

OPENING STATEMENT

BY

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GOVERNMENT OF THE KINGDOM OF TONGA**

**PRESENTING THE KINGDOM OF TONGA'S SECOND
UNIVERSAL PERIODIC REVIEW REPORT**

**BEFORE THE HUMAN RIGHTS COUNCIL'S UNIVERSAL
PERIODIC REVIEW WORKING GROUP**

PALAIS DES NATIONS, GENEVA, SWITZERLAND

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Mr President, Your Excellencies, Distinguished Delegates.

I PRELIMINARY REMARKS

Malo e lelei! Greetings from the Kingdom of Tonga!

My name is Lord Vaëa, Minister for Internal Affairs of the Government of the Kingdom of Tonga, and Head of the Delegation from Tonga, who are here to present Tonga's Second Universal Periodic Review national report.

Mr President, I am being assisted by Mr 'Aminiasi Kefu, Solicitor General from our Attorney General's Office, and Mr Sonata Tupou, Charge de Affaires, from our Tongan High Commission office in London.

Mr President, may I first begin by extending warm greetings and best wishes for the New Year 2013, from His Majesty King Tupou VI, the King of Tonga, and also from the Lord Prime Minister, and the people of the Kingdom of Tonga, to you Mr President, Your Excellencies and the Distinguished Delegates, and the Secretariat.

May I also extend from the Tongan Government its sincere congratulations to the Council and its Working Group, in achieving another successful year in 2012, and completing the first two rounds of the Second Cycle of the UPR process.

Tonga would also like to thank the Troika of States appointed to lead Tonga's review – Angola, Costa Rica and Pakistan – for their tireless efforts in reviewing our second national report.

We also would like to thank the States who provided advance questions to help with the review, namely the United Kingdom, Norway, Slovenia, Mexico and Spain.

I would propose Mr President, that I answer the advanced questions during this presentation in accordance with the order of subject matter in Tonga's report. We are also willing to explore the same questions during the interactive dialogue, if required.

II INTRODUCTION

Mr President, Your Excellencies, Distinguished Delegates, I have the distinct pleasure of presenting Tonga's Second Universal Periodic Review.

I intend to give a brief summary of Tonga's national report, and then engage with the Distinguished Delegates in dialogue on issues that are of interest, and then finish with some brief concluding remarks for the way forward for Tonga.

The Human Rights Council adopted the outcome of Tonga's first universal periodic review on 13 June 2008, under HRC Decision number 8/130 on 13 June 2008.

The completion of Tonga's first review and the adoption of the outcome report on 13 June 2008 is deemed a milestone for Tonga.

This is because this was the first opportunity for Tonga to showcase its work in protecting the fundamental human rights that are enshrined in Tonga's 137 year old written constitution, the second oldest written constitution in the world.

Since 1862, the founding father of modern Tonga, His Majesty King Siaosi Tupou I, had freed his people from serfdom, and granted them through an Edict of Emancipation, the right to life, the right to freedom and the right to property.

In 1875, King Tupou I granted to his people the Constitution of Tonga. The first part of the Constitution is the Declaration of Rights, which enshrined fundamental human rights that have been devotedly protected since 1875.

These include:

- (1) the declaration of freedom;
- (2) freedom from slavery;
- (3) rights of foreign labourers;
- (4) the right to liberty;
- (5) equality for all before the law, regardless of social ranking, nationality and ethnicity;
- (6) freedom of worship;
- (7) freedom of expression and the media;
- (8) freedom to petition the King and the Legislative Assembly to enact laws;
- (9) freedom from arbitrary arrest and detention (*habeas corpus*);
- (10) right to a fair trial;
- (11) protection from double jeopardy;
- (12) right to an independent judiciary; freedom from arbitrary search and seizure of property;
- (13) right to an impartial Government;
- (14) right to protection by Government of life, liberty and property; and

(15) protection from retrospective legislation; right to hold public office; and the right to naturalisation.

These were fundamental human rights that Tonga has protected since 1875!

Furthermore, Tonga was also able to highlight its aspirations to ratify new human rights conventions so that it may offer Tongan citizens and residents the same benefits and protections which are accepted and enforced by free and democratic societies around the world.

Embracing new human rights however Mr President, is a delicate balancing exercise for Tonga. This is because there are valuable and influential factors that need to be weighed against each other before completing ratification and commencing enforcement. This is the main reason why Tonga has not completed the ratification of core human rights conventions that it undertook to do from 2008.

These factors include the limited resources – financial and personnel capabilities – which Tonga has at its disposal to meet its human rights obligations, against the backdrop of the impact of the current world fiscal situation. Secondly, Tongan culture is very conservative, and difficult to change. Thirdly, the Christian faith is very influential in Tongan life, and all aspects of Tongan society. Fourthly, there is the influence of liberal ideologies, mainly promoted by academics, youth and the Tongan Diaspora overseas.

I am sure Mr President, Your Excellencies and Distinguished Delegates you will appreciate the significance of these circumstances, and that you will also understand from these circumstances the pace that Tonga is taking to ratify the core human rights conventions.

Despite the influence of Tonga's circumstances on the pace towards ratification, Tonga still remains committed to pursue the ratification of the core human rights conventions.

Despite this slow pace, Tonga has not left alone its human rights aspirations. Tonga continues to be active in supporting and developing itself with regards to gender equality and rights of disabled persons. It has also continued to respect and guard its citizens against torture and other cruel, inhuman and degrading treatment or punishment. This has been done through new legislation, new policies, training, awareness programmes, and supporting national, regional and international activities and initiatives on these human rights issues.

May I also state for the record that the Tongan Government is also committed to the Human Rights Council's Universal Periodic Review process. Tonga has demonstrated this by sending a delegation consisting of a Cabinet Minister and a Government Chief Executive Officer to demonstrate its seriousness to the advancement of human rights protection within its borders.

III SUMMARY OF TONGA'S SECOND UNIVERSAL PERIODIC REVIEW REPORT

The first review of Tonga's human rights efforts resulted with six thematic recommendations:

- (1) Democratization and Law Reforms;
- (2) Thematic Human Rights Issues;
- (3) National Human Rights Institution;
- (4) Gender Equality;
- (5) Promotion and Protection of Human Rights, Education and Public Awareness; and
- (6) Treaty Ratifications, Treaty Reporting and Overall Work with Human Rights Mechanisms.

All these issues are dealt with in detail in the national report. I will deal with them separately and briefly highlight the salient points.

(1) Democratisation and Law Reforms

Mr President, since Tonga's last review in 2008, I can report that the democratisation of the Tongan political system has been completed to the furthest extent possible.

The process was led by the late King, His Majesty King George Tupou V, who graciously handed over his executive powers, so that Government be led by a fully elected Cabinet. This was indeed his legacy for Tonga, the Pacific region and the world.

The pathway to constitutional and political reform was highlighted by significant occurrences since 2008.

In August 2008 King George Tupou V formally ascended to the Throne in his coronation ceremony. Later that year the Legislative Assembly and His Majesty enacted the Constitutional and Electoral Reform Act, to lay out the final pathway to constitutional and political reform, to create a fully elected Cabinet to lead Government.

In mid 2009 the Commission completed its report and recommendations, and submitted it to the Legislative Assembly and the King.

In late 2010 the Legislative Assembly accepted most of the recommendations and passed amendments to the Constitution, the Legislative Assembly Act, the Government Act, the Electoral Act and other legislation to facilitate the reform process.

On 25 November 2010 the first ever national election was held under the new electoral system.

In December 2010 the first ever elected Prime Minister, Lord Tu'ivakano, a Nobles representative, under the new system was elected by the new representatives to the Legislative Assembly, and nominated and appointed by the King.

In January 2011 the first ever elected Cabinet took office, consisting of 12 Cabinet Ministers, in a house of 26 seats, including the Speaker.

In March 2012, all Tongans woke up one morning to grieve and mourn for the loss of their King, King George Tupou V, who had passed away suddenly while overseas. The country had lost two Kings in a period of six years. The late King will forever be known as the Father of the New Modern Tonga!

The loss of the late King also saw the rise of the current King, His Majesty King Tupou VI, who became the first Monarch to hold the role of Head of State, with executive powers in relation to the appointment of an independent judiciary, diplomatic relations and national defence.

These powers were in addition to the traditional royal prerogatives such as the prerogative to veto legislation and grant Royal Pardons.

In June 2012 the first ever motion of vote of no confidence in the Prime Minister was tabled.

In October 2012, that motion was defeated in favour of the incumbent Prime Minister.

This week, back in Tonga, Cabinet is reassessing its effectiveness and efficiency over the last two years in office, during a Retreat for Cabinet Ministers and Chief Executive Officers. The Retreat is supported by technical assistance provided by the Commonwealth Secretariat, and is based on a theme of "Strengthening the Heart of Government".

The Retreat will also be looking at better Government budget management, with the support of the World Bank.

At the end of this journey, Mr President, Tonga has been able to produce a revamped constitutional framework and political system that provides fundamental features of a free and democratic society to all its citizens, and it has also demonstrated that the new political system can be robust and resist challenges against unstable and ineffective Government.

I cannot say that the new constitutional and political system is perfect, but it is a significant achievement in making these profound changes to a 137 year old constitutional and political system, in a peaceful and orderly manner, within a period of four years since 2008.

Mr President, it would be remiss of me not to acknowledge with appreciation the technical assistance offered during the constitutional and political reform process by donor States and international organisations, including the Governments of New Zealand and Australia, the European Union and the UNDP.

Today all Tongan citizens, who are eligible to vote, and who are in Tonga at a time of the national elections, can exercise the right of choice to not only elect a representative to the Legislative Assembly, but also a potential leader of Government.

Tonga now has a 26 member Legislative Assembly.

The Assembly consists of 17 elected representatives of the people, elected by electors divided into 17 constituents. Registered voters amount to just over 42,000 registered electors, out of a population of just over 103,000 in 2010.

The nobles retain 9 seats, elected by 40 noble title holders.

The elected representatives elect the Prime Minister, who is then appointed by the King.

The Prime Minister then selects 11 others to form a Cabinet of not more than 12 Cabinet Ministers, thus resulting always in a minority government. The

Prime Minister can select his Cabinet Ministers from elected representatives, and up to four non-elected representatives.

(2) **Thematic Human Rights Issues**

Under the thematic human rights issues, Tonga's second national report covers Tonga's responses to the recommendations regarding:

- (a) Ratification of the Convention against Torture;
- (b) Safeguards against harsh treatment by police and security forces;
- (c) Promote human rights education programmes for police, security and penal personnel;
- (d) Protection of freedom of expression, information and the press;
- (e) Increase awareness for persons with disabilities; and
- (f) Anti corruption.

Ratification of the Convention against Torture:

With regards to the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), may I refer to the question from Norway regarding this subject. The question is as follows:

IN THE 2008 UPR, TONGA ACCEPTED RECOMMENDATIONS TO RATIFY INTER ALIA THE ICCPR, ICESCR, CEDAW AND CAT, HOWEVER IT HAS NOT YET DONE SO. CAN TONGA EXPLAIN

WHY THE GOVERNMENT HAS FAILED TO RATIFY THESE INSTRUMENTS?

Tonga accepts that it had accepted in 2008 the recommendation to ratify CAT, and also the ICCPR, ICESCR, and CEDAW.

The reason why Tonga has not ratified CAT is because torture, other cruel, inhuman or degrading treatment or punishment is currently prohibited under its criminal offences legislation regarding violence. Evidence law prohibits the use of evidence adduced as a result of violence. Law enforcement and security personnel are also trained to avoid such violence. The extradition and mutual assistance in criminal matters also facilitate international cooperation against torture.

Further, the authorities responsible for investigation and prosecution of such deplorable actions have been responsive and effective in reigning in such offenders. The judiciary has also been effective and issued criminal sanctions that act that is a deterrent to members of the public. Equally relevant is that the occurrence of torture, other cruel, inhuman or degrading treatment or punishment is not systematic in Tonga, and it is non-existent or very, very rare in such a small community.

However, despite the low occurrence and effective responses by authorities and legislation, Tonga remains committed to ratifying the CAT, and submit to the supervisory role of the Committee against Torture.

Safeguards against harsh treatment by police and security forces

With regards to establishing safeguards against harsh treatment by police and security forces, may I refer to a question again from Norway on this subject. The question is as follows:

IT HAS BEEN REPORTED THAT POLICE OFFICERS HAVE BEEN INVOLVED IN THE MALTREATMENT AND DEATH OF CIVILIANS. WHAT STEPS HAVE THE TONGAN GOVERNMENT TAKEN TO ADDRESS THIS ISSUE AND PREVENT IT HAPPENING AGAIN?

The maltreatment by police officers of persons taken into custody has been prosecuted without exception. Police officers who are responsible are prosecuted, and have been disciplined and dismissed from the police force. Maltreatment of civilians unfortunately is a regular occurrence, to the level of police intimidation tactics, and the rare incident of use of police violence against suspects.

The death of civilians at the hands of police officers however is very, very rare. Over the last 50 years or so, there have been only two incidents. The first in the 1970s, which was prosecuted, but resulted in an acquittal due to the jury not being persuaded on who among the arresting officers caused the death of an arrested person taken into custody for being intoxicated in a public place. The second was only recently in 2012, again during circumstances of arrest of an intoxicated victim, and the police using excessive force to restrain the deceased. The officers responsible have been charged and are facing charges of manslaughter in the Supreme Court later this year.

Despite its rare occurrence, the death of the civilian in 2012, has required Government to direct the Tonga Police to be more aggressive in getting rid of the bully in the Police inform. This has included awareness training on treatment of persons in custody with collaboration between Tonga Police and the Attorney General's Office, with support from the Australian Federal Police. There is also planned installation of closed circuit television camera system to film activities in Police charge offices and cells. The Tonga Police is also actively enforcing and training its officers with regards to the new Tonga Police Act that came into force in February 2011, which prescribes the rules for use of force, and the consequences of its breach.

The Government has also appointed a new Police Commissioner, with the assistance of the Government of New Zealand, whose main task is to modernise Tonga Police, including the elimination of the old culture of use of Police intimidation. The Police Commissioner is supported by a significant tri-partite development assistance programme between the Governments of Australia, New Zealand and Tonga.

May I also refer here to the question from the United Kingdom on the same issue, which states as follows:

WE WOULD APPRECIATE INFORMATION ABOUT ACTION THE GOVERNMENT OF TONGA IS TAKING TO ADDRESS THE ISSUE OF POLICE VIOLENCE AND WHETHER TONGA WILL INITIATE EDUCATION PROGRAMMES FOR ITS POLICE OFFICERS IN THIS REGARD?

The answer is yes. The Tongan Government is already requiring the Tonga Police to educate its officers about the rules of use of force and the consequences of use of violence.

Tonga Police participation in the Regional Assistance Mission to the Solomon Islands is an opportunity for Tonga police officers to work and train under experienced police officers in the region, and to learn of special police tactics to resolve violent situations with using the most minimal levels of force possible.

Tonga Police is also very active in pushing its community policing initiatives with tragic villages and villagers in order to show police presence and interest at a community level, and to hopefully regain public confidence.

Tonga Police have also relinquished non-policing roles such as immigration and traffic registration and motor vehicle licensing, in order to concentrate on its core police roles of protection of people and property, and investigation of crime.

With regards to promoting human rights education programmes for police, security and penal personnel, the Tonga Police, Prisons Department and Tonga Defence Services, each have recognised the sanctity of human rights. They are using their development programmes to educate their personnel on the observation and protection of human rights.

Protection of freedom of expression, information and the press

With regards to the protection of freedom of expression, information and the press, clause 7 of the Tongan Constitution enshrines this fundamental human right. The media enjoy relative freedom, subject to the laws of defamation, sedition and contempt of court. The Tongan media have established a Tonga Media Council to regulate its activities, however it is still in its infancy stages of development.

Government has passed a freedom of information policy and is being introduced incrementally by all Government ministries and agencies. It is envisaged that the policy will be enacted into a Freedom of Information legislation.

Increase awareness for persons with disabilities

With regards to increased awareness for persons with disabilities, may I refer to a question from Slovenia on the subject, which reads as follows:

HOW DOES TONGA GUARANTEE THE RIGHTS OF PERSONS WITH DISABILITIES? WHAT IMPROVEMENTS IN MEETING THE NEEDS OF PEOPLE WITH DISABILITIES HAVE BEEN MADE IN RECENT YEARS?

Although Tonga has signed the Convention on the Rights of persons with Disabilities in 2007, it has yet to ratify the Convention by introducing domestic legislation to promote and protect the rights of persons with disabilities.

Tongan legislation however offers the same protection of rights to disabled and non-disabled persons. So all rights to life, protection, freedom from arbitrary treatment and all human rights currently provided under Tongan laws, are equally applied to disabled persons. The only difference are the special rights for disabled, such as communication for persons who are without hearing or sight.

Tonga however at a policy level respect and is committed to protecting and developing Tongan society to facilitate the special needs of disabled persons/

The Ministry of Education has a policy on inclusive education and it currently holds classes for disabled education.

The Tongan Building Code also requires access facilities to be built into public buildings for disable persons. The Supreme Court has provided access facilities for persons using wheel-chairs or who are unable to use stairs.

Tonga has been supportive of regional efforts, such as the Biwaka Millennium Framework for Action toward an inclusive, barrier-free and rights-based society for persons with disabilities in Asia and the Pacific.

The Tongan Government also supports the work of the Pacific Disability Forum and the Australia Pacific Islands Disability Support in capacity developing for effective and efficient Disabled Persons Organisations in the Pacific Island countries. Tonga acknowledges the assistance provided by the Government of Australia in this area for the Pacific Islands.

As highlighted in the national report, there are currently two Disabled Persons Organisations who are active in pursuing the rights of disabled persons. These two organisations have recently been assessed and a plan of action has been set to improve their effectiveness and efficiency.

There is also an organisation that provides rehabilitation services for disabled persons.

Social kava clubs provide support for persons with disabilities on a regular basis, by donating gifts, money and food to disabled centres.

May I also refer to a question from Slovenia on the subject, which reads as follows:

AS A SIGNATORY OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES, WHAT STEPS HAS TONGA TAKEN TO INCLUDE THE PROVISIONS OF THE CONVENTION IN

DOMESTIC LAW? WHAT IS THE ENVISIONED TIMEFRAME FOR THE RATIFICATION OF THE CONVENTION?

Tonga has yet to include the provisions of the convention into domestic law.

Most rights of the persons with disabilities are provided in human rights related legislative provisions, and as mentioned before, the gap consists of the special rights, such as communication.

At this stage Tonga cannot provide a timeframe for the ratification of the convention.

One final question received on the subject was from Spain, which reads as follows:

WHAT MEASURES DOES THE GOVERNMENT PLAN TO ADOPT IN ORDER TO IMPROVE LIVING CONDITIONS OF PERSONS WITH DISABILITIES AND TO ERADICATE ALL FORMS OF DISCRIMINATION AGAINST THIS GROUP? DOES THE GOVERNMENT OF TONGA PLAN TO RATIFY THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES?

As mentioned earlier, Tonga is encouraging commitment to improve the lives of persons with disabilities by way of support for Disabled Persons Organisations, and also regional plans of action.

Furthermore, Tongan legislation does not discriminate for disabled persons, and the law offers the same protection to disabled persons, as well as non-disabled persons.

Tonga remains committed to ratify the convention on the rights of persons with disabilities, however a timeframe for ratification cannot be indicated now.

Anti corruption

With regards to implementing anti-corruption measures, Government is creating the necessary mechanisms to combat corruption, such as the appointment of a fully independent Attorney General and Auditor General, and also enacting new legislation to create effective and efficient offices for the Anti Corruption Commissioner and Ombudsman.

This is one of the areas that have been impacted by limited resources, however Tonga remains committed to establishing and strengthening these anti-corruption mechanisms that have already been legislated for.

(3) National Human Rights Institution

With regards to establishing a human rights institution, may I refer to a question from the United Kingdom on the subject, which reads as follows:

PLEASE COULD YOU INFORM US OF PLANS THE GOVERNMENT OF TONGA HAS TO ESTABLISH A NATIONAL HUMAN RIGHTS INSTITUTION IN ACCORDANCE WITH PARIS PRINCIPLES?

Tonga is still not in a position to establish a national human rights institution.

The reasons of course are due to lack of financial and technical resources and limited human resources. Accordingly, the Tongan Government does not have plans to establish a national human rights institution.

At the moment Government ministries and agencies observe and protect human rights collectively.

Tonga however recognises the need for a focal point to monitor and promote human rights protection.

It is therefore the intention of this Tongan delegation to recommend to the Tongan Government to establish, for a start, a small unit, either within the Prime Minister's Office, or Attorney General's Office to be responsible with monitoring and advancing the Tongan Government's commitment to human rights protection. It is hoped that donor partners and organisations would consider providing assistance for this initiative.

(4) Gender Equality

With regards to gender equality, may I start by referring to a question from Norway, which reads as follows:

WHICH MEASURES WILL TONGA TAKE IN ORDER TO IMPROVE THE POSSIBILITY OF ACHIEVING MILLENNIUM DEVELOPMENT GOAL 3, TO PROMOTE GENDER EQUALITY AND EMPOWER WOMEN, AND IS TONGA CONSIDERING TAKING CONCRETE STEPS TO INCREASE THE NUMBER OF WOMEN IN DECISION MAKING POSITIONS?

Since Tonga's last review, Tonga has made significant commitment at a national, regional and international level to promote gender equality.

Tonga has also carried out activities to maintain gender equality.

Women occupy Government positions as Cabinet Minister (1 out of 11), Government chief executive officers (4 out of 14), and deputy chief executive officer role (around 20).

They also are directors of public enterprises and statutory boards, including chairmanship of the board of directors, and also in significant positions in the private sector as individual business persons and leadership of the business community, along with positions in churches.

With this number of occupation of senior roles, there can be no doubt that there is equal employment in Tonga, and there is no culture of discrimination against women occupying decision making roles.

May I also refer to a question from Slovenia on the subject of gender equality, which reads as follows:

HAS A GENDER PERSPECTIVE BEEN INTEGRATED IN TONGAN POLICIES? IF SO, IN WHAT WAY? WHAT EQUALITY GUARANTEES ARE OFFERED TO WOMEN?

One of the objectives of the Tonga Strategic Development Framework adopted in 2012 by the current Government as its charter for its four year term in office is to create “strong inclusive communities be engaging communities in meeting their service needs and ensuring the prioritised and equitable distribution of development benefits”.

One of the strategies to achieve strong inclusive communities is to improve gender equality by implementing the government’s gender development policy.

Tonga is also committed to protecting women from domestic violence. Criminal prosecutions of violence in family situations are pursued without exception. Government is also processing a Family Protection Bill in 2013 that will set up new mechanisms and criminal offences to respond directly to domestic violence, including violence against children, within the home.

Further, a Tonga National Study on Domestic Violence against Women was held in March 2012.

The Public Service Commission amended its maternity leave policy by increasing the period on leave from one month to three months, and also included paternity leave of 5 working days for husbands who are public servants to take time off work to assist a recovering mother or care for the other children.

In the Tonga Defence Services, regulations were amended to allow women who marry and have children to remain in the Tonga Defence Services. There are now women commissioned officers in the Tonga Defence Services. In the Tonga Police there is one female deputy police commissioner.

CEDAW

May I also refer to a question from the United Kingdom on this subject, which reads as follows:

WE WOULD BE GRATEFUL FOR AN UNDERSTANDING OF WHY TONGA IS THE ONLY COUNTRY IN THE PACIFIC AND ONE OF A VERY SMALL NUMBER OF COUNTRIES WORLDWIDE NOT TO HAVE BECOME PARTY TO THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) AND WHETHER THE GOVERNMENT HAS PLANS TO BECOME PARTY TO THE CONVENTION?

With regards to ratification of CEDAW, in December 2011, Tonga has decided to ratify CEDAW with some reservations, and that a nationwide consultation be undertaken to reach a consensus on the reservations and the way forward for ratification.

Mr President, women enjoy relative benefits in Tongan social life. They are treated with reverence during Tongan social functions such as birthdays, weddings and funerals. At the same time women are respected and appreciated for their multiple roles in the family and village life, and so male relatives have obligation to provide for the women relatives, in turn women relatives exercise their prerogatives lovingly over the male relatives, such as providing fine mats or naming rights over children..

However, with the changing role of women, this cycle of family relationship is changing its dynamics. This is the issue that has to be managed carefully so that we do not lose our sense of Tongan culture, but more so, avoid disharmony between conservative and liberal groups. Hence the decision for wide consultation on the ratification and reservations for CEDAW.

It is hoped that the consultation will be completed together with the enactment of the Family Protection Bill.

Despite not ratifying CEDAW, Tonga is very active in pursuing gender equality, and the protection of women, as highlighted in the report.

Reservations on CEDAW

With regards to the reservations on CEDAW, may I refer to a question from Spain on the subject, which reads as follows:

YOUR NATIONAL REPORT MAKES REFERENCE TO SOME RESERVATIONS IN ORDER TO RATIFY THE CEDAW. WE WOULD LIKE TO KNOW WHAT KIND OF ISSUES THEY COVER.

The Ministry of Internal Affairs, which is responsible for women affairs, has provided instructions on the topics to be considered for drafting reservations.

The issues covered relate to:

- (a) right to succession to the throne in relation to article 2 in removing discrimination against women to succeed to the throne, where priority is given to the oldest born male child of women to own land;
- (b) right to abortion under article 12(1), by access to family planning;
- (c) land ownership under article 14(g); and
- (d) same-sex marriage that may be allowed under article 16.

These are all sensitive issues to Tonga which needs to be fully canvassed by all stakeholders before ratification is made.

Land Ownership

With regards to land ownership, may I refer to a question from Norway on the subject, which reads as follows:

WHICH MEASURES WILL TONGA TAKE IN ORDER TO ENSURE EQUALITY BETWEEN MEN AND WOMEN, INCLUDING AS RELATES TO OWNERSHIP OF LAND AND THE RIGHT OF WOMEN TO INHERIT PROPERTY?

As mentioned earlier, the right of women to land is still an issue that needs to be fully discussed and considered given Tongan culture and the current land tenure system.

In March 2012 the Royal Commission of Inquiry into the land laws and practices of the Kingdom issued its final report to the King.

In the report, the Commission made recommendations to the land laws in order to allow women more access to land.

These recommendations included:

- (a) the right to apply and be granted land to build a residence,
- (b) removing the requirement of widows or unmarried daughters holding land to forfeit land if they are married or commit adultery or fornication;

- (c) to give the widow the right to lease out land she inherited from her deceased husband, with the consent of the heir.

These recommendations are still being considered by the Ministry of Lands, and will require careful consideration. However, this is seen as a way forward for women proprietary rights over land.

It is hoped that these recommendations will be accepted as policy and enacted into legislation, however, after careful and due consideration.

(5) **Promotion and Protection of Human Rights, Education and Public Awareness**

With regards to the promotion and protection of human rights education and public awareness, it is suffice for me to report that Tonga has undertaken numerous training programmes, with the assistance of specialised regional organisations and donor agencies. This has also been evident in the education sector, as outlined in the report.

Tonga is also taking new initiatives to improve human rights for its citizens; with improved transparency from Government through its new freedom of information policy; access to free legal representation through a legal Aid Bill and also maintaining a high ranking in the UNDP human development index, which Tonga is ranked 90th, as of the 2011 rankings, which is the second highest in the Pacific Islands.

Tonga has benefited mainly in human rights education and public awareness programmes from technical assistance from the South Pacific Community's Pacific Regional Rights Resource Team, the Governments of New Zealand and Australia, and the UNDP.

(6) Treaty Ratifications, Treaty Reporting and Overall Work with Human Rights Mechanisms

With regards to ratification of the core international human rights treaties and optional protocols (International Convention on Civil and Political Rights, International Convention Economic Social and Cultural Rights, CEDAW, CAT and CRC Optional Protocols), again, Tonga accepts that it has yet to ratify the other core human rights treaties.

The reasons have already been explained.

Tonga requests that the Member States understand the Tongan circumstances, and that Member States continue to assist Tonga to pursue ratification, through the provision of assistance for training and public awareness, and also technical advice to draft policies and new legislation, in order to achieve ratification.

IV OTHER QUESTIONS

Mr President, the final part of this presentation is to deal with advanced questions regarding issue which were not directly covered in the second national report.

First, may I refer to a question from Mexico, which reads as follows:

WHAT OBSTACLES HAS THE TONGAN GOVERNMENT IDENTIFIED TO EFFECTIVELY IMPLEMENT PREVIOUS UPR RECOMMENDATIONS?

As highlighted earlier in this presentation, the main obstacles to implementing recommendations are first, the lack of resources. This includes lack of financial resources to establish institutions or receive expert advice, and also to hold public discussions on human rights issues before they can be advanced.

Secondly, which is equally important is the delicate balancing exercise with significant factors such as culture, Christian beliefs and ideologies of a conservative society.

May I refer to another question from Mexico regarding statelessness, which reads as follows:

HOW DOES TONGA PLAN TO PREVENT STATELESSNESS IN ITS TERRITORY, BOTH LEGALLY AND IN PRACTICE?

Tonga had relaxed or widened the scope of its nationality laws.

More persons are now able to become Tongan subjects.

These include:

- (a) Tongan persons who were born of a non-Tongan father;
- (b) Spouses who married Tongans; and
- (c) Illegitimate children who were born of Tongan mothers, overseas.

There has been no or rarely a case of statelessness.

This widening of the scope of Tongan nationality will be monitored, and if needed, could be further refined to ensure there is no unfairness.

Naturalisation is still available, after 5 years residence and knowledge of the Tongan language, however His Majesty has absolute discretion to grant Tongan nationality by way of naturalisation to any person at any time.

The final question is a question from Spain regarding the right to drinking water, which reads as follows:

TONGA HAS NOT SUPPORTED THE RESOLUTIONS ABOUT THE HUMAN RIGHT TO DRINKING WATER AND SANITATION ADOPTED AT THE GENERAL ASSEMBLY AND AT THE HUMAN RIGHTS COUNCIL. WE WOULD LIKE TO HAVE YOUR OPINION ON THIS ISSUE, BEARING IN MIND THAT YOUR COUNTRY WAS PART OF THE CONSENSUS REACHED IN THE RESOLUTIONS PASSED AT THE HUMAN RIGHTS COUNCIL.

By way of explanation of Tonga not voting in support of the resolutions about the human right to drinking water before the UN General Assembly and the Human Rights Council, Tonga was not present on both votes. This is because Tonga does not have a regular presence in Geneva, and its Mission in the UN in New York is very small/

Tonga like many other Small Island Developing State (SIDS) has limited and scarce natural resources including water. Nevertheless Tonga continues to make its own national efforts to deliver this crucial resource to its citizens as best it can. The Tongan Government is currently processing a Water Resources Bill in order to monitor and regulate water use.

Any meaningful discussions on the right of access to clean water and adequate sanitation (including the scope of obligations) in that regard remain a matter of great importance to Tonga.

Further, Tonga would be supportive of any General Assembly's efforts that involves any call on States and international organizations to provide financial resources, build capacity and transfer technology, particularly to developing countries, in scaling up efforts to provide safe, clean, accessible and affordable drinking water and sanitation for all.

V. CONCLUSION

Mr President, Your Excellencies, Distinguished Delegates, this brings me to the conclusion of the presentation of Tonga's Second Universal Periodic Review Report.

I would now like to conclude this presentation by saying that:

- (a) Tonga remains committed to improving the level of its human rights obligations.
- (b) Tonga requests Member States to understand and appreciate the unique circumstances that it faces when advancing human rights protection, such as resources, strong cultural values, predominant Christian faith and the growth of liberal ideologies;
- (c) Tonga requests Member States to assist and support Tonga in advancing human rights; particularly human rights regarding gender equality, and persons with disabilities, and any other human rights that Member States are willing to assist Tonga with.

May I close by thanking you Mr President, Your Excellencies and Distinguished Delegates for your attention, and on behalf of my delegation, wish you well in the work in the next few weeks, and the rest of 2013.

My delegation and I look forward to meaningful dialogue with Distinguished Delegates with regards to Tonga's national report

Thank you very much.

Malo 'aupito.

