

Tuvalu

During the reporting period, the Government of Tuvalu passed the Tuvalu Counter Terrorism and Transnational Organized Crime Act during the reporting period to increase protection for trafficking victims. However, significant gaps exist in the legislative framework, in particular insufficient restrictions on hazardous work for children. Children in Tuvalu likely work in fishing and agriculture.

Statistics on Working Children and School Attendance

Children	Age	Percent
Working	5-14 yrs.	Unavailable
Attending School	5-14 yrs.	Unavailable
Combining Work and School	7-14 yrs	Unavailable

Prevalence and Sectoral Distribution of the Worst Forms of Child Labor

There is little available information about the extent and nature of the worst forms of child labor in Tuvalu.⁵⁸⁷⁸ However, there are anecdotal reports that children work in farming and fishing.⁵⁸⁷⁹ Children engaged in agriculture may be exposed to chemicals or injured by dangerous machinery or tools and may suffer physical harm from repetitive motions and carrying excessively heavy loads. Children involved in fishing are at risk of injuries and drowning.

Members of the international community have raised concerns that children in Tuvalu may be exploited in commercial sexual activities, prostitution in particular, although the Government denies that this is a significant problem.⁵⁸⁸⁰ The economic transition underway, moving Tuvalu from a subsistence-based to a monetized economy, may lead some children to engage in commercial sexual activities in order to gain access to currency, as has occurred in other nations in the Pacific region.⁵⁸⁸¹

Anecdotal evidence suggests that children are also engaged in street work, sometimes selling

flower garlands in dangerous condition. Although the extent of the problem is unknown, there are reports that these children work on the streets, at night in dangerous neighborhoods and unsupervised.⁵⁸⁸²

Tuvaluan children who live on outer islands, who are often members of large families, who are disabled, or who do not have access to land and are some of the most disadvantaged members of society. Their low socioeconomic status may elevate their vulnerability to the worst forms of child labor.⁵⁸⁸³

Laws and Regulations on the Worst Forms of Child Labor

The Employment Ordinance sets the minimum age for paid employment at 14 and prohibits children younger than age 15 from performing hazardous labor.⁵⁸⁸⁴ The Employment Ordinance allows employers to hire a child to work in agricultural production, aboard a ship or during the night starting at age 16 with certain restrictions.⁵⁸⁸⁵ There are no protections for other types of work for children age 16 to 17. Other sections of the law define the terms of apprenticeships for workers younger than

age 18 and place restrictions on recruiting children to work.⁵⁸⁸⁶

	C138, Minimum Age	No
	C182, Worst Forms of Child Labor	No
	CRC	✓
	CRC Optional Protocol on Armed Conflict	No
	CRC Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography	No
	Palermo Protocol on Trafficking in Persons	No
	Minimum Age for Work	14
	Minimum Age for Hazardous Work	15
	Compulsory Education Age	15
	Free Public Education	Yes

Children in Tuvalu are not legally prevented from working in unhealthy environments or engaging in hazardous activities. There are no legal protections covering exposure to dangerous substances, temperatures, noise levels or the operation of dangerous machinery, equipment and tools. The law allows a child as young as age 14 to enter into a 5-year apprenticeship without providing for adequate legal protections. There are no restrictions on the type of work that a child apprentice may perform, and these trainees may lawfully live away from their families, increasing the child’s vulnerability to exploitation.⁵⁸⁸⁷

The Employment Ordinance also empowers the Labor Minister to exclude any industry from child labor laws by notice, although there is no information as to whether the country’s Labor Minister has exercised this authority.⁵⁸⁸⁸

The Penal Code prohibits employers and others from enslaving a child, forcing a child to work or

otherwise constraining a child’s movement.⁵⁸⁸⁹ The Penal Code establishes punishments for child prostitution and for trafficking minors for sexual purposes. Clients, facilitators and beneficiaries of the trade, as well as the young person’s consenting guardian(s) are all penalized.⁵⁸⁹⁰ The Government has protective statutes in place for female victims of prostitution, but there are no legal protections for boys older than age 15.⁵⁸⁹¹

The Tuvalu Counter Terrorism and Transnational Organized Crime Act of 2009, passed in 2010, provides additional protection for trafficking victims, particularly children.⁵⁸⁹² It expressly forbids the trafficking of children into and within Tuvalu for any purpose. It also provides legal protections from criminal prosecution to trafficking victims.⁵⁸⁹³

Tuvaluan sentences for all sexual and trafficking offenses designate maximum but not minimum sentences, which could lead to light sentences that are not commensurate with the gravity of the crime.⁵⁸⁹⁴

Institutional Mechanisms for Coordination and Enforcement

Research found no evidence that the Government of Tuvalu has established a coordinating mechanism to combat the worst forms of child labor.

The enforcement of child labor laws primarily rests with the Department of Labor, which is part of the Ministry of Foreign Affairs and External Trade, Environment and Labor (MFEL).⁵⁸⁹⁵ ILO reporting indicates that the Department of Labor, like many other parts of the Tuvalu administration, has limited institutional capacity, preventing it from carrying out its duties in an efficient and transparent manner.⁵⁸⁹⁶ There has never been a prosecution for child labor in Tuvalu.⁵⁸⁹⁷

An additional challenge faced by the Department of Labor is a lack of information and data

concerning all forms of child labor. This hinders its ability to target and measure enforcement efforts.⁵⁸⁹⁸

Assisted by immigration officers, the Tuvalu Police Force is the primary agency responsible for enforcing efforts to combat child trafficking and commercial sexual exploitation of children.⁵⁸⁹⁹ When the court has reasonable cause to suspect that a female child is being subjected to commercial sexual exploitation, it may issue the Tuvalu Police Force a warrant to search the premises and arrest the accused individual(s). The law does not protect boys in similar circumstances.⁵⁹⁰⁰ When a case of commercial sexual exploitation of a minor goes to trial, the court may appoint a guardian for the girl victim, but males lack this protection.⁵⁹⁰¹

Government Policies on the Worst Forms of Child Labor

Through Education for Life, the national education policy in place since 1988, the Government has achieved virtually universal primary education.⁵⁹⁰² School is compulsory and free for 8 years, approximately age 15.⁵⁹⁰³ During the reporting period the Tuvalu Department of Education (DOE) concentrated efforts on increasing access to education for children from vulnerable populations. DOE policy specifically targeted students who are at the greatest risk of being subjected to the worst forms of child labor, including children from low socioeconomic backgrounds, urban areas and isolated

communities, as well as girls, children with disabilities and school dropouts.⁵⁹⁰⁴ The question of whether this policy has an impact on child labor does not appear to have been addressed.

In 2010, the Tuvaluan Government worked with ILO on a 2-year Decent Work Country Program (DWCP).⁵⁹⁰⁵ Among its many goals, the DWCP aims to strengthen the country's labor laws, support the ratification of ILO Convention 182 and improve labor market monitoring systems.⁵⁹⁰⁶ The Government of Tuvalu has also requested assistance from the ILO to align its labor laws with current international labor standards, including the UN convention on the Rights of the Child.⁵⁹⁰⁷

The Government does not collect data on the worst forms of child labor. However, through its 2009 national budget, the Government requested that the National Statistics Office provide up-to-date information on the country's labor force, and the United Nations Populations Fund is lending financial assistance to launch Tuvalu's first labor force survey.⁵⁹⁰⁸ Research found no progress on this plan during the reporting period, and it is unclear whether a child labor module will be included in the survey.

Social Programs to Eliminate or Prevent the Worst Forms of Child Labor

Research found no evidence of any programs to address child labor.

Based on the reporting above, the following actions would advance the reduction of the worst forms of child labor in Tuvalu:

IN THE AREA OF LAWS AND REGULATIONS:

- Expand the type of labor and worksites considered hazardous for children and raise the minimum age for hazardous work to 18.
- Eliminate the discretion to exclude industries from child labor laws.
- Eliminate gender discrimination in laws relating to the prosecution of commercial sexual exploitation perpetrators and protections for child victims.
- Provide more structure and protection for underage apprentices with regard to types of work and worksites.
- Ensure punishments for all child labor law violations are commensurate with the gravity of the crimes.

IN THE AREA OF COORDINATION AND ENFORCEMENT:

- Establish a coordinating mechanism to combat the worst forms of child labor.
- Institute measures to increase the transparency and efficiency of Tuvalu government agencies in combating the worst forms of child labor.
- Compile national statistics on all child labor enforcement, including cases reported, investigated, prosecuted and closed.

IN THE AREA OF POLICIES:

- Assess the impact that existing policies may have on child labor in Tuvalu.
- Progress with the labor force survey and consider including a child labor module.
- Conduct a study to better identify the extent and nature of the worst forms of labor in Tuvalu in order to design appropriate policies and programs

IN THE AREA OF PROGRAMS:

- Implement programs to address child labor

⁵⁸⁷⁸ Data provided in the chart at the beginning of this country report are not available from the data sources that are used in this report. Reliable data on the worst forms of child labor are especially difficult to collect given the often hidden or illegal nature of the worst forms. For more information on sources used for these statistics, the definition of working children, and other indicators used in this report, please see the “Children’s Work and Education Statistics: Sources and Definitions” section.

⁵⁸⁷⁹ Economic Planning and Industries Tuvalu Ministry of Finance, *Household Income and Expenditure Survey (HIES) 2004/2005*, September 2006, pg 53-55; available from http://www.ilo.org/dyn/lfsurvey/lfsurvey.list?p_lang=en&p_country=TV. See also ILO and Government of Tuvalu, *Decent Work Country Programme: Tuvalu*, December 2009, pg 5-6; available from http://www.ilo.org/asia/whatwedo/publications/lang--en/docName--WCMS_120556/index.

htm. See also Office of the High Commissioner for Human Rights, *Compilation Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1*, United Nations, October 6, 2008, pg 4; available from <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/163/27/PDF/G0816327.pdf?OpenElement>.

⁵⁸⁸⁰ Committee on the Elimination of Discrimination against Women, *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Tuvalu*, United Nations, August 7, 2009, pg 8; available from http://ap.ohchr.org/documents/dpage_e.aspx?c=191&su=189. See also UN Committee on the Elimination of Discrimination against Women, “Consideration of Reports Submitted by States Parties Under Article 18 of the Convention (continued) - Combined Initial and Second Periodic Reports of Tuvalu (continued)” (paper presented at the 898th Meeting, New York, July 29, 2009), pg 4; available from <http://www2.ohchr.org/english/bodies/cedaw/docs/SR/>

CEDAW-C-SR-898.pdf.

⁵⁸⁸¹ Government of Tuvalu and the UN Development Programme, *Tuvalu Millennium Development Goals Report 2006*, Funafuti, Tuvalu, 2006, pg. 4, 6, 12, 19, 34; available from http://planipolis.iiep.unesco.org/format_liste1_en.php?Chp2=Tuvalu.

⁵⁸⁸² U.S. Embassy- Suva, *reporting*, February 8, 2011.

⁵⁸⁸³ The Government of Tuvalu and the UN Development Programme Fiji Multi-Country Office, *Country Programme Action Plan (CPAP) 2008-2012 between The Government of Tuvalu and the United Nations Development Programme Fiji Multi-Country Office*, 2007, pg 2; available from http://www.undp.org/asia/country_programme/CPAP/KIRIBATI_CPAP_2008-2012.pdf.

⁵⁸⁸⁴ The Government of Tuvalu, *Employment Ordinance*, (April 22, 1966), articles 84-85; available from http://www.pacii.org/tv/legis/consol_act/eo202/. See also U.S. Embassy-Suva, *reporting*, February 8, 2011.

⁵⁸⁸⁵ The Government of Tuvalu, *Employment Ordinance*, articles 77, 79, 83-87. See also U.S. Embassy- Suva, *reporting*, February 8, 2011.

⁵⁸⁸⁶ The Government of Tuvalu, *Employment Ordinance*, articles 43-44, 60, 91-101.

⁵⁸⁸⁷ *Ibid.*, articles 85, 91-98.

⁵⁸⁸⁸ *Ibid.*, article 83.

⁵⁸⁸⁹ The Government of Tuvalu, *The Constitution of Tuvalu*, (October 1, 1986), articles 74-75, 84-85; available from <http://tuvalu-legislation.tv/cms/index.php/legislation/current/all-by-category.html>. See also The Government of Tuvalu, *Penal Code (Revised 2008)*, (October 18, 1965), articles 132, 136, 140, 143, 145-146, 241-249; available from http://www.tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/1965/1965-0007/PenalCode_1.pdf.

⁵⁸⁹⁰ The Government of Tuvalu, *Penal Code (Revised 2008)*, article 131-149, 160.

⁵⁸⁹¹ *Ibid.*, articles 140-149.

⁵⁸⁹² The Government of Tuvalu, *Counter Terrorism And Transnational Organised Crime Act*, (November 30, 2009), articles 68, 72; available from [hard copy on file].

⁵⁸⁹³ *Ibid.*, article 67-68, 71-72.

⁵⁸⁹⁴ *Ibid.* See also Committee on the Elimination of Discrimination against Women, *Concluding Observations of*

the CEDAW, pg 8. See also The Government of Tuvalu, *Penal Code (Revised 2008)*, articles 128-149, 157-158, 160.

⁵⁸⁹⁵ U.S. Embassy- Suva, *reporting*, February 8, 2011.

⁵⁸⁹⁶ ILO and Government of Tuvalu, *Decent Work Country Programme: Tuvalu*, pg 6, 11. See also Office of the High Commissioner for Human Rights, *Compilation Prepared by the Office of the High Commissioner for Human Rights*, pg 6. See also United Nations Development System - Fiji and Samoa, *United Nations Development Assistance Framework for the Pacific Subregion (2008-2012)*, May 2007, pg 12; available from http://www.undp.org/ws/Portals/12/pdf/RC/UNDAF_document.pdf.

⁵⁸⁹⁷ U.S. Embassy- Suva, *reporting*, February 3, 2010.

⁵⁸⁹⁸ ILO and Government of Tuvalu, *Decent Work Country Programme: Tuvalu*, pg 6.

⁵⁸⁹⁹ U.S. Embassy- Suva, *reporting*, January 8, 2009. see also Tuvalu Ministry of Finance, *Household Income and Expenditure Survey* pg 18-19, table 5A.

⁵⁹⁰⁰ The Government of Tuvalu, *Penal Code (Revised 2008)*, articles 143, 147.

⁵⁹⁰¹ *Ibid.*, article 144.

⁵⁹⁰² Committee on the Elimination of Discrimination against Women, *Concluding Observations of the CEDAW*, pg 2. See also Office of the High Commissioner for Human Rights, *Compilation Prepared by the Office of the High Commissioner for Human Rights*, pg. 5. See also Government of Tuvalu and the UN Development Programme, *Tuvalu MDG Report 2006*, pg 12-13.

⁵⁹⁰³ Government of Tuvalu and the UN Development Programme, *Tuvalu MDG Report 2006*.

⁵⁹⁰⁴ Tuvalu Department of Education, *Strategic Plan, 2006-2010*, 2006, pg 4; available from http://planipolis.iiep.unesco.org/format_liste1_en.php?Chp2=Tuvalu.

⁵⁹⁰⁵ ILO and Government of Tuvalu, *Decent Work Country Programme: Tuvalu*, pg. 4.

⁵⁹⁰⁶ *Ibid.*, pg. 10-17.

⁵⁹⁰⁷ *Ibid.*, pg 10. See also Committee on the Elimination of Discrimination against Women, *Concluding Observations of the CEDAW*, pg 2-3.

⁵⁹⁰⁸ ILO and Government of Tuvalu, *Decent Work Country Programme: Tuvalu*, pg 5-6, 16-17.