Child Rights References in the Universal Periodic Review

Summary:
A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Tonga – 2nd Session – 2008
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National Report
The Kingdom of Tonga, like most of the other Pacific Island Forum States, has only ratified two international human rights treaties: The International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the International Convention on the Rights of the Child (CRC).

Tonga is party to the Convention on the Rights of the Child and a participant in the UNESCO Associated Schools Project Network. Tonga is also committed to implement Resolution 38 adopted by the UNESCO General Conference in October 2007 to commemorate the 60th Anniversary of the Universal Declaration of Human Rights in December 2008. Our Ministry of Education has also adopted the basic themes for education as proposed by UNESCO: Learning to Know; Learning to Do; Learning to Live with others; Learning to Be.

The Kingdom of Tonga has accomplished many Millennium Development Goals (MDGs) and World Fit For Children (WFFC) Targets. However, with approximately half of the population being under the age of 20 years and rapid social, cultural and economic, political and demographic changes children and young people face significant challenges.

Children who grow up facing these challenges are at risk of moving from petty crime to more serious offences, and of being unemployed or in low paid jobs, which will create more hardship for their families in the future. There are two groups of children that must be mentioned in this report:

• Disparented Children: That is children not just of broken homes but also those children left behind in the care of extended families while their parents go overseas to earn an income and remit savings back to relatives in Tonga. Anecdotal evidence suggests that these children and their villages are disconnecting causing a drift by children into increasing patterns of anti social behaviour.
• Deportees: This group, so labelled because as young Tongan citizens they have been “deported” to Tonga from New Zealand, Australia or the United States of America either after service of jail sentences in their adopted country or voluntarily by parents staying overseas but wanting their children to return home to extended family. These deportees are disconnected from Tongan culture. They bring with them values and practices that are foreign to Tongan custom. There are frequent reports of deportees and their associates moving away from village life becoming engaged in drug and alcohol abuse and subsistence crime.

Tonga’s education indicators are the highest in the Pacific. The second Millennium Development Goal of universal primary education was achieved long ago; and there is retention of almost all students to the mid-secondary school level.

These education indicators reflect a long tradition of formal education through a largely academic program, Government efforts to ensure access to education in the outer islands, and strong family commitment to improving living standards and social status through the education of children (both boys and girls).

The Tongan Education Support Program (TESP) aims at introducing minimum quality standards for primary and secondary schools and to allocate school-based grants to assist schools in progressively meeting these standards over time. Given that shortfall in standards occurs amongst the poorest schools, many of which are in the outer islands, TESP represents a major pro-poor policy initiative supported during the SDP8 period by NZAID and the World Bank.

The education related targets within the MDGs are incorporated into the Ministry of Education’s Corporate and Strategic Plans (2003-2013), which endorsed the Government policy to improve the quality and relevance of universal basic education.
There have been commendable achievements in education, but concerns have arisen over issues of equity of access to, and quality of, the education being provided, as well as the readiness of school graduates for employment in a market economy. The development plan details ways in which the Government intends to achieve three specific objectives in order to improve education standards: (a) Improve equitable access to and quality of universal basic education for all children in Tonga up to Year 8 (Form 2); (b) Improve the access to and quality of post basic education and training to cater for the different abilities and needs of students (c) Improve the administration of education and training so that the quality of educational performance is enhanced.

Compilation of UN Information

The UNFPA Office for the Pacific website informed that the vaccination rates for various childhood illnesses are between 90 and 100 per cent and Tonga has one of the lowest infant mortality rates in the Pacific.

2006 and 2007 UNDP reports indicated that the under-five mortality rate decreased from 25 per 1,000 live births in 2004 to 24 per 1,000 live births in 2005. The UNICEF Pacific also states that injuries and accidents are major causes of childhood morbidity.

A 2006 UNDP report noted that primary education between ages 6 and 14 is compulsory and free in state schools. Mission schools provide about 83 per cent of the primary and 90 per cent of the secondary level education. Higher education includes teacher training, nursing and medical training, a small private university, a women's business college, and a number of private agricultural schools. Most higher education is pursued overseas. The WHO Regional Office for Western Pacific also informs that while most primary schools teach in Tongan, secondary education is mainly conducted in English. The education rate is similar for both genders, with some advantages for girls at the secondary level. A 2006 UNDP report also noted that Tongans are well-educated, with a 98 per cent literacy rate, and higher education up to and including medical and graduate degrees. The WHO Regional Office for Western Pacific further informs that the literacy rate is very high (98.8 per cent) and most children complete compulsory primary school classes.

Summary of Stakeholders' Information

The Legal Literacy Project of the Catholic Women’s League (LLP) noted that while Tonga is a state party to the Convention on the Rights of the Child (CRC), it is not a signatory to the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography which is an important extension of measures that States Parties should undertake in order to guarantee the protection of children from the sale of children, child prostitution and child pornography.

The LLP urged the Government of Tonga to consider the importance of ratifying the ICCPR and ICESCR and of signing the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography.

The LLP believed that reporting under international instruments is an important national and international accountability mechanism in respect of human rights. Tonga acceded to the CRC on 6 November 1995. The CRC Initial Report of Tonga was due to the UN Committee on the Rights of the Child (CRC) in 1997. In October 2006, the Government of Tonga released a Draft CRC Initial Report for public comment. On 12 April 2007, according to the LLP, a workshop to discuss the CRC Initial Report was initiated by the Government of Tonga and attended by representatives of government ministries, UNICEF, church and NGOs which provided a very conducive environment for collaborative input into the finalisation of the CRC Initial Report. However, the LLP noted that despite undertakings to progress towards the completion of the Draft CRC Initial Report for formal submission to the United Nations, the report remains incomplete. Enquiries by the LLP with the Government in January 2008 have failed to determine the status of the report. The LLP noted with concern that Tonga remains in an unenviable group of six State Parties yet to submit any report to the CRC in accordance with the requirements of Article 44 of the CRC.

The LLP considered it unacceptable that the CRC Initial Report and the CERD 15th Periodic Report are each almost a decade overdue. The LLP called on the Government of Tonga, as a matter of urgent priority, to submit the CRC Initial Report to the CRC, pursuant to its obligations under article 44 of the CRC by no later than 30th May 2008.

The LLP called on the Government of Tonga to consider the recommendations contained in the Community Para-legal Taskforce on Human Rights report, Documenting the Treatment of Detainees and Prisoners by Security Forces in the Kingdom of Tonga, in particular, as a matter of urgent priority to establish a Children’s Justice System under authority of statute which includes provisions governing the treatment of children in all aspects of the legal system.

The Global Initiative to End All Corporal Punishment of Children (GIEACPC) informed that corporal punishment is lawful in the home. Children have limited protection from violence under the Criminal Offences Act (1988). GIEACPC further noted that corporal punishment in schools is prohibited under the Education Act (2002) and that corporal punishment is lawful in the penal system. The Criminal Offences Act (articles 130 and 142) allow juvenile offenders to be whipped in place of or in addition to imprisonment for certain offences against the person. Furthermore, GIEACPC informed that there is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions. GIEACPC expressed the hope that Tonga introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including in the home.

Final Report

- Tonga is party to the Convention on the Rights of the Child (CRC) and admittedly is overdue in its reporting duties.
- Any widow or eldest daughter may have a life interest in family land pending the majority or creation of a new male heir. As for child support, there is current legislation that covers the maintenance and support of children. Furthermore the cultural notion of the extended family often provides a social safety net and support for children in need.
Interactive Dialogue with the State under Review

- Algeria commended Tonga on its high literacy rate and achievements in higher education.

- Netherlands enquired about additional measures taken to ensure equal rights between men and women in the area of child support and inheritance. While noting that Tonga is party to the CRC and the ICERD, it recommended that Tonga take measures to ensure accession to the core human rights instruments such as ICCPR and ICESCR.

- The Permanent Representative of the Kingdom of Tonga to the United Nations indicated that regarding human rights education, as mentioned in the national report, human rights have been incorporated into social studies and in the studies syllabus. Currently the curricula for primary and secondary schools are being reviewed with the support of New Zealand and the World Bank, and she reiterated that the Ministry of Education is committed to incorporating human rights issues in the curricula.

- The Holy See commended Tonga on its educational system but was concerned at the “disparented” children and the so-called deportees and enquired about measures taken to reintegrate these children in the Tongan society.

- The Czech Republic enquired about the measures adopted to fight prejudice and stereotypes undermining the equality of women in the fields of inheritance, ownership to land and child support, and recommended that Tonga submit regularly its reports to the treaty bodies of the conventions it is party to, like the Committee on the Rights of the Child.

- Turkey noted Tonga’s education indicators and the Tongan Education Support Programme.

- Latvia welcomed the fact that corporal punishment is prohibited in schools, but noted that it is lawful in the criminal system. It enquired about measures Tonga is planning to take to prohibit corporal punishment in all settings. Expressing concern at the number of children having to drop out of school, it asked about the measures taken to decrease it.

- Regarding the abolishment of corporal punishment in all settings, Tonga ratified CRC in 1995, and has since then abolished corporal punishment in schools. The Tongan way of life is based on an extended family that sees children freely move and develop under the influence of extended family members with shared responsibility. Respect and dignity within this family unit are integral to social development. Violence against children is not tolerated in that village society.

- Commending Tonga on its longstanding attention to the education of children with special needs, Slovenia asked whether Tonga would consider introducing mandated provisions for services for persons with disabilities that currently do not exist and recommended that Tonga pay increased attention to persons with disabilities and their related needs.

- Australia would welcome signing the Optional Protocol to CRC on the sale of children, child prostitution and child pornography.

- The Philippines enquired about the situation of “disparented” children.

- Egypt noted that the realisation of economic, social and cultural rights occupied an important place in Tonga, citing policies of free health care for life and free education up to the age of 14.

- The Syrian Arab Republic highlighted Tonga’s serious attitude towards human rights, citing a UNDP report from 2006 on the importance given to primary education for children aged 6 to 14 and the fact that 14 per cent of the budget is devoted to education. It also cited the reduction in child mortality rates.

- Japan recommended that Tonga submit its initial report to the Committee on the Rights of the Child.

- Saudi Arabia noted the efforts of Tonga to promote and protect the rights of the child in all sectors and to provide education and basic health care in a comprehensive manner and free of charge.

- On its outstanding report on the CRC, the Permanent Representative of the Kingdom of Tonga informed that the draft report was in the final stage of consideration by authorities before its submission to the Committee. She also noted, on the question of “disparented” children, that in Tonga there were extended family and social networks able to provide necessary support for children whose parents are not at home.

Conclusion and Recommendations

The recommendations formulated during the interactive dialogue have been examined by Tonga and the recommendations listed below enjoy the support of Tonga:

- To submit regularly its reports to the treaty bodies of the conventions it is party to, like the Committee on the Rights of the Child (Czech Republic);

- To submit its initial report on CRC (Japan);