

### **A. Introduction**

This submission has been prepared by the Samoan Umbrella for Non-Governmental Organisations (**SUNGO**), at the request of the Samoa Human Rights Taskforce and in consultation with the considerable number of Samoan Non-Governmental Organisations (**NGOs**) that make up SUNGO's membership<sup>1</sup>.

SUNGO is an Incorporated Society, registered in 1998, that aims to work in partnership with civil society and government to promote sustainable development and improved quality of life for people of Samoa. It achieves this by providing information, programmes, opportunities, and advocacy for civil society in Samoa. SUNGO provides alternative development options to assist vulnerable groups in Samoa, as well as providing input into Government policy on behalf of NGOs, Community Based Organisations (**CBOs**) and Civil Society Organisations (**CSOs**) on issues concerning the wellbeing of people and society.

### **B. Constitutional and legislative framework**

1. Some protection of human rights is provided for in Part II of the Samoan Constitution, including: the right to life (art 5); right to personal liberty (art 6); freedom from inhuman treatment (art 7); freedom from forced labour (art 8); right to a fair trial (art 9); rights concerning criminal law (art 10); freedom of religion (art 11); rights concerning religious instruction (art 12); rights regarding freedom of speech, assembly, association, movement and residence (art 13); rights regarding property (art 14); and freedom from discriminatory legislation for some groups (art 15).
2. Samoa is a party to three of the core international human rights instruments: International Covenant on Civil and Political Rights (**ICCPR**), Convention on the Rights of the Child (**CRC**), Convention on the Elimination of All Forms of Discrimination Against Women (**CEDAW**).
3. Despite having some level of entrenched human rights protection, Samoa has failed to adopt a comprehensive legal framework for the protection of human rights in line with international standards.

#### **Recommendations:**

- 3.1. Samoa should ratify: the International Covenant on Economic, Social and Cultural Rights (**ICESCR**) and its Optional Protocol; International Convention on the Elimination of All Forms of Racial Discrimination (**CERD**); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (**CAT**) and its Optional Protocol; Convention on the Rights of Persons with Disabilities (**CRPD**) and its Optional Protocol; International Convention on the Protection of the Rights of All Migrant Workers (**ICPRMW**) and Members of their Families; Convention (No. 169) concerning indigenous and tribal peoples in independent countries; Optional Protocol to CEDAW; Optional Protocols to CRC; International Convention for the Protection of All Persons from Enforced Disappearance (signed but not ratified).
- 3.2. Samoa should work to incorporate into domestic law the human rights treaties it has ratified (listed at 2 above).
- 3.3. As priority, Samoa should ratify, at a minimum, the ICESCR, CERD, CAT, CRPD and ICPRMW by Samoa's next Universal Periodic Review (UPR) in 2015. Samoa should, as

it ratifies each of the treaties and conventions listed in 3.1 above, also incorporate these into its domestic law.

3.4. Samoa should include and resource education about human rights and responsibilities, including rights under the Samoan Constitution, in primary and secondary schools and in communities.

4. Samoa does not have an independent human rights institution.

**Recommendations:**

4.1. Samoa should establish a Human Rights Commission (HRC) in accordance with the 'Paris Principles' before its next UPR in 2015. This body would hear the human rights concerns of all Samoans and address allegations of human rights abuses across all sectors of society. The HRC must be independent and adequately resourced.

4.2. Samoa should support the establishment of a Pacific Human Rights Commission, to be housed in Samoa, which will hear human rights concerns from countries in the Pacific region that do not have a HRC or whose HRC is suppressed by political agendas.

**C. Cooperation with human rights mechanisms**

5. Samoa has not issued a standing invitation to the Special Procedures of the Human Rights Council and has not been the subject of any Special Procedures. Samoa could benefit from advice, promotion and reporting on thematic or country specific human rights issues.

**Recommendation:**

5.1. Samoa should immediately issue a standing invitation to the Special Procedures.

**D. Promotion and protection of human rights in society**

**I. Equality and non-discrimination**

6. Samoa benefits from a constitutional guarantee of freedom from legislation that discriminates on the basis of descent, sex, language, religion, political or other opinion, social origin, place of birth, family status (Constitution, art 15). This guarantee, however, only protects people from *these groups* from being discriminated against *in legislation*. There remain certain groups who do not benefit from the equal enjoyment of human rights at a societal level, and there is no protection from legislation that discriminates on the basis of disability, age, or sexuality. Samoa has no additional legislation dealing specifically with discrimination.

**7. Women**

Due to the establishment of a Ministry for Women and to greater recognition of women's rights in Samoa, women in Samoa today generally have more choices when seeking senior roles and positions of leadership in secular society. Samoa has a *National Plan of Action for the Advancement of Women* but this is not supported by a written national policy on equal opportunity, and there remain several impediments to overcome before women will benefit from equal enjoyment of rights. These include the following:

7.1. While new legislation providing for three months' compulsory maternity leave in both public and private sectors is welcomed and must be upheld, there are concerns that it may lead to employment discrimination against women in the private sector due to resourcing issues.

7.2. Churches in Samoa have not allowed ordination of women to be priests, lay preachers or pastors.

7.3. At present only 4 out of the 49 members of Samoan Parliament are women. There remain considerable impediments at the village level to women being supported as political candidates. While women are eligible under law to become political candidates,

certain villages do not allow women with chiefly titles to participate in village councils, including Letogo, Tanugamanono, Malie and Saleimoa. This prevents those women from obtaining endorsement for their candidacy at the village level, thus disadvantaging women by decreasing their chances of being elected into parliament.

**Recommendations:**

- 7.3.1. During the initial stages of the new laws regarding maternity leave, the Samoan Government should commit to supporting the private sector, via subsidies and other incentives, to meet its commitments. This is to ensure that women are not discriminated against in private sector employment.
- 7.3.2. Samoa should endorse and promote the National Policy for Women, first presented to Cabinet in 2004 and again in a revised form in 2008, addressing all issues of discrimination against women, including the above issues. This policy should be finalised before Samoa is next examined by the United Nations Committee on the Elimination of Discrimination against Women in 2013.

## 8. Children

- 8.1. Domestic and sexual violence against children is widespread and insufficiently addressed in Samoa<sup>2</sup>.

**Recommendation:**

- 8.1.1. Samoa should take protective measures against child abuse as outlined in CRC, art 19, including preventative measures, educational programmes and funding for support facilities for victims of child abuse.

- 8.2. There is an increasing incidence of child vendors in Apia. Their presence on the streets during school hours is contrary to CRC, art 32.1 regarding protection from work that interferes with the child's education, social development, etc., and contrary to assurances by the Samoan Government to provide compulsory and free education to year 8: see further commentary on education at 21 below.

**Recommendation:**

- 8.2.1. Samoa should take measures to reduce numbers of child vendors, consistently with its obligations under Convention (No. 182) concerning the prohibition and immediate action for the elimination of the worst forms of child labour and Convention (No. 138) concerning minimum age for admission to employment.
- 8.2.2. Samoa should enforce compulsory education: see further recommendations at 21.

## II. Traditional / Indigenous Rights

9. Around 85% of Samoa's land is registered as customary land that cannot be mortgaged or sold. This land provides an irreplaceable social security net by providing all Samoans with a place to live and to perform traditional practices including arts, craftsmanship and medicinal practices. These assurances are placed at risk by continuing deforestation and by the *Land Titles Registration Act 2008*, which has changed the relationship of Samoans with the land from custodianship to proprietorship, and jeopardises the retention of customary land. Loss of access to land will lead to the diminution of basic and essential human rights such as the right to an adequate standard of living, employment, adequate housing, health and culture.

**Recommendations:**

- 9.1. Recognising its obligation to protect the rights and resources of future generations, Samoa should review the *Land Registration Act 2007*, taking into consideration its impact on Samoan culture, social standards and poverty.
- 9.2. Samoa should actively engage in the implementation of a reforestation programme using native plants to retain indigenous knowledge and cultural practices.

10. Traditional healers contribute significantly to healthcare in Samoa but the moral and material interests in their products and work are not sufficiently protected (ICESCR, art 15).

**Recommendations:**

- 10.1. Samoa should draft appropriate legislation to ensure that traditional healers have appropriate access to intellectual property and other rights.

**III. Right to life, liberty and security of person**

**11. Violence against women**

- 11.1. Domestic violence against women is a widespread problem in Samoa.<sup>3</sup> Refuges and support services for victims are provided by NGOs and receive little financial or other support from the Government. It should be acknowledged that while family is considered the strongest social support mechanism in Samoa, it may be necessary to provide victims at risk with alternative housing for a period, including refuges and alternative family arrangements.

**Recommendation:**

- 11.1.1. The Samoan government should support existing NGOs that offer domestic and sexual assault services by providing greater financial resources.

- 11.2. Legislation for victims of domestic and sexual abuse is currently being reformed under the *Family Safety Bill 2009*. This process has been slow, however, and has lacked adequate community consultation.

**Recommendation:**

- 11.2.1. Samoa should ensure that legislative responses to address violence within the family is expanded to provide more comprehensive protection, including updating family law provisions to support those whose family life is disrupted by violence.
- 11.2.2. Samoa should ensure the speedy enactment of the *Family Safety Bill*.

**12. Prisons**

- 12.1. It is understood that Samoa is currently revising the *Prisons Act 1967* to include greater assurances of human rights, and that this process will include community consultation. Currently, the living conditions at the Tafaigata Prison are very poor. Many facilities are extremely outdated; provisions for food, water and basic sanitation are inadequate; and large groups of prisoners are confined together in small and harsh cells. Some inmates are employed without remuneration outside prisons, including in a private capacity for government officials.<sup>4</sup> In addition, there are reports of physical and sexual abuse.

**Recommendations:**

- 12.1.1. Samoa should conclude its legislative reforms and improve conditions in Tafaigata Prison before Samoa's next UPR in 2015, including by providing regular health checks and counselling services for inmates and facilities for women prisoners.
- 12.1.2. Samoa should prohibit the temporary removal of inmates from prison to undertake unpaid remuneration unless ordered by a court of law.
- 12.1.3. Samoa should provide vocational training and other measures to improve prisoners' post-detention prospects.

**13. Police**

- 13.1. Responsiveness and effectiveness of the Samoan Police force is limited. Police frequently fail to respond to complaints or reports of criminal activity from members of the community, often said to be due to insufficient resources. Police officers regularly

demonstrate a lack of knowledge of Samoan laws and of human rights, and corruption is perceived to be a problem in the Police force. There is a Police Tribunal, which operates internally and is not sufficiently independent.

**Recommendations:**

- 13.1.1. Samoa should ensure adequate human and financial resources are provided for the increased efficiency and effectiveness of the Police force, and should attempt to eradicate corruption in the Police force.
- 13.1.2. Samoa should provide an external mechanism for independent review of police behaviour, to include expertise in cultural behaviours and customs.
- 13.1.3. Samoa should provide all members of its Police force with training on human rights and how to apply them as part of their daily work responsibilities.

**14. Administration of justice**

- 14.1. There is inadequate and unequal access to justice in Samoa. Access to lawyers and to the court system is unaffordable for many. There is no office of public defender, and legal aid is ordered by the court only in extreme cases of financial hardship and where the offence attracts a life sentence. This situation undermines the principle of equality before the law and the guaranteed right to a fair trial (Constitution, art 9) for those who cannot afford legal advice and representation. It can place Samoan citizens at risk. For example, victims of domestic abuse who are unable to afford legal representation to file for divorce are forced to remain in a dangerous domestic situation. There is inadequate understanding in the community about legal and human rights.

**Recommendations:**

- 14.1.1. Samoa should establish community legal centres to provide free legal assistance, including information and education about legal and human rights, to those who cannot afford private representation. Advice should be accessible without a court order.
  - 14.1.2. Samoa should establish the office of public defender to improve equal access to justice.
- 14.2. Samoa has recently legislated for improvements in the treatment of youth within the justice system, including providing for the establishment of a Youth Court.<sup>5</sup> Samoa has made the following reservation to the ICCPR:

*“The Government of the Independent State of Samoa considers that article 10 paragraphs 2 and 3, which provides that juvenile offenders shall be segregated from adults and accorded treatment appropriate to their age and legal status refers solely to the legal measures incorporated in the system for the protection of minors, which is addressed by the Young Offenders Act 2007 (Samoa).”*

**Recommendation:**

- 14.2.1. Samoa should remove this reservation to the ICCPR and should ensure that all juvenile offenders are treated according to the provisions of the ICCPR.
- 14.3. Samoa has had an office of Ombudsman since 1988. The office is not accessible to many Samoans, however, due to limitations of its functions and inadequate public awareness of the role of the Ombudsman.
- Recommendation:**
- 14.3.1. Samoa should educate the public about the role of the Ombudsman so that individuals and groups adversely affected by administrative decisions, etc. are able to seek assistance from the Ombudsman.
  - 14.3.2. In its roadmap towards a Human Rights Commission, initially to be housed in the office of the Ombudsman, Samoa should ensure that the office is adequately

resourced and should consider expanding the role of Ombudsman to investigate complaints concerning the private sector.

#### ***IV. Freedom of Expression and Freedom of Information***

15. There is inadequate access to public documents in Samoa, including new bills, regulations and Environmental Impact Assessments. Some documents can be obtained for a fee (WST\$25), which is not proportionate to administrative costs. There is no policy or legislation dealing with the provision of documents to the public, and documents are provided by agencies solely at their discretion, on an ad hoc basis.

##### **Recommendations:**

- 15.1. Samoa should provide the Samoan community with improved access to public documents, in both English and Samoan, thereby increasing public participation in Government processes and demonstrating that such information is to be managed for public purposes and is a national resource. The system and rules for accessing documents should be set out in a written policy available to the public.
- 15.2. Samoa should enact Freedom of Information legislation to make accessible government information on use of public funds and information related to decisions adversely affecting the individual. Such information should be made available in English and/or Samoan as promptly as possible and at the lowest reasonable cost.
16. Samoans must apply to the Police Commissioner for a permit to assemble in a public place in large groups. While prior warning may be needed for security reasons, the right to freedom of Assembly should not be subjected to pre-approval by the state.

##### **Recommendation:**

- 16.1. Samoa should abolish any requirement for members of the public to obtain a permit from Police before assembling.

#### ***V. Right to participate in public and political life***

##### **17. Inadequate voting rights:**

- 17.1. Universal suffrage for those aged 21 years and above was introduced in Samoa twenty years ago. Despite this positive democratic development, the electoral system in Samoa remains compromised in some villages by a traditional imposed consensus at the village level. Candidates not endorsed by the village council may be threatened with expulsion from the village, and there is generally a heavy influence on voters to follow the consensus of the village council. The village council is made up of *matai*, the majority of whom are older and male. The lack of alternative candidates, or the lack of effective choice which results from the influence of the village council, can mean that universal suffrage ceases to have meaning and that the untitled citizens, including many women and younger people in particular, have no genuine democratic right to vote. While the system of traditional consensus remains valuable in other sectors of society, in this instance it is incongruous with the guarantee of free expression of the will of the voters (ICCPR, art 25). In addition, overseas Samoans eligible to vote at Samoan elections under the *Electoral Act 1963* are unable to do so except by travelling to Samoa to register, and then again to vote, in person.

##### **Recommendations:**

- 17.1.1. Samoa should enforce the right of all citizens above the age of 21 to vote freely and by secret ballot for a candidate of their choosing, without undue pressure, as well as the right of all citizens to run for parliament, regardless of village consensus, and should disallow village practices that undermine these principles, in keeping with its commitments under ICCPR art 25.

- 17.1.2. Samoa should resource voters' education so that citizens understand the right to vote for their preferred candidate and fully and freely participate in public affairs.
- 17.1.3. Samoa should enable all overseas Samoans to cast an absentee vote in elections without being required to travel to Samoa.

## 18. Unrepresentative electoral system

- 18.1. The current ruling party was elected on the basis of less than 35% of total votes cast<sup>6</sup>. Despite this proportion of votes, the Government enjoys a two-thirds majority, which enables it to pass legislation, including amendments to the Constitution (Constitution, art 109). This undermines the basic human right to government based on the will of the people (UDHR, art 21), as a majority of Samoan voters do not support the Government. Corruption is perceived to be pervasive in Samoa<sup>7</sup> and there are inadequate checks and balances on this.<sup>8</sup>

### **Recommendation:**

- 18.1.1. Samoa should establish an independent national committee with representatives from a cross-section of the community, including traditional and church leaders, women and youth, to review the electoral system and to consider alternative systems, including proportionate representation, recommending a system that will allow voters a genuine choice that, when made, is reflected in the composition of Parliament.
- 18.1.2. Samoa, recognising the importance of accountability and transparency in responsible government, should amend the Constitution to require a referendum of the people to decide on further amendments. Amendments must only be passed if a majority of the Parliament and a majority of the public voting at referendum agree.

## VI. *Right to social security and to an adequate standard of living*

### 19. Poverty, homelessness and social security

- 19.1. Samoans benefit from a system of customary land, which provides them with access to property through family rights to land. This system has ensured that levels of homelessness in Samoa remain very low, and provides a form of social security for Samoans. This system is threatened, however, by the system of land registration and proprietorship under the *Land Registration Act 2008*.

### **Recommendation:**

- 19.1.1. See recommendations at 9 above.
- 19.2. The large number of street vendors, including child street vendors, indicates that traditional support and social security systems have broken down, particularly in urban areas.
- ### **Recommendations:**
- 19.2.1. Samoa should develop and implement a strategy to reduce poverty, with concrete targets and impact indicators, including improving its social security system.
- 19.2.2. See 8.2 and 21.1 for further recommendations regarding child street vendors and poverty leading to absence from school.

### 20. Health

Healthcare services in Samoa are predominantly public funded but there is a significant growth in the provision of private sector healthcare services. Whilst partnership commitment (in the sense of sharing knowledge, resources and power) is one of the key strategic areas of the Samoa Health Sector Plan<sup>9</sup>, there remains much room for improvement in its implementation and sustainability in order for Samoans to fully and equally access their rights to health care and information.

20.1. There is inadequate and unequal access to health care services and information. The minimum fee of WST\$5 for a consultation with a doctor in the national health services prevents many Samoans from obtaining medical advice. Non-communicable disease (NCD) causes high morbidity and mortality in Samoa and there is a growing population of terminal cancer patients without ready access to palliative care.

**Recommendations:**

20.1.1. Samoa should establish a system whereby free access to healthcare is provided for the poor (as defined in the Household Income Expenditure Survey 2008-2010).

20.1.2. Samoa should educate the public on their rights as patients and how to access health care.

20.1.3. Samoa should resource, increase and sustain preventative measures for NCDs including primary healthcare and promotion of healthy lifestyles, and review existing health policies and legislation.

20.1.4. Samoa should establish a facility such as a hospice to cater and care for the terminally ill.

20.1.5. Samoa should establish a national health insurance scheme that will provide healthcare choices for the public.

20.2. There is unequal geographic distribution of healthcare and human resources, as those living in some remote areas have limited access to medical doctors. Inadequate medical emergency evacuation systems from remote areas sometimes result in disability and loss of life.

**Recommendations:**

20.2.1. Samoa should improve its medical coverage to include rural healthcare facilities, including the commitment financial resources in its current annual budget to implement the 2005 Cabinet decision to utilise the private sector to ensure improved healthcare access in both urban and rural areas. This will help ensure the sustainability of the current Sector Wide Approach (SWAp) Development Program.

20.2.2. Samoa should provide improved medical emergency evacuation systems as a priority.

20.3. Many prescription medications are available for purchase “over the counter” at pharmacies. The consequences can be disastrous where pharmacists are in effect “prescribing” incorrect medication for patients, or where patients are self-prescribing.

**Recommendation:**

20.3.1. Samoa should enforce existing legislation that governs and monitors the professional standards of healthcare providers.

20.4. There has been an overall decrease in the use of contraceptives by women in Samoa 23% (1998) to 17% (2009). Forty-six percent of currently married Samoan women have unmet need for family planning.<sup>10</sup> Women are unable to access some birth control methods without consent of parent or partner, for example, sterilisation. There are modern methods of contraceptives now available and not accessible due to cost, for example, Mirena intra uterine device.

**Recommendations:**

20.4.1. Samoa should have a clear and comprehensive National Population policy including a National Sexual Reproductive Health policy, endorsed by Parliament, to guide national population growth with regards to national development.

20.4.2. Samoa should provide a discrete and confidential means for obtaining information about birth control, and for obtaining contraception for all, without requiring consent from a third party.



20.4.3. Samoa should utilise existing capacity in the private sector to increase access to family planning clinic services and information.

20.5. Among six Pacific Island Countries surveyed, Samoa has been shown to have the highest prevalence of chlamydia infections (40.7%) in the pregnant, sexually active and young female population in Samoa<sup>11</sup>. Sexually transmitted infections (STI), including chlamydia, do not receive the same priority and resource support by the government as for HIV/AIDS.

**Recommendations:**

20.5.1. Whilst continuing its work in relation to HIV/AIDS, Samoa should place greater emphasis on health education, health promotion and access to health services in relation to other STIs.

20.5.2. Samoa should improve utilisation of NGOs and private sector clinics working towards combating STIs, in particular by supporting and resourcing these clinics.

20.6. Mental Health care in Samoa is neglected and inadequately resourced. There is one part-time psychiatrist, who practises for 9 hours per week, and four full-time nurses at the national hospital, (a local psychiatrist is in training overseas). There are no services provided by a psychiatrist on Savai'i island where approximately one third of the population reside. Given limited specialised human resources, there is limited support in villages or within families for people suffering from mental health problems. Nor is there adequate accommodation for people requiring mental health services away from home.

**Recommendations:**

20.6.1. Samoa should increase funding for Mental Health and improve access to mental health professionals and support services, including better resourcing NGO and private sector services in this area.

20.6.2. Samoa should initiate programs to raise awareness in the community about mental health problems and solutions.

## 21. Education

21.1. Education until year 8 is compulsory in Samoa, yet this policy cannot be enforced as primary education is not genuinely free. Absenteeism and dropout rates are considered to be high, although these are not monitored effectively. These issues are most likely linked with financial pressures, including inability to pay for extra schooling costs, and pressure to leave school to support family. While school fees are waived at some schools, there are additional costs to be met by students, including utilities bills, building fees, school uniforms and shoes, transport, and costs associated with feeding school teachers and visitors to the school. Many disadvantaged families are unable to pay these costs. Samoa has ratified the Convention on the Rights of the Child, with the following Reservation:

*"The Government of Western Samoa whilst recognising the importance of providing free primary education as specified under article 28 (1)(a) of the Convention on the rights of the child*

*And being mindful of the fact that the greater portion of schools within Western Samoa that provide primary education are controlled by bodies outside the control of the government*

*Pursuant then to article 51, the Government of Western Samoa thus reserves the right to allocate resources to the primary level sector of education in Western Samoa in contrast to the requirement of article 28 (1)(a) to provide free primary education."*<sup>12</sup>

**Recommendations:**

- 21.1.1. Samoa should withdraw its Reservation to the CRC and ensure free access to primary education according to the terms of art 28(1)(a) of that Convention.
- 21.1.2. Samoa should enforce school attendance and work to reduce dropout rates by ensuring that the Government has sufficient control over the primary education system as to be in a position to provide assistance to families who are unable to meet the costs of schooling.
- 21.1.3. Samoa should prohibit practices requiring students to provide food to teachers and guests, which becomes competitive and costly.

21.2. Corporal punishment is unlawful in Samoan schools.<sup>13</sup> It is still practised in some schools in Samoa, however.

**Recommendation:**

- 21.2.1. Samoa should provide education and training about the illegality of corporal punishment in schools and the unacceptability of forms of discipline that are not consistent with human dignity.

21.3. Only limited vocational training is available in for school leavers and adults.

**Recommendation:**

- 21.3.1. Samoa should develop and increase access to vocational training for all, providing bridging courses for those ineligible for such training due to failure to meet the required level of education (for example, English competency).

**22. Environment**

22.1. Access to safe drinking water and foods (including fish) and to cultural practices (including carving, *tapa* making and tool making) are jeopardized by Government decisions to allow the widespread deforestation of customary lands, and failure to protect seafront areas and sites of cultural significance. Indiscriminate development of water catchment areas is contributing to contamination of drinking water and the drying up of rivers, leading to decreased access to safe drinking water and destruction of marine life and coral reefs and loss of biodiversity.

**Recommendations:**

- 22.1.1. Samoa should enforce the requirement to produce Environmental Impact Assessments (EIAs) before any development is carried out which may affect cultural and environmental rights, including access to safe drinking water, food and biodiversity.
- 22.1.2. EIA reports should be made public, and the process for EIAs should be made uniform and transparent through legislation, after a process of community consultation to establish the needs and concerns of stakeholders.
- 22.1.3. Government agencies should monitor Samoa's development and conservation values to ensure that national sustainable development goals are achieved as per their legislative directives.

**23. Rights of the migrant worker**

23.1. Migrant workers are living in unhealthy, unsafe conditions and are paid below the minimum wage.

**Recommendation:**

- 23.1.1. Samoa should ratify the ICPRMW and ensure migrant workers are provided with safe and healthy living environment and are given just remuneration for their work.

## ENDNOTES:

<sup>1</sup> The Membership of SUNGO comprises: AGLOW SAMOA, Alamagoto Youth, Animal Protection Society, Aulavou EFKS Faleseela, Aulavou Katoliko (Catholic) Savaii, Avanoa Tutusa, Baha'i Charitable Trust, Beekeepers' Association of Samoa Inc, Cancer Society, EFKS (Ekalesia Faalapotopotoga Kerisiano Samoa - Congregational Christian Churches of Samoa), EFKS Vaipuna Youth, Courier of Samoa Organisation, Diabetes Association Inc, EFKS Lelepa, Elimination of all forms of Child Prostitution and Trafficking Samoa, Faalapotopotoga Atinae Komiti Tumama a Tina Samoa, Faalapotopotoga Aufaifaatoaga Laiti Aleisa, Faamatai Association, Faasao Savaii Society, Faataua le Ola, Faatoia Mafutaga Tina EFKS, Failafumanu Puleono Salafai, Faitotoa o Faamanuiaga, Faleasiu Women Fellowship, Faleula Farmers Association, Family Enrichment Society Inc, Fathers Association Satomai, Fiaola Crisis Center, Gataula Primary Health Care, Gautavai Youth EFKS, Goshen Trust, Komiti Atinae Faleu Manono, Komiti ole Vai Nuusuatia, Komiti Tina Poutasi, Komiti Tina Salani, Le Piu Farmers, Le Taafo Fou Org, Le Talie Women Development, Local Committee Ole Pupu Pu'e National Park, Loto Taumafai Education, MADD Gallery, Mafutaga Tina Katoliko Puleaga, Malaemalu Methodist Youth, MAFUTA, Mapusaga o Aiga, METI, Mauloa Agriculture Development, Namusigano, NCECES, National World Women's Christian Temperance Union, Neiafu Women's Fellowship, Nuanua O Le Alofa, O Le Siosiomaga Inc, Pan Pacific and South East Asia Women's Association, Papasea Sliding Rocks Development, Pasefika Mana Samoa Social Services Inc, Piu Community Development, RLS Museum, Rotaract Club of Samoa, Salani Youth Farmers, Salimu Village Women Development, Samoa Aids Foundation, Samoa Association of Human Rights and Law Inc, Samoa Association of Manufacturing Enterprises, Samoa Association of Women Graduates, SEMI, Samoa Family Health Association, Samoa Hotel Association, Samoa Registered Nurses Association, Samoa Senior Citizen Society, Samoa Society for the Intellectually Handicapped, Samoa UN Association, Samoa Victim Support Group, Saumalu Community Pre School, Senese Preparatory School, Samoa ADRA, Simple Law, Small Business Enterprise Corporation, Sosaiete Aufaipopo, Sosaiete Tau Atiae, Sosaiete Tulimatagau, Samoa Business Project Development, St Teresa PTC, Survival Foundation Society, Tagiilima Handicrafts Association, Tama ole Oli, Tanugamanono Methodist Youth, Tausala o Falefatu, Tautai Samoa Assoc. Inc, Tavana Nurses on Wheels, Tiapapata Arts Centre, Tu ma Aga Faamatai Assoc., Utulua Methodist Youth, Vaisilika Organisation, Vaitoomuli EFKS Youth Group, Vaiusu Catholic Community, Women In Business Development, Young Women's Christian Association, Youth Federation for World Peace.

<sup>2</sup> In the preliminary analysis of clients of Mapusaga O Aiga (MOA) a domestic violence advocacy agency in Samoa, the number of clients who were less than 18 years of age was 52 (7% of all clients). Of these, almost 60% were involved in domestic violence. There were 18 clients under 18 years of age who suffered sexual abuse.

<sup>3</sup> In MOA's preliminary research, 74% of its clients are women. Theirs main complaints related to marital issues, domestic violence, child abuse, incest and financial support. The main types of domestic violence were for physical, mental, sexual, emotional and verbal abuse. Sexual assault was a significant issue with 63 (12%) of the women.

<sup>4</sup> United States Department of State, 2007 Country Reports on Human Rights Practices - Samoa, 11 March 2008, available at: <http://www.unhcr.org/refworld/docid/47d92c80c.html> [accessed 21 October 2010].

<sup>5</sup> *Young Offenders Act 2007*.

<sup>6</sup> *The Samoa Gazette* 1(8) (13 April 2006).

<sup>7</sup> "Papua New Guinea: Corruption threatens meaningful and sustainable development: Transparency International's 2009 Corruption Perceptions Index launched today", Transparency International press release, Port Moresby, Papua New Guinea, 19 November 2009, available at [http://www.transparency.org/news\\_room/latest\\_news/press\\_releases\\_nc/2009/2009\\_11\\_19\\_png\\_corruption](http://www.transparency.org/news_room/latest_news/press_releases_nc/2009/2009_11_19_png_corruption) [accessed 21 October 2010].

<sup>8</sup> One example is the post of Chief Auditor, previously appointed by a process independent of the Government. After one Chief Auditor uncovered unsound financial practices carried out by several government ministers between 1992 and 1995, the presiding Chief Auditor was sacked and the Constitution was amended to allow the Head of State to appoint the Chief Auditor on advice from the Prime Minister (Constitution, art 27). Cabinet has recently selected the Prime Minister's son in law as new Chief Auditor.

<sup>9</sup> Samoa Health Sector Plan 2008 – 2018, Samoa Ministry of Health.

<sup>10</sup> *Samoa Demographic and Health Survey 2009*, Samoa Ministry of Health, Samoa Bureau of Statistics, ICF Macro, available at <http://www.health.gov.ws/Portals/189/Publications/2009%20SDHS.pdf> [accessed 28 October 2010].

<sup>11</sup> *Second Generation Surveillance Studies of HIV, other STIs and Risk Behaviours in 6 Pacific Island Countries (2004-2005)*, World Health Organisation, available at <http://www.wpro.who.int/NR/rdonlyres/1A28D58A-E2CF-446F-B8A4-5D4DAC54D4E1/0/SGSFINALDOCUMENT.pdf> [accessed 28 October 2010].

<sup>12</sup> *Convention on the Rights of the Child*, ratified by Samoa 29 November 1994, Declarations and Reservations.

<sup>13</sup> *Education Act 2009*, s 23.