



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

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SUMMARY RECORD OF THE 1161st MEETING (Chamber A)

Held at the Palais Wilson, Geneva
on Tuesday, 12 September 2006, at 10 a.m.

Chairperson: Mr. DOEK

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES (agenda item 4)

Initial report of Samoa ((CRC/C/WSM/1); list of items to be dealt with (CRC/C/WSM/1); written replies by the State party to the list of items to be dealt with (CRC/C/WSM/Q/1/Add.1))

1. *At the invitation of the Chairperson, the Samoan delegation took places at the Committee table.*

2. Mrs. MATAAFA (Samoa) said that, over the past 10 years, the Samoan Government had endeavoured to establish a national infrastructure for the purpose of implementing the Convention on the Rights of the Child. The Ministry of Women, Community and Social Development was responsible for coordinating the promotion and application of the Convention.

3. Various new facts had emerged since Samoa had submitted its initial report. In particular, it had conducted a Legislative Compliance Review to determine compatibility with the provisions of the Convention and, for that purpose, had developed various indicators for measuring the progress achieved. This review had highlighted certain deficiencies regarding protection against discrimination, as the Constitution proscribed only discriminatory acts that could be ascribed to the State, and even then on a limited number of key grounds, not mentioning acts committed by individuals.

4. Among the various legislative measures taken, the following should be mentioned: the entry into force of the 2005 Infants (Adoption) Amendment Act, which regulated adoption of young children by foreign couples; the bill against domestic violence, particularly with regard to children; the Tobacco Control Bill, fixing the minimum age for the sale of tobacco-based products at 21 and limiting advertising and sponsorship by companies; the Young Persons Bill, providing a series of measures to keep young people out of the formal justice system, including the use of warnings, customary meetings and other sentencing options, fixing the age of criminal culpability at 12, and setting up a specialized juvenile justice system; the Criminal and Community Justice Bill, which provided various alternative sentencing options such as probation, community work and customary proceedings.

5. The health sector was in the process of reform. The Ministry of Health was now to be responsible for formulating and monitoring plans and policies for the development of the health sector, and for setting quality standards for health care service delivery in health facilities. The infant mortality rate had declined from 22.4 to 17.7 per 1,000 live births between 1990 and 2000 and the under-five mortality rate had fallen from 42 per 1,000 in 1990 to 25 per 1,000 in 2002. The Position Paper on Vulnerable Groups would help the Ministry of Health to monitor and mitigate the potential negative impact of health reform processes on vulnerable or disadvantaged persons, including children and women. The memorandum of understanding concluded between the Ministry of Health and the Ministry of Women, Community and Social Development established an inter-ministerial partnership to promote health and healthy lifestyles in the community.

6. In its plan for the period July 2006 to June 2015, the Ministry of Education, Sports and Culture set out its goals and expanded programmes for children with special needs. A 2006 Act set up the Samoa Qualifications Authority, while an amendment to the National University Act merged the National University of Samoa and the Samoa Polytechnic to form an Institute of Technology. Samoa had achieved the Millennium Development Goals with regard to universal primary education, the percentage of children enrolled in the first year completing the primary education cycle, and the literacy rate for 15-24-year-olds. Besides this, the Ministry was finalizing plans for various leisure and cultural activities.

7. Bills relating to young persons and community justice were in progress, as well as a text concerning a rehabilitation centre for juvenile delinquents, for which approval had been obtained.

8. In its concern for physical and psychological rehabilitation and social reintegration of children who had fallen victim to exploitation, Samoa intended to analyse the situation regarding commercial sexual exploitation of children so as to combat that phenomenon.

9. The Samoan Government was perfectly aware of the extent of the challenges and the work facing it in order to comply fully with the requirements of the Convention, especially in respect of data concerning children, the effectiveness of awareness-raising and coordination and bringing the country's administrative processes and legislation up to date, particularly regarding protection of children from all kinds of violence and from disparity in treatment between boys and girls who had fallen victim to sexual abuse or exploitation.

10. Samoa was going through a period of rapid economic and social transformation and did not always have the human and financial resources necessary to remedy the shortcomings and deficiencies but it should be noted that recognition of, and respect for, children's rights were gaining ground, often thanks to the support of the international community.

11. Mr. SIDDIQUI asked why the National Coordinating Committee for the Convention on the Rights of the Child, set up in 1997, had only started to function in 2003; how it was composed; whether NGOs and civil society were represented on it; how often it held meetings; whether it was in contact with the Partnership on the Convention on the Rights of the Child; whether it was responsible for drafting policies; whether the Partnership was the body monitoring application of the Convention; and whether it was intended to draw up a National Action Plan in the near future.

12. He asked for an explanation as to why there were clearly no systematic, regular procedures for the collection of data on children in Samoa, and wished to know what Government body saw to the collection and analysis of such data.

13. Mr. KOTRANE asked whether NGOs and experts had taken part in drafting the report.

14. He further wished to know whether the Government intended to withdraw the reservation expressed by Samoa regarding subparagraph (a) of paragraph 1 of article 28 of the Convention, concerning free and open access to education.

15. Moreover, the delegation should indicate whether Samoa intended to ratify the two Optional Protocols to the Convention and other instruments pertaining to human

rights, particularly the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

16. It would be useful to know what stage had been reached in the legislative reform project mentioned in paragraph 92 of the report and how Samoa had responded to the recommendation (para. 129 of the report) to amend the 1961 Criminal Ordinance to replace the terms “idiot” and “imbecile” with the expressions “persons affected by mental disorder” and “mental disability”.

17. Samoa should indicate whether it intended to make certain amendments regarding the definition of a child, in particular to extend parents’ maintenance obligation towards their child beyond the age of 16, to align the legal age of marriage for girls and boys and to raise the age of criminal culpability to 13 or 14 years, in line with commonly approved norms.

18. Finally, it would be good to know whether Samoa was going to lift the restriction on the rights of the child that allowed the father of a child born out of wedlock not to declare his/her birth.

19. Mr. KRAPPMANN asked for details about how Samoa intended to encourage the country’s children to express their opinions on all the issues that concerned them at all levels of society in everyday life.

20. The National Action Plan should set priorities, a schedule and a budget and establish its own assessment mechanism to monitor the progress achieved. The delegation should also specify what Samoa planned to do to improve the quality and application of its statistical data.

21. Mrs. ANDERSON asked what the Government was doing to ensure that the provisions of the Convention were disseminated as widely as possible, particularly among influential persons like church leaders. It would also be necessary to know how Samoa intended to protect children against Internet pornography.

22. The delegation should, moreover, clarify the situation regarding corporal punishment, which was apparently not expressly prohibited in the State party.

23. Mrs. OUEDRAOGO asked whether the National Coordinating Committee for the Convention and the Programmes and Training and Coordination Section of the Ministry of Women, which, according to the report, were both responsible for coordinating application of the Convention, did not duplicate each other’s functions, and she wished to know which of them was responsible for overall coordination of that application. It would also be useful to have details of the financial resources allocated for such application.

24. The delegation should indicate whether police, teaching staff and health professionals had been made aware of the provisions of the Convention, and whether the Convention was discussed in school curriculums.

25. Since hospitals sometimes omitted to register births, it would be interesting to have more detailed information on that point, and particularly to know why it was not compulsory to register children born out of wedlock.

26. Advice for children on exercising their right to information would be welcome, considering how much control the authorities exerted over newspapers and films.

27. The Committee also wished to know how the authorities managed to reconcile respect for the right to private life with cultural and family traditions, including the major role played by the family unit in everyday life; it also wished to obtain information about violence in general and police brutality in particular.

28. Mrs. ORTIZ asked for details about registration of out-of-hospital births and births in remote areas, as well as about measures taken by the State party to remedy the high number of suicides among 14 and 15-year-olds and the underlying causes of that phenomenon.

29. The CHAIRPERSON welcomed the existence of a comprehensive legislative framework covering numerous provisions of the Convention but deplored the lack of a plan to remedy the deficiencies highlighted in applying the Convention. He asked whether the State party intended to set up an independent control mechanism inspired by the Paris Principles.

The meeting was suspended at 11 a.m. and resumed at 11.20 a.m.

30. Mrs. ETEUATI SHON (Samoa) said that the Ministry of Women, Community and Social Development was the main body in charge of coordinating application of the Convention among public bodies, NGOs and local communities. The National Coordinating Committee for the Convention had only been operational since 2003, i.e., six years after its official creation, owing to the fact that, in the intervening period, the Government had had to redefine the terms of its mandate; that body had not met very often to date, but it should soon be doing so every month.

31. The State had launched media campaigns and held numerous consultations with church and village leaders and with local communities to ensure that information on the Convention was better disseminated. Moreover, various written materials had been drafted and translated into Samoan in order to inform people about the articles of the Convention, as well as about the rights and obligations of children and parents. Actions to raise awareness of the rights of the child had also been targeted at teachers, police officers, church and village leaders.

32. Samoa had adopted a National Plan of Action for Children for the period 2007-2012, dates which coincided with the implementation of the National Action Plan for national development.

33. All children could freely obtain the information they needed and the law guaranteed access to information for all. A wide range of television and radio programmes was available for the benefit of children.

34. Samoa was experiencing difficulty in collecting statistics, but intended to make substantial efforts in the near future to remedy shortcomings in that domain. The Statistics Division of the Ministry of Finance was in charge of collecting statistics on a nationwide level and, besides that, every Ministry had at its disposal its own information system. The Ministry of Women, Community and Social Development had thus acquired a child protection information system comprising statistics gathered by way of surveys among the population.

35. There was no independent body responsible for assessing and monitoring progress in applying the Convention but the authorities intended to reinforce the jurisdiction of the Ombudsman to endow him with responsibility for assessment and inspection. The National Coordinating Committee was made up of representatives of

Government bodies and NGOs, and an increase the number of its members was planned to make room for representatives of the private sector.

36. Mrs. TAYLOR (Samoa) said that an Internet bill was being drawn up in order to enhance resistance to the spread of pornographic material via that medium. The State already exerted control over films projected at the cinema and on television, so as to make sure of their content.

37. All births and deaths had to be officially registered; there were numerous mechanisms for that purpose and anyone who became aware of a birth was obliged to inform the Registrar's Department thereof. Article 16 of the Births, Marriages and Deaths Registration Act provided that the father of a child born out of wedlock was not obliged to declare the birth but only if the said father refused to recognize the child; the mother could bring the matter before the courts if she wished to get her child recognized.

38. Mrs. ETEUATI SHON (Samoa) said that compulsory registration of births concerned not only the main hospitals but also all the community clinics, district hospitals and home births. To guarantee registration of births on isolated islands, church leaders, local representatives of the Ministry of Women, Community and Social Development and village councillors were obliged to report any birth to the relevant department.

39. Mr. TOLEAFOA (Samoa) said that local communities still had a lot of power and the family occupied a preponderant place in Samoans' lives. Therefore, the main issue for the central democratic Government was to respect ancestral and family values while at the same time raising awareness among community and church leaders of the new ideas and principles enshrined in the Convention, especially the need to take account of the child's opinions. The Pacific Children's Programme, in which Samoa was participating along with two other countries, aimed in particular to raise awareness among rural inhabitants, who made up 70 per cent of the country's population, of the provisions of the Convention on the Rights of the Child. In any case, children's views were duly taken into account in Samoa.

40. The concept of private life was difficult to reconcile with the style of Samoan homes, which were lightweight, open structures, but there was no restriction regarding correspondence, telephone calls, personal relations, dress and so forth.

41. Corporal punishment, which constituted a disciplinary tool in Samoan society, was no longer applied at school but the evolution of mentalities would be slow. In the context of implementation of the Convention, measures had been taken to inform parents about alternative forms of punishment as well as about the risks inherent in corporal punishment. Such information was transmitted orally, through dialogue, for that was how Samoan society worked.

42. The law prohibited police brutality; incidentally, the Ministry of Police was conducting a campaign called "A Safer Samoa", aimed at enhancing security in all domains (in the face of drugs, natural disasters, on the roads, etc.) and therefore also regarding police brutality.

43. Mrs. ORTIZ asked whether training on human rights, and more specifically the rights of the child, was given systematically to professional groups such as teachers, nurses or police.

44. Mrs. ETEUATI SHON (Samoa) replied that various initiatives were in progress in that respect, particularly in conjunction with the Teachers' and Police Associations. Human rights formed part of the subject "social sciences", which was taught at secondary level, and awareness-raising about the Convention and protection of the rights of the child started even earlier at school. Moreover, in the framework of the National Action Plan, it was planned to reinforce partnerships with certain key players like the police, with a view to making room for the Convention in their training schedule.

45. Mr. KRAPPMANN asked whether children could take part in the running and decision-making in their villages, essential as those were in Samoan society, and whether the Statistics Division of the Ministry of Finance was able to collect and analyse data coming from other ministries. Moreover, he hoped for details about the National Action Plan, whose implementation was to commence in 2007, and particularly about its priorities.

46. Mr. TOLEAFOA (Samoa) stressed that the village was indeed a complete self-governing entity, endowed, among other things, with its own economic resources and system for maintaining order. It was made up of several clearly defined groups: chiefs, women and young people. The latter could not truly participate as long as they were going to school but they had the option of expressing their opinions to their parents, who could pass them on.

47. The suicide rate was indeed alarming in Samoa, especially over the past 10 years. A very active NGO organized meetings in the villages to raise the awareness of village elders and church leaders regarding the problem; it also broadcast radio programmes, distributed various publications and provided a permanent telephone helpline in association with the organization Lifeline International. The number of suicides had declined lately, no doubt thanks to those efforts.

48. Mrs. ETEUATI SHON (Samoa) specified that inter-ministerial data collection was in progress. The Ministry of Women, Community and Social Development had requested that questions concerning women and children be included in the questionnaire for the next census.

49. The main priorities of the National Action Plan would be harmonizing national legislation with the Convention, preventing violence against children, pursuing the community-based child protection programme – a tried and tested approach – and acting to remedy the problems of coordination in disseminating and implementing the Convention.

50. Mrs. TAYLOR (Samoa) specified that, despite the shortcomings of the legislation regarding respect for the child's opinion, the courts tended to take into account the Convention's provisions in reaching their decisions, and that there were already several precedents for this. The same applies to the right to protection of private life and the principle of the child's interest being paramount.

51. The law was very strict with regard to police brutality and only authorized recourse to force if acting in self-defence or to bring a particularly violent person under control.

52. No law expressly prohibited corporal punishment at school, but such a practice was now deemed contrary to educational policies; and mentalities were changing, since several parents had already complained about teachers.

53. Ratification of the two Optional Protocols to the Convention required prior analysis of the situation and of needs. Samoa had no army, so only the issue of the minimum age of enrolment in the police force would be relevant; similarly, the situation regarding sexual exploitation of children should be investigated before any decision was taken.

54. Samoan legislation gave different definitions of the child: thus a minor was a person under 21 years, but for the purposes of the maintenance obligation, a child was a person under 16 years of age. Some of these thresholds needed to be reviewed, but others corresponded to a concern to take account of the evolution of a child's capacities. Moreover, if a child was pursuing his/her studies, the maintenance obligation was extended until he/she was 19 years of age.

55. The law that referred to "idiots" and "imbeciles" was very old and would be amended as soon as possible to replace those terms.

56. The Law Reform Commission had not yet been set up, owing to a natural disaster that had mobilized a great many resources. In the meantime, the legal services of the ministries were preparing draft texts to remedy the shortcomings that had been identified in the legislation.

57. Minors in a situation of conflict with the law had the same rights as adults. However, two texts currently being examined would introduce numerous changes in their favour: the bill on justice for minors provided, in particular, for the creation of a juveniles' court, for raising the age of criminal culpability to 12 years, and for an obligation to detain minors separately from adults.

58. Mrs. MATAAFA (Samoa) pointed out that the report had been drawn up as objectively as possible. The Ministry of Women, Community and Social Development liked to think it was close to the population and receptive to women, but also to young people and local leaders.

59. Samoa did not intend to withdraw its reservation concerning paragraph 1 (a) of article 28 on free primary education, for that education was generally given in the context of a partnership between the Government, which made the materials, teachers and curriculums available, and communities, which provided the premises. The Government considered it important to preserve that partnership, both to share the financial burden of education and to encourage the communities' active participation in education. Furthermore, the subsidies targeted at education were generally paid to the schools, thus alleviating their financial burden accordingly. Finally, the Education Act, as amended in 1991, provided that the Ministry of Education could exempt certain families from school fees. These fees did not, in any case, concern community schools. School was currently compulsory from the ages of 5 to 14, but that age limit would probably be raised in the future.

60. Mrs. OUEDRAOGO asked what measures were being taken to guarantee the quality of teaching in community schools, whose teachers were not qualified.

61. Mrs. MATAAFA (Samoa) explained that, from primary school onwards, the teaching curriculum was the same for all schools – whether public or community – and that all teachers received official training. Early childhood care, on the other hand, was traditionally dealt with by the communities, and these had only been working in partnership with the Ministry of Education for about 10 years on adopting common standards, drawing up curriculums and training teachers.

62. Mr. SIDDIQUI asked about poverty in Samoa: whether specific measures were being taken for the benefit of poor children; whether the Strategy for the Development of Samoa (2005-2007) had been drawn up with the participation of civil society players or had been established purely by foreign consultants; what resources were allocated to its implementation; and whether there were links between the Strategy and the National Action Plan.

63. Mrs. LEE noted with satisfaction the considerable progress achieved with regard to health and care of disabled children but was concerned that a national survey carried out in 1999 had revealed the existence of a nutrition problem in Samoa. In this connection, she wished to know whether a code promoting breastfeeding of babies had been adopted. Furthermore, the delegation should give details concerning accidental injuries, as well as AIDS, early pregnancies, abortions and perinatal mortality. It would also be useful to know whether it was intended to include sexual education classes in the school curriculum, what stage had been reached by the 2005 Mental Health Bill, and whether a free telephone helpline was available 24 hours a day for suicidal young people.

64. As only 68 per cent of inhabitants had access to clean water, it would be useful to know what the Samoan authorities were doing to remedy the situation, since insalubrious water was a cause of illnesses.

65. At the time of the 2003 measles epidemic, vaccination cover was only 25 per cent, whereas the report announced 99 per cent cover; clarification on this point would be welcome, as would information about any measures taken in connection with this.

66. According to some sources, not all families had access to the Komiti Tumama, which are a kind of women's health villages, the reason being a shortage of doctors and medical staff, particularly in rural areas; clarification on this point would be welcome.

67. Furthermore, the delegation should indicate whether awareness-raising campaigns were planned to combat stigmatization and abuse of disabled children; how the authorities intended to integrate those children into the country's education system; and whether their families were receiving aid.

68. Mrs. ANDERSON asked for details about means of intervention and rehabilitation for children who were victims of family violence and about the training given to the professionals involved. Further information was needed on the situation of children whose mothers worked outside the home, these being very numerous in Samoa, on child-care arrangements and the problem of children left at home alone or under the supervision of older siblings.

69. She noted with concern that the prohibition to sell cigarettes to people under the age of 18 was not applied and asked what the authorities planned to do to remedy that situation.

70. Mr. KRAPPMANN noted that the aid sent from abroad by expatriate members of the family contributed to mitigating the problem of poverty in the country but feared that that system was fragile and therefore wished further information on poverty as a cultural phenomenon. In his opinion, Samoa needed a true social support system, particularly to take care of orphans and abandoned children.

71. Concerned by the fact that 20 per cent of children were leaving school early, he insisted on the need to make schooling compulsory earlier, and to make it free of charge. Moreover, the delegation should provide more information on the issue of

the rights of the child at school, dissemination of the Convention in schools and violence in the school environment.

72. Mr. KOTRANE expressed surprise that there was no family planning service.

73. The information provided on child labour seemed to him inadequate, and he therefore asked for details about it. He noted with alarm that article 32 of the 1972 Act relating to child labour provided that no child under 15 years of age should be employed to work on dangerous machinery, whereas the international standard fixed that minimum age at 18, and he observed that Samoa still had not ratified ILO Conventions No. 138 on the minimum age for admission to employment and No. 182 on the worst forms of child labour.

74. Mrs. ORTIZ asked what protection, alternative care and placements were possible for children awaiting adoption; what the position was regarding inter-country adoption and domestic adoption; and why Samoa had still not ratified the Hague Convention on the Protection of Children and Cooperation in respect of Inter-country Adoption.

75. She further wished to know what authorities were protected children living in problem families from falling victim to trafficking.

76. Mrs. OUEDRAOGO asked how the Samoan authorities intended to act upon the recommendations concerning social aid for children in destitute families mentioned in the report during the investigation.

77. She noted that child drug traffickers were liable to the same penalties as adults, which posed a problem and she asked whether any rehabilitation and reinsertion measures were available for young people who were taking drugs and whether any prevention activities were being conducted in schools.

78. It would be useful to know whether there were any measures to prepare the population, particularly children, for the cyclones that periodically ravaged Samoa.

79. The delegation should, moreover, indicate whether a survey had been carried out on child labour in the informal sector; what measures the authorities envisaged to remedy that problem, which was closely linked to poverty; and whether the authorities intended to give more substantial aid to destitute families.

80. The CHAIRPERSON asked what exactly the so-called “informal” form of adoption involved, and whether inter-country adoptions of Samoan children were indeed exclusively restricted to Samoan nationals living abroad, as some sources indicated.

81. He wished to know whether children living on the smallest islands had access to secondary education, and how the authorities set about posting primary-school teachers there.

82. The delegation should further indicate when Parliament would adopt the series of bills relating to justice for minors; what treatment awaited delinquent minors; where the minors currently convicted were being held; what provisions governed temporary detention of minors and whether its maximum duration was the same as for adults.

The meeting rose at 12.55 p.m.