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**Promotion et protection de tous les droits de l'homme, civils, politiques, économiques, sociaux et culturels, y compris le droit au développement**

## Visite aux Tuvalu

### Rapport de la Rapporteuse spéciale dans le domaine des droits culturels, Karima Bennouna\*

#### Résumé

Le Secrétariat a l'honneur de transmettre au Conseil des droits de l'homme le rapport de la Rapporteuse spéciale dans le domaine des droits culturels sur la mission qu'elle a effectuée aux Tuvalu du 18 au 24 septembre 2019.

L'objectif de cette mission était de comprendre, dans un esprit de coopération et de dialogue constructif, comment le Gouvernement veille à la mise en œuvre des droits culturels et, s'agissant de la promotion et de la protection des droits culturels aux Tuvalu, comment il définit les bonnes pratiques en la matière et recense les facteurs qui pourraient y faire obstacle. La Rapporteuse spéciale s'est intéressée en particulier aux questions relatives aux droits que chacun détient, sans discrimination, de participer à la vie culturelle, d'accéder aux espaces publics et d'en profiter, et de participer à l'élaboration et à la mise en œuvre de politiques ayant des effets sur l'exercice des droits culturels. Elle s'est également intéressée aux problèmes que soulèvent les effets de l'urgence climatique, en particulier sur le patrimoine culturel et la préservation des modes de vie, et aux perspectives que l'exercice des droits culturels pourrait ouvrir en ce qu'il permettrait de trouver des moyens de réagir à ces problèmes, y compris à la lumière des objectifs de développement durable.

La Rapporteuse spéciale formule un certain nombre de recommandations visant à aider le pays dans ses efforts pour mettre en œuvre les droits culturels pour tous.

\* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le corps du rapport, annexé au résumé, est distribué dans la langue de l'original seulement.



**Annex****Report of the Special Rapporteur in the field of cultural rights, Karima Bennouna, on her mission to Tuvalu****Contents**

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## I. Introduction

1. The Special Rapporteur in the field of cultural rights visited Tuvalu from 18 to 24 September 2019. She thanks the Government of Tuvalu for the invitation to visit the country.
2. The visit of the Special Rapporteur took place during a period of intense international engagement and political transition in the country. In August 2019, Tuvalu hosted the fiftieth Pacific Islands Forum, which was followed, on 9 September, by general elections leading to a change of Prime Minister. The resulting governmental transition in the Cabinet and various ministerial departments made the preparation and conduct of the visit of the Special Rapporteur more challenging. The expert thanks all those who made themselves available during her visit, notwithstanding the transition, and also expresses regret that meetings with some relevant decisionmakers and government bodies could not be arranged under those circumstances.
3. The Special Rapporteur did have the opportunity to meet and hold discussions with the Permanent Secretary of the Ministry of Foreign Affairs, officials in the Ministries of Trade, Tourism, Environment and Labour, as well as the Director of the Department of the Environment, the Deputy Secretary of the Ministry of Home Affairs and Rural Development, the Director of the Department of Culture, the Chief Librarian and Archivist of the National Library and Archives and the Attorney General.<sup>1</sup>
4. She also held substantive discussions with representatives of the Office of the Ombudsman, which is also acting as the national human rights institution, the Funafuti Kaupule and with a number of civil society experts and organizations. The Special Rapporteur thanks all of them for taking the time to meet with her and for the information and insights that they shared. She also thanks the United Nations coordination officer in Tuvalu for all the support provided during the visit.
5. The visit was the first one to the country by a special procedure mandate holder since 2012 and was an indication of the intention of the Government to further engage with United Nations human rights mechanisms. The Special Rapporteur welcomes this engagement and encourages the new Government to continue it and accept further requests by special procedure mandate holders to visit the country.

## II. General context and background

6. The territory of Tuvalu consists of five low-lying coral atolls, four reef islands and more than 100 islets located in the south-western Pacific Ocean, south of the Equator. The islands encompass a total of 26 square kilometres that seldom rise higher than 4.5 metres above sea level and are spread across an area of more than 700 kilometres between the atoll furthest north (Namumea) and the island furthest south (Niulakita). The size and low elevation of the islands makes Tuvalu particularly vulnerable to any change in climate or sea level, its land regularly experiencing flooding in stormy weather. This renders it especially vulnerable to the effects of the climate emergency. The large distance between each of the islands also makes reliable transportation, communication and cooperation between islands difficult and represents an additional challenge for all aspects of governance, as does the country's remoteness.
7. Formally known as the Ellice Islands at the height of the protestant missionary presence (from 1861) and the British protectorate (1892–1976), Tuvalu gained its independence and became a member of the Commonwealth of Nations in 1978. It joined the United Nations in 2000 and the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1991. It is also a member of the Alliance of Small Island States. Tuvalu is a constitutional monarchy with a parliamentary democracy. The British Crown is represented by a Tuvaluan Governor-General. As there are no political parties, members of parliament are independents who are meant to represent the interests of their constituencies.

<sup>1</sup> The names of governmental bodies listed here are those that were in use when the Special Rapporteur met with representatives thereof.

The Parliament, made up of 15 members serving four-year terms, carries out legislative work, which is reviewed by local governments and receives final approval as law by the Governor-General. At the local level, each island has a *kaupule* (elected island council), operating in line with the Falekaupule Act of 1997 to plan and provide a wide range of local services.<sup>2</sup> Each island also has a high chief and several subchiefs, chosen on the basis of ancestry, exercising informal authority.

8. In 1997, together with other low-lying islands of the Pacific, Tuvalu advocated for a worldwide cut of 20 per cent of 1990 emission levels of greenhouse gases by 2005, a proposal that was rejected by the Government of Australia to protect its own perceived economic interests, a move which caused consternation across the Pacific.<sup>3</sup> Following a drought in 1999, during which Tuvalu was dependent on foreign assistance, an agreement was reached in 2001 with New Zealand for an annual emigration quota of Tuvaluans wishing to leave their country because of sea level rise. This started in 2002 and will last for at least 30 years. In 2003, a similar agreement was being discussed for Tuvaluans to emigrate to Niue.

9. Tuvalu has a population of around 11,400 inhabitants, as of 2019. More than half of the population lives in the capital atoll of Funafuti, many having migrated in recent years from the outer islands and maintaining a strong sense of identity with their native islands. The majority of Tuvaluans belong to the Polynesian ethnolinguistic group and are reportedly adherents of the Congregational Christian Church of Tuvalu, a Protestant denomination of Christianity brought to the islands in the 1860s. Only 3 per cent of the population reportedly adhere to another religious tradition; 1.4 per cent are Seventh-day Adventists, 1 per cent are Baha'i and 0.4 per cent are Ahmadiyya Muslims.

10. Most Tuvaluans still practice traditional lifestyles and cultural norms, engaging in gardening and fishing to maintain a certain level of self-sufficiency. The Congregational Christian Church of Tuvalu has a substantial amount of social, cultural and political power and has become closely intertwined with the local culture. The two official languages are Tuvaluan and English. Tuvaluan is closely related to Samoan, another Polynesian language, and has some dialectical differences across the islands that form the country. Samoan and Kiribati are also spoken on the island of Nui. English is taught in schools and used throughout the country, especially for official functions and in business settings.

## A. National human rights framework

11. Tuvalu is party to the Convention on the Rights of the Child (since 1995), the Convention on the Elimination of All Forms of Discrimination against Women (1999) and the Convention on the Rights of Persons with Disabilities (2013). Each of those instruments guarantees cultural rights. In addition, Tuvalu recognizes its commitments towards all the rights enshrined in the Universal Declaration of Human Rights and participates in the universal periodic review process of the Human Rights Council. In 2016, the Government declared to the Committee on the Rights of the Child its intention to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, which would recognize the Committee's competence to receive individual complaints. The Special Rapporteur encourages the Government to fulfil this engagement and to consider ratifying the similar protocols to the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities.

12. In order to have a universal approach that guarantees the cultural rights of all Tuvaluans, the Special Rapporteur strongly encourages the Government to also become a party to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and to do so without delay or limiting reservations. The Covenants are core human rights instruments, which cover the range of human rights recognized in the Universal Declaration of Human Rights. Of particular

<sup>2</sup> Since Tuvalu became a parliamentary democracy, with a Constitution as the supreme law of the country, the traditional power of the Falekaupule is circumscribed by the Constitution and by other elements of the laws of Tuvalu.

<sup>3</sup> See <http://edition.cnn.com/WORLD/9709/20/pacific.forum/index.html?eref=sitesearch>.

importance for cultural rights are articles 18, 19 and 27 of the International Covenant on Civil and Political Rights, respectively protecting the rights to freedom of religion or belief and to freedom of opinion and expression and the rights of national, ethnic and linguistic minorities to protect and practice their culture, and article 15 of the International Covenant on Economic, Social and Cultural Rights, which includes the right of everyone to take part in cultural life without discrimination and the rights to access and enjoy cultural heritage and to enjoy the freedom indispensable for scientific research and creative activity. Ratification of those two instruments, which guarantee so many of the human rights threatened by the effects of climate change, could also consolidate the position of Tuvalu as a leading voice for the human rights approach to climate change and for cultural survival in the face of the climate emergency.

13. In terms of the international framework relating to culture, Tuvalu became a party to the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage in 2017.

14. At the time of the Special Rapporteur's visit, a national human rights action plan for 2016–2020 and the act creating the national human rights institution (2017) had been adopted. However, the institution itself was still not operational and its budget had not yet been defined. Through the national strategy for sustainable development, 2016–2020 (Te Kakeega III), the Office of the Ombudsman had been tasked to review Tuvaluan laws to align them with international obligations.<sup>4</sup> The Ombudsman was also working on promoting the existence of and raising awareness about the institution to all relevant stakeholders and developing its network, with the aim of developing the coordination and capacity to receive complaints related to all human rights themes. The recruitment of two commissioners in the following year was planned so as to be able to attend to an array of questions regarding good governance and human rights. One of the Ombudsman's concerns is the vulnerability of persons who have retired but do not yet receive social security benefits, which are unavailable until the age of 70.

15. The Special Rapporteur was particularly interested in the intention of the Ombudsman to carry out a national enquiry on cultural values and human rights, which reportedly would highlight the areas where cultural values and practices already reinforce and promote human rights and the areas where cultural practices need adjustments so as to comply with human rights. One important objective would be to clarify that human rights principles are organically present in the culture and context, to combat the misconception that they are foreign concepts and to explore the impact of the regular invocation of "Christian values" in general terms in human rights debates, often without clarification. She encouraged the Ombudsman to pursue this initiative, as described above and in accordance with cultural rights standards, and looks forward to learning more about the forthcoming results.

## **B. Constitutional and legislative framework**

16. The Constitution of Tuvalu of 1986 contains a number of fundamental rights and freedoms that are relevant to the respect, protection and implementation of cultural rights, including "freedom of belief", freedom of expression, freedom of the press and freedom of assembly and association, including the right to strike and form unions. It also states that those rights and freedoms should be exercised "in acceptance of Tuvaluan values and culture, and with respect for them" (art. 11.2.b).

17. Tuvaluan custom and tradition are enshrined in the preamble to the Constitution as one of the three pillars of the Constitution.<sup>5</sup> The importance of culture as a basis for happiness, welfare, social stability and law is also stressed in the principles of the Constitution. While this is a positive recognition of the importance of culture for the human dignity of Tuvaluans, the Special Rapporteur is concerned about section 29 of the Constitution, which stipulates that the exercise of human rights might be restricted if it is

<sup>4</sup> Te Kakeega III: national strategy for sustainable development, 2016–2020, p. 73.

<sup>5</sup> The other two are Christian principles and the rule of law. See Constitution of Tuvalu, Preamble, para. 5. See also Tuvalu, national culture policy: strategic plan, 2018–2024, p. 7; and Tuvalu, national human rights plan, 2016–2020, p. 1.

deemed “divisive, unsettling or offensive to the people” or to “threaten Tuvaluan values and culture”. She recalls the principle, enshrined in the Universal Declaration of Human Rights (art. 30), the Vienna Declaration and Programme of Action (para. 5) and the UNESCO Universal Declaration on Cultural Diversity (art. 4), and regularly stated in the work in pursuit of her mandate, that cultural diversity or values cannot be invoked to infringe upon human rights guaranteed by international law or to limit their scope and that States have a duty to protect all human rights, regardless of their historical and cultural backgrounds.

18. Cultural rights are part of the framework of universal human rights and go to the root of the human experience. They do not justify discrimination, violence or violations of other internationally guaranteed human rights. They must be understood in the light of their interdependence and indivisibility with all human rights. Although no direct mention of cultural rights is made in the Constitution, cultural rights and the rights to education, to freedom of information and expression and to leisure are mentioned in the national human rights action plan. Cultural rights can also be partly respected and protected through the full implementation of the relevant provisions of the Convention for the Safeguarding of the Intangible Cultural Heritage, which promotes access to and participation in cultural heritage.

19. Culture has also been given importance in the Te Kakeega III, which defines four precise objectives in the field: to develop a cultural policy; to establish a cultural development coordinating committee; to develop a strategic action plan and partnerships on cultural preservation and development; and to support cultural awareness-raising and the promotion of culture.<sup>6</sup> However, the Special Rapporteur was informed that the field of culture was the sector of the sustainable development strategy receiving the lowest level of investment. In 2018, Tuvalu adopted its first national culture policy and a strategic plan covering the period 2018–2024.<sup>7</sup> It is aimed at safeguarding heritage, assisting in the development of arts, creativity, innovation and entrepreneurship and mainstreaming culture for community well-being and sustainable development. At the time of the Special Rapporteur’s visit, the Tuvalu Cultural Council Act of 1991 was considered non-operational.

20. Of significance for the implementation of cultural rights is also the Falekaupule Act. Adopted in 1997, the Act sets out the organization of the work of local government for each island, which builds on local traditional chieftainship and ancestry. Implementation of the Act is under the responsibility of the Ministry of Home Affairs and Rural Development. Each *kaupule* has an annual budget and is in charge of the island development plans, including cultural development. In section 40 of the Act, the *falekaupule* (traditional island assembly) is given the following functions that are of particular relevance for cultural rights: “to build, equip and maintain social or sporting centres, public libraries and museums, communal feeding centres, restaurants, rest houses, or buildings designed and used for public or educational purposes” (para. 2 (i)); “to grant sums of [money] towards the establishment or maintenance of any public library or museum or to any association existing for the promotion of arts and crafts, or recreation and sport, or educational purposes generally” (para. 3 (e)); “to promote and regulate the development of an arts and crafts industry; to protect and preserve the traditional culture of the *falekaupule* area, and by by-laws to prohibit or control the removal from it of any antique artefact; and to establish and manage, and by by-laws to regulate, recreation grounds, open spaces and parks” (para. 12 (c)–(e)).

21. Concerning freedom of religion or belief, the preamble of the Constitution cites “Christian principles” as one of the guiding influences, but does not clarify what the principles are or how their understanding and interpretation have evolved over time. A separate act declares the Congregational Christian Church of Tuvalu as the State Church.<sup>8</sup> The Constitution further provides for the separation of religion and State, by providing for legal limitations on “freedom of belief” to ensure the protection of the rights of others, public order and traditional values and customs (section 23). However, in 2010, Tuvalu enacted the

<sup>6</sup> Te Kakeega III, goal 4.15, p. 25.

<sup>7</sup> The policy was prepared on the basis of an assessment report, entitled “Tuvalu cultural mapping, planning and policy report”, prepared by Alamai Sioni and Bikenibeu Paeniu for the Secretariat of the Pacific Community, 2012.

<sup>8</sup> See the State Church (Declaration) Act of 1993. Available from [www.pacii.org/tv/legis/consol\\_act\\_2008/sca227/](http://www.pacii.org/tv/legis/consol_act_2008/sca227/).

Religious Organizations Restrictions Act, which restricts freedom of religious association or assembly if the *falekaupule* deems that the beliefs and practices of the religious organization in question “directly threaten the values and culture of the island community or [are] divisive, unsettling or offensive to the people” (art. 4).

22. In Tuvalu, international treaties cannot be directly invoked in national courts. Accordingly, upon adherence to international instruments, the Government needs to take active steps to incorporate the principles of the international instruments into the Constitution or relevant national laws before they can be applied by national courts.

23. The mission of the Special Rapporteur was conducted in the middle of a review of the Constitution, which was planned to continue with the new Parliament. While respecting that the process was ongoing, in her end of mission statement, the Special Rapporteur expressed the hope that all human rights – civil, cultural, economic, political and social – would be fully integrated into the new constitution and that due consideration would be given to adding to the bill of rights a specific right to take part in cultural life without discrimination.

### C. Human rights in the development agenda

24. The sustainable development strategy of the country, the Te Kakeega III, is the main, integrative working agenda of the Government. It is aligned with the goals of the United Nations sustainable development agenda, which is grounded in human rights. The principle of the consultation and participation of all was applied in the development of the Te Kakeega III, and human rights are mentioned twice in the strategy, within the plan to achieve good governance.

25. The development agenda is aimed at working towards “a more protected, secure and prosperous Tuvalu; healthier people who are more engaged in national, regional and international forums; and a government fully committed to honouring Tuvalu’s international commitments and respecting its partnerships”.<sup>9</sup> The agenda is centred on the well-being of people and puts great emphasis on good governance. In the national human rights action plan, an extensive table presents the connection between the development priorities in the Te Kakeega III and all human rights.<sup>10</sup> However, responsibility for mainstreaming and ensuring a human rights approach in the implementation of the development agenda remains unclear.

26. Greater awareness-raising about human rights is needed across the government and the country, in particular human rights education promoting the understanding that universal human rights are relevant and necessary in Tuvalu and are compatible with many aspects of Tuvaluan culture. Cultural rights should be stressed, in particular in all such human rights education and awareness-raising initiatives, as they are critical for ensuring many other human rights, including civil, economic, political and social rights, as well as the right to development, and to achieving the Sustainable Development Goals. Moreover, this is in keeping with the importance given to culture in the Constitution.

27. A full review of the Te Kakeega III was planned for 2019 and 2020. The Special Rapporteur is looking forward to being informed about the updated agenda and hopes that universal human rights, including cultural rights, will be more prominently included and mainstreamed into the priorities.

## III. Realizing cultural rights in Tuvalu

28. The Special Rapporteur is pleased to note that culture is one of the three pillars of the State set out in the Constitution. Issues related to culture, values and identity receive much attention in official discourse and seem to be of great importance to many Tuvaluans. Considering this stated importance, much needs to be done in the areas of institutional

<sup>9</sup> Tuvalu, national human rights action plan, p. 2.

<sup>10</sup> Tuvalu, national human rights action plan, pp. 4–6.

development, financial investment and policymaking in order to guarantee the conditions for the respect, protection and realization of cultural rights for all without discrimination.

## A. System of cultural governance

29. In 2012, a cultural mapping exercise was conducted and the weakness of the cultural sector was identified. A number of actions that could be taken to address it were proposed. Seven years later, the Department of Culture was still a one-person department under the Ministry of Home Affairs and Rural Development, with a budgetary allocation that only covered that single salary. It does not allow for programming for the implementation of the three goals defined in the national culture policy: strategic plan, 2018–2024: (a) safeguarding heritage; (b) fostering creativity; and (c) mainstreaming culture for community well-being and sustainable development. Accordingly, many of the promotional, awareness-raising and participatory activities necessary to realize the strategic initiatives defined in the strategic plan cannot be conducted or could only be conducted at a minimal level.

30. The Special Rapporteur commends the efforts of the Director of the Department of Culture for trying to make culture a cross-cutting priority throughout the Government and the Te Kakeega III and particularly for engaging with youth and women. One example is the joint initiative with the Ministry of Education to include cultural studies and history in school curricula and to teach traditional craftsmanship in vocational schools. However, at the time of her visit, the initiative was facing difficulties related to the lack of competent trainers. Another example concerns the collaboration with the authorities in charge of the environment to protect historical sites on the Nukulaelae atoll. The Department of Culture has also developed strong collaboration with the UNESCO Office in Apia. She strongly encourages the Government to provide the Department of Culture with all the necessary resources, including human resources, needed for this important work to continue and expand. This is essential for meeting international obligations and fulfilling the relevant provisions of the Constitution.

31. To ensure the timely implementation of the national culture policy: strategic plan, the Government should consider establishing the Cultural Council, which was provided for in the Tuvalu Cultural Council Act of 1991, revised in 2008. The Act designates this body to be in charge of the coordination, implementation and monitoring of the national culture policy (section 3).

32. Due to the *falekaupule*, consultative decision-making processes have high standing in Tuvaluan society. The Special Rapporteur was pleased to learn that women have started to participate more actively in those bodies, due in part to the interaction with the Committee on the Elimination of Discrimination against Women. Such positive developments need to be fully supported and encouraged so that women's voices are fully integrated into political debates and into decision-making at all levels. As holders of this mandate have repeatedly stressed, women's participation in the interpretation, elaboration and development of cultural heritage, in the reformulation of cultural identities and in defining and implementing policies and decisions that have an impact on the exercise of cultural rights is essential.<sup>11</sup> Considering the important role played by local government in the field of culture at large, she was also pleased to hear that some *kaupule* leaders saw culture as a dynamic process, as this view was critical to enabling social change and providing the freedom necessary for the exercise of everyone's cultural rights. The Special Rapporteur encourages all members of the *kaupules* to foster more space for critical discourse and to find ways to increase the participation of youth, persons with disabilities and women in their deliberations.

## B. Cultural diversity, identity and language

33. During her visit, the Special Rapporteur heard many Tuvaluans speak about the strength and diversity of specific island identities, and she noted the pride with which Tuvaluans continued to refer to their native islands, even after residing in Funafuti or

<sup>11</sup> See, e.g., A/67/287; and A/71/317, paras. 11, 58 and 78 (q).



overseas for a number of years. This diversity should be further celebrated. For example, the diversity of songs, myths and stories from all the islands should be an integral part of school curricula and be featured in language and history teaching.

34. The Special Rapporteur was also informed about an ongoing project aiming to inventory and compile the diverse dialects of the Tuvaluan language, including its variations across the islands. The aim would be to strengthen its teaching and raise awareness of its richness. She hopes the project will be afforded the necessary resources to continue and would welcome receiving more information about it.

35. Education is closely related to the enjoyment of cultural rights by all without discrimination. Increasing the transmission of knowledge to younger generations and exposing them to a diversity of disciplines, points of view, material and experiences is vital to allowing them to achieve their potential. As stressed by the mandate holders in the field of cultural rights in previous reports, education should aim to instil a spirit of scientific inquiry, promote civic engagement and critical thinking and foster discussion about the representation of the past, but equally of contemporary challenges.<sup>12</sup>

## 1. Non discrimination

36. Celebrating diversity also implies providing the necessary conditions for it to be expressed, in public and in private, without any discrimination. The Special Rapporteur was informed that certain activities had been banned on Sundays for religious reasons, and she noted with concern information received concerning impediments to the enjoyment of freedom of religion or belief by members of religious minorities on the outer islands and the fact that they were sometimes perceived as being cultural outsiders and discouraged from holding meetings or proselytizing. While acknowledging that the Government is trying to promote religious tolerance in general, members of religious minorities report that the message is not being communicated effectively to the outer islands. The Special Rapporteur hopes that this will be addressed through further human rights education about the importance of non-discrimination in this regard.

37. Although Tuvalu is party to various international human rights instruments guaranteeing equal rights for women, persons with disabilities and children, the principle of equality between women and men and guarantees of non-discrimination on the grounds of gender, disability, age and birth are not explicitly stated in the Constitution. The Special Rapporteur refers the Government to the concluding observations of the United Nations treaty monitoring bodies<sup>13</sup> and strongly encourages it to take the necessary steps to amend the Constitution and laws to explicitly include such norms, consistent with its international obligations.

## 2. Women

38. Since the most recent review of the country's implementation of its international obligations by the Committee on the Elimination of Discrimination against Women, in 2015, important efforts have been made by the authorities to address discrimination against women, including through the adoption of the Family Protection and Domestic Violence Act of 2014 and the national gender policy and action plan. The Special Rapporteur was also informed that educational opportunities for girls had improved.

39. However, challenges remain that need to be addressed as a matter of priority, including in terms of the participation of women in decision-making at all levels, their political representation and traditional attitudes about their roles in society. Although some women pastors have been accepted by the Congregational Christian Church of Tuvalu, which is a very positive development, some people reportedly remain reluctant to have women lead congregations. More work still needs to be done to: (a) change discriminatory cultural attitudes towards women; (b) empower them to take a more vocal role in society; and (c) free

<sup>12</sup> For more about the importance of such educational aims, see in particular , A/68/296; A/HRC/20/26, para. 27; and A/HRC/25/49. See also [www.ohchr.org/EN/Issues/CulturalRights/Pages/HistoricalMemorialNarratives.aspx](http://www.ohchr.org/EN/Issues/CulturalRights/Pages/HistoricalMemorialNarratives.aspx).

<sup>13</sup> See CEDAW/C/TUV/CO/3-4 and CRC/C/TUV/CO/1.

them from pressure to conform to stereotypical roles. Until meaningful equality can be achieved, temporary special measures should be considered and recognized as a positive step for all Tuvaluans.

### **3. Lesbian, gay, bisexual and transgender persons**

40. The Special Rapporteur was pleased to hear that some lesbian, gay, bisexual and transgender persons were becoming more visible in Funafuti and starting to organize in informal groups. She was also informed, however, that prejudices remained and that there were instances of the public shaming and harassment of boys or men considered “effeminate” and of girls or women considered “tomboys”. She shared the concern of the Ombudsman about the lack of a specific legal framework to ensure their protection and the importance of raising awareness about the need for their full inclusion in society, including in cultural life.

41. During debates on the Bill of Rights, discussion of same-sex marriage resulted in controversy and was reportedly considered by some to be unacceptable in Tuvaluan culture. From a cultural rights perspective, it is important to ensure that questions about culture and inclusion be debated widely, with the understanding that culture is not static, but a dynamic process. Discussions about controversial issues should be shaped by the question of whether the cultural attitudes in question respect, protect and promote human dignity and human rights. Cultural rights are not the same as cultural relativism and are firmly grounded in the universal human rights framework. Those rights guarantee the equal rights of all to participate fully in cultural life.

## **C. Right to access and enjoy cultural heritage**

42. There is no specific law or policy relating to cultural heritage in Tuvalu.<sup>14</sup> The Constitution gives an important place to cultural heritage and other aspects of culture as a resource for Tuvaluans, affirming 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”.<sup>15</sup> The national culture policy: strategic plan identifies the safeguarding of heritage as one of its main goals.

43. Tuvaluans have a strong sense of their living traditions, and the Special Rapporteur was informed that each island had maintained some of its traditional skills and handicrafts. In recent years, the Department of Culture conducted a number of activities to meet its international obligations under the Convention for the Safeguarding of the Intangible Cultural Heritage and achieve the related goals of the strategic plan. This included the organization of a capacity-building workshop on the implementation of the Convention in 2017 and the engagement in a participatory intangible heritage inventory, which was ongoing at the time of the Special Rapporteur’s visit.

44. Awareness and knowledge of the skills, such as those of traditional healers and composers, handicrafts, such as traditional construction techniques, canoe building and weaving, songs and other forms of performance present on each island and intertwined with the everyday lives of Tuvaluans is crucial. Only this can ensure that they are appreciated, documented, preserved and transmitted. Hence, the Special Rapporteur hopes that sufficient human resources and adequate funding to include the resources and residents of the outer islands in the intangible heritage inventory have been secured, since they were unavailable at the time of her visit. She encourages the Department of Culture to continue this participatory and inclusive process, with a view to developing and adopting a comprehensive national list of heritage resources. It is also essential that adequate follow up to the completion of the inventory be envisaged and carried out, so as to ensure the preservation of this knowledge and access to it by all.

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<sup>14</sup> For more information about a human rights approach to cultural heritage, see A/71/317 and A/HRC/17/38.

<sup>15</sup> Constitution of Tuvalu, Preamble, Principles of the Constitution, para. 3.

45. Traditional songs and dances are reported to be regularly performed at prominent events and functions. During her visit, the Special Rapporteur witnessed the importance of choral music in spiritual practice during a church service in Funafuti. She was also told about the importance of oral tradition. They are signs of a strong and living culture. The Special Rapporteur was pleased to hear that the Department of Culture had created, together with the Department of Tourism, a festival to celebrate Tuvaluan intangible heritage and foster its transmission. However, she also took note of the need for legislative and other measures to ensure the effective preservation, transmission and development of intangible heritage. In particular, the craft sector would benefit greatly from economic measures, such as regulation of the prices of handicrafts and trade facilitation with other island States in the region.

46. To strengthen this work and in line with a holistic cultural rights approach to heritage, the Special Rapporteur encourages Tuvalu to ratify without delay the UNESCO Convention for the Protection of the World Cultural and Natural Heritage, as was officially planned at the time of her visit. This instrument would provide a stronger framework for the work on heritage of the Department of Culture, including related to protection and promotion of meaningful buildings, sites, collections of artefacts and the Tuvalu National Library and Archives.

47. The Special Rapporteur had the opportunity to meet with the Chief Librarian and Archivist of the National Library and Archives. The country's only library is housed about 20 metres from the shore and is threatened by sea level rise. It contains more than 200 boxes of original archival documents, such as the letter officially recognizing the country's independence and the history of the island States of the region, as well as meteorological and tide records that are critical tools for global climate change-related research. She commends the Chief Librarian and Archivist for his determination to save this collection and the efforts invested to digitize parts of the collection for broader access and preservation, with international collaboration from peer libraries in Fiji and the United Kingdom of Great Britain and Northern Ireland. However, as stressed by the Chief Librarian, much more needs to be done to improve access to this documentary heritage, including for students and researchers, to protect the highly fragile material and to make the resources known to a wider public. This would include raising the current budget, but most importantly, moving the Tuvalu National Library and Archives to a new building farther from the shore and better adapted for the sustainable preservation of this unique collection. Its loss would impact Tuvaluans the most, but it would also harm many more in the region and beyond. The Special Rapporteur hopes that such tasks will be undertaken without delay.

48. Tuvalu does not have a national museum to gather, preserve and showcase significant artefacts and traces of the country's history and heritage, nor does it have a single gallery space to showcase the work of artists and craftsmasters. Although there can be many ways of organizing such objects besides a single museum or space, from a cultural rights perspective, the emphasis should be on making heritage resources and creative productions accessible for all Tuvaluans to see, enjoy and learn from them. A national cultural centre could facilitate coordination and the sharing of responsibilities between the various authorities in the field of culture and could contribute to giving more tangible importance to culture, as well as to creating more spaces for the enjoyment of cultural life, including for youth. Such a site could bring together the offices of the Department of Culture and the Tuvalu National Library and Archives and include spaces for a museum and for performing arts, workshops and exhibitions. Considering the scarcity of existing infrastructure facilitating participation in cultural life, this project should be a priority. It would vastly improve the conditions necessary for the exercise of cultural rights by all.

#### **D. Public spaces for the exercise of cultural rights**

49. As stated in the Special Rapporteur's thematic report issued in 2019, public spaces are essential for the enjoyment and exercise of human rights in general and are particularly relevant for cultural rights. Public spaces include not only urban, but also rural and natural spaces and real as well as virtual or digital spaces. They should be accessible to all without discrimination and provide spaces where people can share in the project of building a common society based on human rights, equality and dignity, where they can find ways to

develop *vivre ensemble*, to build what they have in common and to share their common humanity, while still nurturing and expressing their own identities. Authorities have obligations to guarantee human rights, including cultural rights, in public spaces, as well as the collective and participatory character of spaces, and should promote the creation and regeneration of public spaces in conditions of quality, equality, inclusiveness, accessibility and universal design.<sup>16</sup>

50. During her visit, the expert was also told about the use of public spaces for a range of sporting activities, including play by organized sports teams. She was greatly impressed by the regular, active use of the airfield in the morning and evening and on weekends as a shared space for leisure, sports and games by women and men, both young and old. This space is of particular relevance during the half-day per week for physical fitness that has been introduced in the schedule of civil servants. Combined with awareness-raising messages on the importance of exercise and a good diet, this practice fosters the rights to the highest attainable standard of health, to take part in cultural life and to leisure, to be jointly realized and to mutually reinforce each other. It also provides a time and space for spontaneous interactions between generations and across professional and social backgrounds.

51. However, public spaces for other forms of cultural activities seem to be very limited. Tuvalu does not have any formal theatres, galleries or stages for artistic performances, nor does it have bookshops or a publishing house. As songs and dances are very integrated within public life, performances are usually held in the *kaupules*' assembly space, but challenges remain for regular training and practice. There is only one library, and it is located in the capital. Reportedly, the space used as a cultural centre, which also hosted handicraft workshops, has been taken over for other functions and no alternative space has been provided. The lack of organized, available space for the exercise of such forms of cultural expression may hinder their regular practice and transmission, limits the visibility and awareness of those forms of expression and certainly makes access to such activities more difficult.

52. Having heard from numerous interlocutors about the importance for Tuvaluans of their cultural identities and of their sense of pride in local and ancestral cultural expressions, the Special Rapporteur encourages the Government to dedicate more attention to the availability of safe and appropriate spaces for their expression. This should include the availability of suitable physical infrastructure. All efforts in this direction could contribute to improving the conditions for everyone to freely take part in the cultural life of their choice.

53. She also invites the Government to consider becoming a party to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. The Convention not only provides a strong framework to support the diversity of cultural expressions internally, but it is also an important instrument for promoting and protecting such diversity internationally and fostering understanding and mutual acknowledgement between States parties. Accordingly, becoming a party to the Convention could provide important opportunities and networks for Tuvaluans to share their unique cultures with the rest of the world.

54. In terms of access to virtual spaces for the exercise of cultural rights, the Special Rapporteur noted that Internet access was largely limited to the capital, was of poor quality and was quite expensive. Increasing Tuvaluans' access to virtual spaces would afford important new opportunities for exercising cultural rights and for developing global and local connections. In addition, social media could be an important channel for public and civil society actors to increase the reach of awareness-raising campaigns about human rights, including cultural rights.

55. While she understands that there may be important connectivity challenges and high costs linked to the development of broader and more reliable Internet access across the country, the Special Rapporteur encourages the Government to continue its efforts to do so. In this regard, she also recalls that virtual spaces, like any other public spaces, should be governed by human rights principles, subject to the same regime of limitations recognized in international human rights law for distinctive rights and be accessible to all without

<sup>16</sup> A/74/255.

discrimination. Public powers, to fulfil their human rights obligations, may need to take measures to ensure access to and participation in cyberspace for all. The Special Rapporteur was pleased to hear reports of initiatives taken to improve Internet access since her visit and hopes that they will continue.

## **E. Climate change, the environment and cultural rights**

56. One of the objectives of the Special Rapporteur's mission was to investigate the impact that climate change has and may have on culture and cultural rights in Tuvalu. Considering the particular context of the country, climate change was the first strategic area in the Te Kakeega III and is a cross-cutting responsibility of all public authorities. In 2020, the nexus of climate change and culture around the world was the topic of the Special Rapporteur's report to the General Assembly. She thanks the governmental and non-governmental experts and advocates in Tuvalu for sharing information and perspectives with her during the mission, and in the preparation of the thematic report, from which her work greatly benefitted.<sup>17</sup>

57. As former High Commissioner for Human Rights Navi Pillay has said: "Climate change is one of the most serious challenges [humanity] has ever faced."<sup>18</sup> In addition to its other damaging effects, the impact of climate change on cultural rights and cultural heritage is an urgent human rights question and must be understood and responded to as such. All relevant actors, at the international and national levels, must act with determination to respond to this threat with a human rights approach that empowers individuals and groups "as active agents of change and not as passive victims".<sup>19</sup>

58. In her thematic report on climate change, the Special Rapporteur noted that the conditions allowing all people to access, participate in and contribute to cultural life without discrimination and through a process of continuous development are greatly jeopardized by the climate emergency. The universality of human rights, including cultural rights, has no meaning today without a liveable environment in which they can be enjoyed.<sup>20</sup> Climate change is having and will continue to have a grave impact on the cultures and cultural heritages of all humankind and hence on the related human rights of billions of people. While most human rights are affected by climate change, cultural rights are severely affected, in that they risk being simply wiped out in many cases. This reality has not been adequately acknowledged in current climate change initiatives. It must be recognized as a matter of international legal obligation and addressed as a priority.<sup>21</sup>

59. The Special Rapporteur commends Tuvalu for its strong international position for effective action on climate change and hopes that its outspoken advocacy will continue, in particular by supporting a human rights approach that includes cultural rights at the national and international levels. The voices of Tuvaluans and of inhabitants of other small island developing States must be heard more widely at the international level. She understands the strong desire of the Government and of many Tuvaluans to remain in their homeland.

60. The climate emergency poses existential threats, both physical and cultural, to island nations like Tuvalu. During her visit, the expert was taken to a location in Funafuti where waves are, for the first time, reported to be rising onto the narrow land at high tide. She will never forget the words of a woman who told her on that spot: "Tuvalu is drowning. Its shorelines are receding. The world needs to help Tuvalu." In many ways, finding solutions to help Tuvalu to face this challenge also helps the whole world to do so.

61. Through collaborative projects with United Nations agencies and regional organizations and with the advocacy and awareness-raising work of civil society organizations, the country has invested in adaptation measures, changing for example the

<sup>17</sup> See A/75/298; and the annex containing the legal framework and examples. Available from [www.ohchr.org/EN/Issues/CulturalRights/Pages/AnnualReports.aspx](http://www.ohchr.org/EN/Issues/CulturalRights/Pages/AnnualReports.aspx).

<sup>18</sup> See [www.ohchr.org/EN/NewsEvents/Pages/OHCHRanalyticalstudyClimateChange.aspx](http://www.ohchr.org/EN/NewsEvents/Pages/OHCHRanalyticalstudyClimateChange.aspx).

<sup>19</sup> A/HRC/10/61, para. 90.

<sup>20</sup> A/73/227, para. 38.

<sup>21</sup> A/75/298, para. 2.

fishing methods to more sustainable ones that better respect life cycles and changing coastal areas.

62. Both effective and rights-respecting mitigation measures, and creative adaptation, at the national and international levels, are essential. However, as an official noted to the Special Rapporteur: “We can adapt, but sea level will rise. There will be a time when we cannot adapt anymore.”

63. The very cultural survival of entire peoples, including the people of Tuvalu, may be at stake as never before, undermining all human rights, including cultural rights. Over the past couple of years, agreements have been made with neighbouring nations to allow for the migration of Tuvaluans (see para. 8 above). It was the position of the previous Government, however, that migration should be the very last option. As one Tuvaluan official asked the Special Rapporteur: “If we are not here anymore, what will happen to our culture?”

64. Indeed, many questions relating to the effective possibilities for Tuvaluans to maintain and transmit languages, customs and ways of life, which are highly intertwined with their territory, in a new place remain unanswered. Efforts conducted to standardize the language and record songs and dances, for example, are also a part of the strategy to better conserve them. However, women’s organizations have highlighted that, if they are not in their country, there is the risk that they would not know how to teach their children to be proud of who they are and that, in a new environment, much of their knowledge and skills that ensure their self-sufficiency in Tuvalu, such as local gardening and food preparation, would become useless.

65. Other aspects that remain highly unclear concern the legal status and rights of a whole population forced to migrate due to climate change, including in terms of sovereignty. Tuvaluans who have migrated, including due to climate impacts, have not done so at the same time and are not settling in the same place, nor even in the same single country. This may limit their possibilities to be recognized as a distinct people in the new territory, to avoid involuntary cultural assimilation and to develop and maintain opportunities for the transmission of their cultural heritage.<sup>22</sup> The Special Rapporteur is sympathetic to the position expressed to her at the Ministry of Foreign Affairs that the future of the sovereignty of Tuvalu and other similarly affected small island States must be given serious and thoughtful consideration. As expressed in the annex to her thematic report on climate change and cultural rights, should States’ territories be, for example, inundated due to sea level rise and become inaccessible or submerged, the Special Rapporteur is of the view that their sovereignty, and its related benefits, such as fishing rights and rights concerning underwater cultural heritage, should be recognized as continuing.<sup>23</sup> All such questions will have significant impacts on the enjoyment of cultural rights and many other human rights by Tuvaluans and should be given careful consideration internationally.

66. In addition to the Government’s investments in identifying, recording and preserving Tuvaluan specificities, knowledge and cultural expressions to protect and promote cultural rights, attention must also be given to the development of intercultural skills. In view of the imminent threat to their territory, should Tuvaluans have to leave their country, they will face the challenge of maintaining their identity while becoming citizens of the world, adapting and transforming their ways of life while becoming ambassadors of their country’s heritage. Education and information about respect for universal human rights and for cultural diversities can contribute to this process, as can fostering encounters and creative exchanges with persons from a diversity of origins and backgrounds.

67. According to the outcome of regional UNESCO workshops, some Tuvaluans do not wish to stay on their islands until they are flooded, but because this is a small, close-knit population, they cannot easily express the desire to leave. Support should be available for both those who choose to stay and those who wish to depart, in facing the particular challenges ahead of them, so as to help them to continue to enjoy their cultural rights and other human rights and preserve their identities. Widespread participation in decisions about

<sup>22</sup> For more examples of this, see A/75/298; and the annex containing the legal framework and examples.

<sup>23</sup> **Erreur ! Référence de lien hypertexte non valide.**

what aspects of culture and cultural heritage to prioritize the preservation of, and about how to memorialize, any heritage losses is essential.<sup>24</sup>

68. International support for the cultural survival of Tuvalu and the human rights, including cultural rights, of Tuvaluans requires the full implementation of State obligations under the Paris Agreement by all States parties. While it is the sovereign decision of every State to become or remain a party to a treaty, subject to the rules of treaty law, when a State remains outside or withdraws from essential environmental accords such as the Paris Agreement, or fails to implement them, given the ongoing documented human rights impact of climate change, it is acting knowingly in a manner that harms the human rights and cultures of all and is failing to respect its obligation to cooperate internationally. This should be understood as irreconcilable with the principles of the Charter of the United Nations, including Articles 55 and 56.<sup>25</sup> A failure to fulfil international climate change commitments is a violation of the State's obligations to protect human rights, including cultural rights.<sup>26</sup>

69. Human rights obligations related to climate change should be understood at both the national and transnational levels.<sup>27</sup> In many Human Rights Council resolutions, it has repeatedly noted that the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response.<sup>28</sup>

## IV. Conclusions and recommendations

### A. Conclusions

70. **The Special Rapporteur calls upon the authorities to uphold their commitment to implement the human rights obligations of Tuvalu, including its cultural rights obligations, for all Tuvaluans without discrimination and to increase its collaboration with human rights mechanisms. She hopes that the Government will give serious consideration to the full implementation of her recommendations and to following up on the recommendations and reports of United Nations experts and mechanisms. A review of past reports indicates that implementation of some important recommendations remains outstanding.**

71. **In the Special Rapporteur's report on universality and cultural diversity, issued in 2018, she noted that each society was encouraged to highlight the expressions of universal human rights embodied in its languages and traditions, to identify in its own diverse cultural resources, in sayings, tales and philosophical wisdom, the values at the root of human rights and of human dignity. Connecting universal values with lived realities and aspirations and being able to quote an article of the Universal Declaration of Human Rights, together with a traditional saying that conveys the same message, reinforced the ownership of those values.<sup>29</sup> As underscored in the *UNESCO World Report* in 2009, it is vital to ground the universality of human rights in the realities of our societies by drawing attention to their appropriation by all individuals who can identify the rights with a sense of ownership, regardless of language, tradition and location.<sup>30</sup> The Special Rapporteur suggests that more work needs to be done in Tuvalu with regard to recognizing and promoting the compatibility of, interconnections between and interdependence of local culture and universal human rights. She also**

<sup>24</sup> A/75/298, paras. 38–40.

<sup>25</sup> Bruno Simma et al, eds., *The Charter of the United Nations: A Commentary*, 2012, p. 1, 609.

<sup>26</sup> , para. 74.

<sup>27</sup> See, e.g., the assertion by the Committee on the Elimination of Discrimination against Women that States have obligations both within and outside their territories to ensure the full implementation of the Convention, including in the areas of disaster risk reduction and climate change mitigation and adaptation (CEDAW/C/GC/37, para. 43). See also A/HRC/44/28.

<sup>28</sup> See, e.g., Human Rights Council resolutions 41/21 and 44/7.

<sup>29</sup> A/73/227, para. 45.

<sup>30</sup> UNESCO, *UNESCO World Report: Investing in Cultural Diversity and Intercultural Dialogue* (Paris, 2009), p. 225.

hopes that, in response to concerns she heard expressed, efforts will be made to recognize the legitimacy of dissenting voices, as it is reportedly culturally difficult to express dissenting views, including related to culture and cultural rights.

72. The expert stresses the great – and truly existential – human rights challenges Tuvalu faces due to the climate emergency and calls upon the international community to act effectively to assist the country in facing them. She also stands ready to assist in those tasks, including in her thematic work on climate change

## **B. Recommendations**

73. To strengthen the legislative and judicial framework for implementing human rights, the Government should:

(a) Ratify the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and the respective optional protocols thereto allowing for communications procedures;

(b) Ratify the optional protocols to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities, allowing the respective treaty monitoring bodies to consider communications regarding violations of those conventions;

(c) Conduct a holistic review of its laws and legislation, including the Constitution, the Penal Code of 1978, the Native Lands Act of 1956, the Marriage Act of 1968 (as revised), the Tuvalu Lands Code of 1962, the Falekaupule Act of 1997 and the Employment Act of 1966, in order to ensure that they are fully compatible with the principle of equality and non-discrimination enshrined in international human rights law;

(d) Adopt a clear time frame and targets in relation to the law reform process and amend or repeal all discriminatory legislation;

(e) Increase the funding of the national human rights institution so it can hire human rights officers, conduct awareness-raising campaigns, deliver trainings and provide information about human rights to all inhabitants;

(f) Consider the introduction of a freedom of information law in accordance with international standards and decriminalize defamation;

(g) Take measures to foster and nurture the acceptance of dissent and the right of everyone to raise human rights concerns publicly and to ensure the protection of those who criticize human rights failings and their families.

74. To ensure the equality of all Tuvaluans, the Government should:

(a) Include prohibitions against discrimination based on gender, sexual orientation, disability, age and birth in the Constitution, on par with discrimination on the grounds of race or religion;

(b) Adequately integrate principles of non-discrimination and equality of women and men into education policies, the national core curriculum and related documents, as well as into basic and continuing education for teachers and health-care professionals and other service providers;

(c) Amend or repeal all discriminatory provisions in the Native Lands Act and the Tuvalu Lands Code to ensure that women have equal rights to land ownership and land inheritance and to eliminate discriminatory customs and traditional practices that affect the full enjoyment by women of land and inheritance rights, including by ensuring that local customary leaders and magistrates in the Lands Court are trained to uphold women's land rights.



75. To strengthen the cultural sector in realizing cultural rights, the Government should:

(a) Provide the Department of Culture with all the necessary resources, including human resources, needed for the implementation of the national cultural policy strategic plan;

(b) Establish the culture development coordinating committee, as envisaged in the Te Kakeega III and further defined in the national culture policy;

(c) Implement the Cultural Council Act, adopted in 1991 and revised in 2008, and consider its coordination with the Cultural Heritage Committee endorsed by parliament in 2019;

(d) Ratify the UNESCO Convention for the Protection of the World Cultural and Natural Heritage and the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions;

(e) Dedicate more attention to the availability of safe and appropriate public spaces for artistic and cultural expression, including, where needed, suitable physical infrastructure;

(f) Secure funding and go forward with the integrated cultural building, to include the offices of the Department of Culture, the Tuvalu National Library and Archives and multipurpose cultural spaces, without delay and as a matter of urgent priority.

76. To improve knowledge of and interest in the cultural resources of each island in Tuvalu, the Government should:

(a) Integrate a diversity of the country's cultural heritage, such as different songs, myths and stories from all the islands, and history teachings recognizing the diversities in the national education curriculum, in cooperation with the Ministry of Education and educational stakeholders;

(b) Continue to support the compiling of the diverse dialects of the Tuvaluan language, including its variations across the islands, and give priority to reviving and strengthening its teaching;

(c) Support the development of repositories of cultural heritage-related materials, such as museums and cultural centres;

(d) Employ the existing infrastructure of each island as spaces for the enactment, practice and transmission of cultural heritage, as well as for the display of local arts, crafts and creative works;

(e) Support initiatives and opportunities, both regional and international, for Tuvaluans from all islands to participate in cultural exchanges and cooperation.

77. To improve the realization of cultural rights in facing the environmental crisis caused by the climate emergency, the Government should:

(a) Periodically assess the human rights impact of climate change and natural disasters, including on the enjoyment of cultural rights, and including on a variety of social groups, such as youth, women, persons with disabilities, persons living in poverty and minorities;

(b) Support diverse sectors of the population, including those facing discrimination and marginalization, in becoming more resilient in the face of the climate emergency and natural disasters, taking into consideration their knowledge and expressed needs;

(c) Integrate human rights, including cultural rights, in a more explicit manner into the new national strategy for sustainable development (Te Kakeega IV) and ensure that it includes a gender and non-discrimination perspective;

(d) Ensure that all relevant stakeholders are consulted when designing plans and programmes to address the impacts of climate change and ensure that all such efforts respect human rights, including cultural rights;

(e) Systematically involve the population in disaster risk management and response, including the empowerment of women and youth in this endeavour;

(f) In designing and implementing measures related to the question of the climate change-related migration of Tuvaluans, consider the balance to be struck between reinforcing Tuvaluan identities, values and ways of life and preparing Tuvaluans to be world citizens, open to and welcoming of cultural diversity;

(g) Develop initiatives aimed at digitizing and preserving traces of cultural practices, sites and objects that may be lost due to the climate emergency; in doing so, ensure consultative processes and the use of participatory approaches to the identification and prioritization of heritage resources.

78. To address the rising existential threat of climate change faced by Tuvaluans, States across the world and the international community should:

(a) Systematically and urgently address climate change and its impacts on culture and cultural rights;

(b) Urgently consider possible ways of ensuring the continued sovereignty of Tuvalu and the recognition of Tuvaluans as a people if the territory is inundated;

(c) Fully implement their obligations under the Paris Agreement and remain or become parties to that agreement;

(d) Fully implement the relevant recommendations of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and of the Special Rapporteur in the field of cultural rights in her report to the General Assembly, issued in 2020 (A/75/298).

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