

**Status of Human Rights in Samoa
for the 39th Session of the
Universal Periodic Review**

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ holds Special Consultative Status before the United Nations Economic and Social Council. The purpose of this report is to raise concerns regarding human rights abuses in the Independent State of Samoa (Samoa) for the 39th Session of the Universal Periodic Review (UPR).

Background

2. Samoa is an island nation located in the South Pacific Ocean with an estimated population of 199,705¹. It is a majority Christian nation with 54.9% identifying as Protestant Christian, 18.8% Roman Catholic, 16.9% Mormon, 3.6% other Christian, and 2.8% Worship Centre and 2.9% other².

3. Samoa's last review was held on 3 May 2016. As a result of the review 128 recommendations were made 93 of which Suriname supported³. One recommendation, which was supported by Samoa, was that Samoa “[d]evelop a national action plan to combat trafficking in persons that includes measures for the rehabilitation of victims and training of the officials involved in investigating these crimes”⁴.

Legal Framework

4. Under Article 7 of the Constitution of Samoa, “No one shall be subjected to torture or to inhuman or degrading treatment or punishment”⁵. Additionally, under Article 8, “No person shall be required to perform forced or compulsory labour”⁶.

5. Furthermore under Article 155 of the Penal Code:

Trafficking in people by means of coercion or deception –

(1) A person is liable of imprisonment for a term not exceeding 14 years who:

(a) arranges the entry of a person into Samoa or any other country by one (1) or more acts of coercion against the person, one (1) or more acts of deception of the person, or both; or

(b) arranges, organizes, or procures the reception, concealment of a person, knowing that the person's entry into Samoa or that other country was arranged by one (1) or more acts of coercion against the person, one (1) or more acts of deception of the person, or both.

(2) Proceedings may be brought under this section even if the person coerced or deceived:

(a) did not in fact enter the state concerned; or (as the case may be);

(b) was not in fact received, concealed, or harboured in the state concerned.

(3) Proceedings may be brought under this section even if parts of this process by which the person coerced or deceived was brought or came to or towards the state concerned were accomplished without an act of coercion or deception⁷.

6. Article 157 the penal code further states:

Dealing in people under 18 for sexual exploitation, removal of body parts, or engagement in forced labour -

(1) A person is liable to imprisonment for a term not exceeding 14 years who:

(a) sells, buys, transfers, barter, rents, hires, or in any other way enters into a dealing involving a person under the age of 18 years for the purpose of—

- (i) the sexual exploitation of the person; or
- (ii) the removal of body parts from the person; or
- (iii) the engagement of the person in forced labour; or

(b) engages a person under the age of 18 years in forced labour; or

(c) permits a person under the age of 18 years to be engaged in forced labour; or

(d) detains, confines, imprisons, or carries away a person under the age of 18 years for the purpose of—

- (i) the sexual exploitation of the person; or
- (ii) the removal of body parts from the person; or
- (iii) the engagement of the person in forced labour;⁸

7. Samoa is also bound to the International Covenant on Civil and Political Rights (ICCPR). According to Article 8 of the ICCPR:

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude⁹.

8. Furthermore, Samoa is a party to the Optional Protocol to the Convention on the Rights of the Child. Under Article 34 of the CRC:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all

appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitive use of children in prostitution or other unlawful sexual practices;
- (c) The exploitive use of children in pornographic performances and materials¹⁰.

9. Additionally, Article 35 states: “States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form”¹¹.

Human Trafficking in Samoa

10. Island nations in the South Pacific Ocean, such as Samoa, are seeing an increase in human trafficking, and serve as both source and destination countries for trafficking. Men and women are often targeted for trafficking to be used as forced labour in New Zealand’s agriculture, dairy, construction, viticulture, food service, technology, and hospitality sectors, as well as domestic workers¹². Furthermore, the fishing industry provides for the easy transportation of trafficked individuals throughout Fiji, New Zealand, Papua New Guinea, Samoa, the Solomon Islands, and Vanuatu¹³. However, within Samoa accurate and reliable data regarding the full scope of human trafficking is lacking¹⁴.

11. In 2019, the head of the Pacific Immigration Development Community (PIDC) addressed the increase in human trafficking, stating:

We’ve seen quite a lot of discussion around the exploitation of fishermen, so we’ve also discussed a number of cases of sexual exploitation. Also potential sex crimes against children in remote areas and had number of cases reported from across the Pacific. But that’s definitely something we are looking at trying to develop some proper response, and how to manage the threat at the border and make sure we can support police in undertaking their investigations¹⁵.

12. For example, in March of 2020 a man was found guilty of 10 counts of human trafficking and 13 counts in dealing in slaves¹⁶. The court found that he had trafficked 13 individuals, the youngest of which was 12, from Samoa to New Zealand over a 25-year period¹⁷. According to reports he promised these individuals paid horticulture work or schooling in Hawkes Bay. However, after arriving in New Zealand these victims found themselves working long hours in the fields for no pay. The judge chastised the man, stating that “[t]he victims were told they could earn significant income by Samoan standards, which they would be able to send back to their families. Once in New Zealand, these Samoan nationals were exploited by you for your own family’s financial gain”¹⁸.

Conclusion

13. In order to better combat human trafficking in Samoa it is critical that the government provide for regular and accurate data regarding the full scope of human trafficking within the country. It is also important that the government conduct awareness campaigns to show people the dangers of going with those who promise a better life. Moreover, the government should implement procedures to better identify victims of human trafficking as well provide proper aid and assistance for the victims. Furthermore, we ask the government provide regular and accurate reports regarding the scope of human trafficking within the country.

¹ *Samoa Population 2021 (Live)*, WORLD POPULATION REVIEW, available at <https://worldpopulationreview.com/countries/samoa-population>.

² *Samoa Religions*, INDEX MUNDI, available at <https://www.indexmundi.com/samoa/religions.html>.

³ UPR of Samoa – Second Cycle – Thematic List of Recommendations, available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/WSIndex.aspx>.

⁴ UPR of Samoa – Second Cycle – Thematic List of Recommendations A/HRC/33/6 – Para. 95, available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/WSIndex.aspx>.

⁵ Constitution of Samoa, art. 7, available at https://www.constituteproject.org/constitution/Samoa_2013.pdf

⁶ *Id.* at art. 8.

⁷ Samoa Crimes Act 2013 art. 155, available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/93579/124323/F-1523655815/WSM93579%202015.pdf>.

⁸ *Id.* at art. 157.

⁹ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, art. 8.

¹⁰ Convention on the Rights of the Child, art. 34, available at <https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>.

¹¹ *Id.* at art. 35.

¹² *Report: Human Trafficking in Insular Areas, Including American Samoa*, SAMOA NEWS (24 Jun. 2019), available at <https://www.samoanews.com/local-news/report-human-trafficking-insular-areas-including-american-samoa>.

¹³ *Murky Waters, A Qualitative Assessment of Modern Slavery in the Pacific Region*, (WALK FREE) available at <https://www.walkfree.org/reports/murky-waters/>.

¹⁴ *Id.*

¹⁵ *Human Trafficking Cases Increasing in the Pacific*, SAMOA OBSERVER (2 Feb. 2019), available at <https://www.samoaoobserver.ws/category/samoa/13923>.

¹⁶ *Samoan Chief Joseph Auga Matamata Found Guilty of Human Trafficking and Slavery Charges*, RNZ (17 March 2020), available at <https://www.rnz.co.nz/news/national/411939/samoan-chief-joseph-auga-matamata-found-guilty-of-human-trafficking-and-slavery-charges>.

¹⁷ *Id.*

¹⁸ *Joseph Auga Matamata Sentenced to 11 Years for Human Trafficking and Slavery*, RNZ (27 Jul. 2020), available at <https://www.rnz.co.nz/news/national/422102/joseph-auga-matamata-sentenced-to-11-years-for-human-trafficking-and-slavery>