

## **Status of Human Rights in Tuvalu for the 44<sup>th</sup> Session of the Universal Periodic Review**

### **Introduction**

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in Tuvalu for the 44<sup>th</sup> session of the UPR.

### **Background**

2. Tuvalu is located in Oceania with a population of approximately 11,600 people.<sup>1</sup> The population is predominately Christian with approximately 92% of the population identifying as Protestant, 1% as Baha'i, 1% as Jehovah's Witnesses, and 4% as other.<sup>2</sup>

3. Tuvalu's previous review was held on May 9, 2018.<sup>3</sup> As a result of the review, Tuvalu received 127 recommendations, 78 of which Tuvalu accepted.<sup>4</sup> One recommendation in particular that was made by Uruguay, and supported by Tuvalu, was that the government "[e]nsure universal access to sexual and reproductive health services for all women and girls."<sup>5</sup> It was also recommended by Honduras, and supported by Tuvalu, that the government "[a]ssign human and financial resources in order to strengthen universal access to sexual and reproductive health services."<sup>6</sup> While providing and expanding true health services to women is a good thing, it is important to note that the term "sexual and reproductive health" all too often refers to abortion, which is the deliberate killing of an innocent human life.

### **Legal Framework**

4. The Preamble to the Constitution of Tuvalu guarantees "[t]he right of the people of Tuvalu, both present and future, to a full, free and happy life."<sup>7</sup>

5. Additionally, under Article 214 of the Penal Code:

Any person who, with intent to destroy the life of a child capable of being born alive, by any wilful act causes a child to die before it has an existence independent of its mother, is guilty of a felony known as child destruction, and shall be liable to imprisonment for life:

Provided that no person shall be found guilty of an offence under this section unless it is proved that the act which caused the death of the child was not done in good faith for the purpose of preserving the life of the mother.<sup>8</sup>

6. Tuvalu is a party to the Convention on the Rights of the Child (CRC).<sup>9</sup> Under Article 6 of the CRC, "States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible the survival and development of the child."<sup>10</sup> Tuvalu also has a responsibility to uphold pro-life principles enshrined in other international agreements such as the UN Charter, Universal Declaration of Human Rights (UDHR), and the 1994 Cairo Conference on Population and Development.

## Abortion

7. Tuvalu’s law on abortion upholds protections for both the life of the preborn child and the mother. Despite recommendations made to expand abortion in Tuvalu, Tuvalu’s law remains in line with a majority of U.N. Member States protecting life. Currently, out of the 193 U.N. Member States, a majority (109) of them have strict limits on abortion.<sup>11</sup> Even in the sixty-seven countries that have varying gestational limits for on demand abortions, the majority of these (fifty-two) have a gestational limit of twelve weeks or less, while some allow only up to fourteen weeks, or somewhere in between.<sup>12</sup>

8. Additionally, Tuvalu’s law is in line with numerous international documents. In fact, since the 1994 Cairo Conference on Population and Development, U.N. Members States have had an affirmative commitment to “reduce the recourse to abortion”<sup>13</sup> and to “take appropriate steps to help women avoid abortion, *which in no case should be promoted as a method of family planning.*”<sup>14</sup> Additionally, the UDHR requires “recognition of the inherent dignity and of the equal and inalienable rights of *all* members of the human family is the foundation of freedom, justice and peace in the world,” and provides that “[e]veryone has the right to life . . . .”<sup>15</sup> Similarly, the preamble to the United Nations Charter states that “the peoples of the United Nations determined . . . to reaffirm faith in fundamental human rights, in the dignity and worth of the human person . . . .”<sup>16</sup> Clearly, Tuvalu’s law on abortion fulfils its obligations under these international documents as the law recognizes the dignity of the human life of both the mother and the preborn baby.

9. Moreover, in addition to Tuvalu’s law protecting the life of the preborn child, it also protects the life of the mother as abortion can result in physical and psychological harm.<sup>17</sup> It has been well-documented that abortion can result in the perforation of the uterus or the laceration of the cervix.<sup>18</sup> Abortion also deprives women of the health benefits that come from continuing pregnancy, such as the elimination of the protective effect a full-term pregnancy has against breast cancer.<sup>19</sup> Abortion can also mask other dangerous symptoms like an undiagnosed ectopic pregnancy.<sup>20</sup> In fact, the World Health Organization even acknowledges the complications of abortion in its 2022 Abortion Care Guideline.<sup>21</sup>

10. Furthermore, women who have undergone abortions have also been reported to experience negative psychological side effects, from shame to drug abuse to suicidal thoughts.<sup>22</sup> All of these reasons contribute to the negative and even devastating effects abortion has on both the mother and the preborn. As such, despite several countries urging Tuvalu to expand the so-called “reproductive services,” Tuvalu has every right to protect women and preborn children from the devastation of abortion.

## Recommendations

11. We want to commend Tuvalu for remaining steadfast and committed to promoting life and upholding protections for the preborn. Tuvalu will undoubtedly face external pressure from the international community to expand access to abortion, but we want to encourage Tuvalu that it is in the majority, as clearly outlined above, and should continue to protect life at all stages.

---

<sup>1</sup> *Tuvalu*, THE WORLD FACTBOOK, <https://www.cia.gov/the-world-factbook/countries/tuvalu/> (Feb. 27, 2023).

<sup>2</sup> *Id.*

---

<sup>3</sup> *Universal Periodic Review – Tuvalu*, OHCHR, <https://www.ohchr.org/en/hr-bodies/upr/tv-index> (last visited

Mar. 15, 2023).

<sup>4</sup> *Tuvalu Infographic 30th*, OHCHR, [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session30/TV/TUVALU\\_Infographic\\_30th.pdf](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session30/TV/TUVALU_Infographic_30th.pdf).

<sup>5</sup> OHCHR, UPR of Tuvalu (3rd Cycle – 30th Session): Thematic List of Recommendations, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session30/TV/MatriceRecommendationsTuvalu.docx> (last visited Mar. 15, 2023).

<sup>6</sup> *Id.*

<sup>7</sup> CONSTITUTION OF TUVALU 2008, pmb., <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/3899/95791/F656430737/TUV3899.pdf>.

<sup>8</sup> Tuvalu Penal Code art. 214, [https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/1965/1965-0007/PenalCode\\_1.pdf](https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/1965/1965-0007/PenalCode_1.pdf).

<sup>9</sup> *Ratification Status for Tuvalu*, OHCHR, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=181&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=181&Lang=EN) (last visited Mar. 15, 2023).

<sup>10</sup> Convention on the Rights of the Child art. 6, *adopted* Nov. 20, 1989, 1577 U.N.T.S. 3, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

<sup>11</sup> *The World's Abortion Laws*, CTR. FOR REPROD. RTS. (Sep. 27, 2022), [https://reproductiverights.org/wp-content/uploads/2022/09/WALM\\_20220927\\_V1.pdf](https://reproductiverights.org/wp-content/uploads/2022/09/WALM_20220927_V1.pdf).

<sup>12</sup> *Id.*

<sup>13</sup> International Conference on Population and Development, *Report of the International Conference on Population and Development*, ¶ 8.25, U.N. Doc. A/CONF/F.171/13/Rev.1, [https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/icpd\\_en.pdf](https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/icpd_en.pdf).

<sup>14</sup> *Id.* ¶ 7.24 (emphasis added).

<sup>15</sup> G.A. Res. 217 (III) A, Universal Declaration of Human Rights, pmb., art. 3 (Dec. 10, 1948) (emphasis added).

<sup>16</sup> U.N. Charter pmb.

<sup>17</sup> *Women's Right to Know: Abortion & Pregnancy Risks*, LA. DEP'T OF HEALTH, <https://ldh.la.gov/page/915> (last visited Feb. 8, 2023).

<sup>18</sup> *Id.*

<sup>19</sup> See Justin D. Heminger, *Big Abortion: What the Antiabortion Movement Can Learn from Big Tobacco*, 54 CATH. U.L. REV. 1273, 1288-89, 1290 n.119 (2005).

<sup>20</sup> See generally Physical Effects of Abortion: Fact Sheets, News, Articles, Links to Published Studies and More, THE UNCHOICE, [www.theunchoice.com/physical.htm](http://www.theunchoice.com/physical.htm) (listing sequelae and referencing sources).

<sup>21</sup> *Abortion Care Guideline*, WORLD HEALTH ORGANIZATION & HUMAN REPRODUCTION PROGRAMME 79 (Mar. 8, 2022), <https://www.who.int/publications/i/item/9789240039483>.

<sup>22</sup> Priscilla K. Coleman et al., *Women Who Suffered Emotionally from Abortion: A Qualitative Synthesis of Their Experiences*, 22 J. OF AM. PHYSICIANS & SURGEONS 113, 116-17 (2017), <https://www.jpands.org/vol22no4/coleman.pdf>.