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Democracy, Human Rights and Governance in 12 Pacific Island Countries

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Democracy, Human Rights and Governance in 12 Pacific Island Countries

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ACRONYMS

ABA	-	American Bar Association
AC	-	Area Council
AEO	-	Asia Emerging Opportunities
AGJP	-	Advancing Gender Justice in the Pacific
ANU	-	Australia National University
APF	-	Asia Pacific Forum of National Human Rights Institutions
CCA	-	Climate Change Adaptation
CEDAW	-	Convention on the Elimination of Discrimination Against Women
CHEC	-	China Harbor Engineering Company
CLGF	-	Commonwealth Local Government Forum
CMRC	-	Case Management Review Committee
COM	-	Church of Melanesia
COP	-	Conference of Parties
CPBR	-	Child Protection Baseline Report
CRPD	-	Convention on the Rights of Persons with Disabilities
CRC	-	Convention on the Rights of the Child
CSEC	-	Commercial Sexual Exploitation of Children
CSO	-	Civil Society Organization
DCPS	-	Division of Child Protection Services
DFAT	-	Department of Foreign Affairs and Trade
DIBP	-	Department of Immigration and Border Control
DPO	-	Disabled People's Organizations
DSE	-	Development Services Exchange
DV	-	Domestic Violence
DVPPA	-	Domestic Violence Prevention and Protection Act
ECCE	-	Early Childhood Care Education
ECD	-	Early Childhood Developments
ECE	-	Early Childhood Education
EEO	-	Equal Employment Opportunities
EEZ	-	Exclusive Economic Zone

ESP	-	Essential Services Package
EU	-	European Union
EVAW	-	Ending Violence against Women
FAKTS	-	Faalapotopotoga Atinae o Komiti Tumama o Samoa
FBO	-	Faith Based Organization
FHRADC	-	Fiji Human Rights and Anti-Discrimination Commission
FHRC	-	Fiji Human Rights Commission
FHSS	-	Family Health and Safety Study
FICAC	-	Fiji Independent Commission Against Corruptions
FPDVA	-	Family Protection Domestic Violence Act
FSA	-	Family Safety Act
FSC	-	Family Support Center
FSM	-	Federated States of Micronesia
FTUC	-	Fiji Trade Unions Congress
FWCC	-	Fiji Women's Crisis Centre
FWRM	-	Fiji Women's Rights Movement
GEF	-	Global Environment Facility
GEWDP	-	Gender Equality and Women Development Policy
GGGI	-	Global Green Growth Institute
GIZ	-	German International Development Agency
HRT	-	Human Rights Taskforce
HSS	-	Health Sector Strategy
IDEA	-	Individuals with Disabilities Education Act
ILO	-	International Labor Organization
INDC	-	Intended Nationally Determined Contribution
IOM	-	International Organization on Migration
ISACC	-	Institutional Strengthening in Pacific Island Countries to Adapt to Climate Change
KFHA	-	Kiribati Family Health Association
LCA	-	Leadership Code Act
LCC	-	Leadership Code Commission
LDC	-	Least Developed Countries

LDCF	-	Least Developed Country Countries Fund
LLG	-	Local Level Government
MCILI	-	Ministry of Commerce, Industries, Labor and Immigration
MECDM	-	Ministry of Environment, Climate Change, Disaster Management and Meteorology
MEHRD	-	Ministry of Education and Human Resources Development
MFED	-	Ministry of Finance and Economic Development
MHMS	-	Ministry of Health and Medical Services
MIDA	-	Media Industry Development Authority
MOJ	-	Ministry of Justice
MPS	-	Ministry of Public Service
NAACC	-	National Advisory and Action for Children
NACCR	-	National Advisory Committee on Children's Rights
NAP	-	National Action Plan
NAPA	-	National Adaptation Program of Action
NCD	-	Non-Communicable Diseases
NDIDP	-	National Disability Inclusive Development Policy
NDS	-	National Development Strategy
NEMS	-	National Environmental Management Strategies
NGO	-	Non-Governmental Organization
NHRDP	-	National Human Resources Development and Training Plan
NHRI	-	National Human Rights Institutions
NIACSV	-	National Integrity and Anti-Corruption Strategy of Vanuatu
NSDP	-	National Sustainable Development Plan
NUS	-	National University of Samoa
NZ	-	New Zealand
ODA	-	Official Development Assistance
OHCHR	-	Office of the High Commissioner for Human Rights
OHS	-	Occupational Health and Safety
OP	-	Optional Protocol
PACTAM	-	Pacific Technical Assistance Mechanism
PFMA	-	Public Financial Management Act

PIFACC	-	Pacific Islands Framework for Action on Climate Change
PILON	-	Pacific Island Law Officers Network
PIS	-	Pacific Island States
PLS	-	Pacific Labor Schemes
PNG	-	Papua New Guinea
PPDVP	-	Pacific Prevention of Domestic Violence Program
PPIA	-	Political Parties Integrity Act
PRAN	-	Pacific Regional Assistance to Nauru
PWD	-	Persons with Disabilities
RMI	-	Marshall Islands
RMNCAH	-	Reproductive, Maternal, Neonatal, Child, Adolescent, Health
RSE	-	Recognized Seasonal Employer
RSF	-	Reporters Sans Frontiers (Reporters without Borders)
RSIPIF	-	Royal Solomon Islands Police Force
RWASH	-	Rural Water Supply, Sanitation and Hygiene
SINYC	-	Solomon Islands National Youth Congress
SGBV	-	Sexual Gender Based Violence
SLS	-	Samoan Law Society
SOE	-	State of Environment
SPC	-	Secretariat of the Pacific Community
SPREP	-	Secretariat of the Pacific Regional Environment Program
SPVK	-	Strengthening Peaceful Villages Kiribati
TBA	-	Traditional Birth Attendants
TCAP	-	Tuvalu Coastal Adaptation Project
TIP	-	Trafficking in Persons
TIPAC	-	Trafficking in Persons Advisory Committee
TNYC	-	Tuvalu National Youth Council
TPF	-	Tuvaluan Police Force
UNCAC	-	United Nations Convention against Corruption
UNCT	-	United Nations Country Team
UNE	-	University of New England
UNFCCC	-	United Nations Framework Convention on Climate Change

UNICEF	-	United Nations Children's Fund
UNODC	-	United Nations Office on Drugs and Crime
UPE	-	Universal Primary Education Policy
UPR	-	Universal periodic Review
USAID	-	United States Agency for International Development
USP	-	University of the South Pacific
VCSDN	-	Vanuatu Civil Society Disability Network
WAF	-	Water Authority Fiji
WUTMI	-	Women United Together Marshall Islands
Y@W	-	Youth at Work

EXECUTIVE SUMMARY

While the Pacific Islands nations are notable for their adherence to democracy following independence, the region is composed of countries with “relatively new democratic institutions, weak rule of law and nascent civil society which undermine their capacity to become self-reliant.”¹ With the exception of Fiji, where there has been a succession of coups, every Pacific Islands country has held regular elections since gaining independence. It is difficult to overstate, however, the complexity and powerful interdependence of political and social relationships when it comes to alliances around governance and elections. Across the region, kin and family are central to political careers and loyalties.

As Jack Corbett writes in *Being Political: Leadership and Democracy in the Pacific Islands*, “it is virtually impossible to talk about any aspect of political life in the Pacific without returning to the importance of family, kinship and genealogy. Families can be supporters, voters, campaign workers and political strategists...Once they are elected, familial links often become important networks through which politicians exert influence, form coalitions and maintain constituent access.”² Ideology plays little part in the politics of the Pacific Islands, where tangible benefits in the form of money and resources are what voters seek and politicians promise to deliver. Pacific etiquette often means that ‘yes’ actually means ‘no’ or ‘perhaps’, a point that development partners need to keep in mind when engaging with political leaders and communities.

The purpose of this assessment is to provide USAID with an analysis of the current status of democracy, human rights, and governance in the Pacific Island countries to identify critical gaps and needs, and ultimately to support development of a strategy for improving democracy, rights, and governance (DRG) in the region. This desk review provides profiles of twelve Pacific Island nations that include information on governance, human rights, and political history as well as donor engagement. In developing these profiles, and in consultation with USAID, five critical themes were identified as topics for “mini-papers” due to their strategic importance to the US and their widespread impacts in the region: China’s engagement with diplomacy and aid, the impacts of COVID-19, regionalism, trafficking in persons and women’s political participation. In addition to territorial and population statistics, the profiles also provide the area of each state’s Exclusive Economic Zone (EEZ), which is the area over which that state has special rights to use marine resources, as outlined in the 1982 UN Convention on the Law of the Sea.

China, an economic and social leader in the Asia-Pacific region, matters a great deal to most of the Pacific Island countries (PICs). This relationship intensified in 2006, when China enacted its Going Global policy, and since then PICs have experienced an increase in Chinese presence in investment, trade, development assistance, diplomatic activity, and—until the global pandemic—tourism. A key decision point for many Pacific Island countries is whether to recognize China or Taiwan. Much of China’s assistance in the region comes as concessional loans, and development engagement focused on its Belt and Road Initiative, a global development strategy adopted in 2013, prioritizing infrastructure and investment. China is generally acceptable, if not popular, throughout the region, specifically because the bureaucracy surrounding its aid projects and concessional loans moves more quickly than that of other donors. At the same time, Pacific

¹ <https://www.usaid.gov/pacific-islands/our-work>

² Jack Corbett “Being Political: Leadership and Democracy in the Pacific Islands,” University of Hawai’i Press, Honolulu, 2015, p. 26.

Islanders are fully aware, and sometimes suspicious of, Chinese motives in the region. China's commercial, aid, and diplomatic presence in the region offers bargaining power to Pacific Island states over Western aid offers.

A recent global challenge that has emerged is the COVID-19 pandemic, which poses a significant threat to small nations with under-resourced healthcare systems and far-flung and remote populations, often spread across multiple islands. Regionally, the Pacific Islands Forum has invoked the Biketawa Declaration designed to facilitate regional assistance in times of emergency to member states.³ USAID recently announced an additional \$9.9 million in COVID-19 assistance to the region, bringing the total USAID contribution to \$12.2 million. As of May 21, 2020, the US Government had provided more than \$45.8 million in COVID-19 response assistance to the region.

Regionalism is one of the most important issues to understand in the Pacific Islands region because it has been successful in gaining influence and inclusion in international organizations by aligning these mostly small island nations around shared goals and interest. One of the most important is climate change, which poses an existential threat to several of these countries.

Attention has been increasing recently on trafficking in persons in the region, with some high-profile prosecutions, however the data is insufficient to give a clear picture of the extent of the problem. Weak legal frameworks, lack of resources, and ineffective prosecutorial regimes are all significant contributors to the problem.

The challenges to women's political participation in the region are vast. The Pacific Islands is ranked last in the world in the percentage of women Parliamentarians, with only 7.3 percent of MPs being women (excluding Australia and New Zealand). Despite formal legal protections, discrimination and violence against women and girls is pervasive and often culturally condoned. Some countries have sought to fast-track women's participation through Temporary Special Measures, such as reserved seats for women in elections. There have been improvements, but progress is slow.

The report concludes with a discussion of gaps and opportunities identified by the researchers that could form the basis for future USAID interventions. Broadly, the recommendation was to focus on institutional strengthening in judicial systems at the regional level. This would improve the countries' abilities to fight trafficking in drugs and persons as well as other transboundary crime. At the country level, problems like underfunded and undertrained police and other civil authorities present a major impediment to fighting gender-based violence, a pervasive challenge, and enforcing human rights laws and managing political processes. In many countries the legal frameworks are in place but a lack of enforcement ability means that those rights cannot be exercised.

The profiles cover the following countries:

PAPUA NEW GUINEA (PNG)

Papua New Guinea gained independence from Australia in 1975. The most significant cleavage in PNG is not by class or region, but gender. Male violence against women is pervasive, and two-thirds of women are estimated to have suffered some form of physical or sexual violence in their lifetime.⁴ Women's empowerment is often intertwined with cultural norms, gender-based violence (GBV), health status,

³ <https://projects.iq.harvard.edu/violenceagainstwomen/publications/biketawa-declaration>

⁴ Gender violence in Papua New Guinea The cost to business Emily Darko, William Smith and David Walker, ODI Report, October, 2015. <https://www.odi.org/publications/9887-gender-violence-papua-new-guinea>

education, employment, and economic participation. Women are grossly under-represented in the formal sector and in political power structures. The Australian Government is by far the largest source of aid for PNG and will provide an estimated US\$396 million in Official Direct Assistance (ODA) to PNG in 2019–2020.

REPUBLIC OF FIJI

Fiji gained independence from the UK in 1970 but has confronted destabilizing questions of national identity since the 1980s. It has experienced three coups—in 1987, 2000 and 2006—the most recent leading to eight years of military rule, with some of that period ruled by decree.⁵ The present government, initially installed in a 2006 coup, has made strong efforts to create a coherent sense of national identity in a country with a major ethnic cleavage, where a large Indian population and a somewhat smaller indigenous population (*taukei*) have historically been engaged in a power struggle. Fiji's key aid relationships are with Australia, New Zealand, and China.

SOLOMON ISLANDS (SOLOMONS)

Solomon Islands, which gained independence from the UK in 1978, has fairly weak national identity. As in PNG, people's sense of affiliation is far stronger towards kin, locality, and language than to the nation, the product of arbitrary borders drawn by the colonial powers in the 19th century. The political instability in Solomon Islands from 1998 to 2003 was the most prolonged period of government breakdown anywhere in the Pacific Islands since independence came to the region, and the only case of sustained regional intervention prompted by the country's decline, into something approaching a failed state. Its key aid relationship is with Australia.

REPUBLIC OF VANUATU

Having gained independence from the UK and France in 1980, Vanuatu is a country with 'exceptional linguistic density', with 138 vernacular languages spoken by a population of fewer than 300,000. Vanuatu's political system resembles those of PNG and Solomon Islands, and is characterized by loyalty to kin, weak parties, and patronage. Churches are the most effective grassroots organizations in Vanuatu and are active at the community or household level, but less so at a national level. It has key aid relationships with Australia, New Zealand, China, and Japan.

KINGDOM OF TONGA

The Kingdom of Tonga gained independence from the UK in 1970 and was democratized through changes to the constitution in 2010 after a long struggle by the pro-democracy movement, although the King retains considerable powers. The Tongan police and armed forces have been the subject of complaints for brutality and excessive use of force. Tonga has a 99 percent rate of literacy and more PhDs per head of population than any other Pacific Islands. Its key aid partners are Australia, New Zealand, and Japan.

SAMOA

Samoa gained independence from New Zealand in 1962, becoming the first Pacific Islands country to achieve its independence. It probably has the strongest sense of national identity in the region. Ethnic diversity is low and national cohesion high. The state is comparatively strong and effective in Samoa, with

⁵ Jon Fraenkel, Stewart Firth and Brij V. Lal, *The 2006 Military Takeover in Fiji: A Coup to End All Coups?*. Canberra, ANU Press, 2009. <https://press.anu.edu.au/publications/series/state-society-and-governance-melanesia/2006-military-takeover-fiji>

widespread trust in government and pride in being Samoan. Samoa is the most politically stable country in the Pacific Islands and is dominated by a single party and a long-time prime minister. Samoa has an effective health system by Pacific standards, and a relatively young population. Performance on health and education is good by Pacific standards. Its key aid relationships are with Australia and China.

TUVALU

Tuvalu gained independence from the UK in 1978 and is one of the smallest sovereign states in the world. It has a strong sense of national identity and a high level of national cohesion based upon its cultural homogeneity. The most recent election—in 2019—saw the replacement of pro-Taiwan prime minister Enele Sopoaga by Kausea Natano in what some saw as a change that might benefit China, although Tuvalu at present recognizes Taiwan. Its key aid relationship is with Australia, which opened a new embassy in Funafuti in 2019.

REPUBLIC OF KIRIBATI

Kiribati gained independence from the UK in 1979. It has a single national language, a small population, and low ethnic and cultural diversity, with a moderate level of national cohesion and a history of political stability, but low levels of development. The relationship between state and society is close and personalized in this small country. The capital of South Tarawa is home to more than half the population of Kiribati with a population density similar to that of Hong Kong. Most people retain close kinship links to their home islands. In September 2019, the Kiribati Government ended its long-term relationship with Taiwan and switched its recognition to China, followed by a visit of the Kiribati President to China in January 2020. Its key aid relationships are with Australia and New Zealand.

THE FEDERATED STATES OF MICRONESIA (FSM)

The FSM gained independence from the US in 1986. It is a country of atolls and small islands scattered across the Pacific Ocean with a population of fewer than 115,000, but a greater degree of linguistic and cultural diversity than the other Micronesian countries, and a weaker sense of national identity. Its key aid relationship is with the US under the Compact of Free Association. Among the freely associated states, the FSM is where China matters most and has undertaken numerous aid projects, as well as signing China's Belt and Road Initiative.

THE REPUBLIC OF THE MARSHALL ISLANDS (RMI)

The RMI gained independence from the US in 1979 and adopted the Compact of Free Association in 1986. It has a small population of fewer than 60,000, a single indigenous language, Marshallese, little ethnic or cultural diversity, and a strong sense of nationhood that draws on a shared history of being the site of US nuclear tests in the 1940s and 1950s. The RMI has been politically stable since independence. The United States is the largest donor to the RMI by far, and Taiwan is also important.

THE REPUBLIC OF PALAU (BELAU)

Palau gained independence from the US in 1979, joining the Compact of Free Association in 1994. With a tiny population of only 17,000, it has the most pronounced national identity and sense of national pride in the Micronesian region. Palau's GDP per capita is considerably higher than that of the FSM or the Marshall Islands, and qualifies it to be considered a middle-income country. Palau has a strong rule of law culture which is overseen by the Police and an independent judiciary. The key aid relationship for Palau is with the United States under the provisions of the Compact of Free Association.

NAURU

Nauru gained independence from a UN trusteeship under the UK, Australia, and New Zealand in 1968. With a population of 10,840, Nauru is a tiny country, though it is not noted for political cohesion. Nauru's recent political stability has come at the cost of increasing authoritarianism under a government dominated by the justice minister David Adeang and the prime minister Baron Waqa from 2013 to 2019. As host of the Australian Detention Center for Asylum Seekers, the Nauru Government entrenched executive power and suppressed media freedom knowing that criticism from Canberra would be low-key at best. Its key aid relationship is with Australia but also receives significant levels of aid from Taiwan and Russia.

I. INTRODUCTION

The Pacific Islands region encompasses a vast geographic area with many sources of cultural heritage, as well as varying influences of colonial powers such as the UK, Australia, New Zealand, France, and the United States. The post-independence states are characterized by varying levels of national identity, due to the often-arbitrary divisions of territory drawn by colonial powers, and the extremely remote geographic nature of the region.

Four of the countries in this study are located in the culture area of Melanesia (Papua New Guinea, Solomon Islands, Vanuatu, and Fiji), three in Polynesia (Samoa, Tonga and Tuvalu) and four in Micronesia (Kiribati, Royal Marshall Islands, Federated States of Micronesia, and Palau). The culture areas represented by these different regions vary greatly in their social structure and forms of leadership, and this legacy is evident in modern political systems. Melanesian societies, though not Fiji, were characterized by egalitarian leadership in which “big men” gained followers by their ability to distribute wealth until larger political entities emerged. Fiji and Polynesia were aristocratic societies, characterized by inherited leadership with levels of chieftainship and hereditary titles, and with the potential for the formation of states under single leaders as happened in Tonga. Micronesian societies are similar to those of Polynesia with inherited leadership, but on a much smaller scale for geographical reasons and did not form states in precolonial times. By contrast, PNG, Solomon Islands, and Vanuatu are defined by territory rather than national identity, often resulting in ineffective government. They are strong societies and weak states. In Fiji and the countries of Polynesia and Micronesia, there has been a smoother transition from traditional forms of government to the hierarchy and specialization of the modern state.

The colonial history of Pacific Island countries has legacies that magnify these differences and development prospects. Fiji, Polynesia, and Micronesia have a longer history of contact with the outside world than most of Melanesia. Whereas Tonga was a modern state with its own constitution by 1875, Fiji reached modernity by 1900, and Palau was the center of the Japanese colonial administration by 1920. PNG, Solomon Islands and Vanuatu were introduced to modern government later, with effective penetration of the New Guinea Highlands taking place after World War II (WWII).

Politics is everywhere, and personal connections matter a great deal, including personal connections with representatives of development partners such as the United States, Australia, and New Zealand. A frequent complaint among Pacific Islanders is that aid experts visit, get to know them, and then leave, without engaging in active discussion, and leave no plans for sustainable growth. The term “boomerang aid” is a reflection of this sentiment in the PNG context in particular. In addition to the lack of stability, there is a pervasive underrepresentation of indigenous Islands people, and those that are employed serve primarily as helpers rather than as experts on their own countries.

Gender equality and women’s empowerment is deeply entrenched in the design of development programs, yet there is persistent bias in terms of how local actors are perceived as waiting to be saved rather than being meaningfully engaged as development partners, especially in addressing gender-based violence, and women’s representation. The deficit notion of development does little to encourage Pacific Islanders that their experience and knowledge is also of value and need to be given prominence. Pacific Islanders are invariably polite and welcoming, so aid workers may gain wrong or exaggerated impression about the impact or perception of their projects and proposals.

2. METHODOLOGY

2.1 EVALUATION METHODS

The team performed an extensive review of constitutional, legal, official, non-official, civil society organizations (CSO), interest group, human rights, environmental, policy, developmental, aid, political, personal, and scholarly analyses of the region with a particular focus on human rights and on women's participation and gender-based violence (GBV). These materials informed the development of a Country Profile template, which was used to ensure that the information provided for each country would be consistent and comparable across countries. The team used the material from the country profiles, along with their regional and DRG sectoral experience, to do more in-depth analysis for the mini-papers. Country template development was guided by USAID's Guide for Strategic Assessment Frameworks for the DRG sector: 1) Consensus, 2) Inclusion, 3) Competition and Political Accountability, 4) Rule of Law and Human Rights, and 5) Government Responsiveness and Effectiveness.

In addition to an exhaustive review of relevant literature, the research team shaped its approach by drawing on its decades of experience in the region.

2.2 LIMITATIONS

- The volume of research material generated required the team to reassess its approach. Initially, the expectation was that country profiles would be a few pages long, however the team determined that at that length, they would not provide any insights and would just be a list of basic facts.
- Physical distance from many of the countries being evaluated. Being on the spot at the moment is usually the best qualification for knowledge in the highly personalized Pacific.
- COVID-19 limited the movements of even locally based team members, preventing the face to face engagement that can enrich analysis.

3. FINDINGS

3.1 INDEPENDENT STATE OF PAPUA NEW GUINEA



Population	Land area	Maximum elevation above sea level	EEZ
8,558,800 ⁶	462 840 km ²	4 509 m	2 402 290 km ²

3.1.1 FORMAL GOVERNMENT STRUCTURE

Status: Independent (from Australia): 1975

Capital: Port Moresby: Population: 382,516 (2020 estimate).

Head of State: Queen Elizabeth II. The Governor General is appointed by the monarch on the advice of Parliament and performs ceremonial functions. Sir Robert Dadae has been Governor since 2017.

Head of Government: Prime Minister (PM): James Marape (since 2019). The PM is appointed and dismissed by the Governor-General on the proposal of Parliament.

Papua New Guinea is considered a constitutional democracy and the National Parliament is a 111-member unicameral legislature, elected by universal suffrage.

Elections: five-year term.

3.1.2 INCLUSION

Ethnic and Linguistic Diversity

Papua New Guinea is one of the most linguistically diverse countries in the world, with more than 820 distinct languages spoken by a population of fewer than 9 million. Every language group is small, and no single language group dominates, although Tok Pisin is considered the national lingua franca.

Ethnic Divisions as a Source of Instability

Ethnic problems are a lesser issue, compared to tribal conflicts.

Women's Political Participation, Including Temporary Special Measures (TSM)

Election Year	1977	1982	1987	1992	1997	2002	2007	2012	2017
No. of Seats	109	109	109	109	109	111	111	111	111
Number of Women MPs	3	2	0	0	1	1	1	3	0
Percentage	2.8	1.8	0.0	0.0	0.9	0.9	0.9	2.7	0.0

⁶ <https://sdd.spc.int/pg>

3.1.3 COMPETITION AND POLITICAL ACCOUNTABILITY

Political System and Recent Developments

The formal description of government in PNG is a poor guide to the way government works in practice. Political competition is non-ideological, and political parties are either weak or evanescent. While parties stand for election, voters vote for individuals on the basis of kin and language connections, in the hope that they will elect a member of parliament who will direct the wealth of the state back to his or her own wantoks (that is, relatives, kin and language group). Once elected, new MPs are able to (for a price) join larger groups of MPs who seek to form a government. Money politics is dominant, from the way elections work (candidates typically pay voters for their votes) to the way governments distribute largesse. Money politics is institutionalized in the form of Electoral Development Funds paid by the government directly to MPs, for them to spend as they wish, instead of directly funding government departments of health, education, etc.⁷ As a result, government services are seriously underfunded and neglected while politicians lavish money on their core bases of support.

The system is a recipe for poor governance, while at the same time being central to the way politics works in practice. As in much of the Pacific, the parliamentary representation of women is low; between 2012 and 2017 there were only three women MPs, but since then there have been none. While corruption by the elite is widespread, PNG has not experienced serious political instability, except in 2011 and 2012, when two men, Michael Somare and Peter O'Neill, both claimed to be prime minister. A brief mutiny by a small number of soldiers supporting Somare failed, and O'Neill won the 2012 elections easily, settling the issue. O'Neill remained prime minister for the next seven years, winning the 2017 elections, until numerous defections from his group in Parliament prompted his resignation in May 2019. He was replaced by James Marape, a Highlander from Hela Province.

Electoral System and Elections

From the first election of the House of Assembly in 1964 until independence in 1975, PNG used the Australian alternative vote system or preferential voting. From 1975 until 2002 the system was first-past-the-post, and since then has been Limited Preferential Voting (LPV), where voters are able to choose three candidates in order of preference, and votes are then allocated to find a winner. In the context of PNG money politics, the LPV system has been an opportunity for voters to be paid by candidates for each of their three votes. The LPV system was expected, among other things, to encourage the election of women to the National Parliament, however no such result ensued; additionally, at the 2017 election, no women were elected to the 111-member legislative body.

Elections in PNG have been occasions of violence, especially in the Highlands, and are also noted for poor electoral practice: the electoral rolls are notoriously inaccurate, with scores of thousands of voters omitted (possibly hundreds of thousands), and thousands of non-voters included. Secret voting is inadequately enforced. The Commonwealth Observer Group reported of Highlands voting in the 2017 election, that the electoral roll was not used in most [polling] stations. Many polling officers reported that the inaccuracy of the roll made it unreliable and therefore useless.⁸

⁷ Ketan, Joseph. The Use and Abuse of Electoral Development Funds and their Impact on Electoral Politics and Governance in Papua New Guinea, Centre for Democratic Institutions, ANU, 2007.

http://archives.cap.anu.edu.au/cdi_anu_edu_au/png/2007-08/D_P/2007_08_PPS4_PNG_Ketan/2007_08_PPS4_KETAN.pdf,

⁸ The Commonwealth, Papua New Guinea National Election June-July 2017, London, 2017: 55.
<https://thecommonwealth.org/sites/default/files/inline/PNG%20COG%20Report%20FINAL.pdf>

3.1.4 DECENTRALIZATION

There are 22 Provinces, 89 Districts, 318 rural local level governments (LLGs), and 32 urban LLGs. Each District is made up of two or more LLGs, and each LLG is made up of a number of wards. Altogether there are 5,745 wards nation-wide. The numbers may change as population increases and political leaders endeavor to include additional numbers for political leverage. Decentralization is an evolving political process in the PNG context. This process has gone through two major phases.

Phase One: 1977 – 1995: The Provincial Government System

A decentralized system of government was inevitable for PNG after independence in 1975. It was the result of a political agenda tied closely to the rich Panguna copper mine on the Island of Bougainville, where the secessionist movement had emerged to defend the rights of indigenous landowners, around concerns with benefit sharing and environmental damage caused by the copper mine. For Bougainville to become part of the new State of PNG, the political concession to appease the secessionists was to establish a Provincial Government system, which eventually became a national concept. Hence, 20 provincial governments were established, including what was called North Solomons Province (present day Bougainville) and the National Capital District (NCD). The creation of the Autonomous Region of Bougainville in 2001 was part of the Peace Agreement signed between the government of PNG and Bougainville, following a decade long armed conflict over natural resource ownership and other related matters. The National Capital District, where the nation's capital Port Moresby is found, was also granted special legal status under the National Capital Commission Act, 2001. The NCD Act also governs the indigenous landowners of Port Moresby—the Motu-Koitabu people.

Phase Two: 1995–present

In 1995, a reform instituted a three-tier government—national, provincial and local level government—with legislative powers vested in all three levels. The 1995 reform effectively centralized political powers between national politicians and local and provincial politicians. The local politicians had too much power, giving the MPs of each District in PNG the power to control resources from the national purse. Local Level Governments effectively became the next level of law-making role. To boost their ability to manage the affairs of the District, another mechanism titled the Department of District Administration (DDA), was established through the DDA Act, 2014.

Political Stability

Apart from a short period in 2011–2012 when two men claimed to be prime minister, PNG has demonstrated remarkable stability since independence, with regular elections and uncontested changes of government. It is true, however, that votes-of-confidence in Parliament gave rise to repeated changes of government between elections, a problem that was largely remedied by changes to the constitution: “The PNG Constitution protects new Governments from Parliamentary motions of no-confidence during the first 18 months of a five-year term. Once the 18-month moratorium expires, a successful no-confidence motion may result in a new Prime Minister forming a government without the need for a national election. If the no-confidence motion occurs during the last twelve months of a five-year term, a national election must be held.”⁹

⁹ DFAT Country Brief, Papua New Guinea, <https://www.dfat.gov.au/geo/papua-new-guinea/Pages/papua-new-guinea-country-brief>

Military Forces and their Role in Politics

With an annual budget of \$79 million for 2019, the Papua New Guinea Defense Force (PNGDF) is under-resourced, even for a small country. Earlier plans to increase the size of the force from about 2,000 to 4,000 regular personnel and 1,000 reserves by 2017 did not materialize, and the PNGDF remains a weak military, unable to satisfactorily perform key tasks such as maintaining border security.¹⁰ The PNGDF has never undertaken a coup and is unlikely to do so, but brutality among security forces remains high, including clashes between the police and the military.¹¹ Tensions between the police and the military should be considered in the design and targeting of capacity-building and institutional strengthening efforts.

Civil Society Organizations

PNG has many non-governmental organizations involved in all sectors of national development, including human rights. Civil society plays a key role in PNG's development strategy. A comprehensive synthesis by the Asian Development Bank (ADB) highlighted that "The churches are the largest and most prominent components of civil society, fulfilling primary service delivery roles, particularly in health and education. They provide about 50 percent of PNG's health care, run two of PNG's Universities and are estimated to co-manage roughly 40 percent of the primary and secondary schools."

Under PNG's long-term strategic plan, Papua New Guinea Vision 2050, the role of churches is recognized as central to service provision in health and education, particularly in rural and remote areas of the country. Civil society engagement is centered around a wide range of areas: "Community development, youth issues, gender equality, human rights, good governance and transparency, environmental protection, education and capacity-building, health, family welfare and domestic violence, food security, [and] poverty alleviation."¹² This is a critical factor why the Australian government made a significant investment in its flagship program involving churches, called the Church Partnership Program (CPP), which is now almost three decades into operation. This is a tripartite partnership between the seven mainline churches of PNG, their counterpart Australian faith-based non-government organizations, the Department of Foreign Affairs (DFAT)-Australia, and the government of PNG. The major churches are Catholic, Anglican, Evangelical Lutheran, Seventh Day Adventist, Salvation Army, and United Church.

In addition to churches, the Australian government has in the recent past, also supported local NGOs, both faith-based and secular, in its *Strongim Pipol*, *Strongim Nesen* (SPSN) program (translated as Empower People, Strengthen the Nation).

The ADB brief also noted that "Civil society engagement with the government nevertheless remains limited, especially in remote or rural areas, where there is little government presence." Only through ad hoc regional or national level fora are citizens given the opportunity to express their views and opinions. In PNG, the Consultative Implementation and Monitoring Committee (CIMC) facilitates and convenes fora at both regional and national levels for citizens to critique government, as well as to share experiences and learn from each other. Transparency International has been active through the Community Coalition Against Corruption (CCAC), working with faith-based and local secular organizations.

¹⁰ 'PNG's embarrassing Failed Defense White Paper, PNG Post-Courier, 13 Dec. 2017. <https://postcourier.com.pg/pngs-embarrassing-failed-defence-white-paper/>

¹¹ Military-Police Violence in PNG: Australia Must Pay Attention, <https://www.lowyinstitute.org/the-interpreter/military-police-violence-png-australia-must-pay-attention>

¹² ADB, 2015: 3 <https://www.adb.org/publications/civil-society-briefs-papua-new-guinea>

3.1.5 RULE OF LAW AND HUMAN RIGHTS

Judiciary

The PNG judiciary is considered independent and free. It is a four-tier system comprised of the Court of Appeal as the final appeals court, the High Courts as the court of original and unlimited jurisdiction, the magistrate courts, and finally local courts, including customary lands court. The Chief Justice who presides over the Judiciary is appointed by the Head of State, acting in accordance with the advice of the National Executive Council given after consultation with the Minister responsible for the National Justice Administration (s.168 (2) PNG Constitution). The Deputy Chief Justice and the other judges of the National Court and acting judges are appointed by the Judicial and Legal Services Commission (JLSC) (s.170 (2) PNG Constitution), and the Chief Magistrate and magistracy are appointed by the JLSC (s.175(2)).

Police

The 40,000 or so members of the Royal Papua New Guinea Constabulary (RPNGC) provide policing in PNG. While the police face a lot of capacity and resources challenges, they have also received a lot of donor support from Australia, Indonesia, and a few others to ensure proper training for the Constabulary on minimum standards and policing in international law. There have also been numerous complaints made against the RPNGC for police brutality, abuse, and violence. Police brutality is not uncommon in PNG and the public is encouraged to report misconduct and abuses.¹³ The national government has created measures to receive complaints and investigate police for abuses of their powers. The Ombudsman Commission is mandated to investigate allegations of human rights abuses by the Police, Correctional Service, and other law enforcement agencies. The investigation is then referred to the concerned agency, such as the Police Internal Affairs Unit and other disciplinary forces, for further action. The Government has set up a cooperation mechanism through a Memorandum of Agreement (MoA) with the Ombudsman Commission to prevent abuse and violence by police officers. Moreover, the MoA aims to restore integrity in the work of the Police Internal Affairs Division and restore discipline, accountability, transparency, and integrity to the RPNGC. The MoA also envisions enacting legislation to establish a Police Ombudsman.

Various trainings, including human rights trainings, are carried out for the police and the RPNGC, in partnership with the Ombudsman Commission and the OHCHR, that conduct human rights training as part of the Police Training curriculum for new recruits.¹⁴ The International Committee of the Red Cross (ICRC) has also assisted the RPNGC with training and support material on human rights and basic humanitarian principles, focused on International Police Standards, Exercise of Police Powers, and promotion of basic humanitarian principles for Senior Police Officers. Human Rights Watch reported a “Lack of accountability for police violence, weak enforcement of laws criminalizing corruption, and one of the highest rates of violence against women and children in the world, as ultimately continuing to foster a culture of impunity and lawlessness.”¹⁵ In June 2019, the new government announced that they were not renewing the acting appointment of the then head of policing, Gary Baki. Baki announced he would challenge the government’s decision but has not been successful to date.¹⁶

¹³ <http://www.looppng.com/coronavirus/report-police-misconduct-91470>

¹⁴ <http://www.looppng.com/png-news/police-officers-undergo-human-rights-training-88974>

¹⁵ <https://thediplomat.com/2020/01/human-rights-stagnate-under-new-leadership-in-papua-new-guinea/>

¹⁶ <https://asiapacificreport.nz/2019/07/08/sacked-png-police-minister-claims-he-will-challenge-his-removal/>

Violence Against Women

A prevalence study of violence against women has not been conducted for Papua New Guinea.¹⁷ Evidence on the incidence of violence as shown in the *Papua New Guinea National Strategy to Prevent and Respond to Gender Based Violence 2016-2025*, is alarming:¹⁸

- 65.5 percent of women in rural and urban areas are affected by domestic violence.
- 130 cases on average per month treated for family and sexual violence in the family support centers (data from Tari, Maprik, and Port Moresby).
- 62 percent of sexual abuse cases reported in the National Capital District involved children.

In post-conflict context in Bougainville:

- 80 percent of men reported committing violence (including sexual violence against their partners).
- One in five women's first experience of sex was rape. "Forty percent of men have reportedly raped a woman who was not their partner."

Male violence against women is pervasive in PNG. The majority of women in PNG are likely to experience rape or assault in their lifetime and face systematic discrimination.¹⁹ The incidence of gang rape (known as lainup) is extremely high by international standards. Consequently, HIV/AIDS, although probably now contained to less than one percent of the population, is a more serious threat in PNG than elsewhere in the Pacific islands.

Women's Empowerment

The Constitution of PNG embodies Equality and Participation as a fundamental right for all citizens, and a well-developed policy framework is focused on achieving equal rights for women. The Gender Equity and Social Inclusion (GESI) policy and the PNG National Strategy for the Prevention and Response to Gender-Based Violence, as well as other sectoral policies have been adopted by the government to promote women's empowerment and protect against discrimination and violence.

The GESI policy is specifically focused on public sector employment, seeking to ensure equity in recruitment, training and promotion. A 30 percent target has been set to promote women in leadership across the public sector; however, it is common for men to hold senior to executive level positions while women predominantly occupy middle to low level positions. Women's labor force participation has largely remained static, with snail's pace improvement towards promotion of women to senior levels over time. A 2012 World Bank Assessment reported 40 percent of men and only 24 percent of women were employed in the formal employment sector. Women's empowerment is often intertwined with cultural norms, gender-based violence, health status, education, employment, and economic participation. Focusing on economic participation, there is persistent gender disparity in PNG. Women are grossly under-represented in the formal sector.²⁰

¹⁷ Official Statistics is not available for Lifetime Physical and/or Sexual Intimate Partner Violence; Physical and/or Sexual Intimate Partner Violence in the last 12 months; and Life-time Non-Partner Violence in Papua New Guinea.

¹⁸ Department of Community Development & Religion. PNG, 2015.

¹⁹ <https://www.hrw.org/world-report/2017/country-chapters/papua-new-guinea>

²⁰ <http://data.worldbank.org/indicator/SL.TLF.CACT.25?location=PG>

The bulk of PNG women, an estimated 80 percent, are involved in the informal sector of the economy. Of these, 55 percent of the market vendors report experiencing sexual violence and other forms of exploitation, especially robbery. Since 2015, UN Women, through its Safe City Program, has sought to bring economic justice for women by making markets safer and creating an enabling environment for women to conduct business. A Meri Tok Save (translated as “information for women”) association was set up to give women the space to share information and provide mutual support.²¹ Other development partners, including UN agencies, DFAT Australia, international NGOs, and foreign missions including the US embassy, are also actively promoting women’s empowerment in PNG. In support of the government of PNG, the private sector, including large extractive industries, are also actively promoting women’s empowerment through education, knowledge sharing, training, and skills development. A good example is ExxonMobil.²²

Implementation of Core Human Rights Treaties

The Constitution underscores that, subject to any restrictions imposed by law on non-citizens, all persons in PNG are entitled to the fundamental human rights and freedoms of the individual. PNG’s Constitution is one of the few Constitutions in the world containing all the rights and freedoms in the UN Charter and the UDHR. These rights and freedoms are justiciable.

National Human Rights Institutions (NHRI)

PNG does not have a Paris Principles compliant NHRI. On December 20, 1995, the National Executive Council (NEC) approved drafting instructions for the establishment of a Human Rights Commission. In September 1996, the NEC approved the draft Constitutional and Organic Law Amendments which were then announced publicly. In 1997, the NEC approved establishing an independent, constitutionally entrenched Human Rights Commission. The draft Bills for the establishment of the PNG HRC (being the draft Constitutional amendment and the Organic Law to establish the PNG HRC) have been completed and endorsed by the NEC,²³ although this has not been tabled before parliament.

Children’s Rights

Children’s Rights are protected under various legislative and police frameworks. The *Lukautim Pikinini Act* passed in 2015 provides a comprehensive framework on the protection of children and ensures stronger child protection safety nets (including protection from discrimination) and provides that the interest of the child be considered paramount in all actions and decisions concerning the child. The Act also prohibits the use of harmful practices against children, promoting the option of community-based sentences, even if not diverted, for juveniles to serve in communities, and increases the criminal responsibility age from seven to ten years old.

The *Juvenile Justice Act* of 2014 provides protection and welfare for juveniles, including female juveniles in custody or detention, with emphasis on non-custodial sentences and shortest possible period of time in detention. The government partners with NGOs and faith-based organizations to run diversion programs in accordance with Government standards.

In 2014, the government initiated the National Identification Project which addresses registration for all PNG citizens. The Office of the Civil Registry is mandated to register all births of children in the country.

²¹ https://borgenproject.org/women’s_empowerment_in_papua_new_guinea/

²² <https://pngpartnership.exonmobil.com/community-engagement/community-empowerment/women’s-empowerment>

²³ <http://www.pilonsec.org/images/stories/Documents/CountryReports/31st/png.pdf>

Despite conducting nationwide awareness programs on the role of the Office of the Civil Registry, and the requirement to register all births, there are no accurate registration statistics for the number of births throughout the country, particularly in the rural areas.

Youth Rights/Issues

PNG's National Youth Policy defines youth as individuals between 12 and 25 years of age.²⁴ According to the CIA World Factbook, 54 percent of PNG's population is 24 years old or younger, making this youth bulge a serious issue that could either threaten PNG's future development and stability or provide increased opportunities and drivers for growth. Young people, if denied opportunities and with little to lose, often turn to civil unrest. This was evident in the violent student protests at the University of PNG against the O'Neill Government in June 2016. With tribal warfare becoming more destructive in the Highlands, it is vital that young people be given opportunities to build meaningful, secure lives, as an alternative to violence and unrest.²⁵ The government mandates that the National Youth Commission be the central agency in the country for youth affairs and is established under the National Youth Commission Act 1999. The Act gives the Commission powers to operate as the overall custodian of all youth issues in PNG.

Rights of Persons with Disabilities

PNG has adopted various measures to realize the rights of persons with disabilities (PWD). These include ensuring that the Government's vision encapsulates inclusive participation and the protection of the rights of PWD in the Vision 2050 and other national development plans and policies. Moreover, the National Disability Policy (2015–2025) seeks to establish and strengthen policy implementation, infrastructure, and coordinated systems to improve the lives of persons with disabilities on an equal basis with other citizens. These objectives are delivered through three corresponding strategies: Strategy 1: Advocacy, rights and responsibilities; Strategy 2: Improved access to high-quality services and support programs for PWD; Strategy 3: Development of an effective institutional, legal, and financial framework for the Disability sector.

Moreover, the Disability Policy calls for the enactment of legislation to protect persons with disabilities; reduction of stigma and discrimination; introduction of sign language as the fourth official language for all government business; and setting up an office that supports the implementation of CRPD. The National Advisory Committee on Disability (NACD) oversees the implementation of the policy. Moreover, the Government, in partnership with the Australian Aid (AusAid) and Japanese International Cooperation Agency (JICA), has developed a database for PWD with a pilot project being administered in three provinces of the country.

LGBTI Rights

LGBTI people are not widely accepted and face widespread discrimination because of cultural norms and church influence. The rights of LGBTI individuals are not protected by specific laws in PNG, despite the general acceptance of universal rights in its Constitution. The Equaldex website provides a comprehensive update on LGBTI rights in PNG.²⁶ Since 2016, the Global Fund for Equality (GEF) has been working to advance LGBTI rights, facilitated by the US Embassy in PNG. The GEF will support CSOs working to

²⁴ <https://www.youthpolicy.org/factsheets/country/papua-new-guinea/>

²⁵ <https://devpolicy.org/youth-png-challenges-building-positive-future-20180117/>

²⁶ <https://www.equaldex.com/region/papua-new-guinea>

protect and advance the rights of LGBTI people who face discrimination or violence on the basis of their real or perceived sexual orientation and identity.²⁷

Religious and Ethnic Minorities' Rights

The constitution provides individuals the right to the “Freedom of conscience, thought and religion and the practice of his religion and beliefs, including freedom to manifest and propagate his religion and beliefs except where that practice infringes on another person’s rights or where it violates a public interest in defense, public safety, public order, public welfare, public health, the protection of children and persons under disability, or the development of under-privileged or less advanced groups or areas.” The predominance of Christianity is recognized in the preamble of the constitution, which refers to “Our noble traditions and the Christian principles that are ours.”²⁸ The vast majority of the population are Melanesians and there are no significant ethnic minorities, except perhaps for the Asian population originating in China, the Philippines, Malaysia, and elsewhere.

Indigenous People's Rights

Culture and traditions are ingrained in PNG's Constitution with the Preamble declaring that “We pay homage to the memory of our ancestors—the source of our strength and origin of our combined heritage acknowledge the worthy customs and traditional wisdoms of our people—which have come down to us from generation to generation, pledge ourselves to guard and pass on to those who come after us our noble traditions and the Christian principles that are ours now.”²⁹

Freedom of the Press

PNG was ranked 38/180 in 2019 by the World Press Freedom Index, an increase in ranking from 53 (2018) and slight improvement from 41 (2013).

Freedom of Information Laws

The PNG Constitution provides in Section 51 that every citizen has the right to reasonable access to official documents, subject only to the need for such secrecy as is reasonable in a democratic society, and that the provision shall be made by law to establish procedures by which citizens may obtain ready access to official information. At this time, no such law exists.

Civil and Political Rights

Freedom House rated PNG as partly free with a total score of 62/100, broken down into 23/40 on the realization of political rights and 39/60 on the realization of civil liberties. It noted that serious flaws, including bribery and voter fraud, were reported in the 2017 elections. Some areas, notably the Highlands Region, experienced election-related violence that resulted in dozens of deaths, as well as severe property damage. Due to irregularities, election results in the Southern Highlands were released several months late and sparked renewed violence in the town of Mendi once made public. The electoral process was smoother in coastal areas, but even those regions were not completely free from irregularities and violence. Allegations of deliberate manipulation of voter rolls to favor the incumbent government were

²⁷ <https://pg.usembassy.gov/u-s-embassy-announce-funding-opportunity-advancing-human-rights-pacific-islands-april-19-2016>.

²⁸ <https://2009-2017.state.gov/documents/organization/256345.pdf>

²⁹ http://www.paclii.org/pg/legis/consol_act/cotisopng534/

widespread, but most clear abuses were localized in the Highlands. Election observers expressed disappointment that past recommendations to clean up voter rolls had been disregarded.³⁰

Access to Justice

Under the current national development priority of law and justice, the Government provides access to justice in the rural and remote areas through the establishment of Village courts throughout the country. The primary purpose of the village courts is to promote peace and good order and to deal with minor crimes. Serious crimes are referred to higher courts. Currently there are over 1,600 village courts and over 16,000 village court officials. Awareness and training of court officials are conducted within the local level government in conjunction with the village court secretariat. In addition, the increase in capacity-building and increased remuneration incentive for village court officials has allowed for improved accessibility of justice in rural areas. The Magisterial Services has also provided awareness and training to village court and district court officials on the protection available under the *Family Protection Act* and related human rights legislations.

Right to Life, Liberty and Security of the Person

The Special Rapporteur (SR) on summary executions noted that, while the last execution in the country occurred in 1954, thirteen people were on death row, all convicted of willful murder. The SR also noted reports about the Government's intention to start implementing capital punishment in response to the high level of violence in the country. Additionally, the SR on summary executions reported on the legislative amendments made to the Criminal Code in 2013 concerning the death penalty, which could be imposed as a sentence for two new crimes, namely, "willful murder of a person on account of accusation of sorcery" and "aggravated rape". The sentence for "aggravated robbery" had been amended from life imprisonment to the death penalty. The SR on torture recommended that the death penalty be abolished. While recognizing the need for strong action to protect its population against criminality, the UN country team had recommended strengthening the rule of law and increasing access to justice as a more effective way to address crime. It also recommended that PNG maintain its moratorium on the death penalty with a view to abolishing it de jure.

The SR on torture recommended ensuring that torture is defined as a serious crime, sanctioned with penalties commensurate with the gravity of torture and that any statement that is established to have been made as a result of torture is not invoked as evidence in any proceedings, except against a person accused of torture, as evidence that the statement was made.

Administration of Justice and Rule of Law

The Special Rapporteur (SR) on summary executions was concerned that the number of police officers had increased marginally, while the population had tripled, and recommended increasing resources for the police force to strengthen its capacity in both numbers and quality of duty performed. The SR on summary executions noted that a limited number of lawyers was available, and many people could not afford to pay their fees. The Office of the Public Solicitor provides free legal assistance in civil and criminal matters to those who are unable to afford a private lawyer. However, few lawyers are interested in joining the Office due to the poor benefits offered. The SR recommended establishing a pro bono system. The SR on torture noted that the Royal Constabulary lacked the capacity to prevent and investigate crimes about domestic violence and accusations of sorcery and urged the country to ensure a comprehensive structural reform.

³⁰ <https://freedomhouse.org/country/papua-new-guinea/freedom-world/2019>

The SR on torture noted efforts to address the poor conditions of detention and that those efforts were often hampered by capacity and resource constraints. He recommended establishing stronger legal and procedural safeguards; amending the Correctional Service Act to include provisions on confidential and private meetings with detainees; and regulating visits to police lockups and pre-trial detention facilities. He encouraged the country to ensure that detention conditions comply with international minimum standards. The SR on violence against women recommended that international standards for the protection of women in detention be incorporated into the national legislation. The SR on torture noted that the Police Juvenile Policy and Diversity Protocol was an excellent tool for dealing with juveniles in conflict with the law, but that it had not been sufficiently applied. He recommended that PNG implement it and remove all juveniles from police lock-up.

Right to Participate in Public and Political Life

UNESCO recommended that PNG criminalize defamation in accordance with international standards, recognizing that a lack of such protections is a constraint to participation. The UN country team stated that women's participation in political office was low. In 2012, three women had been elected for a total of 111 seats (2.7 percent) while the Parliament from 2015 has no female representative.

Economic, Social and Cultural Rights

PNG's economic freedom score is 58.4, making its economy the 108th freest in the 2020 Heritage Foundation Economic Freedom Index. Its overall score is unchanged from the 2019 Index, with an improved property rights score, offset by deteriorated scores in other indicators. PNG is ranked 23rd among 42 countries in the Asia-Pacific region, and its overall score is slightly below the regional and world averages. The PNG economy has been mostly unfree since Index grading of the country resumed in 2009.³¹ However, the Government has developed measures to improve the economic and social development of the people of PNG, which include the National Small and Medium Enterprises (SME) Policy launched in 2016. The Government also developed the National Strategy for Responsible Sustainable Development to provide a guide for government and all stakeholders to create opportunities for personal and national advancement through economic growth, smart and innovative ideas, quality of services, and ensuring fair and equal distribution of benefits in a safe and secure environment for all citizens.

Moreover, the Government has funded the National Women's Bank for women in the informal sector to increase income generation and assist in expanding business ventures. This initiative has given women income earning opportunities and access to banking services. The Government's District Support Improvement Plan (DSIP) of providing Kina 10 million (US\$3.3 million) to all 89 Districts and other similar fiscal measures, such as the Public Investment Program, have enabled capital and financial resources to be decentralized to the District levels in the country for infrastructure development, including roads, wharfs, schools, health centers, and economic opportunities to improve the lives and livelihoods of citizens who live in the rural areas.

³¹ 2020 Index of Economic Freedom: <https://www.heritage.org/index/country/papuanewguinea>

3.1.6 CORRUPTION

Laws on Anti-Corruption

The primary legal framework to fight corruption is based on the Criminal Code Act (CCA) of 1974 and Proceeds of Crimes Act (POCA) of 2005. The CCA criminalizes bribery and trading in influence; money-laundering, concealment; embezzlement, abuse of functions and obstruction of justice. While illicit enrichment is not criminalized, income and asset declarations are required from leaders (including politicians and departmental heads), pursuant to the Leadership Law.

The Public Finance Management Act in the Public Service governs and manages the use of public funds and other capital resources of the Government. Government has made efforts to streamline and improve the domestic financial systems and processes to eliminate corrupt practices, including the adoption of the International Monetary Fund Government Financial Statistics 2014 reporting standards.

National Institutions on Anti-Corruption

PNG does not have a stand-alone anti-corruption body, but investigations into corrupt practices are handled by the police and prosecution is carried out by the Office of the Director of Public Prosecutions (DPP). Other institutions and frameworks dealing with anti-corruption matters are the Office of the Ombudsman Commission whose mandate is to promote and protect the integrity of leaders at all levels of government and to investigate any complaints against leaders and governmental bodies. Its mission is to ensure good governance, accountability, transparency, and high-quality leadership in the public sector. Moreover, in 2015, the Organic Law for the establishment of an Independent Commission Against Corruption (ICAC) was presented to the National Parliament for deliberation. PNG also has a National Anti-Corruption Strategy (2010-2020) and the government has been able to make inroads on addressing various corruption issues.³²

Ratification of UN Convention Against Corruption

PNG ratified the UNCAC in 2007 and was reviewed by the Implementation Review Group under the Conference of the State Parties to the UNCAC in 2013.³³

3.1.7 GOVERNMENT RESPONSIVENESS AND EFFECTIVENESS

Governance in Practice

In a formal sense, PNG has been politically stable since independence, with regular elections every five years, peaceful changes of government, no military coups, and a functioning parliament. Yet, with its origins in Westminster, the political system has been adapted to the Melanesian culture in which it operates. Governments employ parliamentary stratagems that would never be utilized in the UK, and the formal description “stability” does little to capture the rough-and-tumble reality of politics in PNG. Political parties do not resemble their counterparts in developed countries. There are numerous parties, but they play little part in policy. Elections are occasions for voters to elect individuals, usually on the basis of kin or clan loyalty, and often in return for cash payments from candidates. Once members of the National Parliament gather in the capital, Port Moresby, the parties are used to attract, cajole, bribe, and

³² <https://www.rnz.co.nz/international/pacific-news/407708/png-defends-human-rights-efforts-following-damning-ngo-report>

³³ <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/VI383889e.pdf>

otherwise bring together enough members to form a government. Ideology and policy play no role in this process, which is a pragmatic pursuit of power.

Government Performance on Health

The government continues to work towards realizing the right to health by rolling out health care, particularly to areas which have been neglected in the past. In 2014, the Government established District Development Authorities (DDAs) to ensure that those basic services are rolled out in the districts. A major achievement that is supporting primary health care for citizens is the Government's Free Health Policy for primary health care and services. The National Health Plan (2011–2020) aims to strengthen primary health care for all and improve service delivery for the rural majority and the urban disadvantaged. The Health Plan contains eight Key Result Areas (KRAs) of targets for the National Health Sector: improve service delivery; strengthen partnerships and coordination with stakeholders; strengthen health systems; improve child survival; improve maternal health; reduce the burden of communicable diseases; promote healthy lifestyles; and improve preparedness for disease outbreaks and emerging population health issues. Moreover, the government has developed and established hospital-based Family Support Centers (FSC) to assist victims of violence with a one-stop shop for coordinated medical, psychosocial and referral services, and case-management support, which has improved the situation of women survivors of gender-based violence (GBV). The establishment of FSCs is in line with the National Health Plan (2001–2020), which emphasizes the value of rolling out FSCs as a strategy for addressing the poor indicators of maternal and child health, HIV/AIDS and STIs, and to promote healthy lifestyles. The FSC guidelines were finalized in 2012 and disseminated in 2013. The Government has made significant progress towards combating HIV/AIDS, scaling up efforts in almost all parts of the country, often joining efforts with donors and CSOs to reduce HIV infections. Efforts have been made in awareness and ensuring that both men and women have access to and are receiving the required treatment.

Progress has been realized in the implementation of the National HIV and AIDS Strategy with estimates that antiretroviral medicines to treat HIV have been delivered to 80 percent of those in need. Despite this progress, effective implementation of health policies remains a challenge for the government. The quality, reliability, and extent of strategic information on the epidemic was poor and resulted in a national response based on incorrect assumptions. Although the country fully funded treatment domestically and had approved the new treatment guidelines of the WHO, many locations lacked treatment facilities.

In brief, PNG has: a) the worst health performance in the Pacific Islands region; b) a critical shortage of medical personnel; c) increasing malaria rates; d) high rates of tuberculosis; and e) high rates of infant and maternal mortality. The vast majority (80 percent) of PNG's population lives in rural and remote areas, where health clinics are rudimentary and more often than not, overstretched. PNG suffers from a critical shortage of human resources for health. A recent survey by the PNG Institute of Medical Research showed a nine-fold increase in the number of malaria cases between 2014 and 2017. Leprosy cases are also increasing, according to the World Health Organization (WHO), there were 583 new leprosy cases detected in PNG last year. The problems are exacerbated by the country's mountainous terrain and widely dispersed population.

For years Papua New Guineans made the short trip to the Australian islands of Saibai and Boigu to receive treatment for tuberculosis, which had a prevalence rate of 432 per 100,000 people in 2016—high by global standards and very high by Pacific standards, but better than before. Daru Hospital opened a new TB isolation ward in 2013, and Australia is funding World Vision to train community-based health workers, as

well as providing a sea ambulance and boats for health service access to the South Fly District. According to the WHO, as of May 10, 2020, PNG had eight confirmed cases of Covid-19 with eight recoveries.

Government Performance on Education

PNG has taken measures towards achieving universal access to compulsory education including the introduction of the Tuition Fee-Free (TFF) Policy in 2012. This has enabled equal access for students to free primary education, increasing the enrollment of students at the primary level and improving literacy across the country. Consequentially, the overall gross enrollment rate for basic education improved to 96 percent in 2014, compared to 71 percent in 2000. These improvements exceeded the national enrollment target of 85 percent set in the Medium-Term Development Plan (MTDP) 2011-2015.

Government Performance on the Environment

The PNG Conservation & Environment Protection Authority (CEPA) administers the following pieces of environmental legislation: Conservation and Environment Protection Authority Act (2014); Environment Act (2000); National Parks Act (1984); Conservation Areas Act (1978); Fauna (Protection and Control) Act (1966); International (Fauna and Flora) Trade Act (1978); and the Crocodile Trade (Protection) Act.

3.1.8 KEY AID RELATIONSHIPS

The Australian Government is by far the largest source of aid for PNG and will provide approximately \$396 million in total Official Direct Assistance (ODA) to PNG in 2019-20, including an estimated \$334 million in bilateral funding. Despite enormous natural resource potential and close proximity to large Asian markets, PNG faces a number of challenges to its future prosperity including poor law and order, weak public services, a lack of infrastructure, complex governance arrangements, inequality, and a rapidly growing population. PNG also remains vulnerable to climate change and natural disasters, including earthquakes, volcanoes, and tsunamis. Key objectives of the Australian aid program are promoting effective governance, enabling economic growth, and enhancing human development. Alongside Australia, New Zealand has agreed to provide about \$22.1 million for 2019-2020.³⁴ The aid priorities are around four long-term outcomes including a) a more secure and safe PNG, b) reduced inequality alongside economic growth, c) improved governance, and d) increased bilateral trade.³⁵ The EU also contributes substantially to PNG. The EU and PNG enjoy more than 40 years of partnership and cooperation. PNG is part of the African, Caribbean, and Pacific (ACP) group of countries and benefits from an amount of \$170 million under the 11th EDF National Indicative Program, plus funding under the Regional Indicative Program for the Pacific, the European Instrument for Democracy & Human Rights (EIDHR), and the Civil Society / Local Authorities program (CSO).³⁶ The five largest projects to PNG in 2017 were funded by Australia.³⁷

Top five donors in 2017 (in US Dollars)

- Australia: \$275.9 million
- Asian Development Bank: \$30.7 million
- Japan: \$24.9 million
- United Nations: \$19.2 million
- New Zealand: \$15 million

³⁴ <https://www.mfat.govt.nz/en/aid-and-development/our-approach-to-aid/where-our-funding-goes/our-planned-aid-expenditure/>

³⁵ <https://www.mfat.govt.nz/assets/IATI-PDFS/PACMM/PNG.pdf>

³⁶ https://ec.europa.eu/international-partnerships/where-we-work/papua-new-guinea_en

³⁷ Lowy Institute Pacific Aid Map, <https://pacificaidmap.lowyinstitute.org/>

Aid from China overwhelmingly takes the form of concessional loans, and it is difficult to determine the extent of the concessional element or if they should be regarded as aid at all. In 2017 the PNG Government signed a series of memorandums of understanding with the Chinese Government and the China Railway Corporation to undertake three major infrastructure projects focusing on roads, water supply, and agriculture. These were to be financed by loans worth US\$3.5 billion, equivalent to one-quarter of PNG's gross domestic product. In Beijing in 2019, the PNG Prime Minister Peter O'Neill reaffirmed his country's commitment to supporting China's Belt and Road Initiative (BRI), which is focused on connectivity, infrastructure investment, and co-operation. In 2019 Prime Minister Marape reportedly asked China to refinance its entire government debt totaling US\$7.5 billion. PNG's debt is currently around 32.8 percent of its GDP.³⁸

3.1.9 CLIMATE CHANGE, ADAPTATION AND FINANCING

Australia is working with the PNG Government to address the skills gap under the PNG-Australia Climate Change Action Plan, a ministerial agreement between both countries. Australia's support aims to enhance the resilience of PNG communities to climate change impacts, and of critical social and economic infrastructure, to climate change. A key focus of support is on capacity development of PNG Government staff and institutions, particularly those working in the Climate Change and Development Authority (CCDA), to effectively coordinate and implement PNG's national climate change policy across other government agencies. Australia provided an estimated AUD115 million in climate change support to PNG between 2015 and 2018.³⁹

The country has received \$30 million in PPCR grants and near-zero interest loans to carry out vulnerability assessments and adaptation plans in target areas, undertake pilot measures for sustainable fishery ecosystems and food security in nine island and atoll communities, and climate proof critical ports, roads, and other infrastructure.⁴⁰ Moreover, in 2012 under the Adaptation Fund, a total of \$6.5 million was committed to helping both the government and residents of the riverine North Coast and the coastal Islands communities, (home to nearly 2.6 million people where flooding—both coastal and inland—is the most important climate-change related hazard, threatening coastal communities, key economic centers, and provincial capitals), make informed decisions about how best to plan and respond to a coastal or inland flood. The project is a joint undertaking by the UNDP and PNG's Office of Climate Change and Development.⁴¹ Under the ADB GEF 5 replenishment period (June 2010–June 2014), PNG was allocated substantial funding for biodiversity conservation (\$13.32 million), climate change (\$2 million), and land degradation (\$1.17 million).⁴² The Green Climate Fund contributes \$282 million⁴³ for two key projects under PNG's Intended Nationally Determined Contribution.⁴⁴ The Global Support Program is supporting three projects including PNG's Second National Communication.⁴⁵ PNG has a National Climate Compatible Development Management Policy which seeks to provide a clear demarcation of the roles

³⁸ <https://www.theguardian.com/world/2019/aug/07/papua-new-guinea-asks-china-to-refinance-its-national-debt-as-beijing-influence-grows>

³⁹ <https://www.dfat.gov.au/about-us/publications/Pages/australias-commitment-to-climate-change-action-in-papua-new-guinea>

⁴⁰ <https://www.climateinvestmentfunds.org/country/papua-new-guinea>

⁴¹ <https://www.adaptation-fund.org/project/enhancing-adaptive-capacity-of-communities-to-climate-change-related-floods-in-the-north-coast-and-islands-region-of-papua-new-guinea/>

⁴² <https://www.adb.org/sites/default/files/linked-documents/46495-002-dc.pdf>

⁴³ <https://www.greenclimate.fund/countries/papua-new-guinea>

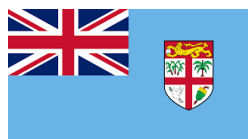
⁴⁴ https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Papua%20New%20Guinea%20First/PNG_INDC%20to%20the%20UNFCCC.pdf

⁴⁵ <https://www.globalsupportprogramme.org/explore/melanesia/papua-new-guinea>

and responsibilities for coordination, implementation, and review of climate change strategies, including but not limited to, the utilization of existing service delivery mechanisms such as under the Organic Law on Provincial & Local Level Governments (OLPLLG).⁴⁶ The policy also provides an avenue in fostering greater indigenous participation from the community and ward level, while encouraging District and LLG implementation.

⁴⁶ https://www.pacificclimatechange.net/sites/default/files/documents/National_Climate_Change_PolicyI.pdf

3.2 REPUBLIC OF FIJI



Population	Land area	Maximum elevation above sea level	EEZ
883,483	18 333 km ²	1 324 m	282. km ²

3.2.1 FORMAL GOVERNMENT STRUCTURE

Status: Independent (from the UK): 1970

Capital: Suva

Head of State: President appointed by Parliament: Brigadier General (Ret) Jioji Konrote (since 2015).

Head of Government: Prime Minister appointed by the President: Commodore (Ret) Frank Bainimarama (since 2006).

There have been four constitutions since independence; current constitution promulgated in 2013. The Parliament is a single-chamber legislative body with 51 members elected. Fiji has been a constitutional democracy since 1970 but with four interregnums after coups: 1987–1990; 2000–2001; and 2006–2014.

National Identity and Cohesion

Fiji has confronted destabilizing questions of national identity since the 1980s. Independent since 1970, the country has experienced three coups—in 1987, 2000 and 2006—the most recent leading to eight years of military rule, with some of that period ruled by decree.⁴⁷ The present government, installed as a result of a coup in 2006, has made strong efforts to create a coherent sense of national identity in a country with a major ethnic cleavage.

Relationship Between State and Society

Fiji is a more modernized, sophisticated, and urbanized country than PNG, Solomon Islands and Vanuatu, and is a strong state with effective delivery of government services.

3.2.2 INCLUSION

Ethnic and Linguistic Diversity

The reason for Fiji's repeated instability lies in Fiji's ethnic composition, which is the consequence of colonial administration by the British, who brought more than 60,000 Indians to the plantations of Fiji between 1879 and 1916. Their descendants now constitute Fiji's second largest ethnic community alongside the *taukei*, or indigenous, population. Democratic governments in the country after independence struggled to govern a country in which the dominance of the descendants of the original inhabitants, the 'Fijians' (a name not given to Fiji citizens of Indian descent), was enshrined in parliamentary representation and in voting systems that required citizens to vote according to race. These political arrangements were overthrown in the 2006 coup when the military government's 2013 constitution established a race-blind voting system based on proportional representation. Since then, Fiji has

⁴⁷ Fraenkel, Jon, Stewart Firth and Brij V. Lal, *The 2006 Military Takeover in Fiji: A Coup to End All Coups?*. Canberra, ANU Press, 2009. <https://press.anu.edu.au/publications/series/state-society-and-governance-melanesia/2006-military-takeover-fiji>

successfully conducted two peaceful elections—in 2014 and 2018—both won by the Fiji First party, established by former military commander Frank Bainimarama, who has now held power since he led the coup of 2006. Fiji has three official languages including English, iTaukei (the indigenous language), and Hindi. Fiji, which has been stable under a government that preaches a single national identity for citizens of all ethnic origins, nevertheless has the potential, once Bainimarama goes, to return to its former instability.

Ethnic Divisions as a Source of Instability

Fiji has had three coups, in 1987, 2000 and 2006. The leaders of the first two coups, Sitiveni Rabuka and George Speight, both justified their interventions in the democratic process as necessary to protect the indigenous people of Fiji, their land, and their culture from the threat of Fiji Indians in government. In the first case, Fiji returned to a version of democracy on the basis of the 1990 constitution, which guaranteed indigenous Fijians a permanent majority in the Parliament. In the second, Fiji returned to democracy on the basis of the 1997 constitution, which, while more liberal than the 1990 constitution, nevertheless perpetuated the system of voting and standing for office on the basis of race. The leader of the third coup, Frank Bainimarama, justified his coup as necessary to clean up corruption. He repealed the constitution in 2009 and ruled by decree until 2013, when the present constitution abolished race-based parliamentary representation and replaced it with highly democratic proportional representation.

Women’s Political Participation, including Temporary Special Measures (TSM)⁴⁸

Election Year	1987	1992	1994	1999	2001	2006	2010	2014	2018
No. of Seats	103	103	103	103	103	103	103	51	51
Number of Women MPs	0	1	3	8	5	8	n/a ^(c)	8	10
Percentage	0.0	1.0	2.9	7.8	4.9	7.8		16	19.6

3.2.3 COMPETITION AND POLITICAL ACCOUNTABILITY

Political System and Recent Developments

Fiji is best described as a “constrained democracy,” in which people are free to vote with the knowledge that another coup might well be the consequence of voting the present government out of office. Having returned Fiji to democratic elections in 2014 and 2018, the prime minister and former coup leader Bainimarama had no intention of allowing democratic practice to hinder his hold on power. He made sure that his government dominated parliament and used parliamentary procedures to expel opponents for lengthy periods, with media decrees imposing strict limits on what was reported. The 2018 election was a contest between two major parties, the ruling party Fiji First, and the major opposition party SODELPA, both led by former coup leaders. While the majority of citizens of Indian descent voted for

⁴⁸ In September 2013 and in accordance with the country’s new constitution, the number of seats in the Parliament reduced from 103 to 50 seats and then increased to 51 seats based on updated population data and registered voter figures. Five women MPs before 1987: one each in 1982; 1977 Sept; and 1972 and two in 1977 April elections. Fiji was under military rule from 2006 until 2013. The country’s new constitution allowed for the resumption of the democratic electoral process which saw the country conducting its next general election in September of 2014

Fiji First, many indigenous Fijians who had previously supported the government voted for SODELPA and its message of protecting indigenous rights and institutions. The victory for Fiji First gave it 27 seats in the new parliament (down from 32), SODELPA 21 (up from 15), and the National Federation Party three seats as before. However multiple challenges remain where the Government and the Opposition political parties have not been able to work together with the Opposition often citing the preferential treatments within the political landscape for the Fiji First party over the Opposition parties especially by State institutions.⁴⁹ In June 2020, SODELPA was suspended as a political party resulting in their suspension from parliament for their alleged failure to comply with the Political Parties Registration Act. The move prompted fears that Fiji was headed for another period of instability but SODELPA MPs have since been reinstated, after the party demonstrated compliance with the constitutional issues identified by the Supervisor of Elections.

Competition between Government Branches and Different Levels of Government

Fiji's system of government has become increasingly centralized in recent years.

Electoral System and Elections

The voting system in Fiji was highly contentious from independence onwards because it distinguished between voters on the grounds of race. So-called “communal voting,” in which voters of a particular race voted for representatives of the same race, continued in different forms until the 2006 coup brought eight years of military government. When democracy resumed in 2014, the voting system was radically different, with the entire country constituting one constituency and voters casting their ballots according to proportional representation, without regard to race, to elect 50 members of Parliament. The system has suited the country's prime minister because, once he achieves a quota, his votes flow on to others in his party. The same applies to any other popular leader standing for office. Fiji's elections are well conducted by the Fiji Elections Office, and do not give rise to criticism by observers, though various allegations have been raised by political parties on the lack of transparency, including the often uneven playing field when it comes to campaigning and using government resources as a form of campaigning.⁵⁰

3.2.4 DECENTRALIZATION

Local councils, at both the municipal and provincial level have been weakened by the central government. The military government abolished the popularly elected municipal councils in 2009 and restored them in 2014, however since then they have been under government-appointed administrators rather than popularly elected officials. Fiji is divided into 14 provinces and each of these has a provincial council which is paid for by the provincial levy imposed on indigenous Fijians. In the past, these provincial councils had a voice at the national level, comprising the Great Council of Chiefs, which was part of the country's system of government until it was abolished in 2012.

⁴⁹ In September 2019, Opposition Member of Parliament and President of the NFP was suspended from parliament for 6 months after the Speaker ruled for him and the Prime Minister to apologize for an incident outside parliament where the Prime Minister assaulted the MP over interventions he made in parliament. Pio refused to apologize and was subsequently suspended. <https://www.rnz.co.nz/international/pacific-news/398308/fiji-opposition-mp-suspended-for-refusing-to-apologise-to-pm>; <https://www.islandsbusiness.com/archives/2019/itemlist/tag/Pio%20Tikodua.html> . This past month, both SODELPA and NFP office have been raided or searched by anti-corruption officers: <https://www.fijitimes.com/nfp-office-raided-by-cid-officers/>; <https://www.fbcnews.com.fj/news/politics/ficac-searches-sodelpa-office/>

⁵⁰ <https://www.rnz.co.nz/international/pacific-news/375657/bainimarama-makes-final-appeal-ahead-of-fiji-vote> see also <https://narseyonfiji.wordpress.com/2014/09/25/far-from-free-and-fair-another-victory-for-treason-lies-deceit-money-and-the-culture-of-silence-25-sep-2014/>

Political Stability

According to some accounts, Fiji is the least stable of all Pacific Islands countries because of its succession of coups, in which elected governments were removed by force, and because of its potential for another coup. On the other hand, Fiji's coups and military interventions have not, for the most part, been accompanied by a breakdown of law and order or the collapse of government authority. On the contrary, the Fiji military forces are well used to establishing security and order as soon as they assume control. Typically, Fiji's coups have taken the form of "palace coups" in which government authority is passed from a democratic government to a military government.

Military Forces and their Role in Politics

The Republic of Fiji Military Forces (RFMF) are unique in the Pacific Islands, where most countries have no armed forces at all. The military tradition in Fiji is strong, and has been further strengthened by the participation of the RFMF in numerous overseas peacekeeping operations. The RFMF was in Lebanon with the UN, for example, for 22 years and has been continuously in Sinai as part of the Multinational Force and Observers (MFO) since 1982. Fijian troops have also served in a number of regional theatres such as Timor-Leste, Bougainville, and Solomon Islands. This overseas experience for the RFMF has not only created a strong esprit-de-corps, but has also served to professionalize it. Fiji military officers have had no doubt about their right, and ability, to assume control of the affairs of the country.

Given Fiji's recent history, a shelving of democracy in favor of military government remains a distinct possibility. Bainimarama's 2013 constitution provides that "It shall be the overall responsibility of the RFMF to ensure at all times the security, defense, and well-being of Fiji and all Fijians," giving the RFMF constitutional justification for intervening in future crises.

The COVID-19 pandemic has created the conditions for just such a crisis by closing the tourist industry, a major source of national income and employment, and introducing an illness that might be beyond the capabilities of the country's health system. In response to the pandemic, the Fiji government passed a response budget, placed the country's two largest cities under lockdown, and imposed a nationwide curfew.

Civil Society Organizations

With a vibrant civil society environment, civil society organizations work on issues around women's empowerment, environment, social, and development-related services. "Most civil society organizations are registered under the Charitable Trust Act" (Pacific Community, 2016:38), and social justice and human rights issues around violence against women are led by the prominent NGOs such as the Fiji Women's Crisis Centre.⁵¹

3.2.5 RULE OF LAW AND HUMAN RIGHTS

Judiciary

Fiji's current judicial system was established under the Constitution of 2013 and subsequent legislations. The Constitution establishes the Supreme Court as the final appellate court, a Court of Appeal, High Courts with unlimited jurisdiction, and a Magistrates Court which has limited jurisdiction. There are also semi-judicial bodies such as Tribunals and Commissions. The Chief Justice is the head of the judiciary and

⁵¹ <https://www.spc.int/sites/default/files/resources/2018-05/Human-right-Pacific.pdf>

is appointed by the President on the advice of the Prime Minister, following consultation with the Attorney General (s.106(1) Fiji Constitution) while judges of the High Court, Supreme Court, and Justices of Appeal are appointed by the President, on the recommendation of the Judicial Services Commission, following consultation with the Attorney General (s.106(2)).

Following the military coup of 2006, all of Fiji's judicial officers had either been sacked or resigned. As a result, replacement judges and magistrates were recruited mainly from Sri Lanka as there existed, among other factors, a travel ban imposed by the Australian and New Zealand government on any official that accepted an appointment in the military government. Fiji's judicial system has been subjected to criticisms by both international and national legal professionals' bodies including the International Bar Association, the Law Society Charity of England, Amnesty International, and Fiji's Law Society.⁵² Despite Fiji issuing a standing invitation to the Special Procedures of the Human Rights Council on March 17, 2015, they have not acceded to the request for an independent assessment of the judicial system and the legal profession by the United Nations Special Rapporteur on the Independence of Judges and Lawyers.

While the judiciary is functional, concerns about its independence remain, although members and the Fijian government have strongly defended it⁵³ arguing that Section 98 of the Constitution protects security of tenure, and contains a declaration of the independence of the Judiciary, ensuring that the training of judges is the responsibility of the Judicial Services Commission (including the setup of a tribunal process for the removal of judges), and provides for administrative autonomy.⁵⁴

Moreover, in a Nadi Magistrates court decision in April 2020, the court ruled that the Prime Minister did not have the powers under the required Health laws in Fiji's state of emergency to make lawful orders around curfews. On the same day, the Attorney General publicly reprimanded the Magistrate calling his ruling flawed, while the Law Society called for the legal process to be maintained. The High Court then exercised its revisionary powers and set aside the Magistrates ruling.⁵⁵

Police

The Fiji Police Force is generally mandated to safeguard law and order and is responsible for Fiji's internal security, while the Fiji Military Forces have broad powers for security, defense and the well-being of the country.⁵⁶ Since the 2006 coups, both the Fiji military and police forces have abused their powers, especially in the commission of extrajudicial killings, torture, excessive use of force and unlawful detainment of civilians.⁵⁷ For fear of victimization, Fijians took to blogs and other social media platforms to highlight the torture issues by security personnel.⁵⁸ Apart from ratifying CAT, measures have been put

⁵² Chapter 17: The rule of law and judicial independence amidst the coups and attempted coups in Fiji since 1987; Tupou Draunidalo, <http://press-files.anu.edu.au/downloads/press/p7451/mobile/ch17.html>; Rule of Law in dire straits; IBA; <https://www.ibanet.org/Article/NewDetail.aspx?ArticleUid=6A3EA360-40C4-4940-92AF-2EB2A64D7545>

⁵³ <https://fijisun.com.fj/2018/08/28/judiciary-independent-chief-justice/>

⁵⁴ <https://undocs.org/A/HRC/VG.6/34/FJI/1>

⁵⁵ <https://www.fbcnews.com.fj/news/court/magistrates-orders-set-aside-by-high-court-judge/>

⁵⁶ PACLI: <http://www.pacii.org/fj/Fiji-Constitution-English-2013.pdf>

⁵⁷ US State Report: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/fiji/>

<https://fijisun.com.fj/2019/11/22/alleged-police-brutality-case-transferred-to-high-court/>;

<https://fijisun.com.fj/2019/11/19/commission-director-calls-on-police-to-hold-officers-to-account/>;

<https://fijisun.com.fj/2019/02/12/fiji-national-security-and-defence-minister-says-11-cases-of-police-brutality-are-being-investigated/>

⁵⁸ <https://www.truthforfiji.com/torture.html>

in place including the first hour procedure and a range of human rights in policing training, to address the issue of brutality, torture, and excessive use of force.⁵⁹

With Fiji's current state of emergency from the COVID-19 outbreak, the Fiji Police have increased their operations by imposing lockdowns and curfew orders. As reported in April 2020 in the Fiji Sun, the military has offered to assist the police in enforcing these curfew orders.⁶⁰ The Fiji military has longstanding connections with the Australian military forces, including in global peacekeeping operations. Australia has committed to help redevelop Fiji's Blackrock Camp into a regional peacekeeping, humanitarian assistance, and police training center. Australia will replace Fiji's two Pacific patrol boats with Guardian-class patrol boats in 2020 and 2023.⁶¹

Violence Against Women

Domestic violence (DV) and sexual-gender based violence (SGBV) continue to increase in Fiji and have been labelled by the Fiji Women's Rights Movement (FWRM) as a pandemic.⁶² A Fiji Women's Crisis Centre (FWCC) research piece indicated that 64 percent of Fijian women experience intimate partner violence, while violence against women in general impacts about 72 percent of Fijian women.⁶³ In 2020, Fiji's Minister for Women launched the Fiji National Strategy to prevent violence against women and girls, making Fiji one of only two countries in the world "To have a whole of government, inclusive, evidence-based approach to domestic violence against women and girls."⁶⁴

Women's Empowerment

Fiji has taken considerable steps to ensure gender equality and parity within government and private sector. Sex and gender are prohibited grounds for discrimination in Fiji. Fiji's Ministry for Women conducts numerous programs and initiatives to address gender inequality, domestic violence, and economic and women's empowerment programs. There are strong women's NGO groups in Fiji including the above mentioned FWRM, FWCC, Soqosoqo vaka Marama and Diverse Voices for Action (DIVA) among others. Faith-based organizations such as the Anglican Church's House of Sarah support aspects of women's rights including operating safe-houses. The Fijian government also works with international and regional organizations such as UN Women; Secretariat of the Pacific Community (SPC RRRT), Pacific Islands Forum (PIF), Melanesian Spearhead Group (MSG), and bilateral aid programs to advance gender equality and women's rights.

Implementation of Core Human Rights Treaties

While Fiji has made great strides in protecting and respecting human rights, its political instabilities have seen some of the worst violations of human rights, ranging from torture, abuse, and deaths in police or military custody, to unlawful imprisonment and restriction, and curtailing of basic freedoms. Up until 2006, Fiji was party to three of the core human rights treaties. By 2019, Fiji had become the only Pacific State and one of the few in the world to have ratified all nine core human rights treaties. However, like other Pacific States, Fiji's reporting to the Treaty Bodies is often delayed by late submission of periodic

⁵⁹ <http://odpp.com.fj/wp-content/uploads/2016/10/ODPP-Press-Release-12-of-2016-Police-workshop-on-Digital-Recording.pdf>

⁶⁰ <https://fijisun.com.fj/2020/04/15/republic-of-fiji-military-forces-waiting-for-directive-to-aid-fiji-police-force/>

⁶¹ <https://www.navyrecognition.com/index.php/news/defence-news/2020/march/8135-australia-has-handed-over-the-newest-rfns-savenaca-guardian-class-patrol-boat-to-fiji.html>; <https://www.dfat.gov.au/geo/fiji/Pages/fiji-country-brief>

⁶² <http://www.fwrn.org.fj/news/media-releases/67-all-category/news/press-releases/547-pr-fwrn-condemns-domestic-violence-enough-is-enough>

⁶³ <https://pacificwomen.org/our-work/focus-areas/ending-violence-against-women/>

⁶⁴ <https://fijisun.com.fj/2020/02/20/fijis-national-action-plan-to-prevent-violence-against-women-and-girls-vuniwaqa/>

reports, though reporting over the years has improved significantly. Of the nine core treaties reporting procedures, two reports are now overdue. Fiji is currently a member of the UN Human Rights Council, with the countries term expiring in 2021.

In addition to ratifying the core human rights treaties, Fiji has also advanced various areas of implementation and reporting under these treaties, especially CEDAW, CRC, and CRPD.

National Human Rights Institutions (NHRI)

Under the 2013 Constitution, Fiji's NHRI was given an expanded mandate as the Fiji Human Rights and Anti-Discrimination Commission (FHRADC). The institution, created under the 1997 Constitution (Fiji Human Rights Commission (FHRC)), was not only an internationally acclaimed institution, but was also an "A" accredited Paris Principle compliant national institution.⁶⁵ Having supported the military coup in 1997, the FHRC was suspended by the ICC (now GANGRI) but the then Director withdrew FHRC's membership in 2009. The FHRADC is still not Paris Principles compliant and is often the subject of criticism by the public for its perceived selective handling of cases against the government. Moreover, the Director of the Commission was also the government's chief media sensor (Director of MIDA) which is problematic.⁶⁶ The Director's appointment with MIDA lapsed in May 2019.

Children's Rights

The physical and sexual abuse of children has increased over the years. In 2015, the Fijian government established a child helpline to encourage people, including children, to report child abuse. In 2018 alone, more than 700 cases of child abuse were received by the Child Services department.⁶⁷ Commercial and Sexual Exploitation of Children (CSEC) and child trafficking are ongoing concerns for children in Fiji, with anecdotal cases being reported, but comprehensive studies or research to ascertain the extent of these activities does not exist. However, a Save the Children Fiji Situation Analysis in 2005 highlighted the prevalence of this criminal activity.⁶⁸ In 2019, the High Court in Suva sentenced an individual for trafficking a 15-year-old girl for sexual services, a ruling which was among of the first of its kind.⁶⁹ A 2019 ECPAT report noted that, "Fiji is identified as a source, destination and transit country for children subjected to trafficking for sexual purposes."⁷⁰ It was noted that from 1999–2003 there were 92 reported cases of child rape in Fiji.⁷¹ Subsequently in 2019, of the 269 victims of sexual violence, 183 victims were under the age of 18 years, the youngest being a three year old girl.⁷²

Though illegal, pornography is widely accessible in Fiji as there is no regulatory framework or filter around internet access. Bullying, including cyberbullying, is a grave concern for children in Fiji, leading the government to pass the 2018 Online Safety Act, though online abuse remains a worrying trend. Fiji's National Substance Abuse and Advisory Council reported in 2018, they received 27,289 cases of violence against children including over 6,000 cases of bullying.⁷³

⁶⁵ <https://nhri.ohchr.org/EN/AboutUs/Pages/ParisPrinciples.aspx>

⁶⁶ <https://pdfs.semanticscholar.org/9e6a/9ca99a76ba28bf55fde22e13b68c7f707506.pdf>

⁶⁷ <https://www.rnz.co.nz/international/pacific-news/380437/700-cases-of-child-abuse-in-fiji-in-2018>

⁶⁸ <http://www.savethechildren.org.fj/wp-content/uploads/2015/02/3-Commercial-sexual-exploitation.pdf>

⁶⁹ <https://fijisun.com.fj/2019/12/12/court-hands-down-14-year-sentence-for-child-trafficking/>

⁷⁰ ECPAT Country Overview: A report on the scale, scope and context of the sexual exploitation of children in Fiji;

<https://www.ecpat.org/wp-content/uploads/2019/05/ECPAT-Country-Overview-Report-Fiji-2019.pdf>

⁷¹ <http://www.savethechildren.org.fj/wp-content/uploads/2015/02/3-Commercial-sexual-exploitation.pdf>; Pg 26

⁷² <http://odpp.com.fj/wp-content/uploads/2020/01/ODPP-Rape-and-Sexual-Offences-Statistics-I-January-31-December-2019.pdf>

⁷³ <https://navtarang.com.fj/27289-bullying-and-student-assault-cases-recorded-in-schools-last-year/>

UNICEF Pacific recognizes that Fiji had “implemented significant legislative changes to establish regulatory frameworks for their child protection systems.”⁷⁴ Child Protection laws include the Child Welfare Act 2010. Fiji’s evolving child protection system is also strongly supported by partners including UNICEF Pacific, Save the Children Fiji, and faith-based organizations who oversee orphanages and homes for juveniles.

Youth Rights/Issues

Fiji has a vibrant youth population. The 2017 census revealed that of a population of 884,887, the median age was 27.5 and the average annual population growth was just 0.6 percent, due to low birth rates and out migration. Fiji has a National Youth Policy and a National Youth Council overseen by the Ministry of Youth and Sports, that provides advice to the Minister on issues affecting youth (between 15-35 years of age).⁷⁵ Fiji has many active youth groups including politically affiliated groups, church groups, and other interest advocacy groups.⁷⁶ While youth unemployment remains high, young people are actively involved in politics,⁷⁷ with one active youth advocate being subjected to military violence and intimidation for his democracy advocacy following the military coup in 2006.⁷⁸ Unfortunately, suicide among young people is very high, and is a cause for concern.⁷⁹ The government has implemented various youth initiatives such as “30 under 30”, though indigenous Fijian youths lag behind in business development and business.⁸⁰

Rights of Persons with Disabilities

The Fijian government has adopted a range of measures to support persons with disability (PWD) including implementing the CRPD convention vis-à-vis the Rights of Persons with Disabilities Act 2018. The Employment Taxation Scheme for PWD encourages the creation of employment opportunities and access for PWD, enacting an employment tax scheme to include employment of disabled people for a period of three years with 300 percent tax deduction. Fiji’s budget allocation for persons with disabilities nearly doubled in the 2018 budget following strong DPO advocacy, CRPD ratification, and adoption of the new domestic disability rights law. However, it is to be noted that not all of this budget allocation is CRPD compliant, with significant amounts invested in psychiatric institutions or special schools.”⁸¹

LGBTI Rights

Fiji’s 2013 Constitution prohibits discrimination on the grounds of gender, gender identity and expression, and sexual orientation. Fiji leads the region in promoting LGBTQI rights including holding the Pacific’s first pride parade in 2018.⁸² Many strong and vocal LGBTI advocacy groups are based in Fiji and use their platforms to advocate for issues affecting their community. In 2016, the House of Khamelion facilitated the first LGBT persons in detention workshop for Correction Officers, which highlighted the special characteristics of LGBTI persons.⁸³ In 2018, Fiji’s NHRI and the APF for National Human Rights Institution

⁷⁴ Child Protection Systems Governance; Four Pacific Countries, Regional Overview.
<https://www.unicef.org/pacificislands/media/911/file/Four-Pacific-Countries-Preview.pdf>

⁷⁵ <https://www.youthpolicy.org/factsheets/country/fiji/>

⁷⁶ <https://fijisun.com.fj/2018/01/10/fiji-bureau-of-statistics-releases-2017-census-results/>

⁷⁷ <http://press-files.anu.edu.au/downloads/press/p337333/pdf/ch082.pdf>

⁷⁸ <https://www.fijitimes.com.fj/torture-victims-call-for-change/>

⁷⁹ <http://www.health.gov.fj/suicide/>

⁸⁰ <https://www.fijitimes.com/youth-issues-3/>

⁸¹ http://www.pacificdisability.org/getattachment/Resources/Research/PACIFIC-DISABILITY-FORUM_SDG_REPORT-2019.pdf.aspx

⁸² <https://may17.org/15877/>

⁸³ <http://www.hausofkhamelion.org/hk-blog/lgbtpersons-in-detention-fijicasestudy>

held a two day national consultation in Suva with the LGBTI community to draw up their first national plan of action.⁸⁴ The Equaldex page contains an overview of LGBTI rights in Fiji.⁸⁵

Religious and Ethnic Minorities’ Rights

The 2013 Fiji Constitution guarantees freedom of conscience and religious belief. Special arrangements for ethnic groups in the past have favored the indigenous Fijian population rather than the minority with an Indian heritage, and these have included, in particular, race-based political representation and voting. As of 2020, this is no longer the case.

Indigenous People’s Rights

Cultural Rights are protected in Fiji under the Constitution, however many indigenous Fijian leaders and politicians lament the erosion of indigenous rights and the lack of political will by government to address them.⁸⁶ The public clashes between the government and opposition members on indigenous rights are well documented,⁸⁷ for example initiatives by the 2006 government (overthrown in a military coup) to protect indigenous interests around customary land and *qoliqoli* (foreshore) were labelled racist by political protagonists.⁸⁸ Moreover, since the restoration of democracy in 2014, parliamentary rules were re-written so that no other language except English can be spoken in parliament, where previously Fijian and Hindi were Fiji’s official languages. Indigenous rights have been a cause of internal conflicts in Fiji including being used to justify Fiji’s four coups. Following the 2006 coup, the government also dissolved the Great Council of Chiefs as indigenous Fijian’s apex leadership body.

Freedom of the Press

While the Fijian government asserts that press freedom is protected in Fiji, the reality is that the heavy-handed nature in which the press is managed, especially in times of political or social unrest, has led to the media exercising self-censorship.⁸⁹ With two major newspapers, the government has chosen to exclusively provide business to the one which covers Fiji First government in a favorable light compared to editorial attack on the Opposition party. The Media Act, among others, regulates the standards of the media and establishes the Media Industry Development Authority (MIDA) of Fiji, whose head is also the Director of the Fiji Human Rights and Anti-Discrimination Commission.⁹⁰ The Act has reportedly created a chilling effect for media and press freedom. While the media is largely able to cover issues of public interest, there have been cases of government censorship, including a contempt charge brought by the Attorney General (a government minister) against one media organization considered to be an anti-government newspaper by the government.⁹¹ In 2018, four senior editorial teams of the Fiji Times were found not guilty of sedition for a letter published in the newspaper viewed to incite hostility towards the

⁸⁴ <https://www.asiapacificforum.net/news/countering-violence-and-discrimination-against-lgbtqi-people/>

⁸⁵ <https://www.equaldex.com/region/fiji>

⁸⁶ <https://www.fiji.gov.fj/Media-Centre/News/UN-FORUM-TOLD---THE-RIGHTS-OF-FIJI'S-ITAUKEI-ARE-P>

⁸⁷ <https://www.rnz.co.nz/international/programmes/datetimepacific/audio/2567447/fiji-indigenous-rights-breached-by-constitution,-says-lawyer>

⁸⁸ <https://www.theguardian.com/world/2006/nov/02/marktran>

⁸⁹ Russel Hunter, State control and self-censorship in the media after the coup, <http://press-files.anu.edu.au/downloads/press/p7451/pdf/ch141.pdf>

⁹⁰ <http://www.mida.org.fj/about-us/>

⁹¹ State v Fiji Times Ltd, ex parte Attorney General [2013] FJHC 59; HBC343.2011 (20 February 2013); <http://www.pacii.org/cgi-bin/sinodisp/fj/cases/FJHC/2013/59.html?stem=&synonyms=&query=Fiji%20Times>

minority Muslim population in the country.⁹² Despite the often hostile media environment, Fiji has improved its press freedom ranking in the World Press Freedom Index beginning in 2013 when it was ranked 107/180 and leading to 2019 where it was ranked 52/180, an improvement from 57th place in 2018.⁹³ The 2020 Press Freedom ranking shows Fiji still at 52 saying that the media operated in a culture of intimidation and that the MIDA was created by a draconian law.⁹⁴

Freedom of Information Laws

Fiji enacted an Information Act in 2018 which gives effect to Sections 25 and 150 on Right to Information. The Act facilitates the right of access to information held by government and public agencies.⁹⁵

Civil and Political Rights

Fiji's 2013 Constitution protects civil and political rights, though challenges remain in the realization of these rights. Concerns have been raised by Fiji's trade unionists specifically on the right to peaceful assembly and freedom of association and on the slow processing of permits by police, and denials to march in the city to protest government decisions against workers. The Fiji Trade Unions Congress (FTUC), the largest union in Fiji, was refused permits to march in 2017, 2018 and in August and November 2019.⁹⁶ The issues raised by the FTUC, among others, included the "Harassment and intimidation by the police during the termination of 2075 Water Authority of Fiji workers and thereafter, the arrest of 29 workers in Lautoka, the arrest of Union Leaders in Suva, and the charges laid on the National Secretary of FTUC. Moreover, the FTUC has been protesting against the Government's decision to impose individual contracts, thus denying workers the right to collective bargaining, a breach of ILO Convention 87 and 98. Other issues include the Labor Law Review and an Essential Industries review, both of which the Government undertook to address in 2015. The issues of right to strike, minimum wage, and the termination of 2075 WAF workers, leading to the biggest mass termination of workers in Fiji, all remain pending."⁹⁷

Despite the comprehensive protection of civil and political rights in Fiji's Constitution, it is the only country in the Pacific to be rated by Freedom House as partly free with a total score of 60/100, broken down into 24/40 on the realization of political rights and 36/60 on the realization of civil liberties.⁹⁸ In a joint Universal Periodic Review (UPR) submission by civil society groups representing human rights defenders, they called on government to "ensure an enabling environment for human rights defenders." They recommended that the Government refrain from criminalizing legitimate activities of human rights defenders and repeal all laws and policies that restrict their activities and fundamental rights to freedom of expression, assembly and association, including sections of the Public Order Act Amendment Decree, the Media Industry Development Decree, the 2014 Electoral Decree and the Online Safety Bill.⁹⁹ The Fijian government has expanded its partnership with the EU and Australian Aid around the Access to Justice program with

⁹²Media censorship condemned as Fiji Times acquitted, <https://www.rnz.co.nz/international/pacific-news/358027/media-censorship-condemned-as-fiji-times-acquitted>

⁹³ <https://rsf.org/en/fiji>

⁹⁴ Ibid.

⁹⁵ <https://www.fiji.gov.fj/getattachment/9d6f70b2-0bb6-48b4-b66b-3dc2e9acf59b/Act-9---Information-Act.aspx>

⁹⁶ <http://www.ftuc.org.fj/2018/02/15/permit-saga-continues-anti-union-stance-by-government-evident-anthony/>; <http://www.ftuc.org.fj/2018/09/05/refusal-to-use-sukuna-park-human-rights-violation-continue-ftuc/>; <http://www.ftuc.org.fj/wp-content/uploads/2019/08/FTUC-Press-Release-FTUC-Demand-Rights.pdf>; <https://fijivillage.com/f/FTUC-permit-application-denied-again-5kr9s2/>

⁹⁷ <http://www.ftuc.org.fj/2019/09/>

⁹⁸ <https://freedomhouse.org/countries/freedom-world/scores>

⁹⁹ <https://undocs.org/A/HRC/WG.6/34/FJI/3>

greater access by disfranchised Fijians to the Legal Aid scheme. Other measures such as the first hour procedure¹⁰⁰ have been implemented to ensure that persons charged by police have access to lawyers within 24 hours of their incarceration.¹⁰¹

Economic, Social and Cultural Rights

Fiji's economic freedom score is 63.4, making its economy the 77th freest in the 2020 index. Its overall score has increased by 1.2 points, primarily because of a higher government integrity score. Fiji is ranked 15th among 42 countries in the Asia-Pacific region, and its overall score is slightly above the regional and world averages.¹⁰² The UN country team highlighted various issues around both civil and political rights as well as economic, social, and cultural rights including the rights to employment, social security, education, and health etc.¹⁰³ For the first time, Fiji's Constitution contains comprehensive protection of these rights and making them enforceable.

3.2.6 CORRUPTION

Laws on Anti-Corruption

The Fiji Independent Commission Against Corruptions (FICAC) is the leading entity responsible for the prosecution of corruption cases. The various anti-corruption laws that FICAC can prosecute under include the Bribery Act 2007; the Crimes Act, and the Mutual Legal Assistance in Criminal Matters Act, among others. Prior to establishing FICAC, all prosecution of corruption related offences was handled by the Office of the DPP. Since its inception, FICAC has received 67,417 complaints; investigated 1570 of the complaints; charged 366 individuals; and successfully prosecuted 115 individuals.¹⁰⁴

National Institutions on Anti-Corruption

The Fiji Independent Commission Against Corruptions (FICAC) was created by the FICAC Act 2007.

Ratification of UN Convention Against Corruption (UNCAC)

Fiji acceded to the UNCAC in 2008 and underwent a peer review process to ascertain Fiji's compliance with the provisions of UNCAC. The review was conducted by senior officials from Bangladesh, the United States and the United Nations Commission Against Corruption. In 2012, Fiji was reviewed by the Conference of the States Parties to the United Nations Convention against Corruption in Vienna.¹⁰⁵ Fiji is supported with technical assistance in the UNDP's United Nations Pacific Regional Anti-Corruption Project (Phase II: 2016-2020).

3.2.7 GOVERNMENT RESPONSIVENESS AND EFFECTIVENESS

Governance in Practice

The Fiji government continues to provide a semblance of good governance including consultations on national development issues and on the annual budget; however, there are concerns of Executive

¹⁰⁰ <https://fijivillage.com/news/First-hour-procedure-reduces-allegations-of-ill-treatment-and-an-attitude-change-in-the-Fiji-Police-Force---Ali-52s9rk/>

¹⁰¹ <https://undocs.org/A/HRC/WG.6/34/FJI/1>

¹⁰² 2020 Index of Economic Freedom; <https://www.heritage.org/index/country/fiji>

¹⁰³ <https://undocs.org/A/HRC/WG.6/34/FJI/2>

¹⁰⁴ <https://ficac.org.fj/>

¹⁰⁵ <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/18-22June2012/V1251970e.pdf>

interference into governance practices. In 2016, Parliamentary Committee rules were amended to allow government nominees to become the Chair of the Public Accounts Committee (PAC).¹⁰⁶ For 40 years, the PAC has always been chaired by the Opposition providing scrutiny on government expenditures.¹⁰⁷ Government budgets have also been heavily criticized by the Opposition for their lack of transparency and consultation (including the recent COVID-19 supplementary budget).¹⁰⁸ Moreover, there have been concerns around broader governance issues including the development and deployment of an ISO compliant, election management system by NADRA, a Pakistan based company, the recruitment of overseas workers to work in the sugar cane plantation¹⁰⁹ despite high unemployment in Fiji, the blatant disregard of environment laws by Chinese investors, and the granting of permits for a Korean based group whose leader was convicted in Seoul for slavery offences and trafficking.¹¹⁰ (In response to the accusation regarding the Korean case, according to the Fijian government, the sect had not broken any Fijian law.)¹¹¹

Government Performance on Health

The government has made significant advances in investing in health which is also reflected in its strategies around addressing the COVID-19 global pandemic. In a recent visit to Fiji, the Special Rapporteur on the right to health noted that, “Fiji has invested in all the main elements of healthcare, including primary and specialized care. It has modernized outpatient and hospital care, invested in infrastructure and increased salaries for medical doctors.” He added that “I welcome Fiji’s strong political will to ensure that people can realize their right to health, and I am pleased that it has very good opportunities to do so.”¹¹²

Government Performance on Education

The Constitution provides for the right to education and stipulates that the State must use all measures within its means and resources to achieve the right to free early childhood, primary, secondary and further education. In addition to providing free education for primary and secondary school children, the Government also implemented major initiatives aimed at increased scholarships for tertiary studies through the student loans scheme (TELS) and the toppers scheme, One Learning Device per Child initiative, Bus Fare Assistance Program, Free Milk program for Year 1 students, free textbooks and subsidized transportation to school. However, stakeholders in the UPR report noted that, “Family problems, including parental neglect and lack of family support, had been suggested as prevalent reasons for children leaving school and being sexually exploited through prostitution, and found that children who discontinued school were at an increased risk of a range of abuses and exploitation.”

¹⁰⁶ <http://nfpfiji.com/nfp-leader-voted-out-as-chair-of-public-accounts-committee/>

¹⁰⁷ <https://fijisun.com.fj/2016/05/12/new-pac-chairman-today/>

¹⁰⁸ <https://www.rnz.co.nz/international/pacific-news/412793/opposition-hits-out-at-fiji-govt-covid-19-budget;> [https://tribune.com.pk/story/1278261/grievances-galore-nadra-services-draw-huge-complaints/;](https://tribune.com.pk/story/1278261/grievances-galore-nadra-services-draw-huge-complaints/) [https://www.abc.net.au/radio-australia/programs/pacificbeat/fiji--sugar-cane-farms-hire-vanuatu-workers/11723956;](https://www.abc.net.au/radio-australia/programs/pacificbeat/fiji--sugar-cane-farms-hire-vanuatu-workers/11723956) [https://www.abc.net.au/radio-australia/programs/pacificbeat/fiji--sugar-cane-farms-hire-vanuatu-workers/11723956;](https://www.abc.net.au/radio-australia/programs/pacificbeat/fiji--sugar-cane-farms-hire-vanuatu-workers/11723956) <https://www.theguardian.com/global-development/2019/may/17/reef-wipeout-three-surfers-fight-china-linked-mega-resort-in-fiji>

¹⁰⁹

¹¹⁰ <https://www.theguardian.com/world/2019/aug/02/south-korean-cult-leader-who-held-400-people-captive-in-fiji-jailed-for-six-years>

¹¹¹ <https://fijisun.com.fj/2019/08/03/yogesh-karan-condemns-opposition-leader-allegations/> and <https://www.fijitimes.com/no-reason-to-investigate-grace-road/>

¹¹² <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25389&LangID=E>

3.2.8 KEY AID RELATIONSHIPS

Australia and Fiji share a strong and enduring bilateral relationship, demonstrated by Prime Ministers Morrison and Bainimarama's signing of the Fiji-Australia Vuvale [family in Fijian] Partnership on September 16, 2019. The Australian Government is providing an estimated \$58.8 million in total ODA to Fiji in 2019-20. This includes an estimated \$35 million in bilateral funding to Fiji managed by DFAT. This figure does not include Prime Minister Morrison's recently announced Pacific initiatives.¹¹³ Since taking office, Prime Minister Scott Morrison and senior members of his government have visited Fiji, including PM Morrison, making two visits in a year.¹¹⁴ Fiji and Australia share a very strong trade relationship with trade and investment (exports and imports) totaling Aus\$646 million,¹¹⁵ while Australia's total investment in Fiji in 2016-2017 was \$1.33 billion.¹¹⁶ Australia's re-energized engagement is part of its Step-Up approach to engaging in the Pacific.¹¹⁷

New Zealand's development cooperation¹¹⁸ has significantly increased since restoring the diplomatic relationship with Fiji under the Pacific Reset initiative.¹¹⁹ The NZ Prime Minister Jacinta Ardern and senior members of her cabinet have visited Fiji, and senior Fijian government officials have visited NZ.¹²⁰ Similarly, Fiji and China initiated diplomatic relations in 1975 with a renewed strengthening of ties since the military coup of 2006, and with expanded assistance through China's Belt and Road initiative.¹²¹ These measures were further strengthened by Fiji's Look North Policy.¹²²

There have also been very high-level Chinese government visits to Fiji and vice-versa, including the visit of President Xi Jinping in 2014.¹²³ This followed another high-level visit, that of Narendra Modi of India, one of Fiji's large trading and diplomatic partners in the same year.¹²⁴ In February 2020, Fiji hosted the President of the State of Israel and welcomed Pacific governments to meet with the President. Present were the Prime Ministers of Samoa, PNG, Deputy PM of Tuvalu, Solomon Islands and Tonga. This year marks the 50th anniversary of diplomatic relationships between Japan¹²⁵ and Fiji.¹²⁶ The EU is the Pacific region's fifth largest trading partner, with trade worth EUR 1.5 billion in 2018.¹²⁷ While the UK does not have a bilateral aid program, it provides assistance through the EU.¹²⁸

¹¹³ <https://www.dfat.gov.au/geo/fiji/development-assistance/Pages/development-assistance-in-fiji>

¹¹⁴ <https://www.sbs.com.au/news/scott-morrison-heads-to-fiji-hoping-to-talk-rugby-league-rather-than-climate-change>

¹¹⁵ <https://www.dfat.gov.au/sites/default/files/fiji-cef.pdf>

¹¹⁶ <https://fiji.embassy.gov.au/suva/relations.html>

¹¹⁷ <https://www.dfat.gov.au/geo/pacific/Pages/the-pacific>

¹¹⁸ <https://www.mfat.govt.nz/assets/IATI-PDFS/PACMM/Development-Cooperation-Fiji.pdf>

¹¹⁹ https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12208033

¹²⁰ <https://www.mfat.govt.nz/en/countries-and-regions/pacific/fiji/>

¹²¹ <https://www.fbcnews.com.fj/news/fiji-china-relations-hit-a-new-high-of-development/>

¹²² <https://www.wgtn.ac.nz/chinaresearchcentre/programmes-and-projects/china-symposiums/china-and-the-pacific-the-view-from-oceania/24-Lyu-Guixia-Chinas-Development-Aid-to-Fiji-Motive-and-Method.pdf>

¹²³ <https://www.abc.net.au/news/2014-11-22/chinese-president-xi-visits-fiji-to-strengthen-economic-ties/591144>

¹²⁴ <https://timesofindia.indiatimes.com/india/Narendra-Modi-reaches-Fiji-first-visit-by-an-Indian-PM-in-33-years/articleshow/45196980.cms>

¹²⁵ <http://www.foreignaffairs.gov.fj/component/content/article/38-press-releases-2018/1141-pr-japan-provides-fj-5-5-million-grant-aid-to-fiji>

¹²⁶ https://www.mofa.go.jp/a_o/ocn/fj/page24e_000271.html

¹²⁷ <https://www.europarl.europa.eu/factsheets/en/sheet/175/pacific>

¹²⁸ <https://www.gov.uk/government/news/uk-and-pacific-islands-sign-trade-continuity-agreement>

3.2.9 CLIMATE CHANGE, ADAPTATION AND FINANCING

Fiji established a Climate Change division with the Ministry of Economy and in 2018 the government adopted the National Climate Change Policy 2018-2030.¹²⁹ The government also has a National Adaptation Plan on climate resilience which was developed through the United States In-Country National Adaptation Plan (NAP) Support Program.¹³⁰ Fiji has played a leadership role in the climate change platform including being President of COP 23. At its 30th meeting in October 2017, the Adaptation Fund Board approved a US\$4.2 million project in Fiji. The urban development project aims to increase the resilience of informal urban settlements in Fiji that are highly vulnerable to climate change and disaster risks.¹³¹ In 2017, Fiji launched its Climate Vulnerability Assessment: Making Fiji Climate Resilient, and identifies 125 measures across five priority areas that could make Fiji and Fijians more resilient. The five areas include: building inclusive and resilient towns and cities; improving infrastructure services; climate smart agriculture and fisheries; conserving ecosystems; and building socioeconomic resilience. According to the Assessment, an estimated FJ\$9.3 billion (US\$4.5 billion) over 10 years is required to finance these interventions, in addition to maintenance and operation costs and social protection systems.¹³²

¹²⁹ <http://fijiclimatechangeportal.gov.fj/climate-change-unit>

¹³⁰ https://www4.unfccc.int/sites/NAPC/Documents/Parties/National%20Adaptation%20Plan_Fiji.pdf

¹³¹ <https://www.adaptation-fund.org/adaptation-fund-at-cop25/previous-cops-2/cop23/climate-change-fiji/>

¹³² <https://www.worldbank.org/en/news/press-release/2017/11/10/new-report-projects-us45-billion-cost-to-reduce-fijis-vulnerability-to-climate-change>

3.3 SOLOMON ISLANDS



Population	Land area	Maximum elevation above sea level	EEZ
682,500 ¹³³	28 230 km ²	2 335 m	1 553 440 km ²

3.3.1 FORMAL GOVERNMENT STRUCTURE

Status: Independent (from the UK): 1978

Capital: Honiara: Population: 90,441 (2020).

Constitutional democracy with a parliamentary system.

Head of State: Queen Elizabeth II; The Governor General, who performs mainly ceremonial functions, is appointed by the monarch on the recommendation of the Prime Minister

Head of Government: Prime Minister currently Manasseh Sogavare (since 2019)

Current Governor General: Sir David Vunagi

Solomon Islands is a Westminster constitutional democracy in which the voters elect representatives to the 50 seats in the National Parliament. Following elections, the leader of the majority party or the leader of a majority coalition is elected Prime Minister by Parliament.

Cabinet: Appointed by the Governor General on the advice of the Prime Minister from among the members of Parliament.

Elections: Four-year term.

National Identity and Cohesion

The nation of the Solomon Islands has a weak national identity. As in PNG, people's sense of identity is far stronger towards kin, locality and language than to the nation, which is the arbitrary product of borders drawn by the colonial powers in the 19th century. The consequence of this lack of national cohesion can be seen in the country's history since independence. During what Solomon Islanders call 'the tensions' 1998–2003, inter-group rivalries and resentments on the island of Guadalcanal erupted into a period of minor armed hostilities and a breakdown of central government authority. In the end, Australia led a Regional Assistance Mission for Solomon Islands (RAMSI) lasting 14 years (2003–2017). After re-establishing law and order, this RAMSI (including troops, police, and civilians) assumed authority over key aspects of government administration and restored the country to solvency.¹³⁴ Surveys of popular opinion among Solomon Islanders showed that the vast majority of people favored RAMSI's stabilizing presence and did not want it to leave. In the first elections since the departure of the assistance mission, Solomon Islanders went to the polls peacefully in 2019, electing 50 members to the legislature.

¹³³ <https://sdd.spc.int/sb>

¹³⁴ Dinnen, Sinclair. "The Solomon Islands—RAMSI, Transition and Future Prospects." *Security Challenges* 8:4 (Summer 2012), 61–71; <https://www.jstor.org/stable/pdf/26462891.pdf?refreqid=excelsior%3A39f87ec20331405e55266668504e7439>

Relationship Between State and Society

As in Papua New Guinea, the relationship between state and society is weak, and the country is defined by territory rather than national identity. The largely rural population is highly dispersed, although there has been considerable migration to the capital Honiara on the island of Guadalcanal. Solomon Islands is the only country in the Pacific Islands to have experienced a complete breakdown in law and order.

3.3.2 INCLUSION

Ethnic and Linguistic Diversity

The country is highly diverse linguistically with at least 63 languages, none of them dominant, spoken by a population of about 650,000. There is a lingua franca called Solomons Pijin.

Ethnic Divisions as a Source of Instability

The origins of ‘the tensions’ in Solomon Islands lay in diverse factors, among them competition for land between the Malaitans and the people of Guadalcanal. After gaining independence in 1978, large numbers of Malaitans migrated from their home island to Guadalcanal, the site of the capital Honiara, until tensions between the two groups gave rise to a group on Guadalcanal who sought to expel the newcomers and seek compensation for loss of land. Between 1998 and 2000, 20,000 Malaitans were repatriated, and militias emerged on each side, through the Isatabu Freedom Movement and the Malaita Eagle Force. Pro-Malaitan forces compelled the democratically elected prime minister to resign in June 2000, and a period of chaos ensued on Guadalcanal, though not in the rest of the country.¹³⁵ Apart from a riot in Honiara after the 2019 elections, Solomon Islands has been peaceful, since the departure of the RAMSI in 2017.

Women’s Political Participation, including Temporary Special Measures (TSM)¹³⁶

Election Year	1984	1989	1993	1997*	2006	2010	2014	2019
No. of Seats	50	50	50	50	50	50	50	50
Number of Women MPs	0	0	1	1	0	1	2	3
Percentage	1984	1989	1993	1997	2006	2010	2014	2019

3.3.3 COMPETITION AND POLITICAL ACCOUNTABILITY

Political System and Recent Developments

As in PNG, the political system in Solomon Islands is characterized by lack of party discipline and ideology, powerful and overriding loyalties to kin, democratic elections as a source of legitimacy, and the ineffectiveness of government in general. Government funds are paid directly to members of parliament in the form of Constituency Development Funds to be spent by them on their constituents, a system that might work well with politicians of integrity but falls short overall. For many years, a substantial proportion

¹³⁵ Matthew G. Allen. *Greed and Grievance: Ex-Militants’ Perspectives on the Conflict in Solomon Islands, 1998-2003*. Honolulu, University of Hawaii Press, 2013.

¹³⁶ In 2012, Vika Lusibaea was elected in a by-election for a seat left vacant by the passing of her husband as did Lilian Maefai, in 2019, under similar circumstances.

of Taiwan's aid to the country came in the form of contributions to these constituency funds.¹³⁷ Few women are represented in Parliament, with two out of 50 being elected in both 2014, but increased by one in the 2019 elections to a total of three women currently serving.

Competition Between Government Branches

Solomon Islands has three tiers of government: national, provincial, and local. The constitution makes provision for provincial government, but there is only one local government, the Honiara City Council. Each of the nine provinces has a Provincial Assembly. Provincial governments are mandated to provide a wide variety of services including health, education and housing, but in practice the delivery of these services is poor. For 20 years, Solomon Islanders have debated adopting a federal constitution, with states and a federal government, and have drawn up draft federal constitutions in the expectation that they would be enacted. The call for state government has largely been driven by an assumption that richer provinces are subsidizing poorer provinces, as well as the perception that national government captures most of the income from foreign-controlled forestry, mining, or fishing ventures, but no federal constitution has been adopted to date.¹³⁸

Electoral System and Elections

The 50 MPs are chosen by first-past-the-post voting in 50 constituencies. In 2014, the government introduced a system of biometric voter registration, which has improved the accuracy of the voting rolls. The 2019 elections were well conducted and had logistical support from the armed forces of New Zealand and Australia. Solomon Islanders look upon their MP as 'the government' whether they are in government or not (unclear), and expect them to provide everything from funeral expenses to laptop computers, school fees and mobile phone fee recharges.¹³⁹ The high level of Constituency Development Funds in the hands of MPs is said to have accounted for the fact that almost three in every four legislators returned to office in the 2019 elections.¹⁴⁰

Elections are well conducted, but the aftermath, when a government is being formed, often leads to unrest. The weakness of political parties in Solomon Islands breaks the link between voting and the formation of government. Voters elect individuals, who then make themselves available at a price to join factions seeking to form a government, making the outcome unpredictable. Potential supporters are attracted with promises and bribes until a workable majority is created. The formation of government is often a flashpoint in the capital city Honiara. The declaration of an unpopular new prime minister in 2006 led to a major riot and the dispatch of troops and police from Australia, New Zealand, and Fiji. Similar events, though less dangerous, followed the emergence of Manasseh Sogavare as prime minister in April 2019. Both riots were anti-Chinese, reflecting popular resentment of the dominance of the Chinese in the small store sector.

¹³⁷Denghua Zhang, Comparing China's and Taiwan's Aid to the Pacific 20 Jan. 2020, DevPolicy Blog, ANU, <https://devpolicy.org/comparing-chinas-and-taiwans-aid-to-the-pacific-20200120/>

¹³⁸ Fraenkel, J. 2019. 'Solomon Islands: A Federation that Never Was'. 50 Shades of Federalism. <http://50shadesoffederalism.com/case-studies/solomon-islands-a-federation-that-never-was/>

¹³⁹ Hou, Rick. A Day in the Life of a Member of Parliament in Solomon Islands, SSGM Discussion Paper, 2016/2. http://dpa.bellschool.anu.edu.au/sites/default/files/publications/attachments/2016-07/ssgm_dp_2016_2_hou_final.pdf

¹⁴⁰ KBaker, Kerryn. The surprising sameness of the Solomons elections, The Interpreter, 23 April 2019. <https://www.lowyinstitute.org/the-interpreter/surprising-sameness-solomons-elections>

3.3.4 DECENTRALIZATION

There have been repeated attempts in Solomon Islands to introduce a federal constitution, driven by a concern that richer provinces are subsidizing poorer provinces and that most of the income from forestry, fishing and mining goes to the national government. There are fears, however, that such a system might prevent the movement of labor between the islands, a major concern for the people of Malaita, and no federal constitution has ever been legislated.¹⁴¹

Political Stability

The political instability in the Solomon Islands 1998 to 2003 was the most prolonged period of government breakdown anywhere in the Pacific Islands since independence came to the region. It is the only case of sustained regional intervention, prompted by the country's decline into something that resembled a failed state, at least on the main island of Guadalcanal. The Regional Assistance Mission to Solomon Islands (RAMSI) entered the country with 2,300 personnel in July 2003 as a police-led, military-backed intervention and proved successful in restoring law and order. Australia and New Zealand, together with other Pacific Island states, supplied the troops and police. Over time, RAMSI assumed responsibility for 'building the state': strengthening the Royal Solomon Islands Police Force and the justice and correctional systems, improving financial management by government, enhancing the capacity of the Solomon Islands Public Service, combatting corruption, improving the rights and opportunities of women, and consulting with Solomon Islanders through outreach programs. Most of the RAMSI forces, which included police and troops from nine Pacific Island countries, left in 2013 with a final withdrawal in 2017.

Military Forces and their Role in Politics

Solomon Islands has no military.

Civil Society Organizations

The national umbrella body for non-government organizations (NGOs) in the Solomon Islands is the Development Services Exchange (DSE), established in 1984, which has a membership of 65 civil society organizations. The DES facilitates and coordinates development services with local and international NGOs and their respective partners.

Solomon Islands' civil society organizations focus on specific sectors and on broader cross-sectoral issues such as social justice-related objectives. The Development Services Exchange (DSE) is the national NGO umbrella body in the Solomon Island and was established in 1984 to facilitate and coordinate development services for NGOs and their partners. DSE's membership include international NGOs working in Solomon Islands, local NGOs and Community Based Organizations. Moreover around 68 NGOs are currently registered with the Pacific Islands Association of Non-Governmental Organizations. The formation, functioning and regulation of NGOs in Solomon Islands is governed by the Charitable Trust Act.¹⁴² Today, civil society in the Solomon Islands encompasses church groups, customary landowning groups, civic groups, women's organizations, disability groups, agricultural or farmers associations, and environmental groups, among many others.

¹⁴¹ Jon Fraenkel, A Federation that Never Was, n.d. <http://50shadesoffederalism.com/case-studies/solomon-islands-a-federation-that-never-was/>

¹⁴² Pacific Community, 2016:118

The church is a large and important component of civil society in Solomon Islands. With 98 percent of the population identifying as Christian, there is a wide variety of denominations and faiths, although 90 percent of Christians belong to one of five main churches: the Anglican Church of Melanesia, the Catholic Church, the South Seas Evangelical Church, the Seventh Day Adventist Church, and the United Church. The services offered by the national government do not reach far outside of Honiara, and churches play an important role in providing services to the rural populace. The churches are particularly active in providing services in education and training, health, and youth issues.¹⁴³

3.3.5 RULE OF LAW AND HUMAN RIGHTS

Judiciary

The Solomon Islands judiciary is considered independent and free. It is a four-tier system comprising the Court of Appeal as the final appeal court, the High Court as the court of original and unlimited jurisdiction, the Magistrate Court and the Local Court comprising customary lands court. The Chief Justice who presides over the Judiciary is appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission (s.78 (1) SI Constitution), while judges of the High Court are appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission (s.78 (2) SI Constitution).

Police

The Royal Solomon Islands Police Force (RSIPF) is responsible for maintaining law and order. Since the departure of the RAMSI,¹⁴⁴ the Solomon Islands police have continued to maintain the rule of law. The Police Act 2013 articulates principle policing standards such as upholding the rule of law, human rights for individuals, gender equality; performance of duties impartially and independently from improper influence; professionalism, ethical behavior, integrity, and fair policing. The Act encourages community policing to combat crime and promote justice to make communities a safe place to live.

Violence Against Women

Violence against women is a serious issue impeding the rights of women in the Solomon Islands, yet the country lacks legislation on domestic violence. The CEDAW was ratified in 2012, and with no legislation on issues such as marital rape, advancing women's rights will continue to be a challenge. A 1990 survey by the Family and Health Safety Study reported that 64 percent of women aged 15 to 49 who had ever had a partner experienced physical or sexual violence. About one third reported being sexually abused before the age of 15, while about 10 percent of women reported experiencing physical violence during pregnancy. The most recent study in 2014 still found persistently high levels of violence. For women in the Solomon Islands, lifetime experience of intimate partner physical or sexual violence rate was 64 percent.¹⁴⁵

Steps have been taken to address the issue of violence against women, supported by partners such as the Pacific Women, Australian DFAT and other development partners, the Pacific Community, UN agencies, International NGOs and local stakeholders, working collaboratively with the Women's Division at the

¹⁴³ Asian Development Bank Civil Society Briefs, Solomon Islands, 2017, p. 3.

¹⁴⁴ <https://www.adb.org/sites/default/files/publication/228836/csb-sol.pdf>

¹⁴⁴ <https://www.rnz.co.nz/international/pacific-news/334458/ramsi-exit-to-have-little-impact-says-solomons-police-chief>

¹⁴⁵ https://pacificwomen.org/wp-content/uploads/2020/01/EndingViolenceAgainstWomen_PacificWomenProgram_January2020.pdf

Ministry of Women, Youth, Children and Family Affairs, in implementing its work plan around three major policies: the Gender Equality and Women's Development Policy, Eliminating Violence Against Women and Girls Policy, and the National Action Plan for Women, Peace and Security.¹⁴⁶ As an example, "Pacific Women works in this area to support improved service delivery (including counselling, medical, and legal support services to survivors), strengthen the responsiveness of the law and justice system, and enhance preventative measures through advocacy and outreach."¹⁴⁷

Women's Empowerment

Low levels of education and literacy, limited opportunities to earn an income or own assets, as well as experiencing physical or sexual violence exposes women to lower levels of well-being and overall lower status compared to men. This situation is compounded by cultural norms that impede women's right to enjoy equal dignity and realize their full potential. Women's empowerment is still a challenge for women in the Solomon Islands because of the multiple levels of inequality outlined above.

In terms of women's employment, gender disparity is apparent. The public sector workforce comprises 72.2 percent men and 60.4 percent women. While women constitute the bulk of subsistence workers, (76.2 percent versus 58.1 percent), ownership of land and other traditional property rights often exclude women. Promoting economic empowerment through safe markets, business skills, and integrating the 'Do No Harm Approach' where violence against women is a critical component has been supported by Pacific Women and other key partners and stakeholders (as noted above in the section on violence against women), including initiatives in promoting women in leadership and decision-making.¹⁴⁸

Implementation of Core Human Rights Treaties

Solomon Islands has adopted various legislative measures to adapt to and implement its obligations under ratified treaties.

National Human Rights Institutions (NHRI)

Solomon Islands does not have any Paris Principle compliant NHRI. However, in 2012, the government invited a scoping study team from PIFS, OHCHR, and the Asia Pacific Forum of National Human Rights Institutions (APF) to study the feasibility of establishing a NHRI. Conclusions from the scoping report to government prompted discussion of if existing institutions such as the Ombudsman's Office and the Leadership Code Commission (LCC) could have a greater mandate to address human rights issues acting as the NHRI.

Children's Rights

The Solomon Islands have adopted a range of legislative and policy framework to protect children in the Solomon Islands. Among newer pieces of legislation is the Child and Family Welfare Act 2016, which mandates the Social Welfare Division to better develop and coordinate services to provide protection, welfare, and care of a child, where the rights of the child have been violated. The law recognizes and promotes the principle of the best interest of the child.

¹⁴⁶ <https://pacificwomen.org/our-work/locations/solomon-islands/>

¹⁴⁷ <https://pacificwomen.org/our-work/focus-areas/ending-violence-against-women/>

¹⁴⁸ <https://borgenproject.org/women's-empowerment-in-the-solomon-islands/>; <https://pacificwomen.org/our-work/locations/solomon-islands/>

The Penal Code (Sexual Offence) (Amendment) Act 2016 introduces new categories of sexual offenses. These include persistent sexual abuse of a child under 18; sexual abuse of a child over the age of 15 but under 18 by a person in a position of trust, authority or dependency in relation to the child; child commercial sexual exploitation and participation, use, distribution, and storing of child sexual exploitation materials (visual, audio, print and data), among other provisions. Enacting legislation against domestic violence is also an important achievement in the promotion and protection of the rights of women and children.

The government enacted an Immigration Act in 2012 and Immigration Regulations in 2013 that criminalize human smuggling, aggravated human smuggling, trafficking of persons, and trafficking of children and directed at those benefiting from the exploitation of trafficked persons. While these positive steps have been undertaken, the Government recognizes that the Act needs to be reviewed to address elements of internal trafficking activities in the Solomon Islands. The Government further notes that no cases have been prosecuted so far and that the penalties for the offences under section 72–73; and 76–78 may not be punitive enough, compared to criminal code offenses.

Moreover, training on the provisions of the Protocol to Prevent, Protect and Punish Trafficking in Persons, was carried out for legal services providers, prosecutors, government officials, police, health care workers, and civil society by the American Bar Association (ABA) project on Anti-trafficking in the Pacific Region. The project launched broader Trafficking in Persons (TIP) initiatives by the government. Other related national initiatives include the Human Trafficking and People Smuggling 2015-2020 policy, creating an Enforcement Unit under the Ministry of Commerce, Industries, Labor and Immigration (MCIL), as well as a Trafficking In Persons Advisory Committee (TIPAC), which is a multi-stakeholder technical team that assists victims and provides advice for implementing the Immigration Act. TIPAC key activities include raising awareness on trafficking.

Civil society partners continue to complement government efforts to combat human trafficking. For instance, the Family Support Centre (FSC) established a legal unit to provide support for victims of human trafficking. The Church of Melanesia (COM) Anglican Women developed a training manual on human trafficking in 2013. The National Advisory and Action for Children (NAACC) endorsed the 2015 Dynamics of Child Trafficking and Commercial Sexual Exploitation of Children (CSEC) cross-provincial study findings conducted by Save the Children. The latter highlighted key recommendations including, but not limited to (1) a gender and child rights sensitive standard Code of Conduct for Fishery and Logging Industry employees; (2) a revision of the Solomon Islands Anti-TIP Action Plan so that greater protection is provided against domestic trafficking of children. The study also found that children who have limited education and livelihood opportunities are at risk of being trafficked or sexually exploited. Awareness-raising at the community level on CSEC and on child sexual abuse is carried out by a NAACC sub-committee while CSOs provide counseling, temporary protection services, and social integration of child victims.

Youth Rights/Issues¹⁴⁹

In the last census of 2009, the population stood at 515,970 of which 96,631 are youth, with a median age of 19.8.¹⁵⁰ Youths are identified as those between 14-29 years old.¹⁵¹ The umbrella youth body is the

¹⁴⁹ <https://www.youthpolicy.org/factsheets/country/papua-new-guinea/>

¹⁵⁰ <https://www.statistics.gov.sb/statistics/demographic-statistics/census>

¹⁵¹ <https://www.youthpolicy.org/factsheets/country/solomon-islands/>

Solomon Islands National Youth Congress (SINYC), established in 1980, which aims to “Encourage young people to participate more fully in the country’s development.” UNDP’s Youth Status report identifies key youth issues as unemployment, which is quite high, violence, alcohol, substance abuse, and consumption of *kwaso* among others.¹⁵²

Rights of Persons with Disabilities

While Solomon Islands has not ratified the CRPD, they are working on ensuring a conducive environment for rights of persons with disabilities (PWD). Despite this, the CEDAW Committee was concerned about the lack of public policies and measures to protect the rights of women and girls with disabilities and called upon Solomon Islands to adopt comprehensive policies and programs to protect these rights. They also asked them to develop partnerships with civil society and community-based organizations and international stakeholders to identify women and girls with disabilities who were facing discrimination, as well as isolation, confinement and different forms of physical and psychological violence. With a lack of access to the labor market, persons with disabilities largely depend on their families for support. The 2009 Solomon Islands National Population and Housing Census reported that 14 percent of the total population (72,222 people), live with a disability.

Civil Society groups have raised concerns with the slow actions by government on frameworks and laws regarding disabilities, including ratifying the CRPD, adopting frameworks such as the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Bill 2006, and reviewing the Solomon Islands National Disability Inclusive Development Policy.

LGBTI Rights

Under the Solomon Islands Penal Code Section 160, Chapter 26, engaging in anal sex with another person is punishable by imprisonment of between five to 14 years. Attempted anal sex is also punishable by up to seven years imprisonment, and acts of “gross indecency” in private or public, which may include showing public affection in same sex relationships, can be penalized with five-year imprisonment. According to a report by the US State Department, there were no reports of prosecutions of LGBTI people in 2010, 2011, 2012 and 2013, indicating that the law has not been enforced.

A proposal by the Law Reform Commission to legalize gay and lesbian sexual activity in December 2008, was strongly opposed. The government told the United Nations in 2011 that it had no intention of decriminalizing homosexuality. The Solomon Islands does not recognize same-sex unions in any form. As recent as 2017 and in 2018, the highest level of political leadership publicly expressed strong opposition to same sex marriage. Although the LGBTI people are acknowledged to be in existence, in 2017 Prime Minister Manasseh Sogavare made a statement to a local church group voicing his opposition to same-sex marriage. In 2018, another prominent official, Governor General Frank Kabui, also expressed his opposition to same-sex marriage, based on the Penal Code and on Christian religious grounds. The Equaldex page has an overview on the legal status of LGBTI rights in the Solomon Islands.¹⁵³

Religious and Ethnic Minorities’ Rights

Religious freedom is both guaranteed and protected in the Solomon Islands Constitution. There are a variety of Christian religious groups in the country, and about 90 percent of the population is affiliated

¹⁵² <https://www.undp.org/content/dam/fiji/docs/UNDP-SOI-Youth-Status-Report-2018.pdf>

¹⁵³ <https://www.equaldex.com/region/solomon-islands>

with a religious group.¹⁵⁴ There are no significant ethnic minorities in the Solomon Islands; however, it is important to note that ethnic tensions lay at the heart of the civil conflict in 1998.

Indigenous People's Rights

The Constitution affirms the significance of customs and traditions in the Solomon Islands and affirms that customary law is a source of law to the extent that it is not inconsistent with the Constitution. Most people in the Solomon Islands are ethnically Melanesian (94.5 percent). Other ethnic groups include Polynesian (three percent) and Micronesian (1.2 percent), with a few thousand ethnic Chinese in the country. There are no major conflicts or challenges with indigenous rights of Solomon Islanders concerning cultural rights about land, natural resources, etc.

Freedom of the Press

Section 12 of the Constitution provides for the protection of freedom of expression which includes the freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference, and freedom from interference with personal correspondence. There have been no recent threats against press freedom in the Solomon Islands compared to previous years.¹⁵⁵

Freedom of Information Laws

There is currently no freedom of information law, though several government ministries share information through memorandum of understandings.¹⁵⁶

Civil and Political Rights

Freedom House rated Solomon Islands as free with a total score of 79/100, broken down into 30/40 on the realization of political rights and 49/60 on the realization of civil liberties.¹⁵⁷

Economic, Social and Cultural Rights

The Solomon Islands National Development Strategy (NDS) 2011–2020 sets out the government's development goals and plans for poverty alleviation, support to vulnerable members of society; access to high-quality health care (including combating malaria, HIV, and Non Communicable Diseases-NCDs); access to high-quality education; increased economic growth and equitable distribution of wealth; utility and infrastructure development; effective management of the environment and eco-systems; protection from natural disasters, and improved governance and order at the national, provincial and community levels.

One of the challenges for the government is managing its foreign debt. The Independent Expert on Foreign Debt acknowledged the numerous challenges faced by Solomon Islands in its attempts to achieve economic growth, self-sustaining development, and freedom from the burden of unsustainable debt. The limitations imposed by unfavorable terms of trade, a difficult geography, a small economy heavily reliant on imports and unsustainable logging, insufficient government revenues, an underdeveloped productive sector, and high dependency on foreign aid made the country highly vulnerable to external shocks. The Expert also acknowledged the efforts made by the Government to address those challenges, and the support provided

¹⁵⁴ http://www.thearda.com/internationalData/countries/Country_204_1.asp

¹⁵⁵ <https://ifex.org/location/solomon-islands/>

¹⁵⁶ <https://pacific-data.sprep.org/system/files/Discussion%20Paper%20on%20FOI%20180906%20-%20FINAL.pdf>

¹⁵⁷ <https://freedomhouse.org/country/solomon-islands/freedom-world/2020>

by development partners in that regard. However, the same expert noted with concern the insufficient coordination of development strategies between the Government and the donor community, as well as the lack of a regulatory environment that guaranteed a transparent, accountable, and people-centered delivery of aid. He stated that the unsatisfactory monitoring of public affairs underscored the urgent need for the Government to establish an independent mechanism to monitor the use and management of public funds and the performance of Government agencies and privatized companies, as well as aid programs. Such a mechanism should be financially and institutionally independent and ensure effective Parliamentary oversight. The Independent Expert noted that social indicators in the country remained among the worst in the region, with high poverty rates, high levels of urban unemployment, and gender imbalances.¹⁵⁸

The Solomon Islands' Economic Freedom Scorecard is 52.9, making its economy the 150th freest in the 2020 index. Its overall score has decreased by 1.7 points due to a drop in the fiscal health core. The Solomon Islands is ranked 36th among 42 countries in the Asia-Pacific region, and its overall score is well below the regional and world averages.¹⁵⁹

Right to Social Security and an Adequate Standard of Living

The Independent Expert also noted that in 1998, ethnic tensions over the distribution of resources led to the breakdown of law and order. The situation continued to be precarious until the RAMSI intervened in July 2003. Since then, peace has been restored and considerable progress has been made in reconstructing and reform. Nevertheless, Solomon Islands remained vulnerable to conflict because many of the issues underlying the conflict remained unresolved. Notable among those were land tenure, poor access to basic services and public resources, a narrow economic base and inequitable distribution of economic resources.

The CEDAW Committee raised many concerns regarding the situation of rural women (who accounted for 81 percent of all women in the country) and recommended that the government raise awareness to promote the participation of rural women in decision-making processes. This should be done by conducting training and ensuring distribution of grants relating to rural policies at the provincial level.

The Ministry of Public Service (MPS) is finalizing a new Public Service Bill to strengthen the public sector human resource management and governance framework. This Bill will support Equal Employment Opportunities (EEO), Occupational Health and Safety (OH&S), and Anti-Discrimination frameworks already in place. MPS will review current recruitment and selection systems, policies, and tools to improve access to public employment for PWDs.

Right to Work

The government in partnership with SPC is focused on increasing sustainable livelihood opportunities and educational programs for young people, closely linked with the market economy, through the Youth at Work (Y@W) program which began in 2012. Aimed at addressing the high unemployment of young people in the capital, Y@W continues to provide training, skills development, and group/peer mentoring opportunities for youth to start small businesses and access public sector employment. In 2018, the government announced an increase of the minimum wage from \$4 to \$8 an hour (US\$0.49–0.99).¹⁶⁰ There is a need for inclusive improved standards that meet international labor standards in terms of recruitment

¹⁵⁸ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/134/31/PDF/G1113431.pdf?OpenElement>

¹⁵⁹ 2020 Index of Economic Freedom: <https://www.heritage.org/index/country/solomonislands?version=58>

¹⁶⁰ <https://postcourier.com.pg/new-minimum-wage-solomon-islands/>

procedures, general working conditions, minimum wage, health and safety, and other relevant standards required for the equitable and safe engagement of Solomon Islanders (both genders) by employers.

3.3.6 CORRUPTION

Laws on Anti-Corruption

Solomon Islands has a stand-alone piece of anti-corruption legislation,¹⁶¹ while other key legislation includes the Whistle-blower Protection Act 2018,¹⁶² the Leadership Code Act,¹⁶³ and other subsequent amendments. The Public Financial Management Act 2013 (PFMA) provides for the control and management of the public finance of Solomon Islands. It promotes transparency and accountability, increased fiscal monitoring, reporting, and tighter regulation of procurement and the use of public resources. The Political Parties Integrity Act (PPIA) 2014 was enacted to improve the registration, administration, operation, and promotion of integrity within political parties.

National Institutions on Anti-Corruption

While the government is committed to establishing such an institution, there is no single dedicated body specialized in combating corruption through law enforcement in Solomon Islands, although there is an Anti-Corruption Investigations Unit within the RSIPF and prosecutions are carried out by the Office of the DPP. The RSIPF, Department of Customs, and the Leadership Code Commission are sources of referral of corruption cases for criminal prosecution to the ODPP.

Ratification of UN Convention Against Corruption

Solomon Islands acceded to UNCAC in 2012. In 2014, Solomon Islands was reviewed by the Implementation Review Group of the Conference of Parties.¹⁶⁴

3.3.7 GOVERNMENT RESPONSIVENESS AND EFFECTIVENESS

Governance in Practice

Melanesian custom dictates the primacy of kin obligations, broadly construed, in the business of politics. The local MP is seen as the ‘government’ whether he is in government or opposition and is expected to act like a ‘chief’ by responding to the most banal problems of his constituents. In the age of the mobile phone, constituents call their MP ‘on anything and everything’: they call for assistance with funeral expenses of dead relatives, assistance with school fees, to attend a wedding, to follow up on their project application, to attend a meeting on the local hospital project or just to ask for a “top up” of phone credit.

Government Performance on Health

Access to health care remains a challenge in Solomon Islands, given the country’s large subsistence population, dispersed across many islands, and the minimal infrastructure and transport links. There is limited access to immunization and other health care, a weak outreach system, poor health infrastructure

¹⁶¹ http://www.parliament.gov.sb/files/legislation/Acts/2018/Anti-Corruption_Act_2018.pdf

¹⁶² http://www.parliament.gov.sb/files/legislation/Acts/2018/Whistleblowers_Protection_Act_2018.pdf

¹⁶³ https://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Solomon%20Islands_Leadership%20Code_1999_EN.pdf

¹⁶⁴ <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/2-6June2014/V1403647e.pdf>

management and accountability, and unclear reporting lines. Infant and child mortality rates in Solomon Islands remain among the highest in the Pacific region.

While the government has acknowledged the gaps in the health sector, they are working to reform the legislative framework, improve infrastructure, and strengthen institutional support for research funds towards new emerging medicine and science to combat new diseases. The Ministry of Health and Medical Services (MHMS) developed a National Health Strategic Policy 2016-2020 that focuses on improving service coverage; improving service quality; building strong partnerships; and setting the foundations for the future. The 2014 Rural Water Supply, Sanitation and Hygiene Policy (RWASH) and the RWASH Design and Construction Standards govern the development, coordination, management, monitoring, evaluation, implementation and review of the provision of sustainable rural water supply, sanitation and hygiene development activities in the Solomon Islands.

In 2015, the Solomon Islands consolidated national guidelines on the use of antiretroviral drugs (ARVs) for preventing and treating HIV among adults, adolescents, and children. The Government developed national guidelines for HIV Testing Services. Currently, reproductive health and immunization programs are extended to all rural and provincial clinics. Nine out of ten Provincial Centers all have access to a hospital, nurse aid post, or clinics. Through its reproductive health and adolescent programs, the MHMS undertook inclusive sexual reproductive health training for women and girls, including PWD and conducted awareness and education talks for communities and schools.

Government Performance on Education

The Ministry of Education and Human Resources Development (MEHRD) developed key planning documents on education to promote 'Education for All'. These include the National Education Action Plan (NEAP) 2013-2015; the National Human Resources Development and Training Plan (NHRDP) 2013-2015; Review of Early Childhood Education sub-sector and the development of standards for Early Childhood Education (ECE) and Early Childhood Care Education (ECCE). Moreover, the Government implements a fee-free basic education policy covering year one to Year nine to promote access to education, although parents still pay other related costs.

Government Performance on the Environment

A single portal, which can house all environmental information in Solomon Islands for better planning and reporting, was established in 2018 as part of the Inform Project with the Secretariat of the Pacific Regional Environment Program (SPREP). The Ministry of Environment, Climate Change, Disaster Management and Meteorology (MECDM), along with other ministries and stakeholders, is working to effectively assess and improve environmental conditions in Solomon Islands. The information gathered on these conditions can be uploaded to the portal for use in State of Environment (SoE) Reports and National Environmental Management Strategies (NEMS), as well as to report on Multilateral Environmental Agreements, SDG, and other national and international requirements.¹⁶⁵

3.3.8 KEY AID RELATIONSHIPS

Australia has a deep and longstanding relationship with Solomon Islands. Australia is the largest provider of Official Development Assistance (ODA) to Solomon Islands, providing almost two thirds of overseas aid in 2016-17. In 2019-20, total Australian ODA to Solomon Islands will be an estimated \$174.4 million.

¹⁶⁵ SPREP, Solomon Islands New Environment Portal, 27 Feb. 2018. <https://www.sprep.org/news/solomon-islands-new-environment-portal>

Of this, DFAT will manage an estimated \$122.3 million in bilateral funding.¹⁶⁶ Taiwan was a major aid donor until Solomon Islands switched recognition to China in September 2019. China will now become more important.

Top five donors in 2017

- Australia: \$116.16 million
- New Zealand: \$18.58 million
- Japan: \$12.69 million
- Taiwan: \$11.79 million
- EU: \$9.33 million

3.3.9 CLIMATE CHANGE, ADAPTATION AND FINANCING

On the international front, Solomon Islands is a Party to the UNFCCC and its Kyoto Protocol, which together make up the core of the international policy response to climate change. Solomon Islands is also a signatory to the Hyogo Framework on Disaster Risk Management and has been involved in the European Union-Global Climate Change Alliance programs. The country continues to benefit from funding by the Global Environment Facility (GEF), the financing mechanism for the UNFCCC made available through Implementing Agencies such as the UNDP, UNEP, FAO and World Bank. Within the Pacific regional level, Solomon Islands is a signatory to the I Pacific Plan, Pacific Islands Framework for Action on Climate Change (PIFACC), and the Regional Framework on Disaster Risk Reduction and Disaster Management that have established climate change and disaster risk management objectives and actions. Partnerships continue to be developed with a number of international and regional inter-governmental organizations, some of which have specific mandates to assist member countries to address climate change, disaster risk management, and related development issues. At the national level, the government's overarching development planning framework is the Solomon Islands National Development Strategy: 2011–2020 (NDS). The NDS includes a range of focus areas and objectives, policies, and strategies that together can contribute to enhancing adaptation, disaster risk management, and mitigation capacity in Solomon Islands.¹⁶⁷

¹⁶⁶ <https://www.dfat.gov.au/geo/solomon-islands/development-assistance/Pages/development-assistance-insolomon-islands>

¹⁶⁷ Ministry of Environment, Climate Change, Disaster Management and Meteorology (MECDM) NATIONAL CLIMATE CHANGE POLICY 2012 – 2017, p. 11 https://www.gcca.eu/sites/default/files/catherine.paul/si_climate_change_policy.pdf

3.4 REPUBLIC OF VANUATU



Population	Land area	Maximum elevation above sea level	EEZ
292,680	12 281 km ²	1 877 m	663 251 km ²

3.4.1 FORMAL GOVERNMENT STRUCTURE

Status: Independent (from the UK and France): 1980

Constitutional democracy with traditional elements.

Head of State: President performs mainly ceremonial functions, elected by an Electoral College consisting of Parliament and the leaders of the provincial governments, for a five-year term. The current President is Pastor Tallis Obed Moses (since 2017).

Head of Government: Prime Minister is currently Bob Loughman (since April 2020).

National Council of Chiefs - *Malvatumauri* – composed of custom chiefs elected by their peers; advises Parliament on all matters relating to custom and tradition, including preservation of culture and language.

Elections: Four-year term

National Identity and Cohesion

Vanuatu has a weak national identity, though it is stronger than that found in PNG and Solomon Islands. Many ni-Vanuatu, as the people of the country are called, were recruited to work on sugar plantations in Australia during the ‘labor trade’ of the 19th century, contributing to the emergence of Bislama as a lingua franca. Vanuatu became a colony administered by both France and Great Britain as a ‘condominium’ until independence in 1980, leaving a modern country of both Francophones and Anglophones. Vanuatu’s struggle for independence in the 1970s served as a rallying point for national pride, and the malleable concept of *kastom* continues as a symbol of national identity. Vanuatu is unlike the other three Melanesian countries in this study: Vanuatu has experienced no coup (unlike Fiji), no breakdown of government authority (unlike Solomon Islands), and no secessionist movement except briefly in 1980 (unlike Papua New Guinea).

Relationship Between State and Society

As in PNG, the relationship between state and society is weak. The country is defined by territory rather than national identity and consists of a series of island groups with no large island dominant. The mostly rural population is highly dispersed.

3.4.2 INCLUSION

Ethnic and Linguistic Diversity

Vanuatu is a country with “exceptional linguistic density,” with 138 vernacular languages spoken by a population of fewer than 300,000 and numerous language communities that consist of only a few hundred people in one or two villages. Vanuatu’s colonial history has bequeathed three other languages including Bislama, French, and English.

Ethnic Divisions as a Source of Instability

Ethnic divisions have not been a source of instability except at independence in 1980 when the island of Santo attempted to break away from the new state.

Women's Political Participation, Including Temporary Special Measures (TSM)¹⁶⁸

While five women have been elected as MPs, there is currently no female MP. Vanuatu does not have TSM for its national parliament, only in the Municipal Councils, which arose from an amendment to the Municipal Council laws recognizing temporary seats for women.

Election Year	1991	1995	1998	2002	2004	2008	2012	2016	2020
Number of Women MPs	1	1	0	1	2	0	0	0	0
Percentage	1.9	1.9	0.0	1.9	3.8	0.0	0.0	0.0	0.0

3.4.3 COMPETITION AND POLITICAL ACCOUNTABILITY

Political System and Recent Developments

Vanuatu's political system resembles those of PNG and Solomon Islands, and is characterized by loyalty to kin, weak parties, and patronage. Vanuatu has constituency development funds in the equivalent of US\$24,576 a year, paid directly to each MP per year, and in 2018 extended the system to local government councilors, who each receive the equivalent of US\$8,192 for development purposes.¹⁶⁹ The *Graon mo Jastis Pati*, one of the country's political parties, requires its MPs to spend at least a quarter of their annual allocations on tuition fees for education at all levels. Generally, Vanuatu is regarded as better governed than PNG and Solomon Islands, and has the distinction of being the only Melanesian country to have sentenced a number of elected legislators to prison—14 in all—after they were found guilty of bribery in 2015. They were subsequently barred from public office for ten years.¹⁷⁰

Electoral System and Elections

Vanuatu is one of the few countries in the world to have the single non-transferable vote as its voting system. Voters have a single vote, but constituencies have multiple members, and as the number of candidates standing has increased, the results have become unpredictable. Vanuatu went to the polls in

¹⁶⁸ In September 2013 and in accordance with the country's new constitution, the number of seats in the Parliament reduced from 103 seats to 50 seats and then increased to 51 seats based on updated population data and registered voter figures. Five women MPs were elected before 1987: one each in 1982; 1977 Sept; and 1972 and two in 1977 April elections. FijiFiji or Vanuatu? was under military rule from 2006 until 2013. The country's new constitution allowed for the resumption of the democratic electoral process which saw the country conducting its next general election in September of 2014

¹⁶⁹ Minister Napuat Announces VtI Million Constituency Allocation for Councilors Vanuatu Daily Post, 27 March 2019. https://dailypost.vu/news/minister-napat-announces-vt1-million-constituency-allocation-for-councillors/article_17bb0d48-4bb4-516a-836c-e24077c1c107.html

¹⁷⁰ Forsyth, M & Batley, J 2016, 'What the Political Corruption Scandal of 2015 Reveals about Checks and Balances in Vanuatu Governance', *Journal of Pacific History*, vol. 51, no. 3, pp. 255-277.

March 2020. The 52 members of the Parliament elected Bob Loughman, a member of the Vanua'aku Pati, as PM to succeed Charlot Salwai who—unusually for Vanuatu—served a full four-year term.¹⁷¹

3.4.4 DECENTRALIZATION

The implementation of the Decentralization Act and the Decentralization Policy 2017-2027 brought the government closer to the people by providing citizens with greater control over the decision-making process and allowing direct participation in public service delivery. The Policy's core objectives include distributing decision-making authority, functions, and resources to improve efficiency and effectiveness in the delivery of services, design, and implement mechanisms to ensure a “bottom up” flow of integrated development planning and budgeting from the Area Councils (ACs) to the national government. The Policy also enhances political and administrative authority to effectively and efficiently deliver services to the community.

Political Stability

Vanuatu has been politically volatile since independence in 1980, with constant motions of no confidence filed by the government. Up to 2015, about 37 motions of no confidence have been filed against government. Transparency International states that the political instability creates a vulnerable environment where corrupt acts can spread with nepotism, bribery, and misappropriation.¹⁷²

Military Forces and Their Role in Politics

Vanuatu has no military forces, although the Vanuatu Police Force has a paramilitary wing called the Vanuatu Mobile Force, which has received assistance from Australia, New Zealand, and China. The Vanuatu Mobile Force's main role is to assist the police in maintaining law and order.¹⁷³

Civil Society Organizations

Churches, as the most effective grassroots organizations in Vanuatu, are active at the community or household level, but less so at a national level. At the household or community level, churches provide services in water and sanitation, vocational training, education, and health. They are active in educating the population on urbanization, the misuse of kava and other drugs, and on HIV/AIDS. Today, there are a range of CSOs in Vanuatu, both formal and informal. At the village level, there are unincorporated associations formed by the community for the purposes of sport, agriculture, and pursuit of religion. These unregistered groups are usually women's groups, youth groups, or other community governance groups established for a specific purpose (such as a water supply committee). The more structured or formalized groups include NGOs (registered as charitable associations), churches, trade unions, or foreign organizations given approval to operate in Vanuatu. In 2016, there were 126 organizations registered in the NGO Desk, which was set up under the Ministry of Internal Affairs in the same year.¹⁷⁴

¹⁷¹ VP leads new Gov't, Vanuatu Daily Post, 21 April 2020. https://dailypost.vu/news/vp-leads-new-gov-t/article_ac7ea288-8353-11ea-aefa-cf532eac51d4.html

¹⁷² <https://tivnews.wordpress.com/2015/06/18/vanuatus-history-of-no-confidence-motions-against-prime-ministers-since-1980/>

¹⁷³ <https://police.gov.vu/about-us/vanuatu-mobile-force>

¹⁷⁴ Asian Development Bank Civil Society Brief, Vanuatu, 2017.

3.4.5 RULE OF LAW AND HUMAN RIGHTS

Judiciary

The Vanuatu Judiciary is independent and structured with the Court of Appeal being the final appeal court. The Supreme Court is a court of original and unlimited jurisdiction while the Magistrates court serves as the lower court. Vanuatu judiciary has an active website that the public can readily access to be updated on court matters and process.¹⁷⁵ The Chief Justice who presides over the Judiciary is appointed by the President of the Republic after consultation with the Prime Minister and the Leader of the Opposition (s.49(3) Vanuatu Constitution), while judges of the High Court are appointed by the President of the Republic acting on the advice of the Judicial Service Commission (s.47(2)).

The Government has strengthened its commitment to ensuring the independence of the judiciary by increasing resources to the courts as well as working with the Ministry of Justice to address issues and challenges. The Judiciary has also taken responsive measures to address crucial issues such as increasing the number of judges and magistrates at the courts. It has implemented an automated case management system that tracks the life of cases from registration to completion. The courts have developed indicators to capture data for the purposes of addressing challenges. These include good data control system, cases process and record updating, scheduling system, and management reporting system. Each session of appeal rules on 99 percent of appeal cases filed. Over the years, the judiciary has made landmark rulings such as the imprisonment of 14 MPs on charges of corruption, including the Speaker and the Deputy Prime Minister.¹⁷⁶

Police

The Vanuatu Police Force oversees the security, protection, and defense of the rule of law. The Police has a para-military force, the Vanuatu Mobile Force, and a Maritime Wing, with three key goals in its Strategic Plan about governance, safety and security, and partnerships.¹⁷⁷ There have been ongoing tensions between the police and the government: in 2018, the President suspended the police commissioner one year after his substantive appointment.¹⁷⁸ The following year, the President terminated the Police Commissioner's appointment, and the Minister responsible for police ordered senior police officers (including the acting Police Commissioner) to go on leave pending an investigation against them.¹⁷⁹ In 2020, the Supreme Court reinstated the Acting Police Commissioner quashing the appointment of a replacement following his suspension.¹⁸⁰ The Public are encouraged to lodge police complaints (i.e. brutality or criminal offenses) if they come across it.¹⁸¹

¹⁷⁵ <https://courts.gov.vu/>

¹⁷⁶ <https://www.bbc.com/news/world-asia-34600561>

¹⁷⁷ <https://police.gov.vu/about-us/strategic-plan-summary-2016-20>

¹⁷⁸ https://dailypost.vu/news/police-boss-suspended/article_38d493db-d6f7-581b-be07-e7f0171c15a0.html

¹⁷⁹ https://dailypost.vu/news/senior-police-officers-on-forced-leave/article_6ca1788e-17ab-11ea-96bc-6b1ddd56b923.html
https://dailypost.vu/news/police-boss-terminated/article_bfa304d7-ccc8-5dc4-af1f-e3c6d65a1e6c.html

¹⁸⁰ https://dailypost.vu/news/former-acting-police-commissioner-reinstated/article_bf08825a-7aae-11ea-8209-57728a8c0db1.html

¹⁸¹ https://dailypost.vu/news/police-invites-public-to-report-complaints-against-officers-to-psu/article_930d73c0-8997-11ea-9211-df446ab77051.html

Violence Against Women

Women in Vanuatu experience multiple forms of violence. Prevalence rates of Lifetime Physical or Sexual Intimate Partner Violence is 60 percent; Physical or Sexual Intimate Partner Violence in the last 12 months is 44 percent; Lifetime Non-Partner Sexual Violence is 33 percent; and Child Marriage is 21 percent.¹⁸²

Related data indicates high levels of violence against women. Two in three (68 percent) have experienced emotional violence; one in four (28 percent) or more are subjected to control by husband or partner; two in three (69 percent) or more experience some form of coercive control, and most of these women live with physical and sexual violence. Harmful customs such as 'bride price' are often associated with 'property and ownership', which enable husbands to use this as justification for violating their wives. General acceptance of this custom is indicated by 53 percent of sample population, believing that once the bride price is paid, the wife is the husband's property. One in three (36 percent) or more agree that it is alright for a woman or girl to be exchanged for marriage.

Support provided by UN Women has two major programs: Advancing Gender Justice in the Pacific (AGJP) Program and the Ending Violence against Women (EVAW) Program. The AGJP program is focused on building capacities for the government of Vanuatu and civil society partners to strengthen implementation and reporting on the Convention on the Elimination of Discrimination Against Women (CEDAW). Support is provided for increasing access to gender-responsive legal systems for rural, urban, and marginalized women. This work also included gender-responsive budgeting, where the government was supported by conducting reviews of existing planning and budgetary processes to build transparency and accountability.

Often in collaboration with partner organizations, the EVAW program provides technical and financial support for prevention and response to violence, exploitation, and abuse of women and girls, multi-sectoral and survivor services, including information awareness and advocacy initiatives.¹⁸³

Women's Empowerment

Women's empowerment is often intertwined with gender-based violence, health status, education, employment, and economic participation. Focusing on economic participation in Vanuatu, of the total of paid workers in the formal employment sector, 36 percent are women. In the non-agricultural sector, women make up 39 percent of the workforce. An estimated 29 percent of females are unpaid subsistence workers. In regard to paid employment, 29 percent of men are employees, which is slightly more than women at 23 percent. More men are self-employed (seven percent) compared to women (five percent); and more men are employers (two percent) compared to women (one percent). Gender disparity is also pronounced in terms of women who earn almost the same level of income, or more than their husbands or de facto partners; yet only 18 percent of women have savings in the bank, although 63 percent of women had other forms of savings. Few women had individually owned assets. The private sector workforce predominantly consists of men (64 percent) compared to women (36 percent). The combined workforce for both the private and public sector, is again predominantly men (60 percent) and women (40 percent). Women are mostly engaged as subsistence crop farmers, field crop and vegetable growers,

¹⁸² <https://evaw-global-database-unwomen.org/en/countires/oceania/vanuatu>

¹⁸³ <https://asiapacific.unwomen.org/en/countries/fiji/co/vanuatu>

subsistence mixed crop and livestock farmers, copra cutters, crop farm laborers, and other low-income and unpaid domestic work.¹⁸⁴

Implementation of Core Human Rights Treaties

Vanuatu's 1980 Constitution provides the legal framework for governance and the rule of law. Its comprehensive Bill of Rights provisions promotes and protects various fundamental rights and duties of all individuals. The Constitution also guarantees the enforcement of fundamental rights by providing legal recourse to the Supreme Court in the event of an infringement of a protected right. The Supreme Court may make orders, issue writs, and give directions, as it considers appropriate to enforce the right being infringed, including the payment of compensation.

National Human Rights Institutions (NHRI)

Vanuatu does not have a Paris Principle compliant NHRI; however, in 2019, the government undertook a scoping study to determine the feasibility of establishing a NHRI.

Children's Rights

Vanuatu has taken considerable measures, including the enactment of laws and policies, to realize children's rights following its ratification of CRC. However, there remain gaps in laws, policies, and practices which need to be addressed. The CRC Committee issued various recommendations to the Government in the areas of child protection and rights following its review in 2017.¹⁸⁵

The CRC Committee was concerned that the criminal law of Vanuatu did not define and criminalize all forms of offenses under the Optional Protocol (OP) to the CRC on the sale of children, child sex trafficking, and child pornography, nor did it adequately protect all children under the age of 18 years. It noted that the Control of Marriage Act and the Penal Code remained to be harmonized with the Convention, and recommended that Vanuatu bring its Penal Code and other relevant legislation into full compliance with articles two and three of the said OP. Actions recommended include: an unequivocal stipulation that a child under 18 years of age, irrespective of the legal age of consent to sexual activity, are unable to consent to any form of sexual exploitation, including child pornography and child sex trafficking; the definition and criminalization of all forms of the sale of children; the inclusion of provisions in its Penal Code concerning criminal proceedings and special protection measures for children.

Reports of high levels of sexual abuse of children, including sexual harassment within communities, continue to prevail, necessitating protection measures such as ensuring adequate resources for the Family Protection Units of the police, for dealing with those cases; introducing special court procedures to hear evidence from child victims of violence; ensuring psychological and recovery services for child victims; and combating the stigmatization of child victims of sexual exploitation and abuse, including incest remains.

The CRC Committee on Children expressed concern about the prevalence of child poverty and regional disparities among the provinces regarding access to housing, education, water, food, and health care. It recommended that Vanuatu consider holding targeted consultations with families, children, and children's rights civil society organizations on the issue of child poverty. It also recommended that Vanuatu expand coverage to reach groups in disadvantaged situations that did not have improved access to water and

¹⁸⁴ Ibid.

¹⁸⁵ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fVUT%2fCO%2f2&Lang=en

sanitation, especially in rural and remote communities, in health-care facilities, and in schools, including early childhood care education centers.

The Government adopted the National Child Protection Policy 2016–2026 as part of its commitment to addressing violence against children. Eight strategic areas are identified in the policy ranging from broader child protection issues to community awareness to strengthening of existing institutions and legal frameworks as it relates to children, including vulnerable children especially during disaster. The Child Protection Desk within the Ministry of Justice (MOJ) and a National Child Protection Working Group are the government focal point, and support the Government’s commitment to addressing child protection issues though the National Children’s Committee had not been fully functional since 2012.

In terms of child registration, which is often problematic, Vanuatu commenced a review of the Civil Registry Act in August 2018 and has re-introduced mobile registration of births across Vanuatu. The registration process is through the Register VIZ database system which is uploaded to laptops to accommodate mobile registration. However, the CRC Committee had recommended that Vanuatu strengthen its data-collection system to ensure that it captured qualitative and quantitative disaggregated data on children, including children with disabilities, particularly at the provincial level, and that it provide appropriate human, technical, and financial resources. Moreover, it urged Vanuatu to adopt a human rights-based approach to disability; specifically, that it set up a comprehensive strategy for the inclusion of children with disabilities, adopt the Disability Bill, implement the National Disability Inclusive Development Policy (2016–2025), and address discrimination and stigma against children with disabilities.

Youth Rights and Issues¹⁸⁶

Of the 272,459 population, 70,042 are youths.¹⁸⁷ The National Youth Policy identifies youth as between the ages of 12 to 30 years old. The government—through the Ministry of Youth and Sports—focuses on entrepreneurship and empowerment programs to complement existing projects that promote healthy lifestyles, including an active life and healthy eating habits.¹⁸⁸ The National Youth Council aims to serve as a forum where issues relating to the needs, problems, and aspirations of young people can be discussed. It also coordinates and unifies all youth groups and activities throughout the country under one national youth development program, as well as advancing an effective leadership role for the youth of Vanuatu, among others.¹⁸⁹

Vanuatu’s youth unemployment rate declined by 0.01 in 2018,¹⁹⁰ while youth crime remains endemic.¹⁹¹ Various youth-led and -driven organizations operate in Vanuatu, including among others, Youth Challenge Vanuatu, which has been working in youth leadership through community development¹⁹² and livelihoods training since 2001.¹⁹³

Rights of Persons with Disabilities

In consultation with DPOs and disability stakeholders, the Government is taking progressive steps to implement the CRPD. Measures include the endorsement of the Vanuatu’s National Disability Inclusive

¹⁸⁶ <https://www.youthpolicy.org/factsheets/country/vanuatu/>

¹⁸⁷ <https://vnso.gov.vu/index.php/mini-census-2016>

¹⁸⁸ <https://moysd.gov.vu/index.php/about>

¹⁸⁹ <https://moysd.gov.vu/index.php/statutory-bodies/vanuatu-national-youth-council>

¹⁹⁰ <https://www.macrotrends.net/countries/VUT/vanuatu/youth-unemployment-rate>

¹⁹¹ https://dailypost.vu/news/crime-cases-reported-to-police-a-day/article_3148335e-3e2a-59c3-a069-8e09bdc1851d.html

¹⁹² <https://orgs.tigweb.org/youth-challenge-vanuatu>

¹⁹³ <https://www.oxfam.org.au/wp-content/uploads/2016/09/YCV-BOOK.pdf>

Development Policy (NDIDP) 2018-2025, which provides the Government's strategic interventions towards realizing the rights of persons with disabilities (PWD). The adoption of the Washington Group questions within Vanuatu's census and related surveys found that 12 percent of the population reported having a disability. The Inclusive Education Policy and Strategic Plan 2010-2020 mandates inclusive education from pre-school all the way to secondary education. The National Disability Inclusion Policy for TVET Sector 2016-2020 promotes disability inclusion within post-school education and training options. The Vanuatu Mental Health Policy and Strategic Plan specifies actions to improve mental health care and advances the rights of people with mental illness across Vanuatu.

The Government's 2030 National Sustainable Development Plan (NSDP) also outlines a number of commitments and priorities that the government will take concerning the rights of PWD including the empowerment and support for PWD; ensuring greater access for PWDS to government services, buildings, and public spaces; ensuring that all public infrastructure, including health, education, and sports facilities are safe, accessible, secure and are maintained in compliance with building standards; and increasing the number of decent, productive employment opportunities, particularly for PWD. Numerous achievements have been made under the NDIDP, including establishing a disability desk within the Ministry of Justice as the government's disability focal and coordination point. Through equitable partnership of the Government and civil society across Vanuatu, there is increasing active support for disability inclusive development. The Vanuatu Civil Society Disability Network (VCSDN) regularly convenes disability-focused and mainstream civil society organizations across Vanuatu to review and advance advocacy and implementation to strengthen disability inclusion across key priority areas.

Vanuatu's partnership with the Australian Government has resulted in the latter making available considerable resources for disability inclusion under the Development for All 2015-2020: Strategy for strengthening disability-inclusive development in Australia's aid program. Programs supported by Australia include the *Stretem Rod blong Jastis mo Sefti* and Vanuatu Education Support Programs, as well as the Vanuatu Skills Partnership, to which a Disability Inclusive Development Fund grant was provided in 2016 to support the implementation of the National Disability Inclusion Policy for the TVET Sector among others. Following a legislative compliance by the Pacific Islands Forum and the Vanuatu Government, 301 laws were reviewed against the provision of the CRPD in 2016.

LGBTI Rights

Although general human rights protections exist under its Constitution, Vanuatu lacks specific laws and policies for the protection of LGBTI rights in relation to gender identity and sexual characteristics in employment, education, health care, and housing. Specific legislation to protect LGBTI rights around hate crimes and violence on the basis of sexual orientation is lacking. Since 2016, Vanuatu has taken positive steps towards supporting LGBTI rights by accepting the recommendations at its last Universal Periodic Review (UPR) through limited anti-discriminatory legislation. Vanuatu voted in support of the mandate of the Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity at the UN General Assembly in November 2016.¹⁹⁴ The Equaldex page contains an overview on the legal environment of LGBTI rights in Vanuatu.¹⁹⁵

¹⁹⁴ Submission to the UN Universal Periodic Review regarding the protection of the rights of LGBTI persons in Vanuatu, https://www.upr-info.org/sites/default/files/document/vanuatu/session_32_-_january_2019/kahrf_upr32_vut_e_main.pdf

¹⁹⁵ <https://www.equaldex.com/region/vanuatu>

Religious and Ethnic Minorities' Rights

The Constitution provides for cultural protection with the Preamble declaring the “Establishment of the united and free Republic of Vanuatu founded on traditional Melanesian values, faith in God, and Christian principles” with the Council of Chiefs established as a constitutional body mandated to discuss all matters relating to land, custom, and tradition in addition to making recommendations for the preservation and promotion of ni-Vanuatu culture and languages (Chapter 5 of the Constitution). There are no major conflicts or challenges with indigenous rights given the racial composition is largely ni-Vanuatu.

Indigenous People's Rights

The Constitution provides for cultural protection with the Preamble declaring the “Establishment of the united and free Republic of Vanuatu founded on traditional Melanesian values, faith in God, and Christian principles” with the Council of Chiefs established as a constitutional body mandated to discuss all matters relating to land, custom, and tradition and may make recommendations for the preservation and promotion of ni-Vanuatu culture and languages (Chapter 5 of the Constitution). As with religious and ethnic minorities' rights, there are no major conflicts or challenges with indigenous rights.

Freedom of the Press

Defamation remained criminalized under article 120 of the Penal Code, and those guilty of such a crime could face a prison sentence of three years. However, in 2019, a standoff between the government and the Publisher of Vanuatu's weekly newspaper resulted in the government refusing to grant the latter a work permit allowing him to return to Vanuatu.¹⁹⁶ The issue that may have escalated the tension was the publishing of a news item unfavorable to Vanuatu's relationship with China.¹⁹⁷ The gathering of Melanesian journalists in November 2019 called for the government to uphold the appeal of the *Daily Post* against the rejection of Dan McGarry's work permit and end its attacks against the Media Association of Vanuatu, the recognized voice of the media industry.¹⁹⁸

Freedom of Information Laws

Vanuatu passed its Right to Information Act (No 13) 2016. The Act confers the right to freedom of expression under paragraph 5(1)(g) of the Constitution of the Republic of Vanuatu and provides access to information held by Government agencies, relevant private entities, and private entities, subject to exceptions provided under the Act. It also establishes voluntary and mandatory mechanisms to give the public the right to access to information; to promote transparency, accountability, and national development by empowering and educating the public to understand and act upon their rights to information; and to increase public participation in governance. The Act also contains a provision on the protection of whistle-blowers and sets various mechanisms to enable successful coordination and management of implementation of the Act.

¹⁹⁶ https://dailypost.vu/news/senior-newspaper-editor-claims-he-s-barred-from-re-entering-vanuatu/article_f3f814f6-0a53-11ea-9aa8-eb96e4fac265.html

¹⁹⁷ https://dailypost.vu/news/work-permit-cancellation-a-dangerous-precedent/article_9dcd8248-027c-11ea-a333-e7ae407be3b3.html see also <https://www.theguardian.com/world/commentisfree/2019/nov/11/vanuatu-has-cancelled-my-work-permit-its-a-dark-day-for-media-freedom>

¹⁹⁸ <https://ifex.org/groups-address-threats-to-media-freedom-in-melanesia/>

Civil and Political Rights

Freedom House rated Vanuatu as free with a total score of 82/100, broken down into 33/40 on the realization of political rights and 49/60 on the realization of civil liberties.

Right to Participate in Public and Political Life

In 2013, the Municipalities Act was amended to include a 30 percent quota for women's representation in all municipal councils, resulting in women councilors elected into the various municipalities. Currently however, there are no women MP in the national parliament.

Economic, Social and Cultural Rights

Vanuatu's economic freedom score is 60.7, making its economy the 98th freest in the 2020 Index. Its overall score has increased by 4.3 points due to significant recovery in fiscal health. Vanuatu is ranked 19th among 42 countries in the Asia-Pacific region, and its overall score is approximately equal to the regional average and slightly below the world average.¹⁹⁹

3.4.6 CORRUPTION

Laws on Anti-Corruption

Government's National Integrity and Anti-Corruption Strategy of Vanuatu (NIACSV) is grounded in the Vanuatu 2030: The People's Plan and the SDG providing the framework for Government's commitment to eliminate corruption. The NIACS aims to strengthen the foundation of Vanuatu society, increase the efficiency and effectiveness of the public sector, build trust in public institutions, and help pave the way for sustainable economic development and equal opportunity for all.

National Institutions on Anti-Corruption

Vanuatu established its National Integrity and Anti-Corruption Committee 'NIAC' under Anti – Corruption Order Dated November 5, 2016, with the core function of ensuring the implementation of priority objectives identified under UNCAC commitment. The Committee is mandated to take up the leading role of Government in advocating for changes and establishing linkage to supporting agencies and NGOs in addressing corruption in Vanuatu. Representatives from across Government comprise the NIAC.

The Government has strengthened the Office of the Ombudsman through funding increases. Additionally, there have been considerable efforts made in enforcing the Leadership Code Act (LCA) through greater awareness including talk shows on national television and radio, as well as presentations to municipal councils on the LCA, aimed at encouraging reporting of breaches of the Act and other maladministration by public officials and leaders. In 2016, 14 Members of Parliament were imprisoned for corrupt practices under the Penal Code Act. They were also disqualified from assuming any leadership position for ten years under the Leadership Code Act.

Ratification of UN Convention Against Corruption

Vanuatu acceded to UNCAC in July 2011. The first review of Vanuatu's implementation of UNCAC was undertaken in 2014 (specifically in relation to articles 15–42 of Chapter 3, "Criminalization and law

¹⁹⁹ 2020 Index of Economic Freedom: <https://www.heritage.org/index/country/vanuatu>

enforcement”, and articles 44–50 of Chapter 4, “International cooperation”).²⁰⁰ Following this review, in September 2014, the Government in collaboration with UNODC and the UNDP under the UN Pacific Regional Anti-Corruption Project, held a workshop to publicize the findings of the UNCAC review process and consider how these findings can be incorporated into national anti-corruption efforts.

3.4.7 GOVERNMENT RESPONSIVENESS AND EFFECTIVENESS

Governance in Practice

Vanuatu’s Salwai Government became one of those to have served a full term of parliament since 1992, despite seven motions of no confidence filed against the government coalition. The 12th legislature was elected in a general election on March 19, 2020 with a new government voted into power following the first sitting of parliament in April 2020. The Salwai government is now in the Opposition, while the coalition government of Bob Loughman is now leading the country. Prime Minister Loughman was the Deputy Prime Minister who was sacked in the Salwai government. Vanuatu’s governments have been fairly unstable due to motions of no-confidence, party crossing, and corruption charges.

In 2015, 14 Members of Parliament including the Deputy Prime Minister, were found guilty of charges of corruption and issued imprisonment terms.²⁰¹ Shockingly, the Speaker of Parliament who was also convicted, then gave himself and his colleagues a Presidential pardon when he was acting President, following an overseas tour of the President at the time of the ruling. Upon his return, the President then rescinded the pardon. The exercise of the Presidential pardon was declared unconstitutional by the Supreme Court. The President then dissolved Parliament in December and called for a snap election in early 2016.²⁰² In February 2018, the Deputy Prime Minister in the Salwai Government pleaded guilty to two counts of obstruction or interference with the execution of a criminal process, and in June 2018, six former MPs were found guilty of conspiracy to defeat the cause of justice.²⁰³

In 2019, the Prime Minister’s creation of Parliamentary Secretary positions was found by the Court of Appeal to be unconstitutional whereupon the Leader of the Opposition then reportedly said he was lodging a criminal complaint against the Prime Minister.²⁰⁴

The Lowy Institute states that Vanuatu’s immediate problem is cash flow. In 2012, a single sentence was changed in a key piece of legislation, resulting in new loans no longer requiring parliamentary approval. Projects could now be signed off at the ministerial level. Within months, new projects and loans were being announced at an alarming rate.²⁰⁵ Although Vanuatu’s debt level continues to grow,²⁰⁶ the Ministry of Finance and Economic Management released a Debt Management Strategy 2019-2022.²⁰⁷ In October 2019, the government announcement that it was reviewing its passports for a sale scheme following concerns raised by the European Union. The scheme generates about \$200 million dollars for

²⁰⁰ <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/26-27November2013/V1388053e.pdf>

²⁰¹ <https://www.bbc.com/news/world-asia-34600561> and <https://www.rnz.co.nz/international/pacific-news/286587/vanuatu-deputy-pm-and-13-mps-found-guilty-in-bribery-trial>

²⁰² <https://thediplomat.com/2015/12/vanuatu-president-dissolves-parliament/>

²⁰³ https://dailypost.vu/news/former-mps-jailed-again/article_31075ffd-b37d-5b79-b663-c92f5ac8ded.html

²⁰⁴ <https://www.abc.net.au/radio-australia/programs/pacificbeat/van-oppn-files-criminal-complaint-against-pm/11368872>

²⁰⁵ <https://www.lowyinstitute.org/the-interpretor/vanuatu-flailing-not-drowning>

²⁰⁶ https://dailypost.vu/opinion/our-growing-debt-burden/article_8c1f68cc-5ee3-5b96-a8c7-e1251e3b74ce.html

²⁰⁷ https://dailypost.vu/news/gov-t-releases-debt-management-strategy-for-to/article_25257588-f1ee-11e9-a949-57b398bdb42b.html

the government.²⁰⁸ In July 2019, six Chinese nationals with dual citizenship were forcefully removed from Vanuatu without judicial process for reasons apparently about passport issues, though the Minister said that he was not aware of it.²⁰⁹

Government Performance on Health

The right to health and access to health care remains a priority for the government with the development of various policies and protocols mirrored to the right to health provisions under CEDAW, CRC and CRPD. These include the Health Sector Strategy (HSS) 2017-2020; Vanuatu Reproductive, Maternal, Newborn, Child and Adolescent Health Policy and Implementation Strategy 2017-2020; and the Comprehensive Violence against Women, Children, Vulnerable and Marginalized groups Training Manual for Health Care Professionals and Participants Guide 2017. The Government has implemented various comprehensive clean water and sanitation projects with the Ministry of Health taking a lead role in overseeing these projects. Some strategies developed and implemented include the development of WASH materials; the drafting of a Sanitation and Hygiene Policy; strengthening of the National Health Promoting School Steering Committee; review of Primary Health Care and Healthy Islands Policy with a focus on following healthy settings including healthy school; healthy clinic; healthy market and healthy village. Additionally, the Government has adopted a National Drinking Water Quality Standard, developed a draft Vanuatu National Multi-Sector WASH in School's Improvement Plan with UNICEF and WASH partners, and a Sanitation and Hygiene Policy.

Government Performance on Education

Vanuatu's National Sector Development Plan mandates that every child, regardless of gender, location, education needs, or circumstances must be able to access the education system. Government has expanded its outreach to ensure access to education through its school grant. The Universal Primary Education Policy (UPE) provides for free education and the right to access education for Classes 1–6. While enrollment rates have increased, the disparities in the quality of and access to education between the urban and remote areas, and the high dropout rates among girls at the secondary level of education, are concerning. The CRC Committee recommended that Vanuatu take measures to retain girls in school, adopt re-entry and inclusive education laws enabling pregnant girls, young mothers and married girls under 18 years of age to remain in or return to school, and ensure that girls were not expelled from school on grounds of pregnancy. It also recommended that Vanuatu adopt a zero-tolerance policy for cases of sexual violence in schools and provide girls with career counselling.

3.4.8 KEY AID RELATIONSHIPS

Australia has a direct interest in a prosperous and stable Vanuatu. Australia is Vanuatu's largest development partner, providing approximately 39 percent of total ODA to Vanuatu (excluding China which does not publish ODA figures), supporting economic growth, stability and poverty reduction in Vanuatu. The Australian Government will provide an estimated \$66.2 million in total Official Development Assistance (ODA) to Vanuatu in 2019-20. This will include an estimated \$41.9 million in bilateral funding to Vanuatu managed by DFAT.²¹⁰ Moreover, Vanuatu is part of the Seasonal Worker Program whereby Vanuatu citizens work in Australia's agriculture and other sectors to help meet seasonal demand. Vanuatu

²⁰⁸ https://dailypost.vu/news/vanuatu-reviews-passports-for-sale-scheme-over-eu-worries/article_e13d6206-f5d8-11e9-8051-878d0fa2d3b6.html

²⁰⁹ <https://www.rnz.co.nz/international/pacific-news/393995/vanuatu-in-dark-over-charges-in-china-deportations-minister>

²¹⁰ <https://www.dfat.gov.au/geo/vanuatu/development-assistance/Pages/development-assistance-in-vanuatu>

is also participating in the Pacific Labor Scheme (PLS). The PLS helps to meet low and semi-skilled business demand across all sectors in rural and regional Australia. Since the Pacific Step Up, senior Australian government officials including the Prime Minister have visited Vanuatu, and the Vanuatu PM has also been a guest of the Australian government.²¹¹

At the Chinese New Year celebration in 2020, the Chinese Ambassador to Vanuatu highlighted the cooperation and support of China to Vanuatu, which included cooperation on promoting the Belt and Road initiative, infrastructure developments, scholarships to study in China, and the teaching of Mandarin in schools.²¹² Vanuatu's Prime Minister indicated that during his visit to China in 2019, they could seek more support for Vanuatu's infrastructure development as part of Belt and Road.²¹³ (Following the April 2020 cyclone in Vanuatu, a Vanuatu AID plane was not able to land with relief supplies because a Chinese aid plane was on the tarmac.²¹⁴).

In February 2020, Japan announced that it was increasing its aid to Vanuatu. Japan has spent more than \$100 million in Vanuatu in the past decade.²¹⁵

New Zealand is the second-largest contributor of Official Development Assistance (ODA) to Vanuatu, after Australia. Total New Zealand development assistance to Vanuatu for the last triennium (2015–2018) was NZ\$95.5 million.²¹⁶ Additionally, Vanuatu is part of the recognized Seasonal Employer (RSE) scheme, whereby Vanuatu citizens meet New Zealand's seasonal labor demand.²¹⁷ In 2019, the UK reopened its High Commission in Vanuatu after 15 years.

3.4.9 CLIMATE CHANGE, ADAPTATION AND FINANCING

Vanuatu has a dedicated Climate Change Ministry. Vanuatu has positioned itself as a regional leader in the fields of Climate Change (CC) and Disaster Risk Reduction (DRR) and has been widely applauded for its initiative to establish a National Advisory Board for Climate Change and Disaster Risk Reduction (NAB) to improve coordination and governance around the two issues. Vanuatu's implementation of the UNFCCC has progressed exponentially in recent years as government sector agencies become more organized and civil society, academic, the private sector, development partners and regional agencies have stepped up their activities in Vanuatu.²¹⁸ In 2018, Vanuatu launched its Climate Change Finance Review.²¹⁹ Currently, Vanuatu has accessed US\$23 million from the Green Climate Fund for a climate information services project,²²⁰ and three readiness grants with the support of GIZ, SPREP and GGGI. The Vanuatu Climate Change and Disaster Risk Reduction Policy 2016–2030 contains the government's strategy on climate change adaptation and financing.²²¹

²¹¹ <https://www.dfat.gov.au/geo/vanuatu/Pages/vanuatu-country-brief>

²¹² https://dailypost.vu/news/vanuatu-and-china-reflect-on-achievements-reaffirm-relations/article_2f286098-3b0b-11ea-8149-2701926d9873.html

²¹³ <https://www.reuters.com/article/us-pacific-china-vanuatu-idUSKCN1SS0R7>

²¹⁴ <https://www.reuters.com/article/us-vanuatu-australia-china/australia-aid-plane-to-vanuatu-delayed-as-chinese-plane-was-parked-at-port-vila-airport-idUSKCN21W10Q>

²¹⁵ <https://www.beltandroad.news/2020/02/02/japan-ramps-up-aid-to-vanuatu-as-chinas-attention-to-island-grows/>

²¹⁶ <https://www.mfat.govt.nz/assets/IATI-PDFS/PACMM/Vanuatu.pptx.pdf>

²¹⁷ <https://www.mfat.govt.nz/en/countries-and-regions/pacific/vanuatu/>

²¹⁸ https://www.pacificclimatechange.net/sites/default/files/documents/Vanuatu_NDC.pdf

²¹⁹ <https://www.forumsec.org/vanuatu-government-launches-climate-change-finance-review/>

²²⁰ <https://www.greenclimate.fund/countries/vanuatu>

²²¹ https://www.preventionweb.net/files/46449_vanuatuccdrpolicy2015.pdf

Vanuatu is targeting to approach 100 percent renewable energy in the electricity sub-sector contingent upon appropriate financial and technical support made available between 2020–2030. The Vanuatu National Adaptation Program of Action (NAPA) identifies 11 top adaptation priorities through a national consultation process. These adaptation priorities were further refined to include five top priorities for support and implementation. The five NAPA priorities include: a) agriculture and food security, b) sustainable tourism development, c) community based marine resource management, d) sustainable forest management, and e) integrated water resource management.²²² In 2019, Vanuatu held the first M&E for Climate Resistance training with support from the USAID/SPC *Institutional Strengthening in Pacific Island Countries to Adapt to Climate Change* (ISACC) Project.²²³

²²² https://www.pacificclimatechange.net/sites/default/files/documents/Vanuatu_NDC.pdf

²²³ <https://gem.spc.int/news/2019/07/first-me-for-climate-resilience-training-completed-in-vanuatu>

3.5 KINGDOM OF TONGA



Population	Land area	Maximum elevation above sea level	EEZ
103,197	749 km ²	1 033 m	8 km ²

3.5.1 FORMAL GOVERNMENT STRUCTURE

Status: Never fully a colony; independent (from the UK): 1970

Constitutional monarchy with democratic elements.

Head of State: King or Queen of Tonga. The current leader is 'Aho'eitu 'Unuaki'otonga Tuku'aho, known as King Tupou VI. The monarch has considerable powers, including the power to dissolve parliament without the advice of the prime minister.

Head of Government: Prime Minister (PM): current PM: Pohiva Tu'i'onetoa (since October 2019).

Privy Council: Appointed by the monarch to give advice to the King.

Legislative Assembly: 17 commoner seats out of 26; nine noble seats elected by and from among the country's hereditary nobles; and up to four others appointed by the King on the advice of the PM.

Elections: Typically, three-year terms.

National Identity and Cohesion

Tonga has a strong sense of national identity drawn from popular loyalty to the monarchy and pride in a unique history, alongside a recent history of brief urban unrest. Ethnic diversity is low, national cohesion usually high. The Tongan constitution dates from 1875, and the country was never fully colonized. Instead, it was a British Protected State under a 1900 Treaty of Friendship rather than a Crown Colony (such as Fiji) or a Protectorate (such as Solomon Islands). This meant that Tonga's monarchical system of government continued during the period of British protection from 1900 to 1970. Mostly stable politically, in 2006 Tonga nevertheless experienced a major riot in the capital Nuku'alofa. The riot was the culmination of long-standing dissatisfaction with the government over corruption and progress towards democracy and prompted the dispatch of troops and police from Australia and New Zealand to restore order.²²⁴ The unrest hastened Tonga's move towards a more democratic version of its constitution in 2010. Tonga has a single indigenous language, Tongan.

Relationship Between State and Society

The relationship between state and society was strained in the period from 1990 to 2010,²²⁵ during which the pro-democracy movement succeeded in drawing attention to the enormous powers held by the monarch and the corruption of some members of the royal family. Despite this, there remains strong popular attachment by Tongans to their King and country.

²²⁴ Stewart Firth, 'Australia, the Pacific Islands and Timor Leste', in James Cotton and John Ravenhill, eds., *Middle Power Dreaming: Australia in World Affairs 2006-2010*, Oxford University Press, Melbourne, 2011, pp. 147-164.

²²⁵ Nic Maclellan *Pomp and privatization: political and economic reform in the Kingdom of Tonga*, Australian Centre for Peace and Conflict Studies, University of Queensland, 2009.

3.5.2 INCLUSION

Ethnic and Linguistic Diversity

There is little ethnic or linguistic diversity in Tonga. Most people are Tongans, and there is a single indigenous language, Tongan.

Ethnic Divisions as a Source of Instability

Not Applicable.

Women's Political Participation, Including Temporary Special Measures (TSM)²²⁶

Election Year	1988	1992	1994	1998	2002	2006	2010	2014	2017
No. of Seats	26	26	26	26	26	26	26	26	26
Number of Women MPs	0	0	0	0	0	1	1	1	3
Percentage	0.0	0.0	0.0	0.0	0.0	3.8	3.6	3.8	11.1

3.5.3 COMPETITION AND POLITICAL ACCOUNTABILITY

Political System and Recent Developments

The Kingdom of Tonga was democratized in changes to the constitution in 2010 after a long struggle by the pro-democracy movement, resulting in King George Tupou V announcing in 2008 that he was willing to surrender his powers to an elected prime minister. Previously, the legislature had been dominated by those of noble birth and appointees of the monarch. Since 2010, there have been 17 commoner representatives in the Legislative Assembly and nine representatives of the country's hereditary nobles, giving the commoners a majority. There were only eight women in the Tongan Parliament altogether between 1951 to 2017. Two were elected in 2017, Losaline Ma'asi and 'Akosita Lavulavu, in a legislature of 26 seats.²²⁷

Electoral System and Elections

Tonga is divided into 17 single-member constituencies for the people's representatives and five multi-member constituencies for the nobles' representatives. Voting is first-past-the-post in the people's constituencies.²²⁸ The 2017 elections saw the Democratic Party of the Friendly Islands (DPFI) with a greater majority of commoner seats than before—14 instead of 10 out of 17—and long-time democracy

²²⁶ In addition to the 26 elected members, the King can appoint up to four members in a term of parliament. Hence, the legislature can have between 26 and 30 sitting members. Dr. Feleti Vaka'uta Sevele was appointed in April 2009. Her term came to an end at the conclusion of the parliamentary term in November 2010. In the 2010 election, Dr. Ana Maui Taufe'ulungaki was one two persons appointed to the Legislative Assembly. She was not a candidate in the 2010 general election.²²⁶ Dr Amelia Tuipulotu was appointed in 2019, bringing the number of women currently MP to 3.

²²⁷ Radio New Zealand International, Tongan women celebrate political progress, 23 Nov. 2017.

<https://www.rnz.co.nz/international/programmes/datelinepacific/audio/2018622652/tongan-women-celebrate-political-progress>

²²⁸ Commonwealth, Kingdom of Tonga Parliamentary Election, 16 November 2017, London, 2018.

campaigner ‘Akilisi Pohiva remained prime minister until his death in September 2019. He was replaced by Pohiva Tu’i’onea, who held a number of portfolios the government led by Akilisi Pohiva.²²⁹

3.5.4 DECENTRALIZATION

Tonga’s local government takes the form of district and town officers elected every three years in local elections. They are responsible for village and district activities and report to the Ministry of Internal Affairs.

Political Stability

The 2006 pro-democracy riots were the exception for this highly stable Pacific Islands country.

Military Forces and their Role in Politics

The Tongan defense force is known as His Majesty’s Armed Forces and has land, air, and navy components, with a total complement of about 650 officers and men in both regular and reserve units. The Tongan defense force has served in support of allies in Iraq, Afghanistan, and Solomon Islands. Moreover, Tonga is New Zealand’s key defense partner in Polynesia, dating back to World War I, when Tongan citizens served in the Māori and Regular Battalions in the New Zealand Army.²³⁰

Civil Society Organizations

Civil society in Tonga is very active, with many non-governmental organizations (NGOs) registered under the Charitable Trust Act of 1993, working to advance human rights issues. The Civil Society Forum of Tonga is actively working on developing an effective Civil Society Sector. The forum has more than 80 members to date, and community development groups are working on areas such as education, health, poverty reduction, and youth empowerment.²³¹ Civil society in Tonga is a diverse and active space, with numerous formal and informal CSOs working across a range of sectors, in particular women’s rights, disability services, environment, youth services, primary service delivery (health, education, and sanitation), counseling, advocating for human rights and the rights of marginalized people, and monitoring of government and other groups. At last count, 12 CSOs are organized across all strata of society, from the village level to the national level.²³²

3.5.5 RULE OF LAW AND HUMAN RIGHTS

Judiciary

Tonga’s judiciary comprises the Court of Appeal, the Supreme Court, the Magistrate’s Court, and the Land Court. The Chief Justice is the head of the judiciary and is appointed by the King with the consent of the Privy Council, while judges of the High Court are appointed by in the same manner under Section 86. However, Acting Judges may be appointed under Section 88 of the constitution by the PM with the consent of Cabinet on behalf the monarch at any time during the illness or absence of any judge, or for the period necessary to affect the temporary purpose.

²²⁹ VP leads new Gov’t, Vanuatu Daily Post, 21 April 2020. https://dailypost.vu/news/vp-leads-new-gov-t/article_ac7ea288-8353-11ea-aefa-cf532eac51d4.html

²³⁰ <https://www.mfat.govt.nz/en/countries-and-regions/pacific/tonga/about-tonga/>

²³¹ Pacific Community, 2016:25

²³² Asian Development Bank, Civil Society Briefs, Tonga, 2015, p. 3. <https://www.adb.org/publications/civil-society-briefs-tonga>

Police

Tonga has an armed peacekeeping force which has three operational components and two support elements (logistics and training groups). There is also a Police and Fire Services reporting to the Commissioner and a minister responsible for both services. Recent policy changes now ensure equal opportunities for men and women within both the police and armed forces. The Tongan police and armed forces²³³ have been a subject of complaints for brutality and excessive use of force, with the Police Act 2010 authorizing the use of “reasonable and proportionate force” in the exercise of an officers policing powers. In 2012, a NZ police officer of Tongan origin died in police custody in Tonga while on holiday there. In response, two police officers were found guilty of manslaughter and another was convicted of common assault, and the Tongan government apologized and paid compensation to the widow of the fallen officer.²³⁴ While judicial sanctioned whipping is recognized in Tonga’s criminal law, the Court of Appeal in the case of *Fangupo v R* [2010] *Tonga LR* 124 set aside a whipping sentencing, arguing it to be contrary to customary international law especially under the Convention Against Torture (CAT) and the prohibition of torture is enforced in Tonga, even if it is not a party to international treaties including CAT. The domestic violence unit oversees the implementation of Family Protection Act 2013.

Violence Against Women

Tonga is committed to eliminating violence against women. The Family Protection Act (FPA) of 2013 was enacted in July 2014 seeking to criminalize domestic violence while providing judicial remedies to address violence such as personal protection orders, clarify duties of the police, and promote the health, safety, and well-being of victims of domestic violence and related matters. Work continues on the implementation of the FPA, which has been difficult and challenging due to the lack of resources and capacity among others. However, the Tongan government continues to partner with development partners and regional organizations to implement various part of the Act. These include partnerships with the Australian Government (DFAT) (Families Free of Violence), SPC/RRRT (Guidelines for Magistrates, Community Legal Centre), and Pacific Judicial Strengthening Initiative (PJSI), which provides Judicial training and strengthening relevant data collection capacities on eliminating violence against women in Tonga. Moreover, extensive campaigns such as the United Campaign and White Ribbon Day continue to be celebrated, and draw a lot of attention and awareness on the issue of domestic violence.

Women’s Empowerment

The Tongan Government introduced the Tonga Strategic Development Framework 2015-2025 and one of the seven national outcomes seeks a more inclusive, sustainable, and empowering human development model with gender equality. This is supported by the following Organizational Outcomes under the Social Pillar: a) improve gender equality by implementing the government’s gender development policy and ensuring a more balanced and effective engagement by both men and women in decision making and social, economic, and political institutions, b) recognize the high status of women in Tongan culture, and ensure that improved gender balance is built into all policies, plans, laws and initiatives, c) develop an education system that better addresses the needs of both girls and boys, and ensures a better gender balance at all stages of schooling, and d) build strong gender awareness, sensitivity to differences in needs in abilities, etc.

²³³ <https://www.abc.net.au/radio-australia/programs/pacificbeat/tonga-alleged-military-brutality/10569930>

²³⁴ <https://www.rnz.co.nz/international/pacific-news/298386/tonga-to-pay-compo-to-family-of-late-nz-police-officer>

Increasingly, women are being represented in managerial and higher administrative positions in both government and private sectors. Since 2013, 13 women have held or currently hold Chief Executive Officer positions in Government. Tongan women also hold senior diplomatic positions overseas as Ambassadors to Australia, Japan, Consul General in San Francisco, and Honorary Consulate of France, Netherlands, and Sweden. The Public Enterprise Boards have women as Directors, Deputies, or members including Tonga Communications Corporation, Tonga Broadcasting Corporation, Tonga Water Board, Tonga Post & Fast Print Ltd, Tonga Airports Limited, Tonga Market Ltd, and Ports Authority. Women hold prominent roles in the private sector as successful medium to small business owners and managers of retail stores, including cafés and restaurants, tourist facilities, catering services, local market stalls, childcare services, and more. Tongan women also hold leadership roles in the regional and international organizations.

Implementation of Core Human Rights Treaties

Tonga has ratified two core human rights treaties and has progressed in the adoption and implementation of the CRC. Over the years, Tonga has created Committees to consider the ratification of CEDAW, CRPD and CAT. Although Tonga has not ratified ICCPR, Tongan laws comply with the ICCPR principles as evidenced in the case of *R v Vola [2005] Tonga LR 404*, where the Tongan courts applied the principles of ICCPR, despite Tonga's non-ratification. While Tonga has not ratified ICESCR, laws have been enacted around the rights to adequate health care, education, a decent home, food, shelter, fair wages and equal remuneration for equal value, and to take part in cultural life, among others.

National Human Rights Institutions (NHRI)

The government has strengthened a few key institutions to address human rights issues, with Parliament passing a 2016 amendment to the Commissioner for Public Relations Act 2001, renaming the Commissioner of Public Relations as an Ombudsman.

Children's Rights

Tonga does not have a consistent legal age of majority with no clear legislative definition of a child. A Tongan male can own a piece of land at the age of 16, a person can marry at the age of 15 with parental consent but cannot drive until the age of 21.

Child marriage remains a concerning issue, with girls often forced by their parents to marry, particularly in cases of teenage pregnancy. In other cases, girls are forced into marriage simply because of having been seen with boys, with particularly concerning examples of girls being forced to marry their rapists. As a result of these scenarios, the "Let Girls Be Girls" campaign was launched by the Talitha Project, sponsored by SPC/RRRT and UN Women to increase the marriage age for girls. The UN Country Team added that the forced marriage of girls results in an increased risk of domestic violence, including marital rape and emotional abuse, as well as children leaving school early, thus depriving them of their right to education.

Youth Rights/Issues²³⁵

Tonga's youth strategy identifies youths as between the ages of 15-34 years old. The Ministry for Internal Affairs oversees the government's support for youths with the Tonga National Youth Congress serving as the umbrella organization for youth groups and NGOs, delivering programs around "Responsibility, good citizenship, community service and leadership". In March 2020, Tonga's legislature held the Tongan

²³⁵ <https://www.youthpolicy.org/factsheets/country/tonga/>

Youth Parliament which was first held in 2018.²³⁶ The 2020 Youth Parliament held discussions on Tonga's political system and history, development and social issues, such as drugs, climate change, youth unemployment, civic education and others.²³⁷ Tonga has vibrant youth groups dealing with a range of youth issues including youth employment,²³⁸ leadership, etc.²³⁹ The prosecution of crimes by young people is of particular concern, with many youth serving prison terms in adult prisons.²⁴⁰

Rights of Persons with Disabilities

The Ministry of Internal Affairs has established a social protection and disability division to develop policies and schemes to support vulnerable people, including those with disability. Unfortunately, concerns have been raised regarding the inadequacy of the current legal regimes to ensure better access for persons with disabilities to health, education, employment, public places, transport, and information.

A 2013 study by UNFPA called “A Deeper Silence”, notes that women with disabilities suffered numerous challenges and were particularly vulnerable to sexual and gender-based violence. The report notes that, “Population attitudes towards people with disabilities are generally negative and poorly informed. There is no cohesive whole-of-government approach to building a society that includes people with disabilities and respects them as people with the same rights as everybody else. The dominant approach to people with disabilities appears to be that of charity. While this is based somewhat on compassion, a charity approach contributes to the denial of basic human rights for people with disabilities.”²⁴¹ In fact, the 2013 study noted that women with disabilities were two to three times more likely to become victims of physical and sexual abuse than women with no disabilities. Their access to reproductive health care was minimal and they suffered greater vulnerability as a result.

LGBTI Rights

Homosexuality is illegal and carries a maximum penalty of ten years' imprisonment, but the country has an active LGBTQ community (*fakaleiti*), and the law is not enforced. Equaldex provides an overview on legal framework as it relates to LGBTQ rights in Tonga.²⁴² In 2019, the Free Wesleyan Church, Tonga's biggest church, closed its annual General Conference without addressing issues around homosexuality, promising to raise them at the next year's conference.²⁴³ In 2018, a documentary on *fakaleiti*'s fight for visibility was released around the world, documenting the struggles of the LGBTI community.²⁴⁴

Religious and Ethnic Minorities' Rights

Tonga's constitution, which dates from 1875, provides for freedom of worship. As described in Section five: “All men are free to practice their religion and to worship God as they may deem fit in accordance with the dictates of their own consciences and to assemble for religious service in such places as they may appoint. It shall not be lawful to use this freedom to commit evil and licentious acts or under the name

²³⁶ <https://www.kanivatonga.nz/2018/10/tongan-youth-parliament-to-convene-for-first-time-since-start-of-political-reform-era/>

²³⁷ https://www.parliament.gov.to/media-centre/latest-news/latest-news-in-english/712-participants-arrive-for-tonga-youth-parliament-2020?switch_to_desktop_ui=432

²³⁸ <https://www.tyeeetonga.org/>

²³⁹ <https://www.queenscommonwealthtrust.org/projects/tongayouthleaders/>

²⁴⁰ <https://matangitonga.to/2002/08/30/tongas-children-jail>

²⁴¹ <https://pacific.unfpa.org/sites/default/files/pub-pdf/UNFPAReport-ADeeperSilenceA4PublicationLR3%283%29.pdf>

²⁴² <https://www.equaldex.com/region/tonga>

²⁴³ <https://www.rnz.co.nz/international/pacific-news/393460/tongan-church-conference-avoids-homosexual-issues>

²⁴⁴ <https://www.abc.net.au/news/2018-04-16/tongan-leitis-hope-for-greater-visibility-with-new-documentary/9653964>

of worship to do what is contrary to the law and peace of the land.” There are no ethnic minorities in the country.

Indigenous People’s Rights

The right to practice one’s culture is an entrenched right within Tonga’s Constitution and strongly adhered to, including within Tonga’s governance and bureaucracy. There are no major conflicts or challenges with indigenous rights given that the racial composition is largely Tongan.

Freedom of the Press

While generally the media is free in Tonga, there has been a strained relationship between the government and the government-owned public broadcaster, Tonga Broadcasting Corporation, including the termination of its General Manager in 2017.²⁴⁵ Moreover, Section 96 of the Communications Act (2015) grants to the Ministry of Information and Communications the power to censor, with approval from the Minister, a licensee if the media supplies content considered indecent, displays excessive violence, is blasphemous, treasonous, seditious, defamatory, or goes against Tongan laws. Self-censorship is compounded by the fact that defamation is a criminal offence under the Defamation Act, punishable by a fine or imprisonment. Tonga was ranked 45 in 2019 by the World Press Freedom Index, an increase in ranking from 51 in 2018, and much improvement from its 66/180 ranking in 2013.²⁴⁶

Freedom of Information Laws

The Freedom of Information (FOI) Policy was approved by the Tongan cabinet in 2012, which reinforces Clause seven of the Tongan Constitution, guaranteeing freedom of the press, freedom of speech and freedom of expression. Moreover, the FOI Unit was established within the Ministry of Information and Communications (MIC) to coordinate information disclosure and dissemination within the Public Service, providing policy advice and guidelines for compliance and the implementation of the FOI Policy. Additionally, public education and awareness campaigns including training materials on the FOI have been rolled out by the MIC. Discussions for a Freedom of Information Law has also been pursued by the government.

Civil and Political Rights

Freedom House rated Tonga as free with a total score of 79/100, broken down into 30/40 on the realization of political rights and 49/60 on the realization of civil liberties.

Economic, Social and Cultural Rights

While the right to work is a protected right, the United Nations country team noted that gender discrimination in terms of wages and work conditions remained an issue. Men outnumbered women in paid employment outside the agricultural sector and were paid 20 to 50 percent more than women. Higher education for young women had failed to lead to better employment outcomes owing to gender barriers in labor markets, gender stereotypes about suitable occupations for women, and traditional expectations regarding women’s unpaid domestic activity and taking care of the family.

Tonga had witnessed a decline in the contribution of the primary sector to gross domestic product and a general weakening of the rural sector, where many of the vulnerable and poor lived. The declining

²⁴⁵ <https://ifex.org/tonga-wrongful-dismissal-case-will-clarify-role-of-public-broadcaster/>

²⁴⁶ <https://rsf.org/en/tonga>

importance of the primary sector had been exacerbating inequality, as rural households struggled to generate cash income to purchase the basic essentials. In urban areas, poverty was mostly the result of rural-urban migration caused by the movement of people from rural and remote areas of the country to towns and cities in search of the better employment opportunities needed to improve their livelihoods. Furthermore, access to clean water and basic sanitation was of growing concern in the country. Changing weather patterns had negatively impacted the availability of water resources and the effectiveness of sanitation, which needed to be addressed to avoid severe crisis.

3.5.6 CORRUPTION

Laws on Anti-Corruption

The Anti-Corruption Commissioner Act establishes the office of the Anti-Corruption Commissioner and its functions and powers,²⁴⁷ though there have been calls for more independence²⁴⁸ and actual implementation of the Act.

National Institutions on Anti-Corruption

The Anti-Corruption Commissioner acts as the leader on issues of corruption.

Ratification of UN Convention Against Corruption

Tonga acceded to UNCAC in February 2020, becoming the last Pacific country to achieve this.

3.5.7 GOVERNMENT RESPONSIVENESS AND EFFECTIVENESS

Governance in Practice

Despite democratization, the King exercises considerable powers. Tupou VI intervened in the political process in 2017—in what some saw as a reassertion of monarchical powers—dissolving the Legislative Assembly and calling elections without being advised to do so by the ruling Democratic Party of the Friendly Islands.

Government Performance on Health

Despite Tonga's improvements in health care, maternal health continues to be a cause for concern, with maternal morbidity leaving many women chronically ill or disabled. Forced sexual activities constitute a key risk for sexually transmitted infections and HIV transmission, as well as other sexual and reproductive health problems, including unwanted pregnancies and psychological trauma.

Government Performance on Education

Tonga has a 99.4 percent literacy rate, and progress has been made toward achieving universal primary education. While the gender parity index in 2012 of enrolment at the pre-primary and primary level stood at 0.99, challenges remained, particularly for remote communities and persons with disabilities. These included gendered learning pathways that limited opportunities for women and girls to engage in education suiting their interests and capabilities.

²⁴⁷ https://ago.gov.to/cms/images/LEGISLATION/PRINCIPAL/2007/2007-0013/Anti-CorruptionCommissionerAct2007_2.pdf

²⁴⁸ <https://www.rnz.co.nz/international/programmes/datelinepacific/audio/201820416/independence-needed-around-tongan-anti-corruption-appointment>

Government Performance on the Environment

Trends in pressures from unsustainable agriculture, forestry, fisheries, and aquaculture are decreasing through ongoing awareness programs and re-enforcing compliance to legislations. Although there is evidence of abuse in forest reserves, there have been tax allotments used for conservation areas to be rehabilitated with forests. Extinction risk trends of habitat dependent species, for avifauna is currently low. After a rapid biodiversity survey, habitats for dependent species have been located and will be nominated for protection. This includes habitats for the Polynesian megapode, the "Malau". Population trends for dependent species show a positive change. Tonga's Vava'u archipelago, consisting of about 61 islands, retains high terrestrial biodiversity values including species found nowhere else in the world, and several sites are particularly important to conserve these values. There are a range of threats present, of which invasive species such as rats and yellow crazy ants are particularly important.²⁴⁹

3.5.8 KEY AID RELATIONSHIPS

Under the Australia-Tonga Aid Partnership (2016-19), the Australian Government will provide an estimated Aus\$26.6 million in total Official Development Assistance to Tonga in 2019-20. This will include an estimated \$17.6 million in bilateral funding to Tonga managed by the Department of Foreign Affairs and Trade. The Australia-Tonga Aid Partnership will continue to focus on economic reform, private sector development, health, and skills development. On the other hand, the Tonga-NZ relationship is built on 50-year diplomatic relations which is underpinned by the large number of New Zealanders of Tongan descent living in New Zealand, and Tongans with connections to New Zealand.²⁵⁰ NZ's Aid to Tonga for 2019-2020 is NZ\$21.77million,²⁵¹ which will focus on a) supporting governance institutions in Tonga, to promote stability and prosperity, b) supporting the Tongan public sector's ability to deliver high-quality services and better outcomes for Tongan communities, and c) assisting Tonga to build a strong and resilient economy.²⁵² The Government of Tonga provides program updates on its government website including projects funded by its donor partners.²⁵³

The top five donors to Tonga 2017

- Japan: US\$22.92 million
- Australia: Aus\$21.10 million
- World Bank: US\$12.12 million
- New Zealand: NZ\$8.46 million
- Climate Investment Funds: US\$6.56 million

Top five aid projects in Tonga 2017 (all values in USD)

- Domestic transport (Japan): \$18.94 million
- Climate resilience sector project (climate investment funds): \$6.56 million
- Tonga second inclusive growth development policy operation (World Bank): \$5.10 million
- Tonga Rural Innovation project (International Fund for Agricultural Development): \$3.38 million
- Tonga economic and public sector reform program, performance linked aid (Australia): \$3.07 million.

²⁴⁹ <https://www.sprep.org/news/aichi-targets-pacific-islands-tonga>

²⁵⁰ <https://www.mfat.govt.nz/en/countries-and-regions/pacific/tonga/about-tonga/>

²⁵¹ <https://www.mfat.govt.nz/en/aid-and-development/our-approach-to-aid/where-our-funding-goes/our-planned-aid-expenditure/>

²⁵² <https://www.mfat.govt.nz/assets/IATI-PDFS/PACPF/Tonga.pdf>

²⁵³ <http://www.mic.gov.to/aid-programs>

3.5.9 CLIMATE CHANGE, ADAPTATION AND FINANCING

Tonga's climate profile identifies various threats of climate change on the country including the threats of sea-level rise on agriculture and settled areas. Warming seas threaten subsistence fishing and increased extreme rainfall threatens agriculture.²⁵⁴ Tonga's Climate Strategy has three strategic goals: a) strengthened integrated risk management to enhance climate and disaster resilience, b) low carbon emissions, and c) strengthened disaster preparedness, response and recovery. Tonga's climate change policy aims at every coastal community having a special management area and protected coastal environment, redesigned infrastructure, increased preparation for cyclones, a transport system not dependent on fossil fuels, communication about climate change to all communities, and resilient agriculture with enhanced crop production and food security.²⁵⁵ Under the Climate Investment Fund, Tonga has secured a total of \$20 million in PPCR grants and near-zero interest loans to help build government capacity to manage climate change and disaster risks, establish a climate change trust fund to finance small community climate change adaptation, and pilot sustainable fishing and coral reef management in Tonga's outer islands.²⁵⁶ The fund is financed by a \$19.25 million grant from the Pilot Program for Climate Resilience (PPCR) of the Strategic Climate Fund (SCF). The SCF is part of the multilateral Climate Investment Funds (CIFs) of which ADB administers a portion worth \$1.1 billion for projects in Asia and the Pacific. The Government of Tonga is contributing \$2.45 million to the initiative.

In 2019, the Prime Minister announced that its climate change commitment has "Yielded over US\$123 million in funding for ongoing projects, as well as another \$45 million for projects yet to be approved."²⁵⁷ In 2017, with support from UNDP, a report titled *Tonga Climate Financing and Risk Governance Assessment*²⁵⁸ was launched. That same year, an ADB-supported Climate Change Fund was launched in Tonga. The Climate Change Trust Fund accounts for \$5 million of the total project cost.²⁵⁹ Tonga has two projects under the Green Climate Fund worth around \$76.8 million and six readiness activities worth \$695.0k.²⁶⁰ In March 2020, Tonga successfully completed and submitted its Third National Communication Report on Climate Change Report (TNC) to the UNFCCC Secretariat in Bonn, Germany, being the first Pacific country to do so.²⁶¹ In April 2020, the Commonwealth announced that its Commonwealth Climate Finance Access Hub has helped Tonga secure a grant of over US\$1.6 million from the Green Climate Fund to help the country adapt to climate change, becoming the first Pacific Island to do so.²⁶²

²⁵⁴ <https://cop23.com.fj/tonga/>

²⁵⁵ Tonga Climate Change Policy A Resilient Tonga by 2035, Tonga, 2016.
https://www.preventionweb.net/files/48404_tongacclimatechange2016.pdf

²⁵⁶ <https://www.climateinvestmentfunds.org/country/tonga>

²⁵⁷ <https://www.rnz.co.nz/international/pacific-news/405434/tonga-pleased-with-funding-for-climate-change-projects>

²⁵⁸ <https://www.pacific.undp.org/content/pacific/en/home/library/rsd/climate-financing-and-risk-governance-assessment.html>

²⁵⁹ <https://www.adb.org/news/adb-supported-climate-change-fund-launched-tonga>

²⁶⁰ <https://www.greenclimate.fund/countries/tonga>

²⁶¹ <https://reliefweb.int/report/tonga/tonga-s-third-national-communication-report-climate-change>

²⁶² <https://thecommonwealth.org/media/news/commonwealth-helps-tonga-become-first-pacific-island-receive-adaptation-planning-grant>

3.6 SAMOA



Population	Land area	Maximum elevation above sea level	EEZ
196,130	2 934 km ²	1 857 m	127 950 km ²

3.6.1 FORMAL GOVERNMENT STRUCTURE

Status: Independent (from New Zealand): 1962

Head of State: (*O le Ao o le Malo*) is elected by Parliament and performs mainly ceremonial functions. The current Head of State is Afioga Tuimaleali'ifano Vaaletoa Sualauvi II.

Head of Government: Prime Minister and the current PM is Tuilaepa Aiono Sailele Malielegaoi (since 1998). Samoa is currently the only Pacific Island with a Deputy Prime Minister as a woman.

Cabinet: Cabinet of Ministers. 8-12 Ministers appointed by the Head of State on the advice of the Prime Minister, responsible to Parliament.

Legislative Assembly: Only matai (chiefly heads of families) may stand for election.

Elections: Every five years.

National Identity and Cohesion

Samoa, the first Pacific Islands country to gain its independence (in 1962: from New Zealand), has probably the strongest sense of national identity in the region. Ethnic diversity is low; national cohesion high. The Samoans demonstrated their resistance to colonial rule in the 1930s in a movement called the Mau, which entailed widespread peaceful non-cooperation with the authorities, and which formed a precedent for their successful independence movement thirty years later. In the spirit of their Polynesian culture, the Samoans embraced democracy in a traditional way, restricting the vote to *matai* (chiefly heads of families) from independence until 1991 and continuing to this day to require that only *matai* may stand for election and enter Parliament.

Samoa has extraordinary political stability, having been governed by the same political party, the Human Rights Protection Party, since the 1980s and by the same prime minister, Tuila'epa Sailele Malielegaoi, since 1998. It is a constitutional democracy with a parliamentary system and traditional elements such as restrictions on who may stand for election.

Samoa has a single indigenous language, Samoan.

Relationship Between State and Society

The state is comparatively strong and effective in Samoa, with widespread trust in government and pride in being Samoan.

3.6.2 INCLUSION

Ethnic and Linguistic Diversity

There is little ethnic or linguistic diversity, with just one indigenous language, Samoan.

Ethnic Divisions as a Source of Instability

Not Applicable.

Women's Political Participation, including Temporary Special Measures (TSM)²⁶³

Election Year	1982	1985	1988	1991	1996	2001	2006	2011	2016
No. of Seats	49	49	49	49	49	49	49	49	49
Number of Women MPs	1	2	0	3	3	3	4	3	5 ^(c)
Percentage	2.0	4.1	0.0	6.1	6.1	6.1	8.2	6.1	10.2

3.6.3 COMPETITION AND POLITICAL ACCOUNTABILITY

Political System and Recent Developments

Samoa could almost be described as a one-party state in the democratic sense of that term. Samoa is the most politically stable country in the Pacific Islands and is dominated by a single party and a long-time prime minister. Samoa has recently declared two states of emergency for health reasons, the first in late 2019 because of a measles epidemic and the second, in March 2020, because of the coronavirus pandemic. The most recent state of emergency has severely restricted travel to and from the country. Samoa also severed relations with Taiwan in October 2019 and established relations with China, most likely due to a rumored aid package of \$500 million.²⁶⁴

Electoral System and Elections

Independence came to Samoa in 1962 but universal suffrage was not introduced until 1991. Samoa has 49 constituencies, of which 35 are single-member and seven have two members each. Voting is first-past-the-post. Samoa amended its constitution in 2013 to promote more representation of women in Parliament and emerged with a unique, safety-net solution. Under the '10 percent law', at least 10 percent of MPs must be women, and if fewer than five women are elected in the normal way, those women who have polled highest but were unsuccessful take up additional seats until the threshold is met. For this reason, the number of MPs in Samoa's Fono (Parliament) may differ from election to election.²⁶⁵

The 2016 election was the first to apply the new 10 percent law. The Human Rights Protection Party won again, gaining 35 seats compared (plus 12 independents) with the opposition Tautua Samoa Party's three in the legislature of 50. Tuila'epa Sailele Malielegaoi was confirmed in office once again. Fiamē Naomi Mata'afa became the country's first female Deputy Prime Minister.

²⁶³ The Legislature can have a maximum of 54 members if no woman is elected during an election. The TSM 'floating five' reserve seats quota for women is then used. That is, five women who received the highest percentage of votes in an election are appointed via this quota. If one woman is elected then four women representatives will be added, etc. One-woman MP in 1979. Using the TSM "floating five" reserve seats for women, Faaulusau Rosa Duffy-Stowers was appointed via the TSM quota.

²⁶⁴ <https://asia.nikkei.com/Opinion/Pacific-islands-avoid-China-s-debt-trap-diplomacy-for-now>

²⁶⁵ Baker, Kerry. 'The 'Samoa Model' adapts gender quotas to Pacific politics', East Asia Forum, 14 August 2019. <https://www.eastasiaforum.org/2019/08/14/the-samoan-model-adapts-gender-quotas-to-pacific-politics/>

3.6.4 DECENTRALIZATION

Village Councils, formally recognized by the Village Fono Act 1990 (Samoa), deal exclusively with village affairs such as culture, customs and traditions, and including all customary land matters.

Political Stability

Samoa has been stable since independence in 1962.

Military Forces and their Role in Politics

Samoa has no military.

Civil Society Organizations

The Constitution protects several fundamental civil and political rights, including freedom of speech, assembly, association and movement, and the right to a fair trial. Faalapotopotoga Atinae o Komiti Tumama o Samoa (FAKTS) or Samoa Women's Committee Development Organization is the biggest and longest serving grassroots women's organization in Samoa. It was established in 1920 and became a member of Samoa Umbrella for Non-Governmental Organizations (SUNGO) in 1997. Other NGOs also work to address many development issues.

3.6.5 RULE OF LAW AND HUMAN RIGHTS

Judiciary

Samoa's judiciary comprises a three-tier court system. The Magistrates' Court is governed by the Magistrate's Court Act 1969. The Supreme Court is headed by the Chief Justice who is appointed by the Head of State on the advice of the Prime Minister, while other judges are appointed by the Head of State acting on the advice of the Judicial Service Commission. The Court of Appeal is the superior court of record. Moreover, village fonos or village councils, deal exclusively with village affairs such as culture, customs and traditions, and customary land matters. The Supreme Court is presided over by the chief justice and has jurisdiction over both civil and criminal matters. The Court of Appeal, whose President is the chief justice, deals with appeals from the lower courts. The Chief Justice is the head of the judiciary and is appointed by the Head of State, acting on the advice of the Prime Minister (s.65(2) Constitution of Samoa), while judges of the Supreme Court are appointed by the by the Head of State, acting on the advice of the Judicial Service Commission. In March 2020, the Government of Samoa announced the appointment of a new Chief Justice. In April 2020, the Samoan Law Society (SLS) and the Judiciary raised their concerns over the government's attempt to amend the Samoan Constitution,²⁶⁶ which the SLS and the Judiciary has claimed is worrying, as it will encroach into the independence of the Judiciary. The SLS has labelled the three bills—the Constitutional Amendment Bill 2020, the Lands and Titles Bill 2020 and the Judicature Bill 2020—as “The most drastic and incompetent attack on the stability of the justice system and the operation of the Rule of Law ever seen in Samoa since independence.”²⁶⁷

Police

Samoa ratified the Convention Against Torture (UNCAT) in 2016. Since then, the Samoa Police Service has conducted a series of training courses and undergone training itself, including upscaling its

²⁶⁶<https://www.rnz.co.nz/international/pacific-news/414336/samoa-govt-pushes-major-change-under-cloak-of-covid-19-law-society>

²⁶⁷ <https://samoaglobalnews.com/sls-bills-fundamentally-technically-defective/>

mechanism and operation to prevent torture. During a recent training exercise, Samoa's Police Commissioner, Mr. Fuiava'ilili Egon Keil, noted stated: "This training marks a significant step in our efforts to ensure that all arrested and detained persons are treated in line with UNCAT and international standards. We are most grateful to the Fiji Police Force for sharing lessons learned and best practices adopted since ratification of the Convention in 2016."²⁶⁸

The Basic Human Rights Education for Police Recruits has collaborated with UNWOMEN to provide police recruits a better understanding of human rights, which will help them perform better at their jobs while protecting and upholding human rights in policing.²⁶⁹ Furthermore, Samoa's national human rights institution/Ombudsman has established a 'Special Investigations Unit' (SIU) to independently monitor and investigate complaints against the police and other prescribed forces.

Violence Against Women

Since the passing of Samoa's Family Safety Act (FSA) 2013, the government has implemented a series of initiatives to ensure the protection of women and children, which includes setting up a specialist family violence court dealing with VAW and child protection issues and training for police officers on gender sensitive process in handling and investigating complaints under the FSA.

Extensive campaigns by government, strong women NGO's such as the Samoan Victim Support Group, and Faith Based Organizations have ensured more visibility and discussion on the issue of EVAW. There has been an increase in the engagement of village communities to address violence within the village, where women and untitled men's groups have initiated village violence free advocacy campaigns. The recent work by the National Council of Women on working with women's committees and village women representatives is also complementing the ongoing efforts at the national level to increase village and individual responsibility towards ending gender-based violence. The Crimes Act 2013 criminalizes rape within marriage.

Samoa's NHRI conducted a national public inquiry into family violence "With findings of appalling violence suffered across our country within families" including the "Sheer scale of the problem we are facing." It further added that there is "Hope and optimism, arising from the practical solutions which have been put forward and a realization of how our culture (*Fa'asamoa*), Faith, and human rights can help us in addressing the social ill that is family violence."²⁷⁰

Women's Empowerment

The Samoan government has adopted and implemented measures that are consistent with their obligations under CEDAW. These legislative and policy reforms might be incremental, but they address key nation issues affecting women. The Government's National Policy for Gender Equality 2016-2020 addresses key issues affecting women including: a) safe families and communities, b) healthy women and girls, c) equal economic opportunities for women, young people, and specific vulnerable groups, d) increased participation of women in public leadership and decision-making, e) increased access to education and gender sensitive education curriculum, f) community resilience and climate change and disaster

²⁶⁸https://www.ws.undp.org/content/samoa/en/home/presscenter/pressreleases/2020/Samoa_Fiji_Police_Advance_Human_Rights_in_the_Pacific.html

²⁶⁹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/028/03/PDF/G1602803.pdf?OpenElement>

²⁷⁰ https://ombudsman.gov.ws/wp-content/uploads/2019/01/2018_SHRR-2018-National-Public-Inquiry-into-Family-Violence_English.pdf

preparedness informed by gender sensitive information and approaches, and g) enhanced institutional mechanisms for the promotion of gender equality.²⁷¹

Samoa currently has five women Members of Parliament including one as the Deputy Prime Minister. A 2013 constitutional amendment established a 10 percent quota or ensured five reserve (seats for women in parliament. This is another step towards achieving gender equality for women in the political arena as well as advancing toward compliance with CEDAW.

Samoa has rolled out a series of gender reforms within the civil service since the enactment of the Public Service Act 2004 and related Policies (Working Conditions and Entitlements Manual - WCE). These include maternity leave entitlements, paternity leave, and merit recruitment policies which have seen more women as CEO and Acting CEO of government ministries. About half of CEOs in government corporations are female.

The PSC grievance process ensures that an employee can lodge grievances of unfair treatment and harassment whereas the salary scale (United Public Sector Salary Scale) is based on the work value and not on the person doing the job. These public service processes are also conducive for persons with disabilities. The Samoa Qualifications Authority Post-Secondary School Access Grant for PSET providers is designed to improved access to education and training for women, people with disability, or those vulnerable in the labor market.²⁷²

Implementation of Core Human Rights Treaties

Since the ratification of core treaties, Samoa has progressed to various domestic provisions of the core treaties. The Samoa Law Reform Commission is leading the CEDAW legislative Compliance Review with public consultations completed under the oversight of the Ministry of Women. A legislative compliance to CRPD has also been completed. Moreover, various legislative amendments and promulgations have ensured compliance with CRC. These include the Sentencing Act 2016 and Crimes Act 2013. Furthermore, the court have used these human rights treaties as the basis for judicial pronouncements. In the case of *Police v BA* [2014] WSYC 2 (12 June 2014), the court said, “I am also mindful of the rights of young people under the UN Convention on the Rights of the Child; the rights of the young people to have their needs for rehabilitation and reintegration respected through the criminal justice system.”

National Human Rights Institutions (NHRI)

Samoa established its NHRI in 2013 by repealing the Komesina o Sulufaiga (Ombudsman) Act 1988 and replacing it with the Ombudsman (Komesina o Sulufaiga) Act 2013. The new Act expands the mandate of the Office so that it is now responsible for a) ensuring the application of good governance by public agencies; b) the promotion and protection of human rights (thus becoming the National Human Rights Institution); and c) the investigation of complaints against the police and other prescribed forces. In 2015, the Constitution was amended to include the appointment and functions of the Ombudsman. The Ombudsman Act 2013 mandates the NHRI with monitoring, promoting, and protecting human rights in Samoa.

²⁷¹ <https://www.mwcsd.gov.ws/images/2017/Documents/DFSD/Samoa-gender-policy.pdf>

²⁷² <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/028/03/PDF/G1602803.pdf?OpenElement>

Children's Rights

Advances in children's rights are progressive. These include areas of child protection, prohibition of corporal punishment, prevention of sexual abuse of children, and compulsory education among others. While education is compulsory, there remain some challenges, such as children selling products at the market instead of being in school, in spite of the Labor and Employment Relations Act 2013, which regulates employment, including that of children. UNICEF's Child Situation Analysis highlights many child protections issues and gaps in Samoa, including the correlation between poverty and substance abuse, violence, and crime.²⁷³

The Inclusive Education Policy 2014 recently approved by Cabinet focuses on improving educational opportunities and outcomes for young children and students with disabilities during early childhood, school, and post-school sub-sectors. Infrastructure improvements remain a priority, as do issues on access to education for persons with disabilities, accessible schools, and appropriate equipment and information provided in accessible formats. Samoa's NHRI made a comprehensive submission to the Child Rights Committee in 2015 covering the issues above and more.²⁷⁴

Youth Rights/Issues²⁷⁵

The National Youth Policy identifies youth as between the ages of 18 and 35. The ILO notes that notwithstanding the economic and social progress, employment and more particularly, youth unemployment (at a rate of 16.4 percent) and underemployment, remain critical development challenges.²⁷⁶

Rights of Persons with Disabilities

In 2016, the year Samoa ratified the CRPD, the NHRI produced a State of Human Rights on Disability highlighting disability issues in Samoa,²⁷⁷ and the government completed a comprehensive legislative compliance review and cost benefit analysis of CRPD.

Efforts to sensitize the public and promote human rights for persons with disabilities have existed since the 70s, through training programs and literature produced by the civil society, including Samoa's DPO (the *Nuanua o le Alofa*). At the same time, the mainstreaming of disability rights has been recognized as a national planning priority since 2008 (Strategy for the Development of Samoa) with the establishment of the National Disability Taskforce.

The challenge for Samoa is ensuring the accessibility in all public places, infrastructure (disability friendly facilities at the correctional facilities), and representation in public fora, steering committees, and delegations to overseas meetings. Moreover, Samoa's NHRI notes that, "While legislation and government education policy has made significant strides with regards to inclusive education for children with disability, there is significant progress yet to be made in the implementation of these policies. Poor implementation of disability laws and policies are resulting in unequal access to education for students with disabilities."²⁷⁸

²⁷³ <https://www.unicef.org/pacificislands/media/1206/file/Situation-Analysis-of-Children-Samoa.pdf>

²⁷⁴ <https://ombudsman.gov.ws/wp-content/uploads/2019/01/samoa-nhri-submission-to-crc-committee-september-2015.pdf>

²⁷⁵ <https://www.youthpolicy.org/factsheets/country/samoa/>

²⁷⁶ https://www.ilo.org/global/topics/youth-employment/projects/sida/WCMS_420247/lang-en/index.htm

²⁷⁷ https://ombudsman.gov.ws/wp-content/uploads/2019/01/2016_-_State-of-Human-Rights-Report-Disability_-_English.pdf

²⁷⁸ <https://ombudsman.gov.ws/wp-content/uploads/2019/01/samoa-nhri-submission-to-crc-committee-september-2015.pdf>

LGBTI Rights

Male to male sex is illegal; female to female is legal. There is discrimination against LGBTI people. Changing gender is legal, and culturally, Samoa has a third gender in the *fa'afafine*, who have sexual relationships almost exclusively with men and are brought up as women. Sodomy is punishable by an imprisonment of five to seven years imprisonment, but the law has not been enforced.

Religious and Ethnic Minorities' Rights

Samoa Constitution Section 11: "Every person has the right to freedom of thought, conscience and religion; this right includes freedom to change his or her religion or belief, and freedom, either alone or in a community with others, and, in public or private, to manifest and propagate his or her religion or belief in worship, teaching, practice and observance."

Indigenous People's Rights

Samoa's culture or the *fa'aSamoa* (way of life) is entrenched in practice and constitutionally recognized. The Preamble of the Constitution states that, "The Leaders of Samoa have declared that Samoa should be an Independent State based on Christian principles and Samoan custom and tradition." Only Samoan chiefs, the *matai*, can run for parliament. In terms of indigenous rights, about 94 percent are ethnically Samoans with a small number of mixed descendants of European, Chinese, Melanesians, and other Polynesians. Samoans are grouped as Polynesians. There are no major conflicts or challenges with indigenous rights given that the racial composition is largely Samoans.

Freedom of the Press

Samoa's parliament abolished the offense of criminal libel in 2013; however, an amendment to the Crimes Act in 2017 saw the reintroduction of defamation as a criminal offense. This move was largely in response to an increase in social media bloggers posting (defamatory) allegations, often about government leaders, including raising allegations of corruption, misconduct, and serious crimes by prominent public figures in Samoa on social media. There was no public consultation on the bill.²⁷⁹ In 2009, a Samoan blogger was jailed under this law for criminal defamation against the Prime Minister.²⁸⁰ In 2019, Samoa was ranked 22 by the World Press Freedom Index, a drop by one from its 2017 ranking.²⁸¹

Freedom of Information Laws

Samoa's Law Reform Commission presented a discussion paper on a FOI to Cabinet in 2018.²⁸² In 2019, the Journalism Association of Samoa (JAS) expressed its concerns over the government's proposed law, which could see whistle-blowers jailed for up to seven years. (The amendment of the Crimes Act would criminalize public servants disclosing official information to a third party for any reason.) The JAS also recognized that with lacking freedom of information laws in Samoa, access to government information would be severely constrained by the Crimes Act.²⁸³

²⁷⁹ <https://www.samoobserver.ws/category/samoa/1417>

²⁸⁰ <https://www.abc.net.au/radio-australia/programs/pacificbeat/freedom-of-expression-concerns-after-blogger-jailed-over-fb/11644814>

²⁸¹ <https://rsf.org/en/samoa>

²⁸² <https://www.samoalawreform.gov.ws/wp-content/uploads/2019/05/04042019Final-draft-Annual-Report-2017-2018-FINAL-FINAL.pdf>

²⁸³ <https://www.rnz.co.nz/international/pacific-news/398382/samoa-journalists-worried-about-proposed-whistleblower-law>

Civil and Political Rights

In 2019, Samoa was ranked by Freedom House as free with a total score of 81/100, broken down into 30/40 on the realization of political rights and 51/60 on the realization of civil liberties.²⁸⁴

Economic, Social and Cultural Rights

The government is the largest employer in Samoa and its economy is dependent on tourism, agriculture, and remittances among others. Samoa participates in the NZ and Australian government's seasonal workers program and over 2,400 Samoans are reportedly working under this scheme.²⁸⁵ Samoa's economic freedom score is 62.1, making its economy the 86th freest in the 2020 Index. Its overall score has decreased by 0.1 point, with lower scores for government integrity and monetary freedom outpacing a higher property rights score.²⁸⁶

3.6.6 CORRUPTION

Laws on Anti-Corruption

Corruption cases are prosecuted by the Attorney General's office under the Crimes Act with a maximum of seven years imprisonment. The two criminal offenses under the Crimes Act are bribery and corruption. Moreover, the Ombudsman's Office which has a dual mandate as an NHRI only investigates cases of maladministration by the government under its good governance mandate. The Ombudsman's office creates public awareness and disseminates information on anti-corruption.

In an inaugural Pacific anti-corruption workshop in February 2020, Samoa's PM stressed that "There is an increasing number of corruption cases coming to light as a result of greater dissemination of information and awareness programs on how to recognize and report corruption, as well as better official confidentiality protective measures of so called 'whistle-blowers'. In the context of good governance standards, and making use of the technology available, the indispensable role of Parliament in fighting corruption has also led to Parliamentary sessions in Samoa now being broadcast live on television, in addition to the traditional radio broadcasts. The media plays an important part in fighting corruption and holds weekly interviews, sometimes two or three times a week, with media representatives to inform on government decisions and programs and reply to their question."²⁸⁷ Between 2018–2019, Samoa—with support from the UK—conducted a review of the country's UNCAC compliance.²⁸⁸

National Institutions on Anti-Corruption

Samoa does not have a stand-alone anti-corruption institution.

Ratification of UN Convention Against Corruption

Samoa acceded to UNCAC in April 2018.

3.6.7 GOVERNMENT RESPONSIVENESS AND EFFECTIVENESS

²⁸⁴ <https://freedomhouse.org/country/samoa/freedom-world/2019#PR>

²⁸⁵ <https://www.samoaoobserver.ws/category/samoa/37988>

²⁸⁶ 2020 Index for Economic Freedom: <https://www.heritage.org/index/country/samoa?version=14>

²⁸⁷ <http://www.pina.com.fj/index.php?p=pacnews&m=read&o=18500890465e3c8f1968f4d06a4f0e>

²⁸⁸ https://www.psc.gov.ws/samoa-reviews-fiji-in-second-cycle-of-uncac-implementation-reviews/?utm_source=rss&utm_medium=rss&utm_campaign=samoa-reviews-fiji-in-second-cycle-of-uncac-implementation-reviews

Governance in Practice

Samoa is dominated politically by its able and long-term prime minister, Tuila'epa Sailele Malielegaoi, who has the overwhelming support of parliament and who keeps a keen eye on all political developments country-wide.

Government Performance on Health

Samoa has an effective health system by Pacific standards, and a relatively young population. The main health threat comes from noncommunicable diseases (NCDs), the leading cause of premature illness and death. In 2013, half of the adult population between 18 and 64 years were at high risk of developing NCDs. Dietary risk factors are a major contributor, as almost 85 percent of adults are overweight or obese and around 62 percent of adults regularly consume processed foods high in salt. The escalating costs associated with treating NCDs is an additional burden on the health system and broader society.²⁸⁹ Samoa experienced a measles epidemic in 2019, with 5,700 cases and 83 deaths.

Government Performance on Education

Samoa has a literacy rate of 99 percent. Primary school enrolment rates are high, and most children go on to complete the full cycle of eight years of primary education. Secondary school participation rates are 50.6 percent for boys and 69.5 percent for girls (2016). The 2013 Samoa Hardship and Poverty Report described a strong correlation between poverty, vulnerability status, and the level of education of Samoan citizens.²⁹⁰ The analysis found that males with no tertiary education in urban areas are more likely to be vulnerable to poverty than other demographics. The National University of Samoa (NUS) strives to be an innovative University of excellence in research, Samoan Studies, and high-quality education and training. This is responsive to national development needs, but it experiences funding problems, with hard-pressed staff and a thin record of research, except in Samoan studies. NUS cannot directly access aid funds, which must instead be processed through government.

Government Performance on the Environment

While Samoa is highly vulnerable to weather hazards, the country's system of governance, including traditional governance, ensures that environment challenges are mitigated within the existing frameworks. Samoa's upland habitats are largely intact and undisturbed by human activities with a high percentage of forest cover (99 percent) for both Upolu and Savaii. The nature and quality of forests in the uplands of the two islands are now significantly different. For Savaii, 91 percent of the upland forest area is dominated by native species. For Upolu, non-natives dominate 99 percent of the upland area, while in the coastal habitats, mangroves are generally in good condition.²⁹¹

3.6.8 KEY AID RELATIONSHIPS

The Australian Government will provide an estimated \$3 million in total Official Development Assistance to Samoa in 2019-20, including an estimated \$23.6 million in bilateral funding to Samoa.²⁹² In addition, as

²⁸⁹ WHO Country Cooperation Strategy, 2017

https://apps.who.int/iris/bitstream/handle/10665/136834/ccsbrief_wsm_en.pdf;jsessionid=F6641F88FD7D6319710BF906775EF78A?sequence=1

²⁹⁰ UNDP Samoa Hardship and Poverty Report Analysis of the 2013/14 Household Income and Expenditure Survey https://www.undp.org/content/dam/samoa/docs/UNDP_WS_SamoaHardshipAndPovertyReportFINALreduced.pdf

²⁹¹ <https://www.sprep.org/attachments/VirLib/Samoa/2.pdf>

²⁹² <https://www.dfat.gov.au/geo/samoa/development-assistance/Pages/development-assistance-in-samoa>

of June 2017, about 818 Samoans have participated in the Seasonal Worker Program, begun in 2012 to help Australian employers access short-term labor in rural and regional areas for seasonal harvest needs. Samoa will also benefit from the Australian government's Step-Up approach which sees Australia committing \$1.4 billion in development assistance to the region for 2019-2020.²⁹³

New Zealand has committed NZ\$28.13 million for Samoa for the 2019-2020²⁹⁴ period to advance the following development priorities: a) support Samoa as it builds a strong and inclusive economy, b) work with Samoa to increase its resilience to climate change, and c) support strong Samoan institutions that deliver high-quality services to all.²⁹⁵ High level Ministerial and Prime Ministers visits have taken place between the two countries.²⁹⁶ Samoa and NZ signed a Statement of Partnership 2019–2023.²⁹⁷

China is also a major aid donor to Samoa. In 2019, China and Samoa signed some seven agreements ahead of a special summit on China-Pacific islands economic cooperation in Apia.²⁹⁸ China has committed to supporting Samoa to “Conquer the corona virus,”²⁹⁹ and since 2018 was eyeing a closer relationship with Samoa, including connecting the Belt and Road Initiative with Samoa's development strategy, thereby creating more cooperation opportunities in trade, investment, and infrastructure construction.³⁰⁰

Japan is one of the key development partners of Samoa with a vision to achieve sustainable and environment-friendly economic growth and improvements in living standards in Samoa. Japan's assistance is in the area of climate change and reducing vulnerability.³⁰¹

Samoa and the EU continue to strengthen their cooperation, with Samoa signing the EU Economic Partnership Agreement in 2018.³⁰² Since 1975, Samoa has received around €115 million in EU aid.³⁰³ With strong US-Samoa relations, total US trade in Samoa reached close to \$46 million in 2018 while imports from Samoa were \$6.9 million.³⁰⁴ In 2019, USAID provided \$200,000 in disaster assistance to fund the WHO's coordination of, and support for, international efforts to respond to the highly contagious measles outbreak.³⁰⁵

Top five aid projects for Samoa 2017 (all values in USD)

- Faleolo International Airport terminal (China): \$25.24 million³⁰⁶
- Enhancement of safety of Apia port (Japan): \$15.60 million
- Samoa power sector expansion project (Japan): \$7.16 million
- Pacific regional connectivity program: Phase 3 - Samoa (World Bank): 6.35 million
- First resilience development policy operation (World Bank): \$5.10 million

²⁹³ <https://www.dfat.gov.au/geo/pacific/engagement/Pages/stepping-up-australias-pacific-engagement>

²⁹⁴ <https://www.mfat.govt.nz/en/aid-and-development/our-approach-to-aid/where-our-funding-goes/our-planned-aid-expenditure/>

²⁹⁵ <https://www.mfat.govt.nz/en/countries-and-regions/pacific/samoa/our-development-cooperation-in-samoa/>

²⁹⁶ <https://www.mfat.govt.nz/en/countries-and-regions/pacific/samoa>

²⁹⁷ <https://www.mfat.govt.nz/assets/Pacific/New-Zealand-Samoa-Statement-of-Partnership-2019-2023.pdf>

²⁹⁸ <https://www.abc.net.au/news/2019-10-21/china-and-samoa-ink-deals-ahead-of-pacific-island-economic-forum/11622096>

²⁹⁹ <http://ws.china-embassy.org/eng/zsgx/t1755391.htm>

³⁰⁰ http://english.www.gov.cn/premier/news/2018/09/19/content_281476309707218.htm

³⁰¹ <https://www.ws.emb-japan.go.jp/files/000510800.pdf>

³⁰² <https://ec.europa.eu/trade/policy/countries-and-regions/regions/pacific/>

³⁰³ https://eeas.europa.eu/delegations/fiji/2322/samoa-and-eu_bs

³⁰⁴ <https://www.state.gov/u-s-relations-with-samoa/>

³⁰⁵ <https://www.usaid.gov/news-information/press-releases/dec-11-2019-usaid-responds-deadly-outbreak-measles-samoa>

³⁰⁶ Radio New Zealand Airport upgrade to be unveiled in Samoa, 9 May 2018. <https://www.rnz.co.nz/international/pacific-news/356965/airport-upgrade-to-be-unveiled-in-samoa>

3.6.9 CLIMATE CHANGE, ADAPTATION AND FINANCING

Samoa's ministry of foreign affairs is the political focal ministry while the ministry of natural resources and environment is the operational focal point for climate change and disaster risk management.³⁰⁷ The National Policy on Combating Climate Change provides a framework to mitigate and adapt to the effects of climate change. The policy's overarching goal is to: "Enhance Samoa's response to the impacts of climate change in support of national sustainable development efforts".³⁰⁸ The government is adopting a wholistic approach to climate change adaptation by advancing Samoa's National Adaptation Plan (NAP). Drawing from the UNFCCC, the NAP plans, budgets, and presents ideas, and is overseen by the Ministries of Natural Resources and Environment, while the Ministry of Finance ensures a comprehensive approach to climate change risk management. The move by Samoa to develop its NAP is possible through a US\$12.3 million initiative, in partnership with the United Nations Development Program (UNDP), funded from the Least Developed Country Countries Fund (LDCF). The project is the largest national project ever funded by the Least Developed Countries Fund of the Global Environment Facility (GEF) and is considered a strategic move for Samoa, as it shifts out of its least developed countries (LDC) status.³⁰⁹ Samoa has committed to reducing its GHG emissions from the electricity sub sector through the adoption of a 100 percent renewable energy target for electricity for the year 2025. Samoa's commitment is conditional on reaching the 100 percent renewable electricity target in 2017 and receiving international assistance to maintain its contribution through to 2025. Economy-wide emissions reduction is conditional on external international assistance.³¹⁰

In January 2013, Japan, the World Bank, and the Secretariat of the Pacific Community (SPC) teamed up with Marshall Islands, Samoa, Solomon Islands, Tonga, and Vanuatu to launch the first Pacific Catastrophe Risk Insurance Pilot. This scheme works through a regional risk pooling mechanism that allows the five countries to secure US\$45 million of earthquake, tsunami, and tropical cyclone catastrophe coverage on the international reinsurance market.³¹¹ Samoa's Integrated Flood Management to Enhance Climate Resilience program focuses on upgrading infrastructure to safeguard the more than 26.5 thousand residents living along the country's Vaisigano River. The project aims to develop mitigation systems by upgrading drainage processes along the country's coastal communities, most of which flow through Samoa's main urban economic areas. The economic value of the project will reach \$15.6 million and yield an annual return of 15.5 percent.³¹²

³⁰⁷ <https://www.pacificclimatechange.net/country/samoa>

³⁰⁸ Ibid.

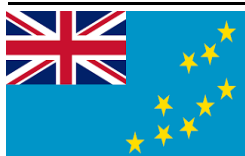
³⁰⁹ Ibid.

³¹⁰ Ibid.

³¹¹ <https://www.worldbank.org/content/dam/Worldbank/document/EAP/Pacific%20Islands/climate-change-pacific.pdf>

³¹² <https://www.adaptation-undp.org/projects/gcf-samoa>

3.7 TUVALU



Population	Land area	Maximum elevation above sea level	EEZ
11,508	26 km ²	5 m	749 790 km ²

3.7.1 FORMAL GOVERNMENT STRUCTURE

Status: Independent (from the UK): 1978. Constitutional democracy with a parliamentary system.

Head of State: Queen Elizabeth II. The Governor-General (GG) is appointed by the monarch on the recommendation of the Prime Minister. H.E Teniku Talesi (Acting) is the first female GG.

Head of Government: Prime Minister is Kausea Natano (Since September 2019). The PM and Deputy PM are elected by and from the members of Parliament, which has 16 members.

Cabinet: Cabinet is appointed by the Governor General on the recommendation of the Prime Minister.

Elections: Four-year term.

National Identity and Cohesion

Tuvalu is one of the world's smallest sovereign states and has a strong sense of national identity with a high level of national cohesion based upon its cultural homogeneity. Originally part of a British colony that included the Micronesian population of Kiribati, the Polynesian Tuvaluans voted in the 1970s to secede and form a separate country at independence.

Relationship Between State and Society

The relationship is highly personalized in this tiny country.

3.7.2 INCLUSION

Ethnic and Linguistic Diversity

There is virtually no ethnic or linguistic diversity and just one indigenous language, Tuvaluan.

Ethnic Divisions as a Source of Instability

Not Applicable.

Women's Political Participation, including Temporary Special Measures (TSM)

Election Year	1985	1989	1993	1998	2002	2007	2010	2015	2019
No. of Seats	15	15	15	15	15	15	15	15	15
Number of Women MPs	0	1 ^(a)	1 ^(a)	0	0	0	1 ^(b)	1	1
Percentage	0.0	6.7	6.7	0.0	0.0	0.0	6.7	6.7	6.7

3.7.3 COMPETITION AND POLITICAL ACCOUNTABILITY

Political System and Recent Developments

Tuvalu has a unicameral parliament, the Fale I Fono, and eight electoral districts, each returning two members to Parliament. There are no political parties. Elections are by universal suffrage of all citizens over eighteen years of age. Dr. Puakene Boreham was the sole woman member of the Tuvalu parliament after the elections of 2015 and was re-elected in 2019.³¹³ Teniku Talesi (currently) is the first female Head of State for Tuvalu though she acts in the position of Governor General.

Electoral System and Elections

The most recent election—in 2019—saw the replacement of pro-Taiwan prime minister Enele Sopoaga by Kausea Natano in what some saw as a change that might benefit the PRC. Tuvalu at present recognizes Taiwan, but offers by Chinese companies to build artificial islands for the country to compensate for rising sea levels were rebuffed by the Natano government in November 2019.³¹⁴

3.7.4 DECENTRALIZATION

Not Applicable.

Political Stability

Tuvalu is a highly stable Pacific Islands country.

Military Forces and their Role in Politics

Tuvalu does not have a military.

Civil Society Organizations

As of 2013, Tuvalu had two non-governmental organizations (NGOs) registered under the Non-Governmental Organizations Act 2007. To date, 14 NGOs are registered under the act. The act provides the regulatory framework for NGOs operating in Tuvalu and sets the statutory requirement for certification. Fusi Alofa Association Tuvalu (Fusi Alofa) is an organization supporting the rights of persons with disabilities. It was established in May 2009, and was finally registered as an NGO in June 2012. Tuvalu Family Health Association is another key association advocating for sexual and reproductive health and rights among others (Pacific Community, 2016).

3.7.5 RULE OF LAW AND HUMAN RIGHTS

Judiciary

Tuvalu's judiciary consists of the Magistrates Court, a High Court consisting of a single judge, who is also the non-resident Chief Justice, a Court of Appeal and the Privy Council as the final Appeal Court. The Chief Justice who presides over the Judiciary is appointed by the Head of State, acting in accordance with the advice of the Cabinet, for such period as is specified in the instrument of his appointment (s.122(2)

³¹³Radio New Zealand International Tuvalu elections: large turnover for new parliament, September 10, 2019.

<https://www.rnz.co.nz/international/pacific-news/398454/tuvalu-elections-large-turnover-for-new-parliament>

³¹⁴Tuvalu rejects China offer to build islands and retains ties with Taiwan. Reuters, 21 November 2019.

<https://www.reuters.com/article/us-taiwan-diplomacy-tuvalu/tuvalu-rejects-china-offer-to-build-islands-and-retains-ties-with-taiwan-idUSKBN1XV0H8>

Tuvalu Constitution) while judges of the High Court are appointed by the by the Head of State, acting in accordance with the advice of the Cabinet given after consultation with the Chief Justice (s.123). No woman has served in the High Court.

The judiciary is considered independent and carried out fair trials. However, due the nature of the legal system, i.e. overseen by the Senior Magistrate with the Chief Justice only flying into the country about four times a year for the sitting of the High Court, long delays in determining legal disputes or appeals have resulted. Since the appointment of the Chief Justice, there have been various instances of tension in Tuvalu. In September 2019, the newly elected Tuvaluan government announced the suspension of the Chief Justice by the Acting Governor General for allegations of judicial misconduct, adding that he would be investigated by a two-member tribunal. This followed a tense relationship between the current government and the Chief Justice stemming from when the former was then in the Opposition. In 2016, a petition was made to the Governor General calling for the Chief Justice to step down following a ruling he made in a case involving a former Prime Minister and leader of the Opposition³¹⁵ that was blocked by the then PM. The Chief Justice who was recruited by the then Prime Minister also used to be the PM's lawyer.³¹⁶

Police

The Tuvaluan Police Force (TPF) maintains law and order and its functions include maritime surveillance, customs, prisons, and immigration. The TPF partners with key agencies such as UN Agencies, SPC, and the police networks in capacity-building and strengthening policing rules on a range of human rights issues including children's rights, domestic violence, etc.

Violence Against Women

The Family Protection Domestic Violence Act (FPDVA) 2014 was passed by Parliament protecting the rights of people from all forms of violence namely sexual, economic, emotional, and physical. The FPDVA criminalizes domestic violence and imposes mandatory responsibilities on the part of service providers to expediently attend to cases of violence in the home. It also establishes a Family Protection Fund. Significant to the establishment of the fund is the opportunity for survivors of domestic violence to access this money as per the criteria and developed operational policy.

The government has carried out extensive campaigns to raise awareness on DV and the new law. This includes celebrating White Ribbon Day awareness and campaign, which is coordinated and conducted by the Tuvalu Police Service on a yearly basis. The Gender Affairs Department conducts awareness raising campaigns with major stakeholders in the country.

Women's Empowerment

While sex or gender are not part of the prohibited grounds of discrimination in the Tuvaluan Constitution, the government has enacted a few pieces of legislation and policies to address a range of women's rights issues. The National Gender Policy seeks to a) increase capacity within all sectors of government to address key issues of concern in achieving gender equality and women's empowerment; b) reflect government's commitment to gender equality and women's empowerment in legislation and in sector policies affecting government and civil society; c) create an enabling environment for the full participation of women in economic development; d) enact measures to ensure access by women and men to

³¹⁵ <https://www.abc.net.au/radio-australia/programs/pacificbeat/calls-for-tuvalu-chief-justice-to-step-down-after/7947742>

³¹⁶ <http://www.pireport.org/articles/2016/10/16/tuvalu-protest-resignation-chief-justice-stopped-pm>

participate in decision-making to enhance leadership and governance at all levels; and (e) eliminate all forms of VAW.

Women's Economic Participation

The CEDAW Committee noted that a number the number of women holding the position of Assistant Secretary in the Government had increased from 20 percent to nearly 50 percent. However, it remained concerned about the stark underrepresentation of women in political and public life, especially at the highest levels of decision-making; in local government, including decision-making bodies (Falekaupule) and island councils (Kaupule); in the judiciary; and in the diplomatic service. The Labor and Employment Relations Act 2017 provides for equal employment opportunities and prohibits discrimination in employment.

Women's Political Participation

In its 16 seat Parliament, Tuvalu has only one female MP. The CEDAW Committee was concerned that systematic barriers, such as negative cultural attitudes, the lack of an adequate quota system, insufficient capacity-building for potential women candidates, limited financial resources, and the lack of logistical support, impeded the equal participation of women in political life. The United Nations country team echoed those concerns at Tuvalu's UPR.

Implementation of Core Human Rights Treaties

Tuvalu is the first and only country in the Pacific to design a national action plan. The National Action Plan (NAP) captures Tuvalu's existing commitments under human rights treaties to which it is a state party. It also captures Tuvalu's commitments under the Universal Periodic Review (UPR), the Sustainable Development Goals (SDGs), and the Te Kakeega III- 2016-2020 (TK III). NAP strives to consolidate the government's human rights commitments in ensuring a systematic and coordinated approach to delivery of the government's stated mission/goals and achieving other desired development outcomes to strengthen the realization of human rights in Tuvalu. While the Te Kakeega III is written in terms of development, most of the objectives within this key government document are linked to human rights, including the rights to education, health, life, housing, employment, voting, and participation on in both national and local government. To fulfill these development goals, the government is also realizing fundamental human rights that emanate from its obligations under international human rights instruments such as CEDAW, CRC, CRPD, and the UPR process.

National Human Rights Institutions (NHRI)

In 2017, the Tuvaluan Parliament passed the National Human Rights Institution Bill 2017 and the Leadership (Amendment) Code 2017 establishing the country's NHRI. The National Human Rights Institution Act 2017 aims at providing a relevant mechanism to ensure the full promotion and protection of fundamental freedom.

Children's Rights

Tuvalu has implemented various child protection laws and policies that realize its commitment under CRC. While the Child Protection and Welfare Bill of 2017 has yet to be passed, the CRC Committee expressed

its concern with the ‘delays in the adoption of the draft bill concerning children and the insufficient steps taken to harmonize its legislative framework with the Convention.’³¹⁷

The National Advisory Committee on Children's Rights (NACCR) is dedicated to fulfilling the government's commitment under the CRC and has extensive functions around reporting, consulting on the reports, engaging in the reporting process, coordinating implementation, and a range of activities specified in its TOR.

The Policy for the Protection of Children in all Educational Institutions in Tuvalu specifically applies to students under the age of 18 years and provides a framework for the protection, identification, managing, and reporting incidents of child abuse in schools and educational institutions whenever school activities and programs are conducted or provided. Among others, the Department of Education has a policy of zero tolerance in relation to the abuse, neglect, and exploitation of children. However, the UNCT report notes that students start dropping out in year six (age 10–11), with the majority dropping out in year eight. The CRC Committee was concerned that extra fees and hidden costs, such as school uniforms, lunch, and transportation, kept some children from families in a vulnerable situation from attending school and that the quality of education was deteriorating due to a lack of ongoing training for teachers, and outdated school facilities and teaching materials. Moreover, the CEDAW Committee called upon the government to eliminate traditional stereotypes and structural barriers that might deter girls from enrolling in traditionally male-dominated fields of study, such as science and technology, and step up efforts to provide girls with career counselling on non-traditional career paths. In fact, the Committee was concerned about the inadequate education infrastructure affecting girls in particular, including the lack of basic sanitary facilities, as well as the dismissal of pregnant girls from school and the absence of re-entry policies after giving birth.

The Government deposited with the ILO the instrument of ratification of the Worst Forms of Child Labor Convention, 1999 (No. 182) in June 2019.³¹⁸ Tuvalu is joining forces globally to end child labor, forced labor, modern slavery, and human trafficking, towards the attainment of Target eight of the SDG, which calls on all to take immediate and effective measures to ensure the prohibition of the worst forms of child labor, the eradication of forced labor, and by 2025, the end of child labor in all its forms. Tuvalu does not have cases of drug trafficking and serious criminal activities are rare, with many offenses largely misdemeanors.

Youth Rights/Issues

Tuvalu youth is identified as those between 15-34 years old.³¹⁹ The Tuvalu National Youth Council (TNYC) was established in 1978 with a vision “To be a recognized NGO that promotes, fosters and empowers the holistic development of young people of Tuvalu to become active citizens and leaders.” In 2019, Tuvalu's National Women and Youth Forum was held in Funafuti and discussed many issues, including EVAWG, advancing sexual and reproductive health and rights, increasing women's participation in leadership and ‘*falekaupule*’ (meeting house) decision making roles.³²⁰

³¹⁷ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/TUV/CO/2-5&Lang=En

³¹⁸ https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/child-labour/WCMS_709991/lang-en/index.htm

³¹⁹ <https://www.youthpolicy.org/factsheets/country/tuvalu/>

³²⁰ <https://pacificwomen.org/news/forum-enables-tuvaluan-youth-and-women-to-take-a-lead-role-in-national-issues/>

Rights of Persons with Disabilities

As discussed in the NAP, the government is taking steps to realize its commitment under the CPD. DPOs were actively involved in public consultation for the Tuvalu *Te KaKeega III* (National Strategy for Sustainable Development 2016 – 2020) and the NAP. However, there is no comprehensive legislation to domesticate the provisions of the CRPD.

The establishment of the Tuvalu National Disability Coordinating Committee is crucial in ensuring that the government is able to advance the implementation of CRPD, and more specifically to formulate and develop meaningful national decisions and actions that address issues concerning persons with disabilities (PWD). The TNDCC is the national focal point for disability in Tuvalu, while the Department of Community Affairs is the government's focal point for disability. Also, the Government will undergo a legislative compliance review with the aim of aligning national laws and policies with the CRPD.”³²¹

LGBTI Rights

Same sex-marriage is prohibited in Tuvalu. Sections 152, 153, 154 and 155 of Tuvalu's Penal Code outlaws homosexual conduct. Male homosexuality is punishable by imprisonment of between five to ten years, but the law is not enforced. An overview of LGBTI rights in Tuvalu is provided by Equaldex.³²²

Religious and Ethnic Minorities' Rights

The Tuvalu Constitution guarantees freedom of thought, religion, and belief (section 23), although there seems to be clashes with the right to religion and culture. However, an amendment to Tuvaluan laws has now ensured the paramountcy of culture over religion in the case.

Indigenous People's Rights

Cultural rights are enshrined in the Tuvaluan Constitution where the Preamble states that “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 Principles of the Constitution then adds that “The stability of Tuvaluan society and the happiness and welfare of the people of Tuvalu, both present and future, depend largely on the maintenance of Tuvaluan values, culture, and tradition” among others. In a Constitutional case on freedom of religion versus cultural rights, the High Court upheld the cultural rights, ruling that the *falekaupule* can forbid a new religious group from practicing their religion on their island. This decision was then appealed to the Tuvaluan Court of Appeal³²³ which reversed the decision. The government then passed the Religious Organization Restriction Act 2010 which among others, states that the “Establishment of any religion on any island of Tuvalu is restricted, unless it receives approval from the island *Falekaupule*; - a *Falekaupule* shall not withhold approval for establishment of any religion unless it is satisfied that the spread of beliefs and practices by the religious organization or association may directly threaten the values and culture of the island community; and that the decision made by a *Falekaupule* shall not be questioned in any court of law among others.”³²⁴ There are no major conflicts or challenges with indigenous rights given the racial composition is largely Tuvaluans.

³²¹ <https://ombudsman.gov.ws/wp-content/uploads/2019/01/samoa-nhri-submission-to-crc-committee-september-2015.pdf>

³²² <https://www.equaldex.com/region/tuvalu>

³²³ *Teonea v Pule o Kaupule of Nanumaga* [2009] TVCA 2; Court of Appeal Civil Appeal No. 1 of 2005 (4 November 2009).

³²⁴ UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21; A/HRC/WG.6/16/TUV/3.

Freedom of the Press

The Constitution provides for freedom of speech and freedom of the press, which the government generally respected these rights in practice. The Tuvalu Media Corporation is a public entity and operates the country's sole radio and television stations, as well as the biweekly newspaper, Tuvalu Echoes. Human rights groups have reportedly criticized that entity for its limited coverage of politics and human rights issues, but there had been no allegations of censorship or political agendas in reporting according to the UNCT. Internet access was largely limited to the capital because of the high cost and connectivity challenges. At its UPR, there were recommendations for the government to decriminalize defamation.

Freedom of Information Laws

Tuvalu does not have a FOI act but at its UPR, it received recommendations to create such law in accordance with international standards.

Civil and Political Rights

Freedom House rated Tuvalu as free with a total score of 93/100, broken down into 37/40 on the realization of political rights and 56/60 on the realization of civil liberties.

Economic, Social and Cultural Rights

Concerns have been raised on the passing of the Religious Organizations Restriction Act of 2010, which had resulted in restrictions on the freedom of religion by giving discretion to the registration of religious organizations on each island to the traditional assembly of elders (Falekaupule).

The UNCT stated that around three quarters of the labor force worked in the informal economy, primarily subsistence farming and fishing. Underemployment, particularly of young people on the outer islands, had fueled the increasing urbanization of Funafuti. A review of the Employment Act, the Industrial Code, and the Trade Unions Act had been undertaken, on the basis of which the Tuvalu Labor and Employment Relations Act had been enacted in November 2017.

Workers in Tuvalu have the right to strike, organize unions, and choose their own representatives for collective bargaining, however, with two thirds of the population engaged in subsistence farming and fishing, there was only one registered trade union (for merchant marine workers)—the Tuvalu Overseas Seafarers Union.

Tuvalu is classified as a least developed country but had met the threshold for graduation based on its human development indicators and high per capita income. However, poverty has increased in the previous decade, particularly in urban areas. In that regard, the CRC Committee was concerned at the report that many elderly-headed households with children lived in poverty. The Committee was also concerned that children lived in overcrowded conditions in informal squatter settlements that had developed as a consequence of internal migration from the outer islands to Funafuti, and that they were exposed to higher risks of infectious and waterborne diseases. The UNCT stated that one of the key priority areas was urban management, particularly in dealing with land and waste management in the capital city. It also noted that there were no rivers or streams on the islands, and the groundwater supply was brackish and generally not safe for consumption. During periods of drought, water security is a critical health issue in Tuvalu.

3.7.6 CORRUPTION

Laws on Anti-Corruption

The Penal Code criminalizes corruption offences such as bribery and trading in influence; money-laundering, concealment; embezzlement, abuse of functions, and illicit enrichment and obstruction of justice.

National Institutions on Anti-Corruption

There is no single anti-corruption institution in Tuvalu. The anticorruption mandate is spread across several bodies, including the Attorney-General, Police Force, Ombudsman, Auditor-General, Public Service Commission, and Central Procurement Unit. The Ombudsman Office is established under the Leadership Code Act 2014. The Ombudsman's role includes enquiring into any complaints or allegations of misconduct on the part of any leader and other related complaints against leaders. Additionally, the Ombudsman is not subject to direction or control by any other person or authority.

Ratification of UN Convention Against Corruption

Tuvalu ratified UNCAC in 2015 and was reviewed by the Implementation Review Group the UNCAC Conference of State Parties in Vienna.³²⁵

3.7.7 GOVERNMENT RESPONSIVENESS AND EFFECTIVENESS

Governance in Practice

In 2019, the Tuvalu undertook nation-wide consultation on the amendment of its Constitution. The work was put on hold for the country to go to elections. Since then the government has changed.³²⁶ While Tuvalu generally does not have poor governance issues, one of the key issues challenging the government is the royalty payments for the landowners of Funafuti, which houses the government infrastructures. In July 2019, landowners had blocked the country's only airport,³²⁷ which resulted in the government taking the landowners to court.³²⁸

Government Performance on Health

The CEDAW Committee commended the government for improving access to health care for those on the outer islands by establishing health centers on all of Tuvalu's islands with professional health personnel, including trained midwives, and for considerably reducing maternal mortality as a result of improved detection services regarding high-risk pregnancies. However, the Committee was concerned that women, in particular on the outer islands, continued to experience difficulties in gaining access to affordable and adequate health care and, especially, that the health centers on the outer islands were not sufficiently equipped to attend to deliveries in the event of complications. Moreover, the CRC Committee remained concerned that about 50 percent of Tuvaluans aged 15 to 19 years were either overweight or obese due to unhealthy eating practices and were at risk of non-communicable diseases.

³²⁵ <https://www.unodc.org/unodc/en/corruption/country-profile/countryprofile.html?CountryProfileDetails=%2Funodc%2Fcorruption%2Fcountry-profile%2Fprofiles%2Ftuv.html>

³²⁶ <https://www.rnz.co.nz/international/pacific-news/398454/tuvalu-elections-large-turnover-for-new-parliament>

³²⁷ <https://www.rnz.co.nz/international/pacific-news/393389/tuvalu-landowners-block-airport-over-lease-non-payment>

³²⁸ <https://www.rnz.co.nz/international/pacific-news/395729/tuvalu-police-ordered-to-arrest-anyone-who-obstructs-airport>

Government Performance on Education

UNESCO noted that the national legal framework contained limited reference to the right to education. It recommended that Tuvalu adopt more comprehensive legal guarantees on the right to education to guarantee that right for all, without discrimination or exclusion. The CRC Committee commended the government for providing compulsory free education from ages six to 16, and for achieving near universal primary enrolment. The attendance rate of 98 percent for primary school was also commended. However, the UNCT noted that students started dropping out in year six (age 10–11), with the majority dropping out in year eight. The implementation of the Tuvalu Education Sector Plan III 2016-2020 (TESP III) includes all sectors of the Education Department from ECCE, primary and secondary level as well as TVSD. The department has also developed an overarching work plan by mapping out the original sector plan to cover a period of five years and identifying the relevant units/sectors to work on achieving the desired deliverables.

3.7.8 KEY AID RELATIONSHIPS

In 2019, the Australian government opened their new embassy in Funafuti. Together with the Tuvaluan government, Australia's development assistance will focus on improving governance and physical resilience, improving education and human resources, building resilience to environmental and climate change impacts, and gender equality as a cross cutting issue. The Australian Government will provide an estimated \$9.3 million in Official Development Assistance (ODA) to Tuvalu in 2019-20. This will include an estimated \$6.6 million in bilateral funding managed by the Department of Foreign Affairs and Trade (DFAT).³²⁹

Australia became the second country to have a resident diplomatic embassy apart from Taiwan. The new Tuvaluan government has expressed its strong support for Taiwan with new foreign Minister, Simon Kofe stressing that "Tuvalu and Taiwan diplomatic ties are the strongest they have ever been."³³⁰ Tuvalu also enjoys bilateral aid support from New Zealand, whose development priorities include improving access to safe and climate resilient public utilities and services improving Tuvalu's fisheries management capacity ensuring Tuvalu's financial management systems are more robust and effective, improving vocational pathways and qualification standards, leading to increased employment opportunities.³³¹

3.7.9 CLIMATE CHANGE, ADAPTATION AND FINANCING

Tuvalu's *Te Kaniva* (Tuvalu Climate Change Policy) prescribes the Government and the people of Tuvalu's strategic policies for responding to climate change impacts and related disaster risks over the next 10 years (2012–2021).³³² Tuvalu's key vulnerabilities as identified in its second national communication under the UNFCCC are agriculture/food Security; coastal zones and marine ecosystems; water resources and public health.³³³ In 2015, the government established the Tuvalu Survival Fund Act to finance immediate adaptation actions and in preparedness for response to natural hazards.³³⁴ In 2017, Tuvalu received financing of \$39 million from the Green Climate Fund for coastal adaptation projects aiming to build

³²⁹ <https://www.dfat.gov.au/geo/tuvalu/development-assistance/Pages/development-assistance-in-tuvalu>

³³⁰ <https://www.reuters.com/article/us-taiwan-diplomacy-tuvalu/tuvalu-rejects-china-offer-to-build-islands-and-retains-ties-with-taiwan-idUSKBN1XV0H8>

³³¹ <https://www.mfat.govt.nz/assets/IATI-PDFS/PACPF/Tuvalu.pdf>

³³² https://reliefweb.int/sites/reliefweb.int/files/resources/TUV_2012_Te_Kaniva_CCpolicy.pdf

³³³ <https://www.adaptation-undp.org/projects/trust-tuvalu-second-national-communication>

³³⁴ https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/2015/2015-0011/ClimateChangeandDisasterSurvivalFundAct2015_1.pdf

resilience to sea-level-rise. The Tuvalu Coastal Adaptation project targets high vulnerability coastline where wave action drives erosion and inundation with ecosystem-based adaptations, beach nourishments, and sea walls.³³⁵

Under the US\$38.9 million³³⁶ *Tuvalu Coastal Adaptation Project (TCAP)*, the Government of Tuvalu is implementing measures to reduce the impacts of climate-induced sea level rise and intensifying storm events on key infrastructure.³³⁷

In 2019, Tuvalu became an implementing partner to the adaptation fund, which gives countries the ability to access financing and develop projects directly through the Fund. The accreditation process builds national capacity to address climate change as developing countries nominate an organization-based on the country itself becoming accredited, which in turn must pass rigorous standards to effectively manage projects and foster environmental, social, and gender principles. After recommendations by the Fund's expert Accreditation Panel (AP), the Adaptation Fund Board decided to accredit the Ministry of Finance and Economic Development (MFED) of Tuvalu as its 31st NIE on July 15, 2019.³³⁸ In 2010–2014, a total of US\$37.9 million in grant (or grant-equivalent) finance was allocated to Tuvalu for activities that principally targeted climate change objectives. In addition, data on multilateral climate fund activities show that between January 2015 and September 2016, Tuvalu was allocated US\$36 million from the Green Climate Fund, for coastal adaptation; and US\$2.64 million from the Global Environment Facility, to support sustainable national energy targets.³³⁹

³³⁵ <https://climateknowledgeportal.worldbank.org/country/tuvalu/adaptation> see also <https://www.greenclimate.fund/project/fp015>

³³⁶ <https://www.adaptation-undp.org/tuvalu's-climate-resilience-shored-launch-us389-million-adaptation-project>

³³⁷ <https://www.adaptation-undp.org/projects/tuvalu-coastal-adaptation-project>

³³⁸ <https://www.adaptation-fund.org/adaptation-fund-opens-doors-to-climate-finance-to-new-national-implementing-partners-in-zimbabwe-and-tuvalu/>

³³⁹ https://www.preventionweb.net/files/51664_seiwp201704pacificclimatefinanceflo.pdf

3.8 REPUBLIC OF KIRIBATI



Population	Land area	Maximum elevation above sea level	EEZ
115,847	811 km ²	81 m	3 441 810 km ²

3.8.1 FORMAL GOVERNMENT STRUCTURE

The country consists of the Gilbert Islands, Banaba, the Phoenix and the Line Islands and stretches across an expanse of the Pacific Ocean equivalent in width to that of the continental United States. Kiribati is a democratic republic with a mixed parliamentary/presidential system which combines in one person the roles of Head of State and Head of Government.

Status: Independent (from the UK): 1979

Head of State & Head of Government: The President, is elected by popular vote for a four-year term; the legislature, the *Maneaba ni Maungatabu*, chooses the presidential candidates from among its 46 members and then those candidates compete in an election which is held after the *Maneaba* has met. In June, the people of Kiribati re-elected the sitting President. The main issue touted for the election of the President was the issue of Taiwan and China where President Taneti Maamau was responsible for the diplomatic recognition of China over Taiwan in 2019.³⁴⁰

Elections: Every four years.

National Identity and Cohesion

Kiribati has one indigenous language, Kiribati, a small population, low ethnic and cultural diversity, with a moderate level of national cohesion, a history of political stability but low levels of development. Originally part of the Gilbert and Ellice Islands Colony administered by the British, Kiribati includes the island of Banaba, which was a phosphate mine until the deposits were exhausted in 1979, the year of the country's independence. The Banaban population was removed by the British to Rabi, an island in Fiji, in 1947, and is now a minority group in that country. One member of the Kiribati parliament is nominated and comes from Rabi.

Relationship Between State and Society

The relationship between state and society is close and personalized in this small country. South Tarawa is home to more than half the population of Kiribati and has a population density similar to that of Hong Kong. Most people retain close kinship links to their home islands.

3.8.2 INCLUSION

Ethnic and Linguistic Diversity

There is little ethnic and linguistic diversity in Kiribati. Most people are indigenous i-Kiribati speaking the same language.

³⁴⁰ <https://www.rnz.co.nz/international/pacific-news/419640/taneti-maamau-re-elected-president-of-kiribati-in-blow-for-taiwan>

Ethnic Divisions as a Source of Instability

Not Applicable.

Women's Political Participation, Including Temporary Special Measures (TSM)³⁴¹

Election Year	1987	1991	1995	1999	2003	2007	2011	2015	2019	2020
No. of Seats	46	46	46	46	46	46	46	46	46	46
Number of Women MPs	0	0	0	0	0	3	4	3	5(a)	4
Percentage	0.0	0.0	0.0	0.0	0.0	6.5	8.7	6.5	10.9	8.7

3.8.3 COMPETITION AND POLITICAL ACCOUNTABILITY

Political System and Recent Developments

The political system in the villages is highly traditional. As Takuia Uakeia writes: “The maneaba, a multi-purpose meeting hall, is the center of the traditional political system in the village. It is here that the old men, by virtue of their status, come and occupy their sitting positions and make decisions about the affairs of the community. These discussions and decisions are intended to promote the well-being of the people and the strengthening of order and peace in the community. The decisions from the maneaba, based on lengthy discussions, are taken by consensus among the *Unimwane* (old men) and are then passed on to the community for implementation.”³⁴² Kinship ties and family connections continue to play a key role in elections and national politics. Following the 2020 national elections, Kiribati elected their first female Speaker of Parliament.³⁴³

Electoral System and Elections

Islands with fewer than 1,500 people have one member in Parliament, islands with between 1,500 and 5,000 people have two, and there are three members for constituencies with more than 5,000 people. There are 46 members of the legislature: 44 elected for a four-year term; one appointed member from the Banaban community on Rabi Island (in Fiji); and the attorney general. Vote buying is illegal, but in practice, candidates make donations to villages, as well as drawing upon the support of kin.

The 2020 elections in Kiribati (the last were in 2016) were delayed for a week because of the COVID-19 virus pandemic. The government put the country on alert and confined people to their homes. 44 of the 46 members of the Parliament of Kiribati are elected in a two-round process over two weeks. The governing party, which had switched recognition from Taiwan to China in 2019, lost its majority in the 2020 elections, with other parties vowing to switch recognition back again.³⁴⁴

³⁴¹ <https://www.pacwip.org/country-profiles/kiribati/>

³⁴² Takuia Uakeia ‘Kiribati’, in Stephen Levine, *Pacific Ways: Government and Politics in the Pacific Islands*, Wellington, Victoria University Press, 2016:119.

³⁴³ <https://www.pacwip.org/country-profiles/kiribati/>

³⁴⁴ ‘Pro-China Kiribati president loses majority over switch from Taiwan’, *Guardian*, 24 April 2020, <https://www.theguardian.com/world/2020/apr/24/pro-china-kiribati-president-loses-majority-over-switch-from-taiwan>

3.8.4 DECENTRALIZATION

Kiribati has three town councils, Kiritimati Island Urban Council, Betio Town Council, and Teinainano Urban Council, and 23 Island councils, responsible for early of years schooling, primary healthcare, public sanitation, transport, water supply, and economic regulation, but their budgets amount to no more than one percent of government expenditure and infrastructure is poor. The country suffers from being spread out over a large expanse of ocean: Kiritimati Island is 3,288 kilometers from the capital in Tarawa, almost the width of the continental United States in a country of about 116,000 people.

Political Stability

The Kiribati constitution (section 78) provides that if there is a successful no-confidence motion moved in the Parliament, fresh elections are held in which all members must stand again. The effect of this provision has been to give Kiribati greater political stability than some of its neighbors because it is not possible for MPs to move a motion of no-confidence successfully without putting their own political careers at stake.

Military Forces and their Role in Politics

Kiribati does not have a military.

Civil Society Organizations

Over 50 non-governmental organizations (NGOs) work in several areas, including climate change and work in partnership with government in addressing the impact of natural disasters. Other areas include the provision of social and development services, such as building of schools, providing primary health care, and supporting persons with disabilities. “The majority of these NGOs have been participating in human rights training, which also include shadow report writing and submission of civil society reports to the UPR357 or treaty body process. Most active NGO’s are women’s groups. Religious bodies have also been involved in capacity-building around human rights and violence against women, as they are influential in changing attitudes and perceptions, especially around VAW.”³⁴⁵

3.8.5 RULE OF LAW AND HUMAN RIGHTS

Judiciary

The Kiribati Code of Conduct for Judicial Officers notes that Judicial independence is essential to the rule of law and the fair conduct of trials, and that a Judicial Officer should therefore uphold and exemplify judicial independence in both its individual and institutional aspects.³⁴⁶

Kiribati has a three-tier court structure with the Court of Appeal as its final appellate court. The High Court is a court of original and unlimited jurisdiction while the Magistrates Court serves as the lower court. The Chief Justice is the head of the judiciary and is appointed by the President with the advice of the Cabinet, tendered after consultation with the Public Service Commission, (s.81(1) Kiribati Constitution), while judges of the High Court are appointed by the by the President, acting in accordance with the advice of the Chief Justice sitting with the Public Service Commission (s.81(2)). No woman or *I-Kiribati* has served as a judge or Chief Justice of the High Court.³⁴⁷

³⁴⁵ Pacific Community, 2016:55.

³⁴⁶ <http://www.fedcourt.gov.au/pjdp/materials-developed/access-to-justice/Code-of-Conduct-Kiribati.pdf>

³⁴⁷ <https://samoaglobalnews.com/sls-bills-fundamentally-technically-defective/>

Police

The Kiribati Police Service (KPS) is tasked with upholding the rule of law and order. While there are no reports of police brutality in Kiribati, the KPS also includes oversight of the Kiribati Prison. The KPS receives consideration training and capacity support from a range of partners including the Pacific Policing on domestic violence, SPC RRRT, and UN agencies among others.

Violence Against Women

The Kiribati Family Health Association (KFHA) Report 2010 confirms the high rate of violence against women at about 68 percent. Gender Inequality is perpetuated by cultural and social norms inherent in the traditional systems. Since the KFHA the government has responded through technical assistance from SPC RRRT to the design and development of a stand-alone domestic violence legislation. The *Te Rau n Te Mwenga Act* (Family Peace Act- FPA) was passed by parliament in 2014, which criminalizes domestic violence and provides a range of judicial remedies and protective orders to survivors of DV. Furthermore, with support from UN Women, DFAT, and SPC RRRT, there have been comprehensive support provided to the government for the design, development, and supporting of implementation of the law, DV protocols, policies, and standard operating procedures. Through a joint collaboration with development partners the government endorsed a Shared Implementation Plan (SHIP) for the Eliminating Sexual and Gender Based Violence (ESGBV) Policy and National Action Plan (NAP) 2011-2021 to respond to Gender Based Violence.

The country has implemented a SAFENET system which coordinates the support provided by key front service providers to survivors of SGBV. A SAFENET Case Management Review Committee (CMRC) comprising of key front service providers meets monthly to review cases and to ensure all reported cases reach the end without being dropped. The Committee was established in 2017 with coordination support of the SAFENET Support Officer (SSO) supported by the Essential Services Package (ESP) funds. Other strategies to addressing DV in Kiribati is the Strengthening Peaceful Villages Kiribati (SPVK) Project which is about mobilizing women, girls, men, and boys in favor of respectful relationships and gender equality aimed at ending violence against women and girls and changing social norms, behaviors, and power inequality between men and women. In line with the FPA, a counselling service called the Kiribati KWCSC was established in 2017, providing key counselling service and legal advice for women, girls, and children. It also supports survivors through a provision of court services and accompanying them to the Police and hospital where needed. Such cases were domestic violence, child sexual abuse, rape, and others. Moreover, counselling service is also extended to perpetrators with the aim to rehabilitate and change the perpetrator's violent behaviors. In 2019, the Kiribati Police, with support from UN Women, published a Kiribati Police Service Domestic Violence and Sexual Offence Standing Orders and Procedures.

Despite being a patriarchal society, Kiribati generally respects women's rights and contribution to the community. Gender equality is generally respected across the government affirmed by the launching of the Gender Equality and Women Development Policy (GEWD) in 2019 to roll out a coordinated and integrated approach to address gender equality in Kiribati. Laws such as EIRC, Part XII, Section 107–114, prohibit all forms of discrimination including in recruitment, training, and promotion. It also ensures equal remuneration for men and women and prohibits victimization and sexual harassment.

The Kiribati parliament is elected for a four-year term. Since the 2007 elections, three women have been elected into parliament including one who became the Vice President from 2007 till 2015. In its 46 Member Parliament, Kiribati currently has three women representatives.

Implementation of Core Human Rights Treaties

While Kiribati is a State party to four of the core human rights treaties, it remains challenged of both reporting and implementation of the treaties. Kiribati has in the past relied on both external and internal consultants to write its State reports. However, the Human Rights Taskforce has now sought technical assistance from agencies like SPC RRRT to assist it in writing the State reports.

Kiribati continues to face challenges in implementing the recommendations on the various human rights commitments. These include adequate resourcing of implementation, capacity constraints, and staff turnovers, and other development priorities. Moreover, lack of access to data and ministerial updates and changes to the membership of the Kiribati National Human Rights Taskforce (HRT) hinder national coordination and progressing human rights commitments. Moreover, the HRT greatly relies on donor support and external technical partners to fill capacity gaps around treaty reporting and implementation. The HRT had relied on UN Women support for completing its overdue CEDAW report, while seeking expertise from SPC RRRT to support the development of its Implementation Plan for the domestic violence law, while UNICEF provides technical and financial support for writing the CRC report and its implementation, including the design and development of child protection policies and referral pathways for the protection and safety of children with a costed implementation plan, as well as HR strategy and training of staff.

National Human Rights Institutions (NHRI)

Kiribati does not have a stand-alone Paris Principle compliant NHRI, however in February 2020, the Kiribati government received a technical team from SPC RRRT and the Asia Pacific Forum for National Human Rights Institutions to conduct a scoping study on the feasibility and desirability of the government in establishing its NHRI. In 2014, the Kiribati Cabinet established a National Human Rights Taskforce (KNHRT) under the Ministry for Women, Youth Sports and Social Affairs (MWYSSA) to support the government's efforts in mainstreaming human rights, as well as reporting for Kiribati human rights treaties. In 2018, the KNHRT was moved to the newly established Ministry for Justice as the Human Rights division. There were recommendations at Kiribati's UPR for it to consider strengthening the independence of the KNHRT so that it complied with the Paris Principles.

Children's Rights

Kiribati has taken considerable steps to ensure the realization of children's rights, including the enactment of the Children, Young People and Family Welfare Act in 2013 and the Juvenile Justice Act 2015. Through MWYSSA, a national child protection working group was established as the national coordination body for the welfare and protection of children. Moreover, a multisectoral child protection referral protocol had been developed to guide service providers in their response to children who were at risk of or were victims of abuse, neglect, and exploitation.

One of the main challenges in Kiribati is the proper registration of births. However, the government has ensured that birth registration is encouraged through measures as Birth, Death, Marriages Registration Division staff being based at the Ministry of Health to register newborn babies. Through UNICEF's support the Civil Registration Office (CRO) is being assisted to enhance and support their work in registering births. EIRC 2015 prohibits all worst forms of child labor, including the use of children for prostitution, production of pornography, and offering children for illicit activities, complementing the CRC.

UNESCO noted that the progression rate from year five to year six had decreased from 89 percent to 74 percent between 2014 and 2016, suggesting that a large minority of children did not receive basic

education to the end of primary school, despite it being free of charge and compulsory. Moreover, there are rising dropout rates at the primary and junior secondary school levels which needs further investigation.

Youth Rights/Issues³⁴⁸

Youth is identified as those between 15-29 years in the national youth policy. While the Ministry for Youth oversees the government's youth policies and frameworks, the Kiribati National Youth Council (KNYC) is an umbrella organization for youth organizations in Kiribati with its mission statement focused on "More visibility, commitment, and impact for the young people in Kiribati." Youth unemployment was about 54 percent in 2010 but fell to 17.12 percent in 2015.³⁴⁹ Youths are engaged in a range of advocacy issues especially climate change.³⁵⁰

Rights of Persons with Disabilities

Realizing the rights of PWD remains an ongoing challenge though the government is taking steps through various frameworks to ensure that rights of PWD are realized. The formulation of the Kiribati National Disability Policy and Action Plan 2018-2021 provides priorities of government in supporting PWDs and especially guides the implementation of the CRPD. There are concerns that there are insufficient specific psychosocial support programs aimed at effectively addressing the accumulated experiences of discrimination and stigma faced by PWDs, with a view to providing a space for expression, building self-confidence, and empowerment.

The Kiribati government through the Ministry of Social Affairs provides a monthly disability allowances for disabled persons. The Inclusive Education Policy has been assented by Parliament noting that children with disabilities face great challenges in accessing inclusive education and the fact that reasonable accommodations, as set out in the CRPD, remain a challenge in its implementation, especially for children with disabilities.

LGBTI Rights

Same sex-marriage is prohibited in Kiribati. Homosexuality is punishable by imprisonment of between five to 14 years, but the law is not enforced. Discrimination in employment on the basis of sexual orientation is prohibited.³⁵¹

Religious and Ethnic Minorities' Rights

Under Section 11 of the Constitution, freedom of religion is guaranteed. The Constitution states that 'Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.' There are no ethnic minorities of any importance.

³⁴⁸ <https://www.youthpolicy.org/factsheets/country/kiribati/>

³⁴⁹ <https://www.indexmundi.com/facts/kiribati/youth-unemployment>

³⁵⁰ <https://www.earthguardians.org/engage/2016/8/20/water-is-life>

³⁵¹ <https://www.equaldex.com/region/kiribati>

Indigenous People's Rights

The Constitution safeguards cultural rights with the Preamble stating that “We declare that we shall continue to cherish and uphold the customs and traditions of Kiribati.” About 96 percent of people in Kiribati are i-Kiribati with the rest comprising Tuvaluans and other communities. There are no major conflicts or challenges with indigenous rights given the racial composition is largely i-Kiribati.

Freedom of the Press

While freedom of expression is guaranteed under section 12 of the Kiribati Constitution, exceptions can be made in relation to matters concerning public safety, public order, public morality, and an individual's reputation. Newspapers were required to register with the Government under the Newspaper Registration Act 1988 and, under the 2004 amendment to that Act, the Government was granted the power to terminate the publication of newspapers that faced complaints. A Communications Commission of Kiribati was charged with implementing and enforcing the Communications Act, including the granting and management of licenses. All members of the board of the Commission were appointed by the Government, though recommendations were made at Kiribati's UPR for the Government to assess the system for appointing members of the Communications Commission to ensure the body's independence. Like a few Pacific countries, defamation was a criminal offence under article 184 of the Kiribati Penal Code and that the publication of defamatory matter concerning a person was considered unlawful under article 187. In 2018, the government reportedly banned foreign journalists from the country who were keen to report on the ferry disaster that resulted in the deaths of 81 people.³⁵²

Freedom of Information Laws

Kiribati has no FOI legislation, though Section 12 of the Constitution provides that everyone has the freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference, and freedom from interference with his or her correspondence.

Civil and Political Rights

Freedom House rated Kiribati as free with a total score of 93/100, broken down into 37/40 on the realization of political rights and 56/60 on the realization of civil liberties.

Economic, Social and Cultural Rights

Kiribati economic freedom score is 45.2, making its economy the 172nd freest in the 2020 Index. Its overall score has decreased by 2.1 points due to a plunge in the trade freedom score. Kiribati is ranked 41st among 42 countries in the Asia-Pacific region, and its overall score is well below the regional and world averages. The economy of Kiribati generally has been considered repressed since its Index grading began in 2009.³⁵³ Kiribati is a party to the following ILO Conventions: the Abolition of Forced Labor Convention, 1957 (No. 105), the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), the Collective Bargaining Convention, 1981 (No. 154), the Equal Remuneration Convention, 1951 (No. 100), the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labor Convention, 1999 (No. 182), among others.

³⁵² <https://www.abc.net.au/radio-australia/programs/pacificbeat/kiribati-ferry-disaster:-government-criticised-for/9406180>

³⁵³ 2020 Index of Economic Freedom: <https://www.heritage.org/index/country/kiribati>

3.8.6 CORRUPTION

Laws on Anti-Corruption

The Kiribati Government has agreed on the very ambitious goal to create a corrupt-free Kiribati society by the year 2036.³⁵⁴ The government has created initiatives and public awareness to ensure that corruption is addressed.³⁵⁵ In 2016, the government established a Leadership Commission following the passing of the Leadership Code Act. The Penal Code criminalizes corruption offences such as Bribery and trading in influence, money-laundering, concealment, embezzlement, abuse of functions and illicit enrichment, and obstruction of justice.

National Institutions on Anti-Corruption

Kiribati does not have a stand-alone anti-corruption institution, however the DPP's office within the Office of the Attorney General is the chief prosecuting agency for corruption matters. Other agencies that support the fight against corruption include the Office of the President, the Commissioner of Police, the Financial Intelligence Unit, the Department of Prisons, the Auditor-General, and the Ministry of Finance and Economic Development. Meetings were also held with the Chamber of Commerce.

Ratification of UN Convention Against Corruption

Kiribati acceded to UNCAC on September 27, 2013, and in 2015 was reviewed by the Implementation Review Group at the Conference of State Parties to UNCAC in Vienna.³⁵⁶ In February 2020, Kiribati hosted the first Pacific Regional Anti-Corruption Conference where participating governments agreed to the *Teieniwa Vision* as an outcome of the Conference. The said vision is a statement of goals and principals for Pacific countries to aspire to. A key section urges Pacific governments to “Commit to Pacific Unity Against Corruption, recognizing that all of our progress and aspirations for a peaceful, harmonious, and prosperous Pacific cannot be realized unless we address corruption.” Documents of the *Teieniwa Vision* were signed by leaders and heads of delegations and the statement will need to be discussed and endorsed by Pacific Leaders at the upcoming PIF meeting in Vanuatu. Kiribati President Taneti Maamau said following the Conference that “We have called on all Pacific leaders to champion integrity, advocating for and implementing best anti-corruption practices through commitment to criminalization of corruption and prompt impartial investigation and prosecution.” If endorsed, the document could provide guidance to Pacific countries looking to enhancing regional frameworks to tackle corruption and provide a unified position in preparation for the UNGA Special Session on anti-corruption in April 2021.³⁵⁷ Kiribati is part of the UNDP/UNODC's Pacific Regional Anti-Corruption Project.³⁵⁸

3.8.7 GOVERNMENT RESPONSIVENESS AND EFFECTIVENESS

Governance in Practice

In September 2019, the Kiribati government ended its long-term relationship with Taiwan and switched its recognition to China, followed by a visit of the Kiribati President to China in January 2020.³⁵⁹ Reportedly the April 2020 national election was fought on this issue of China-Taiwan with the President

³⁵⁴ https://www.unodc.org/documents/treaties/UNCAC/COSP/session7/SpecialEvents/Taneti_Mamau_President_of_Kiribati.pdf

³⁵⁵ <https://www.pso.gov.ki/index.php/downloads/finish/12-pamphlets/2074-report-corruption-pamphlet/0.html>

³⁵⁶ <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V1502140e.pdf>

³⁵⁷ <https://www.samoaoobserver.ws/category/samoa/58098>

³⁵⁸ <https://www.undp.org/content/dam/fiji/docs/UN-PRAC%20Brochure%202018.pdf>

³⁵⁹ <https://thediplomat.com/2020/01/kiribati-president-makes-first-trip-to-china-after-switch-from-taiwan/>

losing his majority seats in the Maneaba (parliament).³⁶⁰ The government has also been criticized for its handling of the ferry disaster in 2018 that resulted in the death of 81 people.³⁶¹

Government Performance on Health

Medical services and medicines are free in Kiribati. The health care facilities are available throughout the country with four main hospitals at different locations for ease of access to the population in North, Central, South, and East (Line and Phoenix Islands); Island Health Centers are located in all Islands, and village clinics/dispensaries. In addition, visits to households for certain individual health cases are undertaken by health staff. A Communicable Disease Control Unit was established in 2015 within the Health Services, which the Reproductive, Maternal, Neonatal, Child, Adolescent, Health (RMNCAH) program assists to extend to all of Kiribati to reduce the prevalence of risk factors for NCDs. Midwives are available in all outer island clinics established on Island Council payroll, and there are outreach services for maternal and childcare. They provide support to nurses on the islands with baby deliveries in villages. There are also health supports to traditional births attendants for home-based deliveries of babies to ensure good standard of services provided by traditional birth attendants. There is also provision of services through the RMNCAH to outer islands. The RMNCAH program provides a comprehensive program that also support efforts to reduce maternal and infant mortality rates and staff training. UNICEF has been a consistent partner for Kiribati immunization programs for children, also supporting the pharmacy, capacity-building for nurses, and others. Access to safe and clean drinking water remains a big challenge for Kiribati whose main sources of drinking water include ground water, sea water (desalinated), and rainwater.

Government Performance on Education

Government developed a National Education Policy Framework in 2017 which provides overall guidance for education in Kiribati, to ensure access to high-quality education, inclusive implementation of the Act, and monitoring. The framework has nine key policy pillars, and each has a set of policy statements documented, that establish expected behaviors, practices, and standards. The primary and junior secondary schools are compulsory and free; the senior secondary school is free only up to Years 10 to 12 under the Government's Free Education policy.

The Government approved the Inclusive Education Policy in 2015 which contains i) provision of a flexible curriculum which caters to student's varied and changing needs in all schools; ii) training of teachers to deliver educational programs and strategies for inclusive education; iii) compulsory education for all school aged children (at Primary and Junior Secondary) including children with special needs; iv) recognition of parents'/caregivers' role in all stages of their child's education. The MOE, with support from UNICEF on improving Early Childhood Developments (ECD), has recently approved the Early Childhood Care Education Act 2017, availing the opportunity to start learning from the age of four and preparing children for primary school.

Government Performance on the Environment

The transition from a traditional subsistence lifestyle to a contemporary market-based economy has brought with it key environmental challenges. These challenges are most apparent in the heavily populated urban centers of Betio, South Tarawa, and to a certain extent Kiritimati Island. South Tarawa is also

³⁶⁰ <https://www.theguardian.com/world/2020/apr/24/pro-china-kiribati-president-loses-majority-over-switch-from-taiwan>

³⁶¹ <https://www.abc.net.au/radio-australia/programs/pacificbeat/kiribati-ferry-disaster:-government-criticised-for/9406180>

where over 50 percent of the population live. Kiribati is one of the countries' most vulnerable to global climate change, and addressing the impacts of global climate change dominates the national environment and development agenda. However, Kiribati needs to address climate change in an integrated and holistic manner considering the other key areas of biodiversity conservation, waste and pollution management, and sustainable use of natural resources, in particular marine and water resources. Eco-system-based approaches need to be adopted to ensure that development aspirations are sustained by natural systems. The need for behavioral change to address environmental problems, in particular waste management and the critical need for pollution control in the capital Tarawa, is most readily apparent not only on heavily populated urban centers but also on other Islands.³⁶²

3.8.8 KEY AID RELATIONSHIPS

The Australian Government will provide an estimated \$27.3 million in total ODA to Kiribati in 2019-20. This will include an estimated \$20.2 million in bilateral funding managed by the Department of Foreign Affairs and Trade (DFAT).³⁶³ Apart from scholarship opportunities, Kiribati is also part of the Seasonal Workers Program and the Pacific Labor Scheme that allows i-Kiribati to work in Australia for up to certain period of time.³⁶⁴

As part of NZ's Pacific Reset program, NZ's development cooperation and priorities for Kiribati includes ensuring Kiribati benefits long term from its fisheries resources; supporting efforts to reduce population pressure in South Tarawa; providing I-Kiribati with adequate health and education services; ensuring that Kiribati is well governed and supported by stable government revenue; assisting Kiribati with climate change adaptation responses to explore options for creating climate resilient urban land in south Tarawa, etc.³⁶⁵ Up until 2019, Taiwan provided a range of technical and development support for Kiribati. Since China has stepped in, there have been reported discussions on setting up a strategic but mothballed Chinese space tracking station.³⁶⁶ Most of the Kiribati government's trading and development partners are served out of their embassies in Fiji or New Zealand. Apart from Australia and New Zealand, the only other resident diplomatic mission is the Cuban mission.

3.8.9 CLIMATE CHANGE, ADAPTATION AND FINANCING

The Kiribati government has established centralized coordination of climate change adaptation (CCA) and financing. This has started by assigning coordination of CCA, mitigation and disaster risk management (DRM) to the Office of *Te Beretitenti* (President). In parallel, and to ensure efficiency and coordination, a Climate Finance Division has been established in the Ministry of Finance and Economic Development to access and channel external financial assistance to support implementation. These steps are essential in harmonizing a whole-of-government response to this issue. The government's climate change strategy is contained in the Kiribati Climate Change Policy 2019.³⁶⁷ An economic evaluation of the costs of climate change related risks has been estimated to be 35 percent of Kiribati GDP. This estimate takes into account only the potential impacts of climate change on coastal zone (US\$7-\$13 million a year) and water

³⁶² Government of the Republic of Kiribati Kiribati Integrated Environment Policy 2012.

³⁶³ <http://www.lse.ac.uk/GranthamInstitute/wp-content/uploads/laws/8119.pdf>

³⁶⁴ <https://www.dfat.gov.au/geo/kiribati/development-assistance/Pages/development-assistance-in-kiribati>

³⁶⁵ <https://www.dfat.gov.au/geo/kiribati/Pages/kiribati-country-brief>

³⁶⁶ <https://www.mfat.govt.nz/assets/IATI-PDFS/PACMM/Kiribati.pdf>

³⁶⁷ <https://www.reuters.com/article/us-china-kiribati/china-eyes-increased-ties-with-kiribati-site-of-space-tracking-station-idUSKBN1Z5168>

³⁶⁷ <http://www.president.gov.ki/wp-content/uploads/2019/04/Kiribati-Climate-Change-Policy.pdf>

resources (US\$1-\$3 million a year).³⁶⁸ The World Bank supported Kiribati Adaptation program which seeks to scale up measures from previous phases, and is working to build resilience to climate change at national, island, and community levels, including improving water use and management by installing groundwater and roof rainwater harvesting systems to ensure cleaner, safer drinking water in selected areas, including during periods of drought; reducing water leakages and waste in existing systems; protecting water reserves, and improving long term planning for local-level water management; protecting against coastal erosion by investing in protection such as seawalls and mangrove planting at priority sites; Strengthening government and community capacity to manage the effects of climate change and natural hazards by supporting the development and adoption of a national Coastal Management Policy etc.³⁶⁹ Climate change was a major campaign issue in the Kiribati 2020 elections that saw the government loose seats in parliament.³⁷⁰ The NZ government highlights that in recent years, foreign policy engagement increased significantly as a result of Kiribati's emergence as a leading voice within the Pacific on climate change issues.³⁷¹

³⁶⁸ https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Kiribati%20First/INDC_KIRIBATI.pdf

³⁶⁹ <https://www.worldbank.org/en/results/2011/09/15/kiribati-adaptation-program-phase-3>

³⁷⁰ <https://www.foreignbrief.com/daily-news/pacific-island-state-of-kiribati-votes-in-second-round-of-parliamentary-elections/>

³⁷¹ <https://www.mfat.govt.nz/en/countries-and-regions/pacific/kiribati/about-kiribati/>

3.9 THE FEDERATED STATES OF MICRONESIA



Population:	Land area	Maximum elevation above sea level	EEZ
112,640	701 km ²	791 m	2 996 420 km ²

3.9.1 FORMAL GOVERNMENT STRUCTURE

Status: Independent (from the USA) 1994; in free association with the USA.

Head of State: President David W. Panuelo (since 2019).

National Identity and Cohesion

The Federated States of Micronesia—a country of atolls and small islands scattered across the Pacific Ocean—has a population of fewer than 115,000 but a greater degree of linguistic and cultural diversity, and a weaker sense of national identity than the other Micronesian countries. National unity cannot be taken for granted. The constitution provided for regular reviews, and constitutional conventions have met regularly to amend the country's constitution. Key issues have been maintaining national unity and distributing powers between the states and the federal government. As elsewhere in Micronesia and Polynesia, there is a large Micronesian diaspora community in other countries.

Relationship Between State and Society

The ties between state and society are less formal in the FSM than in the other freely associated states because of loyalties to region and language.

3.9.2 INCLUSION

Ethnic and Linguistic Diversity

The country came into being in the 1980s when four states—Chuuk, Pohnpei, Yap and Kosrae—came together, each with their own language and identity. Eighteen indigenous languages are spoken, of which the most important are Chuukese, Pohnpeian, Yapese, and Kosrean.

Ethnic Divisions as a Source of Instability

Linguistic divisions have not been a source of instability but are a source of political division and rivalry.

Women's Political Participation, including Temporary Special Measures (TSM)

No woman has ever been elected as an MP throughout Micronesia's political history.

Election Year	1988	1992	1996	2000	2004	2008	2012	2016	2020
No. of Seats	14	14	14	14	14	14	14	14	14
Number of Women MPs	0	0	0	0	0	0	0	0	0
Percentage	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

3.9.3 COMPETITION AND POLITICAL ACCOUNTABILITY

Political System and Recent Developments

Micronesia has a mixed Presidential/Westminster and federal system in which the President must be a member of the Congress and is elected by Congress for a term of four years by a majority vote of all the members. The system is unicameral, and members of Congress are called Senators. There are four states, Yap, Chuuk, Pohnpei, and Kosrae. Yap has two Senators, Chuuk six, Pohnpei four, and Kosrae two, for a total of 14 Senators, 10 of whom are elected for two-year terms and four (the 'at-large Senators') for four-year terms.

The First FSM Constitutional Convention produced the country's constitution in 1978. In 1990, the Nation held its Second Constitution Convention which produced four proposed amendments that were ratified and incorporated into the FSM Constitution. The Third Constitution Convention was held in 2001 and yielded 14 proposed amendments which were not approved in the referendum. The Fourth FSM Constitutional Convention convened on January 7, 2020.

Electoral System and Elections

The FSM went to the polls in March 2019, returning all 13 incumbents to office and electing one new Senator, Yosiwo George, a former Ambassador to the United States and now Vice-President. David W. Penuelo was elected President of the FSM by the 21st Congress in May 2019.

Parliamentary elections are held every two years and the most recent was in March 2019. There are ten single-member constituencies where the election method is first-past-the-post, with an additional four at-large Senators elected by proportional representation.

3.9.4 DECENTRALIZATION

The state governments under their constitutions each have three co-equal branches of government, the executive, legislative and judicial. Each state constitution contains provisions recognizing and preserving local custom and tradition.

Political Stability

The FSM has been politically stable since independence in 1986.

Military Forces and their Role in Politics

The FSM does not have a military, although FSM citizens serve in the US armed forces.

Civil Society Organizations

About 113 non-governmental organizations (NGOs) are currently registered with the FSM Alliance of NGOs. According to a study conducted by the United Nations Development Program, most civil society organizations (CSOs) in FSM work largely on environmental issues. The majority of CSOs are incorporated as nonprofit organizations. NGOs in FSM face many challenges, including a lack of funding, financial literacy, capacity-building, and guidance from external partners.³⁷²

³⁷² Pacific Community, 2016:47.

3.9.5 RULE OF LAW AND HUMAN RIGHTS

Judiciary

The FSM judicial system like its government system follows the United States model. Judicial authority is vested in the Supreme Court of FSM as the final appeal court of the nation. The Supreme Court has both a trial and an appellate division and has original and exclusive jurisdiction in cases involving disputes between states, foreign officials, admiralty and maritime cases, FSM Constitution, national laws or treaties, and other domestic laws. The Supreme Court has both a trial and an appellate division and may have inferior courts established by statute. Further, the Court is the final appeals court of cases from the four other States (Pohnpei, Chuuk, Yap and Kosrae) whose own State Constitutions establishes their own Supreme or state court.³⁷³ Each of the supreme courts is divided into a trial and appellate division. Each justice of the Pohnpei Supreme Court is a member of both the trial and appellate division. A single justice may hear a case in the trial division, but no less the three may form an appellate panel. The trial justice must not sit on appeal. Yap law on the other hand provides for a court in each municipality. The courts are presided over by judges knowledgeable in custom, with an aim to settle minor disputes arising in the municipality before it gets to the State Courts. The trial division of the state court can order a case to be transferred to it, if it considers the municipal court incapable of handling the matter. In 2010, the government appointed the first local female Associate Justice of the Supreme Court.

Police

The FSM national police are a division within the Department of Justice responsible for internal security, maintenance of law and order, maritime surveillance, enforcing fisheries and maritime laws and coordinating and conducting search and rescue operations among others. The State police deals with law and order issues for each State. In a 2019 Presidential Order, the national police were reorganized, and its duties and responsibilities expanded, while the establishment of the Anti-Human Trafficking Division of the Department of Justice was formalized.³⁷⁴

Violence Against Women

Domestic violence remains a challenge, and while domestic violence is currently addressed at State level with each of the State passing their domestic violence laws, a Family Health and Safety Study (FHSS) conducted in 2014 shows that VAW in the FSM is prevalent, and most of is inflicted by perpetrators who are known to the women. Unfortunately, the women often remain silent because they either cannot get out of the situation, or plainly believe that such violence is normal. The Kosrae State government passed its Family Protection Act in 2013, while the Pohnpei Congress passed the Pohnpei Family Violence Act in 2017. The government supports the FSM Women's Conference which is held every two years.

Women's Empowerment

Women's rights continue to be progressively realized in the FSM, both at the national and state governments, with women in cabinet, a first female appointed as an Associate Justice of the FSM Supreme Court, and FSM's first female ambassador to the UN. The National Government has a National Gender

³⁷³ <http://fsmLaw.org/pohnpei/constitution/article10.htm>; <http://fsmLaw.org/chuuk/constitution/article07.htm>;
<http://fsmLaw.org/yap/constitution/article7.htm>; <http://fsmLaw.org/kosrae/constitution/a06.htm>

³⁷⁴ <https://gov.fm/index.php/component/content/article/35-pio-articles/news-and-updates/158-president-panuelo-signs-executive-order-to-enhance-the-department-of-justice-s-capacity-to-serve-the-citizens-of-the-federated-states-of-micronesia>

Policy and in collaboration with the Pacific Community, completed a comprehensive Gender Stocktake in 2012. This Gender Stocktake was designed to determine the extent to which capacity for effective gender mainstreaming exists in national government.

Women's Political Participation

In terms of women's political participation, the 14-seat national congress currently does not have any female members. In fact, no women have ever been elected into the national legislature. Of the 14 Senators, four are elected from the four States, who serve 4-year terms, and 10 Senators are elected from single-member constituencies for 2-year terms. Moreover, each State has its own State Congress. Of the 85 members in the State legislatures (Kosrae Congress – 14 Senators; Pohnpei Congress – 23 Senators; Yap Congress – 10 Senators; Chuuk Congress – 28 Delegates (House of Representatives) and 10 Senators (Upper House), there are only two women Senators, one in Chuuk State and the other in Pohnpei State. A Bill proposed in 2018 to reserve seats for women in Congress (one for each state) received mixed reactions and did not survive a first reading.³⁷⁵

Implementation of Core Human Rights Treaties

FSM is a state party to three core human rights treaties. Unlike most Pacific States, FSM has maintained its reporting obligations, but is now overdue with its report to the CRPD Committee. However, FSM has relied on external support to ensure it meets its reporting obligation. The National government has advanced on a range of commitments under CEDAW and CRC though there are obviously many challenges around capacity, resources, and prioritization of development and human rights issues. Reporting to the human rights treaty body is an onerous task shown by its late reporting.

National Human Rights Institutions (NHRI)

FSM does not have a Paris Principle compliant NHRI. However, the government has established a Human Rights Committee to assist it in meeting its human rights reporting obligations. In 2017, the FSM government commissioned a scoping study with SPC and the Asia Pacific Forum for National Human Rights Institution to determine its feasibility in establishing a Paris Principle compliant NHRI.³⁷⁶ The Gender Development and Human Rights office desk within the FSM Department of Health and Social Affairs coordinates human rights-related activities and obligations of the national government.

Children's Rights

The FSM launched the Child Protection Baseline Report (CPBR) in October of 2014. Accompanying the CPBR was the Atlas of the 2013 Child Equity Social Indicators. The atlas provides a focused and up-to-date overview of social indicators and identifies gaps and weaknesses in all areas where children are concerned. The CPBR provides evidence on child protection measures in the FSM.

The Kosrae Family and Minor Law requires health care providers, teachers, or anyone to report to the Office of the Attorney General of Kosrae any evidence of suspicion that a child has been abused. Moreover, the FSM State Courts ensure that parents/guardians of individuals charged as juvenile offenders are involved in the trial process when they choose to be involved, and that the young persons

³⁷⁵ http://www.kpress.info/index.php?option=com_content&view=article&id=929:bill-asks-fsm-to-consider-new-non-voting-seats-for-women-in-congress&catid=8&Itemid=103

³⁷⁶ Nayacalevu, R. How the UPR has influenced the case for NHRI in PIF Member states; https://www.usp.ac.fj/fileadmin/random_images/home_middle_banners/emalus/JSP/2019/Articles/01_Romulo_NAYACALEVU_2019.pdf

are legally represented. FSM Public Law 17-38 specifically deals with protecting children from human trafficking. Chuuk State increased the age of consent from 13 to 18 years old.

Youth Rights/Issues

Of the 102,843 population in the 2010 census, over 35,000 were youths. Youth is defined in the FSM Youth Policy as those between the ages of 15-34.³⁷⁷ The 2004-2010 Youth Policy served as a tool for enabling the FSM's youth to actively contribute to the development of the nation and improving their quality of life in the process and was scheduled to be reviewed by the government. Youth movements are involved in a range of advocacies from SGBV to politics.³⁷⁸ While serious crimes are not common in the FSM, many misdemeanor offences are committed by young people including theft, vandalism, drunk and disorderly conduct, and breaking and entering. Of concern is the fact that many young men and women are also exposed to violence, whether in the public or domestic sphere.³⁷⁹

Rights of Persons with Disabilities

FSM continues to progress disability rights within the country and leads in various Pacific initiatives including in the development of the Pacific Regional Strategy on Disability to implement human rights initiatives in the Pacific and hosting the Pacific Forum Disability Ministerial Meeting in October 2014. The FSM hosts the Interagency Conference every two years. This Conference is organized by various agencies and developmental partners supporting persons with disabilities and other marginalized populations in the FSM.

LGBTI Rights

The FSM no longer maintains criminal prohibitions on same sex relations, and has signed the March 2011 Joint Statement on Ending Acts of Violence and Related Human Rights Violations Based on Sexual Orientation and Gender Identity, which is perhaps the most significant statement in favor of LGBTI rights at the UN level. Nevertheless, the Federated States of Micronesia has no anti-discrimination laws that include sexual orientation. This means LGBTI people are not protected from discrimination in employment, education, health care, and other areas of public life, in violation of international human rights law.³⁸⁰

Religious and Ethnic Minorities' Rights

There are no specific rights spelled out in the Constitution.

Indigenous People's Rights

The traditions of the Micronesians are protected under the Constitution, in Article 5, Section 1. The Constitution upholds the role of traditional leaders recognized by custom and tradition, and honors traditional leaders at any level of government. The traditions of the people of the Federated States of Micronesia are protected by statute.

³⁷⁷ <https://www.youthpolicy.org/factsheets/country/micronesia/>

³⁷⁸ <https://www.spc.int/updates/news/2017/08/youth-shape-future-international-youth-day-conference-federated-states>

³⁷⁹ https://www.doi.gov/sites/doi.gov/files/migrated/oia/reports/upload/2011UrbanYouth_in_the_Pacific.pdf

³⁸⁰ Micronesia: a diverse region with diverse LGBTI laws, Star Observer, 14 Dec. 2015.

<https://www.starobserver.com.au/news/international-news-news/micronesia-a-diverse-region-with-diverse-lgbti-laws/143887>

Freedom of the Press

Freedom of Expression is constitutionally protected in FSM, and in 2018, FSM's rating from Freedom House was 4/4. While FSM has no daily newspaper, there are two radio stations and at least one TV station in each of the four states. The national government publishes The Kaselehlle Press, a fortnightly information bulletin. There are no official restrictions on internet access, though cost and a lack of infrastructure limit availability on outlying islands.

Freedom of Information Laws

There is no freedom of information law in FSM.

Civil and Political Rights

Freedom House ranked FSM as free with a scorer of 92/100 broken down into 37/40 on the realization of political rights and 55/60 on the realization of civil liberties.³⁸¹

Economic, Social and Cultural Rights

Micronesia's economic freedom score is 52.0, making its economy the 156th freest in the 2020 Index. Its overall score has increased by 0.1 point due to a higher property rights score. Micronesia is ranked 38th among 42 countries in the Asia-Pacific region, and its overall score is well below the regional and world averages. The economy of Micronesia transitioned from being repressed to mostly unfree in 2016 and remains there in 2020.³⁸² Various issues around ESC rights were highlighted by the UN country team in its report to FSM's latest UPR.³⁸³

3.9.6 CORRUPTION

Laws on Anti-Corruption

FSM has criminalized bribery, money-laundering, concealment, embezzlement, obstruction of justice, abuse of functions and trading in influence, though trading in influence, which is a conduct with a view to influence a public official, is partially criminalized. See Criminal Code Act (Title 11).

National Institutions on Anti-Corruption

The FSM does not have a specialized or standalone institution dedicated to fighting corruption. However, the key authorities that deal with corruption are the Department of Justice headed by the Secretary of Justice (who is the Attorney-General), National Police including the Financial Intelligence Unit and Transnational Crime Unit, and the National Public Auditor.

Ratification of UN Convention Against Corruption

FSM acceded to UNCAC on March 21, 2012. UNCAC entered into force on April 20, 2012 for FSM. In its Implementation Review at the Conference of State Parties to the UNCAC in Vienna, the FSM recognized the many challenges in implementing UNCAC and recognized the need for more technical

³⁸¹ <https://freedomhouse.org/countries/freedom-world/scores>

³⁸² 2020 Economic Freedom Index: <https://www.heritage.org/index/country/micronesia>

³⁸³ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/188/83/PDF/G1518883.pdf?OpenElement>

assistance to assist the government in effectively implementing the Convention.³⁸⁴ FSM is supported, among others, under UNDP's Pacific Regional Anti-Corruption Project (Phase II: 2016-2020).³⁸⁵

3.9.7 GOVERNMENT RESPONSIVENESS AND EFFECTIVENESS

Governance in Practice

The FSM does not have an outstanding development record, with a ranking of 135 in the UN Human Development Index. Politics in the FSM is characterized by personal and kin connections, together with cronyism.

Government Performance on Health

A great deal of the population relies on a public health care system that is controlled and regulated by the state governments (Yap, Pohnpei, Chuuk and Kosrae). The present health care system in the FSM has three levels: the community dispensaries, the state hospitals, and referral to hospitals outside FSM. The major disease burden is from noncommunicable diseases together with sexually transmitted infections, HIV, tuberculosis, and malaria.³⁸⁶ FSM was free of the coronavirus on April 6, 2020 and had received funds under the Compact of Free Association to improve quarantine facilities in Chuuk.

Government Performance on Education

The education system of the FSM is based on a United States model. There are four levels: Early Childhood Education for ages 3–5, Elementary for ages 6–13, Secondary for ages 14–18, and Post-Secondary. Educational levels are adequate but patchy by comparison with other Pacific countries such as Fiji. The College of Micronesia in Palikir is a community college and is accredited by the Accrediting Commission for Community and Junior Colleges, the Western Association of Schools, and Colleges in California.

Government Performance on the Environment

The pressures on the environment are grouped into three main categories: land development (urban, agriculture and invasive species); resource extraction (forestry and fishing); and consumption and waste (energy consumption, vehicle ownership and solid waste generation). Most of these pressures on the FSM's environment are steadily increasing and include overexploitation of biological resources; habitat loss and degradation; climate change; pollution; spread of alien invasive species; and infrastructure.³⁸⁷ The Department of Environment, Climate Change, and Emergency Management has detailed policies on all these issues.

3.9.8 KEY AID RELATIONSHIPS

The vast bulk of aid comes from the United States under the Compact of Free Association. Among the freely associated states, the FSM is where China matters most. China was one of the first countries to recognize the FSM after it gained independence and, in 1989, the FSM was among the first Pacific Island

³⁸⁴ https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V14_08394e.pdf

³⁸⁵ <https://www.undp.org/content/dam/fiji/docs/UN-PRAC%20Brochure%202018.pdf>

³⁸⁶ WHO Country Cooperation Strategy for Federated States of Micronesia, 2013-2017, WHO 2012.

https://apps.who.int/iris/bitstream/handle/10665/206587/CCS_FSM_2013-2017_eng.pdf;jsessionid=BCD908CFFD640D6E17E1A42CBF3982F2?sequence=1

³⁸⁷ Federated States of Micronesia Report 2018, p. xi. <https://pacific-data.sprep.org/dataset/fsm-state-environment-report-2018/resource/3b6f6076-3c27-4a50-b59a-6f8804b73f1c>

countries to recognize China. Since then, and increasingly in recent years, Chinese development assistance to the country has resembled that in other parts of the Pacific Islands including an agricultural pilot farm in Pohnpei, bridges in Pohnpei and Kosrae, a high school in Kosrae, the new State Office Buildings Complex and road upgrades in Chuuk, and a stream of scholarships for young Micronesians to study in China among others. Projects of this kind offer work to Chinese companies such as the Sichuan Road and Bridge Group Cooperation Company which built the Okat Bridge in Kosrae. China has also contributed to the FSM Trust Fund that is supposed to give it financial independence by 2023. At the same time Chinese companies are major players in the vast fisheries of the FSM and have attempted—though so far with little success—to develop a major tourist industry in Yap. In return, the FSM is committed to the One China policy, signed up to the Belt and Road Initiative, and sends representatives to the annual Belt and Road Forums. From the official American point of view, the steady expansion of China’s commercial and aid presence in the Micronesian region is a strategic threat demanding to be countered in the US national interest.

Top five donors to FSM 2017

- United States: \$69.73 million.
- China: \$10.80 million.
- World Bank: \$5.20 million.
- Japan: \$5.15 million.
- Australia: \$2.60 million.

Top five aid projects 2017 (all values in USD)

- United States Trust fund: \$30.82 million.
- Disaster preparedness for effective response training: \$12.95 million.
- Sector grants: capacity-building in Chuuk state: \$8.37 million.
- Disaster preparedness for effective response implementation: \$6.26 million.
- 5 million dollars per year grant between 2017-25 (China): \$5 million.

3.9.9 CLIMATE CHANGE, ADAPTATION, AND FINANCING

The FSM has recognized that climate change is an existential threat and made significant strides to counter it, but more action and sustained international support is required. Increasing frequency and intensity of coastal storms threatens infrastructure and livelihoods, as does increased risk of coastal flooding and drought. FSM has recognized this by engaging forcefully in international discussions, setting out an ambitious agenda for mitigation and putting in place a wide range of adaptation policies and strategies. Despite this, significant gaps remain, particularly regarding the National Adaptation Plan and the comprehensive Disaster Resilience Strategy (DRS). The challenges facing the country remain daunting and will require sustained international support, along with increased private sector participation and domestic revenue mobilization. International support should focus on grant financing for adaptation investments, as well as disaster response and capacity-building to improve public investment management.³⁸⁸

³⁸⁸ IMF FEDERATED STATES OF MICRONESIA CLIMATE CHANGE POLICY ASSESSMENT, 2019.
<file:///C:/Users/stewart/Downloads/IFSMEA2019002.pdf>

3.10 THE REPUBLIC OF THE MARSHALL ISLANDS



Population	Land area	Maximum elevation above sea level	EEZ
58,413	181 km ²	10 m	1 990 530 km ²

3.10.1 FORMAL GOVERNMENT STRUCTURE

Status: Independent (from the USA): 1986; in free association with the USA.

A constitutional democracy with a mixed parliamentary-presidential system.

Head of State and Head of Government: The President is elected by Parliament from among its own members for a four-year term. The current President is David Kabua (since January 2020).

Cabinet: Selected by the President from among the members of Parliament.

Parliament Nitijela: 33 seats; members elected by popular vote.

Council of Chiefs or Council of Iroij is a 12-member body consisting of traditional chiefs that advises on matters affecting customary law and practice.

Elections: four-year term of Parliament.

National Identity and Cohesion

The Marshall Islands has a small population of fewer than 60,000, a single indigenous language (Marshallese), little ethnic or cultural diversity, and a strong sense of nationhood that draws on a shared history of being the site of US nuclear tests in the 1940s and 1950s. The country celebrates Nuclear Victims Remembrance Day each year. Many Marshallese have taken advantage of their right under the Compact of Free Association to live and work in the United States even though they are not US citizens. As many as 15,000 Marshall Islanders live in Springdale, Arkansas, which has a Marshallese consulate, Marshallese radio station, and 30 Marshallese churches, while tens of thousands more live in other parts of the United States including Hawaii and Guam. The Marshall Islands are strategically important to the United States as the site of the Ronald Reagan Ballistic Missile Defense Site at Kwajalein, the world's largest atoll.

Relationship Between State and Society

The relationship between state and society is strong and personalized in this small country.

3.10.2 INCLUSION

Ethnic and Linguistic Diversity

There is little ethnic diversity in the Marshall Islands and just one indigenous language, Marshallese.

Ethnic Divisions as a Source of Instability

Not Applicable.

Women's Political Participation, including Temporary Special Measures (TSM)

Election Year	1987	1991	1995	1999	2003	2007	2011	2015	2019
No. of Seats	33	33	33	33	33	33	33	33	33
Number of Women MPs	1	0	0	1	1	1	1	From 3 to 2	2
Percentage	3.0	0.0	0.0	3.0	3.0	3.0	3.0	6.1	6.1

3.10.3 COMPETITION AND POLITICAL ACCOUNTABILITY

Political System and Recent Developments

The political system is a constitutional democracy with a mixed parliamentary-presidential system in which the President has a great deal of sway. It is marked by personalized politics and a degree of cronyism. The 2019 election saw the defeat of the political grouping supporting President Hilda Heine, the Pacific's first woman head of state and head of government. The new President David Kabua will have the task of renegotiating the Compact of Free Association with the United States after US Secretary of State Mike Pompeo announced in August 2019 that a renewal of the Compact would take place.

Electoral System and Elections

The first complexity of the Marshall Islands voting system is an elaborate provision for inter-island voting, enabling citizens to cast votes for island constituencies where they hold land rights, even though they do not reside on those islands. Such votes comprise a majority of votes for nearly all of the 22 outer island constituencies (excepting Majuro and Kwajalein).³⁸⁹

The second complexity is the issue of offshore voting. With about 30,000 Marshallese living offshore in the United States—about a third of the population—the issue of their voting rights has been central to Marshalls politics in recent times. Although the Supreme Court ruled in 2019 that a ban on offshore voting was unconstitutional, it stipulated that the ban remain in place for the imminent elections, which required that people fly in to cast their votes.

3.10.4 DECENTRALIZATION

Not Applicable.

Political Stability

The RMI has been politically stable since independence in 1986.

Military Forces and their Role in Politics

The RMI does not have a military, although Marshallese serve in the US armed forces.

³⁸⁹ Fraenkel, Jon, The Marshall Islands Elections of 2007/08, SSGM Briefing Note 1/2008. <http://bellschool.anu.edu.au/experts-publications/publications/1467/marshall-islands-elections-200708>

Civil Society Organizations

The RMI government has a good relationship with the civil society community and NGOs. An important example of this relationship is the Working United Together Marshall Islands (WUTMI) project; and the Initiative for Better Response to Address Violence Everywhere (iBrave), which was funded by the United Nations Trust Fund to end violence against women. WUTMI works closely with the Ministry of Internal Affairs on legislation and policy to develop first response protocols.

3.10.5 RULE OF LAW AND HUMAN RIGHTS

Judiciary

The RMI judiciary system is independent from the legislative and executive powers in the country, and is led by the Supreme Court, which consists of a Chief Justice and two Associate Justices, is a superior constitutional court with final authority in all cases.³⁹⁰ Daniel N Cadra, born in the United States, serves as the current chief justice and was appointed to a 10-year term in September 2013.³⁹¹ The Republic's current judicial code of conduct was established May 27, 2008 and was amended August 20, 2019.³⁹²

Police

The RMI police oversees the maintenance and protection of the rule of law. There is a low rate of criminal activities in the RMI though the issue of domestic and family violence remains concerning. The capacity of local police to respond to and assist victims of crime and traffic accidents is limited due to a lack of response vehicles, radios, and other essential equipment, and training.

Violence Against Women

About 51 percent of women have experienced physical or sexual violence by an intimate partner in their lifetime. In 2011, RMI passed the Domestic Violence Prevention and Protection Act (DVPPA) followed by a cost analysis in 2012 to inform the government on how to implement the law. Additionally, the RMI police has undergone extensive capacity-building activities in partnership with Pacific Prevention of Domestic Violence Program (PPDVP). This includes creating and staffing a Domestic Violence Unit. Furthermore, the government has partnered with civil society and faith-based organizations to support its efforts in addressing domestic violence. Along with Women United Together Marshall Islands (WUTMI), the Ministry of Internal Affairs established a Technical Working Group to ensure and follow the implementation of the Act. However, there have been various challenges relating to the effective implementation of the DVPPA. These include the need to finalize law enforcement first responders Protocol and have it endorsed by the Ministry of Health, and designated counselling services or safe houses for women and children escaping domestic violence among others.

Women's Empowerment

RMI's Constitution prohibits discrimination on the basis of gender. Women are traditionally respected as key decision-makers and landowners and recognized for their contribution to the economy, society, and families in the RMI, however there remains great challenges to the lived reality of women on the ground, whether it is in the elimination of VAW or the limited opportunities for women. RMI has led the Pacific

³⁹⁰ <http://www.paclii.org/mh/courts.html#:~:text=Republic%20of%20the%20Marshall%20Islands%3A%20Judicial%20Branch&text=The%20Supreme%20Court%20is%20a,Justice%20and%20two%20Associates%20Justices>.

³⁹¹ <https://rmicourts.org/the-judiciarys-courts-and-personnel/>

³⁹² <https://rmicourts.org/wp-content/uploads/2019/08/RMI-COJC-2019-FINAL.pdf>

in areas of women in leadership particularly electing the Pacific's first ever head of State. The National Gender Mainstreaming Policy 2015 guides the government's effort in mainstreaming gender including in the development of laws, policies, procedures, and practices to address the needs, priorities, and aspirations of people in RMI to eliminate all forms of discrimination and inequality in priority areas, government delivery of gender-responsive programs, and services among others.³⁹³

Women's Political Participation

Aside from being the first Pacific country to have a woman as Head of State, RMI has had at least one woman in the 33-member parliament since independence. In the 2015 elections, five women candidates stood and three won their seats, while in the 2020 election, only two women won their seats including the first female President who is now in the Opposition.

Implementation of Core Human Rights Treaties

Since 2018, RMI has ratified four core human rights treaties making it the second highest Pacific country to ratify the core human rights treaty. Of the nine core human rights treaties, RMI is now a state party to seven and has also acceded to the Optional Protocol on Child pornography. In January 2020, RMI began its three-year term as a member of the UN Human Rights Council (HRC), only the second Pacific state to serve on the HRC. RMI is one of the few countries in the Pacific to have domesticated the CRPD through the Rights of Persons with Disabilities Act 2015; CEDAW through the Domestic Violence Prevention and Protection Act 2011 and CRC through the Child Protection Act 2015. While the RMI has made significant progress in the implementation of its human rights commitment, it recognizes the significant challenges in addressing human rights issues, including lack of capacity and inadequate resources in a time of serious financial constraints.³⁹⁴

National Human Rights Institutions (NHRI)

RMI does not have a Paris Principle compliant NHRI; however, RMI became the first Pacific government to legislate a Human Rights Committee whose role was among others to assist the government in their reporting to human rights bodies including the UPR.³⁹⁵ While the RMI government noted in its UPR that it cannot consider the recommendations to set up a national institution due to limited national resources, in 2017, the RMI government commissioned a study by the SPC and the Asia Pacific Forum for National Human Rights Institution to determine its feasibility in establishing a Paris Principle compliant NHRI.³⁹⁶ This report highlights that the RMI must utilize existing institutions as an NHRI, subject to legislative changes and resources, given its commitment to the UPR that it would 'continued to work on strengthening existing mechanism within government.

Children's Rights

In March 2013, the *Ajri in Ibunini*: Child Protection Baseline Report (CPBR) was launched. This report was conducted with support from United Nations Children's Fund (UNICEF) and provides necessary baseline data for addressing child protection issues. A UNICEF 2015 Situation Analysis notes that RMI has limited quantitative data on child protection, and as a result it is not possible to present a clear picture

³⁹³ Gender Equality: Where do we stand? RMI; 2018; SPC Suva.

³⁹⁴ RMI National Report to the UPR, Human Rights Council, Geneva, A/HRC/WG.6/22/MHL/1; 9 Feb. 2015.

³⁹⁵ Human Rights Committee Act 2015; PACLII; http://www.paclii.org/mh/legis/num_act/hrca2015242.pdf

³⁹⁶ Nayacalevu, R. How the UPR has influenced the case for NHRI in PIF Member states; https://www.usp.ac.fj/fileadmin/random_images/home_middle_banners/emalus/JSP/2019/Articles/01_Romulo_NAYACALEVU_2019.pdf

of the nature and extent of violence, abuse, neglect, and exploitation of children. Available information, nevertheless, indicates that Marshallese children experience violence in several contexts, including at home, in schools, and in the community.³⁹⁷ In 2015, the *Nitijela* passed the Child Rights Protection Act which declares the rights of children and provides for their protection, promotion, enforcement, and implementation in the RMI, as required under the UN CRC and contains child sensitive mechanisms for lodging complaints. Moreover, the government has established a Child Rights Office which is the focal point for matters involving child welfare. If necessary, they will be called in to assist other ministries on cases involving children. The Ministry of Education's Child Protection Policy includes instructions for MOE staff to respond to disclosures of abuse.

According to the UNCT, the RMI had a high teenage pregnancy rate and an alarming rate of sexually transmitted infections. Early marriage tended to be accepted. Teenage pregnancies accounted for about 15-20 percent of all recorded births. Socioeconomic factors such as high school drop-out rates and unemployment might play a role, but cultural acceptance of early pregnancy might be a larger factor.³⁹⁸

Youth Rights/Issues

RMI has a population of 53,158 (2011), the second youngest population in the Pacific, and with a medium age of 19.2 years old. About 70 percent of the population are under 29 years old. RMI has a large unemployment rate especially among youths estimated to be 62.6 percent (1999). Youths advocate on a range of issues including climate change.³⁹⁹ The Youth to Youth NGO works towards empowering young people to "Proactively participate in the continued development of their communities and nation" and also create platforms where they can discuss issues that affect them.⁴⁰⁰ Common problems faced by young people in RMI are the following: a) teenage pregnancy (RMI has one of the highest rates in the Pacific with one in four young women aged 15-19 years pregnant or having already given birth to their first child); b) substance abuse (alcohol and tobacco mostly, but also betel nut, marijuana, kava/sakau); and c) suicide are among the most common problems faced by young people.⁴⁰¹

Rights of Persons with Disabilities

In 2013, the Cabinet approved the establishment of a Disability Coordination Office within MOIA. This development coincided with the drafting of a National Policy on Disability Inclusive Development and accompanying Action Plan, which was endorsed by Cabinet in 2014. The Disability Coordination Office also oversaw a Legislative Compliance Review in cooperation with PIFS. Furthermore, the discussions for a Constitutional Convention that began in April 2013, included expanding the anti-discrimination provision to include disability.

RMI also has a National Policy on Disability Inclusive Development (2014-2018) which has expired. The Disability Policy is organized around ten priority areas: coordination, legislation, signature and accession of the CRPD, awareness and advocacy, education and training, employment and livelihoods, access to health care, mainstreaming of disability across government and civil society, strengthening of Marshall Islands Disabled Persons Organization (MIDPO), women with disabilities, and youth with disabilities. In January of 2015, the *Nitijela* approved the Government's accession to the CRPD. The *Nitijela*

³⁹⁷ <https://www.unicef.org/pacificislands/media/1146/file/Situation-Analysis-of-Children-Marshall-Islands.pdf>

³⁹⁸ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/039/45/PDF/G1503945.pdf?OpenElement>

³⁹⁹ <https://www.sprep.org/news/marshall-islands-youth-shares-his-hopes-cop21>

⁴⁰⁰ <https://www.idealists.org/en/nonprofit/24e90599a9bb4127be270436588e6457-youth-to-youth-in-health-uliga>

⁴⁰¹ https://www.doi.gov/sites/doi.gov/files/migrated/oia/reports/upload/2011UrbanYouth_in_the_Pacific.pdf

subsequently passed The Rights of Persons with Disabilities Act 2015, which requires the Government to ensure that PWD have full, equal, and unrestricted access to: a) the physical environment; b) transportation; c) information and communications; and d) facilities and services open or provided to the public.

LGBTI Rights

The RMI no longer maintains any criminal prohibitions on same-sex relations. RMI signed the March 2011 Joint Statement on Ending Acts of Violence and Related Human Rights Violations Based on Sexual Orientation and Gender Identity, which is perhaps the most significant statement in favor of LGBTI rights at the UN level.⁴⁰²

Religious and Ethnic Minorities' Rights

The RMI constitution (Section 1) provides that 'Every person has the right to freedom of thought, conscience, and belief; to freedom of speech and of the press; to the free exercise of religion; to freedom of peaceful assembly and association; and to petition the government for a redress of grievances.' There are no ethnic minorities.

Indigenous People's Rights

The Constitution (Article 6, section 4) provides for a Traditional Rights Court, "whose jurisdiction of the shall be limited to the determination of questions relating to titles or to land rights or to other legal interests depending wholly or partly on customary law and traditional practice in the RMI."⁴⁰³

Freedom of the Press

The government generally respects the freedoms of speech and the press. A privately-owned newspaper, the Marshall Islands Journal, publishes articles in English and Marshallese. Broadcast outlets include both government- and church-owned radio stations, and cable television offers a variety of international news and entertainment programs. Internet access is expanding, reaching as much as a third of the population by 2017, but remains limited due to poor infrastructure and high costs.

Freedom of Information Laws

There is not a strong legal mechanism for obtaining access to government information, but documents can often be obtained through the courts.

Civil and Political Rights

Civil and Political Rights have constitutional protections and are largely practiced. There have been protests on issues such as climate change, women's rights, and the nuclear testing legacy among others. People may join trade unions though there is not much Union activities. Freedom House rated RMI as free with a total score of 93/100, broken down into 38/40 on the realization of political rights and 55/60 on the realization of civil liberties.

Economic, Social and Cultural Rights

The right to employment, among other social and cultural rights, is constitutionally protected. Individuals have the right to own property and establish private businesses, and these rights are largely observed in

⁴⁰² MICRONESIA: A DIVERSE REGION WITH DIVERSE LGBTI LAWS, Star Observer, 14 Dec. 2015, <https://www.starobserver.com.au/news/international-news-news/micronesia-a-diverse-region-with-diverse-lgbti-laws/143887>

⁴⁰³ CONSTITUTION OF THE REPUBLIC OF THE MARSHALL ISLANDS, Article 6, Section 4

practice. Freedom of movement is generally respected. There is a minimum wage law of US\$2 per hour. The SR on toxic waste recommended that the Government and relevant State actors develop an economic diversification strategy to reduce reliance on the Compact of Free Association, including developing the tourism sector, and making a viability assessment of commercial exploitation of the medicinal and health properties of the pandanus fruit; ensure that the implementation of mechanisms that strengthened the capacity of indigenous and tribal peoples to further their own development priorities were favored; and establish programs to support small-scale economic initiatives for women, including the necessary capacity-building.

3.10.6 CORRUPTION

Laws on Anti-Corruption

In its 2019 rankings, Freedom House highlights that, corruption has been a chronic problem, though auditing bodies and the independent courts are somewhat effective in detecting abuses and holding officials accountable. High-ranking public officials, however, are rarely prosecuted for corruption. Corruption is most prevalent in foreign aid, government procurement, and transfers.⁴⁰⁴ While corruption cases are prosecuted by the Office of the Attorney General, there are also key institutions that have oversight legislative powers to deal with and investigate corruption matters including the Office of the Auditor General; National Police; Public Service Commission; Government Ethics Board; and the Domestic Financial Intelligence Unit. Legislative frameworks addressing corruption include the following Acts and Codes: the Banking Act; the Criminal Code; the Ethics in Government Act; MutPublic Safety Act; and the Rules of Criminal Procedure.

National Institutions on Anti-Corruption

RMI does not have a dedicated anti-corruption body.

Ratification of UN Convention Against Corruption

RMI acceded to UNCAC in 2011.

3.10.7 GOVERNMENT RESPONSIVENESS AND EFFECTIVENESS

Governance in Practice

Governance in practice is highly personalized and subject to cronyism.

Government Performance on Health

The issue of nuclear testing fallout has long remained a health concern arising from exposure to high levels of radiation. Women not only experienced a high occurrence of stillbirths and infants born with disabilities, but also the multigenerational effects of an increased risk of ovarian cancer, infertility, and other reproductive developmental problems. A visit by the UN Special Rapporteur on toxic waste took place in 2012 and a comprehensive report on the health implications are contained in his report.⁴⁰⁵ Other health concerns include obesity and non-communicable diseases which produce a health crisis in the country largely brought about by the consumption of unhealthy, imported processed foods and a more sedentary lifestyles. As a result, diabetes-related diseases and cancer are now the leading causes of death. There is also a rise in communicable diseases, such as tuberculosis and leprosy as a result of extremely

⁴⁰⁴ <https://freedomhouse.org/country/marshall-islands/freedom-world/2019>

⁴⁰⁵ https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/21/48/Add.1

high population density and urban overcrowding. Poor immunization coverage and child malnutrition are additional challenges, and rural children are three times less likely than urban children to be fully immunized. The inundation caused by king tides affects housing infrastructure, contaminating water supplies, agriculture, and food crops.⁴⁰⁶ The SR on toxic waste further recommended that the Government and relevant state actors seek international assistance to improve public infrastructure, including for water, sanitation, and waste management facilities.

Government Performance on Education

Marshallese citizens have a compulsory primary education system but few options for tertiary education. That means most children only complete the eighth grade. The United States will provide nearly \$70 million annually to the RMI until 2023. Since the 1990s, primary education enrollment rates have slightly increased (about six percent); however, the same period saw an enrollment decline of 12 percent for ages 15 through 24. The decline represents important policy challenges for the U.S. Department of the Interior who correlates the enrolment decline with an overall drop in literacy rates. Higher education in the Marshall Islands consists of vocational and tertiary instruction primarily at only two institutions. Still, only nine percent of the population graduates from college. Some Marshallese pursue higher education at the University of the South Pacific in Fiji, but the standard of achievement is low.⁴⁰⁷

3.10.8 KEY AID RELATIONSHIPS

The United States is the largest donor to the RMI and is really the only significant donor, although Japan, Taiwan, and Australia play a lesser role; China is not a player because the RMI recognizes Taiwan as an independent country. The Compact of Free Association between the US and RMI is both permanent and renegotiable. The Compact in its strategic aspects lasts indefinitely unless terminated by both sides, giving the US veto power, however the financial provisions that underwrite much of government expenditure end in 2023. The US position has long been to render the RMI financially independent by the mid-2020s, replacing Compact funds with income from permanent Trust Funds. Much effort has gone into attempting to achieve this goal through the Joint Economic Management and Fiscal Accountability Committee in the RMI, but its economy is too fragile for this to be possible. It remains one of the most aid dependent Pacific states.

As the title of a 2019 US Government Accountability Office report states, “Trust funds for Micronesia and the Marshall Islands are unlikely to fully replace expiring U.S. annual grant assistance.”⁴⁰⁸ Now that the United States has agreed to renew the financial provisions of the Compact with RMI rather than allowing them to lapse in 2023, the nuclear issue is sure to arise in the negotiations by the RMI with the United States. The RMI celebrates Nuclear Victims Remembrance Day each year, and the 2020 ‘March for Justice’, led by President David Kabua, revolved around the theme of ‘We will not forget and we will not be deterred’.⁴⁰⁹ The RMI will almost certainly seek a reopening about nuclear compensation in the new Compact. RMI will want continued visa-free access to the United States and will also seek a continuation of the discretionary federal programs that are paid in addition to compact funds and that

⁴⁰⁶ <https://www.rnz.co.nz/international/pacific-news/298573/king-tide-causes-flooding-in-marshall-islands>

⁴⁰⁷ ‘The Challenges of Education in the Marshall Islands’, Borgen Magazine, 18 Nov. 2016.

<https://www.borgenmagazine.com/education-in-the-marshall-islands/>

⁴⁰⁸ Testimony before the Committee on Energy and Natural Resources, U.S. Senate. COMPACTS OF FREE ASSOCIATION. Trust Funds for Micronesia and the Marshall Islands Are Unlikely to Fully Replace Expiring U.S. Annual Grant Assistance, 23 July 2019. GAO-19-648T, Washington, D.C.: Jul.23, 2019. <https://www.gao.gov/products/gao-19-648t>

⁴⁰⁹ ‘March for Nuclear Justice’, Marshall Islands Journal, March 2020, <https://marshallislandsjournal.com/march-for-nuclear-justice/>

help to support education, health, infrastructure, and research. The rise of China in the Pacific means USAID will need to carefully review its support under the Pacific Pledge.

Top five donors to 2017

- United States: \$56.53 million.
- Taiwan: \$7.40 million.
- Japan: \$4.69 million.
- Australia: \$3.15 million.
- World Bank: \$1.03 million.

Top five projects to 2017- Compacts of Free Association with the US (all values in USD)

- Trust Fund: \$16.85 million.
- Kwajalein payments: \$14.47 million.
- Kwajalein Landowner payments: \$12.60 million.
- Sector grants: Education: \$3.58 million.
- Sector grants: Health: \$2.19 million.

3.10.9 CLIMATE CHANGE, ADAPTATION AND FINANCING

The RMI has identified a series of priority climate change areas which represent targets for attention and, in some cases, urgent response. While efforts continue to understand the nature of future climate change, it is clear that the RMI faces major impacts on its communities' livelihoods and infrastructure from sea-level rise, sea surge, typhoons, and rainfall intensity; water and food security issues from changing rainfall patterns and ocean acidification; health issues from rising temperatures and prolonged drought periods, as well as the potential for increasing peak wind speeds and changes to ocean circulation patterns. In 2018, RMI submitted its Nationally Determined Contribution to the UNFCCC where RMI made a commitment to reduce GHG emissions to at least 32 percent below 2010 levels by 2025 and to at least 45 percent below 2010 levels by 2030.⁴¹⁰ In 2019, RMI conducted a workshop to explore creating a national climate finance mechanism that supports the Government in managing and leveraging climate change-related funds, strategic projects for mitigation, adaptation and resilience, and strengthened internal systems, leading to accelerated climate action to benefit the RMI.⁴¹¹

In 2019, the Green Climate Fund approved \$18.6 million towards water resilience in the RMI.⁴¹² RMI has three projects under the Green Climate Fund worth \$98.1 million and one readiness activity with \$400k disbursed.⁴¹³ Moreover, Marshall Islands has undertaken climate change and disaster risk finance assessments under the Pacific Climate Change Finance Assessment Framework (PCCFAF).⁴¹⁴ The USAID has the lead responsibility for disaster mitigation, relief, and reconstruction in RMI under the Compact of Free Association, complementing resilience measures that help better prepare for, and mitigate the impacts of, natural disasters.⁴¹⁵

⁴¹⁰ <https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Marshall%20Islands%20Second/20181122%20Marshall%20Islands%20NDC%20to%20UNFCCC%2022%20November%202018%20FINAL.pdf>

⁴¹¹ <https://ndcpartnership.org/news/marshall-islands-takes-next-steps-national-climate-finance-mechanism>

⁴¹² <https://reliefweb.int/report/marshall-islands/green-climate-fund-pours-186-million-towards-water-resilience-marshall>

⁴¹³ <https://www.greenclimate.fund/countries/marshall-islands>

⁴¹⁴ <https://www.ctc-n.org/resources/adaptation-bulletin-1-pacific-islands-forum-secretariat-submission>

⁴¹⁵ <https://www.usaid.gov/pacific-islands/environment-and-global-climate-change>

3.11 REPUBLIC OF PALAU (BELAU)



Population	Land area	Maximum elevation above sea level	EEZ
17,900 ⁴¹⁶	444 km ²	242 m	8 km ²

3.11.1 FORMAL GOVERNMENT STRUCTURE

Status: Independent (from the USA) 1994; in free association with the USA.

Capital: Palau changed its capital from Koror to Melekeok in 2016⁴¹⁷.

Presidential and federal system modelled on the USA; President and Vice-President are elected at four-year intervals.

Head of State and Head of Government: President, Tommy E. Remengesau Jr (since 2013). President can serve two four-year terms.

The legislative power of Palau is vested in the *Olbiil Era Kelulau* which consists the House of Delegates and the Senate. There are 16 states. State governments consist of local legislators, governors, traditional chiefs, elders, and high-ranking clans. Palau also has a Council of Chiefs, consisting of one traditional leader from each of the Republic's states. The council advises the President on matters concerning traditional laws, customs, and their relationship to the Constitution and the laws of Palau.

House of Delegates and the Senate: four-year terms.

National Identity and Cohesion

Palau, with a tiny population of 17,000, has the most pronounced national identity and sense of national pride in the Micronesian region. Once the center of Japanese colonial administration 1914-44, Palau is also the most successful economically of all Pacific Island independent states with, in normal times, a flourishing tourist industry. Palau's GDP per capita is considerably higher than that of the FSM or the Marshall Islands and qualifies it to be considered a middle-income country. While Koror may not be the capital anymore, it still has the distinction of being the country's most populous city with over 11,000 inhabitants—about half of the nation's total population. The metropolitan area is home to most of the nation's inhabitants with a population around 14,000⁴¹⁸.

Relationship Between State and Society

The relationship between state and society is close and personalized in this tiny and relatively well-off nation.

3.11.2 INCLUSION

Ethnic and Linguistic Diversity

At least 7,000 Filipinos live and work in Palau and are the largest minority in the country,

⁴¹⁶ <https://sdd.spc.int/pw>

⁴¹⁷ <https://worldpopulationreview.com/countries/palau-population/>

⁴¹⁸ Ibid

Ethnic Divisions as a Source of Instability

Not Applicable.

Women's Political Participation, including Temporary Special Measures (TSM)

Election Year	1996	2000	2004	2008	2012	2016	2020
No. of Seats	14	14	14	14	14	14	14
Number of Women MPs	0	0	0	0	3	4	TBD
Percentage	0.0	0.0	0.0	0.0	21.4	28.6	

3.11.3 COMPETITION AND POLITICAL ACCOUNTABILITY

Political System and Recent Developments

Palau has a legislature, the House of Delegates, and a Senate, both of which are elected every four years. The legislature has 16 members, one for each state, and each state conducts its own regular elections. Palau had one of the most extensive policy responses to the COVID 19 virus in the Pacific Islands, with screening of all arriving flights from January 23, 2020. No cases had been reported by April 14, 2020.

Electoral System and Elections

Members of the House of Delegates are directly elected in single-seat constituencies by simple majority vote (first-past-the-post) to serve four-year terms. The President is elected by simple majority vote, in two rounds if needed. The most recent general election in Palau—in 2016—returned Tommy E. Remengesau to a second term as President. Palau is the most pro-American of all three freely associated states, with one of the most pro-American voting records at the UN. In advance of a visit to the White House in May 2019, Remengesau emphasized his country's 'steadfast reliability' and support for the United States' Indo-Pacific strategy, which he described as 'a plan to counter Chinese expansionism and its militarization of islands in the region.'⁴¹⁹

3.11.4 DECENTRALIZATION

In Palau, as Stephen Levine and Nigel Roberts write, "Each village has attained the status of a 'state' (with its own constitution, legislative body, and government), so that in formal terms a Lilliputian federation can be said to exist, with a bicameral legislature at the national level to go with it."⁴²⁰ With 16 states and a population of 18,000, it could be argued that Palau is the most decentralized of all Pacific countries, and the country has gained the reputation of being one of the best governed Pacific countries.

Political Stability

Palau has been politically stable since independence.

⁴¹⁹ Stephen Levine and Nigel S. Roberts, 'The Constitutional Structures and Electoral Systems of Pacific Island States', *Commonwealth & Comparative Politics*, Vol.43, No.3, November 2005, pp.276–295; 279

⁴²⁰ Ibid.

Military Forces and their Role in Politics

Palau has no military, although Palauans serve in the US armed forces.

Civil Society Organizations

There are numerous civil society groups in Palau. However, these groups lack the capacity to influence state and national policy dialogue. In recognizing this gap, the Belau Association of Non-Governmental Organizations (BANGOs), a national coordinating mechanism for civil society organizations (CSOs), non-governmental organizations (NGOs), and community-based organizations (CBOs) was established with the overall objective of working in partnership with the government of Palau and the private sector. The BANGOs is a national platform to promote CSOs as important development actors, and to promote inclusive development and partnership. This includes ensuring the country is successful in achieving the 2030 Agenda and the Sustainable Development Goals, adopted by the United Nations in 2015. Palau is an interim member of Pacific Island Non-Government Organization (PIANGO), whose primary objective is to initiate action, give voice to their concerns, and work collaboratively with other development actors for just and sustainable human development.⁴²¹

3.11.5 RULE OF LAW AND HUMAN RIGHTS

Judiciary

Palau has a strong rule of law culture which overseen by the Police and an independent judiciary. Palau's Judicial Canon I recognizes that Judicial independence is a prerequisite to the rule of law and the fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.⁴²² The judicial system consists of the Supreme Court, the Court of Common Pleas, and the Land Court. Judges of the Supreme Court are appointed to life terms by the President with approval from Palau's National Congress.

Police

Similar to the other Northern Pacific countries, Palau's external defense is overseen by the United States of America while the Palauan police oversee the internal law and order. Palau is generally a low crime country with very little to no cases of police brutality or violence.

Violence Against Women

Violence against women has been highlighted in the recent Belau Family Health and Safety Study on the prevalence of violence against women and girls. Additionally, a Gender Mainstreaming Policy is currently being drafted and would essentially mainstream gender within the National and State government policies and programs. In 2012, Palau enacted the Family Protection Act (FPA) 2012 that creates an obligation to report sexual abuse or neglect, creates immunity for mandatory reporting, and imposes penalties for violations as well as restraining orders. Moreover, marital rape is now criminalized.

The Judiciary Branch constructed a new court building specifically for the Court of Common Pleas, which included construction of a temporary dwelling for victims of domestic violence. In addition, religious organizations offer support to the government by opening their churches for victims in need of a safe house. Furthermore, the Belau National Hospital allows for social admissions to victims in need of shelter.

⁴²¹ www.piango.org/our-members/member-countries/

⁴²² <http://www.palausupremecourt.net/upload/PI408/13812030955924.pdf>

Women's Empowerment

While Palau has made significant achievement in gender equality and empowerment of women, it is still not a state party to CEDAW, though the government has taken steps towards ratification of the treaty through awareness programs and consultations with key stakeholders. Palau is a matriarchal society where lineage and titles pass down from the mother's side, and women often fill prominent positions in government.

Women's Political Participation

During the 2012 national general election, three women senators were elected into the ninth OEK. At the state level, there is one female governor out of 16 state governors. In state government legislatures, there are 25 female legislators out of a total of 174 seats. In past years, there has been an increase in women contesting for national and state elections. There is one female minister in the cabinet. Moreover, a civil society group the Center for Women Empowerment Belau, in partnership with the Ministry of Community and Cultural Affairs and the National Congress, was formed to advocate for women's participation in leadership, decision-making bodies, and processes.

Women's representation in the Judiciary remains the highest. In addition, women comprise the majority of senior public servants. The National Action Plan in advancing women decision making and leadership 2010–2015 will be reviewed.

Implementation of Core Human Rights Treaties

Palau has not ratified CEDAW, however in 2011, following a commitment at its first UPR cycle, Palau signed all the other core human rights treaties. Apart from the commitments to the human rights treaties, Palau's Constitution also continues safeguards to various freedoms and rights which includes the right to life, due process of law, liberty, health, and education, etc.

National Human Rights Institutions (NHRI)

While Palau does not have a Paris Principle compliant NHRI, President Remengesau established a Human Rights Committee under Executive Order 368. The Human Rights Reporting Committee comprises all the Government Ministers. The Committee is supported by a National Human Rights Working Group comprising key officials from each Ministry. Gender and disability issues inter alia were key considerations in the establishment and creation of the working group. Palau recognizes that funding, technical capacity, and sustainability remains as challenges to establishing a NHRI, however the government also recognizes that should it establish an NHRI, then they must decide on a model that will work for Palau.

Children's Rights

Palau ratified the CRC and has enacted various child protection laws to ensure the protection of children. These include the prevention of sexual assault of children, higher penalties as a form of deterrence in the area of human trafficking of children, sexual exploitation of children, and domestic violence inclusive of children. The Penal Code, effective July 2014, criminalizes the possession and promotion of child pornography, and using a computer to engage in sexual activities and entice children under the age of 18 to meet with predators. Moreover, the Sexual Assault Offenses have been expanded to include offenses such as pornography, continued sexual assault of a minor, sexual harassment, and incest. Furthermore, there is mandatory Registration of Sex Offenders, which creates a sexual offender registry list. Moreover, the mandatory reporting of sexual and domestic violence under the new Family Protection Act has seen an increase in sexual assault cases reported since January 2015, focusing especially on victims who are

children, including having child friendly judicial processes for child victims, witnesses, and processes conducive to the child.

Youth Rights/Issues

Palau's national youth policy defines youth as those between 15-34 years old. The Youth policy identifies the following priorities: a) youth and nationalism/patriotism, b) youth and health c) youth and education, d) youth and employment, e) youth and justice, f) sports and recreations, g) youth participation in national Development, h) youth and their voices, i) youth and decision-making and resource appropriation, and j) youth and culture & fine arts.⁴²³ The government's division of youth within the Ministry of Community and Cultural Affairs oversees youth issues in Palau. Moreover, Palau celebrates an annual youth day as a public holiday. Youth unemployment is decreasing though other issues like substance and alcohol abuse, criminal activities remain as challenges.⁴²⁴ Palau youth are also actively involved in advocacy on a range of issues including climate change etc.

Rights of Persons with Disabilities

In 2013, Palau ratified the CRPD. Following ratification, a series of consultations were held in partnership with Pacific Disability Forum and the Pacific Islands Forum Secretariat, where a National Disability Policy was drafted. The purpose of the Policy is to address and engage in the needs and services of persons and families with disabilities, and build a more inclusive society in Palau.

Children with disabilities have the right to free appropriate public education as stipulated in the Individuals with Disabilities Education Act (IDEA) of 2004 and RPPL 3-9. In the Ministry of Education, a special education program oversees the education of children and youth with disabilities ages three to 21 years in both public and private schools or programs. Services for children with disabilities are coordinated by an Interagency Task Force headed by the Ministry of Health. The purpose of the Task Force is to provide seamless child center services extending from birth to childhood.

LGBTI Rights

New criminal laws came into force at the end of July 2014 which decriminalized same-sex consensual conduct in Palau. At the same time the LGBTI community in Palau face discrimination.⁴²⁵ In 2019, the President reportedly called for the end of discrimination against LGBTI persons.⁴²⁶

Religious and Ethnic Minorities' Rights

The Fundamental Rights section of the Palau Constitution (Article 4) guarantees and protects freedom of conscience and religion.

Indigenous People's Rights

The Constitution provides sufficient protections on Cultural rights recognizing in the Preamble that the people of Palau "Renew our dedication to preserve and enhance our traditional heritage, our national identity." Article V provides constitutional protection on traditional laws making it equally authoritative to statutes and in the extent of a conflict between the two, statutes shall prevail only to the extent that it

⁴²³ <https://www.youthpolicy.org/factsheets/country/palau/>

⁴²⁴ <https://blogs.adb.org/blog/what-does-it-mean-be-palauan-youth-2016>

⁴²⁵ https://www.upr-info.org/sites/default/files/document/palau/session_24_-_january_2016/allied_rainbow_communities_international.pdf

⁴²⁶ <https://www.gaystarnews.com/article/palau-president-supports-same-sex-marriage-but-theres-a-catch/>

is not in conflict with the underlying principles of the traditional law. There are no major challenges with indigenous rights in Palau given the racial composition is largely Belauans.

Freedom of the Press

Freedom of the press is respected and guaranteed in the Constitution which provides in Section 2 that the government shall take no action to deny or impair the freedom of expression or press. No bona fide reporter may be required by the government to divulge or be jailed for refusal to divulge information obtained in the course of a professional investigation. There are several independent news outlets, including newspapers and broadcasters, but they often struggle financially. Regional and international news services are also available. Internet access has been hampered by high costs and lack of connectivity outside the main island.

Freedom of Information Laws

The Open Government Act 2014 allows for public access to official documents and hearings. Moreover, government officials are obliged to submit annual financial disclosures which can be accessed by the public, though this has often been resisted by officials.

Civil and Political Rights

Freedom House rated Palau as free with a total score of 92/100, broken down into 37/40 on the realization of political rights and 55/60 on the realization of civil liberties.

Economic, Social and Cultural Rights

Workers can freely organize unions and bargain collectively, but there are no laws specifically regulating trade unions or strikes or prohibiting antiunion discrimination. Union membership and activity are low in practice, as the private-sector economy consists mostly of small, family-run businesses.⁴²⁷

Palau has a high migrant population, working to send money home. The government needs to strengthen its effort in improving the situation of workers, in particular migrant workers, with a view to ensuring adequate protection against acts of anti-union discrimination in respect of their employment.

There are also concerns raised of farm and domestic workers who needed increased protection against human rights abuse as they were not covered by the new minimum wage laws, and therefore face higher levels of abuse and exploitation. It is noted that some domestic workers experienced economically abusive relationships, where they received a minimum pay and worked long hours, and some employers confiscated workers' passports or used threats of deportation to maintain control over their employees. Unemployment is also high among Palauan citizens.

3.11.6 CORRUPTION

Laws on Anti-Corruption

Palau has various laws dealing with anti-corruption in the Penal Code of Palau 2014 under Title 17 of the Palau National Code (PNC) which criminalizes bribery and trading in influence, money laundering, concealment, embezzlement, abuse of functions, and obstruction of justice among others.

⁴²⁷ See UPR National Report; 2nd cycle.

National Institutions on Anti-Corruption

While Palau does not have a dedicated anti-corruption institution, various agencies of government are in place to assist with preventing corruption. The Office of the Attorney General, and in particular the Office of the Special Prosecutor, is the government lead in the prosecution of corruption related offenses. Other agencies include the Financial Intelligence Unit, which was established in 2002, under the Financial Institutions Act 2001. The Financial Institutions Commission (FIC) supervises banks and the FIU to investigate suspicious and cash transactions above \$10,000.

The Ombudsman within the Office of the President has the responsibility “To receive grievances regarding services, programs and activities provided by the Government and its agencies; to review the merits(s) of each grievance and promptly seek to resolve and assist in the resolution of said grievances.” The Ombudsman’s office has recently asked for a clearer legal mandate with greater independence.

The Ethics Commission was established in 1999, pursuant to the Code of Ethics Act. The Constitution provides for a Public Auditor appointed by the President. The operational independence of the Public Auditor is entrenched in the Constitution. High-ranking public officials have faced corruption charges in recent years, and several have been convicted. The government and lawmakers have deliberated on strategies to deal with corruption more effectively, and in April 2017 the finance minister issued a statement to reiterate the government’s ethics rules and a whistle-blower protection policy.

Ratification of UN Convention Against Corruption

The Convention entered into force in Palau on April 23, 2009. Palau was reviewed by the Implementation Review Group of the Conference of the States Parties to the UNCAC in 2015.⁴²⁸

3.11.7 GOVERNMENT RESPONSIVENESS AND EFFECTIVENESS

Governance in Practice

Palau is widely regarded as one of the best governed countries in the Pacific. The Palau Local Governance Strengthening Project introduced in 2016 was one of the first projects under the UNDP Pacific Office in Fiji to receive Government Cost Sharing funds for implementation. The project aimed at strengthening the capacities of State Governments to ensure improvements in accountability, transparency, and good governance in the management of state finances, human resources, and other resources.

Government Performance on Health

The WHO notes that, Palau has undergone an epidemiological shift. The burden of diabetes, heart disease, obesity, and kidney failure are increasing. Cost evaluations are needed for off-island medical referrals, hemodialysis, and intensive care services, and for the financial sustainability of a secondary health care facility. NCD is a national health emergency and the government developed a Non-Communicable Disease Strategic Plan 2015-2020, under Executive Order 379 to address this issue.

Government Performance on Education

Historically, girls and young women have had higher enrollment rates than boys and men; however primary completion rates in 2014 were 96.95 percent for boys and 94.69 percent for girls. By comparison, in

⁴²⁸<https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V1500571e.pdf>

PNG, the 2016 primary completion rate for boys and girls was 84.70 percent and 73.50 percent, respectively.

Government Performance on the Environment

Palau inaugurated the world's first shark sanctuary in 2009, and after years of anticipation, Palau opened a marine sanctuary covering 500,000 square kilometers of ocean in January 2020. This marine sanctuary is twice the size of Mexico and prohibits commercial fisheries as well as oil drilling from its Exclusive Economic Zone. Welcomed internationally as an environmental breakthrough, it has nevertheless had the unintended effect of increasing the consumption of reef fish.

3.11.8 KEY AID RELATIONSHIPS

The biggest aid relationship for Palau is with the United States under the Compact of Free Association signed in 1994, although in some years, such as 2017, aid from other sources appears to have exceeded that from the United States. This is misleading because it does not allow for the funding already provided by the United States to the Trust Fund or for the extra US services such as weather forecasting. Palau's economy rests in part on tourism and suffered considerable losses in 2017 when China instructed tour operators not to book tours to Palau as it is not on the official list of approved destinations for Chinese travelers.

The Chinese move was widely interpreted as an attempt to pressure Palau on recognition policy. In the case of the RMI, seeking similar results, China is imposing extra taxes on RMI-badged vessels entering Chinese ports, in conformity with policy towards ships from Taiwan-recognizing states. In 2019-2020, Australia confirms that the Australian Government will provide an estimated \$8.4 million in Official Development Assistance (ODA) to the North Pacific. This will include an estimated \$5 million in bilateral funding for two broad objectives.⁴²⁹ New Zealand supports Palau through the North Pacific Development Fund, which is administered by the Consulate-General in Honolulu, Hawaii. It provides funding for locally run projects up to NZD\$75,000, and has a bilateral development program on climate change, oceans, and gender with Palau.⁴³⁰

Top five donors in 2017

- Japan: \$12.97 million.
- Asian Development Bank: \$5.96 million.
- United States of America: \$2.92 million.
- Australia: \$1.91 million.
- Taiwan: \$1.34 million.

3.11.9 CLIMATE CHANGE, ADAPTATION AND FINANCING

The Pacific Adaptation to Climate Change (PACC) project is supporting the integration of climate change risks into policy frameworks and the implementation of community-based adaptation measures in 14 countries throughout the Pacific. In the Republic of Palau, 350 islands in the far western Pacific Ocean, the PACC project focused on the agricultural sector. PACC Palau is providing alternative solutions to current problems faced by farmers, including saltwater inundation, the negative impacts of increase in sea surface temperature, and changes in ocean salinity in the Ngatpang State. The objective of the PACC Palau project is to test and introduce saltwater tolerant taro varieties to reduce the impacts of climate

⁴²⁹ <https://www.dfat.gov.au/geo/palau/development-assistance/Pages/development-assistance-in-palau>

⁴³⁰ <https://www.mfat.govt.nz/en/countries-and-regions/pacific/palau/>

change.⁴³¹ The Government launched its Climate Change Policy in 2015 that seeks to, among others, establish a “No Regrets” approach to national development priorities. “No Regrets” is defined as an approach that achieves benefits under all possible future climate change and disaster scenarios, including both low emission and high emission (e.g. low impact and high impact) cases and worst-case disaster scenarios. Moreover, the Guiding Principles of the Policy seeks to clarify and links the roles, powers, duties, functions, and responsibilities of stakeholders within national and state governments, the private sector, civil society, communities, and Traditional Leadership, and finally it seeks to guide national budgeting and fiscal year spending, inform sector (including private stakeholder) spending priorities, and facilitate domestic and international fundraising.⁴³²

Palau has identified targets of 22 percent energy sector emissions reductions below 2005 levels by 2025, 45 percent renewable energy target by 2025, 35 percent energy efficiency target by 2025 as part of its broader strategy of absolute energy sector emissions reduction target, with additional reductions coming from the waste and transport sectors in its Intended Nationally Determined Contribution.⁴³³

⁴³¹ https://www.adaptation-undp.org/sites/default/files/downloads/pacc_cb_pal.pdf

⁴³² https://www.pacificclimatechange.net/sites/default/files/documents/PalauCCPolicy_WebVersion-FinanceCorrections_HighQualityUPDATED%2011182015Compressed.pdf

⁴³³ https://www.pacificclimatechange.net/sites/default/files/documents/Palau_NDC.pdf

3.12 NAURU



Population	Land area	Maximum elevation above sea level	EEZ
10,840	20.98 km ²	71 m	308 480.00 km ²

3.12.1 FORMAL GOVERNMENT STRUCTURE

Status: Nauru is a democratic republic, previously a UN Trusteeship Territory until independence in 1968.

Head of State and Head of Government: Elected by the Parliament for three-year terms. The current head of state is Lionel Aingimea, elected in 2019.

Legislative Branch: 19-member Parliament.

Elections: Every three years.

National Identity and Cohesion

With a population of 10,840, Nauru is a tiny country, though it is not noted for political cohesion. An electoral law passed in 2012, instituted 19 rather than 18 members of parliament, a change that avoided the deadlocks and states of emergency of the past. Nauru's recent political stability has come at the cost of increasing authoritarianism under a 2013-2019 government dominated by Justice Minister David Adeang and Prime Minister Baron Waqa. As host of the Australian detention center for asylum seekers, the Nauru government entrenched executive power and suppressed media freedom in the knowledge that criticism from Canberra would be minimal, at best.

Relationship Between State and Society

Its small population and some repression notwithstanding, Nauru is in many ways a repressed society, with a vigorous minority expressing critical views.

3.12.2 INCLUSION

Ethnic and Linguistic Diversity

More than 90 percent of the population are Nauruans, and diversity is low. There are two local languages, Nauruan and English.

Ethnic Divisions as a Source of Instability

Ethnic problems are a lesser issue, compared to tribal conflicts. The political divisions in Nauru are not over policy questions, but issues of personality.

Women's Political Participation, including Temporary Special Measures (TSM)

Currently, two women sit on the Nauru Parliament. Charmaine Scotty was the sole woman MP in three general elections, when she first won in 2013. Isabelle Dageago joined her in 2019 as the remaining woman

MP, (Gabrissa Hartman was elected into Parliament following a by-election). The idea of special seats for women was floated earlier but rejected in public consultations.⁴³⁴

Election Year	1968-2013	2013	2016	2019
No. of Seats	18	18	19	19
Number of Women MPs	3	1	1	2
Percentage	2.8	0.9	2.7	0.0

3.12.3 COMPETITION AND POLITICAL ACCOUNTABILITY

Electoral System and Elections

Elections are held every three years in multi-seat constituencies.

3.12.4 DECENTRALIZATION

Not Applicable.

Political Stability

The election in June 2013 demonstrated Nauru's retreat from democratic accountability. It followed a political crisis in which the initial dissolution of parliament was ruled unconstitutional and a state of emergency declared, political events that had become almost the norm in Nauru. Nauruans were accustomed to frequent changes of government, parliamentary paralysis, and the declaration of states of emergency. Parliament elected Baron Waqa as President in 2013. Waqa and his finance and justice minister, David Adeang, entrenched their power in the tiny republic. They both became authoritarians. Instability might have rendered government ineffective, but stability made it repressive.

In 2014 Waqa dismissed Nauru's Resident Magistrate and his actions prompted the resignation of the country's Chief Justice. Moreover, in Parliament the Speaker, an ally of the President, suspended five of the eight opposition members indefinitely, accusing them of treason for having disparaged Nauru in conversations with foreign journalists. An amendment to the criminal code in 2015 made 'political hatred' an offence punishable with imprisonment, and protests outside Parliament were followed by the arrest of opposition deputies, including a former President and a former Minister of Finance. Those charged came to be known as the 'Nauru 19'. In the 2016 general election three of the suspended opposition MPs were defeated, while a fourth, Roland Kun, left his confinement on the island without the knowledge of the Government after New Zealand clandestinely granted him citizenship. Although the polling itself was free and fair, the election campaign took place in an atmosphere where criticism of the Government was likely to result in loss of employment. The Parliament re-elected Waqa as President for another three years, but he lost his seat in the 2019 election.⁴³⁵

The fundamental driving force behind Nauru's retreat from democracy lies in Nauruan politics itself, and ultimately in the personal relationships between different members of that tiny elite. In other words,

⁴³⁴ Pacific Women in Politics, Country Profile, Nauru. <https://www.pacwip.org/country-profiles/nauru/>

⁴³⁵ Stewart Firth (2016) Australia's Detention Centre and the Erosion of Democracy in Nauru, *The Journal of Pacific History*, 51:3, 286-300 <http://dx.doi.org/10.1080/00223344.2016.1233730>

whether there was a detention center there or not, the Waqa/Adeang government was likely to have gone in the same direction, emboldened perhaps by the success of Frank Bainimarama and his approach to democracy in Fiji in creating what you might call a constrained democracy. However, they would not have gone so far if Australia had expressed more criticism of what is, after all, a tiny country of 11,000 people almost entirely dependent in Australian aid.

Military Forces and their Role in Politics

There are no military forces in Nauru.

Civil Society Organizations

Nauru has a rapidly developing civil society active in areas such as government reform, educational and economic development, and human rights. The Nauru National Council of Women, the Nauru National Young Women's Council and the National Women's Youth Council promote women's rights and interests, literacy and education, and encourage community involvement. The Nauru Able Disabled Centre is an advocate for the rights of the disabled in Nauru and provides education and training for disabled children. The Nauru Island Association of NGOs (NIANGO) facilitates action of NGOs in Nauru and is a member of the Pacific Island Association of NGOs (PIANGO), a regional coalition which collaborates with NGOs in Pacific Island countries. There is no national register of NGOs in Nauru.⁴³⁶

3.12.5 RULE OF LAW AND HUMAN RIGHTS

Judiciary

Until 2019, Nauru's judicial system comprised at least a Magistrate Court and a Supreme Court with a final appeal made to the High Court of Australia.⁴³⁷ However, following various legal turmoil involving the "Nauru 19" case (highlighted further below), the government announced in June 2019, the abrupt end of appeals to the High Court of Australia as the final appeal court and moved to establish its own final appeal court albeit the Nauru Court of Appeal with judges drawn in from (mostly) sitting Chief Justices from around the Pacific.⁴³⁸ Up until 2015, Nauru's Supreme Court judge has also been a non-resident Judge. Now two Supreme Court Justices including the Chief Justice live on island.

Nauru's judiciary has been criticized by many for its perceived lack of judicial independence and allegations of government interference following the deportation of the country's only magistrate and subsequent denial of the overseas resident Chief Justice's re-entry in Nauru, and his termination in 2014⁴³⁹ due to their unfavorable rulings against the government in cases involving asylum seekers. However, the government alleges that it was due to misconduct but of which there was no legal findings to sustain the actions.⁴⁴⁰ The magistrate and Chief Justice were both Australian citizens. The current Chief Justice who was subsequently appointed in 2019 has reportedly said that there is no "single ounce of truth" in the allegations made about the court, and that judicial independence was the foundation of Nauru's democracy."⁴⁴¹ However, the UN Special Rapporteur on the Independence of Judges and Lawyers sent a

⁴³⁶ Commonwealth Network Nauru, http://www.commonwealthofnations.org/sectors-nauru/civil_society/national_ngos_civil_society/

⁴³⁷ <http://www.pacii.org/nr/courts.html>

⁴³⁸ <http://nauru-news.com/first-sitting-nauru-court-appeal/>

⁴³⁹ <https://www.smh.com.au/politics/federal/courts-in-crisis-as-nauru-sacks-its-only-magistrate-20140119-312u1.html>

⁴⁴⁰ <https://www.theguardian.com/world/2014/jan/20/nauru-deports-its-only-magistrate-and-bars-chief-justice-from-entering-country>

⁴⁴¹ <https://www.rnz.co.nz/international/pacific-news/406382/nauru-chief-justice-dismisses-interference-claim>

communication letter to the government in 2014 citing the UN expert's "Serious concerns on the removal of the magistrate without due process and that the cancelation of the visa of the Chief Justice violated the independence of the judiciary." (see A/HRC/26/21, page 47).

In the controversial case dubbed "Nauru 19" involving current and former Members of Parliament (including three former Presidents) who had been suspended from Parliament for criticizing the government's sacking and deportation of the two Judges (above) and raising allegations of corruption to foreign media in 2015. This led to their protest outside parliament, which then resulted in a riot that saw rocks thrown into parliament causing damage when the 19 were arrested and prosecuted. In 2018, Judge Geoffrey Muecke was hired to hear the matter.⁴⁴² After lengthy due process and various decisions and appeals on sentences, Judge Muecke issued a permanent stay of prosecution, calling the case a "Shameful affront to the rule of law," (abruptly concluding the case). In his sentencing remarks the judge wrote that, "The findings I made on the evidence before me convinced me that the government of Nauru was going to do all that it could, including affronting every rule of law that was necessary, to ensure that these people who they regarded as criminals, should not get a fair trial and should be convicted and sentenced for severe lengths of imprisonment." Judge Muecke added that "Everything the government of Nauru did was directed towards that aim." He then ordered the Government to pay USD\$154,616 in legal costs to the accused. However, the government responded that his ruling was "Wrong in law and needed to be corrected."⁴⁴³ At the same time some members of the "Nauru 19" case had also filed appeals to the High Court of Australia. While the appeal was afoot, the government of Nauru issued notice to the Australian government that it was terminating the Agreement and that Nauru was going to establish its final Appeals court. The Judge's contract ended after this ruling.⁴⁴⁴ However, it is alleged by Judge Muecke that earlier "The minister for justice stood up in court one day and said ... we expect the courts to convict these criminals and lock them up for the maximum sentence allowed."⁴⁴⁵

In June 2019, the newly established Nauru Court of Appeal, dismissed all of Judge Muecke's decision finding the to issue a stay of proceedings was an "extreme one" and that he had acted outside his jurisdiction."⁴⁴⁶ The decision was that the case needed to be retried. Former Fijian Chief Justice was then hired to hear the case again.⁴⁴⁷ In December 2019 (five years to when this case started), the group of 12 (three had sought asylum in Australia because and others were already serving sentences after pleading guilty) was found guilty and sentenced accordingly.⁴⁴⁸ However the Law Council of Australia quickly issued a statement saying that, "The conviction and sentencing of the Nauru 19 has been an affront to the rule of law. It is a stain on their justice system... This brings into disrepute the administration of justice and there is no doubt that in the circumstances of this case that the Nauru Government has denied these individuals the right to a fair trial."⁴⁴⁹ The New Zealand Law Society called it a "Blight on justice."⁴⁵⁰

⁴⁴² <http://www.loopnauru.com/nauru-news/nauru-appoints-justice-muecke-supreme-court-bench-74587>

⁴⁴³ <https://www.theguardian.com/world/2019/nov/15/nauru-19-australian-judge-blasts-appalling-persecution-of-protesters>

⁴⁴⁴ <http://nauru-news.com/nauru-dpp-appeal-parliament-riot-trial-decision/>

⁴⁴⁵ <https://www.theguardian.com/world/2019/nov/15/nauru-19-australian-judge-blasts-appalling-persecution-of-protesters>

⁴⁴⁶ <https://www.theguardian.com/world/2019/jun/25/nauru-19-back-at-square-one-after-stay-of-prosecution-thrown-out>

⁴⁴⁷ <https://www.theguardian.com/world/2019/dec/14/nauruan-government-alleges-reprehensible-interference-in-nauru-19-case>

⁴⁴⁸ <https://www.theguardian.com/world/2019/dec/20/nauru-19-members-jailed-over-protest-against-crackdown-on-opposition-mps>

⁴⁴⁹ <https://www.lawcouncil.asn.au/media/media-releases/law-council-calls-for-australian-government-to-intervene-to-support--nauru-19>

⁴⁵⁰ <https://www.lawsociety.org.nz/news-and-communications/news/extraordinary-breach-of-legal-rights-in-nauru-law-society-says>

Police

The Nauru Police Force Act 1972 and its 2012 amendment establishes the Nauru Police Force, the Reserve Force, and the Police Board, and regulates the Police Force.⁴⁵¹ Nauru Police receives a lot of institutional strengthening and capacity-building support from the Australian Federal Police. The US Crime and Safety report for 2019 notes that there is only minimal risk from crime in Nauru.⁴⁵²

In 2015, OHCHR issued a media brief stating that a Somali refugee woman, alleged to have been raped in Nauru, refused to give details to the police because she was afraid of appraisals. The statement further stated that, “OHCHR is concerned about reports that the Nauru police have failed to take action against alleged perpetrators of violence against women, particularly when the victims have been asylum seekers and refugees. We are aware of a growing number of sexual assault and rape allegations since Australia restarted its policy of transferring asylum seekers to Nauru for processing in 2012.”⁴⁵³

The Police contributes to community awareness of laws including domestic violence and also on the new cyber-crime legislation where it talks to the community on the dangers of the internet including highlighting the rights of online bullying, predatory behavior, and crime. There is a high usage of the internet in Nauru.⁴⁵⁴

Violence Against Women

Violence against Women is a serious concern in Nauru. In 2014, the Family Health and Safety Study for Nauru found that an estimated 48 percent of women in Nauru have experienced physical or sexual abuse in their lifetime.⁴⁵⁵ In 2016, the Government took various measures in addressing domestic violence. It passed the Domestic Violence and Family Protection Act 2017, established a police domestic violence unit and established a safe house and a 24-hour domestic violence hotline. The Safe House offers counselling services and a special program for survivors of domestic violence. The Nauru Gender Country Plan establishes a referral system from the Ministry of Health and establishes a full-time psychosocial counsellor at the Republic of Nauru Hospital (RONH) for men, women, boys, and girls affected by domestic violence, alcohol and teen pregnancy. Following this a referral system between RONH. Additionally, the DVU coordinated with Women’s Affairs of Nauru and established in 2008 a temporary safe house for survivors of domestic violence.

The government through the Ministry of Home Affairs has over the years increased awareness and community education on eliminating domestic violence. The Pacific Prevention of Domestic Violence Program and the Nauruan Police annually organize the “White Ribbon Day” (November 25), which is aimed at ending violence against women and increasing awareness of domestic violence in communities. This then leads to the 16 days of Activism against domestic violence, which concludes on international Human Rights Day. These community awareness runs almost a month of campaigning and activities.

In the landmark decision of *Republic v Saeed Mayahi Criminal Case No. CF 7/2015*, the Nauru Supreme Court struck down the corroboration rule in sexual violence cases under the common law system arguing it was discriminatory to women and not in line with the country’s obligations under CEDAW. The Court

⁴⁵¹ https://www.policinglaw.info/assets/downloads/1972_Police_Act_of_Nauru.pdf

⁴⁵² <https://www.osac.gov/Country/Nauru/Content/Detail/Report/613a68a6-e5dc-4552-bb7b-15f4aec42d2f>

⁴⁵³ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16657&LangID=E>

⁴⁵⁴ <http://nauru-news.com/nauru-police-force-launches-cyber-safety-campaign/>

⁴⁵⁵ Family Health and Safety Study: <https://evaw-global-database.unwomen.org/-/media/files/un%20women/vaw/vaw%20survey/nauru%20vaw%20survey.pdf?vs=1732>

held that “The rule of practice requiring the giving of a corroboration warning relates to cases in this jurisdiction in which only a woman or girl can be the complainant. Thus, to require a corroboration warning to be given in relation to these complainants only, is to discriminate against them on the basis of their sex. This offends against the tenet of section three of the Constitution of Nauru.”

Women’s Empowerment

Nauru’s CEDAW reports notes that traditionally Nauru is a matrilineal country, however over the years with western influence, patriarchal standards and values have been engrained and reinforced through practice, policy and law. Based on its matrilineal system, women have an important voice in the family and the community, land ownership is inherited through the maternal side, however over the years, the voice of women are ignored, and status of women eroded and described Nauruan society as dominated by men.⁴⁵⁶ The valued role of women in public life is reflected in the large proportion of public sector agencies historically headed by women. However only three women have ever been elected to Parliament in Nauru.⁴⁵⁷

Nauru has a National Women’s Policy which calls for a multi-sectoral implementation response, and directs government, civil society and community representatives regarding its gender priorities. The National Women’s Policy goals are: a) heightened participation of women in decision making and leadership in Government and state owned enterprise and at grassroots levels; b) elimination of all forms of violence against women, c) improved economic status of women including workplace equality with men, d) improved women’s health (including reproductive health and rights) services; e) improved and equitable access to health care by women f) improved and equitable participation in all levels of education by girls and women and g) a strengthened women’s affairs department and improved capacity government agencies to mainstream gender equality programs.

The Constitution guarantees formal equality and the government has taken measures to ensure that gender equality is guaranteed and promoted. Nauru acceded to CEDAW in 2011. While there is no direct barrier to women’s participation, only three women has ever been elected into Nauru’s 19 seat parliament. The Women’s Affairs Department (WAD) through government’s gender policies and frameworks seeks to increase women’s political participation and representation in decision making and women’s economic empowerment, however the suggestion for reserve seats for women was met with resistance from many in the community, including women and was not pursued.

The National Sustainable Development Strategy (NSDS) 2005–2025 identifies six key performance indicators to measure the development of women’s rights in Nauru including; proportion of women in Parliament; proportion of women in leadership positions in government, Government boards and the private sectors and the proportion of women in paid employment among others. The NSDS focuses on economic and development issues and, has as one of its core principles, “A just society that recognizes and respects the rights of women, promotes equal opportunities, and commits to integrating gender across all sectors.”

⁴⁵⁶ Nauru’s Report to CEDAW.

https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/NRU/CEDAW_C_NRU_1-2_5984_E.pdf

⁴⁵⁷ <https://www.pacwip.org/country-profiles/nauru/>

Implementation of Core Human Rights Treaties

Nauru's national UPR report notes that the government faces ongoing challenges with regards the promotion and protection of human rights, including the lack of capacity and insufficient resources to address its human rights obligations, however the country has progressed on various international human rights commitments including reporting to the Treaty bodies.

National Human Rights Institutions (NHRI)

Nauru does not have a NHRI however the government has requested and through the support of partners from SPC RRRT, the Asia Pacific Forum for National Human Rights Institute and the Office of the UN High Commissioner for Human Rights regional office for the Pacific, conducted two scoping studies to inform the government on the feasibility of establishing its NHRI.⁴⁵⁸ No decision has been made on the establishment of the NHRI though the idea was supported by Cabinet at the time. Moreover, the government through the Department of Justice has a Working Group on Treaties whose role includes ensuring that all of Nauru's treaty actions are accurately recorded; monitoring and planning Nauru's compliance with its treaty obligations; reporting and advising government on recommended treaty actions (i.e. ratification of and accession to treaties to which we are not yet party) among others.

Children's Rights

To ensure a stronger focus on children and young people, a dedicated Division of Child Protection Services (DCPS) was established in 2015 within the Ministry of Justice. The DCPS is aimed at providing stronger, consistent, and efficient technical, policy, and support service on children's issue. CDPS has a mandate of establishing national systems and processes to respond effectively and efficiently to cases of child abuse and neglect. The Child Protection Services with the support of the Pacific Technical Assistance Mechanism (PACTAM) Gender Based Violence Advisor are in the process of developing the Mandatory Reporting Framework for Nauru. The plan takes into account best practices from the region and how it can be best implemented nationally given the limited resources.

In the case of *The Republic of Nauru v Jacko Gadeanag Criminal Case No 83/2015*, Nauru's Supreme Court of Nauru issued a landmark case against child perpetrators by increasing sentencing for child perpetrators. In this case, the Court imposed a four-year imprisonment sentence to the perpetrator for the indecent assault of a boy under the age of 14 contrary to section 210 of the Criminal Code.

In 2015, the government restricted Facebook and some internet sites claiming that it was making the decision to protect its citizens and people from the abuse of the internet that had seen vulnerable individuals, especially young Nauruan girls, being maliciously targeted, harassed, and even bullied. Further the government justified its actions to "Curb the glorification of criminal activities and offences against Nauruan women and children through the posting of distressing images and footage of those individuals in compromising and dehumanizing positions."⁴⁵⁹ In the same year, Parliament passed the Cyber Crime Act 2015 which is aimed exclusively at cyber safety, particularly the protection of children from abuse. Further, the Act seeks to combat the growing cases of sexual assault and abuse of minors via social media. The three year Facebook ban was lifted in 2018.⁴⁶⁰ In 2016, Parliament passed the Child Protection and Welfare Act which seeks to provide for the welfare, care, and protection of all children in Nauru and for

⁴⁵⁸ https://www.usp.ac.fj/fileadmin/random_images/home_middle_banners/emasus/JSPL/2019/Articles/01_Romulo_NAYACALEV_U_2019.pdf

⁴⁵⁹ OHCHR: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=FJ&Lang=EN

⁴⁶⁰ <https://www.rnz.co.nz/international/pacific-news/349319/nauru-lifts-facebook-ban>

the enforcement of the rights of children as provided for by international conventions, norms, and standards, while taking account of Nauruan culture, traditions and values, and for related purpose.⁴⁶¹

Youth Rights/Issues⁴⁶²

Youths are defined as those between 14 and 34 years old in the National Youth Policy (NYP). The NYP expired in 2019 and was developed by the Nauru Youth Affairs (NYA), a division within the Ministry of Home Affairs. The NYP outlines four core strategies in line with the emerging issues affecting young people of Nauru. The core strategies are: a) skills development through formal and informal education; b) employment and income generation; c) social development, supportive environment; and d) cross cutting initiatives.

Nauru's Youth Monograph highlights the status of Youth in Nauru including that the majority of young people remain in school until age 17 or 18, although by age 15 around on quarter (28 percent of males and 22 percent of females) had already left school.⁴⁶³ This is problematic given that the limited labor market is not enough to see the large numbers of young people leaving school each year placed in full time employment. Moreover, housing is limited, and most young people continue to live with their parents or other relatives until they are aged in their 30s. In terms of youth health and wellbeing, while teenage pregnancy is a significant issue in Nauru, with a quarter of women starting childbearing by age 19. Almost half of the mental health cases in Nauru are young people aged less than 30 years, with schizophrenia being the most common illness.⁴⁶⁴

Rights of Persons with Disabilities

Disability rights are broadly protected and promoted by the Government. The Nauru National Policy on Disability 2015 (NNPD) sets out a comprehensive framework to address the needs and rights of PWDs drafted in line with the Convention on the Rights of Persons with Disability (CRPD), the Incheon Strategy to Make the Right Real for Persons with Disabilities in the Asia Pacific Region 2013–2022, and the Pacific Regional Strategy on Disability (PRSD): 2011–2015. The NNPD reflects Nauru's vision of a disability-inclusive and barrier-free society where PWD are able to enjoy all human rights on an equal basis with others, and to live a life of dignity. It identifies priority strategic areas for building greater inclusion and dismantling the barriers that hinder the full participation of persons with disabilities in the political, cultural, social, and economic life of Nauru. It was developed in consultation with national disability organizations, civil society organizations, government departments, and donor partners following a national consultation in 2015 by the Department of Justice and Border Control, the Department of Education, the Pacific Islands Forum Secretariat (PIFS), and the Pacific Disability Forum (PDF). This was preceded by a legislative compliance review on the CRPD.

Children with disabilities are not integrated into mainstream education. The 'Able Disable Centre' was established in 2002 for children with special needs and is resourced by a teacher in charge, and about two full time teachers and trainee teachers. Students ages range from four to 34 and attend classes at the

⁴⁶¹ http://ronlaw.gov.nr/nauru_lpms/files/acts/66d8a517262f0adab959f3155b08b0db.pdf

⁴⁶² <https://www.youthpolicy.org/factsheets/country/Nauru/>

⁴⁶³ Youth Monograph.

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewjOiOOOp_crpAhVUwTgGHYyTBxEQFjADegQIAhAB&url=https%3A%2F%2Fnauru.prism.spc.int%2Fnauru-documents%3Fview%3Ddownload%26format%3Draw%26fileld%3D91&usg=AOvVaw0YPJLd24PQjoHz0K9U8hv7

⁴⁶⁴ Ibid.

Centre with minors starting from 9:00 a.m. to 12:00 p.m.; and primary and secondary level from 9:00 a.m. to 3:00 p.m. Students are picked up and dropped off in a school sponsored bus.

The unemployment rate for PWD (21 percent) is close to the total unemployment rate of 23 percent. However, employment, and therefore the labor force participation rate, is much different. For those with a disability, around half (47 percent) are participating in the labor force, compared with almost two thirds for the total population (64 percent). Only 37.1 percent of the disabled population are employed (i.e. employment to population ratio), much lower than the 49.3 percent for the total population.⁴⁶⁵

LGBTI Rights

Since 2016, same sex activities between consenting adults are no longer criminalized under the new Crimes Act, yet same sex marriage is still prohibited.⁴⁶⁶ This follows Nauru's commitment since its first UPR to decriminalize homosexuality.⁴⁶⁷

Religious and Ethnic Minorities' Rights

Religious freedom is protected in the Constitution and Nauru does not have any ethnic minorities rights issues, though the Nauruan community have expressed their disappointment with the Government's lack of consultation on the integration of refugees in the community. The Australian Parliamentary inquiry noted that there are significant cultural differences between local Nauruans and the refugees and asylum seekers living in their community. The majority of asylum seekers and refugees are Iranian, Sri Lankan, or stateless. A smaller number come from Bangladesh, Afghanistan, Iraq, Burma, India, Nepal, and Somalia. The small Nauruan population, by contrast, is largely monocultural, and prior to the opening of the Nauru RPC, the non-Nauruan population were primarily from Kiribati, Tuvalu, and the People's Republic of China. It is also apparent that some locals are unhappy with either the establishment of the RPC in their country, or with the opening up of the center, allowing former detainees to mix with the local community. There are many allegations of abuse from locals directed to asylum seekers and refugees, as well as hostility towards asylum seeker and refugee children attending local schools, and individuals starting businesses and living in the community. Additionally, the lack of clarity about if and when refugees will be resettled in a third country, and if the jobs and income derived from the RPC will cease, contributes to this hostility.⁴⁶⁸

Indigenous People's Rights

There are no major issues on indigenous rights.

⁴⁶⁵Disability Monography Nauru: https://spccfpstore1.blob.core.windows.net/digitallibrary-docs/files/5c/5c22f97b80c3af97d76d4a389843f1b2.pdf?sv=2015-12-11&sr=b&sig=oFub40YGdGNw8J9ImIDXEpn6n38%2FImFUTDYzNwOYJcU%3D&se=2020-11-19T11%3A26%3A40Z&sp=r&rsc=public%2C%20max-age%3D864000%2C%20max-stale%3D86400&rsct=application%2Fpdf&rscd=inline%3B%20filename%3D%22Nauru_2015_Disability_Monograph_Report_NB_S_UNFPA_sml.pdf%22

⁴⁶⁶ <https://www.equaldex.com/region/nauru>

⁴⁶⁷ <https://pridelegal.com/nauru-lgbt-laws/>

⁴⁶⁸ Australian Parliamentary Hearing- https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/NauruandManusRPCs/Report/c03

Rights to Information

Government information is made readily available and accessible to the public. The Government Information Office (GIO)⁴⁶⁹ provides daily information on government activities including employment opportunities and development initiatives undertaken solely by the government, as well as in partnership with partners or donors. Additionally, updates by senior government officials are publicly available. In addition, the GIO prepares and distributes media releases for the Nauru government and publishes a fortnightly newsletter called the Nauru Bulletin, which contains news and information on government ministries. In 2017, the government banned Facebook to ostensibly stem the infiltration of child pornography; however, Opposition MPs and refugee groups have said it is part of a wider crackdown on free speech, stemming from criticism of the government's policies and Australia's processing centers.⁴⁷⁰

Freedom of the Press

Freedom of the press has been precarious in Nauru ranging from government bans on foreign media personnel from visiting Nauru to increasing visa cost for foreign journalist intending to visit. There is no independent media organization except the government owned media information unit. In 2014, Parliament voted to approve the increase of visa fees for journalists from AUD\$200 to AUD\$8,000 which was for a single entry valid for three months and non-refundable if the application is not successful.⁴⁷¹

Freedom of the press has been threatened since the Refugee Processing Centre and the Resettlement camps were opened in Nauru. In 2015, Nauruan police seized phones and laptops from the detention facilities in an attempt to hunt down journalist sources at the facility.⁴⁷²

Nauru's hosting of the 2018 Pacific Islands Forum Leaders meeting was not without its media incidents. Prior to the meeting and due to external pressures, the Nauru government announced that it was suspending the AUD\$8,000 visa fees for foreign media personnel wishing to cover the Leaders meeting on the island.⁴⁷³ In one incident, the police cancelled the permit of a leading Pacific correspondent for visiting and interviewing refugees.⁴⁷⁴ The government announced that ABC would not be granted access "Under any circumstances due to this organization's blatant interference in Nauru's domestic politics prior to the 2016 election, harassment of and lack of respect towards our president in Australia, false and defamatory allegations against members of our government, and continued biased and false reporting about our country ... It is our right, as it is the right of every nation, to choose who is allowed to enter."⁴⁷⁵ Reporters Without Borders (RSF) called on Nauru to rescind its decision to bar Australia's public radio and TV broadcaster, ABC, from covering the Pacific Islands Forum meeting, while Amnesty International labelled it as "Both an arbitrary, unacceptable restriction of press freedom."⁴⁷⁶

⁴⁶⁹ <http://www.naurugov.nr/government-information-office.aspx>

⁴⁷⁰ <https://www.news.com.au/technology/online/social/president-of-nauru-blocks-countrys-access-to-facebook/news-story/df309725ac21635e2e2156d0059238d1>

⁴⁷¹ <https://www.theguardian.com/world/2014/jan/09/nauru-visa-to-cost-8000>

⁴⁷² <https://www.theguardian.com/world/2015/oct/13/nauru-police-take-phones-and-laptops-from-save-the-children-staff-and-others>

⁴⁷³ <https://www.reuters.com/article/us-pacific-forum-journalist/new-zealand-tv-journalist-held-by-nauru-police-idUSKCN1LK0MK>

⁴⁷⁴ <https://www.tvnz.co.nz/one-news/world/jacinda-ardern-arrives-in-nauru-shes-set-discuss-detainment-1-news-journalist-barbara-dreaver>

⁴⁷⁵ <https://asiapacificreport.nz/2018/07/10/nauru-governments-move-against-press-freedom-disgraceful/>

⁴⁷⁶ <https://www.amnesty.org/en/latest/news/2018/07/nauru-government-must-lift-press-restrictions-on-abc-ahead-of-pacific-islands-summit/>

Nauru's estranged relationship with the Australian media saw the government put out a press statement whereby Justice Minister Adeang said that "Nauru has no obligation to answer to Australian media". He added that "The Australian media approaches us with great arrogance and an air of racial superiority, which is highly offensive to us. They do not show us the respect of a sovereign nation and in return we have little respect for them."⁴⁷⁷

Freedom of Information Laws

Nauru does not have a freedom of information legislation or a national media self-regulation body.

Civil and Political Rights

In 2019, Nauru was deemed to be free and scored 78/100 by Freedom House of its civil and political rights practices. Freedom House notes that people in Nauru generally enjoy political rights and civil liberties, though the government has taken steps to sideline its political opponents, and corruption is a serious problem. Asylum seekers and refugees housed in Nauru under an agreement with Australia live in dire conditions, and the country has attracted sustained international criticism over the persistent reports of abuses against them.⁴⁷⁸

Access to Justice

In its CEDAW report, the government highlighted that there has been an increase in the number of Nauruans seeking the assistance of both the Office of the Director of Public Prosecutions and the Public Defender (OPD). In addition, refugees have the protection of and access to the legal system. Given that there are not many qualified lawyers in Nauru, both the Public Prosecutor and Public Defender are recruited from overseas. Since their appointments, both officers have worked to decrease the backlog of cases that had been mounting for a number of years. The OPD was established in 2014 to assist indigent Nauruans to access justice as most were not able to afford legal assistance. The OPD services were slowly being recognized and utilized by the people. Moreover, access to justice for women and children victims had greatly improved with the setting-up of working groups with the Domestic Violence Unit of the Nauru Police Force and the introduction of women and family department counsellors, to ensure that cases were brought to court and eventually to trial.

Right to Life, Liberty and Security of the Person

Article 4(1) of the Nauru Constitution provides for the death penalty for murder, treason, and other offences resulting in death. However, Nauru is an abolitionist in practice, with no executions having been carried out since independence in 1968. The Subcommittee on the Prevention of Torture visited Nauru in May 2015, focusing on the situation of detainees on the island and the need to establish an independent body to monitor places of detention. The Subcommittee visited the police station and the prison of Nauru, as well as the Regional Processing Centre for asylum seekers, a large facility comprising three separate units housing men, women, and families with children.

Right to Participate in Public and Political Life

These rights are generally respected and saved for the serious cases highlighted in this profile as it relates to freedom of expression, peaceful assembly, and the right to participate in public and political life, and particularly as it relates to the Nauru 19 case and the exorbitant visa costs for foreign media officials.

⁴⁷⁷ <http://www.naurugov.nr/government-information-office/media-release/nauru-is-not-australia-government.aspx>

⁴⁷⁸ Freedom House; Freedom in the World: <https://freedomhouse.org/country/nauru/freedom-world/2019>

While freedom of expression is constitutionally guaranteed, this right is not always respected in practice. Foreign journalists have a difficult time operating in Nauru, given the government's restrictions, which is aimed at deterring outside coverage of conditions for asylum seekers and refugees. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression called on the Government of Nauru to withdraw recent amendments to the Criminal Code that unduly restrict freedom of expression.⁴⁷⁹ The Special Rapporteur stated that Nauru should allow for a free space for expression without fear of criminal prosecution, lift all restrictions to gaining access to the Internet and social media, and facilitate access to the media in the country.⁴⁸⁰ In May 2014, three members of Parliament had been suspended from Parliament following their participation in critical interviews of Nauru with the international media. The UN country team urged the Government to protect and respect media freedom, freedom of expression, and freedom of information. It further urged the Government to consider retracting procedures and fees that restrict media freedom and freedom of information.⁴⁸¹

Amnesty International highlights that in July 2015, more than eighty prominent Australian constitutional and human rights law academics wrote to the Foreign Ministers of Australia and New Zealand in relation to Nauruan Opposition Member of Parliament Mr. Roland Kun, who has been "Suspended from Parliament and had his passport cancelled due to his criticism of the Nauruan government."⁴⁸²

Economic, Social and Cultural Rights

The National Development Sustainable Plan 2005–2025 (revised in 2009) establishes for the first time, a national long-term strategic development plan for Nauru.⁴⁸³ The NDSP identifies key national development goals and the accompanying strategies and activities required to achieve those goals, and is the Government's core development agenda. The NDSP focuses on economic and development issues and has as one of its core principles a just society that recognizes and respects the rights of women, promotes equal opportunities, and commits to integrating gender across all sectors. The coordinating body for the NDSP is the Planning and Development Division of the Ministry of Finance. The five long-term goals of the NDSP are: a) stable, trustworthy, and fiscally responsible government; b) provision of enhanced social infrastructure and utilities services; c) development of an economy based on multiple sources of revenue; d) rehabilitation of mined out lands for livelihood sustainability; and e) development of domestic food production. ESC rights are broadly practiced in Nauru.

There is a recognized need for Government to create opportunities for basic skills such as weaving, handicraft, typing, and other skills set to enable persons with disabilities to access their right to equality and non-discrimination on employment opportunities. The National Disability Organization has also called on the government to consider creating a quota for persons with disabilities to be gainfully employed within the civil service if they are suitably qualified or able to perform the functions required of the position. There is no minimum wage in Nauru.

The right to food of the people in Nauru is at stake: with only 21 square kilometers and the land damage caused by years of phosphate mining operation on the island, there is very little area that can be cultivated

⁴⁷⁹ OHCHR: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15995&LangID=E>

⁴⁸⁰ Ibid.

⁴⁸¹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/187/69/PDF/G1518769.pdf?OpenElement>

⁴⁸² Amnesty International.

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewiF3uK9h8vpAhWgZTgGHU88DuYQFjAMegQIARAB&url=https%3A%2F%2Fwww.aph.gov.au%2FDocumentStore.ashx%3Fid%3Dadc43d14-7586-454c-a8f5-c81aa5dc3074%26subld%3D459628&usg=AOvVaw2QSQwl9jv7_ppCq8tOBq3K

⁴⁸³ <https://nauruenv.appspot.com/file/library/NauruNSDS-asRevised2009.pdf>

for agriculture. There has also been challenges to drinking water, access to water services, and sanitation for all. The government struggles to ensure the access to food for all population, including in times of natural disaster. 80 percent of Nauruan lands in disfigured and an unusable state, and Nauruan families depend on exorbitantly priced imported goods and foods. Rehabilitation of the mined-out phosphate lands will fulfill economic, social and cultural rights to an adequate standard of living including food security, housing, and opportunities to continued improvement of living conditions.

Freedom of movement is constitutionally guaranteed, but the presence of asylum seekers has made this right problematic in practice. In particular, there were concerns on freedom of movement and freedom of assembly of asylum seekers. The Government issued a decree to limit the places that refugees can visit. Refugees are forbidden from visiting schools, hospitals, the harbor, and the airport.⁴⁸⁴ However, the Government confirmed that, since October 5, 2015, the Regional Processing Centre which houses asylum seekers, was officially open 24 hours a day, seven days a week. This effectively meant that detention has ended and all asylum seekers are now free to move around the island at their own free will.⁴⁸⁵ That measure had been planned for a while after already implementing a daytime open center program, and had been waiting for confirmation of assistance from Australia in the transition. The new arrangements were simply an expansion of the existing open center program, which had been in effect for 12 hours per day. In addition, to facilitate the new arrangements and ensure that asylum seekers were integrated into the community safely and cohesively, the Government increased the number of community liaison officers from 135 to 320, including 30 refugees as settlement officers supporting the refugees' transition into the community. The government stressed that refugees living in Nauru have complete access to all communications, including phone, Internet, e-mail, and a myriad of social media platforms.

Moreover, the Government has funded the National Women's Bank for women in the informal sector to increase income generation and assist in expanding business ventures. This initiative has given women income earning opportunities and access to banking services. The Government's District Support Improvement Plan (DSIP), providing K10 million (US\$3.3 million) to all 89 Districts and other similar fiscal measures, such as the Public Investment Program, has enabled capital and financial resources to be decentralized to the District levels in the country for infrastructure development, including roads, wharfs, schools, health centers, and economic opportunities to improve the lives and livelihoods of citizens who live in the rural areas.

3.12.6 CORRUPTION

Laws on Anti-Corruption

Since the financial crisis engulfed Nauru, the government turned to exploiting its sovereignty. During the 1990s it transformed into a money-laundering haven, selling banking licenses and passports, including diplomatic passports, which confer immunity. Customers included the Russian mafia and al-Qaida. An estimated \$70bn in Russian mafia money went through Nauru's banks in 1998 alone, and in 2002, Nauru was designated by the US treasury as a money-laundering state, alongside Ukraine, and imposed tough sanctions rivalling those slapped on Iraq.⁴⁸⁶

Freedom House notes that corruption remains a problem. Allegations of improper payments to senior government officials, including to the former President Waqa, by an Australian phosphate company

⁴⁸⁴ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/176/13/PDF/G1517613.pdf?OpenElement>

⁴⁸⁵ <http://www.naurugov.nr/government-information-office/media-release/no-more-detention-for-nauru-asylum-seekers.aspx>

⁴⁸⁶ <https://www.theguardian.com/world/2018/sep/04/corruption-incompetence-and-a-musical-naurus-riches-to-rags-tale>

emerged in 2016, and an investigation by Australian federal police remained ongoing in 2018. However, the then government denied the allegation and said that "The Waqa government has been the first administration to truly tackle cronyism and corruption that has plagued previous governments."⁴⁸⁷ However, legal proceedings about the scandal also took place in Singapore in 2018, where a local company was fined for bribing a Nauruan MP. In 2016, Australia's Westpac Bank announced it would no longer handle accounts for the Nauruan government, with media reports suggesting that the decision came in response to concerns about suspected financial mismanagement by the government, including money laundering and tax evasion.⁴⁸⁸

In its report, the International Monetary Fund welcomed the improved economic performance in recent years, but noted that significant challenges remain, including volatile revenue sources, capacity and infrastructure constraints, and climate change, and urged the authorities to press ahead with reforms to preserve fiscal and debt sustainability, foster economic diversification, and strengthen governance and transparency.⁴⁸⁹

National Institutions on Anti-Corruption

While there is no one institution that deals specifically with anti-corruption matters, government notes that the Ministry for Justice and Border Control, Director of Public Prosecutions (DPP), Financial Intelligence Unit, Department of Foreign Affairs and Trade, National Police, the Judiciary, Nauru Correctional Services, Office of the Director of Audit, and the Nauru Revenue Office/Department of Finance all contribute to addressing anti-corruption.⁴⁹⁰ In 2016, Parliament passed the Leadership Code Act, establishing the Office of the Ombudsman who is empowered to deal with maladministration matters and establishes good governance and a code of conduct for government leaders.⁴⁹¹ However, there has been no confirmation of an appointment of an Ombudsman.

Ratification of UN Convention Against Corruption

Nauru ratified UNCAC in 2012 and its implementing legislations include among others, the Constitution, the Criminal Code 1899 (CC), Criminal Procedure Act 1972, Anti-Money Laundering Act 2008 (AMLA), Proceeds of Crime Act 2004 (POCA), Public Service Act 1998, Criminal Justice Act 1999, Extradition Act 1973 and the Mutual Assistance in Criminal Matters Act 2004 (MACMA).⁴⁹²

3.12.7 GOVERNMENT RESPONSIVENESS AND EFFECTIVENESS

Governance in Practice

The government is accountable to a 19-member unicameral parliament with elections held every three years. Following the 2019 elections, Lionnel Aingimea was elected President. While the parliament is small and with its lack of party structure, and personal and clan affiliations, political instability can be pronounced. Moreover, changes in government and senior officials are also frequent, with Nauru having about twenty governments over the past decade. This leads to uncertainty and inconsistency in the

⁴⁸⁷ <https://www.smh.com.au/national/australian-firm-bribed-nauru-government-ministers-for-special-deal-20150608-ghj69j.html>

⁴⁸⁸ <https://freedomhouse.org/country/nauru/freedom-world/2019>

⁴⁸⁹ www.imf.org/en/Publications/Search?country=Nauru

⁴⁹⁰ Ibid.

⁴⁹¹ http://ronlaw.gov.nr/nauru_lpms/index.php/act/view/1187

⁴⁹² UNDOC

<https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/VI501263e.pdf>

development and implementation of policy. Government and Ministerial changes can also impact public service appointments due to political interference, which is disruptive and can lead to inefficiency. The Cabinet appoints Heads of Department, not the Chief Secretary. The problem is exacerbated as civil servants are permitted to participate in politics, leading to expectations of reward.⁴⁹³ Nauru was one of the wealthiest countries in the world per capita and its economy traditionally relied on its phosphate resources, however the depletion of resources and economic mismanagement resulted in severe financial distress for the country. The government called on the Pacific Islands Forum to provide assistance and PIFS responded with the Pacific Regional Assistance to Nauru (PRAN) which provided budgetary support to Nauru. Today, income from granting fishing licenses and hosting refugees and asylum-seekers are the country's key sources of revenue.

However, it was the rapid decline of phosphate mining that exposed Nauru to profound economic shock. Households saw a rapid decline in income from royalties. State revenues also collapsed, challenging the welfare model that provided free or heavily subsidized education, healthcare, transport, water, electricity, and housing. The budget deficit grew rapidly after 1999, and by 2002, the Bank of Nauru was insolvent. Public debt grew from \$97 million (1988) to \$317 million (1993) and \$1,005 million (2007). Public servants and state employees (accounting for almost all employees in the country) were owed large amounts of pay in arrears, and in 2003 a special contribution of \$1.2 million was needed from Australia to pay Christmas salaries.

By 2004, the crisis was critical resulting in loan default. The telecommunications sector was closed in March 2004 for non-payment of fees. The remaining major assets of the NPRT were sold, including the Mercure Hotel in Sydney and the iconic Nauru House in Melbourne. Australia also agreed to provide \$22 million in aid for two years as an emergency measure. In 2008, unemployment was around 40 percent and a quarter of the population lived on less than US\$1 per day. The scale of the crisis was indicated by agreement of a PRAN program. This program ran from 2004 until 2009 to provide for the coordination of technical assistance and aid.⁴⁹⁴

Government Performance on Health

There are significant health challenges in Nauru. The country has a high rate of non-communicable diseases, high incidence of sexually transmitted infections, the second highest rate of adolescent fertility in the Pacific, and inadequate sexual and reproductive health care. Non-communicable diseases such as diabetes often start during youth and life expectancy is amongst the lowest of the Pacific island countries.⁴⁹⁵

A major development within the Health Department is the progress made towards the Hospital Redevelopment program. To date, scoping works have been completed and a design has been decided upon out of three options. Nauru's major development partner, Australia MFAT, has agreed to commit \$11.5 million towards this project and will be implemented through the Australian Department of Immigration and Border Control (DIBP). This project will see significant improvements to the infrastructure capacity of the Republic of Nauru Hospital, which is Nauru's only medical service provider. The Mental Health care of RON Hospital also continue to improve. Regular visits from overseas specialist professionals in Mental Health are scheduled on a quarterly basis. The UN country team observed that

⁴⁹³ Situation Analysis of Employment in Nauru:

<https://www.unescap.org/sites/default/files/Situational%20Analysis%20of%20Employment%20in%20Nauru.pdf>

⁴⁹⁴ Ibid.

⁴⁹⁵ <https://pacificwomen.org/our-work/locations/nauru/>

the under-five mortality rate for Nauru had dropped by 27 percent from 51/1000 in 2000 to 37/1000 in 2012. However, immediate postnatal care for newborns and mothers remained very limited. It encouraged Nauru to continue its work to strengthen services and awareness around prenatal and postnatal care, including regular health check-ups for mother and baby.⁴⁹⁶

Government Performance on Education

The net enrollment ratio (NER) for early childhood education (ECE) was 78.1 percent as of 2015, with a notable proportion of children falling outside the official ECE age group. The primary education NER stood at 76 percent, with trends pointing downwards. The NER for lower secondary school stood at 55.4 percent, and for upper secondary school stood at 35.3 percent. This is particularly concerning because secondary education up until the age of 18 is compulsory in Nauru.⁴⁹⁷ While school enrollment rates are improving, truancy continues to plague the Education Department as one of its biggest challenges. In response, the Education Department is in the process of developing a truancy strategy to address this issue. However, the government has implemented various measures including the School Feeding program which provides free lunches to all school students and enforcement of the Education Act by which parents of children found to be truant are prosecuted and fined. The newly implemented school allowance program, to reward students attending and participating in school, greatly increased attendance by 20–30 percent. Capacity-building in the Education Department continues to enjoy great success with the continuation of teacher up-skilling programs with the University of New England (UNE) as well as University of the South (USP).

Government Performance on the Environment

Nauru suffered environmentally from more than 100 years of phosphate mining and much of the center of the island consists of deep and unusable pits in the ground, with the coastal fringe the only livable area, leaving the island subject to sea level rise. The mine area, called “topside” by Nauruans, is like a moonscape. Huge limestone pinnacles reach skywards, punctuated by steep gullies into which people have fallen to their deaths. It is unbearably hot, humid and inhospitable.⁴⁹⁸ The water table is contaminated, and despite many plans to do so, there has never been a rehabilitation of the worked-out phosphate lands. Through little fault of their own, the Nauru government presides over a country which faces the greatest environmental challenges in the region.

3.12.8 KEY AID RELATIONSHIPS

Nauru is the highest recipient of aid of any Pacific Island Country (PIC). Australia is its most significant donor partner, contributing approximately 20 percent of domestic revenue, or US\$16.95 million in 2013–14. This includes meeting around 45 percent of the Ministry of Education budget and 40 percent of the operating budget of the Ministry for Health. Other significant donors include Taiwan and Russia, at \$9 million and \$4.2 million respectively in 2012–2013. New Zealand provides US\$730,000 million in annual aid funding for Nauru's Justice Department, which has been brought into question following recent controversies including the expulsion of the Chief Magistrate and arrest of Members of Parliament (MPs). This general reliance on aid is a further risk factor.⁴⁹⁹ Moreover, since 2013, when the offshore detention

⁴⁹⁶ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/187/69/PDF/G1518769.pdf?OpenElement>

⁴⁹⁷ UNICEF Situation Analysis: <https://www.unicef.org/pacificislands/media/1161/file/Situation-Analysis-of-Children-Nauru.pdf>

⁴⁹⁸ The Conversation, Climate change: Nauru's life on the frontlines, 22 Oct. 2018, <https://theconversation.com/climate-change-naurus-life-on-the-frontlines-105219>

⁴⁹⁹ <https://www.unescap.org/sites/default/files/Situational%20Analysis%20of%20Employment%20in%20Nauru.pdf>

and processing center reopened, Australia has been providing about two-thirds of Nauru's GDP of \$170 million by way of direct aid, visa fees and payments to the government for hosting the refugees.⁵⁰⁰ Financial arrangements have applied to Nauru's hosting of the Regional Processing Centre since its re-establishment in 2012, the center offers jobs, and Nauruan politicians of all persuasions regard it as a lifeline.⁵⁰¹ As of September 2019, there were 562 asylum seekers and refugees left on Nauru.⁵⁰²

3.12.9 CLIMATE CHANGE, ADAPTATION AND FINANCING

Nauru ratified the UN Framework Convention on Climate Change (UNFCCC) in 1993 and the Kyoto Protocol in 2001. Nauru submitted its First National Communication under the UNFCCC in 1999 and the Second National Communication in 2014.⁵⁰³ Nauru submitted its intended nationally determined contribution (INDC) where its key mitigation intervention is to replace a substantial part of the existing diesel generation with a large scale grid connected solar photovoltaic (PV) system which would assist in reducing the emissions from fossil fuels. Concurrent to the above there needs to be put in place extensive demand side energy management improvements, which will complement the PV installation. The demand management improvements are expected to reduce emissions by bringing down diesel consumption further at a cost of around US\$50 million (US\$42 million for Solar PV and US\$8 million for demand side energy efficiency measures) with some uncertainty depending on the storage of energy either as electrical (battery) or thermal (chilled water) to account for the high nighttime electrical load on the island.⁵⁰⁴ Moreover, the Government considers the focus of its INDC to be primarily adaptation, with a strong emphasis on building resilience which also encompasses mitigation in an integrated manner.⁵⁰⁵ Nauru established the RONadapt model⁵⁰⁶ to prepare for adaption, which represents the Government's response to climate change and disaster risk reduction and is aligned with the development priorities embedded in the NSDS.

Australia provided an estimated \$3.9 million in climate change support to Nauru from (2015–16 and 2017–18), focusing on economic infrastructure. Australia's Aid Investment Plan (2015–2019) includes climate change resilience as a cross-cutting issue.⁵⁰⁷ Under the Green Climate Fund, Nauru has access to \$43.9 million GCF funding for two projects and \$339,000 for one readiness project.⁵⁰⁸ In 2018, ADB announced that the ADB's Board of Directors has approved a \$21.3 million grant to help upgrade the Aiwo boat harbor in Nauru, which will make it the country's first fully functioning international port. The Nauru Sustainable and Climate Resilient Connectivity Project will transform the largely inoperable boat harbor into an efficient, reliable, and climate-resilient port which will improve the quality of life of all the people in Nauru. Apart from ADB, the Green Climate Fund, the Government of Australia, and the Government of Nauru, will contribute financing to the \$79.59 million project, which will enhance port operations in Nauru through structural improvements and strengthened capacity of the Port Authority of Nauru.⁵⁰⁹

⁵⁰⁰ <https://www.theguardian.com/world/2018/sep/04/corruption-incompetence-and-a-musical-naurus-riches-to-rags-tale>

⁵⁰¹ Stewart Firth (2016) Australia's Detention Centre and the Erosion of Democracy in Nauru, *The Journal of Pacific History*, 51:3, 299.

⁵⁰² <https://www.refugeecouncil.org.au/operation-sovereign-borders-offshore-detention-statistics/>

⁵⁰³ https://unfccc.int/sites/default/files/resource/Final_Nauru_SNC_Report_revised.pdf

⁵⁰⁴ Ibid.

⁵⁰⁵ Ibid.

⁵⁰⁶ https://www.pacificclimatechange.net/sites/default/files/documents/RONadapt%20-%20FINAL_2.PDF

⁵⁰⁷ <https://www.dfat.gov.au/about-us/publications/Pages/australias-commitment-to-climate-change-action-in-nauru>

⁵⁰⁸ <https://www.greenclimate.fund/countries/nauru>

⁵⁰⁹ <https://www.adb.org/news/adb-green-climate-fund-australia-help-upgrade-climate-proof-port-nauru>

4. THEMATIC MINI PAPERS

To address issues that arose during the research and that span the entire region or are of critical interest to USAID, this sections provides analysis on four key themes: the role of China in diplomacy and development; the impacts of COVID-19 in the region; the effects of regionalism on country relationships; a review of trafficking in persons trends in the region; and a discussion on women’s political participation.

4.1 CHINA AND THE PACIFIC REGION

China, an economic and social leader in the Asia-Pacific region, matters a great deal to most of the Pacific Island countries (PICs). This relationship intensified in 2006, when China enacted its ‘Going Global’ policy, and since then PICs have experienced an increase in Chinese presence in investment, trade, development assistance, diplomatic activity, and—until the global pandemic—tourism. The country occupies first place in the ‘Look North’ foreign policies of Pacific Island countries such as Fiji and Papua New Guinea (PNG), and offers numerous training programs for Pacific Islanders, cooperative ventures, and bilateral official visits. Because it is China’s policy not to engage with states that recognize Taiwan, the decision of which of these two regional powers to support is one that often comes up in Pacific Island nations’ elections.

In contrast to the critical need for Chinese investment and interest, the Pacific Islands are not an economic priority for China, as they account for a tiny proportion of China’s global merchandise trade (less than one percent). The region merited just a single mention in the Chinese government’s lengthy and detailed *Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road* policy document of March 2015. Yet China clearly considers the region to be of geo-political strategic importance and has become increasingly assertive in the Pacific as it competes with the United States (US) and other Western nations, including regional competitors such as Australia and New Zealand for influence. Where once China appeared to have no strategic ambitions in the region, and its presence was purely diplomatic and commercial, that can no longer be assumed. China seeks to lead the developing world, and Chinese diplomats appeal to a sense of shared identity by reminding Pacific Islanders that China itself is a developing country.

China and Taiwan have long competed for official recognition by Pacific Island states. President Tsai Ing-Wen visited Palau, Nauru, and the Marshall Islands in early 2019 to shore up support from her small island allies. Taiwan makes much of its Austronesian cultural heritage among aboriginal Taiwanese, who are directly linked by language and by a history of migration to Polynesia and other parts of the Pacific. East of the Solomon Islands, all indigenous Pacific islanders speak languages that originated ultimately in Taiwan. In September 2019, China won a propaganda coup when Kiribati and Solomon Islands switched recognition from Taiwan to the PRC.

4.1.1 CHINA IN STRATEGIC PERSPECTIVE

China’s Pacific presence is best understood in a wider context, one that includes the other major foreign players in the region. First, it is crucial to remember that the Pacific Islands region consists of territories and freely associated states as well as sovereign states. Altogether there are 13 of these territorial entities, eight territories (American Samoa, French Polynesia, Guam, New Caledonia, Northern Mariana Islands, Pitcairn Islands, Tokelau, and Wallis and Futuna) and five freely associated states (Cook Islands, Niue, Palau, the Federated States of Micronesia, and the Marshall Islands). These entities offer unique opportunities for control and influence over large areas by regional and global powers. The US, for example, is not just a Pacific power but a Pacific Islands power, with major military and naval bases in

Hawaii, Guam, and the Japanese island of Okinawa, together with a military testing facility in the Marshall Islands. Military agreements with the Compact States (Palau, the Federated States of Micronesia, and the Marshall Islands) give the US a strategic monopoly over their lands and waters in perpetuity, and in the Marshall Islands the Americans test weapons at the Reagan Ballistic Missile Defense Test Site on Kwajalein. The presence of the US in the Pacific Islands guarantees its decisive influence in this part of the region.

A similar observation can be made of France, which holds three island groups in the Pacific in various forms of territoriality, French Polynesia, New Caledonia, and Wallis & Futuna. By definition, France's influence—constitutional, political, and cultural—is extensive in its own territories and growing in the region as a whole. The two large French territories joined the Pacific Islands Forum in 2016, giving France a seat at the table of the most important regional organization, and offering it considerable influence over regional affairs.

South of the equator, Australia and New Zealand remain the default external states to which Pacific countries turn for assistance in times of natural disaster, development cooperation, and diplomatic support. Australia has long seen its immediate neighbors as a strategic security interest second only to the defense of the Australian continent itself and identifies the stability of Pacific Island states with its own national security. Similar strategic calculations apply in New Zealand, which has two freely associated states in the Pacific—the Cook Islands and Niue—and which works alongside Australia in engaging with the region. Both countries have recently increased their commitments to the Pacific considerably, through Australia's Step-Up policy and New Zealand's Reset, embraced in response to the rise of China in the region. In July 2019, Australia established the Australian Infrastructure Financing Facility for the Pacific, administered by the recently created Office of the Pacific within the Australian Department of Foreign Affairs and Trade, competing more openly than before with China in providing infrastructure.

The high point of China's push into the Pacific came with the visit of Xi Jinping to PNG for the 2018 meeting of the Asia-Pacific Economic Cooperation (APEC) forum. President Xi came a day early and was rewarded with red carpet treatment by the PNG government. He paraded along a road built with Chinese assistance and was cheered by the crowds in front of billboards bearing his image. At a meeting with the leaders of PNG, Cook Islands, Fiji, the Federated States of Micronesia, Niue, Samoa, Tonga, and Vanuatu, from which non-Chinese media (including local PNG journalists) were excluded, President Xi stressed the key importance of the Belt and Road Initiative as a basis for cooperation and development.⁵¹⁰ President Trump was represented at the APEC meeting by Vice President Mike Pence, who emphasized that the US would not saddle Pacific nations with debt, likely a reference to the criticism that China is using "debt-trap diplomacy" to increase its influence over Pacific Island states by engaging in predatory lending and then using debt forgiveness as a lever to align support behind Beijing and away from Taipei.

4.1.2 CHINA'S DEVELOPMENT ASSISTANCE TO THE PACIFIC ISLANDS

Considerable Chinese assistance in one form or another has become a permanent element in Pacific countries' expectations. China's development assistance, mostly through concessional loans, is present throughout the region but is especially evident in PNG. Chinese aid to PICs was worth US\$1.05 billion between 2011 and 2016, and since then, this aid has increased substantially⁵¹¹. It can be difficult to measure

⁵¹⁰ Xi meets leaders of Pacific island nations to further BRI cooperation, Ministry of Foreign Affairs of the People's Republic of China, 16 Nov. 2018, https://www.fmprc.gov.cn/mfa_eng/topics_665678/xjpcxytjhzz/t1614261.shtml

⁵¹¹ Denghua Zhang, Comparing China's and Taiwan's aid to the Pacific, DevPolicy Blog, 20 Jan 2020. <https://devpolicy.org/comparing-chinas-and-taiwans-aid-to-the-pacific-20200120/>

foreign assistance from China, as it does not have a comprehensive law covering this type of spending. The closest is Measures for the Administration of Foreign Aid, adopted in 2018. A key characteristic of Chinese development assistance is that it is nearly always in the service of investment by Chinese companies. This often includes bringing in Chinese workers rather than hiring locally. The Chinese government characterizes its aid efforts as a mutually beneficial form of South-South cooperation. While these aid projects provide work for Chinese companies in the developing world, they are often financed, at least in part, by the countries receiving the assistance, thus the accusation of “debt-trap diplomacy.” As an example, the PNG government financed several infrastructure projects in a number of ways: from its own budget (though that is now seriously stretched), from the Asian Development Bank, and from development partners, particularly China. Chinese aid in the region, however, represents only a fraction of the aid coming from Australia and, in the case of the Marshall Islands, FSM, and Palau, of the aid coming from the US under the Compact of Free Association.

In 2013 China offered US\$1 billion in loans below the market rate (so-called ‘soft loans’) and a further US\$1 billion in commercial loans to the eight Pacific island countries that recognized the One China policy at that time—the Cook Islands, the Federated States of Micronesia, Fiji, Niue, PNG, Samoa, Tonga, and Vanuatu—which represented some 90 percent of the population of the Pacific islands region. These loans were mostly used to finance the building of infrastructure such as government buildings, roads, hospitals, and convention centers. In 2017, the PNG Government signed a series of memorandums of understanding with the Chinese Government and the China Railway Corporation to undertake three major infrastructure projects focusing on roads, water supply, and agriculture. These projects were to be financed by loans worth a total of US\$3.5 billion, equivalent to one-quarter of PNG’s gross domestic product. This support was reaffirmed by Beijing in 2019 when PNG Prime Minister Peter O’Neill reiterated his country’s commitment to supporting China’s Belt and Road Initiative (BRI), which is focused on connectivity, infrastructure investment, and co-operation. China’s language of cooperation with the Pacific islands is now couched in terms of operating ‘within the BRI framework’.

At the same time, Chinese construction projects across the Pacific are renowned for structural defects. For example, an Australian engineering company identified extensive flaws in the revetments of the port and recommended remediation works of the Lae tidal basin, which was co-funded by the Asian Development Bank (85 percent) and the PNG Government (15 percent) at a cost of \$US266 million and constructed by China Harbor Engineering Company (CHEC).

China’s focus on concessional loans opens the way for leverage by China over small states that cannot repay these loans. While accounts of Chinese predatory lending have been somewhat exaggerated, Tonga in particular owes large sums to overseas lenders, predominantly to the Export and Import Bank of China (China Exim Bank), and in May 2017, the Tongan Government announced that it would no longer host the 2019 Pacific Games because of the associated costs.⁵¹² An initial five-year reprieve on repayment of the growing Chinese debt, which was estimated to have reached more than US\$115 million by late 2018 (equivalent to more than one-quarter of Tonga’s gross domestic product), expired in 2018 and the prime minister ‘Akilisi Pohiva told journalists that his country was in ‘debt distress’. Repayment was extended for a further five years after Tonga signed a memorandum of understanding to join China’s international infrastructure and economic development program, the Belt and Road Initiative.⁵¹³

⁵¹² <https://asia.nikkei.com/Opinion/Pacific-islands-avoid-China-s-debt-trap-diplomacy-for-now>

⁵¹³ ABC News, Tonga gets five years' grace on Chinese loan as Pacific nation joins Belt and Road initiative, 19 Nov. 2018. <https://www.abc.net.au/news/2018-11-19/china-defers-tongas-loan-payments-as-nation-signs-up-to-bri/10509140>

China has particularly close relations with Vanuatu. In 2016, Vanuatu became the first country in the world to publicly support China's position on territorial and maritime disputes in the South China Sea, following a direct request from China to do so. The government said it fully understood and supported China's proposition on the issue of South China Sea.⁵¹⁴ Meeting with Xi Jinping in November 2018, the Vanuatu prime minister Charlot Salwai said his country supported China's position on "major international and regional issues." Vanuatu has, however, been subject to a kind of extraterritorial jurisdiction claimed by China over its citizens in foreign countries. In July 2019, Chinese authorities, with local cooperation, arrested six Chinese citizens and flew them out of the country. None had committed crimes in Vanuatu.⁵¹⁵ The minister for internal affairs, Andrew Napuat, admitted he did not know what crimes they were alleged to have committed or even which department in the Chinese government the eleven Chinese law enforcement officials represented.

Despite increasing debt and dependence on China, most Pacific Island governments and their people have welcomed the infrastructure projects built by the Chinese in the Pacific in the last decade as tangible evidence of development. The Chinese, for their part, depict them as forms of win-win cooperation between one developing country and others. For the moment though, China is counterbalanced by the strategic presence of the US north of the equator, the territorial and regional presence of France south of the equator, and the long-standing ties of commerce and diplomacy that exist between the region and Australia and New Zealand. However, there is no doubt that China now has many friends in Pacific Island governments.

⁵¹⁴ South China Sea dispute: China is trading aid for support for claims', Sydney Morning Herald, 6 June 2016.

⁵¹⁵ Grant Wyeth, The Long Arm of Chinese Law Reaches Vanuatu, Again, The Diplomat, 11 July 2019, <https://thediplomat.com/2019/07/the-long-arm-of-chinese-law-reaches-vanuatu-again/>

4.2 COVID-19 IN THE PACIFIC ISLANDS

The management of the COVID-19 pandemic in the Pacific Islands, as Anna Powles, a New Zealand-based expert on geo-politics and regional security in the Pacific Islands, points out, “Could have long-lasting implications for Australia’s ‘Pacific step up’ and New Zealand’s ‘Pacific Reset’, as well as for the credibility of other regional actors such as the United States.”⁵¹⁶ In Australia’s case, prime minister Scott Morrison used the occasion of a virtual meeting of the G-20 to emphasize Australia’s commitment to the region. Australia is now providing laboratories, medical equipment, health expertise, as well as assisting with national preparedness plans and the regional plan of the World Health Organization (WHO). New Zealand is doing the same for the region, and offering general budget support and Health Ministry assistance to Tonga.⁵¹⁷

Regionally, the Pacific Islands Forum has invoked the Biketawa Declaration, designed to facilitate regional assistance in times of emergency to member states, as happened with the Regional Assistance Mission to Solomon Islands and the regional response to a debt crisis in Nauru.⁵¹⁸ The principal instrument of the Forum in the current health crisis is the Pacific Humanitarian Pathway on COVID-19, designed to co-ordinate and facilitate assistance in areas such as “expediting medical assistance, expediting customs clearance of medical supplies, and facilitating diplomatic clearances for chartered flights and commercial shipping.”⁵¹⁹ The first delivery of supplies through the Pacific Humanitarian Pathway on COVID-19 was 200,000 surgical masks and 16,000 protective suits on April 20, a gift of China’s Jack Ma Foundation, which has been making similar donations on a much larger scale to countries in Africa. Almost half the supplies, which are distributed by the WHO, have gone to PNG, which faces the greatest challenges, with others going to Fiji, New Caledonia, and French Polynesia, all of which have COVID-19 infections in their populations. A second batch of equipment arrived in Fiji on April 24.⁵²⁰

Demand for domestic violence support services has increased dramatically. While this has happened in much of the rest of the world too, for many PICs, this increase comes on top of an already extremely high level of domestic and gender-based violence. Fiji has reported an increase in calls to domestic violence hotlines from 87 in February to 527 in April.⁵²¹ According to Fiji’s Minister for Women, Children, and Poverty Alleviation, Mereseini Vuniwaqa, “close to 50 percent of women are reporting a correlation between COVID-19 and increased violence, linked directly to the restrictions of movement and economic strain on families.” Samoa has reported a 150 percent increase in helpline calls while Tonga has reported a 54 percent increase.⁵²² This has created an urgent situation where women are at risk both inside and outside their homes.

⁵¹⁶ Anna Powles and Jose Sousa-Santos ‘COVID-19 and geopolitics in the Pacific’, East Asia Forum, 4 April 2020, <https://www.eastasiaforum.org/2020/04/04/covid-19-and-geopolitics-in-the-pacific/>

⁵¹⁷ ‘NZ provides \$4 million CoViD-19 support to Tonga’, Matangi Tonga Online, 11 April 2020. <https://matangitonga.to/2020/04/11/nz-provides-4-million-covid-19-support-tonga>

⁵¹⁸ <https://projects.iq.harvard.edu/violenceagainstwomen/publications/biketawa-declaration>; <https://www.ramsi.org/wp-content/uploads/2014/07/Biketawa-Declaration.pdf>

⁵¹⁹ Pacific Islands Forum ‘Pacific Islands Forum Foreign Ministers Agree to Establish a Pacific Humanitarian Pathway on COVID - 19’ <https://www.forumsec.org/pacific-islands-forum-foreign-ministers-agree-to-establish-a-pacific-humanitarian-pathway-on-covid-19/>

⁵²⁰ Pacific Islands Forum, ‘First Delivery of Medical Supplies Arrives through the Pacific Humanitarian Pathway on COVID-19’, <https://www.forumsec.org/first-delivery-of-medical-supplies-arrives-through-the-pacific-humanitarian-pathway-on-covid-19/>

⁵²¹ <https://www.unwomen.org/en/news/stories/2020/6/feature-pacific-crisis-centres-respond-to-covid-19-amid-natural-disasters>

⁵²² Ibid.

USAID recently announced an additional \$9.9 million in COVID-19 assistance to the region, bringing the total USAID contribution to date to \$12.2 million. As of May 21, the US Government had provided more than \$45.8 million in COVID-19 response assistance to the region. More than \$1.2 million has been allocated by USAID to Papua New Guinea (PNG), a country that is in special need given its declining health indicators and mismanagement of the health system.⁵²³ The US Embassy in PNG is primarily focused on capacity-building in laboratory systems, case-finding, surveillance, preparedness, and infection prevention.

The US response received less favorable publicity than the Chinese response, primarily due to an aggressive publicity campaign carried out by Chinese officials. China has mobilized the ministries of foreign affairs, health, and commerce, China International Development Cooperation Agency and state-controlled media to spread the word about the good things China is doing. Chinese embassies work with Chinese companies, medical teams, and overseas Chinese citizens as well, to mount public relations efforts alongside assistance activities. China Civil Engineering Construction Corporation in Vanuatu arranged a charter flight from China to deliver China-donated medical equipment there in April 2020. The company also constructed a number of container houses for the Vila Central Hospital. China gave US\$300,000 assistance to Solomon Islands, and China's Guangdong province, China Harbor Engineering Company and the Solomon Chinese Association also donated personal protective equipment to Solomon Islands.

Following this activity and more, a virtual meeting was held on May 13, 2020 between China and the small island developing states of the Pacific. Chinese Vice Foreign Minister Zheng Zeguang and Papua New Guinea Foreign Minister Patrick Pruaitch co-chaired the meeting, which included representatives from Fiji, Samoa, Papua New Guinea, Vanuatu, the Federated States of Micronesia, Cook Islands, Tonga, Niue, Solomon Islands, and Kiribati. Fiji in particular commended China for its open, transparent, and responsible approach in adopting timely and robust response measures and sharing its containment experience, while other the other countries present praised the "China-Pacific Island Countries Joint COVID-19 Response Fund" established by China.

A number of Pacific countries took urgent early action. Papua New Guinea imposed a State of Emergency but later relaxed it slightly, allowing transport services to resume and restaurants and churches to re-open. As the PNG Post Courier commented, the pandemic could not have arrived at a worse time, given years of corruption, economic mismanagement, and declining health indicators.⁵²⁴ Fiji initially imposed a curfew and placed the two major towns, Suva and Lautoka, under lockdown, later allowing gatherings of up to 20 people. Samoa, Solomon Islands, Tonga, Vanuatu, and Tuvalu, free of the virus, all declared states of emergency. The Marshall Islands and Federated States of Micronesia sealed their borders while preparing for cases to arrive. Solomon Islands, which has no current cases, has ended in-person visits to the country's jails, and is using testing equipment donated by China. Vanuatu, also free of the virus, restricted inter-island travel. Samoa, which owes a huge debt to China's EXIM Bank, received a lifeline from the International Monetary Fund of \$22 million. The Federated States of Micronesia received special funds under a COVID-19 grant from the United States. Palau received four tons of medical equipment from China.

The situation in the Pacific as of 7 July 2020 was that six countries had reported 449 cases and 7 deaths: Commonwealth of the Northern Marianas (33 cases and 2 deaths), Papua New Guinea (11 cases and 0

⁵²³ 'We Have Nothing: Papua New Guinea's Broken Health System Braces for COVID-19' <https://www.theguardian.com/world/2020/apr/11/we-have-nothing-papua-new-guineas-broken-health-system-braces-for-covid-19>

⁵²⁴ 'Thinking about PNG's Covid-19 Economic Response: Part 1' PNG Post Courier, 19 May 2020.

deaths), Fiji (26 cases and 0 deaths), French Polynesia (62 cases and 0 deaths), Guam (312 cases and 5 deaths) and New Caledonia (21 cases and 0 death). Vanuatu, The Federated States of Micronesia, Palau, the Marshall Islands, Cook Islands, Tonga, Niue, Solomon Islands and Kiribati had no recorded cases.⁵²⁵

⁵²⁵ WHO COVID-19 Dashboard for the Western Pacific Region, 14 July 2020, <https://worldhealthorg.shinyapps.io/wprocovid19/> and note also the figures above are from <https://app.powerbi.com/view?r=eyJrIjoiMTQwZmJmZjctMjkwMC00MThkLWI5NDgtNmQ3OGUwNDc4ZWE3IiwidCI6IjBmQWUzNWZiLTU0NGYtNGY2MCIiZGNjLTVIYTQxNmU2ZGM3MCIslmMiOjIh9>

4.3 REGIONALISM

Regionalism in the South Pacific refers to a network of interconnected institutions among the 18 members of the Pacific Islands Forum (PIF) which brings together the 16 independent and self-governing states of the region, including Australia and New Zealand, in addition to the French territories of New Caledonia and French Polynesia. Political in character, the PIF holds an annual meeting of leaders and a post-Forum dialogue with major states including China, which contributes to its work in a small financial way. The major financial backers are Australia and New Zealand. The PIF has been led since 2013 by Dame Meg Taylor from Papua New Guinea, who is also the first female Secretary General of the organization since its establishment in 1971.

The Pacific Community, formerly the South Pacific Commission (SPC), covers all 22 states and territories in the region, including the 18 in the Forum plus American Samoa, Pitcairn Islands, Guam and Tokelau, and also Australia, France, New Zealand and the United States. The SPC is the lead organization in scientific and technical development, with a focus on issues such as climate change, disaster risk management, food security, gender equality, human rights, non-communicable diseases and youth employment. This is followed by nine other regional agencies, including the Forum Secretariat in Suva, Fiji, all linked by the over-arching Council of Regional Organizations in the Pacific (CROP), chaired by the Forum Secretary-General.

The links between the organizations are genuine. The Forum Secretariat regularly directs policy information to the University of the South Pacific, which in turn seeks to further regional development through its research and teaching, in addition to informing many other regional and national agencies. The links are also personal, Pacific Island leaders know each other, and the regional public servants who work in organizations in Suva, Apia, Honiara, Noumea and elsewhere meet at regional gatherings with a sense of Pacific Islands identity. Regionalism can also be credited with clear successes, not just in protecting regional interests on fisheries, nuclear, environmental, and climate change issues and the concept of the Blue Pacific, but in tangible improvements to the lives of Pacific Islanders arising from regional cooperation on health, population and education.

At the same time, regionalism in the South Pacific is unequal in terms of power and financial resources. The 16 independent and self-governing states of the region include Australia and New Zealand, former colonial powers that far outpace the 14 Forum Island independent states on nearly every key area for influence in the international arena: economic size, GDP growth rate, military force, technological sophistication, and rank on the United Nations (UN) Human Development Index. The same applies to population, which is much greater in Australia and New Zealand than in any other Forum state except Papua New Guinea (PNG). This is one of the factors that make Pacific regionalism unique.

Australia and New Zealand are the only countries that give aid as if they were external, while belonging to regional institutions as if they were internal. They tend to have a coordinated approach to the Island states. The official rhetoric on all sides emphasizes the key importance of state sovereignty and national independence because everyone has an interest in promoting self-governance. Sovereignty is a political resource for any state, but above all for microstates, facilitating membership to the international community, a place at the UN, the right to host offshore financial centers, respect from foreigners, aid from a variety of donors near and far, the sense of determining one's own destiny, and much else. Island leaders are therefore enthusiastic about Island sovereignty. Viewed from this perspective, the Pacific Islands Forum is a regional partnership of equals. Australia and New Zealand have traditionally endorsed this interpretation of South Pacific regionalism for a number of reasons. One is legal: a sovereign state,

however small or weak, has protections under international law from interference or intervention by other states, and these are protections that Australia and New Zealand must honor in order to maintain their own standing in the international community. Then there are the political considerations. Ever since Pacific Island countries gained their independence, Australia and New Zealand have wanted to be seen as working alongside South Pacific states in a common regional quest for development and security, rather than imposing their will on poorer, weaker states in their neighborhood. The legitimacy of their pre-eminence has depended upon denying it.⁵²⁶

The power, influence and significance of the PIF has grown in recent years, and we can now speak of a 'new Pacific regionalism'. This process began with the response of Australia and New Zealand to the Fiji coup of 2006, which left Fiji isolated and looking for friends elsewhere. Suspended from the PIF in 2009, Fiji sought alternatives, initially through the Melanesian Spearhead Group (MSG), which is the organization of independent Melanesian countries dating from the 1980s (Fiji, Papua New Guinea, Solomon Islands and Vanuatu) plus one political party, the pro-independence FLNKS from the French territory of New Caledonia. Fijian Prime Minister Frank Bainimarama brought a new energy to the task as chair of the MSG in 2011. The MSG embraced trade liberalization between member states and established a Melanesian Green Climate Fund. Additionally, the group set up a Skills Movement Scheme to open borders to the movement of regional professionals, developed a framework agreement for sharing of information on transnational crime and other law enforcement issues, among other achievements.⁵²⁷

A shift in mood regarding Pacific regionalism has emerged in recent years, driven by the emergence of new institutions, and the revival of old ones such as the MSG, including the following developments:

- Fiji developed its own separate Pacific Islands Development Forum (PIDF) excluding membership of Australia and New Zealand and including participation by civil society organizations. After winning the election in 2014, Bainimarama for a while pursued a policy of not attending PIF meetings as prime minister while sending lower level representatives. This followed from Fiji's suspension from the Forum following its non-adherence to the timeline to return the government to democratic rule following the 2006 coup. He has now softened in his approach to the PIF, while his own PIDF has lost importance, and has agreed that Fiji will host its leaders' meeting and Post-Forum Dialogue in 2021. Following its suspension, Fiji has argued that there is no place in the Forum for Australia and New Zealand as they are not Pacific States.⁵²⁸
- The Pacific Island representatives at the UN formed their own separate group without Australia and New Zealand called Pacific Small Islands Developing States (PSIDS) Group. PSIDS comprises 14 Pacific Island countries: Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Palau, Papua New Guinea, Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. By pooling their resources and bargaining power, the Pacific Island states achieved the equivalent of a medium size mission at the UN. This dramatically increased the visibility and influence of the Pacific Islands region. This was demonstrated through significant global recognition for the PSIDS and the effective displacement of the Forum as the key Pacific grouping at the UN. Fiji's role as a regional hub rose with the visibility of the PSIDS and vice versa. The world's most powerful leaders, most prominently

⁵²⁶ Based on Stewart Firth, 'The New Regionalism and Its Contradictions', in Greg Fry and Tarcisius Kabutaulaka, eds, *Intervention and State-Building in the Pacific: The Legitimacy of 'Co-operative Intervention*, Manchester University Press, 2008, pp. 119-34.

⁵²⁷ Based on George Carter and Stewart Firth 'The Mood in Melanesia after the Regional Assistance Mission to Solomon Islands', *Asia & the Pacific Policy Studies*, 2016, vol. 3, no. 1, pp. 16–25 <https://onlinelibrary.wiley.com/doi/full/10.1002/app5.112>

⁵²⁸ <https://www.rnz.co.nz/news/world/51046/nz-and-australia-should-not-be-in-pacific-forum-fiji>

President Xi of China and Prime Minister Modi of India, began to visit Fiji starting in 2014.⁵²⁹ PSIDS mobilized Pacific negotiators to emphasize key demands of Pacific Island nations on climate change through established coalitions such as the Association of Small Island States (AOSIS) and G-77 + China Group of 134 countries.

- In the case of tuna management, the Pacific Islanders went their own way with the Parties to the Nauru Agreement (PNA), who transformed returns from the tuna fishery from US\$60 million in 2010 to \$470 million in 2016, all without involvement or assistance by Australia and New Zealand. The Nauru Agreement is a sub-regional agreement on terms and conditions for tuna purse seine fishing licenses in the region. The Parties to the Nauru Agreement are Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Palau, Papua New Guinea, Solomon Islands and Tuvalu.
- Put in context, the new Pacific regionalism and diplomacy emphasizes the following:
 - The need to be in charge of their own regional agenda and positions on key issues
 - Pacific Islands Countries (PICs) States should work jointly in this diplomatic enterprise
 - PICs need to engage assertively in global diplomacy in relation to key challenges
 - PICs should aspire to and assert global diplomatic leadership in key areas

The rhetorical expression of this Pacific desire to assert a new and collective identity is summed up in the concept of the Blue Pacific, as summarized by the PIF:

“In 2017 Forum Leaders endorsed the “Blue Pacific” identity as the core driver of collective action to advance this vision. The Blue Pacific seeks to recapture the collective potential of the region’s shared stewardship of the Pacific Ocean based on an explicit recognition of its shared “ocean identity”, “ocean geography” and “ocean resources”. Through the Blue Pacific Forum, leaders seek to reaffirm the connections of Pacific people with their natural resources, environment, culture and livelihoods. Forum Leaders recognize the Blue Pacific as being about all Pacific peoples, who recognize their needs and potential, who plan and own their development agenda and who can act collectively for the good of all, rather than a few. Four principal objectives underpin the Framework for Pacific Regionalism: sustainable development, economic growth, strengthened systems, and security for all.”⁵³⁰

More important than all these, however, is the emergence of climate change as the key issue of Pacific regionalism. While larger states continue to define security in traditionally state-centered ways, the Pacific Islands have now declared their own approach to security. At its 2018 meeting in Nauru, the Pacific Islands Forum issued the Boe Declaration reaffirming its commitment to “an expanded concept of security inclusive of human security, humanitarian assistance, prioritizing environmental security and regional cooperation in building resilience to disasters and climate change, including through regional cooperation and support.”

At the PIF leaders’ meeting in Tuvalu in 2019, Pacific leaders and delegates were greeted by small children submerged in water surrounding a model of their sinking islands with their call to “Save Tuvalu, Save the World”, upon their arrival to the 50th Pacific Islands Forum in Funafuti. The Tuvalu meeting adopted the Kainaki II Declaration for Urgent Climate Change Action Now: “Right now, climate change and disasters are impacting all our countries. Our seas are rising, oceans are warming, and extreme events such as cyclones and typhoons, flooding, drought and king tides are frequently more intense, inflicting damage and

⁵²⁹ Greg Fry, *Framing the Islands: Power and Diplomatic Agency in Pacific Regionalism*, ANU Press: 288.

<https://press.anu.edu.au/publications/series/pacific/frames-islands>

⁵³⁰ Pacific Islands Forum Pacific Regionalism & The Blue Pacific, 2020 <https://www.forumsec.org/pacific-regionalism/>

destruction to our communities and ecosystems and putting the health of our peoples at risk. All around the world, people affected by disaster and climate change-induced displacement are losing their homes and livelihoods, particularly the most vulnerable atoll nations.”⁵³¹ The PIF Secretary General Meg Taylor declared that the Kainaki II Declaration is “the first time the Forum has agreed and declared that there is a ‘Climate change crisis’ facing the Pacific Island nations. Pacific leaders have set a new bar for the international community, as “crisis” is currently not agreed language in the Paris Agreement or in the UNFCCC process.”⁵³²

⁵³¹ FIFTIETH PACIFIC ISLANDS FORUM FUNAFUTI, TUVALU 13 – 16 August 2019, FORUM COMMUNIQUÉ, Annex I

⁵³² Dame Meg Taylor, ‘The Kainaki II Declaration is a signal of Pacific strength’, 28 August 2019, <https://www.lowyinstitute.org/the-interpreter/kainaki-ii-declaration-signal-pacific-strength>

4.4 TRAFFICKING IN PERSONS

The full extent of human trafficking in the region is unknown given that there is lack of clear, comprehensive and consistent data from countries or within the region itself. However, the US State Department's Trafficking in Persons (TIP) Report for each Pacific State highlights information on the anti-human trafficking efforts of Pacific governments. Since 2003, regional coordination around data collection on human trafficking is being conducted by the Pacific Immigration Directors' Conference (PIDC)⁵³³ "Each year, the 23 members of the PIDC (of which Australia is one) produces an unpublished annual report based on monthly intelligence reports containing data on people smuggling, human trafficking and illegal migration in the region. The report notes that caution must be applied in reading the data, with one clear limitation being that the annual report data does not capture incidents of trafficking occurring within a country, that is, domestic trafficking. However, it claims to present "the most accurate and wide-ranging information on immigration in the region."⁵³⁴ However, a few organizations are supporting Pacific governments in technical support and capacity building on strengthening systems around human trafficking. These include the PIDC, the Pacific Island Forum (PIF) through its Forum Working Group on transnational organized crime, human trafficking, money laundering etc. and the UNODC's projects in the Pacific.

It is clear that there are weak legislative frameworks, lack of resources, and weak prosecutorial regimes and capacity that make it difficult for most Pacific states to properly investigate and prosecute human trafficking cases. Like the prevalence of hard drugs proliferating the Pacific corridors destined for Australian and New Zealand markets, the extent of human trafficking within the same corridors has not been fully comprehended given the obvious challenges and the "lack of understanding of human trafficking."⁵³⁵ This was confirmed by a survey carried out by the American Bar Association Rule of Law Initiative for the Solomon Islands as a case study.⁵³⁶ The study found that about 52 percent of the people were unfamiliar with the term 'human trafficking', though about 67 percent of the survey population were familiar with some common forms of trafficking (forced labor, forced marriage and forced commercial sex). Moreover knowledge of trafficking increased with rises in age and education levels, and by being male or being in an urban rather than rural location. Moreover while people were unfamiliar with human trafficking, the report further notes in terms of prevalence that 77 percent of respondents indicated they knew personally of at least one case of trafficking (forced labor, forced marriage (for money), forced commercial sex or a child who had been paid for sex) and that forced commercial marriage and forced commercial sex were the most common forms of trafficking identified and that there was an acceptance of trafficking in the context forced commercial marriage as it is part of their culture. Finally, awareness and cooperation among different agencies was seen as the biggest challenges to preventing trafficking.⁵³⁷

Additionally, in its dialogue with the CEDAW Committee, the Kiribati delegation highlighted the passage of a law on trafficking in persons in 2008 which was amended in 2013 and prohibits the trafficking of women and girls. Despite having this law in place, Kiribati lacks the capacity, resources and data to implement it in practice, and additional training and capacity building of the police are needed.⁵³⁸ A joint

⁵³³ <https://www.pidcsec.org/about-us/>

⁵³⁴ Vulnerabilities to Trafficking in Persons In the Pacific: <https://www.aic.gov.au/publications/tandi/tandi428>

⁵³⁵ <https://news.un.org/en/audio/2018/07/1013882>

⁵³⁶ http://www.paclii.org/sb/human-trafficking/trafficking-in-solomon-islands-report/2014_07_21_TIP_Survey_Report_Solomon_Islands.pdf

⁵³⁸ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25592&LangID=E>

report by the UNODC and PIFS titled *Transnational Organized Crime in the Pacific: A Threat Assessment* highlighted that “reports indicate that the region is a source, transit point and destination for human trafficking, although likely on a small scale. Human trafficking in the Pacific is known to be undertaken for sexual exploitation purposes or to provide labor for local extractive industries, including fishing, logging and mining. For example, there have been reports of foreigners exploiting the cultural informal adoption system in Fiji (known as ‘sinister adoption’) to access children for sexual exploitation purposes or abuse. Recent cases of trafficking for sexual exploitation in Fiji suggest that the source countries for victims of such crimes are broadening.”⁵³⁹ It is therefore crucial for Pacific states to work together in detecting and preventing human trafficking through better information sharing, coordination and increased vigilance. The Pacific Immigration Directors Conference (PIDC) states that, “in each of the last four years, six PIDC members have reported a belief that trafficking occurs and seven to ten members have reported people smuggling to occur. The exact number of incidents and the number of individuals involved is less clear, with members having limited capacity to detect, identify and respond to people smuggling and human trafficking.”⁵⁴⁰ The PIDC is developing a Regional Framework to combat human trafficking and people smuggling which is “in the process of being finalized for endorsement by the Membership” in 2020 but had not been endorsed at the time this report was completed.⁵⁴¹

Under the Nasonini Declaration on Regional Security 2002, Pacific leaders underlined the importance to Members of introducing legislation and developing national strategies to combat serious crime including money laundering, drug trafficking, terrorism and terrorist financing, people smuggling, and people trafficking in accordance with international requirements in these areas, taking into account work undertaken by other bodies including the UN and the Commonwealth Secretariat.⁵⁴² More recently, at the 2018 Pacific Island Leaders Meeting in Nauru, Pacific leaders endorsed the Boe Declaration on Regional Security which identifies a wide range of security issues in the region, both traditional and non-traditional, with an increased emphasis on the following:

- Human Security, including humanitarian assistance, to protect the rights, health and prosperity of Pacific people;
- Environmental and resource security;
- Transnational crime; and
- Cybersecurity, to maximize protections and opportunities for Pacific infrastructure and peoples in the digital age.

The Pacific Islands Forum Secretariat’s action plan identifies as a proposed action the need to “strengthen regional efforts to disrupt and dismantle transnational crime networks including irregular migration, human trafficking, people smuggling and smuggling of contraband goods and items” which is measured by the a) number of arrests in Member Country jurisdictions of transnational crimes, and b) the number of successful prosecutions of transnational criminal offences.⁵⁴³

The Pacific Islands Forum Secretariat assists members in drafting their anti-trafficking legislations vis-à-vis a model law. In 2018, PIDC highlighted that 12 (Australia, Commonwealth of Marianas, Cook Islands, Fiji,

⁵³⁹ https://www.unodc.org/documents/southeastasiaandpacific/Publications/2016/2016.09.16_TOCTA_Pacific_web.pdf

⁵⁴⁰ <https://www.pidcsec.org/UserFiles/PidcSec/File/Policy/20100924-Policy-brief%202-Human-Trafficking-and-People-Smuggling.pdf>

⁵⁴¹ <https://www.pidcsec.org/news/pidc-regional-immigration-human-trafficking-and-people-smuggling-framework/>

⁵⁴² Ibid

⁵⁴³ <https://www.forumsec.org/wp-content/uploads/2019/10/BOE-document-Action-Plan.pdf>

French Polynesia, Kiribati, Nauru, New Caledonia, New Zealand, Palau, Tonga, and Vanuatu) out of 23 Pacific States/territories had legislations that met UN and/or regional standards, seven (American Samoa, Marshall Islands, Niue, Norfolk Islands, PNG, Samoa and Solomon Islands) had limited legislation, one (Federated States of Micronesia) had no relevant legislation and no information could be found in three states (Guam, Tuvalu and Wallis and Futuna).⁵⁴⁴ However the US State Department Trafficking in Person report notes that FSM is making significant efforts to meet the “minimum standards” for eliminating trafficking, though they remain on Tier 2.⁵⁴⁵ At the national level, various Pacific States have successfully investigated and prosecuted human trafficking cases despite the challenges associated with weak regulatory frameworks and capacity challenges as discussed in this paper. Fiji for example held its National Workshop on Human Trafficking and Child Exploitation in 2019 where the ILO highlighted that there are cases of domestic and international trafficking and particularly that Fiji “is the first transit and destination country for men, women and children trafficked for the purpose of sexual and labor exploitation including domestic servitude.”⁵⁴⁶ In the same year, the Fiji High Court handed down a 14-year sentence for its first ever domestic child trafficking case.⁵⁴⁷ In 2019, a New Zealand court found a Samoan matai (chief) guilty of 10 counts of trafficking and 13 counts of slavery of 13 Samoans over a 25 year period with his youngest victim only 12 years old. This was also the first time in New Zealand for a perpetrator to be charged with both human trafficking and slavery simultaneously.⁵⁴⁸ In 2019, 101 Bangladeshi men were trafficked to Vanuatu.⁵⁴⁹ The case went to court in 2020 making this the first prosecuted human trafficking case in Vanuatu and the biggest trafficking case in the region.⁵⁵⁰ The US State Department’s Human Trafficking ranking, among others, ranks most Pacific States as Tier 2, indicating a need to review their legal frameworks and practices in order to improve their rankings.

RMI’s Foreign Minister in 2019 expressed disappointment in their Tier 2 ranking saying that “there has been no let ups in the government’s efforts to reign in human trafficking.”⁵⁵¹ In Palau, the President established an anti-human trafficking office within the Ministry of Justice under Executive Order No. 412. The office was established to implement the National Anti-Human Trafficking Action Plan and coordinate national efforts against human trafficking.⁵⁵² Moreover, Papua New Guinea’s Department of Justice and Attorney General is responsible for chairing the National Anti-Human Trafficking Committee (NAHTC) and coordinating the implementation of the PNG Counter Trafficking in Persons National Action Plan 2015-2020. The government has a dedicated webpage that informs the public on human trafficking.⁵⁵³ Of the 16 countries identified in the US Department of State Trafficking in Persons Report 2020 that are not party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, five nations (Marshall Islands, Papua New Guinea, Solomon Islands, Tonga and Vanuatu) are from the Pacific. The challenges to investigating and prosecuting human trafficking cases in Pacific States are obvious and it will take a regional effort to ensure that this transnational criminal activity is effectively addressed. The

⁵⁴⁴ <https://www.baliprocess.net/UserFiles/baliprocess/File/Bali%20Process%20SOM%202009%20-%20NZ%20Presentation.pdf>

⁵⁴⁵ <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/micronesia/>

⁵⁴⁶ <https://www.fijitimes.com/iom-fiji-first-transit-country-for-human-trafficking/>

⁵⁴⁷ <https://fijisun.com.fj/2019/12/12/court-hands-down-14-year-sentence-for-child-trafficking/>

⁵⁴⁸ <https://www.theguardian.com/world/2020/mar/17/samoan-chief-found-guilty-of-enslaving-villagers-in-new-zealand-over-25-years>

⁵⁴⁹ <http://www.loopvanuatu.com/tags/human-trafficking>

⁵⁵⁰ https://dailypost.vu/news/9-alleged-human-trafficking-victims-still-in-vanuatu/article_0d9b98b4-3327-11ea-9cf0-5344f85f92d8.html

⁵⁵¹ <https://www.rnz.co.nz/international/pacific-news/394406/marshalls-says-us-unfair-in-latest-human-trafficking-report>

⁵⁵² <https://www.palau.gov.pw/wp-content/uploads/2018/02/Exec.-Order-No.-412-re.-To-establish-an-Anti-Human-Trafficking-Office-within-the-Ministry-of-Justice.pdf>

⁵⁵³ <https://www.justice.gov.pg/index.php/2-uncategorised/261-human-trafficking>

work of the Pacific Islands Forum in supporting members through developing model legislations are an important pathway to ensuring more robust legislative frameworks, but there needs to be comprehensive implementation plans across the region and more resourcing including financial commitments both by Governments and development partners in order to effectively combat the scourge of human trafficking in the Pacific region.

The following table shows each Pacific Region country ranked by their standards in combatting trafficking in persons:

Country	Tier ⁵⁵⁴	General Assessment ⁵⁵⁵
Australia	I	The Government fully meets the minimum standards for the elimination of trafficking. The government continued to demonstrate serious and sustained efforts during the reporting period. These efforts included increasing investigations, prosecutions, and convictions for trafficking offenses, increasing staffing and funding levels in the Witness Assistance Service to provide support to victims of trafficking testifying against their traffickers, and increasing efforts to combat child sex trafficking by Australians overseas.
New Zealand	I	The Government fully meets the minimum standards for the elimination of trafficking. The government continued to demonstrate serious and sustained efforts during the reporting period; therefore New Zealand remained on Tier I. These efforts included investigating eight potential labor trafficking cases, forming an anti-trafficking operations group to increase law enforcement coordination, and conducting a training-needs assessment. Although the government meets the minimum standards, it did not initiate any prosecutions and convicted only two traffickers, which was a decrease from eight offenders convicted for trafficking-related crimes in the previous reporting period.
Micronesia	2	The Government does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared to the previous reporting period; therefore, FSM remained on Tier 2. These efforts included funding an anti-trafficking training for law enforcement officials and providing \$120,000 for trafficking victim services. The government established an anti-human trafficking division within the Department of Justice. However, the government did not meet the minimum standards in several key areas. The government remained without comprehensive standard operating procedures (SOPs) for proactive victim identification and referral to protection services. Law enforcement and judicial understanding of trafficking remained low and overall protection services continued to be insufficient.

⁵⁵⁴ Note: Tier 1 Countries are those whose governments fully meet the TVPA's minimum standards for the elimination of trafficking. Tier 2 Countries are those whose governments do not fully meet the TVPA's minimum standards but are making significant efforts to bring themselves into compliance with those standards. Tier 2 Watch List Countries are those whose governments do not fully meet the TVPA's minimum standards but are making significant efforts to bring themselves into compliance with those standards, and for which: a) the estimated number of victims of severe forms of trafficking is very significant or is significantly increasing and the country is not taking proportional concrete actions; b) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecution, and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials. Tier 3 Countries are those whose governments do not fully meet the TVPA's minimum standards and are not making significant efforts to do so.

⁵⁵⁵ United States of America, State Department, Trafficking in Persons Report, 20th Edition, June 2020, <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>

Palau	2	The Government does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared to the previous reporting period; therefore, remained on Tier 2. These efforts included acceding to the 2000 UN TIP Protocol, conducting more campaigns to raise awareness of human trafficking, and providing victims with temporary employment placements. The government approved rules and regulations to increase protections for foreign migrant workers, which allowed nonresident workers in without legal status to be placed under legal employment. However, the government did not meet the minimum standards in several key areas. The government remained without standard operating procedures (SOPs) for victim identification and referral to services, leading to insufficient identification and protection services. The government did not convict any traffickers and, upon appeal, acquitted one previously convicted trafficker. The government also did not investigate indicators of trafficking in labor recruitment and contract violations experienced by many foreign workers. Official complicity reportedly continued to play a role in facilitating trafficking and hindered law enforcement efforts.
Solomon Islands	2	The Government does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared to the previous reporting period; therefore, remained on Tier 2. These efforts included advancing its first two trafficking prosecutions initiated in the previous reporting period with one resulting in a conviction. However, the government did not meet the minimum standards in several key areas. General lack of awareness of the crime and applicable legislation among front-line officers, coupled with under-resourced protection services and widespread observance of informal justice models, continued to exacerbate the government's slow response to trafficking cases. Victim protection services remained inadequate, and the government did not develop urgently needed standard operating procedures for victim identification. While courts convicted a trafficker, they did not sentence him to serious penalties, instead deporting and barring him from re-entry for 20 years. The Labor Division did not conduct systematic monitoring and inspection activities at logging operation sites or in the fishing or mining sectors. Although officials jointly conducted and participated in some anti-trafficking training activities with assistance from an international organization, the government did not implement any anti-trafficking training in the standard law enforcement curriculum
Tonga	2	The Government does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared to the previous reporting period; therefore, Tonga remained on Tier 2. These efforts included training more police recruits on victim identification and trafficking investigations and providing funding for an NGO available to assist trafficking victims. Tongan police continued to utilize an Asian liaison officer trained to speak Mandarin Chinese to engage with Chinese citizens living in Tonga who may be vulnerable to trafficking. However, the government did not meet the minimum standards in several key areas. Authorities did not conduct any new trafficking investigations, develop procedures to proactively identify victims, or effectively coordinate governmental anti-trafficking efforts.

Vanuatu	2	The Government does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government continued prosecution of the country's first trafficking case and provided some victim support services. However, the government did not meet the minimum standards in several key areas. The government did not initiate any additional trafficking investigations during the reporting period, nor did it conduct public awareness campaigns or administer systematic anti-trafficking training for its law enforcement officials. Contrary to a victim-centered protection approach, in the aforementioned ongoing case, the government forced some victims to stay in the country for the duration of the prosecution without allowing them to earn an income, possibly increasing their indebtedness and vulnerability to re-trafficking upon repatriation.
Fiji	2 Watch List	The Government does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included initiating a similar number of investigations compared to the previous year, increasing the number of officers assigned to the police human trafficking unit, designating an agency responsible for coordinating victim services, and convening the interagency working group on trafficking. In addition, the government convicted a trafficker for the first time since 2014. However, the government did not demonstrate overall increasing efforts compared to the previous reporting period. The government continued to lack guidelines for victim identification; did not train labor, customs, or immigration officials on trafficking; and identified only one victim during the reporting period. The government did not adequately investigate labor violations for indicators of trafficking or provide adequate support to victims, which also impeded prosecution efforts. Some reports suggested official complicity impeded anti-trafficking efforts. Because the government has devoted sufficient resources to a written plan that, if implemented, would constitute significant efforts to meet the minimum standards, Fiji was granted a waiver per the Trafficking Victims Protection Act from an otherwise required downgrade to Tier 3. Therefore Fiji remained on Tier 2 Watch List for the third consecutive year.
Marshall Islands	2 Watch List	The Government does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included initiating its first trafficking prosecution since 2011 and opening an investigation into an immigration official for alleged trafficking complicity. However, the government did not demonstrate overall increasing efforts compared to the previous reporting period. Despite reports of child sex trafficking, the government did not report efforts to identify trafficking victims and did not report providing assistance to any potential or confirmed victims during the reporting period. The government has not convicted any traffickers since 2011. Therefore, remained on Tier 2 Watch List for the second consecutive year.
Papua New Guinea	3	The Government does not fully meet the minimum standards for the elimination of trafficking and is not making significant efforts to do so; therefore, remained on Tier 3. Despite the lack of significant efforts, the government took some steps to address trafficking, including continuing to identify some trafficking victims and the continued advancement of a prominent trafficking prosecution initiated in a previous reporting period. However, the government again did not provide or fund protective services for victims, nor did it systematically implement its victim identification procedures. Endemic corruption among officials, particularly in the logging sector, continued to facilitate vulnerability to

		sex trafficking and forced labor among foreign and local populations. Since the enactment of the 2013 law, the government has not achieved a single trafficking conviction. An acute lack of financial and human resources dedicated to anti-trafficking efforts, as well as very low awareness among government officials and the public, hindered progress.
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4.5 WOMEN'S POLITICAL PARTICIPATION AND TEMPORARY SPECIAL MEASURES

4.5.1 INTRODUCTION

The twelve Pacific Island Countries (PICs) canvassed in this review gained independence fairly recently, starting with Samoa in 1962. The majority followed suit in the 1970s and 1980s, with the exception of Palau, which did not gain independence until 1994. It is important to highlight this at the outset because not all PICs have similar levels of maturity in terms of their experiences in governance, democracy, and human rights in a contemporary setting.

Using the number of women MPs as a rough proxy indicator of political participation, low levels and under-representation remain the norm in the Pacific region. In mid-2005, five countries in the Pacific were among those labelled the “dirty dozen,” along with several Arab states, with zero female MPs. These included Solomon Islands, Palau, FSM, Nauru, and Tuvalu. Women make up 7.3 percent of Pacific parliamentarians (excluding Australia and New Zealand), which is the lowest rate in the world, compared to a global average of 23.4 percent. Women’s political and economic participation are closely intertwined with pervasive high levels of violence against women in the region, which creates an enormous constraint to engagement in public life. Protections for the rights of women and girls are weak both at the household level where there are high levels of domestic violence, and in public life, where educational, economic, and political opportunities are severely limited by unsafe conditions.

4.5.2 TEMPORARY SPECIAL MEASURES

A key part of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is the concept of Temporary Special Measures (TSM), which are laws, policies, and other efforts intended to reduce the barriers to women’s participation in political life at all levels.⁵⁵⁶ These measures are intended to go beyond simply declaring by law that both men and women have the right to participate, to focusing on more equality in outcomes (election outcomes but also the number of women candidates who are able to raise money and campaign effectively) by removing the barriers that constrain women’s participation in practice. Some Pacific Island Countries have implemented these measures as a way to fast-track improvements women’s political representation. A common example of these measures is reserving a certain portion or number of seats for women in representative bodies.

Five Pacific States have either adopted or considered TSMs in an effort to improve women’s representation in their legislatures, either at the national or local level. These are: FSM, Samoa, PNG, Solomon Islands, and Vanuatu. The other seven (Fiji, Nauru, Kiribati, Palau, Republic of Marshall Islands, Tonga, and Tuvalu) have yet to pursue this pathway. The successful adoption, or otherwise of TSMs is very much dependent on political will. Generally, in the Pacific context, legislative support has been weak, or resistant to the idea of women’s entry in large numbers into what has long been a predominantly male dominated space. Success or lack of success is also dependent on public support for improving women’s representation. For example, in PNG and the Solomon Islands, there is limited understanding of what TSM means and its purpose. This has resulted in lack of public support for TSM in these countries.

⁵⁵⁶ This UN Report provides an in-depth discussion of TSMs in the region, successes and failures, and arguments for and against: https://www.undp.org/content/dam/fiji/docs/UNDP%20PO%20TSM_Womens%20Political%20Participation.pdf

4.5.3 REGIONAL OVERVIEW

Melanesia

In Melanesia, Fiji has been a pace-setter at both the regional and sub-regional levels. When democratic elections were restored in 2014, following eight years of military rule, more women entered politics than at any point in Fiji's history. The highest number of women MPs to be elected so far was ten, who were elected to Parliament in 2018. For the first time, Fiji also has seen a female Leader of Opposition and a female Speaker of the House. A number of women MPs have also held Ministerial portfolios over the years. Solomon Islands and PNG have alternated positions as the second-best performer in having women elected to Parliament. When PNG had three women MPs following the 2017 election, the Solomon Islands had none. For the present term (2018–2022), PNG has none whilst Solomon Islands has three female MPs. PNG has had three terms of Parliament with no woman MP, following the general elections of 1987, 1992, and 2017. Solomon Islands has recently become somewhat of a success story after being named in the 2005 “dirty dozen” list. In 2014, two women were elected to Parliament and three, the highest number so far, were elected in 2018, the most since independence. Two of the three Solomon Islands female MPs are widows of men who had been elected to Parliament and died in office, and who were then elected in by-elections. Amongst the four Melanesian countries, Vanuatu had been trailing behind until 2004, when two female MPs were elected to Parliament. Since then, four consecutive parliamentary terms have not seen any women MPs elected. No single woman MP was successful in the most recent general election in 2020.

Micronesia

The Federated States of Micronesia (FSM) stands out as the one country that has had no female MPs since gaining independence. Throughout much of its political history, Palau had no female MPs, but gradual changes have taken place since the fifth general election in 2012, which saw three women elected to Parliament, and four women in 2016. In 2016, in a first for the region, RMI elected Dr Hilda Heine as the first woman President of RMI, and indeed the first female head of state and head of government in the Pacific region. She has been elected in 3 consecutive general elections in 2011, 2015 and 2019. In 2019, RMI saw three female MPs, its highest number thus far. Kiribati has seen eight women elected to Parliament, beginning with the 2007 general election when three women were elected, and in 2011 it had four women elected to Parliament. Three were elected in 2015, and the most recent election in April 2020 saw its highest number of five females MPs; where four women were successfully elected to office, and a former female MP Tangariki Reete was elected as Speaker of Parliament.⁵⁵⁷ The first woman MP, Ruby Dediya, was elected to Nauru's Parliament in 1986 and again in 1992. There are now two women in Parliament out of a total of 19 MPs. Only in the last three terms of Parliament has Tuvalu seen women MPs elected; the very first woman was elected in 1989 and reelected for a second term in 1993. In 2011, 2015 and 2019, each election had only one woman elected.

Polynesia

In the Polynesian countries of Samoa and Tonga, progress has been quite slow. Samoa has maintained a slow and steady number of female MPs, having at least one female MP throughout the early independence period until 2016 when four women were successfully elected to parliament in the 2016 general election. With the additional benefit of TSM legislation, the “floating five” reserved seats for women was utilized to have Fa'aulusau Rosa Duffy-Stowers elected, bringing the total to five women MPs. In the case of Tonga,

⁵⁵⁷ In Kiribati, a person who is not a Member of Parliament can be elected into the position of Speaker of Parliament.

no woman had ever held public office prior to 2010, until the King appointed Tonga's first woman to serve in the legislative assembly in 2010. Subsequently in 2017, two women were elected, and the King appointed one woman, bringing the total number to three women MPs.

4.5.4 WOMEN CANDIDATES AND VOTING DATA

Although the number of women candidates has increased over time across the region, there are persistent socio-economic and political challenges faced by women which constrain their ability to run, resulting in their lack of success in elections. In this context, the significance of the few women MPs who have been elected twice or more should not be understated, as there are lessons to be learned from their experiences. The key lessons identified by Spark, Cox and Corbett (2018) in their study of women leaders were as follows: “use family resources wisely, invest in education, keep close to family, develop expertise in a substantive policy area, knowing how and when to take stand, and build strategic network with international community.”⁵⁵⁸

Reliable data is not available for the region to assess the extent of women voting in elections compared with men, as sex disaggregated data is currently not widely collected. Political parties are largely not inclusive of women and other marginalized groups in society, which reinforces the public perception that politics is men's domain and perpetuates cultural and other barriers to increased women's participation.

Patronage relationships common in Pacific politics and public life generally often favor male politicians given their access to more resources compared to women. Vote buying and distribution of funding by incumbent MPs, often men, disadvantage aspiring women candidates and create a false sense of security for voters when making decisions on how to cast their vote.

4.5.5 LOCAL LEVEL GOVERNMENT

At the level of local governments, it is common to find that women are not meaningfully involved in decision-making to influence policy priorities or in resource distribution to meet the needs and interests of women. This is obvious even in countries that do create spaces for women within the formal structure. For instance, PNG's Organic Law on Provincial and Local Level Government (LLG) has provisions that mandate two women representatives in rural LLGs and one in urban LLGs applicable for 20 of the 22 Provinces, excepting the National Capital District and Autonomous Region of Bougainville. Women can still contest the open seats and run in other local government elections. In the Autonomous Region of Bougainville, legislation on promoting gender parity was passed in 2016, and this required representation of one male and one female representative in all Community Governments in Bougainville. Similarly, the Vanuatu parliament passed The Municipalities (Amendment) Act No. 11 of 2013, which reserves five seats for women in Municipal elections.

Although the vast majority of people live in rural and remote communities throughout the Pacific, these levels of government are often under-resourced and lack the ability to mobilize and meaningfully engage rural people in the formal governance processes, in addition to being male dominated. Change can be difficult to implement and slow to catch on. One organization that has been seeking to improve the situation is the Commonwealth Local Government Forum (CLGF) which has been working closely with several Pacific governments, and this work has been recognized as a critical source of support for promoting women's political participation. The work of CLGF includes promoting gender equality, climate change and sustainable development in nine Pacific countries namely Kiribati, Fiji, PNG, Solomon Islands,

⁵⁵⁸ Cedric Spark, John Cox and Jack Corbett, 2018: Being the First. Women Leaders in the Pacific Islands, (p5)

RMI, Samoa, Tonga, Tuvalu and Vanuatu. It also promotes regional exchange and capacity building by strengthening institutions and improving local level service delivery.

4.5.6 BARRIERS TO WOMEN'S POLITICAL PARTICIPATION

Literature on women's political participation and leadership is voluminous, so the following provides only a brief overview. It is important to be aware that the barriers or constraints to women's political participation are interwoven with other issues, including violence against women, women's economic empowerment, women's education, women's health, and women's leadership in the public sector. Understanding the intersectionality of these issues is critical to effective development strategies and programming for the promotion and protection of women's rights, their voice, their agency, and overall inclusion for democracy and good governance.

Structural Issues

Gendered notions of leadership in the public sphere are common in the region. Gender roles and gender relations are structured by existing social norms and customary practices. Attitudes towards women and men, boys and girls during early socialization determine their life-long experiences and opportunities in all spheres of life, including politics. Gendered ideas of leadership impact on individual woman's ability to engage and be accepted as a leader in public life, although they are commonly accepted as leaders in the social-cultural life of Pacific societies. Reproductive roles including early motherhood and especially the prevalence of teenage pregnancy and child marriage impact on women's life opportunities. As an example, in PNG, child marriage rate is 21 percent and there are 65 births per 1000 girls aged 15-19, one of the highest rates in Asia.⁵⁵⁹ For comparison, the average for all Pacific Islands nations is 51 per 1000 and it is 22 per 1000 for all East Asia and Pacific countries (excluding high income countries).⁵⁶⁰ Given the youth bulge in the general population, it has enormous economic consequences in terms of limited education and training opportunities for young people.⁵⁶¹ And for married teenage girls, stereotype perceptions of women's reproductive role continue to prevail.

The occurrence of violence related to civil conflicts as well as general breakdown in law and order also impact on women's ability to participate in public life and economic spheres. The Melanesian countries of Solomon Islands, Fiji and PNG all have been affected with conflict situations at some stage. Violence in elections has become normalized in parts of PNG, and this seriously undermines women's overall sense of security as both candidates and voters. Particularly for PNG, "...democratic processes were hijacked, resulting in elections that were neither free, safe, fair nor inclusive especially with respect to women, settlers and the elderly."⁵⁶² Verbal and physical violence are also a commonly accepted part of the electoral process, especially in the Highlands, and both women and men are at risk of physical or verbal attacks from their opponents while contesting office. Female candidates receive more threats of violence than their male counterparts which has the effect of limiting their movements and activities thus undermining their fundraising opportunities and their campaigns in general.⁵⁶³

⁵⁵⁹ [https://www.tandfonline.com/doi/full/10.1080/09688080.2018.1512297#:~:text=There%20are%20limited%20data%20on,people's%20contraception%20practices%20in%20PNG.&text=Globally%2C%20contraceptive%20prevalence%20rates%20\(any,those%20aged%2020%E2%80%9324%20years.](https://www.tandfonline.com/doi/full/10.1080/09688080.2018.1512297#:~:text=There%20are%20limited%20data%20on,people's%20contraception%20practices%20in%20PNG.&text=Globally%2C%20contraceptive%20prevalence%20rates%20(any,those%20aged%2020%E2%80%9324%20years.)

⁵⁶⁰ https://data.worldbank.org/indicator/SP.ADO.TFRT?most_recent_value_desc=false

⁵⁶¹ <https://www.hrw.org/world-report/2017/country-chapters/papua-new-guinea>

⁵⁶² 2017 Papua New Guinea General Elections Observation Report, 2018 (p.90). Australian National University, Department of Pacific Affairs.

⁵⁶³ https://www.ifes.org/sites/default/files/ifes_april_2019_vawe_in_png_assessment.pdf

Legal and Institutional Issues

Legislation in some countries creates a disincentive for women to consider standing for public office. For instance, candidates for public offices are required to resign from their full-time jobs in order to contest elections, such as in Tonga and PNG. In other countries, such as FSM, they are required to accept leave without pay. In Fiji, overseas donations or NGO contributions to campaign funding is forbidden. This type of legislation creates a substantial barrier for women since they face greater difficulty in raising funds, among other challenges.

In general, Pacific legislatures have weak capacity and this is often reflected in the failure of MPs to be responsive to the needs of people and to perform effectively by strengthening links to citizens through public consultations. In instances where public consultations are held, the varied ability of MPs to commit and act to address issues of public is of concern. Lacking capacity and commitment to be responsive to the needs and priorities of their constituencies leads to neglect of the democratic principles of consensus, inclusion, social justice and accountability. This has a greater impact on marginalized groups, including women, whose needs are not viewed as a priority.

Political parties have become a normal part of the landscape of Pacific politics, but most parties are male dominated, personalized and often lack policy commitment and democratic values; this partly explains why political instability remains such a common phenomenon in the region. Failure to comply with formal procedures and the macho-styles of most MPs are also disincentives to women for pursuing public office or generally becoming involved in politics. The conduct of parliamentary debates that often depict aggressiveness, mudslinging amongst male MPs, widespread abuse of power, corruption and lack of integrity in the overall conduct of politicians, plus voters' expectation of "big-man" style wealth distribution using public monies serve as further disincentives. Gender norms are such that physical and verbal violence, especially against women, is often considered acceptable for men to engage in and these "masculine" political styles can reinforce the view that politics is dirty and women should stay out of it.

Structural Issues

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Legislation in some countries creates a disincentive for women to consider standing for public office. For instance, professional women in public service are required to resign from their full-time jobs to contest

elections, such as in Tonga and PNG. In other countries, such as FSM, they are required to accept leave without pay. In Fiji, overseas donations or NGO contributions to campaign funding is forbidden. This type of legislation creates a substantial barrier for women because they face greater difficulty in raising funds, among other challenges.

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Political and Electoral Issues

Traditional social structures around chieftaincy, clans, tribes, and title holders as in Samoa, Tonga, and Fiji influence public perceptions that men are leaders, whilst women are confined to fulfilling their social roles behind the scenes, in families, clans, and chieftaincy. Voter attitudes are often biased towards seeing men as the 'natural' leaders, and so women have to try harder to overcome this perception, often with minimal success.

Women's access to political networks and local power brokers is limited compared to men. This is partly a result of the gendered nature of the public space where men have been the forerunners in education, economic activity, and professional networks built over a much longer period of time compared to women. These support networks usually become the source of influence and funding for many male candidates contesting public office.

Money politics and big-man politics, especially in Melanesia, as well as electoral violence and intimidation in certain contexts, such as in PNG, have adverse impacts on women as candidates, and often steer voters to vote for reasons other than having a democratically elected representative. Violence and money politics certainly do not offer a level playing for female candidates. Election management bodies also have weak capacity to manage free and fair elections. When electoral officials are coopted by powerful interests, their ability to perform their roles impartially is compromised in ways that cause sections of the population to become effectively disenfranchised. This has a direct impact effect on women's political participation, as well as that of other marginalized groups.

Socio-Economic, Social Norms and Attitudes

In everyday social and cultural life, women are actively involved and are recognized as leaders in all aspects of life, yet they have little to no influence in formal political structures and processes. This presents a challenging paradox in contemporary Pacific society. The belief and attitude that women cannot be political leaders is reinforced through agents of socialization including family, schools, the media and society in general. For instance, given the importance of familial and kin relationships in Pacific societies, it is common for women with political interest to consult their husbands/partners or their male relatives first

to obtain their consent before contesting elections. Unlike in advanced democracies, where political parties play a key role in political recruitment, families and kin provide the primary support needed for electoral competition in much of the region. This is why successful female MPs advice about the wise use of family resources, as revealed in a study of women leaders in the Pacific.⁵⁶⁴

4.5.6 CONCLUSION

Under-representation, or lack of representation, in Pacific Parliaments is a result of a multitude of factors, including:

- culture or *kastom*;
- the pervasiveness of masculine political cultures;
- the pervasiveness of violence against women;
- male prejudice;
- the perceived incompatibility between traditional societal values and the modern state structures;
- the view that politics is men's work;
- the view that electoral systems are not gender neutral;
- the lack of a level playing field in relation to campaign financing;
- women's limited involvement in local or village governance; and
- factionalism and divisiveness within women's organizations.

While there have been positive developments, such as improvements in the numbers of women MPs elected, in some cases through the introduction of Temporary Special Measures, there is still a long way to go. In addition to formal measures like TSMs, it is also critical to improve opportunities for women and girls in education and the economic sphere, in particular through greater access to employment in the formal sector, where working conditions are at least subject to government regulation, even if that regulation is currently weakly enforced. Violence against women and girls is a symptom of the same cultural, social, and institutional challenges that constrain women's participation in public life. Any approach to improving women's participation will need to address all of these issues and will need to prioritize the safety and security of women and girls both at home and in public, without which there cannot be sustainable improvements in equitable, democratic governance.

4.5.7 ADDITIONAL RESOURCES

Pacific Women Shaping Pacific Development. Regional Summary, 2019: Australia Aid, August 2019. https://pacificwomen.org/wp-content/uploads/2019/01/April-2020_Country-Plan-Summary_Palau.pdf.

Huffer, Elise (2006). A Women's Place is in the House—the House of Parliament. Research to Advance Women's Representation in Forum Island Countries. <https://www.pacwip.org/wp-content/uploads/2018/02/Women-Place-Chapter-1-Desk-review-2007.pdf>

Pacific Women Shaping Pacific Development. Annual Progress Report 2017–2018. Supporting the Pacific Leaders' Gender Equality Declaration. Australia Aid, August 2019. <https://pacificwomen.org/key-pacific-women-resources/pacific-women-annual-progress-report-2016-2017/>.

⁵⁶⁴ Cedric Spark, John Cox and Jack Corbett, 2018: Being the First. Women Leaders in the Pacific Islands,

Pacific Women in Politics. <https://www.pacwip.org/women-mps/>

UNDP Temporary Special Measures to Increase Women's Political Participation in the Pacific: Case Studies of Implementation in the Region.

https://www.undp.org/content/dam/fiji/docs/UNDP%20PO%20TSM_Womens%20Political%20Participation.pdf.

5. RECOMMENDATIONS AND FURTHER OPPORTUNITIES

The following are the suggested opportunities for growth that may be pursued with Pacific States based on the research and papers that have been presented.

I. Strengthen Key Governance and Human Rights Institutions

While the Pacific has received considerable support through development projects, including multilateral and bilateral funding around strengthening governance and human rights institutions including the Police, courts, etc., there remains a need to strengthen other governance institutions especially the following:

a) Ombudsman/Human Rights Institutions

The countries in the table below have Ombudsman offices though their legislative bodies but resourcing influences their ability to fully perform their roles and functions. Most of the Ombudsman offices have been cited as weak and ineffective and under-resourced which contributes to their ineffectiveness. Fiji is the only state with a stand-alone national human rights institution.

Tuvalu and Samoa have created hybrid institutions that in the case of Samoa has seen the Ombudsman's office become very effective in delivering on both its mandates (addressing maladministration and human rights).

b) Anti-Corruption Institutions

While almost all Pacific States are now state parties to the United Nations Convention Against Corruption (UNCAC), they are at various stages of developing their legislative frameworks in compliance with UNCAC. Except for Fiji, no other Pacific States has a dedicated anti-corruption institution. All other Pacific States have their Office of the Attorney General, Director of Public Prosecutions or the Police Force as the institutions with oversight on corruption matters with a few countries at various stages of developing legislations for the creation of their anti-corruption institution. Pacific projects such as the United Nations Pacific Regional Anti-Corruption Project is supporting Pacific governments in their anti-corruption commitment while organizations like SPC RRRT and APF are supporting Pacific states in their human rights institution commitments.

Country	Ombudsman	Dedicated Anti-Corruption Institution	Human Rights Institution	Comments
PNG	Yes	In process	No	
Fiji	No	Yes – FICAC	Yes	
Solomon Islands	Yes	In process	No	
Vanuatu	Yes	No	No	Scoping study in progress

Country	Ombudsman	Dedicated Anti-Corruption Institution	Human Rights Institution	Comments
Tonga	Yes	Established but not functional	No	
Samoa	Yes	No	Yes but Hybrid.	
Tuvalu	Yes	No	Yes but Hybrid	
Kiribati	No	No	No	Scoping study in progress
Federated States of Micronesia	No	No	No	Scoping study in progress
Marshall Islands	No	No	No	Scoping study in progress
Palau	Yes	No	No	
Nauru	Yes	No	No	Scoping study in progress

c) Media (Freedom)

The issue of self-censorship, threats and coercive treatment of the media often means that the media as the “fourth estate” operate in hostile and restrictive environments in certain Pacific countries. The need to promote freedom of expression and opinion as well as fostering an environment for greater press freedom is crucial for young and fledgling democracies. Currently in the Pacific region, crimes are committed with impunity and those in power work towards suppressing media freedom.

d) Regional Security

There is a recognition that various security issues are better addressed at a regional level given their complexity and challenges. The vastness of the Pacific Ocean means that it is largely under-surveilled and consequently the Pacific corridors are frequented by smugglers, crime rings and other international and cross jurisdiction criminal syndicates often go undetected. The relatively small Pacific bureaucracies, which are often under-funded, with the lack of proper surveillance equipment and resources add to the layers of physical, resourcing and bureaucratic challenges. This is why Pacific States have resolved to address security within the context of regionalism and this is evident through declarations such as the Biketawa; the Nasonini and the Boe Declaration among others that approach regional security as a means to better coordinate policing, surveillance and regional approaches on cross border crimes across Pacific states.

e) Human Trafficking

The challenges are many as identified in the Tier rankings by the US Department of States and as discussed in the mini paper. There is a need for more awareness, more resources and better coordination in the region to address human trafficking. The region through a coordinated approach through Pacific Island Law Officers Network (PILON); Pacific Immigration Development Community (PIDC); Pacific Islands Forum Working Group on transnational organised crime, human trafficking, money-laundering etc; IOM and UNODC and specifically the UN Pacific Regional Anti-Corruption Project.

f) Drug Trafficking

Is a big concern for the Pacific with the increasing number of hard drugs such as methamphetamine and cocaine now being transported across the Pacific Ocean destined for markets in Australia and New Zealand. The increasing usage of these hard drugs in Pacific states such as Fiji means the market is growing also in these states.

g) Supporting Civil Society and Faith Based Organizations to Address Sexual and Gender-based Violence (SGBV)

While there are established NGOs that deal with SGBV in the region, there is often a lack of support and capacity building resources focused on community-based groups which are on the frontline of addressing SGBV. These community groups are crucial but often lack the ability to address the many challenges that exist in the communities they are based in. The need for greater awareness, dialogues and other support services are crucial if we are to effectively address SGBV at the community level.

- i. Community based groups: There is a need for more support for community-based groups who provide a critical service in communities that are often far removed from urban areas. These include women's groups, youth groups, men's networks etc.
- ii. Church/Faith based organizations: Faith based organizations (FBO) play an enormous and decisive role in the lives of many Pacific Islanders and the platform of the pulpit is central to confronting and challenging behaviors and norms that perpetuate violence. More support for FBOs could be a very effective way of addressing messaging and behaviors around SGBV.

2. Strengthen Civil and Political Rights

The need to strengthen civil and political rights are crucial for Pacific bureaucracies given their political challenges and relatively young democracies. The need to understand and claim civil and political rights is important if Pacific democracies are to become strong and robust. Freedom of Expression, right to vote, freedom of movement, right to a fair trial etc. are some of the civil and political rights that needs more awareness of in Pacific states.

a) Political Integrity Project

There is a need to support and strengthen political parties, political process through legislative frameworks, parliamentary committees etc.

b) Awareness

Greater awareness/training/capacity support for civil and political rights are important and often lacking among Pacific islanders.

3. Rule of Law

The rule of law is inconsistent in many Pacific States. While there is generally a culture of rule of law, situations have arisen that undermine this culture. Fiji has had a precarious situation regarding rule of law with multiple military insurrections while the burning of downtown Nukualofa in Tonga and riots and ethnic conflict in the Solomon Islands have created destabilization in these countries. PNG continues to be plagued by systemic corruption. The change of government in a vote-of-no confidence in 2019 against the leadership of Peter O'Neill saw the new Prime Minister James Marape commit to eliminating corruption including moving to establishing an independent commission against corruption. Other Pacific States also have their challenges as it relates to the rule of law with often weak policing systems characterized by police brutality and inefficiency, abuse and under resourced judicial and correctional systems among other challenges.

AREAS FOR GROWTH AND OPPORTUNITIES

1. Implementation of Laws and Policies

Most countries are in the process of reviewing archaic or colonial-era laws and addressing other critical areas of law reform. The challenge in most Pacific States is the actual implementation of these laws such as those dealing with domestic violence, human trafficking and cross broader crimes etc.

2. Research

There is a need for more targeted research on critical issues in the Pacific that is also Pacific-centric. This means that Pacific scholars have the opportunity and can access resources to research and write about crucial issues in the region to inform policy and other practical interventions.

3. National/Regional Conversations

Like the concept of *talanoa* that Fiji used in the Conference of the Parties (COP) 23 negotiations, there is a need for more national and regional conversations around addressing crucial issues such as human trafficking and drugs, among others.

4. Strengthening Regional Institutions and Mechanisms

As part of the *Framework for Regionalism* there are great opportunities for strengthening regionalism. Within the context of international crimes or human rights law, there could be opportunities to strengthen regional mechanisms to address these concerns and others. This could come through support to judicial systems and coordination of law enforcement, along with other enforcement mechanisms for regional agreements.

5. Re-examine/Re-energize Post-COVID-19

The COVID-19 virus has brought many challenges to already shrinking Pacific economies that will also see their greater dependency on aid and concessionary loans. The impact of COVID-19 on Pacific economies will mean greater vulnerabilities to loan defaults and debt repayments, rising unemployment and increased hardships, as well as a dramatic increase in SGBV. There are opportunities for Pacific governments to re-examine their development agendas and human rights agendas and priorities to engaging with the world in terms of tourism, business communities etc. and working with development partners and institutions to manage their debt levels.

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ANNEX I. HUMAN RIGHTS

TREATIES RATIFICATION DATA

Table 1: Papua New Guinea

Treaty	Ratified/ Acceded ⁵⁶⁵	Reporting Status ⁵⁶⁶
ICCPR	07/21/2008	Initial report overdue since 10/21/2009
ICESCR	07/21/2008	Initial report overdue since 06/30/2010
CERD	01/27/1982	Initial report was due on 02/26/1983 and because no other reports submitted, Treaty Body issued concluding observation without national report on 06/02/2003.
CEDAW	01/12/1995	4 th Periodic report overdue 07/01/2014
CRC	03/02/1993	2-3 rd Periodic report overdue since 09/30/2008
CRPD	09/26/2013	Initial report overdue since 10/26/2015

Table 2: Republic of Fiji

Treaty	Ratified/ Acceded	Reporting Status
ICCPR	08/16/2018	No report yet due
ICESCR	08/16/2018	No report yet due
CERD	01/11/1973	11-12 th Periodic report overdue since 10/02/2016
CEDAW	08/28/1995	6 th Periodic report due 03/31/2022
CRC	08/13/1993	5-6 th Periodic report due on 09/11/2020
CRPD	06/07/2017	1 st Periodic report overdue since 07/21/2019
CAT	03/14/2016	Initial report overdue since 04/14/2017
CMW	08/19/2019	No report yet due.
CED	08/19/2019	No report yet due

⁵⁶⁵ OHCHR: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=134&Lang=EN

⁵⁶⁶ Ibid.

Table 3: Solomon Islands

Treaty	Ratified/ Acceded	Reporting Status
ICESCR	08/16/2018	No report yet due
CERD	01/11/1973	11-12 th Periodic report overdue since 10/02/2016
CEDAW	08/28/1995	6 th Periodic report due 03/31/2022
CRC	08/13/1993	5-6 th Periodic report due on 09/11/2020

Table 4: Republic of Vanuatu

Treaty	Ratified/ Acceded	Reporting Status
ICCPR	11/21/2008	Initial report overdue since 02/28/2010
CEDAW	09/08/1995	6 th Periodic report overdue since 03/01/2020
CRC	07/07/1993	3-7 th Periodic report due on 02/05/2022
CRPD	10/23/2008	Initial report overdue since 11/23/2010 and submitted on 08/18/2015. Vanuatu was reviewed in 2019. Next report due in 2024.
CAT	07/12/2011	Initial report overdue since 08/12/2012

Table 5: Kingdom of Tonga

Treaty	Ratified/ Acceded	Reporting Status
CERD	02/16/1972	15 th Periodic report overdue since 03/17/2001
CRC	11/06/1995	Tonga's initial report was overdue for 21 years since 12/06/1997, but was submitted on 04/05/2018 and reviewed by the CRC Committee in May 2019.

Table 6: Samoa

Treaty	Ratified/ Acceded	Reporting Status
ICCPR	02/15/2008	Initial report overdue since 05/15/2009
CEDAW	09/25/1992	7 th Periodic report due 11/09/2022
CRC	11/29/1994	5-6 th Periodic report due on 12/28/2021
CRPD	12/02/2016	Initial report overdue since 01/02/2019
CAT	03/28/2019	Initial report due on 04/27/2020
CED	11/27/2012	Initial report overdue since 12/27/2014

Table 7: Tuvalu

Treaty	Ratified/ Acceded	Reporting Status
CEDAW	10/06/1999	5 th Periodic report overdue since 03/01/2019
CRC	09/22/1995	2-5 th Periodic report overdue since 10/21/2017 but submitted on 03/28/2018 and reviewed by the CRC Committee in March 2020 in Apia, Samoa.
CRPD	12/18/2013	2-5 Periodic report due on 11/22/2026

Table 8: Republic of Kiribati

Treaty	Ratified/ Acceded	Reporting Status
CEDAW	03/17/2004	1-3 rd Periodic report overdue since 04/16/2005 was submitted on 02/12/2019 and reviewed in Feb. 2020.
CRC	12/11/1995	2-4 th Periodic report overdue since 07/09/2011 was submitted on 02/13/2019.
CRPD	09/27/2013	Initial report overdue since 10/27/2015 was submitted on 02/12/2019
CAT	07/22/2019	Initial report due in 2020

Table 9: Federated States of Micronesia

Treaty	Ratified/ Acceded	Reporting Status
CEDAW	09/01/2004	4 th Periodic report due on 03/31/2021
CRC	05/05/1993	FSM was reviewed of its 2 nd Periodic report in February 2020 at the first ever sitting of the CRC Committee outside of Geneva (in Apia, Samoa).
CRPD	12/07/2016	1 st Periodic report overdue since 01/07/2019

Table 10: Republic of the Marshall Islands

Treaty	Ratified/ Acceded	Reporting Status
ICCPR	03/12/2018	Initial Report due on 06/12/2019
ICESCR	03/12/2018	Initial Report due on 06/12/2019
CEDAW	03/02/2006	4 th Periodic report due on 03/31/2022
CRC	10/04/1993	5 th Periodic report due on 2022
CRPD	03/17/2015	1 st Periodic submitted on 08/22/2019 and currently awaiting review.
CAT	03/12/2018	Initial report overdue since 04/11/2019
CERD	04/11/2019	Initial report due on 05/11/2020

Table 11: Republic of Palau (Belau)

Treaty	Ratified/ Acceded	Reporting Status
CRC	08/04/1995	3 rd Periodic report due in 2022.
CRPD	06/11/2013	Initial report was submitted on 02/02/2018 after more than two years overdue.

Table 12: Nauru

Treaty	Ratified/ Acceded	Reporting Status
CEDAW	23/06/2011	CEDAW report 1 and 2 was overdue since 2015 but submitted in 2016 and Nauru was reviewed in 2017. Next report is due in 2021.
CRC	27/07/1994	Initial report was due in 1996 but submitted 10 years later in 2016 and Nauru was reviewed in the same year. Next report is due in 2021.
CRPD	27/06/2012	Initial report is overdue since 2014.
CAT	26/09/2012	Initial report overdue since 26 October 2013