

Samoa

Mid-term Implementation Assessment



Promoting and strengthening
the Universal Periodic Review
<http://www.upr-info.org>



Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and one half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created a follow-up process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on and to implement their commitments. States should implement the recommendations that they have accepted and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate the index is described at the end of this document.

Geneva, 16 July 2014

Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/samoa>

We invite the reader to consult this webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

6 stakeholders' reports were submitted for the UPR. 10 NGOs were contacted. 2 UN agencies were contacted. The Permanent Mission to the UN was contacted. The NHRI was not contacted.

4 NGOs responded to our enquiry. None of the UN agencies responded. The State under Review did not respond to our enquiry.

The following stakeholders took part in the report:

1. **NGOs:** (1) Earthjustice and Human Rights Advocates (EJ+HRA) (2) Global Initiative to End All Corporal Punishment of Children (GIEACPC) (3) Nanua O Le Alofa (NOLA)

IRI: 7 recommendations are not implemented, 14 recommendations are partially implemented, and 14 recommendations are fully implemented. No answer was received for 106 out of 145 recommendations and voluntary pledges.

2. Index

Hereby the issues that the MIA covers:

rec. n°	Rec. State	Issue	IRI	page
22	Algeria	Disabilities, ESC rights - general, International instruments, Racial discrimination, Technical assistance	partially impl.	page 10
120	Algeria	NHRI, Technical assistance	fully impl.	page 16
29	Argentina	NHRI	fully impl.	page 15
109	Australia	Disabilities, International instruments	not impl.	page 11
3	Brazil	International instruments	partially impl.	page 12
27	Canada	NHRI	fully impl.	page 14
1	Chile	International instruments, Technical assistance	partially impl.	page 10
59	Chile	Disabilities	fully impl.	page 8
23	Costa Rica	Detention conditions, Disabilities, ESC rights - general, International instruments, Torture and other CID treatment	partially impl.	page 10
34	Costa Rica	NHRI	partially impl.	page 15
20	Ecuador	Disabilities, International instruments	partially impl.	page 10
62	Ecuador	General	fully impl.	page 16
28	France	NHRI	partially impl.	page 15
112	Germany	Disabilities, International instruments	not impl.	page 11
32	Indonesia	NHRI	partially impl.	page 15
54	Maldives	Environment	fully impl.	page 6
121	Maldives	Detention conditions, International instruments, NHRI, Torture and other CID treatment	partially impl.	page 16
18	Morocco	Disabilities, International instruments	fully impl.	page 10
35	Morocco	NHRI	fully impl.	page 15
108	New Zealand	Disabilities, International instruments	not impl.	page 11
122	New Zealand	NHRI	fully impl.	page 16
2	Nicaragua	International instruments	fully impl.	page 10
60	Nicaragua	Disabilities	fully impl.	page 9
76	Norway	Human rights education and training, Rights of the Child, Torture and other CID treatment	partially impl.	page 13
24	Philippines	Disabilities, ESC rights - general, International instruments	partially impl.	page 11
36	Philippines	NHRI	fully impl.	page 15
65	Philippines	Women's rights	-	page 14
111	Slovakia	Disabilities, International instruments	not impl.	page 11
19	Slovenia	Disabilities, International instruments	fully impl.	page 10
42	Slovenia	Right to health, Rights of the Child, Treaty bodies, Women's rights	-	page 12
75	Slovenia	Justice, Labour, Rights of the Child, Torture and other CID treatment, Treaty bodies	not impl.	page 13
144	Slovenia	Treaty bodies, Women's rights	-	page 13
33	South Africa	NHRI	partially impl.	page 15
31	Spain	NHRI	partially impl.	page 15
66	Spain	Women's rights	-	page 14
113	Spain	Disabilities, International instruments	not impl.	page 11



rec. n°	Rec. State	Issue	IRI	page
30	Thailand	NHRI	fully impl.	page 15
110	Thailand	Disabilities, International instruments	partially impl.	page 11
87	Turkey	International instruments	not impl.	page 11



3. Feedback on recommendations

ESC Rights

Recommendation n°54: *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 (Recommended by Maldives)*

IRI: *fully implemented*

Earthjustice and Human Rights Advocates (EJ+HRA) response:

Samoa has consistently acted as a leader in international efforts to remind developed countries of their obligation to help promote and protect human rights by reducing greenhouse gas emissions to safe levels. For example, at the most recent Conference of Parties of the UNFCCC in Warsaw in 2013, Samoa's Minister of Natural Resources and the Environment, Faamoetaulua Lealaiauloto Taito Dr. Faale Tuumaalii, stated:

“Let me return to the central issue that we continuously face: ambition—or the lack of it especially by countries with the capacity, the resources and best placed with the leadership role to lead, have continuously fallen short. The painful reality is that despite all our efforts in the years leading up to Doha to achieve legally binding commitments, which we all said we wanted, only four Parties have ratified the Doha Amendment, and none is a developed country Party. The truth is, we do not have in place a legally binding second commitment period. Henceforth, 2014 is a year of great expectations and a time for true leadership. A number of Annex B Parties are well towards achieving their commitments— largely because these were not ambitious targets in the first place. We expect the progress they had made to date be reflected in 2014 in commitments to deeper emission reductions for the second commitment period, through adjustments to their Quantified Emission Level Reductions Options (QELROs) over the next 12 months. ... Let me conclude by reminding this conference, that so long as we try to respond to the symptoms of climate change, and not address its root causes, and as long as vested and narrow interests dictate our national actions, the price we pay for indecisiveness and inaction in human lives lost and material costs will continue to escalate exponentially beyond any one country's capacity to cope alone.”

Samoa is also reducing its own emissions of greenhouse gasses and increasing use of renewable energy. According to Minister Tumaalii:



“While adaptation efforts against the impacts of climate change remain a priority for us, we are not limiting ourselves to adaptation projects only. In Samoa, we always believe that ambition must begin at home. We have to be part of the global solution by putting our own house in order first through positive contributions within our means. Thus as a government, we have established a National Green House Gas Abatement Strategy premised on a low carbon development pathway that is easily transformed into a comprehensive Nationally Appropriate Mitigation Actions (NAMA) programme towards a carbon neutral energy sector. We also have exceeded our National Energy Policy target for renewable energy sourcing. The scale of our effort will be negligible at the global level, but being able to showcase positive examples and being part of the solution, instead of the problem is important to our country.”

Additionally, Samoa is implementing US\$25 million worth of programs to adapt to improve climate resiliency of its coastal resources and communities, including infrastructure improvements to roads, and small grants for local communities for adaptation related activities at the local level.

Nevertheless, no amount of effort on the part of Samoa will fully protect the human rights of the people of Samoa, as long as climate change continues to:

- threaten the physical security and health of coastal communities (most of the population) with increased temperatures, sea level rise and increasingly severe storms and cyclones resulting in tidal surges, lowland flooding, beach and mangrove erosion, and the spread of vector-borne diseases;
- threaten access to freshwater by increasing extremes of temperature and precipitation, increasing instances of drought, and by causing salt-water intrusion into groundwater due to lowland flooding and coastal erosion; and
- jeopardize food security by impeding the agricultural capacity of the islands and damaging ocean ecosystems such as reef fisheries on which the people of Samoa rely for food.

These threats are negatively impacting the rights to food and water, the right to health, and the right to a healthy and sustainable environment for the people of Samoa.



The primary responsibility for the harms to the human rights of the people of Samoa caused by climate change falls not on the national authorities of Samoa, but on the States most responsible for past and current emissions of climate pollutants. These polluting States must take responsibility for their share of the impacts of climate change on the enjoyment of the human rights of the people of Samoa, implement effective measures to substantially reduce their emissions, and provide financial, technical and other support for measures to minimize the effects of climate change on the human rights of the people of Samoa.

Minorities

Recommendation n^o59: *Consider elaborating norms relating to persons with disabilities* (Recommended by Chile)

IRI: *fully implemented*

Nanua O Le Alofa (NOLA) response:

CRPD: The government of Samoa confirmed signing of CRPD this year during the Small Island States Development Forum [Scheduled for 1-4 September 2014 in Apia, Samoa].

Nuanua O Le Alofa's advocacy work has contributed significantly to changing the narrative regarding how disability is addressed at the legislative, policy and program levels. This has resulted in recognition of NOLA's role as the peak advisory body regarding CRPD implementation and ratification, and a key role in the Samoa Disability Program as advisor and trainer in disability inclusive development.

The national journey office is now responsible for completion of the CRPD legislative compliance review. The national focal point on disability has been secured under the ministry of women community and social developments. Also a national disability task force committee comprising government departments and disability organisations has been established. This committee is responsible for monitoring the implementation of our national disability policy. In addition, national initiatives increasingly become disability inclusive as a result of our advocacy for instance, Disaster risk reduction processes, education through the inclusive education, tourism industry.



Recommendation n°60: *Continue harmonizing its national legislation in line with commitments assumed at the international level* (Recommended by Nicaragua)

IRI: *fully implemented*

NOLA response:

CRC convention: A draft consultative bill on the prevention of the rights of children has been developed and submitted to parliament. The law reform commission has been mandated by government to ensure appropriate measures are in place for the protection and promotion of the rights of children and CRC.

CEDAW: Again the law reform commission is developing a submission paper which will then be available for public consultations some times this year. This document reaffirms Samoa's position/ compliance with CEDAW.

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International Instruments

Recommendation n°1: *Consider, in a progressive manner and with the necessary technical assistance, the ratification of the principal outstanding international human rights instruments* (Recommended by Chile)

IRI: *partially implemented*

+

Recommendation n°2: *Consider ratifying international human rights conventions to which it is not yet a party* (Recommended by Nicaragua)

IRI: *fully implemented*

+

Recommendation n°18: *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* (Recommended by Morocco)

IRI: *fully implemented*

+

Recommendation n°19: *Consider ratifying the Convention on the Rights of Persons with Disabilities* (Recommended by Slovenia)

IRI: *fully implemented*

+

Recommendation n°20: *Consider the possibility of acceding to and/or ratifying the Convention on the Rights of Persons with Disabilities and its Optional Protocol* (Recommended by Ecuador)

IRI: *partially implemented*

+

Recommendation n°22: *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* (Recommended by Algeria)

IRI: *partially implemented*

+

Recommendation n°23: *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 (Recommended by Costa Rica)

IRI: *partially implemented*

+

Recommendation n°24: *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* (Recommended by Philippines)

IRI: *partially implemented*

+

Recommendation n°87: *Accede to further international human rights treaties* (Recommended by Turkey)

IRI: *not implemented*

+

Recommendation n°108: *Ratify and implement the Convention on the Rights of Persons with Disabilities* (Recommended by New Zealand)

IRI: *not implemented*

+

Recommendation n°109: *Accede to the Convention on the Rights of Persons with Disabilities* (Recommended by Australia)

IRI: *not implemented*

+

Recommendation n°110: *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* (Recommended by Thailand)

IRI: *partially implemented*

+

Recommendation n°111: *Ratify the Convention on the Rights of Persons with Disabilities, fully incorporating the provisions of the Convention into its national legislation* (Recommended by Slovakia)

IRI: *not implemented*

+

Recommendation n°112: *Sign and ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol* (Recommended by Germany)

IRI: *not implemented*

+

Recommendation n°113: *Sign and ratify the Convention on the Rights of Persons with Disabilities* (Recommended by Spain)

IRI: *not implemented*



NOLA response:

CRPD: The government of Samoa confirmed signing of CRPD this year during the Small Island States Development Forum [Scheduled for 1-4 September 2014 in Apia, Samoa].

Nuanua O Le Alofa's advocacy work has contributed significantly to changing the narrative regarding how disability is addressed at the legislative, policy and program levels. This has resulted in recognition of NOLA's role as the peak advisory body regarding CRPD implementation and ratification, and a key role in the Samoa Disability Program as advisor and trainer in disability inclusive development.

The national journey office is now responsible for completion of the CRPD legislative compliance review. The national focal point on disability has been secured under the ministry of women community and social developments. Also a national disability task force committee comprising government departments and disability organisations has been established. This committee is responsible for monitoring the implementation of our national disability policy. In addition, national initiatives increasingly become disability inclusive as a result of our advocacy for instance, Disaster risk reduction processes, education through the inclusive education, tourism industry.

Recommendation n°3: *Consider ratifying, as soon as possible, fundamental international human rights instruments and their optional protocols to which Samoa is not yet a party (Recommended by Brazil)*

IRI: *partially implemented*

NOLAN response:

CRPD: The government of Samoa confirmed signing of CRPD this year during the small islands development states forum.

Recommendation n°42: *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 (Recommended by Slovenia)*

IRI: -

NOLA response:

CEDAW: Again the law reform commission is developing a submission paper which will then be available for public consultations some times this year. This document reaffirms Samoa's position/ compliance with CEDAW



Recommendation n°75: *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 (Recommended by Slovenia)*

IRI: *not implemented*

Global Initiative to End All Corporal Punishment of Children (GIEACPC) response:

In Samoa, corporal punishment of children is unlawful in the penal system and in schools, but in other settings - the home, alternative care settings and day care - it is lawful under "the right of any parent, teacher, or other person having the lawful control or charge of a child to administer reasonable punishment to such child" in the Infants Ordinance 1961. Despite the Government's acceptance of the UPR recommendations to prohibit corporal punishment, law reform in 2013 did not achieve this. Neither the Crimes Act 2013 nor the Family Safety Act 2013 repealed the right "to administer reasonable punishment" in the Infants Ordinance. A draft Child Care and Protection Bill is under discussion which would repeal the section of the Infants Ordinance which includes the right "to administer punishment" but does not explicit prohibit corporal punishment; it is not clear if the intention of the law reform is to prohibit all forms of corporal punishment, without exception, including in the home.

Recommendation n°144: *Implement fully the recommendations of the Committee on the Elimination of Discrimination against Women, including by repealing discriminatory provisions in the family law (Recommended by Slovenia)*

IRI: -

NOLA response:

Again the law reform commission is developing a submission paper which will then be available for public consultations some times this year. This document reaffirms Samoa's position/ compliance with CEDAW

Justice

Recommendation n°76: *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 (Recommended by Norway)*

IRI: *partially implemented*

GIEACPC response:

In Samoa, corporal punishment of children is unlawful in the penal system and in schools, but in other settings - the home, alternative care settings and day care - it is lawful under "the right of any parent, teacher, or other person having the lawful control or charge of a child to administer reasonable punishment to such child" in the Infants Ordinance 1961. Despite the Government's acceptance of the UPR recommendations to prohibit corporal punishment, law reform in 2013 did not achieve this. Neither the Crimes Act 2013 nor the Family Safety Act 2013 repealed the right "to administer reasonable punishment" in the Infants Ordinance. A draft Child Care and Protection Bill is under discussion which would repeal the section of the Infants Ordinance which includes the right "to administer punishment" but does not explicit prohibit corporal punishment; it is not clear if the intention of the law reform is to prohibit all forms of corporal punishment, without exception, including in the home.

Women & Children

Recommendation n°65: *Further enhance national policies to promote the rights of women* (Recommended by *Philippines*)

IRI: -

+

Recommendation n°66: *Design specific policies to improve the situation of women in Samoan society and political life* (Recommended by *Spain*)

IRI: -

NOLA response:

CEDAW: Again the law reform commission is developing a submission paper which will then be available for public consultations some times this year. This document reaffirms Samoa's position/ compliance with CEDAW.

Other

Recommendation n°27: *Pursue its efforts to establish a human rights commission in accordance with the Paris Principles before its next UPR in 2015* (Recommended by *Canada*)

IRI: *fully implemented*

+



Recommendation n°28: *Establish at the earliest a national human rights institution compliant with the Paris Principles* (Recommended by France)

IRI: *partially implemented*

+

Recommendation n°29: *Consider the possibility of establishing a national human rights institution in accordance with the Paris Principles* (Recommended by Argentina)

IRI: *fully implemented*

+

Recommendation n°30: *Establish a national human rights institution in order to further strengthen its human rights policies* (Recommended by Thailand)

IRI: *fully implemented*

+

Recommendation n°31: *Establish a national human rights institution in compliance with the Paris Principles* (Recommended by Spain)

IRI: *partially implemented*

+

Recommendation n°32: *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* (Recommended by Indonesia)

IRI: *partially implemented*

+

Recommendation n°33: *Establish an independent national human rights institution in compliance with the Paris Principles* (Recommended by South Africa)

IRI: *partially implemented*

+

Recommendation n°34: *Consider the establishment of a national human rights institution in accordance with the Paris Principles* (Recommended by Costa Rica)

IRI: *partially implemented*

+

Recommendation n°35: *Envisage the establishment of the national human rights institution in compliance with the Paris Principles* (Recommended by Morocco)

IRI: *fully implemented*

+

Recommendation n°36: *Continue to seriously consider setting up a national human rights institution* (Recommended by Philippines)

IRI: *fully implemented*

+

Recommendation n°62: *Strengthen the institutional infrastructure for ensuring, promoting and protecting human rights* (Recommended by Ecuador)

IRI: *fully implemented*

+

Recommendation n°120: *Finalize, with international technical and financial assistance, measures for the creation of a national human rights institution* (Recommended by Algeria)

IRI: *fully implemented*

+

Recommendation n°121: *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* (Recommended by Maldives)

IRI: *partially implemented*

+

Recommendation n°122: *Implement with high priority its intention to establish a mechanism to monitor human rights* (Recommended by New Zealand)

IRI: *fully implemented*

NOLA response:

The government of Samoa established and launched a national human rights institution in December last year.

Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we apply the same procedure for data collection about all States:

1. We contact the Permanent Mission to the UN either in Geneva or New York;
2. We contact all NGOs that took part in the process. Whenever NGOs were part of coalitions, each NGO is contacted individually;
3. The National Institution for Human Rights is contacted, whenever one exists.
4. UN Agencies, which sent information for the UPR, are also contacted.

We post our requests to the States and send e-mails to NHRIs, NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation are not contacted and those stakeholders' submissions are not taken into account.

However, since the UPR is meant to be a process that aims to share best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing recommendations and voluntary pledges

The stakeholders that we contact are encouraged to use an Excel sheet, which we provide, that includes all recommendations received and voluntary pledges taken by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split among recommendations to which we think it belongs. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention whether the recommendation was “fully implemented” or “not implemented”, *UPR Info* usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

UPR Info retains the right to edit comments that are considered to not directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the



recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for both recommendations received and voluntary pledges taken at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation is given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.

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