



The Global Initiative
for Economic, Social and Cultural Rights



**Alternative Report to the UN Committee on the Elimination of
Discrimination against Women**

Tuvalu, 60 Session (16 February 2015 - 06 March 2015)

Submitted by:

Tuvalu Association of Non Governmental Organizations (TANGO)

and

The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)



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Submitting Organizations:

Tuvalu Association of Non Governmental Organizations (TANGO) is the umbrella organisation of Non-Governmental Organisations (NGOs), Community Based Organisations (CBOs) and Civil Society Organisations (CSOs) in Tuvalu. To date, it is serving its 52 registered member organisations with its mission of “To promote and support sustainable community-driven development in Tuvalu through the provision of access to funding, training and information and by encouraging collaboration and communication between NGOs, government and international agencies”. TANGO has been in the frontline of serving not only its members, but also contributing enormously to the conducting of capacity building to many Tuvaluan communities all over the country.

Tuvalu Association of Non Governmental Organizations (TANGO)

TANGO Office

P.O.Box 136

Funafuti, TUVALU

Email: tuvaluango@gmail.com

The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) is an international non-governmental human rights organization which seeks to advance the realization of economic, social and cultural rights throughout the world, tackling the endemic problem of global poverty through a human rights lens. The vision of the Global Initiative for Economic, Social and Cultural Rights is of a world where economic, social and cultural rights are fully respected, protected and fulfilled and on equal footing with civil and political rights, so that all people are able to live in dignity.

The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)

8 North 2nd Ave. East, #208

Duluth, MN 55802, USA

Phone/Fax: +1 218 733 1370

Email: Mayra@globalinitiative-escr.org, Website: www.globalinitiative-escr.org

I. Women's Land and Property Rights in Tuvalu

1. Tuvalu women faced an uphill battle when it comes to the traditional and customary practices of land ownership and inheritance from their parents. And the same could be said about the utilization and the enjoyment of land rights and usage by the women of Tuvalu. Like other women in other countries in the Pacific, they are heavily dependent on agriculture and fishing for subsistence living and for their daily survival. Tuvalu current land laws and its traditional and cultural land ownership system that is patrilineal in nature, marginalized and discriminated against women. Tuvalu land laws does not guaranteed equal rights to land ownership for both spouses in a marital relationship, and these rights continue to be largely determined by traditions and customs now enshrined and codified in the Constitution. The same apply to sons and daughters.

2. The State party report acknowledges that “when it comes to land matters, women are often discriminated against” (UN Doc. CEDAW/C/TUV/3-4, at para. 120).

3. The Native Lands Act discriminate against women and girls vis-à-vis the decision making process in family matters and in the distribution of real properties. It states that “In the distribution of an estate between the sons and daughters of an owner, the share of the eldest son shall exceed that of his brothers and the share of sons shall exceed the shares of daughters. If there are no sons then the share of the eldest daughters will exceed that of her sisters” (Native Lands Act (1986) Cap 22, section 9 (ii)). The Act also defers to customary procedures without any provisions or safeguards to protect women in cases where custom is discriminatory to women.¹

4. The Tuvalu Lands Code, which governs inheritance law, sets out different rules for different islands based on customary law. Land ownership and land inheritance is pass through the patrilineal lines, along the male side with sons inheriting and not the daughters.²

5. In its State party report, Tuvalu notes that “There has been no legislative review of the Native Lands Act or the Tuvalu Lands Code in terms of CEDAW. The Department of Women Affairs, TNCW, and SPC/RRRT have done various consultations on the issue of discrimination in terms of land, but there is still resistance to changing laws regarding the inheritance of lands ... the land laws needs to be reviewed to allow women to have also custodial right to the land” (UN Doc. CEDAW/C/TUV/3-4, at paras. 10 & 11).

6. The lack of legislative review in Tuvalu is a major hindrance to women's struggle for equal rights in land inheritance and land ownership. And without that review, Tuvalu women will continue to be marginalized and be discriminated against. Indeed, noting the sex-discriminatory provisions of the Native Lands Act and the Tuvalu Lands Code, the Committee during its previous review of Tuvalu legislation called upon the State party to “conduct a holistic review of its legislation and to set and adhere to a clear timetable for completion of such a legislative review in order to

¹ UNDP - Pacific Center, *Translating CEDAW into Law: CEDAW Legislative Compliance in Nine Pacific Island Countries*, 2007.

² *Ibid.*

achieve compliance with the Convention and the Committee's general recommendations.”

7. It further called on the State party “to amend or repeal all discriminatory legislation, including the laws governing land ownership, and to close any legislative gaps. It encourages the State party to generate the political will necessary to undertake these reforms and to raise the awareness of legislators about the need to ensure de jure and de facto equality for women” (UN Doc. CEDAW/C/TUV/CO/2, at para. 15 and 16). It specifically asked that the State party to “take effective measures, including legislative measures, to ensure that men and women have equal access to landownership” (UN Doc. CEDAW/C/TUV/CO/2, at para. 48).

II. Recommendations

8. In light of this situation, TANGO and GI-ESCR respectfully urge the CEDAW Committee to make the following recommendations to the State of Tuvalu:

A. Reiterate the previous recommendation that Tuvalu conducts a holistic review of its legislation, and in particular of the Native Lands Act and the Tuvalu Lands Code, with a view to amending or repealing all discriminatory provisions.

B. Urge the State party to seek to transform discriminatory customs and traditional practices which affect full enjoyment of women's land and inheritance rights, including by ensuring that local customary leaders and in particular magistrates in the Lands Court, are trained to uphold women's land rights at the community level.