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Draft report of the Working Group on the Universal Periodic Review*

Tonga

* The annex to the present report is circulated as received.

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Introduction

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1, held its twenty-ninth session from 15 to 26 January 2018. The review of Tonga was held at the 2nd meeting, on 15 January 2018. The delegation of Tonga was headed by Solicitor General, Mr. Sione Sisifa. At its tenth meeting, held on 19 January 2018, the Working Group adopted the report on Tonga.
2. On 10 January 2018, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Tonga: Angola, Slovakia, and the United Arab Emirates.
3. In accordance with paragraph 15 of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21, the following documents were issued for the review of Tonga:
 - (a) A national report submitted/written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/29/TON/1);
 - (b) A compilation prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in accordance with paragraph 15 (b) (A/HRC/WG.6/29/TON/2);
 - (c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/29/TON/3).
4. A list of questions prepared in advance by Brazil, Germany, Liechtenstein, Portugal, Slovenia, Spain, and the United Kingdom of Great Britain & Northern Ireland was transmitted to Tonga through the troika. These questions are available on the extranet of the universal periodic review.

I. Summary of the proceedings of the review process

[To be completed by 2 February 2018]

- A. Presentation by the State under review
- B. Interactive dialogue and responses by the State under review

5. During the interactive dialogue, 45 delegations made statements. Recommendations made during the dialogue are to be found in section II of the present report.

II. Conclusions and/or recommendations**

6. The recommendations formulated during the interactive dialogue/listed below have been examined by Tonga and enjoy the support of Tonga:
 - 6.1 Consider transforming existing ad hoc structures into a national mechanism for coordination, implementation, reporting and follow-up, in line with elements arising from good practices identified in the OHCHR Study/Guide of 2016 concerning NMRFs (Portugal);
 - 6.2. Continue to work on human rights and sustainable development initiatives and, where applicable, adopt appropriate follow-up mechanisms (Thailand);

** The conclusions and recommendations have not been edited.

- 6.3. **Submit the initial report on implementation of the Convention on the Rights of the Child (Montenegro);**
- 6.4. **Adopt an open, merit-based process when selecting national candidates for UN Treaty Body elections (United Kingdom of Great Britain and Northern Ireland);**
- 6.5. **Improve its records of reporting before the UN treaty bodies, including by submitting its outstanding reports to the Committee on the CERD and the Committee on the CRC (Azerbaijan);**
- 6.6. **Elaborate and present the reports required by the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child (Côte d'Ivoire);**
- 6.7. **Accept the request for a visit of the Working Group on the issue of discrimination against women in law and in practice (Panama);**
- 6.8. **In order to increase its capacity-building in the sphere of human rights, to cooperate with the Voluntary Technical Assistance Trust Fund to Support the Participation of Least Developed Countries and Small Island Developing States in the work of the Human Rights Council bearing in mind that the Fund is mandated to support targeted training courses and capacity-building activities on the international human rights system and international human rights law as well as induction training sessions for government officials of LDCs/SIDs to provide them with information on the multilateral human rights system (Ukraine);**
- 6.9. **Launch the review of the legislative instruments referred to in paragraph 138 of the national report (Panama);**
- 6.10. **Develop the actions raised in paragraph 138 of its national report as part of the revision and modification of national legislation (Cuba);**
- 6.11. **Continue its democratization process, including efforts in enhancing respect to civil rights of its citizens to ensure equal and full enjoyment of fundamental human rights (Indonesia);**
- 6.12. **Continue its efforts on establishing efficient and transparent public service in the country (Azerbaijan);**
- 6.13. **Continue to take effective measures to protect the rights of vulnerable groups (China);**
- 6.14. **Continue to consolidate its social and human rights policies, especially in the area of economic, social and cultural rights, in order to increase the quality of life of its people, particularly the most vulnerable sectors of the population (Bolivarian Republic of Venezuela);**
- 6.15. **Establish a monitoring and reporting system on the implementation of the education policy framework (Portugal);**
- 6.16. **Create a monitoring system for implementation of the current education policy framework for the period 2004 -2019(Ukraine);**
- 6.17. **Establish a national human rights institution, capable of promoting and protecting human rights in the country, and that receives sufficient human and financial resources to guarantee its proper functioning (Mexico);**
- 6.18. **Continue the dialogue that has progressed to a certain level about forming a national human rights institution (Turkey);**
- 6.19. **Create a national human rights institution that monitors all rights issues in Tonga, as reiterated in the previous cycles (Uruguay);**
- 6.20. **Create a national human rights institution which could be based on the newly established Ombudsman (France);**

- 6.21. Establish a mechanism for improving coordination and strengthening of various institutions dealing with discrimination of women, taking into consideration that Tonga still has not established an institution in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Slovenia);
- 6.22. Ensure sufficient resources are allocated for the full and successful implementation of the Revised National Policy on Gender and Development 2014-2018 (Singapore);
- 6.23. Further strengthen mechanisms for citizens, including civil society organizations, to participate in law-making, oversight, national planning and budgeting processes (Netherlands);
- 6.24. Prioritize gender equality, as well as increase women's participation at all levels of social, political, and economic decision-making in government (United States of America);
- 6.25. Adopt concrete measures to protect vulnerable groups to assist them in being more resilient in the impact of climate change and natural disasters (Republic of Korea);
- 6.26. Seek the technical and financial assistance needed to adequately address the climate change challenges and to reduce risk and implement early warning systems (Sierra Leone);
- 6.27. Address the issue of trafficking of women and children (Philippines);
- 6.28. Take measures to reinforce protections for freedom of expression, including guaranteeing the independence of public and private media (Canada);
- 6.29. Take additional steps towards the abolition of child marriage, including by raising to 18 the minimum age of marriage (Brazil);
- 6.30. Take steps to end child marriages by raising to 18 the minimum age of marriage for both boys and girls (Italy);
- 6.31. Take all necessary measures to ensure the effective implementation of the Family Protection Act 2013) and that it place a particular focus on legal and cultural awareness-raising campaigns (Ireland);
- 6.32. Continue to implement Tonga's strategic development framework 2015-2025 to achieve sustainable economic and social development (China);
- 6.33. Make efforts for the welfare of female workers, including by ensuring maternity leave by law (Republic of Korea);
- 6.34. Implement an official support system for working women, contemplating basic issues such as the minimum wage and maternity leave (Uruguay);
- 6.35. Continue to strengthen healthcare and to especially improve services for maternal health, for new-borns and for children (Maldives);
- 6.36. Take the necessary measures to improve access to health, especially for children and women during pregnancy, childbirth and the post-delivery period (Algeria);
- 6.37. Implement measures to strengthen universal access to health services, including reproductive health (Angola);
- 6.38. Adopt legislative measures and political measures to combat discrimination against women and guarantee gender equality in the public and private spheres (Honduras);
- 6.39. Increase awareness raising and information campaigns to combat violence against women (Morocco);

- 6.40. Criminalize all forms of violence against women, including domestic sexual violence (Honduras);
 - 6.41. Promote equality between women and men and fight against domestic violence (France);
 - 6.42. Continue with efforts to combat violence against women and children, and efforts to eliminate all forms of discrimination against women (New Zealand);
 - 6.43. Promote and increase efforts for women's participation in political life and decision-making at all levels (Morocco);
 - 6.44. Continue to strengthen efforts to increase women's participation at all formal decision-making levels (New Zealand);
 - 6.45. Adopt specific measures to increase the representation of women in decision-making bodies, including the Legislative Assembly (Chile);
 - 6.46. Establish national policies which ensure better participation of women at all levels of government and in key decision-making positions (Sierra Leone);
 - 6.47. Abolish the provisions which authorizes corporal punishment (Italy);
 - 6.48. Prohibit all persons, especially children, from receiving lashes as disciplinary sanctions or any other type of corporal punishment, regardless of the offense they committed (Uruguay);
 - 6.49. Modify national legislation to prohibit child, early and forced marriage and establish a clearly defined legal age of marriage and consent (Sierra Leone);
 - 6.50. Take the necessary measures to modify the national legislation to increase the legal minimum age for marriage, as well as to raise awareness of deeply rooted attitudes and stereotypes, in particular by investigating and sanctioning cases in which girls are forced to marry children with whom they have been seen or even with their rapists (Argentina);
 - 6.51. Establish a separate juvenile court or system for the children and implement the Convention on the Rights of the Child (Turkey);
 - 6.52. Continue to review and improve the relevant legislation, policies and programmes to accord those with disabilities more protection, services and opportunities to participate fully in Tongan society (Singapore).
7. The following recommendations will be examined by Tonga, which will provide responses in due time, but no later than the thirty-eighth session of the Human Rights Council:
- 7.1. Continue its efforts in ratifying all core international human rights conventions (Indonesia);
 - 7.2. Make every effort to ratify core international human rights treaties, and that it fulfil its reporting obligations under the conventions that it has ratified (Ireland);
 - 7.3. Take necessary steps to ratify the International Covenant on Civil and Political rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of Persons with Disabilities and the Convention on the Rights of the Child (Ghana);
 - 7.4. Ratify the International Covenant on Civil and Political Rights (Côte d'Ivoire; Iceland; Panama; Turkey);
 - 7.5. Ratify the International Covenant on Economic, Social and Cultural Rights (Angola; Iceland; Mexico; Panama; Turkey);

- 7.6. **Ratify the Convention on the Elimination of All Forms of Discrimination against Women (Angola; Australia; Côte d'Ivoire; Denmark; Iceland; Italy; Mexico; Turkey);**
- 7.7. **Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Brazil; Iceland; Turkey);**
- 7.8. **Ratify the Convention on the Rights of Persons with Disabilities (Iceland);**
- 7.9. **Ratify the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention Against Torture, and take steps to raise social awareness and understanding of these instruments (Canada);**
- 7.10. **Accelerate steps to ratify the core international human rights treaties including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of Persons with Disabilities, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Republic of Korea);**
- 7.11. **Consider acceding to the International Covenants on human rights (Uruguay);**
- 7.12. **Examine the possibility of ratifying some international human rights legal instruments, particularly including the two International Covenants on Civil and Political Rights, and on Economic, Social and Cultural Rights (Algeria);**
- 7.13. **Consider ratifying the core international human rights treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Azerbaijan);**
- 7.14. **Ratify the main international human rights treaties, particularly the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of Persons with Disabilities (France);**
- 7.15. **Ratify the convention on the Elimination of All Forms of Discrimination against Women, and implement it in national law (Germany);**
- 7.16. **Expedite the ongoing process to ratify the Convention on the Elimination of All Forms of Discrimination against Women as part of its ongoing efforts to promote and protect the rights of women (Maldives);**
- 7.17. **Work towards the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of Persons with Disabilities (India);**
- 7.18. **Consider withdrawing reservations to the Convention on the Elimination of All Forms of Discrimination against Women as well as setting up the National Human Rights Commission, in light of Paris Principles (Mozambique);**
- 7.19. **Conclude the process of ratification of the Convention on the Elimination of All Forms of Discrimination Against Women and reconsider all the potential reservations thereto (Portugal);**

- 7.20. Accelerate steps towards ratification of the Convention on the Elimination of All Forms of Discrimination against Women and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Georgia);
- 7.21. Intensify efforts to ratify the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Ghana);
- 7.22. Ratify the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment without further delay (Denmark);
- 7.23. Increase efforts aimed at ratifying the core international human rights treaties including the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of All Forms of Discrimination against Women (Ukraine);
- 7.24. Intensify its efforts to ratify the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the Convention Against the Elimination of All Forms of Discrimination Against Women (Chile);
- 7.25. Ratify the Convention on the Rights of People with Disabilities (New Zealand);
- 7.26. Ratify and implement the Convention on the Rights of Persons with Disabilities and support the disaggregation of SDG reporting data by disability (United Kingdom of Great Britain and Northern Ireland);
- 7.27. Accede to the Rome Statute on the International Criminal Court (France);
- 7.28. Ratify the International Labour Organization's Worst Forms of Child Labour Convention 1999 (C.182) as part of the Government's ongoing commitment to achieving SDG 8.7 (United Kingdom of Great Britain and Northern Ireland);
- 7.29. Ratify the main human rights instruments, to which it is not yet a party, as well as the fundamental International Labour Organization Conventions (Honduras);
- 7.30. Continue efforts to ratify international instruments and to cooperate with human rights mechanisms (Morocco);
- 7.31. Sign and accede to the core international human rights treaties, to which Tonga is not yet party, namely, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Sierra Leone);
- 7.32. Ratify core human rights treaties as well as the Rome Statute of the ICC (Timor-Leste);
- 7.33. Continue taking necessary measures to establish a national human rights institution in line with the Paris Principles, including by increasing the capacity building programmes for all stakeholders (Indonesia);
- 7.34. Establish a National Human Rights Mechanism according to the Paris Principles (Portugal); Establish a National Human Rights Institution in conformity with the Paris Principles (Sierra Leone); Establish a national human rights institution in accordance with the Paris Principles (Timor-Leste); Establish a national human rights institution for the promotion and protection of human rights in accordance with the Paris Principles (Ukraine);

- 7.35. Accelerate efforts to establish a National Human Rights Institution in compliance with the Paris Principles (Georgia);
- 7.36. Introduce comprehensive anti-discrimination legislation to provide equal protection for all persons, including vulnerable groups like people with disabilities, and on all grounds, including sexual orientation and gender identity (Germany);
- 7.37. De-criminalize consensual same-sex relations (Germany);
- 7.38. De-criminalize consented sexual relations between adult persons of the same sex (Honduras);
- 7.39. Repeal legislation that criminalizes same-sex sexual practices between consenting adults and increase efforts to eliminate all forms of discrimination that target individuals based on their sexual orientation and gender identity (Canada);
- 7.40. Adopt specialized laws that allow the creation of mechanisms to combat sexual and gender-based violence, as well as discrimination based on sexual orientation and gender identity (Mexico);
- 7.41. Enact a new legislation or amend existing laws with a view to decriminalize same-sex relations between consenting adults (Montenegro);
- 7.42. Introduce comprehensive anti-discrimination legislation to provide equal protection against discrimination for all persons and on all grounds, including sexual orientation or gender identity (Netherlands);
- 7.43. Revise the Criminal Offences Act in order to decriminalize sexual relations between consenting adults of the same sex (Portugal);
- 7.44. Continue working together with *Leitis* civil society (LGBTI), to adopt the necessary reforms to eradicate discrimination based on sexual orientation or gender identity (Chile);
- 7.45. Repeal the provisions of the Criminal Offences Act that criminalized same-sex sexual relations between consenting adults (Timor-Leste);
- 7.46. Repeal the provisions of the Tongan Criminal Offences Act that criminalize LGBTI status and conduct (United States of America);
- 7.47. In follow-up to the recommendation made in 2013, take urgent measures to repeal the norms and regulations that sanction and discriminate LGBTI persons, as well as to investigate and sanctions the perpetrators of acts of discrimination and violence towards them. (Argentina);
- 7.48. Abolish the death penalty (Honduras);
- 7.49. Formally abolish the death penalty, including ratifying the International Covenant on Civil and Political Rights, and its Second Optional Protocol (Australia);
- 7.50. Consider to fully abolish the death penalty (Italy);
- 7.51. Abolish the death penalty, considering its de facto moratorium since 1982 (Canada);
- 7.52. Transform Tonga's de facto moratorium on the application of death penalty into a definitive abolition (Portugal);
- 7.53. Continue to incorporate the UN Rules for Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, otherwise known as the "Bangkok Rules" (Thailand);
- 7.54. Develop a broader legal aid system that offers free legal counsel to indigent defendants (United States of America);

7.55. Carry out regulatory reforms so that women can decide to perform contraceptive medical interventions and any other practice related to their health (Uruguay);

7.56. Eliminate from its legal system discriminatory norms based on gender and redouble its efforts to combat any discriminatory practice against women, particularly their right to property (Honduras);

7.57. Amend the Land Act currently in effect, particularly its provision preventing women from inheriting land (Iceland);

7.58. Prioritize work to eliminate violence against women, and to improve gender equality, including in relation to property and employment (Australia).

8. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and/or the State under review. They should not be construed as endorsed by the Working Group as a whole.

Annex

Composition of the delegation

The delegation of Tonga was headed by Solicitor General, Mr. Sione Sisifa and composed of the following members:

- Ms. Susana Faletau, Chief Executive Officer of the Ministry of Justice;
 - Mr. Sione Sonata Tupou, Acting High Commissioner, Tonga High Commission, London;
 - Ms. Akanesi Katoa, Assistant Crown Counsel.
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