

**TONGA CIVIL SOCIETY ORGANISATION (CSO) – HUMAN RIGHTS TASK FORCE  
(HRTF) UNIVERSAL PERIODIC REVIEW SUBMISSION**

**Submission to the 4th Cycle of the UPR**

**11 October 2022**

In 2010, a CSO Human Rights Taskforce (HRTF) was established amongst Civil Society Organizations in Tonga with the overall aim of prioritizing the mainstreaming of Human Rights into national and institutional operational policies. The CSO HRTF provides a platform for the dialogue and sharing of human rights good practices and challenges, not only amongst CSOs but also communicating these good practices to Government Ministries and Departments.

Members of the Taskforce engaged in this Joint Submission includes the Civil Society Forum of Tonga (CSFT), Ma'a Fafine mo e Famili Inc (MFF), the Women and Children Crisis Centre (WCCC), Tonga Leiti Association (TLA), Tonga Family Health Association and other individual human rights defenders.

This is the third time the Tonga Civil Society Organisation (CSO) – Human Rights Task Force (HRTF) is collectively presenting a Joint Submission to the 4th Tonga UPR process 43<sup>rd</sup> Session (April-May 2023).

## **CIVIL SOCIETY HUMAN RIGHTS TASK FORCE UPR TONGA REPORT**

### **A. Description of Methodology and Broad Consultation Process**

The CSO Human Rights Taskforce (HRTF) was established by Civil Society Organisations in Tonga with the overall aim of prioritizing the mainstreaming of human rights principles into national and institutional practices and operational policies. The CSO HRTF provides a critical platform, amongst its members, to undertake in-depth analysis of ongoing human rights issues in the country. It also documents human rights best practices, challenges and violations by the State as the key duty bearer. Consequently, the CSO HRTF have collectively identified the UPR process as a critical and effective means of communicating human rights achievements in-country, as well as highlighting violations and inadequate gaps that need urgent addressing. This year, 2022, Tonga experienced a triple crisis with the Hunga-Tonga-Hunga Ha'apai (HTHH) volcanic eruption, tsunami and its first COVID-19 case which had the country under complete lockdown for almost four months (February-May). Following the HTHH eruption and tsunami the country was completely cut-off from internet and telephone communications for almost one month due to damages that occurred to the fiberoptic cable. Preparation of this report has been a challenge due to the events of 2022, however, the importance of CSOs having a voice and participating in the UPR process is critical. The following organisations as members of the CSO HRTF hereby submit this joint stakeholder report; the Civil Society Forum of Tonga (CSFT), Ma'a Fafine mo e Famili Inc (MFF), the Women and Children Crisis Centre (WCCC), Tonga Leiti's Association (TLA), Tonga Family Health Association and other individual human rights defenders. This is the third joint stakeholder report HRTF has submitted under the UPR process, the first being submitted to the 2012 UPR cycle and the second to the 2018 UPR cycle.

### **B. Development since the previous review in background of the State under review and framework**

The CSO HRTF would like to highlight the following developments since the last reporting period:

- March 2018: The Family Protection Act Legal Aid Centre (FPLAC) opened its doors. Tonga passed the Family Protection Act in 2013.
- May 2019: Tonga submitted its initial report on its implementation of the provisions of the Convention on the Rights of the Child (CRC) since ratifying it in 1995
- Feb 2020: Tonga accedes to UN Convention Against Corruption
- August 2020: Tonga ratified ILO Convention No.182 on the Worst Forms of Child Labour
- March 2021: Tonga Cabinet passed the first ever Sexual Harassment Policy for government
- 2021-2022: Ministry of Justice establishes National Child Protection Committee to look at developing Tonga's first National Child Protection Policy (NCPP). The NCPP has been drafted and is currently under nation-wide consultations

### **Thematic Area One: Democratization and law reforms**

1. Still stands as with last report: Parliament in late 2010 the Parliament of the Kingdom of Tonga adopted a democratic reform to its political structure. The Parliament now comprises 17 members elected each by members of the 17 Electorate Constituencies. However, as predicted this political structure continues fails to women.
2. Still stands as with last report: The special provision of 9 seats allocated for the 40-member Nobles of the Realm elected amongst their peers. The retention of the 9 seats is not only undemocratic but is also vulnerable to manipulation of power.
3. Still stands as with last report: The nobles of the realm receive a yearly remuneration taken from the taxpayers' money but with no clear job description. It is assumed that their most important responsibility is to live and advise people of their estates but many, if not all of them, have left their estates behind to live in their residences at the Capital Town of Nuku'alofa.
4. Still stands as with last report: The legal Age of Maturity for the nobles is 21 years of age, unlike the legal maturity age for the King which is 18-years old, Clause 27. However, there is no mention of an Age of Maturity for the common people of Tonga. The three main references in the Constitution to the ages of the common person is in the Voting age which is 21 years old, the age of a Juror and the age in which a male could register land and that is 16 years old. This submission would like to call on the Government to set an age for all children in Tonga. The CRC defines all under the age of 18 as children. This submission sees that all children in Tonga, including the nobles and the King should have one Age of Maturity and that is 18 years old. This will aid the work of the police and the laws do not state who is a juvenile or who is not.
5. Still stands as with last report: Under the Births, Deaths and Marriage Registration Act 1962, it states that children from the ages of 15 – 17 years old be allowed to marry with parental consent. A child as young as 7 can be arrested and charged for a crime.
6. Still stands as with last report: Electoral Boundaries Commission Act 2010 has divided the Kingdom into 17 electoral constituencies containing a fairly equal number of residents. For each of these constituencies, there is one representative. Parliament has approved constituency funds for each constituency and the MP of this constituency priorities what he sees will be in his/her best interest rather than the national priorities. The MP only looks after his/her constituency's needs rather than looking at the needs of the whole nation. This state of affairs encourages self-interest and individualism, forcing the representative to focus only on each of their individual constituency and individual agendas (for re-election purpose) rather than focusing on the national interest and address severe national problems. It has built a 'project deliverer' mentality as opposed to being a 'Parliamentarian' and focus moved to focus on delivering projects and building popularity credits.
7. Still stands as with last report: Tonga is traditionally a patriarchal society where the most senior decision-making positions are held by males. This is indicative in the last two democratic elections 2010 and 2014 when there was no woman elected in the general election into Parliament. In the 2016 by-election one woman was elected and in 2017 two women were elected. However in the most recent general election held in 2021, none of the female candidates were elected. As reported previously, we as a CSO HRTF note that the current Electoral Boundaries does not favour women candidates as it makes it more difficult for any woman to compete with a male candidate for one seat per constituency. There needs to be a more meaningful form of democracy with an electoral system that takes this into account, than there needs to be a legal framework in place that creates special measures for women's representation in Parliament. Unless this is achieved, electoral processes will continue to be driven by patriarchal legal frameworks and a supposedly new democracy that continues to fail her women.

8. Tonga's general election of November 2021, highlights a number of reported flaws during the election that needs addressing. Citizen's confidence and trust in the electoral process must be upheld. The 2021 General Parliamentary Election for Tonga was conducted, 18 November 2021. A recount was conducted on 22 November 2021 and the following findings raise the concern relating to the integrity of Tonga's electoral process. These worrying circumstances are herewith replicated for ease of reference:

## **Professional (In) Competence or Deliberate Manipulation by Tonga Electoral Commission**

1. Some voters have attained a National ID but their names were not included in the gazette
2. Disclosed registered voters in gazette were dismissed or sent away from polling places due to negligence of polling officials.
3. Omission of precursory or newly registered voters from the polling gazettes, indisposed voters ability to vote;
4. Verification slips given to newly registered voters by the EC office were discounted due to incompetence of the polling officials, to discover their names in gazettes;
5. Allowance of unregistered voters to vote without unimpeachable ID to determine their eligibility
6. Absence of an electoral observer in all the polling stations, to be present during the conduct of the elections including vote counts;
7. Some voters ended up swearing oaths under the supervision of a police officer and a bible but the process for this was not clearly understood or stated;

## **Lack of Accountability:**

8. The transfer of votes from the polling stations to the office of the Electoral Commission ought to include a police officer and a Chief Supervisor but this was not strictly observed in all polling stations (if at all)
9. Votes / ballot papers were kept in plastic bins not securely protected whilst transfer from the polling stations to the office of the Electoral Commission

## **Timeliness:**

10. The General Elections officially closed at 4pm November 18<sup>th</sup>, 2021, and latter officially announced at 5 minutes after 11pm at night, Thursday 18<sup>th</sup> 2021. This time lag, raised a lot of doubts and many uncertainties as to why the announcement of the official results was delayed for almost seven (7) hours before made public. This is a balancing mechanism in the final results, the election outcome as per polling station was not announced after the conclusion of the vote counts as ruled under section 16 (1) of the Tonga Electoral Commission Act 2016;

## **Lack of Media Coverage**

Media, does play a significant role in elections and in monitoring government activities. Mainstream media, normally referred as the 'watchdog' was considerably lacking. The Media to announce the very first count of any polling station did not happen, for most of the pollings stations on November 18<sup>th</sup>, 2022. There was a general lack of media engagement both from government and private media institutions.

The Right to vote is also not enjoyed equally by all Tongans.

Human Rights Law stipulates that in order to ensure that each person can practically exercise this right to vote, the signatory state, Tonga, takes effective measures to ensure that all persons entitled to vote are able to exercise this right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed.

These Tongan citizens ought to be considered for inclusion in Tonga's electoral process( prisoners, homeless, disability, people with vision impairment).

10. The King retains considerable powers, such as the power to withhold his assent to laws of the country, with no possibility of parliamentary override and to dissolve parliament.

**11. Recommendations for Thematic Area One:**

The CSO HRTF calls on the Government of Tonga to:

- (i) Consider reviewing the nine allocated seats for the nobles and the law to allow the people to elect nobles' rather than nobles only electing their representatives as they only represent a minority of the population.
- (ii) Consider reviewing the general maturity age of the common people and the nobles to be in line with the maturity age of the King at 18 years of age and the CRC and to align other laws that make reference to maturity age accordingly
- (iii) Repeal the section on the Births, Deaths and Marriage Registration Act 1926 that allows for children to marry at ages 15 – 17 years to raise the age to 18 years.
- (iv) Consider abolishing the remuneration package assigned for the nobles.
- (v) Consider returning to the previous electoral districts.
- (vi) Legalise local councils who will then be given constituency development funds to administer. This has been progressed under the establishment of a Constituency Fund Policy. A law is still required.
- (vii) Consider an affirmative action to set up temporary special measures (TSM) to advance women participation in Parliament for the 2018 general election. This had been submitted in 2019 but rejected.
- (viii) Consider managing the King's veto power, through Cabinet Submissions and Constitutional Amendments (eg various veto types that can be exercised), so that pertinent issues can be able to be discussed (land tenure system/ land laws),
- (ix)

**Thematic Area Two: Human Rights Issue (prevention of torture, freedom of expression, disabilities, anti-corruption)**

**Prevention of torture**

- 11. There are a number of Acts that still direct the practice of torture in Tonga and examples of such Acts against children are listed.
- 12. Still stands as with last report: The first is the Magistrates' Courts Act stipulates that for any young male between the ages of 7 and 14, the court can order a constable or sergeant of police to whip them for any criminal offence. This whipping is to be carried out with a light rod or cane made up of several tamarind or other twigs for a maximum of 10 strokes in one session or up to 20 strokes altogether. In the Criminal Offences Act, parallel punishment is found for male persons under 16 years of age. For males aged 16 to 17 years, their punishment is carried out 'with a cat of pattern' which Cabinet deems fit.
- 13. Still stands as with last report: The second is Evidence Act which states that any male child can be whipped if he 'wilfully gives false unsworn evidence to a court'.

14. Still stands as with last report: The third is the Manufacture of Intoxicating Liquor Act asserts that a maximum of 10 strokes with a light rod or cane can be given to any male under the age of 18 who is found guilty of unlicensed intoxicating liquor.
15. Still stands as with last report: The fourth is the Order in Public Places Act affirms that if any male under the age of 14 is found after 8:30pm in any public amusement or public place of any kind and is without an adult guardian or parent he may be whipped. Also males under the age of 16 may also be whipped if condemned for smoking tobacco, drinking kava or spotted in any public billiard saloon.
16. Still stands as with last report: The fifth is the Town Regulations Act which states that any able-bodied male person older than 16 years may be liable to be whipped if the police sees that he is unemployed, does not have a plantation and cannot find a means to support those who depend on him.
17. Still stands as with last report: The final one is the Criminal Offences Act which state that crimes of murder and treason may be punished by sentence of death and such sentence shall have the approval of the King with the consent of Privy Council. The death penalty shall not be imposed on pregnant women or those under 15 years of age and its executed in the form of hanging by the neck. The United Nations General Assembly has Resolutions to the effect of a UN moratorium on death penalty and Tonga's position has always been against it.

## **Freedom of Information**

18. Still stands as with last report: Government ongoing Public Sector Reform has seen a number of Government Ministries amalgamated to one Ministry with inconsiderate capacity of managing different functions. The former Ministry of Information and Communications is now merged with other departments to form the Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change and Communication. This means that the Freedom of Information initiative is competing with other priorities in such a large Ministry and this is reflected in the Freedom of Information Policy still being in draft form since it was launched in June 2012.
19. Still stands as with last report: Another recent set back was the controversial debate on the role of the Tonga Broadcasting Commission as a State Enterprise and expected to represent supporting views of the Government of the day. Tonga Broadcasting Commission as a media institution regardless of its ownership. Its status should be independent of Government and freedom of information is one of the core values of its existence. As stated in the US Department of State 2020 Country Reports on Human Rights Practices: Tonga, Censorship or Content Restrictions in Tonga noted that media outlets reported that the board of state-owned Tonga Broadcasting Commission (TBC) allegedly directed that board-appointed censors review all TBC programming prior to broadcast. Journalists and media watchdogs criticized the government's May 21 regulations on unlawful publication of sensitive information, provision of false and misleading information, and noncompliance with license conditions, warning the new regulations threatened independent reporting, internet radio broadcasts, and social media websites.

## **Anti-corruption**

20. Still stands as with last report: Tonga passed the Anti-corruption Act in 2007 which authorizes the establishment of an Anti-corruption commission to deal with corruption in government; however this has not been established yet. Tonga has acceded to the UN Convention against Corruption (UNCAC). There is the Ombudsman Office however their role to investigate and report on complaints on public services and performance of the public servants is limited in scope, for example it cannot investigate Tonga Police.

## **Right to Justice**

21. **Still stands as with last report:** The MV *Princess Ashika*, an inter-island ferry which operated in Tonga in August and July of 2009 sank and killed 74 persons at sea. All women and children passengers lost their lives. We reported this in the 2<sup>nd</sup> UPR Cycle but there were no recommendations or references made to this horrific tragedy caused by a government vessel. It is the utmost responsibility of the government to protect the life of its people and this is shown clearly in Clauses 14 of the Constitution, the Right to Life and also Clause 18 which stipulates that all the people have the right to expect that the Government will protect their life liberty and property.

## **Legal Aid**

22. The Family Protection Act Legal Aid Centre (FPLAC) opened its doors in March 2018. Tonga passed the Family Protection Act in 2013.

## **23. Recommendations for Thematic Area Two :**

The CSO HRTF calls on the Government of Tonga to:

- (i) Ratify the UN Convention Against Torture and review all the Acts that direct the practice of torture as penalties as they go against CRC and justice for all in Tonga.
- (ii) Implement the recommendations highlighted in the Commission's Report on the death of 94 Tongan citizens and foreigners on a government owned vessel, the M.V. Princess Ashika and for Government to ensure that all victims have access to effective legal remedy
- (iii) Implement the Anti-Corruption Commission and to ensure Anti-Corruption Commission is independent of Government.
- (iv) Ensure that the Freedom of Information Policy develops into a Freedom of Information Act.

## **Thematic Area Three: National Human Rights Institution**

24. Still stands as with last report: There is still no attempt to establish a human rights institution in Tonga. There is no national body to monitor human rights violations and to document the same. The CSO HRTF continues to highlight the importance of having such a national body as it can act as a coordination body that will oversee all HR issues within the country. It can also help to closely monitor UPR recommendations for Tonga.
25. Still stands as with last report: At the same time, as noted in our second CSO HRTF report, we continue to note that the Government lacks the resources and technical skills to set up a national human rights institution. It will also take time to set up. Therefore, we support the idea of establishing a National Human Right Institution that operates independently and will allow sharing of expertise and resources with other International Human Rights Agencies and Governments.

### ***26. Recommendation for Thematic Area Three:***

- (i) The CSO HRTF recommend to Government to prioritizes the establishment of a National Human Rights Institution

### **Thematic Area Four: Gender Equality**

27. Tonga has committed itself to the following international/regional gender equality conventions /agreements: Beijing Platform for Action of Women (Sep 1995), and the Revised Pacific Platform of Action on Advancement of Women and Gender Equality 2005-2015. Pacific Leaders Gender Equality Declaration (2012) currently under review, UN Sustainable Development Goals (SDGs) to be achieved by 2030 (2015).
28. In March 2021 the Cabinet approved the Sexual Harassment Policy (SHP) of Tonga for 20 government ministries under its Schedule 1 of ministries and agencies. This does not include Schedule 2 agencies such as the Tonga Police, His Majesty's Armed Forces (HMAF), Fire, Audit and Prisons. The SHP also does not apply to Ombudsman Office, Legislative Assembly and its members including Ministerial level.
29. Still stands as with last report: The *Constitution of Tonga* prohibits discrimination based on class, religion, race but does not recognize discrimination based on sex or gender.
30. The National Policy on Gender and Development (GAD) was formulated in 2001, revised in 2014 with its most recent review resulting in a name change: National Women's Empowerment and Gender Equality Tonga Policy and Strategic Plan of Action 2019-2025 (WEGET). The Women's Affairs Division under the Ministry of Internal Affairs holds the mandate for implementing and mainstreaming WEGET across all government ministries and the country. However, as reported in the last CSO HRTF report, this division still faces the common challenge of budget constraints that limits the capacity of implementation. Tonga Strategic Development Framework 2015-2025 highlights under National Outcome C: a more inclusive and empowering human development with gender equality.
31. CEDAW ratification had been put on hold as reported in the last CSO HRTF report. Since the last report, there has been no attempt by the government to ratify CEDAW.



32. In the last report, CSO HRTF reported that women in leadership and decision-making roles as Government CEOs and Executive Board Directors was on the increase. However, the momentum has not been sustained during this reporting period. In 2018 for example, female CEOs made up 50% an increase from 31% in 2015. However over 2019-2020: a decrease to 24% female to 74% male. In 2022, 0.03% Women on State Owned Enterprises Boards. In 1998 there were three women appointed to government boards and statutory organisations. In 2022, only one woman was appointed. This figure is below the regional average of 21%. Tonga has one of the lowest representation of women on SOE boards.
33. Since 1951 when women were first given the right to vote and stand as candidates there have only ever been 6 elected women into Parliament to date. In recognition of the SDG 5.5, a motion was approved by Parliament for 2 special seats for women in 2017, however in 2019 cabinet did not approve a submission by women's groups to consider Temporary Special Measures (TSMs) for Tonga. During this reporting period there has been no progress by government on TSMs or other alternative methods of increasing the number of women in parliament.
34. Still stands as with last report: There is no official system for supporting female workers with the exception of maternity leave for public servants as per Public Service Act. In the Private Sector however there is no legislation that ensures the welfare of female workers including maternity leave.
35. Still stands as with last report: There is no minimal wage law. Over the last 35 years, the number of females in formal employment has increased almost fourfold. However, there has been little progress in the type of occupations that women are engaged in. Most women were and still are employed in unskilled menial work or subordinate positions and therefore are paid at the lower end of the scale.
36. Still stands as with last report: An employment relation bill has been discussed in the last 34 years. Progress has been made since Tonga became member of the International Labour Organisation (ILO) in February 2016 and a National Tripartite Committee consists of Government, Employer and Workers was established in May 2018. However, the Bill has yet to be enacted.
37. The enactment of the Family Protection Act (FPA) in 2013 was considered a milestone, aiming to provide greater protection for victims of domestic violence. The government during this reporting period established and endorsed the Tonga National Service Delivery Protocol for Responding to cases of gender-based violence in March 2021. There needs to be a review undertaken of the FPA to address gaps and ensure its relevance to the Tongan context.
38. Still stands as with last report: The law on sexual offences defines rape as the unpermitted penetration of the penis into the vagina, and as such any other type of sexual abuse is not regarded or recognized as an offence. For example using objects or anal methods is not regarded as rape but rather sexual assault, having a lesser charge.
39. Still stands as with last report: The Government of Tonga, despite limited resources, made modest progress in its law enforcement efforts to address human trafficking. Tonga prohibits all forms of human trafficking through its Revised Transnational Crimes Act of 2007, which defines human trafficking as including forced labor and forced prostitution. Tonga should be a party to the 2000 UN TIP Protocol and should revise the Act to protect victims of trafficking.
40. Still stands as with last report: Females who chose to undergo tuba ligation at the hospital can be subjected to an internal directive of the Ministry of Health where the husband must agree or approve. Despite some Doctors reporting that the female patient's request and approval is all that they require, there are still those Doctors who require their female patients to follow the directive.

41. Still stands as with last report: It was reported in the last review the report of the Royal Land Commission released in 2012 with recommendations to increase women’s rights to land, more specifically for women to be allowed to register a town allotment. However, this recommendation does not allow women to register bush allotments with the reason being that only men attend to the bush for agricultural purposes. During this reporting period, there has been no progress in terms of implementing the recommendations of the report or making any attempt to address the issue of women and land. Despite attempts to recommend amendments to afford women more access and rights to land, this is an area where women continue to be economically deprived and disempowered.

**42. Recommendations for Thematic Area Four:**

The CSO HRTF calls on the Government of Tonga to:

- (i) Include sex and gender as a ground to prohibit discrimination in the Constitution of Tonga
- (ii) To use the term ‘Women and Girls in all their diversities’ throughout all government documents, policies and laws that refer to women and girls
- (iii) Prioritize gender equality within the Tonga Strategic Development Framework with specific targets and indicators and adequate budget commitments.
- (iv) Confirm and publish the Judicial Review on Privy Council Decision with respect to determining whether CEDAW is a Treaty or Convention and subsequently the ratification of CEDAW.
- (v) Establish affirmative action policies to increase women’s participation at all formal decision-making levels and to enact Temporary Special Measure (TSM) legislation to address low participation of women in Parliament.
- (vi) Expand Sexual Harassment Policy to both Schedule 1 and Schedule 2 ministries and agencies or establish SHP for Schedule 2 agencies that aligns with the Government SHP.
- (vii) Enact a Sexual Harassment Law for Tonga to ensure protection of employees in the private sector
- (viii) Enact the Employment Relation Bill to ensure the protection of workers welfare including minimum wages and ratify the 8 core conventions of the ILO including the Convention for Migrant Workers.
- (ix) Accede to the 2000 UN TIP Protocol and consider revising the Transnational Crimes Act to ensure protecting the rights of victims of trafficking
- (x) Revise the reproduction health policy and internal directives to allow women to decide the course of contraception best for them.
- (xi) Review the Constitution and the Land Act to allow women to own land.
- (xii) Review the Marriage Act and repeal section where it provides that 15 and 17-year-olds can marry with the consent of a parent or a legal guardian.
- (xiii) Review the Criminal Law to include the use of object, anal and digital as form of rape.
- (xiv) Implement the key recommendations regarding women and land in the Royal Land Commission (RLC) final report
- (xv)

**Thematic Area Five: Promotion and protection of human rights, education and public awareness**

43. Still stands as with last report: There are increasing concerns that the Government of Tonga and its line ministries have not consolidated a commitment to provide Human Rights training for the public officials.
44. Still stands as with last report: Churches as social institutions can play a critical role in advancing the protection of human rights in Tonga. They need to understand what Human Rights is so that they do not see it as an un-Godly right. Most church pastors see human rights as a personal issue that goes against God's will. It is therefore imperative that Human Rights training be provided for them too. Since they are very influential in the country, they need to be well informed on human rights issues.
45. Still stands as with last report: The Ministry of Education still has not incorporated Human Rights into the school syllabuses of all levels. The new Family Protection Act 2013 has in its recommendations that the Ministry of Education mainstream human rights and gender into the syllabus but to date, nothing has been done about this.
46. There is an increasing demand for Human Rights training with recognition the key role played by members of the CSO HRTF in providing Human Rights training as part of their mandates: The Ma'a Fafine mo e Famili (MFF), The Tonga Crisis Centre for Women and Children (WCCC), Talitha Project, Tonga Leiti's Association and the Civil Society Organisation of Tonga.
47. Still stands as with last report: There is increasing concerns of bullying Lesbian, Gay, Bisexual and Transgender (LGBT) Students in schools and within their own families. The Ministry of Education as well as other line Ministries are usually hesitant to implement any policy or changes or measures to promote and protect the human rights of LGBT students.
48. The increasing concerns around human rights violations faced by seasonal workers on the seasonal workers schemes with New Zealand and Australia. Lack of good standards of accommodation/housing, food, health care, access to counselling and support and legal rights information is a concern. Also the focus on economic benefits for the country results in social issues and problems being ignored with an increase in broken families and marriages not being addressed adequately.
49. There are growing concerns about deep sea mining in Tonga. People need to be consulted on resources that are being extracted. Currently the government decides on who to award exploration and extractive licenses to without consultation with the people. Potential impacts and liabilities far outweigh the potential 12 million USD that will be generated from the royalties.
50. There have been a number of legal reforms on Tonga's illicit drug laws, however at one time the death penalty was being incorporated into the reform. This must not proceed.

#### ***49. Recommendations for Thematic Area Five:***

The CSO HRTF calls on the Government of Tonga to:

- (i) Incorporate Human Rights and gender into the school syllabus.

- (ii) Provide Human Rights training for the Government officials and especially for the senior police and army personnel.
- (iii) Make readily available to students information on LGBT in all schools in Tonga.
- (iv) Enforce anti-bullying on LGBT students as it is as much a priority as any other issue.
- (v) Raise public awareness and education on UN Human Rights Conventions including Church Leaders and at the Theological colleges
- (vi) Ensure a human rights based framework is incorporated in Seasonal Workers Schemes with Australia and New Zealand
- (vii) More accountable and transparent processes, incorporating a human rights framework with extractive industries
- (viii) Remove current and further references for the use of the Death Penalty in all illicit drug legal reforms

## **Thematic Area 6: Treaty ratifications, treaty reporting and overall work with human rights institutions**

- 50. The CSO HRTF notes that of the core UN human rights conventions, The Government of Tonga has ratified a few conventions to date; the UN Convention on the Elimination of Racial Discrimination (CERD), the UN Convention on the Rights of the Child (CRC) and have become a signatory to the UN Convention on the Rights of Persons with Disabilities (CRPD)
- 51. Still stands as with last report: We note that to date the government has still not ratified the leading women's rights convention, the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and its Optional Protocol and the UN Convention Against Torture (CAT) and its Optional Protocols and the two core critical human rights Covenants the International Covenant on Economic, Social and Political Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) and its Optional Protocol and the Optional Protocols to CRC
- 52. The CSO HRTF notes with concern that since the last UPR review in 2018, the Government has failed to make positive steps towards the ratification of the latter conventions and covenants mentioned above

### **53. Recommendations for Thematic Area Six:**

The CSO HRTF calls on the Government of Tonga to:

- (i) Immediately ratify the following; CEDAW (Convention on the Elimination of all forms of Discrimination Against Women) and CRPD ( Convention on the Rights of Persons with Disability)
- (ii) Fulfill its ongoing commitments to reporting on CRC and CERD and to work towards developing implementation plans for CRC, CERD , CEDAW and CRPD
- (iii) Consider ratifying the CEDAW optional protocol and the CRC optional protocols.

- (iv) Undertake a Judicial review to clarify clause 39 of the Constitution and to declare where the responsibility and authority lies in terms of ratification of treaties which includes conventions – Privy Council stated that it was not persuaded that the process followed by the Government is in accord with the Constitution.