



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

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**Committee on the Elimination of Discrimination
against Women**
Forty-fourth session

Summary record of the 898th meeting

Held at Headquarters, New York, on Wednesday, 29 July 2009, at 3 p.m.

Chairperson: Ms. Gabr

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention *(continued)*

Combined initial and second periodic reports of Tuvalu (continued) (CEDAW/C/TUV/2; CEDAW/C/TUV/Q/2 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Tuvalu took places at the Committee table.*

Articles 10 to 14 (continued)

2. **Mr. Kaitu** (Tuvalu) said that although the report had shown an increase in the number of teenage pregnancies, there had been some improvement in that regard since the report had been submitted, as reflected in the written responses to the list of issues. A number of educational programmes run for women in the outer islands had raised awareness among teenage girls.

3. Abortion was an offence in Tuvalu except when there were complications in the pregnancy and it was deemed necessary by a doctor. The consent of the woman was always required. There had been no reports of illegal abortions, which indicated how well the health system managed the issue. The Government funded overseas referrals for women who required tertiary treatment.

4. The Government was working on a policy to cater for persons with disabilities. A nationwide survey had been conducted, which would be used as the basis for the policy. At the regional level, a ministerial meeting would be held in the Cook Islands in October to discuss the adoption of a regional framework for disability issues.

5. **Mr. Pita** (Tuvalu), responding to the questions on education, said that the Government had introduced an Education for Life programme to guarantee that opportunities for education were available at all levels throughout the country, which included vocational training programmes for both adults and school dropouts. Secondary school entrance exams had been reintroduced, since many primary school leavers had been unable to cope with the secondary school curriculum when there had been open admission. There was only one Government-run secondary school in Tuvalu, in addition to a few managed by church organizations. That number was not sufficient to cater for the number of students wishing to proceed to

secondary school and many parents took their children to Fiji for their schooling, where there were more opportunities. The decrease in the number of tertiary education scholarships awarded was a result of the Government's decision to freeze the country's budget. However, education remained the sector with the highest national budget allocation, followed by health, which reflected the high priority given to education.

6. **Mr. Kaitu** (Tuvalu) said that Government policy with regard to maternity leave had changed and women were now entitled to 12 weeks' leave with full pay. He noted the concern that 12 weeks was not sufficient and said that the Government would examine the possibility of increasing that duration. The Health Department was always willing to accommodate mothers who required additional leave, if necessary.

7. **Mr. Telavi** (Tuvalu), returning to education issues, noted that school dropouts now had a second chance to return to the formal system if they proved themselves during vocational training under the Education for Life programme. The ministries of education and health, the two sectors with the highest budget allocations, gave men and women equal access to their services.

8. Turning to the matter of introducing legislation on domestic violence, he said that, in accordance with the Constitution, the adoption of legislation in Tuvalu required consultation with the people. Owing to the logistical challenges involved in reaching the different islands, such consultation often took many months and was very expensive. In spite of that, given the importance of the Convention, the Government was committed to developing legislation on domestic violence.

9. **Mr. Bruun** asked whether any measures were being taken to encourage women to seek higher and better paid positions. Merely saying that there were equal opportunities for all was not sufficient. Encouragement from the Government was needed in order to overcome traditional occupational segregation in sectors such as the fishing industry and the civil service.

10. **Ms. Neubauer** reiterated her request for information pertaining to article 12 of the Convention. She asked for clarification about the legal and regulatory framework for abortion in Tuvalu and said that the Committee would appreciate any data on both legal and illegal abortions and information about

reproductive health education and counselling in schools.

11. She urged the delegation to provide information on maternal mortality rates, which had been absent from the report and without which the Committee could not assess the adequacy of maternal health services in Tuvalu. Safe motherhood services and pre- and post-natal care were instrumental in reducing maternal and infant mortality.

12. **Ms. Ameline**, referring to Mr. Telavi's statement that legislation on domestic violence would be envisaged, asked whether the Government would consider expanding that envisaged legislation into a more generalized law including other types of violence, such as rape and incest. The current criteria and penalties for those offences were incompatible with the principles of the Convention.

13. **Ms. Pimentel** urged the delegation to respond to her queries on health issues. There appeared to be contradictions in the report, in that it showed an increase in teenage pregnancies alongside an increased awareness among young people about reproductive health issues. Although the delegation had said that abortion would be addressed in the revised Penal Code, the Committee would appreciate further information about the time frame for those revisions. Information would also be welcome about women with disabilities and rural women's access to health services.

14. **Mr. Telavi** (Tuvalu) said that the Government was actively seeking funds to develop an adequate policy on persons with disabilities and on domestic violence. Regarding traditional roles, fishing was generally considered to be a man's occupation in Tuvalu; however, the Government appreciated the recommendations made by the Committee to encourage women in that industry and would consider their implementation. Turning to education, he said that much progress had been made in the schooling of girls, as parents' attitudes had begun to change and they now consented to send their daughters abroad to continue school beyond the primary level.

15. **Ms. Apinelu** (Tuvalu) said that there were no plans to repeal the provision making abortion an offence; it would continue to be illegal except where required to protect the health of the mother. The Government of Tuvalu shared the concerns of the Committee regarding the apparent discrepancy between the increase in teenage pregnancies and the expansion

of awareness-raising programmes. An added difficulty in addressing the problem was the apprehension expressed by families in Tuvalu in respect of such programmes, which they believed were less effective in preventing unwanted pregnancies than the protection of female siblings by their naturally dominant brothers.

16. **Mr. Pita** (Tuvalu) said that there was no policy or law denying women access to any type of employment, including fishing. There were in fact regional inshore fishing programmes in which women already participated, for recreational purposes or as entrepreneurs. The Government shared the Committee's concern with regard to the small number of women working as civil servants; however, positions were decided on merit alone, on the basis of equal opportunity.

17. **Ms. Begum** asked whether Tuvalu had adopted a strategy to reduce the risk of natural disasters and, if so, whether a gender perspective had been incorporated into that strategy. The State party should also indicate what mechanisms existed, if any, to protect the rights of older women and women with disabilities in a disaster situation. She commended the Government for setting up an elderly support scheme and requested additional details. Regarding continued discrimination against women in rural areas, she wondered what steps the Government had taken to improve women's access to health care, employment and education. Further information on the impact of the measures taken to increase the participation of women in island development planning, in particular through the Falekaupule Trust Fund, would be appreciated. She would also like to know what steps the Government planned to take to maintain the water supply, as well as to address poverty in rural areas, especially the outer islands. Lastly, the Committee would welcome information on any employment programmes designed to increase the number of positions held by women in decision-making bodies.

18. **Mr. Telavi** (Tuvalu) said that in order to overcome poverty, the people of Tuvalu needed to have access to economic opportunities, which would be possible only if the Government received additional resources. Regarding the water supply, the European Union was currently maintaining 1,000 water tanks in rural areas and 500 in the capital; the programme would be extended to other islands within a few years. As to the Falekaupule Trust Fund, the revenue yield from the Fund's capital was distributed to the eight

islands following regular meetings of the Board of Directors with the Ministry of Home Affairs. It was necessary to apply for funding through the local government first.

19. The senior citizens' support scheme provided for the disbursement of \$50 per month to each person over the age of 70; the Government would consider lowering the minimum age if more resources became available. Tuvalu currently did not have a policy on climate change; however, the Government had appealed to industrial countries for assistance, especially with regard to mitigation efforts. In addition, disaster management committees had been established at both the national and the island levels.

20. **Mr. Pita** (Tuvalu) added that Tuvalu had already received a number of project proposals within the framework of national climate change adaptation programmes, including for the planting of trees and the prevention of coastal erosion. The Minister of Energy had furthermore set itself the goal of achieving carbon neutrality by 2020 by focusing on solar energy and phasing out fossil fuels.

21. **Mr. Seluka** (Tuvalu) said that a number of new facilities, including maternity wards, of which construction had recently begun on the outermost islands, would enhance women's access to health services in rural areas. The Ministry of Home Affairs was also working to make transportation to the capital and its main hospital safer, including for pregnant women. Turning to the problems regarding the Falekaupule Trust Fund, he said that programmes had been established to improve knowledge about access to funding. Because funds were allocated through island budgets alone, project proposals must be submitted to local government before budgets were passed. An officer had recently been recruited to deal specifically with the Trust Fund and, in that capacity, to investigate the impact it had on the outer islands and on women in particular. There was also an island development revolving fund, which offered loans on friendly terms, including low-interest rates. A number of women had already benefited from that fund; nevertheless, additional awareness-raising campaigns and training on loan repayments were needed. Lastly, while there was no specific consideration of women in national disaster situations, women, children and the elderly were necessarily a priority in the event of an island evacuation.

22. **Mr. Pita** (Tuvalu) pointed out that one of the unique features of Tuvaluan society was that people lived as an extended family. Therefore, if a family decided to take out a loan, the money must necessarily benefit the whole family, which was also responsible for contributing to its repayment.

Articles 15 and 16

23. **Ms. Halperin-Kaddari**, referring to article 16, asked whether women could ever be forced into marriage in Tuvalu. The Government should definitely raise the marriageable age for women from 16 to 18 to bring it into line with the Convention and with the Convention on the Rights of the Child. It also would seem that women needed Government assistance if they wanted to claim alimony after divorce, in view of the very strict court requirements and the fact that no such cases had ever been brought. She noted that the report referred only to land as matrimonial property, but surely there were other kinds of property as well. At any rate, since under the current law women had no entitlement to family land after divorce, more equal property distribution rules should be established. Noting that the Native Lands Act awarded custody of a child over the age of two born out of wedlock to the father in the case of divorce, she wondered if the same happened in the case of children born in a marriage. Custody in any case should not be a land issue but should be determined on the basis of the best interests of the child.

24. **Ms. Coker-Appiah** asked whether customary marriages were required to be registered as were those performed under statutory law; what the inheritance rights were of a woman surviving a husband who died intestate, in both types of marriage; and whether no-fault divorce was granted also under the customary system. It was not clear if bigamy was an offence in Tuvalu, because the Lands Act conferred more advantages to the children of first spouses, and that might indicate the acceptance of polygamy.

25. **Ms. Apinelu** (Tuvalu) explained that polygamy was indeed an offence in her country and that the issue of successive spouses arose only in the case of divorce, or remarriage after the death of a wife. In so far as maintenance payments after divorce were concerned, it was the enforcement of court orders granting them that was the problem, for it was not in the culture for a woman to come forward to claim that a man was not honouring a settlement, and the courts themselves did

not monitor enforcement. The only legislation governing the division of property after the dissolution of a marriage was the Lands Act. All other property issues relating to money, homes and the like had to be settled in court on a case-by-case basis. The custody laws were written as indicated in the report (part II, paras. 2.4-2.5 and 16.15), but the Government was reviewing the provisions because the times had changed. Children born out of wedlock were not covered by custody legislation and therefore the existing law had been intended, in their interests, to give them the protection of a father. With regard to customary marriages, they too had to be registered; but it should be noted that such marriages were not an everyday practice, generally occurring only when an entire island was hosting a marriage and bearing the expenses. By law girls could not be forced into marriage, although some undoubtedly felt that they had to accept a marriage arranged by their parents. When a spouse died intestate, the Lands Office dealt with the division of land property.

26. **Mr. Seluka** (Tuvalu) said that there were no special conditions for determining where the fault lay if customary marriages ended in divorce; and, indeed, the issue of fault had never come up in practice.

27. **The Chairperson** invited the members of the Committee to ask follow-up questions.

28. **Ms. Rasekh** asked whether counselling and psychotherapy services would be included in the mental health policy the Government was developing and whether they would be gender-sensitive and take into consideration the fact that women could be particularly subject to post-traumatic stress and depression. Also, the report indicated that the Government was aware of the problem of HIV/AIDS and sexually transmitted diseases, but there was no evidence that it had developed a specific plan to deal with them.

29. **Ms. Halperin-Kaddari** asked whether the Government had plans to amend the Lands Code which, by its own admission, favoured men and male children, and if so, when. No response had been given to question 29 of the list of issues regarding property distribution and alimony after divorce, and the range of property rights was unclear: for instance, was there recognition and equal sharing of assets accumulated during the course of a marriage? She also wondered if

anything was being done to help women overcome the social constraints associated with marriage.

30. **Ms. Coker-Appiah** said that the delegation had spoken only about land in connection with property rights. She would like more information on what rights a surviving or divorced wife had to assets like houses and bank accounts.

31. **Mr. Flinterman** observed that the courts in general were responsible for protecting women's rights, but apparently it was difficult for women to get access to the courts in Tuvalu. He wondered if there had been any cases where women had actually claimed their rights and the rights under the Covenant had prevailed over national laws in court. If access was so difficult — and the Office of the People's Lawyer so overburdened — he wished to know if there were any other informal dispute-settlement mechanisms.

32. **Ms. Belmihoub-Zerdani** noted, with reference to article 16, that marriages in Tuvalu could be celebrated in a traditional ceremony or under statutory law and asked whether some marriages were celebrated under both regimes. She also requested more information as to whether both types of marriage were registered in the same way and whether the courts were careful to apply all of the relevant principles enunciated in article 16 of the Convention in cases of divorce, regardless of the type of marriage. She noted that allowing young people to marry when they were only 16 presented problems with regard to the relevant provisions of the Convention on the Rights of the Child. Noting that divorce raised a number of legal and property issues affecting women and mothers, she asked whether women had access to legal assistance on such occasions and at other times. She also asked whether the custody of children was usually given to the mother in the event of divorce, whether she received child support, whether the mother was able to stay in the family home and whether the mother or the legal guardian of the children could travel with the children without obtaining authorization from the other parent.

33. **Ms. Apinelu** (Tuvalu), responding to questions on marriage, inheritance and legal assistance, said that the age of consent for marriage was 21, although young people could marry at 16 with the consent of their parents. In the event of divorce the wife could stay in the family home if she requested, with local authorities able to decide on the custody of the children and the

distribution of property, except for land, which required action by the Lands Court. The parent with custody of the children could travel with the children on his or her initiative, unless a court had issued a restraining order. The criteria for distributing property in the event of a death were undergoing change. Traditionally, the eldest son had received all of the property along with an obligation to support all the other members of the family. The older tradition favouring the eldest son was changing and the laws were being reviewed. Legal assistance was available to all Tuvaluans through the Office of the People's Lawyer, which was, however, severely understaffed. The Office of the Attorney General also assisted citizens with legal matters, except where there was a conflict of interest, such as in criminal cases.

34. **Mr. Pita** (Tuvalu) said that the rights of women with regard to land and the property of a deceased parent or spouse were dealt with by the Department of Lands and Survey through the Lands Court on each island.

35. **Mr. Kaitu** (Tuvalu), responding to questions on health care, said that all Tuvaluans benefited from the same health care. The provision of mental health care was made more difficult by the lack of a dedicated mental health service and the shortage of resources and trained staff. The recent health-care reform project had developed a master plan for health care that included a mental health component. Similarly, psychological counselling was virtually non-existent owing to the lack of qualified staff; local authorities mostly relied on pastors in communities to fill that role. Aware of the rising incidence of HIV/AIDS, particularly among seamen, the Government was developing a plan to raise awareness among all citizens of the problem of sexually transmitted diseases, especially HIV/AIDS, and of risky behaviour. Local non-governmental organizations and women's councils had also been recruited to promote the awareness campaign. Some local doctors had received continuing education training in HIV/AIDS prevention, diagnosis and treatment.

36. **Mr. Seluka** (Tuvalu), responding to questions about the application of the Convention by island courts, in particular with reference to women's access to the courts in divorce cases, said that a divorce certificate would usually be issued by an island court. However, if there were contentious issues, the matter would be referred to the Senior Magistrate's Court on

the main island, to which women on the outer islands might well find access difficult. That was an inescapable geographical problem in an island State such as Tuvalu. The Convention was applied in subordinate courts usually only where there was ambiguity in the domestic statutes.

37. **The Chairperson** said that the Committee had thus completed its examination of Tuvalu's report. In the course of an informative and frank dialogue with the delegation the Committee had been able to appreciate the particular circumstances of that island State. She wished to remind the State party's delegation that women constituted one half of the population and that active protection of women's rights could only assist the State party in its development. She also expressed the hope that Tuvalu would soon accede to the International Covenants on Human Rights and the Optional Protocol.

The meeting rose at 5 p.m.