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## Compilation on Samoa

### Report of the Office of the United Nations High Commissioner for Human Rights

#### I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

#### II. Scope of international obligations and cooperation with international human rights mechanisms and bodies<sup>1, 2</sup>

2. The United Nations country team in Samoa noted that, since the previous review, Samoa had ratified the Convention on the Rights of Persons with Disabilities, in 2016, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2019. Samoa had also ratified the three Optional Protocols to the Convention on the Rights of the Child, in 2016, and acceded to the United Nations Convention against Corruption, in 2018.<sup>3</sup>

3. The United Nations country team recommended that Samoa ratify the remaining core human rights treaties, namely the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.<sup>4</sup> It also recommended the ratification of the Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29), of the International Labour Organization (ILO).<sup>5</sup>

4. The Committee on the Elimination of Discrimination against Women recommended that Samoa accede to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.<sup>6</sup>

5. The United Nations country team noted that, since the previous review, Samoa had been reviewed by two treaty bodies: the Committee on the Rights of the Child, in 2016, and the Committee on the Elimination of Discrimination against Women, in 2018. Samoa had yet to submit its initial reports to four treaty bodies: the Human Rights Committee, the



Committee on Enforced Disappearances, the Committee on the Rights of Persons with Disabilities and the Committee against Torture.<sup>7</sup> It recommended that Samoa seek technical support from the Office of the United Nations High Commissioner for Human Rights (OHCHR) Regional Office for the Pacific, as necessary, to clear overdue reports.<sup>8</sup>

### III. National human rights framework<sup>9</sup>

6. The United Nations country team noted that, in 2016, the Office of the Ombudsman, which had been established in 2013, was accredited with “A” status by the Global Alliance of National Human Rights Institutions.<sup>10</sup> The Committee on the Elimination of Discrimination against Women made similar observations but expressed concern about the slow progress in implementing that institution’s recommendations, including those contained in its report entitled “National Public Inquiry into Family Violence in Samoa”.<sup>11</sup> The United Nations country team recommended that Samoa ensure that the Office of the Ombudsman be adequately resourced to carry out its functions effectively in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and that it expedite the implementation of the recommendations made by the Office.<sup>12</sup>

7. The United Nations country team noted that, in 2016, the Government had established the national mechanism for reporting and follow-up. In November 2017, with the support of the OHCHR Regional Office for the Pacific and the Resident Coordinator Office, Samoa had introduced Sadata<sup>13</sup> to track the implementation of its human rights obligations against the Sustainable Development Goals.<sup>14</sup> It recommended that Samoa strengthen the national mechanism for reporting and follow-up.<sup>15</sup>

8. The country team noted that the Constitutional Amendment Act 2017 had changed the country from a secular to a Christian nation and also noted that article 11 of the Constitution recognized that every person had the right to freedom of thought, conscience and religion.<sup>16</sup>

9. The Working Group on discrimination against women and girls noted that the Constitution declared custom and tradition, along with Christianity, as the basis of the State.<sup>17</sup> While noting that what constituted the Samoan custom and tradition – or *Fa’asamoa*, the Samoan way of life – was a topic of vibrant public discussion, the Working Group observed the prevalence of a discourse that aimed to maintain the status quo of inequality between men and women on the ground of the uniqueness of Samoan culture and tradition.<sup>18</sup>

10. The United Nations country team noted that, in December 2020, Parliament had passed three acts: the Constitution Amendment Act, the Land and Titles Act and the Judicature Act. These acts had introduced significant revisions to the Constitution and judicial practices and had been the subject of considerable public comment, debate and criticism.<sup>19</sup> Prior to the adoption of the acts, the OHCHR Regional Office for the Pacific had expressed concerns about the impact of the bills on the independence of the judiciary and had stressed the need to ensure an inclusive, transparent and participatory legislative review process.<sup>20</sup> In May 2020, the Special Rapporteur on the independence of judges and lawyers sent a communication to the Government expressing similar concerns, including that the proposed amendments to the Constitution could have an adverse impact on the independence of the judiciary.<sup>21</sup>

11. The United Nations country team specifically noted that the main concerns regarding the three acts were that they created a separate lands and titles court hierarchy beyond the ambit of the Supreme Court and with exclusive jurisdiction over customary matters, which could lead to a parallel justice system; that the power granted to the Head of State, when Parliament was in recess, to suspend the Chief Justice of the Supreme Court on the advice of the Prime Minister could now be exercised in the absence of the involvement of an independent judicial body; that the Judicial Service Commission was comprised of members of the executive branch and an indeterminate number of “members of the public” appointed by the Minister of Justice; and that, within the lands and titles court system, special leave of appeal could be granted to decisions made before the entry into force of the Land and Titles Act.<sup>22</sup>

12. The United Nations country team recommended that Samoa ensure that the Supreme Court retains its role in enforcing the fundamental rights stipulated in the Constitution, as well as in overseeing the decisions of the lands and titles courts; that the Chief Justice of the Supreme Court cannot be suspended by the Head of State acting on the advice of the Prime Minister; that the independence of the Judicial Service Commission is guaranteed by excluding active politicians and members of the executive branch of power from that body; and that the Land and Titles Act does not have retroactive effect.<sup>23</sup>

13. The United Nations country team noted that, on 21 March 2020, Samoa had instituted a state of emergency in response to the spread of the coronavirus disease (COVID-19). Concerns were raised about the state of emergency's continued extension and civil society groups noted that certain restrictions were outside the scope of the initial emergency proclamation.<sup>24</sup>

## **IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

### **A. Cross-cutting issues**

#### **1. Equality and non-discrimination<sup>25</sup>**

14. The United Nations country team indicated that, during the previous review, Samoa had noted six recommendations on combating discrimination and preventing violence based on sexual orientation and gender identity, including the recommendations to repeal provisions criminalizing sodomy between consenting adults. The Crimes Act 2013 criminalized sodomy, which was punishable with prison sentences of up to seven years.<sup>26</sup> The United Nations country team recommended that Samoa repeal all provisions in the Crimes Act that criminalized sodomy between consenting adults and that it carry out awareness-raising campaigns to combat stigma against LGBTIQ+ persons.<sup>27</sup>

#### **2. Development, the environment, and business and human rights<sup>28</sup>**

15. The United Nations country team noted that, as a small island developing State with over 70 per cent of its infrastructure and population located in coastal areas, Samoa remained highly vulnerable to the climate crisis. It also noted the adoption of the Samoa Climate Change Policy 2020 and the Samoa 2040 policy document, which, while being aligned with international commitments related to climate change, did not adopt a human rights approach.<sup>29</sup> The United Nations country team recommended that Samoa revise all environmental and social policies, legislation and regulations to protect human rights in climate change adaptation and mitigation efforts, including through dedicated social protection measures for those most affected, and that it implement all relevant recommendations in the *2017 State of Human Rights Report* of the Office of the Ombudsman on climate change.<sup>30</sup>

### **B. Civil and political rights**

#### **1. Right to life, liberty and security of person<sup>31</sup>**

16. The United Nations country team noted the results of recent studies revealing very high rates of gender-based violence and violence against children,<sup>32</sup> one of which indicated that village *fono* (councils) played a leading role in stopping family violence.<sup>33</sup>

17. The Committee on the Rights of the Child recommended that Samoa encourage community-based programmes aimed at preventing and tackling domestic violence, child abuse, sexual exploitation and neglect, and pay particular attention to and address the gender dimension of violence.<sup>34</sup>

18. The Working Group on discrimination against women and girls regretted that less was known about the gender-based violence that *fa'afafine*, *fa'afatama* and lesbians faced and emphasized the importance for their voices to be heard and their situations addressed.<sup>35</sup>

## **2. Administration of justice, including impunity, and the rule of law<sup>36</sup>**

19. The United Nations country team indicated that, in 2015, the Government of Samoa had passed the Community Law Centre Act to provide legal aid and assistance in both criminal and civil matters. However, owing to limited resources, the Act had not been enforced. Legal aid was currently only available in criminal cases.<sup>37</sup>

20. The United Nations country team noted that most services such as shelters, counselling and rehabilitation were provided by civil society organizations and that, as identified in the *2019 State of Human Rights Report*, it was necessary for the Government to take the initiative in providing financial and technical assistance to victims of gender-based violence.<sup>38</sup>

21. The United Nations country team recommended that Samoa increase funding for quality support services for victims of gender-based violence; and establish a community law centre.<sup>39</sup> The Committee on the Elimination of Discrimination against Women made a similar recommendation, highlighting that establishing such centres should enhance access for women to justice, in rural areas in particular.<sup>40</sup>

22. The Working Group on discrimination against women and girls observed that the Samoan Police Force had few officers and a limited presence in rural areas.<sup>41</sup> The United Nations country team recommended that Samoa strengthen the Domestic Violence Unit in the police.<sup>42</sup>

23. The United Nations country team stated that significant delays in the courts were an impediment to the administration of justice. This was due to the huge backlog of cases underpinned by ineffective regulations, inefficient processes and insufficient resources.<sup>43</sup> Access to justice for persons with disabilities was also limited, in terms of reasonable accommodation within the justice process.<sup>44</sup> The United Nations country team recommended that Samoa provide reasonable accommodation for persons with disabilities in gaining access to justice; conduct human rights training sessions for law enforcement officials on the rights of accused and detained persons and ensure detention facilities meet international standards; and adequately resource and streamline court processes to reduce the backlog of cases, for the efficient and effective administration of justice.<sup>45</sup>

24. The Working Group on discrimination against women and girls noted that the Family Court was required by law to promote conciliation and alternative dispute resolution.<sup>46</sup> The Committee on the Elimination of Discrimination against Women recommended that Samoa ensure that mediation is not mandatory in cases of violence against women and girls, including domestic violence, and that victims have access to effective remedies.<sup>47</sup>

25. The Committee on the Rights of the Child expressed concern that the minimum age of criminal responsibility was set at the very low age of 10 years and recommended that Samoa raise the minimum age of criminal responsibility in accordance with the acceptable international standards.<sup>48</sup>

26. The United Nations country team stated that the Young Offenders Act 2007 provided limited special protections to children at the arrest and investigation stages and applied only to children under 17 years of age, meaning that 17- and 18-year-olds were left unprotected. It also gave the Youth Court broad discretion to transfer cases involving young offenders to the Supreme Court, where youths could be tried and sentenced as adults.<sup>49</sup> The United Nations country team recommended that Samoa review the Act so as to align it with international juvenile justice standards.<sup>50</sup> The Committee on the Rights of the Child recommended that Samoa harmonize the Act with the provisions of the Convention on the Rights of the Child by changing the age of children to which the Act applies to 18 years.<sup>51</sup>

## **3. Fundamental freedoms and the right to participate in public and political life<sup>52</sup>**

27. The United Nations country team stated that, in December 2017, Parliament had passed legislation that reintroduced libel as a criminal offence, after having repealed it in

2013. The reintroduction of criminal libel was prompted by the rising popularity of anonymous bloggers who had posted allegations of corruption and other serious crimes against prominent public figures.<sup>53</sup> The United Nations Educational, Scientific and Cultural Organization (UNESCO) noted that the penalty for defamation was a fine not exceeding 175 penalty units or imprisonment for a term not exceeding three months<sup>54</sup> and recommended that Samoa decriminalize defamation and place it within a civil code that is in accordance with international standards.<sup>55</sup>

28. The United Nations country team noted that in 2021 Samoa had its first female party leader and that 33 per cent of Supreme Court judges were women. For the second time in history, the Attorney General was female and 46 per cent of lawyers were female.<sup>56</sup>

29. The Committee on the Elimination of Discrimination against Women expressed concern that some villages still maintained a prohibition on the *matai* (chief) title being held by women and also restricted the participation of women in village *fono* (councils).<sup>57</sup> The United Nations country team noted that there were 17 villages that did not allow women to become *matai*, which was an eligibility requirement for sitting in most village *fono* and for standing for election. While the number of women *matai* had increased since the 1960s, a 2015 study found that, of all village-based *matai*, only about 22 per cent were women.<sup>58</sup>

30. The Committee on the Elimination of Discrimination against Women recommended that Samoa amend section 5 of the Electoral Act 1963 to allow women with or without a *matai* title to stand for election and take legislative measures to address restrictions on female *matai* title-holders in all villages.<sup>59</sup> The United Nations country team recommended that Samoa reform village governance and village by-laws to remove barriers to the representation of women at all levels of governance.<sup>60</sup>

31. The Committee on the Elimination of Discrimination against Women noted the amendment to the Constitution that established a minimum quota of 10 per cent for the representation of women in Parliament, but expressed concern about the limited understanding of temporary special measures and recommended that Samoa introduce a minimum quota of 30 per cent for the representation of women in Parliament and intensify efforts to raise awareness on the nature of temporary special measures and on their importance to accelerating the achievement of substantive equality between women and men.<sup>61</sup>

32. The United Nations country team noted concerns raised by the national human rights institution regarding village councils or individuals coercing or influencing voters' preferences in the lead-up to the national elections held in April 2021, as well as the unavailability of absentee and postal voting options for Samoans in the diaspora.<sup>62</sup>

33. In May 2021, OHCHR expressed concern about the challenges to the rule of law in Samoa following the 9 April elections. OHCHR urged Samoa to ensure that the rule of law and democratic institutions, in particular the key role played by an independent judiciary, were respected and protected. OHCHR noted that it was a fundamental right to take action through the courts, including to challenge election results, in accordance with the applicable legal framework. At the same time, the decisions of the Supreme Court should be respected, in a manner consistent with international human rights norms. OHCHR emphasized that Samoan judges must be able to undertake their functions without pressure, interference or personal attacks from any quarter.<sup>63</sup> The United Nations country team recommended that Samoa guarantee freedom of choice in elections free from interference.<sup>64</sup>

#### 4. Prohibition of all forms of slavery<sup>65</sup>

34. The Committee on the Elimination of Discrimination against Women expressed concern about the sexual exploitation of girls and the lack of investigation and prosecution of such cases.<sup>66</sup>

## C. Economic, social and cultural rights

### 1. Right to work and to just and favourable conditions of work<sup>67</sup>

35. The ILO Committee of Experts on the Application of Conventions and Recommendations noted that public service employees were excluded from the scope of the Labour and Employment Relations Act 2013. While taking due note that, in practice, public servants were allowed to join established organizations, the ILO Committee of Experts requested the Government to take the measures necessary to ensure that public servants, like other workers, enjoyed the right to join and establish organizations of their own choosing, not only in practice but also in law.<sup>68</sup> The Committee also noted that the Public Service Act prevented workers from participating in strike actions and expressed the hope that it would be amended without further delay.<sup>69</sup>

36. The Committee on the Elimination of Discrimination against Women expressed concern about the fact that maternity leave was limited to six weeks in the private sector, which did not comply with relevant ILO conventions or international standards; the continued vertical and horizontal occupational segregation in the labour market, with women concentrated in the informal and low-paid sectors of employment; and the persistent gender pay gap.<sup>70</sup>

37. The United Nations country team indicated that a large part of the formal and informal sectors was not compliant with labour standards, many workers not being aware of their rights and lacking union coverage and protection. Despite the enactment of occupational safety and health regulations in 2002, unfavourable working conditions were still present.<sup>71</sup> The United Nations country team recommended that Samoa adopt amendments to the Labour and Employment Relations Act to protect workers' rights and consider establishing a labour court.<sup>72</sup>

### 2. Right to social security

38. The Working Group on discrimination against women and girls observed that, in the absence of a State-sponsored social welfare system, this function had been assumed by individual families, including those living abroad.<sup>73</sup> The Working Group recommended that the Government establish a countrywide State-sponsored social welfare system to provide social protection guarantees to all, including those working in the informal sector and those living in rural areas.<sup>74</sup>

39. The United Nations country team indicated that social protection coverage in Samoa was limited and that there were no formal social protection benefits and services in place for persons with disabilities. It recommended that Samoa adopt a policy and legislation to guarantee universal access to social protection with special measures in place for persons with disabilities.<sup>75</sup>

### 3. Right to an adequate standard of living<sup>76</sup>

40. The United Nations country team stated that food security was uneven throughout Samoa. The Savai'i region had the highest prevalence of food insecurity, with more than one in three households being food insecure in comparison to less than one in five households in Apia. Additionally, equitable access to food was negatively affected by the high prevalence of violence against women.<sup>77</sup>

### 4. Right to health<sup>78</sup>

41. The Working Group on discrimination against women and girls learned about the generally limited resources of health-care providers, the severe lack of doctors and the issue of pharmacies running short of supplies.<sup>79</sup> It recommended that Samoa improve access to health care, particularly for women in rural areas.<sup>80</sup>

42. The Committee on the Rights of the Child was concerned that health care was free only for children up to 5 years of age and for children in a vulnerable situation and that the vaccination coverage was low.<sup>81</sup> It was also concerned that the mental health of adolescents

still did not receive enough attention and that there were negative attitudes towards mental health issues in society.<sup>82</sup>

43. The United Nations country team noted that, in 2019, an outbreak of measles had led to the death of 83 people in Samoa, 87 per cent of whom were children under the age of 5. The outbreak, which was preventable, had resulted from long-term, cumulative failures in health-care planning and in the provision of routine immunization, compounded by the Government's slow recognition of the urgency of the problem.<sup>83</sup>

44. The Committee on the Rights of the Child recommended that Samoa consider implementing policy changes and awareness-raising initiatives among parents to increase the coverage of children vaccinated against preventable diseases<sup>84</sup> and that it raise awareness about mental health issues with a view to changing negative social attitudes.<sup>85</sup> The United Nations country team recommended that Samoa ensure the provision and ready access of essential health services, including immunization, for all children.<sup>86</sup>

45. The United Nations country team indicated that Samoa had a high prevalence of adult obesity. Over 24 per cent of the population lacked access to safe and nutritious food. More than one third of the average dietary energy consumed came from fats, well above the World Health Organization recommendation for a balanced diet. Vegetables were 18 times more expensive than cereals, oils and sugar.<sup>87</sup> It recommended that Samoa introduce measures to discourage the consumption of unhealthy food items, including through the imposition of taxes, and that it enforce the labelling requirements for food items under existing laws and regulations.<sup>88</sup>

46. The Committee on the Elimination of Discrimination against Women expressed concern about the absence of comprehensive, age-appropriate sexuality and reproductive health and rights education in school curricula, owing to cultural resistance;<sup>89</sup> the high rate of teenage pregnancy, owing to limited access to sexual and reproductive health services and information;<sup>90</sup> and the high number of pregnant women affected by sexually transmitted infections, including the prevalence of HIV.<sup>91</sup>

47. The United Nations country team noted that, while there were no legal barriers for young people and adolescents in gaining access to family planning supplies and information, testing for HIV and other sexually transmitted infections testing remained restricted to people aged 18 and older.<sup>92</sup>

48. The Committee on the Rights of the Child recommended that Samoa adopt a comprehensive sexual and reproductive health policy for adolescents that paid attention to all aspects of prevention, including the prevention of sexually transmitted infections and early pregnancies.<sup>93</sup> The United Nations country team recommended that Samoa expand adolescent and youth-friendly services to all facilities and remove the age of consent for testing for HIV and other sexually transmitted infection.<sup>94</sup>

49. The Committee on the Elimination of Discrimination against Women was concerned about the increase in the maternal mortality rate and recommended that Samoa conduct research to identify the root causes of this increase and take appropriate measures to address them, including by strengthening continuing efforts in antenatal care and providing training for health-care workers.<sup>95</sup>

50. The same Committee expressed concern about the limited grounds for legal abortion.<sup>96</sup> The United Nations country team stated that, under the Crimes Act, the provision of or the gaining of access to an abortion was an offence with a penalty of up to seven years of imprisonment. The exception to criminal liability was if the pregnancy was terminated to preserve the woman's life or her physical or mental health and within the first 20 weeks of gestation.<sup>97</sup> The Committee on the Elimination of Discrimination against Women recommended that Samoa amend the Crimes Act to legalize abortion, at least in cases of rape, incest, severe fetal impairment and risk to the health or life of the pregnant woman, and decriminalize abortion in all other cases.<sup>98</sup>

51. The United Nations country team stated that the Government had not developed provisions specifically addressing the health needs of persons with disabilities. Although Samoans with disabilities had the same rights to gain access to national health services as other citizens, they struggled to obtain specific care and items.<sup>99</sup> The United Nations country

team recommended that Samoa allocate specific funding for the provision of specialized medical items for persons with disabilities.<sup>100</sup>

## **5. Right to education<sup>101</sup>**

52. UNESCO noted that the main education law, the Education Act of 2009, had been amended in 2019. Although the law did not enshrine the right to education, it now stated that education was compulsory for children between the ages of 4 and 16 years, but not free of charge.<sup>102</sup> While commending Samoa for extending the duration of mandatory education to 12 years of schooling, when it had previously been 9 years,<sup>103</sup> UNESCO recommended introducing free education for at least 12 years of education.<sup>104</sup>

53. The Committee on the Rights of the Child was concerned about the hidden costs of education, such as registration fees, uniforms, transportation and lunches, in particular in rural areas; the low enrolment rates and high dropout rates at the secondary school level; and the risk of pregnant girls dropping out of school owing to discrimination and stigmatization.<sup>105</sup>

54. The same Committee recommended that Samoa address the barriers related to the hidden costs of education, in particular in rural areas, and provide a sufficient budget to the education sector; and that it take measures to increase enrolment and decrease the high dropout rates at the secondary school level, in particular for pregnant girls.<sup>106</sup>

55. The Committee on the Elimination of Discrimination against Women was concerned about the fact that girls continued to be victims of sexual abuse and harassment by teachers in school, and that such cases remained underreported. It recommended that Samoa investigate and prosecute cases of sexual violence and abuse by teachers, ensure that perpetrators were adequately punished and enforce the implementation of the national safe schools policy to ensure that pregnant girls and young mothers continued their education.<sup>107</sup>

56. The United Nations country team stated that the COVID-19 pandemic had highlighted key vulnerabilities within the education system. Despite no cases of COVID-19 for most of 2020, Samoa had had months of unplanned school closures during that year, exacerbating the low rates of educational completion after the closures in 2019 due to measles.<sup>108</sup>

## **D. Rights of specific persons or groups**

### **1. Women<sup>109</sup>**

57. The Working Group on discrimination against women and girls recommended that Samoa incorporate further the definition of discrimination and the concept of gender equality in its legal instruments.<sup>110</sup>

58. The Working Group noted that one of the most important steps in addressing the root causes of violence against women involved creating a change in mindsets regarding cultural perceptions about women and their place in society. Open dialogue on matters deemed taboo and alternative narratives on the meaning of the “Samoan way” needed to occur, which could not happen without the leadership of the Government and community and religious leaders, alongside women and men at all levels of society.<sup>111</sup>

59. The Committee on the Elimination of Discrimination against Women recommended that Samoa adopt a comprehensive strategy, including through awareness-raising programmes, aimed at women and men at all levels of society, including religious and traditional leaders, to eliminate discriminatory gender stereotypes regarding the roles and responsibilities of women and men in the family and in society, that it strengthen the capacity of all agencies, including the police, the health-care system, village *fono* and inter-agency and church task forces, and that it develop protocols to address violence against women.<sup>112</sup>

60. While noting the adoption of the Family Violence Act 2013, the Working Group on discrimination against women and girls indicated that no comprehensive legislation on gender-based violence against women beyond the family had been developed and that initiatives to combat gender-based violence remained scattered.<sup>113</sup> The Working Group



recommended that Samoa develop comprehensive legislation on gender-based violence against women.<sup>114</sup>

61. In 2021, the United Nations called upon Samoa to uphold its commitment to ending all forms of violence against women and girls, including violent threats, intimidation, verbal and physical harassment and abuse and indicated that it was ready to support all actors in their efforts to achieve that goal.<sup>115</sup>

## 2. Children<sup>116</sup>

62. The United Nations country team noted that the finalization of the Child Care and Protection Bill had been delayed by seven years. However, in 2020, the Government had endorsed the Samoa National Child Care and Protection Policy 2020–2030, including its implementation plan.<sup>117</sup>

63. The United Nations country team recommended that Samoa prioritize the adoption of the Child Care and Protection Bill, operationalize the Samoa National Child Care and Protection Policy 2020–2030, including its implementation plan, allocate sufficient human and financial resources to effectively implement the plan and establish an office of the children’s commissioner.<sup>118</sup>

64. The Working Group on discrimination against women and girls observed that corporal punishment against children was often justified as being part of the Samoan culture.<sup>119</sup> UNESCO noted that, while corporal punishment was prohibited by article 23 of the Education Act of 2009, an amendment introduced in 2018 authorized teachers to use “reasonable force if the force is used in a reasonable circumstance” in secondary schools. While this provision did not reintroduce corporal punishment explicitly, it could be seen as leading to the resurgence of such practices.<sup>120</sup> UNESCO recommended that Samoa explicitly prohibit corporal punishment in educational settings, without exception.<sup>121</sup>

65. The Committee on the Rights of the Child recommended that Samoa revise its existing legislation and ensure that the Child Care and Protection Bill explicitly prohibits all forms of corporal punishment in all settings, including at home, in the community, at schools and in the justice system, without any exception and that it explicitly repeal clauses related to the “right to administer reasonable punishment” in the Infants Ordinance of 1961 as a matter of priority.<sup>122</sup>

66. The United Nations country team stated that, despite ratification of the ILO Worst Forms of Child Labour Convention, 1999 (No. 182), child labour had not been eliminated due to a large number of families experiencing precarious living conditions that had been further deteriorated by the pandemic.<sup>123</sup>

67. ILO, in a report on children working on the streets, indicated that the majority of working children were either not in school or had dropped out of school. Financial difficulties were highlighted as the main reason that caused the children to drop out of school. Children, in some cases as young as 7 years of age, worked as vendors for long hours (5–12 hours a day) raising concerns about the negative impact of such activities on their education, health and safety.<sup>124</sup>

68. The ILO Committee of Experts was concerned about the prevalence of under-15-year-olds exploited as street vendors and about reports that around 38 per cent of child labour in Samoa was performed by children under the age of 15 years.<sup>125</sup> It strongly encouraged the Government to continue its efforts to identify and protect children engaged in street trading from the worst forms of child labour.<sup>126</sup> The Committee on the Rights of the Child recommended that Samoa take all the measures necessary to implement existing legislation prohibiting child labour and exploitation.<sup>127</sup>

69. Noting that the minimum age for admission to employment remained 15 years, the ILO Committee of Experts encouraged the Government to take the necessary measures to raise it to 16 years in order to link it with the age of completion of compulsory schooling.<sup>128</sup>

70. The Committee on the Elimination of Discrimination against Women was concerned about the high number of teenage marriages with parental consent in the country and recommended that Samoa address the root causes of early marriage, strengthen awareness-

raising programmes targeting both men and women, including parents of adolescent girls, and eliminate negative attitudes towards children born out of wedlock and the stigmatization of such children.<sup>129</sup> UNESCO noted that no marriage had been invalidated only because the minimum age had not been respected.<sup>130</sup>

### 3. Persons with disabilities<sup>131</sup>

71. The United Nations country team noted that, since the ratification of the Convention on the Rights of Persons with Disabilities, the Government had put in place policies to address the rights of this group.<sup>132</sup> However, Samoa lacked formal social protection for persons with disabilities. Unless they had been injured in the workplace, persons with disabilities did not receive any benefits and no specialized services were in place. A new national Disability policy was being finalized. The policy was based on an analysis of disabilities undertaken by the Samoa Bureau of Statistics documenting the extent of the disabilities and their impact on livelihoods. It found that persons with disabilities were five times more likely to have never attended school and that only 1 in 20 was in paid work.<sup>133</sup>

72. The United Nations country team recommended that Samoa adopt and adequately resource the implementation of the national disability policy and that it develop disability-specific legislation utilizing a rights-based approach that ensures equal rights for and the inclusion of persons with disabilities in all aspects of life.<sup>134</sup>

73. The Committee on the Rights of the Child was concerned about the stigmatization of children with disabilities, including children with mental disabilities, owing to cultural attitudes and the limited access to inclusive education and the lack of well-trained specialized teachers. The Committee recommended that Samoa develop and launch awareness-raising programmes with a view to changing social misconceptions about children with disabilities, including children with mental disabilities, and eliminating stigmatization, in particular in rural areas.<sup>135</sup>

### 4. Migrants

74. The Working Group on discrimination against women and girls noted that the fact that there were as many Samoans living outside the country as inside posed a perpetual challenge in preventing and managing a brain drain effect on the development of the country. It observed that the economy of Samoa relied on remittances and foreign aid, mainly for economic infrastructure and essential services. Some 70 per cent of households depended on remittances.<sup>136</sup>

#### Notes

<sup>1</sup> Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Samoa will be available at [www.ohchr.org/EN/HRBodies/UPR/Pages/WSIndex.aspx](http://www.ohchr.org/EN/HRBodies/UPR/Pages/WSIndex.aspx).

<sup>2</sup> For the relevant recommendations, see A/HRC/33/6, paras. 95.1–95.15, 95.36–95.38 and 96.1–96.30.

<sup>3</sup> United Nations country team submission for the universal periodic review of Samoa, paras. 1 and 39.

<sup>4</sup> *Ibid.*, p. 1.

<sup>5</sup> *Ibid.*

<sup>6</sup> CEDAW/C/WSM/CO/6, para. 26 (a).

<sup>7</sup> United Nations country team submission, para. 3.

<sup>8</sup> *Ibid.*, p. 1.

<sup>9</sup> For relevant recommendations, see A/HRC/33/6, paras. 95.16, 95.18–95.22, 95.24–95.29, 95.31, 95.35–95.36, 95.46, 95.50, 95.53, 95.56, 95.58–95.59, 95.64–95.65, 95.68, 95.76 and 96.32–96.38.

<sup>10</sup> United Nations country team submission, para. 16.

<sup>11</sup> CEDAW/C/WSM/CO/6, para. 17.

<sup>12</sup> United Nations country team submission, p. 5. See also CEDAW/C/WSM/CO/6, paras. 14 (c) and 18.

<sup>13</sup> See <https://sadata-production.firebaseio.com/>.

<sup>14</sup> United Nations country team submission, para. 2.

<sup>15</sup> *Ibid.*, p. 1.

<sup>16</sup> *Ibid.*, para. 5.

<sup>17</sup> A/HRC/38/46/Add.1, para. 20.

- 18 Ibid.
- 19 United Nations country team submission, para. 6.
- 20 Ibid., para. 8.
- 21 See communication WSM 1/2020, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25282>.
- 22 United Nations country team submission, para. 12.
- 23 Ibid., p. 4.
- 24 Ibid., para. 15.
- 25 For the relevant recommendations, see A/HRC/33/6, paras. 95.22, 95.46–95.47 and 96.31–96.36.
- 26 United Nations country team submission, para. 33.
- 27 Ibid., p. 8.
- 28 For the relevant recommendations, see A/HRC/33/6, paras. 95.83–95.90.
- 29 United Nations country team submission, para. 70.
- 30 Ibid., p. 15.
- 31 For the relevant recommendations, see A/HRC/33/6, paras. 95.34, 95.48–95.49, 95.57, 95.63, 95.65, 95.69–95.71 and 96.15.
- 32 United Nations country team submission, paras. 25–26. See also A/HRC/38/46/Add.1, para. 32.
- 33 United Nations country team submission, para. 28.
- 34 CRC/C/WSM/CO/2-4, para. 33 (a).
- 35 A/HRC/38/46/Add.1, para. 35.
- 36 For the relevant recommendations, see A/HRC/33/6, paras. 95.48, 95.50, 95.55 and 95.69.
- 37 United Nations country team submission, para. 34.
- 38 Ibid., para. 27.
- 39 Ibid., p. 8.
- 40 CEDAW/C/WSM/CO/6, paras. 13 (a) and 14 (a).
- 41 A/HRC/38/46/Add.1, para. 43.
- 42 United Nations country team submission, pp. 7–8.
- 43 Ibid., para. 38.
- 44 Ibid., para. 35.
- 45 Ibid., p. 9.
- 46 A/HRC/38/46/Add.1, para. 45.
- 47 CEDAW/C/WSM/CO/6, para. 14 (b).
- 48 CRC/C/WSM/CO/2-4, paras. 56 (a) and 57 (a).
- 49 United Nations country team submission, para. 57.
- 50 Ibid., p. 14.
- 51 CRC/C/WSM/CO/2-4, para. 23.
- 52 For the relevant recommendations, see A/HRC/33/6, para. 95.32.
- 53 United Nations country team submission, paras. 40–41.
- 54 UNESCO submission for the universal periodic review of Samoa, para. 5.
- 55 Ibid., para. 12.
- 56 United Nations country team submission, para. 23.
- 57 CEDAW/C/WSM/CO/6, paras. 9 and 27 (a).
- 58 United Nations country team submission, para. 22.
- 59 CEDAW/C/WSM/CO/6, para. 28 (a).
- 60 United Nations country team submission, p. 6.
- 61 CEDAW/C/WSM/CO/6, paras. 19 and 20 (b)–(c).
- 62 United Nations country team submission, para. 43.
- 63 See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27123&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27123&LangID=E).
- 64 United Nations country team submission, p. 10.
- 65 For the relevant recommendation, see A/HRC/33/6, para. 95.58.
- 66 CEDAW/C/WSM/CO/6, para. 25.
- 67 For the relevant recommendations, see A/HRC/33/6, paras. 95.17, 95.44–95.45, 95.63 and 96.35.
- 68 See [www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:3959537:NO](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3959537:NO).
- 69 Ibid. See also the United Nations country team submission, p. 10.
- 70 CEDAW/C/WSM/CO/6, para. 31 (a)–(c).
- 71 United Nations country team submission, para. 46.
- 72 Ibid., p. 11.
- 73 A/HRC/38/46/Add.1, para. 68.
- 74 Ibid., para. 97 (a).
- 75 United Nations country team submission, para. 44 and p. 10.
- 76 For the relevant recommendations, see A/HRC/33/6, paras. 95.33 and 95.72.
- 77 United Nations country team submission, paras. 54–55.

- <sup>78</sup> For the relevant recommendations, see A/HRC/33/6, paras. 95.44, 95.74–95.75 and 96.35.
- <sup>79</sup> A/HRC/38/46/Add.1, para. 56.
- <sup>80</sup> Ibid., para. 96 (a).
- <sup>81</sup> CRC/C/WSM/CO/2-4, para. 42 (a)–(b).
- <sup>82</sup> Ibid., para. 44.
- <sup>83</sup> United Nations country team submission, para. 58.
- <sup>84</sup> CRC/C/WSM/CO/2-4, para. 43 (b).
- <sup>85</sup> Ibid., para. 45 (b).
- <sup>86</sup> United Nations country team submission, p. 14.
- <sup>87</sup> Ibid., para. 53.
- <sup>88</sup> Ibid., p. 12.
- <sup>89</sup> CEDAW/C/WSM/CO/6, para. 29 (a).
- <sup>90</sup> Ibid., para. 33 (d).
- <sup>91</sup> Ibid., para. 33 (c). See also CRC/C/WSM/CO/2-4, para. 46 (a).
- <sup>92</sup> United Nations country team submission, para. 51.
- <sup>93</sup> CRC/C/WSM/CO/2-4, para. 47 (a). See also CEDAW/C/WSM/CO/6, para. 34 (d); and A/HRC/38/46/Add.1, para. 97 (d).
- <sup>94</sup> United Nations country team submission, p. 11.
- <sup>95</sup> CEDAW/C/WSM/CO/6, paras. 33 (a) and 34 (a).
- <sup>96</sup> Ibid., para. 33 (e).
- <sup>97</sup> United Nations country team submission, para. 52.
- <sup>98</sup> CEDAW/C/WSM/CO/6, para. 34 (e).
- <sup>99</sup> United Nations country team submission, para. 68.
- <sup>100</sup> Ibid., p. 15.
- <sup>101</sup> For the relevant recommendations, see A/HRC/33/6, paras. 95.4, 95.30–95.31, 95.50–95.51, 95.61, 95.76–95.81, 96.35 and 96.38.
- <sup>102</sup> UNESCO submission, para. 2.
- <sup>103</sup> Ibid., para. 9.
- <sup>104</sup> Ibid., para. 10.
- <sup>105</sup> CRC/C/WSM/CO/2-4, para. 50 (a)–(c).
- <sup>106</sup> Ibid., para. 51 (b)–(c).
- <sup>107</sup> CEDAW/C/WSM/CO/6, paras. 29 (d) and 30 (b) and (d).
- <sup>108</sup> United Nations country team submission, para. 59.
- <sup>109</sup> For the relevant recommendations, see A/HRC/33/6, paras. 95.17, 95.22–95.23, 95.32, 95.34, 95.37, 95.39–95.45, 95.52, 95.54–95.55, 95.59–95.60, 95.62, 95.69 and 95.73.
- <sup>110</sup> A/HRC/38/46/Add.1, para. 93 (c).
- <sup>111</sup> Ibid., para. 91.
- <sup>112</sup> CEDAW/C/WSM/CO/6, paras. 22 (a) and 24 (e).
- <sup>113</sup> A/HRC/38/46/Add.1, para. 29.
- <sup>114</sup> Ibid., para. 93 (e).
- <sup>115</sup> See <https://samoa.un.org/en/135167-united-nations-statement-violence-against-women-and-girls-samoa-2021>.
- <sup>116</sup> For the relevant recommendations, see A/HRC/33/6, paras. 95.23, 95.34, 95.39, 95.51, 95.53, 95.56, 95.59, 95.61, 95.64–95.68, 95.70, 95.76, 95.80 and 96.38.
- <sup>117</sup> United Nations country team submission, para. 56.
- <sup>118</sup> Ibid., p. 14.
- <sup>119</sup> A/HRC/38/46/Add.1, para. 38.
- <sup>120</sup> UNESCO submission, para. 9.
- <sup>121</sup> Ibid., para. 10.
- <sup>122</sup> CRC/C/WSM/CO/2-4, para. 31 (a)–(b).
- <sup>123</sup> United Nations country team submission, para. 47.
- <sup>124</sup> *Report on the Rapid Assessment of Children Working on the streets of Apia, Samoa: A Pilot Study*, (2017), p. 10. See also the United Nations country team submission, para. 47.
- <sup>125</sup> See [www.ilo.ch/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:4057789:NO](http://www.ilo.ch/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4057789:NO). See also United Nations country team submission, para. 63.
- <sup>126</sup> See [www.ilo.ch/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:4057789:NO](http://www.ilo.ch/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4057789:NO). See also the United Nations country team submission, p. 11.
- <sup>127</sup> CRC/C/WSM/CO/2-4, para. 53 (a).
- <sup>128</sup> See [www.ilo.ch/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:4057734:NO](http://www.ilo.ch/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4057734:NO). See also the United Nations country team submission, para. 60.

<sup>129</sup> CEDAW/C/WSM/CO/6, paras. 43 (a) and 44 (b)–(c).

<sup>130</sup> UNESCO submission, para. 9. See also CRC/C/WSM/CO/2-4, para. 22.

<sup>131</sup> For the relevant recommendations, see A/HRC/33/6, paras. 95.4, 95.8–95.9, 95.34–95.35 and 95.39.

<sup>132</sup> United Nations country team submission, para. 64.

<sup>133</sup> *Ibid.*, para. 67.

<sup>134</sup> *Ibid.*, p. 15.

<sup>135</sup> CRC/C/WSM/CO/2-4, paras. 40 (b)–(c) and 41 (b).

<sup>136</sup> A/HRC/38/46/Add.1, para. 6.

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