

Advance unedited version

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Human Rights Committee**List of issues prior to submission of the initial report of Samoa*****A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant**

1. Please provide information on any significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the ratification of the Covenant, especially in the last ten years. Please also indicate whether the State party intends to ratify the First Optional Protocol to the Covenant.

B. Specific information on the implementation of articles 1 to 27 of the Covenant**Constitutional and legal framework within which the Covenant is implemented (art. 2)**

2. Please clarify the status of the Covenant within the domestic legal order, in particular whether its provisions are fully incorporated and given full effect in the domestic legal order and whether the Covenant takes precedence over domestic law. Please provide examples of cases in which the domestic courts have invoked or directly applied the provisions of the Covenant and information on the measures taken to raise awareness of the Covenant among judges, prosecutors, lawyers, law enforcement officials and the public at large. Following the abolition of the death penalty by the Crimes (Abolition of the Death Penalty) Amendment Act 2004, please provide information on measures taken by the State party to ratify the Second Optional Protocol to the Covenant aiming at the abolition of the death penalty.

National Human Rights Institution (art. 2)

3. Please provide information on the measures taken by the State party to enable the Office of the Ombudsman, which is the National Human Rights Institution, to fully discharge its functions, in accordance with the principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles), including (a) strengthening its human rights mandate; (b) guaranteeing independent, regular and unhindered access to all places of deprivation of liberty; (c) providing sufficient human and financial resources; (d) establishing clear criteria for selection, appointment and reappointment of its members; (e) the number of complaints received and investigations and prosecutions conducted into allegations of human rights violations.

* Adopted by the Committee at its 143rd session (3-28 March 2025).

Anti-corruption measures (arts. 2 and 25)

4. Please provide information on the measures taken to effectively prevent and combat corruption, including ensuring the independence, effectiveness, transparency and accountability of public officials. Please provide information on corruption-related complaints, investigations, prosecutions, convictions and other disciplinary measures during the reporting period, in particular involving high-level public officials, judicial officers, prosecutors and law enforcement officials, and any sanctions imposed. Please also provide information on the implementation of the National Anti-Corruption Policy and Strategy 2024/25 – 2028/29, in particular on measures to guarantee the protection of whistleblowers and right of access to information.

Non-discrimination (arts. 2, 3, 17 and 26)

5. Please clarify whether the State party intends to adopt a comprehensive anti-discrimination legislation that provides full and effective protection against all forms of discrimination in the public and private spheres, including direct, indirect and intersectional discrimination, and all grounds prohibited under the Covenant, including disability, gender identity and sexual orientation. Please provide statistical data on complaints of discrimination received during the reporting period, disaggregated by the grounds of discrimination, the nature of investigations conducted, prosecutions, convictions and redress provided to victims. Please indicate whether the State party has conducted training and awareness-raising campaigns among public officials and the general public aimed at promoting equality and non-discrimination.

6. Please provide information on discrimination or stigmatization faced by persons of diverse sexual orientation, gender identity, and gender expression and measures taken to prevent and combat all such forms of discrimination, including fa'afafine and fa'atama persons. Please report on plans to establish a transparent and accessible procedure for gender recognition, including changing the gender marker on their birth records and identity documents. Please clarify whether the State party intends to repeal sections 67, 68 and 71 of the Crimes Act of 2013 to legalize same-sex conduct between consenting adults and to ensure that the law is in full conformity with the Covenant.

Gender equality (arts. 2, 3, 25 and 26)

7. Please report on all measures taken to eliminate discriminatory traditional practices and gender stereotypes regarding the roles and responsibilities of women and men and children in education, employment, the family and society. Please clarify whether a woman's legal status and access to and control over property are determined by birth and/or by marital status in the family. Please provide information on the main results achieved so far through the National Policy on Gender Equality and Rights of Women and Girls 2021- 2031 and the National Policy on Inclusive Governance 2021-31.

Violence against women, including domestic violence (arts. 2, 3, 6, 7 and 26)

8. Please describe the measures taken by the State party to (a) prevent and combat all forms of violence against women and children, including domestic violence, sexual violence, intimate partner violence and incest; (b) address the underreporting of cases of violence, particularly in rural areas; and (c) ensure that all victims of violence have access to legal, medical and psychological assistance, including shelters and other support services, and the services are allocated sufficient financial and human resources to address effectively the prevalence of violence against women. Please provide statistical data, disaggregated by gender, age, region, and relationship between victim and perpetrator, on the number of complaints, investigations, prosecutions, convictions and reparations for victims of violence, including protection orders and access to shelters, and legal, psychosocial and medical assistance, particularly for women, children, persons with disabilities and the elderly. Please also provide information on the use and impact of mediation in cases of family violence and its discontinuation when potential further harm to the victim is identified.

9. Please provide detailed information on training programmes for judges, prosecutors, law enforcement officials and health care personnel on gender-based violence, as well as

awareness-raising campaigns on such violence and its root causes among the general public. Please provide information on measures taken to improve reporting by victims and criminal investigations. Please clarify whether the State party intends to amend (a) the National Policy on Family Safety: Elimination of Family Violence 2023-2033 to ensure that it comprehensively cover all forms of gender-based violence, and (b) the Crimes Act 2013 to bring the definition of rape in line with international standards and (c) the Labour and Employment Relations Act 2013 to criminalize sexual harassment.

Voluntary termination of pregnancy and sexual and reproductive rights (arts. 2, 3, 6, and 17)

10. Please report on the measures taken to guarantee effective and equal access for women and girls to confidential, legal and safe abortion services and post-abortion care. Please provide information on the number of a) women convicted of intentionally terminating a pregnancy and the sentences imposed; b) persons convicted of performing or procuring an abortion; and c) Please indicate whether the State party considers decriminalizing abortion by repealing the relevant provisions of the Crimes Act 2013.

11. Please provide information on any restrictions or difficulties that may exist in accessing sexual and reproductive health services, particularly for persons with disabilities, adolescents, lesbian, gay, bisexual, transgender and intersex persons and sex workers. Please provide information on the measures taken to improve access to sexual and reproductive health care, including access to contraceptive services, especially for women and girls living in rural areas. Please provide information on awareness-raising programmes addressed to women, men and adolescents on the importance of using contraceptives and the right to sexual and reproductive health.

Climate change (arts. 6 and 25)

12. In view of paragraph 62 of General Comment No.36 (2018) on the right to life and the specific geographical characteristics and location of Samoa, please provide information on measures taken to (a) mitigate the effects of climate change and prevent its negative impact on human rights, in particular the right to life of all persons, including vulnerable groups; and (b) ensure meaningful and informed participation of all peoples and communities in projects that may affect them as regards sustainable development and resilience to climate change.

Treatment of persons deprived of their liberty (arts. 2, 6, 7 and 10)

13. Please provide information on the measures taken to align the State party laws and policies on incarceration with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) and United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules). Please also provide information on measures taken to ensure that individuals awaiting trial are held separately from convicted prisoners and that juveniles are housed in separate facilities from adults. Please provide information on measures taken to: (a) address overcrowding in places of detention; (b) improve physical infrastructure; and (c) develop alternatives to detention and restorative justice.

14. Please also provide information on the measures taken to ensure independent, regular and unhindered access to all places of deprivation of liberty by the Office of the Ombudsman, without the requirement for prior notice. Please provide information on the safeguards guaranteed in practice to all persons deprived of their liberty who wish to file a confidential complaint about human rights violations. Please provide information on the number of complaints and causes of deaths in places of detention during the reporting period, including the number of investigations, prosecutions, convictions and sentences imposed on perpetrators and reparations provided to the victims' families.

Trafficking in persons (arts. 2, 7, 8 and 26)

15. Please provide information on measures taken by the State party to prevent and combat trafficking in persons. Please report on measures taken to: (a) identify victims of

trafficking; (b) establish an efficient system of assistance and support for victims, including access to shelters and adequate legal, medical and psychological services; (c) raise awareness about the negative effects of trafficking in persons; (d) provide training for judges, prosecutors, law enforcement and immigration officials, including on standards and procedures for the identification and referral of victims of trafficking; (e) ensure that all perpetrators are brought to justice and, if convicted, are punished with appropriate sentences. Please provide statistical information on complaints, investigations, prosecutions and convictions, including the number of victims and the provision of legal, medical and psychological assistance and reparation awarded to the victims during the reporting period.

16. Please clarify whether the State party intends to enact a comprehensive legislation on trafficking in persons. Please provide information on the status of the National Action Plan on Trafficking in Persons, including measures for the rehabilitation of victims and training of the officials involved in the investigation of these crimes. Please clarify whether the State party intends to establish a National Referral Mechanism for the Protection of Victims of Human Trafficking and a standard operating procedure for the referral of victims of trafficking.

Treatment of aliens, including migrants, refugees and asylum seekers (arts. 7, 9, 12, 13 and 24)

17. Please report on the measures taken to ensure that all persons in need of international protection in the State party have access to fair and efficient asylum procedures and that the principle of non-refoulement is strictly enforced in practice. Please also comment on the measures taken to ensure that migrants, refugees and asylum seekers have equal access to basic social services. Please provide detailed information on the training provided to police and other law enforcement officials on the appropriate treatment to be afforded to asylum seekers and refugees, including respect for their fundamental human rights.

18. Please also provide information on whether the State party intends to amend the Immigration Act 2020 to include a definition of asylum-seeker or refugee. Please comment on reports that (a) the Immigration Act 2020 does not provide visa options for asylum-seekers pending the determination of their protection claims or for formally recognized refugees and (b) the Citizenship Act 2004 does not establish a procedure for refugees and other migrants to apply for access to citizenship through naturalization.

Access to justice and independence of the judiciary (arts. 2, 9, 14 and 27)

19. Please comment on reports that the amendment of the Land and Titles Act 2020 created a separate Land and Titles Court of Samoa with specialised and exclusive jurisdiction over customary land and customary titles matters and a hierarchy outside the jurisdiction of the Supreme Court, thereby establishing a parallel and independent judicial structure. Please provide information on the status of the Constitution Amendment Bill being discussed in Parliament to restore the jurisdiction of the Supreme Court over the Land and Titles Court. Please provide information on the measures to ensure that the rules and procedures for the selection, appointment, promotion, suspension, and removal of judges are transparent and impartial and comply with the Covenant and the Basic Principles on the Independence of the Judiciary.

20. Please provide information on the measures taken to provide adequate and free legal aid to persons without sufficient means, especially *nofotane* women (women living in the village of their spouses) and *mauapaolo* women (women who marry into a family) and persons with disabilities. Please also provide information on cases where access to legal aid was requested, granted and denied during the reporting period. Please comment on reports of significant backlog of cases and delays in the Samoan courts due to inefficient court case management and lack of personnel. Please also comment on reports that access to justice for persons with disabilities is particularly limited due to the lack of reasonable accommodation.

Freedom of religious beliefs (arts. 2, 18 and 26)

21. Please provide information on measures taken to protect the rights of religious minorities, including non-Christians and to ensure that individuals are free to choose or change their religion and are not unduly restricted in the manifestation of their religion, subsequent to the 2017 amendment of the Constitution.

Freedom of expression (art.19)

22. Please indicate whether any steps have been taken by the State party to decriminalise libel under section 117A (1) of the Crimes Act 2013 and section 38(2) of the Tourism Development Act 2012, and to ensure that the laws are in full conformity with the Covenant. Please provide information on the efforts by the State party to combat and prevent threats, intimidation and harassment against lawyers, journalists and human rights defenders, including conducting prompt, effective and impartial investigations into such acts, bringing the perpetrators to justice and providing victims with effective remedies, including compensation. Please also provide information on the status of the Freedom of Access to Information Policy.

Right of peaceful assembly (art. 21)

23. Please provide information on the measures taken to ensure the effective enjoyment of the right of peaceful assembly, including bringing domestic legislation in compliance with the Covenant and ensuring that any restrictions imposed are in full compliance with article 21 of the Covenant and the Committee's general comment No. 37 (2020) on the right of peaceful assembly.

Rights of the child (art 24)

24. Please indicate the measures taken by the State party to abolish the use of corporal punishment against children in all settings. Please provide information on complaint mechanisms through which children and others can report cases of corporal punishment. Please report on measures taken to raise awareness among professionals and parents of the harmful effects of corporal punishment on children and to promote non-violent forms of discipline. Please provide information on the status of the Child Care and Protection Bill 2016 and the Child Care and Protection Policy 2020-2030.

25. Please provide information on the efforts taken by the State party to combat and eradicate child labour, including strengthening existing support programmes for families living in poverty. In view of the Labor and Employment Relations Amendment Act 2024, please provide information on inspections carried out, including investigations initiated, penalties imposed, and convictions secured. Please provide information on the preliminary results achieved through the implementation of the National Child Care and Protection Policy 2020–2030.

Participation in public affairs (arts.25)

26. Please provide information on the legislative and other measures to achieve equitable representation of women in public and political life, particularly in decision-making positions, including in legislative and executive bodies and the judiciary at all levels. Please clarify whether the State party intends to revise section 8 of the Electoral Act of 2019, No. 7, containing restrictive requirements for a candidate to stand for elections, including holding a registered matai title and/or having to provide monotaga services in their village for a minimum of three years.
