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Situational Analysis of Human Rights Issues in the Waste Management Sector: **Literature Review**

February 2021



This literature review considers the many issues and elements related to waste management and human rights as they relate to both substantive rights, and progressive realisation of rights.

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Situational Analysis of Human Rights Issues in the Waste Management Sector: Literature Review-February 2021

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Executive Summary

In the literature review, a human rights-based approach is defined as *'one that reflects the relevant standards for all these rights, procedurally and substantively, as well as the applicable duties to States'*.¹ A human rights-based approach to waste, by definition, to be respected, protected and fulfilled for everyone on the islands. However, under a rights-based approach, those more vulnerable, at risk and impacted, require greater protection and analysis of their condition by the State (and by businesses, if applicable, through legislation).

Thus, in the literature review, differentiated issues and impacts, such as those based on gender, race, ethnicity, age, and other factors of inequality are given particular focus, bearing in mind the special rights and duties applicable to groups at elevated risk, such as workers, women, indigenous peoples, migrants, children, among others.

There is little to no literature specifically on the issue of human rights and waste management on the Islands. Thus, the literature review focuses on the human rights assessments by international bodies, and some national entities when relevant. However, several States are not Party to multiple human rights treaties, which limits the depth of review.

Furthermore, human rights assessments seldom detail waste-related concerns, particularly in the case of the Islands. So, concerns of a general nature regarding human rights and inequalities are presented, allowing a link to be made between literature on the issues within the waste streams selected for the Islands.



¹ See e.g. [A Rights-Based Approach, Encompassing All Human Rights for EU Development Cooperation](#) (2014)

Abbreviations

Abbreviation	Long form spelling
CAT	Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment
CCPR	Covenant on Civil and Political Rights
CESCR	Covenant on Economic, Social and Cultural Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CMW	Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
HRC	United Nations Human Rights Council
NHRI	National Human Rights Institution
OSH	Occupational safety and health
SR	United Nations Special Rapporteur
UN	United Nations
UN CEDAW	UN Committee on the Elimination of All Forms of Discrimination against Women
UN CERD	UN Committee on the Elimination of All Forms of Racial Discrimination
UN CESCR	UN Committee on Economic, Social and Cultural Rights
UN CRC	UN Committee on the Rights of the Child
UN CEDAW	UN Committee on the Elimination of Discrimination Against Women
UN CRPD	UN Committee on the Rights of Persons with Disabilities
UNCT	UN Country Team
UPR	Universal Periodic Review of the UN Human Rights Council

About this Report

Sources of Information



Publicly available online resources about human rights, gender equality, Human Rights, and waste management in the participating countries



An online survey sent to country participants requesting information on waste management and how gender equality and social inclusion are embedded or managed in practice

The human rights issues explored in this literature review are those that have been recognised by international bodies and the courts as being implicated by waste. These include substantive rights regarding exposure to waste such as right to life, health, safe and healthy work, among others detailed below. It also encompasses human rights to information and participation. These rights are informed by principles such as non-discrimination and equality.

The following structure is used in this literature review:

- The applicable rights to be considered in a human rights-based approach to waste, focusing on substantive rights, are presented.
- Based on existing literature and observations, groups, and sub-groups at elevated risk among priority waste streams are identified.
- Specific attention is paid to the issues of social inclusion and gender equality in waste management governance, as this is understood to be the predominant human rights concern on most islands in the scope of the review.
- Procedural rights discussions
- Recommended questions to be asked of the Islands to inform further research and analysis



Available online sources do not always contain the most up-to-date information or may be incomplete. Where possible, the researcher drew on industry contacts to source more recent information. However, it is not possible to say with certainty that all relevant information and information sources were identified in the review.

Introduction

This literature review was undertaken to gain a comprehensive understanding of waste management and the related issues and good practices and a general understanding of the realisation of the human rights implicated in relation to waste management in PacWastePlus programme participating countries. Armed with this basis of information, the researcher will then seek to draw linkages between waste management and human rights and the related issues in the Pacific Island Countries of focus and to gain a comprehensive understanding of how issues of human rights, equality and cultural awareness are currently being considered and incorporated into waste and environmental programme management.

The European Union-Pacific Waste Management Programme (PacWastePlus) is working with 14 Pacific Island Countries and Timor-Leste to improve the management of eight waste streams. Participating countries are:

- Cook Islands
- Democratic Republic of Timor-Leste
- Federated States of Micronesia
- Fiji
- Kiribati
- Nauru
- Niue
- Palau
- Papua New Guinea
- Republic of the Marshall Islands
- Samoa
- Solomon Islands
- Tonga
- Tuvalu
- Vanuatu

The waste streams included in the PacWastePlus programme scope of works are:

- Hazardous wastes (specifically **asbestos**, **e-waste** and **healthcare** waste),
- Solid wastes (specifically **recyclables**, **organic** waste, **disaster** waste and **bulky** waste) and
- **Water impacted by solid waste** (note this is not wastewater, or referring to any liquid waste)

This literature review considers the many issues and elements related to waste management and human rights as they relate to both substantive rights, and progressive realisation of rights:

Term	Description
Substantive rights	Substantive human rights are held to exist for their own sake and to constitute part of the normal legal order of society, Substantive human rights include (among others): the universal rights to life; health; safe food and water; adequate housing; safe and healthy working conditions.
Progressive realism	Progressive realisation is a key feature of many human rights implicated by wastes, to health, safe and healthy working conditions, and an adequate standard of living. It is recognised that full realisation of certain rights depends on resource availability. Compliance is measured by the appropriateness of measures considering financial and other resources available. Many rights have minimum core requirements and States must continuously advance realisation, i.e., they may not indefinitely postpone because of resource constraints and are bound by non-retrogression requirements. Notably, the right to life and certain procedural rights are not subject to progressive realisation.

A Human Rights-Based Approach to Waste: Substantive Rights in General

The human rights implications of waste, and obligations of governments, are well established. These substantive rights include (among others): the universal rights to life; health; safe food and water; adequate housing; safe and healthy working conditions.

The duties of States to protect these rights is reinforced by the recognition of the environmental rights under numerous national constitutions and regional agreements. States have, by virtue of the international Human Rights conventions, an obligation to respect, protect and fulfil recognised rights implicated by wastes.

As such, States are expected to:

- Refrain from unjustifiable interference with the enjoyment of the rights implicated by wastes;
- Protect against abuses by non-State actors, particularly businesses, which requires States to enact and enforce necessary laws and policies on wastes; and
- Give sufficient recognition of the human rights implications of wastes in laws and policies and take positive action to facilitate the enjoyment of human rights implicated by wastes, including through budgetary allocations.

While the primary duty to protect human rights rests with States, business enterprises and other non-State actors also have obligations.

States are legally bound to take reasonable steps to prevent human rights violations, which includes the obligation under international law to protect against human rights abuses by private actors and other third parties. States fulfil their human rights obligations through effective regulation and oversight of private enterprises involved in waste management. States may violate their obligations under international human rights law when they fail to take appropriate steps to prevent, investigate, punish, redress and remedy human rights abuse by business enterprises and other non-State actors that produce or manage waste.

Key human rights obligations are discussed in greater detail following.

Life and Dignity

The human right to life concerns the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity.² All of the Islands are obligated to ensure the full enjoyment of the right to life by all individuals in their territory or jurisdiction. States must adopt any appropriate laws or other measures to protect life from all reasonably foreseeable threats emanating from private persons and entities.³

² Human Rights Committee, general comment No. 36 (2018) on the right to life, para. 3.

³ Ibid.

Regarding waste, the UN Human Rights Committee recently recognised that pollution threatens the right to life and the right to a life with dignity.⁴ It recognised that States may be in violation of these rights when they take insufficient measures or otherwise fail to take measures to prevent chronic exposure to hazardous substances, whether from the environment or workplace.

Of considerable importance is that States parties may be in violation of their obligations concerning the right to life even if such threats and situations do not result in loss of life.⁵ Similarly, the right to life with dignity is implicated by waste management that may not present threats to life or even health. For the purpose of clarity, the right to a life with dignity is used strictly for this purpose, although it is in fact defined to also encompass health hazards under international law.

Table 1 Literature pertaining to realisation of the right to life and other substantive civil rights relevant to waste management on selected Pacific Islands (*not party to International Covenant on Civil and Political Rights)

Pacific Island	Body	Findings
Cook Islands*		None found
Democratic Republic of Timor-Leste		None found
Federated States of Micronesia*		None found
Fiji	SR Environment	General commentary on implications of burning of waste and solid waste concerns. ⁶
Kiribati*		None found; however, news reports describe inhabitants of Banaba Island surrounded by asbestos dust for decades and families on the island say they have no other choice. ⁷
Nauru*	UPR	UN Country Team urged “immediate management of situation” regarding the urgent health risk of asbestos in 2015. ⁸
Niue*		None found
Palau		None found

⁴ Human Rights Committee, general comment No. 36.

⁵ Ibid., para. 7. In the landmark decision by the Human Rights Committee in *Cáceres et al. v. Paraguay*, the Committee found that Paraguay had violated the rights to life and a life with dignity of over 20 people who were exposed to toxic pesticides (CCPR/C/126/D/2751/2016, paras. 7.3 and 7.5). The contamination was found to have caused the death of one person and poisoned 22 other inhabitants of a community.

⁶ Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Mission to Fiji (2020), <http://srenvironment.org/sites/default/files/Reports/2020/Fiji%20report%202020.pdf>.

⁷ National Geographic Society Newsroom, *Living on a Tropical Island—and an Asbestos Wasteland*, 2016, <https://blog.nationalgeographic.org/2016/04/08/living-on-a-tropical-island-and-an-asbestos-wasteland/>.

⁸ Nauru 2015 UPR review, compilation of information by OHCHR, A/HRC/WG.6/23/NRU/2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/187/69/PDF/G1518769.pdf?OpenElement>

Pacific Island	Body	Findings
Papua New Guinea	SR summary executions	“stated that extractive industries posed significant risks to the protection of life. He was concerned that the necessary framework to meet the expected economic growth was not in place in the country as a whole.” ⁹
Republic of the Marshall Islands	NGO	Issues interrelated with dignity and the right to health (below). Submission to the UPR makes allegations of systemic deficiencies (e.g., lifesaving healthcare) in realisation of the right to life and dignity in the context of nuclear contamination, which may be applicable to waste more generally. ¹⁰
	Marshall Islands Gov’t	“Many of the RMI citizens still continue to suffer from radiation-related types of cancers, tumours and thyroid problems traced to the adverse impact of nuclear testing programs in Bikini and Enewetak over fifty years ago.” ¹¹
Samoa		None found
Solomon Islands*		None found
Tonga*		None found
Tuvalu*		None found
Vanuatu		None found

Health and an Adequate Standard of Living

The right to life is inseparable from the right to the highest attainable standard of health. Arguably all the PacWastePlus participating countries have recognised the right for everyone¹² and thus to be protected from toxic wastes. States, in their obligation to protect the right to health, must prevent and reduce the population’s exposure to hazardous substances (including wastes) that have a direct or indirect impact on human health.¹³

Interrelated, and indivisible from, the obligations that stem from the rights to life and health are those regarding the realisation of the right to safe and healthy working conditions, and the right to an adequate standard of living, including safe water and sanitation, the right to nutritious food, the right to adequate housing, as well as the right to private and family life.

Due regard must be taken for the impacts of improved waste management measures on those who work or otherwise derive their livelihood, directly or indirectly, from various waste streams.

⁹ PNG UPR review, compilation of UN information, A/HRC/WG.6/25/PNG/2 (2016) <https://undocs.org/A/HRC/WG.6/25/PNG/2>

¹⁰ “Environment, health, and other human rights concerns associated with nuclear weapons testing, fallout, involuntary displacement, human subject experimentation, and the failure to achieve durable solutions that protect the environment and safeguard the rights of the people of the Marshall Islands.” Submission to the United Nations Universal Periodic Review of the Republic of the Marshall Islands by Center for Political Ecology (2014),

¹¹ National Report to Rio+10, available at <https://www.un.org/esa/agenda21/natlinfo/wssd/marshallislands.pdf>

¹² See the Universal Declaration of Human Rights, art. 25 (1); Constitution of the World Health Organization; International Covenant on Economic, Social and Cultural Rights, art. 12; Convention on the Rights of the Child, art. 24 (see also art. 17).

¹³ See Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000) on the right to the highest attainable standard of health, para. 15.

Although consideration of these impacts is required and should be considered in the “appropriateness” of measures taken for the fulfilment of human rights, it cannot be a justification for indefinitely postponing the realisation of the human rights of affected communities to life, health, dignity, and adequate standard of living, among others. A just transition must be implemented by States, recognising the indivisibility and interconnectedness of all human rights.

Non-communicable diseases are a major concern among the Islands, and many are linked to hazardous substances in wastes; these diseases may be caused or contributed to by other factors.¹⁴ Sharp increases are difficult to explain by way of lifestyle choices or genetics alone, and strongly indicate infringements of the right to health, an adequate standard of living, safe work, among others.

Access to health care is a core component of the right to health and the right to redress and remedy. Various reports note inadequate access to health services is a widespread problem, especially for the population residing in the rural areas. For example, ninety-nine percent of residents in one State are not covered by any public or private health insurance scheme and due to a lack of financial means, and local traditional healers are often consulted in place of a doctor.¹⁵

Table 2 Literature pertaining to waste management and the realisation of the rights to health, safe work, and other substantive economic, social, and cultural rights in selected Pacific Islands (*not Party to the International Covenant on Economic, Social and Cultural Rights)

Pacific Island	Body	Findings
Cook Islands*		None found
Democratic Republic of Timor-Leste		None found
Federated States of Micronesia*	UPR	Right to water and sanitation given high attention but still not reaching 10% of population. Informal sector excluded from social security. UN Country Team encouraged the development and adoption of child-centred disaster risk reduction frameworks and strategies. ¹⁶
Fiji	SR Environment	General commentary on burning of waste and solid waste challenges, and informal settlements and rural areas still lacked access to safe water sources. ¹⁷

¹⁴ WHO, *Protecting health of the Pacific people from climate change and environmental hazards*, webpage, available at: <https://www.who.int/westernpacific/activities/protecting-the-islanders-from-climate-change-and-environmental-hazards>; and see also, WHO, *Preventing non-communicable diseases (NCDs) by reducing environmental risk factors* (2019), available at https://www.who.int/quantifying_ehimpacts/publications/preventing-ncds/en/

¹⁵ The Equal Rights Trust Country Report Series: 6, *Stand Up and Fight: Addressing Discrimination and Inequality in Solomon Islands*, 2016, <https://www.equalrightstrust.org/ertdocumentbank/SI%20report.pdf>

¹⁶ UPR review of Micronesia (2015), compilation of information, A/HRC/WG.6/23/FSM/2 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/188/83/PDF/G1518883.pdf?OpenElement>

¹⁷ Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, 2020, <http://srenvironment.org/sites/default/files/Reports/2020/Fiji%20report%202020.pdf>.

Pacific Island	Body	Findings
Kiribati*	SR Water & Sanitation	Water quality concerns due to various wastes (including those outside scope) are noted as being a contributor to high mortality rates. ¹⁸
Nauru*	UPR	“Legislation for sustainable development, including provisions for environmental impact assessment, environmental reporting and planning, waste management and pollution control.” ¹⁹
	UPR	UN Country Team recommended that “no phosphate or other mining activity be undertaken until a comprehensive impact assessment had been carried out and until a robust regulatory framework was in place to ensure that operations were undertaken sustainably and without further interference with the rights of Nauruan’s to health and a reasonable standard of living” ²⁰
Niue*		None found
Palau*	UPR	Super typhoons in 2012 and 2013 noted as destroying home and displacing hundreds. ²¹
Papua New Guinea	UPR	Impacts on health from mining wastes, and disregard for environmental and occupational laws ²²
	WHO	Nearby residents and inhabitants of the Baruni Dump were exposed to high health risks, specifically the community who live adjacent to the HCW disposal site; hospitals reported indiscriminate dumping of HCW and the practice of burying it in shallow pits, partially burning it with kerosene and partly covering it with soil. ²³
Republic of the Marshall Islands	SR toxic waste	“Develop a comprehensive national health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the whole population and, in particular, non-communicable diseases (such as cancer and diabetes), and build on the lessons learned from the National Comprehensive Cancer Control Plan for the period 2007–2012; the strategy and plan should pay special attention to women and children...” ²⁴

¹⁸ Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, A/HRC/24/44/Add.1 (2013), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/153/12/PDF/G1315312.pdf?OpenElement>

¹⁹ UPR, compilation of UN information, A/HRC/WG.6/23/NRU/2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/187/69/PDF/G1518769.pdf?OpenElement>

²⁰ UPR, compilation of UN information, A/HRC/WG.6/23/NRU/2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/187/69/PDF/G1518769.pdf?OpenElement>

²¹ UPR, compilation of UN information, A/HRC/WG.6/24/PLW/2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/265/80/PDF/G1526580.pdf?OpenElement>

²² Summary of stakeholder submissions for UPR review, para 48 (May 2016).

²³ World Health Organization, *Status of health-care waste management in selected countries of the Western Pacific Region*, 2015, <https://apps.who.int/iris/handle/10665/208230>.

²⁴ Report of the Special Rapporteur on hazardous substances and wastes, mission to the Marshall Islands and the United States (2012), A/HRC/21/48/Add.1, <https://undocs.org/A/HRC/21/48/Add.1>

Pacific Island	Body	Findings
	UPR	Unequal access to all public services, in particular to adequate food, water, sanitation, high-quality education, adequate health care and housing. ²⁵
Samoa*	UPR	Need a national system for coordination on disaster risk management. ²⁶
Solomon Islands	UNHCR	Because it is categorized as a high-risk country for natural disasters, it would benefit from having a permanent national protection cluster in place to address displacement caused by climate change and/or natural disasters. The country team encouraged the Government to increase understanding among key decision makers of the implications of further environmental degradation. ²⁷
	UPR	UNCT notes that 35 per cent of Honiara residents (about 3,000 households or 22,000 people) lived in informal settlements with poor garbage collection and lack adequate water and sanitation. ²⁸
	NGO	Notes the need to enforce production of the Environmental impact Assessment by independent environmental specialists. ²⁹
Tonga*	UPR	“Endorsed the Sendai Framework for Disaster Risk Reduction (2015-2030), with the aim of reducing risk from natural hazards and disasters so as to help ensure sustainable development and build resilience of communities.” ³⁰
	UPR	World Bank: Insufficient technical knowledge and financial capacity to address disaster vulnerabilities and reduce risk. ³¹
	UPR	“access to clean water and basic sanitation was of growing concern in the country” ³²

²⁵ Ibid.

²⁶ UPR review, compilation of UN information, A/HRC/WG.6/25/WSM/2 (2016), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/044/56/PDF/G1604456.pdf?OpenElement>

²⁷ UPR, compilation of UN information, A/HRC/WG.6/24/SLB/2 (2016), <https://daccess-ods.un.org/TMP/3307999.07445908.html>

²⁸ UPR, Compilation of UN information, A/HRC/WG.6/24/SLB/2 (2016), <https://daccess-ods.un.org/TMP/3307999.07445908.html>

²⁹ UPR, Compilation of submissions to UPR, A/HRC/WG.6/24/SLB/3 (2015)

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/252/00/PDF/G1525200.pdf?OpenElement>

³⁰ UPR, Compilation of UN information (2017), A/HRC/WG.6/29/TON/2 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/330/25/PDF/G1733025.pdf?OpenElement>

³¹ UPR, Compilation of UN information (2017), A/HRC/WG.6/29/TON/2 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/330/25/PDF/G1733025.pdf?OpenElement>

³² UPR, Compilation of UN information (2017), A/HRC/WG.6/29/TON/2 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/330/25/PDF/G1733025.pdf?OpenElement>

Pacific Island	Body	Findings
Tuvalu*	UPR	UNCT: one of the key priority areas was urban management, particularly in dealing with land and waste management in the capital city...during periods of drought water security was a critical health issue. ³³
Vanuatu*	UNEP	Waste regularly dumped in rivers, lakes, and waterways. "Increasing chemical imports without adequate regulation, and the growth of waste generation in the general population has become a public health problem." ³⁴

Taken together, international human rights standards in general require that States progressively prevent and minimise harmful exposures to wastes. While flexibility is afforded under human rights standards implicated by wastes, every State must have in place comprehensive governance systems, including effective enforcement mechanisms, to protect life and to progressively minimise exposure to hazardous substances in wastes in that can be a reasonably foreseeable threat to the health of individuals and communities. They must ensure that the management of waste respects human dignity and include considerations for a just transition for those who derive their livelihoods from waste management.

Furthermore, there are specific substantive rights that apply to groups at elevated risk, such as children, women, minorities, and workers. The specific substantive rights applicable to vulnerable groups are discussed further in this review.



³³ UPR, Compilation of UN documents, A/HRC/WG.6/30/TUV/2 (2018)

³⁴ <https://www.unenvironment.org/news-and-stories/story/vanuatu-overcoming-challenges-booming-waste-and-unchecked-chemical-importing>

Implications of Waste on Human Rights

The implications of the target waste streams to substantive rights are discussed in **Table 3**.

Table 3 Substantive rights impacted by wastes

Waste Stream	Impacted Substantive Rights	Discussion
Asbestos	Rights to life, health, safe work, and adequate housing, as well as specific rights of the child, among others	<p>The PacWaste Asbestos Baseline Survey Reports, released in 2015, identified the risk of asbestos materials to health in 25 different islands across 13 Pacific Island countries: Cook Islands, Fiji, Federated States of Micronesia, Kiribati, Nauru, Niue, Palau, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.³⁵ Nauru and Niue had the highest amounts of confirmed asbestos-containing materials in non-residential locations.³⁶ The Governments of both these countries have recognised the risk posed by the large quantity of asbestos and, for both the countries, programmes are underway to safely remove at least some of the asbestos present.</p> <p>General concerns exist for communities and the public with the deterioration of building materials³⁷ An increasing concern for the Islands is the potential for extreme weather events and natural disasters to damage and disturb building materials that contain asbestos.³⁸ Workers and other groups at grave risk are discussed further below. The failure of the 13 Islands above to ban and safely remove asbestos is problematic and difficult to justify under a human right based approach. Substitute products mitigate impacts on livelihoods following bans, and fiscal policies should account for health care, lost productivity, and other societal costs of asbestos diseases.</p>

³⁵ Nuku'alofa, *Asbestos report identifies health risks across Pacific*, Matangi Tonga Online, accessed July 13, 2020, <https://matangitonga.to/2015/09/01/asbestos-report-identifies-health-risks-across-pacific>; See <https://www.sprep.org/pacwaste/resources/reports>.

³⁶ Ibid.

³⁷ *The State of Asbestos in the Pacific*, accessed July 13, 2020, https://www.sheltercluster.org/sites/default/files/docs/the_state_of_asbestos_in_the_pacific.pdf.

³⁸ *The State of Asbestos in the Pacific*, accessed July 13, 2020, https://www.sheltercluster.org/sites/default/files/docs/the_state_of_asbestos_in_the_pacific.pdf.

Waste Stream	Impacted Substantive Rights	Discussion
Electronic waste (e-waste)	Rights to life, health, safe work, food, and an adequate standard of living. It is a particular threat to the rights of the child and other vulnerable groups	Of increasing concern are lead-acid batteries, as well as mobile phones, laptops, tablets, and other electronics ³⁹ , the use of all of which is growing substantially. ⁴⁰ The study further suggested that the use of electronic goods in Fiji was growing at a rate equal to or greater than that of developed countries. E-waste may be sent to landfill where it is buried and/or burned due to a lack of recycling capacity, releasing heavy metals and other toxic substances that present unquestionable health risks. ⁴¹ Also, e-waste burning at the household level is ubiquitous and frequent. Poor practices are enabled by low community awareness about adverse impacts on human health and the environment and a lack of collection points or formal recycling. ⁴² A 2019 article highlights that only 5–10 per cent of the e-waste in Samoa goes to recyclers and the rest goes into landfill ⁴³ Studies have identified elevated heavy metals at the Lami landfill and migration to shores, suggesting food and water contamination. ⁴⁴
Medical waste	Rights to life, health, safe work, and an adequate standard of living of the public.	Various workers and other vulnerable groups are at elevated risk, which is discussed below. Documented problems suggest impacts on human rights. Among various risks are not all hospitals incinerate healthcare waste; some hospitals send the waste untreated to landfill ⁴⁵ , while others stockpile expired pharmaceuticals, due to insufficient incinerator capacity. ⁴⁶ Other studies have flagged recurrent problems with segregation and incineration of waste. ⁴⁷ The siting of incinerators is another concern for human rights, particularly communities at elevated risk. ⁴⁸

³⁹ The Global E-waste Monitor 2020, <https://www.itu.int/en/ITU-D/Environment/Pages/Spotlight/Global-Ewaste-Monitor-2020.aspx>.

⁴⁰ See e.g. National Toxics Network & Island Sustainability Alliance C.I., *E-waste in the Pacific: The Rising Tide Fiji and Samoa*, https://ntn.org.au/wp-content/uploads/2010/04/ntnisaci_pacific_ewaste.pdf.

⁴¹ National Toxics Network & Island Sustainability Alliance C.I., *E-waste in the Pacific: The Rising Tide Fiji and Samoa*, https://ntn.org.au/wp-content/uploads/2010/04/ntnisaci_pacific_ewaste.pdf. See also *Hazardous Waste in the Pacific*, accessed July 13, 2020, https://www.sprep.org/attachments/Publications/FactSheet/PacWaste_FS.pdf

⁴² See e.g. National Toxics Network & Island Sustainability Alliance C.I., *E-waste in the Pacific: The Rising Tide Fiji and Samoa*, https://ntn.org.au/wp-content/uploads/2010/04/ntnisaci_pacific_ewaste.pdf.

⁴³ UN Environment Programme, *Where does waste go on a small island?*, 15 November 2019, <https://www.unenvironment.org/news-and-stories/story/where-does-waste-go-small-island>.

⁴⁴ Gangaiya, P., Tabudravu, J., South, R., Sotheeswaran, S., *Heavy metal contamination of the Lami coastal environment, Fiji*, *The South Pacific Journal of Natural Science*, 2001, pp.24- 29; Chandra, S., *Investigations into the Lami municipal dump as a source of heavy metal contamination*, in *Department of Chemistry*, 2002, The University of the South Pacific: Suva (Fiji), MSc Thesis, 164p.

⁴⁵ For example, the Baseline Study on Healthcare Waste for the Pacific Hazardous Waste Management Project highlights that the most significant health care waste management issue observed at a hospital in Nauru (the Republic of Nauru Hospital) was that the waste was being transported to the Island landfill for burning in an open pit, posing serious health risks.

⁴⁶ Melanie Ashton, *SPREP Reports on Healthcare Waste in 14 Countries*, 1 October 2014, <http://sdg.iisd.org/news/sprep-reports-on-healthcare-waste-in-14-countries/>.

⁴⁷ World Health Organization, *Status of health-care waste management in selected countries of the Western Pacific Region*, 2015, <https://apps.who.int/iris/handle/10665/208230>.

⁴⁸ See e.g. UNEP's Small Island Developing States Waste Management Outlook (2019), discussing the siting of a medical waste incinerator on the Marshall Islands.

Waste Stream	Impacted Substantive Rights	Discussion
Solid wastes, namely recyclables, organic, disaster, other bulky waste	Rights to life, health, and an adequate standard of living	It is noted that improperly managed dumpsites on the Islands are posing serious risks to public health. ⁴⁹ The European Court of Human Rights and other tribunals have found violations of human rights for communities killed and poisoned by landfills and dumpsites. ⁵⁰ Most waste in the Islands ends up in either dumpsites or the marine environment, which presents a risk to human rights, particularly of traditional communities. ⁵¹ In assessing the realisation of human rights by various Islands, which can safely be presumed to be impacted from solid wastes issues at present, it is important to consider many different dimension, including resource mobilization, the law/policies to reduce waste generation and disposal, and possible transboundary movements.
Water impacted by solid wastes, e.g., leachates	Rights of local communities on Islands living downstream to life, health, food, and water, among others. ⁵²	Limited cases were identified on these impacts, primarily from mining-related contamination. Run off from landfills is a likely concern.



⁴⁹ Ibid.

⁵⁰ See e.g. ECHR, *Oneryildiz v Turkey*; UN Human Rights Advisory Panel for Kosovo, final opinion on Roma, Ashkali and Egyptian communities housing (2016).

⁵¹ United Nations Environment Program, *Small Island Developing States Waste Management Outlook*, 2019, https://clmeplus.org/app/uploads/2020/03/SIDS_WMO.pdf.

⁵² See e.g. Amnesty International, *INJUSTICE INCORPORATED*, pp. 82-83. See also Columbia University Earth Institute, *Uncovering Gold Impacts in Papua New Guinea* (blog).

Individuals and Communities at Elevated Risk from Waste

A human rights-based approach to wastes requires specific consideration and protection of those most vulnerable or at risk: children, the poor, waste-pickers and other workers, persons with disabilities, older persons, indigenous peoples, migrants, and minorities, while considering gender-specific risks. Designing laws and policies to protect those most at risk is shown to have a ripple effect for the broader community.

Under international human rights standards, special requirements exist for enhanced protection of these groups. States must ensure that laws, policies, and institutions aimed at assessing and mitigating the potential impacts of wastes are based on the needs of the most vulnerable.⁵³

Workers

In 2019, the UN Human Rights Council recognised the obligation of States and responsibility of business to prevent harmful exposures by all workers to hazardous substances and wastes.⁵⁴ This includes both the formal and informal sector. It further called on all States and businesses to implement 15 principles on human rights the protection of workers from exposure to hazardous substances, which is of relevance to workers who handle waste.⁵⁵

Occupational safety and health (OSH) remain a critical challenge for workers around the Pacific region. According to the International Labour Organisation (ILO), despite government efforts to reform labour laws across the region, there are still huge gaps in the implementation of law, policy, and practice.⁵⁶ The safety and health conditions at work vary between Pacific Island Countries, economic sectors, social and cultural groups. Deaths and injuries take a particularly heavy toll in Islands where a large part of the population is engaged in hazardous activities, such as agriculture, fishing, and mining and the poorest and least protected who are often women, children and migrants are among the most affected.⁵⁷

From the literature it appears most of the waste streams are of critical concerns for workers. For example, construction workers are likely to encounter asbestos waste during building renovation and demolition.⁵⁸ Waste-pickers are at risk of occupational diseases and disabilities from handling waste.

In the Islands, five of the eleven Member States of the ILO have national OSH legislations. They are Fiji, Papua New Guinea, Samoa, the Solomon Islands and Vanuatu. The other six Member States – Kiribati, Marshall Islands, Palau, Tuvalu, Cook Islands and Tonga are in the process of drafting and/or finalising their legislations.

⁵³ See e.g. Special Rapporteur on hazardous substances and wastes, *Guidelines to good practices - report to the UN Human Rights Council* (2017), A/HRC/36/41 <https://undocs.org/A/HRC/36/41>

⁵⁴ UN Human Rights Council, Resolution on protection of the rights of workers exposed to hazardous substances (2019), HRC/RES/42/21 <https://www.ohchr.org/EN/Issues/Environment/ToxicWastes/Pages/Resolutionadopted.aspx>

⁵⁵ UN Special Rapporteur on hazardous substances and wastes, *Principles on the protection of worker's rights from exposure to hazardous substances – report to the UN Human Rights Council* (2019) A/HRC/42/41, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/42/41

⁵⁶ Dateline Pacific, *Occupational Safety and Health a challenge for Pacific workers*, 28 November 2016, <https://www.rnz.co.nz/international/programmes/datelinepacific/audio/201825593/occupational-safety-and-health-a-challenge-for-pacific-workers>

⁵⁷ Ibid.

⁵⁸ Secretariat of the Pacific Regional Environment Programme (SPREP) and The World Health Organization (WHO), *An Asbestos-Free Pacific: A Regional Strategy and Action Plan*, 2011, https://www.sheltercluster.org/sites/default/files/docs/wp_8_2_8_att_1_draft_asbestos_strategy_0.pdf

In addition, Fiji, Papua New Guinea, and the Solomon Islands are collaborating national centres for OSH with the ILO International Occupational Safety and Health Information Centre.⁵⁹ The remaining four Islands are not members of the ILO, and many have not ratified key ILO conventions relevant to waste because OSH is not one of ILO's "fundamental" principles and rights at work.

According to the World Bank's report on 'Well-being from Work in the Pacific Island Countries', official statistics are scarce, providing an incomplete picture of employment and Islands.⁶⁰ Little data on employment are available beyond that which are collected from household income and expenditure surveys and censuses. Significant portions of waste-workers on the Islands are not formalized, further complicating assessments and interventions.

The World Bank report states that urbanisation also continues to generate pressures for other small Pacific Island Countries like Kiribati, the Marshall Islands, the Solomon Islands, and Vanuatu, with the pace of growth in urban populations outstripping the pace of employment creation and feeding concerns regarding youth unemployment and associated social problems.⁶¹ These problems are exacerbated by very large and growing youth populations in many Islands, who may be at risk of undertaking hazardous work.⁶² Some of the Islands (e.g. Solomon Islands) face continued conflict pressures arising partly from uneven distribution of economic opportunities, including the concentration of formal sector employment in the capital cities.⁶³

Studies from particular Islands show grave risks to worker's rights from Asbestos and e-waste (table 4). Studies indicate that a range of individuals could be exposed to the risks of improperly managed healthcare waste including healthcare workers at hospitals and health clinics, hospital workers responsible for the handling, transport and disposal of healthcare waste, and members of the community living near hospitals and health clinics.⁶⁴

Landfills and areas of waste dumping are frequented by informal waste pickers who subsist on the sale of salvaged items and provide a valuable recycling service, albeit in hazardous conditions. As such, the human rights-related concerns faced by waste pickers run the spectrum. Health risks are exacerbated by a lack of personal protective equipment; risk of injury from heavy equipment; exposure to hazardous wastes; and involvement of children in waste-picking activities.⁶⁵

Children

The UN Convention on the Rights of the Child (CRC) creates special obligations on States to protect children from wastes, to which all Islands are obliged to adhere. Notably, while many of the Islands are not party to key human rights conventions and Covenants, they are all Party to the CRC.

Under the Convention, States must take into consideration the child's best interests in all administrative and judicial matters.

⁵⁹ <http://www.oit.org/suva/areas-of-work/safety-and-health-at-work/lang--en/index.htm>, accessed 14 July, 2020.

⁶⁰ The World Bank, *Well-being from Work in the Pacific Island Countries*, <https://www.worldbank.org/content/dam/Worldbank/document/EAP/Pacific%20Islands/Well-being-Work-Pacific-Islands.pdf>

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Hazardous Waste in the Pacific, accessed July 13, 2020, https://www.sprep.org/attachments/Publications/FactSheet/PacWaste_FS.pdf

⁶⁵ Cleaner Pacific 2025, Pacific Regional Waste and Pollution Management Strategy 2016–2025, 2016, https://sustainabledevelopment.un.org/content/documents/commitments/1326_7636_commitment_cleaner-pacific-strategy-2025.pdf

They must ensure every child's right to survival and maximum development, in addition to realizing their right to life and health more generally. States are explicitly required to take into consideration the dangers and risks of pollution and contamination in realizing the rights to health, food, and water.

Under the CRC, every child on the Islands should have the right to freedom from hazardous work, which covers work in many of the priority waste streams.⁶⁶ Hazardous work is one of the worst forms of child labour and a concern noted by the UN for various Islands (see *Table 4*).

Some countries submit regular reports to the UN Committee on the Rights of the Child, which is helpful in clarifying issues and advancing recommendations as needed. However, other countries do not submit regular reports, and some parties have never sent a report to the Committee.

Poverty, Indigenous peoples, migrants, and minorities

Among the literature for the Islands, there are limited reports regarding the impact of wastes communities living in poverty on many of the Islands, although it is alluded to in various reports and roadmaps.⁶⁷ It is fair to assume that the rights of low-income communities are the most infringed by waste mismanagement on the Islands. On many Islands, approximately 1 in 4 people live under the poverty line.⁶⁸ Thus, poverty may not be a challenging indicator of unequal treatment for some Islands.

For most Islands, natural resource development, environmental interventions, and goals of poverty reduction and economic growth are inextricably linked. There is a longstanding need to enhance the livelihoods of poor people on the Islands, particularly in rural areas where, in addition to health risks posed by wastes, they depend on land, water and biodiversity that can be impacted by wastes.⁶⁹ Sound waste management can not only reduce systemic impediments to poverty alleviation but also create new and better job opportunities, but require careful design, including gender and cultural considerations.⁷⁰

Poverty often intersects with the situation confronting indigenous, migrant and minority communities typically intersect. The predominant rights concern documented for indigenous peoples of the Pacific is the loss of ancestral lands and territories, and corresponding risk of disappearing as distinct peoples.⁷¹ The best documented waste-related concerns for indigenous communities are from activities outside the scope of the literature review, such as mining. There is limited discussion on minorities and migrants regarding waste on the Islands (see table 3).⁷²

⁶⁶ UN Convention on the Rights of the Child, Art. 32

⁶⁷ See e.g. Timor Leste "SDG roadmap"

⁶⁸ <https://www.un.org/development/desa/en/news/sustainable/hlpf-2019-pacific-islands-forum.html>

⁶⁹ <https://www.adb.org/sites/default/files/linked-documents/51063-001-sd-02.pdf> and https://planipolis.iiep.unesco.org/sites/planipolis/files/ressources/timor-leste_prsp.pdf

⁷⁰ See e.g. Oxfam, *Trash Talk* https://oi-files-d8-prod.s3.eu-west-2.amazonaws.com/s3fs-public/file_attachments/dp-trash-talk-zaatari-recycling-210817-en.pdf

⁷¹ United Nations Permanent Forum on Indigenous Issues, Indigenous Peoples in the Pacific Region, https://www.un.org/en/events/indigenousday/pdf/factsheet_Pacific_FINAL.pdf

⁷² For example, UNEP's Waste Management Outlook of 2019 makes no mention of indigenous, minority or migrant communities. https://clmeplus.org/app/uploads/2020/03/SIDS_WMO.pdf

Table 4 Literature pertaining to groups at elevated risk on selected Pacific Islands

Pacific Island	Vulnerable Group	Concern	Body/Source	Findings
Cook Islands	Children	Best interests	UN CRC	“the Committee is concerned that the principle is not sufficiently incorporated into all relevant legislation, policies, programmes and projects that are relevant to and have an impact on children” ⁷³
	Children	Substantive rights	UN CRC	Deeply concerned about the “increasingly adverse impact of ... natural disasters on the rights of the child in the Cook Islands [and] insufficient inclusion ... in policies and programs on disaster risk reduction.” ⁷⁴
	Migrants	Women workers	UN CEDAW	lack of legislation to protect women migrant workers in the State party ⁷⁵
Democratic Republic of Timor-Leste	Indigenous	Land, resources	SR Indig. Peoples	“Local communities are concerned over the pollution that will affect water and land resources, impacting on human health and biodiversity” ⁷⁶
Federated States of Micronesia	Children	Labour	UN CRC	“concerned that there is no legislation prohibiting child labour or establishing the minimum age for admission to hazardous and non-hazardous work and no programmes to prevent child labour or support children involved in the practice.” ⁷⁷
	Children	Rights monitoring	UN CRC	“The Committee is concerned about the absence of a national human rights mechanism in the State party with a mandate to monitor children’s rights and to receive complaints about violations of children’s rights.” ⁷⁸

⁷³ UN Committee on the Rights of the Child, review of Cook Islands (2020), CRC/C/COK/CO/2-5, <https://undocs.org/en/CRC/C/COK/CO/2-5>

⁷⁴ UN Committee on the Rights of the Child, review of Cook Islands (2020), CRC/C/COK/CO/2-5, <https://undocs.org/en/CRC/C/COK/CO/2-5>

⁷⁵ UN Committee on the Elimination of Discrimination Against Women, review of Cook Islands (2018), CEDAW/C/COK/CO/2-3, <https://undocs.org/en/CEDAW/C/COK/CO/2-3>

⁷⁶ Report on visit to Timor Leste, para 49, A/HRC/42/37/Add.2

⁷⁷ UN Committee on the Rights of the Child, review of Federated States of Micronesia (2020), CRC/C/FSM/CO/2 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/FSM/CO/2&Lang=En. See also UPR review (2015), compilation of information, para 16, A/HRC/WG.6/23/FSM/2

⁷⁸ UN Committee on the Rights of the Child, review of Federated States of Micronesia (2020), CRC/C/FSM/CO/2 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/FSM/CO/2&Lang=En

Pacific Island	Vulnerable Group	Concern	Body/Source	Findings
	Children	General	UN CRC	“concerned that the State party has not integrated the specific vulnerabilities and needs of children into its policies and programmes addressing ... disaster risk management”
Fiji	Children	Labour	UN CRC	While legislation existed in 2014, there was at the time no list of hazardous work for children and the Government was recommended to formulate such a list, as well as disaggregated data such work. ⁷⁹
	Indigenous	General	UN CERD	Continue to respect and protect rights under UNDRIP
Kiribati	Disabilities	General	UPR	UNCT: widespread discrimination and barriers accessing opportunities afforded to citizens. ⁸⁰
Nauru	Refugees	Life, health, etc.	News	Reports of exposure to asbestos after workers dumped it next to the Fly Camp settlement, where dozens of refugees live. ⁸¹
	Refugees	Safe healthy work	News	Reportedly, refugees and local workers in Nauru were being hired to remove asbestos from houses on the island without proper protection from the hazardous material. ⁸²
	All		UPR	UN country team encourages gov’t to “put in place legislative safeguards for social protection benefits to ensure there are safeguards for vulnerable groups, such as children, the elderly and persons with disabilities.” Limited sickness etc benefits as all go through local councils. ⁸³
Niue				None

⁷⁹ UN Committee on the Rights of the Child, review of Fiji (2014), CRC/C/FJI/CO/2-4 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/FJI/CO/2-4&Lang=En See also UPR review 2020, compilation of UN documentation. A/HRC/WG.6/34/FJI/2

⁸⁰ UPR, compilation of UN documents, A/HRC/WG.6/35/KIR/2 (2020)

⁸¹ Stephen Dziedzic, *Nauru refugees exposed to asbestos after shipping containers dumped just metres away*, Pacific Beat, 19 March 2019, <https://www.abc.net.au/news/2019-03-19/refugees-on-nauru-exposed-to-asbestos/10912044>.

⁸² Michael Walsh, *Safety concerns for refugees and workers as Nauru asbestos removal program kicks off*, Pacific Beat, 30 November 2015, <https://www.abc.net.au/news/2015-11-30/refugees-removing-nauru-asbestos-without-proper-protection/6985292>.

⁸³ Nauru 2015 UPR review, compilation of information by OHCHR, A/HRC/WG.6/23/NRU/2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/187/69/PDF/G1518769.pdf?OpenElement>

Pacific Island	Vulnerable Group	Concern	Body/Source	Findings
Palau	Workers	Safe work, among others	UNEP	Untrained staff collecting, treating, and disposing of medical waste frequently without using personal protective equipment. ⁸⁴
			UPR	UN country team notes situation of workers, need for adequate protection against anti-union discrimination and respect of their employment. ⁸⁵
Papua New Guinea	Indigenous	Land rights	UPR	Large-scale land acquisitions “had negatively affected the ability of indigenous communities to maintain customary land use patterns, sustain their traditional way of living, access land and secure their right to food and right to water” ⁸⁶
	Indigenous	Rights to health, water, etc.	NGOs	Case of Ok Tedi Mine indicates concerns regarding decision-making
	Women		SR Violence against Women	Special measures needed to integrate women into the economy and workforce. ⁸⁷
			ILO	Need to better integrate women into the work force through training and ensure equal pay for equal work. ⁸⁸
	Indigenous		UN CERD	Access to justice and remedies (see Grievance Mechanisms below)

⁸⁴ United Nations Environment Program, *Small Island Developing States Waste Management Outlook*, 2019, https://clmeplus.org/app/uploads/2020/03/SIDS_WMO.pdf.

⁸⁵ Palau, UPR review, compilation of information by OHCHR, A/HRC/WG.6/24/PLW/2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/265/80/PDF/G1526580.pdf?OpenElement>

⁸⁶ PNG UPR review, compilation of UN information, A/HRC/WG.6/25/PNG/2, para 59 (2016) (citing A/HRC/27/52/Add.4, para. 120, and A/HRC/26/21, p. 59)

<https://undocs.org/A/HRC/WG.6/25/PNG/2>

⁸⁷ PNG UPR review, compilation of UN information, A/HRC/WG.6/25/PNG/2 (2016) <https://undocs.org/A/HRC/WG.6/25/PNG/2>

⁸⁸ PNG UPR review, compilation of UN information, A/HRC/WG.6/25/PNG/2 (2016) <https://undocs.org/A/HRC/WG.6/25/PNG/2>

Pacific Island	Vulnerable Group	Concern	Body/Source	Findings
Republic of the Marshall Islands	Children	Life, health, among others	Various	Impacts of lead contamination from spent lead acid batteries presumed
	Children	Life, health among others	UPR	Committee on child rights concerned insufficient inclusion of the special needs of children, including children with disabilities, in planning disaster risk reduction, preparedness, response and recovery and the inadequate number of and access to evacuation centres, particularly in the outer islands. ⁸⁹
	Children	Safe water	UPR	“take immediate steps to guarantee access to clean water and sanitation for all children” (suggesting contamination).
	Children		UN CRC	“strengthen the capacity of labour inspection services in order to ensure the monitoring of child labour in the informal economy and to guarantee the protection afforded by the Convention on the Rights of the Child in that regard and put into place social programmes that targeted the elimination of child labour, especially its worst forms.” ⁹⁰
Samoa	Workers	Safe work, among others	UNEP	The report highlights concern for workers involved in dismantling e-waste: ‘a practiced and callused hand is nearby, forcibly and systematically ripping apart an old computer body with a pair of pliers and a screwdriver, scattering electronic paraphernalia in all directions’. ⁹¹
	Children	Labour	UPR	Need to determine types of hazardous work prohibited for those younger than 18. ⁹²
	Children	Disaster	UN CRC	Need greater clarity on disaster risk management for children.

⁸⁹ UPR, compilation of UN information, A/HRC/WG.6/36/MHL/2 (2020) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/065/40/PDF/G2006540.pdf?OpenElement>

⁹⁰ UPR, compilation of UN information, A/HRC/WG.6/36/MHL/2 (2020) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/065/40/PDF/G2006540.pdf?OpenElement>

⁹¹ UN Environment Programme, *Where does waste go on a small island?*, 15 November 2019, <https://www.unenvironment.org/news-and-stories/story/where-does-waste-go-small-island>.

⁹² UPR review, compilation of UN information, A/HRC/WG.6/25/WSM/2 (2016), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/044/56/PDF/G1604456.pdf?OpenElement>

Pacific Island	Vulnerable Group	Concern	Body/Source	Findings
Solomon Islands	Indigenous peoples	General	NGO	Recommends endorsement of UNDRIP and enactment of national legislation to incorporate the principle of Free, Prior, Informed Consent before initiating development projects that affected Indigenous communities; re-establish the Ministry of Rural Development and Indigenous Business Affairs; ⁹³
Tonga	Low-income, among others	Disaster	UNCT	Assess impacts of disasters on “the poor and lower-income segments of the population and various other social groups, and assist them in becoming more resilient in the face of such disasters” and “ensure that stakeholders, including target groups, were consulted while planning such interventions” ⁹⁴
Tuvalu	Children	Best interests	UN CRC	Best “interests were not taken into account as a primary consideration at all levels of decision-making affecting children by government institutions, courts, administrative authorities or legislative bodies” ⁹⁵
Vanuatu	Children	General	UN CRC	“National Children’s Committee had not been fully functional since 2012 and recommended that Vanuatu provide it with the necessary human, technical and financial resources for its effective operation.” ⁹⁶
	Children	General	UN CRC	“de jure and de facto discrimination of children based on gender and disabilities, and recommended ending all forms of discrimination against them, particularly against girls and against children with disabilities” ⁹⁷
	Children	Adequate standard of living	UN CRC	Regional disparities among the provinces in terms of access to housing, education, water, food, and health care. ⁹⁸

⁹³ UPR, Compilation of submissions to UPR, A/HRC/WG.6/24/SLB/3 (2015)

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/252/00/PDF/G1525200.pdf?OpenElement>

⁹⁴ Compilation of UN information for UPR (2017), A/HRC/WG.6/29/TON/2 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/330/25/PDF/G1733025.pdf?OpenElement>

⁹⁵ UPR, compilation of UN documents, A/HRC/WG.6/30/TUV/2 (2018)

⁹⁶ UPR, compilation of UN documents, A/HRC/WG.6/32/VUT/2 (2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/334/33/PDF/G1833433.pdf?OpenElement>

⁹⁷ UPR, compilation of UN documents, A/HRC/WG.6/32/VUT/2 (2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/334/33/PDF/G1833433.pdf?OpenElement>

⁹⁸ UPR, compilation of UN documents, A/HRC/WG.6/32/VUT/2 (2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/334/33/PDF/G1833433.pdf?OpenElement>

Pacific Island	Vulnerable Group	Concern	Body/Source	Findings
	Children	Disasters	UN CRC	“develop a comprehensive disaster-sensitive social protection system, taking into account the special vulnerabilities and needs of children” ⁹⁹
	Children	Labour (worst forms)	UN CRC	“urged Vanuatu to adopt a policy on child labour and a list of hazardous work for children and ensure that no child under 18 years engaged in such work; put in place social programmes that targeted the elimination or prevention of child labour, especially its worst forms; and establish child-specific complaint mechanisms” ¹⁰⁰

Although some studies are available and ample reason to presume disproportionate impacts, there is in general limited literature on the impacts of waste streams on various vulnerable groups. This is particularly the case for workers involved in waste management.



⁹⁹ UPR, compilation of UN documents, A/HRC/WG.6/32/VUT/2 (2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/334/33/PDF/G1833433.pdf?OpenElement>

¹⁰⁰ UPR, compilation of UN documents, A/HRC/WG.6/32/VUT/2 (2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/334/33/PDF/G1833433.pdf?OpenElement>

Social inclusion and gender equity

Social inclusion

Social inclusion is “the process by which efforts are made to ensure equal opportunities – that everyone, regardless of their background, can achieve their full potential in life. Such efforts include policies and actions that promote equal access to (public) services as well as enable citizen’s participation in the decision-making processes that affect their lives.”¹⁰¹

The concept encapsulates the overarching objectives of equality, non-discrimination, and human dignity in the realisation of substantive rights, while emphasizing the importance of meaningful participation in the process. All the different human rights implicated by wastes, particularly for communities at elevated risk, are included the umbrella of social inclusion. No literature was identified on social inclusion regarding waste management on the Islands.

Gender equity

Due to differences in social roles, including occupational and household roles, women and men are exposed differently to toxic wastes with respect to, among other things, the substances encountered and the degree of exposure. Biological differences between men and women, such as physiological and hormonal differences, create differing susceptibilities to the adverse effects of wastes. Studies show strong correlations between various gender specific cancers and harms to reproduction from exposure to various toxic substances found in wastes.

Asbestos illustrates the gendered impacts of exposure to waste. In women, the major concern is peritoneal mesothelioma, which occurs twice as frequently in women as men.¹⁰² In men, the chief concern is pleural mesothelioma, which is harder to diagnose and occurs five times more frequently than peritoneal mesothelioma. Women also have a better prognosis than men because treatment is more effective for women.¹⁰³

Although gender equity requires consideration of all genders, predominant concern for the Islands is the inequitable treatment of women. Several Islands have come under criticism for discriminatory law, policies and institutions, and a prevalence of domestic violence, against women.¹⁰⁴ Protective legislation is weak or absent and women typically face discrimination in many forms, including exclusion from legislatures and other decision making processes.¹⁰⁵ It is believed that many inequities facing women in the Pacific region may stem from the lack of female representation in government at the local and national level.¹⁰⁶ In some Islands, women are poorly represented in governance.

¹⁰¹ UN DESA, Social Inclusion <https://www.un.org/development/desa/socialperspectiveondevelopment/issues/social-integration.html>

¹⁰² United Nations Environment Program, *Small Island Developing States Waste Management Outlook*, 2019, https://clmepius.org/app/uploads/2020/03/SIDS_WMO.pdf.

¹⁰³ Ibid.

¹⁰⁴ Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples – Kiribati*, 2018, <https://www.refworld.org/docid/4954ce2025.html>

¹⁰⁵ United Nations Economic and Social Commission for Asia and the Pacific, *Putting Gender Equality centre stage in the Pacific*, Pacific Perspectives Policy Brief 01-2014, <https://www.unescap.org/sites/default/files/Policy-Brief-Gender-Inequality-Jan14.pdf>; see also <https://www.un.org/development/desa/en/news/sustainable/hlpf-2019-pacific-islands-forum.html>

¹⁰⁶ Madeline Storey, *Gaps Between Gender Policy & Community Experiences in the South Pacific*, April 11, 2017, <https://pacificpeoplespartnership.org/women-in-the-south-pacific/>

Although many commitments to achieving gender equality have been made by Pacific Island governments at global, regional, and national levels, progress has been poor.¹⁰⁷

The deeply negative cultural attitudes and stereotypes about the role and position of women in society can translate into inequities regarding waste and waste management.¹⁰⁸ Women workers in the priority waste streams may be subject to a form of double jeopardy, as women's employment is informal, insecure, and largely unregulated. Others may be excluded altogether. While women's share of the labour force on the Islands is increasing, it is consistently lower than that of men.¹⁰⁹

Women, however, are generally considered to be at elevated risk. Women, for example, are more likely to store higher levels of environmental pollutants in their tissues than those found in men. During pregnancy, lactation and menopause, women's bodies undergo changes that may increase their susceptibility to health impacts from exposures to toxic wastes. Studies show that women's exposure to wastes can cause miscarriages, premature births, congenital malformations (birth defects) and low birth weight. The experience of the Marshall Islands regarding nuclear testing is evidence of this, although not a waste stream within the scope of this study (see table 1). Yet, inadequate attention has been paid across much of the world to the environmental injustice experienced by women, particularly from waste.

The rights of the child discussed above correspondingly create enhanced duties on States to protect women of reproductive age from hazardous substances in wastes that may infringe their child's right to life, health, survival, and development.

Efforts are underway on gender that may provide entry points for various rights concerns on waste. For example, Palau had commenced the development of a national gender policy with support from the Secretariat of the Pacific Community.¹¹⁰



¹⁰⁷ United Nations Economic and Social Commission for Asia and the Pacific, *Putting Gender Equality centre stage in the Pacific*, Pacific Perspectives Policy Brief 01-2014, <https://www.unescap.org/sites/default/files/Policy-Brief-Gender-Inequality-Jan14.pdf>

¹⁰⁸ The Equal Rights Trust Country Report Series: 6, *Stand Up and Fight: Addressing Discrimination and Inequality in Solomon Islands*, 2016, <https://www.equalrightstrust.org/ertdocumentbank/SI%20report.pdf>

¹⁰⁹ United Nations Economic and Social Commission for Asia and the Pacific, *Putting Gender Equality centre stage in the Pacific*, Pacific Perspectives Policy Brief 01-2014, <https://www.unescap.org/sites/default/files/Policy-Brief-Gender-Inequality-Jan14.pdf>

¹¹⁰ UPR, compilation of UN information, A/HRC/WG.6/24/PLW/2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/265/80/PDF/G1526580.pdf?OpenElement>

Table 5 Literature pertaining to inclusion and gender relevant to waste management on selected Pacific Islands

Pacific Island	Body	Findings
Cook Islands	UN CRC	A general concern for the “prevalence of discriminatory legislation” (none specified on waste). ¹¹¹
	UN CEDAW	National machinery for advancement of women needs ‘human, technical and financial resources and faces high staff turnover,’ lack of effective coordination between the government agencies impeding gender perspective, limited State efforts, and reliance on short term programmes. ¹¹²
	UN CEDAW	“The concentration of women in informal employment, part-time employment and unpaid work” ¹¹³
	UN CEDAW	“concerned about the lack of a gender perspective in policies and programmes on ... disaster response and disaster risk reduction.” ¹¹⁴
	UN CEDAW	lack of legislation to protect women migrant workers in the State party ¹¹⁵
Democratic Republic of Timor-Leste	UPR (Spain)	“Take measures to eliminate discrimination against women, especially on the issues of violence, land rights, right to work, right to education and other forms of gender inequality” ¹¹⁶
	IMF	Need to focus on the elimination of health hazards for women. ¹¹⁷
	UN CEDAW	“Rural women had limited access to decision-making processes concerning the use of land, and that large-scale rural infrastructure projects that involved forced eviction, acquisition and relocation violated the rights of rural women to fair compensation and reallocation of land.” ¹¹⁸
	UN CRC	“...discrimination on all explicit grounds covered under the Convention, including disability and religion, is not prohibited. The Committee is also concerned about de facto discrimination against [girls and children living in poverty].” ¹¹⁹

¹¹¹ UN Committee on the Rights of the Child, review of Cook Islands (2020), CRC/C/COK/CO/2-5, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/COK/CO/2-5&Lang=En

¹¹² UN Committee on the Elimination of Discrimination Against Women, review of Cook Islands (2018), CEDAW/C/COK/CO/2-3, <https://undocs.org/en/CEDAW/C/COK/CO/2-3>

¹¹³ UN Committee on the Elimination of Discrimination Against Women, review of Cook Islands (2018), CEDAW/C/COK/CO/2-3, <https://undocs.org/en/CEDAW/C/COK/CO/2-3>

¹¹⁴ UN Committee on the Elimination of Discrimination Against Women, review of Cook Islands (2018), CEDAW/C/COK/CO/2-3, <https://undocs.org/en/CEDAW/C/COK/CO/2-3>

¹¹⁵ UN Committee on the Elimination of Discrimination Against Women, review of Cook Islands (2018), CEDAW/C/COK/CO/2-3, <https://undocs.org/en/CEDAW/C/COK/CO/2-3>

¹¹⁶ UPR Timor Leste 3rd review, recommendation 89.72

¹¹⁷ https://planipolis.iiep.unesco.org/sites/planipolis/files/ressources/timor-leste_prsp.pdf

¹¹⁸ UPR, compilation of UN documentation, A/HRC/WG.6/26/TLS/2 (2016) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/184/71/PDF/G1618471.pdf?OpenElement>

¹¹⁹ UN Committee on the Rights of the Child, review of Federated States of Micronesia (2020), CRC/C/FSM/CO/2

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/FSM/CO/2&Lang=En

Pacific Island	Body	Findings
Federated States of Micronesia	UPR	Gender not a constitutionally protected ground of non-discrimination. No representation in parliament as of 2015. ¹²⁰
Fiji	UPR	Need for more women in decision-making roles. ¹²¹
Kiribati	NGO	As of May 2017, only 6.5 per cent of the members of the national parliament in Kiribati were women; and only 10 of the total of 332 local councillors were women. ¹²²
Nauru	UPR	See participation (table 7), below
	UPR	Government encouraged to put in place special measures to ensure women represented in decision-making structures, including Parliament. ¹²³
	UPR	Urged to develop gender equality legislation. ¹²⁴
Niue		None
Palau		See participation (table 7), below
Papua New Guinea	SR violence against women	Very limited representation of women in Parliament ¹²⁵
Republic of the Marshall Islands	UPR	“physical and economic barriers that impeded access for women to justice, in particular with regard to women in the outer islands...stigmatization of women who claimed their rights.” ¹²⁶

¹²⁰ UPR, compilation of UN information, A/HRC/WG.6/23/FSM/2 (2015) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/188/83/PDF/G1518883.pdf?OpenElement>

¹²¹ UPR, compilation of UN information, A/HRC/WG.6/34/FJI/2 (2019) <https://undocs.org/A/HRC/WG.6/34/FJI/2>

¹²² Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples – Kiribati*, 2018, <https://www.refworld.org/docid/4954ce2025.html>

¹²³ UPR, compilation of information by OHCHR, A/HRC/WG.6/23/NRU/2 (2015), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/187/69/PDF/G1518769.pdf?OpenElement>

¹²⁴ UPR, compilation of information by OHCHR, A/HRC/WG.6/23/NRU/2 (2015), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/187/69/PDF/G1518769.pdf?OpenElement>

¹²⁵ UPR, Compilation of UN information, A/HRC/WG.6/25/PNG/2 (2016), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/043/35/PDF/G1604335.pdf?OpenElement>

¹²⁶ UPR, Compilation of UN information, A/HRC/WG.6/36/MHL/2 (2020), https://ap.ohchr.org/Documents/dpage_e.aspx?si=A/HRC/WG.6/36/MHL/2

Pacific Island	Body	Findings
	UN CEDAW	Concerns include entrenched patriarchal views, under-resourced Gender and Development Office, substantive inequality in political and public life incl. employment/health (noting unequal pay), and under-representation in decision-making. “allocate adequate human, technical and financial resources to the [Gender and Development] Office, appoint, without delay, gender focal points to monitor the implementation of the gender mainstreaming policy across ministries and government departments and ensure that they had clear mandates to effectively coordinate policies and programmes on women’s rights.” ¹²⁷
	UN CEDAW	“The Committee on the Elimination of Discrimination against Women noted with concern the heavy impact of the nuclear testing programme, with more women than men dying from the effects of radiation. It also noted that women from at least four affected atolls still suffered from the effects of nuclear testing, which had had a severe impact on their sexual and reproductive health, given that radiation was a cause of the high rates of miscarriage, irregular menstrual cycles, and severe birth defects. The Committee recommended that the Marshall Islands expand its national cancer prevention programme to address the effects of nuclear testing, which had had a disproportionate impact on women’s health, and ensure that the health sector was adequately funded.” ¹²⁸
Samoa	UPR	UNCT states poor access to employment by women. ¹²⁹
	UN CEDAW	No definition of discrimination against women as of 2016, and patriarchal attitudes and stereotypes that discriminated against women. ¹³⁰
	UPR	UNCT states poor representation of women in Parliament due to few women holding <i>matai</i> titles. Also notes the positive potential of the Labour and Employment Relations Act of 2013 for equality in employment. ¹³¹
	UN CEDAW	formal employment opportunities limited, and women concentrated in the informal sector, need to develop regulatory framework for the informal sector. ¹³²
Solomon Islands	UN CEDAW	Poor representation in parliament by women ¹³³

¹²⁷ UPR, Compilation of UN information, A/HRC/WG.6/36/MHL/2 (2020), https://ap.ohchr.org/Documents/dpage_e.aspx?si=A/HRC/WG.6/36/MHL/2

¹²⁸ UPR, Compilation of UN information, A/HRC/WG.6/36/MHL/2 (2020), https://ap.ohchr.org/Documents/dpage_e.aspx?si=A/HRC/WG.6/36/MHL/2

¹²⁹ UPR, Compilation of UN information, A/HRC/WG.6/25/WSM/2 (2016), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/044/56/PDF/G1604456.pdf?OpenElement>

¹³⁰ UPR, Compilation of UN information, A/HRC/WG.6/25/WSM/2 (2016), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/044/56/PDF/G1604456.pdf?OpenElement>

¹³¹ UPR, Compilation of UN information, A/HRC/WG.6/25/WSM/2 (2016), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/044/56/PDF/G1604456.pdf?OpenElement>

¹³² UPR, Compilation of UN information, A/HRC/WG.6/25/WSM/2 (2016), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/044/56/PDF/G1604456.pdf?OpenElement>

¹³³ UPR, Compilation of UN information, A/HRC/WG.6/24/SLB/2 (2016), <https://daccess-ods.un.org/TMP/3307999.07445908.html>

Pacific Island	Body	Findings
Tonga	UPR	UNCT: “In the private sector, women were almost invisible on company boards. In the public sector, women usually occupied lower-level positions. The participation of women in the workforce was highest in the informal sector. Unemployment among women was typically higher in rural and remote outer islands” ¹³⁴
	UPR	“gender discrimination in terms of wages and work conditions remained an issue.” ¹³⁵
	NGO	no legislation that ensured the welfare of female workers, including maternity leave. ¹³⁶
	UPR	Introduce more targeted programmes to consider the specific needs of women belonging to marginalized and vulnerable groups, such as rural women and women with disabilities” and “prioritize gender equality initiatives within its strategic development framework and intensify efforts to increase women’s participation at all formal decision-making levels,” including the Legislative Assembly. ¹³⁷
Tuvalu	UN CEDAW	Recommended that Tuvalu establish specific remedies to provide redress for women in the justice system and raise public awareness of the importance of addressing violations of women’s rights through judicial remedies. It also recommended that Tuvalu enhance women’s awareness of their rights and the means to enforce them, including by strengthening cooperation with civil society organizations, in particular community-based women’s associations. ¹³⁸
	UN CEDAW	persisting gender stereotypes, negative traditional values and patriarchal attitudes regarding the roles and responsibilities of women and men in society and in the family, which overemphasized women’s roles as mothers and housewives, thereby preventing them from actively participating in all aspects of public life. ¹³⁹
	UPR	CEDAW and UNCT, note dramatic increase in some roles for women in government, but “stark underrepresentation of women in political and public life, especially at the highest levels of decision-making; in local government, including decision-making bodies (Falekaupule) and island councils (Kaupule); in the judiciary; and in the diplomatic service.” ¹⁴⁰

¹³⁴ UPR, Compilation of UN information, A/HRC/WG.6/29/TON/2 (2017) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/330/25/PDF/G1733025.pdf?OpenElement>

¹³⁵ UPR, Compilation of UN information, A/HRC/WG.6/29/TON/2 (2017), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/330/25/PDF/G1733025.pdf?OpenElement>

¹³⁶ UPR, Compilation of stakeholder submissions A/HRC/WG.6/29/TON/3 (2017)

¹³⁷ UPR, Compilation of UN information, A/HRC/WG.6/29/TON/2 (2017) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/330/25/PDF/G1733025.pdf?OpenElement>

¹³⁸ UPR, Compilation of UN documents, A/HRC/WG.6/30/TUV/2 (2018), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/054/98/PDF/G1805498.pdf?OpenElement>

¹³⁹ UPR, Compilation of UN documents, A/HRC/WG.6/30/TUV/2 (2018), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/054/98/PDF/G1805498.pdf?OpenElement>

¹⁴⁰ UPR, compilation of UN documents, A/HRC/WG.6/30/TUV/2 (2018), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/054/98/PDF/G1805498.pdf?OpenElement>

Pacific Island	Body	Findings
Vanuatu	UN CEDAW	women’s underrepresentation in political and public life, especially at the decision- making level. ¹⁴¹
	UN CEDAW	“most women were self-employed or employed in the informal sector. It recommended that Vanuatu combat discrimination in the workplace and promote equal opportunities for and equal treatment of women in employment in both the public and private sectors, through comprehensive legislation; promote women’s access to employment in the formal sector with adequate social security coverage; and monitor the working conditions of self-employed women and women in the informal economy ¹⁴²
	UN CEDAW	“recommended that women, including those living on the outer islands, be included and actively participate in planning, decision-making and implementation processes concerning disaster risk reduction, post-disaster management” ¹⁴³
	CEDAW	“concerned about women’s limited access to justice, particularly on the outer islands, and their difficulties in obtaining effective remedies and redress in both the traditional and formal justice systems.” ¹⁴⁴



¹⁴¹ UPR, compilation of UN documents, A/HRC/WG.6/32/VUT/2 (2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/334/33/PDF/G1833433.pdf?OpenElement>

¹⁴² UPR, compilation of UN documents, A/HRC/WG.6/32/VUT/2 (2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/334/33/PDF/G1833433.pdf?OpenElement>

¹⁴³ UPR, compilation of UN documents, A/HRC/WG.6/32/VUT/2 (2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/334/33/PDF/G1833433.pdf?OpenElement>

¹⁴⁴ UPR, compilation of UN documents, A/HRC/WG.6/32/VUT/2 (2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/334/33/PDF/G1833433.pdf?OpenElement>

Traditional knowledge, the rights of nature and cultural practices

Traditional knowledge and cultural practices are relevant to wastes. Underutilized Indigenous and Local Knowledge (ILK) that could be synergized with modern science to develop sustainability strategies that are more appropriate to local realities.¹⁴⁵ As externally derived strategies may not be appropriate to small islands, innovative approaches and tools that are adapted to local conditions, cultures, and needs are required in development endeavours.¹⁴⁶

Cultural rights and practices are crucial for the protection and conservation of ocean resources, clearly impacted by various wastes. The rights of nature are integral to many cultures across the Islands. A 2018 *'Statement from the Collective Thinking on the Rights of the Pacific Ocean'*, the outcome of a meeting with various Islands among others, acknowledges the ocean as *'an entity, with rights including but not limited to: the right to exist, thrive and evolve, the right to integral health, the right to be free of pollution and a healthy, functioning climate system, the right to restoration and regeneration, and to continue her vital functions and cycles'*.¹⁴⁷

The Prime Minister of the Cook Islands stated: *"...we must consider the rights of the ocean. For just as those who have been treated unfairly have found it necessary to claim their rights, so too has the ocean been treated with injustice and disrespect. And so now we find it necessary to enable the ocean to claim its rights..."*¹⁴⁸ One of the voluntary commitments undertaken at the UN Ocean Conference headed by Fiji and Sweden, held in New York in 2017, was also to accord the Pacific Ocean the same protective legal rights as individuals now enjoy.¹⁴⁹ NGOs note that industrial activities are occurring in culturally sensitive areas, without completed impact assessment and necessary consents.¹⁵⁰

Furthermore, the *wantok* system in the Solomon Islands and the Melanesian countries is an example of prevalent cultural practices in the social fabric of the Pacific region. The *wantok* system links to the practices of group identity and belonging, reciprocity, and caring for one's relatives; it is a term used to express patterns of relationships that link people in families, tribes, islands, provinces, nationality and even more superficially at greater Melanesian sub-regional aggregates.¹⁵¹ Various aspects of the *wantok* system are called different names by distinct language groups in Papua New Guinea, Solomon Islands and Vanuatu.¹⁵² This system lends itself well to participation rights and social inclusion framing, discussed below.

¹⁴⁵ United Nations Environment Programme, *Emerging Issues for Small Island Developing States: Results of the UNEP Foresight Process*, 2014, <https://sustainabledevelopment.un.org/content/documents/2173emerging%20issues%20of%20sids.pdf>.

¹⁴⁶ Ibid.

¹⁴⁷ Statement from the Collective Thinking on the Rights of the Pacific Ocean, <https://static1.squarespace.com/static/55914fd1e4b01fb0b851a814/t/5c3e4179c2241b2d3e3e95eb/1547583869740/Ocean+Kinship+Statement.pdf>, accessed 13 July, 2020.

¹⁴⁸ Ibid.

¹⁴⁹ Magali Reinert, *Legal rights of Pacific Ocean pushed forward*, SciDevNet, July 4, 2017, <https://bit.ly/38XoCCu>.

¹⁵⁰ UPR, Compilation of submissions, A/HRC/WG.6/24/SLB/3 (2015)

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/252/00/PDF/G1525200.pdf?OpenElement>, para 50

¹⁵¹ Gordon Leua Nanau, *Wantoks and Kastom (Solomon Islands and Melanesia)*, [https://www.informality.com/wiki/index.php?title=Wantoks_and_Kastom_\(Solomon_Islands_and_Melanesia\)](https://www.informality.com/wiki/index.php?title=Wantoks_and_Kastom_(Solomon_Islands_and_Melanesia)); Milton Ragaruma, 'Reflecting on the Wantok System after 40 years of community', July 12, 2018, <https://theislandsun.com.sb/reflecting-on-the-wantok-system-after-40-years-of-community/>.

¹⁵² Ibid.

In some cases, custom may supersede constitutional rights. For example, in the Marshall Islands, *manit* custom has primacy over the Bill of Rights.¹⁵³ UNESCO has recommended the Marshall Islands ratify Convention on the Protection and Promotion of the Diversity of Cultural Expressions, as a means to promote access to and participation in creative expressions and thereby contribute to implementing the right to take part in cultural life.¹⁵⁴ In the case of Tuvalu, the Constitution stipulates that the exercise of human rights might be restricted if it was deemed divisive, unsettling or offensive to the people or threatened the values and culture of the country.¹⁵⁵ In Kiribati, the constitutional recognition of indigenous customs and traditions has legalized gender inequality.¹⁵⁶

In 2002, RMI noted the need to promote research and development in areas where endogenous technologies and traditional practices have great relevance, including agriculture, agricultural processing, waste-recycling, construction, and renewable energy. Establishment of regulations, standards and economic incentives were noted as needed to encourage the use of endogenous environmentally friendly technologies, which would assist with the realizing of NEPA, Part IV, section 33, subsection (a).¹⁵⁷



¹⁵³ UPR, Compilation of UN documents, A/HRC/WG.6/36/MHL/2 (2020),

https://ap.ohchr.org/Documents/dpage_e.aspx?si=A/HRC/WG.6/36/MHL/2

¹⁵⁴ UPR review, Compilation of UN documents, A/HRC/WG.6/36/MHL/2 (2020),

https://ap.ohchr.org/Documents/dpage_e.aspx?si=A/HRC/WG.6/36/MHL/2

¹⁵⁵ UPR, compilation of UN documents, A/HRC/WG.6/30/TUV/2 (2018), [https://documents-dds-](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/054/98/PDF/G1805498.pdf?OpenElement)

[ny.un.org/doc/UNDOC/GEN/G18/054/98/PDF/G1805498.pdf?OpenElement](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/054/98/PDF/G1805498.pdf?OpenElement)

¹⁵⁶ UPR, compilation of UN documents, A/HRC/WG.6/35/KIR/2 (2020)

¹⁵⁷ <https://www.un.org/esa/agenda21/natinfo/wssd/marshallislands.pdf>

Information

The enjoyment of the right to information is critical in the context of wastes. Information is the bedrock on which the realisation of human rights implicated by wastes depend. It is essential to prevent adverse impacts to life and health, to ensure freedom of expression and participation in decision-making processes and to access remedies. Health and safety information about hazardous substances and wastes must never be confidential.¹⁵⁸ Information must be available, accessible, functional, and consistent with the principle of non-discrimination for human rights to be respected, protected, enjoyed, and fulfilled.¹⁵⁹

States are duty-bound to generate, collect, assess and update information about wastes; effectively communicate such information, particularly to those disproportionately at risk of adverse impacts; ensure confidentiality claims are legitimate; and engage in international cooperation to ensure that foreign Governments have the information necessary to protect the rights of people in their territory.¹⁶⁰ Workers have well-established and defined rights to know regarding occupational hazards and their rights.¹⁶¹

Despite notable improvements in many countries over recent decades, the right to information remains insufficiently realized for hazardous substances and wastes, particularly in terms of disaggregated data to protect the most vulnerable from adverse impacts of waste.¹⁶²

In various islands, e.g., Papua New Guinea and Solomon Islands, cancer reporting is only just beginning to be established and records often do not contain the cause of death.¹⁶³ While some progress has been made in improving dumpsites, there are still deficiencies in the ongoing management of these sites, in particular the maintenance of appropriate environmental monitoring.¹⁶⁴

The specific information gaps are further complicated by poor transparency in the governance of Islands. A study on Human Rights in the Pacific by the Pacific Community reports that many Pacific Islanders struggle with accessing crucial government information such as the national budget or expenditures either because of weak communication infrastructure or due to the bureaucratic process that makes it difficult to readily access such information.¹⁶⁵

There are no Freedom of Information laws or policies in Kiribati, Tuvalu, Vanuatu, Solomon Islands, Samoa, Papua New Guinea, Nauru, Palau, or the Marshall Islands.¹⁶⁶ However, other assessments have noted that it was possible to use other constitutional provisions in Papua New Guinea, including and attempts were made on various environmental concerns (it is unclear if successful).¹⁶⁷

¹⁵⁸ See the Stockholm Convention on Persistent Organic Pollutants, the Minamata Convention on Mercury and the Dubai Declaration on International Chemicals Management.

¹⁵⁹ See UN Special Rapporteur on hazardous substances and wastes, *Right to information and toxics— report to the UN Human Rights Council* (2015), A/HRC/30/40, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/30/40

¹⁶⁰ See A/HRC/30/40, para. 99.

¹⁶¹ UN Special Rapporteur on hazardous substances and wastes, *Principles on the protection of worker's rights from exposure to hazardous substances – report to the UN Human Rights Council* (2019) A/HRC/42/41, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/42/41

¹⁶² Ibid.

¹⁶³ Ibid.

¹⁶⁴ Cleaner Pacific 2025, Pacific Regional Waste and Pollution Management Strategy 2016–2025, 2016, https://sustainabledevelopment.un.org/content/documents/commitments/1326_7636_commitment_cleaner-pacific-strategy-2025.pdf.

¹⁶⁵ Pacific Community, *Human Rights in the Pacific: a situational analysis*, 2016, <https://www.spc.int/sites/default/files/resources/2018-05/Human-right-Pacific.pdf>.

¹⁶⁶ Ibid.

¹⁶⁷ Transparency International, *Right to Information in Asia Pacific: How 11 countries perform on SDG 16.10*, 2018, https://images.transparencycdn.org/images/2018_Report_RTIIinAsiaPacific_English.pdf.

In the case of the Solomon Islands, although the constitution recognises the “freedom to receive ideas and information without interference, [and the] freedom to communicate ideas and information without interference” and there is an ombudsman with the authority to investigate administrative grievances including right to information complaints, there is lack of performance by the ombudsman, due in part to insufficient resources.¹⁶⁸

In Vanuatu, the acting prime minister of Vanuatu signed the first right to information enforcement order covering seven government agencies in August 2017, as a step towards the implementation of the RTI Act. The Prime Minister also appointed members to the RTI Steering Committee in 2017. Also, in August 2017, the RTI Unit launched a website with details on right to information in Vanuatu.

The RTI Unit also carried out awareness raising activities targeting government ministries and departments as well as private and state-owned enterprises. In May 2018, 35 RTI Officers in government and statutory agencies were trained on the importance of the right to information, the role of RTI officers, the steps to processing RTI requests and appeals, as well as issues such as proactive disclosure and how to interpret exemptions in the RTI Law.¹⁶⁹



¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

Table 6 Literature pertaining to realisation of the rights to information in selected Pacific Islands

Pacific Island	Body	Findings
Cook Islands	Government	“there is a need for greater appreciation for evidence-based policy, thus resulting in a lack of resourcing and commitment to improve information collection and reporting systems.” ¹⁷⁰
Democratic Republic of Timor-Leste		None found
Federated States of Micronesia	UN CRC	“Strengthen its efforts to develop a comprehensive system of data collection that allows for disaggregation by relevant factors, incorporating all the areas covered by the Convention and covering all children, including children with disabilities and those living in the outer islands, especially in the areas of ... health ... child labour and child justice” ¹⁷¹
	UNESCO	No freedom of information in the country ¹⁷²
Fiji	SR Enviro.	Recommends enhancing access to environmental information ¹⁷³
	SR Racism	“there was a lack of disaggregated data, especially regarding the socioeconomic situation of members of the different ethnic groups and gender analysis, in relation to the different policies and programmes the current Government had put in place.” ¹⁷⁴
Kiribati	News	As a result, most of the island has not yet received information on the dangers of asbestos and continue to breathe the chemical every day. Most families know that asbestos is poisonous but are unaware of the severe medical implications of exposure. ¹⁷⁵

¹⁷⁰ National Report for the 2014 Small Islands Developing States (SIDS) Conference and post 2015 Sustainable Development Goals (SDGs) <https://sustainabledevelopment.un.org/content/documents/1074217Cook%20Is%20%20Final%20NATIONAL%20SIDS%20Report.pdf>

¹⁷¹ UN Committee on the Rights of the Child, review of Federated States of Micronesia (2020), CRC/C/FSM/CO/2 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/FSM/CO/2&Lang=En

¹⁷² UPR review of Micronesia (2015), compilation of information, para 16, A/HRC/WG.6/23/FSM/2 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/188/83/PDF/G1518883.pdf?OpenElement>

¹⁷³ Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, 2020, <http://srenvironment.org/sites/default/files/Reports/2020/Fiji%20report%202020.pdf>.

¹⁷⁴ Report of the Special Rapporteur on Racism A/HRC/35/41/Add.3, para. 52.

¹⁷⁵ National Geographic Society Newsroom, *Living on a Tropical Island—and an Asbestos Wasteland*, 2016, <https://blog.nationalgeographic.org/2016/04/08/living-on-a-tropical-island-and-an-asbestos-wasteland/>.

Pacific Island	Body	Findings
	SR Water & Sanitation	Notes at time of her visit, no water testing had been completed for 6 months despite contamination concerns due to complexity of “funding and procurement mechanisms”. ¹⁷⁶ 2020 UPR review says recommendations not implemented. ¹⁷⁷
	UNESCO	No freedom of information law. ¹⁷⁸
Nauru	News	Rohingya refugee who asked to remain anonymous, because of concerns he could get into trouble for speaking to foreign media, said he was hired to do construction work, but his employer did not tell him he would be tasked with removing asbestos materials. ¹⁷⁹
	UPR	UN country team notes limited freedom of expression and access to information, with only state-owned media and reprisals against members of Parliament for speak critically of government. ¹⁸⁰
	SR Freedom of Expression	Concerns regarding criminal penalties for expressing views publicly, and impediments to social media, internet access and foreign media access. ¹⁸¹
Niue		None found
Palau	UPR	UNCT: no law on freedom of information as of 2015. ¹⁸²
Papua New Guinea	SR violence against women	high levels of inequality, economic growth from extractive industries has not reached all segments of population, and the “operation of companies in remote provinces, including the fishing, logging, and mining industries [need to] be regulated, by establishing adequate monitoring and inspection mechanisms.” ¹⁸³
	UPR	General need for disaggregated data collection. ¹⁸⁴

¹⁷⁶ Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, A/HRC/24/44/Add.1 (2013), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/153/12/PDF/G1315312.pdf?OpenElement>

¹⁷⁷ UPR, compilation of UN information, A/HRC/WG.6/35/KIR/2 (2020), <https://undocs.org/A/HRC/WG.6/35/KIR/2>

¹⁷⁸ UPR, compilation of UN information, A/HRC/WG.6/35/KIR/2 (2020), <https://undocs.org/A/HRC/WG.6/35/KIR/2>

¹⁷⁹ Michael Walsh, *Safety concerns for refugees and workers as Nauru asbestos removal program kicks off*, Pacific Beat, 30 November 2015, <https://www.abc.net.au/news/2015-11-30/refugees-removing-nauru-asbestos-without-proper-protection/6985292>.

¹⁸⁰ UPR, compilation of UN information, A/HRC/WG.6/23/NRU/2 (2015), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/187/69/PDF/G1518769.pdf?OpenElement>

¹⁸¹ UPR, compilation of UN information, A/HRC/WG.6/23/NRU/2 (2015), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/187/69/PDF/G1518769.pdf?OpenElement>

¹⁸² UPR, compilation of UN information, A/HRC/WG.6/24/PLW/2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/265/80/PDF/G1526580.pdf?OpenElement>

¹⁸³ UPR, compilation of UN information, A/HRC/WG.6/25/PNG/2 (2016) <https://undocs.org/A/HRC/WG.6/25/PNG/2>

¹⁸⁴ UPR, compilation of UN information, A/HRC/WG.6/36/MHL/2 (2020) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/065/40/PDF/G2006540.pdf?OpenElement>

Pacific Island	Body	Findings
Republic of the Marshall Islands	UNESCO	No freedom of information law in the country. ¹⁸⁵
Samoa	UPR	UNCT notes creation of Media Council by Parliament in 2014, and need to better realize freedom of media ¹⁸⁶
	UNESCO	Need to introduce freedom of information law in line with international standards ¹⁸⁷
Solomon Islands	UNESCO	Need to introduce freedom of information law in line with international standards ¹⁸⁸
	NGO	“Ensure that Government bodies charged with the oversight of foreign and local industries, especially logging, are equipped with the resources and funding they need to monitor and audit these projects.” ¹⁸⁹
Tonga	NGO	In 2017, Freedom of Information policy was still in draft form, competing with other interests, need for a Freedom of Information Act and for the Broadcasting Commission to be independent of the government. ¹⁹⁰
Tuvalu	UPR	UNCT: Constitutionally protected freedom of speech and the press. ¹⁹¹
	UNESCO	Need to have a freedom of information law in accordance with international standards. ¹⁹²
Vanuatu	CRC	“strengthen its data-collection system to ensure that it captured qualitative and quantitative disaggregated data on children.” ¹⁹³

¹⁸⁵ UPR, compilation of UN information, A/HRC/WG.6/36/MHL/2 (2020) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/065/40/PDF/G2006540.pdf?OpenElement>

¹⁸⁶ UPR, compilation of UN information, A/HRC/WG.6/25/WSM/2 (2016), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/044/56/PDF/G1604456.pdf?OpenElement>

¹⁸⁷ UPR, compilation of UN information, A/HRC/WG.6/25/WSM/2 (2016), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/044/56/PDF/G1604456.pdf?OpenElement>

¹⁸⁸ UPR, compilation of UN information, A/HRC/WG.6/24/SLB/2 (2016), <https://daccess-ods.un.org/TMP/3307999.07445908.html>

¹⁸⁹ UPR Review, Compilation of submissions to UPR, A/HRC/WG.6/24/SLB/3 (2015) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/252/00/PDF/G1525200.pdf?OpenElement>

¹⁹⁰ UPR, Summary of stakeholder submissions, A/HRC/WG.6/29/TON/3 (2018), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/327/49/PDF/G1732749.pdf?OpenElement>

¹⁹¹ UPR, compilation of UN documents, A/HRC/WG.6/30/TUV/2 (2018), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/054/98/PDF/G1805498.pdf?OpenElement>

¹⁹² UPR, compilation of UN documents, A/HRC/WG.6/30/TUV/2 (2018), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/054/98/PDF/G1805498.pdf?OpenElement>

¹⁹³ UPR, compilation of UN documents, A/HRC/WG.6/32/VUT/2 (2019), <https://undocs.org/en/A/HRC/WG.6/32/VUT/2>

Participation

Every citizen has the right and should have the opportunity to take part in the conduct of public affairs, including in relation to wastes, directly or through freely chosen representatives.¹⁹⁴ The right to participation is emphasized in most definitions of social inclusion.

The critical importance of public participation in the management of waste is also recognised in international environmental agreements.¹⁹⁵ Governments must facilitate the human right to meaningful participation in environmental decision-making regarding waste.¹⁹⁶

Participation rights are specified in greater detail for groups who are more vulnerable to waste. All of Islands in the scope of the project that are members of the UN voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007. UNDRIP specifically articulates the right of indigenous peoples to participate in decision-making in matters that would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.¹⁹⁷ States are explicitly required to obtain the free, prior and informed consent of indigenous peoples regarding the storage or disposal of hazardous materials on their lands or territories.¹⁹⁸ Indigenous peoples have the right to demand of States effective measures to ensure that programs for monitoring, maintaining and restoring health are designed and implemented by those affected by such materials.¹⁹⁹

All the 15 Pacific Island countries of focus are party to the United Nations Convention Against Corruption (UNCAC), which provided clear, legally binding requirements to ensure transparency and public participation.²⁰⁰ While the objective of the Convention is fighting corruption, these provisions require participation in any decision-making process in government, including with respect to wastes.

Under the UN Convention on the Rights of the Child, every child has the right to be heard on administrative and judicial matters affecting their rights. The right to safe and healthy work is inseparable from freedom of association, the right to organize and the right to collective bargaining.²⁰¹

¹⁹⁴ Universal Declaration of Human Rights, art. 21; International Covenant on Civil and Political Rights, art. 25. The Declaration on the Right to Development, which has significantly broadened the meaning of participation, emphasizes in article 2 (3) that participation is to be active, free and meaningful.

¹⁹⁵ See, for example, the Rio Declaration on Environment and Development, principle 10, the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters and the Dubai Declaration on International Chemicals Management.

¹⁹⁶ A/HRC/7/21.

¹⁹⁷ Article 18

¹⁹⁸ UNDRIP, Article 29 (2)

¹⁹⁹ UNDRIP, art 29 (3).

²⁰⁰ Article 13 of the UNCAC provides that each state-party "shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption."²⁰⁰ Furthermore, Article 10 of UNCAC specifically provides for measures that would support public participation, namely: (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes; (b) Ensuring that the public has effective access to information; (c) Undertaking public information activities that contribute to nontolerance of corruption, as well as public education programmes, including school and university curricula; (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption.

²⁰¹ UN Special Rapporteur on hazardous substances and wastes, *Principles on the protection of worker's rights from exposure to hazardous substances – report to the UN Human Rights Council* (2019) A/HRC/42/41, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/42/41

In the literature there are general comments regarding the need to enhance public participation in decision-making, including groups that are at elevated risk (see Table 7). There are a few allegations of cases where the right to free, prior, and informed consent is not being respected in certain Pacific Island countries. A well-known example is of the Ok Tedi mine in PNG.²⁰² However, there are also indications of good practices of participation on environmental issues, albeit not on waste. One such example is a “broad public consultations facilitated by the Palau Energy Office” regarding the Palau Energy Bill.²⁰³

Table 7 Literature pertaining to realisation of participation rights, including freedom of association and assembly and free prior informed consent, in selected Pacific Islands

Pacific Island	Body	Findings
Cook Islands	UN CRC	“children cannot effectively participate in the making of decisions that affect them within the family and the community” ²⁰⁴
Democratic Republic of Timor-Leste	SR Indig. Peoples	“revise the legal framework to incorporate provisions” on FPIC and ensure that this principle is respected in all matters, such as environmental licensing. ²⁰⁵
Federated States of Micronesia		None found other than limited representation of women in parliament (see Table 5)
Fiji	SR Enviro.	Recommends enhancing public participation ²⁰⁶
Kiribati		None found other than limited representation of women in parliament (see Table 5)
Nauru	UPR	UN Country Team (UNCT) “encouraged Nauru to give due consideration to the participation of communities, practitioners, cultural actors and non-governmental organizations from civil society and vulnerable groups, such as minorities, indigenous peoples, migrants, refugees, young people and people with disabilities, and to ensure that equal opportunities were given to women and girls to address gender disparities.” ²⁰⁷
Niue		None
Palau	UPR	UNCT recommends develop policies to promote women’s participation in national decision-making structures and processes. ²⁰⁸

²⁰² IIED, <https://pubs.iied.org/pdfs/16530IIED.pdf>

²⁰³ Palau, UPR review, compilation of information by OHCHR, A/HRC/WG.6/24/PLW/2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/265/80/PDF/G1526580.pdf?OpenElement>

²⁰⁴ UN Committee on the Rights of the Child, review of Cook Islands (2020), CRC/C/COK/CO/2-5

²⁰⁵ UN Special Rapporteur on Indigenous Peoples, Report of the 2019 visit to Timor Leste, A/HRC/42/37/Add.2, https://www.ohchr.org/Documents/Countries/Asia/Report_SR_IP_visit_Timor_Leste.pdf

²⁰⁶ Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, 2020, <http://srenvironment.org/sites/default/files/Reports/2020/Fiji%20report%202020.pdf>.

²⁰⁷ Nauru 2015 UPR review, compilation of information by OHCHR, A/HRC/WG.6/23/NRU/2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/187/69/PDF/G1518769.pdf?OpenElement>

²⁰⁸ Palau, UPR review, compilation of information by OHCHR, A/HRC/WG.6/24/PLW/2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/265/80/PDF/G1526580.pdf?OpenElement>

Pacific Island	Body	Findings
Papua New Guinea	UPR	“Take measures to guarantee full respect of human rights to indigenous peoples, in particular through the establishment of mechanisms for their prior and informed consent on issues that affect them” ²⁰⁹
Republic of the Marshall Islands	UPR	Limited participation of “communities, practitioners, cultural actors and non-governmental organizations from civil society and vulnerable groups, including minority groups, indigenous peoples, migrants, refugees, young people and persons with disabilities,” is alluded to by UNESCO with respect to cultural heritage. ²¹⁰
Samoa	UPR	Participation of women (see table 5) and children and persons with disabilities. ²¹¹
Solomon Islands	NGO	Adopt a national action plan to ensure Indigenous Peoples' effective and politically meaningful participation in the decision-making process and equal representation in the governance of the country as provided under UNDRIP and ILO Convention 169. ²¹² See also table 3 on FPIC.
Tonga	UPR	“although the current legal and institutional framework provided opportunities for citizens, including civil society organizations to participate in the law-making and oversight process through standing committees and public hearings, those mechanisms needed to be strengthened to ensure that the engagement process and its outcomes were inclusive, open, transparent and participatory. Currently, civil society organizations, churches, registered interest groups and other constituents were not taking a full part in the law-making, oversight, national planning and budgeting process.” ²¹³
	UPR	“civil society organizations faced a range of capacity constraints, including an uncertain funding environment, a lack of coordination and limited capacity for financial management and reporting. [UNCT] recommended that Tonga create a conducive environment for civil society to grow and thrive so that it might provide critical input for the development of public policies” ²¹⁴
Tuvalu	UPR	UNCT: workers had the right to strike, organize unions and choose their own representatives for collective bargaining. ²¹⁵
Vanuatu	UPR	Noting limited participation of women (see table 5) and persons with disabilities. ²¹⁶

²⁰⁹ UPR review of Papua New Guinea, Recommendation 104.152 (2016)

²¹⁰ UPR, compilation of UN information, A/HRC/WG.6/36/MHL/2 (2020) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/065/40/PDF/G2006540.pdf?OpenElement>

²¹¹ UPR review, compilation of UN information, A/HRC/WG.6/25/WSM/2 (2016), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/044/56/PDF/G1604456.pdf?OpenElement>

²¹² UPR Review, Compilation of submissions to UPR, A/HRC/WG.6/24/SLB/3 (2015) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/252/00/PDF/G1525200.pdf?OpenElement>

²¹³ Compilation of UN information for UPR (2017), A/HRC/WG.6/29/TON/2 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/330/25/PDF/G1733025.pdf?OpenElement>

²¹⁴ Compilation of UN information for UPR (2017), A/HRC/WG.6/29/TON/2 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/330/25/PDF/G1733025.pdf?OpenElement>

²¹⁵ UPR, compilation of UN documents, A/HRC/WG.6/30/TUV/2 (2018), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/054/98/PDF/G1805498.pdf?OpenElement>

²¹⁶ UPR, compilation of UN documents, A/HRC/WG.6/32/VUT/2 (2019), <https://undocs.org/en/A/HRC/WG.6/32/VUT/2>

Grievance Mechanisms

Accountability is a fundamental principle of human rights. Duty bearing States and responsible private actors must comply with the legal norms and standards enshrined in international human rights instruments. Every rights holder should be entitled to initiate proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law. States must ensure access to justice and provide effective remedies and restitution to victims of those violations occurring because of exposure to hazardous chemicals.²¹⁷ Increasingly, non-judicial grievance mechanisms are used in allegations of environment and occupational rights abuses.

In general, there are recurrent concerns over the lack of independence of the judiciary and limited access to justice on the Islands.²¹⁸ There are however, good examples, such as Tuvalu, which is commended for having an independent judiciary.²¹⁹

Of particular concern is the limited access to justice by women, especially from rural areas.²²⁰ CEDAW has made various recommendations to address this issue (*see Table 5*). In addition, there are occupational grievance concerns, e.g., regarding the lack of access to labour-related complaint and dispute resolution mechanisms to address discrimination on the basis of sex in employment.²²¹

National Human Rights Institutions can play an important role in providing access to remedies. Some States have taken measure to develop NHRIs. For example, Papua New Guinea has taken such measures, but further progress is needed for independence and alignment with international standards.²²² Vanuatu was also issued a similar recommendation by CEDAW, as well as one for the establishment of a child-rights specific mechanism.²²³ Kiribati has a National Human Rights Task Force, which is not sufficiently independent from the government according to the UN.²²⁴

Some countries, such as Tonga, do not have a NHRI. Instead, in 2016, Tonga established an Ombudsman's Office, replacing the Office of the Commissioner for Public Relations. The Ombudsman, who was accountable to the Legislative Assembly, was responsible for investigating complaints received from all persons related to administrative actions and decisions made by any public department, enterprise, or other public body, or by any officer, including any Minister or Governor. He was also empowered to act on his own volition.²²⁵ Tuvalu was in process of establishing such an institution in 2018.²²⁶

²¹⁷ See E/CN.4/2006/42, para. 45.

²¹⁸ Timor Leste UPR, 3rd session, recommendation 89.106; Nauru 2015 UPR review, compilation of information by OHCHR, A/HRC/WG.6/23/NRU/2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/187/69/PDF/G1518769.pdf?OpenElement>

²¹⁹ UPR, compilation of UN documents, A/HRC/WG.6/30/TUV/2 (2018), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/054/98/PDF/G1805498.pdf?OpenElement>

²²⁰ Timor Leste UPR, 3rd session, recommendation 89.106

²²¹ UN Committee on the Elimination of Discrimination Against Women, review of Cook Islands (2018), CEDAW/C/COK/CO/2-3, <https://undocs.org/en/CEDAW/C/COK/CO/2-3>

²²² PNG UPR review, compilation of UN information, A/HRC/WG.6/25/PNG/2 (2016) <https://undocs.org/A/HRC/WG.6/25/PNG/2>

²²³ UPR, compilation of UN documents, A/HRC/WG.6/32/VUT/2 (2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/334/33/PDF/G1833433.pdf?OpenElement>

²²⁴ UPR, compilation of UN documents, A/HRC/WG.6/35/KIR/2 (2020)

²²⁵ UPR, Compilation of UN information (2017), A/HRC/WG.6/29/TON/2 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/330/25/PDF/G1733025.pdf?OpenElement>

²²⁶ UPR, compilation of UN documents, A/HRC/WG.6/30/TUV/2 (2018), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/054/98/PDF/G1805498.pdf?OpenElement>

Regarding Papua New Guinea, The UN Committee on the Elimination of Racial Discrimination was “concerned about the alleged denial of access to judicial remedies to indigenous landowners by the Compensation (Prohibition of Foreign Legal Proceedings) Act (1996) to seek redress before foreign courts, including compensation for environmental destruction of their lands and resources. It was also concerned about the Environmental (Amendment) Act 2010, which allegedly denied indigenous peoples seeking redress before national courts for environmental permits which negatively impacted their lands and resources.”²²⁷

In the Marshall Islands, accountability of private actors remains a concern. The UN CRC recommended the government establish “legislative framework to ensure the legal accountability of business enterprises and their subsidiaries operating in or managed from its territory and establish mechanisms for the investigation and redress of violations of children’s rights.”²²⁸

Various elements of an effective remedy are noted as being absent for communities and individuals harmed. In the case of the Solomon Islands, independent organisations comment that there is a need for compensation to assist villages affected by mining waste, and to provide affected communities access to safe drinking water.²²⁹

In Tonga, legal aid support was suspended in 2006 needed to be revived as of 2017.²³⁰ In Tuvalu, the Office of the People’s Lawyer was the main agency providing legal aid, but it reportedly lacked financial and human resources to reach out to the needy, as well as a comprehensive and effective system for receiving complaints.²³¹

In Vanuatu, access to legal aid by persons with disabilities was implied to be a concern.²³²



²²⁷ UPR, compilation of UN information, A/HRC/WG.6/25/PNG/2 (2016) <https://undocs.org/A/HRC/WG.6/25/PNG/2>

²²⁸ UPR, compilation of UN information, A/HRC/WG.6/36/MHL/2 (2020) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/065/40/PDF/G2006540.pdf?OpenElement>

²²⁹ UPR, compilation of UN information, A/HRC/WG.6/24/SLB/3 (2016), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/252/00/PDF/G1525200.pdf?OpenElement>

²³⁰ NGO submission to UPR in 2017 “recommended that the Government revive legal aid support, particularly for the most vulnerable members of the community who lacked access to financial resources and technical legal advice based on their low income and economic status”. A/HRC/WG.6/29/TON/3

²³¹ UPR, compilation of UN documents, A/HRC/WG.6/30/TUV/2 (2018), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/054/98/PDF/G1805498.pdf?OpenElement>

²³² UPR, compilation of UN documents, A/HRC/WG.6/32/VUT/2 (2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/334/33/PDF/G1833433.pdf?OpenElement> (access to legal aid, including free counselling and legal aid from the Public Solicitor’s Office, on an equal basis with others, particularly those with limited financial resources.)

Recommendations for further investigation

From the human rights literature surveyed, key issues have emerged that should be investigated to provide further clarity to understand how human rights considerations are factored in waste management by the Islands.

From this understanding, guidance can be better tailored to countries on how human rights considerations can be incorporated in and strengthened by activities being implemented and future projects.

Issues that may benefit from further investigation include:

- The implementation of substantive obligations in terms of protection from exposure. There is a perceived need for further clarity on how vulnerability and susceptibility to adverse health impacts and environmental harms, is being considered in waste management decision-making by the Island governments. There appear to be grave risks to both formal and informal workers and select communities, with possible concerns for discrimination based on age, gender, and income.
- The rights to information and participation are critical to inclusion and equitable decision-making and further detail is needed to understand the availability and accessibility of related efforts and mechanisms.
- Scant information is available regarding the role of judicial and non-judicial grievance mechanisms for redress and driving necessary advancements in waste management.



Annex 1: Ratification of core Human Rights Treaties

Pacific Island	UN Human Rights Treaty							
	Convention against Torture (CAT)	International Covenant on Civil and Political Rights (ICCPR)	Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)	Committee on the Elimination of Racial Discrimination (CERD)	Committee on Economic, Social and Cultural Rights (CESCR)	Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)	Convention on the Rights of the Child (CRC)	Convention on the Rights of Persons with Disabilities (CRPD)
Cook Islands			X				X	X
Democratic Republic of Timor-Leste	X	X	X	X	X	X	X	
Federated States of Micronesia			X				X	X
Fiji	X	X	X	X	X	X	X	X
Kiribati	X		X				X	X
Nauru	X		X				X	X
Niue							X	
Palau							X	X
Papua New Guinea		X	X	X	X		X	X

Pacific Island	UN Human Rights Treaty							
	Convention against Torture (CAT)	International Covenant on Civil and Political Rights (CCPR)	Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)	Committee on the Elimination of Racial Discrimination (CERD)	Committee on Economic, Social and Cultural Rights (CESCR)	Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)	Convention on the Rights of the Child (CRC)	Convention on the Rights of Persons with Disabilities (CRPD)
Republic of the Marshall Islands	X	X	X	X	X		X	X
Samoa	X	X	X				X	X
Solomon Islands			X	X	X		X	
Tonga				X			X	
Tuvalu			X				X	X
Vanuatu	X	X	X				X	X

Annex 2: Additional Resources

HAZARDOUS WASTES

Asbestos

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Key words: *asbestos, health risks*
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Key words: *asbestos, health risks*

E-waste

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Key words: *E-waste, Standards and Methodologies, sustainable development*
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Key words: *Municipal solid waste, disposal, management*
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Key words: *Municipal solid waste, disposal, management*
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Key words: *Municipal solid waste, disposal, management*
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Key words: *Municipal solid waste, disposal, management*
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Key words: *Municipal solid waste, disposal, management*
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WASTEWATER (water impacted by solid waste)

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RESOURCES COVERING MULTIPLE WASTE STREAMS AND WASTE STREAM NON-SPECIFIC INFORMATION

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Key words: *waste management, sanitation, human waste*
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Key words: *waste minimization, disposal, management, contamination*
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HUMAN RIGHTS IMPLICATED

Substantive rights regarding exposure to waste (dignity, life, health, etc.)

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Key words: *health challenges, gaps, prevalence of diseases*
- Equality and non-discrimination (including gender issues)**
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Cultural Rights

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Key words: *culture, practices, traditional knowledge*
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Information and participation rights, including FPIC

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Key words: *right to information, participation*
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Key words: *Free, prior, and informed consent*

Workers' rights

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Key words: *child labour*

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Key words: child labour

Rights of nature

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