

(Conference Draft)

“Unpacking Fragile Access to Justice in a Small Island State Amid Global Pandemic:  
Narratives from Experiences of Niue, the Rock of Polynesia”

Mana Takahashi\*

2023 Law and Development Conference

Singapore  
December 2023

---

\* Lecturer, Faculty of Global Liberal Arts, Kanda University of International Studies, Japan  
Corresponding author. E-mail: takahashi-mana@kanda.kuis.ac.jp

# **Unpacking Fragile Access to Justice in a Small Island State Amid Global Pandemic: Narratives from Experiences of Niue, the Rock of Polynesia**

**Mana Takahashi\***

*This study considers the challenges and features of law and development faced by small island developing states (SIDS) during the COVID-19 global pandemic. This research analyzes the pre- and post-pandemic situation of access to justice in SIDS to clarify the transformation of society and the critical impact of the pandemic and to consider potential negative effects and revealed features of fragile justice in small island states. In this context, this research focuses on the case study of Niue, which is a self-governing state in free association with New Zealand since 1974 and is recognized as a small island developing state by the United Nations. Niue, known as “the Rock of Polynesia,” is home to approximately 1700 people and consists of a single isolated island of only 261 square kilometers. The principal research question to be addressed is as follows: What did the COVID-19 pandemic reveal in Niue as a challenge in the context of law and development? By exploring the current situation of access to justice among people in Niue and based on interview responses with local people, government officers, and legal practitioners, this research aims to provide policy suggestions for initiatives and assistance to guarantee the right of access to justice in Niue.*

**Keywords:** Access to Justice, Niue, Small Island Developing States (SIDS), COVID-19 Global Pandemic, Sociolegal Approach

---

\* Lecturer, Faculty of Global Liberal Arts, Kanda University of International Studies, Japan  
Corresponding author. E-mail: takahashi-mana@kanda.kuis.ac.jp

## 1. Introduction

### 1.1. Overview of the Research: A Story of the Rock of Polynesia

*“Niue people are friendly, kind, and talkative,”* A local lady said cheerfully. When I walked down the street in Alofi, the capital of Niue, people driving cars or walking all waved their hands, as is customary.<sup>1</sup>

Niue is home to approximately 1700 people and consists of a single isolated island of only 261 square kilometers. Niue is also the largest raised coral atoll on earth. It is located in the South Pacific Ocean and is commonly referred to as “the Rock of Polynesia.”

The impact of the novel coronavirus (COVID-19) pandemic has spread equally across the world, including small states such as Niue. However, the impact and resulting social changes and transformations vary considerably according to geographic factors. Since COVID-19 was identified for the first time in December 2019, what kind of impact did it have in small countries? How did people’s lives and human rights situations change?

This study considers the challenges and features of law and development faced by small island developing states (SIDS) during the COVID-19 global pandemic. Since the United Nations recognized SIDS in 1992 as a distinct group of developing countries that face specific social, economic, and environmental vulnerabilities, global society has paid special attention to SIDS in the context of aid and development as well as global crisis. Due to their geographical characteristics, such as isolation and smallness, the impact of the COVID-19 pandemic brought unique social transformations to SIDS. Some SIDS in the Pacific region were COVID-free states by the end of 2022 due to strict border control and isolation in a global society. Thus, human rights situations, required restrictions, and social challenges were experienced differently, and relevant policies during the pandemic were designed differently than in larger countries and metropolises.

This research analyzes the pre- and post-pandemic situation of access to justice in SIDS to clarify the transformation of society and the critical impact of the pandemic. It further considers potential negative effects and revealed features of fragile justice in small island states. In this context, this research focuses on the case study of Niue as a research destination that is recognized as a small island developing state by the United Nations and is one of the smallest island states in the world.

Niue has been a self-governing state in free association with New Zealand since 1974; thus, this relationship and Niue’s dependency on New Zealand have been strong. In the context of law and justice, New Zealand conducts some practical works on its behalf to supplement the small judicial capacity of Niue, while Niue has the right to self-determination in its governance and legislation. Given the unique and vulnerable capacity of the justice system,

---

<sup>1</sup> Government of Niue, *Niue Island Guide*, available at: <<https://www.niueisland.com/library/files/d2952niuislandguideupdatesnov2022-449.pdf>>.

this research examines how the impact of the global pandemic transformed existing issues in the justice sector and access to justice for local people in Niue.

However, little is known about the actual situation in Niue. Since the country is not a member of the United Nations, information has not been released and sufficient research has not been conducted, especially regarding the human rights situation. This study therefore explores explicit and implicit issues with regard to justice and human rights in Niue.

## A Map of Niue<sup>2</sup>



The principal research question to be addressed is as follows: What did the COVID-19 pandemic reveal in Niue with regard to challenges in law and development? To answer the main question, the following subquestions are raised: 1) How does the geographical condition of SIDS affect the transformation of society during a global pandemic, and how does it differ from metropolitan cities or larger countries? 2) What is the situation of access to justice in Niue after the global pandemic? 3) What kind of policy approach is feasible and appropriate to enhance the right to access to justice in Niue?

The overall structure of this article features five sections. Following the introduction, the second section begins by describing the country, society, current legislation and justice system in Niue and explores the uniqueness and features related to how Niue's society was formed. The third section presents the case analysis by investigating the Faka Niue (the Niuean way) and Niue's response to the global pandemic and examining the transformation in the situation of access to justice produced by the COVID-19 pandemic. The fourth section

<sup>2</sup> SPC Statistics for Development Division, *Niue*, available at: <<https://sdd.spc.int/nu>>, accessed October 21, 2023.

offers policy recommendations to enhance the judicial system and sustainably guarantee the right of access to justice in the context of Niue. The fifth section attempts to answer the main research question and concludes the article by identifying the limitations of this research and highlighting implications for future studies.

## 1.2. Methodology and Research Framework

This research incorporates a range of different methodological approaches but mostly adopts qualitative analysis based on a sociolegal and empirical approach to examine the case of Niue. By exploring the current situation of access to justice, especially in the context of civil justice among people in Niue, based on semi-structured interview responses with local people, government officers, and legal practitioners as well as the author's observations from fieldwork in Niue, this research aims to provide policy suggestions for initiatives and assistance to guarantee the right of access to justice in Niue. In this process, this study utilizes a Talanoa methodology, which is a snowball sampling method in the Pacific language, to hear local voices in Niue. Additionally, this study aims to clarify the challenges of the justice system in fragile states and SIDS as well as geographical factors in a small island state in the context of law and development.

This study focuses on a justice system in a fragile state. Previous research has indicated that state fragility is a multidimensional phenomenon and a matter of degree, and different levels of fragility depend on dimensions that may coexist in a society.<sup>3</sup> According to Naude et al., some determinants may make a state fragile, including conflict, low development status, vulnerability, and a nondevelopmental state.<sup>4</sup> In this context, Niue is categorized as a vulnerable state, which is a forward-looking concept that refers to a state's potential to be negatively affected by future changes.<sup>5</sup>

Niue is also distinguished as one of the SIDS by the United Nations. SIDS are a distinct group of states that face unique social, economic, and environmental vulnerabilities, which were first recognized at the 1992 United Nations Conference on Environment and Development held in Rio de Janeiro.<sup>6</sup> SIDS face many challenges, such as the high cost of transportation of goods, lack of capacity, and high dependence on external resources due to their geographical features, such as remoteness and smallness. Thus, they are extremely

---

<sup>3</sup> Nematullah Bizhan (ed.), *State fragility: Case studies and comparisons* (London: Routledge, Taylor & Francis Group, 2023), pp.7-8.; Wim Naudé, Amelia Paulino Amelia Santos-Uliafnova, and Mark McGillivray (eds.), *Fragile States: Causes, costs, and responses* (Oxford: Oxford University Press, 2011), pp.4-5.; Lars Engberg-Pedersen, Louise Andersen, and Finn Stepputat, *Fragile Situations: Current Debates and Central Dilemmas*, DIIS Report, no. 9 (2008), p.7.

<sup>4</sup> Naudé et al (2011), *Supra* note 3, pp.4-18.

<sup>5</sup> *Ibid.*, pp.8-11.

<sup>6</sup> United Nations, Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, *About Small Island Developing States*, available at: <<https://www.un.org/ohrls/content/about-small-island-developing-states>>, accessed October 21, 2023.

vulnerable to external shock.<sup>7</sup> In 2023, 58 states and territories, including Niue, are recognized as SIDS.<sup>8</sup> Therefore, it is important to understand the context and features of SIDS to consider how the justice system and access to justice have been established in these countries, including Niue.

The right of “access to justice” refers to the ability of individuals and businesses to seek and obtain the resolution of legal problems through a wide range of legal and justice services, including legal aid, legal information, and formal and informal dispute resolution systems.<sup>9</sup> According to the Declaration of the High-level Meeting on the Rule of Law, the United Nations emphasizes the right of equal access to justice for all and reaffirms the commitment of the United Nations member states to take all necessary steps to provide fair, transparent, effective, nondiscriminatory and accountable services.<sup>10</sup> Therefore, the right of access to justice is a matter that extends beyond the court and includes a broader range.<sup>11</sup> It should be ensured that the law, administration, enforcement system, and dispute resolution are all treated as legitimate. Additionally, the significance of the informal justice system is widely recognized to supplement the limitations of the formal justice system, especially in fragile states, and the United Nations acknowledges the importance of informal justice mechanisms to ensure that vulnerable people can enjoy equal rights of access to justice.<sup>12</sup> The right of access to justice is defined as a principle of the rule of law and is now considered a fundamental goal to be achieved globally. It is included in the Sustainable Development Goals (SDGs) as “Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels” and its Target 16.3, “Promote the rule of law at the national and international levels and ensure equal access to justice for all.”<sup>13</sup> The United Nations set an indicator to measure the progress of Target 16.3, Indicator 16.3.3, which addresses civil justice: The proportion of the population who have experienced a dispute in the past two

---

<sup>7</sup> Naudé et al (2011), *Supra* note 3, p.9.; United Nations, *Ibid*.

<sup>8</sup> United Nations, Sustainable Development Goals Knowledge Platform, *Small Island Developing States*, available at: <<https://sustainabledevelopment.un.org/topics/sids/list>>, accessed October 21, 2023.

<sup>9</sup> OECD, "Access to justice", in OECD, *Government at a Glance 2021* (Paris: OECD Publishing, 2021), available at: <<https://www.oecd-ilibrary.org/docserver/8b8c48afen.pdf?expires=1691722316&id=id&accname=guest&checksum=0A26036B8E096B10309810654C029C1D>>. ; United Nations and the Rule of Law, *Access to Justice*, available at: <<https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice/>>, accessed October 21, 2023.

<sup>10</sup> United Nations and the Rule of Law, *Ibid.*; United Nations General Assembly, *A/67/L.1 Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels* (New York: The United Nations, 2012), para. 14-15.

<sup>11</sup> Graham Hassall, “Governance, Legitimacy and the Rule of Law in the South Pacific,” in Jowitt, Anita, and Tess Newton Cain(eds.), *Passage of Change: Law, Society and Governance in the Pacific* (Canberra: Pandanus Books, 2003), p.65.

<sup>12</sup> United Nations General Assembly, *Supra* note 10, para.15.; Tanja Chopra, and Deborah Isser, *Access to Justice and Legal Pluralism in Fragile States: The Case of Women’s Rights*, 4 Hague Journal on the Rule of Law, no. 02 (2012), 337–358, at 340-345.

<sup>13</sup> United Nations General Assembly, *A/RES/70/1 Transforming our world: the 2030 Agenda for Sustainable Development* (New York: The United Nations, 2015), p.25.

years and who accessed a formal or informal dispute resolution mechanism by type of mechanism.<sup>14</sup> However, it was not possible to measure the situation of Niue quantitatively according to this global indicator because of its smallness. While Goal 16 and its Target 16.3 are applicable and should be achieved, the indicator and framework are not applicable for such an extreme country with only 1700 people. Therefore, while recognizing that the right of access to justice is significant according to the definition and the global goals, a qualitative methodology is employed in this study. To identify the situation of Niue, this study refers to the instruments available to measure the degree of access to justice as well as the transition between pre- and post-global pandemics.<sup>15</sup> In this context, the following parameters are used: (1) legal knowledge and access to information; (2) legal aid; (3) formal court systems and services; and (4) alternative dispute resolution (ADR) mechanisms and informal justice systems. This study analyzes the situation of Niue based on these viewpoints in the following sections.

## 2. Society and the Law in a Small Island State

This section explores the state, society, and legal system in Niue and how its geographical features as a small island affect its social structure and create the state of Niue.

### 2.1. Niue as an Island State and Its Society

Niue is located in the Pacific Ocean. As mentioned previously, it is home to approximately 1700 people and consists of a single isolated island with only 261 square kilometers.<sup>16</sup> The

---

<sup>14</sup> United Nations, *A/RES/71/313; E/CN.3/2022/2 Global indicator framework for the Sustainable Development Goals and targets of the 2030 Agenda for Sustainable Development* (New York, 2015), available at: <[https://unstats.un.org/sdgs/indicators/Global%20Indicator%20Framework%20after%202022%20refinement\\_Eng.pdf](https://unstats.un.org/sdgs/indicators/Global%20Indicator%20Framework%20after%202022%20refinement_Eng.pdf)>.

<sup>15</sup> This study refers to several developed assessment model, but mainly; Pacific Judicial Development Programme, *Access to justice assessment toolkit* (2014) available at: <<https://www.fedcourt.gov.au/pjdp/pjdp-toolkits/Access-To-Justice-Toolkit-v2.pdf>>. Additionally, see United Nations, *A Practitioner's Toolkit on Women's Access to Justice Programming* (2018), available at: <[https://www.ohchr.org/sites/default/files/2021-08/WA2J\\_Consolidated.pdf](https://www.ohchr.org/sites/default/files/2021-08/WA2J_Consolidated.pdf)>.;

United Nations, Human Rights Office of the High Commissioner, *SDG-CRPD resource package Article 13 Indicator*, available at: <<https://www.ohchr.org/en/disabilities/sdg-crpd-resource-package>>, accessed October 21, 2023.

<sup>16</sup> SPC Statistics for Development Division, *Niue population*, available at: <<https://sdd.spc.int/nu>>, accessed October 21, 2023.; Worldmeter, *Niue population*, available at: <<https://www.worldometers.info/world-population/niue-population/>> accessed October 21, 2023.

population is mostly Niuean, the vast majority ethnic group, and people speak Niuean and English as official languages.

In 1774, Captain James Cook was the first European to attempt to land on Niue but was blocked by local opposition. Subsequently, Christian missionaries from the London Missionary Society landed in Niue in 1846 to spread Christianity, which is how Niue became a Christian country. In 1876, Mataio Tuitoga was elected as the first King of Niue, and he promulgated written laws and practices that were followed by his successors until 1901.<sup>17</sup> Niue became a British protectorate in 1901 at the Niuean King Fataaiki's request and was annexed to New Zealand the following year, until it became a self-governing state in free association with New Zealand on 19 October 1974 under the Niue Constitution Act of 1974.<sup>18</sup> Thus, New Zealand has responsibility for external affairs and defense in Niue and conducts most diplomatic relations on its behalf.<sup>19</sup> This process is influenced by the preference for independence and decolonization of the New Zealand government.<sup>20</sup> Therefore, many Niue people and their stories are bound to the colonial legacies of both contact through Christianity and British rule administered through New Zealand.<sup>21</sup> Niue's self-governed status was approved as equivalent to independence; however, Niue is not a member state of the United Nations. Thus, the status of self-government allows Niue to become a member of the UN specialized agencies and regional organizations, such as the Pacific Islands Forum, and to attend the United Nations conference, although it has been noted that there is a possibility of falling outside of the scope of the United Nations' investigation and monitoring on the situation of international human rights due to its nonmember status in relation to the UN.<sup>22</sup>

Niue has 14 villages and its capital, Alofi, which is located in Alofi-South. Each village has a council and elects a representative to send to the Niue legislative assembly, which is a unicameral legislative assembly.<sup>23</sup> In Niue, the general election is held every three years, and the Niue Assembly consists of 20 members, 14 village representatives and 6 from the

---

<sup>17</sup> Jennifer Corrin and Vergil Narokobi, *Introduction to South Pacific Law* (5th ed., Cambridge: Intersentia, 2022), p.2.

<sup>18</sup> Government of Niue, "Constitution of Niue – comment", in *Constitution of Niue and Associated Documents as at 31 December 2019* (Niue, 2019), p.v.; Caroline J McDonald, *An Exemplary Leader?: New Zealand and Decolonization of the Cook Islands and Niue*, 55 *The Journal of Pacific History*, no.3 (2020), 394–417, at 395.; Tony Angelo, Elisabeth Perham, and Yi-Shen Lau, *Niue in New Zealand Legislation*, 52 *Victoria University of Wellington Law Review*, no. 2 (2021), 245–284 at 245-246.

<sup>19</sup> The Niue Constitution Act 1974, s.6.

<sup>20</sup> McDonald (2020), *Supra note 17*, p.395.

<sup>21</sup> Jessica Lili Pasisi, *Kitiaga Mo Fakamahani e Hikihikiaga Matagi He Tau Fifine Niue: Tau Pūhala He Tau Hiapo Niue Women's Perspectives and Experiences of Climate Change: A Hiapo Approach*, dissertation given at the University of Waikato (2019), pp.65–66.

<sup>22</sup> Erin Thomas, *Who's left out? Human rights in non-UN member states and territories* (Development Policy center, 8 May 2018) available at: <<https://devpolicy.org/human-rights-nonmember-states-and-territories-20180508/>>, accessed October 21, 2023.

<sup>23</sup> Government of Niue, *Government and Political System*, available at: <<https://www.gov.nu/government-and-political-system/>>, accessed October 21, 2023.; Teresia Teaiwa and Malakai Koloamatangi, "Democracy and Its Prospects in the Pacific," in Michael Powles (eds.), *Pacific Futures* (Canberra, ACT: Pandanus, 2006), p.33.

common roll.<sup>24</sup> To avoid divisive tendencies, a nonparty system is effective for solidarity for the common good in a small state such as Niue.<sup>25</sup>

#### 14 Villages of Niue (Alofi is divided into Alofi-North and Alofi-South)<sup>26</sup>



As mentioned in the introduction, Niue is categorized as one of the SIDS. Therefore, Niue is extremely vulnerable to external shocks, including economic and environmental factors, and faces common challenges of SIDS due to its geographical features. In addition to these problems, Niue faces unique problems caused by its society. Among these, the most serious is depopulation, which threatens its viability as a nation-state.<sup>27</sup>

Depopulation is catastrophically serious in Niue. When I walked around Niue in February 2023, I found many desolate old houses and buildings like a ghost town, although people used to live there in a vibrant village. In 1974, when Niue became a self-governing state, approximately 4500 people lived there, but this number gradually decreased to approximately 1700 people in 2023.<sup>28</sup> According to a census by the New Zealand government, 30867 Niue people live in New Zealand, which is over 90% of all Niue people

<sup>24</sup> Government of Niue, *Parliament*, available at: <<https://www.gov.nu/parliament/>>, accessed October 21, 2023.

<sup>25</sup> John Henderson, "Governance and Constitutional Issues: Reflections on Current Problems and Future Options," in Michael Powles (eds.), *Pacific Futures* (Canberra, ACT: Pandanus, 2006), p.15.

<sup>26</sup> World Atlas, *Maps of Niue*, available at: <<https://www.worldatlas.com/maps/niue>>, accessed October 21, 2023.

<sup>27</sup> Transform Aqorau, "Rethinking Sovereignty in the Pacific," in Michael Powles (eds.), *Pacific Futures* (Canberra, ACT: Pandanus, 2006), p.222.

<sup>28</sup> Worldmeter, *Niue population*, available at: <<https://www.worldometers.info/world-population/niue-population/>>, accessed October 21, 2023.

in global society.<sup>29</sup> There are various factors responsible for this situation of migration to New Zealand, such as the difficult lifestyle in Niue due to a lack of resources and limited opportunities for education, industry, and jobs as “push” factors and free association status with New Zealand as a “pull” factor.<sup>30</sup> During the field interviews, one Niuean woman described Niue as follows: “*Niue is not small but empty.*”<sup>31</sup>

This situation has become a factor in policy related to a four-day workweek.<sup>32</sup> Niue people generally work from Monday to Thursday, and the policy encourages people to be engaged in the community, church, and other volunteer activities to compensate for the lack of human resources in Niue. Therefore, it can often be seen that one person works in various places, and all citizens are truly living as multitasking players in Niue.<sup>33</sup>

Another critical issue in Niue is the impact of climate change. The most crucial event was Cyclone Heta in January 2004, which caused extensive damage in Alofi. Cyclone Heta destroyed much of the infrastructure and led to losses of approximately 90 million NZ\$ and two fatalities.<sup>34</sup> Since Cyclone Heta hit the center of Alofi, where most of the government offices and major facilities are based, the estimated value of the loss was enormous: Niue’s only Foou hospital was completely damaged, and Huanaki Cultural Centre and Museum were destroyed and over 90% of the national collections and archives were lost.<sup>35</sup> Based on lessons learned from Cyclone Heta, the government of Niue decided to relocate the only high school in Niue inland to protect the children from natural disasters with funding by the Australian government and the New Zealand government.<sup>36</sup> Niue Foou Hospital was rebuilt inland, supported by the government of New Zealand, the World Health Organization, and the European Union, and a national museum was reconstructed and reopened as Tāoga Niue

---

<sup>29</sup> New Zealand Foreign Affairs and Trade, *About Niue*, available at: <<https://www.mfat.govt.nz/en/countries-and-regions/australia-and-pacific/niue/new-zealand-high-commission-to-niue/about-niue/>>, accessed October 21, 2023.

<sup>30</sup> Vili Nosa “The Impact of Transnationalism on Niue,” in Lee, Helen Morton, and Steve Tupai Francis (eds.), *Migration and Transnationalism: Pacific Perspectives* (Canberra, ACT: ANU E Press, 2009), pp.181-183.

<sup>31</sup> Interview with an anonymous interviewee (3), (21 February 2023) (Alofi, Niue).

<sup>32</sup> Thomas (2018), *Supra* note 22; Esther Pavihi, *Government to decide on the future of the public service 4-day week* (BCN, 2021), available at: <<https://tvniue.com/2021/06/government-to-decide-on-the-future-of-the-public-service-4-day-week/>>, accessed October 21, 2023.

<sup>33</sup> Interview with an anonymous interviewee (3), (21 February 2023) (Alofi, Niue); additionally, please see *Ibid.*

<sup>34</sup> South Pacific Regional Environment Programme, *The Loss and Damage of Niue’s History* (SPREP, July 18, 2023), available at: <<https://www.sprep.org/news/the-loss-and-damage-of-niues-history>>, accessed October 21, 2023.; United Nations, OCHA Relief Web, *Cyclone Heta hits tiny Pacific island of Niue*, (Niue, 2004), available at: <<https://reliefweb.int/report/niue-new-zealand/cyclone-heta-hits-tiny-pacific-island-niue>>, accessed October 21, 2023.

<sup>35</sup> Jon Barnett and Heidi Ellemor, *Niue after Cyclone Heta*, 22, *The Australian Journal of Emergency Management*, no. 1 (2007).

<sup>36</sup> United Nations, OCHA Relief Web, *Protecting Niue’s school children*, (Niue, 2012), available at: <<https://reliefweb.int/report/niue-new-zealand/protecting-niue%E2%80%99s-school-children>>, accessed October 21, 2023.

Museum in 2018.<sup>37</sup> The society of Niue recovered after the event; however, the incident demonstrated Niue's vulnerability to climate change and extreme natural disasters. Thus, this situation became a "push" factor for migrants.

Based on the geographical and environmental context, Niue has formed a unique social structure. Niue is also a country in danger of extinction due to its situation. Thus, it is important to recognize the existence of this country and consider how global society can respond to this situation.

## 2.2. The Law and Justice System in Niue

With regard to South Pacific law, modern laws were introduced from outside. Thus, it is critical to consider the process of decolonization and independence that occurred after the 1960s when most Pacific Island countries gained independence and how this trajectory influenced legislation. Hassall pointed out the need to consider the way independence affected capacities for governance and law and legal practices in new states.<sup>38</sup> In the original South Pacific societies, the customs, customary laws, practices of communities, and verbal orders were rooted in society and maintained order.<sup>39</sup> Since written laws were introduced, most island countries in the South Pacific have a mixture of different kinds of legislation, including written laws and constitutions, ideology and influences of former colonial powers, and traditional unwritten rules, customs and customary laws for social control.<sup>40</sup> Additionally, customs and customary laws were important as social norms in the region. Many countries gave a larger role to them after gaining independence or self-governance, and most countries recognized them under their constitutions.<sup>41</sup>

The current laws of Niue have their origins in the laws of New Zealand and have been greatly influenced by these laws. As mentioned previously, the first written law was issued in 1876 in Niue by King Mataio Tuitaga. During the period when Niue was annexed to New Zealand, legislation, called ordinances, was enacted by the island council with the assent of the New Zealand resident commissioner. After 1959, the Legislative Assembly, which consisted of elected members of parliament, was established and replaced the island councils under the Cook Islands Amendment Act 1957.<sup>42</sup>

---

<sup>37</sup> South Pacific Regional Environment Programme, *Supra* note 34; Barnett and Ellemor (2007), *Supra* note 35

<sup>38</sup> Graham Hassall, "Governance, Legitimacy and the Rule of Law in the South Pacific," in Jowitt, Anita, and Tess Newton Cain(eds.), *Passage of Change: Law, Society and Governance in the Pacific* (Canberra: Pandanus Books, 2003), pp.52-53.

<sup>39</sup> Corrin and Narokobi (2022), *Supra* note 17, pp.2-3.

<sup>40</sup> *Ibid.*, pp.2-3.

<sup>41</sup> *Ibid.*, pp.5-6.

<sup>42</sup> Cook Islands Amendment Act 1957, No.103.; Corrin and Narokobi (2022), *Supra* note 17, p.19.

The current law of Niue is the Niue Legislation 2019, which was reprinted on 31 December 2019<sup>43</sup> and was influenced by the society of Niue. Niue's legislative and administrative system follows the principles of common law and equity. The laws of Niue enacted by the Niue Assembly consist of the Constitution, Acts of the Assembly, Regulations, Niuean custom, and the common law of Niue, in order of priority.<sup>44</sup> The Constitution of Niue, which is the supreme law, consists of The Niue Constitution Act 1974 and the document called the Constitution of Niue, which is a schedule of the Niue Constitution Act 1974 and provides key rules of the Government of Niue.<sup>45</sup> Before 1974, Niue was governed by the Act of the New Zealand Parliament.<sup>46</sup> Since Niue became a self-governing state in free association with New Zealand on 19 October 1974, full legislative and executive status has been given to the Niue Assembly under the Constitution of Niue, which includes the power to amend any legislation that was extended to Niue before self-government.<sup>47</sup> However, some of the laws remain and have not been repealed.<sup>48</sup> Additionally, the laws of Niue make express provisions for customs and customary law, which determine the rights of customary land, as well as the “existing law” before 1974, which can be interpreted as customary law.<sup>49</sup>

Regarding the position of international law, New Zealand has responsibility for external affairs and the defense of Niue under the Niue Constitution Act 1974.<sup>50</sup> However, since New Zealand declared a change to the treaty practice on 10 November 1988, New Zealand's treaty actions, such as signature, ratification, acceptance, and approval, no longer extend to Niue unless Niue expressly requests it.<sup>51</sup> Thus, Niue's responsibility and position toward international treaties changed, with 1988 as the turning point.

The law of Niue and its legislation process are decolonized and independent, and the amendment of laws in New Zealand no longer affects the laws of Niue and vice versa.<sup>52</sup> While New Zealand has provided technical assistance for drafting and ensuring the rule of law, Niue is responsible for the final decision, including whether the draft and legal systems

---

<sup>43</sup> Government of Niue, *Niue Legislations as at 31 December 2019*, available at: <[https://www.gov.nu/wp-content/uploads/2022/03/niue\\_laws\\_vol1\\_il2022.pdf](https://www.gov.nu/wp-content/uploads/2022/03/niue_laws_vol1_il2022.pdf)>.

<sup>44</sup> Government of Niue, *Supra* note 23.

<sup>45</sup> Government of Niue, “Constitution of Niue – comment”, in *Constitution of Niue and Associated Documents as at 31 December 2019* (Niue, 2019), p.v.

<sup>46</sup> Government of Niue, *Supra* note 23.

<sup>47</sup> Constitution of Niue, Art.28 (3).; Angelo, Perham, and Lau (2021), *Supra* note 18, pp.246-247.; Government of Niue, *Supra* note 23.

<sup>48</sup> Government of Niue, *Ibid.*

<sup>49</sup> The Niue Constitution Act 1974, Art. 71 and Art. 82.; Niue Amendment Act (No.2) 1968, s.23.; Corrin and Narokobi (2022), *Supra* note 17, p.55.; Tess Newton Cain, “The Incorporation of Customary Law & Principle into Sentencing Decisions in the South Pacific Region,” in Jowitt, Anita, and Tess Newton Cain(eds.), *Passage of Change: Law, Society and Governance in the Pacific*. (Canberra: Pandanus Books, 2003), p.167.

<sup>50</sup> The Niue Constitution Act 1974, s.6.

<sup>51</sup> Angelo, Perham, and Lau (2021), *Supra* note 18, p. 257.

<sup>52</sup> *Ibid.*, pp.246-247.

fit the society of Niue. However, some components of Niue laws are similar to the laws of New Zealand, although these legislations may not be coincident with the actual Niue law.<sup>53</sup>

The court structure of Niue has only two levels of court established locally: the High Court as the superior court and the Court of Appeal as the appeal court.<sup>54</sup> Additionally, there is a Privy Council as a further appeal to the English Privy Council.<sup>55</sup> The Constitution of Niue enables the High Court to have a subordinate court with three divisions: criminal, civil, and land.<sup>56</sup> A Commissioner or two Justices of the Peace have jurisdiction at the High Court.<sup>57</sup> The Court of Appeal is held every three years and is presided over by the three judges, the Chief Justice, and puisne judges of the High Court.<sup>58</sup> The Chief of Justice and other judges are appointed by the Governor-General on the advice of the Cabinet and tendered by the premier.<sup>59</sup> Among the lawsuits of the three divisions, land-related disputes are the most numerous. The context is that the Constitution of Niue restricts the alienation of the land, including transfer, sale, gift, lease, and license.<sup>60</sup> According to the Tukuniu, land cases took the longest at an average of 505 days per case and a clearance rate below 100%.<sup>61</sup> This is because the majority of applications filed within the office are by Niuean citizens living overseas and are generally difficult to process. The trials of the Niue High Court are conducted by the New Zealand Justices, who are circular to Niue due to the lack of judicial professionals in Niue. In 2023, four High Court Judges of the New Zealand Maori Land Court, each with a different area of expertise, were assigned to Niue. These judges travel to Niue in rotation, but usually, one of the judges stays in Niue for approximately three weeks and presides over all cases, including all civil, criminal, and land cases.<sup>62</sup> The Niue High Court is held twice a year.

Even today, Niue's judicial system cannot be considered apart from its relationship with New Zealand. Therefore, legal practitioners must appreciate not only the laws themselves but also the relationship and complexity of the legislation of Niue and New Zealand. Angelo et al. pointed out that the two legal systems have developed independently, which legal practitioners should know.<sup>63</sup> Insofar as New Zealand judges and lawyers may be involved in legal practice in Niue, knowledge of Niue law is essential.

---

<sup>53</sup> *Ibid.*

<sup>54</sup> Government of Niue, *Supra* note 23; Corrin and Narokobi (2022), *Supra* note 17, p.435.

<sup>55</sup> *Ibid.*

<sup>56</sup> Constitution of Niue, Art. 37.

<sup>57</sup> Constitution of Niue, Art. 42.

<sup>58</sup> Constitution of Niue, Art. 53.; Corrin and Narokobi (2022), *Supra* note 17, p.435.

<sup>59</sup> Constitution of Niue, Art. 52(2)(b).; Corrin and Narokobi (2022), *Supra* note 17, p.435.

<sup>60</sup> Constitution of Niue, Art. 33.

<sup>61</sup> Tiara T. Tukuniu, *Niue High Court Annual Report July 2015/2016–June 2018/2019* (Alofi: Niue Department of Justice, Lands & Survey), available at: <[http://www.paclii.org/nu/court-annual-reports/niuecourtsannualreport2015\\_2019.pdf](http://www.paclii.org/nu/court-annual-reports/niuecourtsannualreport2015_2019.pdf)>, pp.10-13.

<sup>62</sup> Tukuniu, *Ibid.*, pp.7-8.; Government of Niue, *Supra* note 23.

<sup>63</sup> Angelo, Perham, and Lau (2021), *Supra* note 18, p.247.

### 2.3. Features of the Justice System in Niue: How Is It Running?

Since Niue has a small community, people know each other very well. This can work like a “mutual surveillance society.” One of the iconic places that demonstrate this fact is the prison.

Niue Prison had no prisoners when the author visited in February 2023. The old prison building has no fence or gate and is even not locked. A local person mentioned,

*“No one is in prison now. But even if there are prisoners, they can go to work or visit their families when they have time. The Niuean community naturally works as a monitoring system, so no one cares.”<sup>64</sup>*

How do justice systems work in Niue? The Department of Justice, Lands and Survey under the jurisdiction of the Minister of Social Services plays a central role.<sup>65</sup> The department covers broad judicial and legal matters in Niue, including court services, legal consultations, procedures, and the national election.<sup>66</sup> Thus, the department office is similar to a one-stop service center and is the point of contact for all justice in Niue.

Regarding the judicial situation in Niue, there are several crucial problems with its operation and enforcement.

#### Department of Justice, Land and Survey in Niue<sup>67</sup>



First, judicial facilities and infrastructure are extremely weak and vulnerable. First, and most importantly, Niue does not have a court house. In 2023, the court used a conference room at the government building as a courtroom. Previously, the court used a residential

<sup>64</sup> Interview with the anonymous interviewee (1), (18 February 2023) (Alofi, Niue).

<sup>65</sup> Government of Niue, *Ministers*, available at: <<https://www.gov.nu/ministers/>>, accessed October 21, 2023.

<sup>66</sup> Interview with Darren Tohovaka, Secretary to Justice and Registrar of the High Court of Niue (21 February 2023) (Alofi, Niue).

<sup>67</sup> Taken by the author (21 February, 2023)

building and government offices as a courthouse due to Cyclone Heta.<sup>68</sup> While the department office is only the official point of contact for judicial matters for local people, the office has no proper room or space for consultation. There is a reception counter and desks and chairs for consultation in open air space; however, they are very easy to find in public space, which makes it impossible to protect the privacy of the consulter. There are also problems with the preservation and management of judicial and litigation documents. Land files and judicial-related records and documents are stored in one shipping container with aluminum filing cabinets,<sup>69</sup> and they are all kept on paper. None of these materials have been digitized, and no database exists. The conditions are therefore extremely vulnerable for protecting records and archives from external impacts, including natural disasters.

Second, human resources and the capacity for judicial matters are not sufficient. One of the reasons for the lack of judicial personnel is the absence of higher educational institutions in Niue that train legal professionals. Niue has only one higher education institution, the University of South Pacific Niue campus, but the School of Law is located at the USP Emalus campus in Vanuatu, and the Niue campus does not offer legal education.<sup>70</sup> Thus, all qualified legal professionals in Niue have obtained law degrees from overseas universities and graduate schools. As of February 2023, there were four qualified legal professionals in Niue, but only two of them were in practice: one private lawyer and one public solicitor.<sup>71</sup> Additionally, some local people are engaged in judicial practices in Niue, including 10 Land Commissioners and 4 Justices of the Peace; however, they have not obtained law degrees.<sup>72</sup> Therefore, Niue generally must rely on a circuit of justice from New Zealand to conduct court trials. To make up for this situation, civil society<sup>73</sup> takes care of legal matters. The Access to Justice Charitable Trust based in New Zealand dispatched pro bono lawyers to Niue to provide free legal advice to parties during court sittings.<sup>74</sup>

The number of legal professionals in Niue is very small, but it is not the lowest in the world relative to the population of the country. However, according to the Niue High Court Annual report, the number of cases has increased and the duration of cases has tended to be longer since 2014.<sup>75</sup> Another critical problem is that this situation places a heavy burden on judicial personnel who are engaged in legal matters, such as the secretary, registrar and other staff at the Department of Justice, Lands and Survey as well as qualified lawyers in Niue. This situation can be expected to make operations even more difficult in the future.

---

<sup>68</sup> *Supra* note 61, p.21.

<sup>69</sup> *Ibid.*

<sup>70</sup> The University of the South Pacific, USP Emalus Vanuatu, available at: <<https://www.usp.ac.fj/emalus/>>, accessed October 21, 2023.

<sup>71</sup> *Supra* note 66.

<sup>72</sup> *Ibid.*

<sup>73</sup> In Niue, Niue Island (Umbrella) Association of NGOs (NIUANGO) is a central body for NGOs in Niue, which is a part of the Pacific Island Association for NGOs (PIANGO). See: The Commonwealth, Pacific Island Association for NGOs (PIANGO), available at: <<https://thecommonwealth.org/organizations/pacific-island-association-ngos-piango>>, accessed October 21, 2023.

<sup>74</sup> *Supra* note 61, p.21.

<sup>75</sup> *Ibid.*, pp.10-14.

Third, there are no services or information systems on judicial matters that people can use appropriately and easily. There are no websites for legal information, and the Niue High Court does not have a website; thus, case guidelines and related information are sent by email or mail as people request.<sup>76</sup> The reception desk at the Department of Justice, Land, and Survey is the only entry point for local people. It therefore takes time and money to obtain appropriate information, and this situation presents a crucial barrier to raising awareness about legal issues, procedures, and justice systems among local people. In particular, since many Niue people are based in New Zealand, it is physically difficult to utilize judicial services. Additionally, there is a financial problem: while litigation tends to be expensive, Niue does not provide legal aid.<sup>77</sup> As mentioned above, civil society supports addressing legal matters with pro bono lawyers, but these lawyers are limited and are based in New Zealand, not Niue.

Regarding the informal justice system in Niue, there is always a person in the family called the magafaoa, which means guardian or caretaker, and that person resolves family-related problems as a mediator.<sup>78</sup> Community leaders and church leaders also have a place in consultation, and church leaders' groups are involved in awareness-raising programs and are gatekeepers for the legitimate treatment of survivors in the context of gender-based violence.<sup>79</sup> However, people generally prioritize consulting the magafaoa on legal matters over community leaders or church leaders.<sup>80</sup> In addition, there are alternative dispute resolution (ADR) systems, including official mediation, reconciliation, and arbitration in Niue, for which the Department of Justice, Land and Survey is in charge. The bearers of most ADR cases are the department staff or registrars as well as family members who are very close to local people.

Finally, consultation services do not work properly. In this regard, the social structure of Niue is relevant: since society as a whole is transparent about private life and operates as a mutual surveillance society, it is difficult to secure privacy. Additionally, as mentioned previously, there are no proper facilities for legal consultation. Thus, although consultation services exist as a function, the reality is that they are not operated appropriately to protect the human rights and privacy of consulters. Although the number was small and the available data were limited, some cases of gender-based violence have been reported in Niue.<sup>81</sup> I asked a local woman about options for help in Niue if someone has a critical problem, such as gender-based violence or family-related problems. She answered,

---

<sup>76</sup> *Ibid.*, p.21.

<sup>77</sup> *Ibid.*, p.17.

<sup>78</sup> Erin Thomas, *Gender-based Violence in Niue: Challenges and Opportunities* (ICAAD, November 2021), available at: <https://icaad.ngo/wp-content/uploads/2021/12/Niue-GBV-Report-English-Digital-Pages-1.pdf>, p.10.

<sup>79</sup> *Ibid.*, p.11.

<sup>80</sup> *Supra* note 66.

<sup>81</sup> Erin Thomas, *Assessing Gender-based Violence in Niue* (ICAAD, 2017), available at: <https://icaad.ngo/wp-content/uploads/2017/11/Assessing-Gender-based-Violence-in-Niue.pdf>, pp.11-13.; *Supra* note 78, pp.14-20.

*“I should say, ‘Just go to New Zealand to rest, then come back!’ That is the only solution for us.”<sup>82</sup>*

Thus, due to the social structure as well as the lack of proper facilities, it is difficult to find a place for people to consult or ask for help in Niue. However, Niue’s small society also has a deterrent effect on crime. In this small society, shame and stigma are created by rumors and news spread by people and can be punishable by criminal behavior.<sup>83</sup>

Regarding the judicial situation in Niue, the Secretary to Justice and Registrar of the High Court of Niue, Mr. Darren Tohovaka, mentioned,<sup>84</sup>

*“People generally respect the rule of law in Niue. Also, the number of cases of lawsuits and consultations is small, so it is manageable. Although there are many problems and limited resources, we are making the best use of existing resources and managing them.”*

Overall, these situations indicate that the challenges of law and justice in Niue are strongly connected to the society and its structure. From the perspective of access to justice, Niue's judicial system does not have sufficient capacity to deal properly with all matters.

### 3. Sociolegal Analysis of the Situation After the Global Pandemic

This section analyzes the social transition and impact in Niue produced by the global pandemic. This section also demonstrates the changes, characteristics, and further challenges of access to justice and human rights situations that have been revealed in pre- and post-pandemic times.

#### 3.1. *Faka Niue*: The Niue Way Responding to the COVID-19 Pandemic

Like most Pacific Island countries,<sup>85</sup> Niue was a COVID-19-free country for over two years since the World Health Organization (WHO) announced on 11 March 2020 that the COVID-

---

<sup>82</sup> Interview with an anonymous interviewee (3), (21 February 2023) (Alofi, Niue).

<sup>83</sup> *Supra* note 78, p.12.

<sup>84</sup> *Supra* note 66.

<sup>85</sup> Most Pacific island countries were COVID-19 free for over two years. In March 2022, only Fiji reported community transmission in the Pacific region. Tokelau was the second-last place in the world to report COVID-19 infection. Please see World Health Organization, *WHO Coronavirus (COVID-19) Dashboard*,

19 outbreak was a pandemic.<sup>86</sup> The first positive case of COVID-19 in Niue was found in March 2022, and there was no community transmission until July 2022.<sup>87</sup> In this context, most SIDS in the Pacific region decided to strictly close their borders soon after the global pandemic was declared because of their vulnerability and lack of medical capacity. Their isolated geographical condition contributed to preventing COVID-19 from entering their countries, and this situation made most Pacific Island countries COVID-19-free for approximately two years.

The Government of Niue announced its border closure in March 2020, and all travelers except residents and essential workers were banned from entering the country. The government's response to the pandemic was quick: The Niue Emergency Response Plan to Coronavirus Disease 2020 was released in April 2020 to clarify national policy and action plans to mitigate the impact of COVID-19 nationwide. It contained legal evidence and a legislative framework for potential restrictions and interventions as well as indicators for impact assessment.<sup>88</sup> Niue reopened its border in June 2022<sup>89</sup> but maintained strict rules to control an outbreak, including wearing masks and social distancing in public spaces. Additionally, the government requested that all travelers undergo PCR (polymerase chain reaction) tests. In February 2023, the government of Niue announced the removal of a pre-departure test but requested that all travelers take a self-RAT (rapid antigen tests) test on day 1 and a PCR test at the Niue Ffoo Hospital on day 3 of arrival.<sup>90</sup> Table 1 shows key milestones in COVID-19 responses in Niue.

---

available at: <<https://covid19.who.int/>>, accessed October 21, 2023.; UNICEF, *COVID-19 in the Pacific*, available at: <<https://www.unicef.org/pacificislands/stories/covid-19-pacific>>, accessed October 21, 2023.; John Connell, *COVID-19 in the politically dependent Pacific territories* (Development Policy Center, 24 February 2023), available at: <<https://devpolicy.org/covid-19-in-the-politically-dependent-pacific-territories-20230224/>>, accessed October 21, 2023.

<sup>86</sup> World Health Organization, *Coronavirus disease (COVID-19) pandemic*, available at: <<https://www.who.int/europe/emergencies/situations/covid-19>>, accessed October 21, 2023.; Salote Talagi, *Political Reviews: Polynesia*, 34, *The Contemporary Pacific*, no.1, (2020), 200-206, at 200.

<sup>87</sup> Government of Niue, *Niue Confirms Its First Positive COVID-19 Case* (Alofi, 8 March 2022), available at: <<https://www.gov.nu/wp-content/uploads/2022/03/media-release-gon-niue-confirms-its-first-covid-19-case.pdf>>. In March 2022, the number of confirmed cases worldwide was approximately 12 million, and the number of cumulative confirmed COVID-19 cases was 446.83 million. For further information, please see Our World in Data, *Cumulative confirmed COVID-19 cases by world region*, available at: <<https://ourworldindata.org/grapher/cumulative-covid-cases-region>>, accessed October 21, 2023.; World Health Organization, *WHO Coronavirus (COVID-19) Dashboard*, available at: <<https://covid19.who.int/>>, accessed October 21, 2023.

<sup>88</sup> Government of Niue, *Niue Emergency Response Plan to Coronavirus Disease 2020 (COVID-19)* (Alofi, Version 4, 17 March 2022), available at: <<https://covid19.gov.nu/wp-content/uploads/2022/03/covid-19-response-plan-update-17-march-2022-v4.pdf>>.

<sup>89</sup> Government of Niue, *Official website of COVID-19 information for Niue: Travel to Niue*, available at: <<https://covid19.gov.nu/index.php/resources/>>, accessed October 21, 2023.

<sup>90</sup> Government of Niue, *COVID-19 Update: Removal of Pre-Departure Test for Travel into Niue* (Alofi, 7 February 2023), available at: <<https://www.gov.nu/wp-content/uploads/2023/02/7-February-media-release-covid-19-removal-predeparture-testing.pdf>>.

Key milestones of events related to the COVID-19 pandemic in Niue<sup>91</sup>

<i>Timeline</i>	<i>Events in Niue</i>
<i>March 2020</i>	Border closure
<i>March 2021</i>	One-way travel bubble to NZ commenced
<i>July 2021</i>	The first vaccination rollout was completed (97% of eligible people vaccinated)
<i>March 2022</i>	First COVID-19 case confirmed
<i>April 2022</i>	New protocol for predeparture test
<i>June 2022</i>	Border reopened (quarantine-free travel commenced)
<i>February 2023</i>	Pre-departure test removed
<i>March 2023</i>	All COVID-19 border entry requirements removed
<i>November 2023</i>	Air NZ restarted twice-weekly flights to Niue from Auckland

The border closure critically impacted people in Niue. As mentioned previously, since Niue people hold New Zealand citizenship and most Niue people live in New Zealand, many local people travel to New Zealand very often. However, the number of regular international flights to Niue, which were run by Air New Zealand on a twice-weekly basis, was reduced to weekly or biweekly during the global pandemic.<sup>92</sup> According to a local woman in Niue,<sup>93</sup>

*“Some of my family is in New Zealand, and we go back and forth with Niue. I was in Niue right before the lockdown, then returned to New Zealand. After that, I couldn't come back to Niue for nearly three years. “*

Border closures restricted mobility and further isolated people. Border closures affected education, especially higher education. Since Niue was a COVID-19-free country, Niue High School, including the primary and secondary schools, did not need to close the school for a long period. However, Niue’s only institution of higher education, the University of the South Pacific (USP),<sup>94</sup> could not offer high-quality education for students during the

<sup>91</sup> Created by the author referring to the Government of Niue, *Official website of COVID-19 information for Niue*, available at: <<https://covid19.gov.nu/>>, accessed October 21, 2023.

<sup>92</sup> The Pacific Private Sector Development Initiative, *Pacific Tourism Sector Snapshot: Niue* (PSDI, November 2021), available at: <<https://pacificpsdi.org/assets/Uploads/PSDI-TourismSnapshot-NIU2.pdf>>, p.6.

<sup>93</sup> Interview with an anonymous interviewee (4), (22 February 2023) (Alofi, Niue).

<sup>94</sup> The University of the South Pacific (USP) is a regional university with locations throughout countries in Oceania to meet the region’s need for high-quality tertiary education, research and policy. The university is owned and governed by twelve member countries in the Pacific region, and Niue is one of the member states. The main campus is located in Suva, Fiji. See also The University of the South Pacific, available at: <<https://www.usp.ac.fj/>>, accessed October 21, 2023.

pandemic due to the closure of the main campus, and there were only limited resources in Niue campus.<sup>95</sup>

Many of Niue's responses to the global pandemic, including the requested restrictions, policy implementations, and even the containment of COVID-19, were smooth. One of the notable events that pushed the border opening was the high vaccination rate and the successful implementation of the vaccination rollout. According to the Government of Niue, over 97% of eligible people were vaccinated in July 2021 with the Pfizer vaccine supplied by New Zealand, while the global rate at that time was 25.4%.<sup>96</sup>

Why could Niue manage COVID-19 successfully? Local people evaluated the situation as follows:

*“In the beginning, everyone was very scared of the pandemic. Because Niue is a very small country and everyone knows and is close to each other, we assumed the virus would spread very quickly. I think this is the reason why everyone followed the government's policy.”<sup>97</sup>*

*“Niue is a small country, and the communities are small too. Everyone seems to know each other, including the government people. This may also be a factor in the early and high vaccination rate.”<sup>98</sup>*

From these perspectives, the response of Faka Niue (the Niue Way) to the COVID-19 pandemic can be characterized by the following two points. First, the factor that made Niue a well-managed country during COVID-19 was not movement restrictions, requests for self-restraint, or strict curfews but border control. Niue did not need to consider any human rights problems related to those restrictions like those faced by many countries in the world during the pandemic.<sup>99</sup> Another issue was the lack of an alternative method because the original capacity in Niue was low. Therefore, closed borders represented lost opportunities for local people, such as education or employment. Second, people in Niue are very sensitive to crises; therefore, people have high acceptance of changes and new policies, and a vaccination

---

<sup>95</sup> The University of the South Pacific, *University Announcement* (Suva, 18 May 2021), available at: <<https://www.usp.ac.fj/covid-19-pandemic/staff-and-student-advisory/18-05-2021-university-announcement/>>.

<sup>96</sup> Government of Niue, *Niue Vaccination Rollout a Complete Success* (Alofi, 14 July 2023), available at: <<https://gov.nu/wp-content/uploads/2021/10/media-release-gon-niue-vaccination-rollout-complete-success.pdf>>; World Health Organization, *WHO Coronavirus (COVID-19) Dashboard*, available at: <<https://covid19.who.int/>>, accessed October 21, 2023.; Talagi (2020), *Supra* note 86, p.201.

<sup>97</sup> *Supra* note 64.

<sup>98</sup> Interview with an anonymous interviewee (2), (18 February 2023) (Alofi, Niue).

<sup>99</sup> Regarding the global problem of human rights and COVID-19, see Katharina O Cathaoir, “Human Rights in Times of Pandemics,” in Morten Kjaerum, Martha F. Davis, and Amanda Lyons (eds.), *COVID-19 and Human Rights* (New York: Routledge, 2021).; United Nations, *COVID-19 and Human Rights: We are all in this together* (2020), available at: <<https://unsdg.un.org/sites/default/files/2020-04/COVID-19-and-Human-Rights.pdf>>.

rollout was successful. The small community and the island structure contributed to realizing this well-managed process.

It is assumed that the geographical features of SIDS influence the context of these situations. In other words, Niue's remoteness, smallness, and isolation affected the responses. A lawyer and member of Parliament, Hon. Kahealani Sinahemana Hekau, pointed out:<sup>100</sup>

*“Due to our smallness, people could also easily adapt. However, this view is made against the background that Niue is very isolated to begin with. That isolation has made its society resilient and adaptable. People adapt fast as a survival mechanism.”*

Niue's trajectory presents dimensions that are unique in global society and different from the majority of the world.

### 3.2.Challenges of Access to Justice in Niue

What changes has the global pandemic brought to Niue's judicial system? How were people's human rights affected? This section analyzes the changes and impact on people's situation before and after the COVID-19 pandemic based on the parameter of access to justice.

Since the government of Niue requested that people act to avoid community infection, such as wearing masks and social distancing in public spaces, the consultation desk at the Department of Justice, Land and Survey was closed during the pandemic.<sup>101</sup> Local people were therefore required to contact the department by email or phone for initial inquiries. This situation became a critical barrier to people to obtain proper legal information. It was difficult for Niue people overseas to obtain information without official websites or online services on legal matters.

Regarding legal aid, Niue has not had a system since before the pandemic, and visiting pro bono lawyers were restricted during the pandemic. Additionally, since border closures limited litigants' travel to Niue, judicial costs and time increased. This situation made people's utilization of the judicial system and services insufficient and alienated vulnerable groups in society, who were unable to cover the cost of litigation, from proper justice systems and redress.

---

<sup>100</sup> Interview with Hon. Kahealani Sinahemana Hekau, Lawyer and a Member of the Parliament of Niue (8 February 2023) (Online).

<sup>101</sup> Government of Niue, *Official website of COVID-19 information for Niue*, available at: <<https://covid19.gov.nu/>>, accessed October 21, 2023.

The lockdown critically affected the operation of the formal court system and legal services. Since legal professionals from New Zealand could not enter Niue as a circuit during the lockdown period, it was impossible to carry out court trials as usual, which caused delays.<sup>102</sup> The government of Niue announced that the Niue High Court continued High Court Fixtures by sitting a judge from New Zealand via Zoom (an online platform) in February 2021.<sup>103</sup>

According to legal professionals in Niue:

*“During the lockdown, we managed to keep up with online court sitting, but some were not covered, and it was too hard to conduct the virtual court sitting smoothly. Judges’ visits from overseas resumed in November 2022.”*<sup>104</sup>

*“Court sittings online were conducted several times during the lockdown period for three years; however, it took a much longer time. Also, there was a problem with facilities: it was very difficult to find a proper venue for an online court sitting since the internet connection is very weak in Niue. Therefore, we used a conference room of the USP Niue campus or a facility of Telecom Niue Ltd, where the internet connection is better and stable, to conduct the court sitting.”*<sup>105</sup>

A lawyer in Niue, Hon. Kahealani Sinahemana Hekau, noted,<sup>106</sup>

*“I have had court cases delayed for about two years now. In cases where there are human rights elements involved, the defendant has become severely disadvantaged.”*

Additionally, it would be a potential problem if the general election occurred during the lockdown. Although most Niue people are based overseas, Niue does not have an overseas voting system. In-person early voting is available; however, Niue people must come to Niue to vote during the election period. Since the borders were already open during the post-pandemic general election on 29 April 2023, there was no problem.<sup>107</sup> However, border closures and lockdowns could affect the implementation of general elections and may violate people’s right to vote.

---

<sup>102</sup> Talagi (2020), *Supra* note 86, p.202.; Esther Pavihi, *November sitting of the Niue High Court with the NZ Judge -postponed* (BCN, 2020), available at: <<https://tvniue.com/2020/09/November-sitting-of-the-niue-high-court-with-the-nz-judge-postponed/>>, accessed October 21, 2023.

<sup>103</sup> Government of Niue, *Press Release: Niue High Court Sittings 2021* (Alofi, 1 February 2021), available at: <<https://www.gov.nu/wb/media/2021/Press%20Release%201%20Feb%202021%20@%202221%20Amended%20VN%20version.pdf>>. ; Esther Pavihi, *Niue High Court use Zoom to hear cases with New Zealand based judges* (BCN, 2021), available at: <<https://tvniue.com/2021/02/niue-high-court-use-zoom-to-hear-cases-with-new-zealand-based-judges/>>, accessed October 21, 2023.

<sup>104</sup> Interview with staff of the Department of Justice, Lands and Survey (23 February 2023) (Alofi, Niue).

<sup>105</sup> *Supra* note 66.

<sup>106</sup> *Supra* note 100.

<sup>107</sup> *Supra* note 24.

These considerations resulted in delays and increased costs and severely limited the ability to administer litigation. The parties suffered unanticipated disadvantages, and people's right to access the appropriate judicial system was also limited. ADR mechanisms and informal justice systems were within the range that can be operated in Niue. Thus, they were not critically affected. Rather, informal mechanisms were one of the most valuable and significant measures to guarantee people's rights to dispute resolution and access to justice during the pandemic if quality is ensured.

A possible problem is that people in need or trouble might be unable to escape. In a society composed of small communities where it is difficult to protect privacy, people in trouble have nowhere to escape if there is no appropriate consultation place for legal matters. In other words, "going to New Zealand to take a rest" did not work during the lockdown period. It is not clear how many people suffered; however, the existence of hidden demands among local people cannot be denied.

The table below presents a summary of changes in the access to justice situation in Niue.

The situation of access to justice before and after the pandemic in Niue<sup>108</sup>

<b>(1) Legal knowledge and access to Information</b>	
<b>Before the pandemic</b>	<b>During/After the pandemic</b>
<ul style="list-style-type: none"> <li>• There was no website, but the Department of Justice, Land and Survey offered information at the reception counter.</li> </ul>	<ul style="list-style-type: none"> <li>• The reception for consultation was closed to avoid social infection.</li> <li>• The office asked people to inquire via phone or email.</li> <li>• Niue people overseas found it impossible to reach the services.</li> </ul>
<b>(2) Legal aid</b>	
<b>Before the pandemic</b>	<b>During/After the pandemic</b>
<ul style="list-style-type: none"> <li>• There was no legal aid.</li> <li>• Pro bono lawyers supported court sittings.</li> </ul>	<ul style="list-style-type: none"> <li>• Judicial costs became more expensive.</li> <li>• Pro bono lawyers from New Zealand could not visit Niue.</li> </ul>
<b>(3) Formal court systems and services</b>	
<b>Before the pandemic</b>	<b>During/After the pandemic</b>
<ul style="list-style-type: none"> <li>• New Zealand justices visited Niue regularly to conduct court trials in person.</li> <li>• The venue was a conference room at the government building.</li> </ul>	<ul style="list-style-type: none"> <li>• Court sitting was conducted via Zoom.</li> <li>• The venue was the USP campus (meeting room) due to a weak internet connection and infrastructure.</li> <li>• There were many delays.</li> </ul>

<sup>108</sup> Created by the author.

**(4) Alternative Dispute Resolution (ADR) mechanisms and informal justice systems**

<b>Before the pandemic</b>	<b>During/After the pandemic</b>
<ul style="list-style-type: none"> <li>• The Department of Justice, Land, and Survey is in charge.</li> <li>• Family, community leaders, or church leaders sometimes dealt with legal matters as mediators, as needed.</li> </ul>	<ul style="list-style-type: none"> <li>• Not affected critically in this area.</li> <li>• If people need to escape to New Zealand due to domestic problems in the closed society of Niue, it is difficult to travel overseas.</li> </ul>

Overall, people’s access to justice has deteriorated significantly since the global outbreak of COVID-19. Talagi pointed out that it would have been difficult to overcome the challenges Niue faced without New Zealand's support.<sup>109</sup> This situation further demonstrates the vulnerability of Niue. Furthermore, Niue lacked alternative measures, methods, and resources to cover restrictions brought about by the pandemic due to its extremely small social structure. As a result, the already vulnerable judicial system became even weaker, leading to limited access to justice.

**4. Policy Recommendation: Law and Development Context in Niue**

Through this observation and analysis of the situation of Niue, instability and vulnerability in the judicial system were exposed, especially after the pandemic. Some of the issues that emerged from these findings relate specifically to Niue’s population composition and geographical features, including the existence of diasporas and residents in New Zealand. To substantially guarantee people's right of access to justice as well as broader human rights, it is necessary to consider sustainable measures and policies that are in line with the social context of Niue. Taken together, these findings suggest four policy recommendations along with a parameter of access to justice.

First, an information system to provide legal information for local people is essential. All Niuean legislation is publicly available from the government of Niue. However, it is also important to have a mechanism that allows ordinary people to easily understand necessary information, including easy legal interpretation, necessary procedures, guidelines, and procedure manuals in both English and Niuean. It is also important that relevant information is accessible for local people and overseas residents to deal with issues by Niuean legislation. Since Niue has a small community and people are close to each other and since there is a small capacity of legal professionals, local people may need to address legal issues at the community level. Additionally, those who are not qualified as lawyers may need to volunteer

<sup>109</sup> Talagi (2020), *Supra* note 86, p.202.

to assist people in legal matters. In such cases, it would be helpful for people to have easy access to relevant legal information and guidelines. Therefore, establishing a legal information system designed to enhance local people's knowledge is important.

Second, the establishment of an official legal aid system in Niue is desirable. Mechanisms must be set up to overcome the barrier of litigation costs, including attorney fees and travel costs to Niue for overseas litigants. If a financial support system is difficult to establish due to capacity, it is also possible to strengthen the existing pro bono cooperation system. To enhance the current mechanisms, it is important to have further collaboration or cooperation with civil society associations, including pro bono institutions overseas. Thus, it is important to develop legal services that people can use with a sense of security.

Third, to enhance the current formal court system and services, it is essential to have proper and fundamental facilities and infrastructure in Niue. A proper courtroom and an office for judicial work need to be installed in Niue to make all legal work more effective. Additionally, it is important to have proper room for legal consultation, which can protect clients' privacy, and a repository to protect legal records and archives is needed. Considering the impact of climate change, it would be desirable to build not only physical storage but also virtual storage.

Another critical point is the vulnerability of internet connections. Since the global pandemic, this lack of infrastructure has significantly impacted the operational capacity of the judiciary and people's access to these systems. If this problem is solved and a mechanism to conduct an online judicial system is established, it would be possible to compensate for the lack of capacity and guarantee people's access to justice. Therefore, the establishment of an internet-equipped courthouse that is available both in person and online is strongly needed.

Finally, enhancing the informal justice system, including ADR mechanisms, is important. These systems should be utilized further as self-managed mechanisms. Relevant to the first recommendation, it is also important to have a system that provides proper legal information and legal knowledge for local people, including litigants, mediators, and other actors in judicial matters. It is also critical to set up a consultation organization or institution that can be used anonymously. In particular, this is necessary for issues that need to be kept confidential, such as gender-based violence or domestic violence. To avoid a situation in which the victim cannot seek help or is compelled to accept the incident, a system is required to ensure that victims have access to necessary remedies or relief hotline services while ensuring their safety and privacy.

In the context of Niue, the entire structure of the judicial system should be designed to sustainably protect people's human rights because Niue, as one of the SIDS, is extremely vulnerable to external shocks and crises, including the global pandemic. Another serious problem may be that Niue's justice system, which was originally very vulnerable, is not well known in global society. To enhance the judicial system and the condition of access to justice, foreign aid or technical assistance is essential for Niue. In this context, it is important

for aid workers who are familiar with the social conditions and legal background to be involved in the rule of law. In the case of suggested infrastructure assistance, aid workers who understand their functions in a judicial context should be involved in the design. It would also be valuable to involve not only countries with similar legal systems, such as New Zealand and other Commonwealth countries, but also countries and international organizations that already have know-how or experience in providing rule of law assistance, such as the United States, France, and Japan. Therefore, it is important to understand who should be involved as aid donors and how they can cooperate with local partners in Niue.

## 5. Conclusion

This concluding section returns to the main research question: What did the COVID-19 pandemic reveal in Niue as a challenge in the context of law and development? This study set out to explore the impact of the COVID-19 pandemic in the law and development context of SIDS and to gain a better understanding of the challenges of the justice system in a small island developing state and its geographical features by examining the situation of access to justice in pre- and post-pandemic Niue. The investigation has shown that restrictions on human rights in Niue brought about by the COVID-19 pandemic differed from those that occurred in other major countries, such as movement restrictions or curfews. That is, vulnerability and geographical features such as SIDS placed limits on the right of access to a reliable justice system, and this situation was exacerbated by the COVID-19 crisis.

The findings of this study have important implications for future practice. The case study demonstrates the judicial situation and potential risks to human rights that SIDS may face. The main focus of this study is the situation of Niue and its context of access to justice. However, this analysis introduces further implications. First, the potential risks and situations revealed in Niue are applicable to other SIDS or remote areas. Thus, it can be useful in considering future risks from external impacts and factors. Second, this study identified how geographical features are related to legal systems and people's rights and how they can be transformed by external shocks such as the pandemic. These perspectives can be referenced by legal practitioners as well as aid workers for rule of law assistance in the design of aid projects.

This study focused on access to justice in the field of civil justice for local people in Niue. Therefore, the study was limited by a lack of information on criminology, criminal law, and its enforcement process in Niue. Further research should be undertaken to explore this matter for a comprehensive understanding of the current state and transition of the judicial system and people's access to justice in Niue. Another main limitation of this study was the small number of interviews and the paucity of voices of Niue people overseas. The scope of this

study was also limited in terms of the small number of local people in Niue, since most Niue people are based overseas. This study hypothesized that Niue people overseas may also have problems accessing justice due to the lack of capacity and vulnerability of the judicial system in Niue. Considerably more work will need to be done to determine the real demands, challenges, and potential risks for all Niue people.

Notwithstanding these limitations, this work offers facts about Niue, especially about the challenges and transition of justice mechanisms in the pre- and post-pandemic periods as well as valuable insights into law and development in the context of SIDS. More information concerning mechanisms to guarantee people's rights, related legislation, and social practices could help to establish a greater degree of accuracy concerning this situation in the future.

The preamble to the United Nations Agenda 2030 says that “no one will be left behind” as the central, transformative promise in global society.<sup>110</sup> Due to the smallness and features of SIDS, it may be difficult for global society to understand the situation. In particular, the judicial and human rights situation is difficult to grasp when considering the social context and the position of the state. However, society certainly exists in Niue, and people live there. Traditions, culture, language, and customs have been created there, and the dignity of the people living there should be respected. As stated in the preamble to Agenda 2030, global society must not forget these facts.

## Acknowledgment

I would like to acknowledge the interviewees and practitioners who kindly agreed to participate in interviews for this research project.

I would also like to express my gratitude and appreciation to Hon. Kahealani Sinahemana Hekau, a lawyer and the Associate Minister to the Premier at the Government of Niue, for inspiring me as my mentor in Niue. I highly appreciate Mr. Darren Tohovaka, Secretary to Justice and Registrar of the High Court of Niue, and Ms. Jay Gataua, the University of the South Pacific Niue Campus Director, whose guidance and support have been invaluable.

“Fakaaue Lahi” to the warm people in the beautiful island country of Niue.

This work was also supported by the Japan Society for the Promotion of Science (JSPS) KAKENHI (Grant-in-Aid for Early-Career Scientists), Grant Number 20K20095.

---

<sup>110</sup> *Supra* note 13, Preamble.

## References

Angelo, Tony, Elisabeth Perham, and Yi-Shen Lau, *Niue in New Zealand Legislation*, 52 *Victoria University of Wellington Law Review*, no. 2 (2021).

Aqorau, Transform, “Rethinking Sovereignty in the Pacific,” in Michael Powles (eds.), *Pacific Futures* (Canberra, ACT: Pandanus, 2006).

Barnett, Jon and Heidi Ellemor, *Niue after Cyclone Heta*, 22, *The Australian Journal of Emergency Management*, no. 1 (2007).

Bizhan, Nematullah (ed.), *State fragility: Case studies and comparisons* (London: Routledge, Taylor & Francis Group, 2023).

Cain, Tess Newton, “The Incorporation of Customary Law & Principle into Sentencing Decisions in the South Pacific Region,” in Jowitt, Anita, and Tess Newton Cain(eds.), *Passage of Change: Law, Society and Governance in the Pacific*. (Canberra: Pandanus Books, 2003).

Chopra, Tanja, and Deborah Isser, *Access to Justice and Legal Pluralism in Fragile States: The Case of Women’s Rights*, 4 *Hague Journal on the Rule of Law*, no. 02 (2012), 337–58.

The Commonwealth, Pacific Island Association for NGOs (PIANGO), available at: <<https://thecommonwealth.org/organisations/pacific-island-association-ngos-piango>>, accessed October 21, 2023.

Connell, John, *COVID-19 in the politically dependent Pacific territories* (Development Policy Center, 24 February 2023), available at: <<https://devpolicy.org/covid-19-in-the-politically-dependent-pacific-territories-20230224/>>, accessed October 21, 2023.

Cook Islands Amendment Act 1957.

Corrin, Jennifer, and Vergil Narokobi. *Introduction to South Pacific Law*. (5th ed. Cambridge: Intersentia, 2022).

Engberg-Pedersen, Lars, Louise Andersen, and Finn Stepputat, *Fragile Situations: Current Debates and Central Dilemmas*, DIIS Report, no. 9 (2008).

Government of Niue, *Niue Legislations as at 31 December 2019*, available at: <[https://www.gov.nu/wp-content/uploads/2022/03/niue\\_laws\\_vol1\\_il2022.pdf](https://www.gov.nu/wp-content/uploads/2022/03/niue_laws_vol1_il2022.pdf)>.

Government of Niue, *Niue Island Guide*, available at <<https://www.niueisland.com/library/files/d2952niuislandguideupdatesnov2022-449.pdf>>.

Government of Niue, *Government and Political System*, available at: <<https://www.gov.nu/government-and-political-system/>>, accessed October 21, 2023.

Government of Niue, *Parliament*, available at: <<https://www.gov.nu/parliament/>>, accessed October 21, 2023.

Government of Niue, *Ministers*, available at: <<https://www.gov.nu/ministers/>>, accessed October 21, 2023.

Government of Niue, *Official website of COVID-19 information for Niue*, available at: <<https://covid19.gov.nu/>>, accessed October 21, 2023.

Government of Niue, *Official website of COVID-19 information for Niue: Travel to Niue*, available at: <<https://covid19.gov.nu/index.php/resources/>>, accessed October 21, 2023.

Government of Niue, “Constitution of Niue – comment”, in *Constitution of Niue and Associated Documents as at 31 December 2019* (Niue, 2019).

Government of Niue, *Niue Emergency Response Plan to Coronavirus Disease 2020 (COVID-19)* (Alofi, Version 4, 17 March 2022), available at: <<https://covid19.gov.nu/wp-content/uploads/2022/03/covid-19-response-plan-update-17-march-2022-v4.pdf>>.

Government of Niue, *Press Release: Niue High Court Sitzings 2021* (Alofi, 1 February 2021), available at: <<https://www.gov.nu/wb/media/2021/Press%20Release%201%20Feb%202021%20@%202221%20Amended%20VN%20version.pdf>>.

Government of Niue, *Niue Confirms Its First Positive COVID-19 Case* (Alofi, 8 March 2022), available at: <<https://www.gov.nu/wp-content/uploads/2022/03/media-release-gon-niue-confirms-its-first-covid-19-case.pdf>>.

Government of Niue, *COVID-19 Update: Removal of Pre-Departure Test for Travel into Niue* (Alofi, 7 February 2023), available at: <<https://www.gov.nu/wp-content/uploads/2023/02/7-february-media-release-covid-19-removal-pre-departure-testing.pdf>>.

Government of Niue, *Niue Vaccination Rollout a Complete Success* (Alofi, 14 July 2023), available at: <<https://gov.nu/wp-content/uploads/2021/10/media-release-gon-niue-vaccination-rollout-complete-success.pdf>>.

Hassall, Graham, “Governance, Legitimacy and the Rule of Law in the South Pacific,” in Jowitt, Anita, and Tess Newton Cain (eds.), *Passage of Change: Law, Society and Governance in the Pacific* (Canberra: Pandanus Books, 2003).

Henderson, John, “Governance and Constitutional Issues: Reflections on Current Problems and Future Options,” in Michael Powles (eds.), *Pacific Futures* (Canberra, ACT: Pandanus, 2006).

McDonald, Caroline J, *An Exemplary Leader?: New Zealand and Decolonization of the Cook Islands and Niue*, 55 *The Journal of Pacific History*, no.3 (2020).

Naudé, Wim A., Amelia Paulino Amelia Santos-Uliafnova, and Mark McGillivray (eds.), *Fragile States: Causes, costs, and responses* (Oxford: Oxford University Press, 2011).

New Zealand Foreign Affairs and Trade, *About Niue*, available at: <<https://www.mfat.govt.nz/en/countries-and-regions/australia-and-pacific/niue/new-zealand-high-commission-to-niue/about-niue/>>, accessed October 21, 2023.

Niue Amendment Act (No.2) 1968.

The Niue Constitution Act 1974.

Nosa, Vili, “The Impact of Transnationalism on Niue,” in Lee, Helen Morton, and Steve Tupai Francis (eds.), *Migration and Transnationalism: Pacific Perspectives* (Canberra, ACT: ANU E Press, 2009).

O Cathaoir, Katharina, “Human Rights in Times of Pandemics,” in Morten Kjaerum, Martha F. Davis, and Amanda Lyons (eds.), *COVID-19 and Human Rights* (New York: Routledge, 2021).

OECD, “Access to justice”, in OECD, *Government at a Glance 2021* (Paris: OECD Publishing, 2021), available at: <<https://www.oecd-ilibrary.org/docserver/8b8c48af-en.pdf?expires=1691722316&id=id&accname=guest&checksum=0A26036B8E096B10309810654C029C1D>>.

Our World in Data, *Cumulative confirmed COVID-19 cases by world region*, available at: <<https://ourworldindata.org/grapher/cumulative-covid-cases-region>>, accessed October 21, 2023.

Pacific Judicial Development Programme, *Access to justice assessment toolkit* (2014) available at: <<https://www.fedcourt.gov.au/pjdp/pjdp-toolkits/Access-To-Justice-Toolkit-v2.pdf>>.

The Pacific Private Sector Development Initiative, *Pacific Tourism Sector Snapshot: Niue* (PSDI, November 2021), available at: <<https://pacificpsdi.org/assets/Uploads/PSDI-TourismSnapshot-NIU2.pdf>>.

Pasisi, Jessica Lili, *Kitiaga Mo Fakamahani e Hikihikiaga Matagi He Tau Fifine Niue: Tau Pūhala He Tau Hiapo Niue Women’s Perspectives and Experiences of Climate Change: A Hiapo Approach*, dissertation given at the University of Waikato (2019).

Pavihi, Esther, *November sitting of the Niue High Court with the NZ Judge -postponed* (BCN, 2020), available at: <<https://tvniue.com/2020/09/november-sitting-of-the-niue-high-court-with-the-nz-judge-postponed/>>, accessed October 21, 2023.

Pavihi, Esther, *Niue High Court use Zoom to hear cases with New Zealand based judges* (BCN, 2021), available at: <<https://tvniue.com/2021/02/niue-high-court-use-zoom-to-hear-cases-with-new-zealand-based-judges/>>, accessed October 21, 2023.

Pavihi, Esther, *Government to decide on the future of the public service 4-day week* (BCN, 2021), available at: <<https://tvniue.com/2021/06/government-to-decide-on-the-future-of-the-public-service-4-day-week/>>, accessed October 21, 2023.

South Pacific Regional Environment Programme, *The Loss and Damage of Niue's History* (SPREP, July 18, 2023), available at: <<https://www.sprep.org/news/the-loss-and-damage-of-niues-history>>, accessed October 21, 2023.

SPC Statistics for Development Division, *Niue*, available at: <<https://sdd.spc.int/nu>>, accessed October 21, 2023.

Talagi, Salote, *Political Reviews: Polynesia*, 34, *The Contemporary Pacific*, no.1, (2020).

Teaiwa, Teresia and Malakai Koloamatangi, "Democracy and Its Prospects in the Pacific," in Michael Powles (eds.), *Pacific Futures* (Canberra, ACT: Pandanus, 2006).

Thomas, Erin, *Assessing Gender-based Violence in Niue* (ICAAD, 2017), available at: <<https://icaad.ngo/wp-content/uploads/2017/11/Assessing-Gender-based-Violence-in-Niue.pdf>>.

Thomas, Erin, *Who's left out? Human rights in non-UN member states and territories* (Development Policy center, 8 May 2018) available at: <<https://devpolicy.org/human-rights-non-un-member-states-and-territories-20180508/>>, accessed October 21, 2023.

Thomas, Erin, *Gender-based Violence in Niue: Challenges and Opportunities* (ICAAD, November 2021), available at: <<https://icaad.ngo/wp-content/uploads/2021/12/Niue-GBV-Report-English-Digital-Pages-1.pdf>>.

Tukuniu, Tiara T., *Niue High Court Annual Report July 2015/2016–June 2018/2019* (Alofi: Niue Department of Justice, Lands & Survey), available at: <[http://www.paclii.org/nu/court-annual-reports/niuecourtsannualreport2015\\_2019.pdf](http://www.paclii.org/nu/court-annual-reports/niuecourtsannualreport2015_2019.pdf)>.

UNICEF, *COVID-19 in the Pacific*, available at: <<https://www.unicef.org/pacificislands/stories/covid-19-pacific>>, accessed October 21, 2023.

United Nations, *A/RES/71/313; E/CN.3/2022/2 Global indicator framework for the Sustainable Development Goals and targets of the 2030 Agenda for Sustainable Development* (New York, 2015), available at: <[https://unstats.un.org/sdgs/indicators/Global%20Indicator%20Framework%20after%20022%20refinement\\_Eng.pdf](https://unstats.un.org/sdgs/indicators/Global%20Indicator%20Framework%20after%20022%20refinement_Eng.pdf)>.

United Nations, *A Practitioner's Toolkit on Women's Access to Justice Programming* (2018), available at: <[https://www.ohchr.org/sites/default/files/2021-08/WA2J\\_Consolidated.pdf](https://www.ohchr.org/sites/default/files/2021-08/WA2J_Consolidated.pdf)>.

United Nations, *COVID-19 and Human Rights: We are all in this together* (2020), available at: <<https://unsdg.un.org/sites/default/files/2020-04/COVID-19-and-Human-Rights.pdf>>.

United Nations and the Rule of Law, *Access to Justice*, available at: <<https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice/>>, accessed October 21, 2023.

United Nations General Assembly (67th sess.: 2012-2013), *A/67/L.1 Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels* (New York: The United Nations, 2012).

United Nations General Assembly, *A/RES/70/1 Transforming our world: the 2030 Agenda for Sustainable Development* (New York: The United Nations, 2015).

United Nations, Human Rights Office of the High Commissioner, *SDG-CRPD resource package Article 13 Indicator*, available at: <<https://www.ohchr.org/en/disabilities/sdg-crpd-resource-package>>, accessed October 21, 2023.

United Nations, Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, *About Small Island Developing States*, available at: <<https://www.un.org/ohrlls/content/about-small-island-developing-states>>, accessed October 21, 2023.

United Nations, OCHA Relief Web, *Cyclone Heta hits tiny Pacific island of Niue*, (Niue, 2004), available at: <<https://reliefweb.int/report/niue-new-zealand/cyclone-heta-hits-tiny-pacific-island-niue>>, accessed October 21, 2023.

United Nations, OCHA Relief Web, *Protecting Niue's school children*, (Niue, 2012), available at: <<https://reliefweb.int/report/niue-new-zealand/protecting-niue%E2%80%99s-school-children>>, accessed October 21, 2023.

United Nations, Sustainable Development Goals Knowledge Platform, *Small Island Developing States*, available at: <<https://sustainabledevelopment.un.org/topics/sids/list>>, accessed October 21, 2023.

The University of the South Pacific, available at: < <https://www.usp.ac.fj/>>, accessed October 21, 2023.

The University of the South Pacific, USP Emalus Vanuatu, available at: <<https://www.usp.ac.fj/emalus/>>, accessed October 21, 2023.

The University of the South Pacific, *University Announcement* (Suva, 18 May 2021), available at: < <https://www.usp.ac.fj/covid-19-pandemic/staff-and-student-advisory/18-05-2021-university-announcement/>>, accessed October 21, 2023.

World Atlas, *Maps of Niue*, available at: <<https://www.worldatlas.com/maps/niue>>, accessed October 21, 2023.

World Health Organization, *WHO Coronavirus (COVID-19) Dashboard*, available at: <<https://covid19.who.int/>>, accessed October 21, 2023.

World Health Organization, *Coronavirus disease (COVID-19) pandemic*, available at: <<https://www.who.int/europe/emergencies/situations/covid-19>>, accessed October 21, 2023.

Worldmeter, *Niue population*, available at: <<https://www.worldometers.info/world-population/niue-population/>>, accessed October 21, 2023.

## Interviews

Interview with Darren Tohovaka, Secretary to Justice and Registrar of the High Court of Niue (21 February 2023) (Alofi, Niue).

Interview with Hon. Kahealani Sinahemana Hekau, Lawyer and a Member of the Parliament of Niue (8 February 2023) (Online).

Interview with staff of the Department of Justice, Lands and Survey (23 February 2023) (Alofi, Niue).

Interview with an anonymous interviewee (1), (18 February 2023) (Alofi, Niue).

Interview with an anonymous interviewee (2), (18 February 2023) (Alofi, Niue).

Interview with an anonymous interviewee (3), (21 February 2023) (Alofi, Niue).

Interview with an anonymous interviewee (4), (22 February 2023) (Alofi, Niue).