



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

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

**Consideration of reports submitted by States parties under
article 18 of the Convention on the Elimination of All Forms
of Discrimination against Women**

Combined initial and second periodic reports of States parties

Tuvalu*

* The present report is being issued without formal editing.



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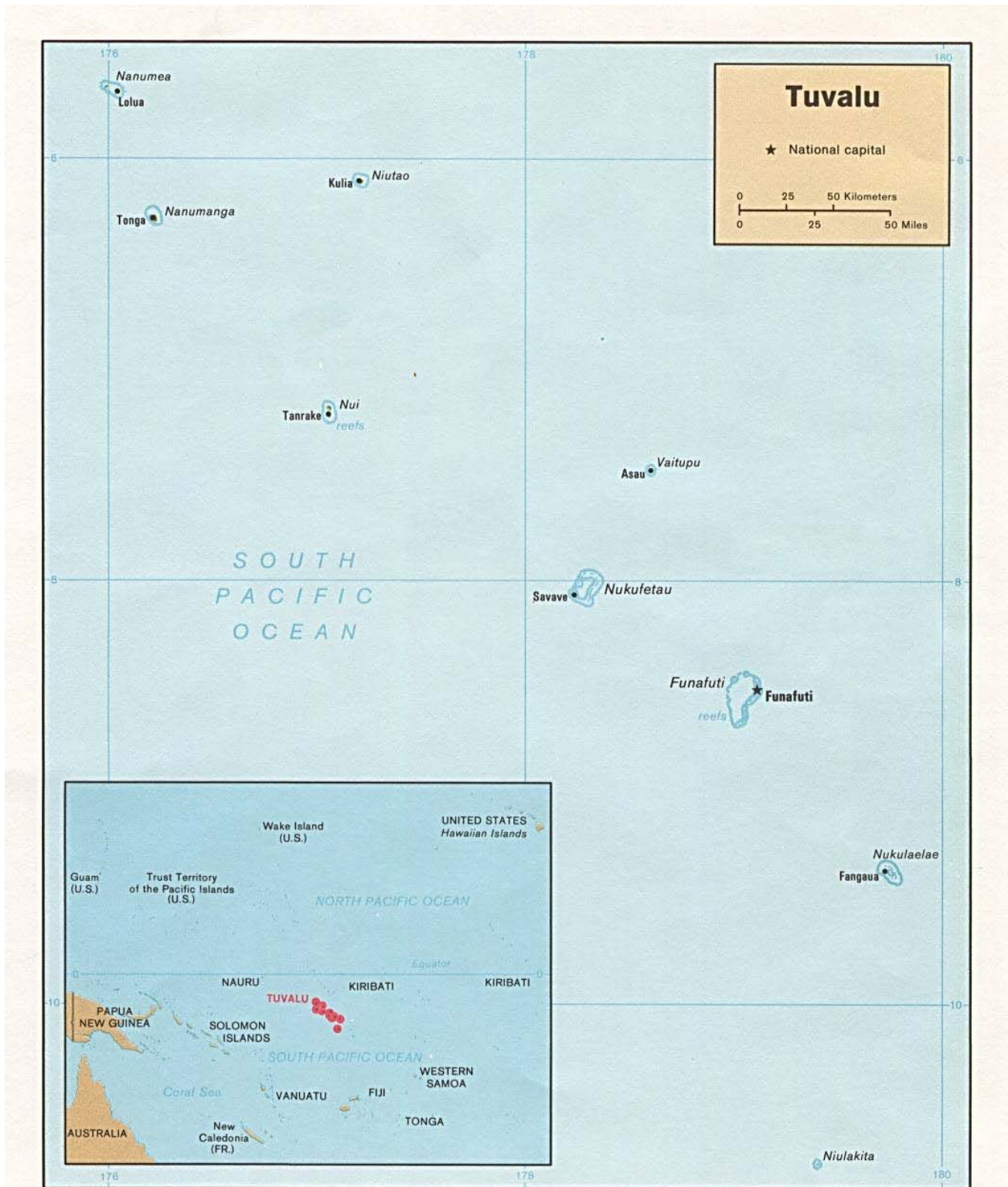
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Map of Tuvalu



Source: MDG Report Tuvalu

Acronyms

ADB	Asian Development Bank
AVI	Australian Volunteer Institute
CRC	Convention on the Rights of the Child
CSO	Civil Society Organisation
DBT	Development Bank of Tuvalu
DFL	Distance & Flexible Learning (USP)
DCC	Development Co-ordinating Committee
DWA	Department of Women's Affairs
EEZ	Exclusive Economic Zone
EKT	Ekalesia Kelisiano o Tuvalu
ESCAP	Economic and Social Commission for Asia and the Pacific
EU	European Union
FTF	Falekaupule Trust Fund
GDP	Gross Domestic Product
GEIC	Gilbert & Ellice Islands Colony
GSF	Gender Support Facility
IPPF	International Planned Parenthood Federation
MDG	Millennium Development Goal
NBT	National Bank of Tuvalu
NCC	National Co-ordinating Committee on Women
NGO	Non Government Organisation
PIFS	Pacific Islands Forum Secretariat
RTNWP	Revised Tuvalu National Women's Policy
TANGO	Tuvalu Association of NGOs
TNPF	Tuvalu National Provident Fund
TMC	Tuvalu Media Corporation
TMTI	Tuvalu Maritime Training Institute
TNCW	Tuvalu National Council of Women
TTC	Tuvalu Telecommunication Corporation
TTF	Tuvalu Trust Funds
TuFHA	Tuvalu Family Health Association
UNDP	United Nations Development Programme
UNDP PC	United Nations Development Programme Pacific Centre
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNV	United Nations Volunteer
USP	University of the South Pacific
VSO	Volunteer Service Organisation
WHO	World Health Organisation

Glossary of Terms

Alik	Chief
Ekalesia Kelisiano o Tuvalu	Tuvalu Christian Congregation of Tuvalu
Fakatuagaene	Cross-cousins
Falekaupule	Traditional Meeting House (Island Decision-making Entity)
Falekaupule Assembly	Island Traditional Entity inclusive of 18 year olds upwards
Fenua	Island
Kaitasi	Group of families with equitable access to the land
Kaupule	Island Council appointed under the Falekaupule Act, 1997
Kilooga tasi	Literally means ‘Looking oneness’ (name of the Drama Group)
Matai	Head of an extended family
Mataniu	Extended family Land-owners
Palagi	European
Potulama	Traditional mass marriage organized by island community
Pule Fenua	Island Leader
Pule Kaupule	Appointed head of the Kaupule
Te Kakeega II	The National Development Plan for Tuvalu 2005 – 2015
Tuagaene	Sibling
Tua tina	Maternal Uncle
Ulu Alik	Paramount Chief
Ulu Fenua	Ascribed Chief

Part I Introduction

Tuvalu: The Land and the People

Historical Background

1. Formerly called the Ellice Islands, Tuvalu was first settled by people of Polynesian ethnicity about 2000 years ago. It is generally believed that earlier ancestors came from Samoa by way of Tokelau, while others came from Tonga and Uvea (Wallis & Futuna)¹. Whilst linguistic studies have indicated that the language is about 2000 years old, the traditional stories and genealogies, however mostly go back 300 years indicating that the traditional culture of the islands today came not from earlier ancestors but from those who arrived later. History also recorded that the islands were first sighted by Europeans in 1568, there was no other contact until the late 1700s when more Europeans arrived. Apart from whalers, Peruvian slave raiders (blackbirders) combed the Pacific between 1862 and 1864 and Tuvalu was one of the hardest hit with over 400 people taken from Funafuti and Nukulaelae. None of them returned.² The island, Ellice was named after a 19th century English politician, Edward Ellice, an MP for Coventry and owner of the ship Rebecca in which captain Arent De Pryster discovered Funafuti atoll in 1819. He named Funafuti in Ellice's honour, and this name was later applied to the whole group by English hydrographer, A. G. Findlay (Pacific Year Book 16th Edition). Like other Pacific Island countries, Tuvalu's economic and social systems have been in the process of change ever since European colonisation two centuries ago (Griffen 2006). The Ellice Islands were made a British Protectorate of the Gilbert & Ellice Islands in 1892 until 1916 when it became part of the Gilbert and Ellice Islands Colony (GEIC).³ GEIC became self-governing in 1971, and then in 1974 the Ellice Islanders voted for a separate British dependency status. The state was granted full independence on 1st October, 1978 and accorded a non voting 'special membership' status in the Commonwealth. Tuvalu's application for full Commonwealth membership was approved on 1st September, 2000 and also became a member of the United Nations in the same year. The name Tuvalu which literally means eight islands standing together was adopted during independence.⁴

The Land

2. Tuvalu is one of the smallest and remotest island states in the Pacific and one of the smallest in the world. It is the smallest member by population of the United Nations.⁵ It consists of nine coral atoll islands scattered over 1.2 million square kilometres of the Pacific Ocean, spreading in a north-south direction over some 560 kilometres between latitudes 5 and 11 degrees south and over longitudes 176 and 180 degrees east. The total land area of the country is approximately 25.6 square kilometres, which is relatively evenly distributed across the nine atolls. Most of the atolls range in sizes from 2.4 to 4.9 square kilometres, except for the smaller islands of Niutao, Nukulaelae and Niulakita. The highest point is about five metres above sea level. The geographical composition of

¹ A Brief History of Tuvalu <http://www.tuvaluaislands.com/history.htm>

² *ibid*

³ US Department of State, Background Note

⁴ Chambers & Chambers, 2001

⁵ Country Background Note, UNDP RABP Cluster Meeting – 15 to 16 November, 2006

this island nation makes it very vulnerable to environmental issues such as coastal erosion and rising sea level.

3. The limited land available in Tuvalu is generally of low quality with poor fertility hence, there is low capacity to support agriculture. The porosity of the soil also inhibits efforts to improve soil through the use of fertilisers. Agricultural production is limited, with coconuts, pandanus, breadfruit and bananas being the main tree crops. Pulaka⁶ and talo pits are also constructed to allow the traditional cultivation of root crops. However, traditional subsistence agricultural activities and outputs are declining as the economy becomes more monetarised⁷.

4. The climate is characterised by a consistently uniform temperature ranging from 26°C to 32°C, with high humidity and an average rainfall of 256.5 millimetres per month from 2000 – 2004. However, droughts of up to three months can occur especially in the northernmost islands. Some of the islands lie within the cyclone belt with Cyclone Ofa in 1990 and the most recent one to strike was Cyclone Amy in 2003.⁸

5. Tuvalu's fish stocks in the Exclusive Economic Zone (EEZ), lagoons and inshore waters are its most valuable resource. Tuvalu's EEZ covers approximately 900,000 square kilometres with oceanic fish stocks offering potential for foreign and local based fishing fleets. The maintenance of lagoon fish stocks for local consumption is an important issue. Fishing is an important household subsistence and commercial activity in the outer islands and in Funafuti as well.

The People

6. The people are of Polynesian ethnicity with the local language closely related to that spoken in Samoa and Tonga, except the islanders of Nui who speak the Kiribati language. According to linguistic studies⁹ there are three distinct linguistic areas in Tuvalu. The first area includes Nanumea, Niutao and Nanumanga. The second is Nui and the third group comprises Vaitupu, Nukufetau, Funafuti and Nukulaelae. Tuvaluan is the main language with English as the *official mode* in the Tuvalu Public Service. Both languages are spoken and taught in schools throughout the country.

Tuvaluan Custom and Tradition

7. Tuvaluans highly value their cultural heritages and identities. They live in communities on each island, where the social structure evolves around the leadership of either an 'Alik'i' or 'Pule Fenua'. The Alik'i inherits the title from his paternal lineage while the Pule Fenua is elected by the people. He must be a person of integrity and high moral standing within the community and should be capable of leading the community in its pursuit for socio economic development. As far as decision making is concerned, the Alik'i or Pule Fenua is assisted and supported by the head of each clan in the

⁶ Pulaka – traditional root crop

⁷ Tuvalu MDG Report, 2004

⁸ Meteorological Office records

⁹ Tuvalu History

community. The hierarchy then includes older men and women who in most cases are over 50 years old and they make up the Assembly of Elders which is also known as the Falekaupule Assembly. This is where important decisions for development are made.

8. The Falekaupule or the traditional meeting house is structured and set in such way where the head of each clan has a designated seat. Since most, if not all heads of clans are males; women are normally not visible in Falekaupule meetings. Such absence is in fact an expansion to the common belief that women and girls are weak and need protection. This is based on historical roles that men and women played in early Tuvalu communities. The Falekaupule meeting enables the men to deliberate on issues that concern the welfare of everyone in the community. These cultural practices contribute to maintaining peace, order and sustainability and were never considered discriminatory. Such practices were put in place with high regard for women and the important roles they play in the home and in the society. The perception behind this tradition is to enable women to learn traditional skills such as weaving baskets, mats, skirts etc. The men on the other hand would meet on their own to discuss common welfare matters such as providing for families where there is no man. This practice ensures the sustenance of everyone in the community and contributes to peace and well being of the people.¹⁰

9. Like most Pacific Island Countries, Tuvaluans rely on land and marine resources for subsistence livelihoods. Land is very important to Tuvaluans and ownership is based on communal family grouping called the 'Kaitasi'. All land is native land, governed mostly by customary law, and thus is a complex and sensitive issue. Titles and documents showing land ownership are catalogued at the Native Lands Commission Register. A lands court system has been established under the Native Lands Act. Under the said Act, a Lands Court has been set up on each island. The purpose of the Lands Court is to preside on issues relating to land. The magistrates in the Lands Court are lay persons and are respected elderly members of the community. They apply customary rules in disputes over land. Decisions of the Lands Court are upheld on appeal unless there is a mistake, or unless decisions of the Lands Court do not give a fair result according to custom and the law.

10. Tuvalu, being a patriarchal society, also allows land inheritance through the male lineage. Land may be passed to a daughter only if there are no sons, or she is the only child or the only surviving one. As a result, registration records of land ownership in Tuvalu indicate that women have less land registered under their names than their brothers. Whilst daughters are protected and treated with respect in their families, they are expected to move into the husbands' family once they are married and their children will be included in their fathers' clan and have access to his land as well. Kaitasi land is used by the whole family including those who are married and it is available to indigenous Tuvaluans and foreign nationals through lease arrangements. Although it has been suggested that men and women have equal rights to kaitasi land, the title or registered owner is almost always a man, usually the father or the eldest brother.

¹⁰ PIFS, 2006 A Woman's Place is in the House – the House of Parliament

“The title holder must, theoretically, have the consent of all who have *usufruct* rights before he can make any decision about the land. However, in practice he can transfer or mortgage it without the consent of other kaitasi members.”¹¹

Therefore the cultural practices of being a patriarchal society allow men to have greater control over land than women. Tuvaluans have developed a cultural system that enables them to live within the limited resources they have. They expect individuals to subordinate personal ambition to family and community needs, therefore their culture is also characterised by sharing and co-operation (Tisdell, 2000).

Religion

11. Religion plays an important role in the life of Tuvaluans and cultural changes have occurred since the arrival of Christianity. Christianity first arrived in Tuvalu in 1861 when a Christian convert from the London Missionary Society (LMS) based in the Cook Islands accidentally drifted to Nukulaelae Island on a canoe. Then in 1865 Rev. A W Murray of the LMS in Samoa visited Tuvalu and installed Samoan pastors on these islands. These pastors were soon exercising considerable sway; the new faith was adopted and aspects of island life that did not conform to it were abandoned.¹² The faith has extended to all the other islands and is practised and observed in all these islands today. Religious rules and morals imposed by Christianity also set regulations on men and women’s behaviour and revised concepts of the family structure and marriage, setting in place gender relations.¹³ At present, about 90 per cent of the population are members of this faith which is now known as Ekalesia Kelisiano o Tuvalu (EKT) derived from the Congregationalist Foundation of the LMS. The EKT also has a very strong influence on the life and well being of the people. The remaining 10 per cent of the population belong to other Christian denominations; Roman Catholic; the Assemblies of God Church; the Brethren Church; Seventh Day Adventists; Jehovah’s Witness and other faiths like Muslim and Bahai.¹⁴

Demography

12. The 2002 Census of Population and Housing results counted a de facto population of 9,561 (of which 9,359 were permanent residents). The population increased at an average annual rate of about 1.7 per cent from 7,350 in 1979 to 9,043 in 1991 but the growth rate appears to have slowed to only about 0.5 per cent per annum between 1991 and 2002. The slowing in the growth rate results from increased migration, (notably to New Zealand), and growing numbers of those working or studying overseas.

¹¹ Jalal I, 1998 Laws for Pacific Women

¹² Pacific Year Book 16th Edition

¹³ Griffen V, 2006 Gender Relations in the Pacific cultures and their impact on the growth and development of children

¹⁴ Tuvalu Census Report 2002

Table 1 Total population size, change, distribution and density, by island, 1991–2002

Island	Area (km ²)	Total population		Population change (1991–2002)			Population distribution (per cent)	Density (persons per km ²)
		1991	2002	Total	per cent	r ^a	2002	
Funafuti	2.79	3,839	4,492	653	17.0	1.4	47.0	1,610
Outer Islands	22.84	5,204	5,069	-135	-2.6	-0.2	53.0	222
Nanumea	3.87	824	664	-160	-19.4	-2.0	6.9	172
Nanumanga	2.78	644	589	-55	-8.5	-0.8	6.2	212
Niutao	2.53	749	663	-86	-11.5	-1.1	6.9	262
Nui	2.83	606	548	-58	-9.6	-0.9	5.7	194
Vaitupu	5.60	1,202	1,591	389	32.4	2.5	16.6	284
Nukufetau	2.99	751	586	-165	-22.0	-2.3	6.1	196
Nukulaelae	1.82	353	393	40	11.3	1.0	4.1	216
Niulakita	0.42	75	35	-40	-53.3	-6.9	0.4	83
Tuvalu	25.6	9,043	9,561	518	5.7	0.5	100.0	373

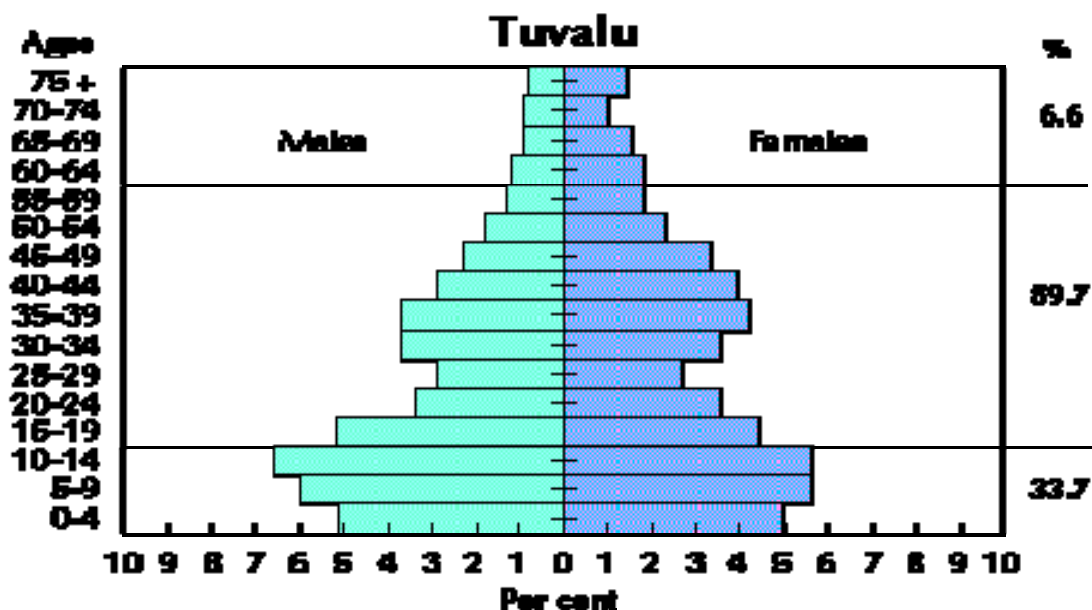
Average annual rate of growth (per cent)

Source: Tuvalu 2002 Population and Housing Census Volume 1 Analytical Report

13. The 2002 census results also indicate that Funafuti, the capital now accounts for about 47 per cent of the total population, up from 42 per cent in 1991 and only 29 per cent at the time of Independence in 1978. Indigenous Funafuti people are now estimated to constitute less than one quarter of the resident population on the main island. Population drift to the capital is leading to serious issues of population pressure such as overcrowding and increase in squatter settlements on Funafuti. Population density on Funafuti in 2002 was estimated at 1,610 persons per square kilometre, compared with 1,375 in 1991 and only 760 at the time of Independence in 1978. Coupled with serious environmental issues such as squatter problems and other settlements of low quality housing, waste management and water supply there has been a number of increasingly land disputes between the traditional Funafuti landowners and migrated Funafuti landowners.

14. Although the proportion of females has increased between the ages of 5 to 19 years, the changing sex ratio has been influenced by the decrease in the proportion of females aged 25 to 39 years. The main reason for the imbalance is that migration is selective and there is a higher proportion of males migrating overseas. There would have been more males than females if temporary migrants include seafarers are included in the census, the gap would be much narrower. Statistics indicate that Tuvalu has a youthful population between the ages of 0-14 years of age and 15 – 24 years of age of males and females.

Figure 1 Population Percentage by 5 year Age group by sex



Source: Tuvalu Census Report, 2002

15. More than half of the population are made up of the economically active population from 15-59 years of age. The proportion of young dependents has increased while the aging population decreased with more women outliving the men from 60 years and above as evident in the above figure. As indicated in Table 2 life expectancy at birth for females is 65.1 and males 61.7.

Development Indicators

Table 2: Key Development Indicators

Indicator	Overall	Male	Female	Source
Population [2002 census]	9,561	4,729	4832	Tuvalu Census Report 2002 Vol.2
Urban	3,962	1,994	1,968	Tuvalu Census report 2002 Vol. 1
Annual growth rate [per cent] 1991-2002	0.4			UNFPA Pacific Island Countries at a Glance
Life expectancy at birth	63.6	61.7	65.1	Tuvalu Census Report 2002
Maternal mortality				
Infant mortality [1997-2002]	35	41	28	Tuvalu Census Report 2002
Child mortality [under 5]	40.8	44.4	36.4	Tuvalu Census Report 2002
GDP per capita	\$1,375			
GDP/capita growth [per cent]	US			UN LDC's Pocket Book
Dependency ratio	3.0%			
Access to safe drinking water [per cent]	100%			
Adult literacy				
Births attended by trained health worker	100%			
Infant immunisation [DPT3 coverage]				
Total fertility rate	3.7		104	

Gross enrolment early childhood education	96.7%	95.3%	98.4%	
Net enrolment primary school				
Members of Parliament [2006]	100%	100%	0	Parliamentary Office Records
Labour force Participation [2002]	61.0%	70.4%	51.8%	Tuvalu Census Report 2002 Vol. 1

Source: Tuvalu Census Report 2002

The Economy

16. Tuvalu's economy is small, fragmented and highly vulnerable to external economic influences. This has led to a heavy reliance on outside development assistance and also to a degree of complacency in fiscal and financial management. The economy is unusual in that a substantial amount of both government revenues and private incomes are generated from overseas. For government, revenues come primarily from the income of the Tuvalu Trust Fund (TTF) (capital), the 'dot TV' internet domain (asset) and from fishing licence fees paid by foreign fishing vessels. For families the income is derived from remittances from overseas seafarers (labour) and relatives working abroad. Remittances received in 2001 and 2002 were \$3.2m and \$3.4m respectively.¹⁵

17. Between 1996 and 2002 annual real growth in Gross Domestic Product (GDP) averaged 6 per cent per annum, with high variability from year to year: from highs of 19 per cent (1998) and 14 per cent (2000), to lows of -6 per cent (1999) and -1 per cent (1996). For the years, 2001 and 2002, growth rates were 5.9 per cent and 1.2 per cent respectively.

18. Underpinning recent economic performance has been the 11 per cent average annual increase in government's contribution to GDP, with government being the largest sector in the economy and the largest employer. This has increased government's share of GDP from 24 per cent in 1996 to 30 per cent in 2002. The growth in public enterprises, at 11 per cent per annum over the 1996 - 2002 period, was the same as that of central government. In 1996 public enterprises contributed 32 per cent of total GDP whereas in 2002, it increased to 39 per cent. Finance, transport and utilities were the main components in public enterprise GDP.

19. The private sector domestic economy is small, accounting for only an estimated 31 per cent of GDP in 2002, down from around 44 per cent in 1996. Although this is primarily the result of the rapid increase in the contribution of the public sector, there has been little underlying growth in private sector activity. Private sector monetary activities increased by an average of 4 per cent per annum between 1996 and 2002 and accounted for only 14 per cent of GDP in 2002, down from 17 per cent in 1996. Private sector activities are dominated by trade, personal services and local cottage industry-type manufacturing. Some 55 per cent of the private sector contribution to GDP was accounted for by non-market production, with the balance of 45 per cent (equivalent to about AUD 2.4 million) being contributed by private sector monetary output (Tuvalu MDG Report 2004).

20. There is no industrial and manufacturing activity in Tuvalu; hence the nation relies heavily on imports to meet its basic needs. On the other hand, export is very minimal. As illustrated in Table 3 below Tuvalu has had a trade deficit since 1995.

¹⁵ Tuvalu Central Statistics Division

**Table 3 : International Merchandise Trade Provisional
Provisional Value**

Year	Imports	Exports	Balance	Exports as a % of Imports
1995	7,695,814	221,587	-7,474,227	2.88
1996	7,102,448	34,139	-7,068,309	0.48
1997	10,190,471	162,423	-10,028,048	1.59
1998	15,749,000	253,887	-15,495,113	1.61
1999	12,466,323	177,181	-12,289,142	1.42
2000	8,882,707	16,800	-8,865,907	0.19
2001	6,768,836	31,737	-6,737,099	0.47
2002	20,362,342	252,485	-20,109,857	1.24
2003	24,043,441	147,124	-23,896,317	0.61
2004	15,498,900	181,606	-15,317,294	1.17
2005	16,908,332	80403	-16,827,929	0.47

Source: Central Statistics Division - PRISM

From 2002 to 2003, the trade deficit was equivalent to an average of 78 per cent of GDP. Exports represent less than 1 per cent of the value of imports. However, foreign exchange earnings from fishing licences, remittances from seafarers, aid revenues, and returns from the TTF have generally covered the trade deficit. According to Tuvalu's MDG report the Annual real growth in Gross Domestic Product (GDP) between 1996 and 2002 averaged 6 per cent per annum, with high variability from year to year: from highs of 19 per cent (1998) and 14 per cent (2000); to lows of -6 per cent (1999) and -1 per cent (1996). For 2001 and 2002, growth rates were 5.9 per cent and 1.2 per cent respectively.

21. The household non-market component in the economy (the subsistence sector) has declined steadily by an estimated 0.8 per cent per annum between 1996 and 2002. The declining level of subsistence production is indicative of broader trends including increasing monetisation. An associated shift in population structure of the outer islands where the 'economically active population' (aged 15-54) is supporting an increasingly 'dependent' population of young and old, is also significant.

22. Tuvalu uses the Australian dollar, which effectively eliminates the possibility of using monetary policy as a tool of economic management, with changes in exchange rates affecting externally generated revenue.

The Tuvalu Trust Fund (TTF)

23. In 1987, Parliament enacted the *Tuvalu Trust Fund Act* (Cap 49A). This Act provided the legal framework for setting up the Tuvalu Trust Fund (TTF). Governments of Tuvalu, Australia, New Zealand and the United Kingdom, are signatories of the fund, valued at just over AUD\$27 million. The TTF provides Government with a reliable source of revenue from a financial investment managed

to maximise interest income from a diverse portfolio of assets. The interest income earned, after providing for capital maintenance and administrative charges, is available to Government to finance its recurrent budget including balance of trade deficits (MDG Report 2004).

Falekaupule Trust Fund (FTF)

24. In 1999, Government established a second trust fund, the *Falekaupule* Trust Fund (FTF). The purpose of the FTF is to increase the ability to generate revenue within the community; fund community projects; assist the acquisition and development of skills and self-reliance through local trainings; enable communities to acquire, maintain and improve community assets and resources in order to enhance education and be self-reliance. The FTF is managed by a Board of Directors representing the eight islands in Tuvalu. Premised on the TTF investment strategy, FTF funds are also invested offshore (MDG Report 2004). The main purpose of the FTF is to provide a source of funds for island development purposes.

Government Machinery

25. **The Executive** – The Government of Tuvalu Executive branch includes the British Monarch as Head of State represented by the Governor General who is appointed on the advice of the Prime Minister in consultation with Members of Parliament. Cabinet is appointed by the Governor General on the recommendation of the Prime Minister who is chosen by the elected members of Parliament. The current Cabinet comprises the Prime Minister, Deputy Prime Minister and four Ministers. The Prime Minister and the Deputy Prime Minister are elected by the Members of Parliament. The Attorney General,¹⁶ the principal legal adviser to the Government, in accordance with s.79 of the Constitution and Rule 50 of the Rules of Procedure, attends Cabinet and all sittings of Parliament and its committees, is allowed to take part in proceedings but is not entitled to vote. The Secretary to Government¹⁷ who is responsible for co-ordinating the work of Ministries and offices of Government, also attend all Cabinet meetings unless excused by the Prime Minister. The power to summon, prorogue or dissolve Parliament rests with the Governor General on the advice of the Prime Minister.

26. **The Legislature** - The Tuvalu Parliament is elected on the basis of universal suffrage consisting of a single chamber of 15 members. Seven islands elect two members each while Nukulaelae which has the smallest population elects only one member. The Speaker presides at all sittings of Parliament and of committees of Parliament unless the Rules or Act of Parliament provides otherwise. Provision is also made in the constitution and the Rule of Procedure for election of an Acting Speaker. The normal life of Parliament is four years and in accordance with the Constitution, Parliament makes laws for Tuvalu. The power of Parliament to make laws shall be exercised through means of Bills passed by Parliament and assented to by the Head of State. A Bill that has been assented to is an Act of Parliament¹⁸.

¹⁶ Appointed under Section 159 (4) (a) of the Constitution

¹⁷ Appointed under Section 159(3)(a)

¹⁸ Section 86 of the Constitution of Tuvalu

The Judiciary

27. The judicial system consists of the Sovereign in Council, Court of Appeal and the High Court, which are courts of appellate jurisdiction whereas the High Court is also a general trial court. Other courts include the Magistrates' Courts, Island Courts, and Land Courts which are lower courts with limited jurisdiction.¹⁹

Hierarchy of Courts²⁰

The Sovereign in Council Under s.136 of the Constitution, an appeal may be made from a decision of the Court of Appeal to the Sovereign in Council. The Council has jurisdiction to hear appeals from the decisions of the Court of Appeal with leave of the Court of Appeal, in the following matters:

cases referred to in s.136(1) (a) of the Constitution, being:

- (a) a final decision on a question as to interpretation or application of the Constitution;
- (b) a final decision in proceedings for the enforcement of the fundamental rights provisions in Part II of the Constitution;
- (c) a final or interlocutory decision in any case which the Court of Appeal considers involving a question of great general or public importance or which ought to be submitted to the Privy Council.

Court of Appeal

Established under s.134 of the Constitution of Tuvalu. It has jurisdiction to hear civil appeals as of right from the High Court exercising any type of jurisdiction, except:

- where an order was made by consent or is as to costs only;
- where an order or judgment is interlocutory, except in a case prescribed by rules of court; in which case, leave is required.
- No civil appeal is allowed from:
 - a decision allowing an extension of time in which to appeal;
 - an order giving unconditional leave to defend an action;
 - a decision of the High Court which is provided by statute to be final.
- All criminal appeals lie as of right from decisions of the High Court to the Court of Appeal.²¹

¹⁹ Source: Tuvalu Basic Information

²⁰ Corrin-Care, Newton & Paterson, 1999 p 317 - 322

²¹ *ibid*

High Court

The High Court is established under s.120 of the Constitution. It is constituted by the Chief Justice of Tuvalu and any other Judges appointed under s.123 of the Constitution.

The High Court has:

- Unlimited original jurisdiction in civil and criminal cases;
- Jurisdiction to hear appeals as of right from all decisions of the Senior Magistrate's Court, other than orders made ex parte, by consent, or as to costs only. In those instances special leave of the court of first instance or appellate court is required;
- Jurisdiction to hear appeals from the senior magistrate's court exercising appellate jurisdiction including decisions on appeal from the native land appeal panel;
- Jurisdiction to decide a question of law referred to it by way of case stated from the Senior Magistrate's Court;
- Supervisory jurisdiction over inferior courts.

The Chief Justice is appointed by the Public Service Commission on the recommendation of Cabinet. The Chief Justice travels to Funafuti twice a year to preside over sessions of the High Court.

Magistrates Court

Established under the Magistrate's Court Act.²² It has jurisdiction to :

- hear civil cases involving up to \$10,000.
- make adoption orders;
- hear appeals from any other magistrates' court as of right in all civil and criminal matters, other than orders made ex parte, by consent, or as to costs only. In those circumstances special leave of the court of first instance or appellate court is required;
- hear appeals from the Native Lands Appeal Panel on points of law only;
- hear appeals from Island Courts exercising divorce jurisdiction or jurisdiction in any civil matter where the amount involved exceeds \$10.

²² Established under s3 of the Magistrate's Court Act Cap 2

- review any civil or criminal island court case, either on the petition of a party or of its own motion;

The criminal jurisdiction of the Senior Magistrate's Court differs from that of the other magistrates' courts. All magistrates' courts have summary jurisdiction only.

The senior magistrate's court may hear cases in the following circumstances:

- where the offence is one for which the maximum punishment does not exceed 14 years' imprisonment, a fine or 'both such imprisonment and such fine';
- where jurisdiction has been expressly conferred upon the court or there has been express provision that the offence in question is one that may be tried summarily.
- The maximum punishment that may be imposed by the senior magistrate's court is a term of imprisonment for five years, a fine of \$1,000 or 'both such imprisonment and such fine'.

Other magistrates' courts have a more limited jurisdiction. They may hear cases in the following circumstances:

- where the offence is one for which the maximum punishment does not exceed imprisonment for more than one year, a fine of \$200 or both;
- where jurisdiction has been expressly conferred on the court or there has been express provision that the offence in question may be tried summarily.
- The magistrate's courts exercise an appellate jurisdiction with regard to decisions of the island courts of the district within which the magistrates' court is situated.

Island Court

On each island there is an Island Court which is subordinate to the Magistrates court²³. An Island Court shall exercise jurisdiction within the limits of the island within which it is situated²⁴ and it shall have and exercise the jurisdiction in civil causes and criminal causes.²⁵ Furthermore, the Island Court also has jurisdiction to hear:

- petitions for divorce or associated proceedings under the Native Divorce Act provided both parties are domiciled in Tuvalu;

²³ Section 3 of the Island Courts Act (Cap 3)

²⁴ Section 4 of the Islands Court Act (Cap 3)

²⁵ Section 5(1) Island Courts Act (Cap 3)

- claims in contract and tort where the amount involved does not exceed \$60;
- applications for maintenance under the Maintenance (Miscellaneous Provisions) Act; and
- applications under the Custody of Children Act.

Criminal causes that come within the criminal jurisdiction of the island courts are set out in Schedule 2 of the Island Courts Act. In addition, the court may hear cases in relation to offences, the maximum punishment for which is a fine of \$100 and/or a period of imprisonment of six months.²⁶

Lands Court

There is a Lands Court on each island established under Section 6 of the Native Lands Act (Cap 22), comprised of 6 magistrates. The Lands Court is responsible for all matters pertaining to land, namely, land leases, wills, inheritance, adoption, etc.

Sources of Law

28. As declared by the Laws of Tuvalu Act 1987, there are five sources of law in Tuvalu: the Constitution which is the supreme law of the land, Acts of Parliament, Customary Law, Applied Laws, and the Common Law. In addition, international laws also apply in Tuvalu subject to certain requirements.

The Constitution

29. The Constitution of the Sovereign State of Tuvalu was adopted on 25 July, 1978 and came into force on 1 October, 1978 when the State obtained independence from Great Britain. In 1986 Parliament passed a new Constitution for Tuvalu. The Constitution is the supreme law of in the country. All other laws are subject to the Constitution. Schedule 1, *Rules for the Interpretation of the Constitution*, provides the guide for interpreting the Constitution. Section 4(3) states that the Constitution shall be interpreted and applied in such a way so as to promote fair and democratic Government consistent with Tuvaluan values. The Constitution ensures that fundamental human rights and freedoms are upheld with traditional Tuvaluan values. Para 5 of the Preamble states that

“AND WHEREAS the people of Tuvalu desire to constitute themselves as an independent State based on Christian principles, the Rule of Law, and Tuvaluan custom and tradition.”

The Constitution may be amended by an Act of Parliament but requires two third majority of all Members of Parliament at its final reading. There have been three reviews of the Tuvaluan Constitution.²⁷ The Constitutional Review Committee of Parliament completed the third review in 2000.

²⁶ USP, Corrin-Care, Newton & Paterson, 1999

²⁷ *ibid*

30. The *Laws of Tuvalu Act 1987* defines Tuvalu customary law and focuses on such matters as land and fishing rights, legitimacy and adoption of children, divorce and community responsibilities (Jalal 1998).

Administrative Structure

Civil Service

31. In 1975 as the first step toward independence, a separate legislature and an administrative structure were established in Funafuti the capital of Tuvalu. This was the foundation for the governance structure of the nation as it moved towards independence. Like most Small Island States, the Tuvalu Public Service is the largest employer with provisions for 885 employees. To date, there are however 110 positions still vacant leaving 775 employees which comprise 433 men and 351 women. The Public Service is governed by the Public Service Act 1979, a Public Service Commission Rules 2000 and General Administrative Orders 2000 issued under Section 7 of the 1979 Act. The Public Service Commission is responsible for the efficient management and control of the civil service, including all personnel matters; appointment and confirmation of appointment; promotion and demotion; transfer from office to office or from place (except movement of the common cadre); disciplinary action; cessation or termination of appointment. According to regulations and established practises, civil servants are responsible for helping formulate and implement policies, evaluate their impact and provide service delivery and certain public goods. Public sector reform has been a government priority for a considerable time, with the aim of improving public administration, public financial management, and public enterprise performance. A 1998 review of progress observed that the governance environment was sound by regional standards.²⁸

Local Government

32. The Assembly of Elders and the Falekaupule Assembly are set up in accordance with the traditional local customs and norms, the 'Tuu mo Aganuu' of each island. Each island has its own Falekaupule which is governed by the Falekaupule Act. In the area of authority of each Falekaupule, there is a local government council or Kaupule. The Kaupule performs all the executive functions of the Falekaupule.

33. In 1978, Parliament passed a Local Government Act based on the Local Government Ordinance of 1966. The Local Government Act 1978 was repealed by the 1997 Falekaupule Act. As a result, every local government council established by the 1978 Act was disbanded and replaced by a Kaupule.²⁹ The Falekaupule Assembly elects the President of the Kaupule, known as the 'Pule o Kaupule'. The 'Pule o Kaupule, is tasked with the approval of the island budget which is usually sourced from the Falekaupule Trust Fund, the by-laws, and appointments of Kaupule officers. The role of the Falekaupule, through the Kaupule, is to 'maintain order and good Government and promote development within its own area of 'authority.' In collaboration with the Government Department of Rural Development, the Falekaupule through the Kaupule, prepares and implements

²⁸ UNDP Tuvalu Common Country Assessment Report, 2003

²⁹ UNDP, Tuvalu Legislative Needs Assessment Country visit Mission Report, 2000

development plans in conjunction with the community and other relevant parties, co-ordinating and monitoring development projects, mobilising the people for development efforts, and ensuring the proper management and use of the natural resources in the Falekaupule area.

34. Each Kaupule consists of six members who are elected by registered voters. Candidates for election to a Kaupule cannot be public officers. Members are elected for a four year term and can seek re-election, but can only serve two consecutive terms.

35. The Falekaupule Act 1997 further gives recognition to traditional governance (chiefs and elders) where the chiefs and elders are directly responsible for managing island affairs with the traditional governance system working collaboratively with the National Government. Both the National Government and the Local Government aimed at improving linkages between cultural systems, government and national-level institutions and encourage wider participation of communities on their own development.

The Situation and Advancement of Women

36. Women's participation in development dates back to almost a hundred years ago. Each island has a women's organisation which evolves around the church. The main objective of these organisations is promoting healthy living for the well being of their families and communities. Women continue to play significant roles in contributing to the overall social and economic well being of their communities and the nation as well. The situation of women has improved considerably in areas of health, education, their involvement and participation in paid work and in the cash economy. In recognition of the contribution, Government set up a Women's Desk in 1986 within the Ministry of Health and Social Welfare. The officer was responsible for co-ordinating and providing practical skills training (sewing, cooking etc.) to women to assist them in micro enterprise development for their own improvement socially and economically.

General recommendation No. 6 (seventh session, 1988) of the United Nations CEDAW Committee

37. The Government of Tuvalu, in its commitment to improving the status of women and the implementation of the Beijing Platform for Action 1995 and also in line with the United Nations CEDAW Committee general recommendation No. 6 of 1988 upgraded the Women's Desk and set up the Department of Women's Affairs with 4 additional staff in 1999. The Department was given the mandate by Cabinet to be the primary advisor on women and gender issues and was also tasked to monitor the situation of women and develop policies and programmes to improve their lives. Consequently, with the assistance of UNDP and ESCAP, the Tuvalu National Women's Policy was formulated in 1999 based on the Outcomes of the Beijing Declaration and the Platform for Action. The Policy provided the basis and the direction to pursue the development and progress of women in eight areas of concern namely: Institutional Strengthening; Women and Health; Women and Education; Women and Culture; Women and the Environment; Women and the Law; and Women and the Economy. In addition, an Action Plan for the Department of Women's Affairs (DWA) was developed to provide the framework for implementing the new Women's Policy. Despite the existence of the Policy and its Action Plan, there was very minimal progress due to insufficient funds.

National Commitments for the Advancement of Women

38. Moreover, women and gender issues have been included by the Government in its development frameworks since 1995. Premised on the Kakeega I, Beijing Platform for Action, the Pacific Platform for Action and the identified needs of women in Tuvalu, the first Tuvalu National Women's Policy (TNWP) was developed in 1999 with eight areas of concern. The TNWP was translated into the medium term Action plan for DWA to implement. However, with limited financial resources and other constraints, the Department was only able to partially implement the Plan. The outdated policy was subsequently reviewed in 2005 under the UNDP funded Gender Support Facility (GSF) project.

38. Women and gender development is also reflected in the current National Strategic Development Plan Te Kakeega II 2005 – 2015 (TK II). TK II with the vision “By 2015, guided by strong spiritual values enshrined in its motto – ‘*Tuvalu mo Te Atua*³⁰’ - we will have achieved a healthy, educated, peaceful and prosperous Tuvalu,”³¹ articulates eight Strategic Areas which set out the broad priorities for national development for the next ten years.

Box 1: Strategic Areas of Te Kakeega II

1. Good Governance;
2. Macroeconomic Growth and Stability;
3. Social Development: Health, Welfare, Youth, Gender, Housing & Poverty Alleviation
4. Outer island and Falekaupule Development
5. Employment and Private Sector Development
6. Human Resource Development
7. Natural Resources: Agriculture, Fisheries, Tourism, and Environmental Management
8. Infrastructure & Support Services

Source: Te Kakeega II

39. Chapter 7.4 on Gender and Development outlined two key policy objectives namely:

- Promote gender equity promote gender consideration in all areas of development
- Expand the role of women in development
- Establish gender/sex disaggregated national statistics³²

These long term Policy objectives are fairly broad and encompass a wide range of socio- economic and legal issues as well. The Te Kakeega II also identified the following priorities and strategies for implementing those policy objectives:

- Integrate the role of women, and the issue of gender and development in implementing Te Kakeega II
- Review laws governing the distribution of land and custodial rights of women
- Provide women with small business and entrepreneurial training, and access to appropriate credit facilities.

40. In light of these commitments and the continued need to improve the status of women, the women's policy was revised in 2006. The Revised Tuvalu National Women's Policy (RTNWP) provides the framework and the direction for development and progress of women in Tuvalu. Essentially, the Beijing Platform for Action, CEDAW and the MDG have also been incorporated in the RTNWP which covers 9 areas of concern namely:

³⁰ Literally means ‘Tuvalu for God’

³¹ Te Kakeega II 2005-2015

³² Included in the Discussion Paper for the MoF Roundtable meeting with Donors, Suva, Fiji - May 2006

- Institutional Strengthening,
- Education and Training;
- Women and Health,
- Women & Economic Empowerment,
- Women & Natural Resources,
- Women in Decision Making,
- Women & the Law,
- Women & Culture and
- Women & the Media & ICT.

41. Women and gender issues are cross sectoral. With that backdrop, the national women's machinery adopted an inclusive approach and set up a committee which was approved by Cabinet. The National Co-ordinating Committee (NCC) for women comprises of senior officials from key Government Ministries, Departments and NGO partners, namely the Tuvalu National Council of Women (TNCW) and the Tuvalu Association of NGOs (TANGO). The NCC has the mandate to implement the Revised Policy and monitor the implementation of the action plan and provide advice to Government on women and gender issues. Members of the NCC are also Gender Focal Points in their respective organisations. The Permanent Secretary for Home Affairs chairs the NCC, supported by the Secretariat which consists of the Director for Women, TNCW Co-ordinator, Director of Economic Planning and a Legal Adviser from the Office of the Attorney General.

42. To implement the revised women's policy, the DWA formulated its medium term Corporate Plan 2007 – 2009. This action plan encapsulates key policy issues which have been condensed into five Key Result Areas (KRAs) namely:

- Providing quality policy advice on women and gender issues
- Ensuring the mainstreaming of women and gender concerns into the development processes of Government
- Enhancing the socio economic empowerment of women
- Maintaining a professional and effective organisation, and
- Assisting Government to fulfil its international and regional commitments on women and gender.

Each of these KRAs has Key Performance Indicators (KPIs) to assist the Department in measuring its performance. Like other development programmes, the implementation of the Action Plan will be monitored by the DWA in the form of regular reporting to the NCC, the Development Co-ordinating Committee (DCC)³³ and Cabinet. Furthermore, the DWA will provide Cabinet with quarterly progress reports on the implementation of the Plan.

43. In implementing the Action Plan, DWA has been conducting gender training and CEDAW awareness which have been on going in the Tuvalu public service and in communities as well. This is a strategy aimed at changing stereotyped attitudes among men and women. Gender is a cross cutting and multi sectoral development issue. It is envisaged that the concerted efforts of key policy makers

³³ Committee of Permanent Secretaries of Government Ministries

and development partners will accelerate the mainstreaming of women and gender issues into policies, plans and programmes. Accordingly, gender mainstreaming training for civil servants has been underway with the aim of assisting Ministries and Departments to incorporate women and gender issues into their sectoral plans, policies and programmes. A statistical database and gender sensitive indicators have been developed in conjunction with key partners with the aim of ensuring the use of sex disaggregated data. The DWA envisages an independent evaluation of its policies, plans and programmes in the near future to measure their effectiveness or otherwise.

Women in Hardship

44. Women said the major causes of hardship for them are having too many roles to play (traditional household and community roles with the addition of income earning responsibilities). Other reasons include social problems resulting from changing attitudes and values and demands on families for contributions to meet social and community obligations.”³⁴ Overall, women felt their situation is improving due to better educational opportunities, particularly at the tertiary level and increasing community recognition of their contributions to development.

International Commitments on Women and Gender

45. The Government of Tuvalu became a member of the United Nations in 2000 and was accorded the status of a Least Developed Country. The state has also acceded to international conventions guaranteeing women’s rights and human rights and has identified key issues to address by being party to the following:

- | | |
|---|------|
| • The Pacific Platform for Action | 1993 |
| • Jakarta Declaration for the Advancement of Women in Asia and the Pacific | 1994 |
| • Beijing Platform for Action | 1995 |
| • Ratified CEDAW without any reservation | 1999 |
| • Participated in the Beijing +5 processes | 2000 |
| • Endorsed the Commonwealth Plan of Action for Gender Equality 2005 – 2015 (7 th Women Affairs Ministers’ Meeting, Nadi, Fiji) | 2004 |
| • Endorsed the Revised Pacific Platform of Action after the Third Pacific Women’s Ministers’ meeting and the 9 th Triennial Conference of Pacific Women. | 2004 |
| • Commitment to Beijing +10 | 2005 |
| • The Pacific Plan | 2005 |

The Government has also ratified the Convention on the Rights of the Child (CRC) and endorsed the MDGs. Tuvalu has also submitted its report on the implementation of the MDGs to the United Nations General Assembly in 2005.

Ratification of CEDAW

46. As noted above, Government in its commitment to improve the status of women in Tuvalu ratified the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*

³⁴ ADB Hardship & Poverty Report 2004 p 8

without any reservation in October 1999. This was the result of vigorous lobbying and advocacy by the national women's machinery. With regards to international obligations, Section 17 of the *Interpretation and General Provisions Act*, (Cap 1A) stipulates that ...

“A construction of a written law which is consistent with the international obligations of Tuvalu is to be preferred to a construction which is not.”

Therefore there is a need to adopt CEDAW into the national laws.

Publicity and Awareness

47. The DWA in partnership with the TNCW has been instrumental in providing CEDAW awareness training both within Government and communities as well. Awareness workshops for Cabinet Ministers, Permanent Secretaries and Heads of Departments were conducted in 2005 as a lead up to the preparation of the CEDAW State Report. This was a collaborative effort by the Government of Tuvalu, UNDP's Gender Support Facility project and UNIFEM CEDAW programme.

48. Given that the majority of women and men in Tuvalu converse in the local language, Government in its effort to disseminate information on CEDAW as widely as possible translated the Articles of CEDAW into vernacular in 2005. This was made possible through the assistance of UNDP and UNIFEM's CEDAW Programme for the Pacific. The translation is envisaged to enhance and facilitate the people's knowledge and understanding of the Convention. Furthermore, the DWA in partnership with the TNCW had conducted CEDAW awareness and training workshops in most of the outer islands and in the capital, Funafuti. Workshop evaluations indicated increased awareness and better understanding of the Articles of the Convention. CEDAW training will be an on going activity for the national women machinery as a strategy for empowerment and accelerate the implementation of Government's commitment to CEDAW.

49. During the biennial meeting of TNCW in 2006, a one week Gender and CEDAW awareness training workshop was conducted for more than a hundred participants from all over Tuvalu. One of the major outcomes of the workshop was to urge Government for the incorporation of CEDAW as part of the laws of Tuvalu.

Part II The Convention

Article 1

For the purpose of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

1.1 The Constitution of the sovereign State of Tuvalu is based on the fundamental principles of Christianity, Tuvalu custom and traditions. Under the Constitution³⁵ discrimination refers to the treatment of different people in different ways wholly or mainly because of their different-

³⁵ Section 27(1) of the Constitution

- (a) races; or
- (b) places of origin; or
- (c) political opinions; or
- (d) colours; or
- (e) religious beliefs or lack of religious beliefs,

in such a way that one such person is for some such reason given more favourable treatment or less favourable treatment than another such person. Sex is a not a ground for discrimination. Sex discrimination is therefore legal.³⁶ However this is only in limited circumstances referred to below.

1.2 The above section simply defines discrimination as the differential treatment accorded to different people because of the listed backgrounds. Subsection (2) then mandates that ‘no-one shall be treated in a discriminatory manner.’ Although ‘sex’ is not included in s.27 (1), the ambit of s.27 (2) is wide enough to extend prohibition of discrimination on the basis of sex. Accordingly, while discrimination may be permitted under the Constitution on the basis of sex, discrimination is only allowed in particular circumstances specifically referred to in the Constitution. These include laws with respect to:

1. (a) adoption
 - (b) marriage
 - (c) divorce
 - (d) burial
 - (e) any other such matter, in accordance with the personal law, beliefs or customs of any person or group
 - (f) land
2. (a) national interest
 - (b) traditional values and practices

Equality between men and women is not one of the fundamental rights and freedoms guaranteed in the Constitution³⁷

1.3 The revised women’s policy articulates Women and the Law as one of its critical areas of concern. It specifically addresses the human rights of women with special focus on legal literacy, human rights training, and the elimination of violence against women and children and review of laws which are discriminatory to women. Women need to know and understand their rights in relation to issues of violence, employment, property rights decision making, etc. Therefore, the DWA in partnership with the TNCW have been conducting training workshops and radio programmes on these issues as well as land and custody matters. On the other hand, it is also important to strengthen and build the capacity of service providers and the Judiciary, especially at the lower courts, on gender and human rights issues. Therefore, strengthening the judiciary has been a priority of the government for some years, supported recently by RRRT/UNDP focusing mainly on the High Court and the Senior Magistrate’s Court. TNCW with the assistance of RRRT/UNDP has conducted human rights training with Police as well. The right to a fair public trial is ensured by law³⁸ and observed in practice.

³⁶ Jivan & Forster, 2006

³⁷ Section 27(3)

³⁸ Section 22 of the Constitution

Violence Against Women

1.4 Whilst no official study or assessment on the impact of violence in Tuvalu, informal reports and figures on school dropouts, teenage pregnancies and broken families indicate that the prevalence is quite high. Data for these abuse cases are very hard to access because of the confidentiality aspects and the fact that most cases are not reported.³⁹ However, domestic violence is common. Physical abuse of women and children is visible but not reported. Children and women are the most vulnerable groups. Tuvaluan women rarely go to the Police or Courts for help. They rely on the family to deal with the problem. It is common for complainants and victims of domestic violence to withdraw their cases when they reached the courts. As part of Government's initiative to address the issue, Police has a draft 'no drop' policy which they have already applied.

1.5 Despite some positive initiatives, violence remains a difficult issue to address as it is ingrained in society and is usually considered a private family matter. Some women have described it as a 'silent crime.' The problem is often linked to alcohol and substance abuse and is usually considered a family issue because of the cultural beliefs that are still being upheld. The issue has been part of the Gender sensitivity training since 2005 and was further reinforced during the Women's biennial meeting in 2006. A country wide awareness programme on the issue was conducted to mark International Women's Day, 2007. This programme is the beginning of a series of planned programmes and activities to highlight these issues of gender based violence particularly among women and girls for public discussion and awareness.

Box 2: High Court Case No. 2/06 R v Niutao Kaupule and Vaguna Satupa

In 2006, a High Court case highlighted the abuse and violence often faced by women and girls. In the case of *Seta Katea v Niutao Kaupule and Vaguna Satupa*,⁴⁰ the plaintiff applied for redress for unlawful dismissal by the Kaupule. The plaintiff claimed that the dismissal was the result of her refusal to have sexual intercourse with the Kaupule secretary who was her supervisor. In giving judgement, the Chief Justice stated,

".... I am equally satisfied that the true reason for the plaintiff's dismissal was her continued refusal to succumb to the advances [*sexual*] and threats of the second defendant despite the threat of dismissal ... Further the Kaupule was seriously at fault in failing to follow the proper procedures for dismissing an employee. The previous Pule Kaupule said they had simply accepted the second defendant's allegations. That it was uncontradicted was the result of their blatant disregard of the plaintiff's right to a fair hearing...even when she appealed, it was determined by the Falekaupule in arbitrary manner which showed only too clearly that there was no intention to consider the appellant's side of the case at all. The defendants are liable for unfair dismissal... Therefore I find in favour of the plaintiff against both defendants for assault and against both defendants for unlawful dismissal"⁴¹

³⁹Social Data Report, 2005

⁴⁰ (2006) High Court Case No. 2/06 (Unreported)

⁴¹ Emphasis added

1.6 In order to address the issue of discrimination against women including violence against women and girls, Government has undertaken the following initiatives:

- a) Police has recently developed a ‘no drop’ policy on cases of violence against women and although it has not been formally approved, police officers are using it in their work;
- b) Raising awareness through training workshops and meetings about violence against women and children is a responsibility of everyone. Key Ministries have also been part of the awareness raising in the capital, and it is planned to extend the programme to the outer islands as well;
- c) Include the review of certain laws that are discriminatory in its National Sustainable Strategic Development Plan 2005-2015. For example, the Native Lands Act;⁴²
- d) To conduct a national survey to determine the extent and scope of the problem of gender based violence. Statistics for such problem is still lacking in most of the institutions which provide service to victims and to an extent the perpetrators;
- e) Capacity building for persons in institutions such as Health, Police, the Judiciary, etc. which are directly involved with gender based violence;
- f) Engaging men and boys as partners to eliminate gender based violence is extremely important.

Article 2

States parties condemn discrimination against women in all its forms, agree to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women and, to this end, undertake:

To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means the practical realization of this principle;

- (a) To adopt appropriate legislation and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (b) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (c) To refrain from engaging in any act or practice of discrimination against women and to ensure that the public authorities and institutions shall act in conformity with this obligation;
- (d) To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;
- (e) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which include discrimination against women;
- (f) To repeal all national penal provisions which constitute discrimination against women.

Constitutional and Legal Framework

2.1 The Constitution provides women with the freedom or rights to life, personal liberty, and security for her person, the protection of the law, freedom of belief, freedom of expression, freedom of

⁴² Te Kakeega II

assembly and association, protection for privacy of her home and other property, and protection from unjust deprivation of property.⁴³

Box 3 Bill of Rights

s.11. The fundamental human rights and freedoms

“(1) Every person in Tuvalu is entitled, whatever his race, place of origin, political opinions, colour, religious beliefs or lack of religious beliefs, or sex, to the following fundamental rights and freedoms ...”

Whilst s.11 of the Constitution provides the legal framework against discrimination, this is not being practiced. Section 11 recognises: the right not to be deprived of life, personal liberty, and security for his person, the protection of the law, freedom of belief, freedom of expression, freedom of assembly and association, protection for privacy of his home and other property and protection from unjust deprivation of property.

However, s.11(2) states that those rights and freedoms can only be exercised with respect for the rights and freedoms of others, the national interest, in acceptance of Tuvaluan values and culture and with respect for them. In Tuvaluan society shall⁴⁴ be subjected to limitations either because of the national interest or because of ‘Tuvaluan values and culture’. The importance of this requirement, limitation on the rights and freedoms, is specifically referred to in s.11(3).

2.2 Section 27 of the Constitution defines freedom from discrimination as the treatment of different people in different ways wholly or mainly because of their different races; places of origin; political opinions; colour; religious beliefs or lack of it in such a way that one such person is for some such reason given more favourable treatment or less favourable treatment than another. A noticeable omission under s.27(1) is the word “gender”. According to a High Court judgment, (*Tepulolo v Pou & Attorney General*, (2005) High Court Appeal Case No. 17/03, (unreported),

“Everyone, whatever their gender is entitled to the constitutional freedoms including freedom from discrimination but, under the definition of discrimination in s.27, unequal treatment because of a person's gender is not discrimination.”

Native Lands Act

2.3 The people of Tuvalu value their customs and tradition. The way the people interact with each other and perceive the various systems of social, economic and political organisations that have been introduced and developed in the country, is largely underscored by Tuvaluan customs and traditions. These socio-political forms of organisations often derive their authority and legitimacy from customs and traditions. Such practices are still incorporated into the introduced systems of governance. Yet, inherent in customs and traditions are some practices that deviate from international norms and standards of governance required for the elimination of sex discrimination.

⁴³ Part II of the Constitution

⁴⁴ This subsection is drafted in terms that imported a mandatory requirement that the rights and freedoms can only be used if they are in the national interest or do not contradict traditions and culture.

2.4 Judgements of the court indicate which of the parents to have custody of the children if the parties cannot agree. However, in cases of children born outside marriage, the *Native Lands Act* favours the father. When a child born out of wedlock reaches the age of 2, the father has an automatic right to custody if he accepts paternity. The case of *Tepulolo v Pou & Attorney General*, (2005) High Court Appeal Case No. 17/03, (unreported)⁴⁵, confirmed the application of some of the family legislation of Tuvalu in relation to the CEDAW and the CRC. *Tepulolo's* case concerned the issue of custody of an illegitimate child. Section 20 of the *Native Lands Act* provides for custody to be awarded to the father unless the putative father does not acknowledge paternity then custody would be with the mother until the child reaches the age of 21. Moreover, the High Court, in its decision in that case, firmly held that the CRC and CEDAW are not applicable to the laws of Tuvalu unless an Act of Parliament was passed to implement their provisions. Furthermore, the High Court stressed that s.20 of the *Native Land Act* is not mandatory; the wording demonstrated that they were discretionary. The Lands Court could make orders other than those provided for in s.20 of the *Native Lands Act* as long the order is in accordance with customary law.

2.5 Tuvalu also has a *Custody of Children Act* (Cap 20) which states in s.3(3) that the court shall regard the welfare of the child as the first and paramount consideration. However, s.3(5) states that custody orders are subject to the provisions of the *Native Lands Act*.

Human Rights

2.6 There is no Human Rights Commission in Tuvalu. Free legal services are provided by the Attorney General's office,⁴⁶ and also the People's Lawyer. The Office of the People's Lawyer was established under the *People's Lawyer Act*, (Cap 3A) to provide free legal advice and representation to Tuvaluans in all legal matters including but not limited to human rights violation complaints. In addition, there is also the Legal Rights Training Project under TNCW and funded by RRRT/UNDP which provides free legal advice, referral and counselling services. The said project also conducts human rights training throughout the country.

2.7 The Constitution gives Tuvaluan values and culture greater recognition for men and accepts the marginalization of women in most respects. Section 27 deliberately omitted sex as a ground of discrimination. The omission is a deliberate attempt to give effect to the spirit of the Constitution, in particular the respect and recognition required of traditional values and customs.⁴⁷ Therefore, the Constitution does not guarantee the equal treatment of men and women. In other words, it allows for the lawful recognition of discrimination against women such as land inheritance.

2.8 Traditionally, sons inherit the land as the daughters are expected to move to the husband's family once they are married. Therefore, women are dependent on their husbands' land once they are married whilst single women have to rely on their fathers or brothers' land. Such arrangements could leave the woman and her children vulnerable to abuse by the husband's family once he dies or the marriage breaks down. There have been cases where divorced women and widows were denied the rights over their matrimonial homes and other assets and this forced her and her children to return to her parents

⁴⁵ Can also be found in <http://www.paclii.org>

⁴⁶ Some 4-5 years back.

⁴⁷ Explanatory notes on Constitutional amendment review programme.

or siblings for support. As a result, it contributed to overcrowding which in turn gives rise to other social problems

Crime

2.9 In Tuvalu, there are not many civil cases. However, criminal offences are a common occurrence and most are alcohol related.

Table 4: Number of crimes, by type, by year and by gender (sex)⁴⁸

Year	Penal Code		By – Laws		Alcoholics		Public Order		Traffic Act		Other Acts		Total
	M	F	M	F	M	F	M	F	M	F	M	F	
2000	296	100	338	377	210	3	17	1	990	565	72	13	2982
2001	476	62	321	313	114	0	98	0	143	82	67	24	1700
2002	358	71	293	435	60	3	27	1	680	329	97	16	2370
2003	444	40	205	386	93	3	43	0	657	386	83	5	2345
2004	496	95	362	433	83	3	39	1	620	298	33	12	2475

(Source: Tuvalu, Social Data Report, 2005)

Traffic offences are the most common offences as stated in Table 4. More than 70 per cent of the offenders are men. In the last five years, the traffic offences accounted for 20-30 per cent of all offences committed. The second most common type of criminal offences are those under the Penal Code such as robbery, assault, embezzlement, rape, drunk and disorderly. According to Police there were 11 reported cases of domestic violence in 2000; 6 reports of violence including rape, assault, spreading false rumours, indecent acts in 2001 whilst 15 such cases were reported in 2002. There was an increase to 19 reports in 2003 with 21 reported cases in 2004. In 2005, the number of reported cases dropped to 16.

Sexual Offences

2.10 There is a range of sexual offences under the Penal Code (Cap 8) 1978 and these include rape which carries life imprisonment, attempted rape, indecent assault, defilement of a girl under 13 which carries life imprisonment, and defilement of girl 13-15 years which carries a 5 year sentence.⁴⁹

2.11 Furthermore, any female person of or above the age of 15 years who with consent permits her grandfather, father, brother or son to have sexual intercourse with her (knowing him to be her grandfather, father, brother or son as the case may be) shall be guilty of felony.⁵⁰ This is discriminatory because consent should not be a defence for any girl under 18 and this provision also fails to recognize the power imbalance between girls and women and their male relatives.

2.12 Moreover, it is important to note that under s.135(2) of the Penal Code ‘No prosecution shall be commenced for defilement of girl between 13-15 years more than twelve (12) months after the commission of the offence.’ This discriminates against girls of this age if there is a delay in police investigations which could result in the delayed commencement of prosecution.

⁴⁸ Emphasis added

⁴⁹ s128 s130,, s133, s134, s135

⁵⁰ Penal Code (Cap 8), s 156(5)

2.13 The Penal Code (Cap 8) provides penalties for sexual offences such as rape which carries life imprisonment, attempted rape, indecent assault, defilement of a girl under 13 which carries life imprisonment, and defilement of girl 13-15 years which carries a 5year sentence.⁵¹ According to Jivan and Forster (2006), although rape and defilement of a girl under 13 is treated seriously, the light sentence for girls 13–15 years is not as serious and is discriminatory. In addition, the sentences for all sexual offences designate maximum but not minimum sentences. This can result in low sentences given for sexual offences which do not reflect the gravity of such offences.⁵²

2.14 Government has plans to carry out a progressive review of its laws as outlined in the TKII. This will provide the opportunity to ensure that these issues are addressed in the revised laws.

2.15 Government, mindful of its limitations as a development and service provider, values the work of NGOs and Civil Society Organisations (CSOs). In this respect, TNCW, through RRRT/UNDP has been instrumental in conducting community workshops on human rights with focus on the:

- Right of women to own land versus traditional land ownership system;
- Right of women to be equal in family properties and land;
- Freedom from inhumane treatment versus customs and tradition;
- Traditional land ownership under the *Native Lands Act*;
- Police Human Rights training; and
- Human Rights and HIV/AIDS workshop for NGOs, CSOs, health workers and police officers.

2.16 Other NGOs and CSOs such as TUFHA and Tuvalu Red Cross have also been conducting gender and human rights training as part of their Life-Skills programmes for youths.

Article 3

States parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Legal and Policy Framework

3.1 The Constitution guarantees to everyone in Tuvalu the fundamental rights and freedoms. Accordingly, most existing legislations and policies treat men and women equally. However, certain existing laws such as the *Native Lands Act* and the *Marriage Act* (Cap 29) Tuvalu Lands Code expressly allow discrimination on the basis of sex. The *Native Lands Act* provides for the marginalization of women when it comes to land distribution. Each island has its own Lands Codes which are bound by customary laws. Only the Head of the extended family (Kaitasi)⁵³ enjoys fully all the rights associated with the use of certain lands. A woman can only have the opportunity as head of the kaitasi if her male siblings have died, or if she is the only child.

⁵¹ Sections 128, 130, 133, 134, 135 of the Penal Code

⁵² Jivan & Forster, 2006 In UNDP PC & UNIFEM Translating CEDAW Into Law

⁵³ Refers to a group of families who have equitable access to the land

3.2 Section 27 of the Constitution of Tuvalu defines the grounds of discrimination, and sex is not one of them. Therefore, discrimination on the basis of sex is not unlawful under the Constitution.

3.3 The Falekaupule Act 1997 is silent on the equal representation of men and women in Local Government matters. However, the practical effect of the references to ‘Tuu mo Aganuu’⁵⁴ of each island contributes to the marginalization of women. In addition, the limitations on the exercise of certain rights and freedoms under this *Act* apply equally to men and women who are under 50 years of age.

3.4 Although women are not members of all the Islands Falekaupule, their presence is strictly in compliance with traditional practices which are still valued by the people. They are usually engaged in settling disputes, for instance, in most disputes a certain relationship of ‘Tuagaene’⁵⁵/fakatuagaene’ or ‘tuatina’⁵⁶ becomes the most important arbiter in settling disputes of various sorts. For example, a female cross-cousin can resolve any conflict involving her male cousin no matter how tense and difficult the situation may be. In other instances, the maternal uncle will be very cautious about what he does or says in the presence of his nieces or cross-cousins so as not to offend them.

National Strategic Sustainable Development Plan

3.5 The advancement of women and progress towards gender equality are mutually reinforcing goals that require an integrated approach at the national level. This approach recognises the roles and contribution of stakeholders including government, non-governmental agencies, the media, and regional and international development partners (donors). The National Strategy for Sustainable Development Plan, Te Kakeega II 2005 – 2015 of Tuvalu Government, outlined specific areas of focus for social development. These include health, youth, housing, gender, sports and recreation, and poverty and hardship.⁵⁷

Department of Women’s Affairs (DWA)

3.6 In 1999 the women’s desk was elevated to a fully fledged Department consisting of five staff, an increase of four additional staff. Apart from the Director, a Research & Information Officer, a Project Monitoring Officer, a Women’s Development Officer and a Clerk made up the Department which was primarily tasked with advising Government on women and gender issues in Tuvalu.

3.7 DWA receives annual budget provisions to meet its operating and capital costs. The table below outlines the budgetary allocations of the Government specifically for women’s development. Although, it depicts a downward trend in budgetary allocation for the DWA, it must be noted that the drastic decrease from 2004 to 2005 of \$20,000 on the general operation of the department is due to the new budget approach of program budgeting where most of the supporting items for the work that each department does are centralized to the Headquarters of the Ministry of Home Affairs in which DWA falls under. Government contribution to TNCW remains at \$10,000.

⁵⁴ Tuu mo Aganuu refers to culture & tradition

⁵⁵ Refers to brother whereas fakatuagaene refers to a cousin [either a boy or a girl]

⁵⁶ Tuatina refers to a maternal uncle

⁵⁷ Te Kakeega II National Strategy for Sustainable Development 2005 - 2015

Table 5: National Budget Allocations for DWA – selected years from available reports

Year	Program	Recurrent Funding	Development Funding (XB funding) ⁵⁸
2001	1. The general operation of the Dept 2. Gender mainstreaming 3. Grant to TNCW 4. UNV	\$71,062	\$14,050 \$10,000 \$11,430
2002	1. General operation of Department 2. Grant to TNCW 3. Gender mainstreaming 4. Twin Cab	\$60,356 \$400	\$10,000 \$45,000
2003	1. General operation of Department 2. Grant to TNCW 3. Gender Mainstreaming	\$55,631 \$9750 \$4000	
2004	1. General operation of Department 2. Grant to TNCW (EU)	\$46,503 \$10,000	
2005	1. General operation of Department 2. Grant to TNCW (EU)	\$28,166 \$10,000	

(Source: Tuvalu National Budget, 2001 – 2005)

As shown in the table above, the work of the Department is also complemented by that of other government departments and women's civil society organisation (CSOs) both local and international, some of which have been working for decades to improve the status of women in Tuvalu.

3.8 In 2004, UNDP funded the GSF project (2004-2007) for the Government of Tuvalu. This was based on the outcome of the UNESCAP review of the last phase of the UNDP supported Strengthening Local Government project. The review in 2002 confirmed the lack of understanding of gender issues and active participation of women in decision making processes in the island councils. The GSF project aimed to contribute towards more equitable development through practical advice, human resource development through training on gender issues, and policy analysis to genuinely improve the gaps between Funafuti and the outer islands. Consequently, emphasis has been on gender sensitivity training, community development, legal literacy training, business training, environmental management, leadership development, health & HIV and AIDS awareness and recently, awareness on Violence Against Women.

3.9 Tuvalu has made significant progress in the area of maternity provisions which allow women to take sixty working days leave with full pay in accordance with the Employment Act 1966. Breastfeeding policies which allow mothers the liberty to breastfeed their babies twice a day are in force in both the public and private sectors.

3.10 TANGO has been assisting women's development by securing funds for water tanks roof catchments project on Nui Island. It also conducted workshops for women in the outer islands on life skills, including developing and writing project proposals. TANGO also assisted in building the capacity of the TNCW in establishing good accounting systems and computing skills. It has also conducted business management training for its member organizations.

⁵⁸ Foreign aid funded

3.11 TuFHA has the primary objective of addressing the sexual and reproductive health of young men and women. In addition, TuFHA has been conducting life skills training programmes for young women and men. Such training includes sewing, screen printing, tie dyeing, net making, carving etc. The main aim of the training is to equip them with necessary skills for their livelihood including micro enterprise development.

3.12 In Tuvalu, most churches play a major role in the well being and spiritual development of its members which include women. Whilst women are absent at the leadership hierarchy of the church, their participation in community development is significant. Based on the premise of good and healthy living, women's church organisations complement the work of local government in implementing tangible projects such as providing water tanks, community kitchens etc. These are normally funded through foreign aid assistance. In certain islands, wives of retired pastors have been conducting regular Bible reading classes to develop their spiritual understanding of the fundamental Christian principles and values which are vital to Tuvalu, being a Christian nation and at the same time improve the reading capabilities of children.

Disabled Women

3.13 Tuvalu is party to the UNESCAP Asia-Pacific Proclamation and Decade for People with Disabilities. Disabled persons are the most vulnerable and neglected members of society and they are almost invisible. They constitute about 1.6 per cent of the total population and there are more females than males.

Table 6: Number of Disabled people, by gender, age group and type

Types	Age range	Female	Male	Total
Mongolism	8 - 17yrs	2	4	6
Mentally ill	9 - 20 yrs	4	8	12
Paraplegics	12 - 28 yrs	2	6	8
Polios	10 - 46 yrs	3	3	6
Deaf	6 - 22 yrs	8	10	18
Hemiplegics	8 -24 yrs	20	10	30
Hydrocephalus(big head	6 - 18 yrs	5	3	8
Totally Blind	30 - 50 yrs	2	4	6
Low Vision	10 - 35 yrs	8	10	18
Multiples	10 - 40 yrs	20	10	30
Amputees	20 - 40 yrs	2	4	6
Albinism	7 - 40 yrs	10	2	12
Total		86	74	160

Source: *Tuvalu Social Data Report, 2005*

3.14 Like most other Pacific countries the social systems of communal living, help and assistance provide support for people with disabilities. There is no existing structure or institution to look after them and the responsibility for their well being rests upon their families (nuclear & extended) with assistance from the Tuvalu Red Cross Society (Social Data Report, 2005). The disabled are most disadvantaged in accessing public and social services including education, employment and their

participation in other social activities is limited. There is a need to: a) support the full and effective participation of persons with disabilities in social life and development; b) advance the rights and protect the dignity of persons with disability; c) promote equal access to employment, education, information, goods and services; d) provide institution and welfare support to people living with disability. In order to address these issues, Government in its Social Policy 2001 has outlined two objectives for the Disadvantaged and Vulnerable and these are to:

- Work with island communities and national bodies to ensure that persons with disabilities are provided with services that make their life more comfortable and most importantly, encourage and bring out their full potential to participate in national development; and
- Work with Cabinet and stakeholders to design a support programme that helps persons with disabilities to lead better lives.

3.15 To implement those objectives, the following strategies have been adopted by the Department of Community Affairs to:

- Implement all key points of the Asia-Pacific Proclamation on and Decade for People with disabilities;
- Create awareness on the rights and abilities of people with disabilities; and
- National Building Code incorporates ESCAP recommendations on accessibility.

Public facilities and amenities are not disabled friendly. There are no special schools to cater for disabled and handicapped children but this has been included in the Education Strategic Plan 2006-2010 for the Ministry of Education.

Government acknowledges the work of the Tuvalu Red Cross Society which has been responsible for the care of people with disabilities.

Article 4

Adoptions by States parties of temporary measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail, as a consequence, the maintenance of unequal separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

Adoption by States parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity, shall not be considered discriminatory.

Legal Framework

4.1 The Constitution of Tuvalu has provisions for Parliament to make Temporary Affirmative Action in line with the requirements of this Article. Section 27(f) quote

‘by which any person or group may be given favourable treatment or unfavourable treatment which, having regard to the nature of the treatment and to any special circumstances of the person or group, is reasonably justifiable in a democratic society having a proper respect for human rights and dignity.’

There are no existing temporary measures aimed at accelerating the de facto equality of men and women in all sectors of the economy.

4.2 There have been no formal temporary measures since the ratification of CEDAW even though there are significant changes regarding women's lives. Traditionally, most Tuvaluans believe, the customary and traditional settings of indigenous lifestyle have always treated women fairly. They don't see the essence of applying the Convention. However, Government considers that appropriate measures around targeted programmes are vital to ensure their credibility and public acceptance and be major actors along with men in the development of Tuvalu as a whole.

4.3 Government continues to address issues of inequality through the legal and policy framework rather than the use of temporary special measures. For example, the revised Scholarship Policy allows for an equal number of awards to both men and women. Early in the 1980s and 90s, female students had their scholarships terminated once they are married to non Tuvaluan citizens. The policy has since changed and female students are now able to retain their scholarships even though they may marry non Tuvaluan citizens in the course of their studies, as long as they (women) do not renounce their Tuvaluan citizenship.

4.4 Although there has only been one woman in Parliament since 1978, there has been no temporary special measure to facilitate women's entry into politics. In its effort to address this issue the national women's machinery continues to pursue 'Women in Politics' programmes to motivate and inspire women to step into what Tuvaluans view as "men's world". As mentioned earlier, the stereotyped traditional roles of men and women affect the latter's involvement and participation in formal decision making processes including Parliament.

4.5 Moreover, in the formal arena, very few women participate at the decision making level or sit on higher positions based on merit. Although there is no discrimination for including women in decision making at the community level, special measures need to be taken for the sole purpose of securing adequate advancement or creating an environment where everybody including women enjoy their full rights.

Article 5

States parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases

Cultural and Traditional Practices

5.1 In Tuvalu, traditional customs are deeply rooted and ingrained culture and religious beliefs influenced and shaped the Tuvaluan ways of life. In some ways, these inhibit women's full integration into the mainstream of development and their advancement in all sectors or fields of endeavour. Women are often known to be conservative. The social and cultural patterns of conduct of men and women result in the stereotyped gender roles. Most women at the community level accept these roles (without question) as obligations. Traditionally, they are home managers, caring for the elderly and children while men are heads of families. Therefore, men make decisions while women implement them. These roles extend into community decision making bodies which are largely dominated by males because of these societal norms. Although women are allowed to participate in decision making in some Falekaupule, the environment is not conducive to encourage their participation.

5.2 The revised national women's policy aims at maintaining cultural values that promote the status and well being of women and encourages modifying traditional practices that hinder the advancement and full participation of women in social and cultural activities. Tuvaluans value their culture and tradition and the traditional social unit of Tuvalu is in many folds. At one end is the traditional community, a setting common to all island communities. Such comprises the paramount chiefs, associate chiefs, heads of families (matai)⁵⁹ clans (mataniu)⁶⁰ men and women, youths and children. In this setting, male elders make important decisions for the community as well as individual clans and extended families. On the other end is the family unit.

5.3 In the traditional context family includes the nuclear family together with that of the extended family. All these social units interact. While nuclear family units are in existence, the influence of traditional norms especially the notion of *kaitasi*, makes it impossible to consider nuclear families as a separate independent entity. The extended family in this context is premised on the notion of sharing and caring. This particularly becomes very beneficial in the event of the birth of a child when the women of the expectant mother's own family will prepare her mats whilst the husband's sisters and cousins will prepare the mats for the newborn baby. Then both families will organize ceremonial feasts after the birth. The collective responsibilities of these families also extend to organizing wedding where such families pool their resources to pay for the wedding and also in exchanging gifts between the bride and the bridegroom's families and the consequent feasting and celebrations. In the event of the death of a family member, while some members are mourning, other *kaitasi* members will busy themselves preparing refreshments during the condolence gathering. On the night of the funeral, the immediate family with their relatives will assemble for prayers and supper. The period of mourning will continue for several days or even weeks. The matai determines the duration and at the end of mourning, a big feast called 'aitagi' is held.⁶¹

5.4 In Tuvalu, the family structure and networking support system is the main contributor to welfare assistance, youth education, and support for the elderly, the disadvantaged and the vulnerable people. Traditionally, customary norms dictate men as heads of families. The vertical relationship between men of different ages within society prescribes the eldest as the head of the family. Women regardless

⁵⁹ Refers to the chief of a clan

⁶⁰ Refers to a clan

⁶¹ Tuvalu A Way of Life

of age are expected to listen to the men although parents and in this instance mothers, are given special consideration. Their decision and advice may influence any of the male head's decisions. This norm also requires male heads of the families to carry with them certain obligations. In this context, the eldest son is expected to care not only for his family, but also for all his brothers and sisters. Society expects a woman to fulfil these obligations as well besides, her reproductive role and other household maintenance domestic chores when she assumes the role of head of the family. Women who are in paid employment also have these added responsibilities.

5.5 In terms of women's role, Tuvaluan society perceive women within the stereotyped role of mother, and housewife with full responsibilities of doing household chores, caring and nurturing children whilst men are the head of the household and the authority within the family. This role is extended beyond the home into the community where decision making institutions are dominated by men. Socio economic status brought about certain changes in gender roles in families where a successful female may become the head of the family. Similar to men, women as heads of families are also expected to fulfil all obligations and responsibilities synonymous with being the head of the family.

5.6 A shift from living in extended to nuclear families minimises the influence of parents on the affairs of young couples. Although this is done out of their parental love, guidance and care, sometime such advice brings trouble to the homes if parties do not agree. This practice violates some of the human rights of women as they are seen and traditionally expected to abide with tradition and the cultural settings of the family.

Stereotyped Attitudes

5.7 The stereotyped attitude and practices have a profound impact on formal decision making as well, where women are seldom visible. Practices vary markedly from island to island when it comes to participation in decision making. All the islands of Tuvalu except Nui and Nukufetau provide equal treatment for the participation of men and women in the Falekaupule decision making. Some islands allow women heads of households to participate and make decisions in island discussions. Others allow women as heads of *mataniu*, hence allow them to make decision. A man who does not have a *mataniu* is not allowed to make decisions. Some islands simply allow anybody who has attained the age of 50 years to partake in decision making in the Falekaupule. However, the ADB 2003 Hardship Report highlighted that although women are not represented in the community or island councils, their needs were seen to be increasingly recognised by the all male council of elders.⁶²

5.8 In the context of culture and tradition, women are at liberty to join civil society organizations and some of the most active civil society organizations which exist in Tuvalu are those of women. All the islands have an island women's organisation with various offshoots and they make their plans in conjunction with island's development plans and needs. The various branches also have their own structure for managing the group with the ultimate aim of supporting the women's island group. In this setting, women are free to do absolutely anything they decide they want to do. In most cases, and

⁶² ADB, 2003 Priorities of the People : Hardship in Tuvalu

possibly because of “cultural expectations rather than prohibitions,”⁶³ women always strive for ways of serving their men and Falekaupule decisions rather than themselves.

5.9 Changing attitudes and social perceptions is a long process. However, efforts are underway to bring about positive attitudinal changes through gender sensitivity training both at official level and within communities. Following the Department of Women Gender Sensitivity training conducted throughout the islands of Tuvalu, participants indicated that they were now more receptive to the gender approach which promotes the equality of men and women and also there is increased awareness of CEDAW. “There is substantial evidence that reflect that respondents have greater understanding of commitments made by the Tuvalu Government to international conventions and declarations. This reflects a good understanding among the people of what their Government has committed itself to e.g. CEDAW and the importance of these fulfilling such commitments.”⁶⁴ Even though women are still being marginalised, it must be acknowledged that changes in the ingrained attitude and perception against women are taking place at a very slow pace. Increase in women’s educational attainment have also enhanced the type and level of work in which women can participate in apart from their traditional gender roles.

5.10 In Education, the curriculum is being revised with a focus on human rights integrating all the important emerging factors. Due to budgetary constraints, most of the materials and programs including infrastructure for human rights education are heavily dependent on donor funding. Mass awareness through media and local training workshops heavily fall on the Tuvalu National Council of Women’s UNDP/RRRT’s Legal Rights Trainer. Besides dealing with legal and Human Rights issues, TNCW also provides counseling and referral services for women.

5.11 Amongst others, cultural barriers and attitudes are reasons why some parents find it difficult to devote much time in providing reproductive health education to their children. Over crowdedness and lack of understanding of such ‘taboo’ issues exacerbate the situation and in most cases, children had to find out for themselves. This is also due to the conservative nature of the society, which makes it difficult for parents or even teachers to discuss the subject with their children or students. Some information sessions have been held in Primary schools under the authorisation of parents for the attendance of their children on subjects about reproductive health issues. The Ministry of Education is devising methods of incorporating family life education through the school curricula.

5.12 Social norms and gender roles entrenched in women made them more cautious about the welfare of the family. Such norms allow husbands to discipline their wives if she commits adultery while under the same circumstances of a husband committing adultery, the society especially elders in the church usually discipline the couple and counsel both to avert separation and divorce. Domestic violence is usually viewed by people including the Police as a private family matter. Although there are not many reported cases of domestic violence or cases being dropped, a lot of women are victims of domestic violence, which can be in the form of verbal, physical and emotional abuses. Women, particularly those who are economically dependant on their husbands are always reluctant to leave violent relationships for their children’s sake and their own welfare as well. The customary practice of

⁶³ Custom and Human Rights in the Pacific, consultation May 2006

⁶⁴ Kofe & Taomia In PIFS 2006 ‘A Woman’s Place is in the House – the House of Parliament’

building the couple's matrimonial home on the husband's land, makes it all the more difficult for women who are subject to physical and other kinds of abuse to leave their matrimonial homes so they continue to endure the suffering.

Measures to address these issues

5.13 The national women's machinery continues to be challenged by the persistence of traditional stereotypical views, societal attitudes, preferences, biases and prejudices. These had developed over centuries and are products of a complex mix of culture, history, custom and religion which will take a while to change. Nonetheless with renewed national commitments, progress is envisaged to accelerate. This is evident when the Minister for Home Affairs, Hon. Willy Telavi when opening the International Women's Day in 2006 said ...

“Today we commemorate the IWD with women all over the world in their strive to promote the status of women. In regard to the theme, women have been abused by their husbands, brothers, men and possibly by women too. The theme itself is wide that we need to find possible solutions to end violence against women and girls. It is our responsibilities as parents to bring up children to understand these issues. Tuvalu has its own laws to protect anyone including women & girls from such violent behaviour. The accused will always be dealt by the court. Such incidents must be reported to the Police Force, where they will file the case to be taken up in court, and if we fail to report such cases it will be assumed that we allow such incidents to happen in our country.”

5.14 Some of the strategies to raise awareness on issues such as violence against women are radio programmes featuring discussions on the impact of the problem on women and children. Gender Sensitivity Training Workshops have been conducted in all islands of Tuvalu targeting both men and women including island leaders and youths. This training is aimed at creating awareness and seeking attitudinal changes which is vital for gender inclusive and sustainable development. These efforts are complemented by human rights awareness programmes by TNCW through RRRT/UNDP. Changing attitudes and stereotypes is difficult, however it must be acknowledged that change is taking place.

Media

5.15 Radio is the commonly used medium of dissemination of information and advocacy to the whole country. The Tuvalu Media Corporation is a corporate entity established under the *Tuvalu Media Corporation Act 1999*. Both Government and Non Government Organisations run specific programmes for women and youths in the local vernacular. With regards to television, the Tuvalu Telecommunications Corporation recently introduced overseas television services through Sky Pacific based in Suva, Fiji. In these regards, Government does not have any direct powers to influence television programming which is driven by consumer demand.

Article 6

States parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

Legal Provisions

6.1 Section 148 of the Tuvalu Penal Code makes it an offence for anyone to operate a brothel as well as criminalizing the aiding or abetting of prostitution by anyone.⁶⁵ It is also a criminal offence for parents hiring out girls for prostitution.⁶⁶ Defilement of a girl below the age of 13 is a serious criminal offence and carries a life sentence.⁶⁷ Trafficking of women is protected under s136 (b), (c) and (d).

Trafficking

6.2 Trafficking is at present, not evidently seen in Tuvalu. Nevertheless, the ever increasing travel and Trans national labour mobility can generate the problem. Although this may not be happening now, the global trend and outside influences do not guarantee a safe environment for women and children. Therefore, the dissemination of the prevention and control of human trafficking needs to be seen in this light, and to ensure the continual prohibition of such acts for the protection of the health and safety of Tuvaluan people. Furthermore, Tuvalu's geographic isolation makes it relatively impossible for human trafficking from other parts of the world. Transport through air or sea to Tuvalu is through Fiji. Fishing boats or Yachts undergo close scrutiny by the Department of Fisheries and Police. Whilst tourism to Tuvalu is slowly increasing, any suspicious activity is closely monitored by the community and Police.

Prostitution

6.3 Section 148 of the Tuvalu Penal Code (Cap 8) makes it an offence for anyone to operate a brothel as well as criminalizing the aiding or abetting of prostitution by anyone.⁶⁸ It is also a criminal offence for parents hiring out girls for prostitution.⁶⁹ Defilement of a girl below the age of 13 is a serious criminal offence and carries a life sentence.⁷⁰ Trafficking of women is protected under s.136(b), (c) and (d).

6.4 Traditional Tuvaluans view prostitution seriously with a negative perception because it is against Christian beliefs and values. It brings not only stigma to the person who engages in it, but to the family as a whole. Girls and young women who indulge in sexual promiscuity are likely to face 'disciplinary' action in the form of physical abuse from brothers, male cousins and even the parents.

6.5 Prostitution is at present, not evidently seen in Tuvalu and is not considered a problem because there is also no official report on the problem. Nevertheless, the ever increasing travel and Trans national labour mobility can generate the problem which Tuvalu should be prepared for. However, there may be a possibility of informal prostitution being present with the increasing number of sexually transmitted infections. In addition, girls under the influence of alcohol (which is out of the social norms) are vulnerable to abuse by men and may lead to sexual involvement. Such behaviour brings stigma to the family and usually draws negative comments from society. As a result these

⁶⁵ Penal Code 1965 s 145 and 146

⁶⁶ ibid 140 - 142

⁶⁷ ibid s138

⁶⁸ Penal Code 1965 Section 145 and 146

⁶⁹ ibid Section 140 - 142

⁷⁰ ibid. Section 138

victims are likely to have low self esteem and often feel neglected, caring less about themselves thus over exercising their human rights.

Preventative Measures to Curb Trafficking.

6.6 Regardless of its scale, Government in partnership with civil society organisations continue to raise awareness of the dangers and associated problems of human trafficking and prostitution. TuFHA also works closely with young people who are at risk of sex related issues. A lot of projects were focused at encouraging young people to look at options for their future and to be aware of sexually transmitted diseases.

Article 7

States parties shall take all appropriate measures to eliminate discrimination against women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and to perform all public functions at all levels of government.
- (c) To participate in non-governmental organisations and associations concerned with the public and political life of the country.

Constitutional Context

7.1 Every Tuvaluan citizen, regardless of sex, and who is not disqualified under s.92 of the Constitution is entitled to vote in all elections of Parliament.⁷¹ However, that person must be registered in an electoral district in order to exercise his or her right to vote. Therefore, even if a person is qualified to vote but did not register during the registration period for a particular election, that person forfeits his or her right to vote.⁷² The grounds for disqualification under s.92 equally apply to any citizen regardless of sex.

The Constitution also makes provisions for elections of Members of Parliament. Section 87 provides for the nature of elections which states:

“(1) Members of Parliament shall be elected under a system of universal, citizen, adult suffrage, in accordance with this Constitution and any law made for the purposes of s.89 (electoral laws).

(2) All contested elections of members of Parliament shall be held by secret ballot.

(3) The provisions of subsection (2) shall not be considered to be contravened by a law that makes reasonable provision for assistance in voting to be given, on request, to any person.”

⁷¹ Tuvalu Constitution s. 90 - 92

⁷² Electoral Provisions (Parliament) Act 1980 s. 5

In addition, s.90(1) states the right to vote as:

“Subject to the succeeding provisions of this section, any person who is registered under an Act of Parliament as an elector for Parliamentary elections in an electoral district is entitled to vote, in such manner as is prescribed, in an election of a member of Parliament for that district.”

Electoral Laws

7.2 Tuvalu’s electoral system is first past the post system (single member plurality). This system was adopted from the colonial era and has survived since Independence in 1978. Tuvalu does not have political parties. The *Electoral Provisions (Parliament) Act 1980* divides Tuvalu into eight electoral districts as set out in Schedule to the Act, in alphabetical order as follows;

Electoral	Area	No. of Representatives
Funafuti District	Funafuti Island	2
Nanumanga	Nanumanga Island	2
Nanumea	Nanumea Island	2
Nui	Nui Island	2
Niutao	Niutao Island	2
Nukufetau	Nukufetau Island	2
Nukulaelae	Nukulaelae Island	1
Vaitupu	Vaitupu Island	2

Moreover, s.5 of the Act states that any person who is a citizen of Tuvalu can be registered as an elector on reaching the age of 18 years and be registered on the electoral register of his or her home island. The Act also provides a number of criteria to determine a person’s home island which includes birth in that electoral district or that his mother or father (giving both parents equality of rights) was born in that electoral district.⁷³

7.3 Apparently, the Constitution and electoral laws provide equal opportunities for women and men to contest in elections. Despite the legislative provisions for equal participation, in reality there are obstacles which preclude women from contesting in elections.

Barriers to Participation of Women in Politics

7.4 While the laws provide equal opportunities for men and women, in practice the latter have to overcome cultural barriers in contesting for elections. Such barriers include:

- i) The traditional and stereotype perceptions of women’s priority roles confine them to the home as home maker, care giver and nurturer of the family. Men on the other hand, do not have those confinements. They are expected to take part or to be at the forefront of decision making in the Falekaupule, Kaupule and island communities. Hence, their contesting in elections and going into Parliament is a natural transition for them.

⁷³ Section 5(3) of the Electoral Provisions (Parliament) Act 1980.

- ii) Convincing the husband and family members to support her political participation requires great efforts.
- iii) Financial constraints as well. Women do not normally have sufficient financial resources readily available for campaigning. In reality, the more money a candidate has the more votes he gets to win.
- iv) The nature of voting also contributes to the marginalisation of women. In Tuvalu, voting is mainly based on relational and family lines rather than on the merits of candidates. The situation is exacerbated by the absence of political parties which would have been a tool for affirmative action through allocation of safe seats to women.
- v) Election candidates often work individually or in some cases partner with a fellow candidate who is likely to be a close relative from within the same constituency. Such practices also discourage women from contesting given the very minimal number who stand for elections.

As can be seen in Table 7 below, more efforts is required to improve the representation of women in Parliament.

Table 7: Women's Representation in Parliament 1978-2006

Year	Male	Female	Total
1978 – 1981	12	0	12
1982 – 1985	12	0	12
1986 – 1989	14	1	15
1990 – 1993	14	1	15
1994 – 1997	15	0	15
1998 – 2001	15	0	15
2002 – 2005	15	0	15
2006 – 2009	15	0	15

(Source – Parliament Office Records, Tuvalu)

7.5 The above table shows that during the period from 1986 – 1993 there was only one female Parliamentarian. Ms Naama Maheu Latasi representing the Nanumea constituency was appointed the Minister for Health, Education and Community Services during her first term in office. The daughter of a prominent politician in Nanumea, Ms Latasi was able to get into Parliament through her extensive involvement with development issues for her constituency and the advancement of Tuvaluan women as well as the tremendous support from her husband and her family. She served two consecutive terms in Parliament.⁷⁴ Unfortunately, no other woman has been voted into Parliament since then even though women have contested in subsequent national elections. In 2002 there were two women candidates but were unsuccessful. Again in the recent election in August 2006, another two women contested but both were not successful as well.

7.6 In February 2006, the Pacific Islands Forum Secretariat (PIFS) commissioned a research on Women's Political Participation in Tuvalu. The findings which were identified included:

⁷⁴ Kofe & Taomia In PIFS 2006 'A Woman's Place is in the House – the House of Parliament

- a) The Tuvalu social structure, its traditions and culture was identified as the main obstacle to the advancement of women into the political arena;
- b) A large number of people in Tuvalu do not understand what the election legislation of Tuvalu provides for them as voters and as candidates and people have very limited understanding of the electoral system;
- c) Lack of confidence among women that they can participate in making decisions. This is attributed to lack of education to give them the confidence to contest in general elections;
- d) The lack of finance to assist women with their election campaigns (PIFS, 2006 – p250).

Decision Making in Government

7.7 There are 885 positions within the Tuvalu Public Service, of which women occupy 351 posts and 433 for men whilst 101 are still vacant. Of the occupied posts in 2006, women comprise 22.22 per cent of the upper echelon while men make up the majority (77.78 per cent). As seen in Table 8, this trend has been consistent for the past five years.

Table 8: Senior Positions held by Men and Women in Government and Corporations 2002-2006

	Yr2002		Yr2003		Yr2004		Yr2005		Yr2006	
	M	F	M	F	M	F	M	F	M	F
Government										
Perm. Secretaries	11	1	11	1	11	1	11	1	11	1
Senior Asst. Sec.	4	1	4	1	4	1	4	1	4	1
Asst. Sec	10	2	9	3	9	3	9	3	9	3
Directors	13	0	12	1	12	1	12	3	12	3
TOTAL	38	4	36	6	36	6	36	8	36	8

(Source : Tuvalu Civil List 2002-2004 & official records in Personnel & Training Dept)

In both the corporate sector and statutory corporations except for NGOs, men dominate the positions of general managers of all these entities as can be seen in Table 9 below

Table 9: Representation of Women in Private & Public Corporations 2002-2006

	Yr 2002		Yr 2003		Yr 2004		Yr 2005		Yr 2006	
	M	F	M	F	M	F	M	F	M	F
General Managers	12	1	10	1	10	1	10	2	10 (80%)	2 (20%)
Executive, Coordinators [NGOs]	3	4	3	4	3	4	3	4	3	4
TOTAL	15	5	13	5	13	5	13	6	13	6

(Source: Tuvalu Civil Lists 2002-2004 & Official records in the Personnel & Training Dept.)

7.8 The General Managers position for each of these corporations are predominantly occupied by males who make up 80 per cent with the remaining 20 per cent by women.

7.9 Statutory boards are those appointed under specific legislations to oversee the functions of entities set up under such legislation.

7.10 Details of membership on these boards as outlined below, indicate that women comprise only 11 per cent while men make up the 89 per cent. Women are only visible in five of the eleven boards. They are totally absent from important entities such as DBT, NBT, TCS, TEC, and TTC.

Table 10 : Membership of Statutory Boards

Statutory Boards	F	M	Total
1. Tuvalu National Provident Fund Board	2	4	6
2. National Bank of Tuvalu Board	0	5	5
3. Development Bank of Tuvalu Board	0	5	5
4. Tuvalu Telecommunications Board	0	5	5
5. Tuvalu Electrical Operation Board	0	5	5
6. Tuvalu Co-operative Society Board	0	10	10
7. Tuvalu Media Corporation Board of Directors	2	6	8
8. Vaiaku Langi Hotel Board of Directors	1	4	5
9. Philatelic Bureau Board of Directors	1	4	5
10. National Fishing Corporation of Tuvalu	0	5	5
11. Price Control Board	1	3	4
Total	7 (11%)	56 (89%)	63

Source: Dept. of Women records

7.11 Whilst there is a low representation of women on those boards, it must be noted that vacancies for membership are normally advertised and selection is based on merit with the designated Minister making the appointment. There is evidence of qualified women but do not show interest for such appointments. For example, there was no woman applicant for the recent advertised vacancy for a TNPB board member. This is a clear indication that women may not have the time for additional responsibilities or they may have undermined their own capacities to serve on these boards.

7.12 As stated earlier, women outnumber men in senior executive positions within the NGO fraternity. In these NGO boards and committees, there is a higher presence of women due to the inclusion of the TNCW which is predominantly occupied by women. On closer scrutiny, one will also find that most of these NGOs are involved in social well being and other related issues.

Table 11: NGO Boards & Committees

	Male	Female	Total
1. Island Care Committee	3	2	5
2. TANGO Executive Committee	4	4	8
3. Waste Management Committee	6	0	6
4. Project Working Committee	4	16	20
5.. Project Coordination Committee	3	20	23
6. TuFHA Board of Directors			
7. Tuvalu National Council of Women	16		16
Total	36 (46%)	42 (54%)	78

Source: Dept. of Women, 2006

7.13 In 2006 women comprise 38 per cent of members of Commissions, Boards and Committees. However, on closer examination women dominate the HIV and AIDS, and CEDAW committees. Women are marginalised in important decision making bodies like the Public Service Commission [PSC], the Development Co-ordinating Committee (DCC)⁷⁵ and also the Disaster Co-ordinating Committee.

Table 12: Representation of Women on Government Boards & Committees 2006

Commissions, Boards & Committees	Female	Male	Total
1. Public Service Commission	1	3	4
2. Development Coordinating Committee	1	12	13
3. TUNAC – Tuvalu National AIDS Committee	7	4	11
4. Tuvalu National Commission for UNESCO	4	2	6
5. DSAP Committee	5	4	9
6. MDGs Task Force	3	6	9
7. CEDAW & Gender National Coordinating Committee	8	5	13
8. Disaster Coordinating Committee	1	12	13
Total	30 (38%)	48 (62%)	78

Source: Public Service Commission

7.14 Women's representation at the formal sector needs to be improved. Fundamental is appropriate training and education at all levels to build confidence and promote better participation of women in

⁷⁵ Committee comprises Permanent Secretaries only.

the formal decision making institutions including Parliament. To address the anomaly, the Government's revised Women's Policy aims to develop programmes and training to encourage women to effectively participate in leadership and other decision making bodies. To date, gender training has been on going to accelerate changes in attitudes towards gender issues among civil servants and other stakeholders. Other trainings have been conducted with emphasis on leadership and decision making. This is envisaged to facilitate the achievements of desired outcomes of empowering women to effectively participate in formal decision makings. Government, in pursuing gender mainstreaming with the ultimate goal of achieving equality in all spheres of work, would consider developing an Equal Employment Opportunity policy to accelerate the process. It would be prudent also to integrate gender into good governance training within the civil service as well as at the local government level.

Local Government (*Falekaupule*)

7.15 At the local level, the main decision making body is the Falekaupule. However, decision making structures and practices vary from one island to another. Prior to 1997, decision making evolved around traditional and customary practices whereby elderly men make decisions for the community and implemented by women and the rest of the community. The enactment of the Falekaupule Act 1997 brought about certain changes which include the setting up of the Kaupule as the executive arm of the Falekaupule. The Act was also envisaged to pave the way for inclusion of women in formal decision making processes. Whilst some communities make allowances for women to partake in decision making with men in Falekaupule meetings, others do not allow women at all. Practices have shown that existing traditions and culture continue to inhibit the full and active participation of women in the Falekaupule. Membership of the Falekaupule is confined to men and women over 50 years of age; however women in most case are not seen although they are usually encouraged to attend and participate. This is mainly due to the 'Tuu mo Aganuu' of each island.

7.16 Whilst the Falekaupule is the main decision making council, its executive arm is the Kaupule. Members of the Kaupule are elected by the people and the only requirements are that;⁷⁶

- a) the person is not a public officer;
- b) the person is not an undischarged bankrupt;
- c) the person in the immediate 5 years preceding the election for a member of the Kaupule had not been convicted for misappropriation of *Falekaupule* funds in excess of \$200;
- d) is not serving a prison sentence;
- e) is not certified insane or adjudge to be of unsound mind;
- f) is not convicted of any election offence;
- g) does not hold the position of island magistrate;

⁷⁶ Falekaupule Act, 1997 s.9.

- h) is not a member of the Lands Court nor the Lands Appeals Panel; and
- i) the person consented to being elected.

7.17 Under the *Falekaupule Act 1997*, each island is required to elect six persons to be members of the Island Kaupule (council). Membership of these Kaupules have been dominated by men, however it must be acknowledged that some changes are beginning to happen as can be seen in the table below.

Table 13: Elected members of Kaupule by gender 1997-2005

Island	1997			2001			2005		
	M	F	T	M	F	T	M	F	T
Nanumea	6	0	6	4	2	6	6	0	6
Niutao	6	0	6	4	2	6	5	1	6
Nanumanga	6	0	6	6	0	6	6	0	6
Nui	6	0	6	6	0	6	6	0	6
Vaitupu	6	0	6	4	2	6	6	0	6
Nukufetau	6	0	6	4	2	6	4	2	6
Funafuti	6	0	6	6	0	6	6	0	6
Nukulaelae	6		6	4	2	6	6	0	6
Total	48	0	48	38 (79.17%)	10 (20.83%)	48	45 (93.75%)	3 (6.25%)	48

Source: Department of Rural Development, 2006

7.18 Each Kaupule has at a minimum five permanent staff which includes the Secretary, Treasurer, Community Planning & Development Officer, Clerk and a Community Worker. Staff composition is as follows:

	M	F	Total
Secretary	7	1	8
Plan/dev. Off	8	-	8
Treasurer	5	3	8
Clerk	1	7	8
Community Worker		8	8

As evident from the above, there is only one female Secretary out of the eight island Kaupule.

7.19 Kaupule functions in a similar fashion to Parliament. Each Kaupule has Standing Orders in the vernacular language, and standing committees are appointed accordingly. These standing committees have specific areas of concern namely, health; education; agriculture and fisheries; communication and transportation and infrastructure; and budget and appropriations.⁷⁷ Even though women in most island communities are not represented in the Kaupule, the *Falekaupule Act 1997* provides them the opportunity to serve in the various Kaupule standing committees in their respective islands. It is encouraging to note that women's participation in these committees indicates their invaluable contribution for progress and socio economic advancement of their communities.

Table 14 shows the composition of members of these Standing Committees.

Table 14: Number of Women in Kaupule Standing Committees 2005

Island	Elected Kaupule Mem.	Kaupule Committees							Courts	
		PHCC	Pri Sch	IDCC	CFCC	Disaster	Presch	Budget	Island	Lands
Nanumea	0	10	4	5	1	1	0	1	1	0
Nanumanga	0	6	5	6	0	2	0	3	0	0
Niutao	1	4	5	3	1	0	0	2	0	0
Nui	0	4	4	2	1	0	0	2	1	0
Nukufetau	2	4	3	3	2	3	0	3	1	0
Vaitupu	0	3	6	7	0	1	0	1	1	0
Funafuti	0	10	16	4	0	2	5	2	2	0
Nukulaelae	0	6	5	2	0	0	4	2	2	0

Key: PHCC (Primary Health Care Committee; Primary School Committee; IDCC (Island Development Coordinating Committee; CFCC (Community Fisheries Centre Committee); Preschool Committee; Budget Committee

Whilst women are actively involved in standing committees, there is a notable absence of women as magistrates in the Island and Lands Courts.

7.20 Amongst other functions, each Kaupule is required to set up a general fund for the purpose of revenue collection and expenditure payment. Kaupule have authority to raise revenue in their area through the imposition of taxes and rates, rents, fines, fees and other charges and through loans, provided they are in accordance with the law. Each Kaupule prepares an annual budget to be approved by the Falekaupule Assembly.⁷⁸ The National Government allocates funds annually to Kaupules to

⁷⁷ Section Falekaupule Act

⁷⁸ Refers to men and women over the age of 18 years

supplement their finances. Sometimes, the Government provides office equipment or agricultural farm machineries like tractors for Kaupules.

7.21 Although women may not be seen at the Falekaupule their views are perceived to be brought forward to the decision making arena through male representatives such as the husband, brothers or uncles acting as third parties. On the other hand, some women who know they have the right to speak on an issue will speak. There have been instances where views of women on matters affecting the community are actively sought during meetings. However this rarely happens. Despite the cultural practice, women have been given more opportunity to participate in the quarterly Falekaupule meetings (Assembly) prompted by their local governments under the *Falekaupule Act 1997*. However, this in practice depends on the traditional culture of each island. For example in Vaitupu, men and women above 35 years old can participate and vote. In Nui and Nukufetau, only men of 50 years and above can participate and vote. On Funafuti, anyone who is 18 years old can participate and vote on matters that are of minor importance. Important matters are taken to an exclusive Assembly of Matai (head of family clan). A woman matai may participate in the decision making process, but is not eligible to vote.

7.22 Although the *Falekaupule Act* paves the way for the inclusion of women into the formal decision making processes, it does not have an immediate positive impact on the existing traditional structure for decision making in each island which still exclude women. It is also noted that women are reluctant to make use of the opportunity provided because they were never present at those Falekaupule meetings. Most of these women have other priorities and consider such gathering as men's domain, hence they don't attend those meetings. Apart from those priorities, women also play major roles in family decision making, the preservation of cultural skills, practices and etiquettes, and production of traditional wealth like crafts, compost making for the Pulaka pits and so forth.

7.23 The notable absence of women in the formal decision making bodies like the Falekaupule and its executive arm the Kaupule, is a challenge which could be addressed through institutionalising gender mainstreaming. Government has been conducting gender trainings to assist in changing attitudes and gender stereotypes. Specific leadership and decision making programmes targeting women will continue to be pursued by the national women's machinery and its development partners. However, the traditional structure of the society has resulted in the disempowerment of women in many areas. Therefore, advocacy and training on gender issues, human rights and leadership skills are necessary to sensitise and empower men and women to improve the potentials of women to actively partake in formal decision making.

Non Government Organisations

7.24 Despite the low representation of women in governmental and public boards, they largely dominate NGOs in particular TNCW, TANGO, TuFHA, Church Organisations, Women in Business and Islands Women's Organisations. One of the remarkable achievements of TNCW was the successful lobbying for the establishment of the DWA in 1999 and the formulation of the first Tuvalu National Women's Policy. Government being mindful of its limitation supports the work of these NGOs namely, TNCW, TANGO and TuFHA by providing an allocation of \$10,000 annually to cater for their administration costs. Other development programmes pursued by these NGOs are normally

financed from outside sources. In partnership with Government, TNCW has been promoting the participation of women in all areas of national development through leadership training and micro enterprise development. These NGOs are members of Government committees within their areas of expertise; hence they are an integral part of policy making processes in Government.

Women in trade unions

7.25 The *Trade Unions Act* (Cap 82) provides for the establishment and operations of trade unions. In Tuvalu, there are only two trade unions in existence and these are the Tuvalu Overseas Seaman Union (TOSU) and the Teachers' Association. The former is predominantly for men who are seafarers and the main concerns include the employment and the welfare of its members. Efforts are also underway to mobilise their mothers and spouses to have a formal entity which can address their concerns ranging from financial, social and health issues. The Ministry of Health and TuFHA are working closely in providing training workshops on health issues particularly on the threat of STIs and HIV and AIDS.

7.26 The Teachers Association, on the other hand is dominated by women which reflects the composition of the teaching profession where women outnumber men. Women occupy the head teacher position in the 8 state primary schools whilst the two secondary schools are headed by men.

Women in Church

7.27 The Christian church is probably the most influential institution in Tuvaluan society. Women are grossly under-represented in church leadership positions. The traditional and stereotypical view of women by church leaders is reflected in the non ordination of women as pastors, even though they have successfully completed studies and graduated from Theological Colleges. However, changes are taking place with the appointment of some women as lay preachers and deacons of the church. Despite the active roles of women in church activities, they are still subjected to stereotyped views and attitudes.

7.28 Women's integration into politics and decision making institutions is a challenge because of the traditional hierarchies and norms. They know and accept where they fit in society and the roles they are expected to play. Despite recent efforts to increase the number of women participating in politics, their involvement remains marginal. The Constitution and electoral legislations are fair and non-discriminatory and essentially capture the essence of CEDAW. Practices however, preclude the participation of women in formal decision making and their presence in Parliament and other institutions continues to be pervasive. Whilst culture, tradition, attitude and so forth may be the underlying factors, the situation is exacerbated by women undermining their own capacities and abilities.

Article 8

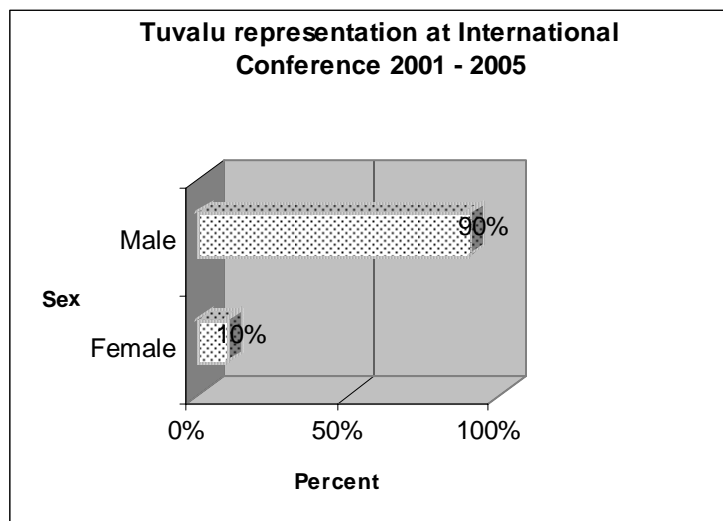
States parties shall take all appropriate measures to ensure to women, on equal terms with men and, without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organisations.
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Law and Practice

8.1 There is no provision in the Constitution that prohibits women from representing Government at international level or limits women's participation in international organizations. The same applies to civil societies and non-government organizations.

International Conferences attended by Tuvaluan Officials

Figure 2



*Source: Department of Foreign Affairs records (2001 – 2005)*⁷⁹

8.2 Even though the law does not discriminate the representation of women and men at the international level, in practice this inequality exists. Figure 1 clearly shows that women are under-represented at international conferences for the period 2001 to 2005. For this period, only 10 per cent of women were given the opportunity to represent Tuvalu at international conferences compared to 90 per cent being men. Some of the main contributing factors to this under-representation are presumably due to the fact that most of representations in these kinds of conferences are for senior officials in Government and most of whom are men. Women represented Tuvalu at international meetings, conferences, workshops and seminars because of their professional expertise.

8.3 Apart from women's participation at international meetings, there is a low representation as well on diplomatic positions. Tuvalu has only two foreign embassies and both are headed by men. There is also minimal number of Tuvaluan women employed in Regional and International organisations.

⁷⁹ The graph was drawn up based on the list of meetings provided by Dept of Foreign Affairs which was used as a sample of Tuvalu's representation at international conferences.

Table 15: Staff Composition at Tuvalu Overseas Missions 2005

Tuvalu Mission, in New York							
Year		2003			2005		
Post	Level	Total	Sex		Total	Sex	
			M	F		M	F
Ambassador to the United Nations	1c	1	1		1	1	
Senior Assistant Secretary	3/2	1	1		1	1	
Secretary [Clerical Officer]	9	1		1	1		1
Driver	10	1	1		1	1	
Total		4	3	1	4	3	1
Tuvalu High Commission, Fiji							
High Commissioner	1c	1	1		1	1	
Deputy High Commissioner	3/2	1	1		1	1	
Executive Officer	8	1		1	1		1
Clerical Officer	9	1		1	1		1
Receptionist	9	1		1	1		1
Driver/Messenger	10	1	1		1	1	
Handyman	10	1	1		1	1	
House girl	10	1		1	1		1
Total		8	4	4	8	4	4

(Source: Department of Foreign Affairs Records, 2003-2005)

Table 15 shows that there has been no progress in women's participation in these overseas missions and even their representations are at the lower level of the hierarchy.

8.4 Women's participation at international level is an area that needs to be strengthened. Therefore, Government may have to come up with a policy that will promote gender equity in overseas representation and employment in regional and international institutions as well.

8.5 In comparison to Government, women in NGOs actively participate at regional and international meetings, conferences and so forth. Established NGOs such as TANGO, TuFHA, Red Cross, and TNCW are headed by women. These women usually represent their respective organizations and Tuvalu at international meetings in their areas of work. Such meetings include International Planned Parenthood Federation (IPPF), International Red Cross meetings and at times participate as part of Tuvalu's delegation at international meetings such as the World Summit on Sustainable Development (WSSD), United Nations General Assembly and UNIFEM. Women in NGO's also participate in works of regional and international organizations through projects. TANGO coordinates with development partners such as European Union (EU), Foundation for the South Pacific International (FSPI), and internationally recognized voluntary organization like the British Voluntary Service Organization (VSO) and Australia Volunteers International (AVI). Women participation at the international level for NGOs is very much consistent with the principles of Article 8 of CEDAW.

Peacekeeping

8.6 Tuvalu does not have a military force but security issues and law enforcement is the responsibility of the Police Force. The force includes a Maritime Surveillance Unit for search and rescue missions. There is also a patrol boat which is used for maritime surveillance and fishing patrol. The Police Force has a total establishment of fifty six (56) men and four (4) women Police constables in the Department of Police. Two of these women Police Officers have participated in peacekeeping duties for the Regional Assistance Mission in the Solomon Islands (RAMSI). RAMSI is the Australian led peace keeping operation in the Solomon Islands that was established in 2000 to assist in restoring peace and normalcy in the Solomon Islands. Police and military personnel from Australia, New Zealand and other Pacific Island Countries make up this peace keeping mission.

Article 9

States parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

States parties shall grant women equal rights with men with respect to the nationality of their children.

Legal Framework

9.1 Part III of the Constitution of Tuvalu deals with citizenship. The right to acquire, change or retain a person's citizenship applies equally to both men and women. Dual citizenship is not allowed and this provision applies equally to both men and women. Any Tuvaluan citizen who marries a foreigner will not lose his or her citizenship unless that person chooses to renounce his or her citizenship to give effect to the laws of another country that he or she chooses to be his or her nationality, or if he or she already holds another nationality.

Citizenship by Birth

9.2 The *Citizenship Act* (Cap 98) provides equal treatment for both men and women. It states that, a child born to a Tuvaluan mother and a foreign father is still entitled to Tuvaluan citizenship if the child chose to. The provision applies whether the child is born to a lawfully married couple or a child born out of wedlock. Under Tuvaluan laws, citizenship can be acquired by birth as stipulated under s.45 of the Constitution which states:

“(1) Subject to subsections (3) and (4), a person born in Tuvalu on or after the date on which this Constitution took effect is a citizen of Tuvalu by birth.

(2) A person born outside Tuvalu on or after the date on which this Constitution took effect is a citizen of Tuvalu by birth if on the date of his birth either of his parents is, or would but for his death have been, a citizen of Tuvalu.”

9.3 Any children born to any Tuvaluan be that a Tuvaluan man or woman is equally entitled to choose whichever of the parent's country of citizenship as his or hers. In general, the Constitution of Tuvalu is in line with the principles of Article 9 of CEDAW.

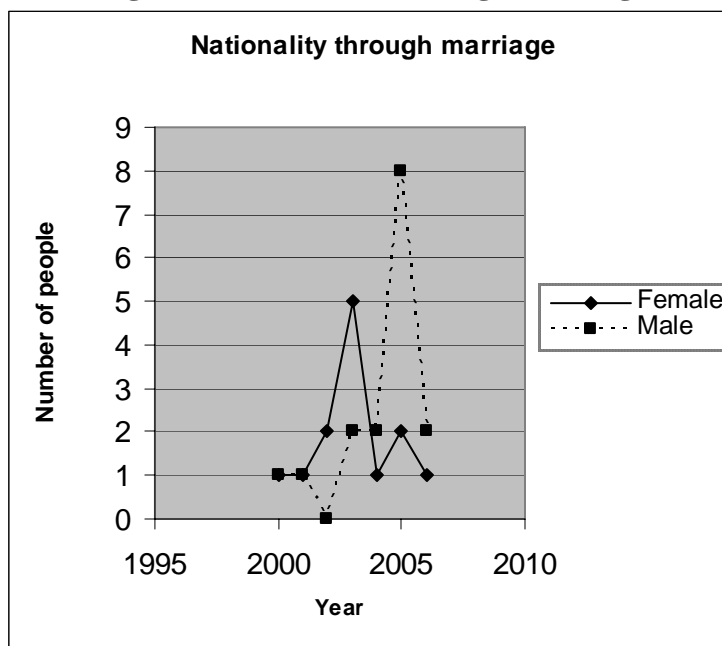
Citizenship by Marriage

9.4 Tuvalu treats both male and female nationals equally regarding citizenship rights for their foreign spouses. Tuvaluan women do not lose any of her rights upon marriage to foreigners. Both men and women are given equal rights so that their spouses can remain in their country (Jalal 1998). Section 46 of the Constitution states:

“(1) Subject to subsection (2), a person who, on or after the date on which this Constitution took effect, marries a person who is or becomes a citizen of Tuvalu is entitled, on making application in such manner as is prescribed by law, to be registered as a citizen of Tuvalu.

(2) The right conferred by subsection (1) may be made subject to such exceptions and qualifications as are declared by law to be in the interests of national security or public policy.”

Figure 3 Nationalities through Marriage



Source: Office of the Attorney General, Government of Tuvalu (September 2006)

Figure 3 clearly indicates that in the year 2005 there were more males than females who have renounced their previous citizenship to be able to live freely in the country of their spouses.

9.5 Section 9 of the *Citizenship Act* states that a woman who has renounced her Tuvaluan citizenship in order to obtain another nationality upon marriage to a national or citizen of another country loses

her Tuvaluan citizenship. However, she may apply to regain her Tuvalu citizenship on the ground that her marriage has irretrievably broken down.

Citizenship by Naturalisation

9.6 The *Citizenship Act* (Cap 98) states that any person of full age and capacity may apply to be naturalised as citizens. However, he or she must renounce his or her nationality or citizenship and must take the Oath of Allegiance.

9.7 There are no major constraints identified on Tuvalu's implementation of this Article as most men and women are treated fairly under Tuvalu law. Nevertheless, it still requires further consideration on areas of dual citizenship, particularly s 45 of the Constitution. The provision discriminates against Tuvalu women who might have children in a range of possible scenarios (even rape) in a country with which Tuvalu is at war including Tuvalu itself during occupation (Jivan & Forster).⁸⁰ This constraint will affect part Tuvaluan children to enjoy the freedom of dual citizenship.

Article 10

States parties shall take all appropriate measures to eliminate the discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same equality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunity to benefit from scholarships and other study grants;
- (e) The same opportunity for access to programmes of continuing education, including adult and functional literary programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organisation of programmes for girls and women who have left school prematurely;
- (g) The same opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

⁸⁰ In UNDP PC & UNIFEM Pacific, 2006 'Translating CEDAW Into Law'

Legal and policy framework

10.1 Section 3 of the *Education Act* (Cap 38) provides that the "Minister may make such arrangements as he considers necessary to ensure that educational and training opportunities are provided for children according to their age, aptitude and ability, and for adults". The Act also makes provision for the establishment of schools and institutions⁸¹ and provides for grants in aid of education⁸² and scholarships.⁸³ At present, there is no discrimination when it comes to education and scholarship opportunities.

10.2 Tuvalu has achieved MDG Goal 2 Universal Primary Education. The MDG Report for the Pacific Region shows Tuvalu in the upper quartile of adult literacy, with 95 per cent of its population literate. Tuvalu has also achieved the MDG targets of equality of opportunity at primary and secondary levels for boys and girls, and the balance has all but been achieved at tertiary level also⁸⁴. Tuvalu believes that the development of its human resources through education and training has a key role to play in the future prosperity of the nation. Consequently, human resource development features prominently in the Education for Life (EFL) investment programme which was developed over the period 1988 - 1993. The EFL programme emphasises that education generates not only skills necessary for the market, but skills that people could rely upon in their entire lives.

10.3 The continued pursuit for improvement resulted in the formulation of the Education Sector Master Plan (ESMP) in 2002 which focuses on the quality, relevance, and access to education. ESMP has been incorporated into the TK II with *inter alia* the following key objectives:

- Improve overall education standards;
- More highly trained and motivated primary, secondary and post secondary teachers;
- Install sound, appropriate curriculum that better target the needs of the students and the economy;
- Expand and improve technical and vocational training opportunities; and
- Expand services and facilities for special needs students, including preschoolers and the disabled.⁸⁵

10.4 The *Education Act* (Cap 38) also provides for compulsory basic education for all children from ages 6 to 15. The Act⁸⁶ states that a parent or guardian is liable to a fine if his or her child does not attend primary school. Every child has access to primary education, except the severely handicapped children who were prevented from attending school by parental choice. Prior to 1990, 10 and 11 year olds would sit for the Motufoua Secondary School⁸⁷ Entrance Examinations in order to proceed to Motufoua. Those who failed the exam would attend the Community Training Centre (CTC) on each island. CTC used to provide vocational training skills only until the child reached class 10. In 1990,

⁸¹ Under s4 of the Education Act

⁸² Under s.5 of the Education Act

⁸³ Under s.6 of the Education Act

⁸⁴ Pacific Islands Regional MDG Report 2004

⁸⁵ NSSD Te Kakeega II Chapter 10 Education & Human Resources

⁸⁶ Section 30 of the Education Act (Cap 38)

⁸⁷ The only secondary school at that time.

the said Entrance Examination was phased out. As a result, all class 8 students were automatically absorbed into Form 3 at Motufoua Secondary School provided his or her school fees can be paid. Consequently, the cost of sustaining the increased number of intakes was too expensive for Government and that academic results also declined.⁸⁸ This compelled the Minister of Education in 2002 to reintroduce the Entrance Examination to secondary schools at the end of primary school and levy a school fee of \$50 per term. However, under s. 33(1) of the *Education Act*, the Minister of Education is empowered to remit school fees in proven cases where students' parents are having economic hardships in meeting fees. Furthermore, parents who have more than three children at the same public school of secondary level can apply for exemption of school fees for one child.

Pre-schooling

10.5 The positive long term impact of Pre-schooling on the educational achievements of individuals later in life is increasingly given due recognition in the country and parents are encouraged to send their children to community-owned preschools. The Government supports pre-schooling, but financial constraint prevents it from directly financing its operations. Its direct involvement to date has been confined to an annual budget of \$10,000 for support services and \$30,000 to assist in the payment of salaries for kindergarten teachers. In 2007 the amounts have increased to \$20,000 and \$46,000 respectively.

10.6 Both Table 16 and Figure 4 below show that places for all children of pre-schooling age are available and accessible to both sexes in Tuvalu. Some cohorts have more males while others are predominantly females. Clearly, both males and females attend school at almost equal proportions.

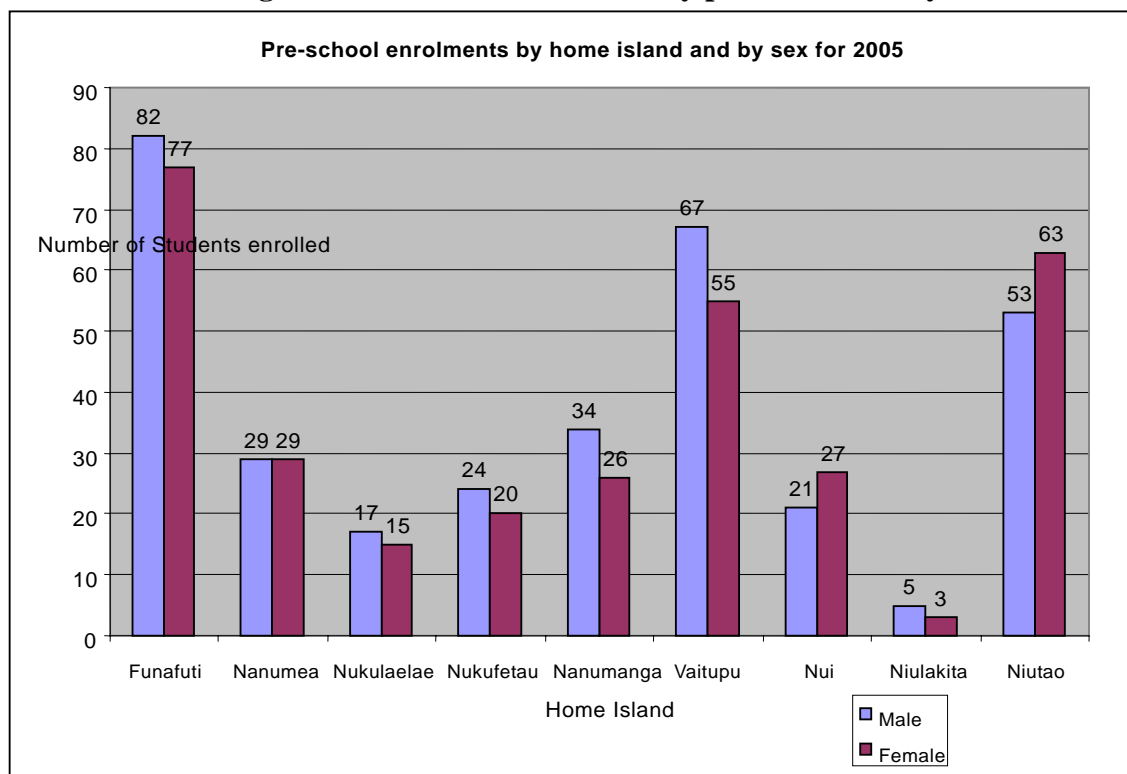
Table 16: Pre-school enrolment by island, sex, age and staffing, 2005

Home Island	Age 2			Age 3			Age 4			Age 5			Total			Qualified Teachers	Unqualified Teachers
	M	F	T	M	F	T	M	F	T	M	F	T	M	F	T		
Funafuti	2	7	9	27	24	51	21	24	45	32	22	54	82	77	159	6	11
Nanumea	2	2	4	9	10	19	9	9	18	9	8	17	29	29	58	2	4
Nukulaelae	0	0	0	2	7	9	6	5	11	9	3	12	17	15	32	0	3
Nukufetau	0	0	0	4	7	11	7	9	16	13	4	17	24	20	44	1	2
Nanumanga	0	0	0	9	7	16	15	12	27	10	7	17	34	26	60	1	4
Vaitupu	0	0	0	16	16	32	20	17	37	31	22	53	67	55	122	2	9
Nui	0	0	0	6	8	14	8	9	17	7	10	17	21	27	48	2	1
Niulakita	2	2	4	1	0	1	1	1	2	1	0	1	5	3	8	0	1
Niutao	0	0	0	12	11	23	21	24	45	20	28	48	53	63	116	3	4
Total	6	11	17	86	90	176	108	110	218	132	104	236	332	315	647	17	39

Source: Education Department – (Unpublished Data)

By the end of 2005, there were 17 registered pre-schools in the country and the number may increase in the capital due to the high rate of urbanisation.

⁸⁸ Sioni pers. Comm. 17/4/7

Figure 4: Pre-school enrolment by per island and by sex - 2005

Source: Derived from Table 19(Education Department -Unpublished Data)

Primary Schooling

There are nine government administered located on each island and one privately administered Primary School in Tuvalu. The non government primary school is a Seventh Day Adventist School and is situated on Funafuti.

Table 17: Number of students enrolled in Primary School by sex and year

School	2000			2001			2002			2003			2004		
	M	F	P/T* Ratio	M	F	P/T Ratio	M	F	P/T Ratio	M	F	P/T Ratio	M	F	P/T Ratio
Nanumea	93	79	19	78	64	16	88	77	18	77	72	17	88	82	19
Nanumanga	65	52	15	56	61	15	52	68	15	64	63	16	60	64	16
Niutao	78	69	16	75	62	15	81	67	18	70	61	16	64	69	17
Nui	65	46	14	66	49	14	59	53	14	63	54	15	69	62	16
Vaitupu	161	132	23	108	116	17	132	102	18	116	118	18	148	130	21
Nukufetau	105	64	19	107	69	19	85	86	19	78	70	19	79	69	19
Funafuti	387	345	22	352	330	20	306	317	18	394	353	21	393	391	22
Nukulaelae	45	43	15	43	39	14	40	41	14	45	41	14	40	38	10
Niulakita	8	6	7	4	4	4	3	4	4	7	3	5	8	3	4
Total	1055	885	18	945	853	17	846	815	17	996	914	18	1002	961	18

Source: Statistics Department Yearly Update (Unpublished Data) * P/T-Pupil/Teacher

10.7 Table 17 shows that overall primary school enrolment for females and males has been consistent for the period 2000 – 2004. Upon closer scrutiny of the statistics it reveals that some islands recorded more females than males. For example in 2001 Vaitupu enrolment showed more females than males. In Nukufetau, there was an interesting trend in the years 2001 and 2002 where there was a reduction in the number of males and an increase in the number of females. The data provided in Table 17 also includes those who repeated Class 8.

10.8 The Census Report of 2002, shows an average of about 250 children nation-wide of a particular age group or cohort. However, total enrolments of 1,940 in 2000 and 1,963 in 2004, indicate an average of about 283 for each of the 8 cohorts for those particular years. Although the averages are higher than the census figures, this could be the impact of the repeaters staying on at primary school at the end of Class 8.

10.9 The ratio of girls to boys in primary in Table 18 below clearly shows that gender inequality is a non-issue in primary school enrolment in Tuvalu. The Pupil/Teacher ratio for Tuvalu is 20:1⁸⁹

Table 18: Primary school enrolments, teachers/pupils ratio 1991-2004

Year	Male	Female	Total	Ratio of girls to boys	Teachers	P/T Ratio
1991	781	702	1,483	0.90	66	22.5
1992	731	685	1,416	0.94	62	22.8
1993	854	794	1,648	0.93	73	22.6
1994	879	767	1,646	0.87	72	22.9
1995	940	769	1,709	0.82	60	28.5
1996	938	747	1,685	0.80	59	28.6
1997	957	786	1,743	0.82	78	22.3
1998	975	846	1,821	0.87	90	20.2
1999	955	784	1,739	0.82	92	18.9
2000	1055	885	1,940	0.84	94	20.6
2001	945	853	1,798	0.90	94	19.1
2002	846	795	1,641	0.94	94	17.5
2003	945	914	1,859	0.97	94	19.8
2004	964	929	1,893	0.96	94	20.1

Source: Central Statistics Division Quarterly Statistical Report December 2003.

10.10 Table 18 summarises enrolment at primary schools in Tuvalu. The ratio of girls to boys differs from that of the MDG indicator because the definition of primary school for the MDGs is Class 7 and below (Class 8 is included in Table 18 but not in the MDG indicator).

⁸⁹ Tuvalu MDG Report, 2004

(iii) *Secondary enrolment as an indicator*

10.11 There are only two secondary schools in Tuvalu. The government administered secondary school is Motufoua Secondary School on the island of Vaitupu and Fetuvalu High School, administered by the EKT (Congregational Church of Tuvalu) on Funafuti. Both Motufoua and Fetuvalu have Forms three to six in 2006. Motufoua students sit the Fiji Junior examination at form four, the Tuvalu School Certificate at form five and the Pacific Senior School Certificate (PSSC) examination at form six. Fetuvalu follows the IGCSE (Form 5) and Advance Subsidiary (Form 6 in 2006) and the Form 7 Advance Level from Cambridge, UK from 2007.

Table 19(a): Students enrolled in Motufoua Secondary School by year, gender and form

Year	Form 3			Form 4			Form 5			Form 6			Total		
	M	F	T	M	F	T	M	F	T	M	F	T	M	F	T
2000	97	80	177	112	86	198	40	50	90	20	28	48	269	244	513
2001	111	95	206	105	85	190	47	48	95	26	41	67	289	269	558
2002	72	82	154	90	95	185	20	13	33	42	41	83	224	231	455
2003	97	75	172	85	94	179	40	51	91	15	23	38	237	243	480
2004	42	35	77	91	81	172	46	59	105	33	46	79	211	222	433

Source: Statistics Department, *Yearly Updates (Unpublished Data)*

Table 19 (b): Student enrolment at Fetuvalu High School 2003-2005 by form and gender

Year	Form 3			Form 4			Form 5			Total		
	M	F	T	M	F	T	M	F	T	M	F	T
2003	44	55	99							44	55	99
2004	35	25	60	61	76	137				96	101	197
2005	21	14	35	54	52	106	17	20	37	92	86	178
2006												

Source: *Fetuvalu High school (Unpublished Data)*

10.12 The admittance of students to Motufoua Secondary School since 2003 is determined by their ability to pass the Secondary Entrance Examination (SEE) at the end of primary school level. Fetuvalu Secondary School on the other hand, is more flexible. It admits those who passed the SEE and the near misses as well.

10.13 Table 19(a) indicates that from Form 3–4, there are more males than females. However, as they progress to Forms 5 and 6, the number of males decreases. At Motufoua only those who pass their Fiji Junior Certificates would progress to form 5. Fetuvalu makes its screening at Form 5. Only those who pass the IGCSE at form 5 progress to Forms 6 and 7. Both schools allow repeaters on special conditions.

10.14 The absence of any existing provision based on student's sex or any other criteria is clearly an indication that secondary education is accessible to all. Therefore gender inequality in secondary schools is a non-issue. Education opportunities in Tuvalu at primary and secondary levels are very

much based on merit. The top students regardless of sex get the opportunity to enter Motufoua Secondary School based on their entrance exam results.

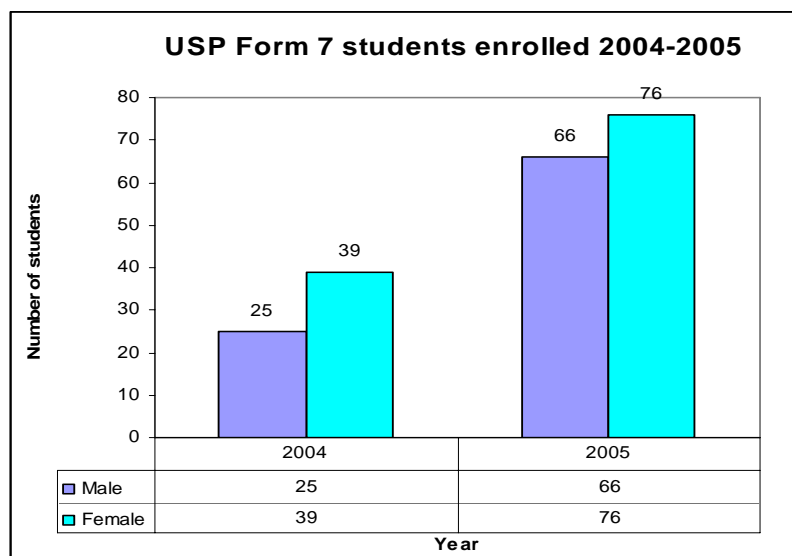
Post secondary education

10.15 Post secondary school training in Tuvalu is very limited with choices of subjects confined to those offered at USP Centre for Distance and Flexible Learning (DFL), Tuvalu Maritime Training Institute (TMTI) and private-owned Typing Schools. With such limitations, persons who wish to pursue career preferences have to acquire funding in order to study at overseas institutions. Most post secondary training is government funded or through scholarship from overseas donors.

(i) Form 7 or Augmented Foundation.

10.16 Prior to 2004, students who passed the PSSC were offered scholarships to study overseas. In 2004, Form 7 or the Augmented Foundation programme was introduced at the USP Centre on Funafuti. This allowed more students to have access to the programme and to continue further studies in Tuvalu. This provision greatly reduced costs for government and private students as well. The total enrolment for 2004 was 62 and it increased to 142 in 2005. Figure 5 shows that there were more female students enrolled at the Centre in the years 2004 and 2005.

Figure 5: Number of Form 7 students by year and sex 2004-2005



Source: USP Centre (Tuvalu) –Unpublished Data

10.17 The government provides scholarship to students who qualify to do Form 7. Previously, the three top students from MSS were given scholarships for further studies in New Zealand whilst other qualified students were admitted directly into training institutions and secondary schools overseas. However, commencing in 2007 all qualified students now undertake the Augmented Foundation Programme at the USP Centre (DFL).

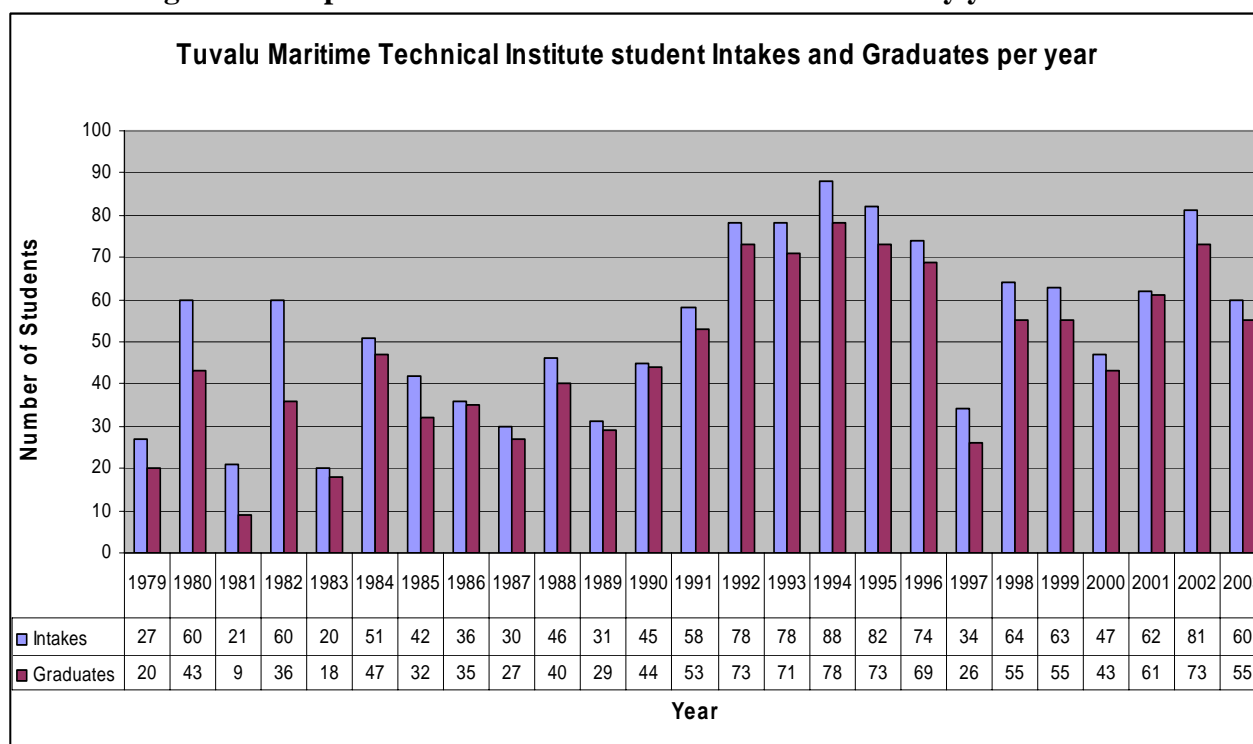
(ii) *Vocational Schools in Tuvalu.*

10.18 Vocational education contributes greatly to the training of Tuvaluan citizens with basic specialised practical skills for employment. In Tuvalu, apart from TMTI which is government owned, other vocational schools are private-administered and all these are located on Funafuti. The vocational training institutions are:

- Tuvalu Maritime Training Institute (TMTI)

10.19 This Institute is open to males and females who would like to pursue a career in seafaring. However since its establishment, TMTI has been training young men only. Attempts to encourage females to take up this training never eventuated. Basically, because of the stereotyped perceptions of parents who consider seafaring as an undignified profession for their daughters, so they discouraged them from enrolling at the school. But, the opportunity for women to enrol still exists, so they are encouraged to take up the challenge.

Figure 6: Graph of TMTI student Intakes and Graduates by year 1979 -2003



Source: Tuvalu Maritime Training Institute

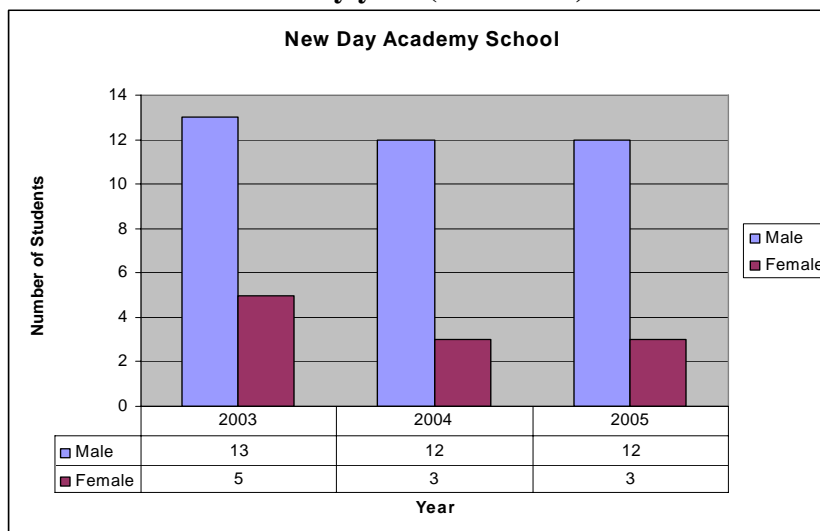
Figure 6 shows the number of young men who had successfully undertaken courses and graduated from TMTI. Young women could also benefit if they had taken the challenge to enrol at TMTI.

- *New Academy School*

10.20 The New Day Academy School which is privately owned was established in 2003. It teaches basic skills to students of primary and secondary level background who need help in various subjects.

Figure 6 shows the total number of students enrolled. In 2004 and 2005, the number of students decreased because there is only one person teaching the various subjects. There are more boys than girls enrolled and this is because there are more boys who needed help with their skills in learning.

Figure 7: Graph of New Day Academy School Enrolment by year (2003-2005)

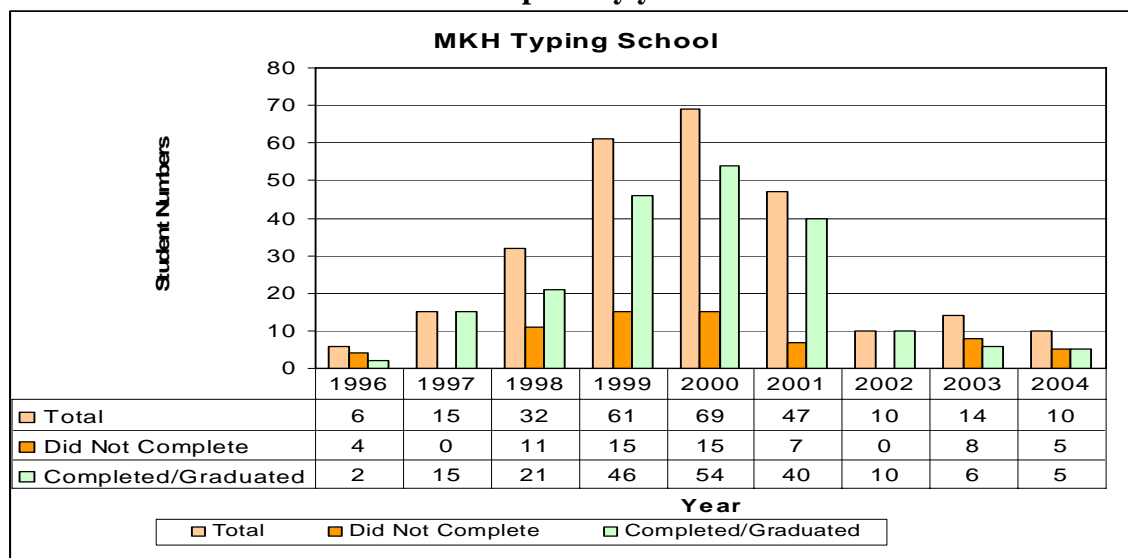


Source: New Day Academy School (Unpublished Data)

- *MKH Typing School*

10.21 This is the first local privately owned commercial school to open in Tuvalu. It was established in 1996 and is called the Mareta Kapane Halo (MKH) Typing School. The school focuses on basic office skills especially typing, shorthand and computing which provides students with basic technical skills and knowledge for secretarial work. Since its inception in 1996 up to 2004, only five male students enrolled with the rest being females. These students are now working either as civil servants or in the private sector in Funafuti and the outer islands.

Figure 8: Graph of MKH Typing School students enrolled, graduated and did not complete by year 1996 -2004



Source: MKH Typing School (Unpublished Data)

Tertiary education and areas of study

(i) Fields of study and course levels

10.22 The most common area of further studies is education. Majoring in Education is gender selective, for the period 2000 to 2004 more females than males specialised in Education. This is followed by health/medicine namely doctors, nurses, and other professional and technical skills. There are more female graduates in Tuvalu as compared to males who graduated in work related areas of studies.

Table 20: Number of students in each field by gender 2000-2004

Field of study	2000			2001			2002			2003			2004		
	M	F	T	M	F	T	M	F	T	M	F	T	M	F	T
Agriculture	2	2	4	1	0	1	1	0	1	1	1	2	1	1	2
Environment	0	1	1	0	1	1	0	0	0	0	0	0	0	0	0
Arts	11	20	31	7	20	27	1	11	12	6	9	15	4	8	12
Information & Technology	2	1	3	3	4	7	4	5	9	4	3	7	4	1	5
Education	29	58	87	19	46	65	15	34	49	6	11	17	5	8	13
Finance	2	0	2	3	3	6	3	5	8	2	5	7	2	2	4
Health	10	19	29	28	12	40	7	28	35	7	27	34	3	17	20
Law	3	3	6	2	4	6	2	3	5	0	2	2	0	1	1
Maritime	19	0	19	19	0	19	15	0	15	19	0	19	14	0	14
Sciences	5	8	13	5	5	10	2	2	4	1	5	6	1	4	5

Works	32	3	35	34	2	36	23	4	27	11	0	11	13	0	13
Further Studies	1	17	18	3	18	21	4	8	12	1	2	3	12	18	30
Total	116	132	248	124	115	239	77	100	177	58	65	123	59	60	119

Source: Central Statistics Division (Unpublished Data)

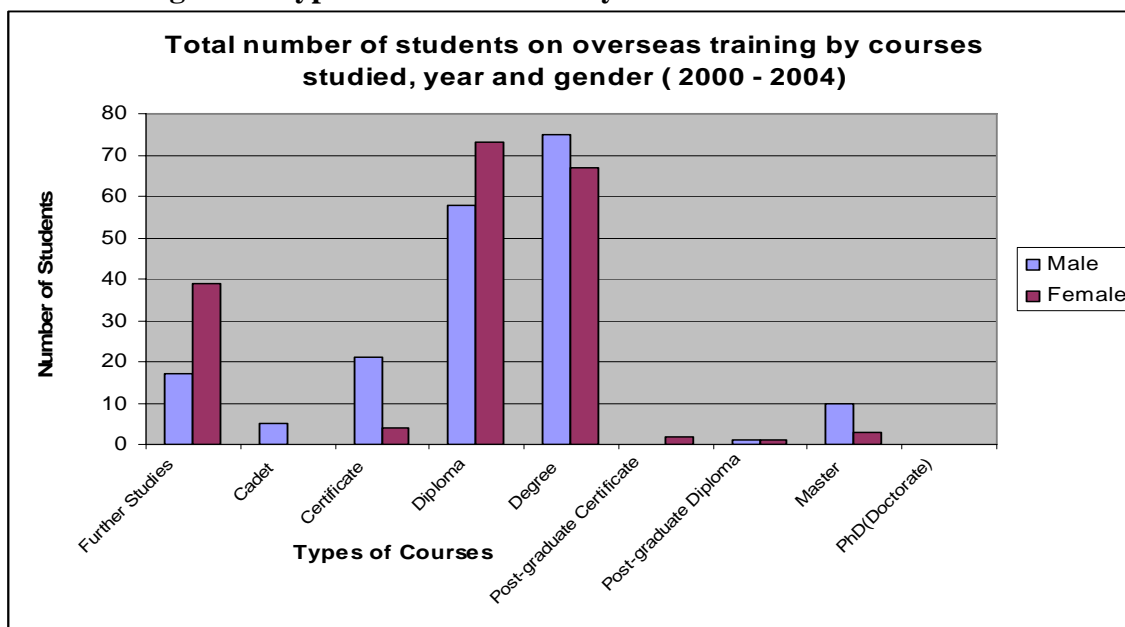
10.23 While Tuvalu has achieved Universal Primary and Secondary education, figures indicate that the number of people pursuing post-graduate studies is very low. Scholarships offered by Development Partners and Donor Agencies or through regional initiatives seek to increase the number. Government being mindful of the need to provide quality education will continue to encourage its professional staff to pursue studies at postgraduate level.

Table 21: Number of students by course, gender and year 2000-2004

Course	2000		2001		2002		2003		2004	
	M	F	M	F	M	F	M	F	M	F
Further Studies	2	14	3	6	0	1	1	2	11	16
Cadet	1		4							
Certificate	3	1	11	3	4	0	3	0	0	0
Diploma	21	28	18	23	7	4	7	7	5	11
Degree	22	13	17	16	13	17	13	16	10	5
Post-graduate Certificate		1			0	0	0	0	0	1
Post-graduate Diploma					0	0	0	1	1	0
Master	3		4	1	2	2	0	0	1	0
PhD(Doctorate)									1	
Total	52	57	57	49	26	24	24	26	29	33

Source: Central Statistics Division (Unpublished Data)

10.24 Table 21 above and Figure 9 below show the number of students studying by course level. From 2000 to 2004, only one student did doctorate studies and very few at postgraduate level. Males made up 2.7 per cent and females 0.8 per cent of those who did postgraduate studies. However, females made up 48 per cent at undergraduate level with a difference of 2 per cent compared to males. This indicated that more women were getting educated which could result in better standard of living for families. The educated woman in the family will ensure that her family lives in a better environment as she knows how to cater for the financial needs of the family.

Figure 9: Types of courses of study students undertake from 2000-2004

Derived from Table 18 – Number of students studying by course, gender and year.

(ii) Country of training

10.25 Apart from the USP (DFL) Centre, TMTI and private owned typing schools, Tuvalu does not have any other tertiary institution; therefore overseas training is essential for human resources development in this nation. Fiji is the main destination for further studies because of its close proximity and lower costs compared to Australia and New Zealand. Institutions of studies in Fiji include: USP, Teacher education training in primary and secondary, Technical institutions, Medical school and other specialist training institutions.

10.26 Table 22 below shows that in the period 2000 - 2004, the number of individuals on overseas training decreased. A major contributing factor to the reduction was limited funds available. It could also be attributed to the establishment of the USP Centre which has also provided the opportunity for Tuvaluans to undertake further studies through the USP DFL mode. This is a major cost saving opportunity to the country and an incentive to facilitate and enhance training for the existing and future workforce.

Table 22: Number of Tuvaluan trained, by country of training, 2000-2004

Country	2000		2001		2002		2003		2004	
	F	M	F	M	F	M	F	M	F	M
Australia	1	13	2	7	2	3	1	0	1	2
Canada										
Fiji	13	19	23	35	13	17	19	17	16	12
Kiribati	9	3	5	2						
New Zealand	21	13	12	10	9	5	5	7	1	5

Samoa	7	2	7	3		1				1
Solomon Islands										
Tonga	5									
UK		1								
Vanuatu	1	1								
Tuvalu							1		15	8

Source: Department of Statistics (Unpublished Data)

Table 22 also shows some variations in the number of students trained overseas. Since 2000, the number of women and men studying overseas was almost even with Fiji being the main country of training followed by New Zealand.

School dropouts/“push-outs”

10.27 The school system is academically oriented and does not offer alternative forms of education, geared towards technical vocational training. Geographical proximity to Fiji means that where a need arises, students will attend training in Suva before returning to Tuvalu.

10.28 In Tuvalu, there are no school dropouts but only school “push outs”. These are students who are unable to meet the requirements of the education system hence are pushed out of school. This is particularly evident at secondary school level, however data for the school push outs is not available due to the absence of an appropriate monitoring system.

School Curricula

10.29 Section 18 of the *Education Act* (Cap 38) provides further powers to the Minister, who after consultations with the Education Advisory Committee may lay down or approve the basic curricular to be followed in schools throughout Tuvalu. The current education curricular is based on the Education for All policy and implemented through its Strategic Plan. Science and Technology are two areas that are not encouraging to many female students to pursue in their secondary education. This is something that the Department of Education (DOE) is dedicated to further investigate and to explore as how female students may be encouraged to take on those subjects.

10.30 It is important that students should be exposed to trade training at a younger age. This entails the need to relook at the school curriculum. As outlined in its Strategic Plan, DOE is reviewing the school curricula, including the materials and resources used to avoid gender stereotyping roles. For example, texts illustrating stereotyped roles confining female/male dominated professions to female/male will be replaced with those highlighting non stereotyped.

Sports

10.31 Sports is part of the school curricular and girls and boys participated at the South Pacific Games in Suva in 2003.

Access to health & family planning information

10.32 Young men and women attending tertiary institutions have access to health information through the youth clinic and also family planning information is available throughout the nation where women could obtain such services from the Health centres. It is to be noted that there is an increase in the number of men attending family planning workshops, notably the younger men.

Article 11

1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human rights;
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- (d) The right to equal remuneration, including benefits and to equal treatment in respect of work of equal value, as well as equality of treatment in the education of the quality of work;
- (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States parties shall take appropriate measures:

- (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
- (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child care facilities;
- (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters concerned in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Legal Framework

11.1 The Employment Act, 1966 which continued to remain in force after independence in 1978, provides the regulatory framework for employment in Tuvalu. However, the Act does not apply to domestic servants or clerical officers when contracted to do a particular job the remuneration of which exceeds AUD\$400 per annum.⁹⁰

11.2 The Act makes special provision for the treatment of women and children in certain circumstances. Section 77 of the Act states women shall not be employed during the night in any undertaking, except where the night work -

(a) has to do with raw materials or materials in course of treatment which are subject to rapid deterioration; or

(b) is necessitated by an emergency which it was impossible to foresee and which is not of a recurring character; or

(c) is that of a responsible position of management held by a woman who is not ordinarily engaged in manual work; or

(d) is that of nursing and of caring for the sick, or other health or welfare work; or

(e) is carried on in a cinematograph or other theatre while such theatre is open to the public; or

(f) is carried on in connection with a hotel or guest house, or with a bar, restaurant or club; or

(g) is carried on by a registered pharmacist; or

(h) is not prohibited by an international convention applying to Tuvalu and is specifically declared by the Minister by order to be work upon which women may be so employed.

The Minister can provide further exceptions. Section 78 states that the Minister may by order from time to time suspend the prohibition of the employment of women during the night when in case of serious emergency the public interest so demands.

11.3 Although the word 'family' is defined as portraying that workers for the purposes of the Act only refers to male, the *Interpretation and General Provisions Act 1988* makes it clear that any words or expressions in any written law 'importing the masculine gender include the feminine gender' and vice versa.⁹¹

Labour Force Participation

11.4 The Tuvalu labour force participation in 2002 was at the rate of 58.2 per cent, where labour force indicators for males were considerably more positive than the female indicators, as shown in the table below.

⁹⁰ s.2 of the *Employment Act* (Cap 84)

⁹¹ *Interpretation and General Provisions Act 1988*, Section 13

Table 23: Resident population 15 years and older by gender, island/region and labour force indicators

Island/region	Labour Force Participation rate			Employment-population Ratio			Unemployment rate		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
Funafuti	61.0	70.4	51.8	49.6	61.0	38.4	8.9	6.6	12.0
Outer Islands	56.0	68.9	45.2	20.9	31.7	11.8	4.6	3.6	5.9
Tuvalu	58.2	69.6	47.9	33.2	44.9	22.7	6.5	4.9	8.6

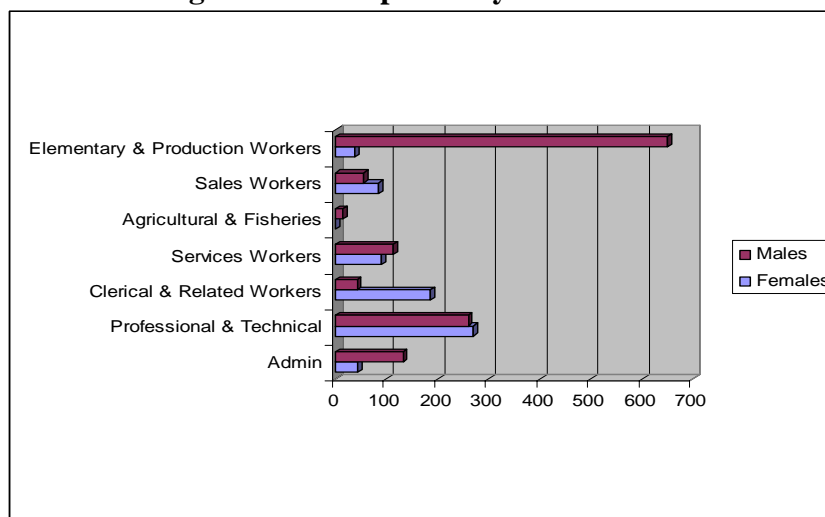
(Source, Tuvalu Census Report 2002)

Both the participation rate and the employment-population ratio were higher for males than for females while unemployment rate was higher for females.

11.5 Given the size and limitations of industrial activity, employment is confined to Government and Public Corporation which provided 69 per cent of total wage and salaried employment. In a small island economy like Tuvalu with a relatively small private sector, Government dominates the economy. Private sector accounts for 28 per cent of employment followed by 3 per cent in the non-profit organization (*Civil Society and NGOs*).⁹²

11.6 The gender distribution of employees is a significant part of the Tuvalu labour force where the majority of males are employed in primary and production sectors, administrative and managerial sector, and service workers. Females dominate clerical and related work, sales workers, professional and technical workers. The gender distribution of employment in the different industries follows the same trend as that of the latter in occupational distribution.

Figure 10: Occupation by Gender 2002



⁹² SPC - Tuvalu Census Report, 2002

As shown in the above figure, in 2002 females dominated clerical and related work, sales work and professional and technical work while males dominated in all other occupational groups.

11.7 In 2002, the Tuvaluan industries with the most employees were public administration and public services (36 per cent), followed by the electricity, gas, water and construction industries (22 per cent); real estate and business services (20 per cent); wholesale, retail, hotel and restaurant (10 per cent); and transport, storage, communication and insurance (9 per cent). Those who work in the agriculture, fishing, printing and publishing make up the remaining 3 per cent.

Table 24: Percentage distribution in Employment and Industry, 2002

	Industry of Employment					
	Public Administration Public Service	Real Estate/Business Services	Transportation/Storage/ Communication/ Insurance	Wholesale Retail/Hotel/ Restaurant	Electricity/ Gas/Water/ Construction	Others
Males	29 per cent	16%	11%	7%	34%	3%
Females	51%	27%	4%	14%	2%	2%
Total	36%	20%	9%	10%	22%	3%

Source: Tuvalu Census Report, 2002

Females dominated in the public administration and public services, real estate/service business and the wholesale, retail and restaurant industry whilst men dominated all other industries.

11.8 Although women outnumber men in the Civil Service, they are concentrated in the lower level of the employment hierarchy. However, there has been an increase in the number of women holding senior positions in Government from 4 in 2003 to 8 in 2005.⁹³ The increase could be attributed to the slight increase in the percentage of female graduates with qualifications working for the Government of Tuvalu (16.6 per cent: 2003 to 22 per cent: 2005).

11.9 Subsistence activity is a large part of Tuvalu's economy especially in the outer islands. Some of the subsistence activities include looking after livestock (such as pigs and fowls), handicraft, fishing, and growing crops. The most common type of subsistence activity is looking after livestock which involves 7 per cent of the total population followed by handicraft and fishing of 6 percent and agriculture 3 per cent. About 21 per cent of the total population are involved in subsistence activities. Table 24 shows that subsistence activities are mostly in the outer islands with very little activity happening in Funafuti. In Funafuti there is hardly enough land to cultivate hence people mainly get involved in economic activities. This shows that people in the outer islands can still survive without economic means but for those in Funafuti life will be harder for without having any means of employment they will suffer as there is hardly any means with which they could sustain themselves.

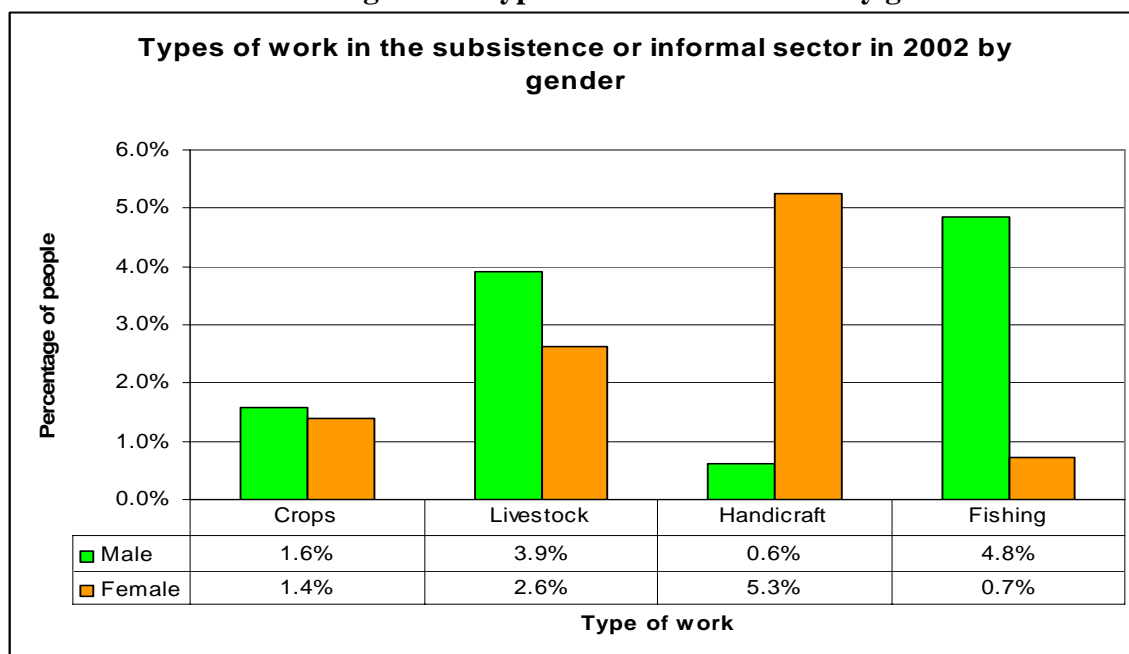
⁹³ Tuvalu Civil List, 2005

Table 25: Percentage involved in subsistence activities by type and gender in 2002 census

Island	Population (%)			Crops (%)			Livestock (%)			Handicraft (%)			Fishing (%)			Total (%)		
	T	M	F	T	M	F	T	M	F	T	M	F	T	M	F	T	M	F
Funafuti	41	21	21	0	0	0	0	0	0	1	0	1	1	0	0	2	1	1
Outer Islands	56	27	29	3	1	1	6	4	2	5	0	4	5	4	1	19	10	9
Other Countries	2	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Tuvalu	100	49	51	3	2	1	7	4	3	6	1	5	6	5	1	21	11	10

Source: Tuvalu Population and Housing Census 2002

11.10 In figure 11 the graph shows the most dominant areas of subsistence work that men and women specialize in. Females, apart from their household chores are also involved in handicraft making while males are into fishing and cultivation of crops. However for livestock both male and females share the responsibility. It indicates that male and female in the subsistence or informal sector both have their own type of work to do however males tend to dominate most of the work shared by both. This is mainly due to the fact that it is customary for man to take care of livestock and the crops.

Figure 11: Types of subsistence work by gender

Many women sell their handicrafts through the Tuvalu Women's Craft Centre and such activities were becoming significant sources of income.

Adult Training

11.11 Government provides in-service training to those who qualify to pursue further studies. Besides, there are regular training programmes for capacity building of those who work in the public service and corporate organisations as well. Vocational re-training particularly for women community workers is on going. Participants undergo a regional seventh month course at the Secretariat of the Pacific Community's (SPC) Community Education and Training Centre (CETC) at Suva, Fiji. So far, about 30 Tuvaluan women have graduated from the centre and most of them are in full time employment.

Equal Pay for Equal Work

11.12 Section 27 of the Employment Act, provides for the Minister to order fixed minimum wages for workers in any occupation either generally or in any specified area or district, in any case in which he is satisfied that the minimum rate of wages being paid to any persons employed in any such occupation is unreasonably low. However, before making such orders, the Minister shall consult with the representatives of the employers of such workers and with representatives of the workers. Those who are employed in the Civil Service, men and women on the same salary scale receive similar pay.

Sick Leave

11.13 All workers are entitled to sick leave upon the production of a valid sick certificate. For those who are employed in the Public Service, additional provisions are provided for them in the General Administrative Orders (GAO), 2000. These Orders also apply to those employees in the Falekaupule or Island Council if no such provisions are provided for in their Staff Guidelines.

Tuvalu National Provident Fund

11.14 The National Provident Fund Act 1984 provided for the establishment of the Tuvalu National Provident Fund (TNPF). Prior to 1984, Government had a Pension Scheme which was confined to only those working in the Civil Service.⁹⁴ The setting up of the TNPF provided an avenue for those who are employed both in the public and private sector to save for retirement and for other benefits as well. The main objectives of the TNPF were to:

- i) collect all national provident fund from employers, (10 per cent employee with matching 10 per cent from employer since 2000);
- ii) Make sure to invest such funds in safe investments to ensure reasonable returns for such money; and
- iii) To provide for retirement, voluntarily at age 45 or upon compulsory retirement at 55years.

Except for domestic servants, non citizens and those who earn less than \$400 per annum, membership for all other employees is mandatory. The Funds also has provisions for voluntary membership. Benefits provided by the TNPF include:

⁹⁴ Ulika (pers.comm. Feb. 2007)

- Housing Scheme – this scheme allows any member who has attained the age of 45 years and has \$20,000 or more in his account can withdraw for build or purchase a house.
- Women’s Home Benefit allows women only to withdraw all her savings on grounds of resigning from employment in order to take care of her sickly spouse or her children. Full withdrawal can only be granted upon official notification from the employer that she has resigned from her job. This provision does not benefit female members because it is likely to encourage women to resign from work in order to utilise her savings to meet other family and possible community as well. It perpetuates the stereotyped role of women as care givers. In some instances women have actually resigned in order to withdraw their savings. The practice means that her savings is used to meet the family’s immediate financial needs at the expense of her job and her retirement benefits in the long run.
- Members Loan Scheme is an investment initiative of the TNPF which allows members to loan a maximum of 30 per cent of their savings sourced from a special allocation within the TNPF, the member does not touch his/her savings and repayment is mandatory. The absence of formal credit union schemes makes this loan scheme viable.
- Death Benefits are paid to beneficiaries upon the death of the member. If there are no nominees then the money will be referred to the Administrator General for distribution to the next of kin.

Maternity Leave Provisions

11.15 Women continue receive full pay during maternity leave and many families are sharing gender roles. Under Section 80 of the *Employment Act* (Cap 84), all female workers, regardless of marital status shall be granted sixty working days maternity leave. Although the Act stipulates twelve weeks maternity leave with not less than 25 per cent of the wages, in practice women receive full pay for the duration of the leave. This applies both in the public and private sectors.

11.16 Furthermore, civil servants who are governed by the General Administrative Orders must cease working prior to the ninth month of pregnancy and are given leave not less than 50 days and not more than 60 days. This leave can be extended upon production of medical certificate, however such extension is granted without pay. This is a matter of choice for those women who would like to spend more time with their children. Section 80(3) of the *Employment Act* also prohibits dismissal during the time of approved maternity leave. The Act further stipulates the provision of half an hour twice a day during working days for nursing mothers to breastfeed their babies.⁹⁵

Article 12

1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States parties shall ensure to women appropriate services in connection with pregnancy, confinement and the postnatal period, granting free services where necessary, as well as adequate nutrition during pregnancy and laceration.

⁹⁵ Sec.80(3) of the *Employment Act* Cap 84

Policy Framework

12.1 The overall state of health in Tuvalu is quite high in relation to other LDCs within the region. In 2003, Tuvalu health expenditure amounted to 6.1 per cent of GDP.⁹⁶ Existing policies do not discriminate against men and women.

12.2 The National Health Plan (1999-2003) is the main document that details goals and objectives for the Ministry of Health. However, the Plan is currently under review but practically it forms the basis for the functions of the whole Ministry. Priority areas and other classical issues are addressed in this document include:

- Mother Child Health (incl. EPI, ARI and CDD control);
- Tuberculosis (seen as a priority, with DOTS strategy implemented);
- NCDs (with a separate action plan);
- STIs (including HIV/AIDS, especially in seafarers);
- Filariasis (and other parasitic infections);
- Cervical screening;
- Safe water; and
- Environmental sanitation and personal hygiene.

Those priority areas of health issues are also identified as Key Policy Objectives in Te Kakeega II:⁹⁷

- Provide a higher standard of health care nationwide;
- Promote health education and nutrition awareness for healthy lifestyle;
- Improve quality of health services at Princess Margaret Hospital (PMH); and
- Enhance delivery of health services, especially primary health care.

Access to Health Services

12.3 Health care services in Tuvalu are provided free of charge by Government. Princess Margaret is the mother hospital located in the capital whereas the outer islands have Health Centres managed by a senior staff nurse (midwife) and two staff nurses. According to the ICPD+10 Progress in the Pacific, Tuvalu is one of nine PICs that has the highest proportion of deliveries attended by trained skilled personnel which exceeds 95 per cent.⁹⁸ Women now have 100 per cent access to health services throughout Tuvalu.

12.4 Patients in the outer islands have access for treatment at PMH either at their own costs or through the Government's referral systems. If the cases are complicated and cannot be treated in PMH, then they are referred overseas through the Tuvalu Medical Treatment Scheme (TMTS).

⁹⁶ World Health Organisation 2007

⁹⁷ National Strategy for Sustainable Development Te Kakeega II 2005-2015 refer Chapter 7.1

⁹⁸ ICPD+10 Progress in the Pacific

12.5 However, as outlined in the MDG report, one of the main challenges for maternal health is the provision of emergency obstetric care when birth complications arise. Health centres in the outer islands are not equipped to detect potential problems early during pregnancy for referral to the capital or even overseas. In terms of medicine and drugs, the logistical difficulties faced by small island populations residing in widely dispersed atolls/islands, as well as expensive, often in frequent transportation have sometimes resulted in inadequate supplies being available in some centres, and overstocking of nearly expired commodities in those health centres.

Morbidity

12.6 The major causes of morbidity are communicable diseases, with high numbers of skin infections, acute respiratory infections (ARI), eye infections, filariasis and tuberculosis. The tuberculosis (Tb) programme has been recently strengthened after an increase in Tb prevalence and a filariasis mass drug programme is also in place. Lifestyle diseases are also increasing, with the incidence of certain non-communicable diseases (NCD) risk factors such as obesity and tobacco use. The five major causes of morbidity are outlined in the table below:

Table 26: Five Leading Causes of Morbidity, 2003

	Total	Male	Female	Total	Male	Female		
Five leading causes of morbidity	Number			Rate per 100 000 population ^a				
1. Septic sores/ wounds	4758	...	...	49 764.67	...	...	2003	12
2. Influenza	3663	...	...	38 311.89	...	...	2003	12
3. Acute respiratory infection	2950	...	...	30 854.51	...	...	2003	12
4. Headache	2303	...	...	24 087.44	...	...	2003	12
5. Cough	1890	...	...	19 767.80	...	...	2003	12

Extracted from WHO Report: Western Pacific Regional Health Databank, 2005

Since 1990, significant progress has been made towards reducing morbidity and mortality in Tuvalu. Health services are working to meet emerging demands resulting from the changing lifestyles (especially diet) of the population.

Maternal Health Services

12.7 Females comprise 50.6 per cent of the whole population of Tuvalu of which 47.3 per cent of them are at the Child Bearing Age (CBA). This CBA comprises of those between 15 to 49 years old

and also known as 'safe-motherhood', and it falls within the most vital part of the Reproductive Health (RH).

12.8 Pregnant women throughout Tuvalu now have 100 per cent access to professional midwifery services. The RH clinic and the Maternity ward at PMH provide all the identified services to support women from the beginning of pregnancy until they give birth and eventual discharge from the hospital when mother and baby are well and healthy. However, mothers who have complications during pregnancies and deliveries are provided with special care from medical and nursing staff.

12.9 It is a routine requirement that all women who are pregnant for the first time should deliver their first baby at the PMH. Those women with previous problems during delivery or during pregnancy are also required and referred to PMH. Outer islands health centres are equipped to attend to normal deliveries only.

12.10 There has been a rise in teenage pregnancy over the past eight years. About 12 per cent of annual deliveries are of teenage mothers between the ages of 15 and 19. The rise is due to increased sexual involvement of young people, influence of alcohol and social mobility. Peer pressure and sometimes family problems also drive such young people to engage in such wanton behaviour.

Family Planning

12.11 Women have access to family planning advice and other family health services through the Ministry of Health. Contraceptive use in Tuvalu has decreased in the last 3 years. Table 27 below shows the Family planning programme being used during the period 2002 – 2004. It is noted that this is the reported use as supplied by the Ministry of Health. There are other service providers or distributors of contraceptives, including the TuFHA.

Table 27: Family Planning Programme 2002 - 2004

Year	Eugy	Micro	M/lut	Coper T	IUD	DP	Condom	Ovulation	Norplant	Sterilization	Total
2002	687	2140	284	270	649	3863	444	845	408	2236	11826
2003	46	156	69	12	26	302	71	94	49	179	1004
2004	40	153	80	15	19	344	112	122	49	169	1103

Source: Health Department (Unpublished Data)

The most common type of contraceptive used is Depo Provera followed by sterilisation. The number of family planning use decreased in 2003, but slightly increased in 2004.⁹⁹ However, with a high total fertility rate of 3.8 in 2002, Tuvalu would definitely face a high population growth in the next decade. This will give rise to other social and economic problems, for example, overcrowdedness due to limited land area.

12.12 The Ministry of Health in partnership with TUFHA and supported by the media continue to run awareness programmes on the impact of unwanted pregnancies and introduction of birth control

⁹⁹ Social Data Report, 2006

methods. Abortion is a criminal offence in Tuvalu, but there are some situations in which the court will accept an adequate defence to a charge of abortion (Jalal 1998). Legal sources say that a legal abortion will be conducted only if it is necessary to preserve the physical health of the mother.

Births & Infant Mortality

12.13 According to the 2002 Census, the average number of birth declined slightly from 251 annually from 1992 to 1997, to 241 from 1997 to 2002. However, the total fertility rate increased from 3.6 to 3.8 respectively. Regardless of a decline in total births, the cause for the minor fertility increase, due to a considerable decrease in numbers of CBA group. These women had more children per women than during the late 1990s.

12.14 Tuvalu's infant mortality rate (IMR) has been estimated at 35 infant deaths per 1,000 live births for the period 1997–2002. This represents a substantial decrease compared to the situation in the early-mid 1990s, when infant mortality rates was 51. From 2003 to 2005, the IMR decreased to 32.6 infant deaths per 1,000 live births.

12.15 From birth to the age of five, a child is always at greater risk of getting preventable diseases such as measles, whooping cough, tetanus, acute respiratory infections and many others.

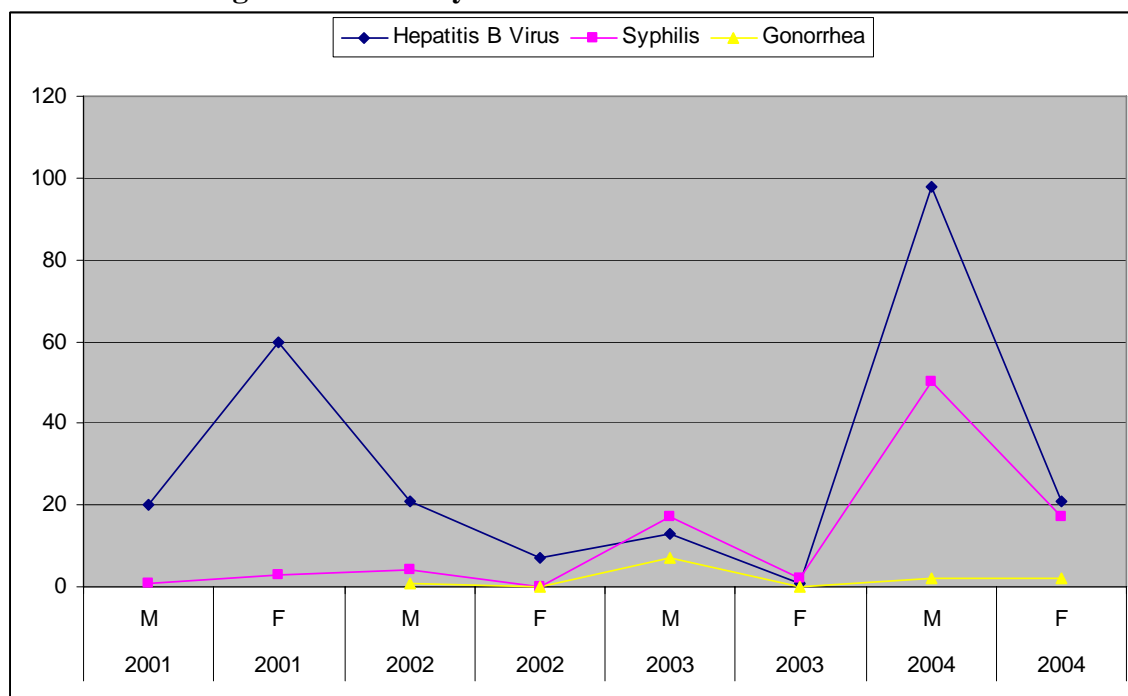
Life expectancy

12.16 Life expectancies at birth for the period 1997 – 2002 are estimated at 61.7 and 65.1 years for males and females respectively. Corresponding life expectancies of 60.7 and 65.1 years during the period 1992–1997 indicated a slight increase for males and no change for females.

Sexual & Reproductive Health

12.17 Under the Health Department in Funafuti, there is a Reproductive Health (RH) clinic which deals mostly with the health of women and children under five years old. Services under RH are Safe Motherhood – Antenatal and Postnatal, Maternal Child Health Care, Family Planning, Gender equality issues, Teenage pregnancies and other related treatments. The Health Department in partnership with the NGOs such as TuFHA, Red Cross, TANGO and the Master Trainers of Life Skills, work closely to provide all the RH services needed by youths and women.

12.18 The recent Health Report indicated an increase in the Sexually Transmitted Infections (STIs). In 2004, there were 119 cases of Hepatitis B virus, 67 cases of syphilis and 4 cases of gonorrhoea reported.

Figure 12: Sexually Transmitted Infections 2001 - 2004

The above figure indicates an increase in reported cases of STIs, and this could lead to a rise in the number of HIV positive cases.

12.19 The laboratory at PMH is able to test for syphilis, hepatitis B and HIV. However Chlamydia and gonorrhoea can not be tested for at this time. Although in the case of the current surveillance on seafarers and antenatal mothers, urine samples to test for gonorrhoea and Chlamydia are still being sent to Melbourne. Syphilis cases that are detected at PMH are treated according to protocol of WHO standard.

HIV and AIDS

12.20 The first case was reported in 1995 and to date there are nine people confirmed to be living with HIV and AIDS with the last case reported in 2002. There is no information on how they have contracted the virus and the sex disaggregated data is not available. Therefore, it is generally assumed that most of the victims are seafarers and students who spent most of their time out of the country. Increasing HIV and AIDS rates indicate a sexually active population. It also signals an urgent need to focus on the gender dimensions of the endemic in Tuvalu and the need to raise awareness on acceptance of people living with HIV and AIDS. The process of introducing HIV surveillance and screening has begun in early 2006 as part of the Global Fund Regional support.¹⁰⁰

¹⁰⁰ Tuvalu MDG Report, 2006

12.21 A HIV Clinical Team has been set up at Princess Margaret Hospital at Funafuti to look after people living with HIV and AIDS. This clinical team consists of 3 Medical Officers (Director of Health/OBGYN/HIV Coordinator), 2 senior nursing officers, a clinical nurse from TuFHA and the Pharmacist. The team is in the process of developing a care and support system for people living with HIV/AIDS (PLWHA). One of the Medical Officers, two senior nurses and the clinical nurse from TuFHA have undergone training in this area in Fiji and NZ early in 2006. There is a plan to send the rest of the team, namely two Medical Officers for training on treatment of patients with HIV and AIDS. The HIV Secondary Generation Survey (SGS) was completed in June 2006 and the data is currently being analysed. Samples of HIV and AIDS cases are sent to the reference laboratory in Melbourne for confirmation. The team is based in the capital Funafuti only.

12.22 Social changes inflict huge influences on young people. There is an increased risk for young people in urban Funafuti which is further aggravated by the problem of alcohol abuse. New alcoholic bars and clubs established in Funafuti attract more youths to consume liquor any time. Unfortunately, condoms are not available at those places. Young people still don't take HIV/AIDS/STIs seriously. Young people living on the outer islands have limited access to information like those on Funafuti and condoms are not readily available to them. There is a need to address these issues in the new plan for the Ministry of Health.

12.23 Reported HIV/AIDS infection in Tuvalu is threatening for a small island state like Tuvalu. The social impact of these sexually transmitted diseases is that it affects the status of the person in society. With increased mobility and overseas contract workers, seafarers STIs and HIV/AIDS can be a major health issue in a small country like Tuvalu. Awareness and preventative measure must be mobilised to safe guard the health status of society.¹⁰¹ Therefore, the Ministry of Health, TuFHA, TNCW and the DWA with other NGOs and Government Ministries take leading roles to make available a range of sexual and reproductive health services, including sexual health clinics. Peer education and support are also provided on a range of issues concerning the health, safety and welfare of vulnerable groups including youths and women. Nevertheless, the Health Department with other Governmental stakeholders together with NGOs would continue to provide educational programmes for young men and women at risk of or involved in informal prostitution.

Non Communicable Diseases [NCDs]

12.24 The incidence of diabetes and hypertension continues to increase indicating the deteriorating health status and poor diet or eating habits of the people. People have increasingly moved from traditional cooking and eating habits to a more westernised way of cooking and eating habits. Women are the most vulnerable group to those life style diseases. After marriage the physical activity of a woman is reduced and this contributes to obesity. It is customary for women to be the last to eat in an extended family therefore consume the family left-overs which are commonly the less nutritious part of the meals.

¹⁰¹ Social Data Report, 2005

Table 28: Non-communicable Disease by gender and type 2002 - 2004

Type of Disease	2002			2003			2004			Changes between 2004-2003			Changes between 2003-2002		
	M	F	T	M	F	T	M	F	T	M	F	T	M	F	T
Diabetes	107	155	262	195	273	468	538	881	1419	343	608	951	88	118	206
Heart disease	24	10	34	13	36	49	13	15	28	0	-21	-21	-11	26	15
Hypertension	111	206	317	201	341	542	549	1255	1804	348	914	1262	90	135	225
Obesity	1	1	2	3	2	5	22	26	48	19	24	43	2	1	3
Arthritis/gout	296	240	536	339	285	624	396	249	645	57	-36	21	43	45	88

Source: Health Department (Unpublished Data)

12.25 Table 28 shows that the three most dominant non-communicable diseases in Tuvalu are diabetes, hypertension, and obesity. Females are more susceptible to non-communicable diseases. The table shows that the number of cases has increased in the last three years. Similar to other Pacific island countries including Tuvalu, non-communicable diseases (NCDs) or “lifestyle diseases” are responsible for high proportion of deaths and disabilities. Such diseases are diabetes, heart disease, stroke, high blood pressure and cancer. Throughout the Pacific, the burden of NCDs is increasing rapidly with significant social, economic, and health consequences. It has also been observed that diabetes and other NCDs are an increasing health burden to the country. To address this need for better information, the Department of Health carried out a national “stepwise” survey to determine the prevalence of the common risk factors for NCDs. These common risk factors include tobacco and alcohol use, inadequate physical activity, and unhealthy diets. From the current findings, there was an increase in numbers of women suffering especially from obesity. New identified cases for diabetes and hypertension during the survey were all referred to the NCDs clinic for further treatment and management. It was also noted that there is also a rise in alcohol and tobacco use by women. The successful passing of the Food Safety Act and the Tobacco Act are some new measures to assist in combating the increasing effects of non-communicable diseases. Access to health services and facilities are free except for procuring dentures where there is minimal charge.

Mental Health

12.26 Mental health and disability are important but the most neglected areas. Whilst the issue of disability is being addressed through the new Social Development Policy there is a need to address the issue of mental health as well. Government is essentially considering to:

- a) Develop and implement policy on mental health (consider conducting a survey to identify needs);
- b) Training for Mental Health personnel
- c) Provide suitable health coverage for mental health patients

Mortality

Table 29: Five Leading Causes of Mortality in 2003

Five leading causes of mortality	Number	Rate per 100 000 population ^a			Year
1. Heart problem	21	219.64	...	...	2003
2. Senility	11	115.05	...	...	2003
3. Undiagnosed	10	104.59	...	...	2003
4. Diabetes	5	52.30	...	...	2003
5. Hypoglycaemia	5	52.30	...	...	2003

Extracted from WHO Report: Western Pacific Regional Health Databank

Table 30: Ratio of Health Professionals to Patients

The table below outlines the population ratio to qualified health professionals

	Total	Total	Male	Female	Year
	Number	Rate per 10 000 population			
Health workforce					
- doctors	4	4.18	...	...	2003
- dentists	2	2.09	...	...	2003
- pharmacists	2	2.09	...	...	2003
- nurses (bachelor and diploma graduate nurses)	30	31.38	...	...	2003
- midwives	10	10.46	...	...	2003
- other nursing/ auxiliary staff	12	12.55	...	...	2003
- other paramedical staff (e.g. medical assistants, laboratory technicians, X-ray technicians)	5	5.23	...	...	2003
- other health personnel (health inspectors, assistant sanitarians, traditional workers, etc.)	23	24.06	...	...	2003

Extracted from WHO Report : Western Pacific Regional Health Databank

Medical Evacuation

12.27 PMH is not fully equipped to undertake major operations, surgery and other advanced medical treatments. Similarly, the outer islands only have health centres staffed by nursing personnel. This necessitates the need to refer serious cases to Funafuti or overseas for further treatments. To address

this issue, Government has a medical evacuation scheme which has been in operation since independence. The TMTS applies only where special treatment is required, and covers both local and overseas evacuation. The scheme is discussed in more details under Article 13.

12.28 Government acknowledges the effective participation of NGOs in addressing health issues. In 1989, TuFHA was set up to provide health services to communities mainly for youths in areas of family planning, reproductive and sexual health, pregnancy, drug abuse, STDs, HIV and AIDS, delinquency and life skills trainings. TUFHA has been very active in conducting sexual and RH workshops, and disseminate information through radio programmes and dramas for youths and communities on Funafuti and the outer islands as well.

Article 13

States parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular;

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;
- (c) The right to participate in recreational activities, sports and in all aspects of cultural life.

Practice

13.1 Women who are in paid employment have the benefit of membership of the Tuvalu National Provident Fund [TNPF]. The TNPF is a statutory body established under the *National Provident Fund Act* (Cap 86). It is the only statutory corporate body that provides compulsory and voluntary superannuation and pension scheme for the working people of Tuvalu as a means of social security at retirement. In 2003 the Tuvalu National Provident Fund (TNPF) had approximately 100 active private sector businesses (excluding churches and education institutions) with approximately 1,200 employees and fund members contributing to the fund.¹⁰²

13.2 Although women tend to have lower reported levels of labour force participation than men, much of women's work is unrecognized as economic activities which are unreported and unrecorded in official sources of data. This includes activity such as child care, subsistence farming etc. Government therefore recognises the need to improving databases on women's economic contributions but this cannot be addressed without challenging existing concepts and definitions of work and economic activity. Women's contribution to economic development is underestimated and thus official data sources provide an incomplete basis for the formulation of policies, plans and programmes relating to women.

¹⁰² Tuvalu MDG Report, 2004

13.3 Tuvalu does not have a welfare scheme specifically designed to assist, the under privileged, the elderly and other disadvantaged groups including the unemployed. However the only two schemes administered by Government for everyone are

- * Government scholarships which benefit qualified students in both pre-service and in service to study at tertiary institutions overseas.
- * Tuvalu Medical Treatment Schemes referring patients overseas as well as internal evacuation where all expenses are paid for by government.

13.4 While there is no direct family benefit, women are equally qualified to benefit from government funded scholarships and medical scheme. Married women in their own right as parents do not have access to children's allowances and housing allowances. However under the scholarship scheme, married women are equally qualified to receive accompanied allowances for their children. The tuition fees are paid directly to the institution while subsistence allowances including accompanying allowances are paid to the recipient of the award as well as book allowances are paid to the family unit. Also, the housing allowance can also be paid to the married woman civil servant if she rents privately. There is no discrimination between married and unmarried women.

Tuvalu Medical Scheme

13.5 All medical referrals and evacuation are financed by Government under the Tuvalu Medical Scheme. The scheme includes those from the outer islands and also those referred for treatment overseas whether to Fiji or New Zealand. Indirect benefits received through the medical treatment scheme overseas are paid to different sources. The cost of treatment is paid directly to the hospitals whereas housing allowance goes to the landlord. The subsistence allowance is paid directly to the recipient while the rest are paid to the primary care giver. All these benefits are non-taxable.

Table 31: Medical Treatment Scheme Beneficiaries 2004-2006

		Overseas Referrals			Outer island to Funafuti		
		2004	2005	2006	2004	2005	2006
Adult	Female	33	13	33	130	142	180
	Male	20	12	22	110	152	115
Children	Female	4	5	9			
	Male	3	6	7			
Total		60	36	71			

Source: Ministry of Health records

Access to Loan and Credit

13.6 In terms of people qualifying for bank loans, mortgages and other form of credit depends on the institution's policy. Normally one must have a job or a relevant form of security in accordance with the government's standing policy. The only private institutions are the money lenders in the

non-formal sectors. Anyone can get a loan so long as the money lender agrees. All males and females are treated equally in the lending systems in Tuvalu. There is no discrimination at all between the male and female clients, which indicates that women are welcome to take out loans anytime in their own rights. However, there is only one exception and that is housing loan where both the wife and husband sign the loan application form. Because there is no established separation between men and women in the family benefit system, obviously there is also no established mechanism for a woman to complain when treated unfairly. However, the government is always there for any form of complaint.

13.7 Tuvalu National Council of Women works directly with women on the outer islands. One of its major objectives is to broker funds to assist these organisations. For example, the credit scheme development fund that is operated by women organization on each of the outer islands and with different island communities on the capital. With funds provided by NZAID, this scheme was set up expressly for the purpose of lending or form part of development including revolving loans funds to establish small businesses to help women. One of the major constraints currently faced by NCW is the recovery of the principal amount of the fund to enable the fund recovered within a period of one month. There is an indication of failure merely due to lack of knowledge on how to start the business and financial management.

13.8 The Development Bank of Tuvalu is a financial institution that offers equal opportunities to all citizens of Tuvalu. It provides financial assistance in the form of loans to prospective clients who may wish to establish new businesses as well as financing the expansion of existing businesses. Table 32 summarises the Development Bank total loan approval for the period 2001-2005.

Table 32: Summary of loan approvals 2001 - 2005

Year	Male		Female		Totals	
	No.	Value	No.	Value	No.	Value
2001	38	262,773	13	66,207	51	328,980
2002	3	9,900	4	10,500	7	20,400
2003	18	199,746	14	58,000	32	257,746
2004	31	315,350	16	137,832	47	453,182
2005	41	959,950	30	373,245	71	1,333,195
Totals	131	787,769	77	272,539	208	1,060,308

(Source: DBT records, 2005 Unpublished data)

- The above approvals shows that 63 per cent of the approvals were males and 37 per cent were females. Out of the total value of loans approved 74 per cent were for males and 26 per cent for females. This clearly shows that more men than women benefited from the Bank's assistance.
- The natures of businesses which women have requested to be financed by the Bank were many. It varies from setting up a small canteen to retail grocery items, selling of jewellery, embroidery, money lending, hawker business, fishing business and house for rent.

13.9 Apart from lending the Development Bank of Tuvalu also provide a saving facility where people are encouraged saving their surplus funds for rainy days. The saving scheme was introduced at the beginning of 2006 and the Bank is getting a positive feedback from the public. This is a good sign as the Bank anticipates in the long term to finance its lending from domestic savings.

- The table below summarises the savings portfolio of the Bank.

Table 33: Summary of Savings Portfolio 2005

Joint Accounts		Business Accounts		Male Accounts		Female Accounts		Trust Accounts		Totals	
No.	Value	No.	Value	No.	Value	No.	Value	No.	Value	No.	Value
3	219.78	18	63,571.75	31	8,416.07	24	5,754.19	20	1,081.73	96	79,043.52

Source: DBT report, 2005

About 21 per cent of the total number of savings accounts comprise of Trust Accounts. These accounts are for minor with age less than 12 years old and surprisingly all of these accounts were open by their mothers. Apparently, females play a very crucial role in providing for their children's future financial freedom.

13.10 The only apparent barrier in relation to the participation of women relate mainly to the Falekaupule system in Tuvalu. Women are normally allowed to sit at certain seats in the Falekaupule set up but they are also not expected to participate or contribute in Falekaupule meetings. This cultural trait however seem to be changing following the introduction of the Falekaupule Act where women are given more cultural freedom especially in the Falekaupule set up. In terms of the legal, social and economic barriers, there are no known established barriers.

13.11 There is a concern on the presence of poverty in Tuvalu society with fear that women could be victims because of the embedded traditional roles. Most Tuvaluan do not acknowledge reference to the word "poverty" since everybody in Tuvalu own land and the traditional notion and norm of care and share doesn't leave anyone to experience absolute poverty. This notion conflicted with the ADB's survey of Hardship in Tuvalu in 2003 which indicates that hardship is increasing in Tuvalu.

Sports

13.12 Women are encouraged to participate in sports, however due to the geographical make up of the island, only selected sports are practised and played. Tuvalu has been represented at both the regional South Pacific Games and also the Commonwealth Games. The Vice president of the Tuvalu Amateur Sports Association is Ms Asita Molotii. Ms Molotii also represented Tuvalu at the Commonwealth Games officials meeting which was held in Melbourne, Australia in 2005

Participation in Cultural Life

13.13 Tuvaluans value their culture and tradition. Women play a prominent role in maintaining such values and traditions as they are considered custodians of Tuvaluan values and culture. They possess a wealth of traditional knowledge, dances and artefacts which are passed down through their daughters, younger women and girls. Making handicrafts like weaving mats, traditional dancing skirts and shell necklaces have been an integral part of socialisation especially for girls and young women. Selling these handicrafts has become a source of income for rural women and also for those in the capital. Women and girls actively participate in cultural activities from family to community and national levels. There are no restrictions placed on women for their involvement and participation in cultural life.

Article 14

1. States parties shall take into account the particular problems faced by rural women and the significant roles which they play in the economic survival of their families, including their work in the non-monetized sectors of the economy and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

2. States parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on the basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

- (a) To participate in the elaboration and implementation of development planning at all levels;
- (b) To have access to adequate health care facilities, including information, counseling and services in family planning;
- (c) To benefit directly from social security programmes;
- (d) To obtain all types of training and education, formal and non formal, including that relating to functional literacy, as well as inter alia, the benefit of all community and extension services, in order to improve their technical proficiency;
- (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;
- (f) To participate in all community activities;
- (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Policy Framework

14.1 In the Tuvaluan context, 'rural' is defined as referring to the outer islands. About 47 per cent of the total population¹⁰³ reside in rural areas. This includes family, the community, business, employment and politics. Successful development also hinges on the recognition that rural women have different needs and aspirations that need to be addressed separately. However, the inclusion of women's concerns, aspirations and skills for development planning has not become a reality and it severely hinders development in Tuvalu. Women have the furthest to travel to catch up. Even where equality exists in theory through national laws, women are disadvantaged because in practice this equality does not exist because of institutional and social barriers and cultural beliefs.

14.2 There is a socio- economic gap between rural and urban women. In terms of educational attainment of rural women, 63 per cent had primary education, 25 per cent had secondary education, 6 per cent had tertiary education, 5 per cent had none and 1 per cent other. (HIES 2005). Generally urban women have higher levels of education compared to those in rural areas. With that level of education, most of the rural women participate in handicraft making and small scale activities as a source of income in addition to their domestic and traditional roles. Only about 5 per cent of rural women are wage and salary earners. Women play a very important role in the development and progress of their respective communities and the nation as a whole. They are at the forefront of raising funds for various community needs ranging from educational (for their children) to church activities and other livelihood projects.

14.3 As part of the UNDP funded project of Strengthening Local Government, rural women and men have received training on project management. This is aimed at improving their skills in project documentation, implementation, monitoring and evaluation. Other training included basic business skills training to assist those interested to run their micro enterprises and small businesses. Although Government and NGOs provide training, it has been observed that in most islands only a few women attend such trainings. Apparently the planning and implementation of such training were done with little or no consideration to the needs of women, For example, due to the multiple roles played by the women at home and for their children's education makes it difficult for them to leave the home for a long period of time to attend training.

14.4 Although they are active players in the socio economic development of their communities, there is a notable absence of these rural women in the formal decision making bodies i.e. the Falekaupule in most of the island communities. Gender stereotyped views and attitudes are a barrier to their participation in the formal decision making institutions. To address this problem, Government has been conducting gender sensitivity training and CEDAW awareness in the rural areas.

Access to Health Services

14.5 Each island has a health centre which comprises a senior staff nurse who is also a qualified midwife and two staff nurses. In terms of maternal health and birth delivery, rural women now have 100 per cent access to professional birth attendants. These health centres are fully equipped to cater

¹⁰³ Tuvalu Census Report, 2002

for normal birth deliveries, however complications pose a real challenge due to the location the non availability cum irregularity of shipping services. The island health centres provide reproductive health services through the dissemination of information, family planning information and supply of condoms. Health issues for seafarers and their wives is also a concern. They should be informed and educated to protect themselves from STIs and HIV and AIDS. Therefore the use of condoms should be promoted once their husbands return from overseas and would be advisable that they visit health clinic regularly to ensure they are not infected with any of these diseases and virus.

Access to Social Security

14.6 Tuvalu, as discussed elsewhere in the report does not have any social security system for the disadvantaged including the elderly. Its strong traditional social and familial systems provide the necessary support for such vulnerable groups.

Access to Education and Training

14.7 There are no formal education systems for women and girls apart from primary school in the rural areas, however women have been recipients of informal training organised by the Kaupule and other Government and Non Government agencies. The DWA has been instrumental in conducting Gender Sensitivity Training, business skills and leadership training as well. Other organisations have run workshops on project management, disaster mitigation, reproductive health and a range of other issues. However, data for these training workshops is not available.

Access to Natural Resources and Land Inheritance

14.8 The recognition of rural women's right over land is even more crucial. Firstly, because women have limited access to alternative sources of livelihood for instance wage employment. Women and especially unemployed women are rarely in the position in terms of rights, education, skills, technologies, and capital to shift their livelihood away from natural resources or to carry out changes in their production systems. To assist rural women in their pursuit for economic development the Department of Agriculture has been involved with the replanting of 'togo' for handicraft purposes as well as prevention of coastal erosion in some of the outer islands. Women's groups with the support of the Agriculture Department have also been very active in implementing home gardening projects to promote eating healthy and balanced meals.

Access to credit and loan facilities

14.9 The availability of small credit scheme funds by TNCW to rural women is another major factor that helps women's contribution and service to the economy. Women have been trained to manage the credit scheme which has increased their income and improvements in their lives and of their families as well. The scheme has helped more women to be self employed where they have a small source of income while taking care of their children as well. Further training particularly on sewing, cooking, screen printing etc. continued to be conducted by the Department of Rural Development through its Community Workers in the outer islands. In essence this is implementing gender mainstreaming at community level. Remittances from seafarers (husbands and sons)] who are working abroad also helps sustains the family.

14.10 The highest proportion of loan approvals for women was for women living in the capital, Funafuti.¹⁰⁴ The main reason is due to the increasing number of people living in the capital which accounts for about 50 per cent of the entire population. Secondly the most educated and skilful women are the ones that live in the capital. Banks records¹⁰⁵ show that the financial assistance from the Bank is not fairly distributed to all Outer Islands. There is a need to promote and educate the women on the Outer Islands on how to get assistance from the Bank. However, it will continue to be difficult for them to access such facility due to lack of collateral. In addition to that there is a need to develop the skills and knowledge of women in the Outer Islands in order to enable them to start their micro businesses. In 2006, the National Bank of Tuvalu commenced their operations in some of the outer islands thus facilitating access to banking services for both men and women in those islands.

14.11 The consequences for women's absence at Falekaupule meetings resulted in their lack of understanding on very important issues such as the Falekaupule Trust Fund and how it could be used for their development. Rural women also have access to their island Falekaupule Trust Fund, however the amount is in most case not sufficient to cater for everyone's needs.

Housing

14.12 Shelter is a basic necessity and in Tuvalu, houses are built on communal land in the villages. The Population Census in 2002 indicates that there were 1261 permanent homes and 269 traditional houses in Tuvalu.

Table 34: Housing structures and type of housing by island, 2002

Island	Type of house											
	Permanent					Building with 2/more Apartments	Dwelling attached to a non-res.build	Lodging house	Traditional	Institution	Other	Total
	Single housing unit			More than 1 housing unit								
	Timber	Concrete	Timber & Concrete	Timber	Concrete							
Nanumea	40	14	5	0	0	0	0	0	69	0	0	128
Nanumaga	2	49	22	0	0	0	0	0	46	0	0	119
Niutao	25	27	32	0	0	0	0	0	59	0	0	143
Nui	4	12	37	0	0	0	0	0	54	0	1	108
Vaitupu	63	95	12	9	43	0	0	0	14	10	1	247
Nukufetau	1	95	2	0	1	0	0	0	13	1	6	119
Funafuti	270	243	40	18	27	6	2	1	12	0	20	639
Nukulaelae	2	9	54	0	0	0	0	0	2	0	1	68
Niulakita	7	1	0	0	0	0	0	0	0	0	0	8
Total	414	545	204	27	71	6	2	1	269	11	29	1579

Source: Population and Housing Census 2002

¹⁰⁴ Development Bank of Tuvalu Records,

¹⁰⁵ ibid

In Tuvalu, most houses are usually of concrete and/or timber structures and some are made from traditional building materials. The above table shows there are more single housing units, 74 per cent, and the largest number of structure type is concrete, consisting of 35 per cent of the total available houses. Most of the permanent houses in Nukufetau and Vaitupu are concrete homes while in Funafuti most of the home use timber. Houses made from traditional materials are common in the outer islands. As can be seen from the above table, the majority of those who live in rural areas have decent dwelling houses.

Water Supply and Sanitation

14.13 Needless to say, water is a basic necessity for life for the livelihood of people and animals as well. Tuvalu, being a coral atoll does not have any river or stream, therefore it depends entirely on rain as its main source of water supply. Providing water tanks for roof catchments has been a priority for Government over the years. All women in the rural areas now have access to water tanks and community cisterns which were mostly funded through foreign aid assistance. Individual families with water tanks all have better sanitation facilities, flush toilets and water sealed as well.

Table 35: Number of Houses by Island and Source of Water Supply 2002

Island	Tank	Cistern	Tanks & Cistern	Community Cistern	Other	Total
Nanumea	116	4	5	3	0	128
Nanumanga	104	5	8	0	2	119
Niutao	111	11	1	19	1	143
Nui	77	6	0	25	0	108
Vaitupu	176	24	27	1	9	237
Nukufetau	92	10	5	4	7	118
Funafuti	404	134	62	22	17	639
Nukulaelae	59	2	0	4	3	68
Niulakita	8	0	0	0	0	8
Total	1147	196	108	78	39	1568

Source: Tuvalu Social Data Report 2005

14.14 Table 35 shows there are more water tank storages than cisterns and the number of storages depends on the number of households per island. Although new households were established in the last decade the number of new water storage systems is not proportional to the number of new households established therefore increasing the number of people at risk. The problem is more applicable in Funafuti where 17 households (3 per cent) have no proper water storage. Most households are therefore susceptible to face water problems during the long periods of dry seasons as their only means of water supply is through rain. Government as part of its drought mitigating strategy has installed desalination plants in Funafuti and some other islands as well.

Table 36: Number of Houses by Island With Water Tank Storage 2000

Island	Tank Capacity In Gallons Of Water				TOTAL
	No Tank	<1000	1000-1999	>2000	
Nanumea	12	1	27	88	
Nanumanga	9	1	50	58	
Niutao	26	5	39	70	
Nui	25	0	9	71	
Vaitupu	40	0	44	153	
Nukufetau	12	0	28	78	
Funafuti	140	26	126	324	
Nukulaelae	9	1	5	53	
Niulakita	0	0	0	8	
Total	273	34	328	903	

Source : Tuvalu Census Report, 2002

14.15 The above table shows that most of the households in outer islands have water tanks with the capacity of more than 2000 gallons. According to a survey carried in Funafuti in 2001¹⁰⁶ the capacity of water consumption as per household is 602.2 litres per day. Therefore, those with low capacity water tanks are likely to face shortage during long dry spells, however there are always the community cisterns which they could also use. Apart from availability of water, it is important that people have access to potable water.¹⁰⁷ There is no health tests conducted to determine the cleanliness and safety of water people consume.

14.16 The most common type of toilets used in the outer islands are Pour flush toilets whilst flush toilet facility is the most commonly used type in Funafuti. Households having other means of disposal have decreased in the inter-censal period from 8 per cent in 1991 to one per cent in 2002. Households with no available toilet facility have decreased from 15 to 13 per cent. Some households do not have the basic structures and facilities as a health requirement and the government has no standard building code in place to ensure the health and environment safety of individuals.

Rural Electrification and Information, Communication Technology [ICT]

14.17 Rural women now have access to electricity through communal diesel powered generators. This has provided them the opportunity to maximize the efficient use of their resources and also the use of household electrical appliances which facilitate and enhance their work in taking care of the family. Some families now have refrigerators, washing machines, bread making machines. As outlined in the HIES 2004 the geographical location of the outer islands makes it very costly to deliver regular training/workshops and other services.

¹⁰⁶ SPC Population 2000 and SOPAC technical Report

¹⁰⁷ Tuvalu Social Data Report, 2005 p43

Transport, Communication and ICT

14.18 Rural women continued to be disadvantaged in a number of ways, the geographical remoteness and the infrequent shipping services which is essential for transportation and marketing purposes. Other major constraints include: limited access to quality basic services, limited opportunities to earn money particularly for women and youth; overcrowding and overpopulation of households and communities due to too many familial; church; community and island contribution, idleness and a dependence attitude. Because of the physical remoteness of island atolls, it is costly to deliver regular training to women in the outer islands exacerbated by lack of transport and poor communication facilities. The two Government boats MV Nivaga II and MV Manufolau service these islands and the irregular shipping services is another major challenge that rural residents and service providers faced.

14.19 There is an information gap in terms of understanding women issues and training. Radio is the only means for dissemination of information. The only media based in Tuvalu is radio under the Tuvalu Media Corporation (TMC). The revised women's policy outlined media as one of the critical areas of concern with the goal of 'Active participation of women in the media for education and training and ban the stereotyped portrayal of women and girls as sex objects'. Government has been actively using the media as a means of educating women and men, particularly those in rural areas on a range of issues including gender, human rights etc. For the past two years the programme for the International Women's Day celebrations in the capital was aired live on radio. This was targeted at sharing important information on the theme and issues discussed during IWD.

14.20 In terms of the availability of electricity, each island has its own diesel powered generators. This has enabled rural residents to have better lighting systems, electrical appliances like refrigerators, washing machines which has greatly reduced the burden of traditional chores of washing and drying fish for women. The availability of electricity has also paved the way for ICT development in those areas. Government being mindful of this and the need to improve the status of the rural people and reducing the information gap now has plans to introduce Information, Communication & Technology [ICT] and internet services to the outer islands within the next two years. This would greatly facilitate communication and service delivery in these islands.

Article 15

1. States parties shall accord to women equality with men before the law.
2. States parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. They shall in particular give women equal rights to conclude contracts and to administer property and treat them equally in all stages of procedure in courts and tribunals.
3. States parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States parties shall accord to men and women the same rights with regards to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Legal Framework

15.1 Freedom from discrimination on the ground of sex is not provided for in the Constitution of Tuvalu. Even if it has been provided for in the Constitution, its implementation to an extent would be hindered by the protection of Tuvaluan values provided for in s.29. Moreover, apart from customary and traditional practices, women have limited freedom of expression in matters concerning the community at large depending on the 'Aganuu ote Fenua'.

15.2 There is nothing in the laws that provide differential recognition between men and women save for the references to traditional customs and values. The omission of the word 'sex' in s.27 of the Constitution was for the purpose of giving effect to the principles of the Constitution. This is also to cater for certain circumstances, where the need to recognize and give effect to tradition, customs and values are still of importance to the maintenance of good order and effective development of the country. This has enabled the enactment of certain legislation that do not provide for equal treatments of women and men.

15.3 Accordingly, s.10 of the Constitution recognizes that while freedom before the law is accorded to everyone on equal footing, there may be circumstances which allow for different treatment of people. One of which being the different treatment based on sex.

Tuvalu Lands Code

15.4 The recognition and distribution of family property, in particular land, favours males. For instance, s.9 of the Lands Code denotes more recognition given to sons than daughters. But even between sons, the eldest is highly regarded than the rest of the sons. Daughters are secondary to sons. The Code is the only existing legislation that attempts to provide a comprehensive coverage of traditional practices pertaining to land. At the time of this codification, such were the best practices available. Traditional practices exerted on sons especially the eldest, certain obligations and responsibilities for the whole extended family. Accordingly, it was most acceptable that beneficial returns match one's obligations and responsibilities.

15.5 In practice, these provisions are never strictly adhered to. Sons treat their sisters equally on land matters. These land matters often require consensual agreements amongst all the people who have interests in the issue. Land distribution in most cases is shared equally among the children. In cases where all the family land is listed under one of the sons, it is traditionally acceptable that he is holding it on trust for the benefit of all. Within these perspectives, it may be fair to say that the Code did not fully encompass the traditional notion of land ownership when it was formulated. Thus, despite the discriminatory provisions of the Code, the practice in reality is in line with the spirit of CEDAW.

Civil Matters:

15.6 There is nothing in the laws or in practice, that prohibits women from bringing civil suits or participate in any legal proceedings. Every woman and man of age has equal rights to enter into and conclude contractual arrangements. **With matters that are not connected with land, women have the same rights as men in concluding contracts and non-law properties.** Under s.10 of the Constitution, women can enter into contracts in their own name.

15.7 As to the laws relating to movement, women and men have the same right of movement. Similarly, any woman may freely choose her residence or domicile except for some married women who are expected to live with her husband on his land as traditional and cultural norms dictate.

Article 16

States parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right to freely choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- (e) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
- (f) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
- (g) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

The betrothal and the marriage of a child shall have no legal effect and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Legal Framework

16.1 Tuvalu highly values family life. Life in extended family is very common and apparent in both rural and urban communities as well. Strong family ties and values bond members of the extended families with the older generations valuing and respecting bonding family relationships up to the 3rd or 4th generations after them. With this perception, all members within an extended family share, support and assist each other in whatever way they can whenever the need arises. Such family and cultural value is reflected on the legal restrictions of marriage between Kindred and Affinity Prohibited Degrees of Relationship outlined in the Marriage Act.¹⁰⁸

¹⁰⁸ Schedule 1 (Section 4) of the Marriage Act Cap 29

Rights to Marriage

16.2 The *Marriage Act* (Cap 29) regulates the solemnization of marriages in Tuvalu. According to Tuvalu customs, a son's choice of wife needs to be approved by his parents. His sisters and cousins may have some influence but the final decision rests with the parents. Marriage is usually arranged between the families of the boy and the girl and it's on such occasion that kinship and extended families play a very important role in collective pooling of resources. The occasion is a joyous time where the bride and the grooms families exchange gifts.

16.3 Another traditional courtship practice is 'potulama'¹⁰⁹. This practice originates in Nanumea but spreading throughout the islands. Such occasion occurs when the elders of the island may decide to light a potu lama. The young men will be consulted by the elders of the girls of their choice for wife. The elders will then approach the girl's parents on their behalf and seek approval for marriage. Once a young man's betrothal request is granted, his potu lama will be lighted. If it's rejected, then the old men may approach parents of other girls the boy may have mentioned. Marriage resulting from potu lama becomes the responsibility of the community that sponsored the lighting of the potu lama. Everyone from the village contributes food, mats, clothing or money as desired by the leaders.¹¹⁰

16.4 Men and women are free to enter into marriage and to marry spouses of their choice. But in practice, parents sometimes select spouses for both their sons and daughters, particularly for the latter. In instances where there is no element of coercion by the parents and deference by the children to their parents' wishes, shows respect. However in other cases, there are varying degrees of pressure applied on children, particularly the daughters. Although fixed marriages are no longer commonly practice, young women usually comply with choice of marriage partners of their elders. Whilst this is still being practiced, more young people are choosing to select their own partners and get married at 21 without consulting their parents or elders.

Marriage of Minor

16.5 No marriage of a person under the age of 16 is valid. The Act further states that a marriage of a person under the age of 21 years, require the consent of the father. This is reinforcing the stereotype of the father as the head of the household (Forster & Jivan, 2006). The consent of the mother will only be accepted when the father has died or unable to provide that consent. However for some reasons, when either parent could not give his/her consent then

'The Registrar General may, if satisfied after due inquiry that the intended marriage is a proper one, dispense with such consent.'¹¹¹

In the event, the person whose consent is required refuses to provide consent

¹⁰⁹ Literally means 'torch made from dried coconut leaves

¹¹⁰ Tuvalu : The Cycle of Life -website

¹¹¹ Section 7 of the Marriage Act, Cap 29

‘the Registrar General may, if satisfied after due inquiry that the refusal is, perverse and that it is on the best interests of the party requiring consent that the intended marriage should take place, dispense with such consent.’¹¹²

Solemnization of Marriage

16.6 The Act make provisions for parties intending to marry to file a 21 days notice of their intention with the registrar in the district. After 21 days, the Registrar will issue the certificate provided at least one of the parties has been a resident of the district for 28 days preceding the issue of the certificate; each of the parties is 21 years old or in under aged appropriate consent has been obtained and there is no impediment of kindred or affinity, or any other lawful hindrance to the marriage. The Registrar must ensure that a notice to the public of the intended marriage is published and objections to the marriage can be received within a certain time frame. No marriage other than a marriage *in articulo mortis* shall be solemnized except under the authority of a registrar’s certificate for marriage or of a licence granted by the Island court.

16.7 Marriages can be solemnized before a registrar and a marriage before a minister of religion in the presence of at least two witnesses in the church or other public place of worship in the district in which the notice of marriage was given. Bigamy is an offence. Marriage between couples of the same sex is not legally recognized. Customary marriage is also recognized under the laws.

Rights on Number and Spacing of Children

16.8 The laws do not provide what responsibilities each partner must carry out in their relationship regarding their children. However, the laws recognize that the welfare of the child is of paramount importance in any relationship. Both parents have the same rights to decide freely and responsibly on the number and spacing of their children and to have access to information, education, and health. Partners to a marriage have a free choice of when to have children and how many children they want except that abortion is an offence¹¹³. In the event of a marriage breakdown, both partners have equal rights to claim maintenance and custody orders. See the *Maintenance (Miscellaneous Provisions) Act* 1973 and the *Matrimonial Proceedings Act* 1985. The extent to which couples jointly agree on starting a family or adding to a family is not documented. However, the accepted norm in Tuvalu indicate that couples who have reached a certain academic level start a pregnancy after mutual consultation while others don’t often consult resulting in unplanned and unwanted pregnancies. Traditionally child adoption is something that is still practiced in Tuvalu, where relatives adopt infants at birth, however such adoption is in accordance with the Adoption Act Cap 20A

Registration of Marriages

16.9 Every marriage must be registered with the Registrar of the district. All marriages solemnized in Tuvalu are required by law to be registered in accordance with the Births, Deaths & Marriages Act Cap 27 When the marriage is solemnised by the registrar, he shall after entering forthwith the particulars of the certificate of marriage in a register to be kept for the purpose and when a marriage is solemnized by a marriage officer other than the registrar, such officer shall within 7 days of the

¹¹² Section 7(b) of the Marriage Act Cap 29

¹¹³ s214 of the Penal Code

solemnization of the marriage transmit to the registrar the certificate for marriage, the declaration and the duplicate of the certificate of marriage.

Matrimonial Proceedings

16.10 Both parties to a marriage relationship have equal rights to ending a marriage relationship. In Tuvalu, to assess whether the marriage has irretrievably broken down, the court no longer has to find one party at fault. It may however, look at certain factors to make a decision that the marriage has broken down. Adultery, desertion, cruelty or insanity may be used to show that the breakdown is complete, without hope for reconciliation. The court will give the parties three months to decide whether reconciliation is possible, if not a divorce will be granted. There are no time limitations for applying for divorce. A divorce may be obtained any time after marriage.¹¹⁴ The court may grant an interim period for both couples to reconcile failing which a divorce absolute order will be granted. Prior to granting the divorce absolute order, the court must ensure that sufficient provisions for the children have been provided for. The court can impose those conditions if the parties cannot agree.

16.11 In practice, enforcement of maintenance is not common as some of the women are ashamed of asking for maintenance. This could be the reason why there has been no maintenance case registered since 2002.¹¹⁵ Moreover, it is the custom that if the marriage breaks down, the wife goes back to her family (parents & other siblings) without any consistent maintenance from the husband. For some cases, the women found it hard to enforce maintenance due to strict requirements from the courts in order to enforce their cases.

16.12 The highest divorce rate was recorded in 2003 with a 50 per cent decrease in 2004 Divorce leaves women and children in vulnerable situations particularly if the husband is the sole breadwinner. When the family breaks down there is no support network available to women and the responsibility for their welfare shifts to the extended family.

Table 37: Number of divorce cases 2000 to 2004

	2000	2001	2002	2003	2004
Magistrate	6	14	13	20	7
Island Court	7	1	0	8	7
Total No. of Divorces	13	15	13	28	14

Sources: Social Data Report, 2005

In Tuvalu the only two institutions which are legally authorised to approve divorce and dissolve a marriage are the Magistrates Court and the Island Council. The above table shows the number of divorce cases from 2000 to 2004. It clearly shows that most divorce cases are registered in the Magistrates Court which is based in the capital, Funafuti. While the divorce rate is low, separation and de facto relationships are common although the extent is not known. De facto relationship is not legally recognised.

¹¹⁴ Jalal P I 1998 Law for Pacific Women: A Legal Rights Handbook p 262

¹¹⁵ Magistrate's Office records

16.12 Both partners have the right to seek dissolution of marriage on grounds that for some reasons they cannot live together. There is no documentary evidence of reasons as to the breakup of marriages as women are normally silent on such issues because of associated stigma and privacy reasons. Social pressures from community and in-laws on a woman still exist and at times lead to physical and emotional abuses which could result in divorce. In practice, women are usually the ones to face difficulties. Upon marriage, she has to move in to the man's family to abide with that family's norms. According to Tuvalu traditional law on dissolution of marriage, the wife has to move out of the house taking only her own belongings. In cases where the couple already has children, the court would decide as to the maintenance and custody of the children and maintenance payment for the wife.

Right to Choose a Profession and Occupation

16.13 Legally women have the same right as men to choose a profession and occupation. After marriage, cultural values of the man generally influence and affect the wife's choice of a profession. There is no legal barrier on a married woman from choosing a family name of her choice, or a profession or occupation. In practice, a wife generally consults with her husband before choosing a profession or an occupation. Sometimes, the husband does not agree to his wife taking up a profession but it's a choice based on the welfare of the family. There hasn't been any reported cases where a woman's choice to work is denied by the husband with results of her being mistreated by the husband.

Matrimonial Property

16.14 Similar to other small island countries in the region, all land in Tuvalu is custom land and there is little legislation relating to matrimonial property, so the only legal way open for women is to apply for a share under the constructive trust principle. All land is owned under custom and is distributed according to the land code legislation, so the issue of land as matrimonial property does not arise. Since all land is dealt with in accordance with custom, there is no question of division of land upon divorce as it is assumed that a wife will return to her father's family. If she returns to her family, she still has the right (in theory) to use her family's *kaitasi* land [Jalal 1998]

Custody

16.15 The custody of children is provided for under the Custody of Children Act Cap 20 which states that Section 3:

- (1) A court may on application by or on behalf of any person make such order regarding -
 - a) The custody of any child; and
 - b) The right of access to the child of his mother or father, as the court thinks fit having regard to the welfare of the child and to the conduct and wishes of the mother and father.
- (2) Before making a custody order the court shall make a full enquiry into all the circumstances and shall call for evidence or report it may in the interests of justice consider necessary
- (3) In exercising jurisdiction under this section the court shall regard the welfare of the child as the first and paramount consideration whether from any other point of view the claim of the father

is superior to that of the claim of the mother or the claim of the mother is superior to that of the father

(4) A court may at any time on application by or on behalf of any person make an order discharging or varying a custody order

(5) This section is subject to the Native Lands Act.

Whilst the interest of the child is paramount, certain provisions under the Native Lands Act give priority to the father because of land inheritance.

Registration of Births

16.16 Under the Births, Deaths and Marriages Registration Act Cap 27, every child born of Tuvaluan citizens are required to be registered by the registrar for the district in which the child was born. On the capital, Funafuti, birth registration is done at the Office of the Registrar General within the office of the Attorney General. In 2006 a total of 119 [f 46 and m-73] births were registered at the office, however upon checking with the Princess Margaret Hospital, there were 184 births delivered at the hospital during the year. It is important that parents ensure their child is registered. To address this issue, Government has been conducting workshops to remind health officials and parents about the importance of birth registration for babies. Those in rural areas are registered with the local council, the Kaupule.

Adoption and Trusteeship

16.17 The practice of child adoption is quite common in the Tuvaluan society especially amongst close kinship and blood relatives. The Adoption of Children Act Cap 20A provides for the adoption of children. In all proceedings under the Act the welfare and interests of the child shall be regarded as the paramount consideration. Part III Section 8(1) stipulates that the Court may make an adoption order only where a child has not attained the age of 12 years before the date on which the application was filed in the Court. The Act further states that under Section 9(1) An adoption order shall be made only in favour of a husband and wife jointly unless the Court is satisfied that exceptional circumstances make it desirable to make the order in favour of one person. Legal adoption through the Magistrate's Court for the past three years shows a nominal increase. There is an increasing number of adoption through the Magistrate's Court where there were:

2004	7 cases
2005	9 cases
2006	14 cases

Of the seven cases in 2004, four of those were for overseas; in 2005 there were three overseas adoption and in 2006 three four overseas adoption. All these were made by Tuvaluans residing overseas.

Article 18

1. States parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

(a) Within one year after the entry into force for the State concerned;

(b) Thereafter at least every four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

CEDAW Report Writing

18.1 The process of writing the Tuvalu State CEDAW report started with an awareness workshop for Cabinet Ministers in 2005. This was followed by the translation of the Articles of CEDAW into the Tuvaluan language which was vital for awareness and increased understanding of the Convention. After the launching of the CEDAW Tuvaluan version during International Women's Day in 2006, the DWA and the TNCW began travelling to the outer islands conducting gender sensitivity training and CEDAW awareness at community levels. Apart from the indigenous Funafuti communities, other island communities also participated in these programmes which were also extended to religious groups within the capital. Having raised awareness and gauging their views on the articles of CEDAW, the writing of the report began.

18.2 Initially, a legal consultant was engaged to write the State report and was assisted by a Taskforce appointed by the National Co-ordination Committee. Members of the taskforce were:

Ms Ese Apinelu, Acting Attorney General, Legal consultant

Ms Saini Simona, Director for Women

Mrs Pulafagu Toafa, Co-ordinator of the Tuvalu National Council of Women

Mr Albert Seluka., Legal Specialist, Dept. of Rural Development

Mrs Temukisa Hauma, Head Teacher, Nauti Primary School

Ms Avanoa Pailate, Health Planner

Ms Asita Molotii, Project Monitoring Officer, Department of Women

Mrs Saini Seluka, Legal Rights Training Officer, RRRT

Ms Lilyanne Homasi, Economic Planning Officer

The report was put together by the Department of Women with the assistance Ms Alamai Sioni, Cultural Officer and Ms Saini Seluka, LRTO under the guidance of Ms Alisi Qaiqaica, United Nations Volunteers Gender Adviser.

18.3 Apart from literature review, individual interviews and consultations (both individuals & communities) were also held when preparing the CEDAW state report. As part of the consultative process, the draft report was again tabled for community consultations before it was presented to the NCC. With the endorsement of the NCC the draft state report was then tabled before the DCC which comprises Permanent Secretaries only. After having received comments and critique from the DCC the revised draft report was finally submitted to Cabinet for endorsement and approval.

18.4 It is planned that the outcome and concluding remarks of the United Nations CEDAW Committee will be relayed back to the communities and stakeholders as part of its consultative processes to keep them informed of development and progress of the implementation of the convention.

Acknowledgement

18.5 Government wishes to record its appreciation to the TNCW, civil society organisation and particularly the women and men of Tuvalu for their invaluable contribution to this State report on CEDAW.

18.6 The Government and people of Tuvalu acknowledge the assistance of UNDP, UNIFEM, SPC and PIFs for their assistance in providing training for CEDAW report writing for Pacific Islands countries. A special mention to UNDP and UNFEM for providing technical assistance and support for this Initial and Second State report for Tuvalu.

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Resource Materials

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Government of Vanuatu, 2005 Initial, Second and Third CEDAW Report

Interviews

Mr Kietoa Ulika, Manager Corporate Services, Tuvalu National Provident Fund

Mr Faatasi, Director of Lands

Mr Iete Avaniatele, Director of Rural Development

Mrs Katalina Taloka, Director of Education

Mr Afele Kitiona, Senior Magistrate

Communities consulted

Nanumea Is. Falekaupule & community

Nanumanga Is. Falekaupule & community

Niutao Is. Falekaupule

Vaitupu Is Falekaupule & community

Nukufetau Is. Falekaupule

Funafuti Is. community

Nukulaelae Is community
