



Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

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Responses to the list of issues and questions with regard to the consideration of the combined fourth and fifth periodic reports

Samoa

General

1. Samoa would like to inform the Committee on the Elimination of Discrimination against Women (CEDAW) that the preparation of the combined fourth and fifth reports was a consultative process which included Government ministries, non-governmental partners as well as members of the wider community. The achievements and progress recorded in the report were formulated on the basis of the information and data collected from both Government ministries as well as non-governmental partners that are part of the CEDAW Partnership Committee. Non-governmental organizations that are members of the CEDAW Partnership Committee, which is chaired by the Ministry of Women, Community and Social Development, are organizations whose work pertains specifically to women and girls. These organizations include: Mapusaga o Aiga; Samoa Women's Graduate Association; National Council of Women; Samoa Women's Development Committee; Samoa Family Health Association; Samoa Registered Nurses Association; Samoa National Council of Churches; Public Service Association; Nuanua O le alofa — Council for People With Disabilities; Samoa's Association for Sports National Olympic Committee (SASNOC); and Samoa Victim Support Group.

2. Non-government partners, through the CEDAW Partnership Committee, as well as the wider community, through consultations with selected women's representatives from the villages; Government representatives (village mayors); disability organizations; village councils; and women's committees were consulted during the first, second and final drafts of the report before its submission to the Committee.

3. As mentioned in the report, initial discussions on the impact and implications for Samoa of the Optional Protocol to the Convention on the Elimination of All



Forms of Discrimination against Women (the Convention) started in 2005. The experience revealed a greater need for authorities and stakeholders to first have a proper understanding of the Optional Protocol, including the ability to fulfil the institutional requirements of the Optional Protocol, particularly in the light of challenges already faced in implementing the Convention itself. Samoa recognizes the importance of the Optional Protocol; however, we believe that more consultations between and among authorities and stakeholders are needed in order to fully understand and have the capacity to implement the Optional Protocol before a commitment is made to accede to it. At the same time, Samoa's court system and reforms being implemented continue to uphold the protection of the rights of women and young girls in Samoa when such cases are brought to the legal system.

Constitutional, legislative and institutional framework

4. Samoa would like to inform the Committee that the Marriage Ordinance 1961 is part of the legislative review that the Samoa Law Reform Commission is working on. The review will take into account the issue of legal age of marriage for females and males as this is also an issue raised with respect to not complying with the Convention on the Rights of the Child. The issue of age definition, including legal age for marriage and non-compliance with both conventions, and the need for amendment of this provision were addressed in a policy issue paper drafted by the Law Reform Commission.

5. The Samoa Law Reform Commission recommendation, reflected in the new Crimes Bill 2011 with regard to rape, includes repealing immunity of spouses as well as extending the definition of rape to include penetration of any orifice by any object by any person without consent. To date, the Crimes Bill is being translated into the Samoan language and will be tabled in Parliament once the translation is completed.

6. The review of the Divorce and Matrimonial Causes Ordinance 1961 has been approved, resulting in the Divorce and Matrimonial Causes Act 2010. The proposal to make divorce no-fault based was accepted and acknowledged. The section on grounds for divorce was deleted and replaced with a new section 7, which includes the following amendments concerning grounds for divorce:

- The marriage has broken down irretrievably
- The couple has been separated for a continuous period of not less than 12 months
- Domestic violence allows for instant divorce without the needed separation
- A divorce will not be granted if the court is of the mind that there is a reasonable likelihood of cohabitation being resumed

7. New sections have also been inserted under section 7, including those dealing with:

- The meaning of judicial separation
- The effect of resumption of cohabitation
- The possibility of reconciliation
- The rescission of a divorce order where the parties have reconciled

- Decree of divorce where there is consent or no opposition

National human rights institution

8. The Government of Samoa has received international technical and financial assistance towards the establishment of an institutional mechanism to monitor and promote human rights. Much of the groundwork for the establishment of a national human rights commission under the Office of the Ombudsman has been undertaken. With international assistance, Samoa has engaged the services of a consultant to draft the necessary legislation for the establishment of this institution. A strategic plan on the requirements for the establishment of this institution is also being drafted which takes into account Samoa's characteristics such as its culture, policies and legislation.

9. It is anticipated that this institution will be responsible for the implementation of all public awareness campaigns to ensure public understanding of human rights, the monitoring role of this institution and the services it may offer. It is envisaged that the institution will also act as the independent institution charged with the promotion and monitoring of the implementation of all human rights conventions to which Samoa is party.

Temporary special measures

10. Samoa accepts and recognizes the importance of putting in place temporary special measures to accelerate the advancement of women in all areas of life. The Government is also of the view that the process of putting in place temporary special measures takes into consideration factors such as resourcing and priorities. Some of the developments that have occurred since the first meeting with CEDAW in 2005 are highlighted below.

11. A series of major reviews (seen as a long-term process) of all existing and new legislation, with the process involving all sectors of Government, the non-governmental sector, civil society and stakeholders, has begun. The aims of the review from a gender mainstreaming perspective will involve proposals for amendments and changes to provisions where relevant, so that language will be gender neutral and Samoa will comply with the principles of the Convention as well as with other international conventions such as the conventions of the International Labour Organization (ILO) to which Samoa is party.

12. Last year, a Cabinet directive was circulated to facilitate the establishment of breastfeeding nurseries for working mothers in all Government ministries. This is a milestone achievement in support of working mothers in the public sector, under the leadership of the Public Service Commission.

13. In terms of increasing the number of women in Parliament, a bill for a constitutional amendment has gone through its first reading in Parliament. This constitutional amendment aims to ensure that women have 10 per cent of the seats in Parliament and demonstrates that the struggle for gender equality is alive and well recognized by Government.

Violence against women

14. The Family Safety Bill 2010 was approved by Cabinet in December 2011 and will be administered by the Ministry of Justice, Courts and Administration.

Translation of the Bill into the Samoan language is being undertaken by the Office of the Legislative Assembly, and it will be tabled in Parliament once the translation is completed. The Bill criminalizes violence in the domestic arena and provides for a holistic approach to addressing violence, from prevention to treatment and rehabilitation. It also acts as a deterrent measure to ensure the reduction and elimination of violence in the home. It also seeks to strengthen the family unit as a haven for women and children as opposed to being a place where they are victims of violence.

15. The theology behind Samoa's "family system" is explained through the concept of one's identity, or *faasinomaga* (with its extended blood lines). The "extended or communal family system" has always been the backbone of Samoan culture and will continue to nurture and safeguard the identity and rights of all family members, including women and children. It is this foundation of identity that also defines relationships and the boundaries of these relationships. The significance of this family system is that from ancient times up until the present, Samoans have lived not as individual beings but as beings integrally linked to their cosmos, land, seas and skies. "I am not an individual, because I share a *tofi* (inheritance) with my family, my village and my nation" (Head of State Tupua Tamasese).

16. In times of conflict or violence, other members of the family will be the first option for help and refuge, in accordance with the Samoan cultural beliefs as regards the family unit. In a case where a woman has been subjected to abuse by her husband, it will be the family of the victim that will normally intervene. All Samoan families are linked by kinship and blood ties, and Samoan families are therefore connected and are built on extended relations (father, mother, sisters, brothers, aunts, uncles, grandparents, cousins and so forth) as opposed to the nuclear settings in perhaps many Western cultures. Therefore, in cases where women are made victims within their own nuclear setting, their family members from another village will normally step in to protect them. The woman and her children are encouraged to live in another village or household with other members of their family where they can be safe. This is also to ensure that connections and family ties are maintained and, more importantly, that the victims of violence continue to be integrated into the family circle and community.

Disaggregated data on domestic violence 2009-2011

17. The table below shows some statistics obtained from the Domestic Violence Unit of the Ministry of Police. (Domestic violence includes assault, insulting and threatening words, actual bodily harm, throwing stones.)

Table 1
Recorded cases of domestic violence, 2009-2011

	2009		2010		2011	
	Male	Female	Male	Female	Male	Female
Domestic violence cases filed in court	36	98	32	120	35	154
Minor cases settled outside of court	22	86	47	186	67	265
	2009		2010		2011	
Cases pending as of December 2011						123
Cases between couples and children (custody of children)		136		134		260

18. Corporal punishment in schools is a serious issue that the Ministry of Education Sports and Culture continues to address. In recent years, new legislation and policies have been developed to ensure that corporal punishment in schools is eliminated.

19. The Education Act 2009 addresses corporal punishment in the following sections:

- Section 23(1). Every school and early childhood education centre must have a discipline policy
- Section 23(2). A discipline policy must not include or permit the use of any form of punishment that may cause harm to the recipient, or any form of punishment that humiliates or is intended to humiliate the recipient
- Section 31(b). Adherence to section 23 is a criterion for private and mission schools to be registered
- Section 37. Village schools are subject to the same registration criterion
- Section 56. Ministry and village schools must develop a discipline policy subject to section 23.

20. One of the initiatives by the Ministry to assist schools in eliminating corporal punishment is through the development of the Behaviour Management Guidelines: A Guide for Schools Improving Students' Behaviour and Welfare (2010). This document educates and trains school principals, teachers and students in adopting an approach to behaviour management that encourages mutual respect and courtesy and develops personal responsibility and discipline.

21. In addition, the Child Protection Unit of the Ministry of Women, Community and Social Development continues to conduct its awareness programmes in schools, educating teachers on the different articles of the Convention with particular focus on eliminating corporal punishment, but encouraging positive reinforcement so that children are retained in school and to keep them from falling into social problems. Non-governmental organizations such as Mapusaga o Aiga and Samoa Victim Support Group are also conducting awareness campaigns to end corporal punishment.

22. At the village level, outreach awareness programmes continue to be conducted by the Ministry of Women, under its Division for Women and Division for Youth, which specifically target women's committees, village councils, chiefs, young parents and young women themselves. These nationwide programmes are implemented in partnership with women and church/youth organizations within the different villages and are also supported under the gender-based violence project of the United Nations Population Fund. There is also the strong lobbying from the non-governmental organizations and disability actors such as Mapusaga O Aiga, Nuanua o le Alofa and Samoa Victim Support that are working out in the field to address the issue of physical violence in the form of corporal punishment of children and young girls.

23. Samoa would like to inform the Committee that a review of the Crimes Ordinance 1961 was finally completed last year. The review included recommendations made by the Samoa Law Reform Commission for amendments and new provisions to address areas that were considered gender-biased provisions. Thus, a provision stating that spousal rape is a criminal offence is one of the proposed amendments under the new Crimes Bill 2011. To date, the Office of the Legislative Assembly is working on the Samoan translation of the Crimes Bill 2011 which is expected to be tabled for its first reading in Parliament once the translation is completed. There are no official data or evidence available on the issue of "revenge rape" as raised by the Committee.

Trafficking

24. The State would like to inform the Committee that unfortunately, there have been no further developments to date with the continuation of the survey on sex workers and prostitution as mentioned in the 2010 report, given some issues with the process of data collection and data verification.

25. In 2009, one local prostitution case involving five females who were alleged to be exchanging sexual favours for money was heard in the district court. The case was later dismissed and no charges were laid. There have been no further cases of prostitution reported to police to date.

26. In relation to human trafficking of women and girls, there are no official data available nor cases reported to police or through the courts which have involved trafficking of women or children in Samoa.

Participation in decision-making and representation at the international level

27. The issues of women taking up *matai* titles and women not sitting in village council meetings have been raised as a policy issue (in the National Women's Policy) that also requires a change in traditional attitudes and practices. The proposed constitutional amendment to allow for more seats in Parliament for women will definitely facilitate more dialogue on women's access to *matai* titles (as a prerequisite for entering Parliament) and their taking part in the decision-making in village council meetings, which would then require the services of the Law Reform Commission. The Ministry of Women as part of its National Plan of Action for Women has conducted community awareness programmes to address the gender dimensions associated with these traditional practices.

Table 2
Number of women standing for Parliament, 2006 and 2011

	2006	2011
No. of female candidates	18	9
No. of female members of Parliament	4	2

28. The table above shows a significant drop with respect to the number of women candidates contesting the 2011 elections compared with 2006.

29. The new bill to amend the Constitution, which allows for a quota of 10 seats for women to be put in place, is a proposal by Government to ensure that the participation of women in politics is maintained.

Table 3
Women in the diplomatic service/political and public life

Level	2009		January 2012	
	Women	Total	Women	Total
Permanent/Secretary Chief Executive Officers	0	1	0	1
Deputy/Assistant Chief Executive Officers	2	5	4	5
Principal/Senior Officers	9	15	9	15
Ambassadors/High Commissioners	0	4	0	4
Honorary Consuls	0	2	0	2
Deputy Heads of Mission/Counsellors	3	4	3	4
First Secretaries	2	3	2	3
Second Secretaries	0	0	0	0

30. The table above shows a slight increase in the number of Deputy/Assistant Chief Executive Officers for the diplomatic services; the table reflects that there are now more women stationed in diplomatic missions than before. This trend is also mirrored in the number of leadership positions also held by women at high executive and middle management levels in the public and private sectors.

31. Supportive work is also being done by the Women In Leadership Advocacy Network (WinLa) which is being led by the two women parliamentarians and all female Chief Executive Officers in the public sector. The goal of this network is to foster and nurture leadership skills of all women in the public sector to advance into high-level positions in all spheres.

Employment

32. The review of the Labour and Employment Act 1972 was completed in 2011. The new bill, called the Labour and Relations Bill 2011, is now with Cabinet for endorsement before it is tabled in Parliament. A number of consultations and dialogue among the different sectors of society, including ILO, took place during the last two years. Emphasis was placed on the need to align all provisions of the new bill with the standards and principles of the ILO conventions and of the Convention.

Health

33. The HIV Policy and Plan of Action were endorsed by Cabinet in 2011. The National Aids Coordinating Council and the Technical AIDS Committee were established by Cabinet to both manage the implementation and monitoring of the National Aids Prevention Programme and to coordinate national efforts in the prevention of HIV/AIDS in Samoa in line with the Policy. The Ministry of Health, as the national focal point, will continue its monitoring and evaluation role of the Policy implementation.

34. In 2008, a second survey of the prevalence of sexually transmitted infections (STIs) was conducted among pregnant women in Samoa. The survey collected information on risk behaviours, knowledge of and attitudes towards HIV and access to STI treatment and HIV testing. Pregnant women between 15 and 49 years of age attending their first antenatal clinic visit were invited to take part in the survey. The results of this survey will be compared with the previous results from 2006 and used to develop and monitor appropriate interventions.

35. The report of the second-generation surveillance survey in 2008 was launched in August 2010. Of the 324 women surveyed, 41 per cent were under 25 years of age and almost 60 per cent were in the 25-49 age range. Only 63 per cent had ever been married and 61 per cent were currently married and living with their spouse.

36. Overall, approximately 15 per cent of women in the survey were primiparous, although this was the first pregnancy for more than a quarter of the women under 25 years. Over half of the under-25 women had no children compared with only 8 per cent of women over 25. Less than half (45 per cent) of all women surveyed reported that they had been trying to become pregnant.

37. The mean age at first sex was 19.6 years, with a range of 12-34 years. Overall, 53 per cent of women surveyed reported having only one sexual partner and a further 29 per cent reported having had two sexual partners in their lifetime. The average number of lifetime partners was 1.9 and 97 per cent of women reported having had only one partner in the previous 12 months.

38. Only seven women (2 per cent) reported having had sex before the age of 15. Reported transactional sex (in exchange for money, goods or favours) was very low, at around 0.5 per cent of all women surveyed. More than 10 per cent of pregnant women reported having ever been forced to have sex against their will and in nearly 60 per cent of cases this was by their partner.

39. Condom use was very low with only 10 per cent of women surveyed reporting ever having used a male condom. Condom use at last sex and in the previous 12 months was extremely low (1.2 and 5.7 per cent respectively), which is not unexpected in a population of pregnant women.

40. Overall, 105 women (32.8 per cent) had at least one STI and 11 (3.4 per cent) had two STIs. The most common STI was chlamydia, with 28 per cent of women testing positive. Approximately 10 per cent of women tested were found to have hepatitis B but the prevalence of other STIs was very low, with no cases of HIV or syphilis in the survey population and a gonorrhoea prevalence of 1.3 per cent.

41. There are already extensive efforts being made by Government, in partnership with its non-State partners, to address the issue of teenage pregnancy and other sexual and reproductive health issues. These measures include policy and legislative

development by the Ministry of Health: the National Reproductive Health Policy 2010 and Implementation Plan and the Mental Health Act 2007. The Ministry of Women's National Youth Policy and its National Women and Children's Policies (2010-2015) focus on strengthening the implementation of sexual reproductive health programmes at the grass-roots level that address the causes and consequences of teenage pregnancy by conducting communication and relationship-building, negotiation and leadership programmes. These programmes target all sectors of the community, including young women and girls themselves.

42. The current law that governs abortion is the Crimes Ordinance 1961 (sect. 73, 73A, 73B, 73C). Under this law it is an offence should:

(a) Anyone cause the death of any child that has not become a human being (sect. 73);

(b) Anyone intend to procure the miscarriage of any female, whether she is with child or not; however, the woman or girl in this case shall not be charged as a party to an offence under this section (sect. 73A);

(c) A female procures her own miscarriage (sect. 73B);

(d) Anyone supply with intent the means of procuring an abortion (sect. 73C).

43. It appears that an exception to abortion is if the abortion was done in good faith for the preservation of the life of the mother.

44. In relation to measures taken to review the law relating to abortion, the Law Reform Commission was tasked by Parliament to review the Crimes Ordinance 1961. The final report prepared by Law Reform on the Crimes Ordinance was passed by Parliament in December 2010 and subsequently referred to the Office of the Attorney General to draft the bill. The Office of the Attorney General is in the process of finalizing its drafting work, which will be tabled in Parliament upon completion.

45. In the proposed Crimes Bill it is still an offence for:

(a) Anyone with intent to procure the miscarriage of any female, whether she is with child or not; however, the woman or girl in this case shall not be charged as a party to an offence against this section (sect. 112);

(b) A female to procure her own miscarriage;

(c) Anyone to supply with intent the means of procuring an abortion.

46. It is clear from the Crimes Bill that it is lawful to carry out an abortion in the case where it is believed that the continuation of a pregnancy of not more than 20 weeks would result in serious danger (i.e., aside from the danger normally attendant upon childbirth) to the life, or to the physical or mental health, of the pregnant woman or girl.

47. In relation to the punitive provisions, the penalty of imprisonment still exists if such offences as mentioned above are committed. However, the offence punishable by imprisonment for not more than 14 years has been abolished; the maximum term of imprisonment for an offence related to abortion is now 7 years.

Women with disabilities

48. The Ministry of Women, Community and Social Development developed a National Policy on Persons with Disabilities and Plan of Action which was approved by Cabinet in 2009. This followed the establishment of a national Disability Task Force chaired by the Ministry of Women, consisting of members from both governmental and non-governmental agencies, whose work is on improving the lives of persons with disabilities, including women and girls. The Task Force's main functions are to provide policy advice, review existing laws so that they do not discriminate against persons with disabilities, and monitor the implementation of the National Policy and Plan of Action for Persons with Disabilities.

49. There are seven core policy objectives in this policy and "women with disabilities" is one of the core objectives. The strategies for the objective are to develop awareness-raising and communication materials and resources on the special case and vulnerability of girls and women with disabilities. Women and girls need to have equal access to health care, education, vocational training, employment and income-generation opportunities and to be included in social and community activities. The Plan of Action for Persons with Disabilities is further supported by the National Policy for Women, the National Policy for Children and the National Policy for Youth, as they also take into consideration women and girls with disabilities.

50. Consultations have taken place on how Samoa should move forward with the ratification of the Convention on the Rights of Persons with Disabilities. As a result of consultations with members of the Task Force and stakeholders, a policy paper has been submitted to Cabinet for signing the Convention. The Ministry of Women is also working towards the conduct of a cost-benefit analysis and a Convention Legislative Compliance Review as steps towards full ratification.

Marriage and family relations

51. Please refer to the response under the section on constitutional, legislative and institutional framework (paras. 4-7 above).

Climate change and internally displaced persons

52. In March 2010, the second phase of the pilot project "Monitoring post-disaster displacement and durable solutions in Samoa" took place six months after the tsunami on 29 September. This project targeted 11 of the villages that were heavily affected by the tsunami. The project was a collaborative effort between the United Nations Development Programme (UNDP) and the Government of Samoa (Ministry of Women, Community and Social Development) through the Early Recovery Framework, Samoa Red Cross Society and Mapusaga O Aiga. The review report highlighted the economic, social and cultural impacts of this disaster on the lives of the families that were affected. Of the 157 household interviews conducted, 68 were of females between the ages of 18 and 60 and 11 of females above 60 years of age. Some of the impacts are summarized in the list below:

- Families had relocated to higher ground and were living in temporary shelter while awaiting Government and family assistance for housing facilities
- Access to basic needs such as water, health and education services was limited and was a priority

- The psychological impact and fear of another tsunami
- Loss of personal documentation such as birth certificates and passports
- Loss of income-generating means (livelihood programmes such as weaving, handicrafts, beach resorts, etc.)
- Protection issues such as sexual harassment and family disputes

53. The Government of Samoa's tsunami and post-recovery report, released in the same year, also highlighted the social and economic impact of the tsunami on the women and children of the affected villages. This report, plus ongoing post-recovery programmes which have been mainstreamed into other long-term sustainable programmes, continue to date, for instance, the rehabilitation and reconstruction of women's committees and pre-school facilities which are used for women's social and economic development activities in the villages. The livelihood restoration programmes' main target audiences were women and youth for whom small income-generating projects such as vegetable gardens, farming, handicraft production and garment-making were encouraged and supported.

54. The Government also set up a Civil Society Support Fund Programme, which is a multipartnership initiative of community organization representatives, Government and development partners (European Union, AusAid). This programme's main aim is to strengthen civil society and to ensure that development initiatives target the members of Samoan society most in need. The programme responds to requests for funding of social development projects (infrastructure, agriculture, human rights advocacy, research and development, to name a few) and services from groups, including women's groups, from the villages and larger organizations. The majority of applications are submitted by community-based groups for support of projects such as water tanks, community or school buildings, other agricultural projects, NGO service delivery and women's income-generating projects.

55. The lessons learned from the 29 September tsunami and gaps identified in the National Action Plan 2006-2009 prompted the review of the National Disaster Management Plan which was completed in December 2011. A new policy document called the National Disaster Management Plan for Disaster Risk Management for 2011-2014 now exists, with the implementation guided by a Disaster Management Plan for 2011-2016. A gender analysis and inclusion of gender-specific indicators in relation to women and persons with disabilities are now main requirements for all response and recovery efforts across the core areas of managing natural or climate-change-related disasters, including the monitoring and evaluation framework under the Policy and Action Plan documents.

56. The review of the Refugee Determination Bill has been completed by the Office of the Attorney General and has been referred back to the Ministry of Cabinet and the Prime Minister, who are responsible for administering the Bill once it becomes an Act of Parliament.

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