

TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

COMMITTEE ON THE RIGHTS OF THE CHILD 43RD SESSION SAMOA, INITIAL REPORT¹

| | |
|--|---|
| Information submitted to the Committee..... | 1 |
| Themes and issues..... | 2 |
| Cultural perception and implementation | 2 |
| Poverty..... | 3 |
| Birth registration and adoption..... | 3 |
| Education..... | 3 |
| Health | 4 |
| Child abuse | 4 |
| Juvenile justice..... | 5 |
| Other issues..... | 5 |
| Conclusions and next steps | 5 |

Information submitted to the Committee

On 1 November 2005 Samoa submitted its initial report.² It also submitted its written replies³ to the list of issues raised by the Committee on the Rights of the Child (the Committee).⁴

The report set out legislation and measures to ensure the State Party's compliance with the Convention as well as noting some failures in upholding their obligations. The Committee, in its concluding observations,⁵ commended the delegation on this point. The United Nation's Children's Fund (UNICEF) and the Pacific Children's Fund, a non-governmental organisation (NGO), assisted the Government of Samoa with the writing of the report. The Committee described the report as exemplary and impressive and recommended it as a model for other State reports.

¹ Further information can be found in the Press Release of the session, available at [http://www.unog.ch/unog/website/news_media.nsf/\(httpNewsByYear_en\)/D6981BEA0685E891C12571E7004B65B7?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/D6981BEA0685E891C12571E7004B65B7?OpenDocument) (French only).

² CRC/C/WSM/1, 16 February 2006.

³ CRC/C/WSM/Q/1/Add.1, 15 August 2006.

⁴ CRC/C/WSM/Q/1, 21 June 2006.

⁵ CRC/C/WSM/CO/1, 29 September 2006 (unedited version)

Child Helpline International and the Global Initiative to End All Corporal Punishment of Children, both NGOs, submitted parallel reports.⁶ These concerned two issues: the setting up of a phone helpline for children to make complaints about abuse, and ways to end all forms of corporal punishment.

Samoa has one reservation to Article 28 (1)(a) of the Convention. This article calls on the State to “make primary education compulsory and available free to all”. The delegation stated that many schools are community run and are outside of the government’s control. Accordingly, it prefers to restrict its involvement to reserving the right to ‘allocate resources and funds’ to those schools when possible or needed instead of organising for a general system of free education. The Committee inquired about the State’s intention to withdraw this reservation. The State delegation reiterated its intention to keep this reservation. The Committee recommended the reservation be removed.

The Committee asked Samoa if it planned to accept the two Optional Protocols of the Convention - the sale of children, child prostitution, and child pornography, and on the involvement of children in armed conflict - as well as The Hague and International Labour Organisation (ILO) Conventions. In response the delegation replied that it did not have armed forces and that it already had laws banning pornography, which also covered children. Accordingly, it saw no use in adopting the Optional Protocols. It did not comment on The Hague and ILO Conventions.

Themes and issues

The Minister for Women and Community & Social Development headed the delegation.⁷ The discussion between the Committee and the delegation was dynamic with Committee members interrupting regularly to clarify comments and questions. The discussion was completed ahead of the six hours scheduled for the meeting. The main issues were cultural perception & implementation, poverty, birth registrations and adoptions, education, health, child abuse and juvenile justice. The context and influence of Samoan culture was evident in the discussion of all these issues.

Cultural perception and implementation

A difference of opinion between the majority of Committee members and the delegation regarding culture difference existed. The Committee argued that a centralised State mechanism was important for ensuring that children enjoyed their rights. On the other hand the delegation argued that nearly all forms of social services were traditionally attributed to what they termed the “extended family system”. The extended family forms one cohesive unit, which provides for a child’s needs in terms for among other things education and security. The Committee expressed a concern stating that this posed a particular problem for the implementation of the Convention.

Nevertheless, in its concluding observations, the Committee commended the delegation’s understanding of the situation of children and the work done by the Samoan National Coordinating Committee on the Convention on the Rights of the Child, but at the same time recommended that efforts be strengthened to adopt and implement the National Plan of Action; the Plan sets out to meet the Millennium Development Goals and deal with Samoa’s obligations under the Convention. Furthermore, the Committee recommended that an independent monitoring body be set up. Finally, with regards to the implementation of the

⁶ NGO reports are available on the Child Rights Information Network at <http://www.crin.org/docs/resources/treaties/crc.25/annex-vi-crin.asp>.

⁷ The rest of the delegation was composed of the Chief Executive Officer of the Ministry of Health, the Legal Advisor of the Division for Women, the Programme Officer of the Division for Women, and the Chief Executive Officer of the Ministry of Women and Community & Social Development.

Convention, the Committee commended the idea of an Office of the Law Reform Commission as part of the National Plan of Action, but urged that its creation be more rapid in order for laws to be amended consistent with the Convention.

Poverty

The Committee expressed a concern that, as a developing country, poverty was inhibiting the full implementation of the Convention. The delegation explained that Samoa's economy is traditionally subsistence based and pointed out that entering the world market has created new 'needs' that cannot necessarily be met. For example, it stated that the government cannot provide luxury goods. However, the delegation did state that the government was able to provide 'basic needs', including basic health care. The Committee recommended that the State implement social assistance programs for needy families and their children.

The Committee expressed concern that poverty has led to a severe lack of funding, particularly in education. The Committee said that a lack of adequate schooling meant that children might lose the opportunity to choose a career, which they desired. The delegation further described the financial difficulties Samoa is experiencing, and explained that they are attempting to allocate resources where they are most needed. In relation to education, the delegation stated that it was focusing as much as possible on primary and secondary education. They also noted that tertiary education remained difficult for those living in poverty or far away from the main cities.

Birth registration and adoption

The Committee expressed its concern at the lack of measures in place to ensure that births are registered. This is important as unregistered children may be excluded from services such as education or health care. The delegation explained that all births had to be registered by law and that all those assisting in the birth of the child also had to report the births. However, no explanation was given as to how the State planned on dealing with births that take place outside of hospitals, where no institutional system has been established to automatically register births.

Adoption was another key issue. According to the State delegation, most forms of adoption in Samoa are so-called 'informal adoptions'. An 'informal adoption' is when a child is not officially adopted but comes under that care of another individual who is usually a member of the extended family. The Committee equated this to foster care. While the Committee did not criticise foster care, it did recommend another name, which did not include the word 'adoption' be used. Furthermore, it also recommended that there be further regulation of 'informal adoptions', since most are run unofficially as part of the 'extended family' system. Finally, the Committee deplored the fact that Samoa had not signed the *Hague Convention on the Protection of Children and Co-operation in Respect of Inter-country Adoption* and expressed concern that the best interests of the child was not taken into consideration as a result of this decision. The delegation responded to this by mentioning that it was aware of problems associated with international adoption and that it was monitoring the situation. The Committee expressed concern that there was no reference to homeless children, which the delegation maintained, did not exist because the extended family system took care of them.

Education

Several Committee members expressed their concern about Samoa's reservation to Article 28(1)(a) of the Convention. In its defence, the State delegation mentioned that the cost of primary education was not high and it was affordable by all. The delegation stated that costs did not go above approximately \$US5 dollars per semester, with a maximum of three semesters in one year. However, after two rounds of questions, the delegation conceded that families might need to spend over \$US100 per year in extra expenses, including food, books, and school transport. While recognising this amount was high for some families, the delegation

maintained its position regarding reasons for its reservation. The delegation pointed out that community leaders currently privately ran schools and that free schooling would require the appropriation of these community leaders' lands for public use. The argued this would complicate the matter considerably. The Committee did not discuss the influence of the Church in primary and secondary education systems, and how this might be a hindrance to sexual education (also see **Health**).

Health

Children's health was a matter of concern to the Committee in several respects. The Committee pointed out statistics showing malnutrition and disease. As with other social services, significant responsibility was delegated to the extended family or, in the particular case of health services, the 'Komiti Tumama'. This is a women's committee, which is, amongst other things, responsible for the distribution of health care. The delegation mentioned it has been training d villagers and doctors in health care but that the lack of centralisation meant the community was required to play a significant role. The Committee also expressed concern regarding the lack of clean drinking water and diseases such as rubella. It recommended that the State work towards allocating more resources to dealing with this area.

The lack of centrality was of concern government planning and services for disabled children was also an issue. The Committee stated that disabilities often carry a negative social stigma, and inquired about the government's efforts to deal with negative popular perceptions and provide access to government services. Little information was provided by the State delegation in response to these questions aside from the fact that teachers receive some training on how to deal with children with disabilities. The Committee noted this and urged the State to adopt a national policy to deal with children with disabilities in a manner compatible with the Convention. The Committee also expressed concern that the words "idiot" and "imbecile" were still used to describe disabled people. The delegation pledged to change this wording.

Child abuse

The Committee was concerned about two parallel NGO reports that mentioned child abuse. The Committee expressed its concern that corporal punishment may "go too far", in schools, and particularly at home. The delegation responded that although they did not formally ban corporal punishment, it was no longer part of school policy. With regards to corporal punishment in the home, the delegation, although it recognised the dangers, said that change would have to be gradual and could not be stopped through a simple ban. The delegation stated that it was holding information campaigns in villages to warn of the dangers associated with corporal punishment. The Committee recommended that the use of corporal punishment be formally abolished in all spheres of life.

The Committee inquired about the mental health of children for which they found there was a lack of medical staff. The Committee recommended that the State increase the allocation of resources to this sector. In relation to mental health, the Committee requested more information on what is being done for children who are abused and what is done to the perpetrators of child abuse. The delegation's responses revealed that very few pro-active measures taken to prevent the abuse of children existed. Abused children did have access to courts. However, there was very little done to protect them from abuse from within their own family. If a cause for concern existed, the child may be placed under the supervision of a police officer that will make regular visits and monitor the child's treatment. In other cases, the child may be sent to live with the local pastor. The Committee inquired about the establishment of a free hotline that children could use to make their complaints heard. The delegation pointed out that recently such a hotline had been established. Operators had been trained to deal with preventing suicide, which has decreased since the establishment of the hotline. Taking into account the progress made, the Committee still made a number of recommendations to improve the situation and called on the State to seek the help of third parties, particularly UNICEF and the World Health Organisation (WHO).

Finally, the Committee also enquired about the sexual health of children and whether there were programs in place to inform them of the dangers of sexually transmitted diseases (STDs). The delegation stated that they did have information programs but did not specify whether there was sexual education in schools. Indeed, the response was vague and appeared to equate biology class with sexual education. However, it did state that contraception was available and that education campaigns were in place to make sure people knew of the risks associated with unprotected sex, including the risk of teenage pregnancy. The Committee urged Samoa to do all it could to inform children of the dangers and to provide assistance to those affected.

Juvenile justice

The Committee expressed concern that no formal juvenile justice system existed. It pointed out that children are tried in the same way as adults. A day per week is set apart for the court to deal exclusively with juveniles. Convicted children are incarcerated in the same institutions as adults, but are kept separate. The government is in the process of building a separate juvenile detention facility. Finally, the delegation stated that a draft bill was being considered which would revise the justice system regarding children. This included measures to be put in place to train law enforcement officers on how to deal with children. The Committee was pleased to see that there is distinction between adults and children in the justice system, but urged the State to form a juvenile justice system consistent with the Convention.

Other issues

The Committee expressed concern that the privacy of the child was not respected. The delegation responded that Samoan culture was to have very open households, often without doors or windows, which made this aspect of the Convention difficult to implement. The Committee reminded the delegation to take the issue of privacy into account.

In relation to child labor, the Committee expressed concern that there were no measures in place to prevent the exploitation of children. The Committee recommended that the State undertake a study to find out what were the root causes and to address the problem.

The Committee stated that a lack of statistics made it very difficult to identify domains and areas where children's rights might be violated. The Committee recommended that the State improve its system of data collection and that it use findings in its amendments of laws. If needed, the Committee recommended that the State call on the assistance of third parties such as UNICEF.

Conclusions and next steps

The majority of the dialogue involved consideration of the culture and traditions of Samoan society, and how they influenced the implementation of the Convention. Arab members of the Committee were familiar with the extended family system, and appeared pleased that the delegation was doing everything possible to overcome the problems associated with it. There was an understanding that a shift from the extended family system to a more centralised form of social service delivery would require a gradual change of perception. However, the concept of social services and social welfare remain new concepts in Samoan society. In some of the cases where the extended family did not adequately work in such a way as to protect the rights of children, NGOs had to fill the gap. NGOs operated without governmental checks or regulations. The delegation committed to change these perceptions by undertaking public education campaigns for village and community leaders. Overall, the delegation acknowledged the difficulties it experienced when implementing the Convention. It highlighted its own need for better monitoring of the situation, and stated that it would have to work in coordination with specialised agencies. Nonetheless, the delegation expressed its optimism that things were moving forward.

The Committee expressed its appreciation for a constructive dialogue with the delegation, and supported Samoa in the continuation of its work. The Committee appeared to allow some flexibility to the State because of different cultural perceptions and because this was the State Party's first report. While this can be seen as a practical compromise at this time, it does highlight that the implementation of the Convention in Samoa will require a gradual process of change.

In its concluding observations, the Committee recommended that Samoa make the result of these proceedings public so as to inform the Samoan people of the changes taking place.

The Committee invited Samoa to submit a joint 2nd, 3rd, and 4th periodic report on 28 December 2011.

TREATY BODY MONITOR STAFF

Meghna Abraham, Program Manager, Information Program

Claire Mahon, Human Rights Officer, Information Program

Eléonore Dziurzynski, Communications Officer, Information Program

Tony Morris, Information Program

ABOUT THE PUBLICATION

The *Treaty Body Monitor* forms part of the Human Rights Monitor Series produced by ISHR. It reports on each country reviewed by the seven treaty bodies and provides an overview of every treaty body session. It is currently an online publication that can be found at <http://www.ishr.ch/hrm/TMBs>.

FEEDBACK

We would welcome your feedback on this publication so please send any comments and suggestions to information@ishr-sidh.ch.

COPYRIGHT AND DISTRIBUTION

Copyright © 2006 International Service for Human Rights

Material from this publication may be reproduced for training, teaching or other non-commercial purposes as long as ISHR is fully acknowledged. You can also distribute this publication and link to it from your website as long as ISHR is fully acknowledged as the source. No part of this publication may be reproduced for any commercial purpose without the prior express permission of the copyright holders.

DISCLAIMER

While every effort has been made to ensure the accuracy and reliability of the information contained in this publication, ISHR does not guarantee, and accepts no legal liability whatsoever arising from any possible mistakes in the information reported on or any use of this publication. We are however happy to correct any errors you may come across so please notify information@ishr-sidh.ch.