

**Universal Periodic Review (39th session)
Contribution of UNESCO**

Samoa

I. Background and framework

<i>Title</i>	<i>Date of ratification, accession, acceptance or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
<i>Convention against Discrimination in Education 1960</i>	Not a State Party	Reservation to this Convention shall not be permitted		Right to education
<i>Convention concerning the Protection of the World Cultural and Natural Heritage (1972)</i>	28/08/2001 Acceptance			Right to take part in cultural life
<i>Convention for the Safeguarding of the Intangible Cultural Heritage (2003)</i>	13/11/2013 Acceptance			Right to take part in cultural life
<i>Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)</i>	23/10/2015 Accession			Right to take part in cultural life

II. Promotion and protection of human rights on the ground

A. Education

1. The 1962 Constitution of Samoa¹ does not recognize the right to education. Article 15 contains a general principle on equality: “(1) All persons are equal before the law and entitled to equal protection under the law.”

¹ <http://www.unesco.org/education/edurights/media/docs/c26a389a78b0da676310ab764625303d43302069.pdf>

2. The main education law is the Education Act of 2009,² as amended in 2019.³ It does not enshrine the right to education, but states that education is compulsory from 4 years old to 16 years old, although not free of charge.

B. Freedom of opinion and expression

Constitutional and Legislative Framework:

3. Freedom of speech and expression has constitutional protection in Samoa (Article 13).⁴
4. The Samoan constitution imposes “reasonable restrictions” on the exercise of the right “in the interests of national security, friendly relations with other States, or public order or morals, for protecting the privileges of the Legislative Assembly, for preventing the disclosure of information received in confidence, or for preventing contempt of Court, defamation or incitement to any offence”.
5. The Samoan Parliament passed the Crimes Amendment Act in 2017⁵, restoring the criminalisation of defamation. The penalty for defamation is a fine not exceeding 175 penalty units or imprisonment for a term not exceeding three months.
6. There is currently no freedom of information legislation in Samoa.

Institutional framework for implementation of legislation:

7. The Samoan Telecommunications Act of 2005⁶ and the Broadcasting Act of 2010⁷ have given regulatory powers over the telecommunications and broadcasting sectors to the Office of the Regulator.
8. The Media Council Act of 2015⁸ established the Media Council and the Journalists Association of Samoa (JAWS) to provide for the development, application and enforcement of a code of practice relating to the news media and to promote and enhance professional journalism.

Safety of journalists:

9. UNESCO has recorded no killing of journalists in Samoa since systematic reporting began in 2008.

III. Review and specific recommendations

² <http://www.unesco.org/education/edurights/media/docs/08ae87096a295108b65da0341fa4e148ff0a4ef2.pdf>

³ <https://www.palemene.ws/wp-content/uploads/2019/07/Education-Amendment-Act-2019-Eng.pdf>

⁴ <http://www.samoagovt.ws/wp-content/uploads/2014/07/Constitution-of-the-Independent-State-of-Samoa-1960.pdf>

⁵ <https://www.palemene.ws/wp-content/uploads/2017/07/Crimes-Amendment-Act-2017-Eng.pdf>

⁶ https://www.palemene.ws/wp-content/uploads/2005/01/Acts/Acts%202005/Telecommunications_Act_2005_-_Eng.pdf

⁷ https://www.palemene.ws/wp-content/uploads/2010/01/Acts/Acts%202010/Broadcasting_Act_2010_-_Eng.pdf

⁸ <https://www.palemene.ws/wp-content/uploads/2015/01/Acts/Acts%202015/Media-Council-Act-2015-Eng.pdf>

A. Education

Legislative, regulatory and policy framework:

- Samoa can be commended for its recent amendment in its legislation, making education mandatory for a duration of 12 years (previously 9 years), including one year of pre-primary education. However, no provision regarding free education has been identified, while the Education 2030 Framework for Action for the Implementation of Sustainable Development Goal 4 recommends, with regard to target 4.1.1, that 12 years of primary and secondary education be free.
- In 2019, Samoa adopted a new Education Sector Plan for the period 2019 – 2024.⁹ It sets the following five goals:
 - Enhance the quality of education and training for all learners
 - Provide everyone with access to good quality education and training opportunities
 - Make education and training more relevant to national needs and the labour market
 - Improve the effectiveness of sector planning, monitoring and reporting
 - Develop ways to manage the education sector’s resources sustainability
- It also focuses on Inclusive education, Childhood Education, Technical and vocational education and training, Information and communication technology and Capacity development of staff.

Corporal Punishment:

- While corporal punishment was prohibited by article 23 of the Education Act of 2009, the amendment introduced in 2019 authorized teachers to use “reasonable force if the force is used in a reasonable circumstance” in secondary schools. While this provision does not reintroduce corporal punishment explicitly, it could be seen as leading to the resurgence of such practices.

Age of marriage:

- Under the Marriage Ordinance 1961,¹⁰ the minimum legal age of marriage is 19 for girls and 21 for boys. However, girls can marry at 16 and boys at 18 years old with parental consent, and no marriage is invalidated only because the minimum age is not respected. It is recognized that child marriage can affect their education, especially that of girls.¹¹ Therefore, Samoa should be encouraged to amend its legislation in order to invalidate marriage not respecting the minimum age and raise the later to 18 years old for girls.

Covid-19:

⁹ <http://mesc.gov.ws/wp-content/uploads/2020/04/FINAL-Education-Sector-Plan-2019-2024.pdf>

¹⁰ http://www.paclii.org/ws/legis/consol_act/mo1961138.rtf

¹¹ Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31/CRC/C/GC/18, November 2014, para. 20.

- The government of Samoa decided to close schools in order to avoid the spread of the Covid-19 virus. Online resources were provided for ECE, primary and secondary levels and specific programs were also put in place through TV and Radio.¹²

Specific recommendations:

10. Samoa should be encouraged to:

- Ratify the Convention against Discrimination in Education.
- Enshrine the right to education for all at the Constitutional and legislative levels.
- Introduce free education for at least 12 years of education.
- Explicitly prohibit corporal punishment in educational settings, without exception.
- Raise the age of marriage to 18 years old for girls and invalidate marriages not respecting the minimum age.
- Submit regularly comprehensive national reports for the periodic consultations on UNESCO's education-related standard-setting instruments, and notably on the Recommendation against Discrimination in Education.
- Share with UNESCO any relevant information to update its country profile on UNESCO's Observatory on the Right to Education.¹³

B. Freedom of opinion and expression

11. Samoa is encouraged to introduce a freedom of information law that is in accordance with international standards.¹⁴
12. It is further recommended that Samoa decriminalize defamation and place it within a civil code that is in accordance with international standards¹⁵.

C. Cultural rights

13. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972)¹⁶, the Convention for the Safeguarding of the Intangible Cultural Heritage (2003)¹⁷ and the Convention on the Protection and Promotion of the Diversity of

¹² <http://mesc.gov.ws/press-release-plans-and-programmes-for-all-year-levels/>

¹³ <http://www.unesco.org/education/edurights/index.php?action=countries&lng=en>

¹⁴ See for example, General Comments No 34. of the International Covenant on Civil and Political Rights (ICCPR), 2006 Recommendation of the 87th Session Human Rights Committee, the recommendations of the UN Special Rapporteurs on the Right to Freedom of Opinion and Expression, and Resolution 1577 (2007) of the Parliamentary Assembly of the Council of Europe.

¹⁵ See for example, General Comments No 34. of the International Covenant on Civil and Political Rights (ICCPR), 2006 Recommendation of the 87th Session Human Rights Committee, the recommendations of the UN Special Rapporteurs on the Right to Freedom of Opinion and Expression, and Resolution 1577 (2007) of the Parliamentary Assembly of the Council of Europe.

¹⁶ Periodic Report available at: <http://whc.unesco.org/en/activities/682>

¹⁷ Periodic Report not available

Cultural Expressions (2005)¹⁸, Samoa is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Samoa is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and NGOs from the civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

**D. Freedom of scientific research and
the right to benefit from scientific progress and its applications**

14. **Samoa** did not submit its National Report on the implementation of the Recommendation on the Status of Scientific Researchers (1974) for the Second Consultation covering the period from 2013 to 2016 (<http://unesdoc.unesco.org/images/0025/002592/259256e.pdf>). Therefore Samoa is encouraged to report to UNESCO on the implementation of the newly adopted Recommendation on Science and Scientific Researchers (2017), which supersedes the 1974 Recommendation, on any legislative or other steps undertaken by it with the aim to ensure the application of this international standard-setting instrument paying a particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers, as well as human rights obligations related to science, the principle of non-discrimination, including urging active promotion of women and girls entering scientific careers, as well as the scientists' rights of autonomy, freedom of research, expression and publication.

¹⁸ Periodic Report not available