



## *Insights for design of direct public participation: Tuvalu as a case study*

**Corinna Ituaso Laafai**

### **At what stage(s) in the constitution building process did public participation occur?**

During the initial stage when the agenda was set, a *Scoping Study on the Review of the Constitution of Tuvalu Issues and Analysis* was conducted in January 2016. To inform this Scoping Study, the public was consulted through a series of meetings between the team, which included external advisors (including consultant Tom Ginsburg from University of Chicago and an United Nations Development Programme Governance Analyst), representatives from the Office of the Attorney-General, and government officials, including members of the Cabinet, members of Parliament and Government Secretaries. Group meetings were held with various stakeholders, including civil servants, civil society, Island leaders, women leaders, *Kaupule* (local villages) representatives and members of various religious groups including the State Church (the *Ekalesia Kelisiano Tuvalu*). Approximately 100 people were consulted. The general view from this scoping exercise was support for a review of the Constitution of Tuvalu.

The issues driving the review efforts included political reform, religion, gender and inclusion, local and traditional government and land. Other areas considered relevant included the environment, independent entities, international law and drafting styles.

In the initial state and during mid-2017, further consultations were held on each outer island, together with delivery of civic education to island constituencies. In addition, during the deliberation process, a National Constitutional Congress was held in November 2018 with stakeholders coming in from the outer islands to either re-affirm their position or give views on specific aspects of the review of the Constitution.

There was no direct involvement of members of the public during the drafting process and when the bill for constitutional change was tabled in Parliament.

### **Was public participation planned from the outset or added as the process unfolded?**

Public participation was planned from the outset. A United Nations Development Programme Constitutional Review Project supported the process. The project documents included public involvement and consideration of public views during the scoping exercise in the initial phase of the project.

### **How did public participation occur?**

Given the partnership and co-sponsorship for the Constitutional Review Project, many stakeholders were involved in the process, including the following:

- Counterpart Institutions: Office of the Attorney-General and the Office of the Parliament of Tuvalu;
- Funding Agencies: DFAT-Australia;
- Government of Tuvalu Implementing Agencies: UNDP (Suva office).

Public participation varied during the different phases of the project.

### How was the opportunity to participate made known?

Historically, constitutional reviews carried out in Tuvalu have always treated public participation as a key element of the work. During the Scoping Study undertaken in early 2016, the commonly used 'stages of constitutional review' was adopted to enhance the process. Recommendations were tabled in Cabinet and in adopting the 'Consultation and Information-gathering Phase' it was recommended that the public be involved.

A well-planned civic education campaign focusing on human rights and democracy may assist by putting into perspective the effectiveness of public participation in the process as well generating real inputs into the process. In 2017, each *Falekaupule* (local government) was consulted through letters requesting consultation and the delivery of civic education to island constituencies.

The focus of the public participation in the process was on civic education and raising awareness of basic information relating to the Constitution.

### Was participation interactive, or largely top-down?

At different stages of the public participation, there were interactive discussions and sharing of views with open discussion on the range of issues mentioned above. Only during the deliberation phase where members of the Constitutional Review Commission had to make decisions on the specific proposed amendments and issues of contention was there an absence of public participation.

### What steps were taken to assist the public to understand the issues involved?

During the public consultation, presentations were delivered to reflect and conceptualise the issues. Members of the general public were provided at the end of each thematic presentation with questionnaires aimed at collecting their responses and views on specific matters and the issues discussed. These findings were then presented to the same communities with a view to providing them with an accountable result of how they understood and prioritised the issues relating to the review.

### What were the outcomes of public participation?

The outcomes of the public participation were transcribed into data and percentages, and some of the suggestions from members of the public and their views on different thematic areas discussed were reflected in tables. Most of the population had uniform responses on particular issues. For instance, of the eight islands, more than half supported women's empowerment and recognition of gender rights and freedom from discrimination on the basis of sex/gender. On the issue of political reform, a desire to maintain the current system was seen from the consultations.

What difference did the suggestions from public participation make to the constitution building process? Did it enhance 'national ownership' of the process?

Public participation during the constitution building process showcased not only a sense of ownership of the process by the people but also drew out a list of suggestions that impacted the proposed amendments and recommendations submitted to the Constitutional Review Committee.

What insights can be drawn for others from Tuvalu's experience with public participation?

- Specialised discussion with particular groups may be required given the need to ensure people of minority groupings have the freedom to express their views.
- Options on how the consultations are being delivered or done is another lesson to learn from Tuvalu. In the experience of Tuvalu, certain islands contribute more when they are consulted in the traditional structure or setting where people come together and share views; others prefer only confined to civic education and awareness workshops but deliberate collectively and openly instead of filling out questionnaires; still others prefer radio shows and public debate.
- Observance of traditional formalities during consultation processes resulted in a more organised and fruitful discussion.
- On the other hand, having the Constitutional Review Committee members - which comprised Members of Parliament - chairing the discussion, meant that some members of the public shied away and contributed minimally, or felt inferior and undecided during the course of discussion.

Is it likely that a referendum would be used for the current round of constitutional changes, if it proceeds?

Depending on how Parliament deliberates on the way forward for the constitutional review, the possibility of a referendum or not is an outstanding political matter. Personally, to hold a referendum would ensure a transparent and fair process. In the recent past, constitutional bills have twice failed to be passed in Parliament, and so a referendum may be the way forward.

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### **Corinna Ituaso Laafai**

*Corinna Ituaso Laafai is a legal officer in the Office of the Attorney-General, Office of the Prime Minister, Funafuti Tuvalu, Government of Tuvalu. She works as a Crown Counsel since 2015, and recently served as Acting Attorney-General from September 2018 to October 2019. Prior to that she was the Bilateral and Regional Affairs Officer within the Dept of Foreign Affairs from 2008- 2011. She served on a number of other appointments which include Bilateral & Regional Affairs Officer in New Zealand High Commission and as State Advocate in the Attorney-General Chambers in Tarawa, Kiribati.*