



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Sixty-fourth session

### Summary record of the second part (public)\* of the 1824th meeting\*\*

Held at the Palais Wilson, Geneva, on Friday, 20 September 2013, at 9 a.m.

*Chairperson:* Ms. Sandberg

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- \* No summary record was prepared for the first part (closed) of the meeting.
  - \*\* No summary records were issued for the 1822nd or 1823rd meetings.

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*The second part (public) of meeting was called to order at 9.30 a.m.*

**Consideration of reports of States parties** *(continued)*

*Initial report of Tuvalu on the implementation of the Convention on the Rights of the Child (CRC/C/TUV/1; CRC/C/TUV/Q/1 and Add.1)*

1. **The Chairperson** said that the second part of the 1824th meeting would be conducted via video link.
2. *Communication was established with the delegation of Tuvalu.*
3. **Ms. Apinelu** (Tuvalu) said that Tuvalu, a small, developing island State, had ratified the Convention in September 1995 and was endeavouring to implement its provisions, despite the numerous difficulties facing the country. The Office of the Attorney General, which was the country's principal judicial body, was assisted by six legal experts. Its main role was to advise the Council of Ministers and Parliament, in addition to administering criminal justice. Three of the legal experts working for the Office of the Attorney General were responsible for coordinating the implementation of international human rights instruments together with key government ministries. Tuvalu had no independent body or children's ombudsperson responsible for children's rights monitoring. The only competent authority in that regard was the National Advisory Committee for Children, whose task it was to coordinate children's policies under the auspices of the Ministry of Education. Children in conflict with the law were dealt with not by the justice system, but by the police, who also worked to promote responsible parenting. The implementation of the Convention was rendered difficult by the fact that the outer islands of the archipelago, which were extremely isolated, had only very basic facilities and were virtually cut off from the rest of the world. Nevertheless, the country's culture was based on the values of mutual support and respect for others, allowing it to partly counter the considerable challenges it faced, the most pressing of which was a lack of qualified personnel and financial resources. As part of the national strategy for sustainable development, the Government had just launched a national road map defining the measures needed to improve children's rights, which included revising the Constitution in order to bring it into line with the provisions of the Convention, improving health and education services and establishing a mechanism to monitor human rights.
4. **Ms. Wijemanne** (Country Rapporteur) asked whether the National Advisory Committee for Children had developed a national plan of action for children. She also wanted to know if it was true that children under the age of 18 could marry.
5. **Ms. Winter** asked whether the State party planned to explicitly prohibit gender-based discrimination in its Constitution, and whether it was true that a child born out of wedlock and recognized by the father could be taken away from the mother from the age of 2. She asked if there were cultural traditions that might be incompatible with human rights, and if it was true that corporal punishment was permitted in certain contexts. Lastly, she wanted to know whether the State party had considered excluding the possibility of sentencing minors to life imprisonment without parole.
6. **Mr. Gastaud** asked whether the State party had taken steps to raise awareness of the Convention among the public and the authorities, and whether the report had been produced with the involvement of civil society and children.
7. **The Chairperson**, speaking as a member of the Committee, asked whether the best interests of the child were taken into account in the drafting of laws relating to children and in court rulings that concerned them, particularly divorce cases. She also requested further details of the measures taken to ensure that births were registered. She understood that there

was a law restricting freedom of religion and invited the delegation to comment on the matter.

8. **Ms. Oviedo Fierro** asked whether legislation prohibiting violence against children protected both girls and boys, and whether the authorities had planned emergency measures to rescue children in the event of a natural disaster.

9. **Mr. Mezmur** asked whether the law explicitly criminalized sexual violence against boys. He also invited the delegation to indicate whether the State party had taken steps to combat infant mortality and illnesses such as obesity and heart conditions.

10. **Ms. Aidoo** enquired about the measures taken by the State party to enable more children who passed the national examination in year eight to attend secondary school.

11. **Ms. Muhamad Shariff** asked if there were plans to adopt a national policy on disability.

12. **Ms. Wijemanne** asked whether steps had been taken both to encourage children to report sexual violence they had suffered and to establish services to assist them. She also requested further information on measures to raise awareness among young people of the dangers of alcohol consumption, and on the budget set aside for basic health services. Lastly, she asked whether the State party encouraged mothers to breastfeed and whether children were made aware of climate change at school.

13. **Ms. Aldoseri** and **Mr. Nogueira Neto** asked whether a system had been set up for the collection of disaggregated data relating to the implementation of the Convention.

14. **Ms. Winter** asked why children in conflict with the law were dealt with by the police rather than the courts. She also wanted to know how many children were currently serving prison terms, and whether the authorities applied restorative or punitive justice.

15. **The Chairperson**, speaking as a member of the Committee, said that she understood that internal law took precedence over the international instruments ratified by the State party and requested clarification on the matter. She also wanted to know whether measures had been taken to improve housing conditions in Tuvalu. Lastly, she requested further information on the respect for privacy in court proceedings.

*The meeting was suspended at 10.15 a.m. and resumed at 10.30 a.m.*

16. **Ms. Pasiale** (Tuvalu) said that the National Advisory Committee for Children was composed of representatives from various ministries, who worked together to improve the lives of every child in the country. That body, in cooperation with the United Nations Children's Fund (UNICEF) and local organizations, had developed a plan of action, which was in the process of being implemented. There were plans to establish a database for school enrolment, which would allow for the development of targeted policies with a view to achieving universal enrolment.

17. **The Chairperson** asked whether children were informed of the provisions of the Convention as part of school curricula.

18. **Ms. Pasiale** (Tuvalu) said that matters covered in the Convention were incorporated into school curricula.

19. Increasing the pass rate for children sitting the national examination in year eight was one of the priority objectives of the State, which had, to that end, developed a strategy aimed particularly at training teachers and collecting data. Contrary to the information received by the Committee, the pass rate for boys was not lower than that for girls.

20. **Ms. Aidoo** asked whether the State of Tuvalu had the necessary technical and financial resources to implement that strategy.

21. **Ms. Pasiale** (Tuvalu) explained that the State did not have sufficient technical, financial or human resources to implement the strategy, but that several partners were offering support. She cited as an example the education for all project in Tuvalu, organized by the UNICEF East Asia and the Pacific Regional Office and funded by the Australian Agency for International Development, which had allocated a budget of \$A 3.6 million for the initiative over a period of four years.

22. With regard to climate change, several projects had been set up with the help of international and regional partners. Contingency plans had been developed in every school to prepare for disasters, and speakers visited schools to raise pupils' awareness of climate change. The State also planned to incorporate the topic into school curricula. It had received assistance from the United Nations Educational, Scientific and Cultural Organization (UNESCO) in order to develop modules and learning materials. Training programmes had also been implemented to allow teachers to acquire the skills needed to teach topics related to climate change. The State of Tuvalu was also participating in the Sandwatch project launched by UNESCO.

23. As for taking into account the opinions and needs of children, she said that children were consulted during the development of school curricula. However, for their opinion to be taken on board more often, attitudes would need to change.

24. **The Chairperson** noted that children had no say in traditional circles. She asked whether measures were being taken to raise awareness among families and communities of the importance of children's opinions.

25. **Ms. Pasiale** (Tuvalu) explained that the idea of taking into account children's opinions was new in Tuvalu. An effort was initially being made with pupils' parents in order to change attitudes.

26. The Ministry of Education had worked closely with the Ministry of Health to implement a programme to combat infant mortality. A programme to tackle obesity had also been launched in school canteens.

27. In response to a question about sex education, she noted that young Tuvaluans had very active sex lives. A family life education programme had been launched in conjunction with the United Nations Population Fund (UNFPA).

28. **Ms. Wijemanne** asked whether some companies encouraged the consumption of "junk food".

29. **Ms. Pasiale** (Tuvalu) said that no companies encouraged the consumption of junk food. Moreover, companies that imported food to Tuvalu were obliged to ensure that the information contained on product labels was clear and translated into a language that Tuvaluan consumers could understand, allowing them to make informed choices.

30. With regard to corporal punishment, she explained that in Tuvaluan culture, disciplining children entailed punishing them. Only teachers could inflict corporal punishment without committing an offence. Nevertheless, various initiatives were being implemented within communities to encourage both parents and teachers to use other methods when disciplining their children. The State was also planning to review the law on education.

31. **The Chairperson** said that teachers should not resort to corporal punishment under any circumstances.

32. **Mr. Jogia** (Tuvalu), addressing matters related to health, pointed out that some patients had to be sent abroad for treatment, generally to Fiji, New Zealand or India, because Tuvalu did not always have the necessary facilities or personnel. That was why the State of Tuvalu devoted 40 per cent of its budget to health care.

33. The Ministry of Health, in partnership with the Tuvalu Family Health Association, ran programmes for sex education and the distribution of condoms. There was also a screening centre for sexually transmitted diseases. The sale of alcohol and cigarettes to children under the age of 18 was not permitted.
34. With regard to the promotion of breastfeeding, the State had adopted a policy in line with the International Code of Marketing of Breast-milk Substitutes. In the civil service, women were allowed to take time out to breastfeed their child. A radio programme had also been launched to promote breastfeeding and doctors encouraged mothers, particularly teenagers, to breastfeed.
35. There was no law on the rights of children with disabilities, but the State was currently examining the advantages and disadvantages of ratifying the Convention on the Rights of Persons with Disabilities. Implementing the provisions of the instrument would require, *inter alia*, the installation of suitable facilities in schools.
36. The Fusi Alofa Association directed teaching programmes for children with disabilities, in addition to disability awareness programmes.
37. Lastly, he explained that the number of cases of sexual abuse being reported to the authorities was low because such cases were shameful for families.
38. **Mr. Cardona Llorens** said that he was concerned that under the State party's legislation, the principle of compulsory education did not apply to children with disabilities. He said that the provision was likely to marginalize children with disabilities and asked whether the State planned to modify it.
39. **Ms. Apinelu** (Tuvalu) explained that the purpose of the provision was not to marginalize children with disabilities, but rather to provide relief to their parents, given that schools in Tuvalu did not have suitable facilities to accommodate those children.
40. **Ms. Pasiale** (Tuvalu) said that children with learning disabilities were integrated into the general education system. On the other hand, schools in Tuvalu did not have the necessary personnel or infrastructure to accommodate children with severe physical impairments.
41. Under the project to promote education for all, the State was working closely with other countries in the region and partners such as the Fusi Alofa Association with a view to integrating children with severe physical impairments. The national policy on inclusive education was being developed and some teachers were sent abroad to be trained to care for children with special needs.
42. **Ms. Aidoo** said that she was concerned that, under article 1565 of the Criminal Code, female victims of incest from the age of 15 years upwards were held responsible. She asked if measures were being taken to raise awareness of the matter among communities and the judiciary and to repeal the provision. She also wanted to know if empowerment programmes were being implemented for women and girls.
43. **Ms. Wijemanne** said that a system should be set up to enable girls to report sexual abuse they had suffered confidentially to specially trained staff.
44. **Ms. Apinelu** (Tuvalu) said that the State was currently revising its legislation in order to bring it into line with the provisions of international human rights instruments. With regard to the confidentiality of complaints, she pointed out that centres had earlier been opened for that purpose, but that because Tuvalu was a small country, women and girls could not visit them without being seen by other members of the community, so that the idea had been abandoned.

45. **Ms. Winter** proposed that in schools, trustworthy teachers should be appointed as persons to whom girls who had been victims of sexual abuse could turn, and who would subsequently take whatever measures might be necessary.
46. **Mr. Jogia** (Tuvalu) said that the definition of rape in the Criminal Code was being revised. The new definition would include rape committed against men and boys and penetration by an object.
47. **The Chairperson** asked whether penalties for sexual offences varied depending on whether the victim was a girl or a boy.
48. **Ms. Apinelu** (Tuvalu) said that the penalties were the same, irrespective of the victim's gender.
49. **Mr. Jogia** (Tuvalu) said that under the law on education, all public schools had to provide religious education. Children could be excused from religious education and from taking part in religious services if their parents so requested.
50. **The Chairperson**, speaking as a member of the Committee, and **Ms. Wijemanne** (Country Rapporteur), referring to a report that children had been forced to attend a religious service, asked whether all schools had the same practices.
51. **Ms. Pasiale** (Tuvalu) replied that pupils' freedom of religion was respected and that children who practised a different religion could remain in their classroom and study, or follow a religious service at the place of worship of their religion. They were, however, obliged to attend morning prayer under the supervision of the pastor, as that activity was part of the school curriculum.
52. **Mr. Jogia** (Tuvalu) said that murder carried a mandatory life sentence. The Government was currently preparing a reform of the Criminal Code with a view to abolishing the penalty and establishing a minimum sentence of 15 years' imprisonment for serious crimes.
53. **Ms. Winter** asked whether the only prisoner serving a life sentence who had been a minor at the time of the offence could receive a presidential pardon before the entry into force of the new law, or whether the sentence could be commuted after its entry into force.
54. **Ms. Apinelu** (Tuvalu) replied that the Government was considering that possibility.
55. **Mr. Jogia** (Tuvalu) said that an awareness-raising programme was currently being conducted in Tuvalu to make parents aware of their responsibilities towards their children and avoid their children being left to their own devices. The police carried out patrols and brought children who were out on the streets after 10 p.m. to the police station. Parents were seen by a police officer, who gave them advice and informed them of the criminal penalties they could incur if they continued to neglect their children.
56. **The Chairperson**, speaking as a member of the Committee, asked if setting up a childcare system would not be a good way of preventing the phenomenon.
57. **Mr. Jogia** (Tuvalu) said that it would not. The common practice in Tuvalu was for working parents to entrust their children to close relatives.
58. **Ms. Apinelu** (Tuvalu) said that Tuvaluan courts attached great importance to the best interests of the child in divorce and adoption proceedings and did not apply the customary law whereby custody of the child was systematically attributed to the father. Children were heard by social services and their opinion was taken into account by the judge.
59. Awareness-raising programmes had been conducted to inform parents of their obligation to register their child at birth, which they did not always do. A project to

modernize the birth registration system had been developed, but Tuvalu required technical and financial assistance to implement it.

60. The Religious Organizations Restriction Act sought to engender greater tolerance and its purpose was to improve dialogue between the persons responsible for new religious organizations and traditional leaders, who had the power to refuse or accept new religions in Tuvalu.

61. She said that, although it was true that domestic law took precedence over international instruments, the provisions of those instruments could be invoked by the courts. She said that there were still disparities in terms of establishing the age of criminal and civil responsibility, and that harmonization was necessary. It was, however, a long process as all of the islands had to confer and reach agreement.

62. **Ms. Winter** asked what the provisions were governing police handling of children who had committed an offence but did not appear in court, and from what age children were considered to be responsible for their actions.

63. **Ms. Apinelu** (Tuvalu) said that there was no minimum age at which children who had committed an offence could be arrested by the police and placed in custody. Nevertheless, in practice, children under the age of 10 who had committed minor offences were taken home and the matter was discussed with the family. They could be taken to the police station in the event of repeated offences.

64. **The Chairperson**, speaking as a member of the Committee, noted that the age of criminal responsibility had been set at 10 years and asked whether Tuvalu was considering raising it. She wanted to know whether police officers received specific training on how to handle children.

65. **Ms. Apinelu** (Tuvalu) replied that police officers followed training programmes that had been put in place for the Pacific Islands by New Zealand.

66. Should it be necessary to take measures to evacuate children as a result of natural disasters, Tuvalu would seek assistance from the international community.

67. The Government, aware of the fact that the Constitution of Tuvalu did not include sex among the prohibited grounds of discrimination and that several laws discriminated against women, had consulted the public, who had opposed the amendment of those provisions. A new road map was being developed with a view to amending internal legislation to bring it into line with international instruments.

68. **Ms. Wijemanne** paid tribute to the positive attitude of Tuvalu, whose commitment to children's rights had remained intact despite the difficulties facing the country and despite its vulnerability to climate change.

*The meeting rose at 12.30 p.m.*