



Convention on the Rights of the Child

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Committee on the Rights of the Child

Consideration of reports submitted by States parties under article 44 of the Convention

Second to fourth periodic reports of States parties
due in 2011

Samoa*

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Abbreviations

AG	Attorney General
ANM	Aiga ma Nuu Manuia/Family Health and Wellbeing Program
CBO	community-based organization
CDC	Cabinet Development Committee
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEO	Chief Executive Officer
CRC	Convention on the Rights of the Child
CSO	civil society organization
DFW	Division for Women – MWCSO
DFY	Division for Youth – MWCSO
DFRPPIP	Division for Research, Policy, Planning and Information Processing – MWCSO
DFS	Division for Sports – MESC
DFIA	Division for Internal Affairs – MWCSO
DHS	Demographic and Health Survey
DVU	Domestic Violence Unit
GDP	gross domestic product
GER	gross enrolment rate
GPI	Gender Parity Index
GWR	Government Women Representative
ICT	information and communication technology
MAF	Ministry of Agriculture and Fisheries
MAVAG	Men against Violence Advocacy Group
MDGs	Millennium Development Goals
MESC	Ministry of Education, Sports and Culture
MJCA	Ministry of Justice and Courts Administration
MNRE	Ministry of Natural Resources and Environment
MWCSO	Ministry of Women, Community and Social Development
MOH	Ministry of Health
MOPP	Ministry of Police and Prisons
MCIL	Ministry of Commerce, Industry and Labour
MCIT	Ministry of Communication and Information Technology
NER	national enrolment rate

NHS	National Health Services
NWRMS	National Water Resources Management Strategy
NGO	non-governmental organization
NPOA	National Plan of Action
NUS	National University of Samoa
NTDF	National Teachers Development Framework
NZAID	New Zealand Aid for International Development
PPDVP	Pacific Prevention of Domestic Violence Program
PPP	purchasing power parity
PPSEAWA	Pan Pacific South East Asia Women Association
SAWG	Samoa Association of Women Graduates
SBS	Samoa Bureau of Statistics
SDS	Strategy for the Development of Samoa
SLRC	Samoa Law Reform Commission
SSFGS	Samoa School Fee Grant Scheme
STIs	sexually transmitted infections
SUNGO	Samoa Umbrella for Non-Government Organizations
SVSG	Samoa Victim Support Group
SWCDO	Samoa Women's Committee Development Organisation
UN	United Nations
UNCEDAW	Committee on the Elimination of Discrimination against Women
UNDP	United Nations Development Programme

Introduction

Samoa welcomes the opportunity to provide its second periodic report to the Committee on the Rights of the Child. This report covers the period from December 2005 to February 2013. In light of this lengthy reporting period, the approach is to focus in on the relevant interventions and initiatives that have taken place to improve outcomes for our children.

The framework for implementing both the recommendations made in 2006 by the Committee on the Rights of the Child, the World Fit for Children Declaration, and the Millennium Development Goals was formulated in the Plan of Action for Children developed in 2007. In 2010, this was reviewed alongside other policies and plans that had developed, and resulted in a new strengthened framework inclusive of a National Policy and National Plan of Action for Children 2010–2015. To date, this policy and work programme provides the focus for a sector-wide framework, involving critical government and non-government stakeholders, to give effect to the range of provisions and underlying principles of the Convention on the Rights of the Child. Arguably not all initiatives or activities have been implemented, but steady progress has been made.

Samoa looks forward to being able to address, in more detail, any of the matters canvassed in this report during its presentation to the Committee on the Rights of the Child.

Development of this report

The compilation of the report was a collective effort of the Ministry of Women, Community and Social Development (MWCSO) and other key government organizations and non-governmental organizations: Samoa Victim Support Group, Loto Taumafai Society for People with Disability, Nuanua O le Alofa, Aoga Fiamalamalama, SUNGO, SENESE Inclusive Education Support Service, Pasefika Mana, Pan Pacific South East Asia Women Association (PPSEAWA), Samoa Women's Development Organization Faataua le Ola, National Early Childhood Education Samoa, National Council of Churches, Mapusaga o Aiga, the Samoa Law Reform Commission (SLRC), Ministry of Justice and Courts Administration (MJCA), Ministry of Education, Sports and Culture (MESC), Ministry of Health (MOH)–Division for Strategic Planning, Policy & Research, Division for Midwifery & Nursing, National Health Service (NHS), Mental Unit, National Health Service–Pediatric Unit, Ministry of Police and Prisons (MOPP), Samoa Bureau of Statistics–Births, Deaths and Marriage Department, Samoa Family Health Association (SFHA), Public Service Commission, Ministry of Finance–Planning Division, Ministry of Communication Information and Labour and the Ministry of Foreign Affairs and Trade (MFAT). National consultations were also conducted with other governmental, non-governmental and civil society groups in an attempt to better reflect progress made thus far in implementing CRC in Samoa. This report should be read together with the initial report submitted in 2005, the Samoa National Report on Human Rights submitted for the United Nations Human Rights Council Universal Periodic Review 2011, the combined fourth and fifth periodic report on the Convention on the Elimination of All Forms of Discrimination against Women 2009 and the summary of UNCRC responses to the general recommendations made in the initial report, which are attached as part of the annexes.

This report closely follows the form and structure specified in the Committee's most recent guidelines [CRC/C/58/Rev.2, October 2010]. It has been prepared by the Ministry for Women, Community and Social Development, the ministry responsible for coordinating and reporting on activity related to the Convention on the Rights of the Child. The National Policy for Children and associated Action Plan is up on the Ministry's website at

www.mwcsd.gov.ws along with other key publications. It has been translated into Samoan. Annual reporting enables progress to be noted and activity performance to be measured.

The report was open for public consultation for a four-week period over February and March 2012 and then with other key stakeholders from government and NGOs from 2012 to 2013. Consultations were divided across a number of areas using the village governance system covering both women and men and also incorporating the voices of children and youth through focused consultation with the Youth Advisory Committee.

The CRC Partnership Committee played a critical technical role alongside the high-level advisory role provided by the National Coordinating Committee for the Convention on the Rights of the Child (NCCCRC) into the report. The submissions and recommendations provided by these two bodies provided valuable feedback, which has been incorporated into the report where relevant. The CRC Partnership consists of representatives from respective government ministries, private sector and non-governmental organizations, with meetings convened on a regular basis to collectively plan, implement and evaluate child-related programs and interventions. The NCCCRC consists of eight key members from the Ministry of Health, Samoa Law Reform Commission, Ministry of Police, Ministry of Education, Sport and Culture, National Early Childhood Education Council, Mapusaga o Aiga, and the Office of the Attorney General, with the role of Chair held by the Chief Executive Officer of the Ministry of Women, Community and Social Development. NCCCRC has an important role as advisors to the Cabinet on all matters relating to children and as a strong advocacy voice for the CRC. Meetings are bimonthly and if there is a sense of urgency on any issue, they are called more frequently, such as in the preparation of this report. Overall, the report was well received as a comprehensive overview of government activity undertaken during the reporting period. The Ministry wishes to acknowledge with gratitude technical assistance provided by Ms. Vanessa Barlow Schuster as well as UNICEF's Planning, Advocacy and Evaluation Unit for its financial assistance in finalising this report.

Going forward, dialogue will continue with the CRC Partnership and NCCCRC and also as the Samoa National Youth Council becomes fully functional and its governance operations are fully mandated where there will be wider opportunities to engage and deliver on the work programme for implementing the CRC.

Part 1

General measures of implementation

1.1 This report documents the significant effort and commitment across a number of sectors and settings over the last six years to give better effect to the Convention on the Rights of the Child.

1.2 Samoa has, since its last report, made significant progress in making primary education available free to all and compulsory. Although progress has been made, Samoa is not yet in a position to withdraw the reservation to the Convention on the Rights of the Child.

Reservations and declarations

CRC/C/WSM/CO/1 Page 2: Para. 7

In light of the Vienna Declaration and Plan of Action of the World Conference on Human Rights of 1993 (A/CONF.157/23), the Committee recommends that the State

party consider withdrawing the reservation made to article 28, paragraph 1 (a), of the Convention on the Rights of the Child.

Samoa is committed to working towards progressively withdrawing its reservation and will be in a better position to reconsider this as the Samoa School Fee Grant Scheme becomes more sustainable through national budget only.

Legislation (art. 4)

CRC/C/WSM/CO/1 Page 2: Para. 9

The Committee urges the State party to establish, as a matter of priority, the Office of the Law Reform, with the aim of developing and implementing a plan for the reform of Samoan legislation, using the survey mentioned before, in order to ensure consistency with the principles and provisions enshrined in the Convention.

CRC/C/WSM/CO/1 Page 3: Para. 11

The Committee highly recommends that the State party consider ratifying other core international human rights treaties, as recommended in the Pacific Plan for Strengthening Regional Cooperation and Integration, adopted in October 2005 by the 16 leaders of the Pacific Island Forum.

1.3 Under the Law Reform Act 2008, the Samoa Law Reform Commission (SLRC) was established with a legal mandate to facilitate the review, reform and the development of laws to ensure that the laws of Samoa are kept in a modern state which meets the needs of Government and the community.¹ The Commission operates under requests referred to them by the Prime Minister, Cabinet or the Attorney General. The Commission, being an active partner to the National Council on the CRC and the CRC Partnership, provides legal guidance on the progress of law reform related to the domestication of CEDAW and CRC for law reform in the country. This mandate has broadened to involve their assistance to the MWCSO with the work on updating the Legislative Compliance Review for the CRC under the UNICEF and Government of Samoa Child Protection Program, and the work for the preparation of a child protection specific bill.

1.4 Within this context, the SLRC in December 2009 produced the first in a series of five 'issues papers' on 'Care and Protection Legislation to Protect Children' (Issues Paper IP 03/09) to promote public debate on potential legislative reform in this area. The first paper examines the Constitution of Samoa, the Infants Ordinance 1961 and the Young Offenders Act 2007. It is anticipated that the process of developing the remaining issues papers, which will also take into consideration review of other relevant legislations, will be completed by February 2013. In parallel, the SLRC worked with the Office of the Attorney General to lead a consultation process on the Crimes Ordinance 1961, resulting in the submission of the final report and recommendations to the Prime Minister in June 2010 (SLRC 'Crimes Ordinance 1961', Report 01/10) where many of these recommendations are directly relevant to child protection.² The SLRC also distributed an 'issues paper' on the Criminal Procedure Act 1972 (Issues Paper IP 06/10) which raises pertinent questions regarding bail for young offenders and the protection of victims/survivors of sexual offences in the prosecution system.³

¹ Samoa Law Reform Website; www.samoalawreform.gov.ws – Samoa Law Reform Act 2008 section 4.

² UNICEF/Government of Samoa; Draft CRC Legislative Compliance Review Report 2012.

³ UNICEF/Government of Samoa; Draft National Survey Report 2012.

1.5 Furthermore, the Samoa Law Reform Commission has undertaken a series of long-term CRC and CEDAW compliance review projects. Also of great relevance to child protection legislation is the Family Safety Act 2013, which has just been passed by the Government at the time of writing the report.

1.6 In spite of the positive trends in legislative reform, however, the issue of implementation and enforcement remains problematic. Lack of coordination and cooperation between government ministries, lack of consistent dissemination and training relating to legislative provisions, and lack of resources are commonly cited as obstacles in this regard.⁴

1.7 Consultations have taken place on how Samoa can move forward with the ratification of the Convention on the Rights of Persons with Disabilities. A discussion paper was endorsed by the Task Force in 2011 in terms of the next steps that need to be taken and currently, a detailed briefing paper has been submitted to Cabinet with a cost-benefit analysis on the implications of ratification as well as Legislative Compliance Review paper.

National plans of action and coordination

CRC/C/WSM/CO/1 Page 3: Para. 13

The Committee recommends that the State party strengthen its efforts to adopt and implement a National Plan of Action which covers all areas under the Convention and takes into account the outcome document “A world fit for children” adopted by the General Assembly at its special session on children held in May 2002. It also recommends that sufficient human and financial resources be provided for its full and effective implementation at all levels, with concrete time-bound targets. The Committee further encourages the State party to ensure the wide participation of civil society, including children and youth, in all aspects of the implementation process.

CRC/C/WSM/CO/1/ Page 3: Para. 15

The Committee recommends that the State party strengthen the role of NCCCRC and provide it with adequate human and financial resources to effectively execute its mandate. In this regard, the Committee refers the State party to its general comment No. 5 on general measures of implementation of the Convention on the Rights of the Child (CRC/GC/2003/5).

1.8 In 2010, Cabinet approved the National Policy and Plan of Action for Children 2010–2015. The overall goal of the Policy is to protect and improve the quality of life for all children in an equitable way within the social and environmental context of Samoa. It therefore focuses on the need to strengthen and improve existing mechanisms, structures and measures for child development and the care and protection of children at all levels. These objectives are further defined under the different priority areas of the national plan of action framework focusing on children’s health; legal and human rights; children’s access to services; quality education for children and child protection. It is intended for the policy to be a key delivery mechanism that would support the set goals of all sector partners to achieve the vision of the Government of Samoa’s Strategy for Development as well as regional and international commitments. It also provides the basis for monitoring programs and services targeted at child development and child protection in order to ensure that Samoa is indeed responding to the needs of children.⁵

⁴ Ibid; p. 2.

⁵ MWCSO; National Policy for Children of Samoa 2011–2015.

1.9 The Ministry of Women, Community and Social Development (MWCSO) continues to facilitate the coordination, implementation and monitoring of developments for the work on children in line with its mandate under the National Plan of Action for Children. The work of the National Council for the Convention for the Rights of the Child (NCCCRC) continues to play a significant policy advisory and monitoring role in overseeing the implementation of CRC under the leadership of Ministry of Women, Community and Social Development.

Independent monitoring

CRC/C/WSM/CO/1 Page 3: Para. 17

The Committee recommends that the State party establish an independent body for the promotion and monitoring of the Convention on the Rights of the Child, either as part of an independent national human rights institution or as a separate body in accordance with the Paris Principles (General Assembly resolution 48/134) and the Committee's general comment No.2 on the role of independent national human rights institutions (CRC/GC/2002/2). It also recommends that such an independent body should have a mandate to receive, investigate and address complaints, including from children, and that adequate human and financial resources be allocated. The Committee further recommends that the State party consider seeking technical assistance from, inter alia, UNICEF and OHCHR.

1.10 Before the establishment of the Ombudsman's Office, the judiciary system of Samoa had always been an independent body which had the power to receive and address individual complaints concerning violations of all human rights, including rights of children. In the past, this office had investigated and handled cases where children's civil rights had been violated. For the past two years, as part of Government's legislative and policy institutional reforms towards improving human rights for all Samoans, a plan for the establishment of a national human rights commission in Samoa under the Office of the Ombudsman has begun and is still a work in progress. This institution would also provide mechanisms and assistance for independent monitoring on the CRC from a human rights perspective.

Resources for children (art. 4)

CRC/C/WSM/CO/1 Page 4: Para. 19

With a view to strengthening its implementation of article 4 of the Convention and in the light of articles 2, 3 and 6, the Committee recommends that the State party increase budgetary allocations for MWCSO, both at national and local levels, to ensure the implementation of the rights of children, in particular those belonging to the most vulnerable groups "to the maximum extent of ... available resources, and where needed, within the framework of international cooperation".

1.11 Since the ratification of the Convention in 1994, the Government of Samoa, through its annual budgetary allocations, continues to provide financial and technical support for different developments in relation to the work of children in Samoa. The mainstream sectors such as education, health, law and justice, receive much higher budget support from Government every year. In relation to government ministries' annual budgetary allocations, the education sector budget increased by 2 percent since the last financial year, reflecting the Government's priority and commitment to improve education for all children and the achievement of the Millennium Development Goals. Annual grants are disbursed to Government and Mission Schools from pre-school up to tertiary institutions. The Ministry

of Health also receives an annual grant for both the National Health Services and the Ministry of Health which is responsible for putting in place health regulations and health promotion services for the general public including health services for children. In particular is a slight increase in the Ministry of Health budget for preventive and health promotion and primary health care services.

1.12 The Ministry of Women, Community and Social Development is the tenth-largest budget line ministry, with the Child Protection section accounting for 2.6 percent of the overall Ministry of Women, Community and Social Development budget allocation. In figures, in the government budget for 2011–2012, out of 22 ministries and departments, MWCSD is allocated \$9,633,409 WST out of a total of \$430,950,822 WST, which equates to 2.2 per cent of the total government budget.

1.13 Financial assistance from international donor and development partners Australian Aid, New Zealand Aid, UNDP, UNESCO, UNICEF, UNFPA, European Union, and the World Health Organisation, through the provision of various project support funds, continues to complement the budgetary support from Government for the work and services provided by both Government and non-governmental organizations whose work is directed at the protection of children at the national level.

1.14 Furthermore, the set-up of the Civil Society Support Program (CSSP), which is jointly funded by government, Australian Aid and the European Union, has increased resource mobilization and support for civil society organizations that includes non-government and community-based organizations. The program aims to strengthen civil society and to ensure that development initiatives target the members of Samoan society most in need. Since the facility was set up two years ago, community programs aimed at children that have been funded have included water tanks, community or school buildings, reading and literacy programs for preschool children and village children, agricultural projects, NGO service delivery, and women's income-generating projects. Funding support from this facility also supported direct child services delivery for the implementation and to sustain the efforts of non-government partners and civil society organizations including that of SUNGO, Samoa Victim Support Group, Mapusaga o Aiga, Samoa Family Health Association, Samoa AIDS Foundation, Samoa Cancer Society, Samoa National Council for Churches, and the National Council for Early Childhood Education as well as other organizations.

Co-operation with civil society organisations

CRC/C/WSM/CO/1 Page 5: Para. 25

The Committee recommends that the State party, taking into account the Committee's day of general discussion on the private sector as service providers and its role implementing child rights (CRC/C/121):

(a) Continue to strengthen its cooperation with civil society organisations and involve them systematically at all stages in the implementation of the Convention; and

(b) Provide civil society organisations with adequate financial and other resources to effectively discharge their responsibilities.

1.15 The MWCSD continues to work with civil society-based organizations and members through the network of government liaison officers and more recently the appointment of village youth representatives in advocating for children's rights. For most government programs, the coordination of all community-based programs related to child protection in the community is organized by these liaison officers. Most of their liaison officers are also

registered village focal points for reporting and providing support for the identification/referral of violence cases under the auspices of the Samoan Victim Support Group, an NGO-based program. At present, there are 186 Government women representatives (GWR), 236 village representatives (VR) and 186 youth representatives who are based in the villages. The Government women representatives are particularly active in the birth registration process at the village level; given that birth registration is compulsory. There has been a visible improvement of proper records and registration of births under the national citizen registry, which contributes to Government's role to secure registration of all children. The village representatives, on the other hand, are part of the team known as 'attending officers' (working alongside the Ministry of Education inspectors and Police Officers) responsible for the enforcement of the Compulsory Education provisions in the village through direct reporting to the MESC and putting in place village laws which ensure that all children do go to school. Under the MWCSO mandate, these village representatives are equally responsible for all other development initiatives in villages. Therefore, parents who fail to send their children to school would be reported to authorities, a measure which ensures that Samoa is committed to enforcing compulsory education and free access.

1.16 The network of church ministers through the National Council of Churches and the Division for Youth is also being utilized for child-related awareness and promotional activities. They also take the lead in maximizing the participation of parents, caregivers, children and relatives to increase understanding to ensure application of CRC principles in the home, village, church and communities. The National Council of Churches is a key partner under the National Plan of Action for Children as well as the National Council on the CRC. Some of the main child protection activities spearheaded by the National Council of Churches have been in the areas of health promotion, alcohol and drug abuse prevention, and social and spiritual development for advocating for prevention and treatment of violence against women and children.

1.17 As mentioned throughout this report, the role and partnership of non-governmental organizations and civil society with Government cannot be overstated. These organizations continue to play an active role in the provision of social services for our children and communities. These are in the form of counselling services, temporary housing support for child victims of abuse, literacy programs, early intervention and detection programs for children with disabilities, food and shelter support for families during and after a crisis including natural disasters, paralegal support to those who need the assistance as well as referring cases to relevant ministries and organizations for assistance. These NGOs include the mainstream organizations such as Samoa Victim Support Group, Mapusaga o Aiga, Faataua Le Ola Samoa Family Health Association, Samoa Women's Committee Development Organisation (SWCDO), Samoa Nurses Association, Loto Taumafai Society for People with Disability, Aoga Fiamalamalama for the Intellectually Disabled, SENESE Inclusive Education Support Services, and Nuanua O Le Alofa-Council for People with Disabilities. There are also private and faith-based organizations that do not fall under the NGO category but also contribute to delivering child rights action learning programs in the education, health, environment, community and the sports sectors. The work of non-governmental organizations as such are very much supported by the relevant government ministries through the provision of relevant training technical assistance and some financial support to ensure effective program and service delivery.

Data collection

CRC/C/WSM/CO/1 Page 4: Para. 21

The Committee recommends that the State party continue its efforts in developing a comprehensive system of collecting disaggregated data that covers all areas of the

Convention, paying particular attention to those who are vulnerable, including children with disabilities and children living in poverty. It further encourages the State party to use these indicators and data in the formulation of laws, programmes and design policies for the effective implementation of the Convention. In this regard, the committee also recommends that the State party seek assistance from, inter alia, UNICEF.

1.18 Since the last report, there has been significant improvement in the availability and the accessibility of data on children and young people, with an emphasis on having in place mechanisms for collection across a range of settings (health, social well-being, education, employment). A number of nationwide and targeted surveys have enabled increased ability of the tracking of children's and young people's well-being. These surveys include the Samoa Health Demographic Survey that was conducted in 2009; National Child Protection Baseline Report 2013 by the Government of Samoa MWCS and UNICEF now in report format.

1.19 This has enabled the Samoa Law Reform to look more closely at compliance across the critical Care and Protection scope of the Convention and help inform new legislation being drafted in this area. The Education Statistical Digest 2010, 2011 and 2012 produced on a yearly basis by Ministry of Education and Samoa's National Population Census 2011 conducted by the Samoa Bureau of Statistics also provide for improved and strengthened data sources. Better and reliable information on the position and well-being of children in Samoa is important in improving the quality of advice and decision-making on children's and young people's issues.

1.20 The Child Protection Information System (CPIS) was developed in 2007 as part of a regional programme. The rationale was that data would be recorded against ten 'risk indicators' and inform the design of relevant programs and inform both country and UNCROC reporting and to raise community awareness. There have been a number of challenges since its development, which are still being worked through. Looking ahead, it is about ensuring that cross-sector agencies are using the same template for uploading information which theoretically should be updated annually. To date, it is about harmonising the relevant agencies' information systems so as to ensure the exact information needed to complete the CPIS is captured. This is also against strained human resource capacity. Nevertheless, this is expected to gain much improved traction, especially as issues of privacy and access rights are determined and with an increased allocation of resources.

1.21 The Government of Samoa 2011 census recorded in its population age composition across a recorded population of 187,820 that the number of children under the age of 15 was 71,891, amounting to 38.2 per cent of the total population. The census defines the youth population as being between the age of 15 and 24 and recorded 34,646 as the number of young people, amounting to 18.4 per cent of the total population. The closest correlation to the definition of the child would be by collating the total population by single age up to 18. This resulted in a recording of 88,193, amounting to 46.9 per cent of the total population. Of this recording 45,612 were male and 42,581 were female. Therefore approximately 48.3 per cent of the population of 18 and under are female and 51.7 per cent are male.

1.22 The data provided in this report is the most up-to-date information about children in Samoa (at the time of writing). Where possible, the data provided meets the requirements of UNCROC related to disaggregation by sex and age. Where up-to-date data is available as standard output from the relevant data source, this has been provided. Where data is not available in the required detail and format, the closest alternative is provided.

Dissemination, training and awareness raising of the Convention (arts. 42 and 44)**CRC/C/WSM/CO/1 Page 4: Para. 23**

The Committee recommends that the State party continue to strengthen its efforts to ensure that the provision and principles of the Convention are widely recognised and understood by adults and children alike. In this regard, it encourages the State party to continue to disseminate and raise awareness of the Convention among children, their parents and other caregivers and all relevant professional groups working with and for children. The Committee also invites the State party to engage with community leaders, including church leaders, in discussion on children's rights in the context of Samoan culture, with a view to bringing about further changes in the attitudes and behaviour of these key opinion leaders in society.

1.23 The Ministry of Women, Community and Social Development in close collaboration with its CRC Partnership members and non-governmental organizations have conducted trainings and awareness programs around the country on the Convention, in particular article 19, article 24 and article 28. These workshops target all sectors of society, including men, women and children of all ages at the national level. Also, very critical to supporting the work done at the community level are the ongoing trainings for the Ministry of Women's village network consisting of the Government liaison officers. These liaison officers are based in each of the villages and are mandated under the Ministry of Women's Act to 'champion' the promotion and implementation of child protection programs in their villages. Efforts to support and sustain the assistance of the liaison officers have included capacity-building and trainings conducted monthly.

1.24 Other training programs at village level include presentations on social issues pertaining to prevention of child abuse and neglect, including elimination of gender-based violence have been utilized in various forms of behaviour change programs such as the Mothers and Daughters, Young Couples programs, positive parenting programs Skills Development workshops and national children's forums, youth parliamentary sessions and education programs and seminars, father and sons, and seminars for village council of chiefs.

1.25 The work of the Nuanua O Le Alofa, Loto Taumafai Society for People with Disability, School for the Blind, Aoga Fiamalamalama School for the Intellectually Disabled, SENESE Inclusive Education Support Services in the areas of 'children with disabilities' have been very much part of the work on inclusion of children with disabilities in mainstream planning and policy.

1.26 A range of activities have been implemented with women's committees and village councils of high chiefs on positive parenting in relation to the prevention of child abuse and neglect. The efforts of the Ministry of Health and Ministry of Education in coordinating the Health Promoting Schools Program, which consists of nationwide workshops with parents and teachers, have all been useful in assisting the Government's domestication efforts in relation to the CRC.

1.27 Since its establishment in 2008, the Men against Violence Advocacy Group (MAVAG), set up under the auspices of the MWCSO, has been another tool utilized for advocacy and community outreach programs targeting men – 'council of chiefs', untitled men and males in general. The group's main aim is to advocate for the elimination of violence against women and children. The group has facilitated fathers and sons' workshops, village council of chiefs' community outreach programs, radio and television panel interviews and discussions, newspaper articles on commemorative days such as White Sunday, Prevention of Child Abuse, Neglect and Exploitation (PCANE), Mothers

Day, Father's Day and others. To date, the work of this group is also being supported by the UNFPA Gender-Based Violence Project and Canada Fund.

1.28 During the period under review, new information communication and education materials on the Convention were printed and distributed widely and also at targeted gatherings. Posters, pamphlets, brochures had been distributed during community-based programs, consultations and all other initiatives. Other official documents such as the National Policy for Women of Samoa 2010–2015, National Policy for Children of Samoa 2010–2015, National Policy for Persons with Disability 2010–2015, National Youth Policy 2011–2015, the Community Sector Plan 2012–2016, and the MWCSD Annual Reports, as well as general information on services and functions of the Ministry, are available at no cost on the Ministry's website.

Part 2

Definition of the child

Definition of the child (art. 1)

CRC/C/WSM/CO/1 Page 5: Para. 21

The Committee recommends that the State party establish one legal minimum age for marriage for both boys and girls at an internationally acceptable level.

2.1 During the reporting period, the Samoan Government has, through the work of the Samoa Law Reform Commission and policy work of relevant ministries, reviewed and produced a number of issues papers, reports and recommendations to improve compliance with CRC which have resulted in new age proposals.

2.2 In 2012, the Family Safety Bill was introduced to Parliament, and was passed as an Act in March 2013. It introduces a number of provisions across the areas of protection of families and domestic violence-related matters. We also have the proposed Care and Protection Bill 2013, the definition of a child and proposal to align the it with the CRC age is proposed under the Bill, a product to a large degree from the Child Protection Baseline Report 2013 and the Child Care and Protection Legislative Compliance report 2012 prepared by the Samoa Law Reform Commission; and also based on a number of prevailing issues that surfaced through consultations on related law reform issues. NCCCRC and CRC partners have commenced their consultations on the Care and Protection Bill before a series of public consultations for further consideration before starting the Parliamentary process.

2.3 This should then invite the Infants Ordinance 1961 and other legislation to conform also to the Convention's definition of the 'child'. Significant detail in terms of domestic legislation compatibility and compliance with the Convention is annexed as a detailed table of findings as part of a wider 2011 report on Samoa and child protection.

Young Offenders Act 2007

2.4 Steps have been taken to respond to the Committee's recommendation that Samoa respond to the establishment of a functioning juvenile system for young offenders. This Act establishes a justice system for offenders under the age of 17. Arguably, as reported by the Samoa Law Reform Commission (SLRC/Issues Paper/Care and Protection Legislation to Protect Children; No: IPO3/09), this legislation "does not satisfy the Committee's proposal to raise the minimum age of criminal responsibility to an internationally acceptable level". The Act uses the definition of 'young person' to define persons ranging from 10–17 and therefore an adult is a person over the age of 17. This is a critical observation that we accept needs readdressing, especially also against an adult executing his or her civil rights to vote

which under the current Electoral Act is recognised at the age of 21. However, it is the opinion of the Commission on its own, it does satisfy Samoa's obligations under articles 37 (b), 39 and 40 and in terms of sentencing addresses the recommendation for deprivation of liberty to be the last resort and the detaining of children to be separate from adults.

Minimum age(s) of admission to employment

2.5 As identified in sections 20 and 22 of the Education Act 2009, the Act forbids the employment of 'compulsory school aged children'. Compulsory school aged children means 'a child who is between 5 years of age and 14 years of age who has not completed the work of Year 8'. This is, however, limited to the hours that children would be at school. The Act complies with article 32 to the extent it recognises this protects the child from economic exploitation and performing work likely to interfere with his or her education. Legislation, however, has not got to the extent where it has explicitly set a minimum age for employment outside of school hours. The Child Care & Protection Bill proposes that section 55 (1) No child under the age of 10 years is permitted to sell goods on the streets or in any public place. (2) No child who is below the age requiring compulsory attendance at school is permitted to sell goods on the streets or any public place after 7 p.m. on any day. A significant amount of policy and legislative work has been undertaken over this reporting period. Looking ahead, Samoa needs to establish whether it does in fact need to further amend the new legislation especially while there is still opportunity to do so and to look more closely at standards of both work and conditions of labour both in the formal and non-formal sectors. This will help address the usual domestic assistance provided in a child family home and environment. We need to consider whether the current framework of legislation and supporting regulations is sufficient.

2.6 By reference to international labour guidelines, child labour refers to the employment of children in any work that deprives them of their childhood, interferes with their ability to attend regular school, and is mentally, physically, socially or morally dangerous and harmful.⁶ Therefore, not all work done by children should be classified as child labour.⁷ Only work that is dangerous or carried out in unhealthy conditions that can result in a child being killed or injured and/or ill as a consequence of poor safety, poor health standards and poor working arrangements should be classified as child labour and should be targeted for elimination.⁸

2.7 In Samoa, currently, the Labour and Employment Act 1972 prohibits the employment of a child under the age of 15 years in any place of employment except in safe and light work suited to his or her capacity and subject to such conditions imposed by the Commissioner.⁹ However, a significant piece of legislation, the new Labour and Employment Relations Act 2013, has been passed by Parliament and it prohibits anyone under the age of 18 from engaging in any type of employment or work that by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons, including hazardous work, work that interferes with the child's education or any work that involves cruel, inhuman or degrading treatment, the sale of children or servitude.¹⁰ The Act still maintains that a person must not employ a child under the age of 15 years of age in a place of employment except in safe and light work suited to his or her capacity, and subject to such conditions as may be determined by the Chief Executive Officer of the Ministry of Commerce Industry and Labour.¹¹ The age of

⁶ <http://www.ilo.org/ipecc/facts/lang--en/index.htm> (accessed 9 October 2012).

⁷ Ibid.

⁸ <http://www.ilo.org/ipeccinfo/product/viewProduct.do?productId=17075> (accessed 7 June 2012).

⁹ Labour and Employment Act 1972, s. 32.

¹⁰ Labour and Employment Relations Bill 2011, cl. 51(2).

¹¹ Ibid., cl. 51 (1).

employment for children provided under the Labour and Employment Relations Act 2013 is equivalent to the age of completion of compulsory education provided under the Education Act 2009, as obligated under CRC.¹²

2.8 The Occupational Health and Safety Act 2002 directs an employer to take all reasonably practicable steps to protect the safety, health and welfare at work of employees and to provide and maintain a safe and healthy working environment, including substances, systems of work and any building or public or private area in which work takes place.¹³

Age at which people can marry without consent

2.9 During the reporting period, the Marriage Ordinance 1961 remains the critical instrument under which people can marry. The male must be at least 18 years and the female 16 but, in saying that, no marriage of children below should necessarily make that void. However, there is the wide-reaching legislation that has been drafted this year in the form of the proposed Care and Protection Bill 2013 to provide more explicitly for the care and protection of children in Samoa and recognition and enforcement of the rights of children. It has a clause directly relating to lawfully marrying at the age of 18, thereby bringing it into line with the Convention.

Age at which guardianship ends

2.10 During the reporting period, the Family Safety Act sets out a new framework for the protection of the family and children up to the age of 18 in the care of their parents and legal guardians. Currently the Infants Ordinance Act 1961 addresses issues on guardianship, custody and protection of children based on a fundamental principle of welfare. Child Welfare Officers feature in this framework. However, this Act remains targeted at children aged 16 and under, so there remains a grey area between the ages of 16 and 18.

Prostitution

2.11 During the reporting period, in the course of the Review and nationwide consultation on the Crimes Ordinance 1961 and even though the issues paper did not specifically question the prostitution offences, public consultations brought a number of issues to the fore. An issue that was raised was the importance of the need for more gender neutrality in terms of males and females who work as prostitutes and without regard to marital status. Also to look at the whole issue of the act of prostitution and addressing brothel keeping in a gender-neutral light. It is an offence under the Crimes Ordinance to keep or manage a brothel or a 'place of resort for homosexual acts', or the tenant or lessor of such a place and knowingly permits the premises to be used. The recently passed Crimes Act 2013 successfully addressed a number of the gender-neutrality issues raised and clarified a number of offences around prostitution, brothel keeping and solicitation.

¹² Baseline Research, p. 63.

¹³ Occupational Health and Safety Act 2002, s. 11.

Part 3

General principles (arts. 2, 3, 6 and 12)

Non-discrimination (art. 2)

CRC/C/WSM/CO/1 Page 5; Para. 29

The Committee urges the State party to undertake legislative measures to ensure that constitutional and legal provisions guaranteeing the principle of non-discrimination fully comply with article 2 of the Convention. The Committee further recommends that the State party collect disaggregated data to enable effective monitoring of de facto discrimination, in particular against girls, children living in poverty and those with disabilities.

3.1 All persons are equal before the law and entitled to equal protection under the law.¹⁴ It is widely understood that the definition of ‘all persons’ stated in article 15 and other articles under the fundamental rights of the Constitution includes reference to children.

3.2 The Constitution remains clear that international law is not a source of law for Samoa.¹⁵ However we have some of the highest courts of the nation directly applying relevant articles of the CRC. This is most significant in the approach set down by Lord Cooke of Thorndon in 1994, in his assertions in *Tavita v. Minister of Immigration*,¹⁶ where he stated that Samoa’s ratification of the Convention should not be mere window dressing. Courts below over the years have consistently been progressive in their approach to the Convention, applying the principles of the CRC in their decisions, despite the lack of formal translation of the CRC into domestic legislation.

3.3 Nevertheless, we are mindful that limited translation has happened, which is why the area of national policy development and frameworks that address the principles of the Convention has been progressively stamped on the national policy and law reform landscape.

3.4 The National Human Rights Institute has been set up under the Office of the Ombudsman and the recruitment of staff is being facilitated with financial assistance from the Law and Justice Sector which would see the office operations up and running by June 2014. The establishment and active operations of this office would provide a meaningful human rights mechanism for children’s access to full equality and justice in Samoa.

Policy measures and actions taken to promote diversity and non-discrimination relevant to children

3.5 The National Policy of Children 2010–2015 is the overarching national framework that provides the strategic policy direction and plan of action for the care, protection and development of children from birth to 18 years of age. It takes into account the various services and programs for children and multi-level interventions in the settings of family, church, school, village and the wider community. It also views children as having valuable knowledge to contribute to developing, evaluating policies, services and decisions that affect them.

3.6 The guiding principles are adopted from the Convention with direct mention of the principle of:

¹⁴ Article 15, Constitution of Samoa.

¹⁵ Article 111, Constitution of Samoa.

¹⁶ [1994] 2 NZLR 257, 266.

Non-discrimination: This principle applies to all children, whatever their race, religion or abilities; whatever they think or say, whatever type of family they come from. It doesn't matter where children live, what language they speak, what their parents do, whether they are boys or girls, what their culture is, whether they have a disability or whether they are rich or poor. No child should be treated unfairly on any basis.

3.7 The National Disabilities Policy and Implementation Plan 2009–2012 provides the framework to address the needs and rights of people with disabilities. It has been developed in consultation with a wide range of individuals, government agencies, non-governmental organizations and individuals throughout Samoa. In line with the Government of Samoa's support for the Biwako Millennium Framework for Action Towards an Inclusive, Barrier-free and Rights-based Society for People with Disabilities in Asia and the Pacific, the Millennium Development Goals, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, the implementation of this plan is expected to progressively bring about the full inclusion of people with disabilities in the day-to-day activities and decision-making of communities throughout Samoa.

Best interests (art. 3)

CRC/C/WSM/CO/1 Page 6; Para. 32

The Committee recommends that the State party revise its legislation in order to ensure that the principle of the best interests of the child is fully integrated in both common and traditional law and reflected and implemented in all policies and programmes of the State party.

3.8 Samoa continues to affirm the principle of the best interests of the child. The most key legislative development during this reporting period was the drafting of the Child Care and Protection Bill 2013. The core principles for administering this Bill once it becomes an Act expressly state that the safety, wellbeing and best interests of the child are paramount. Samoa has been bold and progressive in this area of care and protection on the research, policy and legislative landscape. Despite some unforeseen interventions and issues, this legislation has followed a very transparent process of significant research, issues papers, consultations, and high-level stakeholder engagement to get us to the final stages of the legislative process. Alongside this we have the Family Safety Act; these two legislative interventions have proved the best evidence yet of translating a significant number of the articles of the CRC into domestic legislation. It is indeed exciting times in that respect.

3.9 There are still a number of significant challenges to be met and a series of national consultations should assist to flesh out some options and solutions moving forward, with the development of the Child Care & Protection Bill. The most telling at this point is the limited technical, operational and financial resources of the Ministry of Women, Community and Social Development who is to be tasked with the administering of the bill once it is enacted as the function currently prescribes. It requires a significant overview of the Ministry's mandated tasks and allocation of resources in light also of addressing new legislation to mandate the Ministry and its newly defined roles and responsibilities given the extension into a more defined role of social welfare services.

3.10 The Bill as it currently stands also sets out some key focus areas for administration, which include, but are not limited to:

- (a) Arrangement for the protection of children, especially those at risk of harm;
- (b) Obligations of Child Welfare Officers;
- (c) Protection orders;

- (d) Approval of Carers and Care Service Providers including Standards of Care and Licensing;
- (e) Protecting the Rights of Children under the Law;
- (f) Investigation and Court procedures;
- (g) Offences.

3.11 Obviously the National Policy of Children as mentioned above also provides for the Best Interests of the Child and has translated directly from the CRC its guiding principle of Best Interests of the Child.

- Best interests of the child: The best interests of children must be the primary concern in making decisions that may affect them. All adults should do what is best for children. When adults make decisions, they should think about how their decisions will affect children. This particularly applies to budget, policy and law makers.

Respect for the views of the child (art. 12)

CRC/C/WSM/CO/1 Page 6: Para. 34

The Committee recommends that the State party strengthen its efforts to ensure the active participation and involvement of children in all decisions affecting them in the family, school, community in accordance with articles 12, 13 and 15 of the Convention. It also recommends that the State party undertake a regular review of the extent to which children's views are taken into consideration and their impact on policymaking, court decisions and program implementation. Furthermore, the Committee draws the attention of Samoa to recommendations adopted at the Committee's day of general discussions on the right of the child to be heard in September 2006.

3.12 Increasing emphasis has been placed on recognising the right of children and young people to have their voices heard in matters that impact upon them, whether in legislation, policy advice development or service and project design. Respect for the views of the child has also been translated directly from the Convention into the National Policy for Children.

3.13 On reflection over this reporting period, and as against the unique Samoan hierarchical society where many customs and traditions are so enshrined into Samoan society, which is very much focused on the collective as opposed to the individual, opportunities have presented themselves especially in the judicial process where human rights have trumped cultural practices and collective rights.

3.14 We are mindful following the Child Protection Baseline Report 2013 that the baseline research findings revealed that out of the 251 CRC indicators that Samoa still has a fair way to go. Stronger legislative platforms provide the best opportunity at this point, so therefore once the critical pieces of legislation are passed and enforced Samoa should go some way to addressing more fully its obligations.

3.15 Law and policy have been fairly silent to date on the views of the child, but it is certain that, with many of the current law reforms and the establishment of the Human Rights Commission, many gaps will be addressed.

3.16 Youth have also been given a stronger national platform to be heard and to be involved in national and community issues and also to lead in program design that will serve the needs of our young persons. The Samoa National Youth Council (SNYC Inc), while still in its infancy, has completed critical governance and operational guidelines, monitoring and evaluation frameworks, its Constitution, as well as a draft Strategic Plan. This critical body strives to advance a mission of being effective communicators to foster

sustainable youth development, to ensure the right service for the right youth at the right time and in the right way, to enrich and enhance the lives of youth and to encourage positive life choices. It sees itself achieving this by being highly involved in planning, policy development, securing sustainable funding, fostering good governance practices and advocacy. SYNC Inc is founded upon the core values and beliefs of:

(a) Inclusiveness – where development is viewed as a holistic process encompassing the spiritual, cultural, social, economic and political spheres of human experience to enhance positive youth growth and wellbeing;

(b) Social justice and respect – to respect individual and collective rights and promote gender equality and acknowledge cultural values and protocols;

(c) Identity – support youth to organize themselves in pursuit of their interests and promote actions that empower youth to define and lead their own development efforts; and

(d) Interdependence – the power of collective action and reciprocity through dialogue, information exchange, consultation and teamwork.

3.17 Having a right to be heard in the judicial court processes is quite groundbreaking for Samoa, so with the passing of key legislation confidently anticipated for this year inclusive of the Family Safety Act, Crimes Act and before 2013 the Child Care and Protection Bill, Samoa has made significant inroads in this area. Across the scope of these law reform and new legislation outcomes there are important provisions for telling children what decisions have been made and actions to be taken, duties of the Court and counsel to explain proceedings, and duties and responsibilities that will assist a child to participate in proceedings. There is a stronger recognition that children should be given reasonable opportunity to express their views and to have them taken into account when it matters, especially in areas of safety, protection, guardianship, custody and day-to-day contact.

Part 4

Civil rights and freedoms (arts. 7, 13–17, 37 (a))

Name and nationality (art. 7)

4.1 Samoa is acutely aware that birth registration is fundamental to the protection of a child's rights. It gives the child a legal existence, identity and it is the sign that he or she belongs to a family, a community and a nation.¹⁷ It affords them a sense of identity and nationality.

4.2 The Births, Deaths and Marriages Act 2002 provides for the establishment of register and record of all births, deaths and marriages.¹⁸ All births including still births are registered.

4.3 There exists a new computerised registration system which has a number of features that help detect any false registrations. Birth notification can vary depending on whether a child is born in a national health facility or in the village with the help of traditional birth attendants. The former is straight electronic recording at the hospital and the birth notification is taken to be registered by the child's natural parents within three months. Obviously, if the parents are married, a sighting of the marriage certificate would enable only the one parent to notify. In terms of the later, a responsible person, who could be the

¹⁷ Samoa Law Reform Commission; Child Care and Protection Legislation Report 11/12; Oct. 2011.

¹⁸ Births, Deaths and Marriages Registration Act 2002, s. 5.

village mayor or women's representative, completes alongside the parent/s a birth notification form to be lodged also within three months of the child's birth. After three months, acceptable supporting documents are required.

4.4 Despite the legal framework and registration mechanisms in place, there are still children and in some instances young adults whose births have not been registered. This becomes increasingly obvious when parents try to enrol their children in Early Childhood Education centres or primary school which requires proof of birth. The practice though of turning away students as a result of not producing a birth certificate is not generally enforced by the actual schools given that the compulsory provisions of the Education Act 2009 are increasingly enforced.

4.5 The Samoa Bureau of Statistics through its Birth, Deaths and Marriages division in partnership with the Ministry of Women, Community and Social Development (MWCSD) continues to look at options to improve birth and deaths notifications and registration. One proposal that needs further exploring is to encourage notification within the three-month period, by issuing an actual birth certificate without charging the current fee of \$WST 10. This ideally then would see increased numbers of children entering Early Childhood Education and primary schools equipped with their birth certificates, avoiding penalty and reissuing fees, and would also assist the Ministry of Education with student tracking so that student enrolment numbers can be verified more readily by the recording of birth certificates of the children. Secondly, look at extending the reach of the capacity of the MWCSD to conduct actual birth and death registration in the communities.

4.6 The Ministry through the work of the Government Women Representatives also encourages and promotes the safety and wellbeing of the mother and baby during pregnancy and delivery at birth. For instance encouraging mothers to access prenatal and postnatal care at the national hospitals. Such care includes: exclusive 6 months of breastfeeding and immunization of baby after birth and for mother and baby to be checked by a doctor after delivery especially if it is a home birth.

Freedom of expression (art. 13)

4.7 Samoa recognises a child's right to freedom of speech, assembly, association, movement and residence. This right is found in Samoa's supreme law.¹⁹ Children and young people are afforded the same rights as citizens of Samoa.

Access to appropriate information (art. 17)

4.8 Samoa recognises the importance of access to information and the valuable role it can play in empowering individuals and promoting a child's social and educational development. At the same time we are conscious that some information that is accessed can be detrimental to the lives of children and young persons, so some controls, prohibitions or interventions are seen as justified. With the rising use of the internet as an electronic source of information, internet safety has become increasingly important in protecting children from inappropriate information and material, even to the extent of mobile phone awareness where the Ministry of Police have conducted cybercrime prevention awareness programs in schools, government ministries, and private organisation and with parents in the community. Film and advertisement censorship remains ongoing. In the last reporting period especially as a result of the Care and Protection Research 2011 and CRC Compliance 2011/12 report

¹⁹ Constitution of the Independent State of Samoa Act 1962, s. 13.

that followed was that in order for Samoa to comply more fully with the Convention, we needed to look more closely at:

- (a) Ensuring the censorship board or any equivalent body has jurisdiction over all media including print, electronic and audio/visual;
- (b) Require that puberty change and sex education be included in school curricula;
- (c) Require that legal rights and human rights education be included in school curricula; and
- (d) Remove discriminatory provisions from access to information laws.

4.9 The Samoa Law Reform Commission also holds the opinion that information access is necessary in order for a child to fully enjoy his or her human rights but at the same time strongly feels there is a need to control information access by children.

4.10 Investment in both policy and legislation has been made in developing education resources for children and young people regarding inappropriate information from electronic sources such as the internet. The most telling piece of legislation is the Crimes Act and its reach to ensure safe, secure and responsible use of information and communication technology. It enables Samoa to take a proactive role in prosecuting those who trade or communicate objectionable material via the internet or any other form of electronic communication.

Broadcasting and children

4.11 The Film Control Act 1978 establishes the Film Control Board, whose function is to regulate and control the public exhibition of films and their censorship.²⁰ The Board has significant reach and control of the issuing of licenses to the range of exhibitors. There are a range of guidelines that inform the powers of the Principal Censor. To a large degree this works well and looking ahead Samoa will look to consider how the Censorship Board's jurisdiction may be extended to enable increased surveillance and censorship of materials such as computer games, play station games and other types of electronic mediums. It is timely too, that the Board or another alternative specialist body be in a position to determine and receive complaints on possible breaches of censoring standards or protocols. This will also be further explored.

Advertising and marketing to children: health issues

4.12 Health policies, standards and activities continue to be updated and initiated. The latest Samoa National Health Prevention Policy 2012–2016 and Activities matrix can now sit alongside other critical matrixes and key goal areas in the domain of health promotion and national food and nutritional standards inclusive of marketing campaigns designed to promote the wellbeing of children.

4.13 Through the implementation of the national health prevention policy, Samoa is progressively weaving the concept of health prevention into our everyday lives and at the same time increasingly integrating a community health approach into our thinking, the way we do things, how we work together and how we make decisions. The impetus has been about creating a new level of consciousness that recognises and advocates the value of good health for all and at the same time puts an economic and social cost of the impact of poor health to our individual development, where children are especially affected. It has as its primary goal the maintaining of a healthy state and to prevent disease and injury, and this

²⁰ Film Control Act 1987, s. 4.

can be levered across four levels, namely primordial prevention, primary prevention, secondary prevention and tertiary prevention.

Corporal punishment

4.14 In the context of the Samoan culture and traditional beliefs and values, and recognising that Samoa is not immune to global social attitudes that increasingly oppose the physical punishment of children, and on well-informed grounds, we should alongside legislative change encourage more constructive dialogue with parents, through the churches and possibly through other community gatherings. It really is about finding that consensus collective approach that recognises that corporal punishment in all settings is increasingly unacceptable. Corporal punishment has been explicitly banned in schools²¹ and early childhood settings, but not in other settings such as the family. Under other general criminal provisions, the child is potentially protected from violent physical punishment. There remains a need for more specific provisions. The 2011 baseline research into the Care and Protection of Children confirmed that the current legislation landscape lacked clear definitions and prohibitions of the different forms of violence against children.²² The new Care and Protection legislation is in a position to address this gap and extend the definition to cover all forms of violence to children, including physical, sexual, emotional and neglect.

4.15 The Government of Samoa in mid-2012 took the initiative of setting up a specific committee to address the use of violence in schools, particularly the use of corporal punishment by teachers to discipline students. This was triggered also by a number of highly publicized cases in the media at the back end of 2011 and early 2012 resulting in some significant injuries. Membership of the committee as lead advisor to the Government on ways to eradicate violence in all its forms from schools include Public Service Commission as the lead agency, MWCSD, MESC, SUNGO, Director of Education Catholic schools, Director of Education, NUS, Director of Education for the Congregational Christian Church, Samoa Teachers Association and Samoa Victim Support Group. The Committee recognised that for them to be truly in a position to deliver on its terms of reference, they needed to engage in a number of critical research steps as well as legislative review to generate a sound knowledge base of the issue in schools and analysis of prevailing attitudes and experiences across the whole schooling landscape. The reports generated will then be submitted to Cabinet. This initial work is expected to be completed and endorsed in the next quarter.

4.16 Private educational institutions such as Loto Taumafai Society for People with Disability and the Aoga Fiamalamalama have developed their own child protection policies and code of conduct aimed at teachers, supporting staff, visitors and parents to comply with during school hours. The policies and code of conduct are to protect children and persons with disabilities from mistreatment and abuse of all kinds.

4.17 The Ministry is committed to encouraging more sector-wide discussion of socialisation practices and acceptable disciplinary methods. Corporal punishment is a priority policy issue that is also taken up by the Ministry of Education and Culture. Aside from legislation, one of the initiatives developed by MESC to assist schools in eliminating corporal punishment is through the development of the Behaviour Management Guidelines: A Guide for Schools “Improving Students’ Behaviour and Welfare. This document educates and trains school principals, teachers and students in adopting an approach of behaviour management that encourages mutual respect, courtesy, and develop personal responsibility and discipline.

²¹ Education Act 2009, s. 23.

²² Baseline Research, p. 15.

4.18 However, the Child Protection Baseline Report 2013 established that we still have some way to go, based on child responses. It was recorded that 41 per cent of child household respondents stated that, in the past year, a teacher at school has physically hurt them, with roughly equal numbers of boys and girls, although this number may actually be higher, based on the unusually high number of ‘don’t know’ responses. The majority of physical harm is done through hitting, smacking or slapping, depending mostly ‘on what I did’ and ‘if the teacher is mad at me’. 55 per cent of responses indicate that an implement was used to hit children, such as a stick, ruler, duster or broom.²³ The current Education Act addresses corporal punishment as follows:

- (a) S23 (1) Every school and early childhood education centre must have a discipline policy;
- (b) S23 (2) A discipline policy must not include or permit the use of: (b) any form of punishment that may cause harm to the recipient; or (c) any form of punishment that humiliates or is intended to humiliate the recipient;
- (c) S31(b) Adherence to section 23 is a criteria for private and mission schools to be registered;
- (d) S37 Village schools are subject to the same registration criteria; and
- (e) S56 Ministry and village schools must develop a discipline policy subject to S23.

4.19 Social development programs have been designed and implemented that specifically target women’s committees, village councils of chiefs, young parents and church/youth organizations within the different villages to be more receptive to child protection issues and rights. These programs are supported under the UNFPA Gender-based Violence Project and the UNICEF and Government of Samoa Child Protection Program. Samoa is in the grips of a transition phase where old and traditionally held beliefs about ‘smacking’ are being challenged, and there is a significant degree of confidence that all the recent efforts and reform programs will gradually make a real and relevant difference to this disciplinary practice. Corporal punishment by caregivers is generally perceived as a preferred option for disciplining children. Many parents still believe that their childhood taught them to love and obey their parents, elders and family and to behave the way their parents wanted them to behave. The Samoa Child Protection Baseline Report 2013 produced following research report recorded that corporal punishment by caregivers is widespread, with 77 per cent of adult household questionnaire respondents [n=233] stating that they ‘hit, smack, kick, pinch or dong children or pull their ears’. 22 per cent [n=67] state that they do not (1 per cent refused to answer). 51.4 per cent of child household questionnaire respondents [n=184] state that, within the past year, an adult at home has hit, smacked, kicked, pinched or donged them or pulled their ears; 46.9 per cent [n=168] state that this has not happened. In almost 75 per cent of child household corporal punishment cases, the perpetrator was the father or mother. By far the most common types of physical violence are hitting, smacking and slapping, and the most common implements for hitting are ‘hands’ and ‘sticks’. Physical abuse occurred most often in reaction to ‘something that the child did’, and 60.6 per cent of responses indicate that the adult does this ‘to discipline and educate’ the child. 36.7 per cent of child household questionnaire responses state the reason as being the adult ‘was mad at me’. Love by children was often described as a practical display of affection through obedience, by doing as one is told, and most of all, by having consideration for their elders, and by learning and practising approved forms of behaviour.

²³ Behaviour Management Guidelines: A Guide for Schools “Improving Students’ Behaviour and Welfare 2010.”

Nevertheless, at the village level the Ministry, under its Division for Women and Division for Youth continue to advocate for zero tolerance of corporal punishment in all settings.

4.20 Looking forward, if we are to consider parents'/caregivers' central concerns of maintaining cultural values, and to address any fears parents may have of the implications of reducing their discipline options, we need to increasingly adopt a strengths-based approach that says good parenting condemns the use of violence. We need a mindset change that sees good parenting as a means to shape positive and desired behavioural patterns of children. We need to advocate that good parenting, free of all types of violence, aims to provide children with the tools to be more self-disciplined and in control of what is right and wrong and make more constructive choices of behaviour.

4.21 This is fairly ambitious, but perhaps if we continue to look to linking educational achievement with living free from all types of violence, parents and caregivers will be more receptive. Families have a significant and lasting influence on their children, so as a country we need to continue to provide support so parents and families are in a position to do the best they can do and to take on that responsibility. Obviously there will always be situations where the family environment is not necessarily best placed to do this, and that is where our new legislation will also assist children.

Part 5

Family environment and alternative care

5.1 Family is so important in Samoan culture because Samoans strongly believe that the idea of family is where you attain all knowledge and everything you'll need, alongside values of faith and respect, with disciplinary practices considered part of child rearing in the Samoan culture. The reality, however, is that despite this strong foundation and recognition of the critical role and influence the family has on a child, there are occasions when interventions are made and in some circumstances these are recognised by the law in Samoa.

5.2 Ensuring the safety and enhancing the well-being of our children in both the family environment and alternate care environments has been a major focus over the current reporting period. There have been considerable challenges. The increasing level of identified child abuse has stretched the Law and Justice Sector and Community Sector resources and there have been some high-profile cases. Data collection systems and policy and legal frameworks are now strengthened and progressively in place to ensure that relevant and robust information is gathered to help improve care and protection options and services to keep our children and young people safe. Workforce training and increased professionalism have also been given high priority. However, building up such expertise and capability takes time, particularly in an environment where there has been considerable change at both an operational and legislative level over a period of time.

Parental responsibilities (art. 18)

CRC/C/WSM/CO/1 Page 7: Para. 38

The Committee recommends that the State party provide parents and other caregivers with the necessary support and parenting education in conjunction with appropriate information on child rights and to involve in those efforts NGOs, the local communities, church groups and the private sector while using community-based and mass media approaches, in conjunction with appropriate child rights education.

5.3 The Care and Protection Bill 2013 recognises that Samoan tradition, culture and community values must be considered when implementing this piece of legislation, except in matters which may conflict with the rights of the child. It defines a child's long-term guardian as any person lawfully acting as a guardian of a child in accordance with the law, and includes any relative of a child who has assumed the role of the parent in the absence of the child's natural parents.

5.4 The newly drafted Bill encourages a child's family as having the primary responsibility for the child's upbringing, protection and development. The baseline research that informed this Bill found that legislation dealing with the separation of a child from his or her and alternative care options to be lacking in clarity and numbers.²⁴ The research report attributed this limitation to a large degree to the existence of traditionally strong extended family relationships and related sense of responsibilities. It is important to note that some issues raised in the Baseline Report have already been addressed in recent law reform. Many other issues are expected to be covered in the draft legislations awaiting Parliamentary endorsement. For example, the Divorce and Matrimonial Causes Ordinance 1961 was recently amended to provide that a decree of divorce does not take effect unless the Court has, by order, declared that it has satisfied that proper arrangements in all the circumstances have been made for the care, welfare and development of those children of the marriage under 18 years.²⁵ Also, the Prisons and Corrections Bill 2011 prohibits impermissible penalties which will deny a prisoner from seeing his or her children.²⁶ However, there are exceptional circumstances where this right may be withdrawn for a short period of time.

5.5 Nevertheless, to ensure greater compliance with family and alternative care indicators of the Convention, and in line with the recommendation of the Samoa Law Reform Commission, the legislation needs to be far more explicit around the roles and responsibilities across different circumstances and alternative care arrangements.

Protection from violence, abuse, neglect and ill-treatment (art. 19)

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The Committee recommends that the State party:

- (a) Take the necessary measures to prevent child abuse and neglect and in addition to existing procedures, establish effective mechanisms to receive, monitor and investigate reports on cases of child abuse;**
- (b) Carry out preventative public education campaigns about the negative consequences of ill-treatment of children;**
- (c) Undertake studies on domestic violence and ill-treatment and abuse of children, including sexual abuse, in order to understand the scope and nature of these practices, adopt adequate measures and policies, and contribute to changing attitudes;**
- (d) Investigate cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, within a child-friendly investigative and judicial procedure and with due regard given to protecting the right to privacy of the child;**

²⁴ Infants Ordinance 1961, Divorce and Matrimonial Ordinances 1961, Mental Health Act 2007 and Maintenance and Affiliation Amendment Act 2010.

²⁵ Divorce and Matrimonial Causes Ordinances 1961, s. 7D.

²⁶ Prisons and Corrections Bill 2011, clause 42 (1) (e).

(e) Take measures to ensure the provision of support services to children in legal proceedings, and for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention, and the prevention of criminalization and stigmatization of its victims; and

(f) Seek technical assistance from, among others, UNICEF and the World Health Organization.

5.6 Currently the Infants Ordinance Act 1961, specifically s 16, enables the Court to arrange care and protection if it feels any child is living in a place of ill repute or is a neglected, indigent or delinquent child, or is not under proper control, or is living in an environmental detrimental to its physical or emotional wellbeing. As in the case of parental responsibilities, the Law Reform Commission has recommended that legislation needs to be more explicit about this protection, whether that is in the form of further amendments to current legislation or in the Care and Protection legislation currently in draft.

5.7 Samoa has made significant inroads over the last reporting period into the recommendations by the Committee. We have the 2006 UNICEF supported; Samoa, Situational Analysis of Children, Youth and Women with detailed coverage and scope of issues for children in the areas of:

- (a) Definition of a child;
- (b) Children's survival including an in-depth analysis of child's health;
- (c) Infant and child nutrition;
- (d) Child development, including a focus on children with disabilities;
- (e) Children in difficult circumstances, looking at physical, emotional and sexual abuse; and
- (f) Child Protection Interventions.

5.8 We also have the Demographic and Health Survey 2009, the Child Protection Baseline Report 2013, the Health Sector Plan 2008–2018 and related policy frameworks looking at the wellbeing of our children, Census 2011 and the recently Cabinet-endorsed Law and Justice Sector Plan 2012–2016. The Law and Justice Sector Plan is the second plan for the sector and it is aligned closely with national development goals for this area. It includes:

- (a) Ensuring community safety through improved crime management and prevention;
- (b) Improving access to justice, law and legal services;
- (c) Recognising customary-based justice and to harmonise with formal justice system;
- (d) Promoting integrity and good governance in formal and customary processes and services; and
- (e) Building sector capacity and improving service coordination.

5.9 Obviously, the most significant milestones, which cannot be stated enough, are the key pieces of legislation in the pipeline to bring Samoa increasingly into compliance with the Convention in this area, and put safety and protection issues at the forefront of ongoing country agenda and the rights and best interests of our children. Mass media campaigns are already on our television screens, and therefore in our homes, in the Samoan language, with

the aim of educating our communities of the wellbeing of our children and the need to avoid negative behaviour that can influence children's development.

5.10 While the Constitution of the Independent State of Western Samoa Act 1960 does provide for the exclusion of the public and representatives of news services where interests of juveniles are in need of protection,²⁷ the Samoa Law Reform Commission has gone one step further. It has also recommended that the Criminal Procedure Act should provide for the automatic suppression of the name and any particulars likely to identify a victim/survivor of a sexual offence. It is further recommended that, during the taking of evidence from the victim/survivor, sexual offence proceedings should be dealt with in closed court.

Alternative care

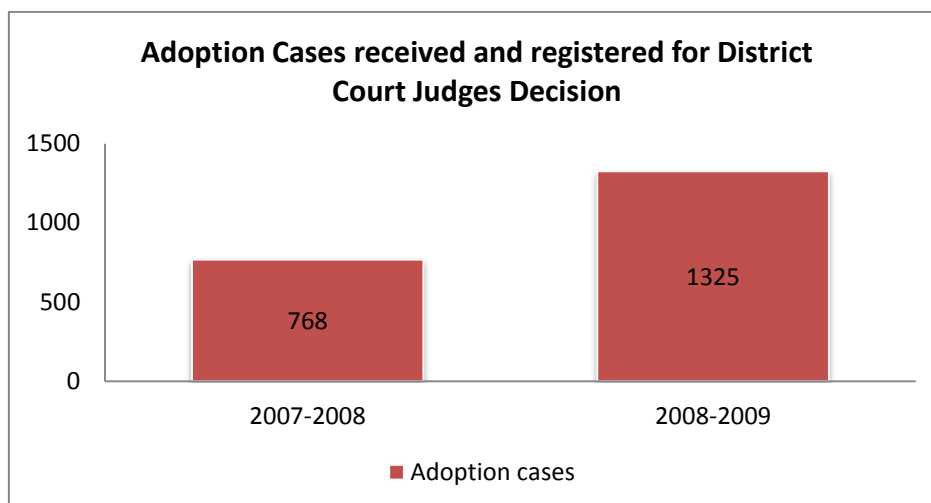
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The Committee recommends that the State party undertake a study, including disaggregated data to analyse the practice of adoption, including so-called “informal adoptions” by family members, with a view to understanding the scope and nature of this practice and adopting adequate policies and measures. It also encourages the State party to ensure that adoption is carried out in conformity with article 21 of the Convention and to ratify the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.

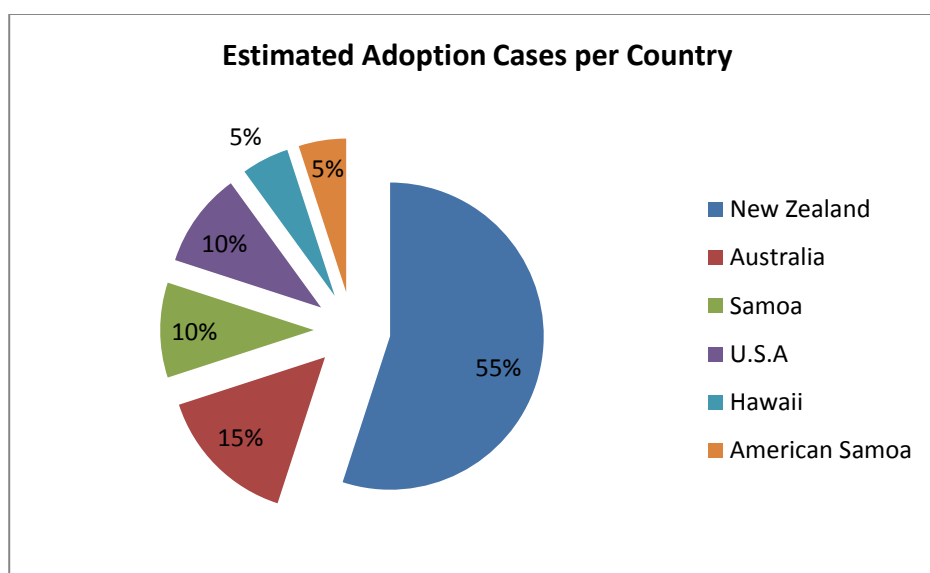
5.11 Samoa has yet to undertake a formal national study on adoption as recommended by the Committee on the Rights of the Child, but we do rely on statistics from cases and reports available within the Ministry of Justice and Office of the Attorney General to help define the scope of the practice. The common practice enforced by the Infant Ordinance Act 1961 in Samoa dealing with adoption is processed through the Courts. The formal procedure for adopting children begins with a proposal filed by an adoption agency (law firm) and submitted to both of the Office of the Attorney General and the MJCA for the discretion of the Courts. Only on a number of occasions have assessment cases for overseas adoption been referred to the MWCSO from the Office of the Attorney General, for further investigation as stated under Regulation 6 (5) of the Infant Adoption Regulation 2006. Under this section, in the case of any overseas applicant who wishes to adopt a child but has no blood relation to the infant or any other connection, there will be an investigation. The Ministry for Women's Child Protection section has assisted by providing further assessment of whether other suitable arrangements in Samoa for the child's care are possible or not. This involves interviewing family members for other alternatives for the child to be cared for by extended families, collecting information from the village mayor or the village women representative to support the adoption file.

5.12 The table below displays the total number of adoption cases that were filed through Court in the period of 2007–2008 and 2008–2009 annual reports.

²⁷ S9 (1).



Source: Ministry of Justice and Courts Administration.



Source: Ministry of Justice and Courts Administration 2010.

5.13 The above table illustrates an increase in adoption from the period of 2007–2008 to 557 more adoption cases filed in 2008–2009. The above adoption cases include both local and overseas adoption applications. The majority of adoption applicants are from New Zealand, followed by applicants in Australia, American Samoa, Hawaii (United States of America) and internal adoptions within Samoa. These applicants are normally relatives of the said child to be adopted. Reasons for adoption applications are for the child to have better opportunities for education and an improved future so they are able to support themselves and their families in Samoa. The adoption of children to their own relatives residing overseas is considered a natural trend that has been part of the Samoan extended family care system for years. Before the systems for formal adoptions came into place, it was very natural to have children cared for by their extended relations, aunts, uncles and grandparents. This cultural practice has continued with families migrating overseas and adopting their relatives' children.

5.14 As a result of the baseline review and the Care and Protection Research Report 2011, the following steps have been recommended to improve alternate care options:

- (a) Clearly define parents' (including adopted parents') roles and responsibilities during situations where a child is separated from his home;
- (b) Provide that it is desirable for the biological parent(s) of a child to have an ongoing part in the child's upbringing where appropriate;
- (c) Provide that a child should continue to have contact with his or her ethnic, religious, cultural and linguistic background where appropriate;
- (d) Explicitly provide that family preservation is a priority in all arrangements for child protection;
- (e) Provide for the separation of a child from his or her parents only as a last resort and where it is in the best interests of the child and necessary for his or her protection;
- (f) State clearly limitations on the ability of parents to voluntarily give up their parental responsibilities;
- (g) State clearly the available alternative care options;²⁸
- (h) Provide that cases dealing with the separation of children from their parents be dealt with speedily, confidentially, and where court proceedings are involved, in a closed court;
- (i) Provide that the status of children placed in alternative care be reviewed regularly;
- (j) Provide for the establishment of an independent, child-friendly forum or body to consider and resolve complaints by children regarding family separation and alternative care issues;
- (k) Explicitly exclude neglect arising from poverty as a grounds for child removal;
- (l) Require that the child's views be taken into consideration in any decision made about alternative care, and that those views be given due weight in accordance with the child's age and maturity;
- (m) Require that the views of all interested parties be heard and taken into consideration in any decision made in relation to the separation of a child from his or her parents and the allocation of alternative care;
- (n) Establish standards of care for institutional care facilities for available forms of alternative care and provide for their accreditation;
- (o) Require in adoption matters that the views and consent of a child be sought and considered and the weight to be given to their consent or views be based on their ages and capacity;
- (p) Put in place border controls to monitor the entry and exit of babies and children travelling with adults who are not their parents; and
- (q) Prohibit traditional customs which separate parents and children unnecessarily.

²⁸ For example, family member care, foster care, adoption, and institutional care.

Part 6

Basic health and welfare

Child health and health services

CRC/C/WSM/CO/1 Page 9: Para. 47

The Committee encourages the State party to continue its efforts to reduce the incidence of child and infant mortality and to undertake additional measures to increase immunisation coverage. Furthermore, the Committee recommends that the State party strengthen its efforts in providing affordable and easily accessible quality health-care services for rural communities.

6.1 Children are a priority focus in Samoa's Health Sector Plan 2008–2018. There are key indicators across a number of strategic goal areas that aim to reduce inequalities and inequities that exist and improve the health and well-being of our children and young people. At the same time, we continue to target programs that can deliver additional support to children and families in less advantaged communities. For example, with respect to profiling of injuries and identifying the most vulnerable, something Samoa is already doing through a number of measures and across a number of sector stakeholders, data collected by way of monitoring and evaluation of the Health Sector Plan identifies children and youth as most at risk, with males accounting for the most injuries.

6.2 According to the 2009 Samoa Demographic and Health Survey (DHS), the under-five mortality rate was 15/1000 live births, and the infant mortality was 9/1000, in the most recent five-year period preceding the survey, meaning that 1/66 children born during the period died before reaching their fifth birthday. Since the 2006 Report of the Population and Housing Census found an under-five mortality rate of 20/1000 live births, the 2009 DHS estimate is likely an underestimate.²⁹

6.3 Children below the age of 3 years receive free primary health care, including that of immunization. The National Health Services have been scheduling the medical practitioners visit to all the outposts or the district hospitals on a weekly basis so that rural communities access a qualified doctor's perspective on the health status. Additionally, there are free mobile clinics where the community nurses provide antenatal care for those who are not able to visit the hospital and monitor regular patients who are at their homes.

6.4 The following table presents mortality rates for cohorts of children born in three 5 year periods preceding the DHS.

Early childhood mortality rates

<i>Neonatal, post neonatal, infant, child and under-five mortality rates preceding the survey, Samoa 2009</i>					
<i>Years preceding the survey</i>	<i>Neonatal mortality (NN)</i>	<i>Post-neonatal mortality (PNN)¹</i>	<i>Infant mortality</i>	<i>Child mortality</i>	<i>Under-five mortality</i>
0–4	5	5	9	6	15
5–9	6	3	9	4	13
10–14	5	3	8	4	12

6.5 The recently endorsed Samoa National General Health Prevention Policy 2012–2016, along with its programme of action, should help build on existing efforts and what is

²⁹ Ibid.

working and provide some innovation to target the more vulnerable populations from a health prevention context. We still have challenges around healthy eating. The concerns reported in the STEPS Survey 2002 remain ongoing, that 35.6 per cent of the population eat virtually no fruit.³⁰ More recently, in the MDG Samoa Progress Report 2010, it has been reported that one in three people eat less than the recommended servings of fruit and vegetables per day.

6.6 Also, the high coverage rates of immunization of the past that Samoa enjoyed are no longer valid.³¹ The low rates for urban areas suggest a number of policy considerations and perhaps we need to hold parents more accountable given the range of health service providers readily available for immunisation programs. Samoa was reported against a selected group of five Pacific Island countries as having the lowest vaccination coverage of 25 per cent for children aged 18–29 months as fully immunized against the six preventable diseases in Samoa.³²

6.7 Prevention efforts will continue to focus on what has worked and at the same time will look to extend the net and help all Samoans, including the most vulnerable, to recognise the value of accessing nutritious food supplies, help in the recognition of how to make healthy choices, with a continued focus on limiting the intake of saturated fats, added sugars and sodium, and to continue to support existing programs that promote breastfeeding and enhance food safety. In 2011, a policy advocacy initiative by the Public Service Commission led to the release of a cabinet directive for all government ministries to support the establishment of ‘breastfeeding nurseries for working mothers’. This is a milestone achievement in support of working mothers in the public sector, and ensuring babies’ nourishment for the first years of their lives.

6.8 The National Non-communicable Disease Policy 2010–2015 provides a solid framework that recognises that there are certain vulnerable groups in the communities that have heightened risks of experiencing poorer health-related outcomes as a result of non-communicable diseases and related complications.

6.9 In the key priority area of Health Promotion and Primordial Prevention, indicators exist across:

- (a) Implementation of the infant and young children feeding policy;
- (b) Increasing healthy living practices including safe and healthy village environments for families and children;
- (c) Water quality;
- (d) Community action to support improved diet and exercise options, e.g. home fruit and vegetable gardens and healthy eating canteens in schools; and
- (e) Reduction in alcohol and tobacco consumption.

6.10 In another key priority area, namely Quality Health Care Service Delivery in Samoa, indicators exist across:

- (a) Decreasing hospital readmissions and post-operative infection rates;
- (b) Establishment of chronic disease registers and evidence-based screening and early intervention, including for rheumatic heart disease;

³⁰ Ministry of Health, Government of Samoa, STEPS Survey 2002.

³¹ Government of Samoa, MDGs, Second Progress Report 2010, Prepared by the National Task Force with the Support of the UN System.

³² *Ibid.*, p. 33.

(c) Improved reproductive, maternal and child health, monitored through the implementation of safe motherhood protocols, increased intake of fruit and vegetables, increased number of preschools and schools complying with healthy food and canteen standards, increased availability of micro-nutrient fortified foods in shops, annual audits showing evidence of increasing compliance with WHO/UNICEF Baby Friendly Hospital protocols, and annual increases in the proportion of pregnant women attending antenatal clinics in the first 20 weeks;

(d) Evidence-based intervention to reduce anaemia in children;

(e) Annual decrease in the number of infants admitted to hospitals with diarrhoea and respiratory tract infections;

(f) Annual increase in the proportion of babies vaccinated at 18 months to at least 90 per cent for all vaccines on schedule within 5 years;

(g) Increase in the proportion of new school entrants who receive a comprehensive community health assessment; and

(h) Evidence of decreasing rates of children brought to hospital suffering from injuries.

6.11 In terms of healthy eating, a number of initiatives are covered in a comprehensive Plan of Action born out of the recent National Health Prevention Policy 2012–2016. These include:

(a) Continuing and expanding work with churches, pastors, workplaces and community leaders and youth linking the benefits of healthy living to general wellbeing;

(b) Providing education on how to read nutrition labels;

(c) Developing and disseminating material about healthy eating and simple healthy recipes using local ingredients in local shops and supermarkets;

(d) Improved and targeted messages in awareness-raising activities;

(e) Development of a communication strategy that addresses barriers to healthy eating;

(f) Enforcing Preschool and School Nutrition standards; and

(g) Repeating STEPS Survey and Demographic and Household Survey.

6.12 In terms of active living, a number of initiatives/activities are also covered in the comprehensive Plan of Action born out to the recent National Health Prevention Policy 2012–2016. These include:

(a) Continuing and expanding work with churches, pastors, workplaces and community leaders and youth linking the benefits of healthy living to general wellbeing;

(b) Increasing the amount of awareness and activity programmes developed per year;

(c) Roll out Active for Life national campaign showcasing how everyone can be active; and

(d) Working cross-sectorally to increasingly target physical education at school level.

Children with disabilities

CRC/C/WSM/CO/1 Page 9: Para. 45

The Committee recommends that the State party:

(a) Adopt a comprehensive policy for children with disabilities that includes, inter alia, deletion of all negative terms relating to children with disabilities from legislation, regulations and practice;

(b) Take note of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on the rights of children with disabilities (CRC/C/69, paras. 310–339);

(c) Encourage the inclusion of children with disabilities into the regular educational system, inter alia, by establishing special units in all communities, giving more attention to special training for teachers and making the physical environment, including schools, sports and leisure facilities and all other public areas, accessible for children with disabilities; and

(d) Seek technical assistance from, inter alia, UNICEF.

6.13 Samoa's commitment toward both regional and international instruments such as becoming a party to the Convention on the Rights of Persons with Disabilities is clear with Cabinet Directive (FK (08)37) dated 25 September 2008 approving the establishment of a Disabilities Taskforce chaired by the Chief Executive Officer of Women, Community and Social Development and co-chaired by the Attorney General of Samoa. Samoa's further commitment is substantiated by the recent approval in April of Samoa's National Policy on Disability and the accompanying Implementation Plan 2009–2012.

6.14 The National Disability Policy approved in early 2009 embodied the commitment of Government and its people to the sectors in the community who are people with disabilities. It was possible, as in other Pacific Island countries, to develop national coordination mechanisms and disability policy without enacting legislation first. The Policy defined the nature of an inclusive and barrier-free society in the particular Samoan context and designated the structures and responsibilities within government which have been established to implement disability policy and address disability issues. It further provided a statement of vision, goals and a series of specific objectives, supported by identification of tasks or actions which must be undertaken in order to achieve each objective and the overall goal of an inclusive society. The selection of principles and specific objectives is reflective of the values, culture, and environmental context and prioritized areas of disability in Samoa. A three-year action plan comprising a list of priorities for achievement was also approved for implementation. The priority areas are also reflective of the key priority areas in the BMF. The proposed end date of 2012 was in line with the ten-year life span of the BMF. Samoa's Disability Implementation Plan stated the strategies planned for the achievement of each objective, the expected outcome and how this will be verified against prescribed timelines.

6.15 While it is acknowledged that Samoa's commitment to incorporating disability issues into national and sector plans is clear, actions to move this commitment forward in the legislative, administrative, social and financial levels are currently limited. Samoa's relatively new entry on the disability scene will require some major mind shifts through awareness-raising both within and outside of government to enable sector-wide understanding of the implications of regional and international commitments and collaboration with all sectors of society.

6.16 The Disability Taskforce established by cabinet directive representative of a National Disability Council. The Ministry of Women, Community and Social Development provides all the secretariat support for the taskforce and facilitates any required consultation. The structure and functions were determined by Cabinet. Its membership is inclusive of key government Chief Executive Officers, the Commissioner of Police, various heads of NGOs and advocacy groups for people with disabilities and heads of churches and women councils.

6.17 NOLA (“Nuanua o le Alofa”) represents the strongest focal point of contact for people with disabilities as a powerful self-help advocacy group, which has assisted in surveys and participated in numerous national and regional forums as key advisors to government on disability policy and concerns. Their expertise alongside other non-government organizations promoting fuller participation of persons with disabilities and contributing to the effectiveness of government programmes and initiatives is a critical mechanism for strengthening informed decision-making in this area.

6.18 NOLA completed a disability survey in 2010 and was assisted by the Ministry of Women through the network of government liaison officers. The survey identified 4,959 people with disabilities, 55 per cent being male and 45 per cent being female. The total population of children with disabilities identified under the age of 18 years is 1,371, with 755 being male and 616 being female. The majority of children are affected by learning disabilities, namely epilepsy and deafness. In addition, persons with disability normally have access to either two to three years of primary-level education, or attend special needs schools for vocational or informal training.

6.19 In the area of sports development, with robust private sector sponsorship and government support, the inclusion of children with disabilities in national and international events such as the Paralympics and Special Olympics have been possible.

6.20 Special needs units have been established in government schools and it saw an initial rise in the number of children with disabilities attending school. The numbers dropped due to some initial operational difficulties. However, the Ministry of Education, Sports and Culture, with assistance from Australian Aid and the Government, initiated an Inclusive Education Program. This program is implemented in partnership with the main non-government schools that cater for children with disabilities, namely SENESE International Support Services, Loto Taumafai and Aoga Fiamalamalama. The program looks at strengthening the systems and community acceptance for the mainstreaming of children with disabilities into the formal education system.

6.21 Newborn babies and children detected with disabilities by the Ministry of Health and the National Health Services are often referred to the Loto Taumafai Early Intervention program or SENESE International Support Service, which are the only community-based program available on the island that focuses on the prevention and rehabilitation of children with disabilities. A Government annual grant, the Samoa School Fee Grant Program and additional funding from international donor agencies have been critical partners in its development. However the Program, which continues to support at least 201 families of children with disabilities, struggles with the limited financial and human resources available to cater for the increasing demand for such services in the country. The school roll can change more readily but is usually around the 120 pupils mark but has been known to reach 187 pupils. A new school facility is about to be opened to cater for an improved physical and leisure environment, and also to be able to offer the students and teachers more teaching and learning resources.

Adolescent health

CRC/C/WSM/CO/1 Page 10: Para. 49

The Committee reiterates its recommendation that the State party:

(a) Undertake a comprehensive study to assess the nature and extent of adolescent health problems and, with full participation of adolescents, use this as a basis to formulate adolescent health policies and programs with a particular focus on the prevention of STIs, especially through reproductive health education and child-sensitive counselling services, and taking into account the Committee's general comment No. 4 on adolescent health and development in this regard;

(b) Expedite the enactment of the Mental Health Bill, as well as the Tobacco Control Bill;

(c) Allocate adequate human and financial resources to the Mental Health Unit in order to strengthen mental health counselling services as well as reproductive health counselling and make them known and accessible to adolescents;

(d) Take measures to incorporate reproductive health education in the school curriculum in order to fully inform adolescents about their reproductive health rights and prevention of STIs including HIV/AIDS, as well as early pregnancies;

(e) Consider means of providing particular support to pregnant teenagers, including through community structures; and

(f) Strengthen cooperation with international agencies with expertise in health issues relating to adolescents, inter alia, WHO and UNICEF.

6.22 The young age structure of Samoa's population magnifies to a significant degree youth vulnerability. One of the most challenging issues remains youth unemployment, and when a country experiences high inactivity of young people and in Samoa's instance, particularly males, the pattern is usually an increase in high-risk behaviours. Suicide, substance abuse, teenage pregnancy, crime and violence are telling indicators of vulnerability.

6.23 The Ministry of Women, Community and Social Development's Division for Youth is the government office responsible for youth issues. It works closely with UN agencies and NGOs to develop and implement objectives outlined in Samoa's National Youth Policy 2011–2015. There still remains limited data and research on youth, but this is a key priority of the Policy over the next few years.

6.24 Other challenges of marginalisation and participation of youth regarding decisions that affect them, specifically giving youth more of a voice in their development, have been spearheaded, with the incorporation of the Samoa National Youth Council. Its vision is to build responsible youth citizenship in Samoa whereby youth have abundant and equal opportunities to establish positive and effective connections with their key social, cultural, physical and economic environments. This also goes some way to addressing some of the issues raised in a 2008 World Bank commissioned report on youth in the Pacific, of which Samoa was a key case study country.³³

6.25 Some of the recommendations from the report, including that of setting up of a National Youth Advisory Board, or in Samoa's case, Samoa National Youth Council, consisting of young people representative of the youth population in Samoa, have been completed. Members of the Council also include young people drawn from government and

³³ World Bank, *Giving South Pacific Youth a Voice* (2008).

civil society sectors. They play an important role in providing strategic advice to the Division for Youth and the Ministry as a whole on matters affecting youth. They provide the participatory mechanism for which youth can forward recommendations to government and remain at the forefront of policy decisions that affect them, as well as designing services and programs to be implemented.

6.26 The World Bank report also recommended, among other things, initiatives such as:

- (a) Developing a youth consultation policy for government policy planning processes;
- (b) Recognising the role of NGOs;
- (c) Promoting collaboration between all stakeholders;
- (d) Developing a youth consultation policy for government policy planning processes;
- (e) Encouraging the development of community education and training institution;
- (f) Allocating and funding a youth television program;
- (g) Establishing a nationally recognized volunteer program;
- (h) Establishing a nationwide microfinance scheme for young entrepreneurs; and
- (i) Encouraging adults to take the initial lead in youth engagement.

6.27 A review of the performance indicators and initiatives/activities that cover the scope of the Implementation/Action Plan of the National Youth Policy and the activities that fall out of the Samoa National Youth Council Strategic Plan, and related key strategic areas, go a considerable way in respect to Samoa addressing a significant number of the recommendations that fall out of the report. As SNYC matures, it is expected that leaders and decision makers will become more interested in and responsive to youth issues and actively organising forum for young people to come together and to be heard on their concerns and ideas. This can be across a number of levels, from participating in community-level decisions to program development forums at the national and regional level.

6.28 It has been well documented and recently reported comprehensively in 2006 in Samoa: A Situation Analysis of Children, Women and Youth that the leading cause of disease or ill-health among youth are injuries and poisoning associated with risk behaviour, such as cigarette smoking, alcohol consumption and suicide. Mental health risks are a similar concern, particularly where suicide, as reported also in the 2010 Government of Samoa MDGs progress report remains a significant problem, and demands specific interventions. Other significant causes of death for youth include diseases of the circulatory system, infectious diseases and cancer. Alarming is that these are preventable diseases so there is a strong emphasis on individual behaviour and lifestyle choices so these call for different interventions and whole of government approaches. Recent surveys have confirmed that sexually transmitted infections are particularly prevalent. In reference to the Second Generation Surveillance of HIV infection and sexually transmitted infections (STIs) in 2008, found that Samoa also have evidence of between 1 in 5 and 1 in 3 women infected with STIs and rates were higher in young women. The emergence of HIV/AIDS has resulted in increasing focus on STIs and their control as an effective intervention to limit the spread of an HIV epidemic, despite the fact that Samoa is considered a low-HIV prevalence country with 19 cases diagnosed.

6.29 Sexual and reproductive health issues present at alarming levels if the transmission of STIs is the preferred indicator for this key health priority area. Demands for a shift of

thinking to address this concerning health status could not be more important than in this area. There continue to be areas of unmet needs, especially around family planning. There are statistics around STIs that place Samoa in a poor light against other Pacific nations with much larger populations. The Health Sector is not oblivious to this and has placed significant priority on it, including awareness and prevention of HIV, and attributed to it a sense of urgency it deserves. It aims to reduce the prevalence of chlamydia significantly from the current prevalence rate of 30 per cent by 2013 and it has also selected targets for the neonatal population.³⁴ The Sector is acutely aware of the challenges and issues and the recommendations are very much in line with the deliverables of a results-based National Health Prevention approach that looks at total populations and targeted populations across a spectrum of prevention intervention measures and strategies. Adolescent development and the significance of making informed choices is a relevant consideration in this core health area.

6.30 The 2009 Demographic and Health Survey confirmed the increase in the number of young people (higher for young women) affected with sexually transmitted infections (STIs). Chlamydia has a prevalence rate of 40.9 per cent, rating the highest amongst the 15–19 age groups. The Samoa Family Health Association (SFHA) is one of the organisations offering primary care and prevention for young girls and mothers, focusing on sexual reproductive health and females. The SFHA operates a clinic for young girls and women to examine and check for sexually transmitted infections; in addition to their services they offer family contraceptives to women and young mothers at the community level and to those that come into the office.

6.31 The Ministry of Health recently received a cabinet directive approving its National HIV and AIDS Policy 2011–2016. It has, as key focus areas, Youth in School and Youth Out of School, with the overall Policy goal of coordinating the implementation of national multi-sectoral responses to the HIV/AIDS epidemic. The rates of teenage pregnancy are relatively increasing amongst young women in the age group of 15–29³⁵ and are a result of unprotected sexual intercourse. Evidence also suggests that there is a low awareness level of adolescents regarding sexual health protective measures and that they tend to avoid the services available because of the stigma from the community.

6.32 The Ministry of Health-led Adolescent Reproductive Health Project is part of the National Reproductive Health Program in Samoa, focusing on adolescents and young people 10–24 years both in schools and out of schools. Its main aim is to safeguard the health of young people by providing easy access to adolescent sexual and reproductive health, information and education, and providing easy access to youth-friendly Adolescents Reproductive Health Services. The program also emphasizes responsible attitudes, behaviour and practices to prevent unplanned teenage pregnancies, sexually transmitted infections including HIV, and other related youth issues including substance abuse and sexual exploitation. In working towards the common goal of improving adolescent reproductive health, the AHD Project has so far supported activities under three main components as follows in collaboration with key stakeholders and local partners with the support of SPC:

- (a) Provision of information and Education Communication;
- (b) Provision of Adolescents Reproductive Health Services;
- (c) Supporting Project Delivery.

6.33 The Ministry of Education, Sports and Culture is currently reviewing the senior educational curriculum with the anticipation that sexual education be mainstreamed into

³⁴ Ibid.

³⁵ Samoa National Youth Policy 2011–2015, Division for Youth MWCSD 2011.

Physical Education and Science fields, with the target audience being college pupils. Furthermore, MESC has completed its pilot of introducing health education for primary-level students, which has now been substantially rolled out across primary schools.

6.34 The Ministry of Women, Community and Social Development works closely with the Samoa Family Health Association to conduct awareness programs and counselling trainings for adolescents who are facing adolescent reproductive health problems. Samoa Family Health Association operates a youth centre which is available for young people and parents including referrals made as a result of the awareness/training workshops at the village level. There are several community outreach programs that are conducted on Sundays and the peer educators' network where young people advocate and liaise with other young people on different social and sexual reproductive health issues that they are facing. In addition, there is also the work of the Samoa AIDS Foundation, supported by the Ministry of Health, where workshops and mass media campaigns have been utilized to reach out to the youth population.

6.35 The Government of Samoa passed the Mental Health Act in 2007 and the Tobacco Control Act in 2008 under the administration of the Ministry of Health. These two key legislations intend to provide the legislative protection given the high concerns with the leading cause of ill-health (due to injuries and poisoning) amongst the young people associated with risk behaviour such as cigarette smoking, alcohol consumption and suicide.

Measures to address the rise in alcohol consumption among young people

6.36 In the latest National Health Prevention Policy 2012–2016, one of the key strategic focus areas is alcohol abuse. This policy looks to advocate for a strengthened sector-wide response across multiple settings that encourages a greater sense of accountability and responsibility for the associated and very real negative impacts of alcohol abuse. Harmful alcohol use, including underage drinking, drinking while pregnant, binge drinking and driving while under the influence is not behaviour that can be addressed with a one-fix solution. This key area looks at an outcome-focused approach that sees preventing alcohol abuse as critical to improving quality of life, improving academic performance, improving workforce productivity, reducing crime and criminal justice expenses, reducing motor vehicle accidents and fatalities, and lowering the health cost burden for related acute and chronic conditions.

6.37 The Government of Samoa recognises that it is about redefining the unacceptable and reinforcing the impact of the problem of alcohol to the public's attention. It looks at prevention interventions such as empowering young people not to drink, strategic media messages, identifying drinking disorders early, reducing inappropriate access, and strengthened support and enforcement of legislation, regulations and alcohol control policies. Key strategic directions include:

- (a) Empowering people and communities to recognise the profound effects of alcohol abuse;
- (b) Supporting individuals, especially in the area of antenatal care, to make informed decisions about alcohol consumption;
- (c) Identifying at-risk environments to reduce false or misleading communication around alcohol consumption; and
- (d) Referring individuals or target populations to programs that will support positive choices.

6.38 The Samoa Police continue to work in partnership with the Licensing Authorities and Public Health Units in controlling purchase and supply operations and monitoring licensed premises in terms of compliance with laws that prevent selling alcohol to minors.

6.39 Police also have powers under the Liquor Act 2011 that was revisited from the previous Act of 1971, in respect to minors, considered to be every person under the age of 21. The Act relates to the sale and supply of liquor and other related purposes with the object of promoting and encouraging responsibility in manufacture, importing, sale and consumption, through a scheme of licenses. The Government has also initiated a wide-ranging review of the self-regulatory system that controls the advertising and promotion of alcohol. Several recommendations have been made, some of which are aimed at minimising overall exposure of alcohol advertising to children and young people under the minimum legal purchasing age.

Measures to strengthen mental health and counselling services for adolescents

6.40 The Government of Samoa recognises the ongoing challenge and growing significance of mental health on adolescent development. The Government, through the National Health Prevention Policy 2012–2017, has had the opportunity to revisit mental and emotional wellbeing for young people and to give it more urgency going forward.

6.41 Mental health workforce capacity remains a challenge and we acknowledge we need improved case reporting, referral and follow-up systems. Access to suitable medication is not identified as problematic and it is available when prescribed. It is envisaged as we build capacity across the different priority areas, reporting and referral systems will follow a positive trend of improvement.

6.42 Samoa recognises that mental disorders and mental illness are associated with a higher probability of chronic conditions such as obesity, diabetes and cardiovascular disease and therefore related to premature death in some instances. This policy identifies this as a key strategic health area for the various prevention interventions depending on the complexities involved.

6.43 Samoa is aware, mental health is not a one-Ministry lead and fix but requires a collective sense of ownership given that it is a relatively new policy priority area and which previously looked primarily to the clinical health setting as the lead setting to respond to this health area. The Policy invites us to move away from looking just at the clinical setting that is responsive to the more severe mental illness cases and take a more holistic health approach, which recognises other contributing and supportive environments. It invites us to look at increased harmonisation of mental health care services with greater outreach into communities.

6.44 The Policy recognises that we need to consider a youth-focused and youth-driven mental health program that is relevant to young people, using schools, media and social networks. Also, there is the possibility of looking to introduce mental health first aid, alongside other first aid which promotes a common basic understanding in the population of how to deal at a basic level with mental health issues.

6.45 In 2010, the Goshen Trust was set up, which reflects a term in the Bible meaning “a new beginning”. Its primary objective as an NGO was to provide a mental health care service that supports people who experience mental health illness and their families and communities. It also offers residential housing arrangements at minimal cost and weekly life skills programs and other integration programs.

6.46 Faataua le Ola is another non-governmental organisation that plays a key role in preventing suicide from happening in our society. It offers counselling services, support for families and those who are distraught with feelings and emotions of suicide. They have a 0800 helpline open for the general public as especially the young adolescent who may need immediate assistance or counselling over the phone. The same type of free lifeline assistance is also offered by the Samoa Victim Support Group and was recently launched this year.

6.47 The national hospital (TTM) keeps records which are subsequently stored on its Patient Information System (PATIS) to track cases of suicide. Unfortunately, work remains underway for restoring data for 2012 as the NHS PATIS system experienced problems following Cyclone Evan. Two tables below help to paint the picture of suicide for the 18–35 year age group, with a subsequent table looking at teenage pregnancy. There is an evidential trend of decreased suicide in this 18 to 35 age group with the exception of the year 2009. Whether this trend is duplicated in the under-18 age group remains to be quantified and analysed. The recently launched National Health Prevention Policy 2012–2017 and its accompanying Plan of Action should assist greatly in capturing some critical mental health baseline data for the age group under 18, for which a reduction in suicide rates would be a telling performance indicator. Interestingly, the percentage and number of suicide outcomes, where the result is of life as opposed to death, this should give our related medical and counselling support professionals the opportunity to explore in more detail the sometimes alarming scales of attempted suicide, and empower youth to speak up more on the triggers or levers that lead to attempts of suicide across both genders. Teenage pregnancy is also something that should not be ignored when looking at this whole mental health landscape.

Age group	2007			2008			2009			2010			2011		
	F	M	Total	F	M	Total	F	M	Total	F	M	Total	F	M	Total
18–35	11	19	30	4	15	19	13	13	26	5	17	22	8	9	17

Source: Ministry of Health; March 2013: Cases of suicide seen and recorded at the TTM Hospital from 2007–2011.

Age group	2007		2008		2009		2010		2011	
	Deceased	Alive	Deceased	Alive	Deceased	Alive	Deceased	Alive	Deceased	Alive
18–35	12	18	6	13	9	17	11	11	6	11

Source: Ministry of Health; March 2013: Suicide outcomes as recorded at the TTM Hospital from 2007–2011.

Age group	2007	2008	2009	2010	2011
<15	8	7	6	10	9
15–19	368	372	334	358	425
Total	376	379	340	368	434

Source: Ministry of Health; March 2013: Teenage pregnancies recorded at all public health facilities: 2007–2011.

6.48 This key strategic area focusing on mental and emotional wellbeing looks to promote positive early childhood development, including positive parenting and violence-free homes. It reinforces, through the different pillars, social connectedness and community engagement across the life span of individuals. It aims to provide individuals and families with the right support when necessary in order to maintain positive mental wellbeing, while at the same time ensuring early identification of mental health needs and access to quality services. Key strategic directions include:

- (a) Facilitating community health needs assessments to improve on service delivery;

- (b) Enhancing the capacity of the sector to collaborate and fully integrate across the sectors to help identify and support the most at-risk populations, such as youth;
- (c) Increasing the availability and use of preventative research that helps identify effective interventions that can respond to mental and emotional wellbeing needs; and
- (d) Supporting the implementation of both clinical and community services that facilitate and encourage access.

Measures to reduce adolescent smoking

6.49 Tobacco use is a leading cause of premature and preventative death in Samoa. Living tobacco-free lowers a person's risk of developing lung cancer, heart disease, diabetes, and other tobacco-related causes of death. As documented in the Tobacco Control Policy, tobacco-related disease also places a large financial burden on the public health system.³⁶ In addition to the health-care costs in country, much of the medical treatment funded under the Overseas Treatment Scheme is for smoking-related illnesses and the burden is expected to increase as the population ages.³⁷

6.50 Samoa, through its recognition of the implications of tobacco use on its population and resources, recognised the need for effective tobacco control and has now laid the foundation for such an approach. The key building block, the Tobacco Control Act 2008, is intended to protect people from disease and premature death caused by tobacco use. It also provides for the protection of non-smokers from exposure to tobacco smoke, regulates the marketing, advertising, sale, promotion and distribution of tobacco products, and monitors and regulates the presence of harmful constituents in tobacco products. A set of regulations has also been prescribed which designate government offices, public transport, health facilities, schools and restaurants as smoke-free areas.

6.51 The Tobacco Control Policy 2010–2015 builds on the good work that has happened and continues to happen, acknowledging that more can always be done to reduce the demand for tobacco products. It identifies issues and outlines an achievable set of strategies to guide implementation of tobacco control initiatives.

6.52 The focus on national health prevention in the finalising of the National Health Prevention Policy 2012–2017 also provided the opportunity to revisit some of the key goals and indicators covered by the Tobacco Control Policy and capture how as a sector we can use a multiple range of settings to introduce and in some settings reinforce some of the prevention intervention strategies that aim at preventing smoking-related disease amongst both smokers and non-smokers and targeted populations groups. The STEPS Survey 2002 reported that 40 per cent of the total population are smokers. For males the figure is more distressing, as it records 56.3 per cent as smokers and females at 21.8 per cent.³⁸ This National Health Prevention Policy invites mindset and behavioural change that recognises that our future generations, if trends of tobacco use and second-hand exposure continue, are at further risk of premature deaths and this needs to be viewed in the public consciousness as a priority; and to encourage healthy settings that seek to educate on the harmful effects of smoking, physically, mentally, socially and culturally. Key strategic directions include:

- (a) Promoting positive social interactions and enhanced networks that discourage tobacco use;
- (b) Providing individuals and communities with the correct tools and information to make the right choices; and

³⁶ Government of Samoa, Ministry of Health, Tobacco Control Policy 2010–2015.

³⁷ Ibid., p. 20–21.

³⁸ Ministry of Health, Government of Samoa, STEPS Survey 2002.

- (c) Engaging in multimedia as alternative communication tools to reach target groups.

Standard of living (art. 27)

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The Committee recommends that, in accordance with article 27 of the Convention, the State party reinforce its efforts to alleviate poverty and to provide support and material assistance, with particular focus on the most marginalised and disadvantaged families and to guarantee the right of children to an adequate standard of living.

Measures taken to improve living standards

6.53 The Strategy for the Development of Samoa (SDS), which is the country's national development policy framework, is explicit about improving the quality of life for our children. The Community Sector Plan 2011–2015 encompasses many of the experiences and lessons learnt, particularly from the experience and monitoring and evaluation frameworks led by the Ministry of Women, Community and Social Development. In respect of the ongoing development and sustainability of the Community sector, we have had to be increasingly innovative in adopting a sector-wide approach that places education and skills, employment and business, and health as significant drivers and levers to sustainable community development. Strengthened families and communities and improved incomes and living standards are key performance measures in terms of outcomes of the Community Sector Plan.

6.54 While Samoa has performed well in terms of human development, there have been concerns expressed over inequality of income distribution, hardship amongst vulnerable groups, and the lack of formal employment and income-generating opportunities (especially for school leavers). Given that a significant percentage of land in Samoa belongs to customary land owners in the villages and that about two thirds of the population depends on agriculture for food security and livelihood there is a strong correlation between the level of poverty and the performance of the agriculture sector.

6.55 According to a Poverty Report³⁹ developed by the Samoa Bureau of Statistics with UNDP assistance in 2010, the measurement of absolute poverty,⁴⁰ which is used in Goal 1 of the MDGs, currently cannot be estimated in Samoa and other Pacific countries as the PPP indices are not yet available. Subsequently, for the analysis of hardship and poverty in Samoa the household income and expenditure data from the 2008 Household Income and Expenditure Survey was used to estimate food and basic needs poverty lines. In terms of food and basic needs poverty lines, the per capita costs of the basic needs poverty line have been estimated as a national average household expenditure of SAT53.59 per capita per week. Apia Urban Area had the highest at SAT 59.95, with the lowest in Rest of Upolu, at SAT49.46.⁴¹

6.56 The level of serious poverty, as measured by the proportion of households and population falling below the food poverty line is very low; only about 3 percent of households and 5 percent of the population. The average incidence of basic needs poverty

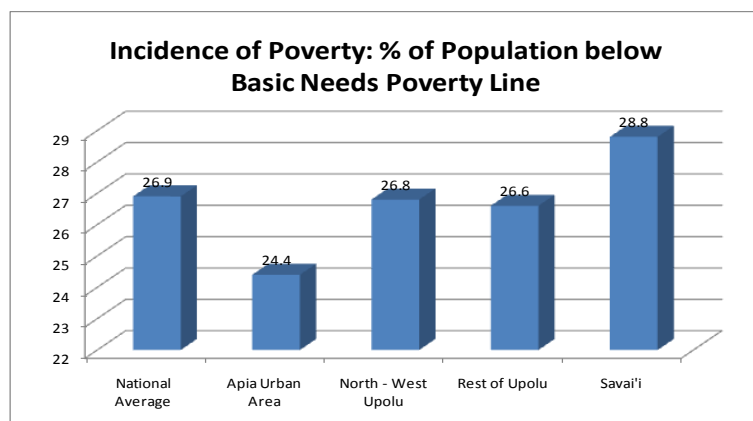
³⁹ A report on the estimation of basic needs poverty lines, and the incidence and characteristics of hardship and poverty, August 2010.

⁴⁰ Measurement of absolute poverty enables cross-country comparisons of the extent of poverty and is usually done through the estimation of the US\$1 per day PPP value.

⁴¹ These are the amounts of expenditure/consumption (cash and/or the value of own production consumed) required each week, to meet the estimated costs of a minimum standard of living in Samoa.

over all households nationally is estimated at 20.1 percent, accounting for 26.9 percent of the population. Within this national average, Savaii had the highest proportion of the population (28.8 percent), followed by North-West Upolu (NWU-26.8 percent), Rest of Upolu (RoU-26.6 percent) and Apia Urban Area (AUA-24.4 percent) as noted in Figure 1 below. Notably, for AUA and NWU the incidence of basic needs poverty amongst the population is little changed from that observed in the 2002 survey.

Figure 1: Incidence of Poverty



Source: Poverty Report 2010 – SBS.

6.57 The increase in basic needs poverty that is seen is concentrated in the rural areas; in rural Upolu the proportion of the population falling below the basic needs poverty line is estimated to have risen from 15.1 percent to 26.6 percent, and on Savaii from 16.1 percent to 28.8 percent. As noted in the report, these significant increases are largely due to the fall in employment at Yazaki which has affected many rural households on Upolu particularly, and also to the increasing demands for cash to meet non-food needs that are being felt by all households as society becomes more monetized. The report makes suggestions on ways to address the growing signs of hardship and poverty. These have been considered and adopted extensively in the Community Sector Plan 2011–2015 and the Agriculture, Fisheries and Forestry Sector Plan 2011/12–2015/16. They include but are not limited to:

- (a) Broadening and deepening the country's economic base, especially in strengthening the development and contribution of the agriculture sector to GDP and to providing food security;
- (b) Greater emphasis on promoting private sector investment, improving community access to financial services and the creation of new employment and income opportunities;
- (c) At the micro level, it is necessary to address the specific needs of individual communities and villages. This means promoting rural enterprise activities, especially in the agriculture and ecotourism sectors, to create income-generating opportunities as well as meeting particular local social development and infrastructure priorities; and
- (d) The current high prices of imported food and fuel give many opportunities for domestic agriculture to provide import substitutes for the rice and cereal products that feature in the diets of those in the urban centres.

6.58 The next five years will be an exciting and challenging time of revitalization for the Ministry. During this time we will be focusing our efforts on those areas where we can make the greatest difference to improve the social and economic wellbeing of our communities. We need to be very clear about our priorities, how we can make a difference

and what our ‘vital few’ projects are. It is intended that this Ministry be more outcomes-focused and to add value across the community sector by playing a critical linking and strategic role across the range of issues impacting the social, economic and cultural wellbeing of our communities.

6.59 The Community Sector Plan is clear about its vision of Strengthened Families and Communities. We are clear what it means as a country to realise our vision for the Community Sector. It means:

- (a) All decision-makers and influencers understand and support the argument that strengthened families and communities are integral to improved economic and social development of Samoa;
- (b) Families and communities are strong and resilient;
- (c) Improved community safety;
- (d) Strengthened community security within community justice system;
- (e) There is increased community ownership and participation in community initiatives and programs;
- (f) Increased subsistence production;
- (g) The community workforce represents a skilled and versatile workforce;
- (h) Children live in healthy and safe homes;
- (i) Improved access to basic services and infrastructure;
- (j) Improved educational outcomes at all levels;
- (k) Higher economic living standards;
- (l) Small and medium family and community businesses are key to sustainable community development, in particular Samoa’s economic development; and
- (m) Stakeholders’ decisions are based on best evidence and information about community development and wellbeing.

6.60 Our Ministry designed and developed a Strategic Outcomes Framework at the same time as the Community Sector Plan, to provide a means of identifying priority areas for the development of our communities, and the key issues and points of leverage for government and relevant stakeholders in pursuing that development. The Strategic Outcomes Framework illustrates the relationships and connections between the key outcome areas. The Strategic Outcomes Framework describes two core outcome areas and three enabling outcome areas that are particularly important for the wellbeing of our communities:

- (a) Core outcome areas are: income and living standards, and family and community strength;
- (b) Enabling outcome areas are: health, education and skills, employment and business.

6.61 The foundation for sustainable change for our most vulnerable and marginalised will be through education and skills development, improved health and increased employment and business opportunities. These improvements will be realised when as a Sector we see tangible evidence that:

- (a) The numbers of Early Childhood Education centres in our communities increases and the ECE models will work in terms of equitable access and quality participation;

- (b) Both parents and teachers expect our children to be successful at school and enable them to achieve;
- (c) There are increased levels of qualification attainment and increased numbers of students leaving school with the highest secondary school qualification;
- (d) There is an increased convergence of incomes to qualifications;
- (e) There is an increased involvement in successful business;
- (f) There are decreased levels of health disparities;
- (g) There is increased participation in trades and other specialist skills areas;
- (h) There will be increased workforce participation rates; and
- (i) Better employment prospects.

6.62 Most importantly, the Ministry will continue to act as a catalyst for change on issues of importance for the social and economic development of our communities, with particular focus on the most disadvantaged and vulnerable, by identifying key issues and developing projects and initiatives, either on our own or with partners to address these issues. We will pilot new initiatives, monitor existing initiatives, and evaluate these initiatives and disseminate our findings. Our performance will be measured by how we will:

- (a) Facilitate the Community Centered Sustainable Development Programme;
- (b) Maintain an index of subsistence production;
- (c) Increase the percentage of communities with access to treated water supplies and adequate sanitation;
- (d) Increase the percentage of participation of women in assisted programs such as Women in Business;
- (e) Increase production of *Ie Samoa* and *Siapo*;
- (f) Increase the number of villages in village-based development programmes;
- (g) Encourage greater participation of women and youth in agriculture and fisheries;
- (h) Increase the percentage of small businesses funded by Micro Finance schemes; and
- (i) Implement the Poverty Reduction project.

6.63 Supporting initiatives that complement the Community Sector Plan and Work programme include:

- (a) The Samoa School Fee Grant Scheme. This scheme is primarily aimed at access and participation goals, and more specifically at universal primary education by 2015, acknowledging our international obligations, combined with the increasing concerns around quality of education. The Government of Samoa (GOS) decided in 2010 to commit to and promote the Samoa School Fees Grant Scheme. New Zealand and Australia responded positively and agreed to support the Samoa School Fee Grants Scheme (SSFGS/the Scheme) provided that it was designed to reduce financial barriers to primary schooling, assist schools to improve their teaching and learning processes and improve school-level resource management. A recent 2012 Independent Review report indicated that the scheme is well placed to deliver on its intended aims of increasing primary school enrolment and retention and improved school performance as against accepted Minimum Service Standards (MSS);

(b) The full operation of the Civil Society Support Fund Program provides the funding and technical opportunity to further support developments for the informal sector, in the areas of social, health and education, thus supporting small- and large-scale communities and families, to care for their children;

(c) The Ministry of Education also has a 'school assistance' program that supports children from the most vulnerable families should there be a need;

(d) Primary Health Care – antenatal care for pregnant mothers is free of charge at all national health services centres except for private medical clinics. Also, newborn babies' immunization and check-up at the National Hospital is free of charge from birth until three years and half price is charged for medication.

Children and disaster preparedness

6.64 In 2009, Samoa was devastated by a tsunami, where 5,000 people were directly affected, an estimated 2.6 percent of Samoa's total population. A total of 143 people died including 9 foreigners and 4 people who remain missing and are presumed dead. The number of children under the age of 18 that died during the tsunami when disaggregated by gender totals to 36 males and 28 females. A total of 81 per cent of children that died were below the age of 5.

In terms of country response

6.65 Through the assistance and support from the National Emergency Operation Centre – a number of government ministries and non-governmental organisations assisted with distribution of relief supplies such as tarpaulin, food, clothing, and plastic water containers for village camp shelters. In addition, Samoa was immediately assisted by a number of agencies of the United Nations system, overseas donors, local and international aid agencies once Samoa declared a state of emergency. Response efforts included psychosocial support which was provided by MOH, NHS through the mental health unit, the Ministry of Women Community and Social Development through the support of the Village network, faith-based organisations – Caritas Catholic Family Ministry, Youth with a Mission and church ministers, Mapusaga o Aiga, SUNGO and Samoa Victim Support. Other government ministries including the Disaster Management Office, civil society, private sector firms and NGOs dedicated resources and services for the affected communities to restore hope, dignity and integrity to the lives of those affected by the tsunami. The Government, with technical and financial support from development partners, is working on improving its early warning systems at the national level as part of implementing Samoa's national disaster management plan and based on previous disaster experiences.

6.67 To date, the Ministry of Women Community and Social Development works closely with the Disaster Management Office (DMO) and other relevant ministries continue to carry out and facilitate community preparedness natural disasters including climate change impacts. This process is facilitated into community groups through the Village council, Women's Committee, Young people and children to ensure increased awareness and improved family and community-level preparedness and how to cope and recover during and after the post-disaster period.

6.68 Climate change is a global issue, and it is one of the key priority areas in the Community Sector Strategy for all relevant ministries and organisations to work together to ensure that Samoa's people are educated and aware of the effects of climate change on their health, social and economic status, tourism and society. Samoa through various government ministries such as the Ministry of Natural Resources and Environment, Disaster Management Organisation, Ministry of Health are working together to advocate for disaster

preparedness and response, as it is a very important issue for the people in the community to be educated and aware of such events. Furthermore, the MWCSO together with the DMO are encouraging villages to develop their own disaster preparedness plans, which includes evacuation sites, safety shelters on higher ground and shelter management to ensure that all people including those with disability are aware of these evacuation sites/plans and know what to do in case of a disaster.

6.69 The MWCSO continues to coordinate, facilitate and monitor the Aiga and Nu'u Manuia Program (ANM) Family and Village Well-being Program. It is through this initiative that families at the community level are encouraged to live in clean healthy environments, have access to clean sanitation, clean and healthy kitchen, bathroom facilities. Furthermore, it encourages families to plant and grow enough vegetables for their everyday supply and also for times of disaster. This is one way of getting families prepared by planting enough crops and vegetables that people can rely on during or after a disaster. With regard to health-related issues, mothers are encouraged to breastfeed their babies, to boil any drinking water before consumption and to ensure that hands are washed at all times to avoid any spread of any disease and illness in the family.

6.30 The Government of Samoa established its Disaster Management office under the Ministry of Natural Resources and Environment in 2005, following the developing of Samoa's first National Disaster Management Plan 2006–2009. A revised National Disaster Management Plan (policy) 2011–2015 and Samoa's National Action Plan for Disaster Risk Management 2011–2016 are the two core documents that are used to mandate and guide the work on disaster preparedness at the national and local level in Samoa.

Part 7

Education, leisure and cultural activities

Education

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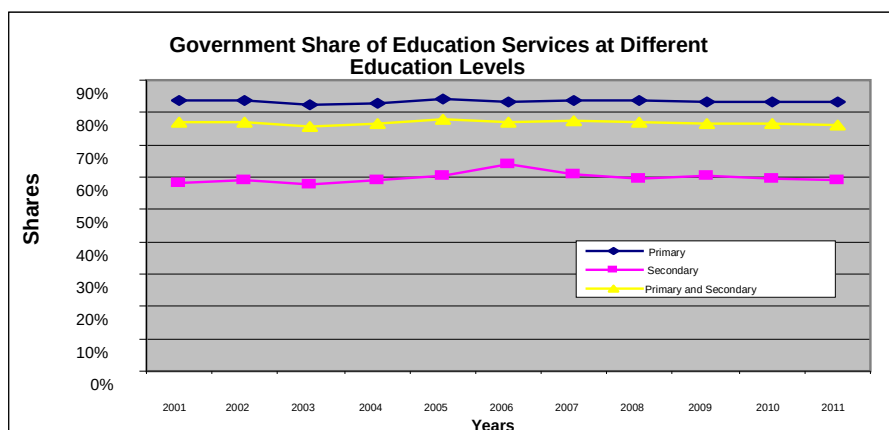
The Committee recommends that the State party take appropriate measures to:

- (a) Ensure regular attendance at school, reduction of drop-out rates and the incorporation of vocational education in school curricula;**
- (b) Increase public expenditure in education and ensure free and compulsory education at the primary level;**
- (c) Strengthen its efforts to improve the quality of education through providing appropriate and continuous training to teachers; and**
- (d) Continue to strengthen its technical cooperation programmes with UNESCO.**

7.1 There have been a large number of changes across the whole education sector since the last report, from early childhood education and care to compulsory (primary and secondary) and tertiary education. The aim of the changes has been to ensure that all Samoans have the opportunity to access and receive quality education that is responsive to development needs and is delivered in a manner and settings appropriate to individual students' learning needs and abilities.

7.2 The Education Act 2009, effective as of February 2010, repealed the Education Ordinance 1959 and now provides the framework within which all education developments operate, and in particular the enforcement of compulsory education, which will ultimately

work towards achievement of universal primary education for all. The enforcement of compulsory education is being driven in partnership between the Ministry of Education, Ministry of Police, Ministry of Women, Community and Social Development (MWCSD), the community school committees and the Office of the Attorney General. A key challenge associated with enforcement of the compulsory education provisions has involved the law enforcers facing some resistance from parents. Parents are continuously warned and yet it is not long before non-attendance can creep back in amongst identified families. While there have been numerous and ongoing awareness programs on the provision of compulsory education as stipulated in the Act, and the support of the school fee relief scheme, there are still some children who are not in school for various reasons.



7.3 The Education Sector is defined as the provision of services to the four levels of education, namely early childhood, primary, secondary and post school education and training. This definition is consistent with the provision of education services stipulated in the Education Act 2009. The three main government agencies operating in this sector are the Ministry of Education, Sports and Culture (MESC), the National University of Samoa (NUS) and Samoa Qualifications Authority (SQA). Most of the other stakeholders are school providers (Mission, Private Schools) and Non-Governmental Organisations (NGOs) that engage in the provision of educational services.

7.4 The Government of Samoa is the main service provider for educational services in the Primary, Secondary and Post-Secondary Education and Training (PSET) levels. Early Childhood Education Centres (ECE) and Inclusive Education Programmes⁴² are serviced primarily by Non-Governmental Organisations (NGOs) and private entities.⁴³ MESC and SQA receive a direct budget allocation from the Government of Samoa, where a grant allocation to NUS and other non-government schools is provided directly by MESC. In the last five years, the annual education sector spending initially reduced after 2006/07 for three consecutive years but recovered and increased thereafter.

7.5 The major development programme for education in the last five years has been the ESP II jointly funded by Australia, New Zealand and the ADB. Other development projects have included the ADB funded School Net, Community Access project and the Samoa

⁴² The Samoa Inclusive Education Demonstration Programme commenced in 2010, the objective of which was to eventually bring special needs into the education sector wide approach and be part of the core business of MESC. The key NGO service providers Loto Taumafai and Senese noted an increase in enrolment from 123 students in 2006 to 237 in 2010.

⁴³ There are considerable gaps and/or absence in consistent assessment and monitoring of student achievement available from the MESC in the two sub-sectors of ECE and Inclusive Education due to key service providers falling outside of Government.

School Fee Grant Scheme (SSFGS) jointly funded by Australia and New Zealand and Government of Samoa budget support.

7.6 Essentially the drivers for the SSFGS are to increase school enrolment and retention in primary schools and to improve performance as measured against best practice Minimum Service Standards. Therefore, there is a strong focus on systems, processes, monitoring and reporting. It is intended that the SSFGS benefits all Samoan primary schools with the exception of private primary schools but including mission primary schools, and also those schools that service students with special needs. It provides a means by which grants under the scheme could substitute the charging of school fees and provide an avenue where schools are provided with adequate resourcing to assist them in meeting the MESC Minimum Service Standards (MSS).

7.7 The Scheme was designed to be managed by the Ministry of Education, Sports and Culture (MESC) with the first three years of implementation to be supported by a team of consultants who were designated to work with both MESC and Primary schools to establish the Scheme, and provide training, monitoring and accounting support. The costing rationale was that for the first two years the Scheme would be funded by Australia and New Zealand and with the Government of Samoa contributing from the third or fourth year with the aim of progressively raising its contribution to 70 per cent by 2014.

7.8 As part of the ESP II, the Samoa National Teacher Development Framework was launched in September 2011 and provides a policy framework for teacher management, professional standards and development as well as conditions of work and salary negotiations. Implementation of the NTDF enables teacher appraisal processes, to diagnose teacher development needs and to monitor teacher practice in schools for best practice and to evaluate the impact on student learning. There were 2,361 teachers at primary and secondary school levels in Samoa with 1,682 teachers in government schools, 512 in mission schools and 167 in private schools.⁴⁴ The majority of teachers are female (69.4 per cent) compared with male (30.96 per cent). Within the context of the teaching profession it has been identified that there is a need to assess the role of gender in teaching and learning, given that the SPELL assessment results for the period 2004 to 2010 denote a significant gender gap in boy and girl student achievement in English and Numeracy. The NTDF also highlighted the need for all teachers without teaching qualifications to obtain a teaching qualification. The student-teacher ratio for primary education is 30:1, whereas for secondary it is 20:1. The table below reflects an improvement in the percentage of government primary schools that meet the student-teacher ratio. Unfortunately, government secondary schools show a decrease in the percentage of schools that meet the student-teacher ratio due to an increase in the number of student enrolments while teacher numbers are increasing at a much slower pace, a challenge that the Ministry of Education is working towards addressing.

Primary						Secondary					
2006	2007	2008	2009	2010	2011	2006	2007	2008	2009	2010	2011
51%	57%	59%	63%	60%	77%	52%	52%	67%	50%	50%	58%

Source: MESC Statistical Digest 2011.

7.9 Programs undertaken by MESC to improve the quality of teaching service include: managing training to upgrade content knowledge; training in pedagogy; training by subject clusters; centralized and school-based professional development training; school-based

⁴⁴ Draft Education Sector: Situational Analysis page 13.

monitoring of the quality of teaching and learning; and teacher performance appraisal. Teacher shortage is addressed by the Alternative Teacher Training Program, of which the first and second cohorts were awarded Diplomas in Education in 2011 and 2012.

7.10 The integration of computer and communications technology into education is still in its initial stages and is implemented through a variety of projects such as School Net. The Samoa School Net and Community Access project is an initiative of the Government of Samoa and is funded by the ADB. The initiative is now in its early stages in piloting an appropriate model for introducing ICT into schools and communities. It is proposed that a fully equipped learning centre with computers, photocopier, camera, DVD, printer, internet facility, fax facility and multimedia projector will be located in schools for the use of students and teachers during school hours, and for the respective school community as a business venture to cater for their community members after hours.

7.11 The MESC Strategic Policies and Plan: July 2006–June 2015 guided educational development from 2006 to 2011 as the Education Sector Plan with 18 policy areas from early childhood education to primary, secondary and post school education and training (PSET). In the SESP, the 18 policy areas have been regrouped into the 5 goals and which are the policy areas which have been used as the starting point for its development. In addition, the Government of Samoa SDS 2012–2016; the PSET Strategic Plan 2008–2016; and the NUS Strategic Plan 2010–2020 also guided the work of the Education Sector Working Group in finalising the Education Sector Plan 2012–2016.

7.12 In November 2011, the major stakeholders in the education sector took an unprecedented step in the preparation of their input to the Government of Samoa Strategy for the Development of Samoa (SDS) 2012–2016. Instead of preparing as autonomous entities and separately in their own individual planning and management units, the three entities came together in a consultative meeting to agree on a Key Outcome for the Education Sector⁴⁵ in the next SDS. This was identified as Key Outcome 6: Improved Educational Outcomes. Furthermore, the 18⁴⁶ policy areas originally identified and referred to as the Education Sector Plan⁴⁷ have been regrouped to 5 policy areas on which the main agencies have agreed to focus development across the sector over the next four years. Thus the formation and establishment of the education sector to raise awareness and recognition on the importance of education and improve planning, management, communication, coordination and monitoring of education services to better support sector member agencies and collectively advise the Ministry of Finance (MoF) on how to best allocate funding. The Education Sector Plan covers the fiscal years from July 2012–June 2016, and complements the three Strategic Plans for the three main agencies, namely MESC, SQA and NUS. Its primary goals are:

- (a) Enhanced quality of education at all levels;
- (b) Enhanced educational access and opportunities at all levels;
- (c) Enhanced relevance of education and training at all levels;
- (d) Improved sector coordination of planning and policy development; and
- (e) Established sustainable and efficient management of all education resources.

7.13 The changes recognise the important role education plays in enabling every child to achieve their full potential and the positive contribution it makes to their social and economic well-being. These changes include:

⁴⁵ Afamasaga G. T. (2011). Education Sector Situational Analysis.

⁴⁶ These 18 policy areas are identified in the MESC SPP July 2006–June 2015.

⁴⁷ This is the MESC SPP July 2006–2015.

- (a) Investing in the workforce and providing ongoing professional development;
- (b) Implementing a new and innovative primary curriculum and achievement system;
- (c) Implementing a range of strategies to improve educational outcomes for all, with a focus on ECE, Vocational studies and those with learning difficulties;
- (d) Creating a new sector-wide Results Framework to measure sector performance and the implementation a Monitoring and Evaluation Framework; and
- (e) Recognising the need to develop an MTEF for the education sector has as part of development work for the sector and the move towards budget support, an approach favoured by government through the MoF. The MTEF will cost the Samoa Education Sector Plan and ensure that it is consistent with the resources.

Early childhood education

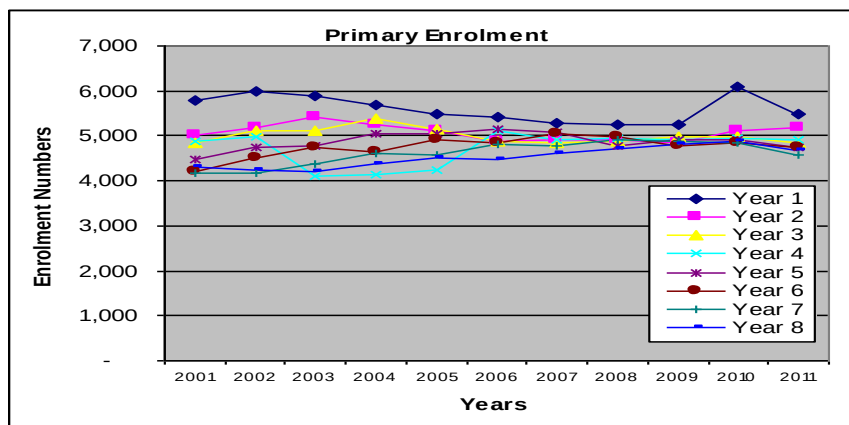
7.14 Early Childhood Education (ECE) in Samoa is for children from 3 to 5 years old. Programs are administered under the umbrella of the National Council for Early Childhood Education (NCECE). The Ministry of Education continues to work collaboratively with the National Council on Early Childhood to:

- (a) Monitor and enforce the Early Childhood Education age requirement;
- (b) To provide pre-service and in-service professional development for teaching staff;
- (c) To provide ECE training Certificate for interested candidates; and
- (d) To monitor the effective implementation of curriculum guidelines and resource kits.

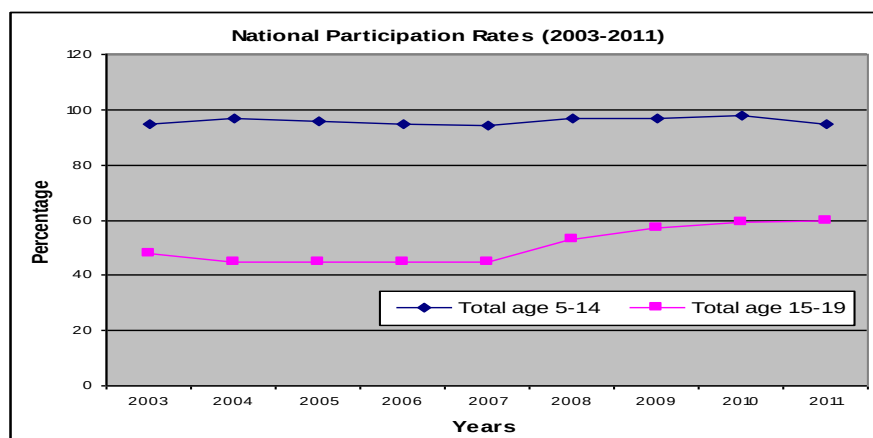
7.15 The participation rate in ECE remains low, and continues to be monitored by the National Council of Early Childhood Education of Samoa (NCECES). The standards for ECE Centers were set by the NCECES, which monitors the quality of ECE Centers to ensure the educational, social and physical welfare of children. Professional development of ECE teachers is ongoing and is coordinated by the NCECE in collaboration with MESC. With move to Sector approach and formalising of ECE as part of the Sector and subsequent budget allocations, we can expect to see dramatic improvements looking ahead to the next reporting period.

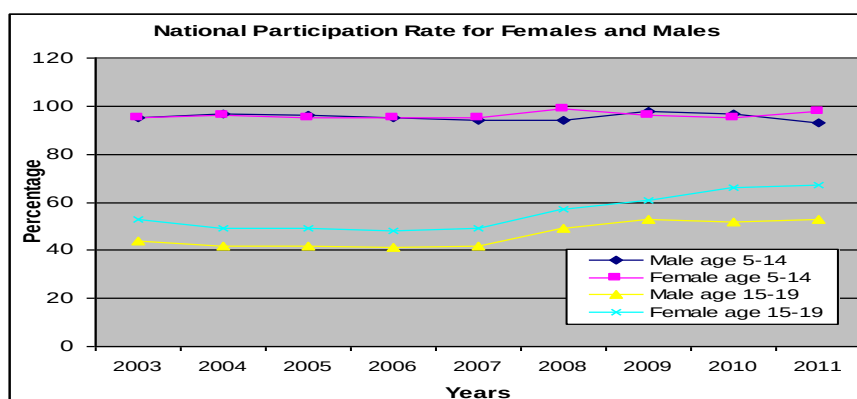
Compulsory education

7.16 There has been a steady decrease in student enrolment in Year 1 from 2002 (5,987) to a downward trend from 2003 (5,893) to 2009 (5,239) peaking in 2010 (6,086) with a sharp unexplained drop in 2011 (5,470). Year 8 enrolment has shown steady growth from 2001, peaking at 2010 with a downward shift in 2011. The overall downward trend in 2011, with the exception of Year 2 where there was a slight increase, may be attributed to the tightening of the school enrolment system where a student is given a single registration number for the duration of their schooling life.



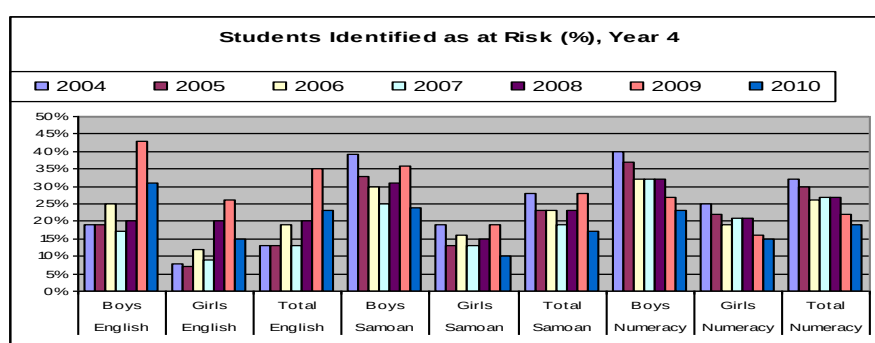
7.17 The national participation rate for ages 5–14 has been steady from 2003 to 2010, with a slight decrease in 2011. This compares with the ages of 15–19, which have shown a steady and significant increase from 2007 to 2011 reflecting overall increased participation at secondary levels. The national participation rate for female students is better than for their respective male peer groups. For males aged 5–14 they are on par from years 2003 to 2007 then dip in 2008 just below 100 per cent then increase slightly again in 2009 and 2010 dropping below female students in 2011. As student peer groups get older the overall participation increases from 2003 to 2011, however the gap consistently widens between male and female students for the age group 15–19, with national participation for females increasing from above 50 per cent in 2003 to above 60 per cent in 2011 compared with male students above 40 per cent in 2003 to above 50 per cent in 2011. This further highlights the need for gender analysis in the male student academic achievement, given the widening enrolment levels at the high school levels.





7.18 Dropout, Transition and Completion Rate. Except for the transition rate from Year 1 to Year 2 the rates for all levels are high. The transition rate from year 8 to 9 has shown a decrease since 2008 90 per cent to 85 per cent in 2011.⁴⁸

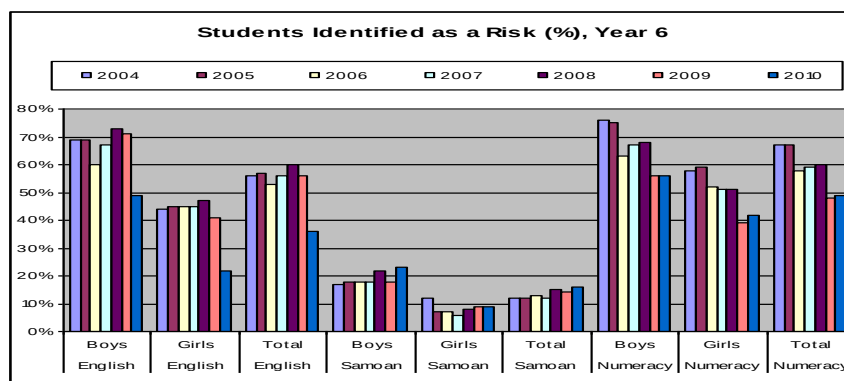
7.19 SPELL 1 (Year 4) Assessment 2004–2010



The SPELL test is used as a diagnostic for the levels of literacy in English, Samoan and Numeracy after four and six years of schooling. Data collected from students identified as at risk in Year 4 from 2004 to 2010 show that girl students are consistently doing better than boy students in the SPELL assessment. While there has been some improvement over the period 2004 to 2010, there has been an overall increase of children at risk in English. In contrast, there have been slight overall improvements in Samoan and Numeracy for the same period. With respect to gender assessment, girls consistently performed better than boys in all assessment subjects for the period 2004 to 2010, whereas numeracy has been the only subject that has shown slow but steady improvement by boy students.

7.20 SPELL 2 (Year 6) Assessment 2004–2010. Data collected to identify at-risk students in Year 6 from 2004 to 2010 continued to show that girl students are performing better than boy students in the SPELL 2 assessment. With the launch of the National Assessment Policy Framework in 2010, the efficient evaluation of student learning outcomes will remain critical including measures for tracking student achievement and making timely interventions where appropriate.

⁴⁸ Draft Education Sector: Situational Analysis 2011, page 8.



7.21 The new outcomes-based primary curriculum which focuses on the child (child-centered) and related teaching materials were trialled in schools in 2011 and rolled out in 2012. This gives schools the opportunity to have access to a more practical and relevant teaching and learning environment. The new primary curriculum and related instructional materials emphasize more active, child-centered learning activities in the classroom, and assessment techniques essential for high-quality learning. The primary curriculum has been expanded to include national curriculum statements for Health and Physical Education and Expressive Arts to further support a broad and balanced education. Training of teachers on the new curriculum has also been undertaken.

Secondary

7.22 The secondary education program covers five years, from Years 9–13, with certain senior secondary colleges, both public and private, offering a full program up to Year 13. Secondary schools are located in all educational districts, giving access to students to enrol in secondary education.

7.23 Secondary enrolment is not compulsory but has continued to increase since 2006 as shown in the tables below. The Gross Enrolment Rate (GER) remained at the same participation level as in 2011 while the national enrolment rate (NER) shows improvement in the level of participation. There is female dominance in secondary schooling.

7.24 **Table 1: Secondary Enrolment 2006–2011**⁴⁹

Gender		2006	2007	2008	2009	2010	2011
Total gender	Male	7 162	7 186	7 300	7 426	7 653	7 716
	Female	7 953	8 016	8 023	8 287	8 616	8 670
Overall total		15 115	15 202	15 323	15 713	16 269	16 386

Source: MESC Manumea Database.

Table 2: Secondary GER by Gender

	2006	2007	2008	2009	2010	2011
GER Male 13–17	69%	69%	70%	71%	73%	73%

⁴⁹ MESC Educational Statistical Digest 2011.

	2006	2007	2008	2009	2010	2011
GER Female 13–17	84%	84%	84%	86%	89%	89%
GER Total 13–17	76%	75%	77%	78%	81%	81%

Source: MESC Manumea Database.

Table 3: Secondary NER by gender

	2006	2007	2008	2009	2010	2011
NER Male 13–17	60%	63%	64%	63%	63%	64%
NER Female 13–17	73%	76%	76%	78%	78%	80%
NER Total 13–17	67%	69%	70%	70%	70%	72%

Source: MESC Manumea Database.

Children's Library initiative at Hospital

7.25 The “Children’s Library” initiative, which operates out of the Paediatric Ward at Samoa’s National Hospital, was launched in 2008 and is focused on young children and their caregivers/parents who are being admitted to the hospital for long periods of time. This project, coordinated by Samoa’s Association of Women Graduates (SAWG), ensures access by children to reading and writing materials so they continue to be engaged in educational activities while in hospital. The project is considered a great success as the children take advantage of this opportunity for learning through reading, writing, storytelling or even watching DVDs and videos. SAWG hopes to include more males in their projects and activities so as to continue advocating for equality in society.⁵⁰

Special needs education

7.26 Under the Education Act 2009, education is compulsory for all children primary aged children from 5 to 14 years of age including children with disabilities. Special Needs Education Providers (Loto Taumafai, Aoga Fiamalamalama, PREB, SENESE and Special Education Unit Savaii–Vailoa Palauli) continue to offer programs for special needs students. Enrolment has increased within these institutions since 2006 as shown in table 4.

Table 4: SNE Enrolment 2006–2010⁵¹

<i>SNE Enrolment 2006–2010</i>					
2006	2007	2008	2009	2010	
123	194	210	237	237	

Source: MESC–PPRD.

7.27 The Pacific Regional Initiative for Development of Education project supported many of the activities for children with disabilities to ensure effective learning, teaching and participation of SNE providers. Achievements have continued to be strengthened under

⁵⁰ Eteuati Niusila; Update Notes from SAWG for CEDAW report 2009.

⁵¹ MESC Strategic Policies and Plan July 2006–June 2015: Mid-Term review July 2006–December 2010.

the new Inclusive Education Program funded by the Samoa-Australia Partnership Program and the new primary curriculum under ESP II.

7.28 Special Needs Education has been a major course for primary teacher trainees studying towards the Diploma in Education at the National University of Samoa since 1998. The first intake of graduates specializing in Special Needs Education graduated in 2000, and there has been an increase in the number of teacher trainees majoring in Special Needs Education since. For secondary school teacher trainees taking a special needs education paper has been made compulsory but has yet to be taken as a major area of study. The National University of Samoa through the Faculty of Education is working towards developing the Special Needs Education Course towards a major for secondary teacher trainees at the Diploma level as well as having it as a major for the Bachelor of Education program.

Rest, leisure, recreation and cultural activities (art. 31)

7.29 Sports and recreation facilities are provided by schools and in community settings where they are managed by either local village councils or charitable organisations. A number of villages and districts have developed specific programmes aimed at children and young persons and are involved in projects that are focused on providing social and recreational activities for youth.

7.30 The Ministry of Education, Sports and Culture (MESC) is the primary Government Sector responsible for sport and recreation. It provides leadership in research and policy development and implementation. It provides advice, guidance and support to schools and sporting organizations and nurtures talented individuals. The launching of the Samoa National Sports Policy (SNSP) in September 2010 paved the way for the development of initiatives and activities for the SNSP. The revival of the Fiafia Sports Program was made possible under the Samoa Sports for Development Program. Its major achievement was the development of a Fiafia Sports Manual with additional resources and sports equipment distributed to the schools in a phased approach. To date, 85 schools have been included in the Fiafia Sports Program now expected to be completed in 2014. In partnership with the Samoa Football Federation (SFF), the MESC signed an agreement in 2010 to implement the Just Play program in primary schools. The opening of a range of sporting facilities that coincided with Samoa hosting the 2007 South Pacific Games meant the country has seen increased organised participation of men & boys and women & girls across a number of sporting codes. Swimming, weightlifting, archery, hockey, tennis, English cricket, rugby, netball and soccer, to name a few, have seen improved participation levels through the associated sporting and school bodies getting more involved in the development of sport as well as the availability of sporting facilities to support sports for development.

7.31 The Special Needs Games has also become an annual event. These games are coordinated together with Special Needs Schools and Providers. The Sports Division had also assisted in coordinating Samoa's participation at the Fiji Paralympics, and continues to support these sporting initiatives for children with special needs, both financially and technically.

7.32 Another achievement in the sports area is the inclusion of the Health and Physical Education (HPE) subject as an examinable subject on the Samoa School Certificate Examination and the Pacific Senior School Certificate in 2009 and 2010 consecutively.

7.33 Cultural activities are an integral part of national school events every year, for instance Samoan Cultural Day, World Food Day, English and Samoan speech competitions, Interschool general inter quizzes, and career days are some of the important skills-building events organized for children as part of their learning.

Part 8

Special protection measures

Economic exploitation including child labour (art. 32)

CRC/C/WSM/CO/1 Page 11: Para. 55

The Committee recommends that the State party undertake a study to determine the root causes and scope of child labour in order to develop and implement well-targeted programmes to reduce and eliminate child labour. In addition, the Committee recommends that the State party expedite the passing of the Education Bill, which will regulate the employment of school-aged children. The Committee also recommends that the State party ratify ILO Conventions No. 138 (1973) concerning the Minimum Age for Admission to Employment and No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Furthermore, the Committee recommends that the State party seek technical assistance from ILO/IPEC.

8.1 The State party is happy to report that we have made substantial progress against the recommendations proposed by the Committee. Firstly, on the legislative front, we have the Education Act 2009, which stipulates that all children must attend school and that no one is to arrange for children to conduct vending activities during school hours.⁵² Monetary fines are in place for parents and guardians of children caught breaking the law. Monitoring and enforcement at the village level are also being pursued by the MESC school officers, police officers and assisted by the village and government women representatives. We also have the Labour and Employment Relations Act 2013 which, as mentioned in paragraphs 2.6, 2.7 and 2.8, provides and regulates for minimum ages of employment. The Child Care & Protection legislation also provides protection for children carrying out vending activities after school hours daily.

8.2 The State party is equally happy to report that the Government of Samoa has ratified ILO Convention No. 138 concerning the Minimum Age for Admission to Employment and ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on 30 June 2008. We are also at the moment, through our Ministry of Commerce, Industry and Labour, in the process of ratifying ILO Convention No. 189.

8.3 Despite legislative efforts, we still recognise that vending by children remains a challenge and represents not only a burden for children and their families but a serious concern for Government and the rest of our communities. The baseline review and the Care and Protection Research Report 2011 revealed that Samoa has not fully complied with 82 per cent of the indicators for Child Labour and Children in the Streets.⁵³ The Ministry of Education and Ministry of Police have stepped up their efforts, and designated ‘school attending officers’ have warned the parents of these children on numerous occasions, but these warnings have failed to instigate a mindset change from some parents, which we desperately need. Parents and children alike have grown more street-smart where they evade law enforcers. Country based Pasefika Mana Samoa Social Service conducted over 2011 and 2012 a Profiling Child Vendors Survey; with the objectives of trying to identify the substantial number of child vendors in Apia, to record vendor profiles, to look at the concept of poverty of opportunity and disseminate the findings to help inform further research and also assist in formulating options to address this challenge. It was a

⁵² Allocated times for School Hours are 8.15 a.m. to 1.45 p.m.

⁵³ Baseline Research, pp. 63 and 64.

questionnaire assisted survey of 194 child vendors, of whom 142 were male and 52 female. The survey alone had challenges, especially around parents consenting to their children being interviewed, and some limitations in terms of respondents understanding the questionnaire, but the anonymity of those profiled assisted in children and parents being forthcoming in their responses and discussions. The key findings basically reconfirmed the findings of previous studies by GoS in 2010, GoS and UNICEF in 2006 and MWCSO in 2005 which described child vendors as being commercially exploited by their parents and families, deprived of academic opportunities and neglected.⁵⁴ The complexities of family and community influences combined with impacts of poverty are described as having the greatest impact on vending by children. A number of contributing issues were identified that required further addressing.⁵⁵ These included but were not limited to:

- (a) Family attributes;
- (b) Parental education levels;
- (c) Level of family resources;
- (d) Levels of communication;
- (e) Family structure and type;
- (f) Parental attitudes and practices;
- (g) School and family and community partnerships.

8.4 The Baseline Research Report states that the protection provided by the existing laws needs strengthening. The existing laws need to explicitly address in detail the pay/wages of children; the conditions and the type of work that are permissible or not permissible for the different age groups. The current laws also need a complaints mechanism that is child-specific and child-friendly. The Baseline Research found the enforcement provisions of the Education Act 2009 inadequate, particularly in relation to the increase in child vendors in Apia.

8.5 In order for Samoa to be more compliant with child labour indicators, we have identified through both the research findings and recommendations from the Samoa Law Reform Commission, based on their review of the research report, a key number of areas that need increased attention. Some of the issues raised in the Baseline Report have been addressed in recent law reforms and have formed parts of draft legislation currently awaiting Parliamentary endorsement. There is latitude to introduce more amendments looking forward. Looking ahead we intend to strengthen efforts that will:

- (a) Ensure that we do not criminalize vagrancy or other status offences and that children living and working on the street are not subject to arbitrary police arrest or detention;
- (b) Provide appropriate standards for children's work and pay in both the formal and informal sectors;
- (c) Define the minimum age for employment as not less than 15 years and at least equal to the age of completion of compulsory education;
- (d) Include provisions regulating permissible work by children over the minimum age, including regulations defining the hours and conditions of work for children (formal and informal sector);

⁵⁴ Pasifika Mana Samoa Social Service 2011–2012; Profiling Child Vendors Survey Phase 1, p. 9.

⁵⁵ Ibid., p. 10.

- (e) Prohibit anyone under the age of 18 years from engaging in any type of employment or work that by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons, including hazardous work, work that interferes with the child's education or any work that involves cruel, inhuman or degrading treatment, the sale of children or servitude;
- (f) Clearly define the types of work that are prohibited for children;
- (g) Specify exemptions to the definition of child labour;⁵⁶
- (h) Require that employers should have, and produce on demand, proof of age of all children working for them;
- (i) Train and sufficiently empower labour inspectors to enforce child labour laws, including the authority to immediately remove a child from a work environment that is hazardous or harmful to the child's health or physical, mental, spiritual, moral or social development;
- (j) Provide an independent, child-friendly complaints avenue for the investigation, consideration and resolution of complaints regarding breaches of children's labour rights;
- (k) Prohibit the use of children for all forms of research, including medical or scientific experimentation, unless appropriate consents have been obtained from the child and/or parents or legal guardians; and
- (l) Establish a national strategy for the elimination of the worst forms of child labour.

Sexual exploitation and sexual abuse (art. 34)

CRC/C/WSM/CO/1 Page 11: Para. 57

The Committee recommends that the State party:

- (a) Conduct a study to determine the root causes and the scope of sexual exploitation;**
- (b) Use the outcome of this study to develop and implement an effective and comprehensive policy addressing the sexual exploitation of children, in accordance with the Declaration and Agenda for Action and Global Commitment adopted at 1996 and 2001 World Congress Against Commercial Sexual Exploitation of Children; and**
- (c) Seek international cooperation, in particular from UNICEF.**

8.6 The Care and Protection Bill 2013, the Family Safety Act 2013 and the Crimes Act 2013 represent the most powerful legislative framework to date to address issues of sexual exploitation and abuse. Fortunately, this suite of legislation is significantly responsive to some of the findings of the 2013 Child Protection Baseline Report, which demanded a major revisit of the Crimes Ordinance and the related legislative landscape to address this area. The research gave us the means to validate some of the clauses that were already drafted in these legislations. As a result we have achieved some significant milestones against the Committee's recommendations, but we need to keep up the momentum as we still see in Ministry of Police and Ministry of Justice and Courts records that there are still relatively high numbers of offences of incest and sexual offences affecting children, and we

⁵⁶ For example, domestic assistance in the child's own family home.

still read far too often and learn through the different media that the practice of sexual exploitation and abuse is real and happening in our communities and homes.

8.7 The MWCSO, in partnership with its key government and non-government partners, continues to raise country awareness via media through the implementation of its annual multimedia campaign on the Prevention of Children from Abuse, Neglect and Exploitation, which falls on the 19th of every year. This involves the full utilization of all forms of the media (television, radio, newspapers and the Internet) to broaden the spectrum of public awareness on the necessity to protect children from impeding factors that undermine child development. In addition, the Ministry continues to conduct radio programs on Radio 2AP⁵⁷ on a bi-weekly basis which inform the public on initiatives that the Ministry is currently implementing as well as programs that other organizations are currently initiating. These include child protection and women advancement programs that the Ministry spearheads as well as services that are available for the public from service providers.

8.8 Most non-governmental organizations and government ministries that work in the areas of child protection have their own internal referral systems, where counselling and other services are sought and reported to relevant government/NGOs/CRC partners for appropriate interventions. In some cases, the fragmented systems amongst the service providers, all with their own different reporting guidelines and protocols, have resulted in the system failing to always provide the best care and protection for children. There have been attempts more recently to design one formal referral system; however this exercise has proven to exceed our technical and financial resources. We need to rethink how we can deliver a system that would satisfy and meet the needs of the child victims.

8.9 The Ministry of Police and Prisons (MOPP), through its Community Engagement Unit, carried out a media campaign in 2010 through two national broadcasting television channels (TV1 & TV3). The campaign focused on educating and informing the people about laws and regulations that they need to comply with, particularly looking at three criminal offences, namely traffic offences, breaking and entering, and drunkenness in a public area. The MOPP identified a continuous increase of these criminal offences and that need to be addressed through media campaigns. This will enable the general public to be fully aware of these legislations and penalties or charges that could be laid on a person who commits the offence.

8.10 In addition to the media campaign, the MOPP carried out educational awareness programs children in schools on preventing alcohol and drug abuse, bullying and street fights. A new initiative to address 'cybercrime' involving children is in the pipeline. Awareness programs in regard to children's safety on the road were conducted in all schools as part of Samoa's adjustment to the Road Switch Act 2010 by both the Ministry of Police & Prisons and the Land Transport Authority.

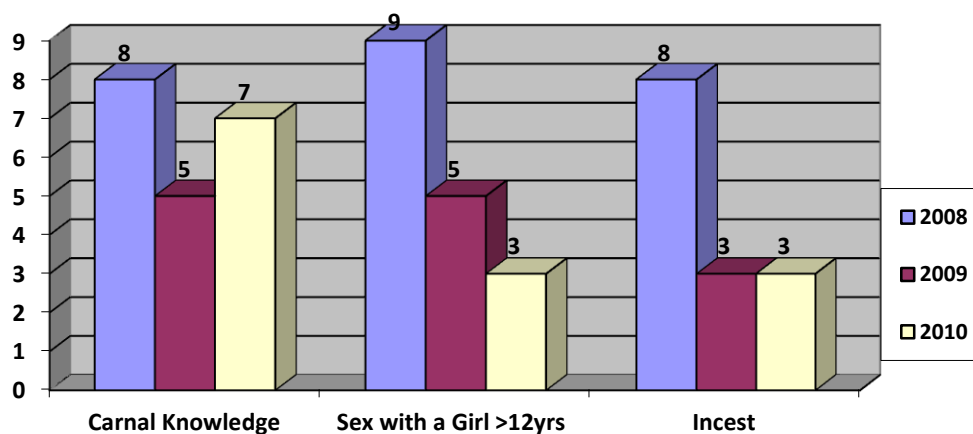
8.11 Additionally, the Ministry of Police & Prisons (MOPP) intends to implement a multitude of advocacy programs targeting school pupils as stipulated under Program Component Result 3 of the UNICEF Annual Work Plan 2012–2013. Known as "Cops in Schools", this program will target mission primary schools in the Apia Urban Area. The Ministry of Police & Prisons signed a Declaration of Partnership between the Pacific Prevention of Domestic Violence Program (PPDVP) and the Pacific Island Chief of Police on 11 October 2007. This initiative led to the establishment of the Domestic Violence Unit (DVU) as a separate section under the Ministry of Police & Prisons in the same year.

8.12 The Domestic Violence Unit has the following vision: A safer Samoa, free from domestic violence, and Mission: To lead the Pacific by providing the best service in cases

⁵⁷ Radio 2AP is a government-owned company and is currently under the Ministry of Communications and Information Technology.

of domestic violence. In 2008, DVU received a vehicle sponsored by the Pacific Prevention of Domestic Violence Program (PPDVP) to help assist the unit with mobility when implementing their activities or when families call for police assistance on domestic violence cases. The DVU also offers counselling services for families coming into the office and through telephone enquiry. Defendants are arrested or taken into the police station when a case is very serious and where people's lives are in danger.

8.13 The table below displays the prevalence of sexual offences affecting children from 2008–2012. With relatively high number of sexual offence occurring in 2008 when compared to 2009–2010 a slight drop in sexual offences.



Source: Ministry of Police & Prison (Intelligence Unit) 2010.

8.14 Samoa Victim Support Group (SVSG), an NGO primarily focused on providing shelter, counselling and protection for victims of violence, has initiated a program targeting child vendors and their families. The work of this particular NGO is also being supported by the Ministry of Police and the Criminal Division of the Attorney General's Office. It offers support services for children who are victims of abuse. One of the initiatives coordinated and facilitated by SVSG was a national "Say NO to Rape" campaign in 2010, which was also supported by financial and moral/technical support from the Government. The campaign allowed SVSG to invite the public to be responsible and take the lead in reporting sexual offenses that involve the young children of Samoa. This campaign opened the opportunity for families in the community to overcome their fear and silence in keeping sexual offenses under the carpet. That is, making sure that these sexual offences are reported to the police for investigation and for the matter to be heard in court. A combined project between SVSG and the Ministry of Justice and Courts Administration, known as Operation Nite-Lei, involves the attempt to remove child labourers off the streets at nights and work closely with families of children involved in securing other income-generating activities apart from exposing children to danger at nights. SVSG currently operates a shelter for child victims of sexual assault.

8.15 The Child Protection Baseline report specifically highlighted areas that Samoa needed to focus on to increase our compliance with the relevant CRC indicators. We needed to:

- (a) Separately criminalise and penalize all forms of unlawful sexual acts against children as separate and serious crimes much more serious than similar conduct against adults;
- (b) Establish under criminal law an age which a child is deemed to be unable to consent to sexual activities;

- (c) Remove the defence of honest and reasonable belief that the victim/survivor was of legal age;
- (d) Set the minimum legal age for marriage for boys and girls at 18 years;
- (e) Put in place special protections for vulnerable children, such as disabled children;
- (f) Create a separate and specific criminal offence(s) for prostituting children, defined in accordance with the Optional Protocol and sanctioned in a manner that reflects the gravity of the crime;
- (g) Create separate and specific criminal offence(s) relating to child pornography that covers internet pornography, defined in accordance with the Optional Protocol and sanctioned in a manner that reflects the gravity of the crime. Offences should also include the production, possession or dissemination of child pornography;
- (h) Include 'extraterritorial' provisions permitting the prosecution of nationals/residents for unlawful acts committed against children in other countries;
- (i) Properly define unlawful sexual activity involving children;
- (j) Have no exemption from rape prosecution for marital rape;
- (k) Define rape as including penetration of any part of the body by any body part/object and is not gender-specific;
- (l) Explicitly prohibit sexual harassment between children and between children and adults in all institutional contexts;
- (m) Ensure that Government has acceded to and promoted bilateral and multilateral measures to protect the child from sexual abuse and sexual exploitation;
- (n) Exclude discriminatory provisions in protective legislation in relation to sexual abuse and exploitation; and
- (o) Call for institutions dealing with reports of sexual abuse and exploitation of children to record and report disaggregated data in relation to reports received and actions taken.

8.16 Sexual abuse is defined under the Family Safety Act as any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity and privacy of the complainant without his or her free will or consent.⁵⁸ Sexual exploitation is the abuse of a position of vulnerability, differential power, or trust for sexual purposes. It often includes profiting monetarily, socially or politically from the exploitation of such person as well as personal sexual gratification.⁵⁹ Sexual exploitation often involves child prostitution, trafficking of children for sexual abuse and exploitation, child pornography, sexual slavery.⁶⁰

8.17 Before new legislation, the sexual abuse and sexual exploitation of children were addressed under the Crimes Ordinance under its Sexual Crimes and Crimes against Public Welfare provisions.⁶¹ These provisions criminalise rape, incest, sexual intercourse and indecency with a girl of a certain age and state of mind, homosexual activities, keeping a brothel and living off the earnings of prostitution.

⁵⁸ Family Safety Bill, cl. 2.

⁵⁹ <http://resourcecentre.savethechildren.se/save-childrens-definition-abuse-neglect-exploitation-and-violence> (accessed 21 March 2013).

⁶⁰ Ibid.

⁶¹ Crimes Ordinance, ss. 46 to 58P.

8.18 The Indecent Publication Ordinance 1960 prohibits the sale, printing, drawing, publication, circulation of an indecent document.⁶² Indecent document is defined under the Ordinance as any book, newspaper, picture, film, photograph, print, or writing, a paper or other thing of any description whatsoever, which has printed, impressed or attached to it any indecent word, statement, significant sign, indecent picture, illustration, representation, or which unduly emphasises matters of sex, horror, crime, cruelty, or violence.⁶³

8.19 Rape has been redefined under the Crimes Act 2013. It is now provided for as sexual violation.⁶⁴ Sexual violation is defined as the act of a male raping a female or the act of a person having unlawful sexual connection with another person.⁶⁵ Sexual connection means a connection occasioned by the penetration of the genitalia or the anus of any person by any part of the body of any other person; or any object held or manipulated by any other person, also means a connection between the mouth or tongue of any person and any part of the genitalia or anus of any other person. It also means the continuation of sexual connection as described above.⁶⁶ A person convicted of the proposed crime of unlawful sexual connection is liable to an imprisonment term not exceeding 14 years.⁶⁷

8.20 “Marital rape” is also addressed under the Crimes Act. It provides that a person may be convicted of sexual violation in respect of sexual connection with another person notwithstanding that those persons were married to each other at the time of that sexual connection.⁶⁸

8.21 The Act also provides protection for vulnerable children such as disabled children.⁶⁹ A person who is convicted of having or attempting to have sexual intercourse with a person who is severely intellectually disabled is liable to an imprisonment term not exceeding 7 years.⁷⁰ A person who indecently assaults or attempts to indecently assault a person who is severely intellectually disabled will also be liable for a term of imprisonment not exceeding 7 years.⁷¹

8.22 Child pornography is addressed under the Act. A person convicted of publication, distribution or exhibition of indecent material on child is liable upon conviction to a term of imprisonment not exceeding 5 years.⁷²

8.23 The Act’s provisions dealing with crimes against public welfare, which criminalise brothel keeping,⁷³ keeping a place of resort for homosexual acts,⁷⁴ prostitution,⁷⁵ solicitation,⁷⁶ living on earnings of prostitution,⁷⁷ and procuring sexual intercourse,⁷⁸ are wide enough to protect children from sexual abuse and exploitation. A person convicted under any of these clauses can be liable to a range of imprisonment terms, the highest being up to 10 years.

⁶² Indecent Publication Ordinance 1960, s. 3.

⁶³ *Ibid.*, s. 2.

⁶⁴ *Ibid.*, cl. 49.

⁶⁵ *Ibid.*, cl. 49 (1).

⁶⁶ *Ibid.*, cl. 50.

⁶⁷ *Ibid.*, cl. 52.

⁶⁸ *Ibid.*, cl. 49.

⁶⁹ *Ibid.*, cls. 55, 56, 57 and 63.

⁷⁰ *Ibid.*, cl. 63 (1).

⁷¹ *Ibid.*, cl. 63 (2).

⁷² *Ibid.*, cl. 76.

⁷³ *Ibid.*, cl 70.

⁷⁴ *Ibid.*, cl 71.

⁷⁵ *Ibid.*, cl. 72.

⁷⁶ *Ibid.*, cl. 73.

⁷⁷ *Ibid.*, cl. 74.

⁷⁸ *Ibid.*, cl 75.

8.24 The Act also deals specifically with the sexual exploitation of people under 18 years of age.⁷⁹ A person convicted under this clause is liable to an imprisonment term not exceeding 10 years. Sexual exploitation is also recognised as an aggravating factor under the proposed crimes of smuggling migrants and trafficking in people by means of coercion or deception.⁸⁰

8.25 Behaviours such as cyber bullying, solicitation of children on the internet and other offensive behaviours associated with electronic communication that are affecting children of this age, can be caught under the provisions dealing with harassment utilising means of electronic communication and solicitation of children.⁸¹ This can capture a person who intentionally initiates any electronic communication with the intent to coerce, intimidate, harass or cause substantial emotional distress to a person, using an electronic system to support severe, repeated and hostile behaviour. A person convicted under this clause will be liable to imprisonment for a term not exceeding five years.

8.26 The Crimes Act also contains extraterritorial provisions that can permit the prosecution of nationals/residents for unlawful acts committed against children in other countries.⁸²

Sale, trafficking and abduction (art. 35)

8.27 The Crimes Ordinance in its current status does not explicitly criminalize the sale and trafficking of people. The Ordinance does, however, provide for the criminalization of “kidnapping”, which is an activity that is analogous to human trafficking. A person is guilty of kidnapping under the Ordinance if he or she unlawfully carries off or detains any person without the person’s consent or with the person’s consent obtained by fraud or duress, with the intention to cause the person to be confined, or imprisoned; to be sent or taken out of Samoa; or to hold the person for ransom or for service.⁸³ A person convicted of kidnapping is liable to an imprisonment term not exceeding 10 years.

8.28 Abduction is also a crime under the Crimes Ordinance. A person is guilty of the crime of abduction of a woman or girl if he or she takes away or detains any woman or girl without her consent, or with her consent obtained by fraud or duress, with the intention to marry her, to have sexual intercourse with her, or to cause her to be married or to have sexual intercourse with another person. A person convicted of abducting a woman or girl is liable to an imprisonment term not exceeding 7 years.⁸⁴

8.29 A person who knowingly takes away, entices, detains or receives a child under 16 with the intention to deprive a parent, guardian or a person having lawful care or charge of such child of the possession of the child or with intention to have sexual intercourse with such child being a girl of the legislated age, is guilty of the crime of abduction of a child under 16. A person convicted of this crime is liable to imprisonment for a term not exceeding 7 years.⁸⁵

8.30 The Baseline Research revealed that Samoa has not fully complied with any of the relevant indicators for abduction, sale and trafficking of children.⁸⁶ It found that existing

⁷⁹ Ibid., cl. 151.

⁸⁰ Ibid., cls. 149 and 150.

⁸¹ Ibid., cls. 218 and 219.

⁸² Ibid., cl. 8.

⁸³ *Crimes Ordinance 1961*, s. 83A.

⁸⁴ Ibid., s. 83.

⁸⁵ Ibid., s. 83B.

⁸⁶ Baseline Research, p. 62.

legislation and guidelines were weak. It recommended that better protection of children be guaranteed through specific and comprehensive anti-trafficking laws that offer high penalties indicating the seriousness of such crime, the effective prosecution of the traffickers and all involved in trafficking, and the rehabilitation and repatriation of victims. It is worth noting, however, that some of these issues have been addressed in recent law reforms and form parts of legislation currently passed by Parliament.

8.31 Under the Crimes Act 2013, a person can be charged with the smuggling of migrants.⁸⁷ A person guilty of smuggling migrants is liable to an imprisonment term not exceeding 7 years. The Act also criminalizes trafficking.⁸⁸ A person guilty of trafficking in people by means of coercion or deception is liable to an imprisonment term not exceeding 10 years. If trafficking is linked to activities such as forced or compulsory labour, debt bondage, forced marriage, forced prostitution, unlawful confinement, labour exploitation and illegally withholding of identity papers, then it is highly likely the convicted person will receive a sentence at the higher end of the scale.⁸⁹ The age of the person in respect of whom the offence was committed and in particular, whether the person was under the age of 18 years is also an aggravating factor.⁹⁰

8.32 Once the Crimes Act 2013 is enforced, the goods, assets and other instrumentalities used to commit or facilitate trafficking, and proceeds or assets confiscated from traffickers, can be forfeited by the State under the Proceeds of Crime Act 2007. However, legislative changes are recommended to the Proceeds of Crime Act 2007 to allow the use of part of the proceeds of trafficking forfeited to be used to support trafficking victims/survivors.

8.33 The Samoa Law Reform Commission's Final Report 07/12 on the review of the Criminal Procedure Act recommended the use of videoconferencing to take the evidence of witnesses overseas. This will not only suit victims/survivors of trafficking, who have been repatriated before the commencement of a criminal case, but can also be adopted in cases where a child was a victim/survivor of a sexual crime. This recommendation should also be extended to include the use of other electronic means and formats such as high definition, digital or analog video recordings and audio recordings to take testimonies of children as evidence.

8.34 Nevertheless, the State party recognises that we need to do more, both on the legislative and policy landscape, if we are to improve compliance. Looking ahead to the next reporting period, we need to:

- (a) Include a specific crime relating to the sale of children, defined broadly in accordance with the Optional Protocol to the Convention on the Rights of the Child and sanctioned in a manner that reflects the gravity of the crime;
- (b) Include a specific crime of trafficking in humans, defined in accordance with the Trafficking Protocol,⁹¹ and sanctioned in a manner that reflects the gravity of the crime;
- (c) Criminalize all activities related to trafficking, including forced or compulsory labour, debt bondage, forced marriage, forced prostitution, unlawful confinement, labour exploitation, and illegally withholding identity papers;

⁸⁷ Crimes Bill 2011, s. 148.

⁸⁸ *Ibid.*, s. 149.

⁸⁹ *Ibid.*, s. 150.

⁹⁰ *Ibid.*, s. 150.

⁹¹ Trafficking is defined in the Trafficking Protocol as the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

- (d) Put in place measures to assist the prosecution of those engaged in child trafficking outside of Samoa;
- (e) Provide procedures and guidelines for immediate and safe emergency care for children who have been rescued from trafficking;
- (f) Designate a central authority to deal with issues of international child abductions;
- (g) Secure the prompt return of children wrongfully removed to or retained in the Samoa and to ensure that rights of custody and access under the law of other countries are effectively respected;
- (h) Empower the courts to make any orders necessary to prevent child abduction;
- (i) Ensure the effective communication of court orders to border officials;⁹²
- (j) Empower state institutions to release information that will help to trace the whereabouts of abducted children;
- (k) Ensure that human trafficking provisions provide additional penalties where trafficking involves children;
- (l) Impose civil or criminal liability on legal entities⁹³ for trafficking offences;
- (m) Seize and confiscate goods, assets and other instrumentalities used to commit or facilitate trafficking, and that proceeds or assets confiscated from traffickers be used to support trafficking victims/survivors;
- (n) Promote cooperation between relevant agencies, in particular the police, immigration and welfare services, in identifying child victims/survivors of trafficking;
- (o) Provide guidelines for border officials for the identification and handling of child victims/survivors of trafficking;
- (p) Permit the use of testimony of foreign trafficked victims/survivors taken before repatriation, for example through the use of video and audio tapes of the trafficked victims/survivors' testimony as evidence;⁹⁴
- (q) Permit foreign trafficked children to remain in the country, temporarily or permanently, in appropriate cases, and in accordance with the stated views of the child;⁹⁵
- (r) Provide protection, rehabilitation and support services to all child victims/survivors of trafficking regardless of nationality and agreement to appear as witnesses in any criminal proceedings; and
- (s) Provide guidelines for the safe and timely return and repatriation of child victims/survivors of cross-border trafficking where appropriate.

Children in conflict with the law (art. 40)

CRC/C/WSM/CO/1 Page 12: Para. 59

The Committee urges the State party to ensure the full implementation of juvenile justice standards, in particular articles 37(b), 40 and 39 of the Convention, the United

⁹² For example, travel restrictions.

⁹³ For example, travel agencies, marriage brokers, sex shops, bars, brothels or employment agencies.

⁹⁴ This is in relation to evidence laws and court procedures.

⁹⁵ This is in relation to immigration laws.

Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the Vienna Guidelines for Action on Children in the Criminal Justice System as well as the recommendations of the Committee on its day of general discussion on juvenile justice (CRC/C/46, paras. 203–238). In this regard, the Committee recommends that the State party, in particular:

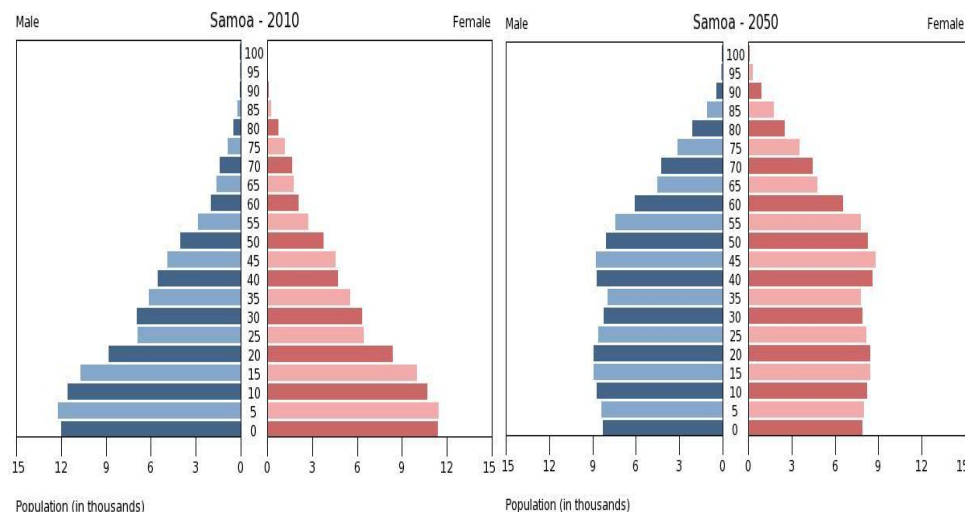
- (a) Establish a functioning juvenile justice system and in this regard expedite the enactment of the Young Persons Bill and the Criminal and Community Justice Bill;
- (b) Raise the minimum age of criminal responsibility to an internationally acceptable level;
- (c) Ensure that deprivation of liberty is used as a last resort and that detained children are always separated from adults;
- (d) Provide training programmes on relevant international standards for all professionals involved with the system of juvenile justice; and
- (e) Seek technical assistance from the United Nations Interagency Panel on Juvenile Justice.

8.35 Samoa's population of 192,000 people is projected to rise to 245,000 by 2050.⁹⁶ More than half of the population is below 20 years of age. As at 2004, nearly a quarter of the population was between the ages of 15 and 29.⁹⁷ Population projections for Samoa estimate that the youth population will increase over the next 20 years. Approximately 23.4 per cent of the population lives in the Apia urban area, an increase from 21.2 per cent in 1990.⁹⁸ As a State party, we have gone a significant way to addressing the Committee's recommendations and this is thanks to some real committed efforts at both agency, Sector and judiciary levels, as well as strong law reform commitment in this area. Our capacity development in the area of Law and Justice has improved and the Sector is in a better position now to prioritise activities and key strategic areas that respond to juvenile justice needs. More specifics follow in the next paragraphs. Youth feature highly in this trend and it shows a growing concentration of young people in Apia and the North West Upolu region. These projected demographics on their own are a reminder why we as a State party recognise that the administration of juvenile justice needs to account for the needs of this targeted group and be responsive.

⁹⁶ International Census Database (2010).

⁹⁷ World Bank, *Giving South Pacific Youth a Voice* (2006:40).

⁹⁸ 2010 estimate reported in *Samoa National Human Development Report 2009* (2009:192).



8.36 The Baseline Research complements the strength of the laws protecting children in conflict and credits the Young Offenders Act 2007. The Young Offenders Act 2007 operates more specifically to provide a criminal justice system for young persons and their treatment by the courts. The Act applies to young persons who are offenders. A young person is a person of or over the age of 10 years and under the age of 17 years.⁹⁹ A person under the age of 10 years cannot be charged with any criminal offence.¹⁰⁰ This is because in the eyes of the law, a person below the age of criminal liability cannot tell right from wrong. The Act establishes a special division of the District Court called the “Youth Court” which is presided over by a District Court Judge. Criminal charges brought against a young person are laid in the Youth Court and the hearing of each charge subject to the provisions of the Act.¹⁰¹ The Act also provides that a young person remanded in custody must be remanded to a residential youth facility, or if none exists, to a prison or place of residence as may be directed by the court.¹⁰² A young person who is remanded in custody and is held in prison must be kept separate from adult prisoners.¹⁰³ This is also the case if a young person is convicted of a crime and is liable to an imprisonment term, he or she must be separated from adult prisoners.¹⁰⁴ The protection of young offenders through the Youth Court depends solely on the discretion of the Judge. Name suppression is ordered by the Judge in the sense of protection of both the offender and the victim as necessary.

8.37 The Young Offenders Act and Community Justice Act 2008 provide police, prosecutors and judges a broad discretion to resolve child cases through diversion.¹⁰⁵ In general, offences are most commonly perpetrated by 20–29 year-olds rather than under-18s. Since the passing of the Young Offenders Act and the Community Justice Act, there has been an increase in community-based sentences and an increased recognition of Samoan customs and processes, for example allowing the outsourcing of mediation to communities. Of the total number of 10–29 year-olds on community-based sentencing in the years 2008–

⁹⁹ *Young Offenders Act 2007*, s. 2.

¹⁰⁰ *Ibid.*, s. 3.

¹⁰¹ *Ibid.*, s. 5.

¹⁰² *Young Offenders Act 2007*, s. 22.

¹⁰³ *Ibid.*, s. 22 (3).

¹⁰⁴ *Ibid.*, ss. 16 (2) and 22 (3).

¹⁰⁵ *Ibid.*, ss. 6, 11, 12, 17 and 18; *Community Justice Act 2008* s. 11.

2010 inclusive, only 16 per cent were aged 10–19; 45 per cent were aged 20–29.¹⁰⁶ Both Acts provide a wide range of alternative, community-based dispositions including probation; care, guidance and supervision orders; diversion to mental health treatment, counselling; victim/survivor reparation and restitution, community service work opportunities; education and vocational training, and living arrangement orders.¹⁰⁷

8.38 However, it is still recognised by the State party that the implementation of the Young Offenders Act would benefit from further capacity-building and support, particularly in relation to diversion, police warnings and cooperation between different actors in the justice sector, so that young offenders are able to fully benefit from the Act.¹⁰⁸ The Baseline Research also noted that there is still a need for law reform to address areas that the Young Offenders Act failed to address.¹⁰⁹ We intend over the next reporting period to introduce amendments that:

- (a) Change the ages of children in which the Act applies from between 10 years and 17 years to between 10 years and 18 years;
- (b) Require the consent of the child and/or the child's parents for diversion procedures to be applied;
- (c) Require that pre-trial detention be used only as a measure of last resort and to put in place alternative measures for supervising an accused child pending trial;
- (d) Explicitly limit the duration and use of pre-trial detention against an accused child;
- (e) Require that cases involving young children be expedited;
- (f) Require that any penalties imposed are based on the best interests of the child and aimed at rehabilitation rather than punishment particularly in drug and substance offences;
- (g) Regulate disciplinary procedures within detention centres and to specifically prohibit corporal punishment; solitary confinement; placement in a dark cell; reduction of diet; denial of contact with family members; and any other punishment that may compromise the physical or mental health of the child concerned;
- (h) Require that children deprived of liberty be subject to a periodic review of their situation;
- (i) Require that police, prosecutors, courts and prison officials have specialised units, or designated specialists, to handle children in conflict with the law;
- (j) Require all processes defined in the above legislation to have the best interests of the child (including the maximum development of the child) specified as the primary consideration;
- (k) Require the police to notify legal assistance immediately upon the arrest of a child and legal assistance is entitled to be present during all investigative and trial proceedings, in accordance with the views of the child;
- (l) Require that the needs of disabled children are catered for at all stages of the legal process;

¹⁰⁶ Powerpoint presentation: 'Youth Offending Trends and Community Based Sentencing', Samoa Probation Services, MJCA information August 2011.

¹⁰⁷ Ibid., ss. 12, 15 and 16; *Community Justice Act 2008* ss. 8 and 9.

¹⁰⁸ Ibid., p. 70.

¹⁰⁹ Ibid., p. 69.

(m) Require all justice sector officials, including police, prosecutors, judges, lawyers and prison officials, to receive training and sensitization on children in contact with the law as part of their induction training¹¹⁰ as well as on an in-service basis; and

(n) Require the recording and reporting of systematic disaggregated data by all institutions dealing with child offenders.

8.39 The State party has also made significant inroads with the separation of Police and Prisons with the principal legislation, the Prisons and Corrections Bill currently before Parliament. The new Prisons and Corrections Bill 2011 makes provisions for young prisoners who are prisoners aged 18 years or younger.¹¹¹ It provides special procedures for young prisoners once they are admitted.¹¹² Young prisoners are classified according to set criteria to determine how they are to be separated to achieve their effective rehabilitation.¹¹³ These procedures also provide for the allocation of prison labour in accordance with the age of the young prisoner; release and pre-release programs to comply with CRC; and ensure that the right to education of a young prisoner is protected. The Bill boasts a system for inspection and monitoring of the prisons.¹¹⁴

8.40 The Prisons and Corrections Bill will provide an accessible complaint mechanism for prisoners and support after their release.¹¹⁵ The guiding principles of the Prisons and Corrections Bill during interpretation and application of any of its provisions includes to the fullest extent possible the rights and obligations of CEDAW and CRC in the administration of Samoa's prisons and the treatment of prisoners. It also applies the Standard Minimum Rules. Standard Minimum Rules were adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders to set out what is generally accepted as being good principle and practice in the treatment of prisoners and the management of prison institutions.¹¹⁶ This means the prohibition of corporal punishment, solitary confinement, placement in a dark cell, reduction of diet, denial of contact with family members and any other punishment that may compromise the physical and mental health of a young prisoner.

Part 9

Optional Protocols to the Convention on the Rights of the Child (OPAC)

CRC/C/WSM/CO/1 Page 12: Para. 60

The Committee recommends that the State party ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict.

Samoa has yet to sign the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography and on the Involvement of Children in Armed Conflict. Samoa's report on legislative compliance review on the CRC has pointed out that Samoa is a long way from full compliance, and ratification of these two OPSC does require Samoa to comply. However, Samoa has taken some significant steps towards amendment of a number of legislations as well as development of new legislations and bills

¹¹⁰ At police academies, law schools, judicial training programmes.

¹¹¹ *Prisons and Corrections Bill 2011*, cl. 2.

¹¹² *Ibid.*, cl. 27.

¹¹³ *Ibid.*, cl. 39.

¹¹⁴ *Ibid.*, cl. 20.

¹¹⁵ *Ibid.*, cl. 54.

¹¹⁶ <http://www2.ohchr.org/english/law/treatmentprisoners.htm> (accessed 22 March 2013).

such as the proposed Child Care & Protection Bill which can facilitate the eventual signing and ratification of the two Optional Protocols. The passing of the Family Safety Act 2013, the Crimes Act 2013 are two critical domestic pieces of legislation that support some of the key responsibilities of OPSC, especially in terms of the best interests of the child as victims under this protocol. The related responsibilities under article 8 of this Optional protocol mirror some of the responsibilities of the Criminal Justice system and other relevant government and non-government agencies in the Family Safety Act in terms of domestic violence protection. This is also supported by some key developments in the area of compulsory education and persons with disabilities, which may require Samoa revisiting its reservation to the CRC around free compulsory education as it already waiving school fees for primary schools with efforts to expand it to secondary school levels. The Government is currently undertaking a legislative compliance analysis to support Samoa's efforts towards ratification of the Convention on the Rights of Persons with Disabilities, which has relevant articles with respect to children. This legislative analysis and ratification of this important Convention will further support Samoa's compliance to addressing some of provisions of OPSC.

Part 10

Follow-up and dissemination

CRC/C/WSM/CO/1 Page 12: Paras. 61, 62

The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the Cabinet, the Parliament and the Village Councils for appropriate consideration and further action.

The Committee further recommends that the initial report and written replies submitted by the State party and related recommendations (concluding observations) it adopted be widely available in the language of the country, including through Internet (but not exclusively), to the public at large, civil society organisations, youth groups, professional groups, and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

10.1 Follow-up actions and wide dissemination of recommendations from the report are the responsibility of the Ministry of Women Community and Social Development (MWCSO) and the National Council on the CRC. Community-based organizations will continue to be informed through the network of the village liaison officers under the MWCSO.

10.2 An electronic copy of the final report will be uploaded onto the MWCSO website in both English and Samoan for people to view the report online if they are unable to retrieve a hard copy. Stakeholders that work particularly for the protection of children such as NCCCRC members, CRC partnerships which include NGOs, CSOs will also be able to access the final report for their ease of reference on the website and through the partnership meetings. Copies will also be made available in Government and Private School libraries so that children under the age of 18 have access to this report for their knowledge and school assignments.

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32. UNICEF/Government of Samoa; CRC Legislative Compliance Review Report 2012
33. United Nations Convention on the Rights of the Child; Multilateral Treaties deposited with the Secretary-General, Status as at 31 December 1994, United Nations, New York, p. 198 (www.icrc.org)
34. Occupational Health and Safety Act 2002
35. Young Offenders Act 2007
36. Proceeds of Crime Act 2007
37. Mental Health Act 2007
38. Community Justice Act 2008
39. Tobacco Control Act 2008
40. Education Act 2009
41. Liquor Act 2011
42. *Crimes Bill 2011*
43. *Prisons and Corrections Bill 2011*
44. *Labour and Employment Relations Bill 2011*
45. *Care and Protection Bill 2013*
46. *Family Safety Bill*

Appendix 1

Samoa: demographic profile

Population ¹¹⁷		Health ¹¹⁸	
Total Population	187 820	Infant Mortality Rate per 1,000 births	9
Males	96 990	Under-5 Mortality Rate per 1,000 births	15
Females	90 830	Proportion of 1-year-old children immunized against measles	53.6
		Proportion of births attended by skilled health personnel	97
		Adolescent birth rate/1,000	44
		HIV prevalence among population aged 15–24 years	0.2/1,000
Population ages composition. Number of children (less than 15 years)	71 891		
Youth population	34 646		
Early childhood education ¹¹⁹		Proportion of population aged 15–24 years with comprehensive correct knowledge of HIV/AIDS	56.7
Number of preschools	112		
Males attending preschools	2 073		
Females attending preschools	2 122		
Education ¹²⁰ below primary		People with disabilities ¹²¹	
Male	665	Disability population	1 371
Female	590	Male	755
		Female	616
Primary school attendance	37 043		
Male	19 629		
Female	17 774		
Secondary education attendance	15 572		
Male	7 429		
Female	8 143		
Tertiary school attendance	3 711		
Male	931		
Female	583		
Not attending school (6–14 years)	1 514		
Male	931		
Female	583		

¹¹⁷ Population and Housing Census 2011. Tabulation Report v.1. Samoa Bureau of Statistics.

¹¹⁸ MOH (Samoa), SBS (Samoa) and ICF Macro. 2010. *Samoa Demographic Health Survey 2009*. Apia, Samoa: Ministry of Health, Samoa.

¹¹⁹ NCECES (Samoa) September 2011. *Data retrieved during monitoring visits conducted in all preschools*. Apia, Samoa: National Council for Early Childhood Education Samoa 2011.

¹²⁰ Population and Housing Census 2011. Tabulation Report v.1. Samoa Bureau of Statistics.

¹²¹ Ibid.