has broadened democracy in New Zealand and should continue governing the electoral process in the country to ensure a solid Māori voice in Parliament and guarantee democratic pluralism.” 796 In the Government’s UPR report, it states: “Following the 2008 general election, there are now 20 MPs who identify as Māori (16% of all 122 MPs in Parliament), five MPs of Pacific descent and six MPs of Asian descent.” 797

6. Migrant workers

With the New Zealand Government’s seasonal workers scheme with Pacific Island countries, it is expected that labour mobility to New Zealand will continue to increase. The rights of migrant workers and their families are generally well catered for in New Zealand’s legislation and policy. Discrimination, including on the grounds of national origin, is prohibited by law, giving further protection to migrant workers. However, there are concerns that New Zealand has not ratified two international treaties concerning workers and their families – the CMW and the ILO Convention 143. 798 The New Zealand Human Rights Commission notes: “While there are significant obstacles to ratification in terms of New Zealand’s principled policy of not ratifying international treaties without first ensuring compliance, the treaties could be used as a basis for reviewing legal provisions relating to migrant workers and their families with a view to increasing compliance.” 799

7. Counter-terrorism measures

In its UPR submission for the review of New Zealand, an NGO Combined Coalition submission co-ordinated by the Human Rights Foundation noted: “In June 2005, the New Zealand Human Rights Commission notes: “In June 2005, the Government established the Immigration Profiling Group (IPG). The IPG has created a climate of fear and uncertainty among refugee communities, which is in contradiction to the supposed goal of settlement.” 800

The coalition states: “Section 1140 in Part IVA of the Immigration Act establishes a process for the detention of an individual seeking asylum on the basis of a threat assessment issued by the National Bureau of Criminal Intelligence of the New Zealand Police, and for the subsequent issuing of a Security Risk Certificate by the Director of the Security Intelligence Service.” The coalition noted: “There is nothing in the legislation to prevent human rights abuses such as indefinite detention without charge or prolonged solitary confinement. Section IVA was exempt from the review of the Immigration Act, which resulted in the Immigration Bill of July 2007.” 801

In 2009, the immigration legislation was amended, resulting in the adoption of the Immigration Act 2009. The security certificate process has been abolished. However there is now a system of special advocates to represent a person who is the subject of a decision involving classified information. The special advocate acts on behalf of the person, including commencing proceedings, cross-examining witnesses at any closed hearing and making written submissions. The advocate must have access to the classified information relied upon in making the decision that is under appeal, and the advocate must keep the information confidential. 802

Once the advocate has access to the classified information, the contact between the advocate and the person who is the subject of the classified information is very limited and must be conducted through the tribunal or court. 803

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792 Ibid, Rodolfo Stavenhagen [57]
795 Ibid, Rodolfo Stavenhagen 17
796 Ibid, 17
799 Ibid
800 Human Rights Foundation of Aotearoa New Zealand, NGO Coalition Submission to the UN Universal Periodic Review (May 2009) 19–20
801 Human Rights Foundation of Aotearoa New Zealand, NGO Coalition Submission to the UN Universal Periodic Review (May 2009) [21], [23]
802 Immigration Act 2009, section 263
803 Immigration Act 2009, section 267
Key Regional Organisations

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