

Sexual and reproductive health and gender-based violence in Tonga: A review of policy and legislation



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Acronyms

ADB	Asian Development Bank
AGIS	Attorney-General's Information Service
AIDS	Acquired immunodeficiency syndrome
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CPR	Contraceptive prevalence rate
CSE	Comprehensive sexuality education
DFAT	Department of Foreign Affairs and Trade (Australia)
FLE	Family life education
GBV	Gender-based violence
GBVIE	Gender-based violence in emergencies
GII	Gender Inequality Index
HDI	Human Development Index
HIV	Human immunodeficiency virus
HPV	Human papillomavirus
ICPD	International Conference on Population and Development
IUCD	Intrauterine (contraceptive) device
KPI	Key performance area
KRA	Key result area
LGBTIQ	Lesbian, Gay, Bisexual, Transgender, Intersex and Queer ¹
mCPR	Modern contraceptive prevalence rate
MFAT	Ministry of Foreign Affairs and Trade (New Zealand)
MICS	Multiple Indicator Cluster Survey
MISP	Minimum Initial Service Package
MMR	Maternal mortality ratio
MOH	Ministry of Health
NGO	Non-government organisation
PacLII	Pacific Islands Legal Information Institute
RMNCAH	Reproductive, maternal, newborn, child and adolescent health
SDG	Sustainable Development Goal
SOPs	Standard operating procedures
SPC	The Pacific Community (formerly Secretariat of the Pacific Community)
SRH	Sexual and reproductive health
SRHIE	Sexual and reproductive health in emergencies
SRHR	Sexual and reproductive health and rights
STI	Sexually transmitted infection
TFHA	Tonga Family Health Association
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations International Children's Emergency Fund
VAWG	Violence against women and girls
WCCC	Women and Children's Crisis Centre
WHO	World Health Organization

1 It is recognised that LGBTIQ is contested as a descriptor, with some activists and scholars rather promoting a focus on the diversity of sexual orientation and gender identity and expression (SOGIE) in any community. However, LGBTIQ is most commonly used in policy documents in the Pacific region and is therefore what is used in these reports

Executive summary

In 2015, the United Nations set an ambitious agenda of Sustainable Development Goals (SDGs) to address poverty, injustice, and environmental destruction. Through the SDGs, nations committed to gender equality and health and notably established universal access to sexual and reproductive health and rights (SRHR) as a global target. Additionally, and relatedly, the SDGs include a specific target to ‘eliminate all forms of violence against women and girls in public and private spheres, including trafficking and sexual and other types of exploitation’ (UN General Assembly, 2015). While laws and policies alone cannot achieve these targets, scholars and practitioners agree that an enabling legal and policy environment continues to play an important role in advancing SRHR and eliminating gender-based violence (GBV).

Review of the policy and legal landscape for realising SRHR and preventing and responding to GBV is a high priority for the Pacific region. Governments in the Pacific have committed to international and regional strategies to address SRHR and GBV, but there is a need to analyse existing national legislative and regulatory frameworks to identify the ways policy and legislation may work to support SRHR and prevent GBV, or conversely may undermine appropriate services and responses. For instance, many Pacific countries have plural legal systems that draw upon multiple sources of law, which may lead to conflict between statutory and customary law. This can particularly impact policies and laws related to SRHR and GBV (McGovern et al. 2019; Garcia-Moreno et al. 2015). Consequently, UNFPA Pacific commissioned a review of SRH and GBV related legislation and policy in six Pacific countries – Fiji, Kiribati, Samoa, Solomon Islands, Tonga and Vanuatu. This report summarises findings from the review undertaken for the Kingdom of Tonga and offers key legislative and policy recommendations to help promote SRHR and reduce GBV in Tonga.

Background

Tonga is a constitutional monarchy, and its Kingdom is divided into five administrative island groups. Most people reside in rural areas, and the population is dispersed across 700,000 square kilometres of ocean, which presents challenges regarding access to services related to SRHR and GBV. Additional factors influence health service planning and delivery, including the relatively young age of the Tongan population and the country’s increasing vulnerability to natural disasters and the impacts of climate change. Finally, Tonga was never colonised so its legal framework developed differently compared to other Pacific countries; instead of a separation between custom and statutory law, local legal traditions have always been part of the overall legal system in Tonga (McKenzie 2017). These distinct factors all impact policies and legislation related to SRHR and GBV in Tonga.

Methods

The purpose of this study was to identify and analyse policies and legislation related to SRHR and GBV in Tonga. The study consisted primarily of a desk-based review, which examined national legislation, policies, peer reviewed literature, and other published reports relevant to SRHR and GBV in Tonga. Document search and retrieval occurred from July 2020 to July 2021. The second stage of the review involved a content analysis of the included documents. The analysis focused on key domains and corresponding indicators adapted from themes under SDG Indicator 5.6.2 and commitments under international frameworks and conventions (such as the 1994 International Conference on Population and Development Programme of Action), and including those relevant to priority populations outlined in the Convention on the Rights of Persons with Disabilities and the Convention on the Rights of the Child.

Key findings

Gender equality and non-discrimination

- At the overarching legal level, the Constitution of Tonga (2020 revised edition) asserts that the law shall be the same for all people of the land, but there is no specific guarantee of equality between men and women, and there is also no anti-discrimination clause.

SRHR

- The review found evidence of both progress and gaps in Tonga's legislation and policies regarding SRHR. Tonga does not have a current national sexual and reproductive health (SRH) strategy. The country's most recent SRH strategic plan is the *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)*, which while notably included measurement and evaluation frameworks, implementation plans, and budgeting allocated to its activities.
- The review found aspects of policy and legislation that were enabling of contraception and family planning, as well as opportunities for improvement. For example, emergency contraception is available, and legislation does not prohibit access to contraception based on age, marital status, or disability. Conversely, while the national list of essential medicines in Tonga includes male condoms and some contraceptive implants (e.g. copper containing IUDs), it excludes female condoms and implantable levonorgestrel (Jadelle).
- This desk review found substantial policy and legal gaps in relation to the provision of comprehensive sexuality education (CSE) in Tonga. Tonga lacks legislation mandating the integration of CSE into the national school curriculum. While policy documents mentioned the need to offer school-based information and suggested revising the Family Life Education curriculum (FLE), this review found few details on FLE content and consultations suggest that policy intentions in this area have yet to be realised.
- There is no specific HIV-related legislation in Tonga. The *Public Health Act (2020 revised edition)* references notifiable diseases but no longer lists which specific diseases are considered notifiable (including HIV). Additionally, Tonga lacks laws or regulations mandating access to the HPV vaccine for adolescent women. However, the *MOH Corporate Plan and Budget 2019/20 – 2021/22* does classify HPV vaccination coverage as a key performance indicator.
- Policy and legal gaps also exist in the domain of maternal health. The *Criminal Offences Act (2020 revised edition)* makes abortion illegal in almost all circumstances. Post abortion care, however, is not prohibited. Findings also imply a need for improved family/work balance policies, since only public service employees have access to maternity and paternity leave.

GBV

- Review findings indicate that Tonga's current legislative and regulatory frameworks partially contribute to an enabling environment to reduce GBV, but barriers remain. There is no standalone national action strategy on GBV. The *National Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025* outlines activities to eliminate domestic violence and provide services to victims, but does not allocate resources against activities and outputs. Findings also reveal a strong need for improvements in GBV data collection.

- From a legal perspective, the *Family Protection Act* (2020 revised edition) enacts measures to protect all persons who experience or witness domestic violence in Tonga, which the Act comprehensively defines as including physical, sexual, psychological, and economic violence. Furthermore, while the courts recognise Tongan culture through the traditional 'Tongan Apology', this is no longer seen as an appropriate response to domestic violence. This is evidenced by the 'No Drop' policy, which directs police to pursue a domestic violence case through the courts even if the victim wishes to drop the case.
- Findings suggest a need to revise the legal and policy regime around sexual violence. For instance, the *Criminal Offences Act* (2020 revised edition) defines acts that constitute the offence of rape, but the offence only refers to the rape of females, and it is unclear if the legislation incorporates other acts of severe sexual violence. There are also gaps in defining sexual assault and consent, which could lead to the inadequate protection of a person's SRHR.

SRH and GBV in key populations

- Adolescents and youth: While most legislation does not specifically restrict access to SRH and GBV services for adolescents, there is limited consideration of young people in relevant legislation in Tonga. Policy and legal gaps also remain; for instance, the law allows for early marriage, with persons aged between 15 and 18 years permitted to marry. Another gap is that there is no legislation that prohibits a girl's expulsion from school due to pregnancy.
- People with disabilities: There is limited consideration specifically of people with disabilities in relevant legislation.
- LGBTIQ people: Current Tongan legislative and regulatory frameworks inadequately support the needs of LGBTIQ people. For example, the *Criminal Offences Act* (2020 revised edition) criminalises sex between men (including consensual sex), and criminalises a man dressing in women's clothing or impersonating or representing himself to be a woman. This may make it more difficult for some men to access SRH services and protection from GBV. The law is silent on the status of same sex relationships between women, and on the rights and protections owed to Tongan people who identify as members of the LGBTIQ community.
- Sex workers: Findings indicate that the legislative and policy environment does not sufficiently support sex workers in Tonga to realise SRH or be protected from GBV. Sex work itself is not illegal in Tonga, but the law defines trading in prostitution and soliciting in public places as offences, which may make it more difficult for sex workers to access SRH services and protection from GBV.

Humanitarian and disaster contexts

- Current policy and legal structures in Tonga do not sufficiently support the promotion of SRH and reduction of GBV in humanitarian and disaster contexts. For instance, legislation and national plans do not include provisions to support SRH services and GBV responses in disasters and emergencies. To that end, the *National Emergency Management Plan* (2007) does not address SRH in emergencies (SRHiE), the Minimum Initial Service Package (MISP), or GBV in emergencies (GBViE).

Conclusion and recommendations

Overall, this desk review reveals that Tonga has made progress towards creating an enabling legislative and policy environment in support of universal access to SRH and protection from GBV. While the country faces specific service delivery challenges, Tonga also represents a unique opportunity because, unlike many other Pacific countries, it is not constrained by a 'constitutional conundrum' when state laws conflict with traditional rules or custom. Instead, the Tongan legal system incorporates both traditional and imported legal remedies and is therefore able to accommodate changing community practices and standards.

To build on the progress already made, this review recommends the following actions, which could help strengthen policy and legislation around SRHR and GBV in Tonga.

General recommendations

- Prioritise ensuring accountability for the implementation of current policy and legislation, which would substantially contribute to an enabling environment regarding SRHR and GBV in Tonga. Efforts to strengthen accountability could include: fostering robust and responsive monitoring and evaluation systems; ensuring regular reporting against national and international commitments; and supporting research to identify implementation barriers and solutions.
- Review and repeal Tongan legislation that is outdated and contradictory to the country's international human rights obligations. Any legislative reform should be approached comprehensively and involve consultation with civil society and key population groups.
- Strengthen mechanisms for data collection to support monitoring and evaluation of policy and legislative implementation to ensure annual targets are met and allow evidence-based reform.
- Consider renewing efforts to revise the Constitution to guarantee substantive equality between men and women, and to ensure protection from discrimination based on sex, gender, gender identity and expression, sexual orientation, and disability.
- Encourage renewed efforts towards the government becoming party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Efforts towards this (and constitutional reform as above) require careful engagement with diverse stakeholders, management of resistance and learning from the unsuccessful 2009 and 2015 efforts.
- Ensure that any future National Disability Plan or Strategy takes a comprehensive and collaborative approach to working with the Ministry of Health and the Women's Affairs and Gender Equality Division so that the SRHR of people with disabilities is addressed and that the specific GBV risks experienced by people with disabilities are recognised and incorporated into a National Disability Plan.

SRHR recommendations

- Progress development of a current, costed, and comprehensive RMNCAH policy. The policy should include a specific focus on promoting the SRHR of adolescents and youth and a focus on ensuring that services are accessible to and inclusive of people with disabilities, community members with diverse sexual orientations, gender identity and expression, and sex workers. Findings also suggest the need to include MISP as a priority within any RMNCAH policy.
- Strengthen the Ministry of Health engagement with the Tonga Leitis Association and seek their expertise to ensure a new RMNCAH policy is inclusive.

- Consider changing the indicator used in relation to maternal mortality from maternal mortality ratio (MMR) to monitoring the absolute number of deaths annually, to enhance the ability to track change over time.
- Support research to better understand the low Contraceptive Prevalence Rate in Tonga, with a particular focus on adolescents and young women, to inform policy and practice.
- Urgently clarify the status of FLE curriculum development and the process for training teachers in delivery of FLE content. Specify coordination mechanisms between the Ministry of Health, Ministry of Internal Affairs, and the Ministry of Education and Training to support delivery of the curriculum and teacher training.
- Address the practice of students who are pregnant being expelled from school through specific statements in policy and amendment to the *Education Act* (2020 revised edition).
- Support efforts to develop a nationally consistent policy that provides maternity leave to private sector employees.
- Revise the *Standard Treatment Guidelines and Essential Drugs List* (2007) to allow for the addition of Jadelle and Gardasil.
- Develop objectives and indicators in relation to post abortion care, noting that the legislation does not prohibit provision of post abortion care and support.
- Consider revision to the *Criminal Offences Act* (2020 revised edition) to:
 - enable access to termination of pregnancy in specific circumstances
 - raise the age at which a person can legally marry, with or without parental consent, to 18 years for males and females
 - remove section 81(5) that criminalises men cross dressing.
- Clarify, potentially through policy, what diseases are currently considered notifiable, given this list is no longer attached to the *Public Health Act* (2020 revised edition).

GBV recommendations

- Prioritise development of a standalone, comprehensive, and costed national plan or strategy on GBV that specifically addresses both prevention of and responses to GBV, coordination with the Ministry of Health, and the need to ensure responses to and prevention of GBViE.
- Build and strengthen capacity to collect and analyse high quality GBV data, including administrative and qualitative data. This improves the ability to track patterns and changes over time.
- Consider revisions to the *Criminal Offences Act* (2020 revised edition) to:
 - Revise the definition of rape (to incorporate acts of severe sexual violence that are not limited to penile-vaginal penetration, and that are inclusive of sexual violence against men) (section 118)
 - Define consent to sexual intercourse as providing unequivocal and voluntary agreement (section 118)
 - Define sexual assault (section 124), potentially to align with the definition of sexual abuse used in the *Family Protection Act* (2020 revised edition)
 - Remove the defence of provocation in cases of domestic violence (section 89)
 - Make consensual sex between men legal (section 136).

- Conduct a review of the 'No Drop' policy to assess benefits and potential unintended consequences, engaging with diverse stakeholders to do so but especially those delivering direct services and supports to women and children experiencing violence.
- Partner with the Tonga Leitis Association to conduct research to better understand leitis' experiences of GBV, as well as with the Talitha Project to better understand the GBV experiences of particularly disadvantaged women (including those who sell sex), to inform revisions to policy and practice.

Humanitarian and disaster recommendations

- Ensure that the MISP for SRH and related indicators are embedded in disaster risk management policy. Ensure the MISP is integrated in broader health policy through the new RMNCAH policy in ways that strengthen health systems as part of SRHiE preparedness and readiness.
- Ensure that the roles and responsibilities outlined under the cluster system include SRH and GBV.
- Ensure that any new standalone GBV policy and disaster risk management policy explicitly addresses GBV in emergencies. Ensure GBViE standards are embedded in policy and legislative frameworks.
- Include measures to prevent sexual exploitation, abuse and harassment in emergency contexts, including of and by workers in the response.

1 Introduction

1.1. Background and objectives

In 2016, the member states of the United Nations adopted seventeen Sustainable Development Goals (SDGs) to address poverty, discrimination, abuse, preventable deaths and environmental destruction. Universal access to sexual and reproductive health and rights (SRHR) is among the global targets of the SDGs, reflected primarily under the goals for health and gender equality (UN General Assembly, 2015). SDG Targets 3.7 and 5.6 in particular, call for universal access to SRHR, in line with the 1994 International Conference on Population and Development (ICPD) Programme of Action, the Beijing Platform for Action and their respective review conferences, as a precondition for achieving gender equality and empowering all women and girls (UNFPA, 1995; United Nations, 1995).

The SDGs also include a specific target to ‘eliminate all forms of violence against women and girls in public and private spheres, including trafficking and sexual and other types of exploitation’ (UN General Assembly, 2015). This is consistent with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (UN General Assembly, 1979) and the Declaration on the Elimination of Violence Against Women (UN General Assembly, 1993). Legislation criminalising violence against women scaffolds the right of women to live free from violence. While recognising that laws alone are not enough to eliminate violence, legal sanctions can act as a deterrent and legislation can be responsive to victims by providing protection and access to support services (Klugman, 2017). The realisation of SRHR requires that women and girls live free from violence, with research repeatedly demonstrating the close and consistent relationship between exposure to violence and sexually transmitted infections, unintended/unplanned pregnancy, abortion, an increased number of sexual partners, and women not having reproductive autonomy (Grose et al., 2021). In addition, particular violations of women’s SRHR (including but not limited to forced sterilisation, forced abortion, forced pregnancy, and denial of sexual and reproductive services) may in themselves constitute forms of violence against women.

Many nation states, including a number in the Pacific, have plural legal systems in which multiple sources of law are drawn upon simultaneously, for example customary or religious law alongside statutory law. These plural systems can in some cases lead to contradiction in the interpretation or enforcement of laws and can undermine constitutional and statutory provisions that seek to address discriminatory or harmful practices. This is particularly evident in relation to gender justice, SRHR, and violence against women (McGovern et al., 2019; Garcia-Moreno et al., 2015). In some countries, constitutional laws and legal structures sustain and foster discrimination in relation to sexual and reproductive health (SRH) and gender-based violence (GBV), for example undermining women’s ability to freely enter or leave marriage, requiring third-party authorisation to access services, restricting access to particular health services (such as safe abortion care), and by not recognising all forms of GBV. Legislative review has been recommended to address high rates of GBV and discrimination faced by women and minority groups in the Pacific (Chetty & Faletua, 2015).

Stigmatisation and criminalisation of some sexual behaviour and SRHR services and entitlements influences people’s health-seeking behaviour (UNFPA, 2019b). This in turn impacts on demand for SRH services including family planning (UNFPA, 2019b). Given the scope of factors that shape individuals’ health care-seeking behaviour, it is vital to “promote policies, laws and initiatives that support non-stigmatizing, culture- and gender-responsive SRHR programmes and services” (UNFPA, 2019b, p.26).

While governments in the Pacific have committed to international and regional strategies to address SRHR and GBV, there is a need for further analysis of current barriers and enablers arising from existing national legislative and regulatory frameworks. The ability to achieve universal access to SRHR and elimination of GBV hinges on a supportive legal and policy environment.

A review of SRH and GBV related legislation and policy has been undertaken in six Pacific countries – Fiji, Kiribati, Samoa, Solomon Islands, Tonga and Vanuatu. These reviews contribute to UNFPA's work in the Pacific that aims to support countries to meet human rights commitments, progress towards the SDGs, ICPD 1994 Programme of Action and ICPD25 national commitments, and commitments related to the UN High-level Meeting on Universal Health Care (2019).

Specifically, these desk reviews sought to address the following questions:

1. What national laws, regulations and policies exist in each of the six Pacific countries that govern:
 - (a) access to sexual and reproductive health; and
 - (b) prevention of and protection from gender-based violence?
2. What are the key factors influencing universal access to sexual and reproductive health and prevention of and response to gender-based violence that may emerge as a result of existing legislative and policy frameworks in each of the six Pacific countries?
3. What are the legislative and policy gaps in the protection and promotion of the right to SRH and the elimination of GBV in each of the six Pacific countries?

This report provides a summary of findings from the review undertaken for the Kingdom of Tonga, and key recommendations for legislative reform and policy strengthening in relation to SRHR and GBV in Tonga.

1.2. Methods

This study was primarily a desk-based review and analysis of policies and legislation related to:

- sexual and reproductive health and rights and
- gender-based violence in Tonga.

The review encompassed national legislation, policies, peer reviewed literature and other published reports relevant to SRHR and GBV in Tonga (see references for full list of sources).

Legislation is used throughout the report to refer to legally enforced and enforceable Acts, Bills, subsidiary regulations and orders made under the Acts and the Constitution. Policies refer to Government documents that provide a policy statement, position or guidance and broadly includes policies, plans and strategies.

The documents were identified through a systematic search of relevant databases including Scopus, HeinOnline, AGIS, and other online sources including Pacific Islands Legal Information Institute (PacLII) databases. Refer to search terms in Annex 1.

Document search and retrieval was undertaken over the period July 2020 to July 2021.

Government of Tonga websites were searched for up to date policies, legislation and reports, some linking directly back to PacLII. General internet searches were conducted to capture any other relevant reports and grey literature. UNFPA Pacific and Tonga Field Officer were contacted to provide assistance in accessing any policy documents, legislation or relevant reports not accessible online. Documents were categorised by type, as shown in table 1, and analysed for relevance.

Table 1: Documents reviewed during the development of the Tonga report

Literature search		Results	Omitted	Reviewed
Databases	Scopus	37	19	18
	HeinOnline	425		3
	AGIS			14
	Index to Legal Periodicals and Books (H.W. Wilson)			0
Book chapters				1
Grey literature				33
Total				69

The second stage of the review involved a content analysis of the included documents. Analysis was completed according to key domains and corresponding indicators (refer to table 5 under Section 3, 'Summary of Findings') adapted from:

- Themes under SDG Indicator 5.6.2 (Number of countries with laws and regulations that guarantee full and equal access to women and men aged 15 years and older to sexual and reproductive health care, information and education) including access to maternity care, contraception and family planning, comprehensive sexuality education [CSE] and information, sexual health and wellbeing).
- Commitments under international frameworks and conventions, particularly the 1994 Programme of Action of the ICPD and respective review conferences and the CEDAW, general recommendations 19 (1992) & 35 (2017) provisions intersecting with SRHR – noting that Tonga is not a signatory to CEDAW, but that the Convention is nonetheless used to guide civil society advocacy and action in relation to discrimination against women.

While it is beyond the scope of this report to review commitments in relation to all international and regional instruments to which Tonga is party, the report does consider commitments relevant to priority populations as outlined in the Convention on the Rights of Persons with Disabilities (to which Tonga was a signatory in 2007), and the Convention on the Rights of the Child (to which Tonga acceded in 1995).

Additionally, feedback was sought through an online workshop in November 2021 with relevant stakeholders in the field of SRHR and GBV in Tonga, which aimed to ensure the accuracy and comprehensiveness of the report, and relevance of recommendations.

1.3. Limitations

There are a number of limitations of this review that need to be considered when interpreting findings and recommendations:

- The review is focused on the existence (or otherwise) of SRH and GBV policy and legislation. It was beyond the scope of the review to explore the implementation, enforcement and effectiveness of the documented policy and legislation.
- The documentation search was limited to documentation available online and in English. While effort was made to access documents referred to in literature but not available online through UNFPA country focal points, it was not possible to complete a more comprehensive search of hard-copy or other documents not publicly accessible in the available time.
- The study did not cover all available implementation level documentation such as practice guidelines or sub-national documents that may have included more specific guidance on SRH and GBV.
- There are likely to be initiatives at a country level to address particular priorities and gaps in current national policy and legislation, including sub-national initiatives. As the scope of this review is on national level legislative, policy and strategic planning documentation, such initiatives may not be captured here.
- While the review did incorporate GBV legislation and policy in so far as it intersects with SRHR, it cannot be considered a comprehensive GBV legislative review in its own right. The review did not comprehensively cover for example access to justice, sentencing and policing.

2 Country profile

2.1. Background

Tonga is a constitutional monarchy with a population estimated in 2020 to be 105,697 (World Bank, 2021). The Kingdom is divided into five administrative island groups: Tongatapu, Vava'u, Ha'apai, 'Eua and Niuaus, with approximately three quarters of the population living on the main island of Tongatapu. More than 77 per cent of the population live in rural areas of Tongatapu and on outlying islands (World Bank, 2021). The population is dispersed across 700,000 square kilometres of ocean and this presents challenges regarding access to health services.

Tonga ranks 104 out of 189 countries on the human development index (HDI), putting it in a high human development category. Between 1990 and 2019, Tonga's HDI increased by 10.9 per cent (UNDP, 2020). On the gender inequality index (GII), Tonga is ranked 79 out of 162 countries. The GII measures gender inequalities across the dimensions of reproductive health, empowerment and economic activity (UNDP, 2020). Education is compulsory in Tonga between 4 and 18 years of age (inclusive). Literacy rates in Tonga are high, over 99 per cent for both men and women as reported in the 2019 Multiple Indicator Cluster Survey (Tonga Statistics Department, 2020).

While Tonga has a high fertility rate, this is balanced through annual emigration, with there being little population growth overall (Tonga has a large diaspora in New Zealand, the USA, and Australia). Tonga has a young population, with more than half the population being less than 25 years of age. This creates both opportunities and challenges for national planning. Other factors that impact on national planning are inequitable infrastructure across the island groups, irregular shipping services to the outer islands, migration to the urban areas, and vulnerability to natural disasters and the impacts of climate change. Tonga has been assessed as being the second most at risk country for disasters globally (after Vanuatu, World Risk Index 2020). Tonga shares the challenges faced by many other Pacific Island countries and territories - 'small size, remoteness, limited natural resources and a narrow production base' (Lanau and Fifita, 2020, p. 6). It has an agricultural economy and a small export market and relies heavily on the contribution of remittances to the national income.

Tongan life is guided by *anga fakatonga*, or the Tongan way, though with considerable accommodation of Western influences. Connection to family and to the Christian church are central in most people's lives. In the Kingdom, a highly hierarchical system based on the social categories of royalty, noble and commoner, structure contemporary Tongan life. However, a person's social standing is complex and based on an intricate web of relationships of rank and status that are horizontal as well as vertical, with gender being a key determinant of social position (Jensen et al., 2012). Women are highly respected, with a person's eldest paternal aunt the highest ranking member of their extended family.

The Christian church plays an integral part in the lives of Tongans. The largest denomination in the country is the Free Wesleyan Church of Tonga (Methodist). Other major denominations include The Church of Jesus Christ of Latter Day Saints, Roman Catholic, and Seventh Day Adventists, and other smaller Christian groups.

2.2. Legal frameworks

The Kingdom of Tonga was never colonised or subject to colonial administration. Therefore, the way the legal system has evolved in Tonga is distinct from other Pacific island countries, where local legal frameworks were designated as 'custom' by colonial authorities. Rather than there being separation between custom and law, in Tonga local legal traditions have always been part of the overall Tongan legal system (McKenzie, 2017).

In response to the presence of imperial powers in the region, Tāufa'āhau, the first monarch of a unified Tonga, introduced a legal system with a written constitution based on the British system, in order to position Tonga as independent and equal to the colonising nations. In doing so, the King did not position local legal traditions as either lesser or separate to the imported laws, and reshaped imported laws as Tongan, weaving together imported and local law to create a uniquely Tongan legal framework that is able to continually evolve (McKenzie, 2017, p.9). This means that Tongan legal traditions are not 'set' and unchanging, as is the case in some other countries where what is considered 'custom' under the law can be seen as static by the courts. This means that Tongan traditions in relation to, for example, apology and forgiveness are incorporated into the legal system without formal recognition as 'custom' by the judiciary (McKenzie, 2017, p.16). This is particularly relevant in relation to legal responses to domestic violence. In the past, the 'Tongan apology' would have been seen as an appropriate legal remedy to domestic violence – this not being simply a statement of 'I am sorry', but a profound act that can repair relationships and restore individual and family dignity and community harmony (McKenzie, 2017). However, while the legal tradition of apology and forgiveness remains fundamental to the Tongan legal system, it is no longer an adequate response to domestic violence under the Family Protection Act (2020 revised edition).

2.2.1. The Constitution

The Constitution of Tonga was promulgated in 1875 and was last revised in 2020. It combined aspects of Tongan chiefly law with English jurisprudence, along with the Christian notion of individual responsibility (Powles et al., 1990). Tonga is the only country in the Pacific 'not to have provided for the formal protection of custom or tradition by constitutional provision or statute' (McKenzie, 2017, p. 28) which has prevented a 'constitutional conundrum' when state law clashes with custom – as traditional Tongan rules for organising social life and settling disputes (custom) are simply part of the law and are therefore able to accommodate changes in community standards and expectations over time.

The first section of Constitution of Tonga (2020 revised edition) ('the Constitution') is a declaration of rights of the Tongan people. Importantly this section includes the declaration that there 'shall be but one law in Tonga for chiefs and commoners for non-Tongans and Tongans. No laws shall be enacted for one class and not for another class but the law shall be the same for all the people of this land' (s 4). The human rights provisions included in the Constitution have been used by Tongans in response to the abuse of power by royalty and the nobility. Despite stating that the law shall be the same for all people of the land, the Constitution does not guarantee formal equality for women, nor does it expressly state the right of all citizens to be free from discrimination regardless of sex, gender, sexual orientation or disability (for example).

The second part of the Constitution outlines the form of government, noting that the Government of the Constitutional Monarchy is made up of the cabinet, legislative assembly and the judiciary. The Monarch appoints the Prime Minister, with Cabinet Ministers nominated by the Prime Minister. Significant revisions to the Constitution in 2010 shifted many of the Monarch's executive powers to the Cabinet (i.e. from operating as an absolute monarchy to a constitutional monarchy). Constitutional reforms also saw an increase in the number of members of the legislative assembly elected by the people, with a corresponding decrease in the number of seats elected by the nobles and those directly appointed by the King.

The Constitution guarantees the independence of the judiciary.

2.2.2. The legal system

While Tonga never relinquished sovereignty, the Kingdom had British protected-state status from 1900-1970. The legal system in Tonga is influenced by the British legal system, with features of a British system being intertwined with Tongan traditions to form a distinctive system.

The judiciary comprises the Court of Appeal, the Supreme Court, the Magistrates' Court and the Land Court. The Privy Council may sit with the Court of Appeal to hear cases on hereditary titles and estates, otherwise, the Court of Appeal hears appeals from the Supreme Court and may deliver opinions on questions of law to the Supreme Court. The Supreme Court has jurisdiction in serious civil and criminal cases. The Magistrates' Court deals with common cases, hearing both civil and criminal matters. The Magistrates' or the Supreme Court can issue protection orders in response to domestic violence. The Land Court hears land disputes only (note that under the Land Act (2020 revised edition), women do not have equal rights to inheritance of land as men).

The office of the Attorney General is responsible for providing legal services to the government and people of Tonga.

2.2.3. Relevant international commitments and conventions

The Sustainable Development Goals (SDGs) were set in 2015 by the United Nations General Assembly, with Tonga adopting the 2030 Development Agenda at this time. This global agenda includes the nomination of specific targets relevant to SRHR and GBV, that all member states have committed to. Targets under the SDGs that are specifically relevant to this review are shown in the table below.

Table 2: Relevant SDG targets and indicators

SDG targets	Aligned indicators
3.1 By 2030, reduce the global maternal mortality ratio to less than 70 per 100,000 live births	3.1.1 Maternal mortality ratio 3.1.2 Proportion of births attended by skilled health personnel
3.3 By 2030, end the epidemics of AIDS, tuberculosis, malaria and neglected tropical diseases and combat hepatitis, water-borne diseases and other communicable diseases	3.3.1 Number of new HIV infections per 1,000 uninfected population, by sex, age and key populations
3.7 By 2030, ensure universal access to sexual and reproductive health care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes	3.7.1 Proportion of women of reproductive age (15-49 years) who have their need for family planning satisfied with modern methods 3.7.2 Adolescent birth rate (10-14 years, 15-19 years) per 1,000 women in that age group

SDG targets	Aligned indicators
5.2 Eliminate all forms of violence against women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation	5.2.1 Proportion of ever-partnered women and girls aged 15 years and older subjected to physical, sexual or psychological violence by a current or former intimate partner in the previous 12 months, by form of violence and by age
	5.2.2 Proportion of women and girls aged 15 years and older subjected to sexual violence by persons other than an intimate partner in the previous 12 months, by age and place of occurrence
5.3 Eliminate all harmful practices, such as child early and forced marriage and female genital mutilation	5.3.1 Proportion of women aged 20-24 years who were married or in a union before age 15 and before age 18
	5.3.2 Proportion of girls and women aged 15-49 years who have undergone female genital mutilation/cutting, by age
5.6 Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population Development and the Beijing Platform for Action and the outcome documents of their review conferences	5.6.1 Proportion of women aged 15-49 years who make their own informed decisions regarding sexual relations, contraceptive use and reproductive health care
	5.6.2 Number of countries with laws and regulations that guarantee full and equal access to women and men aged 15 years and older to sexual and reproductive health care information and education

This report will support Tonga to report against SDG indicator 5.6.2 in particular.

In addition to commitments made in relation to the SDGs, Tonga is party to a number of international human rights conventions, including the Convention on the Rights of the Child (to which it acceded in 1995) and the Convention on the Rights of Persons with Disabilities (which Tonga signed in 2007). Significantly, however, it has not ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). In October 2009, a submission to the Tongan Cabinet and Parliament to ratify CEDAW was unsuccessful, on the basis that the provisions of CEDAW were in direct opposition to some of Tonga’s ‘traditional customs and traditions’ and ‘basic Christian doctrines’ (Sevele, 2015 in Lee, 2017, p. 67).

Scholars have also noted that Tonga’s reluctance to accede to CEDAW may stem from the fact that Article 107 of the Constitution and the *Land Act* (2020 revised edition) breach Article 2 of CEDAW in making legal the discrimination against women in relation to land rights (Nagarajan, 2009), and also may be interpreted as being in breach of Articles 15 and 16 of CEDAW. A further attempt to get the government to ratify CEDAW in 2015 was met with protests and petitions, and the King of Tonga, as head of the Privy Council, announced that the proposal to ratify CEDAW was unconstitutional (Lee, 2017).

Other treaties key to addressing gender discrimination have not been ratified by Tonga, that is the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights (Nagarajan, 2009, p. 136). Despite backlash and resistance, NGOs and women’s groups continue to draw attention to the human rights provisions contained in CEDAW and use CEDAW as a framework for measuring Tonga’s progress in relation to gender equality.

While not legally binding, Tonga is also party to a number of international declarations of commitment relevant to sexual and reproductive health, including the 1994 International Conference on Population and Development (ICPD) Programme of Action and the subsequent Nairobi Statement agreed at ICPD25, and several international declarations on HIV and AIDS facilitated by the United Nations.

Table 3: Relevant international human rights conventions

International instrument	Ratification or Commitment
Convention on the Rights of the Child (1993) See in particular Article 13 (Right to seek, receive and impart information), Article 19 (Right to be protected from all forms of violence and abuse), Article 24 (Right to health and health care), Article 34 (Right to be protected from sexual exploitation and abuse)	1995
Convention on the Rights of Persons with Disabilities (2007) See in particular Article 16 (Freedom from exploitation, violence and abuse), Article 21 (Right to information), Article 23 (Right to marriage, parenthood, family planning and retention of fertility), Article 25 (Right to health and health care, including specific SRH)	2007

(Source: UN Human Rights Treaty Body Database, 2020)

In addition to these international obligations and commitments, Tonga has committed to a number of regional agreements to promote sexual and reproductive health in the Pacific. These include the regional Moana Declaration (2013) that recognizes the crucial role parliamentarians play in advocating for the implementation of the ICPD Programme of Action. The Moana Declaration saw Pacific countries commit to the integration of sexual and reproductive health into national development strategies, health plans and budgets. Tonga has also endorsed the Pacific Youth Development Framework 2014-2023 (The Pacific Community, 2015), the Pacific Sexual Health and Well-being Shared Agenda 2015-2019 (The Pacific Community, 2014), and the 2015 KAILA! Pacific Voice for Action on Agenda 2030: Strengthening Climate Change Resilience through women’s, children’s and adolescent health (‘KAILA! Declaration’). The KAILA! Declaration outlines governments’ commitment that sexual and reproductive health and rights be an integral part of national development strategies, national plans and public budgets, and affirms the centrality of advancing gender equality for sustainable development. Tonga has been an active participant in regional decision making and advocacy forums relevant to the promotion of SRHR and elimination of violence against women including the Forum Economic Ministers Meetings, Pacific Women Leaders Meetings, Pacific Heads of Health Meetings, and the Pacific Women’s Network Against Violence Against Women. Tonga is also a party to regional agreements relevant to the prevention of GBV, including the Revised Pacific Platform for Action on the Advancement of Women and Gender Equality (2005-2015), and the Pacific Leaders Gender Equality Declaration of 2012.

Table 4: Table 4: Relevant regional commitments and agreements

Regional Commitments	Year
Pacific Policy Framework for Achieving Universal Access to Reproductive Health Services and Commodities 2009-2015	2008
Revised Pacific Platform for Action on the Advancement of Women and Gender Equality (2005-2015)	2012
Pacific Leaders Gender Equality Declaration (2012)	2012
The Moana Declaration	2013
Pacific Sexual Health and Well-being Shared Agenda 2015-2019	2014
Pacific Youth Development Framework 2014-2023	2015
KAILA! Declaration (Pacific Voice for Action on Agenda 2030, Strengthening Climate Change Resilience through women’s, children’s and adolescent health)	2015

2.3. The health system and context

Tonga has one of the better levels of overall health in the Pacific, with a relatively strong and decentralised health care system across the country. Neonatal and child mortality rates have been declining in Tonga since the 1990s (UNICEF, 2017), and are meeting SDG targets. However, Tonga faces a range of health challenges. The 2016 population census showed that, since 1996, life expectancy had fallen by five years for men (to 65 years) and by three years for women (to 69 years) (Tonga Statistics Department, 2017). This in part reflects the growing prevalence of non-communicable diseases in Tonga, particularly cardiovascular disease and Type 2 diabetes. In addition, the maternal mortality ratio (MMR) is relatively high at 124 maternal deaths per 1,000,000 live births in 2015 (noting that the MMR can fluctuate considerably due to small number of deaths per year in a small population, and that measuring absolute number of deaths may be a more useful way of assessing trends over time).

The Ministry of Health manages the health system in Tonga, and administration of services is organised around the four main island groups. There is one national referral hospital (Vaiola) in Nuku'alofa and three district hospitals, along with 14 health centres, and 34 reproductive and child health clinics (also known as nursing stations). Health services and pharmaceuticals are provided for free (UNFPA, 2019a). The reproductive and child health clinics provide basic primary health care services including family planning, antenatal and postnatal care, and emergency care. Health centres provide support for low-risk birthing and manage emergencies beyond the capacity of the clinics. Health centres also link with and refer to local NGOs. Hospitals provide a range of specialised care relevant to this report, including obstetric and gynaecological services, and treatment for sexually transmitted infections (STIs). The recent *State of the Pacific's Reproductive, Maternal, Newborn, Child and Adolescent Health Workforce* report (UNFPA, WHO, SPC, UNICEF, 2019) found all four hospitals provide comprehensive emergency obstetric and newborn care.

Health is a priority for the Government of Tonga, as indicated through the *Tonga Strategic Development Framework 2015-2025*, with Organisational Outcome 2.5 being 'Improved country-wide health care systems which better address the medical conditions becoming more prevalent in Tonga so hastening recover and limiting pain and suffering'. Health is also referenced in a number of other organisational outcomes in this overarching national development framework, with particular reference to healthy lifestyles, addressing communicable and non-communicable diseases, and healthy environments.

The *National Health Strategic Plan 2015-2020* has the mission 'to improve the health of the nation by providing quality care through promotion of good health, reducing morbidity, disability and premature death'. The Plan outlines six key results areas that will enable the Ministry of Health to achieve this mission (service delivery; health workforce; infrastructure, medical products and technology; leadership and governance; information, research, policy and planning; healthcare finance). Specifically, relevant to this report, priorities under the service delivery key result area include:

- Maternal and child health services
- Adolescence and adult health services
- Public health services.

In addition to the commitment from local stakeholders and government departments, key development partners and others supporting the Tongan Ministry of Health include the Government of Australia (DFAT), the Government of New Zealand (MFAT), UNFPA, WHO, UNICEF and SPC.

3 Summary of key findings

The following table summarises Tonga’s legislation and policies according to key SRHR and intersecting GBV domains. Legislation and policy is mapped against the domains according to corresponding indicators, as outlined in the methodology section of this report. The indicators are intended to identify the extent to which Tonga’s current national legislation and policies align with relevant international frameworks and commitments around universal access to SRHR and eliminating GBV. It should be noted that the GBV indicators included in this review are only those which intersect most closely with SRHR.

In this report, the Laws of Tonga have been sourced from the website of the Attorney General’s Office, which has consolidated the Laws of Tonga to 31 October 2020. Therefore, English versions of Acts and Regulations, as amended and in force at 21 October 2020, are dated ‘2020’.

Table 5: Summary of findings from the desk review of legislation and policy relating to SRH and GBV

Domain	Sub-domain	Specific indicators	Status	Notes
Gender equality and non-discrimination		Constitutional guarantee of substantive equality between men and women	No	The Constitution (2020 revised edition) notes, in Section 4, that the law shall be the same for all people of the land. However, there is no specific guarantee of equality between men and women, and Sections 111-114 of the Constitution outline the patrilineal law of succession to hereditary estates and titles and right to allotments, which prevent women from inheriting land.
		Does the Constitution contain an anti-discrimination clause on the grounds of sex, gender, marital status, sexual orientation or disability?	No	There is no anti-discrimination clause (on any grounds) in the Constitution.
SRH general	National SRH strategy	National sexual and reproductive health policy (or strategy) ²	Partial	The most recent national SRH strategic plan is the National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018) with M&E frameworks and national implementation plan. This has been assessed as ‘partial’ given no more recent policy or strategy is available.
		Does it include allocation of resources (including budget) to achieve targets and indicators to measure implementation?	Partial	The Strategic Plan (2014-2018) includes indicators to measure implementation and indicative budgets for all strategic objectives. This has been assessed as ‘partial’ given no more recent policy or strategy is available.

2 “Recognizing that countries are in different positions in terms of resources, capacity, and the policy and legal environment, the most realistic option is for countries to commit in principle to a comprehensive approach to SRHR by adopting the definition proposed by the Guttmacher– Lancet Commission” (UNFPA, 2019). The Guttmacher L ancet commission provides an outline of a comprehensive SRH essential services package in line with the ICPD Program of Action and other key international frameworks (Starrs, et al., 2018). See Annex 2 for more information. Official adoption of a defined package of SRHR health services is a clear commitment that helps to ensure accountability.

Domain	Sub-domain	Specific indicators	Status	Notes
SRH general	Fertility	Population policy on fertility (raise, lower, maintain)	No	There is no target or indicator associated with fertility in the Tonga Strategic Development Framework 2015-2025, with the Framework noting that Tonga has a relatively stable population with population growth through births being offset by annual emigration (the 2019 Tonga MICS reports the total fertility rate to be 3.2). However, the Framework notes that any limitation to opportunities for permanent overseas migration would see an increase in population growth rate with important implications for development and quality of life for Tongans.
		Population policy on adolescent birth rate	No	The adolescent birth rate is relatively low (when compared to other Pacific countries), with the 2019 Tonga MICS (Tonga Statistics Department 2020) reporting the adolescent birth rate to be 30. There is no policy or target specifically focused on reducing this rate.
	Adolescent and youth SRHR	Legislated equal minimum age of 18 for marriage	No	The <i>Births, Deaths and Marriages Registration Act (2020 revised edition)</i> Section 6 allows for marriage of persons aged under 18 years, but 15 years or older, with written consent of his or her guardian.
		Law requires full and free consent of both parties to a marriage	No	While the <i>Births, Deaths and Marriages Registration Act (2020 revised edition)</i> requires that marriages be registered, solemnized by a registered minister and before at least two witnesses, there is no explicit requirement of full and free consent of both parties in the legislation.
		Legislated minimum age of consent to sexual activity	Partial	<p>The <i>Criminal Offences Act (2020 revised edition)</i> states the minimum age for consensual sex in Tonga is 15 years. However, there is no legislated minimum age at which a person can consent to same-sex sexual activity, with sex between men being specified as a crime in the Act regardless of consent. The Act is silent on the minimum age of consent for same-sex sexual activity between women.</p> <p>It should be noted that the <i>Adultery and Fornication Act (2020 revised edition)</i> states that whoever shall commit adultery or fornication with any unmarried woman under the age of 18 years shall be liable on conviction to a fine not exceeding \$1000 and in default of payment to a period of imprisonment not exceeding 12 months. Proceedings with respect of this offence shall be taken by the parent or guardian of the unmarried woman, with nine-tenths of the fine to be paid to the complainant. It is unclear whether this law has been made invalid through non-use, though it is included in the current revised edition of the Laws of Tonga.</p>

Domain	Sub-domain	Specific indicators	Status	Notes
SRH general	Adolescent and youth SRHR	Legislated compulsory primary and secondary education for boys and girls	Yes	Section 98 of the <i>Education Act</i> (2020 revised edition) stipulates that the age for compulsory education in Tonga is between 4 and 18 years of age (inclusive).
		Legislated prohibition on expulsion from school due to pregnancy	No	The <i>Education Act</i> (2020 revised edition) does not prohibit expulsion from school due to pregnancy, though it should be noted that Section 111 of the Act outlines the Principle of Inclusiveness, noting that every child under the age of 19 years has a right to access quality education in Tonga, irrespective of the child's gender, religion, socio-economics status, physical condition and location. The <i>Tonga Education Policy Framework 2004-2019</i> does not address the issues of students' pregnancy or parental status.
Sexual health	STIs, HIV and AIDS	Law(s) or regulation(s) that guarantee access to:		
		Voluntary counselling and testing	Partial	There is no specific HIV-related Act or other legislation in Tonga. HIV is included as a focus in the <i>National Integrated Sexual and Reproductive Health Strategic Plan 2014-2018</i> (which replaced the <i>National Strategic Plan for HIV and STIs 2009-2013</i> as the key planning or policy document related to HIV in the country). The Plan aims ensure access to voluntary counselling and testing, treatment and care, and to ensure there are no restrictions to this access, However, this is not specifically covered by legislation. While the revised <i>Public Health Act</i> (2020 revised edition) refers to notifiable diseases throughout, there is no longer a schedule of notifiable diseases attached to the Act. However, it is likely that HIV would remain a notifiable disease. Section 135 of the Act allows for notifications by health practitioners and services to maintain the anonymity of the infected person, and Section 138 requires maintenance of confidentiality.
		Treatment and care	Partial	
		Confidentiality	Yes	
		No legislative restrictions to the above based on age, sex, marital status, or third party authorization	Partial	
	Legal prohibition of discrimination based on HIV status	No	There are no specific provisions in Tongan legislation that prohibit discrimination on the basis of HIV status.	
HPV	Law(s) or regulation(s) mandating access to HPV vaccine for adolescent girls?	No	Tonga is part of a new initiative, funded by the ADB and supported by UNICEF, to increase access to HPV vaccination for adolescent girls, but this is not yet covered by law or regulations in Tonga with the vaccine not included on the <i>Standard Treatment Guidelines and Essential Drugs List for the Ministry of Health, Tonga, 2007</i> . HPV vaccination coverage is, however, a highlevel KPI (3.11) in the <i>MOH Corporate Plan and Budget 2019/2020 – 2021/2022</i> .	

Domain	Sub-domain	Specific indicators	Status	Notes
Contraception and family planning	Contraception	Does any law(s) or regulation(s) guarantee access to contraceptive services?	Partial	While legislation does not specifically <u>guarantee</u> access to contraceptive services, Section 4 <i>Health Services Act</i> (2020 revised edition) notes that ‘the functions of the Minister of Health shall be a) to preserve and protect the public health of Tonga; b) to establish and maintain a service, available to all, to promote the physical and mental health and wellbeing of the populace; and c) to provide and maintain comprehensive hospital and community health services with facilities for the investigation, diagnosis, treatment, rehabilitation from, and prevention of, disease and ill-health’. In addition, Section 10(b) of the Act notes that the Minister is empowered to provide ‘personal health services including maternal and child health and welfare, family planning’, amongst other services, according to the needs of the people of Tonga.
		Essential medicines include:		
		Female condoms?	No	While male condoms are, female condoms are not included in the <i>Standard Treatment Guidelines and Essential Drugs List for the Ministry of Health, Tonga, 2007</i> .
		Contraceptive implants?	Partial	The <i>Standard Treatment Guidelines and Essential Drugs List for the Ministry of Health, Tonga, 2007</i> includes copper containing IUDs (item 26.19, p.374) and injectable hormonal contraceptive medroxy progesterone acetate (Depo) (item 26.19, p.374). However, it does not include implantable levonorgestrel (Jadelle), only including levonorgestrel in oral forms.
		Emergency contraception (levonorgestrel)?	Yes	<i>The Standard Treatment Guidelines and Essential Drugs List for the Ministry of Health, Tonga, 2007</i> includes oral levonorgestrel (item 26.19, p.374).
		Law(s) or regulation(s) that guarantee the provision of full, free and informed consent for contraceptive services (including sterilisation)?	No	Legislation does not specify that full, free and informed consent is required prior to sterilisation or provision of contraceptive services.
		Does any law(s) or regulation(s) guarantee access to emergency contraception?	Partial	Legislation does not guarantee access to emergency contraception. However, policy does not restrict availability and oral levonorgestrel is included in the <i>Standard Treatment Guidelines and Essential Drugs List for the Ministry of Health, Tonga, 2007</i> .

Domain	Sub-domain	Specific indicators	Status	Notes
Contraception and family planning	Contraception	No legislative restrictions on contraception or contraceptive services based on age, marital status or third party authorisation (e.g. spousal, parental/guardian, medical)	Partial	There are no legislative restrictions, or policy positions, that restrict access to contraception on the basis of age, marital status or disability. There are no requirements for third party authorisation. However, legislation does not make reference to protections or requirements in relation to consent or authorisation in relation to women with disability (for example).
	Family planning	Policy on provision of family planning services	Yes	<i>The Tonga National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)</i> outlines government policy on provision of family planning services. The second Focus Area of the plan is 'Reproductive Health' with focus area 2B being 'Repositioning Family Planning'.
		Through government sources?	Yes	
		Financial support for provision through non- government?	Partial	<i>The Tonga National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)</i> makes reference to working with partners to delivery family planning services in Tonga and makes specific reference to the role of the Tonga Family Health Association (TFHA) and the support TFHA receive from International Planned Parenthood Federation receive to do so. However, there is no explicit government policy on financial support for provision through non-government sources.
Comprehensive sexuality education and information	CSE law	Legislated mandatory integration of comprehensive sexuality education into national school curriculum	No	<i>The Education Act (2020 revised edition)</i> states that curriculum development is the responsibility of the Ministry of Education and Training, through the Curriculum Development Unit (Part XI of the Act). However, it appears that the current curricula does not include family life education or comprehensive sexuality education (CSE). The <i>Tonga Education Policy Framework 2004-2019</i> does not address CSE. The Ministry of Education & Training Corporate Plan 2019/2020 – 2021/2022 mentions the need to include 'life choices and skills' in the curricula (p.25) and has an attached key performance area for this (p.69) but does not specify inclusion of CSE. Reports suggest young people's access to any form of information or education about sexuality is primarily through out of school programs (Linhart et al., 2020; UNFPA, 2015; UNFPA, 2021). It is important to note that the majority of secondary school students are enrolled through church-based or privately-run secondary schools (UNICEF 2017, p.58).

Domain	Sub-domain	Specific indicators	Status	Notes
Comprehensive sexuality education and information	CSE curriculum	Minimum requirements for the curriculum to cover:		While CSE is not addressed in legislation, the <i>Tonga National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)</i> refers to the need to offer school-based and teacher-facilitated information for different age groups, with objective 2.9 (p.42) being that 'by 2018, young people are empowered with age and sex appropriate life skills-based education and information'. The indicator for this objective is the proportion of targeted schools that have rolled out the Family Life Education. Activities against this objective include revising the Family Life Education (FLE) curriculum; providing on-going capacity building for FLE teachers; developing an implementation plan to scale-up FLE to all schools; incorporating FLE into pre-service teacher education in teacher training institutions; and developing and providing teaching/learning resource materials. However, the curriculum was not sighted during this review and no detail was found in relation to its content. It is unclear to what degree this objective has been achieved.
		Relationships?	No	
		Understanding gender?	No	
		Violence and safety?	No	
		Sexuality and sexual behavior?	No	
		Sexual reproductive health?	No	
Human body and development?	No			
Maternal health	Maternity care	Does any law(s) or regulation (s) guarantee access to maternity care? Specifically:		While legislation does not specifically <u>guarantee</u> access to maternity care, section 4 <i>Health Services Act (2020 revised edition)</i> notes that 'the functions of the Minister of Health shall be a) to preserve and protect the public health of Tonga; b) to establish and maintain a service, available to all, to promote the physical and mental health and wellbeing of the populace; and c) to provide and maintain comprehensive hospital and community health services with facilities for the investigation, diagnosis, treatment, rehabilitation from, and prevention of, disease and ill-health'. In addition, section 10(b) of the Act notes that the Minister is empowered to provide personal health services including maternal and child health and welfare, immunization and community nursing (amongst other services), according to the needs of the people of Tonga.
		Comprehensive prenatal care	Partial	
		Delivery by skilled birth attendants		
		Emergency obstetric care		
		Post-natal and newborn care		
No legislative restrictions based on: (a) age (b) marital status (c) 3rd party authorization (e.g. spousal, parental/ guardian, medical)	Yes	There are no legislative restrictions on access the maternity care based on age, marital status, or third party authorisation.		

Domain	Sub-domain	Specific indicators	Status	Notes
Maternal health	Abortion	Legal ground on which abortion is permitted?		Abortion is illegal under sections 103-105 of the <i>Criminal Offences Act</i> (2020 revised edition). The Act does not provide for any circumstances in which abortion is permitted. Nonetheless, under general criminal law principles of necessity, an abortion can be legally performed to save the life of a pregnant woman (Murgatroyd, 2000).
		To save a woman's life	Partial	
		To preserve a women's physical health	No	
		To preserve a woman's mental health	No	
		In case of rape	No	
		In cases of fetal impairment	No	
		If abortion is legal on some or all grounds, no restrictions based on: Medical professional authorization Parental or Judicial consent for minors Husband's consent for married women	No	The Criminal Offences Act (2020 revised edition) does not provide for any circumstances in which abortion is permitted, and therefore restrictions as listed here are not applicable.
Women cannot be criminally charged for illegal abortion	No	Under Section 104 of the <i>Criminal Offences Act</i> (2020 revised edition) women and girls can be charged with procuring their own miscarriage and shall be liable to imprisonment for any period not exceeding 3 years.		

Domain	Sub-domain	Specific indicators	Status	Notes
Maternal health	Abortion	Guaranteed access to post abortion care is mandated in policy or legislation, irrespective of legal status of abortion	Partial	<p>While post abortion care is not addressed in legislation, the <i>Tonga National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)</i> addresses access to post abortion care through Focus Area 2b, Strategy Area 2 "Ensure the provision of family planning services together with post abortion and post-partum care". The plan outlines key activities in relation to this strategy area including 'Develop health education material on family planning services and contraceptives for antenatal care and for counselling on post abortion complications', 'Ensure that women who have undergone an abortion receive accurate information on the most appropriate contraceptive method to meet their needs, including emergency contraception and condoms, before they leave the health facility' and 'Post abortion care service delivery sites should be able to provide most contraceptive methods of a woman's choice. If the method chosen cannot be provided, she should be given information about where and how she can get it and offered an interim method, such as emergency contraception of the condom'.</p> <p>While important, these activities focus on provision of family planning to women who have undergone an abortion, rather than post abortion care specifically. It should be noted that the plan does not include any objectives/ indicators specifically in relation to these activities because of explicit concern that they may potentially violate the Constitution (see p.62 and p.88 of the plan). Note that the Constitution does not actually address the issue of abortion, but rather this is addressed in the Criminal Offences Act (2020 revised edition).</p>
	Lifesaving commodities	National list of Essential medicines includes:		Standard Treatment Guidelines and Essential Drugs List for the Ministry of Health, Tonga, 2007.
		Oxytocin	Yes	Included under item 26.24 (p.380).
		MiSOProstol	Yes	Included under item 26.24 (p.379).
		Magnesium sulfate	Yes	Included under item 26.5 (p.354) and 26.14 (p.364).
		Injectable antibiotics	Yes	Included under items 26.7 (p.355-358).
		Antenatal corticosteroids	Yes	Dexamethasone included under item 26.19 (p.373).
		Chlorhexidine	Yes	Included under item 26.16 (p.369).

Domain	Sub-domain	Specific indicators	Status	Notes
Maternal health	Lifesaving commodities	Resuscitation devices for newborns	Partial	While steps in neonatal resuscitation are outlined on p.230 of the guidelines, and the use of bag and 'correctly fitting mask' are mentioned in a number of places in the document, they are not specifically included in the Essential Drugs List.
		Amoxicillin	Yes	Included under item 26.7 (p.355).
		Oral rehydration salts	Yes	Included under item 26.27 (p.383).
		Zinc	No	Zinc is only listed in the Essential Drugs List for use with castor oil in treatment of skin disorders.
	Family/ work balance	Legislated maternity leave	Partial	The <i>Public Service Act</i> (2020 revised edition) stipulates that the Public Service Commission publish a Public Service Policy Manual. The <i>Public Service Policy Manual</i> (2020 revised edition) entitles employees to 3 months (calendar days) of maternity leave. This applies to employees in the public service only, with employees in the private sector subject to company specific policy, which often does not provide for maternity leave.
		Legislated paternity leave	Partial	The <i>Public Service Act</i> (2020 revised edition) stipulates that the Public Service Commission publish a Public Service Policy Manual. The <i>Public Service Policy Manual</i> (2020 revised edition) entitles employees to 5 working days of paternity leave. This applies to employees in the public service only, with employees in the private sector subject to company specific policy, which rarely provides for paternity leave.
		Does legislation guarantee provision of childcare by the employer or state?	No	No legislation guarantees provision of childcare.

Domain	Sub-domain	Specific indicators	Status	Notes
Gender-based violence	National action plan or strategy on violence against women	National Action Plan or Strategy on gender-based violence? ³	No	There is no stand-alone national action plan or strategy on gender-based violence. Violence is covered in the <i>National Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025</i> under Outcome 2: 'Families and communities prosper from gender equality', specifically Output 2.2 'Measures are in place to eliminate domestic violence and provide services to the victims'. Activities outlined under this output include development of a national prevention strategy and action framework with a specific emphasis on engaging faith denominations; supporting community mobilization prevention programmes and promoting the concept of families free from violence; supporting mobilization of community groups and male advocates to support victims and to advocate for offenders to be held accountable; working with youth sports groups to challenge gender norms; to raise awareness of the <i>Family Protection Act</i> ; to support development of a national service delivery protocol; to develop and implement minimum standards for counselling and maintain the helpline; strengthen the response in the health system; map gaps in policy and legislation; and to train police and court officers on a survivor-centred approach.
		Does it include allocation of resources (including budget) to achieve targets?	No	The <i>National Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025</i> does not allocate resources against activities and outputs.
		Does it include benchmarks, indicators to measure implementation of legislation?	No	The <i>National Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025</i> does not include benchmarks or indicators.
		Does it establish multisectoral referral mechanisms?	Partial	While the <i>National Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025</i> does not establish multisectoral referral mechanisms, it does refer to the need to strengthen multisectoral service delivery coordination through development a National Service Delivery Protocol for Responding to GBV. The <i>Tonga National Service Delivery Protocol for Responding to Cases of Gender-Based Violence</i> was launched in March 2021. This provides standard operating procedures for interagency response among social services, police, health and legal/justice providers, including a comprehensive section outlining referral mechanisms, including referral from outer islands (pp.31-54).

³ In line with Essential Services Package for women girls subject to violence <https://www.unwomen.org/en/digital-library/publications/2015/12/essential-services-package-for-women-and-girls-subject-to-violence>

Domain	Sub-domain	Specific indicators	Status	Notes
Gender-based violence	National action plan or strategy on violence against women	Does it establish mechanisms for collection of GBV data, including administrative and case management data?	No	The <i>National Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025</i> does not specifically refer to GBV data collection, nor does the <i>Tonga National Service Delivery Protocol for Responding to Cases of Gender-Based Violence</i> (though the latter does refer to the role of the Tonga Statistics Department in supporting collection and analysis of GBV data). There is a Data Sub-Committee of the Family Protection Advisory Council, chaired by the Chief Statistician.
	Criminalisation and civil legislation	Are there measures in place to address domestic violence through civil and criminal law offenses?	Yes	The <i>Family Protection Act</i> (2020 revised edition) was passed with the objectives to a) ensure the safety and protection of all persons, including children, who experience or witness domestic violence; b) provide support and redress for all victims of domestic violence and economic abuse; c) implement programmes for victims of domestic violence to assist their recovery to lead a safe and healthy life; and d) facilitate the making and enforcement of court orders and Police Safety Orders issued to stop acts of domestic violence'. Section 28 of the Act specifies that 'a person who a) commits domestic violence; b) breaches a protection order, c); fails to comply with a Police Safety Order; or d) threatens, intimidates or assaults a health practitioner or social service provider who is actin in pursuance of a duty of care under section 27 of this Act, commits a domestic violence offence'. This is in addition to any offences constituted by an act of domestic violence, such as offences in Criminal Offences Act (2020 revised edition), including but not limited to offences such as rape, common assault, grievous bodily harm, and murder.

Domain	Sub-domain	Specific indicators	Status	Notes
Gender-based violence	Criminalisation and civil legislation	Criminalisation of sexual violence	Partial	<p>Section 118 <i>Criminal Offences Act</i> (2020 revised edition) defines acts that constitute the offence of rape. However, the offence only refers to rape of females, and Section 118(1) defines rape as ‘carnally knowing’ a female against her will (and in a range of circumstances where consent is not possible). Section 118(2) refers to rape as sexual intercourse. However, it is unclear whether carnal knowledge and/or sexual intercourse here only refer to penile-vaginal penetration, or whether the legislation would be interpreted to include other acts. Section 124 criminalises Indecent Assault, though what specifically constitutes indecent assault is not defined. Section 137 of the Act criminalises assault with intent to commit sodomy, and Section 136 of the Act criminalises sodomy (noting that this also criminalises consensual sex between men).</p> <p>Sexual abuse is incorporated into the <i>Family Protection Act</i> (2020 revised edition) and is defined as including ‘any conduct of a sexual nature without consent that abuses, humiliates, degrades or otherwise violates the dignity of a person’. Sexual abuse is included in the Act, with Section 4(b) noting that if ‘beyond the reasonable expectations and acceptances of family and domestic life, an act or omission or threat thereof by the perpetrator (1) causes physical abuse, sexual abuse, or mental abuse to the victim or other person at risk’. Sexual abuse, or risk of sexual abuse, is grounds for both a protection order and a Police Safety Order.</p>
		Comprehensive definition of domestic violence in legislation, including physical, sexual, psychological and economic violence	Yes	<p>Section 4 <i>Family Protection Act</i> (2020 revised edition) states that for the purposes of this Act, a person (the “perpetrator”) causes domestic violence to another person (the “victim”) if –</p> <ul style="list-style-type: none"> (a) the perpetrator and the victim are in a domestic relationship; and (b) beyond the reasonable expectations and acceptances of family and domestic life, an act or omission or threat thereof by the perpetrator – <ul style="list-style-type: none"> (i) causes physical abuse, sexual abuse, or mental abuse to the victim or other person at risk; or (ii) otherwise harms or endangers the health, safety or well-being of the victim or other person at risk. <p>Note that economic abuse is comprehensively defined in the Act (see section 2(1), page 8), but is held separate and distinct from domestic violence, with the Act referring to domestic violence <u>and/or</u> economic abuse throughout.</p>

Domain	Sub-domain	Specific indicators	Status	Notes
Gender-based violence	Criminalisation and civil legislation	Domestic violence legislation covers marital relationships	Yes	Yes, see section 5(a) <i>Family Protection Act</i> (2020 revised edition).
		Domestic violence legislation covers non-marital relationships	Yes	Yes, see section 5(b) <i>Family Protection Act</i> (2020 revised edition).
		Domestic violence legislation covers same sex relationships	Yes	Yes, section 5 <i>Family Protection Act</i> (2020 revised edition) uses gender neutral language throughout, and so would cover same sex relationships.
		Domestic violence legislation covers non-cohabiting relationships	Yes	Yes, see section 5(e) <i>Family Protection Act</i> (2020 revised edition) which refers to persons who are or were in an engagement, courtship, including an actual or perceived intimate or sexual relationships (without reference to living arrangements).
		Domestic violence legislation covers family relationships	Yes	Yes, see section 5(c, d) <i>Family Protection Act</i> (2020 revised edition).
		Domestic violence legislation covers members of household	Yes	Yes, see section 5(f, g, h) <i>Family Protection Act</i> (2020 revised edition).
		Broad definition of sexual assault including rape, characterised as a crime against the right to personal security and physical, sexual and psychological integrity?	Partial	<p>The <i>Criminal Offences Act</i> (2020 revised edition) outlines the offences of Rape (section 118), Indecent assault (section 124), Indecent assault on a child (section 125), Procuring the defilement of females (section 126), Procuring the defilement of females by threats (section 127), Abduction of women (section 128), Abduction of girls (section 129). However, the broad range of acts that could be characterised as sexual assault are not specified in the legislation, and carnal knowledge, sexual intercourse and indecent assault are not defined.</p> <p>Sexual abuse is incorporated into the <i>Family Protection Act</i> (2020 revised edition) and is defined as including ‘any conduct of a sexual nature without consent that abuses, humiliates, degrades or otherwise violates the dignity of a person’.</p>
		Sexual assault within a relationship specifically criminalised (e.g. “no marriage or relationship constitute a defense to a charge of sexual assault under the legislation”)?	Partial	<p>There is no provision in the <i>Criminal Offences Act</i> (2020 revised edition) for marriage or relationship to constitute a defense to a charge of sexual assault or rape. However, spousal rape is not explicitly included in the definition of rape.</p> <p>Sexual abuse is included in the meaning of domestic violence in Section 4 <i>Family Protection Act</i> (2020 revised edition), with section 5 of the Act specifically including with the meaning of domestic relationship, persons who are or were married or who are or were in a relationship in the nature of marriage or who are or were in an actual or perceived intimate or sexual relationship.</p>

Domain	Sub-domain	Specific indicators	Status	Notes
Gender-based violence	Criminalisation and civil legislation	In relation to sexual assault, defence of consent is defined as 'unequivocal and voluntary agreement' explicitly including a non-exhaustive list of circumstances which cannot constitute consent	Partial	While sexual (or indecent) assault is not specifically defined, and consent is not defined as 'unequivocal and voluntary agreement, Section 118(2) <i>Criminal Offences Act</i> (2020 revised edition) does state a man commits rape if at the time of sexual intercourse with a woman he knows that she does not consent to the intercourse or he is reckless as to whether she consents to it. Section 118(1) outlines specific circumstances in which a woman cannot be considered to have consented.
		Prohibitions on the use of corroboration, prior sexual conduct and proof of resistance in sexual offence proceedings	Partial	Section 11(2) <i>Evidence Act</i> (2020 revised edition) does not prohibit corroboration, but does not require it either, stating that 'Where any person is tried for any sexual offence under sections 118 to 137 of the <i>Criminal Offences Act</i> or for any other offence of a sexual nature, no corroboration of a complainant's evidence shall be necessary for the accused to be convicted, and in any such case the Judge shall not be required to give any warning to the jury relating to the absence of corroboration'. Section 33(1) of the Act also states that 'no evidence and no question in cross-examination shall be adduced or asked at the trial, by or on behalf of any defendant at the trial, about any sexual experience of a complainant with a person other than that defendant'. Resistance is neither prohibited or required in the <i>Evidence Act</i> (2020 revised edition).
		Legislation guarantees issuance and monitoring of eviction, protection, restraining or emergency barring orders against alleged perpetrators, including adequate sanctions for non-compliance	Yes	Part 2 <i>Family Protection Act</i> (2020 revised edition) outlines who can apply for a protection order, who has the power to make an order, the types of protection orders and their conditions, and application to vary or cancel a protection order. Sections 22-25 of the Act outline Police Safety Orders, which may also be made to protect victims of domestic violence. Section 28 of the Act clarifies that breaching a protection order or failure to comply with a Police Safety Order is an offence, with penalties including imprisonment, a fine or both.

Domain	Sub-domain	Specific indicators	Status	Notes
Gender-based violence	Health sector response to GBV	Are there clinical guidelines/ SOP for identification and management of cases of GBV, including sexual assault and domestic violence, for use in the health sector?	Yes	<p>While there are not specific Ministry of Health SOPs in relation to management of GBV, under the 'Reproductive Health' Focus Area, the <i>Tonga National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)</i> includes a specific focus on GBV through 2e: Health sector management of GBV. This focus is detailed under Strategy Area 1: Ensure a core of hospital and clinic staffs receive equality training and upskilling, including in gender mainstreaming, to provide sensitive care of the women and girl victims of GBV; Strategy Area 2: Health professionals to provide highlevel advocacy in support of counterparts in the legal, police and gender areas to carry out their work to provide suitable legal remedies and also legal redress for the victims of GBV; and Strategy Area 3: Conduct community and school based talks/question and answer sessions on GBV and on its detrimental social, cultural, personal and health effects. The Policy lists a range of key activities to be implemented in these strategy areas.</p> <p>The <i>Tonga National Service Delivery Protocol for Responding to Cases of Gender-Based Violence (March 2021)</i> outlines SOPs for interagency response among social services, police, health and legal/justice providers, with section 7.2 outlining the specific role of health and social services. The Protocol clarifies responsibilities for health workers treating survivors, though notes that health centres outside Tongatapu may not have comprehensive care for sexual assault available.</p> <p>Minimum Health Standard Operating Procedures for Clinical Management of Rape, Sexual Violence and Gender-Based Violence were being finalised at the time of this review.</p>
		Does legislation or policy guarantee access to healthcare and reproductive health care (incl. emergency contraception and post exposure prophylaxis against HIV) for victim/survivors of GBV?	Yes	<p>Section 27 <i>Family Protection Act (2020 revised edition)</i> legislates that health practitioners and social service providers have a duty of care to examine and refer to counselling or appropriate medical treatment someone who has experienced, or is at risk of, domestic violence; and to advise the person about filing a complaint. Section 27(3) specifically states that a 'health practitioner shall examine the complainant or person at risk and, applying the protocol established by the Ministry of Health providing for professional standards and confidential treatment, further advise the victim of support options and medical treatment available'.</p> <p>While SRH services are not explicitly mentioned in the legislation, they would constitute part of 'appropriate medical treatment' for someone who had experienced GBV.</p>

Domain	Sub-domain	Specific indicators	Status	Notes
Gender-based violence	Health sector response to GBV	No restrictions on the above based on marital status, residency, age or other factors?	Yes	No restrictions in the above policy or legislation based on these factors, though the limited geographical availability of services across Tonga should be noted.
SRH and GBV in key populations (cross cutting)	Legislative protection	No additional legislation that restricts access to SRH or GBV response services, or otherwise undermines SRH and protection from GBV, for:		
		Adolescents and youth	Partial	While no legislation additional to that already mentioned (including laws in contravention of the Convention of the Rights of the Child, such as legislation in relation to the age of consent and marriage), specifically restricts access to SRH or GBV services or undermines SRH and protection from GBV for adolescents and youth, there is limited consideration specifically of young people in relevant legislation.
		People with disabilities	Partial	While no additional legislation specifically restricts access to SRH or GBV services or undermines SRH and protection from GBV for people with disabilities, there is limited consideration specifically of people with disabilities at all in relevant legislation.
		LGBTIQ people	No	The fact that consensual sex between men is criminalised through Section 136 <i>Criminal Offences Act</i> (2020 revised edition) may make it more difficult for men in same sex relationships to access SRH services and information, and protection from GBV. In addition, Section 81(5) of the <i>Criminal Offences Act</i> (2020 revised edition) criminalises a man 'whilst soliciting for an immoral purpose' cross dressing or in any other way impersonating or representing that he is female. The law is silent on the status of same sex relationships between women, or on the rights and protections owed to Tongan people who may identify as members of the LGBTIQ community.
		Sex workers	Partial	Sex work itself is not illegal in Tonga. However, under Section 80 <i>Criminal Offences Act</i> (2020 revised edition) it is an offence to keep a brothel, with the offence extending to 'lewd homosexual practices' as well as lewd heterosexual practices (Section 80(6)), and Section 81 makes it an offence to trade in prostitution (that is, to live on the earnings of prostitution) or to solicit in public places. These offences may make it more difficult for sex workers to access SRH services and information, and protection from GBV.

Domain	Sub-domain	Specific indicators	Status	Notes
SRH and GBV in key populations (cross cutting)	Special provisions	Special provisions in legislation or policy to improve access to SRH and ensure protection from GBV for:		
		Adolescents and youth	Yes	<p>Adolescents are a focus of the <i>Tonga National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)</i> through focus area 2c: Adolescent Sexual and Reproductive Health, and the related Strategy Area 1: Development of a formal youth-friendly adolescent sexual and reproductive health (ASRH) education programme that offers school-based and teacher-facilitated information for different age groups, including younger adolescents and the most at risk young people.</p> <p>The delivery of educational packages should be gender-sensitive and apply a life skills-based approach; Strategy Area 2: Development of a non-formal youth-friendly peer education programme that offers gender-sensitive and life skillsbased ASRH information in a non-formal setting, that targets most at risk young people both in school and out of school; Strategy Area 3: Maintain current interventions in relation to youth-friendly services that address the needs of young people.</p> <p>The <i>Tonga National Service Delivery Protocol for Responding to Cases of Gender-Based Violence (March 2021)</i> outlines specific considerations when working with child/adolescent survivors of GBV.</p> <p>Health and wellbeing are a focus of the <i>Tonga National Youth Policy & Strategic Plan of Action 2021-2025</i>, with policy outcome 1 being the 'health and wellbeing of the youth's body, mind and soul', and key action 1.1.3: Health programs and services for youth are mainstreamed into the basic health, education, social, moral (religious), adolescent sexual and reproductive health, mental and psychosocial programs and services available. Key outcome 4.1 is that 'Measures are in place to eliminate genderbased violence and userfriendly social services are in place for youth victims / survivors'.</p>

Domain	Sub-domain	Specific indicators	Status	Notes
SRH and GBV in key populations (cross cutting)	Special provisions	People with disabilities	Partial	<p>There is some mention of people with disabilities in the <i>Tonga National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)</i>, with objective 4.9 of the plan (in relation to the protection of children, vulnerable and marginalized groups) being to establish linkage of SRH program and services for the Ministry of Internal Affairs and other entities, programs and services for individuals with physical or mental disabilities. A key activity listed against this objective is to conduct workshops for health care workers on services for persons with disabilities.</p> <p>The <i>Education Act (2020 revised edition)</i> provides that curricula should be inclusive of all students, including children with special needs, disabilities and of 'both' genders (Section 48(k)), with Part XXI of the Act outlining the entitlement of children to inclusive education. This would mean that children with disabilities should have access to the same family life education curricula in schools as children without disabilities.</p>
		LGBTIQ people	Partial	<p>Men who have sex with men and <i>fakaleitis</i> (people assigned male at birth but with feminine expression) are identified as key populations at risk of poor SRHR in the <i>Tonga National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)</i>. The plan lists objectives related to improving the services for, and rights and empowerment of, key populations including men who have sex with men and leitis. These include research, advocacy, targeted health education and interventions to increase access to SRH services, peer education, and interventions to eliminate stigma and discrimination. The Plan also makes a number of references to the Tonga Leitis Association, recognising their importance as an implementation partner and the work that has been done by the Association to support leitis maintain their SRH. While there is inclusion of leitis reporting use of condoms during their most recent highrisk sex, and participation of leitis in interventions aiming to eliminate stigma and discrimination, as indicators in the Plan, there is little detail of how this will be achieved. There is no provision for hormonal treatment for members of the trans community in the SRH Plan.</p>
		Sex workers	Partial	<p>There is limited mention of sex workers in the <i>Tonga National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)</i> – firstly recognizing that they face additional SRH risk, and then as a comment against the aim that, by 2018, 60 per cent of the population that are sexually active have access to comprehensive HIV/STI counselling and testing services, presumably indicating that they are a priority population for this aim. Sex workers are referred to as 'hut dwellers' in this comment. While there is inclusion of sex workers reporting use of condoms during their most recent highrisk sex, as an indicator in the Plan, there is no detail of how this will be achieved.</p>

Domain	Sub-domain	Specific indicators	Status	Notes
Plural legal systems		No constitutional / statutory / customary / traditional / religious laws contradictory to any of the above	Yes	<p>As the Kingdom of Tonga was never colonised, the legal system was never dichotomised into law and custom (and so custom was not formally recognised in the constitution). This means that custom is not seen as contradictory to any of the legislation outlined above, as custom is not seen as something other than law (McKenzie, 2017).</p> <p>Tongan culture is recognised in the courts with the traditional 'Tongan Apology' encouraged, and victims of offences may choose not to pursue redress in the formal court system if an apology (which is enacted between families and aimed at repairing relational and social damages) is given. However, the Tongan Apology is no longer seen as an appropriate response to domestic violence. Section 28(3) <i>Family Protection Act</i> (2020 revised edition) notes that 'it is not a defense to a domestic violence offence that the respondent has paid compensation or reparation to the complainant or the complainant's family'. The 'No Drop' policy, where police will pursue a case of domestic violence through the courts even if the victim wishes to drop the case was, in part, established to clarify that traditional apologies are an inadequate remedy to domestic violence.</p>
Humanitarian and disaster	Provisions for SRH in disaster legislation and national plans	Are there provisions in relevant health or disaster policy and legislation to require that the Minimum Initial Service Package (MISP) for Sexual and Reproductive Health objectives and related indicators are assessed, resourced and delivered?	No	<p>Supporting SRH and delivery of SRH services in disasters and emergencies is not addressed in the Tonga National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018).</p> <p><i>The National Emergency Management Plan</i> (2007) does not address SRHiE or the MISP.</p> <p>There is a new Disaster Risk Management Bill currently being drafted but it is unclear how it will address either SRH or GBV.</p>
	Provisions for GBV in disaster legislation and national policy and plans	<p>Are there provisions to respond to VAW/GBV in Emergencies in legislation, policy and plans?</p> <p>Are the specific provisions in policy and legislation to require alignment with the Minimum Standards for Prevention and Response to Gender-Based Violence in Emergencies.</p>	Partial	<p>The <i>Tonga National Service Delivery Protocol for Responding to Cases of Gender-Based Violence</i> (March 2021) outlines a guide for referrals for GBV survivors during emergencies/disasters (see Annex C). However, there are not provisions for response to GBV, or alignment with the Minimum Standards for prevention and response in GBViE, in emergency-related legislation, policy or plans. It is unclear the degree to which the emergency and disaster response sector is familiar with the Protocol.</p> <p><i>The National Emergency Management Plan</i> (2007) does not address GBViE.</p> <p>The Minimum Health Standard Operating Procedures for Clinical Management of Rape, Sexual Violence and Gender-Based Violence being finalised at the time of this review includes an annex on disasters.</p>

4 Sexual and reproductive health in law and policy

This section of the report outlines national policy documents, highlighting their relevance to sexual and reproductive health and rights (SRHR). Policies and legislation are then explored further in relation to the key domains of SRH that are the focus of this review. As noted earlier, there is substantial overlap between issues relevant to SRHR and to GBV, though the current policy landscape specifically relevant to GBV will be the focus of Section 5 of this report.

4.1. Background

Sexual and reproductive health are public health priorities for Tonga. The *2019 Multiple Indicator Cluster Survey* or MICS (Tonga Statistics Department, 2020) reported the total fertility rate to be 3.2, which is above the global average but slightly below the average rate for small Pacific states. The adolescent birth rate was 30 births per 1,000 women aged 15-19, which is higher than Fiji or Tuvalu, but lower than Samoa or Cook Islands (for comparison). The fertility rate (including the adolescent birth rate) was higher for rural women (compared with women from urban areas), for women in outer islands, for women who did not complete their secondary education, and for women in the two lowest wealth quintiles. The 2019 MICS (Tonga Statistics Department, 2020) found that only 14.8 per cent of all sexually active women aged 15-49 years were using a modern method of contraception (mCPR), with a particularly small proportion of adolescent women using modern methods of contraception (less than one per cent). This is well below the national mCPR target of 36 per cent, as outlined in the *Ministry of Health National Health Strategic Corporate Plan 2015/16-2019/20*. The proportion of women aged 15-49 who have an unmet need for family planning is 21.8 per cent. Less than half (49.3 per cent) of married or in-union women have their needs for family planning satisfied with modern methods of contraception.

The recent UNFPA *Health Facility Readiness and Service Availability Assessment* (2019a) noted that the minimum package of essential SRH services to be delivered by all levels of the health system in Tonga includes family planning; safe motherhood (incorporating antenatal, postnatal and delivery care); prevention and treatment of HIV and sexually transmitted infections (STIs); adolescent reproductive health; response to sexual violence; and cervical cancer awareness and screening. However, multiple studies have confirmed that the quality of services varies significantly across the country (UNFPA, 2019a). Stockouts of contraceptive supplies are reported to be common at health services at different levels (UNFPA, 2019a). The 2019 *Health Facility Readiness and Service Availability Assessment* found that while most facilities provided family planning services, only 43 per cent of facilities were rated as family planning service 'ready' (that is having sufficiently available guidelines, equipment, products and trained staff).

The 2019 MICS found that all pregnant women had received 1-3 antenatal visits, with 97.5 per cent receiving four or more visits (Tonga Statistics Department, 2020). The MICS also reported that a very high proportion (97.6 per cent) of Tongan women deliver in a health facility.

The 2019 MICS found that 10.8 per cent of women aged 15-19, who had ever had sexual intercourse, reported having had an STI or symptoms of an STI (such as abnormal discharge or a genital sore or ulcer) in the last

12 months, but less than half of these women had sought treatment. Upon testing, 22 per cent of pregnant women were found to have chlamydia (Tonga Ministry of Health, 2017). Rates of STIs are particularly high amongst young people under the age of 25 years (Prime Minister's Office, 2019). The 2019 *Health Facility Readiness and Service Availability Assessment* found that only six per cent of facilities were STI (including HIV) service ready.

Despite the high sexual and reproductive health needs in the country, Tonga does not have a current national policy or plan in relation to SRH, with the *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018) with M&E frameworks and national implementation plan* providing the most recent guidance.

4.2. Domestic legislation and policy

A number of laws in Tonga are relevant to the delivery of SRH services and the realisation of SRHR by the Tongan people, in general. These include, in particular the *Births, Deaths and Marriages Registration Act* (2020 revised edition), the *Criminal Offences Act* (2020 revised edition), the *Public Health Act* (2020 revised edition), the *Health Services Act* (2020 revised edition), the *Public Service Act* (2020 revised edition) and the *Family Protection Act* (2020 revised edition). Legislation will be discussed where relevant under thematic headings below. However, national policies and plans are more specifically related to SRHR and are therefore outlined in greater detail in this section of the report.

Nationally, SRH services and activities are guided by policies and plans to increase SRH outcomes for Tongans and improve access to services and quality service delivery. Key policies, and the lead ministry responsible for implementation, are highlighted in Table 6 below.

Health and the healthcare system are outlined as priorities in the Government's *Tonga Strategic Development Framework 2015-2025*, with Organisational Outcome 2.5 being 'Improved country-wide health care systems which better address the medical conditions becoming more prevalent in Tonga so hastening recover and limiting pain and suffering'.

The *National Health Strategic Plan 2015-2020* has the mission 'to improve the health of the nation by providing quality care through promotion of good health, reducing morbidity, disability and premature death'. The Plan outlines specific service delivery key result area including, and particularly relevant to this report, maternal and child health services; adolescence and adult health services; and public health services.

Table 6: Key policies relating to SRHR

Lead Ministry/Entity	Title of policy
Ministry of Finance and National Planning	Tonga Strategic Development Framework 2015-2025
	National Health Strategic Plan 2015-2020
	Corporate Plan and Budget 2019/20 – 2021/2022
Ministry of Health	National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018) with M&E frameworks and national implementation plan
	Standard Treatment Guidelines and Essential Drugs List for the Ministry of Health, Tonga, 2007
Ministry of Internal Affairs Women's Affairs and Gender Equality Division	Tonga National Service Delivery Protocol for Responding to Cases of Gender-Based Violence
Youth Development Division	Tonga National Youth Policy & Strategic Plan of Action 2021-2025

4.2.1. Tonga Strategic Development Framework 2015-25

This overarching national development framework for Tonga is arranged under five pillars, the second of which refers to strong social institutions. Two of the desired outcomes in relation to this pillar are specifically relevant to SRHR:

- **Organisational Outcome 2.5:** Improved, country-wide, health care systems which better address the medical conditions becoming more prevalent in Tonga so hastening recovery and limiting pain and suffering.
- **Organisational Outcome 2.6:** A stronger and more integrated approach by all parts of society, to address communicable and non-communicable disease, significantly cutting the rate of these diseases and the burden they place upon communities and the economy.

In outlining 'strategic concepts' towards achieving these outcomes, the framework specifically highlights 2.5(c) strengthened national capacity to deliver high-quality health services including family planning and services to prevent HIV and STIs, for young people, sensitive to the different needs of women and men.

Whilst this highlevel framework does not include specific indicators of progress towards these organisational outcomes, it does provide an overall direction in relation to SRHR that Ministry specific responses to SRHR can align with.

4.2.2. National Health Strategic Plan 2015-20

The overall mission outlined in the Ministry of Health's overarching plan is to improve the health of the nation by providing quality care through promotion of good health, reducing morbidity, disability and premature (death) mortality. To realise this mission, the Ministry of Health outline six key result areas for the fiveyear period of the plan's implementation:

- KRA1 Service delivery
- KRA2 Health workforce
- KRA3 Infrastructure, medical products and technology
- KRA4 Leadership and governance
- KRA5 Information, research, policy and planning
- KRA6 Healthcare finance.

Sub-themes, strategies, targets and KPIs are listed in relation to each key result area. Of specific relevance to this report are the following sub-themes under KRA 1 Service Delivery:

Maternal and child health services

Strategy 1.1.1 to improve, strengthen and sustain evidence based clinical management of women in their reproductive age

KPIs for this strategy include: Increase first trimester booking by 50 per cent ; Increase routine ultrasound of pregnant mothers to 70 per cent ; All high-risk pregnancies to have diabetic screening; All diabetic mothers to have an HbA1c of <7 before next pregnancy; To establish formal pregnancy booking classes; Reduction of non-attendance by 50 per cent ; Reduction of un-booked pregnancy by 50 per cent ; To have no home deliveries; To increase CPR by 5 per cent ; Availability of an evidence based treatment guidelines; Reviewing the guidelines not more than 5 years; Carrying out 1 audit or research proposal per year

Strategy 1.1.2 to Improve, Strengthen, and Sustain Evidence Based Clinical Management of Women after their reproductive age

KPIs for this strategy include: Establishment of routine cervical screening for women; Reduction of cervical cancer by 5 per cent ; Reduction of endometrial cancer by 5 per cent ; Reduction of breast cancer by 5 per cent ; Establishment of proper medium/process regarding counselling; Restoration of molecular screening for chlamydia and gonorrhoea; Availability of evidence based standardised guidelines; Reviewing the guidelines not more than 5 years; Carrying out at least 1 audit or research proposal per year

It should be noted that while Adolescence and Adult Health Services is a sub-theme under KRA1: Service Delivery, there are no strategies or KPIs listed under this sub-theme that are specific to strengthening adolescent health broadly, or adolescent or adult SRHR specifically. Similarly, the Public Health Services sub-theme does not have strategies or KPIs directly related to the promotion of SRHR, including family planning. KRA2: Health Workforce has a KPI to improve the workforce ratio for medical officers and nurses, and there is specific mention of a range of other health professionals. However, there is no mention of midwifery capacity specifically. There is also no specific reference to SRHR commodities under KRA3: Infrastructure, Medical Products and Technology.

4.2.3. Ministry of Health Corporate Plan and Budget 2019/20 – 2021/22

The Ministry of Health's Corporate Plans operationalise and allocated resources to specific activities towards achievement of the key result areas outlined in the National Health Strategic Plan. This period's Corporate Plan has a particular emphasis on contributing to universal health coverage by providing specialised care to the outer islands and remote areas; strengthening referrals and social supports for patients and caregivers referred to the main hospital on Tongatapu; and preparedness for natural disasters and disease outbreaks.

The plan commits budget towards infrastructure of particular relevance to SRH, including for example boats to provide connection with remote areas (especially important for provision of antenatal care, for example), renovation of the Vaiola gynaecology unit, and refurbishment of Reproductive Health clinics. The plan also commits budget and to implementation of activities to promote SRHR.

A number of objectives included in the plan are broadly relevant to SRHR, with a number of specific objectives under the Reproductive Health services program:

- *Objective 2.15.* Providing reproductive health care and health promotion services to women of childbearing age, family planning, immunization services, antenatal and post- natal care (a) immunisation, (b) family planning and zero out of stock, (c) maternal health, (d) child health and family life education, (e) adolescent health.
- *Objective 2.15(f).* Developing and strengthening inclusive gender-based initiatives and services addressing gender-based violence (GBV) and violence against women and girls (VAWG) and disability.
- *Objective 2.15(g).* To identify the status and impact of reproductive health care services and related health services, disseminate information, raise awareness through strengthening Research and Monitoring and Evaluation.
- *Objective 2.15(h).* Strengthening governance and accountability of SRH service delivery through updated and inclusive evidence-based policies, guidelines and legislation.
- *Objective 2.15(i).* Support and strengthen SRH human resource capacity and supplies to deliver quality and efficient SRH services through training and capacity building opportunities.
- *Objective 2.15(j).* Management, operations and supervision of the Reproductive Health Unit to ensure consistent delivery of quality services and that universal access to SRH is maintained.
- *Objective 2.15(k).* Support and strengthen the implementation, oversight and operations of the RMNCAH Committee
- *Objective 2.15(l).* Strengthen and support quality service delivery and universal health access to SRH through infrastructural / health facility maintenance and development.
- *Objective 2.15(m).* Strengthen Tonga's capacity [in Reproductive Health] and to highlight Tonga's contribution and growth to the regional and international platform through participation and inclusion in regional and international workshops, training, meetings and conferences.

The plan lists highlevel indicators, drawn from the Healthy Islands Framework, the SDGs, and the Tonga Strategic Development Framework. These include measures of: Contraceptive prevalence; Percentage of women of reproductive age (aged 15- 49) who have their need for family planning satisfied with modern methods; Adolescent birth rate (aged 10-14; aged 15-19) per 1,000 women in that age group; Antenatal care coverage; Births attended by skilled health personnel (proportion of births attend by skilled health personnel); Maternal deaths per 100,000 live births; HPV vaccine coverage; Cervical cancer screening; HIV prevalence (number of new HIV infections per 1,000 uninfected population); and HIV prevalence among pregnant women.

4.2.4. National Integrated Sexual and Reproductive Health Strategic Plan (2014-18) with M&E Frameworks and National Implementation Plan

This Plan, while out of date, is the primary framework guiding efforts to promote SRHR and provide SRHR services in Tonga at this time. This comprehensive plan is arranged around five focus areas, with aligned sub-focus areas. These are:

- **Focus Area 1: Prevention**

- 1a. Strategic health communication
- 1b. Prevention of parent to child transmission (of HIV)
- 1c. Prevention of biomedical transmission (infection control)
- 1d. Abstinence for targeted groups
- 1e. Condom distribution
- 1f. Linkage of SRH to non-communicable disease

There is a substantive focus on HIV in the objectives related to these sub-focus areas. There limited evidence of the efficacy of abstinence focused interventions (primarily for young people, as described in the Plan) in preventing transmission of HIV or STIs. The way that gender shapes agency in relation to abstinence is not mentioned in the Plan.

- **Focus Area 2: Reproductive health**

- 2a. Maternal and neonatal health
- 2b. Repositioning family planning
- 2c. Adolescent sexual and reproductive health
- 2d. Control of HIV/STIs and integration with other SRH programs
- 2e. Health sector management of gender-based violence
- 2f. Detection, treatment and prevention of reproductive health system cancers
- 2g. Immunization program integrated with SRH
- 2h. Policy statement on men as equal partners in reproductive health

This Focus Area has a large number of objectives linked to it, covering a broad range of strategies to improve reproductive health. However, strategies to link reproductive health with strategic health communication (1a above) are limited.

- **Focus Area 3: Diagnosis, treatment, care and support (for HIV and STIs)**

- 3a. Counselling and treatment
- 3b. HIV and STI care and management (including supply chain logistics)
- 3c. Care and support for people living with HIV/AIDS
- 3d. Addressing stigma, discrimination and confidentiality in the workplace
- 3e. Strengthening the health surveillance system

While this Focus Area largely focuses on HIV, it does address screening of pregnant women for chlamydia and treatment of other STIs under 3a, and through guideline development under 3b.

- **Focus Area 4: Rights, empowerment and integrated services for key populations**

- 4a. Partnership and networking
- 4b. Advocacy on HIV and STIs
- 4c. Involvement of PLHIV and affected communities in SRH programming and in protection of rights and empowerment
- 4d. Protection of children, vulnerable and marginalised groups.

The key populations referred to here include young people, but also sex workers, men who have sex with men, fakaleitis, seafarers. Again, the focus is on HIV more than STIs.

- **Focus Area 5: Strategic information, management and coordination**
 - 5a. Expand the role of Country Coordinating Mechanism and strengthen its functionality
 - 5b. Strengthened capacity of Country Coordinating Mechanism and the M&E of implementing agencies
 - 5c. Improved strategic information processes

The Country Coordinating Mechanism being referred to here is a governance structure originally established for managing and funding a multisectoral response to HIV (particularly as a requirement of the Global Fund) but is now seen as a group having a potentially broader role in coordinating SRH promotion efforts.

4.2.5. Other national policies and plans relevant to SRHR

Tonga's essential drugs list is integrated with practice guidelines in the *Standard Treatment Guidelines and Essential Drugs List for the Ministry of Health, Tonga, 2007*. The national list of essential medicines includes a broad range of relevant pharmaceuticals and commodities, as outlined in section three of this report. It should be noted in particular that female condoms, Gardasil and Jadelle are not included in the list.

While this will be addressed further in relation to the GBV section of this report, the *Tonga National Service Delivery Protocol for Responding to Cases of Gender-Based Violence (2021)* is relevant to efforts to strengthen SRHR cross the country, particularly in relation to the detail it provides as to appropriate and required responses to sexual violence. Sexual violence severely undermines SRH over both the short and long term, and so a comprehensive approach to SRHR requires both prevention efforts and capacity building for a victim-centred, trauma-informed response. Sub-theme 2e of the *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)* with M&E frameworks and national implementation plan focuses on the health sector's management of GBV. The National Service Delivery Protocol clarifies the way in which health professionals are required to work with social services, the police and law and justice providers, strengthening referral pathways and communication procedures between sectors.

Health and wellbeing are a focus of the *Tonga National Youth Policy & Strategic Plan of Action 2021-2025*, with policy outcome 1 being the 'health and wellbeing of the youth's body, mind and soul', and key action 1.1.3: Health programs and services for youth are mainstreamed into the basic health, education, social, moral (religious), adolescent sexual and reproductive health, mental and psychosocial programs and services available. Key outcome 4.1 is that 'Measures are in place to eliminate genderbased violence and userfriendly social services are in place for youth victims / survivors'. However, there is little detail provided in this plan about actual activities that will be implemented, or could be monitored, for how they align with and could complement the youth-focused activities in the *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)*, in particular through sub focus-areas 1d (abstinence), 2c (adolescent SRH), and 4a (partnerships and networking, which included a focus on youth groups).

The *Tonga Education Policy Framework 2004-2019* does not address the intersection of SRHR and education, with access to education for pregnant and parenting students not addressed, and comprehensive sexuality education or family life education not covered by the framework. Family life education is noted as an activity in the *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)* However, it is unclear whether and how this can be implemented by health workers, through the education sector, given its absence from education policy.

4.3. Intersection of sexual health issues with policy and legislation

4.3.1. Contraception and family planning

Access to contraception and family planning is a public health priority for Tonga. Findings from the recent MICS confirm that only 14.8 per cent of all sexually active women aged 15-49 years were using a modern method of contraception (Tonga Statistics Department, 2020), which is well below the national target of 36 per cent set in the Ministry of Health National Health Strategic Corporate Plan 2015/16-2019/20. At 25.2 per cent, the mCPR for married or in union women in Tonga is slightly better than the figure for all sexually active women, suggesting that there are specific barriers limiting access to modern methods of contraception for unmarried women. The mCPR for young women aged 15-19 years is especially low, at 0.8 per cent – with young women aged 20-24 years faring not much better with only 7.1 per cent using a modern method of contraception. A small study by Linhart and colleagues (2020) reported that few of their young participants were aware of contraceptive methods other than condoms. There is a need for further in-depth qualitative research to investigate the range of barriers to contraception young women experience in Tonga, which may include a combination of sexual and reproductive health knowledge, personal and community attitudes, and health worker practices.

The proportion of women aged 15-49 who have an unmet need for family planning in Tonga is 21.8 per cent (Tonga Statistics Department, 2020). Less than half (49.3 per cent) of married or in-union women have their needs for family planning satisfied with modern methods of contraception. The recent UNFPA *Health Facility Readiness and Service Availability Assessment* (2019a) found that while most facilities provided family planning services in Tonga, the quality of services varies significantly across the country (UNFPA, 2019a). Stockouts of contraceptive supplies are reported to be common at health services at different levels (UNFPA, 2019a).

Tongan legislation does not specifically guarantee access to contraceptive services; essential medicines such as emergency contraception, contraceptive implants and female condoms; or provision of full, free and informed consent for contraceptive services. However, section 4 of the *Health Services Act* (2020 revised edition) states that the functions of the Minister of Health include 'to preserve and protect the public health of Tonga' and 'to establish and maintain a service, available to all, to promote the physical and mental health and wellbeing of the populace'. This legislation should be interpreted as inclusive of responsibility for SRH services, including contraception and family planning. In addition, section 10(b) of the Act notes that the Minister is empowered to provide 'personal health services including maternal and child health and welfare, family planning', amongst other services, according to the needs of the people of Tonga. Tongan law does not restrict availability of contraception and family planning services on the basis of age or marital status. Parental consent for provision of contraceptives to under 18 is not mandatory in Tonga; however, the very low mCPR in this group suggests that they face a range of social and structural barriers to accessing modern methods of contraception (Tonga Statistics Department, 2020).

While the need for contraception and family planning is clear, they are not addressed in the *National Health Strategic Plan 2015-2020*, and only specifically mentioned in the *MOH Corporate Plan and Budget 2019/2020 – 2021/2022* through Objective 2.15(b). However, the need to increase access to contraception and family planning across the country is reflected in the *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)*, which through sub-focus area 2b. Repositioning Family Planning, details activities aimed at increasing access to and choice of family planning methods, including with a focus on outer islands. Activities are aimed at increasing access to a wide range of contraceptives and the introduction of Jadelle (implantable contraceptive).

There remains much work to be done, however, to increase access to and uptake of contraception and family

planning across the sexually active population. The *2019 Health Facility Readiness and Service Availability Assessment* found that almost all health facilities provided family planning services, However, not all facilities had staff trained, particularly, in long acting methods (for example, of facilities visited less than half had staff trained in implant insertion, with even fewer trained in implant removal). Availability of long-term methods was limited, with Tonga not yet meeting targets for IUCD and implant contraceptive availability; expired stock (oral contraceptives, male and female condoms, IUCDs) was common.

The 2014 US State Department Human Rights report for Tonga states that ‘Under a Ministry of Health Policy, a woman is not permitted to undergo a tubal ligation at a public hospital without the consent of her husband or, in his absence, her male next of kin. Spousal consent is not required for men to undergo a vasectomy (United States Department of State, 2014, p.10). However, none of the policies reviewed for this report speak to the need for third party consent for tubal ligation, so it is unclear whether this reference is based on a formal policy that has been superseded, or an informal hospital policy.

4.3.2. Sexual transmitted infections and HIV

HIV prevalence in Tonga is very low, However, the prevalence of sexually transmitted infections (STIs), particularly chlamydia and gonorrhoea, is relatively high. The 2019 MICS found that 10.8 per cent of women aged 15-19, who had ever had sexual intercourse, reported having had an STI or symptoms of an STI (such as abnormal discharge or a genital sore or ulcer) in the last 12 months, but less than half of these women had sought treatment (Tonga Statistics Department, 2020). Upon testing, 22 per cent of pregnant women were found to have chlamydia (Ministry of Health, 2017). Rates of STIs are particularly high amongst young people under the age of 25 years (Prime Minister’s Office, 2019).

There is no legislation specifically focused on HIV in Tonga, although it appears it is considered a notifiable condition. It should be noted that under Schedule 4 of the *Public Health Act (1992)* – section 138, HIV and AIDS were listed as notifiable conditions. No other STIs were considered notifiable conditions. However, the *Public Health Act* was substantially revised in 2015, and there is no longer a list of notifiable conditions as a schedule to the *Public Health Act (2020 revised edition)*. Notwithstanding this, Part 10 of the Act outlines in detail the law in relation to notification (including addressing confidentiality), contact tracing and Supreme Court controlled notifiable conditions orders, and the Act refers to ‘notifiable conditions’ throughout, defining them as ‘a condition prescribed under a regulation as a notifiable condition’ (p.13). However, no regulations pertaining to notifiable conditions – other than the *Declaration of a Public Health Emergency (COVID-19) Regulations 2020* – have been identified during this review.

The *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)* identified the need to strengthen surveillance and monitoring in relation to HIV/STI data, with objective 3.12 in the plan being to establish a national HIV/STI/RH surveillance database (which, though noting discussion above, may be seen as complementary to a register of notifiable conditions). However, this is not addressed in the *National Health Strategic Plan 2015-2020*.

While the *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)* policy recommends testing for STIs including HIV during antenatal visits, this is in contradiction with the Tonga Package of Essential Health Services which notes that HIV and STI tests are only expected to be available at secondary facilities (noting antenatal care is available and most often provided at primary health care facilities). The *2019 Health Facility Readiness and Service Availability Assessment* found that while almost a third of facilities provided some form of STI service, only six per cent of facilities were STI (including HIV) service ready.

There is no legislative protection from discrimination on the grounds of HIV status in Tonga, though the *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)* has a substantive focus on HIV, including on the rights and protection from discrimination of people living with HIV and on promoting the

empowerment of key populations most at risk in relation to HIV and STIs. The Ministry of Health identify key populations for HIV and STI prevention and response as including young people, fakaleitis or leitis ('like a lady', a term to describe individuals assigned male at birth who have feminine gender expression), men who have sex with men, sex workers, people with disabilities, seafarers, and people who abuse alcohol and other substances.

Knowledge about HIV in the community is low, with the 2019 MICS finding that only 15.2 per cent of men and 9 per cent of women aged 15-49 had comprehensive knowledge about HIV (Tonga Statistics Department, 2020). Knowledge levels are especially low among adolescents aged 15-19 years (7.6 per cent for men and 3.6 per cent for women).

4.3.3. HPV and cervical cancer

The priorities of the 2015 Pacific Forum Secretariat meeting, under the Framework for Pacific Regionalism, highlighted the substantial burden that cervical cancer places on women and girls in the Pacific region. As of 2016, cervical cancer was the fourth most common cancer diagnosis in Tonga, with an estimated incidence of 32.2 per 100,000 women (UNFPA, 2019a). There are no recent data about the number of HPV detections in Tonga. Data gaps are, in part, related to the very limited availability of facilities providing pap smears, visual inspections with acetic acid or other cervical cancer prevention services outside Vaiola Hospital (UNFPA, 2019a). There are very limited precancer treatment services. During the 2019 *Health Facility Readiness and Service Availability Assessment*, none of the three facilities that provide cervical cancer prevention services were assessed as ready (UNFPA, 2019a).

Tonga is part of a new initiative, funded by the ADB in partnership with UNICEF, to increase access to HPV vaccination for adolescent girls, but this is not yet covered by law or regulations in Tonga with the vaccine not included on the *Standard Treatment Guidelines and Essential Drugs List for the Ministry of Health, Tonga, 2007*. HPV vaccination coverage is, however, a highlevel KPI (3.11) in the *MOH Corporate Plan and Budget 2019/2020 – 2021/2022*. Establishment of a routine cervical screening program (and screening of women 20-64 years) and reduction of cervical cancer by 5 per cent, are key performance indicators (against strategy 1.1.2 'to improve, strengthen and sustain evidence based clinical management of women after their reproductive age') in the *National Health Strategic Plan 2015-2020*. In contrast to the Corporate Plan, HPV vaccination is not addressed in the *National Health Strategic Plan 2015-2020*.

4.3.4. Sexual health education

At the 2006 Pacific Forum, Education Ministers of 14 Pacific island countries endorsed the integration of Family Life Education (FLE) into formal national curriculums. However, a 2015 UN multi agency report found that in Tonga there was no national curriculum at primary school level for comprehensive sexuality or family life education, that there is only limited comprehensive sexuality education (CSE) in the secondary system, and no teacher training (UNFPA et al., 2015, p. 68). Reports suggest young people's access to any form of information or education about sexuality and sexual health is limited and primarily through outofschool programs (Linhart et al. 2020; UNFPA, 2015; UNFPA & IPPF, 2021). It is important to note that the majority of secondary school students are enrolled through church-based or privately-run secondary schools (UNICEF 2017, p.58).

The *Tonga National Youth Policy and Strategic Plan of Action 2021-2025* includes the Key Output 1.4: 'Encourage and promote life skills and capabilities programs for youth' with action 1.4.5 being to 'support the ongoing review of the education curriculum with particular attention on how life skills and capabilities topics are taught and make appropriate recommendations. Also support the Tonga Family Life Education'. However, mechanisms for the Youth Development Division (Ministry of Internal Affairs) to support FLE are unclear. The *Tonga National Health Strategic Plan 2015 – 2020* does not mention FLE or CSE. The Ministry of Health Corporate Plan 2019/20 – 2021/22 suggests that the ministry with responsibility for Tonga Family Life Education is the Ministry of Education and Training (p.11) but does not otherwise address the issue.

The *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)* refers to the need to offer school-based and teacher-facilitated information for different age groups, with objective 2.9 (p.42) being that 'by 2018, young people are empowered with age and sex appropriate life skillsbased education and information'. The indicator for this objective is the proportion of targeted schools that have rolled out FLE. Activities against this objective include revising the FLE curriculum; providing on-going capacity building for FLE teachers; developing an implementation plan to scale-up FLE to all schools; incorporating FLE into pre-service teacher education in teacher training institutions; and developing and providing teaching/learning resource materials. However, the curriculum was not sighted during this review and no detail was found in relation to its content.

The Women's Affairs Division (Ministry of Internal Affairs) commits to supporting support FLE as well, with Key Action 2.1.2 of the *National Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025* being to 'Support the ongoing review of the education curriculum in order to integrate into it gender equality, children's rights and the Tonga Family Life Education curriculum developed by UNFPA', and Key Action 2.3.1 being to 'support delivery of Family Life Education in schools, grounded in the global evidence-informed technical guidance, which includes strong focus on gender, GBV, relationships, values, rights and culture, both as a standalone and as infused topics across other areas of the curricula related to SRHR'.

The Ministry of Health and the Ministry of Internal Affairs (Women's Affairs Division and Youth Development Division) have, through these plans, committed to supporting implementation of FLE. However, national policies do not clarify coordination mechanisms between the Ministry of Health, the Ministry of Internal Affairs, and the Ministry of Education and Training, which is particularly important given that the *Education Act (2020 revised edition)* states that curriculum development is the responsibility of the Curriculum Development Unit (Part XI of the Act).

The *Tonga Education Policy Framework 2004-2019* does not address CSE or FLE. The Ministry of Education & Training *Corporate Plan 2019/2020 – 2021/2022* mentions the need to include 'life choices and skills' in the curricula (p.25) and has an attached key performance area for this (p.69) but does not specify inclusion of FLE or CSE. It would appear clarifying responsibilities and coordinating policy on CSE (or FLE) is an urgent priority in Tonga.

4.3.5. Menstrual health and hygiene

Very little has been written about menstrual health and hygiene in Tonga, with agencies noting this as a particular information gap (see for example, UNICEF, 2017). Given the highlevel of girls' enrolment through secondary school and relatively strong educational outcomes, it is unclear whether barriers to maintaining menstrual health and hygiene undermine access to education for Tongan girls, as they do in many other countries. Nonetheless, access to water, sanitation and hygiene for menstruating girls, including girls with disability, is an area unaddressed in national policy and legislation. A recent report highlighted the need for a particular focus on access to menstrual hygiene commodities for women and girls, and especially female health workers, during the current COVID-19 pandemic, which has disrupted supply chains across the Pacific (Damon et al., 2020). The Minimum Initial Service Package for SRH in emergencies requires provision of dignity kits including sanitary supplies for managing menstruation, of particular importance in disaster prone Tonga (Beek et al., 2021). There is very little written about menstrual health more broadly than hygiene (e.g. inclusive of wellbeing) in Tonga.

4.4. Intersection of maternal and reproductive health issues with policy and legislation

4.4.1. Antenatal and maternal health care

Estimates of maternal mortality in Tonga vary widely. In 2015, Tonga was assessed as having achieved Millennium Development Goal 5, having reduced the maternal mortality ratio to 37 per 100,000 live births (UNFPA, 2015). However, the World Bank estimated the MMR at this same time to be 54, and UNICEF reported the MMR for the same year was considerably higher at 124 maternal deaths per 1000,000 live births in 2015, well below the SDG target (UNICEF, 2017). As recognised in the the *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)*, and as in other countries with small populations, the maternal mortality ratio in Tonga is highly susceptible to change based on a small variation in the number of actual deaths. Despite this, MMR has been retained as an indicator in the *MOH Corporate Plan 2019-20 – 2021-22*.

Other indicators in relation to maternal health are relatively positive for Tonga. The 2019 MICS found that all pregnant women had received 1-3 antenatal visits, with 97.5 per cent receiving four or more visits. The MICS also reported that a very high proportion (97.6 per cent) of Tongan women deliver in a health facility (Tonga Statistics Department, 2020). While the vast majority of Tongan women received a health check following birth while in a health facility or at home (93.5 per cent), 51.9 per cent of women did not receive a separate post-natal care visit.

Antenatal and postnatal care for uncomplicated cases are expected to be available at all three levels of the Tongan health system (the reproductive and child health clinics/nursing stations, the health centres, and the hospitals). Health centres are expected to be able to provide for low-risk birthing, with hospitals managing all other birthing and postnatal services and providing comprehensive emergency obstetric and newborn care. The *Health Facility Readiness and Service Availability Assessment* found that in practice, many women are referred from the clinic/nursing station level to health centres for antenatal care, and that antenatal care services were only consistently available at the secondary level (UNFPA, 2019a). This is, in part, due to a shortage of trained midwives. The quality of antenatal care services provided varied across the facilities visited, with antenatal counselling generally quite comprehensive, but routines services and screening less consistently provided or available. Postnatal care services were more widely available and assessed as generally being comprehensive.

Legislation does not specifically guarantee access to maternity care in Tonga. However, section 4 *Health Services Act* (2020 revised edition) notes that ‘the functions of the Minister of Health shall be a) to preserve and protect the public health of Tonga; b) to establish and maintain a service, available to all, to promote the physical and mental health and wellbeing of the populace; and c) to provide and maintain comprehensive hospital and community health services with facilities for the investigation, diagnosis, treatment, rehabilitation from, and prevention of, disease and ill-health’. In addition, section 10(b) of the Act notes that the Minister is empowered to provide personal health services including maternal and child health and welfare, immunization and community nursing (amongst other services), according to the needs of the people of Tonga. There are no legislative restrictions on access the maternity care based on age, marital status, or third party authorisation.

As illustrated in section 4.2, antenatal and maternal health is a policy priority in Tonga. The first Key Result Area of the *National Health Strategic Plan 2015-2020* is 1.1 Maternal and Child Health Services, with the plan outlining relevant targets including to improve antenatal care, to reduce unbooked pregnancies, to reduce home deliveries, to increase the family planning coverage rate, to improve family planning methods available, to have evidence based standardised treatment guidelines, and to carry out audits and write research

proposals. The *MOH Corporate Plan 2019-2020 – 2021/22* includes a number of outputs specifically relevant to maternal health, under objective 2.15 Reproductive Health. The *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)* includes the focus area 2a. Maternal and Neonatal Health that specifies the following policy aims:

- Ensure every pregnant women is provided with quality antenatal care
- Ensure every woman has skilled professional at delivery
- Provide access to basic and comprehensive emergency obstetric care
- Facilitate access and availability of effective neonatal care and post-natal care (pp39-40).

The *Standard Treatment Guidelines and Essential Drugs List for the Ministry of Health, Tonga, 2007* includes lifesaving commodities relevant to maternal health, though it does not specifically include zinc on the essential drugs list. The *Health Facility Readiness and Service Availability Assessment* (UNFPA, 2019a) found that overall availability of key drugs for key maternal and neonatal care was limited in facilities visited. The *Health Facility Readiness and Service Availability Assessment* also reported that though most providers described practices consistent with the active management of the third stage of labour and appropriate post birth care for mother and newborns, the inconsistent availability of medicines and equipment for safe delivery meant that none of the facilities visited were rated as being 'ready to provide delivery services'. While it is intended that all four hospitals in Tonga are able to provide comprehensive emergency obstetric and newborn care, the absence of medicines and equipment at the time of assessment meant that none of the facilities met the required benchmarks (UNFPA, 2019a).

4.4.2. Parental leave

The *Public Service Act* (2020 revised edition) stipulates that the Public Service Commission publish a Public Service Policy Manual. The *Public Service Policy Manual* (2020 revised edition) entitles employees to three months (calendar days) of maternity leave. This applies to employees in the public service only, with employees in the private sector subject to company specific policy, which often does not provide for maternity leave. For women employed in the private sector, lack of key maternity leave is a barrier to maintaining employment after becoming a parent. The *Public Service Policy Manual* (2020 revised edition) also entitles employees to five days of paternity leave. Paternity leave is rarely available in the private sector.

4.4.3. Abortion

Abortion is illegal under sections 103-105 of the *Criminal Offences Act* (2020 revised edition). The Act does not provide for any circumstances in which abortion is permitted. Nonetheless, under general criminal law principles of necessity, an abortion can be legally performed to save the life of a pregnant woman (Murgatroyd, 2000). Assisting a woman to terminate a pregnancy (s 103, Procuring miscarriage of woman or girl) renders a person liable to a prison term of up to seven years; supplying the means of miscarriage carries a punishment of imprisonment up to four years; and women or girls who undergo a termination (s 104, Woman or girl procuring her own miscarriage) are liable for three years imprisonment.

The *National Integrated Sexual and Reproductive Health Strategic Plan* (2014-2018) includes the strategy area 'making quality post abortion services more available and accessible. However, there is no indicator provided as stakeholder consultations suggested 'this potentially violates the Constitution of Tonga' (p.41). It should be noted that abortion is not in violation of the Constitution, but rather is addressed under the *Criminal Offences Act* (2020 revised edition), which does not address post abortion care. The only other reference to post abortion services in the *National Integrated Sexual and Reproductive Health Strategic Plan* (2014-2018) is in relation to the strategy area 'ensure the provision of family planning services together with post abortion and post-partum care'. Key activities include providing women who have undergone an abortion with

accurate information about contraception and access to the contraceptive method of their choice, but there are no activities relating to post abortion care itself. The *Health Facility Readiness and Service Availability Assessment* (UNFPA, 2019a) noted that post-miscarriage services (which would include post abortion services) are provided at very few facilities in Tonga (with only two of 31 facilities visit providing for removal of retained products of conception).

5 Gender-based violence in law and policy

This section of the report introduces the issue of gender-based violence in Tonga and its intersection with sexual and reproductive health, and then reviews key policies and legislation relevant to this intersection between SRH and GBV. This should not be seen as an all-encompassing review of policy and legislation relevant to GBV, as the report does not consider in depth issues such as access to justice, juvenile justice, sentencing and policing.

5.1. Background

In 2009 the National Study on Domestic Violence Against Women in Tonga was conducted by Tongan NGO Ma'a Fafine mo e Famili, with the support of international researchers and funding from the Australian government (Jansen et al., 2012). This standalone national prevalence study found that Tongan women reported high levels of violence: 40 per cent of Tongan women reported physical and/or sexual violence from a current or former partner at least once in her life, and 19 per cent of women reported experiencing physical and/or sexual violence in the 12 months prior to interview (current violence). In addition, 77 per cent of women reported that they had experienced physical and/or violence by someone other than a partner since they were 15 years old; this violence was most often physical and most often perpetrated by fathers and teachers (Jansen et al., 2012). In both this study, and the more recent domestic violence module used in the 2019 MICS, younger women aged 20-24 years, followed by those 25-29 years reported the highest levels of violence of any age cohort (Tonga Statistics Department, 2020).

Please note that variations in the questionnaire, sampling, interviewer recruitment and training, and in the approach taken to review and monitor domestic violence data collection, were significantly different between the 2009 and the 2019 studies; and are likely to have contributed to different rates of disclosure of violence. This makes it difficult to compare actual prevalence rates reported in the two pieces of research.

However, both the 2009 study and the 2019 MICS, found a high proportion of women reported acts of controlling behaviour by their partner at some point in the lifetime (Jansen et al., 2012; Tonga Statistics Department, 2020). Controlling behaviours measured included partners attempting to restrict a woman's contact with family or friends; insisting on knowing where she is at all times; ignoring her or treating her indifferently; controlling her access to health care; being constantly suspicious of infidelity; and getting angry if she speaks to other men. The very high prevalence of controlling behaviour reported suggests that these behaviours are a normalised part of women's experience of intimate relationships in Tonga. The 2019 MICS found that over 38 per cent of Tonga women believed a husband was justified in beating his wife in various circumstances (such as if she goes out without telling him, or neglects the children) (Tonga Statistics Department, 2020).

There are a limited number of formal services supporting women and girls experiencing violence in Tonga. The Women and Children's Crisis Centre (WCCC) provide survivor-centred response activities, and run the only refuge in Tonga, but also work to eliminate violence against women and children through a range of prevention initiatives. Since the *Family Protection Act* (2020 revised edition) was passed in 2013, there have

been efforts made to strengthen the referral system between WCCC and a range of government ministries, including the Ministry of Health. A recent evaluation of WCCC’s work found there had been considerable progress in developing robust relationships of influence with the police and Ministry of Justice, but that there remained clear scope to bolster the relationship between WCCC and the Ministry of Health (Winterford, Ma’u & Leahy, 2019). The Tonga National Centre for Women and Children also provide services to women experiencing violence through counselling and a focus on economic empowerment. Ma’a Fafine Moe Famili also provide counselling services.

The data available reinforce that preventing and responding to gender-based violence (that is violence that is enacted on the basis of gender, most commonly men’s violence against women) is an urgent priority for Tonga, with current policy and legislation reflecting this need.

5.2. Domestic legislation relevant to GBV

While the *Constitution of Tonga* (2020 revised edition) includes a declaration of freedom (Section 1), there is no specification or inclusion of the right to live free from violence. No other element of the Constitution specifically focuses on safety or has direct relevance to gender-based violence.

The unique Tongan legal framework, in which traditional legal mechanisms are incorporated alongside imported law based on the British system, has demonstrated responsiveness to changing community awareness and standards in relation to violence against women. While in the past the ‘Tongan apology’ may have been seen an appropriate legal response to domestic violence, the ‘No Drop’ policy adopted by the state (which means that when a complaint of domestic violence is made to the police, prosecutions must proceed to the Magistrates court) is recognition of the inadequacy of apology and forgiveness as legal remedy for domestic violence. In addition to the No Drop policy, section 28(3) *Family Protection Act* (2020 revised edition) provides that ‘it is not a defense to a domestic violence offence that the respondent has paid compensation or reparation to the complainant or the complainant’s family’. This is an important illustration of the Tongan legal system’s ability to respond to new evidence (in this case, findings from the first national study showing the high prevalence of violence against women (Jansen et al., 2012)), and to pass new laws (the *Family Protection Act* in 2013).

In addition to the *Family Protection Act* (2020 revised edition), a range of laws are relevant to the intersection of GBV and SRHR in Tonga, with those specifically considered during this review shown in Table 7 and discussed below. A draft law is also briefly discussed, given its relevance to a form of violence against women (workplace sexual harassment) not considered in other legislation in Tonga.

Table 7: Legislation relevant to the intersection of GBV and SRHR in Tonga

Relevant domestic legislation	Year legislation first passed
<i>Criminal Offences Act</i> (2020 revised edition)	1924 (with multiple amendments and revised editions since)
<i>Evidence Act</i> (2020 revised edition)	1924 (with multiple amendments and revised editions since)
<i>Family Protection Act</i> (2020 revised edition)	2013
<i>Counter Terrorism and Transnational Organised Crime Act</i> (2020 revised edition)	2013
<i>Electronic Communication Abuse Offences 2020</i>	2020
<i>Employment Relations Bill</i> (2020)*	Not yet passed

*Bills refer to proposed legislation not yet passed by the parliament, and which may be subject to considerable review or be rejected.

5.2.1. Criminal Offences Act (2020 revised edition)

The *Criminal Offences Act* (2020 revised edition) outlines a range of offences relevant to the intersection of SRHR and GBV. Section 118 of the Act defines the offence of rape, but only as a crime only against women, with section 118(1) defining rape as ‘carnally knowing’ a female against her will (and in a range of circumstances where consent is not possible). Section 118(2) refers to rape as sexual intercourse. However, it is unclear whether carnal knowledge and/or sexual intercourse here only refer to penile-vaginal penetration, or whether the legislation would be interpreted to include other acts. Section 119 enables the presiding Judge or Magistrate to order restriction of publication of the complainant’s identity and evidence in a rape case (as defined in s 118), at the complainant’s request. Section 120 criminalises attempted rape.

While spousal or marital rape is not specifically addressed in the Act, it should be noted that Act 9 of 1987 to amend the *Criminal Offences Act* inserted Section 118(2): ‘Sexual intercourse by a man with his wife shall not be deemed rape unless consent to such sexual intercourse has been withdrawn through process of law’. Act 17 of 1999 to amend the *Criminal Offences Act* deleted this insertion.

Sections 121-122 of the Act outline the offence of carnal knowledge of a young people (under the age of 15 years), or the attempt. Section 124 criminalises indecent assault; however, the acts or behaviours that would specifically constitute indecent assault are not defined in the legislation. Section 125 criminalises indecent assault on a child.

Section 136 of the Act criminalises sodomy, which gives legal redress to a man subject to sexual violence, though it also criminalises consensual sex between men. Section 137 criminalises assault with intent to commit sodomy.

There is no specific definition of consent in the Act, though section 118 outlines a number of circumstances in which a woman cannot consent to sexual intercourse. The Act confirms that children under 15 years cannot provide consent to sexual intercourse, and that belief as to age is not defence (s 123).

Sections 85-88 define the offences of murder and manslaughter, with Section 88(a) noting that a person will be deemed guilty of manslaughter and not of murder if he was deprived of the power of self-control by extreme provocation. Section 89 defines extreme provocation. It should be noted that provocation is a doctrine that has historically been relied upon by male perpetrators of violence to limit their criminal responsibility for killing their partners.

Other acts that may involve gender-based violence or harmful practices against women and girls, which are criminalised under the *Criminal Offences Act* (2020 revised edition) include but are not limited to grievous bodily harm (s 106); bodily harm (s 107); attempt to intimidate (s 108); common assault (s 112); unlawful imprisonment (s 114); cruelty to children and young persons (s 115); abduction of women and girls (s 128-129), incest (ss 132-133); keeping a brothel (s 80); trading in prostitution (s 81).

5.2.2. Evidence Act (2020 revised edition)

Section 11(2) *Evidence Act* (2020 revised edition) does not prohibit corroboration in sexual offences, but does not require it either, stating that ‘Where any person is tried for any sexual offence under sections 118 to 137 of the *Criminal Offences Act* or for any other offence of a sexual nature, no corroboration of a complainant’s evidence shall be necessary for the accused to be convicted, and in any such case the Judge shall not be required to give any warning to the jury relating to the absence of corroboration’. Section 33(1) of the Act also states that ‘no evidence and no question in cross-examination shall be adduced or asked at the trial, by or on behalf of any defendant at the trial, about any sexual experience of a complainant with a person other than that defendant’.

5.2.3. Family Protection Act (2020 revised edition)

Following documentation of the high levels of violence reported by the Tongan women in the *2009 National Study on Domestic Violence Against Women in Tonga*, the Prime Minister called for recognition of violence against women as a crime. Subsequently, the landmark *Family Protection Act (2020 revised edition)* was passed in 2013.

As outlined in section 3, the objects of this Act are to – (a) ensure the safety and protection of all persons, including children, who experience or witness domestic violence; (b) provide support and redress for all victims of domestic violence and economic abuse; (c) implement programmes for victims of domestic violence to assist their recovery to lead a safe and healthy life; (d) facilitate the making and enforcement of court orders and Police Safety Orders issued to stop acts of domestic violence.

Section 4 of the Act states that a person (the “perpetrator”) causes domestic violence to another person (the “victim”) if – (a) the perpetrator and the victim are in a domestic relationship; and (b) beyond the reasonable expectations and acceptances of family and domestic life, an act or omission or threat thereof by the perpetrator – (i) causes physical abuse, sexual abuse, or mental abuse to the victim or other person at risk; or (ii) otherwise harms or endangers the health, safety or well-being of the victim or other person at risk. It should be noted that this definition of domestic violence explicitly limits the legal protection and justice available to victims through the caveat around ‘reasonable expectations and acceptances of family and domestic life’ (Law Council of Australia, 2020).

The Act defines physical, mental, sexual and economic abuse. The definition of sexual abuse is inclusive of ‘any conduct of a sexual nature without consent that abuses, humiliates, degrades or otherwise violates the dignity of a person’, noting that this is broader than the definition of rape in the *Criminal Offences Act (2020 revised edition)*. Note that while economic abuse is comprehensively defined in the Act (see s 2(1), page 8), it is held separate and distinct from domestic violence, with the Act referring to domestic violence and/or economic abuse throughout.

The definition of domestic relationship in section 5 *Family Protection Act (2020 revised edition)* is inclusive of spouses, unmarried partners, people with joint parental responsibilities, family members, persons in an actual or perceived intimate relationship (regardless of whether they have lived together), people living in the same household, and persons giving or receiving care. The language used to define domestic relationship is gender neutral, and so would cover same sex relationships.

Domestic violence is a crime in Tonga, with section 28 of the Act specifying that ‘a person who a) commits domestic violence; b) breaches a protection order, c); fails to comply with a Police Safety Order; or d) threatens, intimidates or assaults a health practitioner or social service provider who is acting in pursuance of a duty of care under section 27 of this Act, commits a domestic violence offence’.

Importantly, section 27 *Family Protection Act (2020 revised edition)* legislates that health practitioners and social service providers have a duty of care to examine and refer to counselling or appropriate medical treatment someone who has experienced, or is at risk of, domestic violence; and to advise the person about filing a complaint. Section 27(3) specifically states that a ‘health practitioner shall examine the complainant or person at risk and, applying the protocol established by the Ministry of Health providing for professional standards and confidential treatment, further advise the victim of support options and medical treatment available’. While SRH services are not explicitly mentioned in the legislation, they would constitute part of ‘appropriate medical treatment’ for someone who had experienced GBV.

5.2.4. Counter Terrorism and Transnational Organised Crime Act (2020 revised edition)

Section 68 *Counter Terrorism and Transnational Organised Crime Act* (2020 revised edition) outlines the offence of trafficking in persons, with section 69 outlining the offence of trafficking in children. The Act also prohibits many of the specific actions women who are trafficked for sex work often experience, such as removal of travel documents, and being prevented from accessing a telephone or leaving the premises.

5.2.5. Electronic Communication Abuse Offences Act (2020)

The recent *Electronic Communication Abuse Offences Act 2020* defines offences relevant to the use of technology to facilitate abuse of women, in particular through section 4: Using a service to abuse and cause harm by posting an electronic communication, and section 5: Using a service to bully, menace, harass or cause harm. The Act defines 'posting an electronic communication' as including (but not limited to) dissemination in any form of an intimate visual recording (which includes photographs or videos). The Act will enable women to bring complaints for acts such as revenge porn and harassment via text message, email and in other electronic forms.

5.2.6. Employment Relations Bill

This Bill was introduced in 2020, and outlines what would be considered workplace sexual harassment under the proposed law. The Bill notes that sexual harassment has a detrimental effect on an employee's employment, job performance, or job satisfaction. Section 71(2) states that a complainant's previous sexual experience or reputation must not be taken into account by the employer or the Court. Section 72 clarifies employer liability for sexual harassment in certain circumstances, and section 73 outlines the duty of an employer to develop and implement a policy to prevent sexual harassment in the workplace. Section 73(2) states that 'the Minister shall direct the development of a National Code of Practice for eliminating sexual harassment in the work place and a model policy applicable to work places'. Section 88(4) notes that a complainant in a sexual harassment dispute is not required to attempt dispute resolution but may directly seek mediation services from the Mediation Unit proposed in the Bill. This would be the first legislative response specifically to the issue of sexual harassment in Tonga.

5.3. Domestic policy relevant to GBV

In addition to legislation, the national priority afforded GBV is evident in the mention of the issue in the *Tonga Strategic Development Framework 2015-2025*. In the narrative under Organisational Outcome 2.3, this overarching national plan notes that realising the outcome of 'More appropriate social and cultural practices' will require 'addressing unacceptable behaviours such as violence towards women, children and others. This is an area where inclusive and participatory discussion and consultation is essential as it touches at the very foundation of our self-awareness as a people' (p.67).

There is, however, no stand-alone national action plan or strategy on GBV. This section discusses other policies that address GBV and are relevant to the intersection of GBV and SRHR.

Table 8: Key policies relating to the intersection of GBV and SRHR

Lead ministry	Title of policy
Ministry of Internal Affairs	Ministry of Internal Affairs Corporate Plan and Budget 2019/2020 – 2021/2022
Ministry of Internal Affairs Women's Affairs and Gender Equality Division	National Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025
Youth Development Division	Tonga National Service Delivery Protocol for Responding to Cases of Gender-Based Violence (March 2021)
	Tonga National Youth Policy and Strategic Plan of Action 2021-2025
Ministry of Health	MOH Corporate Plan 2019/2020-202/2022
	National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)

5.3.1. Ministry of Internal Affairs Corporate Plan and Budget 2019/2020 – 2021/2022

This overarching plan for the Ministry of Internal Affairs prioritises the activities of, and allocates budget for, the Women's Affairs and Gender Equality Division ongoing work to prevent and respond to GBV. The Plan emphasises that the work of Women's Affairs must be to address domestic violence as an issue that families (not just women) face, and that Women's Affairs' activities will benefit the 'family' as a whole rather than just women. It is unclear the degree to which the gendered drivers of domestic violence and GBV more broadly are recognised across the Ministry. The key relevant activity included in the Plan's budget is awareness-raising in the community in relation to the *Family Protection Act* (2020 revised edition), with a focus on young people.

5.3.2. National Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025

Violence is covered in the *National Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025* under Outcome 2: 'Families and communities prosper from gender equality', specifically Output 2.2 'Measures are in place to eliminate domestic violence and provide services to the victims'. Activities outlined under this output include development of a national prevention strategy and action framework with a specific emphasis on engaging faith denominations; supporting community mobilization prevention programmes and promoting the concept of families free from violence; supporting mobilization of community groups and male advocates to support victims and to advocate for offenders to be held accountable; working with youth sports groups to challenge gender norms; to raise awareness of the *Family Protection Act*; to support development of a national service delivery protocol; to develop and implement minimum standards for counselling and maintain the helpline; strengthen the response in the health system; map gaps in policy and legislation; and to train police and court officers on a survivorcentred approach.

5.3.3. Tonga National Service Delivery Protocol for Responding to Cases of Gender-Based Violence (March 2021)

The *Tonga National Service Delivery Protocol for Responding to Cases of Gender-Based Violence (March 2021)* outlines standard operating procedures for interagency response among social services, police, health and legal/justice providers. It provides definitions, guiding principles and minimum standards for all government and non-government organisations involved in responding to cases of GBV. The protocol outlines the need for confidentiality and procedures for information sharing, as well as clarifying that victims' informed consent must be central to all actions taken by service providers (including for police, who must explain their 'No Drop' policy in relation to filed complaints). Processes for making referrals are documented, with specific detail of coordinating referral services for all the island groups outlined.

Section 7.2 of the protocol draws on the *Family Protection Act (2020 revised edition)* to outline the specific role of health and social services, noting that health workers have a duty of care to provide survivors of GBV confidential and professional care, treatment and referral as required. It details processes for interview, forensic examination, documenting clinical assessment and management, and for liaison with police and counselling services. While the protocol clarifies responsibilities for health workers treating survivors, it does note that health centres outside Tongatapu may not have comprehensive care for sexual assault available. It should be noted that the *Health Facility Readiness and Service Availability Assessment (UNFPA, 2019a)* found that comprehensive care and response was available at few health facilities visited. While the majority of health facilities could provide women who had experienced sexual violence with emergency contraceptives, physical trauma assessment and psychological first aid, few were able to conduct forensic evidence collection, or provide STI treatment, appropriate vaccination or post exposure prophylaxis. When assessed across the features of a comprehensive response, none of the facilities visited were assessed as GBV service ready.

Minimum Health Standard Operating Procedures for Clinical Management of Rape, Sexual Violence and Gender-Based Violence were being finalised at the time of this review, and will support the National Service Delivery Protocol.

5.3.4. Tonga National Youth Policy and Strategic Plan of Action 2021-2025

The National Youth Policy recognises particular impacts of GBV on young Tongan women, and that GBV undermines the Policy Outcome: Social Protection and Accountability for Youth. Key output 4.1 of this plan is 'Measures are in place to eliminate GBV and user-friendly social services are in place for youth victims / survivors'. Actions listed towards achieving this output include:

- 4.1.1 Improve the general public and youth's awareness of gender-based violence, harm and broader implications and human rights and obligations
- 4.1.2 Enforce the law to bring justice to victims of violence and hold perpetrators accountable.
- 4.1.3 Support the sensitization and education of legal enforcement entities on violence and establish strategies to protect victims of violence and re-educate perpetrators.
- 4.1.4 Improve and strengthen programs, services and support for the perpetrators
- 4.1.5 Build and strengthen capacities of those who are working in youth programs and services on genderbased violence and human rights
- 4.1.6 Integrate and improve adolescents and youth awareness regarding their obligation and rights for their own protection, safety, growth and the safety of others.

5.3.5. MOH Corporate Plan 2019 / 2020-2021 /2022

While GBV is not addressed in the National Health Strategic Plan, it is mentioned in the Ministry of Health Corporate Plan. Output 2.15(f) is 'developing and strengthening inclusive gender-based initiatives and services addressing GBV and violence against women and girls and disability'. Activities listed in relation to this output include assessing the health response to GBV; adapting and disseminating a training package for pre and inservice training of health workers; carrying out awareness raising activities; developing a comprehensive GBV training program for in service training for all staff involved in the care of victims of GBV, including training on the forensic role of health workers; development and implementation of an advocacy plan.

5.3.6. National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)

There is considerable focus on the health sector's role in preventing and responding to GBV in this plan. Focus area 2e: Health Sector Management of GBV outlines the plan's aspirations in the policy statement 'the health sector in Tonga trained to a high technical level, with appropriate sensitivity, to deal with GBV injuries sustained by women and girls and to advocate for the elimination of GBV from the community and society in general'. In order to achieve this, the plan outlines a number of strategy areas:

- ensure a core of hospital and clinic staffs receive equality training and up skilling, including in gender mainstreaming, to provide sensitive care of the women and girl victims of GBV.
- health professionals to provide highlevel advocacy in support of counterparts in the legal, police and gender areas carry out their work to provide suitable legal remedies and also legal redress for the victims of GBV.
- conduct community and schoolbased talks/question and answer sessions on GBV and on its detrimental social, cultural, personal and health effects.

The Plan also outlines strategies to engage with men as advocates in relation to gender equity and GBV.

6 Law and policy in relation to key populations

6.1. Adolescents and youth

Given that more than half the population of Tonga is less than 25 years of age, it is vital that policy and legislation in relation to SRHR and GBV addresses the needs of young people.

Education is compulsory in Tonga up until and including 18 years, and literacy rates are high. There is enormous potential to reach young people in Tonga with comprehensive sexuality education (CSE) through the school system. However, there remain substantial gaps in policy and legislative provisions for CSE, or what is more commonly referred to in the Pacific as family life education (FLE). The Ministry of Health and the Ministry of Internal Affairs (through both the Women's Affairs Division and the Youth Development Division) have committed to supporting the implementation of FLE through the *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)*, the *National Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025*, and the *Tonga National Youth Policy & Strategic Plan of Action 2021-2025*. However, the law, through Part XI *Education Act (2020 revised edition)* specifies that curriculum development is the responsibility of the Ministry of Education & Training's Curriculum Development Unit, and the *Tonga Education Policy Framework 2004-2019* does not address CSE or FLE. The Ministry of Education & Training *Corporate Plan 2019/2020 – 2021/2022* also does not outline activities specific to CSE or FLE. Recent research suggests that adolescents and young people in Tonga have very limited awareness in relation to SRHR, with participants suggesting that their main source of SRH information was Facebook and YouTube (Linhart et al., 2020). This aligns with findings from the recent MICS in Tonga, which showed that less than five per cent of Tongans under the age of 20 years had comprehensive knowledge about HIV (Tonga Statistics Department, 2020). It should be noted that the *Education Act (2020 revised edition)* does not prohibit expulsion from school due to pregnancy or parenthood, and this is not addressed in the *Tonga Education Policy Framework 2004-2019* despite accounts that the practice occurs.

The age of consent in Tonga is 15 years, though there is no legislated minimum age at which a person can consent to same-sex sexual activity. Same-sex sexual activity between males is a crime under the *Criminal Offences Act (2020 revised edition)*, regardless of age or consent. The law does not address same-sex sexual activity between women.

The *Births, Deaths and Marriages Registration Act (2020 revised edition)* section 6 allows for marriage of persons aged under 18 years, but 15 years or older, with written consent of his or her guardian. It is estimated that approximately 50 child marriages take place each year in Tonga (Tonga Broadcasting Corporation, 2017; Griffith, 2017). The *Adultery and Fornication Act (2020 revised edition)* states that 'whoever shall commit adultery or fornication with any unmarried woman under the age of 18 years shall be liable on conviction to a fine not exceeding \$1000 and in default of payment to a period of imprisonment not exceeding 12 months'. Proceedings with respect of this offence shall be taken by the parent or guardian of the unmarried woman, with nine-tenths of the fine to be paid to the complainant. Such a law would enable parents or guardians of a young woman involved in consensual, legal sexual activity (i.e. from the age of 15 years), to bring proceedings against her sexual partner even if this was against the young woman's wishes. It is unclear

whether this law has been made invalid through non-use, though it is included in the current revised edition of the laws of Tonga.

The SRHR of adolescents and young people is a focus of the *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)*, through Focus Area 2c: Adolescent sexual and reproductive health (ASRH), and the related strategy areas – Strategy Area 1: Development of a formal youth-friendly ASRH education programme that offers school-based and teacher-facilitated information for different age groups, including younger adolescents and the most at risk young people; Strategy Area 2: Development of a non-formal youth-friendly peer education programme that offers gender-sensitive and life skillsbased ASRH information in a non-formal setting, that targets most at risk young people both in school and out of school; and Strategy Area 3: Maintain current interventions in relation to youth-friendly services that address the needs of young people. In addition, Focus Area 1: Prevention, and the related Strategy Area 1d: Abstinence focused interventions, focuses on young people. The efficacy of abstinence for prevention of HIV, STIs and unplanned pregnancy, and the gendered power young people have to enact a prevention strategy focused on abstinence, is not addressed in the Plan.

Findings from the 2019 MICS confirm that an ongoing policy focus on young people's SRHR is desperately needed:

- 0.8 per cent of sexually active adolescent women (15-19 years) were using a modern method of contraception
- 7.1 per cent of young women aged 20-24 years were using a modern method of contraception
- 10.8 per cent of women aged 15-19, who had ever had sexual intercourse, reported having had an STI or symptoms of an STI in the last 12 months
- Of those young women with STI symptoms, less than half had sought treatment.

(Tonga Statistics Department, 2020)

However, the *National Health Strategic Plan 2015-2020*, while having 'Adolescence and Adult Health Services' as a sub-theme, does not specifically outline activities or strategies to strengthen adolescent health services.

The *Family Protection Act (2020 revised edition)* does not specifically address the needs of adolescents and young people in relation to GBV prevention and response. However, the Act is inclusive of violence enacted in dating situations or parental and sibling violence, thereby covering the violence experienced by many young people. The 2019 MICS found that the group of women reporting the highest level of partner violence were young women aged 20-24 years (Tonga Statistics Department, 2020). In addition, the survey found 86.6 per cent of Tongan children 14 years and under reported having experienced a violent method or discipline, with 23.2 per cent reporting experiencing severe physical violence as punishment. Therefore, the Act's definition of domestic violence under section 4(b) being acts 'beyond the reasonable expectations and acceptances of family and domestic life' may significantly undermine protections for young people in a context where violent discipline is so normalised.

The *Tonga National Youth Policy & Strategic Plan of Action 2021-2025* includes a focus on GBV through Key outcome 4.1 which is that 'Measures are in place to eliminate genderbased violence and userfriendly social services are in place for youth victims / survivors'. However, there is little detail provided in this plan about actual activities that will be implemented or could be monitored. Young people, and girls specifically, are mentioned in the *National Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025* including through Key Action 2.2.6 'Continue to raise awareness and support implementation of the *Family Protection Act (2020 revised edition)*, in particular as it pertains to the prevention and response components of the Act, to challenging misconceptions about the Act, and to include young people in its implementation'. However, the specific risks that young people face in relation to GBV, and the fact that they may need specifically tailored and resourced prevention and response strategies, is not addressed in the policy.

The *Family Protection Act* (2020 revised edition) specifies that health practitioners and social service providers have a duty of care and response to reports of domestic violence. This includes under section 17(1b) that the service provider refer any child victim for counselling or medical treatment and file a report with the police on their behalf. However, the Act provides limited further guidance on specific approaches and responses to supporting adolescents and young people in relation to GBV.

As a party to the *Convention on the Rights of the Child*, Tonga is required to ensure all children are protected from all forms of physical or mental violence, injury or abuse (Article 19); are protected from all forms of sexual exploitation and sexual abuse (Article 34); the right to not be subjected to torture or other cruel, inhuman or degrading treatment or punishment (Article 37); and to schools discipline that is administered in a manner consistent with the child's human dignity (Article 28). However, under Tongan law it is permitted to sentence young people to whipping and the death penalty, and Tonga has the lowest age of criminal responsibility in the world (seven years). As noted, marriage of children under 18 years is legal and allowed, in contravention of the convention. In their consideration of the initial report of Tonga on implementation of the *Convention on the Rights of the Child*, the Committee on the Rights of Child (2019) noted that violence against children was a most pressing issue requiring legal reform in Tonga.

6.2. People with disabilities

The Government of Tonga signed the *Convention on the Rights of Persons with Disabilities (CRPD)* in 2007 but has not yet ratified the convention. The focal point in government for issues relating to people with disability is the Social Protection and Vulnerable Division of the Ministry of Internal Affairs. Ratification of the CRPD is listed as a major project to be prioritised under the Ministry of Internal Affairs Corporate Plan and Budget 2019/2020 – 2021/2022.

While several documents included in this review cited the past *National Disability Inclusiveness Policy 2014-2018*, and others reference a *National Disability Inclusive Development Policy* as being in draft, these documents were unable to be retrieved for this review. It would appear that at the time of writing, Tonga does not currently have a stand-alone national disability policy or plan.

The *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)* identifies people with disability as a 'key population at higher risk', noting that people with disabilities may be subject to sexual abuse. Under the plan's Focus Area 4: Rights, Empowerment and Integrated Services for Key Populations, the plan outlines 4d. Protection of Children, Vulnerable and Marginalised Groups. Key activities listed here include conducting workshops for health care workers and implementing partners of [SRH] services for person with disabilities, with budget allocated to the Tonga National Disability Congress to strengthen the focus on disability in training for health care workers.

The *Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025* states that people with disabilities and vulnerable groups are integral to the five priority outcomes. This is reflected in Output 2.3 'Improve sexual and reproductive health rights including access to family planning', and particularly the key actions:

- 2.3.3 Review and report on social, cultural, religious and traditional norms and attitudes which prevent women's access to SRHR services, inclusive of those related to GBV incidence and care for persons with disabilities, to inform a *Behaviour Change Communication (BCC) Strategy*.
- 2.3.4 Conduct research in order to identify and analyse the socio-cultural context that contributes to adolescent pregnancy as well as the economic impacts of adolescent pregnancy. Drawing on this social norm research, develop and test information, education and communication (IEC) materials and

multi-media products specific to the Tongan context and targeted at groups including adolescents, youth, and persons with disabilities. Lobby to ban the discriminatory practice of expelling pregnant teenagers from school.

However, the *Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025* does not address the specific risks women and girls with disabilities face in relation to GBV, as have been documented in research undertaken in a number of Pacific countries including Tonga (Spratt, 2013).

6.3. LGBTIQ communities

People with diverse sexual orientations, gender identities and expressions face considerable barriers to SRHR and freedom from violence in many countries, Tonga included. These can include barriers exacerbated by policy and the law.

Consensual sex between men is illegal in Tonga through Section 136 *Criminal Offences Act* (2020 revised edition). This may make it more difficult for men in same sex relationships, men who have sex with men, or leitis (individuals assigned male at birth who have feminine gender expression) to access SRH services and information, and protection from GBV. The law is silent on the status of same sex relationships between women, or on the rights and protections owed to Tongan people who may identify as members of the LGBTIQ community. Section 81(5) *Criminal Offences Act* (2020 revised edition) criminalises a man wearing women's clothing or in any other way impersonating or representing himself to be a female. This is a further barrier to SRH and GBV services and protection, and was identified as a priority for reform by the Tonga Leitis Association during consultations.

Men who have sex with men and leitis are identified as key populations at risk of poor SRHR in the *Tonga National Integrated Sexual and Reproductive Health Strategic Plan* (2014-2018). The plan also acknowledges the weak focus on access to SRH services for leitis and transgender Tongans in the past (p.7). This plan lists objectives related to improving the services for, and rights and empowerment of, key populations including men who have sex with men and leitis. These include research, advocacy, targeted health education and interventions to increase access to SRH services, peer education, and interventions to eliminate stigma and discrimination. The plan also makes a number of references to the Tonga Leitis Association, recognising their importance as an implementation partner and the work that has been done by the Association to support leitis maintain their SRH – particularly the Association's facilitation of peer support meetings to encourage adherence to safe sexual practices including testing for HIV and other STIs. While there is inclusion of leitis reporting use of condoms during their most recent highrisk sex and participation of leitis in interventions aiming to eliminate stigma and discrimination as indicators in the Plan, there is little detail of how this will be achieved. The SRHR needs and experiences of other groups who may identify as members of LGBTIQ communities, such as lesbian women, are not addressed in the plan. For example, there is no reference to, or consideration of the specific health needs of transgender people who may wish to access hormonal treatment.

There is no reference to the need to ensure the safety of and prevent violence against Tongans with diverse sexual orientations and gender identities and expressions in any documents reviewed for this report. Lee (2017) concurs, stating that 'Leiti are vulnerable to gender violence but also have been largely excluded from the discussions of family violence in Tonga in recent years' (p. 80). There is a clear need to ensure that responses to GBV are inclusive of violence against members of LGBTIQ communities. However, there is little data on the violence experienced by people with diverse sexual orientations and gender identities and expressions in Tonga, and there is a need for further research in this area to inform interventions.

6.4. Sex workers

Despite perceptions reflected in many of the documents reviewed for this report, sex work itself is not illegal in Tonga. However, under Section 80 *Criminal Offences Act* (2020 revised edition) it is an offence to keep a brothel, with the offence extending to 'lewd homosexual practices' as well as lewd heterosexual practices (s 80(6)), and section 81 makes it an offence to trade in prostitution (that is, to live on the earnings of prostitution) or to solicit in public places. These offences may make it more difficult for sex workers to access SRH services and information, and protection from or responses to GBV (Nicholls et al. 2016).

There are no specific SRH programs for sex workers, however, the Tonga Family Health Association and Talitha Project provide SRH-related services to vulnerable women including sex workers.

The *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)* identifies sex workers (teniti fakafeangai) as a 'key population at higher risk' but notes that there is very limited evidence available to inform interventions with this group. The plan notes that both local and overseas-born women have been subject to sexual exploitation and forced sex work in Tonga. Beyond this, there is very little focus on sex workers in the plan – other than a comment against the aim that, but 2018, 60 per cent of the population that are sexually active have access to comprehensive HIV/STI counselling and testing services, presumably indicating that they are a priority population for this aim. Sex workers are referred to as 'hut dwellers' in this comment. While there is inclusion of sex workers reporting use of condoms during their most recent high-risk sex, as an indicator in the Plan, there is no detail of how this will be achieved.

Despite being a population that experiences a range of inequalities, including increased risk of GBV, there is no mention of sex workers at all in the *Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025*.

7 Humanitarian and disaster contexts

Tonga has been assessed as being the second most at risk country for disasters globally (World Risk Index 2020). Threats to people's lives and environment include increased heatwaves and drought, intensified tropical cyclones, saline intrusion, wave-driven flooding, and permanent inundation (World Bank, 2021). Tonga is also vulnerable to earthquake, landslides and tsunami, as well as the (particularly economic and social) impact of global events such as the COVID-19 pandemic.

In recent years, two major cyclone events (Tropic Cyclone (TC) Ian in 2014, and TC Gita in 2018) had considerable impact upon the people of Tonga. TC Gita in particular cause widespread damage, affecting an estimated 70 per cent of the population, destroying homes, water supply systems, farming land and livelihoods (Relief Web, 2021).

Tonga uses a cluster system to respond to disasters, based on the UN model, with ten clusters under the coordination of the National Emergency Management Office and led by the relevant line ministries, supported by the Pacific Humanitarian Team. The Safety and Protection Cluster is led by the Ministry of Internal Affairs, and the Health, Nutrition and WASH cluster is led by the Ministry of Health. Tonga is currently reviewing its disaster management legislation and policy, which represents an important opportunity to strengthen consideration of SRH and GBV in emergencies.

7.1. International frameworks, commitments and guidelines

Tonga is a signatory to a number of international treaties and agreements specific to climate change and disaster. International agreements to which Tonga is party include the Paris Agreement, which Tonga ratified in September 2016, and the *Sendai Framework for Disaster Risk Reduction*.

Recognising that SRH needs are often overlooked in crisis situations, with potentially life-threatening consequences, the international Inter-Agency Working Group for Reproductive Health in Crisis (IAWG) developed the *Minimum Initial Service Package (MISP) for Sexual and Reproductive Health in Crisis Situations*. The MISP is a series of crucial, lifesaving activities required to respond to the SRH needs of affected populations at the onset of a humanitarian crisis. UNFPA, in partnership with stakeholders, supports the implementation of the MISP to make sure that all affected populations have access to lifesaving SRH services. The key aims of the MISP are to ensure that there is no unmet need for family planning, no preventable maternal deaths and no GBV or harmful practices, even during humanitarian crises.

The six objectives of the MISP are to:

1. Ensure the Health Sector/Cluster identifies an organisation to lead implementation of the MISP.
2. Prevent sexual violence and respond to the needs of survivors.
3. Prevent the transmission of and reduce morbidity and mortality due to HIV and other STIs.
4. Prevent excess maternal and newborn morbidity and mortality.
5. Prevent unintended pregnancies.
6. Planning for comprehensive services and their integration into existing services.

The recommended services are evidence-based interventions geared to be implemented at the onset of humanitarian crises. Following the acute emergency response and the implementation of the MISP objectives, a transition into comprehensive, integrated and ongoing SRH services is vital. The SPRINT Initiative of the International Planned Parenthood Federation (IPPF) supports countries across the Pacific to deliver the MISP SPRINT program, working through member associations such as the Tonga Family Health Association. However, delivery of the MISP is not as yet addressed in domestic legislation in Tonga.

Two documents produced by the Inter-Agency Standing Committee (a forum of UN and non-UN humanitarian partners, aiming to strengthen humanitarian assistance) provide the foundational guidance on preventing and responding to GBV in emergencies (GBViE): the *Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action: Reducing risk, promoting resilience and aiding recovery* (IASC, 2015) and the *Minimum Standards for Gender-Based Violence in Emergencies Programming* (IASC, 2020). The latter document outlines GBViE standards, a comprehensive set of 16 standards developed by UNFPA and providing practical guidance on how to prevent and respond to gender-based violence in emergencies and facilitate access to multi-sector services (IASC, 2020). The GBViE standards also build on the *Essential Services Package for Women and Girls Subject to Violence* (UN Women, 2015). It is important to note that the Minimum Standards for SRH and GBViE are interrelated and inter-dependent. Both sets of standards should be explicitly incorporated into relevant disaster, gender, national development plans and health policy as a basis for preparedness, response and recovery.

In any country, implementation of such international guidance and standards requires a national coordination mechanism. In Tonga, the *Emergency Management Act* (2020 revised edition) establishes the National Emergency Management Office as the division of government with responsibility for coordination of emergency management activities, and for implementation of the policies and decisions of the National Emergency Management Committee (NEMC). Especially relevant to this report, the Chief Executive Officer for Health and the Commissioner of Tonga Police are among the members of the NEMC. It is noted that a new Disaster Risk Management Bill is being drafted, which will expand the mandate (and change the name) of the National Emergency Management Office to incorporate disaster risk reduction as well as emergency management and response. Any change in legislation is usually accompanied by policy review and reform, and so this time represents an important opportunity to influence emergent policy with the objective of ensuring that policies include objectives towards gender equality and are inclusive of sexual and reproductive health in emergencies (SRHiE) and GBViE (see International Federation of Red Cross and Red Crescent Societies, 2017).

7.2. Regional agreements and networks

Tonga is party to a number of disaster-related regional commitments. These include:

- The Framework for Resilient Development in the Pacific: An Integrated Approach to Address Climate Change and Disaster Risk Management 2017 – 2030 (2016)
- The Boe Declaration on Regional Security and related action plan (2018)
- Framework for Pacific Regionalism endorsed by the Pacific Islands Forum (2014)
- Suva Declaration on Climate Change adopted in 2015 by the Pacific Islands Forum
- The Pacific Platform for Disaster Risk Management (2016)
- The Small Islands Developing States Accelerated Modalities of Action (SAMOA Pathway) (2014)
- KAILA! Pacific Voice for Action on Agenda 2030: Strengthening Climate Change Resilience through Reproductive, Maternal, Newborn, Child and Adolescent Health (2015).

Whilst gender equality is a stated goal of several of these agreements, the only SRH specific agreement is the KAILA Strengthening Climate Change Resilience through Reproductive, Maternal, Newborn, Child and Adolescent Health (2015). Other regional climate and disaster agreements do not have specific provisions or guidance regarding sexual and reproductive health or gender-based violence in emergencies; however, there are references to addressing gender equality and inequalities especially with vulnerable groups.

There are an additional two key plans that have been developed in response to the COVID-19 pandemic by UN agencies in partnership with development partners, the Pacific Community, and in the case of the Humanitarian Response Plan, the Red Cross, non-government organisations and faith- and community-based organisations. These plans are inclusive of Tonga and are the *COVID-19 Pacific Health Sector Support Plan* (2020) developed by the Pacific Joint Incident Management Team (coordinated by WHO) and the *Pacific Humanitarian Team COVID-19 Humanitarian Response Plan* (2020).

It should be noted that UNFPA's Regional Prepositioning Initiative has established hubs in Australia and Fiji that can quickly provide SRH-related supplies to, and support prevention and response to GBV, in countries such as Tonga in case of humanitarian crisis. This may include provision of dignity kits, establishing women friendly spaces or capacity building.

The Australian Government funded SPRINT Initiative was launched in 2008 to strengthen capacity and address barriers to an effective SRH response in humanitarian contexts across Asia and the Pacific, with an increasing focus on building capacity to implement the lifesaving components of the MISP. SPRINT is led by International Planned Parenthood Federation (IPPF), and in Tonga the program is delivered in partnership with the Tonga Family Health Association. The Tonga Family Health Association played a key role in delivering MISP training and took the lead on MISP delivery preceding and during responses to TC Gita. A recent study highlighted the value of preparedness and training before the emergency, and of the Tonga Family Health Association's strong relationships and communication with government, in ensuring SRHiE following TC Gita (Beek et al., 2021). However, the authors also highlighted that more work is needed to institutionalise SRH in emergencies in national policy and accountability mechanisms in Tonga.

7.3. Domestic policy and legislation

While the MISP is not explicitly required through national policy or legislation, the Government of Tonga made a public policy commitment to integrate the MISP in disaster management plans and response efforts at the Nairobi ICPD25 conference: “Integrating MISP into disaster responses and building Tonga’s capacity to cater to GBV cases in emergencies is vital and crucial to maintaining stability in times of chaos. Tonga is committed to ensuring that the security of nation’s future is secured with more resilient and responsive systems in place to cater for people’s needs during emergencies and natural disasters” (Kingdom of Tonga, 2019). It should be noted that there were not specific details of timelines or process attached to this commitment.

The *Joint National Action Plan 2 on Climate Change and Disaster Risk Management 2018-2028* includes the overall guiding principle of gender inclusivity, and sub-objective 1.5 is to ‘improve knowledge on gender and community-based perspectives and capacity for adaptation, and for responding to climate change and natural disasters’. However, there is not specific recognition of the need to ensure SRHR following emergencies, or of the increased need for prevention of and response to GBV at the time of and following an emergency.

The *Tonga COVID-19 Development Response Plan*, developed through partnership between the governments of Australia and Tonga, notes that the Australia will work with the Government of Tonga to ensure continuity of sexual, reproductive and maternal health services in the context of COVID19 disruptions (p.2). This plan also acknowledges that the pandemic has been associated with increased levels of GBV globally and includes a focus on strengthening responses to GBV to mitigate the impact of COVID19, through partnership with local NGOs. Key results for the plan to include quality and appropriate family and sexual violence prevention and support (p.5).

The challenge of ensuring provision of SRH services during and following emergencies is not addressed in the *National Health Strategic Plan 2015-2020*, the *MOH Corporate Plan 2019-2021*, or the *National Integrated Sexual and Reproductive Health Strategic Plan (2014-2018)*. Development of new RMNCAH policy in Tonga represents an important opportunity for integration of the MISP and strengthening preparedness and capacity to ensure SRH service delivery in the context of disasters.

There are also not specific provisions in policy and legislation in Tonga that require alignment with the Minimum Standards for Prevention and Response to Gender-Based Violence in Emergencies. The *Women’s Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025* does include output 5.1 ‘Improved knowledge about the gender perspectives in response to natural disasters and environmental and climate change adaptation, though there is no specific focus on prevention or response to GBViE.

The *Tonga National Service Delivery Protocol for Responding to Cases of Gender-Based Violence (March 2021)* does, however, include as Annex C ‘Gender-Based Violence referral Pathway for Emergencies/Disasters’, which provides clear guidance for first responders during emergencies as to steps they should take if they receive a disclosure of GBV.

8 Conclusions and recommendations

The desk review indicates that Tonga has made progress towards creating an enabling legislative and policy environment in support of universal access to sexual and reproductive health and protection from gender-based violence. While the effectiveness and quality of implementation of policy and legislation in Tonga was beyond the scope of this review, it is recognised that the country faces particular challenges in the delivery of services (including those related to SRHR and GBV), including the level of risk posed by natural disasters, and the small population limiting the human resources and capacity available for implementation of law and policy. However, unlike many other countries in the Pacific, Tonga does not face the ‘constitutional conundrum’ posed when traditional rules or ‘custom’ are in conflict with state law. The Tongan legal system incorporates both traditional and imported legal remedies and is thus able to accommodate changing community practices and standards. This is particularly important in legal responses to GBV.

Ensuring accountability for the implementation of current policy and legislation would make a substantial contribution to an enabling environment in relation to SRHR and GBV in Tonga. Accountability could be strengthened by:

- ensuring monitoring and evaluation systems are robust and responsive
- ensuring regular reporting against national and international commitments
- supporting research into barriers to implementation and the identification of solutions.

In addition, this preliminary desk review suggests specific actions that could be undertaken to strengthen policy and legislation in Tonga.

8.1. General recommendations

- There is a need for Tonga to review and repeal legislation that is outdated and contradictory to the country’s international human rights obligations such as those under the Convention of the Rights of the Child. This could include repeal of the *Adultery and Fornication Act* (2020 revised edition), for example. Any legislative reform should be approached in a comprehensive and integrated manner involving consultation with civil society and key population groups, including gender impact assessment to understand possible unintended consequences.
- Strengthen mechanisms for data collection to support monitoring and evaluation of policy and legislative implementation to ensure annual targets are met and allow evidence-based reform (e.g. ensuring that health management and information systems collect data on GBV and SRH, ensuring interoperability of administrative data systems and collection of GBV service data).
- Consider renewing efforts to revise the Constitution to guarantee substantive equality between men and women, and to ensure protection from discrimination on the basis of sex, gender, gender identity and expression, sexual orientation, and disability. Any efforts towards constitutional reform should learn from the process that led to the successful and substantial reforms in 2010.

- Encourage renewed efforts towards the government becoming party to the Convention on the Elimination of all forms of Discrimination Against Women. Efforts towards this, and constitutional reform as above, require careful engagement with diverse stakeholders, anticipation and management of backlash and resistance, and learning from the experience of unsuccessful past efforts in 2009 and 2015.
- Ensure that any future National Disability Plan or Strategy takes a comprehensive approach to working in partnership with the Ministry of Health and the Women's Affairs and Gender Equality Division to ensure that the SRHR of people with disability is addressed; and that the particular GBV risks experienced by people with disability are recognised and responses to this are incorporated into a National Disability Plan.

8.2. SRHR recommendations

- Progress development of a current, costed and comprehensive RMNCAH policy. Findings from the desk review suggest that there is need for the policy to include a specific focus on promoting the SRHR of young people and ensuring that SRH services are inclusive of and responsive to the needs of adolescents and youth; and a focus on ensuring that services are accessible to, respectful and inclusive of people with disabilities, community members with diverse sexual orientations, gender identity and expression, and sex workers. Findings also suggest the need to include MISP as a priority within any RMNCAH policy, as will be discussed further below.
- Strengthen the Ministry of Health engagement with the Tonga Leitis Association to seek their expertise and to build on the work that they are already doing with the LGBTIQ community, to ensure any new RMNCAH policy is inclusive of people with diverse genders and sexualities.
- Suggest changing the indicator used in relation to maternal mortality from maternal mortality ratio (MMR) to monitoring the absolute number of deaths annually, to enhance the ability to track change over time.
- Support research to better understand the low Contraceptive Prevalence Rate in Tonga, with a particular focus on adolescents and young women, to inform policy and practice (if, for example, service provider knowledge and attitudes about provision of contraception to unmarried young people is a clear barrier to access, then specific training should be conducted for service providers).
- Urgently clarify the status of family life education (FLE) curriculum development and the process for training teachers in delivery of FLE content; specify coordination mechanisms between the Ministry of Health, Ministry of Internal Affairs, and the Ministry of Education and Training to support delivery of the curriculum and teacher training.
- Address the practice of students who are pregnant being expelled from school through specific statements in policy (the development of a new Education Policy Framework represents an important opportunity to do this) and amendment to the *Education Act* (2020 revised edition).
- Support efforts to develop nationally consistent policy providing for maternity leave to employees working in the private sector.
- Revise the Essential Drugs List to allow for the addition of Jadelle and Gardasil. This would support progress towards the Ministry of Health objectives in relation to access to modern methods of contraction and HPV vaccination coverage.

- Develop objectives and indicators in relation to post abortion care, noting that the legislation does not prohibit provision of post abortion care and support.
- Consider revision to the *Criminal Offences Act* (2020 revised edition) to enable access to termination of pregnancy in specific circumstances.
- Consider revision to the *Criminal Offences Act* (2020 revised edition) to raise the age at which a person can legally marry, with or without parental consent, to 18 years for males and females.
- Consider revision to the *Criminal Offences Act* (2020 revised edition) to remove section 81(5) which criminalises cross dressing.
- Clarify, potentially through policy, what diseases are currently considered notifiable, given this list is no longer attached to the *Public Health Act* (2020 revised edition).

8.3. GBV recommendations

- Prioritise development of a standalone, comprehensive and costed national plan or strategy on gender-based violence that specifically addresses both prevention of and responses to GBV, coordination with the Ministry of Health, and the need to ensure responses to and prevention of gender-based violence in emergencies (GBViE).
- Strengthen mechanisms and build capacity to collect and analyse high quality GBV data, including administrative and qualitative data, to better be able to track patterns and changes over time in response to a change policy and practice environment, or in relation to external shocks (such as COVID-19 or natural disasters).
- Consider revisions to the *Criminal Offences Act* (2020 revised edition) to:
 - Revise the definition of rape (to incorporate acts of severe sexual violence that are not limited to penile-vaginal penetration) (section 118)
 - Define consent to sexual intercourse as providing unequivocal and voluntary agreement (section 118)
 - Define sexual assault (section 124), potentially to align with the definition of sexual abuse used in the *Family Protection Act* (2020 revised edition)
 - Remove the defence of provocation in cases of domestic violence (section 89)
 - Make consensual sex between men legal (section 136).
- Consider revision to the *Family Protection Act* (2020 revised edition) to remove the requirement that violence be 'beyond the reasonable expectations and acceptances of family and domestic life' from the definition of family violence (section 4)
- Conduct a review of the 'No Drop' policy to assess benefits and potential unintended consequences, engaging with diverse stakeholders to do so but especially those delivering direct services and supports to women and children experiencing violence.
- Partner with the Tonga Leitis Association to conduct research to better understand leitis' experiences of genderbased violence, and with the Talitha Project to better understand the GBV experiences of particularly disadvantaged women (including those who sell sex), so as to inform revisions to policy and practice.

8.4. Humanitarian and disaster recommendations

- Ensure that the Minimum Initial Service Package (MISP) for SRH objectives and related indicators is embedded in disaster risk management policy (as this is likely to be renewed with pending legislative change). Ensure the MISP is also situated in broader health policy through the new RMNCAH policy in ways that strengthen health systems as part of SRHiE preparedness and readiness.
- Ensure that the roles and responsibilities outlined under the cluster system include SRH and GBV.
- Ensure that any new standalone GBV policy and any new disaster risk management policy explicitly addresses GBV in emergencies. Ensure GBViE standards are embedded in policy and legislative frameworks, and national guidance from the Safety and Protection Cluster to government and non-government agencies.
- Include measures to prevent sexual exploitation, abuse and harassment in emergency contexts, including of and by workers in the response.

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Annex 1: Desk review search terms

Tonga

AND "fertility"	OR "SRH"	OR "Gender-based violence"
OR "Maternal mortality"	OR "Reproductive health"	OR "Violence against women"
OR "Matern* health"	OR "Sexual health"	OR "Domestic violence"
OR "Matern* leave"	OR "Contracept*"	OR "Intimate partner violence"
OR "Patern* leave"	OR "Abortion"	OR "Family violence"
OR "Pregnancy"	OR "Family planning"	OR "Trafficking"
OR "Childbirth"	OR "Sex* education"	OR "Sex work"
OR "Skilled birth attendan*"	OR "Sex* curriculum"	OR "Early marriage"
OR "Life-saving commodit*"	OR "Family Life education"	OR "Forced marriage"
OR "Life-saving medicine*"	OR "AIDS"	OR "Child marriage"
OR "HPV"	OR "HIV"	OR "Female genital mutilation"
OR "Discrimination"	OR "Gender"	OR "Female genital cutting"
OR "Plural legal system"	OR "Disability"	

Annex 2: Integrated sexual and reproductive health and rights

Guttmacher-Lancet Commission Integrated sexual and reproductive health and rights

Sexual and reproductive health is a state of physical, emotional, mental, and social wellbeing in relation to all aspects of sexuality and reproduction, not merely the absence of disease, dysfunction, or infirmity. Therefore, a positive approach to sexuality and reproduction should recognise the part played by pleasurable sexual relationships, trust, and communication in the promotion of self-esteem and overall wellbeing. All individuals have a right to make decisions governing their bodies and to access services that support that right. Achievement of sexual and reproductive health relies on the realisation of sexual and reproductive rights, which are based on the human rights of all individuals to:

- have their bodily integrity, privacy, and personal autonomy respected;
- freely define their own sexuality, including sexual orientation and gender identity and expression;
- decide whether and when to be sexually active;
- choose their sexual partners;
- have safe and pleasurable sexual experiences;
- decide whether, when, and whom to marry;
- decide whether, when, and by what means to have a child or children, and how many children to have;
- have access over their lifetimes to the information, resources, services, and support necessary to achieve all the above, free from discrimination, coercion, exploitation, and violence.

Essential sexual and reproductive health services must meet public health and human rights standards, including the “Availability, Accessibility, Acceptability, and Quality” framework of the right to health.

The services should include:

- accurate information and counselling on sexual and reproductive health, including evidence-based, comprehensive sexuality education;
- information, counselling, and care related to sexual function and satisfaction;
- prevention, detection, and management of sexual and gender-based violence and coercion;
- a choice of safe and effective contraceptive methods;
- safe and effective antenatal, childbirth, and postnatal care;
- safe and effective abortion services and care;
- prevention, management, and treatment of infertility;
- prevention, detection, and treatment of sexually transmitted infections, including HIV, and of reproductive tract infections; and
- prevention, detection, and treatment of reproductive cancers.

Source: Starrs, et al. (2018). Accelerate progress - sexual and reproductive health and rights for all: report of the Guttmacher-Lancet Commission. The Lancet Commissions. 391(10140) 2642-2692.

