

PROJECT DOCUMENT

TUVALU



Empowered lives.
Resilient nations.

Project Title: Tuvalu Constitutional Review Project (TCRP)

Project Number: 00096486

Implementing Partner: United Nations Development Programme

Start Date: November 2016 **End Date:** July 2019 **PAC Meeting date:** 29 August 2016

Brief Description

Tuvalu's current Constitution dates from 1986. Although the Constitution has generally served the country well, there are a number of internal political concerns that have prompted the Government to consider a revision of the Constitution. The political system in Tuvalu has experienced a number of crisis with which the Constitution itself was not sufficient to resolve several sensitive incidents that had occurred during the past years. Noting the economic, social and political advancement and developments nationally and globally, these are also important indicators that verify the need to review the Constitution to reflect the current context and also international practices and commitments that Tuvalu has under its international obligations. A preliminary assessment was undertaken in mid-January through a UNDP led technical assistance mission and in addition to the political crisis that is seen as one of the key factors driving the need for the Constitution review, it was also noted there were other issues prompting possible constitutional revision include the role of religion and religious freedom; the constitution not adequately reflecting trends in constitutional drafting; it is virtually silent on gender; it also does not recognize the need for inclusion of marginalized populations such as the disabled; it is silent on environmental issues and also written in a rather inaccessible style. Hence, constitutional review thus seems appropriate with an eye toward modernizing the document and making sure it suits the needs of the country going forward.

The Project is expected to support the entire review process based on the recommendations of the report and phases outlined in the report and as reflected in detailed in this project document.

Contributing Outcome (UNDAF): Outcome 5: Regional, national, local and traditional governance systems are strengthened and exercise the principles of good governance, respecting and upholding human rights, especially women's rights, in line with international standards

Indicative Output(s): Output 1: Strengthened institutional and technical capacity of the Constitutional Review Committee and Attorney General's Office to undertake the Constitutional Review Process (Planning Stage)

Output 2: Enhanced citizen knowledge and engagement on the Constitution and the Constitutional Review Process (Consultation and Information Gathering Stage)

Output 3: Formulation of recommendations, amendments and support provided toward advisory referendum and Adoption of the new Constitution

Total resources required:	USD\$800,000	
Total resources allocated:	UNDP TRAC:	50,000USD
	Australia:	231,000USD ¹
	Donor:	
	Government	115,000 USD
	Other In-Kind:	0
Unfunded:	\$404,000	

Government	UNDP (Direct Implementation)
Print Name: Enele Sosene Sopoaga Prime Minister of Tuvalu Date: 10/11/2016	Print Name: OSNAT ZUBRANI UNDP Resident Representative Date: 10/11/2016

¹ DFAT contribution AUD\$300,000. Exchange rate USD\$1=AUD\$1.30

² Note: Adjust signatures as needed

I. DEVELOPMENT CHALLENGE

Introduction

Tuvalu is an independent nation with a small population of around 11,000 people and land mass of 25.6 square kilometres located in the Pacific region. Since independence in 1978, prior to which Tuvalu was referred to as the Ellice Islands and being administered as a British protectorate, the people of Tuvalu have several times considered changing their political system in various ways. Such considerations have largely focused on reviewing the Constitution which has been seen largely failed in addressing the major political crises that took place in recent history and also the recent socio-political issues that are challenging its cultural and traditional values and the synopsis below provides further details around these challenges.

The Constitution of Tuvalu, which is the “supreme law of Tuvalu”, was originally adopted at its independence in 1978 under a British Act of Parliament. Over the years, the Constitution has undergone fragmented amendments where needed, however there has not been an entire review of the Constitution undertaken since its adoption. The last major review of the Constitution, which resulted in considerable amendments, was undertaken in 1986, around 30 years back in time. Since 1986, there have been several studies concerning review of the Constitution. In 1995, a Parliamentary Select Committee undertook a review. In 1998, a report was prepared by Alan Disney, who spoke with various political personalities and outlined a set of issues for discussion in any future constitutional reforms. Another parliamentary commission was established in the early 2000s to investigate the question. Then in November 2004, a Government Taskforce responded to increasing concerns about political instability and frequent government turnover, laying out options. There were constitutional amendments to expand the number of ministers in 2006, which interestingly did lead to a period of cabinet stability under Prime Minister Apisai Ielemia, who led the only government to serve a full term since 1993. In 2008, an advisory referendum proposed replacing the Queen with an elected Head of State, but this failed. Interviewees described the referendum as hastily organized and hampered by poor radio communication, with inadequate prior education of the public. Then in 2010, the Constitution was amended to facilitate passage of the Religious Organizations Restriction Act.

Development challenge being addressed

There are a number of social, economic and political concerns that have prompted the Government of Tuvalu to consider a revision of the Constitution. Hence, in January 2016, a Constitutional Review Study was undertaken to determine the issues and to provide an analysis on the current Constitution by the Government of Tuvalu. This was provided through technical support from UNDP Pacific Office. The study conducted by Professor Thomas Ginsburg, from the University of Chicago outlines the following key challenges that is considered to be addressed through a major review of the Constitution:

➤ ***Political crises and challenges***

The political system has experienced a number of crises, but it is also worth noting that, with a couple of exceptions, political transitions have generally proceeded in an orderly fashion. The small, nonpartisan nature of the parliament is a source of both stability and instability. The nonpartisan nature of the political system contributes to the frequent aisle-crossing. This is perceived to be a major issue locally.

One near crisis occurred during the prime ministership of Saufatu Sopoaga, who took office in an 8-7 vote. A by-election was held in May 2003 and Sopoaga lost the majority. The opposition called for a vote of no confidence, and filed a legal case to get the Governor General to order one. Sopoaga deftly maneuvered and survived another year, finally being ousted in 2004, though he resigned from parliament before the swearing in of new government, forcing a by election. Years later, more serious political crisis occurred. In late 2012, Minister of Finance Lotoala Metia passed away while outside the country. He had been involved in intense island politics on Nukufetau. His death meant that the government of Willy Telavi no longer held a majority. Rather than resigning, however, Telavi refused to call parliament into session for nearly eight months, insisting that the situation on the island should be resolved first. Eventually the crisis was resolved when the

Governor General ordered parliament to sit in July 2013. However, the Speaker refused to table a no-confidence motion against Telavi. When the Governor General ordered the removal of the Prime Minister in recognition of a new majority, Telavi also sought to dismiss the Governor General. However, under the Constitution, that action requires the decision of Queen Elizabeth, II as the Sovereign of Tuvalu who remained silent. When Parliament eventually met, it immediately passed a motion of no confidence, which led thereafter to the formation of the government by Enele Sosene Sopoaga. While the crisis was resolved, confusion over the different roles played by the Speaker, the Governor General and the Prime Minister gave rise to questions whether the system continues to be viable and ought to be clarified. The constitution does not include clear language requiring an investiture vote, for example, nor does it have temporal limits on votes of no confidence.

As is apparent from the above summary, Tuvaluans have been considering their political institutions since independence, and the foregoing brief history identified several reports and internal inquiries laying out the key issues. Some of the ideas that have been raised in these reports that might be included in the constitutional review process are the following:

- Reconsideration of the perennial issue whether to become a republic and how to structure the office of head of state. The head of state's office has played an important role as a kind of constitutional guardian, but has at times been subject to attempted politicization and occasional removal.
- Reducing political instability. This has been a recurring topic of discussion in recent years. Between December 2000 and December 2010, the country had seven prime ministers; with the exception of the full-term government of Prime Minister Apisai Ielemia, governments lasted an average of roughly a year each.
- Requiring parliament to meet at certain designated times. This might help to avoid repeat of the 2013 crisis when the Prime Minister refused to call parliament into session.
- Strengthening parliament relative to the executive. With the government forming a parliamentary majority, the usual logic of the Westminster system is turned upside down. The current system does not require a vote of investiture.
- Expansion of the number of parliament members. This proposal responds to concerns about workload and also to perceived needs to expand representation.
- Direct election of the speaker so as to produce a less partisan control of parliament's agenda.
- Revision of the electoral system or extending the franchise to overseas Tuvaluans.
- Adding a code of conduct for political office-holders within the Constitution to complement the Leadership Code Act of 2008.

➤ ***Religion, religious freedom and underlying challenges***

Another source of pressure for constitutional review and possible reform has to do with controversies over religion, particularly on the outer islands. The current constitution guarantees freedom of assembly and freedom of religion. As noted above, it also puts great emphasis on tradition and the role of communities in preserving those traditions. The EKT is recognized in law as the "state church", although it is not mentioned in the Constitution, which speaks only of Christian principles.³ Recent cases, such as the one between *Mase Teonea v. Pule o Kaupule of Nanumaga and Nanumaga Falekaupule*⁴ have reflected on the need to look thoroughly on how the Constitution is made more inclusive and clear. In the aftermath of this case, the parliament passed the Religious Organizations Restriction Act which was intended as a kind of compromise between freedom of religion and the need to uphold Tuvaluan values. The Act gives Island Falekaupule the power to decide on applications for new religious activity, but also guarantees the right to individual worship in private homes. The new religions feel that this is highly restrictive, advantages the state church and discriminates against new religious groups. They also note that in some cases their members have been ostracized on the outer islands; Island leaders claim that

³ Preamble; Section 29.

⁴ Ct Appeal, Civil Appeal No. 1 of 2005

some of these denominations have encouraged their members not to provide for the traditional contributions to island governance through the Falekaupule.

The issue of new religions continues to linger and is a delicate one in terms of constitutional reform. On the one hand, members of new religions are understandably looking to the Constitution to protect their rights and beliefs from regulatory incursion at the hands of the Falekaupule on various islands. On the other, the Constitution does explicitly recognize the importance of communities and traditional values. The current constitution essentially adopts the strategy of putting these competing values in the same document, and leaving it for the courts and political authorities to later work these out. It is clear, though, that the compromise of the Religious Organizations Restrictions Act has not resolved the issue.

➤ ***Gender and inclusion related challenges***

Traditional Tuvaluan culture, like many, is patriarchal in nature, relying on conceptions of women and men having different spheres of activity. The Constitution is relatively silent on gender, and there is some resistance to recognizing women as full participants in the political and economic spheres. There are other gender issues related to traditional rights, such as the fact that fathers get custody of children.⁵ Yet there is also pressure to have more women in representative assemblies like the Kaupule, in keeping with global norms. Only three women have been elected to parliament in total since independence; including the current one.

Disability rights are another issue on the horizon. The United Nations reports that large percentages of persons in Tuvalu are qualified as disabled in various ways. Constitutional recognition of disability rights would be consistent with Tuvalu's obligations under the Convention on the Rights of Persons with Disabilities, and would respond to a concern raised in the Universal Periodic Review of 2013.

➤ ***Local and traditional government challenges***

Many of the issues having to do with the tension between social change and traditions of island governance come down to the role of the Falekaupule. The 1997 Falekaupule Act reinforces the traditional system of island government by vesting in the Falekaupule the functions of local government councils.⁶ This merging of the traditional authority with a modern governmental form was an issue in the *Mase* case, and might also be a topic of close consideration during constitutional reform. There has been a legal question about the relationship between the traditional system and modern parliamentary democracy. The 2012 Case of *Kaupule of Nukufetau v. Metia*⁷ dealt with a case in which the Falekaupule sought to force a sitting MP, the Minister of Finance, to take a particular political stance in support of the prime ministerial bid of the other MP from the island of Nukufetau. Nothing in the formal Falekaupule Act gives them this power, yet the Falekaupule held plenary power under the traditional island system of governance. Metia's refusal to comply or resign his seat led to his banishment from the island and a political split in the population there. In hearing the case, the High Court decided that the Falekaupule had exceeded its powers and that the banishment had interfered with the functioning of parliament. While Metia's death resolved the case in the narrow sense, the larger question remains.

Constitutional reform might consider demarcating the spheres of the traditional system. The Falekaupule Act provides that they have explicit power over local government functions related to agriculture, livestock and fisheries; building and town or village planning; education; forestry and trees; land; relief of famine and drought; markets; public health; public order, peace and safety; communications and public utilities; trade and industry; and other miscellaneous functions. A constitutional delimitation of the role of the Falekaupule and a restatement that their legal decisions are subject to the Bill of Rights would clarify some of the tensions.

⁵ Native Lands Act, Sec. 20(2).

⁶ Explanatory memorandum accompanying the bill for the Falekaupule Act 199

⁷ *Nukufetau v Metia* [2012] TVHC 8; Civil Case 2.2011 (11 July 2012), available at <http://www.paclii.org/tv/cases/TVHC/2012/8.html>

➤ **Land related challenges**

While the Constitution says little about land issues and does not regulate them directly, conflict over land is a major issue in Tuvalu. There are also some issues related to land and gender. The Native Lands Act from 1962 remains in place and has some presumptions in favor of males as well as the first spouse in cases of polygamy. The Land Courts, staffed by lay judges, serve under the executive branch, and this institution might be evaluated as part of a constitutional reform, though it might equally well remain under its current statutory framework.

➤ **Other Issues to be considered: Trends in constitutional design**

While the issues above are recognized in Tuvalu as important social and political questions of the day, it might also be worth considering other global trends in constitutional design. Three key ones are highlighted below.

- i. *Environment*
- ii. *Independent Entities*
- iii. *International Law*

➤ **Issues of style**

The Constitution is a well drafted lawyer's document, and is regularly relied on by parliament and the government when governments are being formed and disbanded. It seems to be functional in this regard, notwithstanding certain ambiguities around. However, it is not really a document *of the people* that they look to reflect their values and aspirations. The study indicates that during consultations the mission found that the vast majority of interlocutors had not read the constitution, and had little awareness of its contents. The fact that the Constitution is not even translated into the local language suggests that it has the character of a foreign technology adopted for a particular governmental purpose.

Constitutional Review Project

Following the study conducted for the Constitutional Review process in January, UNDP and Government of Tuvalu, had further bilateral discussions culminating in the need to develop a Project to support the Constitutional Review process in country. This Project is expected to provide technical, financial and programmatic assistance to the Government of Tuvalu, in particular, the Office of the Attorney General and the Committee of the House of Parliament in Tuvalu appointed to undertake the review process forward. Further details on the strategy and approach of the Project are detailed in sections that follow.

II. STRATEGY

Theory of Change

To respond to the development challenge that has been described in the earlier section, the project will apply an effective theory of change process to define how change will occur through the project based on the assumptions underlying the development challenge. It should be noted that a theory of change relatively represents how a particular project or programme or policy initiative will lead to desired outcomes and impacts. It further outlines the underlying assumptions being made with respect to how the expected change will occur.

In terms of the Tuvalu Constitutional Review Project, the project will support the government and people of Tuvalu to review their national constitution considering the socio-economic and political challenges described under the development challenge section. The project will provide the required technical expertise and independent advice to ensure the constitutional review is more technically proficient, inclusive, participatory and transparent and also conforms to international treaties and conventions, in particular human rights. This process is expected to result in a more educated citizenry, a constitution with text that more accurately reflects the needs and aspirations of the Tuvalu people, and is able to better with and address social, economic and political challenges. In the end this is all geared to ensure Tuvalu has more accountable and effective

government (constitution better equipped to deal with past political crisis), a citizenry that is better able to hold leaders to account (because more educated on constitutional rights and duties), stronger social cohesion (because the constitution addresses root causes of rifts between the religions, islands and land rights), and more sustainable development (more socio-economic rights). The **overall goal of the project** hence is to ensure that citizens of Tuvalu and key governance institutions are empowered to better understand the constitutional review process and underlying issues through effective civic education and engagement during the constitutional review, which is undertaken in an open, transparent and inclusive manner.

The overall focus on reviewing and undergoing the whole process of amending the national constitution, via a process that is expected to be open, transparent and participatory, is expected to enhance and lead to more effective governance systems and institutions that will become a vehicle for sustainable development. The process is very much linked to the Sustainable Development Goals (SDGs), particularly SDG 16 on Peace, Justice and Strong Institutions and the Tuvalu National Strategy for Sustainable Development. 2016-2020 (Te Kakeega III). Through the review process, the expected targets under the Te Kakeega III and SDG 16 that will be supported are listed below:

- Strengthening Good Governance through a comprehensive review of the Laws of Tuvalu in particular the Constitution
- Promote the rule of law at the national and international levels and ensure equal access to justice for all
- Develop effective, accountable and transparent institutions at all levels
- Ensure responsive, inclusive, participatory and representative decision-making at all levels
- Promote and enforce non-discriminatory laws and policies for sustainable development

To ensure that this process is well articulated and effectively carried out to lead towards the intended changes in the Constitution, the project aims to use the following step-by-step approach as articulated in the study conducted on the Constitution. This will require UNDP in partnership with the Government of Tuvalu to apply different actors and modalities, within the four discreet stages of the Constitutional Review Process that will provide the basis for the Change Pathway: (1) planning; (2) consultation and information gathering; (3) formulating recommendations; and (4) adoption and implementation.

The Change Pathway through a Staged Approach to the Constitutional Review Process

1. *Planning*: it should be noted that designing a review process is something that requires great flexibility, and no two constitutional review processes are identical. The following considerations will be addressed, in approximate order during the planning stage to ensure the development challenge is adequately addressed:
 - a. An initial decision is *who* will be responsible for conducting review. In some countries, a special commission is created outside the political process, including members of civil society, lawyers, the public, government servants and other stakeholders. In other countries, the review might be tasked to technical experts to make recommendation. These might be civil servants, scholars, or international consultants.

In the case of Tuvalu, the decision has already been taken to centralize the process in a parliamentary committee of the whole to be the constitution making body. This is a sensible decision, given that the country has a functioning parliament and there is no immediate sense of crisis that has delegitimized political institutions. In addition, it will take advantage of the substantial traditions of consultation that guide the country and ordinary operations of parliament. MPs are used to visiting their constituencies to discuss important issues. In February 2016, through a meeting of the Parliamentary Committee on the Constitutional Review Process, the committee

was broadened to include other key segments of society including esteemed citizens or members of the public who would provide support to the review process. This will be done through creating sub-committees to support the parliamentary committee and will be based on thematic areas that will be decided later onward during technical meetings of the parliamentary committee. Further work on the selection of the public members will be reviewed during the implementation process.

- b. The rules under which the Committee will operate will also be decided. The easiest option would be to simply use the parliamentary rules, since they are available and familiar, and indeed legally applicable given that the Committee was established under them. A preferred approach would be to require decisions of the committee to be made by consensus or a 2/3 majority.
- c. Once the Committee is established, it will be given resources to accomplish its tasks. The Committee will be supported by a Secretariat which will be housed within the Attorney General's Office and have one or more designated staff to administer the secretariat on a full-time basis. This support will be expanded to leverage additional support from the Office of the Parliament to provide guidance in terms of the parliamentary processes for committee meetings to take place within the parliamentary procedures set for Tuvalu.
- d. The Planning stage through the Parliamentary meetings of the Committee will also strongly consider the scope of the review. For instance, it will review key questions such as "What is contemplated a full revision of the constitutions, a more minor process of amendment, or simply a better understanding of the status quo?" Depending on the outcomes of the Committee meetings at the initial planning stages, these questions can be considered during the later stages of the Constitutional Review Process. However, the Committee at a minimum will be required to identify what the main issues will be for public consultation and discussion.

The primary output of planning is a *timeline outlining key steps to be taken in the review*. Once this timeline is decided on, it must be communicated to the stakeholders, and in Tuvalu this could be combined with a statement of the main issues to be considered in the phase of public consultations. Relatedly, a detailed budget for the entire process can be produced at this stage.

- e. Preparation of civic education materials can follow once the main issues for public consultation are identified.
2. *Consultation and Information Gathering*: this stage will consist of undertaking research on relevant information for the constitutional reform. Depending on the decisions of the Constitutional Review Committee, if its agreed that a thorough technical review of the Constitution is required then an extended examination of the current constitution and its performance by experts from both inside and outside the country will be undertaken as part of the information gathering stage. This may produce a valuable record of the country's political and institutional experience, but also might generate recommendations for amendments to the process.

During this stage, involvement of the public will also take place. A well-planned civic education campaign will be developed to ensure and support adequate communication on

the process. The following will be undertaken as part of this stage of the Constitutional Review Process:

- a. The process will include a discussion and distribution of the constitutional statement of principles in the Preamble to the Constitution. Reminding the people of these principles might help to reinforce the importance of respectful disagreement over contentious issues. At the same time, these principles might be open to revision and further articulation, for which public input is crucial. Are the existing principles sufficient? Are there others missing that might be included?
- b. As mentioned above, organizing a public discussion on the constitution may require first identifying the issues for public consultation. The Project will ensure here that the consultation process is done in a way that the public can understand. This means that the discussions will be organized around a small number of relatively important questions.
- c. Once the issues are identified, radio shows and written materials will be produced that inform the public as to how the review will proceed and the major issues to be discussed. One could imagine a series of shows with debates or information on the different options for the main questions. Pros and cons should both be given airtime. Civic education materials should be distributed.
- d. Island consultations will proceed once the preparatory materials are distributed. It is recommended that *the committee as a whole will engage in consultations together as and when possible*. This will mean that all members will hear the same evidence and may facilitate common views among the members.
- e. As much as possible, the project will ensure traditional structures of the Falekaupule are used for meetings on the constitution. Specialized discussions will also be undertaken with particular groups, such as religious minorities, women leaders, the disabled, where marginalized voices can express their opinions freely. The approach that will be taken will ensure consultations specially with members of the public service is done. Each consultation on the outer islands will ensure one major island –wide meeting to introduce the issues, and also have members of the Committee have private meetings with particular groups of stakeholders as well.
- f. For all consultations, there will be some kind of documentation as to the views that were presented and how human rights and inclusive participation was encouraged. The secretariat will keep a record of each meeting; if there were majority and minority views these might be mentioned, and if there are interesting and novel ideas that would be put in there as well.
- g. Once the consultations are completed, and perhaps in parallel, comparative and international information will be sought. The experiences of other countries are relevant and would be collected by the Office of the Attorney General or other secretariat officers where required. Reports that draw on relevant experience, targeted at the key issues on Tuvalu, would be helpful to the Committee. It is recommended that expertise on issues of executive-legislative relations and gender be identified.

3. *Formulating Recommendations:* After public consultations and information gathering, the Constitutional Review Committee will thoroughly deliberate on the recommendations with support from a Constitutional Review Advisor. The secretariat will produce a written report of as a public record of the consultations. Having gathered information, the secretariat will also formulate recommendations for revision to the Committee. One key question that will be considered will be whether to recommend mere amendments or a larger replacement of the Constitution.

The recommendations are expected to take the form of broad principles such as “shift to a presidential system” or “have direct elections for the speaker.” The actual legal formulation of implementing language is more complex and will involve the office of the Attorney General and others. The outcome of this process will be draft language to be adopted through a legal process.

A key factor that will be considered during the drafting of recommendations is how to deal with transition from the current political scheme to a modified one, if changes are indeed proposed. For both legal and political continuity, any recommendations will be formulated to take place only at the next parliamentary election, with the current parliament sitting as a transitional institution until the next election, even after constitutional reforms are adopted. Transitional provisions in the constitutional text or amendment proposals can effectuate this. Furthermore, consultations and technical expertise from UN agencies such as UNOHCHR will be undertaken to ensure HR is ensured and enshrined in the constitutional clauses.

4. *Adoption and Implementation:* Based on the earlier stages, if the decision is taken to adopt a new constitution or have a referendum on amendments, this will require some paving of the way as a legal matter. The current constitution does not contemplate a referendum for formal approval or adoption of a constitutional change. Instead, 2/3 of the parliament can amend the constitution for most topics.⁸ The process involves an ordinary parliamentary bill, which obtains 2/3 of the total membership of parliament on its final reading. As in ordinary legislation, the Head of State must assent but has no discretion in doing so.⁹ The project is expected to provide technical and programmatic support in conducting the advisory referendum based on the option selected by the CRC to any changes in the Constitution.

Finally, there is an important set of activities to be considered after adoption of any constitutional changes. This phase will be referred to as *implementation*. If the constitutional changes are abundant, there may be training and educational activities targeting civil servants, members of parliament, and the public. Some constitutional reviews lead to the creation of new institutions, which may require implementing legislation and institutional establishment. And there may be a role for a systematic review of existing legislation to ensure that it is compliant with any constitutional transitions. All of these factors imply a phase of ongoing implementation beyond adoption of any reforms. The project is considered a low environmental risk.

⁸ Section 7(3). The exceptions are two. Section 8 provides for an ordinary parliamentary majority of 50% to alter the Constitution to give effect to constitutional change in the United Kingdom. Section 2(3) provides that an ordinary majority can approve constitutional changes that implement international agreements that change the territory of Tuvalu.

⁹ Section 86.

Relationship to UNDP Strategic Plan (emerging areas) UN Development Assistance Framework (UNDAF) 2013-2017

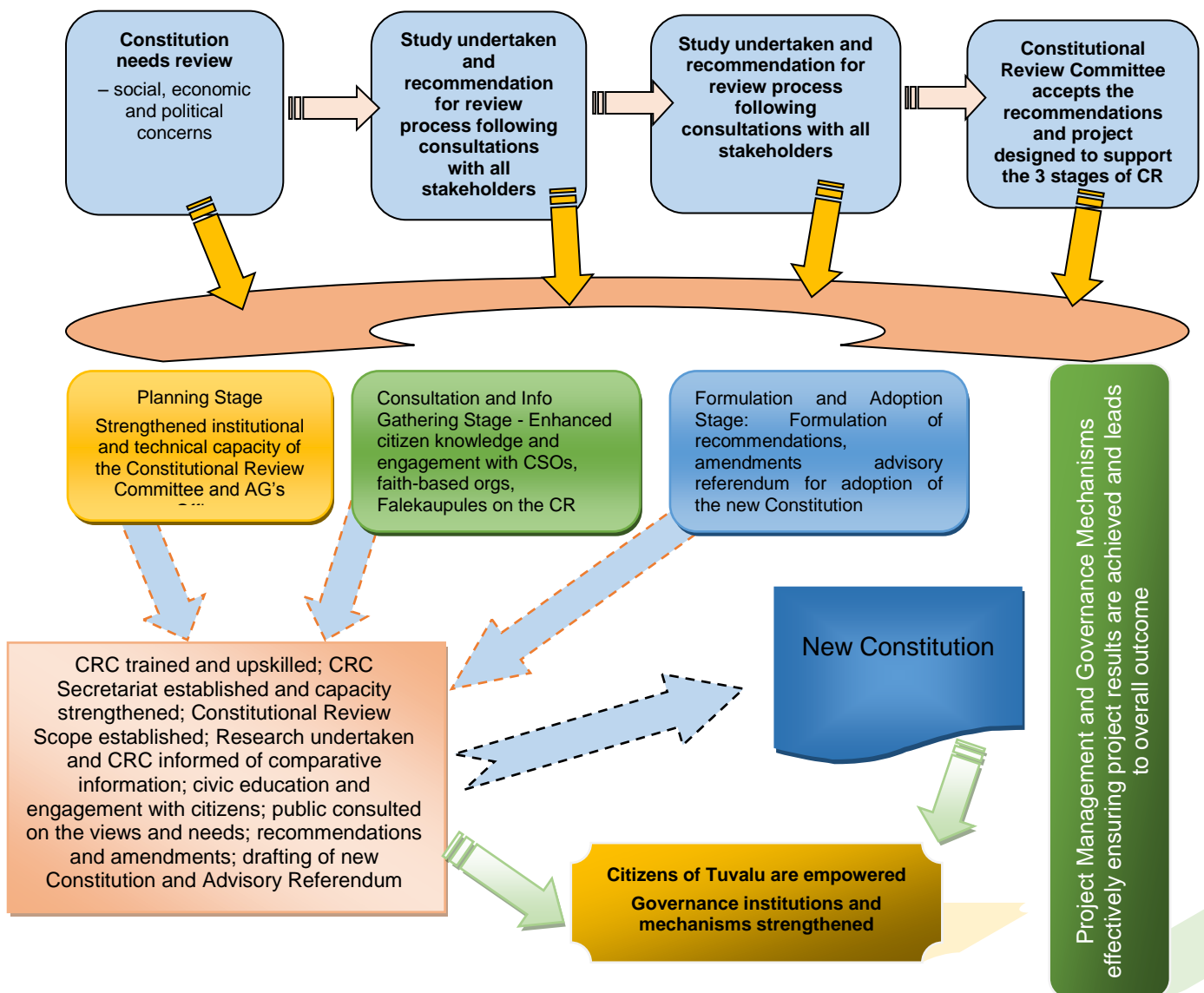
The Project falls directly under the UNDP Strategic Plan 2013-2017 and responds to Outcome 2 Citizen expectations for voice, development, the rule of law and accountability are met by stronger systems of democratic governance. The project responds effectively to the emerging SP areas around social protection by engaging citizens through inclusive, transparent and open consultations around the constitution which aims to provide them social, political and economic protections. It corresponds directly to the United Nations Development Assistance Framework (UNDAF) 2014-2017 directly under focus area 5 on Governance, “Regional, national, local and traditional governance systems are strengthened and exercise the principles of good governance, respecting and upholding human rights, especially women’s rights, in line with international standards.”

Linkages to Te Kakeega III – Tuvalu National Development Plan

The Project effectively supports the National Strategy for Sustainable Development for Tuvalu which is the country’s national development plan from 2016 to 2020. In particular, it evidently supports Strategic Area 2 on Good Governance¹⁰ which has an associated goal to “Strengthen institutional capacity to serve the public interest with competence and justice”. The Te Kakeega III has specific references to need for review of the national constitution, in particular to revisit the issue of how Tuvaluan’s wish to be governed. It is also one of the key performance indicators (KPI) under the same strategic area under KPI 14, “Review the Constitution”.

¹⁰ Te Kakeega III, Tuvalu’s National Strategy for Sustainable Development 2016-2020, pp. 10-15

Theory of Change Flowchart



III. RESULTS AND PARTNERSHIPS

Expected Results

The Project will enable the achievement of the expected results based on the outputs identified within the Project Results and Resources Framework and associated activities under the respective outputs of the project. The expected outputs will enable enhancing good governance and citizen participation and engagement in governance processes and defining national laws of Tuvalu. The following outputs will support the attainment of the intended project results.

Output 1: Strengthened institutional and technical capacity of the Constitutional Review Committee and Attorney General's Office to undertake the Constitutional Review Process (Planning Stage)

Under this output the project is expected to support the enhancement of capacity within the CRC through ensuring committee rules guiding the work of the CRC are established and passed in parliament. CRC members will also be supported through technical training on constitutional review processes, provided clarity on roles and functions of the CRC and supported through sub-committees who will engage on thematic areas of focus under the constitution. The project will also facilitate specialised trainings for the sub-committees to ensure they capture and undertake

their roles effectively. Additionally, support will be provided to setup a CRC Secretariat and capacity building activities are earmarked for the secretariat as well as the staff within the AG's Office to ensure seamless and quality support is provided to the CRC and during the undertake of the constitutional review. Some focus support here will also be provided to the Gender Affairs Department to ensure gender issues are mainstreamed and taken strongly on board during the review process. Adequate communication will also be ensured to all stakeholders and review scope will be developed to ensure the process is adequately geared.

Output 2: Enhanced citizen knowledge and engagement on the Constitution and the Constitutional Review Process (Consultation and Information Gathering Stage)

The focus under this output will be to ensure the constitutional review process is well informed through adequate comparative research and information required during the review process. The project will ensure experience from other jurisdictions and independent expertise advice is made available to the CRC and that specific expertise around executive-legislative and around gender is made available. The output will also see comprehensive civic education materials, budgeting and planning and communications done across Tuvalu. Public consultations will be also undertaken in all constituencies and debates will be organised to ensure key issues are well thought on and discussed among the thematic groups. One of the key outputs under here will be production of island reports following the consultations and debates which is expected to inform the formulation and amendments process.

Output 3: Formulation of recommendations, amendments and support provided toward advisory referendum and Adoption of the new Constitution

This output will focus on providing high-end technical legal and constitutional drafting expertise, including high-level independent advisory support. The output will see recommendations for constitutional amendments tabled in parliament following which the constitutional drafting and amendment exercise will occur. The final activity will be ensuring the amended or new constitution depending on how the formulation stage shapes up and decision of the CRC, to be then taken for advisory referendum for people to provide their voices and vote on the new constitution. Such process will be prepositioned with extensive communication and distribution of the draft constitution so citizens and all stakeholders are effectively aware prior to the referendum.

Resources Required to Achieve the Expected Results

- In terms of the required project resources, they can be categorised into technical, financial and institutional. The financial resources have been indicated in the project cover page of this project document and associated funding indications from the various sources have been mentioned. These resources will be used to further procure the required technical resources such as Constitutional Review Advisors, Legal Drafters, Experts for thematic discussions and consultations under the Constitution, experts to strengthen capacities of the Constitutional Review Committee and also institutional capacity within the Attorney General's Office to lead the Constitutional Review Process smoothly.
- Resources in terms of staff time, at technical, strategic and operational level from the Attorney General's Office, Parliament of Tuvalu and UNDP will also be required to achieve the expected outputs and outcomes of this Project. These are embedded within the Project activities and will be defined in finer details during project implementation phase on a needs arising basis.
- Additionally, resources in partnerships, feedbacks and advisory support through various non-governmental organisations, faith-based groups, women's leaders' and traditional leaders will also be sought as key resources toward key thematic inputs in the constitutional review process.

Partnerships

- The Project is expected to utilise, strengthen and at the same time build new partnerships with a range of stakeholders which are not limited to the Government of Tuvalu's various line ministries, particularly the office of the Attorney General and the Parliament of Tuvalu; development partners for both funding, technical expertise and oversight on the Project;

Constitutional Commissions from other jurisdictions; civil society organisations; women groups; Falekaupule (traditional elders); island councils; and with individuals based on needs and during the consultation phase of the project.

- The Office of the Attorney General is leading the process of the Constitutional Review and will be the key government institution that the Project is expected to work in partnership with. The AG's Office has the relevant authority and the technical feasibility to lead the review process and also has a fundamental institutional background on the relative processes that have been undertaken in the past Constitutional Review processes and it's also the gate keeper of all amendments to the Constitution as well as the main legislative drafting agency in Tuvalu considering it facilitates the role of parliamentary legal drafter as well.
- In terms of the other stakeholders such as the civil society, women's groups, Falekaupule, island councils and esteemed members of the public, effective partnerships with these elements of the society will be strengthened during project implementation to provide the relevant feedback and engagement for various aspects of the constitution that will affect their daily lives. The consultations with all of these stakeholders was established already during the preliminary January 2016 study undertaken to establish the issues and analysis for the constitutional review process. The feedback and partnerships with these very key elements of society will be fundamental to the success of the project.
- Furthermore, close collaboration with other UNDP projects and programmes will be ensured during project implementation to ensure effective engagement of all key actors in the constitutional review process and also to enable joint activities where possible to ensure greater economies of scale.
- Collaboration with other UN agencies, including specialised CROP organisations such as SPC's RRRT will also be utilised to its maximum. In particular work with UNOHCHR to ensure effective human rights mechanisms and safeguards during the review process is provided, such as indigenous rights, women's rights; and with UNWOMEN's "Advancing Gender Justice in the Pacific" programme will be undertaken to provide better synergies and partnerships during the review process.

Risks and Assumptions

- Refer to the full risk log, which is attached as an annex.

Stakeholder Engagement

- The key stakeholders for the Project are the Attorney General's Office and Parliament of Tuvalu which are expected to lead the constitutional review process forward in Tuvalu. The Office of the Attorney General serves as the legal counsel to the Parliament as there is no legislative counsel office established in Tuvalu. The AG Office will also be the secretariat to the Constitutional Review Committee (CRC) of Parliament. The other stakeholders such as the civil servants, CSOs, faith-based organisations such as churches, traditional elders and women's groups are also key stakeholders that will be providing key feedback during the review process and will be engaged strongly under the project. The expected strategy for the engagement with respective stakeholders as indicated above is expected to be developed and applied during the project implementation depending on the activities with respective terms of reference and concept notes reflecting the expected deliverables, key stakeholders and engagement expectations.

South-South and Triangular Cooperation (SSC/TrC)

- The Project is expected to build south-south cooperation with other Constitution Commissions from other neighbouring jurisdictions to ensure lessons learnt in undertaking similar constitutional review processes are applied in Tuvalu's case.
- Further south-south cooperation with other parliamentary committees who have undertaken or currently undertaking constitutional review processes such as from Marshall Islands which currently has a Constitutional Convention and other parliament's within the Pacific will be used to provide the necessary background for Tuvalu's case.

Knowledge

- One key knowledge product already produced that formed the basis of the project is the Constitutional Review Study indicated in earlier part of this project document and conducted in January 2016.
- Other expected knowledge products are indicated in the project activities but key ones are civic education materials for island consultations and raising of awareness on the constitution and the constitutional review process.
- The Project is also expected to benefit from and apply lessons learnt through the UNDP supported Nauru Constitutional Review Project (2008-2012)¹¹ The project provided support to Nauru in terms of supporting the committee of parliament of the whole house in terms of capacity building and institutional support; supporting the referendum process; and providing civic engagement to ensure citizens were kept informed and engaged in the entire process. One of the key lessons learnt through the Nauru CR Project was to ensure that Constitutional Amendments and Advisory Referendum is not consolidated to get people to vote for all sections of the Constitution. In the case of Nauru, all amendments were done and citizens allowed to vote once either agreeing or disagreeing to the entire new drafted Constitution. This resulted in lots of citizens voting against the amended Constitution given they did not want to accept certain aspects of the new Constitution. This will be effectively used as lessons learnt when the project is providing technical assistance on the referendum process and question design.

Sustainability and Scaling Up

- The Project activities are expected to be lead during implementation by the Attorney General's office and the Parliamentary Committee for the Constitution. Its expected that sustainability through capacity strengthening of the committee represented by MPs and Attorney General's Office staff will be something that will continue and sustained to ensure implementation of the new Constitution following the review process. These two systems are already established and are expected to carry on their various responsibilities already, hence, ensuring continuity and sustainability of work that is going to transpire under the project.

IV. PROJECT MANAGEMENT (1/2 PAGES - 2 PAGES RECOMMENDED)

Cost Efficiency and Effectiveness

- In order to ensure effective and efficient use of project resources, UNDP Programme and Operations Policies and Procedures (POPP) on most cost effective procurement and recruitment as required under the project activities will be applied. The best value for money approach is expected to be applied in implementing all project activities and to ensure maximum project results.
- Furthermore, cross-cutting activities which are expected to be delivered under other governance projects by UNDP and other ones run directly by the Government is expected to be closely linked with and where possible jointly delivered to ensure limited duplication and maximum project results and benefits.
- In terms of project management and partnerships, in addition to ensuring joint delivery of cross-cutting project activities with other governance projects within UNDP such as under the regional parliament programme and anti-corruption programmes, a portfolio management approach will be applied and direct project management through the UNDP Effective Governance Team to ensure cost effective implementation will be utilised.
- Furthermore, the Project annual work plans are expected to also guide activities and associated budgets under each activity to ensure management of project budgets within the allocated parameters.

¹¹ https://info.undp.org/docs/pdc/Documents/FJI/00058097_Nauru%20CRC_Prodoc.pdf

Project Management

The Project will be directly implemented by UNDP and technical project personnel based on required areas of assistance under the project activities will be recruited on a needs basis. The Project's Multi-Year work plan provides all details of associated project management expenses to be incurred over the project duration. It's expected that indirect support for implementation through technical assistance from the Attorney General's Office, Parliament of Tuvalu and UNDP will be applied considering the small-scale nature of the Project.

The expected number of staff that are expected to work directly under the project is 1 full-time staff based in Tuvalu supporting the work of the Constitutional Review Committee (CRC) and being the secretary to the CRC Secretariat. Additionally, Project Management and Project Administration support will be delivered through the UNDP Effective Governance team based in the UNDP Pacific Office based in Suva, Fiji in coordination with the UN Joint Presence Office (JPO) based in Tuvalu. Associated direct project costing (DPC) that will be incurred by UNDP to provide project management and technical project implementation support is effectively indicated in project Multi-Year Work Plans.

The Project's Multi-Year Work Plan also includes a General Management Support (GMS) charge that covers the costs for UNDP that are not directly attributable to specific projects or services, but are necessary to fund the corporate structures, management and oversight costs of UNDP. The GMS is applied to all projects funded by either member governments at 3% for projects implemented directly in those member countries and at 8% for contributions from other Development Partners for all projects that are implemented by UNDP around the world.

V. RESULTS FRAMEWORK¹²

Intended Programme Outcome (Tuvalu UNDAF Country Results Matrix): Outcome 5: Tuvalu Governance institutions and systems uphold the principles of good governance respecting and upholding human rights and promote gender inclusive development.

Outcome indicators:

% of Tuvalu population disaggregated by gender who believe that the Constitutional Review Process for the revised Constitution, particularly the consultations and Advisory Referendum were undertaken with an inclusive and non-bias approach and reflects the needs of majority of Tuvaluans.

Baselines, targets and means of verification:

0%, and is expected to have a target of 70% following the island consultation. To be verified through island consultation and advisory referendum reports.

Applicable Output(s) from the UNDP Strategic Plan: Output 2.1 - Parliaments, constitution making bodies and electoral institutions enabled to perform core functions for improved accountability, participation and representation, including for peaceful transitions;

Project title and Atlas Project Number: Tuvalu Constitutional Review Project

EXPECTED OUTPUTS	OUTPUT INDICATORS ¹³	DATA SOURCE	BASELINE		TARGETS (by frequency of data collection)					DATA COLLECTION METHODS & RISKS
			Value	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	FINAL	
Output 1: Strengthened institutional and technical capacity of the Constitutional Review Committee and Attorney General's Office to undertake the Constitutional Review	1.1 Extent to which the Constitution Making Body (CMB)-CRC, CRC Secretariat and AG's Office Staff has improved its administrative and human resources capacities required to undertake drafting,	Post capacity building and training workshops reports. Monitoring missions BTORs and field reports.	Competency rating	0	1	3	3	4	4	Project Team through field missions, Technical experts through training activities

¹² UNDP publishes its project information (indicators, baselines, targets and results) to meet the International Aid Transparency Initiative (IATI) standards. Make sure that indicators are S.M.A.R.T. (Specific, Measurable, Attainable, Relevant and Time-bound), provide accurate baselines and targets underpinned by reliable evidence and data, and avoid acronyms so that external audience clearly understand the results of the project.

¹³ It is recommended that projects use output indicators from the Strategic Plan IRRF, as relevant, in addition to project-specific results indicators. Indicators should be disaggregated by sex or for other targeted groups where relevant.

EXPECTED OUTPUTS	OUTPUT INDICATORS ¹³	DATA SOURCE	BASELINE		TARGETS (by frequency of data collection)					DATA COLLECTION METHODS & RISKS
			Value	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	FINAL	
Process (Institutional strengthening and planning Stage)	public outreach and consultation, and ensure the participation of women and marginalized groups. Competency skills rated through perceptions, on a scale of 1-4 (4-high level, 3-good level, 2-low level, 1-poor), of CRC members, CRC Staff and AG's Office staff on increased knowledge and understanding on key aspects of the constitutional review process.									
Output 2 Enhanced citizen knowledge and engagement on the Constitution, the CR Process and Research Undertaken (Consultation and Information Gathering Stage)	2.1 Cumulative # of adequate research undertaken and comprehensive information gathered supporting knowledge enhancement for the review process, with gender sensitive disaggregated data. Quantitative benchmark will be applied.	Research Reports; Technical study reports.	Number	0	1	2	3	4	4	National and International Expert teams, Project Team.
	2.2 Cumulative # of civic education campaigns and	Civic education manuals, pamphlets, and	# and %	0 & 0%	0 and 0%	2 and 50%	2 and 70%	2 and 70%	4 and 70%	Expert Teams, CRC, Project Team

EXPECTED OUTPUTS	OUTPUT INDICATORS ¹³	DATA SOURCE	BASELINE		TARGETS (by frequency of data collection)					DATA COLLECTION METHODS & RISKS
			Value	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	FINAL	
	resources produced and distributed to % of population (disaggregated by gender) and quality gauged through perceptions of individuals on quality of the materials and the campaign using a rating scale of 4-very effective, 3- effective, 2-low extent, and 1-poor	Island Consultation Reports, CRC Reports	Quality	0	2	3	3	4	4	Expert Teams, CRC, Project Team
	ii) Cumulative # of island consultations undertaken for the Review: rated using perceptions of citizens on quality through a rating scale of 4-very effective, 3- effective, 2-low extent, and 1-poor& non-inclusive; disaggregated data on % of population by gender breakdowns who were consulted.	Island Consultation Reports, CRC Reports	#	0	1	9	0	9	9	
			Quality Perceptions	0	1	3	3	3	4	
Output 3 Formulation of recommendations, amendments and support provided toward advisory	3.1 Cumulative # of reports produced and tabled in parliament by the Technical Review Committee	Technical Committee Review Report	Number	0	0	1	1	1	3	CRC, Project Team

EXPECTED OUTPUTS	OUTPUT INDICATORS ¹³	DATA SOURCE	BASELINE		TARGETS (by frequency of data collection)					DATA COLLECTION METHODS & RISKS
			Value	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	FINAL	
referendum and Adoption of the new Constitution	3.2 Status of revised Constitution reflecting amendments and % of population disaggregated by gender participating in Advisory Referendum	Revised Constitution		0	0	0	1	1	1	CRC, Technical Experts and Project Team CRC Team
		Advisory Referendum Report		0%	0%	0%	0%	70%	70%	

VI. MONITORING AND EVALUATION

In accordance with UNDP's programming policies and procedures, the project will be monitored through the following monitoring and evaluation plans:
[Note: monitoring and evaluation plans should be adapted to project context, as needed]

Monitoring Plan

Monitoring Activity	Purpose	Frequency	Expected Action	Partners (if joint)	Cost (if any)
Track results progress	Progress data against the results indicators in the RRF will be collected and analysed to assess the progress of the project in achieving the agreed outputs.	Quarterly, or in the frequency required for each indicator.	Slower than expected progress will be addressed by project management and a revision of the project Theory of Change.	Project Results will be monitored jointly by Government implementing partner, that is, Attorney General's Office	As identified in Project Multi-Year Workplan.
Monitor and Manage Risk	Identify specific risks that may threaten achievement of intended results. Identify and monitor risk management actions using a risk log. This includes monitoring measures and plans that may have been required as per UNDP's Social and Environmental Standards. Audits will be conducted in accordance with UNDP's audit policy to manage financial risk.	Quarterly	Risks are identified by project management and actions are taken to manage risk. The risk log is actively maintained to keep track of identified risks and actions taken.	UNDP Project Management Team and Project Board	As identified in Project Multi-Year Workplan.
Learn	Knowledge, good practices and lessons will be captured regularly, as well as actively sourced from other projects and partners and integrated back into the project.	At least annually	Relevant lessons are captured by the project team and used to inform management decisions.	UNDP Project Management Team and Project Board	As identified in Project Multi-Year Workplan.
Annual Project Quality Assurance	The quality of the project will be assessed against UNDP's quality standards to identify	Annually	Areas of strength and weakness will be reviewed by project	UNDP Integrated	As identified

Monitoring Activity	Purpose	Frequency	Expected Action	Partners (if joint)	Cost (if any)
	project strengths and weaknesses and to inform management decision making to improve the project.		management and used to inform decisions to improve project performance.	Results Management Team and Project Board	in Project Multi-Year Workplan.
Review and Make Course Corrections	Internal review of data and evidence from all monitoring actions to inform decision making.	At least annually	Performance data, risks, lessons and quality will be discussed by the project board and used to make course corrections.	Project Management, Project Board and Government Implementing Partner.	As identified in Project Multi-Year Workplan.
Project Report	A progress report will be presented to the Project Board and key stakeholders, consisting of progress data showing the results achieved against pre-defined annual targets at the output level, the annual project quality rating summary, an updated risk long with mitigation measures, and any evaluation or review reports prepared over the period.	Annually, and at the end of the project (final report)	Project Reports to be reviewed at the Project Board and any project issues associated with lack of progress in implementing project activities, financial and human resources and other factors will be discussed and appropriate course of action to deal with such issues will be decided.	Project Management, Project Board and Government Implementing Partner.	As identified in Project Multi-Year Workplan.
Project Review (Project Board)	The project's governance mechanism (i.e., project board) will hold regular project reviews to assess the performance of the project and review the Multi-Year Work Plan to ensure realistic budgeting over the life of the project. In the project's final year, the Project Board shall hold an end-of project review to capture lessons learned and discuss opportunities for scaling up and to socialize project results and lessons learned with relevant audiences.	Every 6 months	Any quality concerns or slower than expected progress should be discussed by the project board and management actions agreed to address the issues identified.	Project Management, Project Board and Government Implementing Partner.	As identified in Project Multi-Year Workplan.

Evaluation Plan¹⁴

Evaluation Title	Partners (if joint)	Related Strategic Plan Output	UNDAF/CPD Outcome	Planned Completion Date	Key Evaluation Stakeholders	Cost and Source of Funding
Final Project Evaluation	UNDP	SP Output 2.1	Outcome 5: Regional, national, local and traditional governance systems are strengthened and exercise the principles of good governance, respecting and upholding human rights, especially women's rights, in line with international standards.	May 2019	Tuvalu Citizens in general, Attorney General's Office, Parliament of Tuvalu, UNDP and other UN agencies, Development Partners, CSOs in Tuvalu and other beneficiaries	As identified in Project Multi-Year Workplan

¹⁴ Optional, if needed

VII. MULTI-YEAR WORK PLAN ¹⁵¹⁶

EXPECTED OUTPUTS	PLANNED ACTIVITIES	Responsible Party	PLANNED BUDGET			Planned Budget by Year		
			Funding Source	Budget Description	Amount	Y1	Y2	Y3
Output 1: Strengthened institutional and technical capacity of the Constitutional Review Committee and Attorney General's Office to undertake the Constitutional Review Process (Planning Stage)	<i>Activity Result 1.1: Capacity of the Constitutional Review Committee (CRC) is enhanced</i>	UNDP	Cost Sharing and UNDP	71200-International Consultants	40,000	10,000	10,000	10,000
	Activity 1.1.1: Development of Terms of Reference (TOR) for the CRC	UNDP	Cost Sharing	75700-Workshop & training costs	20,000	10,000	10,000	
	Activity 1.1.2: Develop committee rules for CRC and passed in parliament	UNDP	Cost Sharing	71600-Travels	20,000	10,000	10,000	
	Activity 1.1.2: Undertake technical training for CRC members on roles and functions of the CRC and conduct of work based on international best practice	<i>Sub-total Activity 1.1</i>			70,000	30,000	30,000	10,000
	Activity 1.1.3: Identification of thematic areas and development of TOR for sub-taskforces for each thematic area							
	Activity 1.1.4: Develop manuals and undertake ongoing trainings for CRC thematic sub-task forces							
	<i>Activity Result 1.2: Establishment and building of capacity of the CRC Secretariat, Attorney General's office and Defining the Scope of the review process</i>	UNDP	Cost Sharing	71200-National Staff Salaries	54,900	18,300	18,300	18,300
	Activity 1.2.1: Develop TOR and undertake recruitment of CRC Secretariat Officer (NOB-Tuvalu)	UNDP	Cost Sharing	75700-Workshop & training costs	4,100	4,100		
	Activity 1.2.2: Establish TOR for CRC Secretariat and tabled in CRC for approval	UNDP	Cost Sharing	72100 Contractual Services – Companies	3,000	1,000	1,000	1,000
	Activity 1.2.3: Conduct specialised training to strengthen technical and secretariat capacity of CRC Secretariat and within office of the Attorney General	UNDP	Cost Sharing	72800-IT Equipment	2,250	2,250		

¹⁵ Cost definitions and classifications for programme and development effectiveness costs to be charged to the project are defined in the Executive Board decision DP/2010/32

¹⁶ Changes to a project budget affecting the scope (outputs), completion date, or total estimated project costs require a formal budget revision that must be signed by the project board. In other cases, the UNDP programme manager alone may sign the revision provided the other signatories have no objection. This procedure may be applied for example when the purpose of the revision is only to re-phase activities among years.

EXPECTED OUTPUTS	PLANNED ACTIVITIES	Responsible Party	PLANNED BUDGET			Planned Budget by Year		
			Funding Source	Budget Description	Amount	Y1	Y2	Y3
	incl. Gender Dep Activity 1.2.4: Draft report analysing the scope of the Review Process and outlining issue based questionnaires Activity 1.2.5: Adequate communication done to all stakeholders on the timing and issues to be discussed Activity 1.2.6: Procurement of adequate resources (IT, stationery and furniture) for CRC Secretariat				64,250	25,650	19,300	19,300
	Project Management Costs¹⁷		Cost Sharing	Relevant DPC codes	55,500	17,903	17,903	19,695
	Sub-Total for Output 1				189,750	74,153	66,903	48,695
Output 2 Enhanced citizen knowledge and engagement on the Constitution and the Constitutional Review Process (Consultation and Information Gathering Stage)	<i>Activity Result 2.1: Adequate research undertaken and comprehensive information gathered for the review process</i>	UNDP	Cost Sharing	71200- Local Consultant (Researchers)	20,000	10,000	10,000	
	Activity 2.1.1: Issues based comparative research undertaken to support the issues identified for the review process bringing experience from other review processes (including past ones in Tuvalu)							
	Activity 2.1.2: Undertake technical review on the Constitution (international and national expert team) which will aid in producing recommendations for amendments in the review process							
	Activity 2.1.3: Mobilise expertise advice on issues relative to executive-legislative relations and gender							
	<i>Activity Result 2.2: Development and planning conducted for Civic Education Campaign and resources and Consultations undertaken for the Review</i>	UNDP	Cost Sharing	74200 Audio Visual & Printing Production Costs	40,000	15,000	20,000	5,000
Activity 2.2.1: Produce detailed CE materials containing preamble and other important sections of the Constitution based on the issues identified for public consultations	UNDP	Cost Sharing	71600 - Travels	90,000	50,000	30,000	10,000	
Activity 2.2.2: Develop comprehensive consultations	UNDP	Cost Sharing	75700 – Workshop and Meeting	50,000	25,000	15,000	10,000	

¹⁷ Includes salary for Project Manager (UNDP) USD\$27,812 per year; Project Associate (UNDP) USD\$11,618 per year; Operational Costs (Finance & Procurement) USD\$3,700 per year; Common Services Charges USD\$2,578 per year; M&E, Communication and Programme Finance USD\$8,000 per year; and Audit Cost once in the final year USD\$5,376.

EXPECTED OUTPUTS	PLANNED ACTIVITIES	Responsible Party	PLANNED BUDGET			Planned Budget by Year		
			Funding Source	Budget Description	Amount	Y1	Y2	Y3
	<p>plan outlining locations, budgets and timelines for public consultation and adequate monitoring and evaluation of the process</p> <p>Activity 2.2.3: Produce a communications plan and undertake radio communication and customized written materials for public advocacy and promotional purposes</p> <p>Activity 2.2.4: Undertake public consultations on all constituencies in Tuvalu on issues and proposed areas of amendments to the Constitution with effective M&E applied throughout to measure inclusion and transparency in the entire process</p> <p>Activity 2.2.5: Undertake consultations at thematic level with various stakeholders such as CSOs, heads of faith based organisations, government civil servants, vulnerable groups representing women, youth and disabled</p> <p>Activity 2.2.6: Organise debates and/ or panel discussions to discuss and deliberate on sensitive issues guided by thematic task-groups</p> <p>Activity 2.2.7: Produce and compile island reports capturing all consultations and feedbacks</p>			Costs				
		UNDP	Cost Sharing	71200 – International Consultants	30,000	20,000	10,000	
		<i>Sub-total Activity 2.2</i>			210,000	110,000	75,000	25,000
		UNDP	Cost Sharing and UNDP	Relevant DPC codes	55,500	17,903	17,903	19,695
	Sub-Total for Output 2			285,500	137,903	102,903	44,695	
Output 3 Formulation of recommendations, amendments and support provided toward advisory referendum and Adoption of the new Constitution	<p><i>Activity Result 3.1: Technical review, committee deliberations and formulation of recommendations completed</i></p> <p>Activity 3.1.1: Recruitment of technical expertise (Constitutional Review Advisor Drafters)</p> <p>Activity 3.1.2 Formulation of Recommendations Report by CRC Secretariat and through technical support by the Constitutional Review Advisor</p> <p>Activity 3.1.3: CRC sits and deliberates on Recommendations Report and accepts or recommends further updates</p>	UNDP	Cost Sharing (TBC)	71200- International Consultants	60,000	10,000	30,000	20,000
		UNDP	Cost Sharing (TBC)	75700- Workshop and meeting costs	20,000		10,000	10,000
				71600- Travel	20,000		10,000	10,000
		<i>Sub-total Activity 3.1</i>			100,000	10,000	50,000	40,000

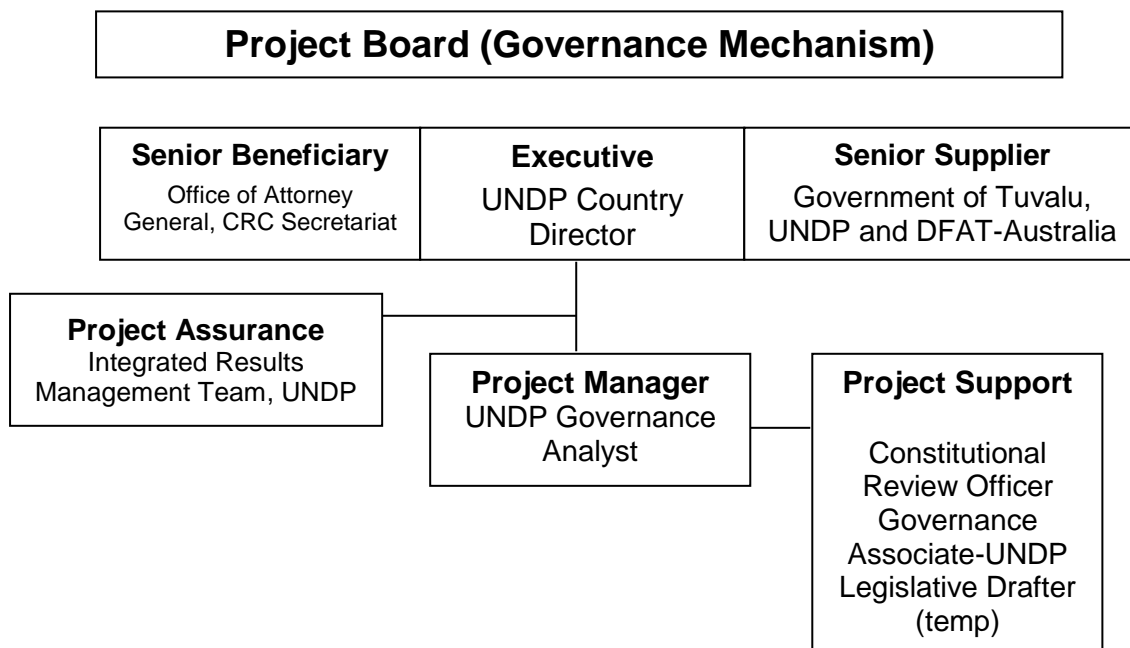
EXPECTED OUTPUTS	PLANNED ACTIVITIES	Responsible Party	PLANNED BUDGET			Planned Budget by Year		
			Funding Source	Budget Description	Amount	Y1	Y2	Y3
	<i>Activity Result 3.2: Drafting of Amendments and Conducting Advisory Referendum completed</i>	UNDP	Cost Sharing (TBC)	71200- International Consultants	30,000		15,000	15,000
	Activity 3.2.1: Recruitment of Legal Drafters	UNDP	Cost Sharing (TBC)	75700- Workshop and meeting costs	65,000		15,000	50,000
	Activity 3.2.2: Legal drafting process for new Constitution mapped and drafting undertaken (5-6 months)							
	Activity 3.2.3: Draft Constitution reviewed by Constitutional Review Advisor and Secretariat	UNDP	Cost Sharing (TBC)	74200 Audio Visual & Printing Production Costs	8,000			8,000
	Activity 3.2.4: Present Draft Constitution to CRC for first review and finalise any amendments							
	Activity 3.2.5: Undertake communication and distribute copies extensively of the draft Constitution for public consumption	<i>Sub-total Activity 3.2</i>			<i>103,000</i>		<i>30,000</i>	<i>73,000</i>
	Activity 3.2.6 Develop a comprehensive plan and timelines for the Advisory Referendum							
Activity 3.2.6: Conduct Advisory Referendum on all island constituencies								
Activity 3.2.7: Report on advisory referendum presented and tabled in CRC for final voting								
Project Management Costs¹⁷	UNDP	Cost Sharing (TBC)	Relevant DPC codes	55,500	17,903	17,903	19,695	
Sub-Total for Output 3				258,500	27,903	97,903	132,695	
	Sub-Total All Outputs			733,750				
Project Evaluation	Lessons learnt and project evaluation completed	UNDP	TBC	71200 – International Consultant	12,000			
Total Project Costs				745,750				
General Management Support	Government CSA- 3% (against \$115,000) DFAT and other donors – 8% (against \$635,000)				3,450 50,800			
TOTAL				\$800,000				

VIII. GOVERNANCE AND MANAGEMENT ARRANGEMENTS

The governance aspect of the project is expected to be managed through a Project Board which will convene every six months or as decided later by the Board. The Project Board is the group responsible for making by consensus, management decisions for a project when guidance is required by the Project Manager, including recommendation for approval of project plans and revisions. In order to ensure accountability, Project Board decisions should be made in accordance with standards that shall ensure management for development results, best value money, fairness, integrity, transparency and effective international competition. In case a consensus cannot be reached within the Board, final decision shall rest with UNDP. In addition, the Project Board plays a critical role in UNDP commissioned project evaluations by quality assuring the evaluation process and products, and using evaluations for performance improvement, accountability and learning. The Terms of Reference for the Project Board is annexed. The Project Board structure is provided in the diagram below.

On a day-to-day basis, the Project Manager based within UNDP has the authority to run the project on behalf of UNDP within the constraints laid down by the Board and in accordance with the UNDP Programme and Operations Policies and Procedures. The Project Manager is responsible for day-to-day management and decision-making for the project. The Project Manager's prime responsibility is to ensure that the project produces the results (outputs) specified in the project document to the required standard of quality and within the specified constraints of time and cost. UNDP appoints the Project Manager, who is different from the UNDP representative on the Project Board.

The Project Secretariat will comprise of the Constitutional Review Officer and staff from the AG's Office and UNDP technical and other support staff. The CRC Secretariat, as a Senior Beneficiary on the Project Board, will be maintained by the Constitutional Review Officer, staff from the AG's Office and other staff that will be recruited during the implementation of the Project. The CRC Secretariat will represent the CRC on the Board. Other representatives from the CRC and other organisations will be invited to attend Board Meetings as decided by the Board. The Government of Tuvalu will be represented by the Office of the Attorney General on the Board.



IX. LEGAL CONTEXT AND RISK MANAGEMENT

LEGAL CONTEXT STANDARD CLAUSES

This project document shall be the instrument referred to as such in Article 1 of the Standard Basic Assistance Agreement between the Government of Tuvalu and UNDP, signed on 16 January, 1979. All references in the SBAA to “Executing Agency” shall be deemed to refer to “Implementing Partner.”

RISK MANAGEMENT STANDARD CLAUSES

1. UNDP as the Implementing Partner shall comply with the policies, procedures and practices of the United Nations Security Management System (UNSMS.)
2. UNDP agrees to undertake all reasonable efforts to ensure that none of the [project funds]¹⁸ [UNDP funds received pursuant to the Project Document]¹⁹ are used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999). The list can be accessed via http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml. This provision must be included in all sub-contracts or sub-agreements entered into under this Project Document.
3. Consistent with UNDP’s Programme and Operations Policies and Procedures, social and environmental sustainability will be enhanced through application of the UNDP Social and Environmental Standards (<http://www.undp.org/ses>) and related Accountability Mechanism (<http://www.undp.org/secu-srm>).
4. The Implementing Partner shall: (a) conduct project and programme-related activities in a manner consistent with the UNDP Social and Environmental Standards, (b) implement any management or mitigation plan prepared for the project or programme to comply with such standards, and (c) engage in a constructive and timely manner to address any concerns and complaints raised through the Accountability Mechanism. UNDP will seek to ensure that communities and other project stakeholders are informed of and have access to the Accountability Mechanism.
5. All signatories to the Project Document shall cooperate in good faith with any exercise to evaluate any programme or project-related commitments or compliance with the UNDP Social and Environmental Standards. This includes providing access to project sites, relevant personnel, information, and documentation.

¹⁸ To be used where UNDP is the Implementing Partner

¹⁹ To be used where the UN, a UN fund/programme or a specialized agency is the Implementing Partner

X. ANNEXES

- 1. Project Quality Assurance Report** – to be included following completion of the Project Local Project Appraisal Committee meeting in July 2016.
- 2. Social and Environmental Screening Template**
- 3. Risk Analysis**
- 4. Project Board Terms of Reference**

ANNEX [2]. SOCIAL AND ENVIRONMENTAL SCREENING TEMPLATE

The completed template, which constitutes the Social and Environmental Screening Report, must be included as an annex to the Project Document. Please refer to the [Social and Environmental Screening Procedure](#) and [Toolkit](#) for guidance on how to answer the 6 questions.

Project Information

Project Information	
1. Project Title	Tuvalu Constitutional Review Project
2. Project Number	Project Award Number: 00096486 and Project Output ID: 00100422
3. Location (Global/Region/Country)	Tuvalu

Part A. Integrating Overarching Principles to Strengthen Social and Environmental Sustainability

QUESTION 1: How Does the Project Integrate the Overarching Principles in order to Strengthen Social and Environmental Sustainability?

Briefly describe in the space below how the Project mainstreams the human-rights based approach

Under output 2, the Project is expected to undertake a series of consultations with the public and all citizens located on the outer islands on their views around the Constitution and where they are facing difficulties in accessing their human and citizen rights through the current constitution. The project is expected to provide citizens a space to voice concerns and ensure the new Constitution addresses their human rights and is inculcated through the sub-sequent laws that are derived from the Constitution. Additionally, the consultation process is expected to provide a platform for citizens to effectively learn and get awareness on their rights and responsibilities as citizens and also be able to connect with their leaders much more effectively.

Briefly describe in the space below how the Project is likely to improve gender equality and women's empowerment

As indicated in the project document, in traditional Tuvaluan culture, like many, is patriarchal in nature, relying on conceptions of women and men having different spheres of activity. The Constitution is relatively silent on gender, and there is some resistance to recognizing women as full participants in the political and economic spheres. There are other gender issues related to traditional rights, such as the fact that fathers get custody of children. Yet there is also pressure to have more women in representative assemblies like the Kaupule, in keeping with global norms. Only three women have been elected to parliament in total since independence; one is currently sitting.

The project through the various activities around rights awareness and consultations process is expected to increase citizen's knowledge around gender and

women's empowerment and at the same time the review of the Constitution is expected to ensure gender equality and specific sections on gender are included in the new Constitution.

Briefly describe in the space below how the Project mainstreams environmental sustainability

The Constitution is also silent on environment and climate change related issues and its expected through the review process such matters are inculcated in the Constitutional text to ensure environmental and climate change concerns which are major issues for Tuvaluans are reflected adequately under the new Constitution.

Part B. Identifying and Managing Social and Environmental Risks

QUESTION 2: What are the Potential Social and Environmental Risks? <i>Note: Describe briefly potential social and environmental risks identified in Attachment 1 – Risk Screening Checklist (based on any “Yes” responses). If no risks have been identified in Attachment 1 then note “No Risks Identified” and skip to Question 4 and Select “Low Risk”. Questions 5 and 6 not required for Low Risk Projects.</i>	QUESTION 3: What is the level of significance of the potential social and environmental risks? <i>Note: Respond to Questions 4 and 5 below before proceeding to Question 6</i>			QUESTION 6: What social and environmental assessment and management measures have been conducted and/or are required to address potential risks (for Risks with Moderate and High Significance)?
Risk Description	Impact and Probability (1-5)	Significance (Low, Moderate, High)	Comments	Description of assessment and management measures as reflected in the Project design. If ESIA or SESA is required note that the assessment should consider all potential impacts and risks.
No risks identified	I = P =			
	I = P =			
	I = P =			
	I = P =			
[add additional rows as needed]				

QUESTION 4: What is the overall Project risk categorization?		
Select one (see SESP for guidance)		Comments
<i>Low Risk</i>	<input checked="" type="checkbox"/>	The Project is more around raising awareness on the Constitution and consulting citizens on needed improvement on the Constitution to ensure citizens voices are effectively reflected in the Constitution.
<i>Moderate Risk</i>	<input type="checkbox"/>	
<i>High Risk</i>	<input type="checkbox"/>	
QUESTION 5: Based on the identified risks and risk categorization, what requirements of the SES are relevant?		
Check all that apply		Comments
<i>Principle 1: Human Rights</i>	<input type="checkbox"/>	
<i>Principle 2: Gender Equality and Women's Empowerment</i>	<input type="checkbox"/>	
<i>1. Biodiversity Conservation and Natural Resource Management</i>	<input type="checkbox"/>	
<i>2. Climate Change Mitigation and Adaptation</i>	<input type="checkbox"/>	
<i>3. Community Health, Safety and Working Conditions</i>	<input type="checkbox"/>	
<i>4. Cultural Heritage</i>	<input type="checkbox"/>	
<i>5. Displacement and Resettlement</i>	<input type="checkbox"/>	
<i>6. Indigenous Peoples</i>	<input type="checkbox"/>	
<i>7. Pollution Prevention and Resource Efficiency</i>	<input type="checkbox"/>	

Final Sign Off

<i>Signature</i>	<i>Date</i>	<i>Description</i>
QA Assessor		UNDP staff member responsible for the Project, typically a UNDP Programme Officer. Final signature confirms they have “checked” to ensure that the SESP is adequately conducted.
QA Approver		UNDP senior manager, typically the UNDP Deputy Country Director (DCD), Country Director (CD), Deputy Resident Representative (DRR), or Resident Representative (RR). The QA Approver cannot also be the QA Assessor. Final signature confirms they have “cleared” the SESP prior to submittal to the PAC.
PAC Chair		UNDP chair of the PAC. In some cases PAC Chair may also be the QA Approver. Final signature confirms that the SESP was considered as part of the project appraisal and considered in recommendations of the PAC.

SESP Attachment 1. Social and Environmental Risk Screening Checklist

Checklist Potential Social and Environmental Risks		Answer (Yes/No)
Principles 1: Human Rights		
1.	Could the Project lead to adverse impacts on enjoyment of the human rights (civil, political, economic, social or cultural) of the affected population and particularly of marginalized groups?	No
2.	Is there a likelihood that the Project would have inequitable or discriminatory adverse impacts on affected populations, particularly people living in poverty or marginalized or excluded individuals or groups? ²⁰	No
3.	Could the Project potentially restrict availability, quality of and access to resources or basic services, in particular to marginalized individuals or groups?	No
4.	Is there a likelihood that the Project would exclude any potentially affected stakeholders, in particular marginalized groups, from fully participating in decisions that may affect them?	No
5.	Is there a risk that duty-bearers do not have the capacity to meet their obligations in the Project?	No
6.	Is there a risk that rights-holders do not have the capacity to claim their rights?	No
7.	Have local communities or individuals, given the opportunity, raised human rights concerns regarding the Project during the stakeholder engagement process?	No
8.	Is there a risk that the Project would exacerbate conflicts among and/or the risk of violence to project-affected communities and individuals?	No
Principle 2: Gender Equality and Women's Empowerment		
1.	Is there a likelihood that the proposed Project would have adverse impacts on gender equality and/or the situation of women and girls?	No
2.	Would the Project potentially reproduce discriminations against women based on gender, especially regarding participation in design and implementation or access to opportunities and benefits?	No
3.	Have women's groups/leaders raised gender equality concerns regarding the Project during the stakeholder engagement process and has this been included in the overall Project proposal and in the risk assessment?	No
4.	Would the Project potentially limit women's ability to use, develop and protect natural resources, taking into account different roles and positions of women and men in accessing environmental goods and services? <i>For example, activities that could lead to natural resources degradation or depletion in communities who depend on these resources for their livelihoods and well being</i>	No
Principle 3: Environmental Sustainability: Screening questions regarding environmental risks are encompassed by the specific Standard-related questions below		
Standard 1: Biodiversity Conservation and Sustainable Natural Resource Management		
1.1	Would the Project potentially cause adverse impacts to habitats (e.g. modified, natural, and critical habitats) and/or ecosystems and ecosystem services?	No

²⁰ Prohibited grounds of discrimination include race, ethnicity, gender, age, language, disability, sexual orientation, religion, political or other opinion, national or social or geographical origin, property, birth or other status including as an indigenous person or as a member of a minority. References to "women and men" or similar is understood to include women and men, boys and girls, and other groups discriminated against based on their gender identities, such as transgender people and transsexuals.

	<i>For example, through habitat loss, conversion or degradation, fragmentation, hydrological changes</i>	
1.2	Are any Project activities proposed within or adjacent to critical habitats and/or environmentally sensitive areas, including legally protected areas (e.g. nature reserve, national park), areas proposed for protection, or recognized as such by authoritative sources and/or indigenous peoples or local communities?	No
1.3	Does the Project involve changes to the use of lands and resources that may have adverse impacts on habitats, ecosystems, and/or livelihoods? (Note: if restrictions and/or limitations of access to lands would apply, refer to Standard 5)	No
1.4	Would Project activities pose risks to endangered species?	No
1.5	Would the Project pose a risk of introducing invasive alien species?	No
1.6	Does the Project involve harvesting of natural forests, plantation development, or reforestation?	No
1.7	Does the Project involve the production and/or harvesting of fish populations or other aquatic species?	No
1.8	Does the Project involve significant extraction, diversion or containment of surface or ground water? <i>For example, construction of dams, reservoirs, river basin developments, groundwater extraction</i>	No
1.9	Does the Project involve utilization of genetic resources? (e.g. collection and/or harvesting, commercial development)	No
1.10	Would the Project generate potential adverse transboundary or global environmental concerns?	No
1.11	Would the Project result in secondary or consequential development activities which could lead to adverse social and environmental effects, or would it generate cumulative impacts with other known existing or planned activities in the area? <i>For example, a new road through forested lands will generate direct environmental and social impacts (e.g. felling of trees, earthworks, potential relocation of inhabitants). The new road may also facilitate encroachment on lands by illegal settlers or generate unplanned commercial development along the route, potentially in sensitive areas. These are indirect, secondary, or induced impacts that need to be considered. Also, if similar developments in the same forested area are planned, then cumulative impacts of multiple activities (even if not part of the same Project) need to be considered.</i>	No
Standard 2: Climate Change Mitigation and Adaptation		
2.1	Will the proposed Project result in significant ²¹ greenhouse gas emissions or may exacerbate climate change?	No
2.2	Would the potential outcomes of the Project be sensitive or vulnerable to potential impacts of climate change?	No
2.3	Is the proposed Project likely to directly or indirectly increase social and environmental vulnerability to climate change now or in the future (also known as maladaptive practices)? <i>For example, changes to land use planning may encourage further development of floodplains, potentially increasing the population's vulnerability to climate change, specifically flooding</i>	No
Standard 3: Community Health, Safety and Working Conditions		
3.1	Would elements of Project construction, operation, or decommissioning pose potential safety risks to local communities?	No
3.2	Would the Project pose potential risks to community health and safety due to the transport, storage, and use and/or disposal of hazardous or dangerous materials (e.g. explosives, fuel and other chemicals during construction and operation)?	No
3.3	Does the Project involve large-scale infrastructure development (e.g. dams, roads, buildings)?	No
3.4	Would failure of structural elements of the Project pose risks to communities? (e.g. collapse of buildings or infrastructure)	No
3.5	Would the proposed Project be susceptible to or lead to increased vulnerability to earthquakes, subsidence, landslides, erosion, flooding or extreme climatic conditions?	No

²¹ In regards to CO₂, 'significant emissions' corresponds generally to more than 25,000 tons per year (from both direct and indirect sources). [The Guidance Note on Climate Change Mitigation and Adaptation provides additional information on GHG emissions.]

3.6	Would the Project result in potential increased health risks (e.g. from water-borne or other vector-borne diseases or communicable infections such as HIV/AIDS)?	No
3.7	Does the Project pose potential risks and vulnerabilities related to occupational health and safety due to physical, chemical, biological, and radiological hazards during Project construction, operation, or decommissioning?	No
3.8	Does the Project involve support for employment or livelihoods that may fail to comply with national and international labor standards (i.e. principles and standards of ILO fundamental conventions)?	No
3.9	Does the Project engage security personnel that may pose a potential risk to health and safety of communities and/or individuals (e.g. due to a lack of adequate training or accountability)?	No
Standard 4: Cultural Heritage		
4.1	Will the proposed Project result in interventions that would potentially adversely impact sites, structures, or objects with historical, cultural, artistic, traditional or religious values or intangible forms of culture (e.g. knowledge, innovations, practices)? (Note: Projects intended to protect and conserve Cultural Heritage may also have inadvertent adverse impacts)	No
4.2	Does the Project propose utilizing tangible and/or intangible forms of cultural heritage for commercial or other purposes?	No
Standard 5: Displacement and Resettlement		
5.1	Would the Project potentially involve temporary or permanent and full or partial physical displacement?	No
5.2	Would the Project possibly result in economic displacement (e.g. loss of assets or access to resources due to land acquisition or access restrictions – even in the absence of physical relocation)?	No
5.3	Is there a risk that the Project would lead to forced evictions? ²²	No
5.4	Would the proposed Project possibly affect land tenure arrangements and/or community based property rights/customary rights to land, territories and/or resources?	No
Standard 6: Indigenous Peoples		
6.1	Are indigenous peoples present in the Project area (including Project area of influence)?	No
6.2	Is it likely that the Project or portions of the Project will be located on lands and territories claimed by indigenous peoples?	No
6.3	Would the proposed Project potentially affect the human rights, lands, natural resources, territories, and traditional livelihoods of indigenous peoples (regardless of whether indigenous peoples possess the legal titles to such areas, whether the Project is located within or outside of the lands and territories inhabited by the affected peoples, or whether the indigenous peoples are recognized as indigenous peoples by the country in question)? <i>If the answer to the screening question 6.3 is “yes” the potential risk impacts are considered potentially severe and/or critical and the Project would be categorized as either Moderate or High Risk.</i>	No
6.4	Has there been an absence of culturally appropriate consultations carried out with the objective of achieving FPIC on matters that may affect the rights and interests, lands, resources, territories and traditional livelihoods of the indigenous peoples concerned?	No
6.5	Does the proposed Project involve the utilization and/or commercial development of natural resources on lands and territories claimed by indigenous peoples?	No
6.6	Is there a potential for forced eviction or the whole or partial physical or economic displacement of indigenous peoples, including through access restrictions to lands, territories, and resources?	No
6.7	Would the Project adversely affect the development priorities of indigenous peoples as defined by	No

²² Forced evictions include acts and/or omissions involving the coerced or involuntary displacement of individuals, groups, or communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating the ability of an individual, group, or community to reside or work in a particular dwelling, residence, or location without the provision of, and access to, appropriate forms of legal or other protections.

	them?	
6.8	Would the Project potentially affect the physical and cultural survival of indigenous peoples?	No
6.9	Would the Project potentially affect the Cultural Heritage of indigenous peoples, including through the commercialization or use of their traditional knowledge and practices?	No
Standard 7: Pollution Prevention and Resource Efficiency		
7.1	Would the Project potentially result in the release of pollutants to the environment due to routine or non-routine circumstances with the potential for adverse local, regional, and/or transboundary impacts?	No
7.2	Would the proposed Project potentially result in the generation of waste (both hazardous and non-hazardous)?	No
7.3	Will the proposed Project potentially involve the manufacture, trade, release, and/or use of hazardous chemicals and/or materials? Does the Project propose use of chemicals or materials subject to international bans or phase-outs? <i>For example, DDT, PCBs and other chemicals listed in international conventions such as the Stockholm Conventions on Persistent Organic Pollutants or the Montreal Protocol</i>	No
7.4	Will the proposed Project involve the application of pesticides that may have a negative effect on the environment or human health?	No
7.5	Does the Project include activities that require significant consumption of raw materials, energy, and/or water?	No

ANNEX 3: RISK LOG

OFFLINE RISK LOG

(see [Deliverable Description](#) for the Risk Log regarding its purpose and use)



Project Title: Tuvalu Constitutional Review Project	Award ID: 00096486	Date: 08 August 2016
--	---------------------------	-----------------------------

#	Description	Date Identified	Type	Impact & Probability	Countermeasures / Mngt response	Owner	Submitted, updated by	Last Update	Status
1	Insufficient technical and human resource capacity within office of the Attorney General (national partner) on Constitutional Review process and legislative drafting	January 2016	Organizational	<p>Considering the key work involved under the project is around constitutional review and legal drafting, limited capacity in AG's office could have an impact on project results and completion of activities.</p> <p>Enter probability on a scale from 1 (low) to 5 (high) P = 3</p> <p>Enter impact on a scale from 1 (low) to 5 (high) I = 3</p>	The project has adequately identified activities which will require additional technical experience from abroad on constitutional review processes. Hence to ensure the limited capacities in Tuvalu is matched with adequate external expertise, the project has inbuilt activities to ensure technical and human resource capacities are made available and recruited on needs basis. These are effectively mapped under the project activities.	Project Manager at UNDP and Attorney General	UNDP Project Manager, Mohammed Mozeem	13 July 2016	No change

#	Description	Date Identified	Type	Impact & Probability	Countermeasures / Mngt response	Owner	Submitted, updated by	Last Update	Status
					Additionally, specified trainings around the CR process and other thematic areas around gender, HR, etc related to constitutional review and legal drafting is also targeted for officers within the AG's office to improve their technical and human resource capacities.				
2	Project budget is not fully resource mobilised through government and development partner funding due to changing priorities	July 2016	Financial Operational	Approximately 40% of the total project budget has been mobilised to date. 60% of the remaining project budget needs to mobilised to ensure full implementation of the project is not affected. P = 2 I = 4	UNDP is continuing resource mobilisation efforts. Initial discussion with both government and development partners outlines an appetite to ensure that this project is fully funded and therefore a continuing resource mobilisation strategy will be implemented. Secondary mitigation measures include that the project will review the multi-	Project Manager at UNDP and Attorney General, Tuvalu	UNDP Project Manager, Mohammed Mozeem	13 July 2016	No change

#	Description	Date Identified	Type	Impact & Probability	Countermeasures / Mngt response	Owner	Submitted, updated by	Last Update	Status
					year work plan on a regular basis and inform the project steering committee should there be a need to prioritise activities due to lack of funding.				
3	Government priorities change due to other factors arising from climate change or natural disasters such as cyclone	July 2016	Environmental Strategic	As climate change is an ongoing concern for Tuvalu and has impacted the country in the past in the form of natural disasters such as cyclones and sea-level rise, further impacts of climate change has potential to change priorities of the government and stakeholders to some extent. P = 2 I = 3	The Project will work hand-in-hand with other climate change and environmental projects such as the very recently GCF project awarded to Tuvalu Government in July 2016 to ensure there is synergies between governance and climate change related work. Additionally, the project activities is expected to address gaps in the constitutional on environment and climate change matters hence ensuring project remains a priority even during such uncalculated events. Where possible the project	Project Manager at UNDP and Attorney General, Tuvalu	UNDP Project Manager, Mohammed Mozeem	13 July 2016	No change

#	Description	Date Identified	Type	Impact & Probability	Countermeasures / Mngt response	Owner	Submitted, updated by	Last Update	Status
					will ensure committed funds are received in advance.				
4	Political instability affects priority to the CR process	August 2016	Political	<p>Tuvalu has previously had periods of political instability that have impacted on all public sectors. Should a period of political instability arise during the project period, it is a risk that the CR process will be negatively impacted.</p> <p>P=2 I=3</p>	<p>During the initial study, consultations were undertaken with both the opposition side and government side and there is clear recognition from all political sides on the need for constitutional review. The project has strong strategies to ensure all political sides are involved and kept informed during the entire process to ensure the CR process remains a priority even if political instability arises.</p> <p>Additionally, wherever there are differing views between the CRC and the Project, open dialogue processes will be facilitated to ensure such issues are dealt with adequately.</p>	Project Manager at UNDP	UNDP Project Manager, Mohammed Mozeem	7 August 2016	No change

#	Description	Date Identified	Type	Impact & Probability	Countermeasures / Mngt response	Owner	Submitted, updated by	Last Update	Status
5	Communication on the Constitution is poor and citizens not effectively informed	August 2016	Operational	<p>Due to the disparate nature of the country and poor communication infrastructure, one of the challenges and risks will be that citizens are not fully informed on the process or the proposed content.</p> <p>P=1 I=2</p>	<p>The project has effectively identified a specialised activity on developing a Communications Plan to ensure effective and efficient communications is maintained throughout the process.</p> <p>The project will provide advice on how an effective complaints mechanism system can be built in the local consultation process for the Constitution to ensure citizen's voices are adequately captured in the design of the new constitution.</p>	Project Manager at UNDP	UNDP Project Manager, Mohammed Mozeem	7 August 2016	No change
6	Proposed changes to the constitution do not align with global best practice	August 2016	Political	The CR process is owned and led by the Government and people of Tuvalu. There is a risk that the proposed changes to the constitution will not be aligned to global best practice.	The final content of the proposed changes will not impact on the project per say. However, there will be reputational risk to UNDP should proposed content not align to global	Project Manager at UNDP	UNDP Project Manager, Mohammed Mozeem	7 August 2016	No change

#	Description	Date Identified	Type	Impact & Probability	Countermeasures / Mngt response	Owner	Submitted, updated by	Last Update	Status
				P=2 I = 3	best practice and the project will then take steps to mitigate this risk by implementing a communication strategy to outline that the role of the project was only to provide TA and final decisions were taken through the national structures in Tuvalu.				

ANNEX 4: PROJECT BOARD – TERMS OF REFERENCE

Overall responsibilities

The Project Board is the group responsible for making by consensus management decisions for a project when guidance is required by the Project Manager, including recommendation for UNDP/Implementing Partner approval of project plans and revisions. In order to ensure UNDP's ultimate accountability, Project Board decisions should be made in accordance to standards⁵ that shall ensure best value to money, fairness, integrity transparency and effective international competition. In case a consensus cannot be reached, final decision shall rest with the UNDP Programme Manager. Project reviews by this group are made at designated decision points during the running of a project, or as necessary when raised by the Project Manager. This group is consulted by the Project Manager for decisions when PM tolerances (normally in terms of time and budget) have been exceeded.

Based on the approved annual work plan (AWP), the Project Board may review and approve project quarterly plans when required and authorizes any major deviation from these agreed quarterly plans. It is the authority that signs off the completion of each quarterly plan as well as authorizes the start of the next quarterly plan. It ensures that required resources are committed and arbitrates on any conflicts within the project or negotiates a solution to any problems between the project and external bodies. In addition, it approves the appointment and responsibilities of the Project Manager and any delegation of its Project Assurance responsibilities.

Composition and organization: This group contains three roles, including:

- 1) An Executive: individual representing the project ownership to chair the group.
- 2) Senior Supplier: individual or group representing the interests of the parties concerned which provide funding and/or technical expertise to the project. The Senior Supplier's primary function within the Board is to provide guidance regarding the technical feasibility of the project.
- 3) Senior Beneficiary: individual or group of individuals representing the interests of those who will ultimately benefit from the project. The Senior Beneficiary's primary function within the Board is to ensure the realization of project results from the perspective of project beneficiaries.

Specific responsibilities:

Initiating a project

- Agree on Project Manager's responsibilities, as well as the responsibilities of the other members of the Project Management team;
- Delegate any Project Assurance function as appropriate;
- Review the Progress Report for the Initiation Stage (if an Initiation Plan was required);
- Review and appraise detailed Project Plan and AWP, including Atlas reports covering activity definition, quality criteria, issue log, updated risk log and the monitoring and communication plan.

Running a project

- Provide overall guidance and direction to the project, ensuring it remains within any specified constraints;
- Address project issues as raised by the Project Manager;
- Provide guidance and agree on possible countermeasures/management actions to address specific risks;
- Agree on Project Manager's tolerances in the Annual Work Plan and quarterly plans when required;
- Conduct regular meetings to review the Project Quarterly Progress Report and provide direction and recommendations to ensure that the agreed deliverables are produced satisfactorily according to plans.
- Review Combined Delivery Reports (CDR) prior to certification by the Implementing Partner;
- Appraise the Project Annual Review Report, make recommendations for the next AWP, and inform the Outcome Board about the results of the review.
- Review and approve end project report, make recommendations for follow-on actions;
- Provide ad-hoc direction and advice for exception situations when project manager's tolerances are exceeded;
- Assess and decide on project changes through revisions;

Closing a project

- Assure that all Project deliverables have been produced satisfactorily;
- Review and approve the Final Project Review Report, including Lessons-learned;
- Make recommendations for follow-on actions to be submitted to the Outcome Board;
- Commission project evaluation (only when required by partnership agreement)
- Notify operational completion of the project to the Outcome Board.

Executive

The Executive is ultimately responsible for the project, supported by the Senior Beneficiary and Senior Supplier. The Executive's role is to ensure that the project is focused throughout its life cycle on achieving its objectives and delivering outputs that will contribute to higher level outcomes. The Executive has to ensure that the project gives value for money, ensuring a cost-conscious approach to the project, balancing the demands of beneficiary and supplier.

Specific Responsibilities (as part of the above responsibilities for the Project Board)

- Ensure that there is a coherent project organisation structure and logical set of plans
- Set tolerances in the AWP and other plans as required for the Project Manager
- Monitor and control the progress of the project at a strategic level
- Ensure that risks are being tracked and mitigated as effectively as possible
- Brief Outcome Board and relevant stakeholders about project progress
- Organise and chair Project Board meetings

The Executive is responsible for overall assurance of the project as described below. If the project warrants it, the Executive may delegate some responsibility for the project assurance functions.

Senior Beneficiary

The Senior Beneficiary is responsible for validating the needs and for monitoring that the solution will meet those needs within the constraints of the project. The role represents the interests of all those who will benefit from the project, or those for whom the deliverables resulting from activities will achieve specific output targets. The Senior Beneficiary role monitors progress against targets and quality criteria. This role may require more than one person to cover all the beneficiary interests. For the sake of effectiveness, the role should not be split between too many people.

Specific Responsibilities (as part of the above responsibilities for the Project Board)

- Ensure the expected output(s) and related activities of the project are well defined
- Make sure that progress towards the outputs required by the beneficiaries remains consistent from the beneficiary perspective
- Promote and maintain focus on the expected project output(s)
- Prioritise and contribute beneficiaries' opinions on Project Board decisions on whether to implement recommendations on proposed changes
- Resolve priority conflicts

The assurance responsibilities of the Senior Beneficiary are to check that:

- Specification of the Beneficiary's needs is accurate, complete and unambiguous
- Implementation of activities at all stages is monitored to ensure that they will meet the beneficiary's needs and are progressing towards that target
- Impact of potential changes is evaluated from the beneficiary point of view
- Risks to the beneficiaries are frequently monitored
- Where the project's size, complexity or importance warrants it, the Senior Beneficiary may delegate the responsibility and authority for some of the assurance responsibilities (see also the section below)

Senior Supplier

The Senior Supplier represents the interests of the parties which provide funding and/or technical expertise to the project (designing, developing, facilitating, procuring, implementing). The Senior Supplier's primary function within the Board is to provide guidance regarding the technical feasibility of the project. The Senior Supplier role must have the authority to commit or acquire supplier resources required. If necessary, more than one person may be required for this role. Typically, the implementing partner, UNDP and/or donor(s) would be represented under this role.

Specific Responsibilities (as part of the above responsibilities for the Project Board)

- Make sure that progress towards the outputs remains consistent from the supplier perspective
- Promote and maintain focus on the expected project output(s) from the point of view of supplier management
- Ensure that the supplier resources required for the project are made available
- Contribute supplier opinions on Project Board decisions on whether to implement recommendations on proposed changes
- Arbitrate on, and ensure resolution of, any supplier priority or resource conflicts
- The supplier assurance role responsibilities are to:

- Advise on the selection of strategy, design and methods to carry out project activities
- Ensure that any standards defined for the project are met and used to good effect
- Monitor potential changes and their impact on the quality of deliverables from a supplier perspective
- Monitor any risks in the implementation aspects of the project

If warranted, some of this assurance responsibility may be delegated (see also the section below).

Project Assurance

Overall responsibility: Project Assurance is the responsibility of each Project Board member, however the role can be delegated. The Project Assurance role supports the Project Board by carrying out objective and independent project oversight and monitoring functions. This role ensures appropriate project management milestones are managed and completed.

Project Assurance has to be independent of the Project Manager; therefore the Project Board cannot delegate any of its assurance responsibilities to the Project Manager. A UNDP Programme Officer typically holds the Project Assurance role.

The implementation of the assurance responsibilities needs to answer the question “What is to be assured?”. The following list includes the key suggested aspects that need to be checked by the Project Assurance throughout the project as part of ensuring that it remains relevant, follows the approved plans and continues to meet the planned targets with quality.

- Maintenance of thorough liaison throughout the project between the members of the Project Board.
- Beneficiary needs and expectations are being met or managed
- Risks are being controlled
- Adherence to the Project Justification (Business Case)
- Projects fit with the overall Country Programme
- The right people are being involved
- An acceptable solution is being developed
- The project remains viable
- The scope of the project is not “creeping upwards” unnoticed
- Internal and external communications are working
- Applicable UNDP rules and regulations are being observed
- Any legislative constraints are being observed
- Adherence to RMG monitoring and reporting requirements and standards
- Quality management procedures are properly followed
- Project Board’s decisions are followed and revisions are managed in line with the required procedures

Specific responsibilities would include:

Initiating a project

- Ensure that project outputs definitions and activity definition including description and quality criteria have been properly recorded in the Atlas Project Management module to facilitate monitoring and reporting;

- Ensure that people concerned are fully informed about the project
- Ensure that all preparatory activities, including training for project staff, logistic supports are timely carried out

Running a project

- Ensure that funds are made available to the project;
- Ensure that risks and issues are properly managed, and that the logs in Atlas are regularly updated;
- Ensure that critical project information is monitored and updated in Atlas, using the Activity Quality log in particular;
- Ensure that Project Quarterly Progress Reports are prepared and submitted on time, and according to standards in terms of format and content quality;
- Ensure that CDRs and FACE are prepared and submitted to the Project Board and Outcome Board;
- Perform oversight activities, such as periodic monitoring visits and “spot checks”.
- Ensure that the Project Data Quality Dashboard remains “green”

Closing a project

- Ensure that the project is operationally closed in Atlas;
- Ensure that all financial transactions are in Atlas based on final accounting of expenditures;
- Ensure that project accounts are closed and status set in Atlas accordingly.