

# Tuvalu

*The Government of Tuvalu initiated efforts to ratify ILO Convention 182 on the elimination of the worst forms of child labor. However, significant gaps exist in its 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	Percent
Working	Unavailable
Attending School	Unavailable
Combining Work and School	Unavailable

## Prevalence and Sectoral Distribution of the Worst Forms of Child Labor<sup>5109</sup>

Children in Tuvalu are likely exploited in the worst forms of child labor in agriculture and fishing, although no available sources describe these practices in detail.<sup>5110</sup> Children's work in agriculture commonly involves use of potentially dangerous machinery and tools, carrying heavy loads, and the application of harmful pesticides. Sharp fishing equipment poses a danger to child fishermen, who also risk drowning.

Members of the international community have raised concerns that children in Tuvalu may be exploited in commercial sexual activities and prostitution in particular, although the Government denies that this is a significant problem.<sup>5111</sup> The economic transition underway, moving Tuvalu from a subsistence-based to a monetized-based 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.<sup>5112</sup>

Tuvaluan children who live on outer islands, are members of large families, are disabled, or do not have access to land, are some of the most disadvantaged members of society; their low socioeconomic status elevates this population's vulnerability to the worst forms of child labor.<sup>5113</sup>

## 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 below age 15 from performing hazardous labor.<sup>5114</sup> 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.<sup>5115</sup> 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 below age 18 and place restrictions on recruiting children to work.<sup>5116</sup>

Children in Tuvalu are legally permitted to work in unhealthy environments, where they risk exposure to dangerous substances, temperatures, or noise levels, and are allowed to operate dangerous machinery, equipment; and tools. The law allows a child as young as age 14 to enter a 5-year apprenticeship without providing for adequate legal protections: no restrictions are placed 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.<sup>5117</sup>

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.<sup>5118</sup>

The punishment for flouting child labor laws may not be sufficient to deter employers. Violators need only pay a \$50 fine.<sup>5119</sup>

The Penal Code prohibits employers and others from enslaving a child, forcing a child to work, or otherwise constraining a child’s movement.<sup>5120</sup> The Code establishes punishments for child prostitution and trafficking minors for sexual purposes—punishing clients, facilitators, and beneficiaries of the trade as well as the young person’s consenting guardian(s).<sup>5121</sup> Tuvalu does not have the legal ability to prosecute a person who prostitutes a boy over age 15 or provide for his safe removal, whereas the Government has protective statutes in place when the victim is female.<sup>5122</sup>

The enforcement of child labor issues principally rests with the Department of Labor, which is part of the Ministry of Foreign Affairs and External Trade, Environment, and Labor.<sup>5124</sup> There is no recent information on the number of employees currently working in the department. However, ILO reporting indicates that the Labor Office, 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.<sup>5125</sup> The Ministry of Foreign Affairs and External Trade, Environment, and Labor are not involved in any initiatives to enforce child labor regulations. In addition there has never been a prosecution for child labor in Tuvalu.<sup>5126</sup>

	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

Tuvaluan sentences for all sexual offenses designate maximum but not minimum sentences, which could lead to light sentences that are not commensurate with the gravity of the crime.<sup>5123</sup>

### 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.

An additional challenge faced by the Labor Office is a lack of information and data concerning child labor and child labor in its worst forms hindering the ability to target and measure enforcement efforts.<sup>5127</sup>

Assisted by immigration officers, Tuvalu Police Force is the primary agency responsible for enforcing efforts to combat child trafficking.<sup>5128</sup> 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). No similar search provision is evident for boys in similar circumstances.<sup>5129</sup> 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.<sup>5130</sup>

The judicial system lacks reliable information on the prevalence of child prostitution.<sup>5131</sup>

### Government Policies on the Worst Forms of Child Labor

Research found no evidence of any policies to address child labor.<sup>5132</sup>

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 a UN agency is lending financial assistance to launch Tuvalu’s first labor force survey.<sup>5133</sup> It is unclear whether a child labor module will be included in the survey.<sup>5134</sup>

During the reporting period, the Tuvaluan Government worked with the ILO on a 2-year Decent Work Country Program (DWCP).<sup>5135</sup> Among its many goals, the DWCP hopes to strengthen the country's labor laws, support the ratification of ILO Convention 182, and improve labor market monitoring systems.<sup>5136</sup> The Government of Tuvalu has also requested assistance from the ILO to align its labor laws with current international labor standards, including the CRC.<sup>5137</sup>

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

The Government of Tuvalu, supported by its longstanding partnerships with international organizations and foreign aid agencies, has implemented numerous programs that alleviate some of the underlying causes of child labor.<sup>5138</sup> Through the

national education policy, Education for Life, in place since 1988, the Government has made strides towards providing free and universal primary education.<sup>5139</sup> The Tuvalu Department of Education has prioritized increasing access to education for children from vulnerable populations, specifically targeting students from low socioeconomic backgrounds, urban areas, isolated communities, as well as girls, children with disabilities, and school dropouts who are at the greatest risk of being subjected to the worst forms of child labor.<sup>5140</sup> The above programs may provide benefits to working children.

Despite the above programs, research found no evidence of any programs specifically 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.
- Create punishments for the commercial sexual exploitation of children and unlawful employment of children commensurate with the nature of the crime.
- Eliminate gender discrimination in laws relating to the prosecution of commercial sexual exploitation perpetrators and safe removal of child victims.
- Provide more structure and protection for underage apprentices in regards to types of work and nature of worksite.

##### **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 effectiveness of Tuvalu government agencies in combating the worst forms of child labor.
- Compiling national statistics on child labor enforcement, including cases reported, investigated, prosecuted, and closed.
- Increase punishments for employing or facilitating the commercial exploitation of children or violating national child labor laws to reflect the gravity of the crimes.

##### **IN THE AREA OF POLICIES:**

- Adopt policies to address the worst forms of child labor.
- Conduct regular surveys on the nature and prevalence of the worst forms of child labor in Tuvalu.

##### **IN THE AREA OF PROGRAMS:**

- Implement programs to address the worst forms of child labor.

<sup>5109</sup> Data provided in the chart at the beginning of this country report are not available from the data sources that are used by USDOL. 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.

<sup>5110</sup> U.S. Embassy- Suva, *reporting*, December 9, 2007, section 6e. See also Economic Planning and Industries Tuvalu Ministry of Finance, *Household Income and Expenditure Survey (HIES) 2004/2005*, September 2006, 53-54; available from [http://www.ilo.org/dyn/lfsurvey/lfsurvey.list?p\\_lang=en&p\\_country=TV](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*, 2009, 5-6; available from [http://www.ilo.org/asia/whatwedo/publications/lang--en/docName--WCMS\\_120556/index.htm](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, 4; available from <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/163/27/PDF/G0816327.pdf?OpenElement>. See also United Nations Development System - Fiji and Samoa, *United Nations Development Assistance Framework for the Pacific Subregion (2008-2012)*, May 2007, 4; available from [http://www.undp.org/ws/Portals/12/pdf/RC/UNDAF\\_document.pdf](http://www.undp.org/ws/Portals/12/pdf/RC/UNDAF_document.pdf).

<sup>5111</sup> Committee on the Elimination of Discrimination against Women, *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Tuvalu*, United Nations, 2009, 8; available from [http://ap.ohchr.org/documents/dpage\\_e.aspx?c=191&su=189](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” (paper presented at the 896th Meeting, New York, 29 July 2009), 4; available from <http://www2.ohchr.org/english/bodies/cedaw/docs/SR/CEDAW-C-SR-897.pdf>.

<sup>5112</sup> Government of Tuvalu and the UN Development Programme, *Tuvalu Millennium Development Goals Report 2006*, Funafuti, Tuvalu, 2006, 4; available from [http://planipolis.iiep.unesco.org/format\\_list1\\_en.php?Chp2=Tuvalu](http://planipolis.iiep.unesco.org/format_list1_en.php?Chp2=Tuvalu). See also UNESCAP and ECPAT International UNICEF, *Commercial Sexual Exploitation of Children and Child Sexual Abuse in the Pacific: A Regional Report*, UNICEF Pacific, 2006, 11 and 23-24; available from [http://www.unicef.org/pacificislands/partners\\_10989.html](http://www.unicef.org/pacificislands/partners_10989.html).

<sup>5113</sup> UN Office of the United Nations Resident Coordinator, *United Nations Development Assistance Framework - Tuvalu (2003-2007)*, Suva, Fiji, May 2002, 8-9; available from <http://www.undg.org/index.cfm?P=234&f=T>. See also 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, 2; available from [http://www.undp.org/asia/country\\_programme/CPAP/KIRIBATI\\_CPAP\\_2008-2012.pdf](http://www.undp.org/asia/country_programme/CPAP/KIRIBATI_CPAP_2008-2012.pdf).

<sup>5114</sup> Government of Tuvalu, *Employment Ordinance*, (April 22, 1966), articles 74-75, and 84-85; available from [http://www.pacii.org/tv/legis/consol\\_act/eo202/](http://www.pacii.org/tv/legis/consol_act/eo202/).

<sup>5115</sup> *Ibid.*, articles 77, 79, 83-87.

<sup>5116</sup> *Ibid.*, articles 43-44, 60, and 91-101.

<sup>5117</sup> *Ibid.*, articles 91-98.

<sup>5118</sup> *Ibid.*, article 83.

<sup>5119</sup> *Ibid.*, article 90.

<sup>5120</sup> Government of Tuvalu, *The Constitution of Tuvalu*, (1 October 1986), articles 17-18 and 26; available from <http://tuvalu-legislation.tv/cms/index.php/legislation/current/all-by-category.html>. See also Government of Tuvalu, *Penal Code*, (October 18, 1965), articles 132, 136, 140, 143, 145-146, and 241-249; available from [http://www.tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/1965/1965-0007/PenalCode\\_1.pdf](http://www.tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/1965/1965-0007/PenalCode_1.pdf). See also Government of Tuvalu, *Employment Ordinance*, article 43.

<sup>5121</sup> Government of Tuvalu, *Penal Code*, articles 131-149, 160.

<sup>5122</sup> *Ibid.*, articles 140-149.

<sup>5123</sup> Committee on the Elimination of Discrimination against Women, *Concluding Observations of the CEDAW*, 8. See also Government of Tuvalu, *Penal Code*, articles 128-149, 157-158, and 160.

<sup>5124</sup> ILO and the Government of Tuvalu, *Decent Work Country Programme: Tuvalu*, 11.

<sup>5125</sup> *Ibid.*, 6, 11. See also Office of the High Commissioner for Human Rights, *Compilation Prepared by the Office of the High Commissioner for Human Rights*, 6. See also UN Office of the United Nations Resident Coordinator, *United Nations Development Assistance Framework*, 4, 6. See also United Nations Development System - Fiji and Samoa, *UNDAF for the Pacific Subregion (2008-2012)*, 12.

<sup>5126</sup> U.S. Embassy- Suva, *reporting*, February 3, 2010, section 1.

<sup>5127</sup> ILO and Government of Tuvalu, *Decent Work Country Programme: Tuvalu*, 6.

<sup>5128</sup> U.S. Embassy- Suva, *reporting*, January 8, 2009, para 24. See also Tuvalu Ministry of Finance, *Household Income and Expenditure Survey* 18-19 and Table 5A.

<sup>5129</sup> Government of Tuvalu, *Penal Code*, articles 143 and 147.

<sup>5130</sup> *Ibid.*, article 144.

<sup>5131</sup> Committee on the Elimination of Discrimination against Women, *Concluding Observations of the CEDAW*, 8. See also Government of Tuvalu and the Committee on the Elimination of Discrimination against Women, *Responses to the list of issues and questions with regard to the consideration of the combined initial and second periodic report*, United Nations, August 13, 2009, 10; available from <http://tb.ohchr.org/default.aspx?country=tv>.

<sup>5132</sup> U.S. Embassy- Suva, *reporting*, February 3, 2010, section 1. See also U.S. Embassy- Suva, *reporting*, December 9, 2007, 6d.

<sup>5133</sup> ILO and Government of Tuvalu, *Decent Work Country Programme: Tuvalu*, 5-6 and 16-17.

<sup>5134</sup> *Ibid.*

<sup>5135</sup> *Ibid.*, 4.

<sup>5136</sup> *Ibid.*, 10-17.

<sup>5137</sup> *Ibid.*, 10. See also Committee on the Elimination of Discrimination against Women, *Concluding Observations of the CEDAW*, 2-3.

<sup>5138</sup> U.S. Embassy- Suva, *reporting*, February 3, 2010, section 1.

<sup>5139</sup> Government of Tuvalu and the UN Development Programme, *Tuvalu MDG Report 2006*, 12-13.

<sup>5140</sup> Tuvalu Department of Education, *Strategic Plan, 2006-2010*, 2006, 4; available from [http://planipolis.iiep.unesco.org/format\\_liste1\\_en.php?Chp2=Tuvalu](http://planipolis.iiep.unesco.org/format_liste1_en.php?Chp2=Tuvalu).