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**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Thirty-ninth session**  
1–12 November 2021

## **Summary of Stakeholders' submissions on Samoa\***

### **Report of the Office of the United Nations High Commissioner for Human Rights**

#### **I. Background**

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 16 stakeholders' submissions<sup>1</sup> to the universal periodic review, presented in a summarized manner owing to word-limit constraints. A separate section is provided for the contribution by the national human rights institution that is accredited in full compliance with the Paris Principles.

#### **II. Information provided by the national human rights institution accredited in full compliance with the Paris Principles**

2. OMB/NHRI noted positive developments, but indicated that OMB/NHRI continued to face issues of limited budget and human resources and expertise in certain areas of human rights.<sup>2</sup>

3. The recent Constitutional reforms had caused concerns regarding the impact this would have on fundamental rights, the rule of law and the independence of the judiciary and separation of powers.<sup>3</sup> OMB/NHRI stated that drastic amendments of the Constitution were not necessary to properly remedy problems experienced in the past by the Land and Titles Court. Samoa should consider the impact of the Constitutional reforms on the human rights of Samoans and on the separation of powers, and put in place measures to ensure these are not compromised.<sup>4</sup>

4. Despite the consideration of gender as a ground of discrimination in Samoa's employment law, there was still evidence of discrimination related to Sexual Orientation and Gender Identity (SOGI). Samoa should comprehensively reflect in laws and policies SOGI as a ground of discrimination and conduct awareness programmes.<sup>5</sup>

5. While commending progress on climate change, OMB/NHRI noted existing challenges including the lack of effective monitoring and evaluation, lack of resources and expertise, and insufficient consultations, especially with stakeholders.<sup>6</sup> Samoa should

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\* The present document is being issued without formal editing.



continuously strengthen policies and sustain existing programmes to ensure a healthy environment; and develop safeguards to guarantee the protection of the rights of those potentially affected by mitigation and adaptation activities.<sup>7</sup>

6. Since 2015, OMB/NHRI had worked closely with the Police and Corrections Services to conduct basic human rights trainings for law enforcement as part of their new recruits programme, including to conduct gender sensitization and to raise awareness on issues persons of diverse sexual orientation and gender identities.<sup>8</sup>

7. Concerning conditions of detention, OMB/NHRI highlighted existing challenges including lack of resources, ignorance of national and international human rights standards, and lack of proper policies and systems in place to guide work.<sup>9</sup> Samoa should implement OMB/NHRI's recommendations in its Detention Reports, urgently focusing on developing effective rehabilitation programmes for prisoners, including policies to address issues such as the inappropriate detainment of children with parents, and addressing discrimination towards persons with disabilities and those with mental health issues and SOGI groups, and strengthen the capacity of law enforcement officers.<sup>10</sup>

8. The measles outbreak had highlighted some serious gaps within the national health system. Although the response was swift, for many families it was too late. Various members of the public had demanded an inquiry, which the Government rejected. Nevertheless, due to lessons learnt from the measles outbreak, the Government was quick in its response to COVID-19.<sup>11</sup> Samoa must examine negative situations fully and transparently to learn from them and to improve public health readiness; and ensure that the measures adopted in relation to the state of emergency in response to COVID-19 were proportionate and had human rights as a key consideration.<sup>12</sup>

9. The review of the Health and Physical Education curriculum was underway and should address issues relating to Sexual and Reproductive Health Rights education. Samoa should actively raise awareness on the issue at all levels to unpack misconceptions.<sup>13</sup>

10. Despite efforts to promote the right to education, continuing challenges included: rates of school dropouts; inadequate resourcing of the Inclusive Education Unit and parents being burdened with hidden costs imposed by village school committees.<sup>14</sup>

11. While noting progress on achieving gender-equality, OMB/NHRI noted gaps, including lack of measures to strengthen participation of women in decision-making at the "village level". This was mainly a result of entrenched village practices that were patriarchal in nature.<sup>15</sup>

12. The prevalence of gender-based violence (GBV) and family violence was still of great concern and Samoa must give priority to family violence affecting vulnerable groups by undertaking the necessary legislative and non-legislative measures to address it, taking into consideration the recommendations in OMB/NHRI's Family Violence Inquiry Report.<sup>16</sup>

13. The Family Violence Inquiry Report had found that violence had gravely impacted the lives and development of children and that cases of sexual abuse had become commonplace.<sup>17</sup> Moreover, despite tougher laws and measures to address child labour the issue was still of grave concern. Samoa should actively address child vending/labour through various measures both in law and practice including a mechanism to coordinate interagency efforts in this regard.<sup>18</sup>

14. Despite the ban on corporal punishment in 2013, there was little evidence that this ban had been implemented. The Government's plan to introduce the use of reasonable force in schools under the Education Act 2009 in 2018 was evidence of this lack.<sup>19</sup> Samoa must repeal any form of corporal punishment and retract the changes to allow the use of reasonable force in schools.<sup>20</sup>

15. Concerning persons with disabilities, OMB/NHRI's noted gaps in areas of access to health, access to justice and education and noted reports of violence. Implementation efforts regarding these issues continued to be hindered by inadequate resources and conflicting priorities.<sup>21</sup>

16. Samoa should actively and comprehensively address issues faced by persons with disabilities; finalize the 2021-2031 National Disability Policy; and accelerate discussion on the Disability Bill to provide for social security for that group.<sup>22</sup>

### **III. Information provided by other stakeholders**

#### **A. Scope of international obligations<sup>23</sup> and cooperation with international human rights mechanisms and bodies<sup>24</sup>**

17. AI indicated that Samoa had acceded to CAT, CRPD, and the Optional Protocols to the Convention on the Rights of the Child.<sup>25</sup> Despite committing to do so, Samoa had not yet ratified OP-CEDAW or OP-CRPD.<sup>26</sup>

18. Several submissions recommended that Samoa become a party to ICERD, ICRMW, ICESCR and its Optional Protocol, OP-CEDAW, and OP-CRPD.<sup>27</sup>

19. CGNK recommended that Samoa ratify ICCPR-OP 2 and the Convention on the Prevention and Punishment of the Crime of Genocide;<sup>28</sup> and SVSG recommended acceding to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Conventions against Transnational Organized Crime.<sup>29</sup>

#### **B. National human rights framework<sup>30</sup>**

20. AI noted that in May 2016, the Ombudsman's Office had received 'A' status as a national human rights institution in accordance with the Paris Principles. However, further resources were required to enhance its investigative powers and functions and ensure awareness and accessibility by the public.<sup>31</sup>

21. JS1 remained concerned by new legislation passed by the Parliament of Samoa in December 2020, specifically: the Constitutional Amendment Act 2020; the Judicature Act 2020; and the Land and Titles Act 2020.<sup>32</sup> Key concerns regarding the new legislation included: removing or significantly changing the application of fundamental rights in the context of the Land and Titles Court (LTC) and removing Supreme Court oversight of those rights for LTC proceedings; dismantling the unified court system and replacing it with two parallel courts and legal systems without a final apex court or head of judiciary; weakening the separation of powers between the executive and the judiciary; undermining judicial independence; and unreasonable expansion of power of the LTC over matters relating to "custom & usage".<sup>33</sup>

22. JS4 stated that the legislation was enacted without the proper law reform process being followed.<sup>34</sup> SSIG-Samoa made similar observations.<sup>35</sup>

23. JS4 indicated that these Acts had transferred lands matters directly into the jurisdiction of the Lands and Titles Court, which was not bound to uphold either fundamental human rights or existing historical constitutional rules designed to protect against the taking of indigenous customary lands.<sup>36</sup> The Samoan people would have the burden of two separate systems of justice, which would lead to the erosion of Samoan indigenous people's rights and impact on the ability of all Samoans to defend and protect their customarily held lands.<sup>37</sup>

24. JS1 stated that Samoa should review the Acts against Samoa's international human rights obligations and against the underlying principles in Samoa's Constitution and re-draft the bills to ensure that concerns were adequately addressed.<sup>38</sup> AI recommended that Samoa ensure that Samoa meets its international human rights commitments, including by ensuring human rights apply to land disputes and that customary law was interpreted consistently with human rights obligations.<sup>39</sup>

## C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

### 1. Cross-cutting issues

#### *Equality and non-discrimination*<sup>40</sup>

25. JS3 indicated that while the Labour and Employment Relations Act 2013 provided some protection against discrimination on the basis of sexual orientation, there remained an absence of comprehensive anti-discrimination laws or policies in place. This lack of protection created an environment that facilitated discrimination against LGBTQI persons, including Samoa's traditional Fa'afafine and Fa'atama community.<sup>41</sup>

26. JS5 noted that Samoa was a deeply religious country and that it had changed its constitution to officially become a Christian country in 2017. There was a lack of awareness about sexual orientation and gender identity issues in the wider public.<sup>42</sup>

27. JS5 stated that Samoa had four cultural genders – female, male, fa'afafine, fa'atama. Fa'afafine were male at birth and explicitly embodied feminine gender traits. Some identified as gay males, and some identified as transgender. Fa'atama were female at birth and explicitly embodied masculine gender traits.<sup>43</sup> Despite being a culturally highly recognised identity, fa'afafine and fa'atama did not get recognition in local policies and legal instruments and still faced discrimination and obstacles to their social and legal recognition within Samoa.<sup>44</sup>

28. JS5 recommended that Samoa: take legal, policy and administrative measures to combat prejudice, social stigma, violence and stereotyping of fa'afafine/fa'atama citizens of Samoa;<sup>45</sup> and provide awareness programs for public officials and local representatives on sexual orientation and identity issues to address stigma.<sup>46</sup>

29. JS3 recommended that Samoa implement anti-discrimination laws that protected all persons from discrimination on the basis of sexual orientation, gender identity and intersex status in all areas of public life.<sup>47</sup> JS5 stated that it was pertinent for the Samoan government to review and amend existing legislation and policies to ensure the human rights and the right to equality and non-discrimination was extended to all, including the fa'afafine/fa'atama citizens.<sup>48</sup>

30. JS3 and AI noted that consensual adult same sex sexual conduct was criminalized.<sup>49</sup> JS3 noted that the Crimes Act made it an offence to commit sodomy, punishable by up to 7 years imprisonment regardless of consent. It further criminalised attempts to commit sodomy and keeping a place of resort for homosexual acts.<sup>50</sup>

31. AI recommended that Samoa immediately repeal all laws that criminalized consensual same sex sexual activity between adults.<sup>51</sup> JS3 indicated that Samoa should decriminalise consensual sexual conduct, by repealing sections 67, 68 and 71 of the Crimes Act.<sup>52</sup> JS5 and SFA made similar recommendations.<sup>53</sup>

#### *Development, the environment, and business and human rights*<sup>54</sup>

32. OHR indicated that Samoa, was facing increased challenges due to climate change. Rising sea levels were affecting economic, social and cultural rights, including the right to self-determination, water, food, and health.<sup>55</sup> AI stated that in 2015, Samoa had committed to reaching 100% renewable energy targets by 2025. It noted that in 2018, Samoa reached 60% renewable energy for the country. Despite being behind on its targets, commendable efforts had been made to reach the ambitious goals.<sup>56</sup>

33. AI recommended that Samoa: adopt and implement human rights-consistent adaptation and disaster risk reduction measures that allow to adequately protect people from the foreseeable and unavoidable impacts of the climate crisis; and ensure any COVID-19 response measures facilitate the transition away from fossil fuels and towards human rights consistent renewable energy and a zero-carbon economy; and seek international co-operation and assistance to continue to work towards its 100% renewable electricity goals by 2025.<sup>57</sup>

34. JS1 indicated that Samoa should avoid signing agreements that facilitated rich countries and corporations exploiting the poor through renewable energy projects that take

up enormous areas of lands to develop monoculture plantations as feedstock that ultimately affected food security.<sup>58</sup>

## 2. Civil and political rights

### *Right to life, liberty and security of person*<sup>59</sup>

35. AI stated that despite accepting recommendations to address violence against women and girls and violence based on sexual orientation and gender identity, gender inequality was pervasive.<sup>60</sup> SFHA noted that sexual and gender-based violence was extremely high in Samoa.<sup>61</sup>

36. JS5 indicated that the Family Violence Inquiry Report had identified fa'afafine as an at-risk marginalized group likely to be exposed to violence at higher rates than non-fa'afafine. Therefore, it was recommended that further studies be conducted into fa'afafine experiences of violence.<sup>62</sup>

37. JS1 recommended that Samoa urgently increase funding and resources that would enable the Ombudsman's NHRI to implement the initiatives and recommendations in its National Public Inquiry into Family Violence.<sup>63</sup>

### *Administration of justice, including impunity, and the rule of law*<sup>64</sup>

38. SSIG-Samoa expressed concern about the Executive's interference with the Judiciary, which breached the constitutional right to a fair trial.<sup>65</sup>

39. SVSG stated that the Community Law Centre Act 2015 established a state institution to provide legal assistance to people who could not afford a lawyer for criminal and civil matters. The Centre was highly anticipated as the existing legal aid system was only available for persons accused of criminal offences. However, approximately six (6) years had passed since the Act was enacted, but the Centre had not yet opened.<sup>66</sup>

40. ICAAD noted that the Constitution of Samoa recognized custom as a source of law through the matai and fono. The Samoan Government had decided in 1990 to provide statutory support for the traditional authority of the village fono, through the Village Fono Act 1990. Under this Act, Samoan courts were required to take into account to mitigate a sentence, the punishment imposed by a village fono in respect to village misconduct by any person.<sup>67</sup>

41. ICAAD stated that perpetrators of sexual and domestic violence often received disproportionately low sentences or no custodial sentence at all. Traditional practices such as ifoga, a traditional form of reconciliation, and fono punishments conflicted with the formal justice system. These practices could appear to be facially neutral, but in practice imposed significant barriers that disadvantaged certain groups, namely women and girls.<sup>68</sup>

42. ICAAD indicated that the difficulty with decisions imposed at the village fono level was that they often did not punish the offenders, or chose to counsel the victim, rather than the perpetrator. Additionally, they often prevented victims from reporting matters to the police.<sup>69</sup>

43. ICAAD noted that the Family Violence Court had been established in 2014 with jurisdiction over crimes in the Family Safety Act 2013, namely domestic violence. Family violence crimes were referred to probation for family group counselling instead of sentencing. As such, it was not appropriate for sexual violence cases to be heard at the Family Violence Court.<sup>70</sup>

44. ICAAD recommended limiting the use of ifoga and customary practices as mitigating factors in GBV cases. Legislation must ensure that if there are conflicts between the traditional and the formal justice system such conflicts be resolved in accordance with gender equality standards and the human rights of the victim. Reconciliation and compensation paid under customary law should not be considered as a mitigating factor in the sentencing phase of such cases.<sup>71</sup>

45. Concerning accepted recommendations,<sup>72</sup> SVSG noted that the Government had neither made any efforts towards the establishment of any state shelter for victims of

violence, nor provided financial assistance to existing NGO shelters. SVSG was the only NGO that offered shelter for victims of violence and neglect. However, the number of people housed by SVSG was known to exceed its limit by at least 20% and this situation had worsened due to the Covid-19 outbreak.<sup>73</sup> SVSG also stated that the impact of the Family Court and the Drugs and Alcohol Court was limited by the absence of state rehabilitation and reintegration services.<sup>74</sup>

46. SVSG recommended that Samoa: immediately provide financial assistance for existing shelters and related support services;<sup>75</sup> establish state shelters for women within the next two years;<sup>76</sup> and establish state funded services or programmes for the rehabilitation and social reintegration of victims and offenders alike by the next UPR Cycle.<sup>77</sup>

47. JS2 recommended establishing a Crisis Centre for survivors of violence, women and children and offering counselling for domestic violence.<sup>78</sup> SFHA recommended implementing the “Inter-Agency Essential Services Guide (IESG)” to establish a national referral system for survivors of violence and provide funding support for non-governmental organizations providing direct support to survivors.<sup>79</sup>

48. JS1 commended the building of new prison facilities, but indicated that conditions of detention were still a concern including with regard to basic health care, sanitation, water and hygiene, as well as lack of rehabilitation and reintegration activities. Additionally, length of custody prior to trial needed to be closely monitored given recent instances of accused persons being held in custody for excessive periods.<sup>80</sup>

49. While acknowledging rehabilitation programmes for offenders, JS2 recommended intensifying efforts to work on rehabilitation programmes for victims, their families and offenders; and continuing to work on strengthening the comprehensive vision of the preventive measures and rehabilitation.<sup>81</sup>

50. SSIG-Samoa recommended that Samoa: review Police Procedures for interviewing suspects or persons of interest, particularly those who were vulnerable and could have disabilities; assess the country’s compliance with the Nelson Mandela Rules; and establish Legal Services available 24 hours, to all detained persons, whether held in custody or in prison.<sup>82</sup>

51. AI noted a case where extradition was being sought of a person living in a third country, for alleged conspiracy to murder Prime Minister Tuilaepa Lufesoliai Sailele Malielegaoi. AI was concerned that the extradition request may be politically motivated.<sup>83</sup> SSIG-Samoa raised similar concerns<sup>84</sup> and recommended that in criminal cases where the Prime Minister was a complainant and also held numerous ministerial portfolios directly overseeing policing, foreign-affairs and the Attorney-General, there should be an independent agency involved in the investigation and prosecution, to avoid conflict-of-interest.<sup>85</sup>

#### *Fundamental freedoms and the right to participate in public and political life*

52. SSIG-Samoa stated that the reintroduction of defamation or libel as criminal offences, in 2017, under the Crimes Act 2013, raised major concerns of abuse to suppress free political speech.<sup>86</sup> SSIG-Samoa recommended that Samoa repeal criminal libel /criminal defamation under the Crimes Act 2013.<sup>87</sup>

53. AI indicated that in 2020, it had received reports that three lawyers had suffered harassment and intimidation for speaking out on law reforms, for the clients they represented or for their political opinions and beliefs.<sup>88</sup>

54. While commending greater recognition of women in senior roles and positions of leadership in the community, JS1 stated that the Government needed to address the eradication of discrimination against women in other areas such as: the remuneration for male and female village representatives, which continued to be discriminatory with the female representatives receiving less; and the fact that some villages where women held matai titles did not allow women to participate in the village council whilst some villages did not recognise titles bestowed upon women by their families.<sup>89</sup>

55. JS1 recommended that Samoa: implement equal remuneration for men and women village representatives; and target villages that did not allow women matai and/or prohibit participation of women matai from village Council meetings for training on human rights.<sup>90</sup>

56. JS1 stated that there was no statutory recognition of a Leader of the Opposition, no budget for an office of the Opposition and no research, legal or administrative support services available to opposition or independent members of Parliament. This continuing situation severely inhibited the development of a multi-party-political culture.<sup>91</sup>

57. JS1 recommended adopting legislation for the recognition of a Leader of Opposition and to provide a budget and administrative resources to enable members of the Opposition or Independent members, to function effectively in holding the Government accountable.<sup>92</sup>

*Prohibition of all forms of slavery*<sup>93</sup>

58. ECLJ indicated that island nations in the South Pacific, such as Samoa, were seeing an increase in human trafficking, and served as both source and destination countries for trafficking. Men and women were targeted for trafficking, often to be used as forced labour in third countries. However, within Samoa, accurate and reliable data regarding the full scope of human trafficking was lacking.<sup>94</sup> ECLJ indicated that it was critical that Samoa: provide regular and accurate data regarding the full scope of human trafficking within the country; and that it conduct awareness campaigns regarding, for example, the dangers of false promises of a better life, and implement procedures to better identify victims of human trafficking and provide proper aid and assistance for the victims.<sup>95</sup>

59. SVSG noted reports of the recruitment of foreigners to go to Samoa for work, but who were exploited for forced labour and sex. Common complaints included allegations of exploitation by nationals from a third country hired as domestic workers by Samoan families. SVSG indicated that it had been unable to instigate any criminal charges, as it was perceived as an “employment dispute”.<sup>96</sup> SVSG also noted reports of forced marriage and relationships between women and girls and foreign businessmen residing in Samoa.<sup>97</sup>

60. SVSG stated that the Crimes Act 2013 did not provide comprehensive anti-trafficking provisions. Section 155 defined trafficking-in-persons as a transnational crime only.<sup>98</sup> Similarly inadequate was Section 157, which prohibited exploitation of persons for forced labour and sex, but which only deemed these to be offences when committed against persons under the age of 18. There were no similar provisions to protect persons 18 years of age and older.<sup>99</sup>

61. SVSG recommended that Samoa immediately amend the Crimes Act 2013 to recognize domestic trafficking in section 155; and to remove the age limit of 18 years from section 157.<sup>100</sup>

### **3. Economic, social and cultural rights**

*Right to work and to just and favourable conditions of work*<sup>101</sup>

62. JS1 stated that securing employment continued to be a problem and many school dropouts and graduates found it difficult to secure paid employment. Additionally, persons with disabilities were discriminated against in securing employment opportunities.<sup>102</sup> JS2 noted the lack of employment opportunities for youth, who were not being prioritised,<sup>103</sup> and recommended strengthening measures to reduce unemployment and underemployment of youth and providing the necessary resources for maintaining the Youth Empowerment Project.<sup>104</sup>

*Right to an adequate standard of living*<sup>105</sup>

63. AI recommended that Samoa: ensure that economic recovery packages protected the right to an adequate standard of living of all persons, including people on lower incomes, those working in the informal sector, and others who may be at risk and most affected by the COVID-19 crisis; and set up monitoring and review mechanisms to assess their impact and amend them as necessary.<sup>106</sup>

64. JS1 indicated that the rights and needs of elderly citizens had not been adequately researched or addressed. There were increasing numbers of elderly beggars in Apia streets.<sup>107</sup> JS1 recommended that Samoa consider a National Strategy for the Elderly to ensure a reasonable standard of care.<sup>108</sup>

*Right to health*<sup>109</sup>

65. JS1 indicated that non-communicable diseases and conditions including obesity, diabetes, heart diseases, high blood pressure, stroke and cancer were becoming a scourge and were now affecting young people.<sup>110</sup>

66. AI noted that in 2019, Samoa had a serious outbreak of measles that resulted in 83 deaths, which disproportionately impacted children (87% of deaths were reported to be children under five years old). Samoa needed to address health care challenges that led to the outbreak, including inadequate health care, low vaccination rates and misinformation on vaccines. Protecting the right to adequate health care and improving the provision of health information were important measures in light of the COVID-19 pandemic but also to protect the right to health more broadly.<sup>111</sup>

67. SSIG-Samoa recommended that Samoa establish a Commission of Inquiry into the Measles Epidemic.<sup>112</sup> JS2 recommended that Samoa strengthen the response and recovery system for epidemics and pandemics.<sup>113</sup> AI recommended that Samoa develop a plan to ensure that the public health system was adequately funded and staffed and increase budgetary allocations to the public health sector as necessary.<sup>114</sup>

68. JS2 indicated that suicide was a major health risk and recommended that the Government support suicide awareness and prevention programs, advocacy for educational and mental health resources, and proper training for qualified counsellors.<sup>115</sup>

69. JS2 noted the need for more staff in the area of counselling, social work and psychology and recommended that Samoa allocate more funds for training of health care staff, including doctors, midwives, nurses, and social workers.<sup>116</sup>

70. JS5 noted that the recently approved Ministry of Health Sector and Implementation Plans 2021–2030 did not include any references to citizens with diverse sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC).<sup>117</sup> SFA recommended that the Government, particularly the Ministry of Health, to be SOGIESC inclusive with its approach.<sup>118</sup>

71. SFHA stated that a critical issue in Samoa was the lack of full access to comprehensive sexuality education nationwide. Due to the lack of comprehensive sexuality education in the school system, adolescents were at high risk of intimate partner violence, sexual violence, unintended pregnancies and sexually transmitted infections.<sup>119</sup> SFHA recommended that Samoa revise the existing Family Life Education curriculum to align it with the UN International Technical Guidelines on Sexuality Education as part of mandatory primary and secondary school curriculums.<sup>120</sup>

72. AI recommended that Samoa protect universal access to safe abortion and related care and information, including through full decriminalization of abortion.<sup>121</sup>

*Right to education*<sup>122</sup>

73. JS1 noted a report which recognised that just 10% of students excelled in formal education. Scholarship opportunities were only available to top students while the majority were left unqualified and unequipped to secure employment.<sup>123</sup>

74. JS1 indicated that bullying in schools was widely accepted as “normal” behaviour between children and was also accepted by educators as a suitable manner for disciplining students.<sup>124</sup> The Government should strengthen its Technical and Vocational Education Training programs ensuring that alternative studies courses existed;<sup>125</sup> and undertake urgent measures to eliminate bullying in educational facilities of students, by students and by teachers.<sup>126</sup>

#### 4. Rights of specific persons or groups

##### *Women*<sup>127</sup>

75. ICAAD reported that many women continued to be treated unequally in aspects of private and public life. Discriminatory treatment occurred because of entrenched cultural, religious, and patriarchal traditions. Samoan men were regarded as the head of households, superior to their wives. Unequal gender roles in Samoa were widely enforced and domestic and sexual violence by men against women were a reflection of gender-based power and control.<sup>128</sup>

76. AI recommended that Samoa address gender inequality by the removal of barriers, whether cultural, economic, institutional or religious, preventing women from having an equal opportunity to gain access to positions of power at all levels and eliminate disempowering stereotypes, misogyny and violence against women in public and private spheres.<sup>129</sup>

##### *Children*<sup>130</sup>

77. SVSG noted the Governments' effort to improve childcare policy frameworks, especially, through the Child Care and Protection Bill. However, this Bill had been proposed in 2012, and yet, approximately 9 years later, it still had not been enacted. SVSG stated that the Bill lacked two practical provisions: it did not establish any state shelters which the Ministry of Women Community Social Development could refer children to; and it did not provide any financial assistance for care providers in order to encourage child fostering and improve the standard of child care.<sup>131</sup>

78. SVSG recommended that Samoa amend the Child Care and Protection Bill to establish state shelters for children and to mandate financial support for approved care providers.<sup>132</sup>

79. JS1 stated that domestic, and sexual violence and abuse against children was increasing.<sup>133</sup> Samoa should implement a Child Personal Safety Policy;<sup>134</sup> and adopt tougher penalties for sexual violence and abuse of children and strengthen its child protection laws.<sup>135</sup> JS2 recommended providing sufficient funds to NGO's and the NHRI for running awareness and abuse prevention education programs.<sup>136</sup>

80. JS1 indicated that child vendors were widespread and continued to work after school hours and during school holidays.<sup>137</sup> JS2 recommended that Samoa urgently develop a long-term strategy to keep child vendors in school;<sup>138</sup> and provide resources and support to NGOs' efforts to provide a safe space for child vendors and education.<sup>139</sup>

81. GIEACPC indicated that corporal punishment of children had not yet been prohibited in the home, alternative care settings, day care and schools. Article 14 of the Infants Ordinance 1961 confirmed "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". The near universal acceptance of a certain level of violence in childrearing meant that in the absence of explicit prohibition, corporal punishment would be seen as "reasonable".<sup>140</sup>

82. GIEACPC stated that since the review, no law reform appeared to have been initiated with a view to explicitly prohibit corporal punishment of children in all settings. In December 2017, the Prime Minister had declared that the Government was considering enacting legislation to reintroduce corporal punishment in all schools.<sup>141</sup>

83. JS2 indicated that Samoa needed to enforce penalties and disciplinary action for teachers that abuse students;<sup>142</sup> and that greater emphasis on appropriate conduct should be implemented in teachers training colleges.<sup>143</sup>

84. GIEACPC recommended that Samoa enact legislation to clearly prohibit all corporal punishment of children, however light, in every setting, and repeal article 14 of the Infants Ordinance 1961 as well as article 23(3)(c) of the Education Amendment Act 2019, as a matter of urgency.<sup>144</sup>

*Persons with disabilities*<sup>145</sup>

85. AI expressed concern with the lack of access of persons with disabilities to specific health services and support, limited health specialists and lack of disability diagnostics resources that hindered the full realization of human rights for persons with disabilities.<sup>146</sup> AI recommended that Samoa: invest in the development and implementation of a free medical health scheme for all persons with disabilities, train more health professionals, strengthen the work of organisations working with persons with disabilities to provide physical and mental health services, and improve access to specific health services.<sup>147</sup>

86. JS1 indicated that no benefits or pensions were available for persons with special needs and particularly those who would require permanent care into adulthood. JS1 recommended that Samoa implement the funding of monthly pensions or benefits for persons with disabilities enabling them to live independent lives and prevent them from requiring lifetime care by family members.<sup>148</sup>

87. JS1 also recommended that Samoa ensure the enforcement of the building code to ensure installation of ramps and access ways in all Government buildings.<sup>149</sup>

*Minorities and indigenous peoples*<sup>150</sup>

88. JS1 noted that Samoan Cultural rights were directly connected to traditional land rights. Hence, all paramount matai titles were stewards to an allotment of customary land designated to the title and any descendent to the title had the right to live on that land without discrimination. However, Samoa had a pool of naturalised citizens over 3 generations who were descendants of Indigenous labourers from colonial times, whose rights were not recognized under the current system.<sup>151</sup>

89. JS1 stated that the Government must provide and register a plot of public land as a traditional village for direct descendants of these minority groups who are naturalized citizens of Samoa.<sup>152</sup>

90. SSIG-Samoa stated that the provisions of the Land Titles Registration Act 2008 (LTRA 2008) were in breach of Articles 102, 109 and 14 of Samoa's Constitution. SSIG-Samoa indicated that customary land rights of indigenous communities had been taken away through the LTRA 2008. Even though the law did not specifically state that customary land could be subjected to sale-and-purchases similar to that of freehold land, the enforcement of the LTRA 2008 could lead to alienation of customary land.<sup>153</sup>

*Migrants*

91. JS1 indicated that the legislative frameworks to ensure the protection of the rights of migrant workers were weak and that the increase in numbers of foreign workers had given rise to abuse of their rights.<sup>154</sup>

*Notes*

<sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org). (One asterisk denotes a national human rights institution with "A" status).

*Civil society**Individual submissions:*

AI	Amnesty International, London (United Kingdom);
CGNK	Center for Global Nonkilling, Grand-Saconnex (Switzerland);
ECLJ	European Centre for Law and Justice, Strasbourg (France);
GIEACPC	Global Initiative to End All Corporal Punishment of Children, London (United Kingdom);
ICAAD	International Center for Advocates Against Discrimination, Chappaqua (United States of America);
OHR	Oceania Human Rights Hawaii, London (United States of America);
SVSG	Samoa Victim Support Group, Apia (Samoa);

SFA	Samoa Faafafine Association Inc, Apia (Samoa);
SFHA	Samoa Family Health Association, Apia (Samoa);
SSIG-Samoa	Samoa Solidarity International Group, Apia (Samoa).
<i>Joint submissions:</i>	
JS1	<b>Joint submission 1 submitted by:</b> The Samoa Umbrella for Non-Governmental Organisations (SUNGO) Apia (Samoa), O Le Siosiomaga Society Incorporated, Loto Taumafai Society, Pasefika Mana Samoa Social Services Trust, Young Women's Christian Association of Samoa, Advocate for Human Rights Samoa, Faataua Le Ola, Women In Business Development Incorporated, and Samoa Law Society;
JS2	<b>Joint submission 2 submitted by:</b> Soul Talk Samoa Trust, Apia (Samoa), Faataua Le Ola, Le Teine Crisis Center Trust, Logopuialii Samoa Youth Organisation, and Talofa Kids Trust;
JS3	<b>Joint submission 3 submitted by:</b> The Sexual Rights Initiative, Ottawa (Canada), and Kaleidoscope Human Rights Foundation;
JS4	<b>Joint submission 4 submitted by:</b> The Tupu'aga Institute, Apia (Samoa), and the Indigenous Solutions Group (Aotearoa New Zealand);
JS5	<b>Joint submission 5 submitted by:</b> The Asia Pacific Transgender Network (APTN), Bangkok (Thailand), Samoa Fa'afafine Association (SFA), and My Girls Club.
<i>National human rights institution:</i>	
OMB/NHRI Samoa	Office of the Ombudsman National Human Rights Institution * , Apia (Samoa).
<sup>2</sup>	OMB/NHRI, para. 5.
<sup>3</sup>	OMB/NHRI, para. 43.
<sup>4</sup>	OMB/NHRI, para. 44.
<sup>5</sup>	OMB/NHRI, paras. 12–13.
<sup>6</sup>	OMB/NHRI, paras. 14–15.
<sup>7</sup>	OMB/NHRI, para. 16.
<sup>8</sup>	OMB/NHRI, paras. 9–10.
<sup>9</sup>	OMB/NHRI, para. 17.
<sup>10</sup>	OMB/NHRI, para. 19.
<sup>11</sup>	OMB/NHRI, para. 21.
<sup>12</sup>	OMB/NHRI, para. 22.
<sup>13</sup>	OMB/NHRI, para. 26.
<sup>14</sup>	OMB/NHRI, paras. 27–30.
<sup>15</sup>	OMB/NHRI, paras. 32–33.
<sup>16</sup>	OMB/NHRI, para. 35.
<sup>17</sup>	OMB/NHRI, para. 36.
<sup>18</sup>	OMB/NHRI, para. 37.
<sup>19</sup>	OMB/NHRI, para. 39.
<sup>20</sup>	OMB/NHRI, para. 40.
<sup>21</sup>	OMB/NHRI, para. 42.
<sup>22</sup>	OMB/NHRI, para. 42.
<sup>23</sup>	The following abbreviations are used in UPR documents:
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination;
ICESCR	International Covenant on Economic, Social and Cultural Rights;
OP-ICESCR	Optional Protocol to ICESCR;
ICCPR	International Covenant on Civil and Political Rights;
ICCPR-OP 1	Optional Protocol to ICCPR;
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty;
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women;
OP-CEDAW	Optional Protocol to CEDAW;
CAT	Convention against Torture and Other Cruel, Inhuman or

	Degrading Treatment or Punishment;
OP-CAT	Optional Protocol to CAT;
CRC	Convention on the Rights of the Child;
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict;
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography;
OP-CRC-IC	Optional Protocol to CRC on a communications procedure;
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
CRPD	Convention on the Rights of Persons with Disabilities;
OP-CRPD	Optional Protocol to CRPD;
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance.

<sup>24</sup> For relevant recommendations, see A/HRC/33/6, paras. 95.1–95.15; 95.36–95.38; 96.1–96.30, 96.91.

<sup>25</sup> AI, para. 2.

<sup>26</sup> AI, para. 5. See also JS1, p. 3, para. 1.1.

<sup>27</sup> AI, p. 3, JS1, p. 14.1.1, JS3, paras. 3.6.1–3.6.3, OHR, p.2, and SFA, p. 5.

<sup>28</sup> CGNK, p. 6.

<sup>29</sup> SVSG, para. 35.

<sup>30</sup> For relevant recommendations, see A/HRC/33/6, paras. 95.16; 95.18–95.22; 95.24–95.29; 95.31; 95.35–95.36; 95.46; 95.50; 95.53; 95.56; 95.58–95.59; 95.64–95.65; 95.68; 95.76, 96.32–96.38.

<sup>31</sup> AI, para. 3.

<sup>32</sup> JS1, p. 2, para. 3.

<sup>33</sup> JS1, p. 3, para. 3. See also AI, paras. 12–13, JS4, pp. 5–7, and OHR, p. 3.

<sup>34</sup> JS4, p. 5.

<sup>35</sup> SSIG-Samoa, para. 3.1.2.

<sup>36</sup> JS4, p. 1, para. 25.

<sup>37</sup> JS4, p. 8, para. 15.

<sup>38</sup> JS1, p. 4, paras. 3.1.2–3.1.3.

<sup>39</sup> AI, p. 4.

<sup>40</sup> For relevant recommendations, see A/HRC/33/6, paras. 95.22; 95.46–95.47, 96.31–96.36.

<sup>41</sup> JS3, paras. 4.1–4.2. See also JS5, paras. 11–13.

<sup>42</sup> JS5, para. 4.

<sup>43</sup> JS5, para. 2. See also AI, para. 19.

<sup>44</sup> JS5, para. 3. See also OHR, p. 4.

<sup>45</sup> JS5, para. 29.

<sup>46</sup> JS5, para. 33.

<sup>47</sup> JS3, para. 4.5.1. See also AI, p. 4.

<sup>48</sup> JS5, para. 13.

<sup>49</sup> JS3, paras. 2.1–2.6 and AI, para. 19.

<sup>50</sup> JS3, para. 2.1.

<sup>51</sup> AI, p. 4.

<sup>52</sup> JS3, para. 2.7.1–2.7.3.

<sup>53</sup> JS5, para. 27 and SFA, p. 7.

<sup>54</sup> For relevant recommendations, see A/HRC/33/6, paras. 95.83–95.90.

<sup>55</sup> OHR, p. 1. See also AI, para. 22.

<sup>56</sup> AI, para. 23.

<sup>57</sup> AI, p. 5.

<sup>58</sup> JS1, para. 12.1.1.

<sup>59</sup> For relevant recommendations, see A/HRC/33/6, paras. 95.34; 95.48–95.49; 95.57; 95.63; 95.65; 95.69; 95.70–95.71, 96.15.

<sup>60</sup> AI, para. 16.

<sup>61</sup> SFHA, para. 4.

<sup>62</sup> JS5, para. 24.

<sup>63</sup> JS1, para. 20.1.1.

<sup>64</sup> For relevant recommendations, see A/HRC/33/6, paras. 95.48; 95.50; 95.55; 95.69.

<sup>65</sup> SSIG-Samoa, para. 5.1.1.

<sup>66</sup> SVSG, para. 20.

<sup>67</sup> ICAAD, para. 11.

<sup>68</sup> ICAAD, paras. 1 and 5.

<sup>69</sup> ICAAD, para. 12.

- 70 ICAAD, para. 14.
- 71 ICAAD, para. 20.
- 72 For relevant recommendations see A/HRC/33/6/Add.1, paras. 95.49 (Brazil) and 95.57 (Maldives).
- 73 SVSG, paras. 6–7.
- 74 SVSG, para. 12.
- 75 SVSG, para. 8.
- 76 SVSG, para. 9.
- 77 SVSG, para. 15.
- 78 JS2, para. 4.1.1.
- 79 SFHA, p.4.
- 80 JS1, paras. 8.1-8.2.
- 81 JS2, paras. 1.1, 1.1.1–1.1.2.
- 82 SSIG-Samoa, para. 6.2.2.
- 83 AI, para. 14.
- 84 SSIG-Samoa, para. 4.1.3.
- 85 SSIG-Samoa, para. 4.2.
- 86 SSIG-Samoa, para. 4.1.1.
- 87 SSIG-Samoa, para. 4.2.
- 88 AI, para. 15.
- 89 JS1, paras. 5.1–5.3.
- 90 JS1, paras. 5.1.1 and 5.1.2.
- 91 JS1, para. 16.1.
- 92 JS1, para. 16.1.2.
- 93 For relevant recommendations, see A/HRC/33/6, para. 95.58.
- 94 ECLJ, para. 10.
- 95 ECLJ, para. 13.
- 96 SVSG, para. 27.
- 97 SVSG, para. 28.
- 98 SVSG, para. 29.
- 99 SVSG, para. 30.
- 100 SVSG, paras. 31–32.
- 101 For relevant recommendations, see A/HRC/33/6, paras. 95.17; 95.44–95.45; 95.63, 96.35.
- 102 JS1, paras. 7.1–7.2.
- 103 JS2, para. 5.1.
- 104 JS2, paras. 5.1.1–5.1.2.
- 105 For relevant recommendations, see A/HRC/33/6, paras. 95.33; 95.72.
- 106 AI, p. 5.
- 107 JS1, para.11.1.
- 108 JS1, para. 11.1.1.
- 109 For relevant recommendations, see A/HRC/33/6, paras. 95.44; 95.74–95.75, 96.35.
- 110 JS1, para. 13.2.
- 111 AI, p.3, para. 17.
- 112 SSIG-Samoa, para. 7.2. See also AI, p. 4.
- 113 JS2, para. 2.1.1.
- 114 AI, p. 5.
- 115 JS2, paras. 2.4–2.4.1.
- 116 JS2, paras. 2.2–2.2.1.
- 117 JS5, para. 14.
- 118 SFA, p. 9.
- 119 SFHA, p.2.
- 120 SFHA, p.4.
- 121 AI, p. 4.
- 122 For relevant recommendations, see A/HRC/33/6, paras. 95.4; 95.30–95.31; 95.50–95.51; 95.61; 95.76–95.81, 96.35; 96.38.
- 123 JS1, para. 9.1.
- 124 JS1, para. 9.2.
- 125 JS1, para. 9.1.1.
- 126 JS1, para. 9.2.1.
- 127 For relevant recommendations, see A/HRC/33/6, paras. 95.17; 95.22–95.23; 95.32; 95.34; 95.37; 95.39–95.45; 95.52; 95.54–95.55; 95.59–95.60; 95.62; 95.69; 95.73.
- 128 ICAAD, para. 6.
- 129 AI, p. 4. See also ICAAD, para. 18.

- <sup>130</sup> For relevant recommendations, see A/HRC/33/6, paras. 95.23; 95.34; 95.39; 95.51; 95.53; 95.56; 95.59; 95.61; 95.64–95.68; 95.70; 95.76; 95.80, 96.38.
- <sup>131</sup> SVSG, para. 16.
- <sup>132</sup> SVSG, para. 19.
- <sup>133</sup> JS1, para. 6.1.
- <sup>134</sup> JS1, para. 6.1.1. See also JS2, para. 1.3.2.
- <sup>135</sup> JS1, para. 6.1.2.
- <sup>136</sup> JS2, para. 1.3.3.
- <sup>137</sup> JS1, paras. 6.2.
- <sup>138</sup> JS2, para. 1.4.1.
- <sup>139</sup> JS2, para. 1.4.2.
- <sup>140</sup> GIEACPC, para. 2.
- <sup>141</sup> GIEACPC, para.1.2.
- <sup>142</sup> JS2, para. 4.2.1.
- <sup>143</sup> JS2, para. 4.2.2.
- <sup>144</sup> GIEACPC, para.1.3.
- <sup>145</sup> For relevant recommendations, see A/HRC/33/6, paras. 95.4; 95.8–95.9; 95.34–95.35; 95.39.
- <sup>146</sup> AI, para. 22.
- <sup>147</sup> AI, p. 4.
- <sup>148</sup> JS1, paras. 19.2 and 19.2.1.
- <sup>149</sup> JS1, para. 19.1.1.
- <sup>150</sup> For relevant recommendations, see A/HRC/33/6, para. 95.82.
- <sup>151</sup> JS1, para. 4.
- <sup>152</sup> JS1, para. 4.2.
- <sup>153</sup> SSIG-Samoa, para. 2.1.1.
- <sup>154</sup> JS1, para. 14.1.
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