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## **Report of the Working Group on the Universal Periodic Review\***

### **Samoa**

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

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## Introduction

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its eleventh session from 2 to 13 May 2011. The review of Samoa was held at the 12th meeting on 9 May 2011. The delegation of Samoa was headed by Fonotoe Nuafesili P. Lauofo, Deputy Prime Minister of Samoa. At its 16th meeting, held on 11 May 2011, the Working Group adopted the report on Samoa.
2. On 21 June 2010, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Samoa: Bangladesh, Poland, and the United Kingdom of Great Britain and Northern Ireland.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Samoa:
  - (a) A national report submitted and a written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/11/WSM/1);
  - (b) A compilation prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in accordance with paragraph 15 (b) (A/HRC/WG.6/11/WSM/2);
  - (c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/11/WSM/3).
4. A list of questions prepared in advance by the Czech Republic, Latvia, the Netherlands and the United Kingdom was transmitted to Samoa through the troika. These questions are available on the extranet of the universal periodic review (UPR).

## I. Summary of the proceedings of the review process

### A. Presentation by the State under review

5. Samoa continued to uphold, promote and protect the human rights of its people consistent with its cultural and environmental context. As a small island and least developed State, Samoa acknowledged the challenges it faced in realizing human rights for its people and the importance of working together in a concerted manner with the international community to that end.
6. Samoa highlighted some of the salient elements of the promotion and protection of human rights in the country and responded to the advance questions it had received from the Czech Republic, Latvia, the Netherlands and the United Kingdom.
7. Concerning training of police officers on human rights issues, Samoa indicated that the Ministry of Police and Prisons had incorporated various training programmes on human rights issues for all police officers and that such training had also formed part of the police force's pre-deployment preparations for United Nations peacekeeping missions abroad.
8. On the establishment of a national human rights institution, Samoa would continue to work closely with its development partners and regional institutions in the development and establishment of a model that would best suit the culture and existing policy and legal framework of Samoa.
9. On the question of the decriminalization of abortion, Samoa explained that the Crimes Ordinance 1961 was currently being reviewed by the Samoa Law Reform

Commission. Samoa being a predominantly Christian country, decriminalization of abortion would need careful consideration and an ample public discussion in order to achieve a sustainable and practical amended legislation that would accommodate and reflect the sensitive nature of the issue. Currently, abortion could be made legal only when the continuation of a pregnancy might have implications on the life of the mother or of the unborn child.

10. On the question regarding a standing invitation to special procedures of the Human Rights Council, Samoa reaffirmed its standing invitation for any special procedures of the Council to visit Samoa as extended in paragraph 43 of its national report.

11. Regarding steps to address traditional attitudes towards domestic violence and gender discrimination, Samoa reported that the Domestic Violence Unit within the Ministry of Police and Prisons of Samoa, with the assistance from the New Zealand Police, as well as the Ministry of Women, Community and Social Development, had various community awareness and education programmes on domestic violence, which were publicized through, inter alia, television and radio talkback shows and in schools, youth groups and village communities. Those initiatives were aimed at disseminating information, educating, and enhancing public understanding at all levels of society on the scourge of domestic violence and gender discrimination. With assistance from the United Nations Population Fund (UNFPA), the Men against Violence Advocacy Group had been established to lead advocacy and to campaign, targeting men and village leaders to join forces to eliminate violence and gender discrimination.

12. In order to provide shelters for victims of violence, the Government of Samoa had been working closely with the Samoa Victim Support Group, a non-governmental organization (NGO) that provided services in this area, including through the provision of funding assistance to support the Group's programmes for victims of violence and the shelters it operates. The Government's proposed Community Sector Program, which was about to be completed, would facilitate financial and technical support for NGOs providing services in this area and enhance coordination between the Government and NGOs on child protection and violence against women and children.

13. Samoa indicated that the Family Safety Bill 2009, which comprehensively addressed domestic violence, was at the finalization stage and it was expected to be submitted to Parliament before the end of 2010. The review of the Crimes Ordinance 1961 included stiffer penalties for sexual crimes.

14. Regarding the question on available mechanisms for the review of police conduct, Samoa emphasized that unacceptable behaviour by police was not tolerated. Police officers found guilty of breaking the law and committing a crime were prosecuted in courts. The Professional Standards Unit of the Samoa Police Service, established to examine police misconduct, was reviewed by the Ombudsman, and appropriate recommendations made to the Minister of Police and the Attorney General for a final decision. The Police disciplinary regime was undergoing further review in order to continue to be able to provide a transparent process. The Public Service Commission also provided oversight on the public service as a whole.

15. On the issue of the legal status of patrilineal inheritance, Samoa explained that its laws did not prohibit or discriminate against women owning or inheriting property. Customary land was held collectively by a family under the custodianship of the family chief. The successor to the chiefly title could be a male or a woman. Title to freehold land was held individually, with no gender specifications on ownership and inheritance. The notion of patrilineal lineage of property, both customary and freehold, had no cultural or legal foundation in Samoa.

16. Concerning child street vendors and child labour, Samoa referred to its National Policy for Children 2010-2015, aimed at strengthening institutional mechanisms to enhance child protection programmes and services. Samoa noted that keeping child vendors off the streets remained a challenge. The pilot survey on child vendors conducted in 2006 noted that the existence of child vendors was due largely to issues of hardship and poverty. The implementation of the National Policy for Children, the National Policy for Women 2010-2015 and the Community Sector Plan focusing on poverty alleviation would help to address this issue.

17. In addition, and in line with the Strategy for the Development of Samoa for 2010-2012, the provision of an enabling environment conducive to the creation of income-generation activities to support family and community livelihoods was a priority for Samoa. Furthermore, several ongoing and proposed poverty alleviation programmes for employment and income generation were in place. The Samoa School Fee Grant Scheme would provide free education for all children for the full eight years of primary school.

18. Concerning changes to the electoral system, Samoa explained that the nomination of a single candidate by a district signified the unanimity of a decision by the whole district and the confidence of district members in the one candidate who they felt best represented their interests in Parliament. Such village decisions involved a lengthy process of dialogue and consultation that might take months before a collective decision was made. Samoa considered that the nomination of one person was a form of democracy that demonstrated stability in village politics.

19. Samoa mentioned that it worked closely with its development partners and intergovernmental organizations in order to address its human rights challenges and help achieve its developmental challenges. Samoa thanked the Government of New Zealand, OHCHR, the Pacific Islands Forum Secretariat and the Secretariat of the Pacific Community for the training and the financial and technical assistance it had received to assist with putting together its national report and enabling the participation of Samoa in the UPR.

20. Samoa indicated that increasing the participation of women in public life and decision-making was one of the priority areas of the National Policy for Women. Awareness, capacity-building and training activities for women had also been conducted to enable women to take on leadership roles. A new initiative facilitated by the Ministry of Health, entitled Women in Leadership Advocacy, provided a forum to bring together women in leadership positions in the public sector to share experiences and lessons learned as a way to support each other as they pursued their leadership roles in Government. Samoa believed that contesting Parliament seats by women and men candidates alike must enjoy the nationwide decision-making process that was vested in a democratic general election.

21. While Samoa had not yet signed other international human rights conventions, many rights had been advanced and mainstreamed into Government policies and plans. Samoa would continue to actively assess the remaining conventions relative to its capacity to meet the financial, administrative, legislative and institutional obligations, to ensure that Samoa was able to deliver upon becoming a State party to those conventions.

22. Samoa noted the gaps and weaknesses in its legislative framework on upholding equality and non-discrimination based on sexual orientation, and that relevant legislation was being reviewed by the Samoa Law Reform Commission. Samoa indicated that *Fa'afafine*, gays and lesbians were integral members of Samoan society and were heirs to family chiefly titles and lands through extended family consensus, as all men and women of its society were. However, sexual orientation was a sensitive issue in Samoa given the religious and cultural beliefs of mainstream society. Nonetheless, Samoa was confident that

education, awareness and sensitization would pave the way for societal acceptance and prevention of discrimination that might arise out of sexual orientation.

23. Plans were being formulated to reform the prisons through the law and justice sector programmes, such as the establishment of a prison system authority, independent of the Ministry of Police, with a view to providing improved service and realizing the basic rights of inmates. Samoa recognized the remaining challenges for the full realization of the rights of inmates or persons deprived of their liberty.

24. Samoa was committed to achieving poverty alleviation and food security, enhancing social conditions and achieving the Millennium Development Goals in order to ensure an adequate standard of living for every Samoan. Priority was being given to the rejuvenation of the agriculture sector, as well as to reforms aimed at improving health care and services. Furthermore, access to education and training had been a priority of Samoa for a long time.

25. Samoa indicated that it was vulnerable to the impacts of climate change and natural disasters. Several programmes and initiatives were in place to ensure resilience and preparedness. The Government of Samoa continued to coordinate and monitor efforts in that regard through the National Disaster Council chaired by the Prime Minister and the National Advisory Committee, which consisted of the heads of all Government agencies. A national strategy on climate resilience was being developed with assistance from the Asian Development Bank. That work was made more imperative given the country's experience with the devastating tsunami of 29 September 2009.

26. The Ministry of Natural Resources and Environment was implementing various adaptation and mitigation projects to address the adverse impacts of climate change, and Samoa would continue to invest in renewable energy sources, such as hydropower, solar energy and biofuel from coconut oil and biomass, as alternatives to fossil fuel.

## **B. Interactive dialogue and responses by the State under review**

27. During the interactive dialogue, 31 delegations made statements. Recommendations made during the dialogue are to be found in section II of the present report.

28. A number of delegations commended Samoa for the presentation of its national report, the participation of civil society in its preparation, and the country's participation in and commitment to the UPR process despite the challenges it faced as a small island State. The translation of the national report into the local language was also praised.

29. New Zealand noted that Samoa intended to establish a national human rights institution in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). It also noted the pervasive problem of domestic violence and the fact that Samoa was party to a number of core human rights instruments. While welcoming the setting up of the National Disability Taskforce, New Zealand noted the lack of a specific law on that issue. It also noted the existence of street vending by children during school hours. New Zealand made recommendations.

30. Algeria commended Samoa for its activities towards ensuring the right to education and health and women's and children's rights. Algeria was encouraged by the country's determination to improve the quality of life of its people as reflected in the strategy for development for 2008–2012. It noted the challenges faced by Samoa, stemming from the modest size of its economy and its vulnerability to climate change and natural disasters, and their impact on the effective enjoyment of human rights. It called for international solidarity to help Samoa ensure the enjoyment of human rights. Algeria made recommendations.

31. Canada welcomed the plan aimed at establishing a national human rights institution and favourably noted the setting up of the Domestic Violence Unit within the Ministry of

Police and Prisons, although it noted the poor living conditions in prisons, the alleged police abuses and the absence of provisions protecting people from discrimination based on sexual orientation and gender identity. Canada made recommendations.

32. Turkey commended Samoa for adopting a comprehensive framework for the enhancement of human rights. It encouraged Samoa to continue efforts to become party to core international human rights treaties. It commended the progress in establishing a human rights commission and encouraged further initiatives to start its functioning. Turkey appreciated the work on enacting a family safety law, which together with the new criminal code would make significant contributions to fighting sexual and gender-based violence against women and children. Turkey made recommendations.

33. Slovenia commended Samoa for planning to accede to the two Optional Protocols to the Convention on the Rights of the Child. While welcoming the high priority given to education, Slovenia noted the high dropout rate in primary education and inquired about measures taken to address it. Slovenia further inquired on measures taken to tackle domestic violence and to address the underrepresentation of women in decision-making processes. Slovenia made recommendations.

34. Germany commended the achievements Samoa had made in the human rights area, but noted the concerns of the Committee on the Rights of the Child regarding the low age of criminal responsibility, the absence of a juvenile justice system and the provision of alternatives to judicial proceedings and imprisonment. Germany sought information on the construction of a juvenile detention centre. Noting discriminatory common-law rules that have rendered difficult the prosecution of sexual offenders, Germany inquired about legislative changes to increase the threat of punishment for sexual violence in marriages and on measures protecting women from sexual and/or domestic violence. Germany made a recommendation.

35. While noting that Samoa was party to a number of core human right treaties, France inquired whether the country intended to accede to the outstanding instruments. France further inquired on the advancement of the plan aimed at establishing a national human rights institution, and on plans to adopt a law prohibiting corporal punishment. France referred to laws punishing sexual activities between consenting adults of the same sex. France made recommendations.

36. Japan commended Samoa for being party to the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, and for its efforts to ratify the International Convention for the Protection of All Persons from Enforced Disappearance. It welcomed measures to address domestic and sexual abuse of women and children, including the National Plan of Action for the Advancement of Women, the Family Safety Bill 2009, and the amendment of the Crimes Ordinance 1961 Act to impose stricter penalties for such crimes. Japan noted treaty bodies' concerns over the situation of women in the employment sector and their limited political participation, and hoped Samoa would make further efforts in that regard. Japan made recommendations.

37. Chile noted that the culture promoted the respect of human rights in a peaceful and cohesive society. Chile noted that, despite the changes linked to modernization, Samoa still praised the values of mutual respect and reciprocity and the well-being of the person. Chile was concerned that climate change and natural disasters were threatening the enjoyment of human rights. While noting the measures taken by Samoa, Chile indicated that international cooperation was crucial in tackling those issues. Chile made recommendations.

38. Cuba noted that, despite challenges faced, including financial constraints and limited capacity, and the adverse effect of climate change and natural disasters, Samoa was committed to promoting human rights. Cuba particularly noted health-related efforts,

including community plans and awareness-raising programmes in environmental health, water and sanitation, nutrition, food security, sexual and reproductive health, preventive health programmes, health research and promotion of public health. Cuba acknowledged measures on the rights of women and of persons with disabilities, efforts to boost economic growth through employment creation, and assistance provided for those affected by climate events, especially the 2009 tsunami. Cuba made recommendations.

39. Norway was concerned that Samoa had not yet ratified the Convention on the Elimination of All Forms of Discrimination against Women, that despite the ratification of the Convention on the Rights of the Child, children remained insufficiently protected in domestic law and that corporal punishment was lawful in the home and not explicitly prohibited in schools. It was also concerned that the country's legislation discriminated against women regarding inheritance and did not afford similar protection to married and unmarried women against coerced sex. It noted women's weak representation in government and welcomed the commitment of Samoa to equality and non-discrimination outlined in its national report. Norway commended Samoa for its support of the joint statement on ending acts of violence and related human rights violations based on sexual orientation and gender identity adopted by the Human Rights Council. Norway made recommendations.

40. Argentina welcomed the information included in the national report, notably that relating to the measures taken on gender equality. Argentina made recommendations.

41. Hungary welcomed the establishment of the Samoa Law Reform Commission in 2008 and the ratification of a number of core human rights instruments. Hungary encouraged Samoa to further strengthen its human rights mechanisms with international and regional assistance. Hungary noted with satisfaction improvements in the education sector and suggested that Samoa increase the education budget. Hungary also noted measures taken on gender equality. Hungary made recommendations.

42. Australia welcomed the commitment made by Samoa to fulfil its human rights obligations, particularly under the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, and commended its National Development Strategy focusing on the advancement of women and children. Welcoming the establishment of the Domestic Violence Unit, Australia remained concerned about prevailing violence against women. It commended the country for the National Policy for Persons with Disabilities and the Inclusive Education Demonstration Program and encouraged Samoa to ratify the Convention on the Rights of Persons with Disabilities. Australia noted the challenges Samoa faced in attaining development goals. It made recommendations.

43. Thailand commended Samoa for continuing efforts to promote human rights despite the added challenges it faced following the 2009 tsunami. Thailand also noted a number of policies such as the 2009 Education Act and the Strategy for the Development of Samoa for 2008-2012. Thailand commended the efforts of Samoa relating to its treaty body reporting obligations, which should be supported through technical cooperation. While noting the attention paid by Samoa to female offenders, Thailand recalled the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) applicable to those inmates. Thailand stood ready to continue and explore its cooperation with Samoa. Thailand made recommendations.

44. Brazil commended Samoa for abolishing the death penalty and for the priority given to education and health. It was concerned about gender equality, including the lack of appropriate legislation on discrimination against women; restrictions to freedom of expression and assembly; widespread use of corporal punishment against children; and limitations on the promotion of rights of persons with disabilities. It inquired about



intentions to ratify the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of Persons with Disabilities and measures to prevent violence against women and children, including domestic violence and trafficking. Brazil made recommendations.

45. Spain emphasized the efforts made by Samoa in adopting the Strategy for the Development of Samoa for 2008-2012 and its co-sponsoring of the joint statement on ending acts of violence and related human rights violations based on sexual orientation and gender identity recently adopted by the Human Rights Council. Spain inquired about measures taken to promote the participation of women in political and social life due to their low representation in the Parliament and the Cabinet, and about measures taken to allow all Samoan citizens to run in parliamentary elections. Spain made recommendations.

46. Slovakia acknowledged the vulnerability of Samoa to natural disasters and commended its commitment to establish a legal framework for refugee protection. It noted poor prison conditions and inmates being subjected to physical or sexual abuse. It also noted the concerns of the Committee on the Rights of the Child regarding the low age for criminal responsibility, the potential exposure of children to sexual exploitation given the growing tourism industry, and the growing number of working children. Slovakia made recommendations.

47. Mexico welcomed the significant efforts made to improve the human rights situation, particularly those towards the establishment of a national human rights institution. Mexico noted the prevailing economic constraints and inquired whether Samoa intended to seek international assistance to speed up the process to acceding to international instruments and to adapt national legislation accordingly. Mexico made recommendations.

48. China acknowledged comprehensive measures taken by Samoa to promote and protect human rights and adhere to human rights treaties. China noted that Samoa was actively safeguarding the rights of vulnerable groups, including women and persons with disabilities, and recognized its endeavor to improve peoples' social and cultural well-being and the importance accorded to health. China acknowledged the challenges faced by Samoa as a developing country, especially challenges to meeting its reporting obligations, and called on the international community to provide all necessary assistance.

49. The United States of America commended the successful 2011 general elections, the commitment of Samoa to a free and fair electoral process and the role of an independent and vigorous press. The United States commended Samoa for reconsidering laws that restricted the human rights of individuals based on their sexual orientation; for attempting to address prison overcrowding; and for continuing to combat domestic violence. It expressed concern at reported police abuses and at governmental statements suggesting that the freedom of religion might be restricted, notwithstanding the final report of a commission of inquiry on freedom of religion, which was still pending. The United States made recommendations.

50. Maldives noted the challenges faced by Samoa regarding human rights protection and promotion, given its size and capacity constraints. It also noted that the rich culture of Samoa was supportive of safeguarding human rights and acknowledged the country's commitment to incorporate international obligations into domestic law. It sought information on gender-mainstreaming efforts and the impact of climate change on human rights. Maldives made recommendations.

51. The United Kingdom welcomed the prominence given by Samoa to human rights despite the capacity and resource challenges. It hoped that the consultation with civil society would continue in the UPR follow-up process. It noted the country's efforts to address gender discrimination and urged Samoa to ensure that customs did not prevail over

the obligation to guarantee gender equality. It welcomed the proactive efforts made to address violence against women and children, and urged Samoa to pass the Family Safety Bill. The United Kingdom made recommendations.

52. Indonesia noted that Samoa was the first Pacific Island country to gain independence in 1962 and acknowledged its culture, known as “*fa’asomoa*”, which promoted and protected human rights by providing the foundation of a peaceful and cohesive society. Indonesia further noted that the Constitution guaranteed the rights to life, to personal liberty, to fair trial, to freedom of religion, to speech, to assembly and association and to the freedom from inhumane treatment and from forced labour. Noting remaining challenges, Indonesia made recommendations.

53. South Africa appreciated the steps undertaken to establish an independent national human rights institution and encouraged Samoa to continue to make that a priority objective with the necessary resources. South Africa noted that gender violence and discrimination against women were major challenges and inquired about the effectiveness of the steps being taken to address that serious challenge. South Africa made recommendations.

54. Costa Rica recognized the efforts of Samoa to protect and promote human rights, and particularly the progress made in areas such as health and education. Noting the country’s efforts towards achieving equality for and non-discrimination against women, Costa Rica underlined the many remaining challenges in this regard. Costa Rica sought information on measures to mitigate the costs and effects of climate change on the full enjoyment of human rights. Costa Rica made recommendations.

55. Nicaragua recognized the steps taken towards human rights promotion despite budgetary constraints. Noting the economic constraints of Samoa, Nicaragua wanted to share its experience in guaranteeing economic, social and cultural rights through the implementation of alternative strategies based on community action, women’s empowerment and citizen’s participation in decision-making. Nicaragua stated that the UPR would help Samoa in building up a legislative and institutional framework. Nicaragua made recommendations.

56. Ecuador acknowledged the efforts made by Samoa in implementing international standards for ensuring, respecting and promoting human rights. Ecuador made recommendations.

57. Morocco noted a number of achievements made, particularly in human rights awareness-raising, the adhesion to a number of core human rights instruments and improvements made in the recognition of the rights of women to education, employment, and economic, social and political resources. Morocco underlined that Samoa would reach its goals only with international technical and financial assistance. Morocco made recommendations.

58. Ireland noted with appreciation that Samoa was drafting a strategic plan on the requirements for establishing a human rights commission. Acknowledging the 1988 establishment of the Ombudsman Office, Ireland was concerned at inadequate public awareness of the role of the Office and sought information on remedial measures, including heightening its profile. Ireland welcomed the establishment of the Professional Standards Unit to provide training to the Police on addressing violence against women and children and inquired about measures envisaged to eradicate those phenomena. Ireland commended the establishment of a commission of inquiry to investigate alleged violations of religious freedom. Ireland made a recommendation.

59. The Philippines acknowledged the steps taken by Samoa to strengthen the promotion and protection of human rights and commended Samoa for having ratified a number of international human rights instruments. It noted the possible establishment of a

national human rights institution and inquired about how Samoa used local culture and traditions to promote human rights. The Philippines further inquired about how Samoa addressed the climate change effects on human rights and about the areas in which it needed international assistance. The Philippines noted the efforts made by Samoa in enhancing women's rights. It made recommendations.

60. Samoa proceeded to respond to some of the concerns and questions raised during the interactive dialogue.

61. On the area of the advancement of women and improving the rights of children, Samoa pointed out that the Cabinet had endorsed the National Policy for Women, the National Policy for Children and the National Policy for Persons with Disabilities, which provided the strategic direction for the delivery of the obligations of Samoa under the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.

62. On the issue of persons with disabilities, Samoa noted the recent establishment of the Unit for Persons with Disabilities under the Ministry of Women, Community and Social Development. That development would assist in the coordination and provision of support to the National Disabilities Taskforce and help advance efforts towards the ratification of the Convention on the Rights of Persons with Disabilities.

63. On the questions relating to the issue of violence against women and children, Samoa noted that it continued to conduct education, awareness and advocacy programmes in order to change mindsets and attitudes towards gender violence. The implementation of the policies for women and children would strengthen the policy and legal framework of Samoa through gender mainstreaming, delivery of gender trainings and the conduct of social impact assessments, in order that women and children might have full enjoyment of their human rights.

64. Regarding the effectiveness of steps taken to address violence against women, Samoa mentioned that it had confidence in the effectiveness of steps taken to tackle that problem, as evidenced in the number of reported cases that had reached the Courts. Samoa noted that it was continuing its advocacy and educational efforts to raise awareness among men and women about the importance of tackling the issue.

65. Concerning the ratification of international instruments, Samoa reiterated that it was a State party to the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, the Rome Statute of the International Criminal Court and the eight fundamental human rights conventions of the International Labour Organization, and a signatory to the International Convention for the Protection of All Persons from Enforced Disappearance. The Government would continue to actively assess the implication of accession to the remaining human rights conventions to which members had referred, in the context of its ability to meet the financial, legislative, institutional and administrative obligations required of Samoa as a State party. Samoa noted that while it was not yet a party to those other human rights conventions, their objectives and provisions had been already mainstreamed and incorporated in national plans and programmes.

66. With regard to the impact of climate change on the enjoyment of human rights of Samoans, Samoa indicated that climate change affected food security, the right to water, access to health, the right to life, the right to an adequate standard of living, and freedom of movement, due to internal displacements. National resources were redirected to climate change adaptation and mitigation programmes, including the rehabilitation and reconstruction of areas and communities that had been devastated or would be devastated by natural disasters and climatic events. Samoa looked forward to working closely with its development partners and intergovernmental organizations on mitigation and adaptation

projects. At the same time, Samoa would continue to invest in using renewable hydro, solar and biofuel energy as an alternative to fossil fuel.

67. Samoa indicated that a juvenile detention centre had been functioning since 2008 under the Ministry of Police and Prisons.

68. The minimum age of criminal responsibility remained at 10 years; however, under the Young Offenders Act of 2007, a Youth Court had been established to try people between the ages of 10 and 17.

69. As to the establishment of a human rights institution, Samoa was in the process of drafting legislation to this end.

70. With regard to the situation of prisons, Samoa was also in the process of drafting legislation to remove the responsibility for prisons from the Ministry of Police and establish a fully separate prison authority.

71. Samoa thanked each delegation for their comments and inputs. Samoa considered that the UPR process afforded to it the opportunity to share its story on efforts to uphold and protect human rights in Samoa and the challenges it faced in that regard.

72. In recognizing the challenges Samoa faced as a small island developing State, Samoa remained committed to fulfilling its obligations and responsibilities and continuing to work closely with the civil society, regional and international partners in advancing human rights in Samoa.

## II. Conclusions and/or recommendations

73. **The following recommendations formulated during the interactive dialogue have been examined by Samoa and enjoy its support:**

73.1. **Consider, in a progressive manner and with the necessary technical assistance, the ratification of the principal outstanding international human rights instruments (Chile);**

73.2. **Consider ratifying international human rights conventions to which it is not yet a party (Nicaragua);**

73.3. **Consider ratifying, as soon as possible, fundamental international human rights instruments and their optional protocols to which Samoa is not yet a party (Brazil);<sup>1</sup>**

73.4. **Consider ratifying (Slovenia, United Kingdom), consider the possibility of ratifying (Argentina), consider signing and ratifying (Indonesia), consider the possibility of acceding to and/or ratifying (Ecuador) the International Convention on the Elimination of All Forms of Racial Discrimination (Slovenia, United Kingdom, Argentina, Indonesia, Ecuador);**

73.5. **Consider ratifying (Slovenia), consider the possibility of ratifying (Argentina), consider signing and ratifying (Indonesia), consider the possibility of acceding to and/or ratifying (Ecuador) the International Covenant on Economic, Social and Cultural Rights (Slovenia, Argentina, Indonesia, Ecuador) and its Optional Protocol (Ecuador);**

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<sup>1</sup> The recommendation as read out during the interactive dialogue: “Consider ratifying, as soon as possible, fundamental international human rights instruments and their protocols to which Samoa is not yet a party and extending a standing invitation to the United Nations special procedures”.

- 73.6. Consider ratifying (Slovenia, United Kingdom), consider the possibility of ratifying (Argentina), consider signing and ratifying (Indonesia), consider the possibility of acceding to and/or ratifying (Ecuador), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Slovenia, Argentina, United Kingdom, Indonesia, Ecuador) and its Optional Protocol (United Kingdom, Ecuador);
- 73.7. Consider the possibility of ratifying the Convention on the Rights of Persons with Disabilities and, meanwhile, pursue efforts aimed at promoting the rights of persons with disabilities and their access to public places (Morocco);
- 73.8. Consider ratifying (Slovenia), consider the possibility of acceding to and/or ratifying (Ecuador) the Convention on the Rights of Persons with Disabilities (Slovenia, Ecuador) and its Optional Protocol (Ecuador);
- 73.9. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance (Spain);
- 73.10. Consider the possibility of acceding to the main universal human rights treaties to which Samoa is not a party, including the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of Persons with Disabilities, by seeking, if need be, technical assistance from OHCHR (Algeria);
- 73.11. Consider signing and ratifying international instruments to which it is not a party, especially the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, and the Convention on the Rights of Persons with Disabilities (Costa Rica);
- 73.12. Consider ratification of other core human rights treaties, such as the International Covenant on Social, Economic and Cultural Rights and the Convention on the Rights of Persons with Disabilities (Philippines);
- 73.13. Enact the Family Safety Bill without delay (New Zealand);
- 73.14. Deepen the harmonization process of its internal norms in the light of the international human rights standards and commitments in order to guarantee equal rights between men and women in all areas of social life (Argentina);
- 73.15. Pursue its efforts to establish a human rights commission in accordance with the Paris Principles before its next UPR in 2015 (Canada);
- 73.16. Establish at the earliest a national human rights institution compliant with the Paris Principles (France);
- 73.17. Consider the possibility of establishing a national human rights institution in accordance with the Paris Principles (Argentina);
- 73.18. Establish a national human rights institution in order to further strengthen its human rights policies (Thailand);
- 73.19. Establish a national human rights institution in compliance with the Paris Principles (Spain);
- 73.20. Expedite the establishment of a national human rights institution in compliance with the Paris Principles, while taking into account the

**characteristics of Samoa, including its culture, policies and legislation (Indonesia);**

**73.21. Establish an independent national human rights institution in compliance with the Paris Principles (South Africa);**

**73.22. Consider the establishment of a national human rights institution in accordance with the Paris Principles (Costa Rica);**

**73.23. Envisage the establishment of the national human rights institution in compliance with the Paris Principles (Morocco);**

**73.24. Continue to seriously consider setting up a national human rights institution (Philippines);**

**73.25. Continue its work for the realization of its priorities contained in chapter 6 of its national report (Nicaragua);**

**73.26. Continue to seek technical cooperation and assistance from the international community, such as OHCHR and UNFPA, in relevant areas, particularly capacity-building for preparing its national reports under human rights conventions to which Samoa is a party (Thailand);**

**73.27. Request assistance from OHCHR in preparing a common core document to streamline treaty reporting (Maldives);**

**73.28. Issue a standing invitation to the United Nations special procedures (Slovenia); consider extending a standing invitation to the United Nations special procedures (Brazil);<sup>2</sup>**

**73.29. Implement fully the recommendations of the Committee on the Elimination of Discrimination against Women, including by increasing efforts to improve the provision of sexual and reproductive health services so as to reduce maternal morbidity and prevent teenage pregnancies (Slovenia);<sup>3</sup>**

**73.30. Conduct awareness-raising activities to change socio-cultural practices and stereotypes that impinge on gender equality (Argentina);**

**73.31. Further enhance measures against violence against women and children, including by ensuring appropriate assistance to victims and active detection efforts by law enforcement authorities (Japan);**

**73.32. Immediately criminalize rape within marriage (Norway);<sup>4</sup>**

**73.33. Enact a comprehensive anti-trafficking law and make proactive efforts to identify and assist trafficking victims (United States);**

**73.34. Support the work of organizations devoted to promoting accessibility and the rights of persons with disabilities (Mexico);**

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<sup>2</sup> The recommendation as read out during the interactive dialogue: "Consider ratifying, as soon as possible, fundamental international human rights instruments and their protocols to which Samoa is not yet a party and extending a standing invitation to the United Nations special procedures."

<sup>3</sup> The recommendation as read out during the interactive dialogue: "Implement fully the recommendations of the Committee on the Elimination of All Forms of Discrimination against Women, including by repealing discriminatory provisions in the family law, and by increasing efforts to improve the provision of sexual and reproductive health services so as to reduce maternal morbidity and prevent teenage pregnancies."

<sup>4</sup> The recommendation as read out during the interactive dialogue: "Immediately criminalize rape within marriage and give men and women equal rights of inheritance."

- 73.35. Continue implementing strategies and plans for national socio-economic development (Cuba);
- 73.36. Continue implementing programmes and measures aimed at ensuring universal health care and quality education services for all its population (Cuba);
- 73.37. Significantly promote sexual education, in particular oriented towards adolescent girls and boys, paying special attention to the prevention of early pregnancy and to the control of sexually transmitted diseases and HIV/AIDS (Mexico);
- 73.38. Redouble efforts to promote universal education and ensure compliance with legislation on compulsory education (New Zealand);
- 73.39. Take further measures to ensure that all children enjoy their right to a free and compulsory primary education (Morocco);
- 73.40. Seek to enhance its programmes on human rights education and training in schools and for public officials, in cooperation with the international community (Philippines);
- 73.41. Continue its leading international efforts to tackle global warming, including by reminding developed countries and major emitting States of their obligation to help promote and protect human rights in Samoa by reducing greenhouse gas emissions to safe levels (Maldives);
- 73.42. Involve civil society organizations in the follow-up to this review (United Kingdom).
74. The following recommendations enjoy the support of Samoa, which considers that they are already implemented or in the process of implementation:
- 74.1. Ratify the Convention on the Elimination of All Forms of Discrimination against Women (Norway);
- 74.2. Endorse and promote the National Policy for Women, which addresses issues of discrimination against women, and ensure the speedy enactment of the Family Safety Bill 2009 (Canada);
- 74.3. Continue the process towards a speedy implementation of the Family Safety Bill, currently being considered, which will render effective the relevant provisions of the Convention on the Elimination of all Forms of Discrimination against Women and the Convention on the Rights of the Child relating to domestic violence issues (Chile);
- 74.4. Consider elaborating norms relating to persons with disabilities (Chile);
- 74.5. Continue harmonizing its national legislation in line with commitments assumed at the international level (Nicaragua);
- 74.6. Give high priority to the work of the National Disabilities Taskforce (New Zealand);
- 74.7. Strengthen the institutional infrastructure for ensuring, promoting and protecting human rights (Ecuador);
- 74.8. Finalize the National Policy for Women within a reasonable time frame (Hungary);

- 74.9 Fully implement the National Policy for Persons with Disabilities (Australia);
- 74.10 Further enhance national policies to promote the rights of women (Philippines);
- 74.11 Design specific policies to improve the situation of women in Samoan society and political life (Spain);
- 74.12 Provide members of its police force with training on human rights and improve inmate conditions in detention facilities (Canada);
- 74.13 Address improving the conditions in its penitentiary facilities as outlined in the Government's Law and Justice Sector Plan (Slovakia);
- 74.14 Develop efficient and transparent mechanisms to prevent violence, particularly against women, girls and boys, and ensure that these mechanisms have the necessary capacity and resources to tackle this issue (Mexico);
- 74.15 Prioritize legislation on women's rights and domestic violence, and implement domestic policies aimed at eliminating violence against women (Australia);
- 74.16 Amend its domestic law to criminalize domestic violence (United Kingdom);
- 74.17 Conduct additional campaigns to elevate public awareness about domestic violence, similar to the country's 2009 Say No to Rape campaign (United States);
- 74.18 Implement policies to ensure the promotion of the rights of women and children, specifically with regard to combating domestic violence and ending discrimination against women (South Africa);
- 74.19. Adopt and implement appropriate, efficient policy to address the sexual exploitation of children (Slovakia);
- 74.20 Implement fully the recommendations of the Committee on the Rights of the Child, including by taking measures to address the issue of child labour, prohibiting corporal punishment, and raising the minimum age of criminal responsibility to an internationally acceptable level (Slovenia);
- 74.21. Ban corporal punishment as a disciplinary measure in schools and in homes, and conduct awareness campaigns so as to reduce the scope of such action (Norway);
- 74.22. Design policies which strengthen the rights of the child, and in that regard, sensitize the population to end corporal punishment and child labour (Spain);
- 74.23 Address the elimination of child labour in the ongoing 1972 Labour and Employment Act review (Slovakia);
- 74.24 Continue and intensify the fight against social scourges, with a focus on reducing domestic violence and juvenile delinquency (Algeria);
- 74.25 Improve equal access to justice, including legal assistance and information and education about legal and human rights, to those who cannot afford private representation (Canada);
- 74.26. Enhance its investigation of complaints of abuse by police (United States);



- 74.27 Continue to guarantee freedom of religion and to ensure the preservation and promotion of the cultural characteristics and distinctness of “fa’asomoa” (Indonesia);
- 74.28. Enhance the rights of women regarding civic participation (Turkey);
- 74.29 Use the UPR process to better involve civil society for further promotion and protection of human rights in Samoa (Hungary);
- 74.30 Introduce necessary measures in the field of anti-discrimination and equal remuneration for men and women for work of equal value (Turkey);
- 74.31 Implement inclusion measures that ensure access for people with disabilities to better employment opportunities (Costa Rica);
75. The following recommendations will be examined by Samoa, which will provide responses in due time, but no later than the eighteenth session of the Human Rights Council in September 2011. The response of Samoa to these recommendations will be included in the outcome report adopted by the Council at its eighteenth session:
- 75.1. Accede to further international human rights treaties (Turkey);
- 75.2 Sign and ratify the International Convention on the Elimination of All Forms of Racial Discrimination (Spain);
- 75.3 Sign (Germany, Spain), and ratify (Germany, Spain, Maldives) the International Covenant on Economic, Social and Cultural Rights (Germany, Spain, Maldives) and its Optional Protocol (Germany);
- 75.4 Confirm its commitment towards the abolition of the death penalty by ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, which abolishes the death penalty under all circumstances (France);
- 75.5 Become a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol (New Zealand);
- 75.6 Sign (Germany, Spain) and ratify (Germany, Spain, Maldives) the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Germany, Spain, Maldives) and its Optional Protocol (Germany, Maldives);
- 75.7 Consider ratifying (Slovenia), consider the possibility of ratifying (Argentina), consider the possibility of acceding to and/or ratifying (Ecuador) the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Slovenia, Argentina, Ecuador);
- 75.8 Lift the reservation made to article 28, paragraph 1 (a), of the Convention on the Rights of the Child and ratify the two current Optional Protocols thereto, on the involvement of children in armed conflict (2000) and on the sale of children, child prostitution and child pornography (2000) (Hungary);
- 75.9 Take the necessary measures to ensure the signature and ratification of the two Optional Protocols to the Convention on the Rights of the Child (Canada);
- 75.10 Sign the two Optional Protocols to the Convention on the Rights of the Child (Morocco);

- 75.11 Consider ratifying the two Optional Protocols to the Convention on the Rights of the Child (Slovenia, United Kingdom); consider the possibility of acceding to and/or ratifying the Optional Protocols of the Convention on the Rights of the Child (Ecuador);
- 75.12 Ratify the two Optional Protocols to the Convention on the Rights of the Child (Maldives);
- 75.13 Ratify and implement the Convention on the Rights of Persons with Disabilities (New Zealand);
- 75.14 Accede to the Convention on the Rights of Persons with Disabilities (Australia);
- 75.15 Ratify and implement the Convention on the Rights of Persons with Disabilities and ensure non-discrimination against persons with disabilities by, inter alia, developing specific legislation regarding the rights of persons with disabilities and providing adequate resources, including technical assistance, to the recently established Taskforce Committee (Thailand);
- 75.16 Ratify the Convention on the Rights of Persons with Disabilities, fully incorporating the provisions of the Convention into its national legislation (Slovakia);
- 75.17 Sign and ratify the Convention on the Rights of Persons with Disabilities (Germany, Spain) and its Optional Protocol (Germany);
- 75.18 Consider the possibility of ratifying (Argentina), consider signing and ratifying (Indonesia), consider the possibility of acceding to and/or ratifying (Ecuador) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Argentina, Indonesia, Ecuador);
- 75.19 Take further steps to promote the protection of human rights, such as becoming a party in a timely manner to the main international human rights instruments, including, inter alia, the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, and by continuing to work to ensure the conformity of the domestic legal system with international human rights instruments (Japan);
- 75.20 Ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness (Slovakia);
- 75.21 Consider the possibility of incorporating progressively into its domestic legislation the provisions set out in the international instruments mentioned in paragraphs 73.4, 73.5, 73.6, 73.8, 75.7, 75.11 and 75.18, once it has proceeded to their ratification (Ecuador);
- 75.22 Finalize, with international technical and financial assistance, measures for the creation of a national human rights institution (Algeria);
- 75.23 Establish a national human rights institution and consider designating the national preventative mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Maldives);
- 75.24 Implement with high priority its intention to establish a mechanism to monitor human rights (New Zealand);

- 75.25 Conduct a public awareness campaign to ensure public understanding of the role of the human rights monitoring mechanism (New Zealand);
- 75.26 Consider establishing an independent body for the promotion and monitoring of the Convention on the Rights of the Child (Brazil);
- 75.27 Develop a national plan of action that provides a road map to ensure that international human rights commitments are reflected in domestic legislation (Maldives);
- 75.28 Take measures to reduce gender imbalance in the legislative and executive branches of Government (Norway);
- 75.29. Take appropriate measures to make the promotion of gender equality an explicit component of its national development plan and policies and to include in its Constitution or other appropriate domestic legislation a definition of discrimination against women (Brazil);
- 75.30 Amend its national law to guarantee equality between men and women and ensure that customs and traditional practices cannot be used in law to discriminate against women (United Kingdom);
- 75.31 Introduce amendments to its domestic legislation and administrative regulations aimed at eradicating all forms of discrimination against women, children, persons with disabilities and, in general, all groups in vulnerable situations (Ecuador);
- 75.32 Introduce amendments to its domestic legislation and administrative regulations aimed at abolishing all forms of torture and other cruel, inhuman or degrading treatment or punishment (Ecuador);
- 75.33 Carry out additional prison facility improvements, and invite independent human rights observers to monitor conditions within the prisons (United States);
- 75.34 Circulate and implement the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) as part of its Law and Justice Sector Plan and seek appropriate assistance from OHCHR and the United Nations Office on Drugs and Crime in its implementation (Thailand);
- 75.35 Ensure that the Professional Standards Unit of the Police complete its investigations in a timely fashion, and that it expand police training to address concerns about abuse by police (United States);
- 75.36 Review its legislation to bring the criminal responsibility of children in line with international standards (Costa Rica);
- 75.37 Equalize the legal minimum age of marriage for girls and boys (Norway);
- 75.38 Fulfil its commitment to equality and non-discrimination by repealing all legal provisions that criminalize sexual activity between consenting adults and investigate all cases of discrimination based on sexual orientation and gender identity (Canada);
- 75.39 Repeal laws criminalizing relations between consenting adults of the same sex (France);
- 75.40 Repeal all provisions which may be applied to criminalize sexual activity between consenting adults and adopt appropriate legislative measures

to include sexual orientation and gender identity in equality and non-discrimination laws (Norway);

75.41 Continue its reconsideration of laws that restrict the human rights of individuals based on sexual orientation or gender identity, and repeal all such laws (United States);

75.42 Make public, upon its completion, the report of the Commission of Inquiry set up to investigate alleged violations of religious freedom (Ireland);

75.43 Adopt domestic laws and administrative regulations aimed at eradicating all forms of discrimination against persons of foreign origin, members of ethnic or linguistic minorities, refugees, asylum-seekers and migrant workers, by ensuring the enjoyment of their fundamental rights, irrespective of their migration status (Ecuador).

76. The following recommendations did not enjoy the support of Samoa:

76.1. Consider the possibility of acceding to and/or ratifying International Labour Organization Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries (Ecuador);

76.2. Welcome an amendment to its Juvenile Justice Law and set the minimum age of criminal responsibility at 16 years of age (Turkey);

76.3. Raise the minimum age of criminal responsibility in compliance with international standards (Slovakia);

76.4 Implement fully the recommendations of the Committee on the Elimination of Discrimination against Women, including by repealing discriminatory provisions in the family law (Slovenia);<sup>5</sup>

76.5 Give men and women equal rights of inheritance (Norway).<sup>6</sup>

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

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<sup>5</sup> The recommendation as read out during the interactive dialogue: “Implement fully the recommendations of the Committee on the Elimination of All Forms of Discrimination against Women, including by repealing discriminatory provisions in the family law, and by increasing efforts to improve the provision of sexual and reproductive health services so as to reduce maternal morbidity and prevent teenage pregnancies.”

<sup>6</sup> The recommendation as read out during the interactive dialogue: “Immediately criminalize rape within marriage and give men and women equal rights of inheritance.”

## Annex

### Composition of the delegation

The delegation of Samoa was headed by Hon. Fonotoe Nuafesili P. Lauofo, Deputy Prime Minister of Samoa and composed of the following members:

- Ms. Leituala Kuiniselani Sandra Toelupe Tago, Chief Executive Officer, Ministry of Women, Community and Social Development;
  - Ms. Fa'alavaau Perina J. Sila, Deputy Chief Executive Officer, Ministry of Foreign Affairs and Trade;
  - Mr. Papalii Malietau Malietoa, Parliamentary Counsel, Office of the Attorney General;
  - Ms. Noelani Manoa, First Secretary, Permanent Mission of Samoa to the United Nations;
  - Mr. Filipo Masaurua, Human Rights Adviser, Pacific Islands Forum Secretariat;
  - Ms. Seema Naidu, Resource Trainer, Secretariat of the Pacific Community/Regional Rights Resource Team.
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