

**Country session: Tonga**

**Date of session: 14-15 May 2019**

**Background information**

[OHCHR press release](#)

**Webcast:** [Part 1](#) and [Part 2](#)

[Audio file](#)

**Reporting**

**Reporting methodology**

Regular reporting procedure

Simplified reporting procedure

Concluding Observations with urgent measures

**State report:**

Common core document	
Initial submission	-
Updated document	-
Annexes	-

<a href="#">CRC</a>	
No. of report	1 <sup>st</sup>
Due date	1997
Submission	5 April 2018

<a href="#">Written replies</a>	
Submission	8 May 2019
Due date	15 February 2019

**Public reports from children's rights defenders**

<a href="#">Alternative reports</a>	
<b>NGOs</b>	<ul style="list-style-type: none"> <li>Human Rights Watch</li> <li>Juvenile Justice Advocates International</li> </ul>
<b>NHRIs</b>	-

**State delegation**

The state delegation was small and consisted of both high-level and technical staff. It was headed by Raelyn 'Esau, Acting Chief Executive Officer of the Ministry of Education and was composed of the representatives of the Ministry of Internal Affairs, Ministry of Education and Training, the Statistics Department, and the Ministry of Justice.

## Committee's Task Force members

Name & Last Name	Country
Clarence Nelson	Samoa
Amal Aldoseri	Bahrain

## Dialogue description

i. Character of the dialogue

The atmosphere was cooperative, and the dialogue was in-depth. At the beginning of the dialogue, the Committee informed the delegation that they would receive a high number of questions since it was Tonga's first CRC report. For some of the questions, the delegation acknowledged that they didn't know the answers and committed to bring answers at a later stage of the discussion.

ii. General assessment made by the Committee

The committee was pleased that Tonga had sent its initial report and commended the delegation's physical presence in Geneva, which is a sign that Tonga is committed to children's rights. The Committee welcomed the adoption of the Family Protection Act of 2013, the Education Act of 2013, the Domestic Violence Response police and the Tonga National Youth Strategy 2014-2019. The Committee encouraged the state party to further promote legislative and other reforms.

iii. Main issues discussed:

- **General measures of implementation:** The Committee noted that Tonga's report mentioned that the government had not taken enough measures to harmonize domestic legislation with the Convention; they therefore asked whether there was a timeframe to do so eventually. The delegation affirmed that some -but not all- of the measures include the ongoing review of the Adoption legislation as well as the preliminary review of legislation with regards to children in the criminal justice system.
- **Birth registration:** The Committee showed concern about a unique phenomenon in Tonga whereby children of unmarried parents register as "illegitimate children" upon their birth and are required to re-register when their parents get married; they asked the delegation to provide the number of children in such a situation. The Committee wondered if these implied that a child could end up with two birth certificates. The delegation acknowledged that such system was very particular. It clarified that all illegitimate children are required to be registered at birth; however, in instances where the parents of an illegitimate child (born out of wedlock) decide to marry, such marriages allow for the legitimation of the child. Legitimation entitles the child with specific benefits, such as the right to land, which illegitimate children do not get. Furthermore, the Committee highly recommended to consider changing the terminology used for children born out of wedlock: "illegitimate children" into a more neutral wording such as "children of unmarried parents" to avoid discrimination and humiliation. The delegation positively welcomed such a recommendation.
- **Right of the child to be heard:** The Committee expressed concern with regards to par.241 of the state party report in which it states : "*Children are supposed to listen and obey to their parents and have no word*"; and further asked what the government is doing to encourage child participation while noting that there already exists a National Youth Congress. Moreover, the Committee raised concern on the fact that climate change might be the most dangerous issue in the coming years and hence asked whether there exist awareness-raising programmes for children in schools. The delegation reassured the Committee that the government encourages youth and children to participate as members of Councils since 34% of their population are youth including children; in those councils, children are encouraged to give their views freely. As to climate change, the delegation informed the Committee that the country was frapped by cyclone Gita the previous year (2018) and destroyed some schools in Tonga. This had been an opportunity to raise awareness about climate change

to children; the government thereafter decided to include climate resilience programmes in the curriculum as a way of ensuring that children are aware, learn about of the devastation of disasters and its impact in schools and in families.

- **Violence against children:** While noting that the penalty of weeping has been outlawed but that it is still carried out in schools, the Committee asked which actions are conducted to stop such a practice and which sanctions are provided for those inflicting it. The delegation regretted that no concrete effort has been made with regards to weeping. The Committee asked if the government has thought about engaging the church in programmes aimed at stopping child abuse; it also noticed that the Police Domestic Unit tends to focus on women rather than children's complaints and asked whether there is a specific unit to handle children's complaints and whether there is a national strategy to address the underreported cases. The delegation replied that no such specific unit exists. The Committee was very concerned about the issue of rape against boys, which is not criminalized in Tonga and inquired about the sanctions against the perpetrator and what care is provided for the victim. The delegation responded that the definition of rape should be interpreted in line with the CRC and whilst boys are not protected from being a victim of rape, provisions relating to sodomy still exist in the legislation and may be used to address violations against boy's rights in this regard. As to the care provided to the victims, the delegation acknowledged that it had no answer at hand. In response to the Committee's question regarding the measures in place to address domestic violence, the delegation replied that for 3 years now safe houses exist for children up to 15 years old, established by the Ministry of internal affairs. The State discourages the separation of children from their families and prioritizes in the safe houses children in emergency situations over children who are running away from home.
- **Right to life:** The Committee showed concern about the amount of traffic accident and asked what measures are in place to address it. The delegation responded that a legislation on Compulsory seat belt shall be adopted and assured the Committee that the Minister of infrastructure will be pushing for that law.
- **Principle of non-discrimination:** The Committee asked whether the government is taking immediate measures by law against any form of discrimination against girls, children with disabilities, and children born from stateless parents. The delegation responded that the Minister of foreign affairs is committed to leaving no one behind and currently provided funding to children with disabilities to engage them in sports, get them back to schools and provide access to employment.
- **Family environment and alternative care:** The Committee was concerned about possible abuses by the extended family of children removed from their nuclear family and asked whether there is any supervision. The delegation confirmed that there are compulsory weekly visits to ensure that all care is given to the child. The Committee also raised the fact that some children are placed in mental facilities and some in homes, the latter seeming positive to the Committee and asked whether the ones in the latter case are still given care. The delegation responded that children whether in facilities or in homes are both cared for.
- **Adolescent health:** Being aware of the high level of early pregnancy, the Committee asked whether schools in Tonga include reproductive health courses; they asked whether carrying an abortion is a criminal act itself, and whether teenagers are able to make safe abortions. The delegation replied that health and sexual reproductive courses are limited to secondary school; abortions are illegal, except in extreme situations. It was added that no abortion services are available for girls.
- **Special protection measures:** Regarding child labour, the Committee noted that there are a number of deficiencies in the Labour Law and that there are a lot of children selling peanuts and snacks during school time, it therefore asked if there exists any legislation prohibiting child labour. The delegation responded that the existing bill provides for 15 as the minimum age to employment, which is in conformity with International human rights standards, and that children from 15 to 18 can participate in non-hazardous activities. The Committee also asked if the State Party would consider ratifying the OPSC as a mechanism to respond to child prostitution, sale, trafficking and abduction of children. The delegation replied that the Counter-terrorism Act criminalizes the offence of trafficking of children and abduction of girls while noting that the law only protects girls from abduction and there exists no legislation on sale of children. The government will consider the ratification of OPSC, the delegation assured.



- **General measures of implementation:** The Committee urges the state party to strengthen its efforts with clear timelines to bring the existing legislation, such as the Criminal Offences Act, in conformity with the Convention; to develop and adopt a comprehensive child rights law with a budgeted implementation plan. With regards to allocation of resources -with reference to its GC No. 19- the Committee recommends that the State party in planning its future budgets increase allocated budgetary resources for children to the maximum extent possible in accordance with article 4 of the Convention and establish a budgeting process that includes a child rights perspective and specifies clear allocations to children in the relevant sectors and agencies, with specific indicators and a tracking system.
- **Definition of the child:** The Committee urges the State party to revise all legislation to ensure the definition of a child is in line with the Convention and set the minimum age for marriage at 18 years in line with the GC No. 18 (2014) on harmful practices.
- **Non-discrimination:** the Committee urges the state party to amend the Criminal Offences Act to ensure that all victims of rape, boys or girls, are accorded the same protection; to take legislative measures to bring the land ownership law in full compliance with the Convention, particularly concerning inheritance and ownership of land in relation to girls and children born to unmarried parents; to take legislative and active measures to end all forms of discrimination against children, including replacing the word “illegitimate” in the law and other texts with the phrase “children of unmarried parents”; and to take effective measures to ensure that children with disabilities are not discriminated against when accessing education and basic services.
- **Right to life , survival and development:** the Committee urges the state party to amend the Criminal Offences Act to explicitly prohibit the sentencing of children who commit crimes while under 18 years of age to the death penalty; to strengthen its efforts to enhance road safety and reduce the high number of injuries and deaths caused by accidents through adopting necessary legislation and conducting further traffic safety and awareness-raising campaigns and initiatives.
- **Birth registration and nationality:** The Committee recommends the state party to improve the efficiency of the registration process, particularly for births that take place outside of hospital facilities, and ensure accuracy of registration details for babies born to young or unmarried mothers; to strengthen capacity of health personnel in the outer islands to ensure that all births are accurately recorded; to repeal the re-registration provision in the Legitimacy Act that requires children born to unmarried parents to be re-registered as “a legitimate child” after the marriage of the parents; and to consider ratifying the 1954 and 1961 Convention relating to Stateless Persons respectively.
- **Violence against children:** while referring to its GC N.8 , the Committee urges the state party to explicitly prohibit corporal punishment in law and in practice in all settings and repeal the right to administer judicial corporal punishment for a crime; to effectively enforce the prohibition against corporal punishment in schools and penal institutions and provide children, especially in schools, with a complaints mechanism so that they can safely and confidentially report teachers and others that continue to use corporal punishment. With regards to abuse and neglect and sexual exploitation and abuse and with reference to its GC N.13, the Committee urges the state party to Encourage community-based programmes aimed at preventing and tackling domestic violence, child abuse, and sexual exploitation; and to ensure that child victims of violence and abuse have access to appropriate shelters and counselling, psychological, recovery and reintegration services;
- **Family environment and alternative care:** The Committee urges the state party to set up a formal alternative care system, develop an alternative care policy and minimum standards for regulating alternative care for children and take children’s views into consideration when making any decisions about alternative care. Regarding adoption, the Committee urges Tonga to enact the Adoption law, formalize guidelines for the adoption process and establish an adequately resourced unit to oversee the formal adoption process; and to consider ratifying the 1993 Hague Convention N. 33.
- **Children with disabilities:** The Committee urges the state party to Adopt a human rights-based approach to disability; to ensure that children with disabilities have effective access to public services and spaces and improve physical access to all public and private buildings, spaces, service delivery and transportation in all areas; to ensure that all children with all types of disability enjoy inclusive education and that teaching staff are adequately trained; to strengthen health-care services for children with disabilities; to expand



community-based rehabilitation, early identification and referral programmes to cover all children with disabilities, and provide technical support to service providers and to families of children with disabilities and increase the financial support to families of children with disabilities; and to consider ratifying the Convention on the Rights of Persons with Disabilities.

- **Impact of climate change on the rights of the child:** The Committee urges the state party to fully implement and support the revised Joint National Action Plan on Climate Change and Disaster Risk Management (JNAP2) including addressing key gaps identified from the previous National Action Plan on Climate Change and Disaster Risk Management (JNAP1); to continue building children’s awareness and preparedness for climate change and natural disasters; to review emergency protocols to include assistance and other support to all children, particularly those with disabilities, during emergencies and natural disasters; and to improve data and assessments to have an evidence base for risk reduction and preparedness, particularly for the distinct needs and priorities of children with disabilities.
- **Administration of juvenile justice:** The Committee urges the state party to develop and adopt a youth diversion scheme with clear timelines for its implementation; to raise the minimum age of criminal responsibility to acceptable international standards for all cases and ensure that children under the age of 18 years are accorded with all legal safeguards.

### Sustainable Development Goals

- 3.4, on reducing by one third premature mortality from non-communicable diseases;
- 4.1, on ensuring that all girls and boys complete free, equitable and quality primary and secondary education;
- 5.6, on ensuring universal access to sexual and reproductive health and reproductive rights;
- 13.1, on strengthening resilience and adaptive capacity to climate-related hazards and natural disasters;
- 13.3, on improving education, awareness-raising and human and institutional capacity on climate change mitigation;
- 13.b, on promoting mechanisms for raising capacity for effective climate change-related planning and management in least developed countries and small island developing States;
- 16.2, on ending abuse, exploitation, trafficking and all forms of violence against and torture of children;
- 16.9, on providing legal identity for all, including birth registration.

### Next State report

CRC	
No. of report	2 <sup>nd</sup> to 6 <sup>th</sup>
Due date	December 2023



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