

**Joint Submission of the Samoa UN Country Team for the Universal Period Review of  
Samoa  
25<sup>th</sup> Session, April/May 2016**

## Introduction

1. As Samoa prepares for its second cycle review of the UPR in 2016, this submission is made by UN agencies that work in and cover Samoa<sup>1</sup>. While the submission provides available information, it does not attempt to provide a comprehensive review of the human rights situation in Samoa.
2. The UNCT Pacific hopes that the preparations for the second review are seized as an opportunity for the Government and stakeholders to engage in consultation and exchange of views on new developments and implementation of 2011 UPR recommendations. It also encourages the Government to use the outcomes of the second review to further the enjoyment of human rights in Samoa.

### I. BACKGROUND AND FRAMEWORK

#### A. Scope of international obligations

1. Samoa is a party to ICCPR, CEDAW, CRC and CPPED. Since its last UPR in 2011, Samoa signed the Convention of the Rights of Persons with Disabilities (CRPD) in 2014. **UNCT recommends Samoa ratify and accede to the remaining five core international human rights treaties<sup>2</sup> and the optional protocols to international treaties and to implement these through domestic application.**

#### B. Constitutional and legislative framework

2. Since its last UPR in 2011, Samoa has undertaken law reform in a number of areas to promote gender equality and the rights of women and children.
3. The Constitution of Samoa prohibits discrimination on the basis of sex. The Constitution also gives lawful recognition to customary practices and, in cases where those practices discriminate against women, this can pose a challenge to eliminating discrimination against women.
4. To address the low representation of women in Parliament, a Constitutional Amendment introducing a 10 per cent quota for women representatives in the national Legislative Assembly was passed by Parliament in 2013<sup>3</sup>. The system proposes a “floating” five reserved seats for women - if less than five women are elected, the amendment is activated and the remaining seats to total five for women is added to the Parliament. The holders of special seats are determined by proportion of the popular vote. This is a significant milestone in the effort to increase the participation of women in Parliament.
5. Samoa, like the majority of Pacific Island Countries, prosecutes domestic violence under general assault laws. The new *Crimes Act 2013* which repeals the *Crimes Ordinance of 1961*<sup>4</sup> outlines penalties for sexual offences. Under the Act, sexual offences include sexual violation<sup>5</sup>, sexual assault and trafficking<sup>6</sup>. Sexual violation distinguishes between rape (based on sexual intercourse of a woman by a man without consent) and unlawful

sexual connection (which includes all orifices, any object and any person). The maximum penalty for rape is life imprisonment and the maximum penalty for unlawful sexual connection is 14 years.

6. However, there are several shortcomings of the *Crimes Act*. In the Act, the definition of rape is limited to penile penetration of the vagina, there is a lack of minimum sentences for sexual crimes and charges of unlawful sexual connection with a person under 16 years of age cannot be brought if the offender was married to the young person at the time: this is the case for victims aged 12-16.<sup>7</sup>
7. Samoa has enacted several key pieces of legislation and established structures<sup>8</sup> to address family violence and family matters. The *Family Safety Act 2013* which was passed also established a Family Violence Court in 2013<sup>9</sup>. In 2014, Samoa established a Family Court through the *Family Court Act 2014*. The Family Court is a division of the District Court and its purpose is to promote alternative dispute resolution and conciliation.
8. The *Family Safety Act 2013* provides for an extensive definition of domestic violence. The definition of domestic violence includes physical, sexual, emotional, verbal and psychological abuse, as well as intimidation, harassment, stalking and any other controlling or abusive behaviour that causes harm to a person's safety, health or wellbeing. Important elements of the Act are the ability of a child to apply for a protection order without the consent of a parent or legal guardian, the duties of the police<sup>10</sup> and the "No Drop Policy" under which a report of domestic violence that involves any form of physical or sexual abuse must be pursued with intent to prosecute.
9. The Family Violence Court which was established in September 2013 is the first dedicated Family Violence Court in the Pacific outside of Australia, New Zealand and Fiji<sup>11</sup>. The Family Violence Court deals with criminal cases related to family violence and seeks to hold defendants accountable for their actions and to compel them to address their violence in an appropriate way. It is judge driven as a case management device as well as a means to create intervention programs for families.
10. Since its establishment the Family Violence Court has tried over 800 cases. The Court has dedicated people supporting those going through the legal process<sup>12</sup>. This includes judges, police prosecutors, community probation officers, victim advisors, court staff, and a variety of community support services. Victim advisors are a core part of the court process: they assist victims with applying for protection orders, advise them of their rights and case progress and assist them with accessing support from government or community agencies.
11. To improve the tracking of cases and identify obstacles in accessing appropriate legal outcomes, Samoa has implemented a monitoring and evaluation system for the Family Violence Court and Family Court with support from UN Women<sup>13</sup>. The Court is in need of support mechanisms to provide the counseling and guidance to families.

**The UNCT encourages the Government of Samoa to further support substantive interventions to reduce violence against women and girls and on the grounds of sexual orientation and gender identity, through legislation, interagency collaboration and response systems; and support the availability of free legal assistance and formal alternatives to dispute resolution mechanisms for family matters.**

### **C. Institutional and human rights infrastructure and policies**

12. Samoa's commitment to progress human rights is evidenced in expansion of the Ombudsman of Samoa's mandate to include the functions of a National Human Rights Institution in 2013. In May 2013, the Samoa Parliament passed the *Ombudsman (Komesina O Sulufaiga) Act 2013* which broadened the Ombudsman's functions to promote and protect human rights<sup>14</sup>. While the Samoa Ombudsman/NHRI is yet to be accredited by the International Coordinating Committee on National Human Rights Institutions (ICC), the legislation underpinning the mandate of the organization is based on the spirit of the Paris Principles and the institution is seen as a model for Pacific countries.
13. In less than two years of functioning as an NHRI, the Office of the Ombudsman has commendably produced Samoa's first 'State of Human Rights Report' in 2015<sup>15</sup>. The report was a key achievement of the Office and was submitted to the Samoa Parliament in June and officially launched in August. The report discussed human rights outlined in the Samoa Constitution and focused on national legislation, Samoan culture and principles and a number of vulnerable groups. **The UNCT encourages Samoa to continue to support the work of the Ombudsman NHRI and ensure that the Ombudsman receives adequate funding and resources to effectively carry out its mandate.**

## **II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND**

### **A. Cooperation with international human rights mechanisms**

14. In August 2015, OHCHR, Pacific Islands Forum Secretariat and the Secretariat of the Pacific Community/Regional Rights Resource Team (SPC/RRRT) provided technical assistance to the Samoa Government and Civil Society in preparation for the country's second UPR<sup>16</sup>.
15. Samoa issued a standing invitation to Special Procedures in February 2011<sup>17</sup>.
16. Samoa will be reviewed by the Committee on the Rights of the Child in 2016.

## **III. Implementation of international human rights obligations**

### **Equality and non-discrimination**

17. The broad nature of the provisions of Samoa's *Immigration Act 2004* pose challenges to preventing discrimination against persons with HIV entering the country<sup>18</sup>. While there are no explicit discriminatory restrictions related to HIV or AIDS mentioned in the Act, several sections of the Immigration Act – 3, 6 and 7 in particular - allow the Minister to ask any person entering, residing or departing Samoa to answer any question related to health status and be examined by a Medical Practitioner. There appears to be a risk that uneven and overly broad interpretation of these provisions may lead to denial of entry for people living with HIV seeking to come to the country. **The UNCT recommends that the Samoa Government clearly define diseases that are considered to present a danger to the community in the context of the Immigration Act and not include HIV or AIDS in this list as HIV is not airborne or transmitted through casual contact.**
18. Additionally, under the *Immigration Act 2004* when seeking a short/long term resident permit, a person must be able to establish to the satisfaction of the Minister that he/she “is of good health and character” and complete an application and medical form that is submitted to the Immigration of Samoa Medical Council. It is unclear when and how HIV testing is performed in the context of the immigration medical assessment and how the results are considered. **The UNCT recommends that HIV testing requirements be eliminated from entry, stay and residence application forms and related procedures. The UNCT encourages the Government to provide guidance to consular officials, immigration officers and medical officers to consistently apply the immigration medical assessment criteria and prohibit discrimination on the basis of HIV status.**
19. In 2012, Samoa commendably amended its legislation on divorce and the *Divorce and Matrimonial Causes Act 2012* now provides for no fault divorce based on the single ground of irretrievable breakdown.
20. Gender equality is undermined by women's poor access to employment, property, financial credit and bank loans. In 2012, Samoa along with six other Pacific countries had low global rankings on the Women's economic opportunity index which looked at women's access to property and finance.<sup>19</sup> **The UNCT urges the Government of Samoa to review and reform all policies, legislation and practices that restrict women's equal rights to employment, property and finance as an important step towards to improving women's economic empowerment and achieving gender equality.**
21. The 2011 Population and Housing Census revealed a labour force participation rate of just 11 per cent for women compared to 30 per cent for men<sup>20</sup>. Data analysed from the survey also showed that 37.4% of all females live in households in the lowest three deciles. When analysing the data by region, the high percentage of females living in the households in the bottom three deciles (almost 40%) in the region of North West Upolu (NWU) is of particular note. Comparatively, the percentage of women living in households in the highest quintile is much lower (12.9%). Overall, 20% of all children were living in female headed households; and of these children, almost 37% were living in female headed households in the lowest three deciles. These statistics suggest that females are more likely to be in poor households and therefore be potentially

disadvantaged and children living in female headed households were more likely to be in a poor household<sup>21</sup>.

22. Samoa signed the Joint Statement on the Rights of LGBT Persons at the Human Rights Council in March 2011. A positive legislative development relating to the rights of LGBT persons is the *Labour and Employment Relations Act 2013* provision on fundamental rights and principles which states that employers are not to discriminate against employees or applicants on the basis of sexual orientation. However, as same sex relations and activity between consenting adults is still criminalized in Samoa<sup>22</sup> and there have been no changes in this regard<sup>23</sup>, legislative measures such as the above will have limited impact and will not consistently address discrimination and legal protection against violence on the grounds of sexual orientation and gender identity. **The UNCT urges the Government of Samoa to end discrimination on the grounds of sexual orientation, including though decriminalising sexual activity between consenting adults of the same sex.**

### **Right to life, liberty and security of the person**

23. The *Samoa Child Care and Protection Bill 2013* is currently still in a draft form awaiting submission to Parliament. The Bill was drafted by the Office of the Attorney General with the support of several ministries, including the Ministry of Women, Community and Social Development and Ministry of Health and consultations undertaken with various sectors. If the Bill is endorsed by Parliament, Samoa will have legislation that encompasses the majority of issues pertaining to the safety and care of children that are not specifically touched upon by existing laws such as the *Family Safety Act, Family Court Act, Young Offenders Act, Community Justice Act & Infants Ordinance*. **The UNCT encourages advocacy on the Bill, ownership by key partner agencies and passing the Bill in Parliament.**

### **Administration of justice, including impunity, and the rule of law**

24. Dialogue on effectively combatting corruption is underway in Samoa. The Supreme Court of Samoa has spent a substantial amount of time adjudicating cases of perceived corrupt practices that occurred during the campaign periods. There have been certain times and circumstances where the Supreme Court recognized a practice during general election campaigning as corrupt. In 2014, Officers of Parliament Committee's (O.P.C) wrote a report alleging instances of corruption in Government which was tabled in Parliament. A recent initiative to address fraud and corruption was the signing of a Memorandum of Understanding between the Office of the Attorney General and Samoa Audit Office in May 2015.
25. Samoa has not ratified the United Nations Convention Against Corruption (UNCAC). Members of Parliament remain sceptical about the basic interpretations of corruption vis-à-vis Samoan traditional customs and traditions. Although the traditional practices of gift giving are pure and good in themselves, having been practiced for hundreds of years as

part and parcel of the Samoa culture (or *Fa'asamoa*), there are certain times and circumstances when these can only be recognized as bribery and therefore a corrupt practice under the law.

26. Samoa is the first country in the Pacific with its *Young Offenders Act 2007* to incorporate relevant meaningful appropriate traditions and culture into its judicial response<sup>24</sup>. The *Young Offenders Act 2007* complements the *Community Justice Act 2008* and uses a community based solution to offending. The principles of restorative justice in the best interests of young offenders underpin the outlook of the Olomanu Youth Rehabilitation Centre.
27. In this context, the Ministry of Justice and Courts Administration established a program for young offenders to be placed usually with the family of the mayor or pastor in chosen villages. The young offenders' sentence is served under the supervision of the family and village. Opportunities to learn skills such as carpentry, screen printing and making handicrafts are given where available. The programme has had a high success rate of 90% and only 10% of program participants re-offend.
28. Although legislation is in place and Court structures have been established to address violence against women, survivors of violence still face difficulties accessing the formal justice system in Samoa. One of these barriers is the perceptions and attitude to domestic violence. Despite education and training, many police officers and prosecutors continue to believe that violence against women, and particularly domestic violence, does not constitute a criminal offence. There have been cases where prosecutors did not institute proceedings in cases of violence against women for a range of reasons, including perceptions that complainants cannot be trusted and difficulties in gathering evidence. In addition, they may press women into reconciliation, often putting them in extreme danger.
29. The customary practice of *ifoga*, where the offending party seeks forgiveness of the party wronged through public acknowledgement, also poses a challenge in cases of domestic violence.<sup>25</sup> In small, close-knit societies, reconciliation and practices of forgiveness are powerful in bringing about peace and harmony between families and cohesiveness in the community in which they live. However, it can also be an obstacle to proper legal protections and redress, and compel women to remain in dangerous situations. Whilst *ifoga* does not prevent the prosecution of an offence, it is one of the factors taken into account during the sentencing process.
30. A number of institutional measures have been adopted to address barriers and difficulties faced by victims accessing the formal justice system. These measures include mandatory arrest, prosecution, pro-arrest, and pro-prosecution policies and the establishment of the Police Domestic Violence Unit in 2006. The Unit is currently staffed by nine specially trained officers to deal with domestic violence cases.<sup>26</sup> Whilst a start, this is a very low number of police to cover cases for the entire country. An important area that needs improvement in police stations is the provision of rooms with one way mirrors for victims to identify perpetrators anonymously. At present, perpetrators can see victims; this often

prevents women from going to police stations to identify perpetrators and is a cause for concern about victim safety.

### **Freedom of religion or belief, expression, association and peaceful assembly and right to participate in public and political life**

31. Despite being the highest ranked Pacific island in the World Press Freedom Index in 2014, the media industry in Samoa continue to face some limitations and restrictions. Editorial independence, professional journalism standards and ethics are a few elements of press freedom that the Samoa media seems to lack. In early 2015, the Parliament adopted the *Media Council Act 2014* and its sole purpose is to promote professional journalism and integrity in the news media. The Act which establishes a Media Council will be responsible for dealing with complaints from the public against the media. In 2013, the Government instructed the Attorney General to draft legislation to establish a Media Council taking into account recommendations from a Report prepared by the Samoa Law Reform Commission on Media Regulation<sup>27</sup>. This instruction to the AG was the result of concerns over the media's professionalism, the absence of constructive self-regulation mechanisms and its ineffective code of practice. There is a need for the media industries in Samoa to revisit and assess their Code of Ethics. **UNCT encourages the Government to support the local media industries in their effort to establish media ethics and to effectively apply these ethics. UNCT encourages the media industries in Samoa to strengthen their associations, leadership and become more influential in convincing the support of the Government to embrace the freedom of the press.**

### **Right to social security and to an adequate standard of living**

32. Samoa is considered to be food secure. Samoa has achieved MDG 1 which is to halve the proportion of hungry people and the World Food Summit (WFS) goal of having reduced by half the absolute number of undernourished people between 1990-92 and 2010-2012.

33. The Governments 2012-2016 Strategy for the Development of Samoa (SDS) focuses on boosting productivity for sustainable development through a number of key areas, for example, private sector investment, export capacity, investment in social sectors and infrastructure<sup>28</sup>. Agriculture and food security is identified as one of the priority profiles under the National Adaptation Programme of Action (NAPA) 2005. Under this framework, the Ministry of Agriculture and Fisheries has an Agriculture Sector Plan (ASP) 2011-2015 with a vision of agriculture for food and income security.

34. Analysis of the trends and emerging issues that are affecting the agriculture, fisheries, food and forestry sectors of Samoa point to four complex issues: linkages between the availability of food in markets, diet and non-communicable diseases; problems facing the long-term sustainability of agriculture and fisheries; difficulties of national disaster risk reduction effort in the face of a lack of better integration of these sectors; and management of multidimensional demands placed on the natural resources of Samoa.

35. Samoa is food secure in that it can afford to import food to make up for any shortfall in domestic production. Current government efforts are appropriately focused on increasing domestic food production and developing export opportunities where they may exist. However, the linkages between the types of food available, diet and NCDs are a growing concern and the challenge of longer-term sustainability in light of climate change requires continued and sustained attention<sup>29</sup>. For example, in 2013 soft drinks was the 14th highest value food import into Samoa, comprising 2,213 tonnes costing around US\$1.8 million. This represented an 87 per cent increase over soft drink imports in 2000.

### **Right to participate in public and political life**

36. Women's representation in Parliament and their political participation remains a challenge. In Samoa, only *matai* (chief title) are allowed to run for elected office. The number of women that hold matai titles is low and there are cases where villages refused to give women *matai* titles. This is a major barrier to increasing the numbers of women running for elections.

37. Of the already small percentage of women that run for elections, even fewer Samoan women are elected to Parliament. In 2006, 210 candidates contested the Parliamentary election: 18 of these were women and at the end only four women were elected<sup>30</sup>. Samoa's last election was in 2011 and women currently hold only three of the forty-nine seats in the National Parliament. This is a drop from the number of women that held seats in the last Parliament in March 2006: there were four women MPs – the highest ever number of elected women representatives in the 50 years of Parliamentary democracy in Samoa.

38. Political participation of persons with disabilities, in particular those with intellectual or psychosocial (mental health) impairments, is restricted by discriminatory legislation. The Electoral Act 1963 disqualifies persons with “unsound mind” and subject to a medical custody order under the Mental Health Act 2007 from being a candidate or elected as a Member of Parliament. The Act also disqualifies a person from voting if detained in hospital, prison or other place of security under the Mental Health Act. **The UNCT urges the Government, as a signatory to the Convention on the Rights of Persons with Disabilities, to repeal these provisions and to ensure that all persons with disabilities, including those with intellectual or psychosocial impairments, are guaranteed the right and opportunity to vote, stand for public office, and otherwise participate in political and public life on an equal basis with others.**

### **Right to work and to just and favorable conditions of work**

39. Samoa has taken important steps to bring its labour laws into line with international standards, including standards promoted by CEDAW and the core ILO Conventions. Law reform, in particular the enactment of the *Labour and Employment Relations Act 2013*,<sup>31</sup> which repealed the *Labour and Employment Act 1972*, includes maternity and paternity leave entitlements and other fundamental employment rights like equal pay, prohibitions on forced labour and employment discrimination (based on gender, ethnicity

and sexual orientation), and the right to collective bargaining and freedom of association. While sexual harassment is named as one of the reasons why a person can leave work without notice, there are no means for a person to seek compensation in the private or public sector.

40. In 2012, Samoa was one of seven Pacific countries ranked as amongst the worst performing countries in the implementation and enforcement of non-discrimination and equal pay legislation<sup>32</sup>. **The UNCT urges Samoa to make every effort to ensure the effective implementation of the important rights it has now legislated under the *Labour and Employment Relations Act 2013*.**
41. Section 51 of the *Labour and Employment Relations Act 2013* outlines the minimum appropriate age of children to work in different areas and specifies the need for safe conditions<sup>33</sup>.
42. In 2013, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEAR) considered Samoa's report and highlighted compliance of the Labour and Employment Relations Act 2013 with the Minimum Age Convention 1973 (No. 138) and the Worst Forms of Child Labour Convention 1999 (No. 182).
43. To address child labour and safe conditions, the Ministry of Commerce, Industry and Labour (MCIL) has prepared a Hazardous Child Labour List (HCL) which is undergoing consultation. At present, the HCL has not been formalized as a regulation in accordance with the Labour and Employment Relations Act 2013. The Government is also yet to define in law 'light work' and the lower minimum age limit in this regard in accordance with the Conventions.
44. The CEAR has highlighted the need for the Government to assess the nature, extent and trends of the worst forms of child labour in Samoa. A national forum on child labour in Samoa was held in 2014 in Apia and a Pacific sub-regional forum on this topic was held in 2015 in Nadi, Fiji<sup>34</sup>. Themes arising from the Samoa national forum included the lack of data on child labour and anecdotal information shared suggested the existence of street vending, child selling products from home, scavenging on streets and dumpsters, as well as non-attendance by children in school.
45. In April 2015, Samoa established a Working Group on Child Labour which comprises a number of government and non-government partners<sup>35</sup> to plan and coordinate advocacy on child labour. The current chair of the Committee is the President of the Samoa Workers Congress.

## **Right to health**

46. Samoa is on track or has already achieved MDG 4, 5 and 6 which are internationally agreed targets for infant and under five mortality, maternal mortality and skilled attendance at birth and HIV prevalence and tuberculosis treatment. There has been an increase in life expectancy and a decrease in child mortality in Samoa. Between 1991 and

2011, life expectancy at birth increased from 64 years to 76 years. Additionally, there has been increased access to antenatal care and delivery by skilled birth attendants.

47. Despite unfavourable economic growth and an increase in income inequalities, Samoa has maintained total health expenditure and decreased out of pocket expenditure. The Government of Samoa has enshrined the right to health in the Strategy for the Development of Samoa (SDS) 2012-2016. The goals and priorities of the Health sector are articulated in the Health Sector Plan (HSP) which is directly linked to the SDS.
48. Throughout the country, eleven public health care facilities provide a mixture of primary, secondary and tertiary health services. The health facilities offer a range of services including antenatal clinics, child health clinics, Non Communicable Diseases (NCD) clinics, outpatient services, STI and communicable diseases clinic and the majority offer inpatient care. The fees and charges for public health services have been reviewed to reflect a commitment to affordable health care. For provision of health services, free health care is provided to several groups of people: children under the age of 15, maternal patients, people living with disabilities, people living and permanent illnesses and senior citizens. Child health services like immunization is also provided free of charge.
49. A limitation of health service provision is the shortage of qualified staff and availability of medical doctor at health centres. While the majority of health services are open 24 hours a day 7 days a week, only two referral hospitals located in Motootua (on the island of Upolu) and Tausivi (on the island of Savaii) have 24 hour availability of medical doctors. District hospitals are manned by nurses and midwives with a doctor visiting the hospitals weekly.
50. In Samoa, a range of modern contraceptives and other family planning methods are available from various sources. Injectable and oral contraceptives are the most common form of modern methods used, followed by male condoms and to a lesser extent, female condoms. The emergency contraceptive pill, while featured in national pharmaceutical stock lists, is not widely available outside of the National Referral Hospital in Apia, reportedly to discourage 'abuse'<sup>36</sup>. **The UNCT encourages the Government of Samoa to ensure emergency contraception is available in all service delivery points in the country, and to promote awareness and understanding of the rights-based approach to reproductive health and family planning.**
51. A significant indicator used to measure performance towards universal access to reproductive health is the extent to which women of child bearing age (who are married or in a union) either do not want, or wish to delay child bearing, and yet are currently not using contraceptives. This is referred to as the unmet need for family planning. Samoa had the highest unmet need for planning in the Pacific at 45.6% in 2009<sup>37</sup>. Of this number, 26.4% of women had an unmet need to limit childbearing and 19.1% had an unmet need for birth spacing. There is a considerable increase in the unmet need for family planning with increased age of married women. **The UNCT encourages the Government of Samoa to safeguard the reproductive rights, particularly of women and couples who desire to plan and space family, but are not accessing**

**contraceptives for various reasons. It is also recommended to integrate quality Sexual and Reproductive Health and Family Planning services into all primary health care services.**

52. A major health challenge in Samoa is the effects of Non-Communicable Diseases (NCDs) on the population. The increase in NCDs has resulted in high levels of morbidity, disability and mortality. Compared to 2002, a survey conducted ten years later found that high blood pressure prevalence, obesity and diabetes significantly increased from 22% to 49%.
53. Samoa shows an increasing trend in ageing index, from 2015 to 2050: in 2015, 8% of the population is over 60 years and this will increase to 11% over 60 years in 2050. Ageing is likely to be more pronounced in the rural areas but there is insufficient analysis done to confirm this. **The UNCT encourages the Government of Samoa to consider the full implementation of the Madrid International Plan of Action on Ageing 2002, with support from UNESCAP and UNFPA.**

### **Right to education**

54. The education sector in Samoa comprises of government and non-government primary and secondary schools, early childhood education (ECE) centres and post school education and training (PSET) centres. Primary education from Year 1 to Year 8 is compulsory for children between the ages of 5 and 14 under the Education Act 2009. A fee free policy is in place for the full 8 years of compulsory schooling and this has recently been adjusted to cover year 9 to 11 of secondary schooling<sup>38</sup>.
55. The adjusted net enrolment rate for primary education<sup>39</sup> in 2012 was 100 per cent which means that all the primary school age children (5-12 years old) were enrolled in primary (or secondary) schools. However at the secondary level, enrolment rates remain low and dropout rates for all secondary schools are high, with year 12-13 recording the highest rate<sup>40</sup>. Pregnant girls are at a particularly high risk of dropping out of school at an early age, as they are frequently discriminated against and stigmatized. The Ministry of Education, Sports and Culture is working to reduce dropout rates particularly in secondary schools and increase the survival rates at the primary level by supporting the expansion of vocational programmes and working towards eliminating causes of dropouts where possible. **The UNCT recommends the Government of Samoa take further measures to reduce the high dropout rates in secondary schools, particularly of pregnant teenagers who are exposed to social stigma and discrimination.**

### **Cultural rights**

56. The people of Samoa are proud of their Samoan heritage. Drawing inspiration from their heritage, they are actively engaged in artistic and creative activities both in formal and informal sectors. The Samoa Arts Council (SAC) was established and registered in December 2012.

57. In addition to joining the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (ICH) in November 2013, Samoa joined the UNESCO Convention for the Protection and Promotion of the Diversity of Cultural Expressions (2005) in July 2015. After joining the ICH and from 2014, the responsibility for the Samoa Heritage Coordination Committee (SHCC) was shifted to the Ministry of Education, Sports and Culture (MESC). The SHCC is composed of representative of different ministries, government agencies and university that are involved in the heritage safeguarding in Samoa. Several Task Forces were established under the coordination of SHCC in order to strengthen the safeguarding of the Samoan heritage in its all forms. The Culture Division of MESC is finalizing a Cultural Policy through stakeholder consultations. **UNCT encourages the Government to finalise its Cultural Policy for official launch, and continue to engage in the heritage safeguarding based on the ongoing work towards the establishment and sustainable management of the National Heritage Register and ICH inventory.**

### **Persons with disabilities**

58. At the national level, Samoa has a policy framework in place to address the rights of persons with disabilities – the National Policy on Disability for 2011 to 2016 - which is coordinated by the Ministry of Women, Community and Social Development (MWCSD). The Policy highlights the need to empower and recognize the rights of persons with disabilities, and to ensure that they are included in the mainstream of social and economic life. It identifies seven strategic priorities – advocacy and awareness, early detection and intervention, independent living and economic development, provision of support, health services and assistive devices, education (training/sports/recreation), access (information/transport/built environment), and women with disabilities.

59. Samoa signed the Convention on the Rights of Persons with Disabilities (CRPD) in September 2014<sup>41</sup>. Consistent advocacy by the Samoa Disabled Persons Organizations and service providers in the disability sector on the rights of persons with disabilities was a key contributing factor behind the drive to sign CRPD. The Government is now in the process of moving towards ratification.<sup>42</sup> **The UNCT welcomes this development and encourages the Government of Samoa to continue progress towards ratifying CRPD in line with recommendations accepted during its first UPR in 2011.**

60. The development of national legislation that is aligned to the CRPD is an important aspect of protecting the rights of persons with disabilities in Samoa. Samoa currently does not have disability specific legislation or other legislation that ensures equal rights and inclusion of persons with disabilities in all aspects of life. However, since its last UPR, the Government of Samoa has indicated its support for strengthening national legislation with regard to the rights of persons with disabilities by undertaking two initiatives<sup>43</sup>. In April 2015, the Office of the Attorney General completed a review of national legislation to assess compliance with the CRPD and a Cost Plan for the national implementation of CRPD was completed in June 2015. The Cost Plan will be submitted to Cabinet to assist deliberation and discussion on the ratification of CRPD. **The UNCT urges the Government of Samoa to ensure that it has a comprehensive legislative review that**

**is consistent with the principles and standards of the CRPD in order to have a reliable foundation for developing CRPD compliant legislation.**

61. Samoa is the first country in the Pacific to use high quality survey modules relating to disability in its national statistics and data collection. In 2014 the Samoa Bureau of Statistics incorporated the Washington Group on Disability Extended Question Set, which is a universally accepted standard for collecting data on persons with disabilities, into its National Demographic Health Survey modules.
62. At present, there are limited services, employment, facilities and access for persons with disabilities in Samoa<sup>44</sup>. There are no Government operated facilities to look after young people or children with disabilities whose families are unable to give them the necessary care. Services for children with disabilities are provided by two NGOs: the Samoa Victim Support Group (SVSG) looks after babies and children with disabilities and SENESE Inclusive Support Services provides inclusive education services to assist children with disabilities to grow in schools and communities to realize their full potential.

### **Migrants, refugees and asylum seekers**

63. The Samoa Returnees Charitable Trust (SRCT) which was established in 2010 is the sole organisation in Samoa which addresses social and personal disadvantages faced by deportees – people who have been returned to Samoa after committing a criminal offence in the country where they were staying. The main purpose of the Trust is to promote, advance and carry out rehabilitation, resettlement and reintegration of deportees into communities in Samoa. With the assistance of the government of Samoa and development partners, SRCT carry out activities which include counselling workshops for deportees in Samoa. **UNCT encourages the government to continue supporting the SRCT's activities in order to enhance the protection of the human rights of deportees in the country.**

### **Right to development and environmental issues**

64. Like other Pacific Island countries, Samoa is highly vulnerable to climate change impacts. Climate change in Samoa is expected to lead to more frequent and extreme rainfall, more frequent and longer droughts; increased air and water temperatures; sea level rise and more frequent extreme wind. While Samoa is vulnerable to a range of natural disasters – including earthquakes and tsunamis – cyclones are of particular concern. The overall intensity of cyclones is predicted to increase and cyclones are expected to increase in frequency.
65. There are considerable challenges that Samoa faces in addressing the effects of climate change on the country<sup>45</sup>. One challenge is that there is limited coordination of climate change initiatives: Samoa receives considerable aid for climate change adaptation however as there is limited coordination between the institutions responsible for managing these resources, climate change finance is not used as efficiently as it could be.

66. Additionally, there are gaps in information on climate change and limited integrated planning. This includes that lack of a national system to monitor and evaluate the long-term effects of climate change and the success of adaptation and disaster risk management interventions. As a result of concentrated development in coastal areas without integrated planning to manage the risks posed by climate induced natural disasters, urban infrastructure and community settlements in Samoa are vulnerable to sea-level rise and cyclones.
67. **UNCT urges the Government to utilize a rights based approach in climate change mitigation strategies.**

## Notes

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<sup>1</sup> OHCHR Pacific Regional Office, UNESCO, UNICEF, UNDP, WHO, FAO, UN Women, UNFPA, ESCAP, UNAIDS and ILO

<sup>2</sup> Samoa is party to ICCPR, CEDAW, CRC and CED. UNCT urges accession and ratification to the remaining core international human rights treaties: ICESCR, ICERD, CAT, CRPD and ICRMW.

<sup>3</sup> Refer to Samoa UPR cycle 1 recommendation 74.11, 74.28,

<sup>4</sup> UN Women, EAW Country Review, 2014.

<sup>5</sup> Refer to Samoa UPR cycle 1 recommendations 73.32

<sup>6</sup> Refer to Samoa UPR cycle 1 recommendations 73.33, 74.19

<sup>7</sup> Ibid

<sup>8</sup> Refer to Samoa UPR cycle 1 recommendation 74.10, 74.18, 74.24

<sup>9</sup> Refer to Samoa UPR cycle 1 recommendation 73.13, 74.15-74.16, 74.2 and 74.3

<sup>10</sup> Government of Samoa, Beijing +20 Review of progress in implementing the Beijing Platform for Action in Samoa [http://www.unescapsdd.org/files/documents/Beijing20\\_national\\_review\\_Samoa.pdf](http://www.unescapsdd.org/files/documents/Beijing20_national_review_Samoa.pdf)

<sup>11</sup> Refer to Samoa UPR cycle 1 recommendations 73.31

<sup>12</sup> Refer to Samoa UPR cycle 1 recommendations 74.14

<sup>13</sup> Refer to Samoa UPR cycle 1 recommendations 74.25

<sup>14</sup> Refer to Samoa UPR cycle 1 recommendations 73.15-73.24, 74.7, 75.22, 75.24

<sup>15</sup> Office of the Ombudsman and National Human Rights Institution, 2015, *State of Human Rights Report 'For Samoa by Samoa'*

[http://www.ombudsman.gov.ws/index.php?option=com\\_content&view=article&id=121&Itemid=100](http://www.ombudsman.gov.ws/index.php?option=com_content&view=article&id=121&Itemid=100)

<sup>16</sup> Refer to Samoa UPR cycle 1 recommendation 73.26

<sup>17</sup> Refer to Samoa UPR cycle 1 recommendation 73.28

<sup>18</sup> UNAIDS comments for the UNCT UPR input

<sup>19</sup> Economist Intelligence Unit (2012) *Women's Economic Opportunity 2012*,

[http://www.trestlegroupfoundation.org/wp-content/uploads/2012/03/EIU\\_WEO\\_2012March62.pdf](http://www.trestlegroupfoundation.org/wp-content/uploads/2012/03/EIU_WEO_2012March62.pdf)

<sup>20</sup> Government of Samoa 'Beijing+20 Review of Progress in Implementing the Beijing Platform for Action in Samoa' 2014

<sup>21</sup> ibid

<sup>22</sup> This is stated in the Crimes Act 2013

<sup>23</sup> Refer to Samoa UPR cycle 1 recommendation s 75.38-75.41

<sup>24</sup> UNICEF comments for the UNCT UPR input

<sup>25</sup> UN Women, EAW Country Review, 2014.

<sup>26</sup> Ibid

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- <sup>27</sup> See Samoa Law Reform Commission, June 2012, *Report 10/12 on Media Regulation*, <http://www.samoalawreform.gov.ws/wp-content/uploads/2014/08/Media-Regulation-Final-Report-Final.pdf>
- <sup>28</sup> Refer to Samoa UPR cycle 1 recommendation s 73.35
- <sup>29</sup> FAO comments for the UNCT UPR input
- <sup>30</sup> UN Women, Country Brief: Samoa, 2014.
- <sup>31</sup> Refer to Samoa UPR cycle 1 recommendation s 74.30. The 2013 Labour and Employment Relations Act can be found at [http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=93575&p\\_country=WSM&p\\_count=53&p\\_classification=01&p\\_classcount=23](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=93575&p_country=WSM&p_count=53&p_classification=01&p_classcount=23)
- <sup>32</sup> Economic Intelligence Unit (2012), above n.50, 17. While Samoa has enacted legislation outlining equal pay for work implementation requires additional support.
- <sup>33</sup> Refer to Samoa UPR cycle 1 recommendation s 74.20, 74.22 – 74.23
- <sup>34</sup> The two forums were organized and supported by ILO
- <sup>35</sup> The Working Group on Child Labour includes the Ministry of Commerce, Industry and Labour; Ministry of Women, Community and Social Development; Ministry of Education; Ministry of Sports and Culture; Samoa Chamber of Commerce; Samoa Workers Congress and Samoa Observer Newspaper. Refer to Samoa UPR cycle 1 recommendation 74.20
- <sup>36</sup> Refer to Samoa UPR cycle 1 recommendation 73.29
- <sup>37</sup> UNFPA comments for the UNCT UPR input
- <sup>38</sup> Refer to Samoa UPR cycle 1 recommendations 73.38-73.39
- <sup>39</sup> Total number of pupils of the official primary school age group who are enrolled at primary or secondary education, expressed as a percentage of the corresponding population.
- <sup>40</sup> [http://mesc.gov.ws/pdf/Stats%20Digest%20Draft%202014\\_FINAL\\_Core.pdf](http://mesc.gov.ws/pdf/Stats%20Digest%20Draft%202014_FINAL_Core.pdf)
- <sup>41</sup> Refer to Samoa UPR cycle 1 recommendations 73.7, 75.13-75.17, 73.8
- <sup>42</sup> Government of Samoa ‘Beijing+20 Review of Progress in Implementing the Beijing Platform for Action in Samoa’ 2014.
- <sup>43</sup> Refer to Samoa UPR cycle 1 recommendation 73.7, 74.7, 74.5
- <sup>44</sup> Refer to Samoa UPR cycle 1 recommendations 74.31, 74.9
- <sup>45</sup> UNDP comments for the UNCT UPR input