



Convention on the Rights of the Child

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Committee on the Rights of the Child

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Item 4 of the provisional agenda

Consideration of reports of States parties

List of issues in relation to the initial report of Tonga

Addendum

Replies of Tonga to the list of issues*

[Date received: 8 May 2019]

* The present document is being issued without formal editing.

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Part 1

- 1. Please provide information on any plans to harmonize all national laws with the Convention. Please provide information on the Tonga National Youth Strategy (2014–2019) and on any plans to enact and implement Child Protection legislation. Please also advise on measures to strengthen the coordination of national action plans and strategies under the National Coordinating Committee for Children (NCCC), including budget support for the NCCC as well as for the implementation of child-related programmes.**

Harmonization

1. While the Ministry of Justice has already put together a number of laws that will require harmonization with the Convention, time-line for the amendments is still to be determined and this is largely due to staffing issues within the Ministry. Despite the slow progress, the Government does recognize the urgency is of this work and welcomes any support that it can get from development partners.

CP Legislation

2. On the Child Protection legislation, the Ministry of Justice with support from UNICEF Pacific Office is working towards the development of the adoption legislation and policy. A stakeholder workshop was held last year in 2018 with key stakeholders regarding international standards and options for the adoption policy and legislation in the context of Tonga, taking into account issues such as customary adoption; and adoption of Tongan children by Tongans living in New Zealand. The stakeholder workshop outcome report has been shared by the Ministry of Justice with stakeholders for comments which will then further guide this process. The Ministry will continue to work with UNICEF on the development of key legislative standards.

NCCC

3. The National Coordinating Committee on Children (NCCC) is led by the Chief Executive Officer for the Ministry of Education and Training. The Ministry also acts as the Secretariat. The Committee has only been meeting on an ad hoc basis and high turn-over has been one of the major challenges. While the Committee has been receiving technical assistance from UNICEF Pacific Office on the reporting process, there is still the need to strengthen this coordinating mechanism and develop actions plans. The Government will be reaching out to UNICEF for assistance. In terms of resourcing, there is currently no specific budget yet from Government for the Committee. However, line-ministry resources are committed to the implementation work of the CRC that is done by the relevant partners. Funding support was provided by UNICEF to support the Ministry of Education in coordinating and facilitating the nation-wide consultations for the CRC report held in 2017. UNICEF will also be supporting the delegation in its preparation for the initial dialogue with the Committee on the Rights of the Child in May 2019. The Ministry of Education is open to exploring ways to strengthen the Committee and will be reaching out to UNICEF for support.

- 2. Please provide information on measures taken to harmonize the definition of a child across relevant laws in accordance with the definition under the Convention, in particular to amend the Births, Deaths and Marriages Registration Act which sets the minimum age of marriage at 15, and the Criminal Offences (Amendment) Act which sets the age for death penalty at 15. Please also advise on measures to raise the age of criminal responsibility from the present 7 years to an internationally acceptable standard.**

4. While the Ministry of Justice has already put together a number of laws that will require harmonization with the Convention including the definition of a child, time-line for the amendments is still to be determined and this is largely due to staffing issues within the

Ministry. Despite the slow progress, the Government does recognize the urgency is of this work and welcomes any support that it can get from development partners.

3. Please provide information on the targeted measures taken to eliminate all forms of discrimination against children, in particular discrimination against girls and children born to unmarried parents in relation to inheritance, and boys in relation to legislation that only recognizes rape and other sexual offences in respect of female victims.

5. Legislation governing. However, for children who are born to unmarried parents, there is some consideration in the ongoing national discussions relating to the adoption legislation on elements relating to inheritance.

4. Please inform the Committee about the measures taken to ensure that the best interests of the child are taken as a primary consideration when drafting, adopting and reviewing legislation concerning children.

6. The Government takes into consideration the best interests of the child when it comes to legislative drafting; as well as application of the principle by the judiciary in cases under the Family Protection Act, as there is an explicit requirement for the principle in cases relating to custody, access and maintenance.

5. Please provide information on any steps to ensure that decisions taken in the community and in the family are in the best interests of the child.

7. While decisions in the community and family level are still predominantly made by the adults, there is now more awareness on the contribution of young people and various platforms through the churches and community are being used to capture their voices and contribution. While this is positive progress, a lot more dialogue and awareness must be done at all levels to ensure that decisions are in the best interests of the child and that child contribute positively to decisions that affect them either directly or indirectly.

6. Please also indicate any measures to promote the views of children in schools, in public discourse and through institutions such as the Tongan National Youth Council.

8. The Office of the Legislative Assembly organized in 2018 the Tonga National Youth Parliament, focusing on the theme “Our Parliament – Bringing Parliament to You”. This was the first forum for young people to be hosted by the Legislative Assembly in ten years and the first to be held since Tonga’s significant political reforms in 2010.

9. The objectives of the Tonga Youth Parliament are closely linked to Government commitments in the Tonga National Strategic Framework (2015–2025) and key priorities focused on ensuring the full participation of young people in decision making and overall development of their communities. This initiative introduced the 26 participants to parliamentary processes and allowed them to engage and dialogue with their peers and representatives of Government and civil society organizations on child-sensitive issues such as cyberbullying, education and climate change. There was support provided by development partners including UN agencies such as UNICEF who supported five participants between the ages of 14 years and 19 years. The skills and knowledge learned from this process enabled the participants to empower other young people to be involved and to contribute positively to development at the community and national level.

7. Please explain the steps taken to enforce the prohibition of corporal punishment, including whipping, in practice and in law in all settings, including at home and as a sentence for crime.

10. The Ministry of Education carries out awareness through various forms including monthly meeting by heads of schools, internal meetings, Parent Teacher Association meetings and other forums organized by the Ministry. Ongoing dialogue has to continue including with members of the community to break-down misconceptions and broaden understanding around positive discipline and positive parenting.

8. Please provide information on any legislative and administrative measures taken to combat child abuse, including sexual abuse, at home and at school, as well as information on activities to change cultural stigma attached to it.

11. The Criminal Offences Act has explicit provisions on crimes against children relating to various issues such as cruelty, child pornography, abduction etc. The Family Protection Act also has various protection measures relating to domestic violence situations.

9. Please inform the Committee on measures taken to expand day care for children.

12. Government still relies heavily on the private sector to provide this support. The Government will consider when resources are available.

10. Please also inform the Committee on any plans to develop a formal social welfare structure with guidelines for a referral system.

13. There is no concrete discussion yet on the development of a formal social welfare structure. However, out of the World Bank Programme with the Ministry of Internal Affairs on skills and employment for Tongans, there will be a social protection registry that will be created for poor families that live below basic needs poverty line. The target will be lowest 10% of the poor families. The registry will be used to identify poor families with children and secondary school and the cash transfers for school fees. There are also social protection programmes currently in place – Social welfare pension payment to the elderly; allowance for persons with payments. Services to children on early intervention.

11. Please inform the Committee about the adoption of the draft Tonga National Policy on Disability Inclusive Development (2014–2018) and the implementation of the results of the National Disability Identification Survey.

Please indicate steps taken to eliminate discrimination against children with disabilities and to facilitate their full inclusion into society, particularly ensuring their effective access to health services, diagnosis and assessment of their disability, inclusive education and to social and transport services.

14. The Disability Policy was approved by Cabinet in June 2014.

15. The Government adopted an Inclusive Education Policy in 2008 and currently working on a revised version. The Education Act 2013 also makes provision for inclusive education.

16. There are two special schools for children with disabilities – Ofa Tui Amanaki; and Mango Tree. Both schools are privately run and work closely with the Social Protection and Disability Division in the Ministry of Internal Affairs.

17. National Disability Survey – According to disability survey work plan: data processing including editing, cleaning, and data tabulation are in the stage to be completed. Data analysis including first and final draft (formatting & printing) and final report to completed end of June and disseminate around august. Anyway, we will see if we and assistance of SPC can produce any preliminary or provisional result.

Ministry of Education

- 12. Please provide information on the steps taken to make free and quality primary education available for all children, including in the remote communities and outer islands, to address the shortage of trained teachers, the drop in primary and secondary enrolment rates, and to scale up early childhood care and education.**

Please explain the measures taken to introduce human rights, including environmental education, into the compulsory school curriculum.

Please also provide information on steps to improve children's access to safe outdoor spaces.

18. The Education Act requires the Government of Tonga/Ministry of Education to ensure that there is a school within 2 kms of walking distance. It is by law that there is a school in every habitat island, regardless of number of children attending school. If there is a school age child in an island, a school must be established to ensure that access to quality education is available to all children of Tonga.

19. The Government Schools have enforced the policy that all teachers must be trained and qualified in order to be employed. The government is all offering scholarships for teachers to upgrade their skills in a recognized university/institute. Government of Tonga has also approved that the Degree level (Bachelor of Education) be offered at the Tonga Institute of Education, making it easier for local teachers to upgrade their qualifications in Tonga.

20. The Education Act 2013 dictates that compulsory age for students is 4–18 years old. This would ensure that these co-hort are still in school. The extension of primary level to middle schooling is also to ensure that students do not drop out early after the Secondary Entrance Examination.

21. The Early Childhood Education has been included in the revised Education Act 2013. The first 2 Government Early Childhood Schools were opened at the beginning of 2019 Academic Year.

22. On the issue of child's access to safe outdoor spaces, there is one major park on Tongatapu the main island. Some communities also have their own outdoor play spaces for children. These parks are open to all members of the public and there is no restriction on access. There are other open spaces by the waterfront which is enjoyed by families. In the outer islands, there are also open spaces which are used by children and families.

- 13. Please inform the Committee on any measures taken to develop a comprehensive juvenile justice system, in particular:**

- (a) Address the training of judges and all other relevant personnel;**
- (b) Provide free legal representation for children at all stages of the juvenile justice process;**
- (c) Keep children separated from adults in detention centres and police stations;**
- (d) Promote the use of diversion and non-custodial measures.**

23. The Ministry of Justice is working with NZ MFAT who is providing assistance through the Tonga Justice Sector Support Programme. Priorities include the development of a youth diversion scheme. There is no free legal representation generally. However, if the case relates to the Family Protection Act then legal counsel is provided through the Family Protection Legal Aid Center.

Part 2

14. The Committee invites the State party to provide a brief update (no more than three pages) on the information presented in its report with regard to:

- (a) New bills or laws, and their respective regulations;**
- (b) New institutions (and their mandates) or institutional reforms;**
- (c) Recently introduced policies, programmes and action plans and their scope and financing;**
- (d) Recent ratifications of human rights instruments.**

24. The Government is working towards the ratification of UNCAT which is being led by Justice and Police.
