

ACCESS TO JUSTICE FOR CHILDREN: TONGA

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I. What is the legal status of the Convention on the Rights of the Child (CRC)?

A. What is the status of the CRC and other relevant ratified international instruments in the national legal system?

International treaties, including the CRC, only become part of national law when enacted through further domestic legislation.¹ Tonga acceded to the CRC on 6 November 1995,² but is one of two remaining countries (the other country is Nauru) whose initial state party report remains pending.

B. Does the CRC take precedence over national law?

The CRC does not take precedence over national legislation.

C. Has the CRC been incorporated into national law?

The CRC has been implemented in national law in a limited way. For example, the Guardianship Act 2004, the primary law governing child protective proceedings, sets out how children's rights are protected in the context of abuse and neglect proceedings.

A Family Protection Bill was introduced in 2012 to deal with domestic violence (including domestic violence against children) and to introduce the concept of protection orders (although note that a child - defined as a person under the age of 18 - cannot apply for an order directly). The Bill states that one of its aims is to enact provisions that are consistent with the CRC. The Bill has not been passed to date.

D. Can the CRC be directly enforced in the courts?

The CRC would have to be incorporated into national law to be directly enforceable. The Tongan Supreme Court has indicated that the Convention will only be enforced by the enactment of domestic legislation. See section I.E. below for more details.

E. Are there examples of domestic courts using or applying the CRC or other relevant international instruments?

¹ See *Tone v Police*, [2004] TOSC 36; AM 022-025 2004 (28 June 2004). Available at: <http://www.paclii.org/to/cases/TOSC/2004/36.html>.

² <http://www.law.yale.edu/rcw/rcw/jurisdictions/oceania/polynesia/tonga/frontpage.htm>. Note that UNESCO quotes that Tonga ratified the CRC on 3 October 1995: http://www.unesco.org/education/wef/countryreports/tonga/rapport_2.html

The CRC cannot be invoked directly in Tongan courts, but the Supreme Court has made reference to the Convention in its judgments.

In *Tone v Police*,³ the Supreme Court of Tonga held that, although the CRC had not been incorporated into national law, the court was entitled to use the terms of any convention to which Tonga had acceded as a guide to what is acceptable treatment of children.⁴

In *Fa'aoso v Paongo & Ors*,⁵ a 12-year-old was arrested by the police after being falsely accused of theft. He was in police custody for 20 hours before being released. In police custody, he was beaten. The officer plead guilty. In awarding the minor monetary compensation, the Supreme Court of Tonga considered whether the CRC was applicable. The Court hinted that courts in Tonga should be willing to be bound by the terms of the CRC. This was the first application of the CRC in Tongan courts (but not the first application of a human rights convention, as seen in 2005 in *R v Vola*⁶). Both cases show a departure from the reluctance of traditional Tongan courts to apply international human rights standards.

II. What is the legal status of the child?

A. Can children and/or their representatives bring cases in domestic courts to challenge violations of children's rights?

A number of routes are available to children and their representatives to challenge rights violations.

Where the relevant violation is a criminal offence, the Attorney-General can bring a prosecution for any offence under the Offences Act. For specifically named criminal offences, it is also possible for the victim to bring a complaint him or herself.⁷

Tongan courts have jurisdiction to hear cases related to English common law and rules of equity.⁸ This permits domestic courts to hear cases related to the rights of children and provide relevant remedies insofar as they are related to either of these branches of English law. If an Act or Ordinance contradicts rules of common law or equity, then the legislation will be applied.⁹

Where a person is detained, the courts can exercise the writ of Habeas Corpus to challenge the legal basis for detention.¹⁰

³ [2004] TOSC 36; AM 022-025 2004 (28 June 2004). Available at: <http://www.paclii.org/to/cases/TOSC/2004/36.html>.

⁴ Ibid.

⁵ [2006] TOSC 37. Available at: <http://www.crinarchive.org/Law/instrument.asp?InstID=1493>.

⁶ [2005] TOSC 31; CR 065 2005 (10 November 2005). Available at: <http://www.paclii.org/to/cases/TOSC/2005/31.html>.

⁷ Criminal Offences Act, Section 197(1) and (2). Available at: http://www.paclii.org/to/legis/consol_act/co136/.

⁸ Civil Law Act, Section 3. Available at: http://www.paclii.org/to/legis/consol_act/cla104/.

⁹ Civil Law Act, Section 4.

¹⁰ Constitution of Tonga, Article 9 and Supreme Court Rules, O.40. Available at: http://www.paclii.org/to/rules/ct_rules/scr2007232/.

The Commissioner for Public Relations fulfils the role of an ombudsperson and is empowered to investigate any decision or recommendation made “relating to a matter of administration”.¹¹ The Commissioner may act following a complaint or of his or her own motion.¹² In addressing complaints, the Commissioner may make recommendations to the appropriate Department or organisation.¹³ If the recommendations are not acted on in a reasonable time, the Commissioner may send the report and recommendations to the Prime Minister who must table the matter in the Privy Council along with recommendations.¹⁴

The Commissioner is appointed by the King in Council¹⁵ for a term of five years,¹⁶ though it is possible for the Commissioner to be reappointed indefinitely until retirement.¹⁷ The Commission is not explicitly rights focused and does not have a department for children or explicit mandate on children’s rights.

B. If so, are children of any age permitted to bring these cases by themselves in their own names/on their own behalf, or must the case be brought by or with the assistance of a representative?

An infant may commence and prosecute proceedings through a next friend and may defend proceedings through a guardian ad litem.¹⁸ Before proceedings the next friend or guardian ad litem must file a with the Court and a lawyer representing the child must certify that the proposed next friend or guardian ad litem has no interest in the action in question adverse to the interests of the child.¹⁹

The Guardianship Act 2004 allows the Court to appoint a representative for the child in respect of proceedings under that Act, typically child protection proceedings.²⁰ The Act also gives the Court the power to appoint guardians *ad litem* (Article 7) and law practitioners (Article 18) whenever allegations of abuse and/or neglect are raised in judicial proceedings. A survey conducted by Yale Law School in 2005 noted that in practice, the Court rarely, if ever, appoints an attorney to represent the child. Yet judges typically inquire into children’s wishes during informal bench hearings, which take place privately in the judges’ chambers. In this sense, children usually have an opportunity to express their interests directly to the Court.²¹

In the criminal law context, there is no distinct treatment for juvenile offences. As of 3 October 2012, a bill had been submitted to the Legislative Assembly in relation to special treatment for children in criminal hearings. If enacted, this bill would require children under 16 years involved in

¹¹ Commissioner for Public Relations Act 2001, Section 11(1). Available at:

<http://legislation.to/Tonga/DATA/PRIN/2001-010/CommissionerforPublicRelationsAct2001.pdf>.

¹² Commissioner for Public Relations Act 2001, Section 11(2).

¹³ Commissioner for Public Relations Act 2001, Section 18(3).

¹⁴ Commissioner for Public Relations Act 2001, Section 18(4).

¹⁵ Commissioner for Public Relations Act, Section 3.

¹⁶ Commissioner for Public Relations Act, Section 5(1).

¹⁷ Commissioner for Public Relations Act, Section 5(2).

¹⁸ Supreme Court Rules 2007, O.9 Rule 7(1).

¹⁹ Supreme Court Rules, O.9 Rule 7(2)(b). Available at: http://www.paclii.org/to/rules/ct_rules/scr2007232/.

²⁰ Guardianship Act 2004, Section 18.

²¹ <http://www.law.yale.edu/rcw/rcw/jurisdictions/oceania/polynesia/tonga/frontpage.htm>

criminal cases to be listed separately for hearing, require children's cases to be heard separately from those of adults and require children to be brought before a Magistrate specifically authorised to address children.²²

C. In the case of infants and young children, how would cases typically be brought?

A minor may only sue or defend a claim through his next friend.²³

Under the Guardianship Act 2004, the general principle is that the father and/or mother has guardianship over the child.²⁴ The Court may appoint a guardian generally, or a guardian *ad litem* to represent the child in a guardianship hearing.²⁵ The child may apply to the Court directly to appoint the Court as guardian and this lasts until the child reaches the age of 18 or marries, whichever happens sooner.²⁶ The Court must regard the welfare of the child as paramount and ascertain and account for the wishes of the child.²⁷

- (a) The child is provided the opportunity to be heard directly according to the law.
- (b) The child is provided the opportunity to be heard through a representative according to the law.
- (c) The child is provided the opportunity to be heard through an "appropriate body" according to the law.
- (d) There is no requirement that the child's views be expressed in the law.
- (e) There are no child protective proceedings provided for by the law.

As noted above, the Court rarely, if ever, appoints an attorney to represent the child. Judges typically inquire into children's wishes during informal bench hearings, which take place privately in the judges' chambers.

In order to act on behalf of a minor, the next friend or guardian ad litem must file a with the Court and a lawyer representing the child must certify that the proposed next friend or guardian ad litem has no interest in the action in question adverse to the interests of the child.²⁸

D. Would children or their representatives be eligible to receive free or subsidised legal assistance in bringing these kinds of cases?

A legal aid policy was endorsed by the Ministry of Justice around 2006 to assist those who needed legal advice and support; however, the project has been terminated. There is a Legal Aid Bill under consideration but at the time of writing, it had not been enacted.²⁹

²² <http://www.mic.gov.to/government/got/4052-parliamentary-committees-2012>.

²³ Supreme Court Rules 2007, O.9 Rule 7(1).

²⁴ Guardianship Act 2004, Section 4.

²⁵ Guardianship Act 2004, Section 7.

²⁶ Guardianship Act 2004, Section 8.

²⁷ Guardianship Act 2004, Section 15.

²⁸ Supreme Court Rules, O.9 Rule 7(2)(b). Available at: http://www.paclii.org/to/rules/ct_rules/scr2007232/.

²⁹ Legal Aid Bill 2012. Available at: <http://www.paclii.org/to/legis/bill/lab201274/>.

E. Are there any other conditions or limits on children or chosen legal representatives bringing cases (e.g., would a child's parents or guardian have to agree to a case being brought)?

Please refer to the sections above. A parent or guardian would have to agree to a case being brought.

III. How can children's rights violations be challenged before national courts?

A. If there is a potential violation of the Constitution or other principles established in domestic law, or with the CRC or other relevant ratified international/regional instruments, how can a legal challenge be brought?

Tonga is a Kingdom. The branches of government are the King, Legislative Assembly and Judiciary. The court system and the relevant rules are established by Acts of Parliament. A legal challenge can be brought if there is a law in place against which a challenge can be made.

Civil proceedings may be brought pursuant to the Magistrate's Court (Civil) Rules 2007 by filing a summons in the Magistrate's Court where the claim for damages does not exceed \$500. The Supreme Court has jurisdiction in (i) all civil cases in which the amount claimed exceeds \$500, (ii) all criminal cases for which the maximum penalty exceeds \$500 or 2 years imprisonment, (iii) all divorce, probate and admiralty matters, and (iv) any other matter not specifically allotted to any other tribunal.³⁰

There does not appear to be any express legislation or procedure relating to conduct of proceedings for violations of the Constitution. Since the Constitution is contained in an Act of Parliament, it is assumed to be subject to the same procedures as any other violation of law.

The Supreme Court Act was amended in 2012 to make it clear that the Supreme Court has the all of the powers capable of being exercised by the High Court of Justice in England and Wales.³¹ This includes the English system of judicial review, allowing administrative decisions to be challenged. See section III.B for more information on the remedies that the courts can order.

B. What powers would courts have to review these violations, and what remedies could they offer?

Each of the Magistrate's Court, Supreme Court and Court of Appeal are governed by specific Acts of Parliament which include setting each jurisdiction and the procedures which must be followed in criminal or civil proceedings. As noted above, there would have to be a law in place for a violation to be heard in the relevant Court. As the CRC is not incorporated into Tongan national law, the Courts are not directly bound by its provisions. As noted above, the Courts have acknowledged that they may refer to the CRC in determining cases involving violation of children's rights.

In civil cases, the relevant Court may award damages or equitable remedies such as an injunction or restitution. Temporary orders are possible.

³⁰ Supreme Court Act 1903, Section 4,

³¹ Supreme Court (Amendment) Act 2012, Section 2. Available at: http://www.paclii.org/to/legis/num_act/sca2012263/.

The remedy for violation of any Constitutional provisions is declaratory relief and shall not affect any award of damages under any other law.³² The Supreme Court can declare an Act of Parliament unlawful and invalid if it conflicts with the Constitution, including its rights provisions.³³

Under Article 82 of the Constitution, the Chief Justice is also empowered to suspend the operation of any law passed by the Legislative Assembly or Privy Council if it does not conform with the Constitution. The suspension remains in force until the next meeting of the Legislative Assembly.

In judicial review proceedings, the court can make orders requiring inferior courts, tribunals or public bodies to carry out a specific action (order of mandamus), not to carry out a certain action (order of prohibition) or quash a decision. The court can also make a declaration as to the state of the law or order an injunction requiring a party to the case to refrain from a particular action.³⁴

C. Would such a challenge have to directly involve one or more individual child victims, or is it possible to challenge a law or action without naming a specific victim?

No evidence could be found of mechanisms to challenge a law or action without naming a specific victim.

D. Is any form of collective action or group litigation possible, with or without naming individual victims?

Under the Supreme Court Rules, the Court has discretion to add parties to a civil proceeding if he or she ought to have joined or if his presence is necessary or convenient to ensure that all related matters are finally determined.³⁵ No person can be added as a plaintiff without their prior consent.³⁶

E. Are non-governmental organisations permitted to file challenges to potential children's rights violations or to intervene in cases that have already been filed?

As noted above, a child or infant may sue or defend proceedings through his or her next friend. The Supreme Court Rules refer to the next friend as either the legal guardian of the child or infant, or any “person” who is willing to act as a next friend and whom the judge may approve. This does not expressly prohibit an NGO from filing proceedings provided the organisation is approved by the judge. The rules allow a change in next friend, which could enable an NGO to step in to proceedings, provided the judge approves.

The Tongan system of judicial review is modeled on that of England and Wales. In England and Wales, NGOs can bring judicial review proceedings where they have “sufficient interest” in the

³²Act of Constitution 1988, Section 103A.

³³ See *Touliki Trading Ltd. v. Fafakuna* [1995] TongaLawRp 1; [1995] Tonga LR 8 (23 February 1995). Available at: <http://www.paclii.org/cgi-bin/sinodisp/to/cases/TongaLawRp/1995/1.html?stem=&synonyms=&query=unconstitutional>; and *Taione v. Kingdom of Tonga* [2004] TOSC 47; CV 374 2004 (15 October 2004). Available at: <http://www.paclii.org/cgi-bin/sinodisp/to/cases/TOSC/2004/47.html?stem=&synonyms=&query=unconstitutional>.

³⁴ Supreme Court Rules 2007, O.39 Rule 1.

³⁵ Supreme Court Rules 2007, O.9, Rule 2.

³⁶ Supreme Court Rules 2007, O.9 Rule 4.

case.³⁷ This phrase has been duplicated in Tonga's Supreme Court Rules,³⁸ which would suggest that it would be possible for NGOs to file and intervene in cases in the same way as in England and Wales. However, no example could be found of an NGO filing a case.

IV. Practical considerations. Please detail some of the practical issues, risks and uncertainties that might be involved in bringing a case to challenge a violation of children's rights, such as:

A. Venue. In what courts could a case be filed (e.g., civil, criminal, administrative, etc.)? What would the initial filing process entail?

Judicial power is vested in the Court of Appeal, Supreme Court, Magistrate's Court and Land Court pursuant to section 84 of the Act of Constitution 1988. The jurisdiction and rules and conduct of these courts are more particularly set out in specific legislation which governs each court.

Civil cases can be filed in the Magistrate's Court (where the claim is for damages up to \$500) or in the Supreme Court (damages claims above \$500). Proceedings in both are generally covered by the Supreme Court Rules.

Proceedings are commenced by writ and statement of claim setting out the nature of the claim and the remedy sought, and whether the action should be tried by jury.

Claims against the Kingdom of Tonga under the Constitution are brought in the Supreme Court.

In relation to criminal hearings, there is no separate youth court or juvenile offending system. A person can be tried on criminal charges from the age of seven.

B. Legal aid / Court costs. Under what conditions would free or subsidised legal aid be available to child complainants or their representatives through the court system (i.e., would the case have to present an important legal question or demonstrate a likelihood of success)? Would child complainants or their representatives be expected to pay court costs or cover other expenses?

There is currently no official legal aid programme in Tonga. A legal aid policy was endorsed by the Ministry of Justice around 2006 to assist those who needed legal advice and support. However, the project has been terminated. There is a Legal Aid Bill which went through a reading in January 2013, but it is facing considerable criticism.

The court has discretion to decide which party pays the costs in an action though the court cannot order the successful party to pay to the unsuccessful party the costs of the whole action but the court may order the successful party to pay the costs of any particular proceedings therein.³⁹

The Court Fees Act sets out the charges involved in bringing a case.⁴⁰

³⁷ Senior Courts Act, Section 31 (England and Wales). Available at: <http://www.legislation.gov.uk/ukpga/1981/54/contents>.

³⁸ Supreme Court Rules, O.39 Rule 3.

³⁹ Supreme Court Act 1903, Section 15.

⁴⁰ Court Fees Act. Available at: http://www.paclii.org/to/legis/consol_act/cf103/.

C. Pro bono / Financing. If legal aid is not available, would it be possible for child complainants or their representatives to obtain legal assistance from practising lawyers on a pro bono basis, through a children's rights organisation, or under an agreement that does not require the payment of legal fees up front?

The law does not provide for public defenders but the Community Legal Center (which is funded at least in part by donations) provides free representation and attorneys occasionally take pro bono cases.⁴¹

D. Timing. How soon after a violation would a case have to be brought? Are there any special provisions that allow young adults to bring cases about violations of their rights that occurred when they were children?

A civil action cannot be brought more than 5 years from the date on which liability was incurred. If any part of such liability or claim has been paid within the 5 year period or the claim or liability has been admitted in writing within that time, then the 5 year limitation period shall begin to run from the time of such payment or admission.⁴²

An application for judicial review must be brought within three months of the grounds of review arising.⁴³

E. Evidence. What sort of evidence is admissible/required to prove a violation? Are there particular rules, procedures or practices for dealing with evidence that is produced or presented by children?

The Evidence Act 1926 governs the types of evidence that are admissible in civil proceedings, including oral evidence, documents and recordings. The Evidence Act also provides that in any proceeding against a person for any offence, any evidence from a child “of tender years”⁴⁴ who is proposed as a witness and does not in the opinion of the Court understand the nature of an oath, may be received but unsworn, if in the opinion of the Court the child has sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth. Such evidence must be corroborated. If the child gives false evidence, he or she may be imprisoned for up to 2 years or, if male, he may be whipped in accordance with the law currently in force regulating the punishment by whipping of children convicted in the Magistrates’ Courts.⁴⁵

Hearings in the Magistrate’s Court must be held in open court, except where any charges of rape, adultery or other immorality, or the use of profane or indecent language, are being inquired into, in which case the magistrate may order all women and children to be excluded from the Court. In addition, if a sole defendant is under the age of 16 (unless the co-defendant(s) are also under the

⁴¹ See , A4ID, *Legal Aid Guide*, p. 129. Available at: <http://www.a4id.org/sites/default/files/u3/A4ID%20Legal%20AID%20Guide.pdf>.

⁴²Supreme Court Act 1903, Section 16.

⁴³Supreme Court Rules 2007, O.39 Rule 2(2). Available at: http://www.paclii.org/to/rules/ct_rules/scr2007232/.

⁴⁴ It is not clear in Tongan law to what age this refers.

⁴⁵ Evidence Act 1926, Section 116,

age of 16), then the magistrate may order that all persons be excluded from the Court save for any persons who in the judge's discretion, are permitted to remain.⁴⁶

F. Resolution. How long might it take to get a decision from the court as to whether there has been a violation?

There is very little data in relation to case management in the Tongan court system. Anecdotal reporting suggests that the introduction of electronic case management and mediation has sped up the process in some instances, such as contract enforcement.

The Supreme Court Rules provide for the various time periods to issue a writ before a hearing is set and for the submission of a defence, but does not address the time period for a court to conclude a hearing. No enforcement proceedings may be issued without the leave of the Court for 6 years following the date of judgment or order. A grant of special leave expires after one year but the Court may extend the period for one more year.

G. Appeal. What are the possibilities for appealing a decision to a higher court?

The Court of Appeal has all the powers of the Supreme Court and exclusive jurisdiction to determine criminal and civil appeals from the Supreme Court.

Appeals lie as of right from all civil decisions except:

- where the amount involved does not exceed \$1000;
- from an order made by consent;
- from an order concerning costs;
- interlocutory decisions; and
- where leave of the Supreme Court judge or of the Court of Appeal is required.

Any person who has been convicted on trial in the Supreme Court may appeal to the Court in the following circumstances:

- against conviction on any ground of appeal involving only a question of law;
- with leave of the Court on any ground of appeal; and
- with leave of the Court against sentence unless the penalty is one that is fixed by law.

Any party who appeals from the Magistrate's Courts to the Supreme Court may make a further appeal to the Court of Appeal on a point of law with leave of either the Supreme Court or the Court of Appeal.

Judges of the Court of Appeal are also empowered to give opinions on important or difficult matters when requested so to do by the King, the Cabinet or the Legislative Assembly.

⁴⁶Magistrate's Court Act 1988, Section 86.

H. Impact. What are the potential short-term and long-term impacts of a negative decision? Is there a possibility for political backlash or repercussions from a positive decision?

The Civil Law Act provides that, subject to the words written in any Act, the Tongan Courts should apply the common law of England and the rules of equity in force in England.⁴⁷

English common law is applied only so far as:

- no other Tongan Act or Ordinance is in force; and
- the circumstances of the Kingdom and of its inhabitants permit and subject to such qualifications as local circumstances render necessary.⁴⁸

Judges and Magistrates can make and develop the law:

- by interpreting existing legislation including the Constitution; and
- by dealing with matters which are not dealt with by statute.

The development of the common law does not mean that judges and magistrates may make arbitrary decisions. They must follow the doctrine of judicial precedent and must give reasons for their decisions.

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As a consequence, the effect of a negative decision for children's rights could last for a long time. In addition, the legislative process has been slow to adopt international convention, or change laws as a result of international pressure or judicial decisions. In 2009 Tonga's Constitutional and Electoral Commission commenced public consultations and hearing petitions on democratic reform to put in place certain political reforms by 2010, which resulted in the first democratic elections held in November 2010. Other positive legal reforms include Cabinet's approval to review the existing legislation on violence against women and children and the drafting of subsequent amendment for enactment during the 2012 Parliamentary session. Consultations have commenced including Members of the Legislature and Church Leaders, both of whom play an important role in passing laws in Tonga. The purpose of the consultations is designed to share the ideas and recommendations for stand-alone legislation dealing with all forms of domestic violence in order to better protect the rights of victims of violence. An extensive process for conducting wider community consultations will be held throughout the country once the draft bill is ready for public comment.⁵⁰

I. Follow up. What other concerns or challenges might be anticipated in enforcing a positive decision?

Tonga does not have a justice system specific to children, nor juvenile detention centres for minors.

⁴⁷Civil Law Act 1966, Section 3.

⁴⁸Civil Law Act 1966, Section 4(b).

⁴⁹ B1.4, The Tonga Magistrates Bench Book, April 2004.

⁵⁰ Tonga CSO HRTF Joint Submission, 2012, pages 2 and 3:

http://www.upr-info.org/IMG/pdf/cso_hrtf_upr_ton_s15_2012_tongacivilsocietyorganisationhumanrightstaskforce_jointsu_bmission_e.pdf.

The Constitution provides for an independent judiciary and the government generally respects judicial independence in practice. The highest-ranking judges historically have been foreign nationals from the British Commonwealth legal tradition.

In June 2010 the King announced that the appointment of judges would be handled by a Lord Chancellor appointed by the monarch in place of the Judicial Services Commission, which the King disbanded. The Lord Chancellor also has authority to investigate complaints against judges, which previously rested with the Judicial Services Commission. The change ostensibly was made to insulate judicial appointments from parliamentary influence. Opponents of the change asserted it would compromise the independence of the judiciary.

A number of controversial changes were made in the judiciary during the year of 2010. In December 2009 the Cabinet reportedly decided not to renew the Chief Justice's contract subsequently leading to his departure in August 2010. His departure was followed by the contentious departure, also in August, of Acting Chief Justice Warwick Andrew, who claimed he was prevented from completing the remaining one month of his term. The government denied this, stating that Andrew was granted early leave which he had requested. These departures left the judiciary with only one sitting judge and one magistrate until newly appointed Chief Justice Michael Scott began his term in September 2010.⁵¹

V. **Additional factors.** Please list any other national laws, policies or practices you believe would be relevant to consider when contemplating legal action to challenge a violation of children's rights.

There is no formal human rights infrastructure in the sense of a national human rights institution; however, there is a Public Complaints Commissioner who receives and investigates public complaints about government departments. In addition, there is no government agency for the welfare of children. There is no formal social protection policy or social safety net programmes in Tonga. While the government provides basic health and education, more of these costs have been transferred to the public through user fees in recent years. Most service delivery is left to NGOs and churches.

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This report is provided for educational and informational purposes only and should not be construed as legal advice.

⁵¹ United States Department of State, 2012 Human Rights Reports: Tonga: <http://www.state.gov/documents/organization/204457.pdf>; 2010 Human Rights Reports: Tonga: <http://www.state.gov/j/drl/rls/hrrpt/2010/eap/154405.htm>.