

**COMMITTEE ON THE RIGHTS OF THE CHILD**

**Forty-third session**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Concluding Observations: Samoa**

1. The Committee considered the initial report of Samoa (CRC/C/WSM/1) at its 1161<sup>st</sup> and 1163<sup>rd</sup> meetings (see CRC/C/SR.1161 and CRC/C/SR.1163), held on 12 September 2006, and adopted at the 1199<sup>th</sup> meeting, held on 29 September 2006, the following concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the initial report as well as the comprehensive written replies to its list of issues (CRC/C/WSM/Q/1). It further notes with great appreciation the self critical and analytical nature of these reports, which contributed to a clear understanding of the situation of children in the State party.
3. The Committee is encouraged by the frank and constructive dialogue it had with the State party's high-level and inter-ministerial delegation and welcomes the positive reactions to the suggestions and recommendations made during the discussion.

**B. Positive Aspects**

4. The Committee commends the State party for a number of positive developments in the reporting period, inter alia:
  - a) The completion of the comprehensive Legislative Compliance Review on the Convention on the Rights of the Child and on the Convention on the Elimination of All Forms of Discrimination against Women for Samoa and the development of indicators which could greatly assist in the implementation of the rights enshrined in both Conventions;

- b) The Births, Deaths and Marriages Registration Act of 2002 which provides better regulation and obligations for registration;
- c) The Citizenship Act of 2004 which revises the law relating to citizenship and confirms citizenship to any child born in Samoa or by descent;
- d) The Infants (Adoption) Amendment Act 2005 which provides for the regulation of adoption agencies carrying out adoption proceeding in Samoa and the regulation of inter-country adoption; and
- e) The ratification of the Rome Statue of the International Criminal Court in 2002.

### **C. Factors and difficulties impeding the implementation of the Convention**

- 5. The Committee acknowledges the challenges faced by the State party, namely the country's vulnerability to natural disasters such as hurricanes which at times pose serious difficulties for the full realization of children's rights enshrined in the Convention.

### **D. Principle areas of concern and recommendations**

#### **1. General Measures of Implementation (arts. 4, 42 and 44, paragraph 6 of the Convention)**

#### **Reservations**

- 6. The Committee is concerned at the reservation made by the State party to article 28 (1) (a) of the Convention on the Rights of the Child.
- 7. **In light of the Vienna Declaration and Plan of Action of the World Conference on Human Rights of 1993 (A/CONF.157/23), the Committee recommends that the State party consider withdrawing the reservation made to article 28 (1) (a) of the Convention on the Rights of the Child.**

#### **Legislation**

- 8. The Committee welcomes the analytical survey of existing laws in the State party with the view to identifying provisions that need to be changed or need to be added to bring the laws in compliance with the Convention on the Rights of the Child. However, the Committee is concerned that the Office of the Law Reform Commission has not yet been established and that as a result necessary follow-up actions to this survey may be postponed, delayed or may not take place.
- 9. **The Committee urges the State party to establish, as a matter of priority, the Office of the Law Reform with the view to developing and**

**implementing a plan for reform of Samoan legislation, using the survey mentioned before, in order to ensure consistency with the principles and provisions enshrined in the Convention.**

10. The Committee notes that Samoa has ratified only two of the seven core international human rights treaties.

**11. The Committee highly recommends that the State party consider ratifying other core international human rights treaties, as recommended in the Pacific Plan of Action for Strengthening Regional Cooperation and Integration adopted in October 2005 by the sixteen Leaders of the Pacific Islands Forum.**

#### **National plan of action**

12. The Committee welcomes the information regarding the launching of the first Corporate Plan 2004-2007 of the Ministry of Women, Community and Social Development (MWCSD) and regarding the preparation of a National Plan of Action 2007-2010.

**13. The Committee recommends that the State party strengthen its efforts to adopt and implement a National Plan of Action which covers all areas under the Convention and takes into account the outcome document “A World Fit for Children” adopted by the General Assembly at its special session on children held in May 2002. It also recommends that sufficient human and financial resources are provided for its full and effective implementation at all levels, with concrete time bound targets. The Committee further encourages the State party to ensure the wide participation of civil society, including children and youth, in all aspects of the implementation process.**

#### **Coordination**

14. The Committee welcomes the efforts made by the MWCSD, the National Coordinating Committee on the Convention of the Rights of the Child (NCCCRC) and the Partnership on the CRC to coordinate the activities for the implementation of the Convention on the Rights of the Child. However, the Committee is concerned at the limited financial and human resources provided to the various entities, particularly to the NCCCRC.

**15. The Committee recommends that the State party strengthen the role of the NCCCRC and provide it with adequate human and financial resources to effectively execute its mandate. In this regard, the Committee refers the State party to its General Comment No. 5 on general measures of implementation for the Convention on the Rights of the Child (CRC/GC/2003/5).**

#### **Independent monitoring**

16. The Committee is concerned that there is no independent body to promote and monitor the implementation of children's rights with the power to receive and address individual complaints concerning violations of all children's rights.
- 17. The Committee recommends that the State party establish an independent body for the promotion and monitoring of the Convention on the Rights of the Child, either as part of an independent national human rights institution or as a separate body in accordance with the Paris principles (General Assembly resolution 48/134, annex) and the Committee's General Comment No. 2 (2002) on the role of independent national human rights institutions (CRC/GC/2002/2). It also recommends that such an independent body should have a mandate to receive, investigate and address complaints, including from children and that adequate human and financial resources be allocated. The Committee further recommends that the State party consider seeking technical assistance from, *inter alia*, UNICEF and OHCHR.**

#### **Resources for children**

18. The Committee is concerned at the lack of sufficient budgetary allocation to the MWCSO in relation to children and the implementation of their rights.
- 19. With a view to strengthening its implementation of article 4 of the Convention and in the light of articles 2, 3 and 6, the Committee recommends that the State party increase budgetary allocations for the MWCSO, both at national and local levels to ensure the implementation of the rights of children, in particular those belonging to the most vulnerable groups "to the maximum extent of ... available resources and, where needed, within the framework of international cooperation".**

#### **Data collection**

20. While acknowledging the efforts made by the State party in the domain of data collection, including the establishment of the Child Protection Information System (CPIS), the Committee is concerned at the lack of an adequate mechanism for integrated data disaggregated in all areas covered by the Convention for analytical purposes.
- 21. The Committee recommends that the State party continue its efforts in developing a comprehensive system of collecting disaggregated data which covers all areas of the Convention, paying particular attention to those who are vulnerable, including children with disabilities and children living in poverty. It further encourages the State party to use these indicators and data in the formulation of laws, programmes and design policies for the effective implementation of the Convention. In this regard, the Committee also recommends that the State party seek technical assistance from, *inter alia*, UNICEF.**

#### **Dissemination, training and awareness raising**

22. The Committee welcomes the translation of the Convention on the Rights of the Child into the Samoan language. It also acknowledges the efforts undertaken by the Division for Women and Pacific Children's Program in coordinating and implementing a number of awareness raising activities on the Convention, including through media campaigns. Despite these efforts, the Committee remains concerned that children and the general public at large remain insufficiently aware of the Convention and that key professionals in communities working with and for children, such as teachers, social workers, health care providers and police, have not been systematically provided with adequate information on the Convention and its implication for their work.
- 23. The Committee recommends that the State party continue and strengthen its efforts to ensure that the provisions and principles of the Convention are widely recognized and understood by adults and children alike. In this regard, it encourages the State party to continue to disseminate and raise awareness of the Convention among children, their parents and other caregivers and all relevant professional groups working with and for children. The Committee also invites the State party to engage with community leaders, including church leaders, in discussions on children's rights in the context of Samoan culture with the view to bringing about further changes in the attitudes and behaviour of these key opinion-leaders in society.**

#### **Cooperation with civil society**

24. The Committee welcomes the active role played by civil society, particularly in the provision of social services. However, the Committee notes that most NGOs did not have access to the State party report and were not aware of the reporting process to the Committee on the Rights of the Child.
- 25. The Committee recommends that the State party, taking into account the Committee's Day of General Discussion on the Private Sector as Service Provider and its Role in Implementing Child Rights (CRC/C/121):**
- a) Continue and strengthen its cooperation with civil society organizations and involve them systematically at all stages in the implementation of the Convention; and**
  - b) Provide civil society organizations with adequate financial and other resources to effectively discharge their responsibilities.**

#### **2. Definition of the child (Article 1 of the Convention)**

26. The Committee joins its voice to the concern raised by the Committee on the Elimination of Discrimination against Women regarding the difference of age of marriage which is 16 for girls and 18 for boys.
- 27. The Committee recommends that the State party establish one legal minimum age for marriage for both boys and girls at an internationally acceptable level.**

### **3. General principles** (Arts. 2, 3, 6 and 12 of the Convention)

#### **Non-Discrimination**

28. While noting that the Samoan Constitution and national legislation provide the child some protection from discrimination, the Committee remains concerned at the many areas of potential discrimination, such as race, colour, property, disability, birth status, sexual orientation, HIV status, marital and pregnancy status.
29. **The Committee urges the State party to undertake legislative measures to ensure that constitutional and legal provisions guaranteeing the principle of non-discrimination fully comply with article 2 of the Convention. The Committee further recommends that the State party collect disaggregated data to enable effective monitoring of de facto discrimination, in particular against girls, children living in poverty and those with disabilities.**
30. **The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme on Action adopted at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account General Comment No. 1 on article 29(1) of the Convention (aims of education).**

#### **Best interests of the child**

31. The Committee notes that some legislation provides for the best interests of the child, particularly in relation to custody proceedings. However, the Committee is concerned that the principle laid down in article 3 of the Convention is not fully applied and duly integrated into common and traditional law, policies and programmes of the State party.
32. **The Committee recommends that the State party revise its legislation in order to ensure that the principle of the best interests of the child is fully integrated in both common and traditional law and reflected and implemented in all policies and programmes of the State party.**

#### **Respect for the views of the child**

33. The Committee notes the implementation of regular Children's Forum both in Sava'ii and Upolu and that schools, communities, churches and other organizations provide some opportunities for children to participate and express their views. It is nevertheless concerned at the fact that traditional attitudes may limit children's rights to freely express their views within the family, in schools and in the community.

**34. The Committee recommends that the State party strengthen its efforts to ensure the active participation and involvement of children in all decisions affecting them in the family, school and community, in accordance with articles 12, 13 and 15 of the Convention. It also recommends that the State party undertake a regular review of the extent to which children's views are taken into consideration and of their impact on policy-making, court decisions, and programme implementation. Furthermore, the Committee draws the attention of the State party to the recommendations adopted on the Committee's day of general discussion on the right of the child to be heard in September 2006.**

**4. Civil rights and freedoms  
(Arts. 7, 8, 13-17 and 37(a) of the Convention)**

**Corporal Punishment**

35. The Committee is concerned that corporal punishment in the family, in schools and in alternative care settings is not formally prohibited and widely practised.

**36. The Committee recommends that the State party introduce and enforce legislation prohibiting all forms of corporal punishment in all settings, including in the family and the alternative child care system and in this respect the Committee fully supports the actions planned by the State party. Furthermore, the Committee recommends that the State party conduct awareness-raising campaigns to ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity and in conformity with the Convention, especially article 28(2) and take into account its General Comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/GC/2006/8).**

**5. Family environment and alternative care  
(arts. 5; 18 (paras.1-2); 9-11; 19-21; 25; 27 (para.4); and 39 of the Convention)**

**Parental responsibilities**

37. The Committee is concerned at the lack of systematic support and training for parents in performing their parental responsibilities.

**38. The Committee recommends that the State party provide parents and other caregivers with the necessary support and parenting education in conjunction with appropriate information on child rights and to involve in these efforts NGOs, the local communities, church groups and the private sector while using community based and mass media approaches, in conjunction with appropriate child rights education.**

**Adoption**

39. The Committee welcomes the various legislative measures to regulate domestic and intercountry adoptions but it is concerned at the lack of statistical and other information on the practice of adoption, in particular the so called “informal adoption”.
40. **The Committee recommends that the State party undertake a study, including disaggregated data to analyse the practice of adoption, including the so called “informal adoptions” by family members, with a view to understanding the scope and nature of this practice and adopting adequate policies and measures. It also encourages the State party to ensure that adoption is carried out in conformity with article 21 of the Convention and ratify the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.**

#### **Violence, abuse and neglect, ill-treatment**

41. While acknowledging the activities undertaken to prevent and combat child abuse and neglect, the Committee is concerned at the persistent occurrence of child abuse and neglect in the State party.
42. **The Committee recommends that the State party:**
- a) **Take the necessary measures to prevent child abuse and neglect and in addition to existing procedures, establish effective mechanisms to receive, monitor and investigate reports on cases of child abuse;**
  - b) **Carry out preventive public education campaigns about the negative consequences of ill-treatment of children;**
  - c) **Undertake studies on domestic violence, ill-treatment and abuse, including sexual abuse, in order to understand the scope and nature of these practices, adopt adequate measures and policies, and contribute to changing attitudes;**
  - d) **Investigate cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, within a child-friendly investigative and judicial procedure and with due regard given to protecting the right to privacy of the child;**
  - e) **Take measures to ensure the provision of support services to children in legal proceedings, and for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention, and the prevention of criminalization and stigmatization of victims; and**
  - f) **Seek technical assistance from, among others, UNICEF and WHO.**
43. **In the context of the Secretary-General’s study on the question of violence against children and the related questionnaire sent to Governments, the Committee acknowledges with appreciation the written replies of the State party to this questionnaire and its participation in the Regional Consultation for Pacific Consultation on Addressing Violence Against Children held in Fiji from 26 to 28 September 2005. The Committee recommends that the State party use the outcome of this regional**

consultation as a tool for taking action, in partnership with civil society, to ensure that every child is protected from all forms of physical, sexual and mental violence and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse. In addition, the Committee would like to draw the States party's attention to the report of the independent expert for the United Nations study on violence against children (A/61/299) and to encourage the State party to take all appropriate measures to implement overarching recommendations as well as setting-specific recommendations contained in this report.

#### **6. Basic health and welfare**

(arts. 6; 18, para. 3; 23; 24; 26; 27, paras. 1-3 of the Convention)

#### **Children with disabilities**

44. The Committee is concerned about the lack of a national policy or legislation ensuring the right of children with all types of disabilities to the enjoyment of a full and decent life. It is also concerned at the inadequate support given to children with special needs in the educational system.

**45. The Committee recommends that the State party:**

- a) **Adopt a comprehensive policy for children with disabilities that includes, *inter alia*, deletion of all negative terms relating to children with disabilities from legislation, regulations and practice;**
- b) **Take note of the Standard Rules on the Equalization of opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on the rights of children with disabilities (CRC/C/69, paras. 310-339);**
- c) **Encourage the inclusion of children with disabilities into the regular educational system, *inter alia*, by establishing special units in all communities, giving more attention to special training for teachers and making the physical environment, including schools, sports and leisure facilities and all other public areas, accessible for children with disabilities; and**
- d) **Seek technical assistance from, *inter alia*, UNICEF.**

#### **Health and health services**

46. The Committee notes with appreciation the decline in infant and under five mortality rates. The Committee also notes the National Health Services Bill of 2005 which formalizes the incorporation of child health services, including expanded programs on immunization, breastfeeding and nutrition sessions into the Nursing and Integrated Community Health Services of the National Health Services. However, the Committee remains concerned at the rubella outbreak in 2003 and the low rate of immunization coverage. It is also concerned at the inaccessibility to health care facilities in rural areas, shortage of doctors, poor infrastructure and inadequate supplies.

**47. The Committee encourages the State party to continue its efforts to reduce the incidence of child and infant mortality and to undertake additional measures to increase immunization coverage. Furthermore, the Committee recommends that the State party strengthen its efforts in providing affordable and easily accessible quality health care services for rural communities.**

### **Adolescent Health**

48. The Committee welcomes the information of the decreasing suicide rate in the State party in the last few years and the active role played by Save Life in this regard. It also notes that the Tobacco Control Bill provides a minimum age of 21 for the sale of tobacco products, and limits advertising and sponsorship by companies. Despite this positive development, the Committee is concerned at the increasing rates of teenage pregnancy, substance abuse, sexually transmitted infections (STIs) and at the limited availability of reproductive health information. It is further concerned at the fact that the Mental Health Unit is severely understaffed and under-skilled.

**49. The Committee reiterates its recommendation that the State party:**

- a) Undertake a comprehensive study to assess the nature and extent of adolescent health problems and, with the full participation of adolescents, use this as a basis to formulate adolescent health policies and programmes with a particular focus on the prevention of STIs, especially through reproductive health education and child-sensitive counselling services, and taking into account the Committee's General Comment No. 4 (2003) on adolescent health and development in this regard;**
- b) Expedite the enactment of the Mental Health Bill as well as the Tobacco Control Bill;**
- c) Allocate adequate human and financial resources to the Mental Health Unit in order to strengthen mental health counselling services as well as reproductive health counselling and make them known and accessible to adolescents;**
- d) Take measures to incorporate reproductive health education in the school curriculum in order to fully inform adolescents about their reproductive health rights and the prevention of STIs, including HIV/AIDS, as well as early pregnancies;**
- e) Consider means of providing particular support to pregnant teenagers, including through community structures; and**
- f) Strengthen cooperation with international agencies with expertise in health issues relating to adolescents, inter alia WHO and UNICEF.**

### **Standard of living**

50. The Committee is concerned at the low standard of living of children and adolescents, in particular in rural areas.

- 51. The Committee recommends that, in accordance with article 27 of the Convention, the State party reinforce its efforts to alleviate poverty and to provide support and material assistance, with particular focus on the most marginalized and disadvantaged families and to guarantee the right of children to an adequate standard of living.**

**7. Education, leisure and cultural activities  
(arts. 28, 29 and 31 of the Convention)**

The Committee notes with appreciation the high priority given to education in the State party and the progress made with regard to reconstruction of the schools destroyed by natural disasters. However, the Committee is concerned at the high repetition and drop-out rates particularly in primary education. The Committee also notes that the policy of compulsory but not free access to education prevents some parents from paying school fees and thereby limiting children in their right to education. The Committee is also concerned at the unsatisfactory quality of education, overcrowded classrooms, outdated curricula and also at the lack of vocational training programmes.

- 52. The Committee recommends that the State party undertake appropriate measures to ensure regular attendance at schools, the reduction of drop-out rates and the incorporation of vocational education in school curricula. The Committee further recommends that the State party increase public expenditure in education and ensure free and compulsory education at the primary level, and that the State party strengthen its efforts to improve the quality of education through providing appropriate and continuous training to teachers. The Committee also recommends that the State party continue to strengthen its technical cooperation programmes with UNESCO.**

**8. Special protection measures  
(arts. 22, 30, 38, 39, 40, 37 (b)-(d), 32-36 of the Convention)**

**Economic exploitation, including child labour**

53. The Committee shares the concern of the State party regarding the growing number of working children, including children involved in domestic work and child street vendors, and the need to undertake targeted activities to address it.
- 54. The Committee recommends that the State party undertake a study to determine the root causes and scope of child labour in order to develop and implement well targeted programmes to reduce and eliminate child labour. In addition, the Committee recommends that the State party expedite the passing of the Education Bill which will regulate the employment of school aged children. The Committee also recommends that the State party ratify ILO Convention No. 138 concerning the Minimum Age for Admission to Employment and ILO Convention No.**

**182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Furthermore, the Committee recommends that the State party seek technical assistance from the ILO/IPEC.**

### **Sexual exploitation**

55. The Committee is concerned that the growing tourism industry in the State party may expose children to sexual exploitation.

**56. The Committee recommends that the State party:**

- a) **Conduct a study to determine the root causes and the scope of sexual exploitation;**
- b) **Use the outcome of this study to develop and implement an effective and comprehensive policy addressing the sexual exploitation of children, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congress against Commercial Sexual Exploitation of Children; and**
- c) **Seek international cooperation, in particular from UNICEF.**

### **Juvenile Justice**

57. The Committee is concerned that the treatment of children in conflict with the law is not in compliance with the Convention on the Rights of the Child, *inter alia*, due to a lack of an adequate infrastructure and proper legislation. In particular, the Committee is concerned at the low minimum age for criminal responsibility (8 years), the absence of a separate justice system for juveniles and the provision of alternatives to judicial proceedings and imprisonment.

**58. The Committee urges the State party to ensure the full implementation of juvenile justice standards, in particular article 37(b), article 40 and 39 of the Convention, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the Havana Rules), the Vienna Guidelines for Action on Children in the Criminal Justice System as well as the recommendations of the Committee on its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238). In this regard, the Committee recommends that the State party, in particular:**

- a) **Establish a functioning juvenile justice system and in this regard expedite the enactment of the Young Persons Bill and the Criminal and Community Justice Bill;**
- b) **Raise the minimum age of criminal responsibility to an internationally acceptable level;**
- c) **Ensure that deprivation of liberty is used as a last resort and that detained children are always separated from adults;**

- d) Provide training programmes on relevant international standards for all professionals involved with the system of juvenile justice; and
- e) Seek technical assistance from the United Nations Interagency Panel on Juvenile Justice.

#### **9. Optional Protocols to the Convention on the Rights of the Child**

- 59. The Committee recommends that the State party ratify the Optional Protocols to the Convention on the Rights of the Child on sale of children, child prostitution and child pornography and on the involvement of children in armed conflict.**

#### **10. Follow-up and dissemination**

##### **Follow-up**

- 60. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the Cabinet, the Parliament, and to the Village Councils, for appropriate consideration and further action.**

##### **Dissemination**

- 61. The Committee further recommends that the initial report and written replies submitted by the State party and related recommendations (concluding observations) it adopted be made widely available in the languages of the country, including through Internet (but not exclusively), to the public at large, civil society organizations, youth groups, professional groups, and children in order to generate debate and awareness of the Convention, its implementation and monitoring.**

#### **11. Next report**

- 62. The Committee invites the State party to submit a consolidated second, third and fourth report by 28 December 2011, the due date of the fourth periodic report. This is an exceptional measure due to the large number of reports received by the Committee every year. This report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Committee.**