



Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review:

2nd Cycle, 25th Session

THE INDEPENDENT STATE OF SAMOA

I. BACKGROUND INFORMATION

Samoa acceded to the *1951 Convention relating to the Status of Refugees* in 1988 and to its *1967 Protocol* in 1994 (hereinafter jointly referred to as the *1951 Convention*). Samoa is not a State party to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) or the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

The current challenges include the need to incorporate into the national legal framework an effective and efficient response to mixed migration movements and, specifically addressing the protection of refugees, asylum-seekers and stateless persons. Samoa has not yet enacted its international refugee obligations into domestic law. Development of a draft refugee status determination bill was previously initiated and remains to be adopted. Access to sustainable resources for reception that could facilitate local integration is an area in need of improvement and continuing development.

The protection of refugees, asylum-seekers and stateless persons is not a prominent concern in Samoa due to more pressing domestic issues. As of September 2015, there were no refugees in Samoa recognized under UNHCR's mandate or by Samoa. There is limited information available on arrivals of persons who may be in need of international protection.

Samoa is among five countries at high risk of natural disasters in the Pacific. An earthquake with a magnitude of 8.3 generated a tsunami in the Samoan region in 2009 while Tropical Cyclone Evan significantly affected Samoa in 2012. International humanitarian assistance was mobilized in both events.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Samoa has invested in improving its border and immigration management system and participates in regional fora on these issues. In July 2015, Samoa agreed to host the Headquarters of the Pacific Immigration Directors' Conference (PIDC) in Samoa. A Host Country Agreement for the Secretariat to be located and operating in Samoa is to be finalized. UNHCR is of the view that Samoa's involvement at the regional and international levels can support the development of national and regional protection and solutions-oriented approaches to mixed migration in the Pacific and adherence to international protection standards for refugees and stateless persons

Furthermore, in instances where individuals seeking international protection in Samoa have been brought to the attention of UNHCR, access to these persons of concern has been facilitated by Samoa, including for UNHCR to conduct refugee status determination under its mandate. Freedom of movement has also been permitted. Reception arrangements for individual arrivals has been primarily *ad hoc* in nature but has benefited from voluntary support from individuals in the local community.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 1st cycle UPR recommendations

Issue 1: Fair and efficient asylum procedures

Linked to 1st cycle UPR recommendation no: 75.43: "Adopt domestic laws and administrative regulations aimed at eradicating all forms of discrimination against persons of foreign origin, members of ethnic or linguistic minorities, refugees, asylum-seekers and migrant workers, by ensuring the enjoyment of their fundamental rights, irrespective of their migration status (Ecuador)."

Development of a draft refugee status determination bill was previously initiated and remains to be adopted. The lack of specific policy and legal frameworks and operational mechanisms to consider or address concerns of refugees and asylum-seekers presents challenges for stakeholders and agencies who deal with individual arrivals seeking international protection.

Further awareness and engagement by key stakeholders involved in the development of the domestic legal framework relating to refugees and asylum-seekers is required. Discussions on the policy and operational aspects of complying with Samoa's international obligations under the *1951 Convention* need to be pursued. UNHCR is ready to provide technical assistance and policy support to the process.

UNHCR encourages key stakeholders in Samoa, including from relevant ministries and agencies, such as immigration, the justice sector, and security forces, to participate in capacity-building and training opportunities on refugee protection at the national, regional and international level. UNHCR offers to facilitate access to these training and capacity-building opportunities.

Recommendation:

UNHCR recommends that the Government of Samoa:

- a. Pursue its commitment to promote and protect the rights of refugees and asylum-seekers by continuing political and policy discussions to elaborate a national legal and policy framework that provides protection to refugees and asylum-seekers;
- b. Develop national mechanisms that address their needs and ensure appropriate engagement of relevant international organizations; and
- c. Participate in capacity-building and training opportunities on refugee protection at the national, regional and international level.

Issue 2: Statelessness

Linked to 1st cycle UPR recommendation no. 75.20: “Ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness (Slovakia).”

Discussions on the policy and operational aspects to implement obligations under the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness* have taken less precedence due to competing national priorities. UNHCR is ready to provide technical assistance to policy discussions required in order to assess the ability to fulfil the obligations required by the *Conventions*.

The *1954 Convention relating to the Status of Stateless Persons* is an important instrument to ensure non-discrimination in the enjoyment of human rights by stateless persons. The *1954 Convention* establishes an internationally recognized status for stateless persons. It also recognizes a number of key rights such as freedom of religion, freedom of association, access to courts, freedom of movement, identity documentation and internationally recognized travel documents. The *1961 Convention on the Reduction of Statelessness* establishes a range of standards to prevent statelessness at birth and later in life, in particular that States shall grant their nationality to children who would otherwise be stateless and have ties with them through either birth on the territory or descent.

Thus, accession to the *Statelessness Conventions* would establish a framework to prevent and reduce statelessness, in order to avoid the detrimental effects that this can have on individuals and society, and to ensure minimum standards of treatment for stateless persons, providing such persons with stability and security, and ensuring that their basic rights and needs are met.

Recommendation:

UNHCR recommends that the Government of Samoa:

- a. Pursue its accession to the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*.

Additional protection challenges

Issue 3: Provision of essential services

The lack of definitive legal and policy frameworks and the limited experience of Samoa in dealing with refugees and asylum-seekers has led to *ad hoc* arrangements for reception. Persons seeking international protection in Samoa have relied on support from UNHCR and local community resources for subsistence, accommodation and to meet other needs.

Enjoyment of various rights, including access to health care and education, have required specific demarches and interventions to be made in the absence of existing mechanisms. Initiatives for identification of State and community resources in support of reception, access to rights and durable solutions, particularly local integration, are needed. UNHCR is ready to provide technical assistance and policy support in this process.

Recommendation:

UNHCR recommends that the Government of Samoa:

- a. Continue political and policy discussions and assess how national mechanisms and available State and community resources can be adapted to address specific needs of refugees and asylum-seekers.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
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ANNEX

Excerpts of Recommendations from the 1st cycle Universal Periodic Review and Concluding Observations from UN Treaty Bodies

SAMOA

We would like to bring your attention to the following excerpts from the 1st cycle UPR recommendations and UN Treaty Monitoring Bodies' Concluding Observations relating to issues that may be of interest to UNHCR with regards to Samoa.

I. Universal Periodic Review

Recommendation ¹	Recommending State/s	Position ²
Refugee protection		
75.43 Adopt domestic laws and administrative regulations aimed at eradicating all forms of discrimination against persons of foreign origin, members of ethnic or linguistic minorities, refugees, asylum-seekers and migrant workers, by ensuring the enjoyment of their fundamental rights, irrespective of their migration status.	Ecuador	Noted ³
Statelessness Conventions		
75.20 Ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.	Slovakia	Supported ⁴
Sexual and Gender-Based Violence		
73.31. Further enhance measures against violence against women and children, including by ensuring appropriate assistance to victims and active detection efforts by law enforcement authorities.	Japan	Supported
74.14 Develop efficient and transparent mechanisms to prevent violence, particularly against women, girls and boys, and ensure that these mechanisms have the necessary capacity and resources to tackle this issue.	Mexico	Supported

¹ All recommendations made to Samoa during its 1st cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review: Samoa," A/HRC/18/14, 11 July 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/WSSession11.aspx>.

² Samoa's views and replies can be found in the Addendum, A/HRC/18/14/Add. 1, 21 September 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/WSSession11.aspx>.

³ **Addendum:** "The Constitution of Samoa promotes and protects the rights of all these groups."

⁴ **Addendum:** "Samoa concurs with the importance of having an effective, legally binding international framework for the maintenance and promotion of fundamental human rights of every human being. The remaining conventions identified by the Working Group members are important in this regard. The Government of Samoa, as it does with all other conventions it is a Party to, undertakes to continue the careful and active assessment of Samoa's accession to these remaining conventions that includes its and ability to fulfil all obligations required by each convention such as reporting, legislative, financial and institutional requirements to ensure Samoa is able to deliver, upon becoming a State Party to these conventions. Notwithstanding the fact that Samoa is not yet a member of these treaties, many rights promulgated in these treaties are advanced and streamlined into Government policies and plans. Samoa has also abolished the death penalty and will ratify the second optional protocol of ICCPR in due course. As such, Samoa accepts these recommendations."

74.15 Prioritize legislation on women's rights and domestic violence, and implement domestic policies aimed at eliminating violence against women.	Australia	Supported
74.18 Implement policies to ensure the promotion of the rights of women and children, specifically with regard to combating domestic violence and ending discrimination against women.	South Africa	Supported
Trafficking in persons		
73.33. Enact a comprehensive anti-trafficking law and make proactive efforts to identify and assist trafficking victims.	United States	Supported
74.19. Adopt and implement appropriate, efficient policy to address the sexual exploitation of children.	Slovakia	Supported

II. Treaty Bodies

Committee on the Elimination of Discrimination against Women

Concluding Observations, Fifty-second session (7 August 2012) CEDAW/C/WSM/CO/4-5

Violence against women

22. While noting that the new Family Safety Bill 2010 and Crimes Bill 2011, in which marital rape is recognized as a criminal offence, have been drafted and presented for discussion in Parliament, the Committee expresses its concern at the high prevalence of violence, in particular domestic and sexual violence, against women in the State party and at the lack of information and statistical data on its nature, extent and causes. The Committee is deeply concerned that violence against women appears to be socially legitimized and accompanied by a culture of silence and impunity and that cases of violence are therefore underreported, it being considered a private issue that should remain within the family. The Committee notes with concern that, the establishment in 2007 of the Domestic Violence Unit within the Ministry of Police and Prisons notwithstanding, the victim protection services and enforcement measures are insufficient, as the State party has yet to establish a shelter for women victims of violence.

23. The Committee urges the State party:

- (a) To put in place comprehensive measures to prevent and address violence against women and girls, recognizing that such violence is a form of discrimination against women and constitutes a violation of their human rights under the Convention and ensuring that women and girls who are victims of violence have access to immediate means of redress and protection and that perpetrators are prosecuted and punished, in accordance with general recommendation No. 19 of the Committee;**
- (b) To provide mandatory training for judges and prosecutors on the strict application of legal provisions dealing with violence against women and to train police officers in procedures to deal with women victims of violence;**

- (c) To encourage women to report incidents of domestic and sexual violence by de-stigmatizing victims and raising awareness about the criminal nature of such acts;**
- (d) To provide adequate assistance and protection to women victims of violence by establishing shelters, especially in rural areas, and enhancing cooperation with non-governmental organizations providing shelter and rehabilitation to victims;**
- (e) To collect statistical data on domestic and sexual violence disaggregated by sex, age, nationality and relationship between victim and perpetrator.**

Trafficking and exploitation of prostitution

24. The Committee is concerned at the lack of statistical data, disaggregated by sex and location, on trafficking and exploitation of prostitution in the State party. The Committee is also concerned about the lack of efforts to prevent the exploitation of prostitution and to address its root causes, and the lack of protection and services available to victims of exploitation. The Committee is further concerned that the State party has ratified none of the international instruments in the area of combating trafficking and exploitation of prostitution.

25. **The Committee calls upon the State party to fully implement article 6 of the Convention and:**

- (a) To include in its subsequent report information and data on the prevalence of trafficking and the exploitation of prostitution;**
- (b) To conduct studies and surveys for the above purpose, including on the prevalence of prostitution, and to seek international assistance as required;**
- (c) To address the root causes of trafficking and prostitution, including poverty, in order to eliminate the vulnerability of girls and women to sexual exploitation and trafficking, and to strive to ensure the recovery and social integration of victims;**
- (d) To ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and other relevant international instruments.**