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**Committee on the Elimination of  
Discrimination against Women**  
Pre-session working group for the thirty-second session  
10-28 January 2005

**List of issues and questions with regard to the consideration  
of initial reports**

**Samoa**

**Introduction**

The pre-session working group examined the combined initial, second and third periodic report of Samoa (CEDAW/C/WSM/1-3).

**Articles 1 and 2**

1. On page 40 of the combined initial, second and third periodic reports of Samoa, the State party notes that, while article 15 of the Constitution prohibits “any laws and any actions by the State that discriminate against any person on the grounds of ... sex”, it does not expressly prohibit discrimination against women committed by private institutions and individuals. Does the Government intend to introduce legislative measures that will prohibit both public and private acts of discrimination against women (such as the restrictions on women’s memberships in private clubs) (pp. 42 and 89)?
2. The report states on page 41 that international law does not automatically become incorporated into national law. Although the Convention is binding on the State at the international level, it cannot be enforced through the local judicial system. Does the State party have any plans to pass legislation to make the Convention directly applicable in Samoa, and if so, when? Have any steps been taken to conduct a comprehensive analysis of court decisions to determine their compliance with the provisions of the Convention?
3. Please indicate whether the recommendations included throughout the report and referred to in its introduction are measures that the Government envisages or is contemplating for implementation in the future.
4. The report notes the need to “explore the viability of establishing an autonomous body to process complaints on violation of women’s rights or

alternatively propose an amendment to the functions of the Ombudsman to include this jurisdiction” (p. 43). What practical steps have been taken by the Government to establish a formal complaints procedure to deal with complaints of both public and private acts of gender discrimination and/or to expand the functional role of the Ombudsman?

5. While the Ministry of Women Affairs is responsible for identification of gender discrimination in legislation and also works in conjunction with the Justice Department and non-governmental organizations to enhance women’s awareness of their rights through legal literacy training programmes, the report notes that women in Samoa “are not really conscious of gender barriers because they do not feel that discrimination is intrinsic in the system” (p. 41). Throughout the report, there are a number of references to the importance of plain language translation of the Convention and monitoring reports as well as training programmes that should be developed and/or strengthened to raise women’s awareness of both the Convention and their concomitant rights (pp. 32, 33, 43, 44, 47 and 48). Please provide more detailed information about the steps that have been taken to implement these objectives as well as a description of who has access to these programmes and their results to date.

### **Article 3**

6. Page 33 of the report states that the Ministry of Women Affairs had completed consultations with heads of government departments regarding the mainstreaming of gender issues into all departmental policies and programmes. The report further notes that in 1997/98, the Ministry of Women Affairs “began the process of establishing gender focal points within each department to ensure that women’s issues are included in policy analysis and programmes” (p. 33). Finally, Women Liaison Officers were to be extended to all districts in accordance with the draft Amendment Bill 2001. What is the status of these endeavours and to what extent have they been implemented?

7. While the Cabinet has reportedly approved a statutory body to monitor implementation of the Convention on the Rights of the Child, and a similar or multisectoral representative body has been suggested, no such body currently exists for the Convention (p. 33). Does the Government intend to establish a monitoring body to oversee implementation of the Convention?

8. What is the current status of the Ministry of Women Affairs draft Amendment Bill 2001 and the draft National Policy for Women of Samoa 2001-2004 (p. 35)? If these policies are in force, to what extent have the policy goals, target indicators and implementation strategies been realized?

### **Article 4 (temporary special measures)**

9. Although the report states that article 15 (3) (b) of the Constitution enables the legislature to pass “affirmative action” legislation that benefits women and disadvantaged groups, “there has been no official policy aimed at accelerating the de facto equality of women” (p. 44). Aside from quotas established for tertiary scholarship awards, has consideration been given to the implementation of temporary special measures in the Government, the civil service and other public bodies in accordance with article 4, paragraph 1, of the Convention and the Committee’s general recommendation 25?

## Article 5

10. Traditional communities continue to operate under a hierarchical class system within which women have varying levels of prominence according to their familial position (pp. 40 and 46). While the *faasamoa* system accords *auauma* (“widowed and unmarried daughters of the village”) equivalent status to titled men, *faletua* (married women) are “expected to serve the families of their husbands” and are “confined to their homes” for socializing (p. 46). Please provide detailed information regarding the status and impact of customary law in the domestic sphere, including an indication of which law prevails where there is a conflict between customary law, national law and international human rights norms.

11. Direct and systemic gender discrimination in traditional institutions is acknowledged to have a detrimental impact on the full participation of women (p. 53). What practical steps have been taken to overcome all forms of discrimination against women and deeply entrenched discriminatory attitudes towards women in the society at large?

## Violence against women

12. The report acknowledges that domestic violence is not expressly prohibited in either legislative or constitutional provisions. As the report acknowledges the importance of public awareness programmes (some of which have been created by the non-governmental organization Mapusaga o Aiga) regarding domestic violence and the lack of assistance provided to victims under the Crimes Ordinance 1961 (p. 77), please indicate what steps the Government has taken to criminalize acts of domestic violence against women and to provide protective and rehabilitative services for victims of gender-based violence.

13. Many of the concerns noted regarding the reporting of domestic violence relate to difficulties that may be faced in providing remedial services to victims owing to cultural barriers in close knit communities (p. 78). What specific steps have been taken to introduce training for police, lawyers and judges as well as general education programmes, perhaps targeting men in particular, to raise awareness about the devastating consequences of violence against women?

14. Violence in the workplace is reportedly addressed under the Crimes Ordinance Act 1961. Owing to the absence of protective provisions in the Labour and Employment Act 1972, only those cases of sexual harassment in the workplace that involved sexual assault have been referred to the police (p. 42). Otherwise, it is noted that no measures are in place to deal specifically with sexual harassment in the workplace. While the report recommends the introduction of relevant measures by the Ministry of Women Affairs (p. 69), it also notes that as part of an ongoing process to review and revise legislation related to sexual harassment in the workplace, the Occupational Health and Safety Bill 2001 was introduced in Parliament (p. 34). Please outline the content of this bill as it relates to sexual harassment in the workplace, including protective and remedial measures, as well as its current status.

## Article 6

15. Please indicate what urgent steps have been taken to identify, prevent and combat trafficking in women and children both into and out of Samoa, including the

provision of information about risks and protective measures, prosecution of traffickers, training of border officials, rehabilitation and safe repatriation measures for victims.

#### **Articles 7 and 8**

16. The report notes that although women have equal rights with men to hold family chiefly titles, it is general practice to bestow chiefly titles on men. In addition, “because only persons with chiefly titles are eligible to run as political candidates, the ratio of women to men politicians will continue to be very small” (p. 50). What steps are being taken by the Government to ensure the full implementation of article 7 (a) of the Convention, so that the principle of eligibility for election to all publicly elected bodies is applied equally to women and men.

17. Taking into account the Committee’s general recommendation 25 on article 4, paragraph 1, of the Convention, and its general recommendation 23 on women in public life, does the Government intend to issue directives, establish quotas or introduce other temporary special measures to increase the representation of women at senior levels of government and the judiciary and to counteract the acute underrepresentation of women in the leadership of the church (p. 52)?

18. The report notes the participation of women in the diplomatic service and in international delegations and observes that women attend annual meetings of the international financial institutions (p. 54). While the small size of the foreign service is recognized, please provide information regarding the specific role and decision-making capacity of women in international delegations, their opportunities to participate in international organizations and the specific measures that have been undertaken by the Government to promote women’s awareness of these opportunities.

19. Pages 34, 37 and 52 refer generally to the work of non-governmental organizations in Samoa. Please provide more specific information about women’s groups and national and international non-governmental organizations in Samoa, the nature of their involvement in and any barriers to their full participation in public and political life.

#### **Article 9**

20. Please indicate if the Government is considering harmonization of its nationalization and citizenship legislation to ensure equality between women and men to pass their nationality to spouses of foreign origin.

#### **Article 10**

21. In the recommendation section under article 10, the report refers to the “gender neutral education enjoyed today”, while also recognizing that in spite of curriculum review, gender sensitization workshops, affirmative action and the development of gender equity policies in some higher education programmes, “stereotyping in some subject areas in education still exists” (p. 47). Please indicate what comprehensive steps have been taken to combat gender stereotyping within the education system such as the provision of career gender stereotyping guidance, the promotion of female role models in non-traditional careers and the encouragement of women to continue in education from primary school to tertiary levels of

education and to pursue non-traditional, professional fields of study, both for their own empowerment and for the long-term benefit of society.

22. The report observes that obstacles to women's full participation in political and public life include a "lack of early grooming in school to envisage top national leadership roles" (p. 53) and the existence of "attitudinal barriers which hinder the full realization by women of some leadership opportunities" (p. 43). What measures have been implemented within the education system to encourage and build the capacity of young women to develop leadership skills?

23. The Education Ordinance Act 1959 was amended in 1992/93 "to provide for compulsory, but not free" primary education (p. 56). Is the Government working towards promoting free universal primary education, and if so, is there a timetable in place?

#### **Article 11**

24. Please provide information regarding the sudden decrease of women's participation in the labour force between 1991 and 2001 (40.2 and 14.5 per cent respectively), the sudden increase in women's involvement in informal self-employment during that same period (14.0 and 33.0 per cent respectively) (p. 64) and the economic and social consequences of this decline.

25. The report states that there is no legislation in place to protect women from being dismissed on the grounds of pregnancy, and instead suggests that women may apply common law or constitutional rights for protection. Yet, the report also observes that "it is not common practice for Samoans to resort to the legal system for assistance in asserting their rights" (p. 32). Bearing in mind article 11 (2) (a) of the Convention, please indicate if and when the Government intends to provide specific legal protection against dismissal on the grounds of pregnancy.

26. Please indicate if any steps are being taken to introduce the availability of State-funded childcare centres and the provision of early childhood education programmes to support the "growing increase in women entering the paid labour force" and to address the absence of supervised care for "many children up to the age of 12" during after school hours (p. 68).

#### **Article 12**

27. Owing to the appreciable increase in the incidence of certain conditions and diseases in women noted in the report (such as obesity and hypertension, adult onset diabetes, iron-deficiency and other diet-related diseases, HIV/AIDS and sexually transmitted diseases, breast and cervical cancers, maternal morbidity and death, tobacco-related illnesses, mental illness and suicide), please provide detailed information regarding the educational and medical services that are in place or contemplated to address and combat these women's health concerns.

28. In the light of the increased incidence of HIV/AIDS (pp. 50 and 76), the low rate of contraceptive use in Samoa (33 per cent, p. 75), and the continuing belief that "contraception encourages promiscuity" (p. 93), please provide more detailed information regarding the existence of reproductive/sexual health education programmes, including their substantive content and primary target groups and their availability, including to high risk groups such as adolescents who are no longer enrolled in formal education.

29. Abortion is reported to be prohibited by law, and punished by a seven-year prison term (p. 77). As the Government is aware that “illegal abortions are taking place”, what steps are being taken to enhance wide availability of sex education and information and awareness about family planning, as well as to ensure information about and easy access to contraceptives so as to avoid unwanted pregnancies in accordance with the Committee’s general recommendation 24 on article 12.

30. Births and deaths are often not registered (p. 70). Please provide information on the reason for this and the steps that have been taken or are contemplated to remedy the situation.

31. The report notes that there has been a change in people’s attitudes towards people with disabilities (p. 75). Please describe any measures that are envisaged to ensure that women with disabilities have equal access to education, health care, employment and social assistance.

### **Article 13**

32. According to the report, women comprise the majority of informal traders and are becoming increasingly involved in entrepreneurship of small businesses. In addition to the efforts of the non-governmental organization Women in Business Foundation (p. 80), please indicate the nature and scope of the practical and programmatic support provided to women as entrepreneurs, and to ensure that women are fully able to take advantage of new economic opportunities, including in areas of modern information and communication technologies.

33. While microcredit schemes for women’s activities have been established by the Ministry of Women Affairs and the Women in Business Foundation, these were found by the Pacific Regional Equitable and Sustainable Human Development Programme in 1995 to be problematic in the nature of their delivery, lacked appropriate supplementary information and failed to meet the particular needs of rural and vulnerable urban women (p. 82). Considering the significant cultural and economic barriers women face in securing credit please indicate the extent to which the Government has attempted to facilitate regeneration and awareness of these financial aid programmes in order that they may be both accessible to women and responsive to their specific needs as entrepreneurs.

### **Article 14**

34. Formal and informal vocational and general educational opportunities are recognized as essential for women, including those in rural areas. Considering that 78 per cent of the total female population is comprised of rural women, please provide more detailed information regarding the availability, nature and discernible impact of the educational programmes noted on page 88 of the report.

35. Although the report observes that accessibility of the entire population to health services is 100 per cent (p. 71), the report also notes that not only are there “significant variations between rural and urban areas”, rural health programmes are “very much under-resourced” and “many rural health facilities are in very sub-standard condition” (p. 85). In addition to the rebuilding programmes referred to on page 85, what is being done by the Government to further supplement and strengthen the quality of health-care services in rural areas and to facilitate women’s access to those services?

36. The report indicates that rural women live under “conditions of conformity” not faced by women living in urban centres (p. 22). Kindly explain this statement.

**Articles 15 and 16**

37. With regard to the issue of teenage pregnancies, the report states that as a result of the stigma associated with children born out of wedlock, “there are usually concerted efforts to marry off the girl at the earliest opportunity for fear of recurrence of the situation which would incur punishment by the village council of the family involved, usually that of the girl” (p. 91). Please indicate what urgent steps are being taken by the Government to eliminate punitive actions taken against teenage mothers and their families.

38. Under the “fault” based divorce system, women who file for divorce on the grounds of habitual cruelty or habitual drunkenness must provide evidence of its occurrence for three or more years before dissolution can be granted (p. 92). As the report maintains that this is an “archaic” system in need of review, please outline what action has been taken by the Government to amend this legislation and to ensure equality between women and men with regard to dissolution of marriage.

39. Women are noted to have the same de jure contractual capacity as men “to enter into contracts and to buy, own and sell land and property” (p. 89) although “a married woman may be affected by the decisions of men and women in her spouse’s extended family as well as her own” (p. 90). In addition, it has been stated that separately owned property may become “‘matrimonial property’ where the court determines that it has in the course of the marriage become matrimonial property” (p. 95). Are there any legal provisions available to protect women’s ability to retain ownership of separately acquired property?

40. Please indicate if the Government has any plans to establish a family court to deal with the resolution of family issues including the dissolution of marriage, division of matrimonial property and maintenance as well as instances of domestic violence.

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