

Prevention of Sexual Exploitation and Abuse (PSEA)

Country Mapping of Known Context, Legislation, Reporting and Referral Pathways — Tonga

An initiative
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Safeguarding
Community of
Practice



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Prevention of Sexual Exploitation and Abuse (PSEA) – Tonga

This document has been prepared to assist your organisation to better understand a) the general Prevention of Sexual Exploitation and Abuse (PSEA) context b) relevant PSEA legislation and c) available reporting and referral pathways for SEA in a particular country. **This document is not intended to be a definitive analysis of a country's PSEA system and should not be read as such. The information may have been updated at the source since its publication and the reader should follow links provided to fact check before they quote or share this information. It is recommended that you test contact details provided prior to sharing these referral pathways.**

Your organisation must refer to and follow your PSEA Policy when responding to SEA. If a victim/survivor of SEA is under the age of 18 years, consult your organisation's Child Protection Policy.

OVERVIEW OF PSEA ISSUES

Demographics Tonga is a Polynesian kingdom of more than 170 South Pacific islands, many uninhabited. The main island, Tongatapu, is protected by lagoons and limestone cliffs. Predominantly Christian country, the church plays a fundamental role in society.¹ Tonga's population is approximately 103,197² with 74% living on the main island of Tongatapu.³ Tonga has a relatively young population, 39% are 15 or younger, with a median age of 22 years, and only 9% are 60 years or older.⁴

Gender and Sexuality⁵ Tonga is ranked high in the human development category (105 out of 189 countries) and ranked 96 out of 162 countries on the Gender Inequality Index. 7.4% of parliamentary seats are held by women, and 94% of adult women have reached at least a secondary level of education compared to 93.4% of their male counterparts. Tonga has a very high rate of teenage pregnancy and a high rate of infant and child mortality - for every 100,000 live births, 124 women die from pregnancy related causes; and the adolescent birth rate is 14.7 births per 1,000 women of ages 15-19. Female participation in the labour market is 45.3 percent compared to 74.1 for men.⁶

Women's roles are based around the home and caring for extended family, while men are seen as providers for the family, and leaders in communities and politics. Tongan women are traditionally expected to be virtuous, dignified, submissive and dutiful, and mindful of her place in the family. Daughters are expected to accept that they have no right to the family home or land, which will be inherited by their eldest brother or brothers.⁷

Fakaleiti literally translates as 'like a lady' and the closest translation would be male to female transgender. Members of the Fakaleiti community are both integrated and marginalised in Tongan society, they have a place in customary society but they are also influenced by the more global contemporary picture.

Land Ownership⁸ Only men have legal rights to inherit land, and rights pass through male heirs. Women have no independent land rights unless they acquire a lease; however widows are permitted to continue to hold their deceased husband's land for life provided that they not remarry. The monarch and nobles control most of the land as estate holders, and Tongan men over the age of 16 years without land are eligible to apply for a grant or lease of a rural tax allotment of 3.3 hectares for farming and a town allotment of 1,618 square meters for residential purposes.

The second Royal Land Commission of Inquiry was held 2008-2012 to review land law practices, with wide public support for women to have equal land rights with men. The Commission recommended reforms that would allow women rights to town allotments to be used for housing; however, no changes were made to rural allotments because 'it has never been the traditional role of Tongan women to do heavy and hard labour work which was associated with farming'. As a consequence, some women with no land or income remain in households with violent fathers, uncles, family members or husbands with no viable means of support to leave.

Health Relative to other Pacific Island countries, Tonga is considered to have an effective primary health-care system, good public health infrastructure, comprehensive antenatal and postnatal care, immunization, water, sanitation and waste disposal programs. However, the emergence of non-communicable 'lifestyle' diseases (NCDs) such as diabetes and cardiovascular disease poses a huge threat to overall health. As of 2011, WHO estimates that NCDs account for 74% of all deaths in Tonga and are a leading cause of premature death and disability. Despite many preventative strategies implemented over the past decade, NCD risk factors continue to rise.

Violence Violence against women and girls is endemic, widespread and deeply ingrained in society. Despite several government initiatives over the past decade, violence against women and girls remains a systemic issue, with a high degree of social, cultural, legal and institutional acceptance.⁹ Violence and abuse against women is not seen as a violation of human rights. It is often justified as a means of discipline and correction and dismissed as a private dispute within the family. Law enforcement agencies and the courts traditionally take a hands-off approach to responding, and there is reluctance to arrest perpetrators in small and close-knit communities. The social costs of domestic violence on families, health care, the justice system and the economy is significant.¹⁰

Sexual violence against women and girls appears to have worsened recently with soaring levels of sexual assault and rape.¹¹ 3 in 4 women in Tonga have experienced physical or sexual violence in their lifetime, and 75% do not seek help from agencies or authorities.¹² Domestic violence is an offence. Despite this, 85% of women who have suffered domestic violence are repeat victims (indicating perpetrators are repeat offenders), and women are often forced to return to the same environment where they have suffered abuse.¹³

1 Ma'a Fafine mo e Famili (MFF), 2009. [National Study on Domestic Violence on Women in Tonga](#)
 2 World Bank Data, 2018. [Tonga](#)
 3 Tonga Statistics Department, 2016. [Tonga 2016 Census of Population and Housing](#)
 4 Tonga Statistics Department, 2016. [Tonga 2016 Census of Population and Housing](#)
 5 Pacific Community, 2019. [Gender Equality: Where Do We Stand?](#)
 6 UNDP, 2019. [Human Development Report 2019](#)
 7 Pacific Community, 2019. [Gender Equality: Where Do We Stand?](#)

8 Pacific Community, 2019. [Gender Equality: Where Do We Stand?](#)
 9 Ma'a Fafine mo e Famili (MFF), 2009. [National Study on Domestic Violence on Women in Tonga](#)
 10 Pacific Community, 2013. [Legal Analysis on Violence Against Women- Tonga](#)
 11 RNZ, 2020. [Domestic Violence on the Rise in Tonga](#)
 12 Pacific Community, 2019. [Gender Equality: Where do we stand?](#)
 13 RNZ, 2020. [Domestic Violence on the Rise in Tonga](#)

RELEVANT PSEA LEGISLATION

International Instruments	<p>Tonga is one of only six UN members (and the only country in the Pacific) which has not ratified the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), an international bill of rights for women which obligates states to address structural and deep-rooted violence and discrimination.</p> <p>The Convention on the Rights of the Child (CRC) was ratified in 1995 (although no Optional Protocols have been ratified), and while awareness of rights to healthcare and education is improving, awareness of the CRC remains low. Tonga grapples with the concept of child rights because it is falsely believed to challenge parental responsibilities and the authority of the Church.</p> <p>International law (including CRC) is not directly applicable in Tonga, but has been used as compelling interpretive guidance by Judges as well as a model for legislators. For example, the ‘best interests of the child’ is an obligatory consideration under the Guardianship Act (2004) and is taken to have substantially the same meaning as in the CRC.</p>
Legal Framework	<p>The Constitution (1875)¹⁴ and subsequent revisions do not specifically guarantee equal rights for women.</p> <p>The Family Protection Act (2013)¹⁵ defines a child as a person under the age of 18, criminalises domestic violence, and allows victims to apply for protection orders. It places a duty on health practitioners and social service providers to examine and refer any notification of domestic violence to counselling and medical treatment as appropriate and file a police report on behalf of child victims.</p> <p>The age of consent in Tonga is 15 years old. Marriage is allowed for those aged 15-17 with parental consent under Section 6 of the Births, Deaths and Marriages Registration Act (1988)¹⁶ and as young as 14 under the Parent Consent Act (1926). While 6% of girls in Tonga are married before they turn 18, this is often caused by violence against girls, parental pressure, and ‘family honour’.¹⁷ Young victims of rape have been made to marry their rapists under these laws.¹⁸</p> <p>The Births Deaths and Marriages Registration Act (1988)¹⁹ and Nationality Act (2007)²⁰ provide for compulsory registration of children and nationality. However, nationality is passed only by fathers, and children lose their nationality if the father gives up or loses their Tongan nationality. The Guardianship Act (2004)²¹ regulates guardianship, access, custody and adoption of children and ensures that Courts consider the ‘best interests of the child’ in all matters. It limits adoption to ‘illegitimate’ children (considered born outside of marriage), though legal guardianship may be granted in cases of ‘legitimate’ children.</p> <p>The Education Act (2013)²² entitles children to a quality and non-discriminatory education, criminalises corporal punishment, and ensures schools meet health and safety obligations.</p> <p>Recent developments in legislation and policy, in particular the Family Protection Act (2013), the Education Act (2013), and the Child Protection Policy, provide children with improved protection from domestic violence and better access to quality universal education.²³</p>
Government	<p>The Revised National Policy on Gender and Development (RNPAD)²⁴ and its Strategic Plan of Action, launched in May 2014, aims for gender equity by 2025. Priority outcomes are geared toward mainstreaming gender equality and women’s empowerment in (1) family and social environments (2) leadership and political representation (3) addressing intersectional vulnerabilities (4) equal conditions for emergency response (5) gender mainstreaming across government policies, programs, services and (6) equitable access to economic assets and employment.</p>

¹⁴ [Constitution](#) (1875)

¹⁵ [Family Protection Act](#) (2013)

¹⁶ [Births Deaths and Marriages Registration Act](#) (1988)

¹⁷ Girls Not Brides, 2020. [Tonga: Child Marriage](#)

¹⁸ RNZ, 2016. [Archaic Tongan Law Allows Forced Marriage to Rapists](#)

¹⁹ [Births Deaths and Marriages Registration Act](#) (1988)

²⁰ [Nationality Act](#) (2007)

²¹ [Guardianship Act](#) (2004)

²² [Education Act](#) (2013)

²³ OHCHR, 2019. [Committee on the Rights of the Child Examines Report of Tonga](#)

²⁴ Pacific Community, 2019. [Gender Equality: Where do we Stand?](#)

REPORTING AND REFERRAL PATHWAYS FOR SEXUAL EXPLOITATION OR ABUSE

Service Name	Description	Coverage	Contact
Law Enforcement Agencies			
Police		National Tongatapu 'Eua Ha'apai Vava'u	Emergency 922 T 23222 T 50313 T 60222 T 70233
Statutory Protection Agencies			
Domestic Violence Unit, Police	DVU Police are trained in SGBV and dedicated to responding to domestic violence situations. Once a complaint is lodged, it cannot be withdrawn. DVU includes a safe space for children, and work closely with Pacific Prevention of Domestic Violence Program	Tongatapu and Vav'au	T 7401647 E tevita.vailea@police.gov.to
Local Health and Medical			
Hospitals		National Tongatapu, Vaiola Hospital 'Eua, Niu'eiki Hospital Ha'apai, Niu'ui Hospital Vava'u, Prince Wellington Hospital	Emergency 933 T 23200 T 50111 T 60203 or 60790 T 702020
Tonga Family Health Association	TFHA promotes safe and healthy choices is family planning, although TFHA also provides clinic services across the three main island groups, support groups targeted at young mothers and young boys and promote community awareness	Nuku'alofa, Tonga	T 22770
Village Health Clinics	Village Health Clinics work closely to refer clients to the National Centre for Women and Children for counselling and/or Safe House support	National, though not comprehensive Tongatapu – 6 Health Centres Ha'apai – 2 Health Centres Vava'u – 3 Health Centres	

Support Agencies

Family Protection Legal Aid Centre	Free legal advice and assistance to anyone facing violence within their families, without judgement and regardless of their personal circumstances		T 26387 or 26388 or 7711943 E enquires.fplac@justice.gov.to W http://fplac.justice.gov.to/
Women and Children Crisis Centre (WCCC)	WCCC works closely with the DVU with regards to inter-agency referrals between police, counsellors and the Safe House	Nuku'alofa	T 22240 W http://www.wccctonga.org/
Tonga National Centre for Women and Children (TNCWC)	Crisis Centre providing support, counselling, information, advocacy, and referrals for women and children experiencing violence and abuse	Nuku'alofa	T 26567 or 28483 E www.tncwcinfo@gmail.com
Alonga Centre	Provides shelter and accommodation for persons living with disabilities. Centre works with TNCWC with regard to referrals and temporary support at the Safe House for women and children living with disabilities.		T 29180

Key Advocacy Services, Networks and Agencies

Pacific Women	Supports partner organisations to prevent and respond to physical and sexual violence against women and children; also works to strengthen improved data on types and prevalence of violence	National	W https://pacificwomen.org/
Ma'a Fafine mo e Famili (MFF) - Women and Families	Provides legal advice and counselling to women and families in crisis and lobbies for the ratification of CEDAW and CRPD	National	T 25991 E mfftonga@gmail.com

Australian Federal Police and Embassy or Consular (if any person involved is an Australian National)

Australian Federal Police (AFP)	Report offences by Australians		T +61 2 6131 3000 After Hours +61 2 6126 7777 www.afp.gov.au
Australian Embassy in Tonga	Assisting Australians overseas and delivering consular services to Australians most in need	National	T 23244 W https://tonga.embassy.gov.au/ Salote Road, Nuku'Alofa







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