



GOVERNMENT OF TUVALU

## TUVALU OPENING STATEMENT

ON ITS SECOND REPORT AT THE UNIVERSIAL PERIODIC  
REPORT WORKING GROUP OF THE HUMAN RIGHT COUNCIL  
DELIVERED

BY

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Madame Vice President,  
Members of the UN Human Rights Council  
President of the Working Group for the UPR

Excellencies

It gives me great pleasure on behalf of the government of Tuvalu, the people of Tuvalu and its delegation to the 16th session of the Universal Periodic Review (UPR) to first of all thank

1. Vice President this session
2. all the countries that provided advance questions on Tuvalu's national report on Human Rights and all the members countries that are here today.
3. Secretariat for the compilation of the final report.

1. I have the honour to present this second report of Tuvalu under the Universal Periodic Review process, and to affirm Tuvalu's commitment to the Human Rights Council Universal Periodic Review process as under the UN General Assembly Resolution 60/251.

Talofa and greetings from Tuvalu.

2. Let me at the outset express our deep appreciation to those who have provided the much needed support to Tuvalu in the preparation of its State Report, the Pacific Islands Forum Secretariat, SPC/RRRT and the Office of the High Commissioner for Human Rights OHCHR. I also wish to extend our warm thanks to the UPR Working Group for the guidance provided. Last but not the least, I would also like to take this time to thank Australia, and New Zealand and the OHCHR for their kind assistance in the logistical arrangements that had enabled our attendance at this meeting here in Geneva.

Madame Vice President

3. In this statement, as we have done in our first review, I will not repeat what is in the Tuvalu State Report. Instead I will address the Advance Questions that have been sent to Tuvalu.
4. Before doing that, please allow me to briefly explain the specific contexts of Tuvalu. As we have done in all international meetings, it is to us, Tuvaluans, very important that we reiterate the specific vulnerabilities that we as a small island state face on a daily basis. Tuvalu's small island characteristics, its communal nature and community interests that form the linchpin of the country, are all vulnerable to the challenges presented by the threat of the adverse impacts of climate change and sea level rise.

5. Tuvalu comprise four reef islands and five atolls and is the third-least populated independent country in the world. It is also the second-smallest member of the United Nations by population. In terms of physical land size, Tuvalu is the fourth smallest country in the world with a total land area of 26km<sup>2</sup>, but geographically fragmented and isolated from each other and the rest of the world. All eight islands are low-lying, barely three metres above sea level.
6. Madame Vice President, At the core of Tuvalu's existence as a nation is the belief in the strength of the values of its cultural traditions, courtesy and respect to elders, and commitment to the common good of island community life. The interests of the community serve to preserve harmony and peace, they heavily influence the behaviour of society in personal inter-relationships and the general management of the island community affairs. To a great extent, governance is assured through strict observance of the hierarchy and protocols of the 'falekaupule', the traditional house of the island chiefs and elders which provide the everyday general guidelines for each of the island communities.
7. These physical and social characters of Tuvalu, present us with the unique vulnerabilities to the challenges of external forces due mainly to our severe lack of capacity. The impacts of globalisation such as demonstrated by the global financial crisis are overwhelming for a small State that is both a Small Island Developing State and a Least Developed Country. Tuvalu's Trust Fund and the Falekaupule Trust Fund, due to the impacts of the Global Financial crisis have not been able to provide the much needed financial support they were meant to provide the country. The combined effect of the Global financial crisis and the physical and social characters of Tuvalu, have seriously undermined Tuvalu's ability to manage its affairs and to provide vital services to the people. In this regard we are ever so grateful to our partners and all the countries and organisations that have supported and are continuing to help us in these difficult times.
8. Madame Vice President, all these problems for Tuvalu are exacerbated by the adverse effects of climate change and sea level rise which are becoming an everyday nightmare for the people of Tuvalu. The continuing loss of vital land, destruction of food crops and contamination of ground water supply due to sea-water intrusion are but a few emerging

and ongoing issues that the people of Tuvalu are facing on a daily basis, and for that matter affecting the competing interests and priority needs of the government. Tsunamis are becoming a major issue for the country with Tuvalu experiencing more than 3 tsunami warnings since the last reporting period. Fear of such devastating natural disasters are of considerable concern for a country whose highest natural geographical feature is barely 3 meters above sea level while the highest man made feature is a double story building.

9. Madame Vice President, these problems are now seriously undermining the capacity of the State to preserve and protect the fundamental human rights of its citizens to survive. These are but some of the everyday realities and challenges that we the people of Tuvalu face on a daily basis and for that matter also posing challenges for the government in its efforts to fully implement the economic, social and cultural rights of the people of Tuvalu.
10. Madame Vice President, despite the problems highlighted before, the Government of Tuvalu is committed to ensuring that its peoples' human rights are protected and nurtured within its capabilities. And as a member of the international community of the United Nations, continue to strive and meet its obligations on human rights matters. The reality, though, is that many of these commitments are dependent on the availability of financial and technical resources.
11. Madam Vice President, having shared the unique vulnerabilities that are an everyday reality for Tuvalu, we still welcome the UPR process and the advantages that it offers, in particular, the process provides Tuvalu two major opportunities: it allows the Tuvaluan community and Government to take stock of how well we are protecting the human rights of all people in Tuvalu; and it permits the Tuvaluan Government to inform the international community of the human rights situation in Tuvalu and to engage with other countries about specified steps it will take to improve the enjoyment of human rights in Tuvalu.

#### Current Review

12. Madame Vice President, now turning to the current review and providing a short overview of our involvement in the UPR process, the Government of Tuvalu submitted its first national Universal Periodic Review report to the Human Rights Council on the 11 December 2008. The Human Rights Council adopted the report in the same year. Tuvalu accepted all ten and

declined two of the recommendations of the Council. The responses to the ten recommendations can be found in our national UPR Report.

13. Madame Vice President, since the last review, Tuvalu has not fully incorporated or implemented all the recommendations that it supported in the last review. However, Tuvalu has to the best of its ability, within its limited means and capacity, has addressed human rights matters that are of immediate and significant relevance to the country. [education, health, climate change]
14. Excellencies, since the adoption of the first report, the Tuvalu Government has tried to work to implement these recommendations and commitments through all relevant parties, including government agencies, official institutions, and civil society organizations. Significant to note is that Tuvalu continues to face challenges in the implementation of the recommendations and also with its overall human rights commitments.
15. Madame Vice President, it is important to note that constraints in funding, resource availability and opportunity has hindered the progress of national stakeholders facilitating and conducting public awareness programs on human rights matters in Tuvalu. This lack of funding and resource availability has also denied our outer-islands the opportunity to participate actively and to support human rights awareness and programs. The islands of Tuvalu can only be accessed by boat. Unfortunately, the only two vessels for the country have spent and are continuing to spend more time and resources in maintenance rather than providing the much needed routine shipping support to the islands of Tuvalu. These maintenance however, are of paramount importance for the safety of the people of Tuvalu given the recent problems in the region of incidents at sea.
16. Madame Vice President, despite the continuing challenges that Tuvalu faces, the Government of Tuvalu made progress in relation to meeting its human rights commitments and obligations. Some of the more notable achievements include: completion of the CRC Report; completion of the CEDAW Report; completion of the Common Core Document; visit of Special Rapporteur on clean water and sanitation to Tuvalu; support for the ratification of the Convention on the Rights of Persons with Disabilities (CRPD); support for accession to the Rome Statute of the International Criminal Court (ICC) and providing policies for the

mandatory inclusion of gender in government planning; and visibility of Tuvalu's climate change issues in the international arena.

17. Excellencies, this national statement also recognises the constraints and challenges faced by the government on the implementation of Tuvalu's human rights obligation and in particular the agreed recommendations from the UPR HRC constructive dialogue in 2008. Central to these challenges are the impacts of climate change and sea level rise; lack of internal capacity; lack of financial support; lack of human resource; and lack of understanding on the UN Human Rights Conventions.
18. Madame Vice President, The Government of Tuvalu uses the Te Kakeega II (National Strategic Development Plan) to prioritise matters to be undertaken or intended to be undertaken by the government. Some of the key national priorities identified in the National Strategic Development Plan, are: education, health, establishment of the Ombudsman's Commission; promote gender equality; expand the role of women in development; promote traditional knowledge and culture; mitigate climate change agricultural impacts; minimize climate change impacts; and access to safe drinking water.
19. Additional priorities identified by the government of Tuvalu as needing further attention are highlighted in the TK II Mid Term Review. Other additional priorities that the government of Tuvalu is considering implementing include; highest health standard attainable; improve housing availability; promote gender equity and expand the role of women in development; increase the participation of youths in sports; local governance and community development; review of labour related legislation; and education opportunities for all.

#### Advance questions

20. Madame Vice President, allow me now to address the advance questions that Tuvalu received:

#### Plans for Implementing the recommendations of the United Nations Special Rapporteur on water and sanitation.

21. In relation to questions on the implementation of the recommendations of the Special Rapporteur on human rights to safe drinking water and sanitation, we welcome the report and the report seem to cover areas that the government is already addressing. [water tanks,

compost toilets]. However, it is important to note that the government of Tuvalu has just recently received the draft report of the United Nations Special Rapporteur on water and sanitation. It is envisaged that our plans for implementation will be finalised upon receiving the final report from the Special Rapporteur. It is also important to note that the government of Tuvalu is working to ensure that all care is taken to ensure that access to safe drinking water and sanitation facilities is a priority in our national development agenda.

### **Discrimination on the basis of sexual orientation**

22. As we have provided in our first review, we respect the rights of people with different sexual orientation. They suffer no social discrimination in our country. However, the question of legal protection in the laws of Tuvalu are controversial and will need to be carefully considered. We are open to discussions about this.

### **Ratification of Core Human Rights Treaties and related treaties**

23. With regards to the questions on treaty ratification, the government of Tuvalu is considering supporting the ratification of core human rights treaties. Discussions are currently ongoing as to which core human rights treaties are to take priority given the capacity constraints faced by the country. Tuvalu is aware of the enormous responsibility attached to the implementation of human rights treaties and is therefore considering facilitating a legislative compliance of national laws before pursuing ratification of specific treaties. The government of Tuvalu has sought the assistance of the Pacific Islands Forum Secretariat with regards to facilitating a legislative compliance review before ratifying more treaties.

### **Gender Mainstreaming, Women's rights and Traditional Standards, values and practices.**

24. In response to questions on gender mainstreaming, women's rights and traditional practices, it may be noted that in. In 2009, the Ministry of Home Affairs and the Office of the Attorney-General and partners worked to enhance national response to the issue of violence against women. The issue was brought to the CEDAW National Taskforce for deliberation and agreed to give it more attention. A literature review

which comprised of the analysis of court cases and research on violence against women was submitted. The findings of the review showed that domestic violence was the main form of violence against women in Tuvalu.

25. Following national consultations a proposed law was developed to deal with the issue of domestic violence. At the time of writing the report the Bill, known as the Family Protection and Domestic Violence Bill (FPDV Bill), is now awaiting community consultations in all islands before resubmission to Cabinet for consulting and tabling in parliament. The purpose of the FPDV Bill is to: provide for greater protection from violence within any domestic relationships; clarify the duties of the Police and other law enforcement agencies in regards to domestic violence; introduce protection orders and other measures to reduce and prevent violence, promote the safety and wellbeing of victims of violence, hold perpetrators accountable; provide for maintenance upon separation; and comply with State obligations under the CEDAW and CRC.

26. Furthermore in 2009, Parliament passed the Police Powers and Duties Act (PPDA) which specifically mandates the Police to respond to issues concerning domestic violence. The Police Powers and Duties Act makes domestic violence a criminal offence. Section 42 of the PPDA further stipulates that a Police Officer may make a Police Order if the Police Officer reasonably believes that a person has committed an act of domestic violence and is likely again to commit such act etc. The PPDA also recognises that domestic violence is no longer a private issue. The PPDA grants temporary powers to the Police to protect the victim until further action can be undertaken.

27. The Government is well aware of the inconsistency of domestic laws and cultural and traditional practices of Tuvalu on the treatment of women's rights. The Department of Women Affairs through its cultural sensitivity approach in the Gender Mainstreaming and gender sensitising training programs aims to use cultural realities as a way to challenge harmful cultural practices and strengthen cultural practices that promote human rights principles. Consultations are ongoing with a view to amending the Constitution once there is wider understanding and acceptance of gender equality.

### Rome Statute



28. In response to questions on the accession of Tuvalu to the Rome Statute of the International Criminal Court (ICC), The government of Tuvalu has already endorsed accession to the ICC. Furthermore, the government of Tuvalu is also progressively realising the recommendation to amend the legislation to include a safeguard against statelessness. Significant to note that this is something new to Tuvalu and we are currently looking at the issue and how it relates to Tuvalu citizens.

Amendments to the Constitution to specifically provide for freedom from discrimination on the grounds of gender or sex

29. Consultations are ongoing with a view to amending the Constitution once there is wider understanding and acceptance of gender equality.

Legislative compliance

30. In response to questions on our initiatives with regards to legislative compliance, the government seeks financial and technical assistance from the international community. Furthermore, the Office of the Attorney General, in collaboration with the Pacific Islands Forum Secretariat in partnership with other regional human rights organisations will undertake a legislative compliance review and cost benefit analysis before committing to other human right treaties.

31. Furthermore, since the submission of the first report in 2008 the department of women has progressed in the following areas: a) completed and submitted Tuvalu's CEDAW Report together with the Common Core Document; b) sponsored the work on the Family Protection and Domestic Violence Bill; c) increase advocacy and lobbying on temporary special measure especially in decision making forums at the local and national level ( public and private sector); and d) ongoing lobbying for support to amend the Constitution to prohibit sex and gender discrimination.

Madam Vice President,

32. In conclusion, Tuvalu is fully committed to honouring its responsibility to protect the human rights of its every people. Yet given the unique vulnerabilities that Tuvalu has, we request relevant assistance for the country in its effort to fulfil its human rights obligations.

Thank you Madame Vice President.

