



**Convention on the Rights
of Persons with Disabilities**

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Committee on the Rights of Persons with Disabilities

**Initial report submitted by Tuvalu under article
35 of the Convention, due in 2016***

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Introduction

1. The Government of Tuvalu is pleased to present to the Committee on the Rights of Persons with Disabilities, Tuvalu's Initial Report under the Convention on the Rights of Persons with Disabilities ("herein referred to as the Convention"). Tuvalu ratified the Convention in its own right in 2013. In becoming a party to the Convention, Tuvalu affirmed its commitment to improving the situation of persons with disabilities nationally. The ratification of the Convention by the Government of Tuvalu also reflects its commitment to the regional disability strategy made by Pacific governments' namely the Regional Disability Strategy 2016–2020. It also indicates the Government of Tuvalu's commitment towards global promotion and protection of the rights of persons with disabilities.

International Treaties (covering disabilities)

2. The Government of Tuvalu acceded to the Convention on the Rights of the Child (CRC) in 1999 and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) in 2011. Both the ratified treaties have been used by the Government to make progressive changes to ensuring that persons with disabilities are included in national initiatives and more importantly, that inclusiveness is imbedded in the work of government and stakeholders key activities and initiatives.

Preparation and structure of report

3. The report sets out the current status of persons with disabilities, progress made, measures taken within various government ministries and to identify challenges and obstacles that hinder the full participation of persons with disabilities in Tuvalu. The report details the progress of implementation under Articles 1 to 33 of the Convention. Further, the initial report by the Government of Tuvalu notes and recognises that whilst the ratification of the Convention on the Rights of Persons with Disabilities is recent, it will ensure that the rights contained will be progressively realised. In addition, the Office of the Attorney General in partnership with the National Disabled Person's Organisation (Fusi Alofa) conducted and facilitated a nation-wide consultation on the report. This consultation included the outer islands.

4. The report also considers the Te Kakeega III (National Strategy for Sustainable Development 2016–2020) and other regional disability commitments including the Pacific Regional Strategy on Disability 2016–2020 (PRSD), the Pacific Education Framework and Biwako Millennium Framework (Biwako Framework), Draft Tuvalu National Disability Policy (TNDP), Laws of Tuvalu and the Constitution and the Laws of Tuvalu. Consideration was also made to the 2015 Education Statistic Strategy, Financial Report, Tuvalu Disability Study, Tuvalu National Human Rights Action Plan 2016–2020 and other relevant government documents.

Consultation with stakeholders

5. The consultation process for this report commenced in July 2017 through to September 2017 between relevant government departments, stakeholders and focused on group discussions.¹ Three streams of consultation were facilitated with government stakeholders and the national disability community and one specifically for youth leaders in Funafuti. In addition, official interviews were conducted to ascertain the information received from various stakeholders. Outer islands consultation was also facilitated in the

¹ Discussions focussed on the work done by the various arms of government of the work for persons with disabilities.

month of September 2017. Eight islands² were consulted on the Convention on the Rights of Persons with Disabilities and the other treaty³ and bills,⁴ policies⁵ and framework.⁶ This initial report reflects the views of the Fusi Alofa – national disability organisation.

Status of the Optional Protocol

6. To date, the Government of Tuvalu has yet to ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities. It has not made any reservations on the Optional Protocol to the Convention on the Rights of Persons with Disabilities. It is the intention of the Office of the Attorney General and the Ministry of Home Affairs that further consultation is needed to fully discuss the ratification of the OP CRPD before making a formal commitment. As formal process dictates, cabinet will have to give formal endorsement before making the commitment to be bound by the Optional protocol. This report informs the committee that this will be progressively realised.

7. However, as a State party to the Convention, the Government of Tuvalu has made a clear commitment to upholding the rights of persons with disabilities. A number of support mechanisms for persons with disabilities have been established, including: (a) draft national disability policy; (b) national disability coordinating committee; (c) disability pension for eligible persons; (d) Tuvalu National Plan of Action on Human Rights; (e) inclusion of children living with disabilities in mainstream school including support; (f) special school for disabled children and adults and (g) Fusi Alofa (National Disability Organisation).

The Constitution

8. The Constitution is the Supreme law of Tuvalu, and sets out the framework of how government is to conduct affairs both nationally, regionally and internationally. It stipulates the right of the people of Tuvalu, both present and future, to a full, free and happy life, and to moral, spiritual, cultural, traditional, personal and material welfare. The Constitution recognises and grants that Tuvalu must take its rightful place amongst the community of nations in search of peace and general welfare. It further recognises and affirms, that the stability of Tuvaluan society and the happiness and welfare of the people of Tuvalu, both present and future, depend very largely on the maintenance of Tuvaluan values, culture and tradition, including the vitality and the sense of identity of island communities and attitudes of co-operation, self-help and unity within and amongst those communities. Amongst the values that the people of Tuvalu seek to maintain are their traditional forms of communities, the strength and support of the family and family discipline.

9. The Constitutional provision mentioned above reflects the value and commitment that Tuvaluan's have with regard to protecting the rights of persons with disabilities. The initial report notes that whilst the Constitution may lack the required protection clause, the principles of the Constitution is sufficient in the interim to provide the necessary and adequate protection for persons with disabilities.⁷

10. Furthermore, section 7, highlighting the Principles of the Constitution, acknowledges that the people of Tuvalu recognise that in a changing world, and with changing needs, these principles and values, and the manner and form of their expression, will gradually change. The Constitution must not only recognise the fundamental importance to their life but also must not unnecessarily hamper their expression and development. The ratification of the Convention on the Rights of Persons with Disabilities recognises these changing values and needs. The initial report also notes that the Constitution will reflect this principle in its content.

² Nanumea, Nanumaga, Niutao, Vaitupu, Nui, Nukufetau, Nukulaelae, Niulakita.

³ Convention on the Rights of the Child.

⁴ Child Protection and Welfare Bill.

⁵ Draft National Disability Policy.

⁶ Child Protection Framework.

⁷ Section 28 of the Constitution.

11. Furthermore, the initial report informs the Committee that the Government of Tuvalu is currently undergoing a Constitutional review process and one of its core aims is to make inclusion in the non-discriminatory section, disability as a ground of non-discrimination. The Tuvalu Constitution already includes reference to “international conventions, declarations, recommendations and judicial decisions concerning human rights” as a basis for interpretation of reasonableness of laws restricting the Bill of Rights, along with other traditional institutions.

12. Constitutional recognition of disability rights would be consistent with Tuvalu’s obligations under the Convention on the Rights of Persons with Disabilities, and would respond to concerns raised in the Universal Periodic Review of 2013. More broadly, there is a trend toward specific recognition of an extensive set of groups for protection from discrimination. Consideration will be given to modernising the constitutional clauses on equality and non-discrimination in this regard – especially safeguarding the rights of persons with disabilities.

Disability Development

13. The 2012 Tuvalu national census reported that of those under 60 years of age, 198 persons were with disabilities : 1.83% of the total population of 10,780 but a slightly higher proportion – 2% – of the under 60 age group was questioned. In that Census, the interviewers were instructed to read out the definition of disability, which was from the Convention on the Rights of Persons with Disabilities.⁸

14. The United Nations Development Program (UNDP) in association with the Government of Tuvalu (GOT) and NZAID developed profiles of several islands in 2011/2012. This study concluded that there were approximately 430 Persons with Disabilities in Tuvalu.

15. While people living with disabilities have been taken for granted as a natural part of Tuvaluan communities, they have never been acknowledged as people with special needs, particularly their status as equal members of society. Tuvalu’s ratification of the Convention on the Rights of People with Disabilities (CRPD) has paved the way for the beginning of a national commitment to persons with disabilities. The national association for people with disabilities (DPO), Fusi Alofa, has now been established on Funafuti with branches operating on three of the outer islands. There is also a national coordinating body, Tuvalu National Disability Coordinating Committee (“herein referred to as TNDCC”) established in 2014 consisting of key stakeholders from various sectors that coordinates, facilitates and monitors the implementation of the Convention on the Rights of Persons with Disabilities.

16. Furthermore, the Government of Tuvalu now has in place a Draft National Disability Policy 2017–2020 (“herein referred to as TNNDP”) for the promotion and protection of the rights of persons with disabilities. The proposed National Disability Policy prioritises 12 key areas for immediate and progressive action on all relevant stakeholders including government. The key priority areas are: (1) awareness and advocacy; (2) education; (3) health; (4) accessibility; (5) employment and livelihood; (6) policy planning and legislation; (7) women, children, youth and elderly; (8) strengthening disabled persons organisations; (9) family life; (10) religion; (11) recreation and sports; (12) emergency and safety. The development of the proposed DTNDP is a result of national consultation held in Funafuti and the outer islands. The key priority areas were identified as areas which needed to be strengthened for persons with disabilities to live a life of dignity. The stakeholders included all of government, persons with disabilities, Fusi Alofa and representatives from NGOs, Faith based organisations, churches and youth, parents and carers and island communities. Provided below are some mechanisms in place that promote the rights of persons with disabilities:

⁸ Tuvalu national census questionnaire final draft, 2012, Question H55

Support Scheme for the Most Vulnerable Persons with Disability

17. The Disability Support Scheme, follows in the footsteps of the Tuvalu Senior Citizens Scheme which began in 2008. By no means do these schemes imply Tuvalu's resource capacity to sustain them at levels comparable to those enjoyed by citizens of established welfare states. They simply demonstrate the States' ongoing determination to improve the general welfare of its people, within the confines of its limited resources, relying on prudent financial management and equitable budget allocations. The support scheme aims at providing financial assistance for persons with disabilities and their carers. The support scheme is provided by government for the specific use by persons with disabilities for daily assistance with regards to their needs and wants. The support scheme provides AUD 70 per month to persons with disabilities.

Tuvalu National Disability Coordinating Committee

18. The ratification of the Convention signified a commitment towards advancing human rights generally in Tuvalu but, more specifically, it ushered in an established international human rights framework upon which to formulate and develop meaningful national decisions and actions to address issues concerning persons with disabilities in Tuvalu. By virtue of Tuvalu's obligations to respect, protect, fulfil and ensure the full enjoyment of the human rights of persons with disabilities under the Convention, the objective of setting up the TNDCC was to ensure the facilitation of the implementation of the Convention by setting up and developing key mechanisms that would in turn translate into relevant and progressive actions to realise the human rights of persons with disabilities in Tuvalu. The TNDCC is the national focal point for disability in Tuvalu. The Department of Community Affairs is the Government's Focal Point for Disability.

19. The TNDCC is composed of: Secretary of Home Affairs – Chairperson; Office of the Attorney General; Department of Planning; Department of Education; Department of Health; Statistics Department; Public Works Department; Fusi Alofa; Gender Affairs Department; Department of Labour; Department of Rural Development; Tuvalu Red Cross Society.

20. The TNDCC mandates include the following: to coordinate the development and formulation of a National Disability Strategy for Tuvalu; to coordinate the development and formulation of a National Disability Policy for Tuvalu; to coordinate the development and formulation of a Monitoring and Evaluation Strategy and Framework for the implementation of the Convention in Tuvalu; to make recommendations on legislative and policy actions to be undertaken to ensure the effective implementation of the Convention; to coordinate the adoption of legislation and administrative measures to promote the human rights of persons with disabilities; to coordinate the collection, storage and update of data on disability in Tuvalu; to coordinate the drafting of Tuvalu's Country Report under the Convention on the Rights of Persons with Disabilities; to fundraise for support at the national, regional and international level, in order to facilitate the implementation of the Convention in Tuvalu; to coordinate the review of current laws, policies and practices and develop strategies to align them with Tuvalu's obligations under the Convention on the Rights of Persons with Disabilities; to promote awareness on the Convention and rights of persons with disabilities throughout Tuvalu through education programmes; to advocate for the mainstreaming of disability rights across all sectors of development in Tuvalu; to undertake and encourage others to undertake research and development of accessible goods, services and technology for persons with disabilities; to explore, establish and develop partnerships at the national, regional and international levels and collaborate towards the effective implementation of the Convention in Tuvalu.

Tuvalu National Human Rights Action Plan 2016–2020

21. In January 2017, a National Human Rights Action Plan was launched which aims to enshrine human rights in the country's development priorities. The plan was the outcome of consultations with government departments, non-governmental organisations (NGOs) and communities to identify human rights priorities. This means that the marginalised, the old and young; men, women and children; and people with disabilities are included in the country's development projects and priorities. The Action Plan notes that human rights and

culture are not opposing concepts but mutually reinforcing in that they promote the entitlements and privileges of all Tuvaluan's to live a life that protects their humanity and dignity.⁹

Legislation

22. Currently, there are 10 pieces of legislation that makes references to disability. These are (1) Electoral Provision (Parliament) Act 1980; (2) Prisons Act 1986; (3) Traffic Act; (4) Rehabilitation of Offenders Act 1992; (5) Provident Fund Benefit Regulation; (6) Kaupule Regulation; (7) Industrial Relation Code; (8) Harbours Act 1957; (9) Police powers and Duties Act 2009 and the (10) Family Protection and Domestic Violence 2014.

<i>Legislation</i>	<i>Section</i>	<i>Commentary</i>
Electoral Provision (Parliament) Act 1980	21(1)(h)	Method of Voting
Prisons Act 1986	4 – Schedule 2	Offences against Prison Discipline
Traffic Act	16(2)(a)	Grant and Refusal of driving licenses
Rehabilitation of offenders Act 1992	5(2)	Extension of rehabilitation period
Provident Fund Benefit Regulation	Regulation 1(2) & 10	Interpretation Incapacity benefit condition
Kaupule Election Regulation	Regulation 18(5)	Method of Voting
Industrial Relation Code	27(1)	Prohibition of expulsion of members
Harbours Act 1957	19	Power to cancel pilot's license
Police Powers and Duties Act 2009	134(1)(b)	Questioning persons who do not speak the language
Family Protection and Domestic Violence 2014	1 & 4(b)	Interpretation – vulnerable person Principles
Constitution of Tuvalu	80	Power of Mercy
Penal Code	135	Defilement of a girl between 13–15 years

Tuvalu Study on Persons with Disabilities

23. In 2017, the Government of Australia through the Pacific Women Shaping Pacific Development (Pacific Women) program provided funding to the government to undertake the Tuvalu Study on Peoples with Disabilities. The Government of Tuvalu through the Ministry of Home Affairs and the Gender Affairs Department provided essential support to the Study throughout its duration. The Board, staff, members and volunteers of the Fusi Alofa Association (FAA), the disabled people's organisation in Tuvalu, played a key role in the Study from its initial inception. The study on disability, humanity and dignity are particularly pertinent concepts raised under the National Action Plan. The Study identified and interviewed 466 Persons With Disabilities in all the nine islands of Tuvalu. This is

⁹ Government of Tuvalu, Tuvalu Human Rights National Action Plan 2016–2020, 2017, 1.

4.5% of the population, based on the Tuvalu National Statistics Office end-2016 estimate of 10,156.

24. A summary of the numbers of persons with disabilities by island is in Table 1 below.

Table 1

Summary of numbers of Persons with Disabilities interviewed in the Study, by island

	<i>Male</i>	<i>Female</i>	<i>Total</i>
Nanumea	20	10	30
Nanumaga	5		20
Niutao	7	18	25
Nui	15	22	37
Vaitupu	25	36	61
Nukufetau	12	15	27
Funafuti	106	149	255
Nukulaelae	4	6	10
Niulakita	1		1
Grand Total	195	271	466

Table 2

Summary of disabilities nationally

<i>Domain of difficulty</i>	<i>N</i>	<i>%</i>
Sight	286	21
Hearing	145	11
Mobility	324	24
Remembering	237	17
Self-care	185	14
Communication	177	13
Total	1 354	100

Table 3

Summary of prevalence of disabilities by island

<i>Island</i>	<i>Seeing</i>	<i>Hearing</i>	<i>Walking</i>	<i>Remembering</i>	<i>Self-care</i>	<i>Communicating</i>
Nanumea	17	8	22	17	11	12
Nanumaga	14	7	19	9	14	9
Niutao	15	8	18	10	11	6
Nui	30	14	29	16	12	9
Vaitupu	41	24	41	30	18	16
Nukufetau	18	8	16	11	6	4
Funafuti	147	73	173	134	108	116
Nukulaelae	4	2	6	6	4	4
Niulakita	0	1	0	1	1	1
Total	286	145	324	234	185	177

<i>Island</i>	<i>Seeing</i>	<i>Hearing</i>	<i>Walking</i>	<i>Remembering</i>	<i>Self-care</i>	<i>Communicating</i>
Nanumea	57%	27%	73%	57%	37%	40%
Nanumaga	70%	35%	95%	45%	70%	45%
Niutao	60%	32%	72%	40%	44%	24%
Nui	81%	38%	78%	43%	32%	24%
Vaitupu	67%	39%	67%	49%	30%	26%
Nukufetau	67%	30%	59%	41%	22%	15%
Funafuti	58%	29%	68%	53%	42%	45%
Nukulaelae	40%	20%	60%	60%	40%	40%
Niulakita	0%	100%	0%	100%	100%	100%
Total	61%	31%	70%	50%	40%	38%

Table 4
Average number of disabilities

<i>Row Labels</i>	<i>Males</i>	<i>Females</i>	<i>Total</i>
Nanumea	3.1	2.5	2.9
Nanumaga	3.4	3.7	3.6
Niutao	2.1	2.9	2.7
Nui	3.1	2.9	3.0
Vaitupu	2.6	2.9	2.8
Nukufetau	2.3	2.4	2.3
Funafuti	2.7	3.1	3.0
Nukulaelae	2.0	3.0	2.6
Niulakita	4.0		4.0
Total	2.8	3.0	2.9

25. The ages of Persons with Disabilities in the Study varied from birth to over 80 years of age as shown in Table 5.

Table 5
Current ages of persons with disabilities in study

<i>Age group</i>	<i>Males</i>	<i>Females</i>	<i>Total</i>
0–5	4	4	8
6–10	11	3	14
11–15	8	4	12
16–20	4	5	9
21–25	10	6	16
26–30	11	7	18
31–35	6	4	10
35–40	8	6	14
41–45	8	7	15
46–50	6	9	15
51–55	8	9	17
56–60	17	28	45
61–65	33	49	82
66–70	31	51	82

<i>Age group</i>	<i>Males</i>	<i>Females</i>	<i>Total</i>
71–75	13	27	40
76–80	8	24	32
80+	9	27	36
Not stated		1	1
Total	195	271	466

26. Table 5 shows that there are more females with disability compared to males: 58% of those interviewed were female and 42% were male. One reason for this is that women live longer than men and Table 4 shows that there are more women in the 60 and over age category.¹⁰ Table 5 also shows a predominance of disabilities in the older age groups. 58.5% of all Persons with Disabilities in the Study were 61 years of age or older; 32.1% were in the 21–60 age group that loosely corresponds with the working population; and 9.2% were in the 0–20-year-old age group. Older persons – those 60 years of age and above – are disproportionately represented in disability populations across the world. Globally, populations are ageing and Tuvalu is no exception. This is due to various factors including outward migration, which consists primarily of people in the working age group; lower birth rates resulting in fewer young people; improved health systems meaning that people live longer. The age of onset of disability is significant as those who were born with disabilities have substantially fewer opportunities in life compared to those who develop disabilities later in life. People with disabilities from birth are less likely to have received education, been in employment, married or had families. Thus, in terms of life chances, the persons with disabilities in the Study fell into three broad categories: those who were born with disabilities and were from birth to 20 years of age; those who acquired disabilities often due to accidents; and age-related disabilities, often the result of NCDs.

27. Table 6 shows the frequencies of age of onset of disability.

Table 6

All persons with any difficulty across one or more of the 6 domains

<i>Age at onset of disability</i>	<i>Persons with a disability</i>		
	<i>Males</i>	<i>Females</i>	<i>Total</i>
From birth	43	34	77
0–20	25	21	46
21–60	65	98	163
61+	55	103	158
Don't know	7	15	22
Total	195	271	466

28. Table 7 outlines causes of disability.

Table 7

Cause of disability

	<i>Male</i>	<i>Female</i>	<i>Total</i>
From birth	43	34	77
Accident	32	47	79
Disease (e.g. diabetes, stroke)	31	48	79
Old age	49	96	145
Curse / punishment	1		1

¹⁰ SPC estimates that the life expectancy in 2010 for males was 67.4 and for females 71.9.

	<i>Male</i>	<i>Female</i>	<i>Total</i>
Unknown cause	24	26	50
Side effect of medication	5	6	11
Other – explain	10	12	22
Not stated		2	2
Total	195	271	466

National Human Rights Institution

29. National Human Rights Institutions (NHRIs) play a key role in the international human rights system. Established by the government, yet operating independently, they are uniquely well placed to monitor, report on and support efforts for the implementation of human rights commitments and recommendations by treaty bodies. NHRIs enrich the human rights debate and ensure that the international discussion consider the practicality of human rights on the ground. National human rights institutions are legally-instituted independent bodies established by States for the promotion and protection of human rights. Their mandate and status is unique and they are key players in the furtherance of the principles of the United Nations Charter. The Paris Principles set out the minimum standards by which NHRIs should be established and carry out their mandate, and it is against these principles that the independence and credibility of NHRIs is assessed. The Paris Principles require national institutions to cooperate with international human rights mechanisms.

30. In August, 2017, the Tuvaluan Parliament passed the National Human Rights Institution Act (NHRI 2017 and the Leadership (Amendment) Code 2017. These laws establishes Tuvalu’s national human rights institution. The NHRI Act creates a an institution to ensure the full promotion and protection of fundamental rights and freedoms. The new law aims at allowing access to a government system that will address abuse of human rights and fundamental freedoms. It will allow persons with disabilities with a mechanism to address their issues and concerns. Persons with disabilities can also access the national human rights institutions with advocacy and awareness initiatives.

Ombudsman Office

31. The Office of the Ombudsman needs to be strengthened in terms of human resource. The 2013 appointment of an Ombudsman fulfils a TKIII objective, but the office remains understaffed. It is in need of two more highly qualified and experienced lawyers to assist the Ombudsman in the discharge of his duties, which prominently includes strict adherence to, and administration and enforcement of, the Leadership Code Act, and public service training in good governance. The government of Tuvalu informs the Committee that it recognises that in order to effectively enforce the Leadership Code, the Ombudsman needs the full support of government and community leaders. The Ombudsman’s Office is neutral, and immune from institutional or political interference. The Ombudsman’s Office needs a constitutional authority to act in the public’s best interest, in the same way as the Attorney General, Auditor General and Commissioner of Police (all three are constitutional offices). Section 37 of the Leadership Code Act 2008 establishes the Office of the Ombudsman. The Office of the Ombudsman Commission which consist of: (a) A Chief Ombudsman who shall be the head of the Ombudsman Commission; and (b) two other Ombudsman Commissioners.

32. The Ombudsman has the following functions: (a) to enquire into any complaints or allegation of misconduct on the part of any leader; (b) to enquire into any defects in administrative practice appearing from any matter being investigated; (c) to enquire into any case of an alleged or suspected discriminatory practice by a leader; (d) to give prior advice on potential breaches of this Code; (e) to investigate and report on any complaints of any alleged breaches of this Code.¹¹ Additionally, the Ombudsman shall comply with

¹¹ s38 Leadership Code Act 2008.

directions given or made under the Code, but otherwise is not subject to direction or control by any other person or authority.¹²

33. The Leadership (Amendment) Code 2017 amendments include enlarging the powers and mandate of the Ombudsman's office to include a human rights mandate while establishing the national human rights institution. This will allow for more access by persons with disabilities. It is envisaged that one of the key roles of the Ombudsman Office is to educate the people of Tuvalu on human rights issues including the Convention on the Rights of Persons with Disabilities.

Regional Commitment

34. As a Pacific Islands Forum member, the Government of Tuvalu was one of the Pacific countries to participate in the Thirty-Fourth Pacific Islands Forum Leaders' Meeting, held in Auckland New Zealand in 2003. In their 2003 meeting communiqué, Forum Leaders acknowledged that an immediate priority for Pacific Governments should be to address policy that would dismantle barriers and improve access and coordination for people with disabilities. They also encouraged regional and international organisations to continue coordinated research that would assist policy development and enhance awareness in Pacific communities.

35. The Government of Tuvalu has recognised and witnessed that in the last two decades, the approach to disability has moved from a 'charity' or welfare approach to a human rights based approach. Disability concerns are implicit in various international treaties and agreements including the Convention on the Rights of Persons with Disabilities.

36. The Government of Tuvalu also took part at the Pacific Island leaders Forum that adopted the Pacific Plan for Strengthening Regional Cooperation and Integration in 2005. The overall emphasis of the Pacific Plan is to create stronger and deeper links between the sovereign countries of the region while furthering human rights and good governance.

37. Tuvalu was part of the 2009 Pacific Islands Forum Leaders' Meeting held in Cairns, Australia that reiterated support for people with disabilities and reaffirmed the need for more attention to be directed to the most disadvantaged group who are among the poorest and most vulnerable. They acknowledged that people with disability face many barriers to full participation in society. Leaders further noted that the Regional Disability Strategy should focus attention on the need to address issues facing persons with disabilities in the Pacific, to build greater awareness on the importance of allowing access to greater and more equitable opportunities to enhance their quality of life and full enjoyment of all inalienable human rights.

38. Since the government of the Tuvalu ratified the Convention on the Rights of Persons with disabilities, it commits itself to upholding the principles enshrined in the Convention. It stated its intention to be part of the binding treaty that provides a universal standard for the human rights of persons with disabilities. The Convention promotes a shift in understanding that recognises the limitations created by disability not as a problem of a person but as a problem of barriers created by society.

39. Tuvalu was part of the Forum Disability Ministers Meeting (FDMM) in October 2009 held in the Cook Islands at which they adopted the Pacific Regional Strategy on Disability (PRSD). Report of this meeting was fully endorsed by the 2010 Pacific Islands Forum Leaders meeting held in Vanuatu. The purposes of the Pacific Regional Strategy on Disability 2010–2015 are to: (1) support Pacific Island Forum member countries to protect and promote the rights of persons with disabilities; (2) provide a framework for the coordination of development partners, governments and civil society in building a disability inclusive Pacific; and (3) strengthen commitment of all stakeholders towards implementation of the Convention on the Rights of Persons with Disabilities and other human rights instruments which/that relate to disability.

40. The Pacific Regional Strategy on Disability (PRSD) provides a strong rationale for regionalism by identifying specific areas where a cooperative regional approach will

¹² s47 Leadership Code Act 2008.

support national action. With the conclusion of the ‘Biwako Millennium Framework for Action’ (BMF, covering Asia and the Pacific) in 2012, the PRSD builds on work to date and takes a Pacific-specific approach. The Convention is the foundation for the PRSD; the Strategy should support those countries that have signed and/or ratified, as well as supporting the use of the Convention as a tool for inclusive development for those countries that have not yet signed.

41. Tuvalu, as a key member of regional organisations, has also subscribed to various regional commitments that call for the protection and promotion of human rights. These regional commitments include the Pacific Leaders Gender Equality Declaration 2012; The Pacific Regional Strategy on Disability (2010–2015), the Members of Parliament 2015 Denarau Declaration on Human Rights and Good Governance, Framework for Pacific Regionalism 2014.

Multilateral Linkages

42. The Government of Tuvalu has entered into a wide range of bilateral and multilateral treaties and has become a member of a number of regional and international organisations. The Government of Tuvalu is a member of the Asian Development Bank (ADB), the Food and Agriculture Organisation (FAO) of the United Nations, the International Civil Aviation Organisation (ICAO), the World Health Organisation (WHO) the United Nations Educational, Scientific and Cultural Organisation (UNESCO), and the International Maritime Organisation (IMO). It is also a member of regional organisations such as the Pacific Islands Forum and the Pacific Community.

Measures were taken to harmonise domestic law and policy with the Convention

Convention (objective, definitions, general obligations)

43. Tuvalu’s Constitution has a general anti-discrimination clause that could be extended to include the prohibition of discrimination on several grounds: disability, personal appearance, gender, age, social and health conditions, religion, belief, sexual preferences, or any other ground that violates human dignity and has the purpose or effect of undermining rights and personal liberties. Laws in the meantime are silent as to the definition of persons with disabilities and the Constitution itself does not provide for non-discrimination of persons with disabilities and also a clear definition of persons with disability.

44. The Social Development Policy Project – Social Data report 2015 notes that there is no clear definition of persons with disabilities. Additionally, the Government of Tuvalu Support Scheme for the Most Vulnerable Persons with Disability provides for a definition of disability that is in line with the Convention. In addition, the Tuvalu Education Strategic Plan 2011–2015 is aimed at implementing a policy for Inclusive Education for All and to explicitly define a person with disability, professional development to enable teachers to identify and support students with special needs, provide enabling learning environments, incorporate regional strategy on disability and to explore cost effective possibilities of distance and flexible learning system to reach out to remote schools.

45. In using the Convention as a benchmark to review Tuvalu’s Constitution several issues emerge for amendment in order to achieve compliance: in particular, detentions on the basis of disability, property seizure, and accession to and permanence in public office.

46. There is no existing substance in law and or policy that provide for provisions of ‘reasonable accommodation, however, national plans are on the way within the education department and other stakeholders to implement the principle with the available resources of stakeholders. Additionally, proposed policies are in place to incorporate the concept in the draft Building Code of the Public Works Department. The education department with its available resources have practices in place to accommodate learning for persons with disabilities, for example, partly blind children are placed in the front of a class session to allow for them to fully participate in learning.

47. Fusi Alofa has a qualified sign language teachers to assist students with disabilities. Sufficient to note that ramps are available for reasonable access to the Fusi Alofa school, office and facilities. The Ministry of Education also provides funding to Fusi Alofa to assist with the educational needs of children with special needs. This mechanism was implemented so that children with special needs are not only given adequate recognition but to also enjoy the right to education.

48. This initial report recognises that there are currently no laws or policies in place to govern what reasonable accommodation is and how it should be facilitated. Laws are not interpreted in the local language for constructive understanding of what reasonable accommodation is. The initial report also recognises that there is lack of expertise to assist in ensuring that reasonable accommodation is integrated within the various sectors. The Government of Tuvalu will work towards progressively realising that “reasonable accommodation” is understood and integrated nationally in policies and legislation by engaging with regional and international organisations working on disability issues within our region. Further, the government of Tuvalu will ensure that adequate resources are sought from donors to assist with the realisation of reasonable accommodation for persons with disabilities. The government of Tuvalu will work with the TNDCC and the relevant National Disability Organisation to ensure that awareness and advocacy is carried within government ministries and departments.

49. Additionally, section 14 of the Falekaupule Act – Qualification of voters states that every person who – (a) has attained the age of 18; (b) is a resident in the Falekaupule area; and (c) has paid rates to the Kaupule or has been exempted under section 86(2) (1) or 88, is entitled to be registered as a voter and, when so registered, to vote at the election of a member of the Kaupule in that area. This is inclusive of persons with disabilities who are eligible to vote. However, s15 states that no person who is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Tuvalu shall be entitled to vote in an election of a member of a Kaupule.¹³

50. The Family Protection and Domestic Violence Act 2014 recognises that women with disabilities also encounter violence in the home. The Family Protection and Domestic Violence Act stipulates that women living with disabilities should be afforded the same protection as any other women and or victims of violence. It calls on the relevant authorities to provide urgent and timely assistance to women living with disabilities who are victims of violence.

51. Section 4 of the Statistics Act under the Duties and powers of Government Statistician¹⁴ provides for the duties and powers of the official statistician. The Act states that it is the duty of the Government Statistician (a) to collect, compile, analyse, abstract and publish statistical information relating to the commercial, industrial, agricultural, social, economic and general activities and condition of the people of Tuvalu; (b) to co-ordinate with departments of the Government the collection, compilation, analysis and publication of statistical records of administration; and (c) generally to organise a co-ordinated scheme of social and economic statistics relating to Tuvalu, in accordance with the provisions of this Act. This provision includes persons with disabilities. Recently, the government statistician has included persons with disabilities in its official functions and mandates. The initial report also notes that whilst the term disability or persons with disability may not be included in the Constitution it is inclusive of person with disabilities who are part of the community and part of the general affairs of government.

¹³ Falekaupule Act Section 15 Disqualification of voters (1) No person who – (a) is serving a sentence of imprisonment; (b) is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Tuvalu; or (c) is disqualified from registering as a voter or voting under any law for the time being in force in Tuvalu relating to offences connected with elections, shall be registered as a voter or, being registered, shall be entitled to vote in an election of a member of a Kaupule. (2) A voter shall not be entitled to have his name retained on the register of voters for any Falekaupule area if for a continuous period of 12 months he has ceased to be a person resident within such area or if he becomes disqualified for voting under subsection (1).

¹⁴ Section 4 of the Statistics Act under the Duties and powers of Government Statistician.

52. Also, the initial reports notes parliament is currently considering national initiatives that will have direct positive impact on the rights and freedoms of persons with disabilities. They are the following.

53. The National Human Rights Institution Act 2017 is aimed at providing a relevant mechanism to ensure the full promotion and protection of fundamental freedom. The Act aims at allowing access to a government system that will address abuse of human rights and fundamental freedoms. It will allow persons with disabilities with a mechanism to address their issues and concerns. Persons with disabilities can also access the national human rights institutions with advocacy and awareness initiatives.

54. The Leadership (Amendment) Code 2017 gives more powers and functions to the Ombudsman Office in relation to the delegation of duties for the national human rights institution. This will mean more responsibilities and powers will be given to the Ombudsman in order to be able to carry out its duties outlined in the NHRI Act.

55. The Tuvalu National Gender Policy 2014–2016 embarked on a significant policy shift from the former focus on women in development to the broader concept of gender development with a stronger focus on engaging men and boys at all levels of its implementation. The policy strategic approach aims at achieving five priority outcomes: (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) measures to ensure access by women and men to participation in decision-making as means to enhance leadership and governance at all levels; (e) and eliminating all forms of violence against women. In addition, the implementation of the 5 key mandates will be conducted in a flexible, responsive and culturally sensitive manner. Further, the Tuvalu Gender Policy 2014–2016 discusses women with disabilities in various key thematic areas namely: (a) specific situations of rural women and girls with disabilities are addressed through all legislation, adopt measures to facilitate access to employment for women with disabilities, (b) create a gender sensitive environment in the Falekaupule, Kaupule and parliament to enable women participation at all levels, including for women with disabilities, recognition of gender based violence experienced by women with disabilities and adoption of adequate measures to prevent it and (c) protect women, strengthen capacity of police officers and health care service providers to respond to victims with a gender sensitive approach including women with disabilities.”

56. The Tuvalu National Youth Policy 2015–2019 makes references to youths living with disabilities and the support needed to assist in ensuring that youths with disabilities live a life of human dignity. Youths living with disabilities are a key target group for the National Youth Policy. The Tuvalu National Youth Policy notes that “although the number of youths with disabilities in Tuvalu is fairly low, it is important that support be provided to accommodate their needs. Additionally, it is intended that they will be given opportunities to actively participate in as many, as physically possible, of the activities and projects to be implemented under the policy.”

57. In addition to the above, the government of Tuvalu currently have in place a Support Scheme for the Most Vulnerable Persons with Disability. The aim of the support scheme came into force on the 1 January 2016. The support scheme recognised that persons with disabilities live in conditions of poverty, and in this regard recognising the critical need to address negative impact of poverty on persons with disabilities in Tuvalu and to provide financial assistance to citizens of Tuvalu who are eligible. The scheme is managed and administered by the Secretary of Home Affairs. The beneficiary under the scheme is entitled to receive a payment of AUD\$70.00 per month in accordance with the provisions of the mentioned scheme.

58. The Tuvalu National Disability Coordinating Committee’s primary role is to assist the Government and People of Tuvalu in coordinating and monitoring the implementation of Tuvalu’s obligations under the Convention. The TNDCC shall be the National Focal

Point for Disability in Tuvalu. The Department of Community Affairs is the Government's Focal Point for Disability.

59. The Ministry of Education currently provides Special School (MoE) Grant for Fusi Alofa. The grant provided has allowed the Fusi Alofa to provide educational services for children with special needs in Tuvalu. The grant pays for the teachers that are currently managing the school for children with special needs. In addition to the above, the 2012 Census for the first time included persons with disabilities in its interviews and overall scope of work. The 2007 Demographic & Health Survey included indicators into domestic violence on women and children. Also, important to note is that persons with disabilities articulatory the mentally incapacitated can travel to any of the outer island without paying for boat fares or accompanying costs. Additionally, the Public Health Unit and Non-Communicable Disease Committee have facilitated awareness and training programmes for relevant stakeholders including the National Disability Organisation on non-communicable disease and better healthy lifestyle. The government of Tuvalu notes that there is an urgent need to fully include persons with disabilities in national data gathering and statistics. The initial report also notes that whilst this was barely done in the past, more attention will be made to be more inclusive in the future work and activities. Additionally, the Ministry of Health has currently modified its building and premises to be more accessible for persons with disabilities. It has also facilitated the provision of wheelchairs for persons with disabilities who need them.

60. Further the Tuvalu National Disability Coordinating Committee under s5(1) (d), (e) has as its core functions to: (d) make recommendations on legislative and policy actions to be undertaken to ensure the effective implementation of the CRPD; (e) Coordinate the adoption of legislation and administrative measures to promote the human rights of Persons with Disabilities.

61. In partnership with Asia Pacific Forum and the Pacific Community, the government of Tuvalu has completed a scoping study on the feasibility of establishing a National Human Rights Institution, and has seen the importance of establishing a NHRI. The Government of Tuvalu has in place a dedicated National Human Rights Institution established under the second sitting of Parliament in October 2017 that aims at providing the necessary remedial services to aggrieved individuals including persons with disabilities. The Ombudsman will officiate issues relating to the violation of fundamental rights and freedoms of individuals. Persons with disabilities can have immediate access to this essential service to be provided by government.

62. The Government of Tuvalu through the Draft Tuvalu National Policy on Disability has identified 12 priority areas. These 12 areas have been identified after thorough consultations with persons with disabilities and relevant government stakeholders.¹⁵ Important to note that the identified 12 key priorities will be progressively realised. The priority areas, have identified specific objectives and accompanying activity that will need to be undertaken to fulfil the enjoyment of the priority areas. In addition, the Draft Tuvalu National Disability Policy has an accompanying Implementation Plan. The implementation plan has identified activities under each key priority that will need to be implemented to allow and ensure that the rights of persons with disabilities are recognised. It also identifies key government department that will be working in partnership with Fusi Alofa to implement the identified activities.

63. The Government of Tuvalu recognises the importance of awareness and advocacy particularly the involvement of persons with disabilities. The initial report notes and recognises the global motto of "nothing about us without us" and has endeavoured in many ways to be inclusive in its advocacy campaigns. The initial report also notes the support provided by the Attorney General's Office and the Department of Community Affairs to the National Disability Organisation in its awareness and advocacy campaigns especially in disseminating the Convention on the Rights of Persons with Disabilities. It is important to

¹⁵ (1) awareness and advocacy; (2) education; (3) health; (4) accessibility; (5) employment and livelihood; (6) policy planning and legislation; (7) women, children, youth and elderly; (8) strengthening disabled persons org; (9) family life; (10) religion; (11) recreation and sports; (12) emergency and safety.

note that the relevant government departments and ministries have been working in partnership with Fusi Alofa to promote and implement the Convention on the Rights of Persons with Disabilities. The initial report also notes the partnership by Fusi Alofa, government and key regional organisations such as the Pacific Community and the Pacific Disability Forum and the Pacific Islands Forum Secretariat in the promotion of the Convention on the Rights of Persons with Disabilities.

64. The report has identified that the Falekaupule Act Schedule 3 Cap 4.08 that in conjunction with the Government to provide for and grant sums of money towards the maintenance and welfare of children and young persons and of the aged, destitute or infirm. The Government of Tuvalu will work with the relevant ministry and departments to ensure that the word disability is included in this clause of the mentioned Schedule.

Article 5 – Equality and non-discrimination

65. Section 27 of the Constitution of Tuvalu refers to discrimination as the treatment of different people in different ways wholly or mainly because of their different (a) races; or (b) places of origin; or (c) political opinions; or (d) colours; or (e) religious beliefs or lack of religious beliefs, in such a way that one such person is for some such reason given more favourable treatment or less favourable treatment than another such person.

66. It is important to note that the Government of Tuvalu is currently embarking on a Constitutional Review and discussions that have ensued include disability as a ground of non-discrimination to be included in the non-discriminatory clause of the Constitution. Constitutional recognition of disability rights would be consistent with Tuvalu's obligations under the Convention on the Rights of Persons with Disabilities, and would respond to a concern raised in the Universal Periodic Review of 2013. Additionally, the scoping study on the establishment of a national human rights institution have also included suggestions to include disability as a grounds for non-discrimination in its mandate. This is in line with the government's obligation on the Convention on the Rights of the Persons with Disabilities.

Article 6 – Women with disabilities

67. The initial report notes that the consequences of discrimination against, and inadequate provision for, people with disabilities are particularly serious for women. Women are often subjected to social, cultural and economic disadvantages, which impede their access to health care, education, vocational training and employment. If they have an intellectual disability or mental illness, their chances of overcoming the barriers that disabilities create are further diminished. The initial report notes that the views concerning gender relations tend to put women in a lower place in most hierarchies, it is difficult for them to take a full and active part in community life, which is so important to many Pacific Island cultures. Gender issues are evident in the different life experiences of women and girls with disabilities from men and boys with disabilities. While women with disabilities do have some experiences and challenges in common with men with disabilities, in many circumstances, the former face multiple and intersectional discrimination. Therefore, they are often profoundly more disadvantaged than men with disabilities in similar situations, leading to the denial of rights, opportunities and resources.¹⁶ The Government of Tuvalu through the Attorney General's office will work with the Gender Affairs Division (GAD) to ensure that women living with disabilities enjoy fundamental rights and freedoms.

68. The Department of Home Affairs currently employs a Technical Adviser (TA) for Gender Affairs Division. The TA is responsible for ensuring that gender is mainstreamed in all government policies and plans. The current Tuvalu Gender Policy 2014–2016 discusses women with disabilities in various key thematic areas namely: “specific situations of rural women and girls with disabilities are addressed through all legislation, adopt measures to facilitate access to employment for women with disabilities, create a gender sensitive environment in the Falekaupule, Kaupule and parliament to enable women participation at

¹⁶ Stubbs, Daniel Pacific sisters with disabilities: at the intersection of discrimination/Daniel Stubbs and Sainimili Tawake. – Suva, Fiji.

all levels, including for women with disabilities, recognition of gender based violence experienced by women with disabilities and adoption of adequate measures to prevent it and protect women, strengthen capacity of police officers and health care service providers to respond to victims with a gender sensitive approach including women with disabilities.”

69. Women experience disability differently in that they are more likely to have a disability in their lifetime, due largely to their longer life expectancy. Women with disabilities are subject to all forms of abuse, especially women who are affected by disability differently to men and, as pointed out above, there are more female persons with disabilities than male. This is in keeping with global trends and is attributed largely to the longer life expectancy of women compared to men.

70. The recently concluded study on disability in Tuvalu found that women with disabilities are more susceptible to sexual abuse, especially women with hearing impairment and women with psychosocial disabilities. Women with hearing impairment are less able to report abuse and women with psychosocial disabilities are less likely to be believed. The government of Tuvalu will ensure that proper training is delivered to services providers to cater for persons with disabilities. Recently, the Office of the Attorney General provided legal services to a young child with disabilities who was defiled. The court sentenced the perpetrator to 3 years imprisonment.

Article 7 – Children with disabilities

71. Persons with disabilities in Tuvalu have been relatively put into a position of greater disadvantage simply because they are neglected in the country’s school system, especially those who are born with disabilities. There are a few fortunate ones who are able to attend mainstream schools at the secondary level but many others have not been able to do so due to reasons well beyond their control. The Ministry of Education has recently included “inclusive education in its program, however, it will still be a long while before inclusive education can really be achieved. In its efforts to progress inclusive education, Fusi Alofa has in 2011 opened a school for children with disabilities. The classes are held in Fusi Alofa’s Office. Fusi Alofa is now working with the Department of Education to register the Special School, and a Strategic Plan for the school has been developed and will be finalised in the coming months.

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

73. In addition to the above, the Government of Tuvalu has currently developed a Child Protection and Welfare Bill and a Policy for the Protection of all children in Education Institutions in Tuvalu. Both the proposed Bill and Policy is inclusive by nature taking into account the rights of children with disabilities. The Child Protection and Welfare Bill aims to provide for the welfare, care and protection of all children in Tuvalu and for the enforcement of the rights of children as provided for by international conventions, norms and standards, while taking account of Tuvaluan culture, traditions and values, and for related purposes. The Policy for the Protection of all children in Education Institutions in Tuvalu aims at detailing how child protection issues will be facilitated and identifies partners and agencies who will assist in the implementation of the proposed Bill and Policy.

74. One of the key aims of the Tuvalu Education Sector Plan III (TESP III) in relation to access to education for children with special needs is to improve enrolment, attendance and retention of, special needs children. A core aim of Primary and Secondary Schools is to improve enrolment, attendance and retention of ECCE, particularly, special needs children. In addition the TESP III supports the ECCE to improve general enrolment and attendance, particularly for children with special needs. It further elaborates on the need to strengthen relevant and enabling policies to comply with and maintain universal access to primary and secondary education.

75. Additionally, the TKIII GOAL aims to :(a) provide high quality education; (b) equip people with knowledge and skills to develop more self-reliance; (c) promote Tuvalu’s cultural and spiritual values. Important to note that the focus area 1.2 universal access to

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

Article 8 – Awareness-raising

76. The Ministry of Home Affairs and Rural Development in coordination with other relevant stakeholders namely the Education Department run a radio programme and campaign on treaties that have recently been ratified including the Convention on the Rights of Persons with Disabilities. This talk back show allows the community to engage in discussions on issues around the treaty. It is important to note that the Ministry of Education, Fusi Alofa, the Office Attorney General, Ministry of Home Affairs and the SPC known as the Pacific Community have also facilitated and developed tailored training and awareness campaigns focusing on the Convention on the Rights of Persons with Disabilities. The awareness workshops involve all relevant government stakeholders and NGOs, CSOs, etc.

77. Additionally, the Pacific Islands Forum Secretariat in partnership with the Department of Community Affairs, the Office of the Attorney General, Fusi Alofa and the TNDCC have also undertaken awareness campaigns on the formulation of the Tuvalu National Policy on Disability both in Funafuti and the outer islands. Additionally, Fusi Alofa has undertaken specific awareness on the Convention on the Rights of Persons with Disabilities for their respective constituents.

78. Further, national consultation has also ensued on the Convention on the Rights of Persons with Disabilities with national stakeholders including partners and relevant stakeholders. The Tuvalu National Disability Coordinating Committee has as its core functions the promotion and awareness on the Convention throughout Tuvalu via education programmes. Important to note is that awareness and advocacy campaigns includes persons with disabilities and their representatives. Awareness and advocacy campaigns also include a sign language specialist who translates awareness and advocacy campaigns.

79. There are no specific laws in place to make mandatory awareness and advocacy for the citizens of Tuvalu including persons with disabilities, though the Tuvalu National Human Rights Institution Act specifically provides for community awareness and education on human rights treaties and issues as part of the roles and functions of the NHRI. The TNDCC acts as the main conduit for awareness and advocacy on Convention between the community, persons with disabilities and government. The National Disability Persons Organisation is also a member of the TNDCC. To date, the Office of the Attorney General work plan is aligned with the national priorities and initiatives with regards to the dissemination of information on the rights contained in the CRPD; the review of the Constitution which includes raising awareness and to inform persons with disabilities particularly on the review of the Constitution pertaining to the inclusion of disability as a non-ground for discrimination.

80. Further, the Department of Education in facilitating its work on disabilities particularly on the new proposed policies will undertake awareness to persons with disabilities and civil society as a whole. Its awareness and advocacy campaigns is inclusive allowing full participation of persons with disabilities and society as a whole.

81. The Government of Tuvalu celebrates the International Human Rights Day and is inclusive of persons with disabilities. Human Rights Day celebration includes a presentation by Fusi Alofa on the relevant articles of the Convention the Rights of Persons with Disabilities. The celebration programme is covered live on radio for the benefit of those living in the outer islands. In addition, the International Day of Persons with Disabilities is celebrated by the Government of Tuvalu and the community as a whole. Celebration on International Day for Persons with Disabilities is the facilitation of live

broadcast awareness and is conducted by persons with disabilities themselves inclusive of relevant stakeholders. UNCIEF Pacific Regional Office in 2016 provided grants to the Attorney General's Office for the celebration of International Day of Persons with Disabilities. The grants were transmitted to Fusi Alofa to organise the celebration which resulted in activities, speeches, awareness on the Convention and issues faced by persons living with disabilities.

82. The Fusi Alofa (Resource Team) have conducted fundraising activities and other initiatives to assist in their awareness campaigns on the Convention on the Rights of Persons with Disabilities including ensuring that disability is featured in the Government's National Action Plan on Human Rights.

Article 9 – Accessibility

83. Accessibility is a challenge for persons with disabilities in Tuvalu including access to the physical environment, public transportation as well as access to knowledge and information. One of the most important issues is accessing essential services to enable persons with disabilities to live independently and to participate fully and equally in every aspect of life. The Government of Tuvalu acknowledges that this requires identifying and eliminating all obstacles and barriers and ensuring that they can access the physical environment, transportation, facilities and services open to the public, and information and communication technologies (ICT).

84. The Government complex, government offices, workplaces, and other public buildings are inaccessible; there is no accessible public transportation system; and no formal use of sign language or other alternative communication formats in street signage, public buildings, information and educational materials. In the main facilities and services open to the public such as the bank, post office and supermarkets, there are no specific parking facilities dedicated for persons with disabilities, wheelchair access by lifts or ramps, or accessible toilets. Important to note that some schools are accessible for children living with disabilities.

85. The initial report notes that the government will need to invest in making government services and buildings reasonably accessible for persons with disabilities. There is also an urgent need for the government to ensure that the draft building code is finalised and has provisions for reasonable access to public services and utilities. In this regards, the Government of Tuvalu calls upon the international community to provide relevant technical and financial assistance to fully realise this initiative.

86. The Constitution itself does not recognise non discrimination on the basis of disability therefore the decline in other laws and policies to incorporate measures that need to be undertaken to assist persons with disabilities to be treated on equal basis. The current work on the Constitutional Review Process is considering the inclusion of disability as a ground of non-discrimination. Relevant laws that are available do not have explicit provisions to provide mechanisms that would allow persons with disabilities having equal rights to accessibility. In addition, the Government of Tuvalu recognises the need to have disability mainstreamed in polices and activities and has started this in its policies mentioned in paragraphs 50–53. This will be progressively realised in the continued implementation of the Convention on Rights of Persons with Disabilities and the Tuvalu National Policy on Disability. In addition, the Convention on the Rights of Persons with Disabilities will need to be translated into the local language for ease of reference and for use by all relevant stakeholders.

87. The Government of Tuvalu recognises that more needs to be done to allow for easy access for all persons with disabilities. The Government of Tuvalu is committed to ensuring that the right of access is enjoyed by persons with disabilities and will progressively be realised in laws and policies.

88. Provided below is a summary of the questions posed to participants in the recently concluded study on disability in Tuvalu – on accessibility (Participants were also asked about accessibility to their home environment; school; hospital; church; shops; community facilities and transport including by road and sea).

Table 8
Accessibility

	<i>Accessible</i>	<i>Inaccessible</i>	<i>Not stated/NA</i>	<i>Total</i>
Home	334	131	1	466
School	40	101	141	466
Hospital /health center	227	239		466
Church	240	225	1	466
Shops	190	276		466
Community facilities	198	266	2	466
Transport	206	258	2	466

89. The study found that the main difficulty with accessibility by far was physical barriers such as transport or difficult buildings (266 cases) followed by a smaller number of cases of shame or stigma or communication difficulties (35 each). ‘Other’ reasons were mostly due to the severity of disabilities or old age.

90. Furthermore, the initial report recognises that the Tuvalu National Disability Coordinating Committee has a strategic plan which outlines the work that is to be carried out in relation to the implementation of the Convention and in partnership with relevant stakeholders and in particular issues regarding access. The initial report also notes that this will be progressively realised during the implementation of the Convention. Further, the National Advisory Committee for Children’s Rights (NACCR) is mandated to work towards implementing the Convention on the Rights of the Child and will work in partnership with the TNDCC on the monitoring and implementation of matters in relation to the Convention and the Convention on the Rights of the Child particularly on technical standards of accessibility, data, etc.

91. Fusi Alofa has built ramps, for its school for special needs children, however, it has yet to provide the same for persons with disabilities in the outer islands. Government has a national plan/policy, however implementation is slow and challenging given the resource constraints and the geographical limitations. The Government is committed to reviewing relevant laws to ensure accessibility and will work alongside relevant stakeholders to ensure that this is progressively realised. Further the Government of Tuvalu will seek the support of the regional and international institutions to provide both financial and technical support with regards to access. It is envisaged that the Office of the Attorney General will assist in the development of laws and policies to assist in the realisation of the right of access for persons with disabilities. Additionally, the Office of the Attorney-General in partnership with the Pacific Islands Forum Secretariat will jointly undertake a legislative compliance review to fully realising the right to access.

Article 10 – Right to life

92. Section 16 of the Constitution of Tuvalu states that a person shall not be considered to have been killed in contravention of this section if he dies as the result of the use, to such extent and in such circumstances as are permitted by law. Constitutional provisions is applicable to persons with disabilities. Section 16 protects and guarantees that every person in Tuvalu has the right to life and should be protected by law.

Article 11 – Situations of risk and humanitarian emergencies

93. All humanitarian and relief assistance are distributed to all people, in particular those vulnerable population in affected sites/islands. Provision of food relief and other basic items have taken into consideration specific needs of old population, babies and young children and people with disabilities. Tuvalu’s Climate change policy recognises the inclusion of vulnerable populations. Climate change legislation currently under formulation also give due consideration to vulnerable population which also includes people with disabilities and people with special needs. Disaster legislation and disaster plan currently

under review will take into consideration vulnerable population which also includes people with disabilities and people with special needs.

Article 12 – Equal recognition before the law

94. The Constitution of Tuvalu provides for the protection of law. Section 22 of the Constitution provides for the safeguard and provision of the protection of law for all Tuvaluan's' including persons with disabilities. Although disability or persons with disabilities is not mentioned specifically, the general presumption is that persons with disabilities are accorded the protection of law given the wide interpretation of the general principles of the Constitution. This right includes: to be presumed to be innocent until proven guilty; to be informed as soon as practicable, in detail and in a language that he understands, of the precise nature and particulars of the offence charged, and if the information is not given in writing it shall be confirmed in writing as soon as practicable; to be given adequate time and facilities for the preparation of his defence, including time to study and fully understand the precise charge against him, and its possible consequences; to be given reasonable facilities to consult, at his own expense, a representative of his own choice; to be permitted to defend himself before the court in person or, at his own expense, by a representative of his own choice; to examine, in person or by his representative, the witnesses called before the court by the prosecution; to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on conditions no less advantageous than those applying to witness called by the prosecution; to be provided with a competent interpreter, if he cannot adequately understand the language used at the trial or any part of the trial: not to be convicted of an offence on account of an act that was not, at the time of the doing of the act, an offence or a legal element of an offence: the same offence; or any other offence of which he could have been convicted at the trial of that offence: not to be tried for an offence if he shows that – he has been pardoned for the offence; and if the pardon was a conditional pardon, he has complied with the conditions of the pardon: and not to be tried for an offence shall be compelled to give evidence at the trial.

95. Furthermore, s28 of the Constitution of Tuvalu states that the fact that certain rights and freedoms are referred to in this Constitution does not mean that there may not be other rights and freedoms retained by the people or conferred by law. This is also inclusive of persons with disabilities.

96. The proposed Tuvalu National Policy on Disability is designed to provide guidance to relevant stakeholders on how best to deal with issues relating to persons with disabilities. It is aimed at allowing persons with disabilities to exercise their rights and to life of human dignity.

97. Further, the Electoral Provisions Act (Parliament) Act s21(10) (h) states that if an elector by reason of illiteracy, or of blindness or other physical disability, is unable to cast his vote, he shall call the presiding officer aside and tell him, no other person being present or within hearing except for polling agents if they so desire, the name of the candidate for whom he wishes to vote and the presiding officer shall record the elector's vote by marking the elector's ballot paper according to the elector's instructions and placing the marked ballot paper in the ballot box relating to the electoral district in which such elector is registered.

98. Under section 14 of the Falekaupule Act – Qualification of voters states that every person who – (a) has attained the age of 18; (b) is a resident in the Falekaupule area; and (c) has paid rates to the Kaupule or has been exempted under section 86(2) (1) or 88, is entitled to be registered as a voter and, when so registered, to vote at the election of a member of the Kaupule in that area. This is inclusive of persons with disabilities who are eligible to vote. However, s15 states the criteria by which a voter can be disqualified from voting. Section 15 (1) (b) of the Falekaupule Act states that no person who is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Tuvalu shall be entitled to vote in an election of a member of a Kaupule.

99. Section 8 of the National Disaster Management Act Function of the Committee states that the function of the Committee is: (a) to advise the Minister responsible on all matters relating to disaster mitigation, preparedness, response and recovery; (b) co-

ordination of activities of government and non-government agencies; (c) to ensure that such strategies and policies are implemented by the National Disaster Management Office, other government agencies and non-government agencies; and (d) to advise the Minister on the need for aid to counter the effects of a disaster and on any agreement proposed for the government to enter into to obtain such aid. The Committee is to consist of: (a) Chairman nominated by the Minister; (b) the Secretary to Government; (c) all Secretaries of government ministries; (d) Commissioner of Police; (e) Director of Public Works; (f) Director of Disaster Management Office; (g) a case by case representative by a NGO; and (h) a representative of the Funafuti Falekaupule.

Article 13 – Access to Justice

100. Section 144 of the Criminal Procedure Code – Inquiry by court as to state of accused’s mind states that when in the course of a trial or preliminary investigation the court has reason to believe that the accused is of unsound mind so that he is incapable of making his defence, (1) it shall inquire into the fact of such unsoundness. (2) If the court is of the opinion that the accused is of unsound mind so that he is incapable of making his defence, it shall postpone further proceedings in the case. (3) If the case is one in which bail may be taken, the court may release the accused person on sufficient security being given that he will be properly taken care of and prevented from doing injury to himself or to any other person, and for his appearance before the court or such officer as the court may appoint in that behalf. (4) If the case is one in which bail may not be taken, or if sufficient security is not given, the court shall report the case to the Minister, who, if satisfied by medical certificate, may order the accused to be confined in a mental health wing or other suitable place of custody, and the court shall issue a warrant in accordance with such order.

101. Section 145 under the Defence of unsoundness of mind at preliminary investigation states that when the accused person appears to be of sound mind at the time of a preliminary investigation, the court, notwithstanding that it is alleged that, at the time when the act was committed in respect of which the accused person is charged, he was by reason of some disease of mind labouring under a defect of reason as to be incapable of knowing the nature and quality of the act or, if he did know it, that he did not know that it was contrary to law, shall proceed with the case and, if the accused person ought, in the opinion of the court, to be committed for trial on information, the court shall so commit him.

102. Section 148 Certificate of medical officer in charge of mental health wing as to sanity. If a person is confined in a mental health wing under the provisions of this Code and the medical officer in charge of such wing certifies that the accused person is capable of making his defence, such accused shall be taken before the court at such time as the court appoints to be dealt with according to law, and the certificate of such medical officer shall be receivable in evidence.

103. Section 46(1) (e) of the Magistrates Court Act sets aside the conviction and substitute a special finding to the effect that the person convicted was guilty of the act or omission charged, but was insane so as not to be responsible for his action at the time when he did the act or made the omission, and order such person to be kept in custody as a criminal lunatic in such place and manner as the Senior Magistrate may direct, and such special finding shall be forthwith reported for the order of the Governor-General who may order the person convicted to be confined in a mental health wing, prison or other suitable place of safe custody.

104. The Government of Tuvalu recognises that more capacity and technical support will need to be carried out to effectively train law enforcement officers and relevant stakeholders on how best to treat persons with disabilities who come under contact with the law. The government of Tuvalu recognises that mechanisms will need to be put in place to effectively allow persons with disabilities to be afforded the same legal service as other individuals. Important to note that the proposed Policy for The Protection of Children in All Educational Institutions in Tuvalu is aligned to Article 2 of the Convention on the rights of

the Child.¹⁷ In addition, s38 (h) of the Child Protection and Welfare Bill 2017 states that parents, with the support of family members, have the primary role in safeguarding and promoting the wellbeing of children, and in particular to: (a) ensure that they receive prompt and appropriate attention to their immediate needs, including proper feeding, shelter, clothing, immunisation and medical attention in times of sickness or injury; (b) ensure their development and general wellbeing; (c) ensure that discipline is carried out in non-abusive ways and without violence of any nature; (d) encourage them to go to school, participate in cultural activities, and express themselves freely; (e) instil in them knowledge of and respect for positive Tuvaluan cultural and traditional values; (f) protect them from engaging in commercial activities that are harmful to their health, education and moral development; (g) ensure that they grow up in an environment that is free of violence, abuse, neglect and exploitation; and (h) meet any special needs of a child living with disability.

105. In addition, s39 (g) Child Protection and Welfare Bill 2017 states that when making a decision or taking any action in relation to a child, consideration must be given to the following principles: (a) every child must be cared for and protected from harm; (b) the preferred environment for the care and upbringing of children in their own family; (c) the child and any relevant family and community members, except if their participation would be detrimental to the safety or wellbeing of the child, should participate fully in deciding what action should be taken to promote the wellbeing and protection of a child; (d) families and communities should be assisted and supported in taking actions to respond to concerns about the wellbeing and protection of a child; (e) decisions should be reached by collaboration and consensus, wherever practicable, and the intervention of the Court should be used only in circumstances where the family and community is unable to appropriately safeguard the child; (f) the safety, wellbeing and best interest of the child must be the primary consideration; (g) any decision in relation to a child must be appropriate to the age character, condition, status, disability and any other circumstances of the child; and (h) the rights of children under the Convention on the Rights of the Child should be promoted and respected to the extent possible.

106. The Government of Tuvalu further recognises the need for more training and awareness for the judiciary, police, prisons on how best to treat persons with disabilities who come into contact with the law. The Government of Tuvalu will progressively realise this in the coming years with support from regional and international donor partners.

Article 14 – Liberty and Security of the Person

107. The Constitution under article 17 provides for the right to liberty of person, Criminal Procedure Code, Penal Code – s 203 ‘to provide himself with the necessaries of life’, Leadership Code- (11) Leaders should recognise the following principles and act in conformity with them: (a) All individuals are entitled to liberty under the law.

108. The current status of persons with disabilities in Tuvalu is that they are confined to their homes. Further, persons with disabilities remain at home as the common attitude is that they are seen as dependent on family members for their daily care and are also seen to be unable to make decisions and choices for themselves.

109. The government of Tuvalu recognises that more support should be provided to persons with disabilities in the area of decision making and more importantly to make informed decisions on issues that relate to them specifically in the area of health, education, equal opportunities and employment.

110. It is important to note that the Draft Tuvalu National Disability Policy, Gender Policy, Youth Policy and the Children’s Policy make provisions for the removal and abolishment of the deprivation of liberty of all persons with all forms of disabilities. The mentioned policies calls for government ministries, departments and stakeholders to ensure

¹⁷ Non-discrimination (Article 2): The Convention applies to all children, whatever their race, religion or abilities; whatever they think or say, whatever type of family they come from. It doesn’t matter where children live, what language they speak, what their parents do, whether they are boys or girls, what their culture is, whether they have a disability or whether they are rich or poor. No child should be treated unfairly on any basis.

that persons with disabilities are given the due recognition to be free to pursue opportunities without discrimination. The Policies also recognise the right of persons with disabilities to be full and effective participants in matters that concern them on a daily basis. In addition, the TNDCC is further mandated to ensure that persons with disabilities are afforded full rights to participation in every aspect of their lives. In addition, the Ministry of Education also provides technical assistance to Fusi Alofa Special School through training opportunity for their teachers.

Article 15 – Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment

111. Section 19 of the Constitution of Tuvalu states that no-one shall – (c) be tortured; or (d) given inhuman or degrading punishment or treatment. Furthermore, section 196 of the Penal Code – Person suffering from diminished responsibility states that where a person kills or is a party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in doing or being a party to the killing. Additionally, subsection 2 states that on a charge of murder, it shall be for the defence to prove that the person charged is by virtue of this section is not liable to be convicted of murder. In addition subsection 3 states that a person who but for this section would be liable, whether as principal or as accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter. Further, subsection 4 states that the fact that one party to a killing is by virtue of this section not liable to be convicted of murder shall not affect the question whether the killing amounted to murder in the case of any other party to it.

112. Additionally, Section 206 of the Penal Code – Duty of Persons doing Dangerous acts states that it is the duty of every person who, except in the case of necessity, undertakes to administer surgical or medical treatment to any other person, or to do any other lawful act which is or may be dangerous to human life or health, to have reasonable skill and to use reasonable care in doing such act; and he shall be deemed to have caused any consequences which adversely affect the life or health of any person by reason of any omission to observe or perform that duty.

113. Section 218 of the Penal Code states that acts intended to cause grievous harm or prevent arrest any person who, with intent to maim, disfigure or disable any person, or to do some grievous harm to any person, or to resist or prevent the lawful arrest or detention of any person – (a) unlawfully wounds or does any grievous harm to any person by any means whatever; or (b) unlawfully attempts in any manner to strike any person with any kind of projectile or with a spear, sword, knife or other dangerous or offensive weapon; or (c) unlawfully causes any explosive substance to explode, or (d) sends or delivers any explosive substance or other dangerous or noxious thing to any person; or (e) causes any such substance or thing to be taken or received by any person; or (f) puts any corrosive fluid or any destructive or explosive substance in any place; or (g) unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to the person of any person, is guilty of a felony, and shall be liable to imprisonment for life.

114. Section 7 of the Mental Treatment Act (Part 3) states that the Magistrate may order apprehension of supposed person of unsound mind for examination if it shall have been made to appear to any magistrate by information on oath that any person is deemed to be a person of unsound mind at large or not under proper care or control or who is cruelly treated or neglected by any relative or other person having the care or charge of him, such magistrate may by order under his hand require any police officer to apprehend such person and bring him before himself, or some other magistrate within Tuvalu, for the purpose of examination as hereinafter provided.

115. The initial report advises the Committee that there is no general or national committee designed specifically to examine issues relating to torture, cruel inhuman and degrading treatment. However, complaints of practices of cruel, inhuman and degrading treatment by government agencies have not been reported as no persons with disabilities

has come into contact with the law. Also, if person with disabilities do come into contact with the law, the guardians or parents assume the responsibility of bearing the costs of the harm or damage by persons with disabilities. Advisably, the government of Tuvalu will need to work more closely with the relevant government ministries and departments to document incidences of contact with the law by persons with disabilities.

Article 16 – Freedom from exploitation, violence, and abuse

116. The passage of the Tuvalu Family Protection and Domestic Violence Act 2014 (FPDV) was hailed an achievement as it for the first time criminalised the act of domestic violence in Tuvalu. The FPDV is aimed at providing protection, safeguards for victims of violence. The FPDV is inclusive of persons with disabilities and recognises that women with disabilities face multiple forms of discrimination and gender based violence due to their gender and disability. The FPDV recognises that both men and women living with disability can be victims of violence and thus will require immediate and urgent protection. The FPDV 2014 clearly ensures the safety and wellbeing of victims, and other vulnerable persons in a domestic relationship from further violence. A “vulnerable person” is defined under the FPDV as a person who is vulnerable by reason of age, physical or mental disability.

117. Section 3 of the Police Powers and Duties Act establishes the Tuvalu Police Force. Furthermore, section 6 of the Police Powers and Duties Act states that the police force be employed in and throughout Tuvalu for the maintenance of law and order, the preservation of the peace, the protection of life and property, the prevention and detection of crime and the enforcement of all laws and regulations with which it is directly charged; and the police force shall be entitled for the performance of such duties to carry arms. Important to note that it is the duty of the Tuvalu police force to protect the citizens of Tuvalu including persons with disabilities.

118. The Tuvalu National Gender Policy Outcome 5 provided for the elimination of all forms of violence against women, recognises gender-based violence experienced by women with disabilities and calls for the adoption of adequate measures to prevent it and protect women. The gender policy calls on government and relevant stakeholders to (a) develop a plan of action targeted specifically to address the findings from the consultations with a focus on changing attitudes towards sexual and family violence. Key focus on working with men and boys; (b) develop protocols with key stakeholders to respond to victims and survivors of violence, (c) strengthen capacity of police officers and health-care service providers to respond to the victims with a gender sensitive approach, including for victims with disabilities, (d) adopt measures to protect the victims, (e) build the capacity of community leaders and church leaders to prevent domestic violence and other form of gender-based violence, (f) raise awareness within government and the private sector to address sexual harassment in the work place.

119. The Tuvalu National Youth Policy document recognises the Government of Tuvalu’s commitment to its young women and men. The Policy illustrates the commitment and recognition of the Government and the society as a whole to empower its youth, regardless of race, religion, gender and disabilities. The Tuvalu National Youth Policy defines youth – refers to all young men and women including those with disabilities from the ages of 15–35 years. The 2012 Census showed that 34 percent (include the total population of youth) of youth between the age group of 15–35 make up the population of Tuvalu.. The policy recognises that this definition is a departure from cultural norms in Tuvalu where age is not considered a limiting factor in determining who can or cannot participate in youth activities. It is best left to individual activity organised to determine who in fact participates. Although the number of youth with disabilities in Tuvalu is low, it is important that some support be provided to accommodate their needs. It is intended that they will be given opportunities to actively participate in as many, as physically possible, of the activities and projects to be implemented under this Policy.

120. Currently, the Government of Tuvalu has in place a Child Protection and Welfare Bill that is aimed at protecting the rights of all children in Tuvalu. The proposed Bill aims at also strengthening existing mechanisms that will protect children from harm and more importantly provide additional safeguards to ensure that all children in Tuvalu are protected.

The proposed Child Protection and Welfare Bill is inclusive of children living with disabilities and recognises both the protection rights articulated under the Convention on the Rights of the Child and the Convention on the Elimination of all forms of Discrimination Against Women. In addition, the government of Tuvalu is also finalising a Policy for the Protection of all children in Education Institutions in Tuvalu which will set out how child protection issues and related matters will be implemented. The Policy for the Protection of all children in Education Institutions in Tuvalu is inclusive of persons with disabilities.

121. In 2015, the Government of Tuvalu started its disability support scheme. Initially there was only six recipients as the criteria was limited namely: those born with a disability or bedridden. In 2016, the Government of Tuvalu broadened the criteria and as of 2017, there were 86 people receiving the disability benefit. Each application needs to be endorsed by a doctor who sits on the assessment committee. The disability benefit is only payable up to 70 years of age, when it converts to the Tuvaluan senior citizens support scheme. Recipients cannot receive both benefits, which are both \$70 a month. The Kaupule in Nanumea supplements benefits with an additional \$30 a month. The introduction of the disability support scheme was a significant move into social protection by the Government of Tuvalu as it signalled both Government's sense of responsibility for vulnerable members of the community and a move from the commonly accepted view that looking after disabled and elderly family members is solely the role of the family.

122. In relation to measures undertaken by the government of Tuvalu to ensure that all services are programmed designed to serve persons with disabilities and are effectively monitored by independent authorities. It is important to note that the respective committees such as the Tuvalu National Disability Coordination Committee, the National Advisory Committee for Children (NACCR), the Department of Community Affairs, Youth Affairs, Tuvalu National Youth Advisory Body etc. is responsible for ensuring that programs designed and inclusive of persons with disabilities are properly monitored.

Article 17 – Protecting the integrity of the person

123. The Mental Treatment Act section 45 Ill-treatment of patients states that if the medical officer in charge or any officer, nurse, attendant, servant or other person employed in the mental health wing, strike, wound, ill-treat or wilfully neglect any patient therein, he shall be liable on summary conviction to a fine of \$100 or to imprisonment for 6 months: provided that nothing shall prevent a prosecution under any other law but so that a person shall not be punished twice for the same offence. This is inclusive of persons with disabilities.

124. Section 6 of the Mental Treatment Act – Patients to be kept until discharged or deceased states that every person admitted to the mental health wing as a patient shall be kept therein until his decease or until they are discharged under the provisions of this Act, and, while detained in the mental health wing, shall be subject to the directions of the medical officer in charge and to the observance of any regulations which may be made under the provisions of this Act.

125. Section 9 of the Mental Treatment Act – Medical officer to give certificate – states that the medical officer assisting at such examination as aforesaid, shall fill up and sign a certificate in the form and, except as hereinafter provided, no person shall be committed by a magistrate to the mental health wing unless such certificate shall have been first signed as aforesaid; and the said examination may if the magistrate thinks fit be held at the abode of the person examined or at such other proper and convenient place as may be directed by the magistrate.

126. Section 15 of the Mental Treatment Act – Patient may be admitted on application by relatives or person in charge – states that any person, being nearly related to or having the care or control of any person of unsound mind, may make application for his reception in the mental health wing for the purpose of medical care and treatment, but no person shall be received as a patient in consequence of such application unless the applicant shall have signed an order in the form and have furnished the statement of particulars contained in

such Schedule, nor without the medical certificate according to the form of a medical officer.

127. Section 16 the Mental Treatment Act – Persons may be admitted on their own application – states that a persons of unsound mind may upon furnishing the certificate in the form of a medical officer and a statement of particulars, similar to that contained on an order for admission, be admitted as patients upon their own application.

128. Section 20 the Mental Treatment Act – Every patient subject to control of medical officer in charge – that upon admission to the mental health wing every patient shall be subject to the directions and control of the medical officer in charge and other officers attached to the mental health wing and to the observance of any regulations which may be made under the provisions of this Act.

129. Section 22 of the Mental Health Act- Regulations – states that the Minister may make regulations for the management and direction of the mental health wing and the duties and conduct of the officers attached thereto, for the care and treatment of the patients therein, for the visiting of patients, for the inspection and if need be detention of any correspondence passing to and from patients, and for the charges to be made in respect of the care and treatment of patients. A copy of any regulations made hereunder shall be kept hung up in the mental health wing and shall be abided by and observed in the mental health wing.

Article 18 – Liberty of Movement and Nationality

130. The Constitution of Tuvalu recognises and affords the freedom of movement and the right to a nationality. Article 11 of the Constitution states that every person in Tuvalu is entitled, whatever his race, place of origin, political opinion, colour, religious beliefs or lack of religious beliefs, or sex to fundamental rights and freedoms including freedom of movement. In addition, the Deaths and Marriage Registration Acts states that the birth of every child born in Tuvalu shall be registered by the registrar for the district in which the child was born by entering in a register kept for that district.

Article 19 – Living Independently and being Included in the Community

131. The Government of Tuvalu recognises the importance of independent living for persons with disabilities. It also stresses that as part of Tuvaluan custom and tradition persons with disabilities are cared for by their family. Persons with disabilities day to day needs, housing, health and educational needs are traditionally the responsibility of the immediate family and may from time receive support from extended family members. Given the smallness of Tuvaluan society and community, it will not be feasible for the Government of Tuvalu to provide separate housing facilities and in-house support services for persons with disabilities. However, the Government of Tuvalu is committed to providing financial support to persons with disabilities on a monthly basis.

132. The Government of Tuvalu emphasises that there are no residential services for living arrangement, including shared and sheltered accommodation which takes into account the form of disability. Persons with disabilities live and move freely in their respective communities. Care givers are from the family of persons with disabilities.

Article 20 – Personal Mobility

133. The initial report notes that this is an area that will need to be a priority in light of the need to be more inclusive of persons with disabilities especially in relation to the enjoyment of fundamental rights and freedoms. The government of Tuvalu will seek assistance from donors and development partners to ensure that personal mobility, including the use of signals and street signs are accessible for persons with disabilities.

134. Persons with disabilities are assisted by family members and care givers when in need of transportation and assistance. There is also a need to amend the Building Code to consider the needs of persons with disabilities especially in terms of acceptable building standards and practiced that recognises accessibility for persons with disability. Additionally, a sign language specialist is currently employed with the Fusi Alofa who

provides sign language translators for persons with disabilities and will be used for further consultations on the Convention and other disability related issues.

135. Additionally, small progress has been made, ramps are currently being installed in some churches in Tuvalu to accommodate the needs for persons with disabilities. Also, the Tuvalu government buildings have a disability friendly toilet located on the ground floor of the building. The Fusi Alofa school is disability friendly and the whole premises is designed to accommodate the needs of persons with disabilities whilst noting that more can be done to improve personal mobility. This report notes that more can be done on issues relating to personal mobility including human, animal, or assistive technologies and devices. It is important to note that school buildings in Tuvalu have ramps installed to allow for more access for children living with disabilities. Additionally, the new court house is accessible allowing for more access for persons with disabilities. This also allows persons with disabilities to have contact with judicial officers and officers of the court. It also allows for access to justice for persons with disabilities.

Article 21 – Freedom of Expression and Opinion, and Access to Information

136. Section 24 of the Constitution of Tuvalu provides for freedom of expression. The Constitutional provision allows for Tuvaluan's and is inclusive of persons with disabilities to enjoy the freedom of expression which includes: (a) freedom to hold opinions without interference; and (b) freedom to receive ideas and information without interference; and (c) freedom to communicate ideas and information without interference; and (d) freedom from interference with correspondence.

137. The Tuvalu National Disability Policy recognises that the ratification of the Convention on the Rights of Persons with Disability by the Government of Tuvalu and that to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity including the right to freedom of expression and opinion and access to information.

138. The Government of Tuvalu will seek international assistance from donors and development partners to ensure that persons with disabilities have and enjoy full access to holding opinions without interference, to receiving ideas and information without interference; to communicating ideas and information without interference and to receiving correspondence without interference.

Article 22 – Respect for Privacy

139. Article 21 of the Constitution guarantees the right to privacy of home and property and states that unless subject by law and except with his consent no one shall be subject to search of his person; or the search of his property or entry by others on his property. This is applicable to persons with disabilities.

Article 23 – Respect for Home and the Family

140. Living life of human dignity is essential for persons with disabilities. This involves the right to found a family without barriers and hindrances. The first consultation about persons with disabilities have encouraged and empowered the persons with disabilities to start a family, to have children, and to get married. To date, statistics have showed that three persons with disabilities have since founded a family and have been legally married as per the marriage laws of Tuvalu.

141. The following area of family life was noted during the consultation and it includes the following: (1) full support from Government to ensure persons with disabilities enjoy family life that is consistent with Tuvaluan values, customs and traditions; (2) financial support from the Government and families for persons with disabilities and their families; (3) provision of adequate standard of living for persons with disabilities to include quality and affordable housing for persons with disabilities and their family; (4) government to ensure that awareness and advocacy campaigns address issues of stigma and discrimination against persons with disabilities and their families.

142. The issues raised above is in line with the Principles of the Constitution, article 5 which states; “in the government and social affair generally, the guiding principles of Tuvalu are: – agreement, courtesy, and the search for consensus in accordance with the traditional Tuvalu procedures, and the needs for mutual respect and cooperation between the different kinds of authorities including the central government, traditional authority, local governments and religious authorities.”

143. It is important to note that there is no formal institution existing in Tuvalu whereby persons with disabilities including children with disabilities are placed or institutionalised. Persons with disabilities are cared for and looked after by their respective families. Children born to persons with disabilities are looked after by family members and support is provided through the Financial Support Scheme for Persons with Disabilities. The support through the Financial Support Scheme is paid every month and the recipient will receive a total of AUD\$70.

144. The initial reports notes that there are no cases of forced sterilisation of persons with disabilities, especially with girls and women. The Government of Tuvalu will work with the relevant authorities namely the Ministry of Health to allow for access to family planning, assistive reproduction and adoption or fostering programs including working with parents and the local community to support fathers and mothers, and the families of boys and girls with disabilities to prevent concealment, abandonment, and neglect.

Article 24 – Education

145. The initial reports notes that there are laws and policies in place that allows for and caters to children with disabilities having access to early stage education and mandatory primary, secondary and higher education. The Education Act cap 30, Part VII Compulsory Education states that education is compulsory for all children including children living with disabilities. A fine is imposed when this law is not complied with. In addition, the TKII Strategic Area 6 Strategy also provides equal education opportunities for all where special needs education for pre-schoolers, people with disabilities with the support from NGOs are provided.

146. In addition, the Tuvalu Education Strategic Plan II, Outcome 2; states that ‘All children especially kindergarten, children living under difficult circumstances and those with special needs will have equal access to an expanding, inclusive, safe quality education and care system. Furthermore, outcome 2 (b) output, 2.7 identifies Inclusive education as a key priority and outcome 2.7.1 allows for the development and implementation of an Inclusive Education (IE) policy. In addition, outcome 2.7.2 priority area is professional development to enable teachers to identify and support students with special needs. Further, outcome 2.7.3 provides enabling learning environments and outcome 2.7.4 is on the need to incorporate regional strategy on disability.

147. The TESP II review identified the following as important: (a) children with special needs are included in classrooms and Teachers have been trained to cater for these children; (b) Nauti Primary School has been piloting the program on special needs education; (c) It is mandatory that children from the age of 6 -15 should be provided with free Education but it does not specifically state children with disability; (d) Inclusive Education Policy was one of the planned activities in the Tuvalu Education Strategic Plan II to be rolled out; (e) proposed to develop Inclusive Education in the near future.

148. Recently the Tuvalu Education Strategic Plan III, Focus: 1.2. under the Universal access to education on (a) Inclusive Education aims at (i) providing an enabling learning environment for special needs students; development of eLearning materials for children with special needs; (iii) update all strategic plans and policies to inclusive language where necessary and; (iv) update plans and reports to capture students with special needs. In addition, the education department responsibilities for outputs relating to (I) providing enabling learning environment for special needs students; (ii)conduct research into special needs children following on from the 2012 census data; (ii) development of an inclusive Education Policy Framework; (iii) development of eLearning materials for children with special needs; (iv) update all strategic plans and policies to include language where necessary;(v) update plans and reports to capture students with special needs; (vii) promote

a multi-sectoral approach to support the Fusi Alofa Centre and (viii) e-learning support for children who cannot attend schools.

149. The Education Act does not differentiate between boys and girls, Part VII, of the Education Act – Compulsory Education, makes it mandatory for education for all boys and girls and makes no difference as such between boys and girls. In addition, the Training Policy and Education Policy have no mention of differentiating boys and girls. The normal procedure has been taken to counsel students and to take away that stereotyped association of gender with subjects and courses. There is no mention of differences of boys and girls in any of the Education curriculums, but, it is seen in practice that though we say that there is no difference, subjects and courses at school has been stereotyped according to their sex.

150. Awareness and training has to be done consistently to clarify the fact that there is no difference between boys and girls especially on the subjects and courses that are offered in schools.. Awareness and training to ensure that there is no discrimination against children with disability and especially between boys and girls.

151. TKII Strategy 6 stipulates accessibility of children to schools. Tuvalu Education Strategic Plan II OUTCOME 2: All children especially kindergarten, children living under difficult circumstances and those with special needs will have equal access to an expanding, inclusive, safe quality education and care system. Output 2(a): Increase access and student participation at all levels. Procedure of the state has been in place to ensure that children are included in the mainstream system, this is through training teachers to pursue special needs education course at the University of the South Pacific.

152. The laws and policy that is currently used now does not really state the importance of reasonable accommodation that is needed for children with disability. Special needs training that is done at the University of the South Pacific does not capture the essence of the individual needs like training teachers to have the skill of braille reading or sign language etc. The interpretation of this provision has not been addressed by the State as the readiness is still not there yet at the island level and the State as a whole in terms of human resources and the attitude towards this issue.

153. The revision of the Education Act as well as the Education policies to insert provision that will capture the need to include a clause on reasonable accommodation. There is a need to send teachers to be trained on the specialty of the needs. For Example, training on sign language for the deaf, or braille for the blind and so many other skills that will actually address the need nationally.

154. Tuvalu's Education Strategic Plan II 2011–2015 considered inclusive education for children with disabilities in its outcomes. Despite Tuvalu's Education Policy specifically supporting the provision of special education as well as inclusive education, the inclusion of all children with disabilities in school has not been fully realised. The lack of trained teachers for children with special needs, the poor infrastructure of school facilities and the inaccessibility of schools are mentioned as main reasons why the education system in Tuvalu has not been ready yet to provide inclusive education as set out in their plans and policies.

155. The Tuvalu Education Sector Plan (TESP) III 2016–2020 has disability inclusiveness as a cross-cutting issue. Outcome 1 of the TESP is: All young people in Tuvalu from ECCE to secondary and post-secondary that includes children with special needs, have physical access to an education provider that is relevant and worthwhile.¹⁸

156. The TESP also includes the development of an Inclusive Education Framework and plans for all schools to be accessible. These intentions are reiterated in the Tuvalu Human Rights Action Plan. The Tuvalu Education Sector Situation Analysis 2016 noted that: Special needs children are mostly not included in mainstream schooling with some attending the Fusi Alofa community centre on Funafuti..... The capabilities of the schools to deal with most special needs children is an issue and the Education Department is taking steps to remedy this but it will take time. TESP III identified inclusive education and as such

¹⁸ Tuvalu Education Sector Plan (TESP) III 2016–2020, p17.

the Department will endeavour to support all schools and the FAA community centre to provide the best available education for all.

157. While the Department of Education theoretically keeps records of children with disabilities, staff admit that there is a lack of skills to diagnose disabilities and no systematic records are kept. They are generally more aware of learning problems rather than physical disabilities but also lack the skills to address learning difficulties.

158. Some students with disabilities attend government-run public primary schools both in Funafuti and in several outer islands. Tolise Primary School in Vaitupu started a program in 2016 of enrolling a small number of children with special needs. This was driven by a teacher and head-teacher who were both trained in this area. During this Study, teachers in several islands identified children who had learning difficulties who attended their schools.

159. The Fusi Alofa started a separate school for children with disabilities in Funafuti in 2011. In 2017, it had 17 students enrolled with an age range from 2–22 years, with five or six attending on a regular basis. Children have to find their own transport which is a deterrent to regular attendance. Most of the children have intellectual disabilities or have developmental delays. The school is open for three days a week and on the other days, the teacher does home visits to children and the elderly. The only full-time teacher reported that there is a low level of parental support. Some children who had been attending the FAA school attempted to be mainstreamed into Nauti Primary School but for various reasons, including bullying and teasing, the children returned to Fusi Alofa.

160. The Fusi Alofa school is not registered with the Department of Education, which in fact regards it as a centre and not a school as it does not meet the requirements of a school. The Department does however give an annual grant of \$5,000 which goes towards the salary of the teacher.

161. Despite these positive moves, there is a general lack of learning opportunities for children and young people with disabilities, especially in the outer islands.¹⁹ There is no mention of the promotion of linguistic of hearing impaired persons in the Act as well as the Education Strategic Plan. In other words, provisions in the law as well as the strategic plan mentions children with disability in a very general manner but not in detail as to capture the essence of the matter. The government of Tuvalu recognises the need for more work to be done and will work with the relevant ministry and or department to progressively realise this.

162. Education Policy 1997, part 4.3 under the Curriculum section, indicates medium of instruction that shall be used in schools. Procedures have been in place to ensure that learning is delivered in manner that is conducive and understood by children in the classroom. In practise the language of teaching used in all the classrooms is Tuvaluan though the policy says that at grade 3 the medium of instruction should be in English. The barrier to ensure that education is delivered in the most appropriate language and environment was the fact that the Policies are outdated and at the same time do not elaborate on the importance of this convention.

163. More awareness and training to ensure that there are clauses and provisions in the Education Act that captures this issue is needed. Train more personnel to ensure that this provision is addressed at the earliest. Enforce monitoring and evaluation mechanisms to ensure that teachers and personnel are complying with this provision of the law and policy.

164. Provisions have been made to train teachers on special needs at the University of the South Pacific. To date three teachers have graduated from the University of the South Pacific with Degrees in Teaching Special Education only on general specification and diagnosing those with learning disabilities.

165. The training is not that in depth enough to capture the crux of children with disability. For example the training only concentrates on a few mild disability but not the severe ones therefore, personnel who were trained were only able to teach those with mild

¹⁹ Tuvalu Education Sector Situation Analysis 2016, p22.

disability. To date, one has actually practiced her skills at Nauti Primary School and has implemented a tailor-made program.

Article 25 – Health

166. The Ministry of Health (MOH) provides free health services but not much is known about the current health care needs of persons with disabilities in Tuvalu. There is little provision for people with psychosocial or mental health issues. Health centres on all islands have standardised procedures for checking patients and newborn babies are routinely checked for issues such as talipes and cleft palate. Some of these cases are sent to Fiji and New Zealand for operating as this cannot be done in Tuvalu. Some children with cerebral palsy require physiotherapy which may be given in Tuvalu or else the patient is sent to Fiji, India, New Zealand or Malaysia.

167. The most common surgical procedure in Tuvalu is amputation, due mainly to complications from diabetes or hypertension. Strokes are also common for the same reasons. Visiting overseas surgeons operate on cataracts. Some young eye patients are sent to Fiji.

168. The provision of assistive devices is a major challenge. The MOH works with FAA in the provision of assistive devices such as wheelchairs and crutches, all of which are donated from overseas. Spectacles are also donated from overseas but all of these donations are on an ad hoc basis. Virtually nothing is done to help those with hearing impairments.

169. There is limited assistance in the area of mental health, mainly focusing on depression. While most people with mental health issues are cared for by families, some are admitted to hospital. If they are aggressive, they are sent to prison. It is important to note that to date, no one with mental issues has been imprisoned.

170. Non-communicable diseases such as hypertension and stroke are a major burden on the health system as well as being a significant cause of disability, especially amongst the elderly. The Tuvalu National Strategic Plan on NCDs (2011–2015) states that: Preliminary results from baseline STEPS Survey in 2006 indicated high levels of obesity (75.2%), smoking (33.4%), binge alcohol drinking (21.8%) and low levels of physical activity (55.3%) among the adult population (25–64 years). Prevalence of diabetes and hypertension among the adult population (25–64 years) were 29.5% and 32.9% respectively, which have increased by three folds as seen over the last thirty years.

171. The Tuvalu Family Health Association (TUFHA) works in the area of sexual and reproductive health rights (SRHR) with a clinic in Funafuti and outreach clinics. It does not target persons with disabilities but services are open to them. TUFHA is aware that it could do more in the disability area and is seeking support from its regional body to assist in this regard.

172. Assistive devices can make a huge difference to the lives of persons with disabilities, enabling them to function in different aspects of life. The most commonly used assistive devices found in the Study was glasses, with 23% of those questioned using glasses. The second most used was walking sticks with 10% followed by wheelchairs used by 8% of participants, as shown in Table 8 below. Only one person reported using a hearing aid but said that it had been lost.

Table 8
Do you use any assistive devices?

<i>Device</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>
Glasses	46	64	110
Hearing aid	1	0	1
Crutches	5	8	13
Walking stick	18	28	46
Walking frame	5	11	16
Wheelchair	16	21	37
Prosthetic limb	1	0	1
White cane (for visually impaired)	0	0	0
None	106	152	258
Others – explain	5	2	7

Table 9
Do you need any assistive devices that you do not have?

	<i>Males</i>	<i>Female</i>	<i>Total</i>
Glasses	51	90	141
Hearing aid	15	26	41
Crutches	8	7	15
Walking stick	35	39	74
Walking frame	14	35	49
Wheelchair	26	65	91
Prosthetic limb	1	5	6
White cane (for visually impaired)	0	4	4
Commode	21	40	61
None	68	56	124
Others	12	14	26

Article 26 – Habilitation and Rehabilitation

173. The Ministry of Health offers home visits and subsequent follow up programs for all patients who have been discharged from hospital including persons with disabilities. The government of Tuvalu through the Ministry of Health provide for and offers mobility and assistive device free of charge to anyone who is in need of assistive devices. In addition, the Government of Tuvalu through the Ministry of health provides for free medicine and policy for all citizens of Tuvalu including persons with disabilities. There are currently no measures in place to accommodate for participation in habilitation and rehabilitation.

174. The Ministry of Health offers Continuous Medical Education (CME) on a monthly basis and also on a long term in service scholarship training as part of professional development to all local staff. Furthermore, radio programmes are carried out to raise awareness on any health related issues and also on the use of assistive devices. Workshops are facilitated for wheel chairs maintenance and other important frequently used assistive devices. Networking with recognised organisations such as motivational Australia who offer assistive devices for person with disabilities.

Article 27 – Work and Employment

175. It is in this regard that the Government of Tuvalu wishes to inform the members of the Committee that a Constitutional review is currently underway and significant to the proposed Constitutional changes is the inclusion of gender and disability as a non-discrimination ground. The Government of Tuvalu notes that adding gender and disability

to the non-discrimination clause of section 27 is consistent with Tuvalu's international obligations under the Convention on the Elimination of all forms of Discrimination Against Women ("CEDAW") and the Convention on the Rights of Persons with Disabilities ("CRPD"). Also, the Gender Affairs Division have provided a strategy paper for the Constitutional Review Committee on changes to be made in order to be in compliance with CEDAW. The Government of Tuvalu recognises that while sex is already a basis for non-discrimination under section 11, there is growing international recognition that gender is distinct from sex, and the protections of section 27 are arguably broader. In addition, the government of Tuvalu acknowledges that the full recognition of women as protected from discrimination will help improve women's positions in terms of formal employment including the girl child. The Labour Employment Relations Act 2017 has included under the section for 'Equal Employment Opportunities' in part 5 of the bill, that people with disabilities should have access to same employment opportunities. This legislative measure would ensure that discrimination is eliminated for persons with disabilities in the workplace.

176. Additionally, the proposed Labour and Employment Relations Act 2017 also provides guidance on the employment of young people. Under Part 3: Employment of Young Persons of the Labour and Employment relations Bill 2017 section 43 (minimum age of employment) states that a child who has not yet completed the calendar year of schooling in which he or she reaches the age of 15 years must not be employed or work in any capacity, except in light work. It further states that work engaged in by a child under the age of 16 years in schools, as part of an authorised program of education or training, will not be in contravention. Furthermore, a person who employs, or otherwise causes to work, a child who has not yet completed the calendar year of schooling in which he or she reaches the age of 15 years, commits an offence. Additionally, section 35 of the Child Protection Bill imposes strict obligations on employers of children to provide proof of the child's age. It also states that if a child has been employed, it is the responsibility of the employer to ensure that the consent of a parent has been obtained, and the employer must produce evidence of such consent if requested to do so by an authorised officer.

177. Further, section 43 of the proposed Labour and Employment Relations Act 2017 states that a child aged at least 15 years under the prescribed minimum age of employment must not be employed or work in any capacity except light work that: (a) is unlikely to be harmful to the health and development of the child; (b) will not affect the child's school or vocational training attendance; (c) will not affect the child's ability to benefit from schooling or vocational training; and (d) complies with any other requirements for light work specified in regulations.

178. Additionally, the Minister may make regulations setting out the requirements for light work, including permitted times and hours of work, the activities that may be carried out and the conditions under which these activities may be performed. The Act also states that an employer who breaches this section commits an offence.

179. Part 5 of the Labour and Employment Relations Act provides for equal employment opportunities. The proposed section 50 (Prohibition of discrimination) provides for non-discriminatory section in the area of employment. Section 50 of the proposed bill states that "an employer shall not discriminate, directly or indirectly, against any employee or prospective employee in respect of recruitment, training, promotion, against any employee or prospective employee to recruitment, training, promotion, terms and conditions of employment, termination of employment, or other matters arising out of employment relationship, for a prohibited reason.

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

181. The public service under the Human Resource Management (HRM) Unit, has a zero tolerance policy for harassment of any sort and has already in place measures handling

harassment should it arise. Similarly in the current Labour Employment Relations Bill, discriminatory measures are included to protect our workers from being harassed and discriminated.

182. All vacancies are open to the general public, irrespective of any disability etc. In other words, disability is not a grounds to disqualify a person from entering the public service. and anyone can apply for a vacancy given they meet the terms of reference for the position and are capable of fulfilling the responsibilities of that position.

183. Although recruitment is under a different ministry, the dedicated department is working towards ensuring that proper measures are put in place to safeguard and protect persons with disabilities and will keep supporting the persons with disabilities in making sure that they are not disadvantaged and are given equal employment opportunities as the general public.

Article 28 – Adequate Standard of Living and Social Protection

184. The Government of Tuvalu informs the Committee that it recently concluded a Hardship Survey study in September 2017. The Hardship Survey was conducted by the Ministry of Home Affairs. The aim of the Hardship Survey was to ascertain the level of hardship faced by those living in the outer islands including Funafuti. The findings of the study have yet to be formally approved by cabinet and is envisaged that the findings will be used to provide more policy directives on how best to respond to hardship issues faced by those living in the outer islands particularly the most vulnerable in society – women, children, elderly and persons living with disabilities. It is important to note that persons with disabilities live with their immediate families. Support, care and welfare is provided for by the families, and is inclusive of housing, clothing and their general needs. Additionally, Tuvalu does not adhere to a prescribed standard of living but recognises that persons with disabilities needs are met and provided according to the needs of the persons with disabilities.

185. Persons with disabilities are afforded social protection through the provision of the Support Scheme for the most vulnerable persons with disabilities initiative by the Government of Tuvalu. The purpose of the scheme is to recognise that persons with disabilities live in conditions of poverty, and in this regard recognising the critical need to address negative impact of poverty of persons with disabilities in Tuvalu and to provide financial assistance to citizens of Tuvalu who are eligible. Furthermore, the scheme is managed and administered by the Secretary of Home Affairs. The beneficiary under the scheme is entitled to receive a payment of AUD\$70.00 per month in accordance with the provisions of this scheme. The scheme identifies a person with disability as those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Accordingly, a person is eligible for assistance under this scheme if he or she – is a citizen of Tuvalu; is a person with disability defined under the policy; has been certified by an authorised medical practitioner that such a person satisfies the requirement; and receives an annual income of less than AU\$6, 000.00 (Income Tax Threshold).

186. Additionally, the Support Scheme for the Most vulnerable persons with disabilities states that an applicant is incapacitated if he or she is of unsound mind or physically incapable of lodging an application for assistance of the Scheme. It further states that an incapacitated applicant may submit an application for assistance under the Scheme through a caretaker. Further, the applicant submitted by a caretaker must be witnessed by a Commissioner for Oaths. Also, any person who is a beneficiary under this Scheme leaves the country on: government or official business; or under a government funded referral scheme shall continue to receive assistance under the scheme for a period of three months and shall be terminated thereafter.

Article 29 – Participation in Political and Public Life

187. Persons with disabilities are given due recognition in relation to active participation in political and public life. The Constitution of Tuvalu recognises the right to vote. Section 91 of the Constitution of Tuvalu provides all Tuvaluan's with the right to vote. Section 91

states that a person is entitled to be registered as an elector in Parliamentary elections if, and is not entitled to be registered as such an elector unless: he is a citizen of Tuvalu; and he has attained the age of 18 years; and he satisfies such other requirements (whether as to residence or otherwise) as are prescribed. Furthermore, section 91(2) states that a person is not entitled to be registered as an elector in Parliamentary elections in more than one electoral district at the same time.

188. Additionally, section 92(1)(b) states that a person is not entitled to be registered as an elector in Parliamentary elections if he is certified to be insane, or otherwise adjudged to be of unsound mind, under an Act of Parliament. Both section 91 and 92 are inclusive of persons with disabilities. The government of Tuvalu informs the Committee that to date no persons with disabilities has stood for election although most have been encouraged to vote and have used the right to vote nationally.

189. The Government of Tuvalu informs the Committee that the current board of Fusi Alofa all consists of persons with disabilities. The report notes that members of the Tuvalu National Disability coordinating committee consists of representatives from the national disability organisation. Additionally, the report notes that more specific data and statistics will need to be collected to identify the number of persons with disabilities in public positions, boards, committees etc.

Article 30 – Participation in Cultural Life, Recreation, Leisure, and Sport

190. Participation refers to the level of involvement in social life, which is an important part of a functioning society. Participants in the Study were asked questions on their levels of participation in family gatherings; family decision-making; church, village and community events; leisure and sports activities; and politics at any level.

Table 10

Participation levels

	<i>None</i>	<i>Some</i>	<i>A lot</i>	<i>Unable</i>	<i>Total</i>
Family gatherings	90	108	230	38	466
Family decision- making	166	53	198	49	466
Church	113	71	238	44	466
Village community events	157	61	188	60	466
Sport	260	69	39	95	463
Politics	338	10	43	75	466

Article 31 – Statistics and Data Collection

191. The Government of Tuvalu has in place legislation and policies that provide guidance and assistance in the collection of data and statistics nationally. The legislation and polices are used as a framework for the collection, analyses of national data and statistics. The legislation and polices are: (a) Statistics Act; (b) Census Act; (c) Households Income & Expenditure Survey (HIES); (d) Demographic and Health Survey (DHS); (e) Education Monitory Information System (EMIS); (f) Health Information System (HIS) and the National Censuses.

192. In addition to the above the data and statistics collected are done mainly by the relevant government ministry and department. These are: (a) Central Statistics Division (CSD), (b) Ministry of Finance and Economic Development; (c) The Fusi-Alofa Association (FAA), (d) Ministry of Home Affairs; (e) Department of Community Affairs; (f) Education department; (h) Gender Affairs; (I) Ministry of Health, and (j) Red-Cross.

193. National censuses are normally conducted every 10 years and HIES usually in 5 years lapse. The Central Statistics Division usually assist respective organisations that need to conduct surveys namely the FAA or ministry concern in particular in this exercise.

194. The Pacific Women Support Unit contracted a short-term technical adviser (STA) / consultant, to guide and oversee the process. She worked in collaboration with members of

Fusi Alofa, the Gender Affairs Department of the Office of the Prime Minister and the Community Affairs Department of the Ministry of Home Affairs. The approach of the Study is a human right based approach, guided by the Convention on the Rights of Persons with Disabilities which Tuvalu has ratified.

195. The focus of the Study was determined by background documentary research which was supplemented by the consultant's meetings with stakeholders in Tuvalu. Fusi Alofa nominated five people to be trained as fieldworkers for the Study, comprising the teacher for the Fusi Alofa school, two members and two volunteers. In addition, a staff member from the Community Affairs Department of the Ministry of Home Affairs and the country focal point for the Pacific Community's Regional Rights Resource (SPC/RRRT) joined the fieldworker team and took the roles of lead fieldworkers to provide leadership. The FAA teacher was also the lead fieldworker on one island trip.

196. The consultant designed the research instruments in consultation with all partners and conducted training for the fieldworkers in March 2017. Due to the potentially sensitive nature of some questions, considerable emphasis was placed on ethical and confidentiality issues and how fieldworkers should deal with such issues, which indeed did arise during the Study.²⁰ The main survey instrument, the questionnaire for persons with disabilities, was piloted in Funafuti and slight revisions were made to the responses and to coding. Following the training, fieldwork started in Funafuti.

Article 32 – International Cooperation

197. The Government of Tuvalu is calling on the international community to provide assistance with regards the full realisation of the Convention on the Rights of Persons with Disabilities. Currently, the Government of Tuvalu receives funding support from Australian government, the Pacific Community/ Regional Rights Resource Team, UNICEF Pacific with regards its commitment to ensuring that persons with disabilities live their life with dignity.

198. The Fusi Alofa has actively advocated for the ratification of the Convention on the Rights of Persons with Disabilities. Fusi Alofa is currently engaged with the Department of Education on mainstreaming disability throughout the education sector. Additionally, it has also actively engaged in the development of the recently concluded the Tuvalu Study on Disability. Fusi Alofa has also been instrumental in the development of the Tuvalu National Disability Policy.

199. The Government of Tuvalu as a member of regional and international organisation have benefited from support from development partners. The Attorney General's Office is currently working in partnership with UNICEF on the proposed Child Protection and Welfare Bill and the Policy for the Protection of all Children in Education Institutions in Tuvalu.

Article 33 – National Implementation

200. The Government of Tuvalu has, through the Ministry of Home Affairs a dedicated officer employed to look into matters relating to disability. The disability officer has been mandated to work with relevant stakeholders and partners to ensure that the terms and reference of the Tuvalu National Disability Coordinating Committee is carried out. The disability officer also acts as a liaison between government and the National Disability Organisation in the fulfilment, enjoyment, protection and promotion of the rights of persons with disabilities.

201. Further to the above, the disability officer works in partnership with the department of community affairs to ensure that the Convention is widely disseminated, mainstreaming of disability in national policies and law; awareness and advocacy of disability related issues and liaising with partners and donors.

²⁰ Such issues were largely those of abuse and extreme hardship.

Conclusion

202. The Government of Tuvalu submits its initial report on the Convention on the Rights of Persons with Disabilities and looks forward to the interactive dialogue that will follow. The Government of Tuvalu looks forward to receiving the relevant technical assistance from members of the United Nations and also from international donor partners and agencies. The Government of Tuvalu looks forward to working with international and regional disability organisations on the full implementation and recognition of the rights contained in the Convention on the Rights of Persons with Disabilities.
