



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Initial report submitted by Samoa under article 35 of the Convention, due in 2019*, **

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** The annex to the present document may be accessed from the web page of the Committee.



Abbreviations and terms

ACEO	Assistant Chief Executive Officer
AG	Attorney General
CCPB	Child Care and Protection Bill
CEDAW	United Nations Convention on the Elimination of All Discrimination Against Women
CEO	Chief Executive Officer
CRC	United Nations Convention on the Rights of the Child
CRPD	United Nations Convention on the Rights of Persons with Disabilities
DAS	Deaf Association of Samoa
DEMA	Disaster and Emergency Management Act 2007
DFAT	Department of Foreign Affairs and Trade (GoA)
DHS-MICs	Demographic Health Survey – Multiple Indicators Clusters
DMO	Disaster Management Office
DPO	Disabled Persons Organisation
EEZ	Exclusive Economic Zone
FAST	Faatuatua I le Atua Samoa ua Tasi Party
GANHRI	Global Alliance of National Human Rights Institute
GoA	Government of Australia
GoS	Government of Samoa
HRPP	Human Rights Protection Party
ILO	International Labour Organization
LERA	Labour and Employment Relations Act
MCR	Ministry of Customs and Revenue
MCIL	Ministry of Commerce, Industry and Labour
MCIT	Ministry of Communication and Information Technology
MDS	Mobility Device Services
MESC	Ministry of Education, Sports and Culture
MFAT	Ministry of Foreign Affairs and Trade
MJCA	Ministry of Justice and Courts Administration
MNRE	Ministry of Natural Resources and Environment
MOH	Ministry of Health
MOF	Ministry of Finance
MPE	Ministry of Public Enterprises
MPMC	Ministry of the Prime Minister and Cabinet
MWCSD	Ministry of Women, Community and Social Development
MWTI	Ministry of Works, Transport and Infrastructure
NHRI	National Human Rights Institution
NMRIF	National Mechanism for Implementation, Reporting and Follow-ups

NOLA	Nuanua o le Alofa Incorporated
NCCPP	National Child Care and Protection Policy 2021–2031
NPD	National Policy on Disability 2011–2016
NPPWD	National Policy on Persons with Disabilities 2021–2031
PWD	Persons with Disabilities
SBS	Samoa Bureau of Statistics
SDGs	United Nations Sustainable Development Goals
SDP	Samoa Disability Program
SDDP	Samoa Disability Partnerships Program
UNDP	United Nations Development Programme
UNESCO	United Nations, Education, Scientific and Cultural Organization
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UNICEF	United Nations International Children’s Emergency Fund

Background information

1. The Government of Samoa signed the Convention on the Rights of Persons with Disabilities (CRPD) in 2014 and became a state party to the CRPD on the 2nd December, 2016. In preparation for the ratification process, Samoa conducted a Legislative Compliance Review of its legislations and a Cost Benefit Analysis of the CRPD.
2. According to the Legislative Compliance Review (LCR), while Samoa does not have a specific disability legislation, the existing legislations provide sufficient protection on some of the rights of persons with disabilities. These legislations are:
 - The Constitution of the Independent State of Samoa 1960
 - Education Act 2009 and its amendment
 - Labour and Employment Relations Act 2012
 - Family Safety Act 2013
 - National Provident Fund Amendment Act 2023
 - Ministry of Health Act 2006
 - Mental Health Act 2007
3. The National Policy for Persons with Disabilities 2021–2031 identifies as a priority under Outcome Area 6, the full harmonisation of Samoa’s laws with the UNCRPD including the development of a Disability Bill for Samoa to address existing gaps in its laws in support of the rights of persons with disabilities.¹

General Legal Frameworks

4. Our commitment to address the challenges faced by persons with disabilities date back to the 1970s. Special education programmes were set up to support continued education for persons with hearing, vision and intellectual impairments that were largely driven by non-government organisations. Developments have continued since then including the establishment in 2001 by persons with disabilities (with government support) of Nuanua o le Alofa (NOLA), as the national advocacy organisation for disability, to advocate for the rights and opportunities for persons with disabilities.
5. While Samoa has completed its CRPD LCR, it has yet to action the recommendations of a standalone Disability Bill. However, context specific definitions of persons with disabilities exist in the National Policy for Persons with Disabilities 2021 – 2031 and adopted by the new National Provident Fund Amendment Act 2023. Moreover, the protection of the rights of persons with disabilities in Samoa is guaranteed under the following legislations:
 - (a) The Constitution of the Independent State of Samoa 1960 provides in its preamble the security of the fundamental rights of ALL the people of Samoa. Part II of the Constitution guarantees for all the people of Samoa fundamental political and civil rights.
 - (i) Article 5 – Right to Life
 - (ii) Article 6 – Right to personal liberty, stating that no person shall be deprived of his personal liberty except in accordance with the law
 - (iii) Article 13(d) of the Constitution afforded to all citizens of Samoa the rights to move freely and to reside in any part of Samoa.
 - (iv) Article 7 of the Constitution upholds the right of all persons to be free from torture and inhuman or degrading treatment or punishment. This Article is in place to protect the dignity of all persons including PWD. It is important to note that there is

¹ Government of Samoa, 2021, *National Policy for Persons with Disabilities*, Ministry of Women, Community and Social Development.

general protection afforded under criminal and civil law such as assault, other ill treatment etc.

(v) Article 15 – Freedom from discriminatory legislation²:

- All persons are equal before the law and entitled to equal protection under the law.
- Except as expressly authorised under the provisions of this Constitution, no law and no executive or administrative action of the State shall, either expressly or in its practical application, subject any person or persons to any disability or restriction or confer on any person or persons any privilege or advantage on grounds only of descent, sex, language, religion, political or other opinion, social origin, place of birth, family status, or any of them.

(b) Labour and Employment Relations Act 2013 provides a definition for “disability” and the “person living with a disability”:³

(i) “disability” means a congenital or permanent physical impairment, including a sensory impairment, or intellectual or developmental disability, or loss or abnormality of physiological or anatomical structure or function;

(ii) “person living with a disability” means an individual whose prospects of securing, retaining and advancing in suitable employment are affected as a result of a physical or mental disability;

(c) Education Act 2009 which vests in the CEO MESC the responsibility for establishing a policy or guidelines for the education of children with disabilities⁴

(d) Ministry of Health Act 2006 which defines health services as being inclusive of disability health services⁵

(e) Mental Health Act 2007 – does not provide any definition for “disability” but defines “mental disorder” and “mental incapacity” which appears to capture the “mental, intellectual impairments” aspects of the definition of disability in the Convention⁶

(i) Mental disorder as a mental illness and means a medical condition that is characterized by a significant disturbance of thought, mood, perception or memory, save that a person is not to be considered mentally ill by reason only of one or more of the following:

(ii) Mental incapacity in relation to a person, means intellectual impairment, mental disorder, medical disorder, brain injury, physical disability or dementia such that, by reason of the impairment, illness, disorder, injury, disability or dementia, the person is unable to make or communicate reasonable judgments in respect of all or any of the matters relating to the person or the person’s circumstances or estate.

6. Despite the guaranteed rights under the different legislations, the same legislations do not comply with the CRPD. A review of the language adopted by the legislation and policies need to be updated with the appropriate language. Legislation needs to be disability specific, and needed to enforce the provisions of the CRPD.

² Government of Samoa, 1960, Constitution of the Independent State of Samoa, p. 22.

³ Samoa Law Reform Commission 2015. CRPD Legislative Review. pp. 4–5.

⁴ Section 61, Education Act 2009, accessed through the Palemene o Samoa website www.palemene.ws.

⁵ Ministry of Health Act 2006. p.25. website: https://www.health.gov.ws/wp-content/uploads/2022/07/7Ministry_of_Health_Act_2006_-_Eng.pdf.

⁶ Samoa Law Reform Commission, 2015. CRPD Review. pp. 4.

I. General provisions of the Convention

Articles 1 to 4

Implementation of the Convention

7. The Labour and Employment Relations Act 2012 defines disability as meaning ‘a congenital or permanent physical impairment, including a sensory impairment, or intellectual or developmental disability, or loss or abnormality of physiological or anatomical structure or function’.⁷ A person with a disability is said to refer to an individual whose prospects of securing, retaining and advancing in suitable employment are affected as a result of a physical or mental incapacity.⁸

8. The Mental Health Act 2007 does not specifically define disability however the definitions of mental disorder and mental incapacity arguably include aspects of the definition of disability under CRPD. Mental disorder is defined as a “mental illness and means a mental condition that is characterized by a significant disturbance of thought, mood, perception or memory. Mental incapacity is defined as meaning intellectual impairment, mental disorder, medical disorder, brain injury, physical disability or dementia such that, by reason of the impairment, illness, disorder, injury, disability or dementia, the person is unable to make or communicate reasonable judgments in respect of all or any of the matters relating to the person or person’s circumstances.”⁹

9. The Samoa National Provident Fund Amendment Act 2023 define disability as a “... long-term physical, mental, intellectual, or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”¹⁰.

10. The above arguably captures the ‘mental, intellectual impairments’ aspects of the definition of disability under CRPD, however as stated above, a more complete definition of disability applicable to all situations is required and included in the National Policy for Persons with Disabilities, 2021–2031.

Persons with Disabilities (PWDs) and Government Decision-making

11. Samoa signed up to the UN Sustainable Development Goals (SDGs) in 2015 embracing its call for no-one to be left behind and helping first those who need it most. The previous National Policy for Persons with Disabilities 2010–2015 and the current Policy reiterates Government of Samoa’s commitment to supporting the ‘*nothing about disabilities without persons with disabilities*’ approach and their inclusion in decision-making and governance through a number of avenues:

(a) The Ministry of Women, Community and Social Development (MWCSD) is designated as the national focal point for persons with disabilities and the establishment of a Disability Focal point within the Social Development Division and the Samoa Disability Partnership Programme Unit.

(b) Nuanua O Le Alofa (NOLA), an NGO established in 2001 by persons with disabilities for persons with disabilities as the national advocacy organisation for disability, with support from the Government of Samoa.

(c) NOLA is a member of the Community Development Sector Steering Committee and a number of other sector governance institutions and a trusted partner of the government throughout the cycles of program implementation and development.

⁷ Section 2, Labour and Employment Act 2013, Parliament of Samoa, accessed through www.palemene.ws.

⁸ Ibid.

⁹ Government of Samoa, 2007, *Mental Health Act 2007*, accessed through the Palemene of Samoa website www.palemene.ws.

¹⁰ Government of Samoa, 2023, National Provident Fund Amendment Bill 2023. p. 7.

(d) As part of the National Disability Taskforce, NOLA represents the voice of the Disability Sector. They are the advocacy group for people with disabilities.

(e) The Government works closely with NOLA which is also a member of the CRC/CEDAW/CRPD national committee that works on the implementation and reporting of the CRPD. Samoa aims to promote disability mainstreaming across all 14 economic, social, infrastructure and cross-cutting sectors.

(f) Several sectors have included a representative of NOLA or their sector specific members, for example, schools for children with disabilities in the Education sector, in their governance entities and requirements that PWD be consulted on all sector plans, programs and initiatives.

(g) The Human Rights Advisory Council (HRAC) under the National Human Rights Institution (NHRI) or the Office of the Ombudsman has a specific seat for persons with disabilities, the Disability Advisor.

(h) People with disabilities are members of the National Disaster Advisory Committee (DAC), Samoa Disability Partnership Program (SDPP) Forum, Community Sector Steering Committee, CDCRM Committee.

(i) The Education Sector Inclusive Education Reference Group (previously known as the Taskforce) as the Group to look into inclusive education and its implementation within the education sector.

12. Government however have advocated for and supported the development partners' investment into supporting persons with disabilities in Samoa. A key program has been the Samoa Disability Program (Phase 1) funded by the Government of Australia for AUD\$3.6 million and was jointly implemented by the Government of Samoa and NOLA from July 2014 to June 2019. Phase 2 of the development assistance, renamed as the Samoa Disability Partnership Program costs AUD\$3.9million and runs from 2019 to 2023. This program has enabled the setting up of the Mobility Services Unit at the MOH; a UNCRPD comprehensive legislative review in 2016; the recently launched second National Policy on Persons with Disabilities, and a Disability Disaster Management Policy. It also provides support to some non-governmental organisations, particularly addressing the education needs of children with disabilities, providing assistive devices (e.g. wheelchairs, white canes), support for sign language interpreters in classrooms and offices, and supporting advocacy programs for PWDs.

13. Samoa has been actively engaged in high level regional and international meetings and commitments on the rights of persons with disabilities. These include:

- The Pacific Framework for Rights of Persons with Disabilities (PFRPD) endorsed by the Pacific leaders in 2016 developed to support governments in the Pacific in promoting and protecting the rights of persons with disabilities;
- Member States of the United Nations Economic and Social Commission for Asia and Pacific declared 2013–2022, the “Asian and Pacific Decade of Persons with Disabilities” and adopted the Incheon Strategy to “Make the Right Real” for Persons with Disabilities in Asia and the Pacific.

14. The CRPD Legislative Compliance Review conducted recommended developing a Disability Bill to domesticate all the required legislative guarantees of PWDs rights in line with the Convention.¹¹

¹¹ Government of Samoa, 2015, *Convention on the Rights of Persons with Disabilities Legislative Compliance Review for Samoa*, Office of the Attorney General.

II. Specific rights

Article 5

Equality and non-discrimination

15. Article 15(1) of the Constitution of Samoa guarantees that all persons are equal before the law and entitled to equal protection under the law. Article 15(3) allows the enactment of specific provisions for the protection of women, children, or of ‘*any socially or educationally retarded class of persons*’. The phrase ‘*socially or educationally retarded class of persons*’ is explained as referring to any other disadvantaged class of citizens. Arguably, persons with disabilities would be included under this phrase. However, it was noted in the CRPD Legislative Compliance Review (LCR) that the use of the word ‘retarded’ is not acceptable and the preferred phrase is ‘persons with disabilities’. Amendments to the Constitution and other legislation are pending to ensure Samoa’s compliance with the CRPD.

16. Article 15(1) of the Constitution has been interpreted by the Supreme Court of Samoa¹² as having the same intent as that of Article 14 of the European Convention on Human Rights which provides that the enjoyment of the rights to freedom set out in the convention shall be secured without discrimination on any ground.

17. Anti-discrimination protection in work and employment is set out in the Labour and Employment Relations Act 2013 (LERA) section 20. It states that ‘a person must not discriminate, directly or indirectly, against an employee or an applicant for employment in any employment policies, procedures or practices on one or more arbitrary grounds, including ethnicity, race, colour, sex, gender, religion, political opinion, national extraction, sexual orientation, social origin, marital status, pregnancy, family responsibilities, real or perceived HIV status and disability.’¹³ The Education Act 2009 also seeks to prevent discrimination by requiring that everyone including people with disabilities are to be educated in the general education system.¹⁴

18. The Constitutional and legislative protections in place are enforceable through the following means:

(a) The National Human Rights Institution (NHRI) with its objective of promoting and protecting human rights and freedom in Samoa is vested with the specific responsibilities for:

- Monitoring Samoa’s performance in meeting its international human rights commitments (including CRPD) through its State of Human Rights Reports and Places of Detention Inspection Reports;
- Conducting visits to all public and private places of voluntary and, investigating and resolving complaints of human rights violations;
- Participating in judicial proceeding as a friend of the court as a party, where human rights issues arise;
- Providing information to the international human rights system, such as the Human Rights Council and other human rights treaty monitoring bodies through shadow reporting and submissions.

(b) Specialized legislation such as that dealing with employment provide procedures for complaints of discrimination, including through court and other procedures.

Disability in Samoa

19. The Samoa Disability Prevalence Report 2015 estimated a 4% prevalence rate for PWDs among adults (18 years and older) in Samoa. This is based on the respondents for the Samoa Demographic and Health Survey 2014. Disability rates were slightly higher for

¹² Aiono Sia v Maiava Visekota Peteru [1998] WSSC 31.

¹³ Accessed on www.palemene.ws.

¹⁴ Section 19, Education Act 2009 accessed on www.palemene.ws.

females (due to higher life expectancy) but the real difference is by age group. Nearly 16% of adults had some difficulty in at least one functional domain. Disability rates start rising at age 40 and then rise more dramatically after age 50. Of those aged over 60, nearly 18% had a Disability, and more than half had “at least some difficulty” in one functional domain. For children, the prevalence for those aged 2–4 ranged from 1.5% to 9.1%, while for those aged 5–17, the prevalence ranged from 3.7% to 4.8% respectively. The most common disabilities are in the domains of “vision” and “mobility”. The most common causes of disability are “disease” and “aging”.

20. The 2018 Disability Monograph which utilized data from the 2016 Population and Housing Census provides the most recent disability prevalence for Samoa. The Monograph reported that for Samoa’s population aged 5 and over, the disability prevalence rate is about 7.1% (11,578 people) in Samoa if the level of inclusion is set at “at least some difficulty” (“some difficulty”, “a lot of difficulty” & “cannot do”). The disability prevalence rate is about 2.0% (3,370 people) in Samoa if the level of inclusion is set at “a lot of difficulty” (includes both “a lot of difficulty” and “cannot do”). The disability prevalence rate is about 0.7% (1,216 people) in Samoa if a conservative cut-off level of “cannot do” is only considered.

21. Although Samoa became a signatory to the CRPD in September 2014 and ratified in December 2016, several initiatives were already put in place. The Nuanua-O-Le-Alofa (NOLA) disability advocacy organization was formed in 2001, by PWDs to advocate for their rights and equal opportunities. In 2008, Cabinet endorsed the formation of the National Disability Task Force to oversee the work on PWDs and development of the National Policy for Persons with Disabilities 2011–2016.

22. As part of the process of ratification, Samoa conducted a CRPD legislative compliance review and completed a CRPD costing implementation plan in 2015. Further, a mid-term review report was produced from the initial National Policy for Persons with Disabilities 2011–2016. The Government has developed the National Disability Policy and other disability inclusive policies including the Inclusive Education Policy, Gender and Disability Disaster Policy and reviewed the National Building Code to include specific provisions for PWDs.

23. Samoa has also taken some important steps towards establishing an enabling environment and services for PWDs. These include the setting up of the Mobility Services Unit (NHS), conducting a comprehensive legislative review to bring about compliance with the CRPD and the development of a CRPD costing implementation plan in 2015. Further in 2016, the Government developed the 2nd National Disability Policy, Gender and Disability Disaster Policy and reviewed the National Building Code to include provision for PWDs.

24. National plans such as the Strategy for Development Samoa (SDS) and the Community Development Sector Plan 2016–2021 (CDSP) mainstream disability and continue to demonstrate the Government’s commitment towards ensuring PWDs are not left behind. The Government aims to progressively promote disability mainstreaming across all 14 sectors. The MWCSO as the leading agency of the CDSP is also the government focal point for services to ensure the protection and promotion of the rights of PWDs, and of gender equality. The CDSP strives to ensure that people in Samoa are ‘empowered to lead their own inclusive development for a quality of life for all’. It is also critical that MWCSO and key stakeholders help decision makers and influencers understand that PWDs become productive when they are involved, included and engaged in development. The CDSP aims to assist in small business development, improve safety and cohesion in communities, and mainstream disability and gender issues through the joint commitment of its partners.

Overview of government support and development partners assistance

25. The Disability Benefit Scheme was first introduced in the 2021–2022 budget by government. The scheme aims to provide financial support to individuals with disabilities to help meet their basic needs and improve their quality of life.

26. To be eligible for this benefit, the person with disability has to be registered with the MWCSO or NOLA. There are criteria to be met. These are: be a citizen of Samoa, confirmation of the disability, must be between the ages of 0–64 years old, and reside in

Samoa. The benefit can be received by the caregiver on behalf of the person with the disability after meeting the criteria and submission of required documentation.

27. The benefit is paid monthly to the person with a disability bank account, currently through the Ministry of Finance (MoF) until such a time when the Samoa National Provident Fund's is ready to disburse these funds.

28. Government has advocated for and supported the development partners' investment into supporting persons with disabilities in Samoa. A key program has been the Samoa Disability Program (Phase 1) funded by the Government of Australia for AUD\$3.6 million and was jointly implemented by the Government of Samoa and NOLA from July 2014 to June 2019. Phase 2 of the development assistance, renamed as the Samoa Disability Partnership Program (SDPP) costs AUD\$3.9million and runs from 2019 to 2023. This program has enabled the setting up of the Mobility Services Unit at the MOH; a UNCRPD comprehensive legislative review in 2016; the recently launched second National Policy on Persons with Disabilities 2021–2031 and a Disability Disaster Management Policy 2017.

29. The Program also provided support to non-governmental organisations who provide disability services to address the education needs of children with disabilities, provide assistive devices (e.g. wheelchairs, white canes), support for sign language interpreters in classrooms and offices, and supporting advocacy programs for PWDs. These NGOs include the Samoa Blind People's Association (SBPA) teaching and learning braille; Samoa Deaf Association (SDA) teaching and learning sign language; Samoa Spinal Network (SNN), Loto Taumafai School's early intervention program; SENESE, Aoga Fiamalamalama, GOSHEN Trust, Special Olympics Samoa (SOS), and the Samoa Victim Support Group (SVSG).

30. Inclusive Education (IE) Fund provides the avenue to special schools and fund IE service providers to support children from 0–24 years in our special school. Five (5) organizations are also recipients of the One Government Grant (OGG) to fund programmes and activities for children with disability in special and private schools.

31. The SDPP has made significant strides in responding to disability sector concerns, by including activities which focus on supporting Mental Health and Hearing Services. This is a strategic investment to strengthen collaborations with clinical service providers alongside Non-Government Organizations and Disabled Persons Organizations. The SDPP's implementing agencies therefore consist of; MWCSO and Ministry of Health (MOH) through the Mental Health Unit, Mobility Device Services & ENT Services in addition to the Nuanua O Le Alofa (NOLA), as Samoa's Disabled Persons Organisation (DPO). Furthermore, other implementation agencies include; the Loto Taumafai Society, Spinal Network & Special Olympics Samoa.

32. The Samoa Disability Partnership Program (SDPP) funded by the Australian Government, and led by the Ministry of Women, Community and Social Development (MWCSO), supported two key interventions implemented by the Deaf Association of Samoa; a Sign Language Training for Deaf Children, and a Training for New Sign Language Interpreters. The funding allowed the Deaf Association of Samoa to conduct Trainings for Deaf Children on both Upolu and Savaii islands, and was able to reach over 15 Deaf children. All trainings were designed and implemented by persons who are deaf and highlighted the need for continued investment in deaf-led trainings and workshops to ensure that persons who are Deaf and hard of hearing are able to receive essential support and training in order to experience greater inclusion in society.

33. The Health of the Nation Program is an initiative that the Ministry of Health launched to raise community awareness on prevention and preparedness during the COVID-19 Pandemic. In partnership with Nuanua O Le Alofa, the Deaf Association of Samoa was able to advocate for the inclusion of Deaf Sign Language Interpreters on the weekly program until the completion in 2020. This is the first time that Samoa has prioritized the inclusion of Deaf Interpreters in a regular capacity at the national level. The Association hopes to continue to work with government and non-government stakeholders to continue to ensure the support and prioritization of Deaf Interpreters. The Office of the Electoral Commission and the Samoa Bureau of Statistics also worked with Deaf Interpreters throughout this year in their campaigns.

34. Samoa has been actively engaged in high level regional and international meetings and commitments on the rights of persons with disabilities. These include:

- The Pacific Framework for Rights of Persons with Disabilities (PFRPD) endorsed by the Pacific leaders in 2016 developed to support governments in the Pacific in promoting and protecting the rights of persons with disabilities;
- Member States of the United Nations Economic and Social Commission for Asia and Pacific declared 2013–2022, the “Asian and Pacific Decade of Persons with Disabilities” and adopted the Incheon Strategy to “Make the Right Real” for Persons with Disabilities in Asia and the Pacific.

35. Work is underway to implement recommendations from the CRPD LCR including the development of a Disability legislation to domesticate all the required guarantees of PWD rights in line with the Convention.

36. Article 15(1) of the Constitution of Samoa guarantees that all persons are equal before the law and entitled to equal protection under the law. Article 15(3) allows the enactment of specific provisions for the protection of women, children, or of ‘any socially or educationally retarded class of persons’. The phrase ‘socially or educationally retarded class of persons’ is explained as referring to any other disadvantaged class of citizens. Arguably, persons with disabilities would be included under this phrase.

37. Article 15(1) of the Constitution has been interpreted by the Supreme Court of Samoa¹² as having the same intent as that of Article 14 of the European Convention on Human Rights which provides that the enjoyment of the rights to freedom set out in the convention shall be secured without discrimination on any ground.

38. Anti-discrimination protection in work and employment is set out in the Labour and Employment Relations Act 2013 (LERA) section 20. It states that ‘a person must not discriminate, directly or indirectly, against an employee or an applicant for employment in any employment policies, procedures or practices on one or more arbitrary grounds, including ethnicity, race, colour, sex, gender, religion, political opinion, national extraction, sexual orientation, social origin, marital status, pregnancy, family responsibilities, real or perceived HIV status and disability.’¹⁵ The Education Act 2009 also seeks to prevent discrimination by requiring that everyone including people with disabilities are to be educated in the general education system.¹⁶

39. The Pathway for the Development of Samoa (PDS) 21/22–25/26 sets out national priorities for the Government over a four year period. The vision of the current PDS is “Fostering social harmony, safety, and freedom for all”, to ensure all people have equal access to all available opportunities and services.¹⁷

40. The Constitutional and legislative protections in place are enforceable through the following means:

(a) The National Human Rights Institution (NHRI) with its objective of promoting and protecting human rights and freedom in Samoa is vested with the specific responsibilities for:

- Monitoring Samoa’s performance in meeting its international human rights commitments (including CRPD) through its State of Human Rights Reports and Places of Detention Inspection Reports;
- Conducting visits to all public and private places of voluntary and, investigating and resolving complaints of human rights violations;
- Participating in judicial proceeding as a friend of the court as a party, where human rights issues arise;

¹⁵ Accessed on www.palemene.ws.

¹⁶ Section 19, Education Act 2009 accessed on www.palemene.ws.

¹⁷ Pathway for the Development of Samoa (21/22–25/26).

- Providing information to the international human rights system, such as the Human Rights Council and other human rights treaty monitoring bodies through shadow reporting and submissions.

(b) Specialized legislation such as that dealing with employment provide procedures for complaints of discrimination, including through court and other procedures.

41. Despite the prohibitions against discrimination in the Constitution, the NHRI in its 2016 human rights report for PWDs found many examples of direct and indirect discrimination including:

(a) A lack of specialist transportation that can assist people with disabilities (such as those using mobility aids) to get from place to place. Further, it is difficult for them to use transport as the steps are either too high or there are no ramps to allow access. This is especially acute in Savaii where many do not have access to private vehicles;

(b) Children with intellectual and psychosocial disabilities in rural areas find it difficult to attend schools because according to teachers and principals, they did not have the capacity, expertise and equipment to cater for these children;

(c) High levels of stigmatization and negative attitudes towards PWDs leading to discrimination with one survey reporting that 87% of its participants who identified as having a disability experienced discrimination as a result of their disability.

42. The National Policy for Persons with Disabilities 2021–2031 (NPPWD), envisages work to fully harmonise Samoa's laws with the CRPD including the development and enactment of a proposed Disability Act and strengthening legal frameworks for equality and non-discrimination.

Article 8

Awareness raising

43. Following the ratification of the CRPD in 2016, awareness raising programs for various sectors of the communities were undertaken. The premier organisation for persons with disabilities, the Nuanua o le Alofa (NOLA) and its sub-groups with funding support from the Samoa Disability Program has led the work to sensitize rural communities and raise awareness on the CRPD. As well as introducing the CRPD and the human rights approach, the programs also provided information on the services available for PWDs and their families, as well as referral procedures.¹⁸

44. Public awareness campaigns and national programs directed to public awareness and information undertaken through media mainstreaming with people with disabilities and the wider community. These included panel discussions where service providers highlight the services they provide, and how these can be accessed by the general public and members of the disability sector.

45. The celebration of international and national disability related days enhances knowledge and improves understanding of the general public on people with disabilities. International days celebrated nationally are White Cane day, World Autism Day, mental health day, international disability day, Down syndrome day, and hearing day.

46. National campaigns and programs involved NOLA and its sub-groups in their delivery of training on climate change, and CRPD awareness. In addition, held church awareness on CRPD. Panel discussions provided an opportunity to further raise awareness on CRPD and its Articles.

47. Other community awareness programmes involved youth with disabilities. There were Disaster Management programmes on climate change.

48. The National Policy on Disability 2011–2016 (NDP) aimed to achieve 'Equality and quality life for all people with disabilities' through equality of access, collaboration and empowerment. It called for stakeholders to work together to create a human rights based,

¹⁸ MWCSO, *Samoa Disability Program : Completion Report – 2014–2019*, 2019.

inclusive and barrier free society which advocates for and empowers people with disabilities'. Programs to raise awareness and sensitize communities on the rights of PWDS and to advocate for ratification of CRPD were conducted for various sectors of the community.

49. Awareness programs and training were also undertaken for key government agencies including the Office of the Electoral Commission (OEC), the National Human Rights Institution (NHRI), the Ministry of Natural Resources and Environment (MNRE), Samoa Bureau of Statistics (SBS) and others. A Training of Trainers on CRPD was also conducted for senior government officials to facilitate the mainstreaming of the PWD's rights across all sectors and to grow knowledge in the key public policy areas of harmonisation of laws, administrative regulations, public finance, capacity building and public private partnerships.

50. The awareness programs are further augmented by the celebration each year of the International Disability Week during the first week of December. Awareness events over the years included newspaper advertisements in both Samoan and English for International Disability Day, interactive fun games, arts and posters competition, essay writing for secondary school students, informational materials including pull-up banner for PWDs at all MWCSO events, newsletters and awareness booths at partner organisations events. The Ministry of Women, Community and Social Development have also undertaken district level planning and programs with its partners seeking to incorporate into community initiatives specific consideration and programs for PWDs.

51. The Ministry of Education, Sports and Culture (MESC) continues to pursue the inclusion of children with disabilities (CWD) in the Education Sector through its Inclusive Education Policy (Aoga Sau'o). In addition, the MESC established an Inclusive Education Unit to facilitate this work. The number of children with disabilities accessing educational opportunities continues to grow. The Australia Pacific Technical College (APTC) offers training courses for disability-related services and 326 females enrolled in 2017 in the Certificate in Disability, Certificate in Early Childhood Education and Care and Allied Health Courses. The National University of Samoa (NUS) also offers courses on inclusive education through the Faculty of Education.

52. The National Community Disability Inclusive Education Awareness Plan developed under the SDPP, had a coordinated awareness program with the Ministry of Health and MWCSO. A roadshow to increase awareness on the Plan was conducted for both Upolu and Savaii.

53. MESC developed a Family Life Education (FLE) Program covering sensitive matters within the family.

54. The first Outcome Area for NPPWD 2021–2031 is aimed at increasing awareness about the rights and needs of persons with disabilities. The planned activities include:

- Research and awareness on the prevalence and characteristics of disability, as well as existing gaps on disability-inclusion. This includes a research to establish current levels of awareness and understanding about the needs and rights of persons with disabilities in Samoa in accordance with CRPD;
- Programs and activities aimed at empowering persons with disabilities to promote and advocate for their rights, issues and needs;
- Awareness programs on disability inclusive obligations (using CRPD as a framework requiring the collective commitments and collaborative efforts of the government (including political leadership, CEOs, public servants) partners and stakeholders, community organisations, groups and families at the village levels;
- Awareness programs on policies and legislation, facilities and services (health, assistive devices, languages, social protection, training and support groups) made available for persons with disabilities, including those that are required and needed but not yet in place, as well as disability-inclusive development programs;
- Awareness programs on the challenges and issues faced by persons with disabilities including barriers and limiting their participation in society;

- Awareness raising and communications materials and resources on the additional challenges faced by women and girls with disabilities to ensure their participation in decision-making at all levels.

Article 9

Accessibility

55. Improving the accessibility of buildings, transport, communication is an ongoing process for the Government of Samoa pursued through a range of measures including legislative and policy requirements, best practice guidelines and funding support (with the assistance of development partners) for community initiatives.

56. Despite the development and revision of laws and policies, there is minimal access to public buildings and facilities by people with disabilities. There are buildings that have incorporated some form of access such as ramps, elevators and rails. The accessibility of other buildings is still to be achieved. Some buildings have rails and ramps but no elevators. Some buildings have heavy doors that people with disabilities have difficulty in opening on their own.

57. The Ministry of Works Act 2002 (MoW Act) regulates the construction of buildings and other structures through prescribing the requirements for safer, more accessible builds. Building Regulations intended to ensure that the technical and regulatory requirements of public buildings recognize, respect and protect the rights of people with disabilities are being developed. The draft Regulations include the National Building Code (NBC) adopted in 2002 as Samoa's first NBC.

58. The NBC was revised in 2017 with the objective of specific requirements (e.g. sensory, outdoor and indoor accessibility; automated access which includes lifts, escalators, moving walkways, automated ramps; as well as handrails and ramps) for public and residential buildings to ensure accessibility for people with disabilities and these are now in place.

59. The Planning and Urban Management Agency (PUMA) developed the Disability Access Guidelines 2008 to provide guidance to government agencies, public and private developers, architects and property owners in implementing disability access to buildings. The Guidelines:

- covers the following disabilities – physical, sensory, intellectual, the elderly, and related impairments;
- includes disabled access designs for alterations, extensions and renovations to existing buildings;
- encompasses the buildings, public spaces, sports facilities and associated premises;
- are mandatory for ALL public buildings including hospitals, schools, cinemas, commercial and institutional buildings, but not residential dwellings.

60. The Samoa National Urban Policy October 2013, established a strategic framework for shaping the physical form of the Apia urban area and provide national guidance for future investments in infrastructure and services. The overall mission goal is “Sustainable, Inclusive and Resilient City”. Efforts to implement these policies and guidelines in place continue to be hindered by limited resources and capacity being the major challenges. NOLA has conducted accessibility audits for various government buildings for the Building Codes, including the Parliament Building (Maota o le Palemene), providing advice on the construction process to ensure full accessibility of the building by all.¹⁹

61. The National Urban Policy articulates the overall objectives and directions for building a more resilient and desirable physical form. It also recognizes the future investments required for making the city more workable, livable, inclusive, competitive and sustainable.

¹⁹ World Bank, 1 December 2017, *Improving Access and Disaster Preparedness for Persons with Disabilities in Samoa*, accessed through www.worldbank.org.

62. There is no specific area dedicated for disability in the National Urban Policy, as is covered in the inclusive aspect of the policy. There needs to be a review to include disability criteria for its building code and infrastructure. Car parks for disability should be enforced, and street lights to consider the deaf.

63. The Enhanced Road Access Project (ERAP) funded by the World Bank included the disability access guidelines as construction references for road and bridge work to ensure that designs were inclusive of the needs of PWDs and accessibility features such as ramps, wider pavements and signage.

64. Access audits were undertaken by persons with disabilities with different needs including a site visit and scoring system to assess where improvements could be made to the design. Carrying out accessibility audits have not been a standard part of design work and its completion highlighted their value to suitable and user-friendly facilities. As a result, PWDs are able to navigate spaces easily and safely. In addition, the project helped to enhance awareness in Government Ministries and the communities of the challenges faced and needs of PWDs. The success of these developments and approaches augur well for future work to ensure continuous recognition and inclusion of the accessibility rights of PWDs in their planning, designing and implementation.

65. The Samoa National Action Plan for the Decade of Action for Road Safety 2011–2020 had as one of its priorities, capacity building on crash investigation and evidence-based road safety measures to ensure success and sustainability, with a focus on vulnerable road users including persons with disabilities, female and children.²⁰

66. In July 2006, PUMA developed a Parking Policy and Standards which mandated that there be parking spaces specifically allocated for PWDs. The MWTI is also able to make similar provisions for car parking through its administration of the Building Regulations. The NPPWD 2021–2031 noted that there needs to be improvement of accessibility by persons with disabilities to roads in communities via mainstreaming accessibility into village plans, and developing a system for issuing IDs for disability parking.

67. The lack of laws and policies to ensure accessibility to roads for people with disabilities reflects the situation of Samoa's roads both on public roads and in the residential and commercial areas. There has been recent development with the constructions of walkways/sidewalks and traffic lights for people with vision impairments.

68. Access to public transport like buses, taxis, ferries and aeroplanes is poor for people with disabilities. There are no public transport providers with accessible vehicles.

69. With the advocacy leadership of NOLA, the Deaf Association of Samoa (DAS) and the Samoa Association of Sign Language Interpreters (SASLI) collaborated and advocated for the use of sign language during workshops, press conferences and televised programs of public interest. Over recent years the SASLI has expanded its capacity and consequently its services. NOLA received Braille machines enabling it to print documents in braille for the visually impaired community.

70. There is a lack of laws and policies to ensure the roads are safe and accessible for people with disabilities. There are no specific provisions in the Land Transport Authority Act 2007 to guarantee constructed roads are accessible by people with disabilities.

71. The Planning and Urban Management Agency (PUMA) developed the Parking Policy and Standards in 2006 ensuring parking spaces are allocated for people with disabilities. The Building Regulations developed by the MWTI make provisions for car parking²¹, but improvements is needed to have identification cards for disability parking.

72. The Ministry of Communication and Information Technology is currently leading the development of a Freedom of Information Policy to enable access by all to public information held by government agencies. Other programs in the formative stages include a National Cyber-safety program aimed at raising community awareness on online safety and a Digital

²⁰ Government of Samoa, 2011, *Samoa National Action Plan for the Decade of Action for Road Safety 2011–2020*, Ministry of Works, Transport and Infrastructure.

²¹ PUMA Parking Policy and Standards, p.p. 13–14.

Government Platform to improve the accessibility of government information and services. The Cyber Safety Program builds on momentum made under previous activities by the Office of the Regulator including a Girls in ICT initiative. The travel restrictions due to COVID-19 has led to the increase in virtual meetings and live streaming of events via different digital platforms.

73. All these developments pave the way for the required changes to enable persons with disabilities to access information and services through more inclusive communications. Currently, government agencies provide services to disability organisations like SENESE, NOLA when specific requests are made. An application developed by a private sector company in Samoa (MAUA app) to facilitate the online sale and purchases of local produce and food is said to be PWD inclusive.

74. The ongoing challenges include limited funding and capacity for mainstreaming of the rights of PWDs. The limited accessibility of transport, buildings, communications have the flow-on effect of also limiting the opportunities for employment, education, health and other services for persons with disabilities. Stigmatisation and discriminatory attitudes also continue to hamper efforts to provide equal opportunities for persons with disabilities. The right to accessibility will be included in the Disability Bill.

75. The NPPWD 2021–2031 has as its fifth strategic goal strengthening access to the built environment, information and communication, transport and other services and facilities. The prioritised actions include:

- Conducting a stocktake and review of accessible environments and identifying gaps;
- Sector’s policies and programs to incorporate strategies and actions to address barriers inhibiting access of persons with disabilities to built environment, information and communication and all services and facilities;
- Improve persons with disabilities access to information and communication technology – including addressing access issues such as having improved accessible information formats (braille, visual signals, audio indicators etc);
- Effective implementation of the National Construction Code of Samoa 2017 which also provides the minimum standards for the safe access to buildings of persons with disabilities.

Article 10

Right to Life

76. Article 5 of the Constitution of Samoa provides that no person shall be deprived of his or her life intentionally, except in the execution of a sentence of a Court following his or her conviction of an offense for which this penalty is provided by Act. This right applies equally to all persons.

Article 11

Situations of Risk and Humanitarian Emergencies

77. Climate change impacts affect everyone but especially the health and well-being of people who face marginalization or are at risk. In their work, the Disaster Advisory Council (DAC), the National Emergency Operations Centre (NEOC), Samoa Fire Services and Emergency Authority (SFESA) are encouraged to assess and mitigate likely risks and impacts on persons with disabilities in their planning and in responding to emergencies. The National Disaster Management Plan 2017–2020 committed to strengthen mainstreaming of disaster risk reduction across sectors including systematic and visible integration of commitments to gender equality and rights of persons with disabilities.

78. Samoa continues to strengthen its adaptive capacity, early warning systems and disaster risk planning and response to address the impacts of Climate Change including long-term effects across the sectors.

79. The human rights approach or the people centred interaction of the person and its surrounding environment. The Human Rights model seeks to “support, respect and celebrate disability as another form of diversity so that people with disabilities can participate in society, in the workplace, in education, in political and culture life and defend these rights by accessing justice”²².

80. The human rights approach shapes the social approach by recognizing that people with disabilities have human rights just the same as people without disabilities. It treats obstacles in a society as discriminatory and provides systems whereby people with disabilities can raise their concerns relating to the obstacles which prevents their full participation in society²³.

81. This is catering to specific disability needs. in the extensive engagement of our communities, NGOs, women, persons with disabilities, youth, children, private sector, and all stakeholders in our climate resilience building efforts. In our recently submitted Second Nationally Determined Contributions (NDC), Samoa has increased its ambition by including an economy-wide emissions reduction target, and sector-specific emissions reduction target in the energy, and waste sectors. The NDC Implementation Roadmap and NDC Investment Plan also includes adaptation targets and gender responsive considerations in the form of guidelines for promoting gender and social inclusion²⁴.

Streamlining of disability

82. The MWCSO is tasked with inter-alia, ensuring that:

- In relation to prevention, the special needs of vulnerable groups such as women, children, elderly, persons with disabilities are addressed in disaster response management;
- For disaster preparedness, providing for the particular needs of vulnerable groups including persons with disabilities ensuring that they are addressed in DRM processes and plans;
- In recovery, ensuring special attention to income generation for vulnerable populations including persons with disabilities;
- That the government endorsed priority to the recognition of the needs of people with disabilities is practiced by all government ministries through the mainstreaming of disability into their Ministry agenda, plans and programs.

83. The Disaster and Emergency Management Act 2007 (DEMA) provides the legal framework for emergencies and disasters in Samoa. Section 21 of the DEMA 2007 empowers police officers during any state of emergency to:

- give necessary and reasonable directions to any person who is considered to be at risk or to be placing other persons at risk;
- take reasonable steps to secure compliance with any direction given under above, including the use of reasonable force to remove a person to safety and ensure the continuing safety of that person;
- require any person to leave or refrain from entering any area declared by the police to be an area where risk to human life or health exist.

84. As a result of the CRPD Legislative Compliance Review, the specific provisions for persons with disabilities in relation to situations of risk and humanitarian disasters are being considered for incorporation into a proposed Disability Bill. This situation is critical given Samoa’s susceptibility to natural disasters and vulnerabilities of PWD, especially older persons, women and children in those circumstances.

²² Convention of the Rights of Persons with Disabilities *Training Guide, Professional Training Series NO. 19*, United Nations of the Office of the High Commission in State of Human Rights Report: Persons with Disabilities 2016, p. 19.

²³ Ibid p. 19.

²⁴ Samoa’s Universal Periodic Review Report, 2021.

85. With COVID-19, NOLA with support from development partners have been instrumental in preparing and delivering emergency relief care packages and COVID-19 educational material to persons with disabilities and their families.

86. Similarly, in maintaining hygiene and dignity of women and girls during disasters, NOLA in partnership with UNFPA distributed essential hygiene kits during COVID. Similarly, Brown Girl Woke supported the cause by distributing foodstuff and other amenities.

87. The National Environment Sector Plan (NESP) integrates gender and vulnerable groups needs in all related strategies. Samoa also has a “Gender in Disaster Risk Management Policy” which focuses on gender equity where women are involved across all phases of Disaster Risk Management (DRM). There is a similar policy for persons with disabilities. To complement national plans there are 94 Community/Village Disaster and Climate Management Response Plans and 41 Community Integrated Management Plans that are key to building resilience. These plans are developed in close consultation with communities including PWDs and offer the opportunity to communities to take ownership of and be involved in adaptation and mitigation solutions. Communities are also receiving training on DRM.²⁵

88. The National Policy for Persons with Disabilities 2021–2031 requires that there be effective implementation, monitoring and evaluation of the Persons with Disability in Disaster Risk Management Policy. In addition, strengthening disaster management and climate change adaptation for persons with disabilities requires:

- Strengthening national and community disaster coordination bodies so that people with disabilities are included in disaster risk management efforts;
- Inclusion or strengthening of PWDs in national disaster risk reduction and preparedness committees;
- Inclusion or strengthening of PWDs in national disaster risk reduction and preparedness committees;
- Providing information/warnings in a range of formats for accessibility;
- Improving climate change and disaster risk reduction education for children with disability so that they understand how their needs and can be advocates for themselves and others;
- Ensuring shelters are accessible including water and sanitation facilities for PWDs;
- Training for NOLA and other representatives on disaster risk management and climate change adaptation;
- Development of a fact sheet or infographics on the needs of persons with disabilities during times of disaster;
- Improve persons with disabilities access to transportation – land, sea, water;
- Improve persons with disabilities access to other services and social-political processes such as elections, development planning (.e. development of the SDS, sector plans, district plans and others) public consultations on policy development, monitoring and evaluation and others.

89. There is a seat for persons with disabilities in the National Disaster Advisory Committee.

90. The organisations of persons with disabilities are also included in Community Disaster and Climate Risk Management (CDCRM) programs to ensure villages and districts to conduct awareness on climate change and disaster risk management.

²⁵ Ibid, page 16.

Article 12

Equal recognition before the law

91. Equality before the law is a fundamental principle of the Samoan Justice system. Article 15 of the Constitution provides that all persons are equal before the law and are entitled to equal protection under the law. Persons with disabilities enjoy equal recognition in the law, including civil and other rights and legal capacity to manage their own affairs including holding properties and other assets. These rights and protections are enforceable under the Constitution through resort to the jurisdiction of the Supreme Court as with the other rights therein.

92. The Law and Justice Sector Plan 2020/2021–2024/2025 has as its vision the achievement of a ‘safe, secure, fair, just and inclusive Samoa’. The Law and Justice Steering Committee (LJSC) has as its end of plan outcome 2, the improvement of the accessibility of the Courts and justice system envisaging work to articulate a clear agency response and approach to children and young people in the justice system and persons with disabilities.

93. However, there is no help offered to people with disabilities when standing before the Courts unless a request is submitted. This needs to be formalized.

Article 13

Access to justice

94. Access to justice is safeguarded for all people across all areas of the Samoan legal system without discrimination based on age, birth, race, sex, religion or disability.

95. Article 9 (1) of the Constitution of Samoa gives everyone the right to a fair trial, including persons with disabilities. Section 36 (f) of the District Court Act 2016 provides that a ‘next friend’ or ‘guardian ad litem’ of any person who is prevented from taking action in his or her name and right by reason of any legal disability has the full legal capacity to sue and be sued in proceedings taken in the Supreme Court.

96. The Crimes Act 2013, section 13 also states in relation to insanity, that a person is not criminally responsible for any act or omission when suffering from a mental defect or mental disorder that renders the person incapable:

- of knowing what he or she is doing or omitting to do; or
- of attributing that action or omission the same moral character that members of the community would attribute to that action or omission.

97. While the above legislative provisions cover some aspects of access to justice for persons with mental impairments, there are no provisions for those with other impairments. The proposed Disability Bill should cover the aspects of access to justice for persons with disabilities in alignment to Article 13 of the CRPD.

98. The Judiciary of Samoa has consistently demonstrated a commitment to human rights, particularly the rights of the most vulnerable in society. For example: Justice Vui Nelson, a senior Samoan Supreme Court Justice served two terms on the United Nations Committee on the Rights of the Child.

99. People with disabilities that come before the Court either as parties, witnesses or defendants are being accommodated and provided support by the MJCA upon request. It is not an automatic support.

100. A publicly funded Legal Aid is accessible for legal representation when one is charged with a serious offense. This Legal Aid can only be accessed if requested.

Article 14

Liberty and Security of the Person

101. Article 6 of the Constitution of Samoa provides that no person shall be deprived of his or her personal liberty except in accordance with the law. No distinction is made on the basis of disability.

102. Where an application is made to the Supreme Court that a person is being unlawfully detained, the Court shall inquire into the complaint and unless satisfied that the detention is lawful, shall order the person to be produced before the Court and shall release the person.

103. Whereas Article 6 covers the right to liberty, the right to security of a PWD is not explicitly dealt with under existing legislation. The proposed Disability Bill should include these specific provisions to ensure the protection of PWDs rights.

Treatment in Custody

104. The Samoa Mental Health Unit extends its services to the Samoa Prisons and Correctional Services (SPCS) when required, where they visit the prisons to carry out assessments of prisoners who may have or suspected to have psychosocial disability. This service will only be accessed by order of the Court.

105. Some of the patients who are diagnosed by the Mental Health Unit are referred to the Goshen Trust Mental Health Services Samoa ('Goshen Trust'), an NGO which provides respite care for patients with psychosocial disability.

106. Samoa opened its new SAT\$25 million prison facility at the new location, Tanumalala in June 2019. The new facility with a much bigger capacity than the old prison now caters to proper programs including counselling and skills development to support rehabilitation of offenders inclusive of PWDs.

107. The Mental Health Act 2007 contains a number of provisions that provides for the care, support, treatment and protection of persons with a mental disorder and related purposes. A person with a mental disorder is defined in this Act as a "person with a mental illness which is a medical condition caused by various factors as detailed in the Act. The provision of these services are provided by the Mental Health Unit, through the Ministry of Health.

108. The internationally recognized term for mental illness is referred to as 'psychosocial' disability relating to the social consequences of disability which affects someone's ability to participate fully in life. These provisions clearly affect persons with disabilities with mental disorders and infringe their rights to autonomy and liberty. The CRPD Legislative Compliance Review recommended that these provisions should be reviewed and amended to ensure that they are only used in the best interests of the person and in reasonable and necessary ways.

Article 15

Freedom from torture or cruel, inhuman or degrading treatment or punishment

109. Article 7 of the Constitution upholds the right of all persons to be free from torture and inhuman or degrading treatment or punishment. This Article is in place to protect the dignity of all persons including PWDs.

110. Samoa ratified the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) on 28 March 2019. Action programmes and awareness include the 16 days of Activism; Spotlight Initiative and Destigmatized programmes.

Article 16

Freedom from exploitation, violence and abuse

111. The Crimes Act 2013 provides protection for everyone from different harms. Of particular relevance to this Article are:

- Section 72 which makes prostitution an offence, ensuring that women and girls with disabilities are not exploited through prostitution;
- Section 74 makes it an offence to live off the proceeds of prostitution;
- Section 63 makes a person who has or attempts to have sexual connection with any person who is severely intellectually disabled liable to imprisonment. The same provision provides for the definition of severely intellectually disabled if the person is by reason of that condition incapable of living an independent life or of guarding himself or herself against serious exploitation or common physical dangers;
- Section 73, refers to solicitation as an offence. A person who offers and agrees to pay or reward monies to another person for sexual intercourse or sexual connection is liable to imprisonment;
- Section 75, makes a person who gains or reward, procures or agrees or offers to procure any woman or girl to have sexual intercourse with any male who is not her husband liable to imprisonment; and
- Section 62, makes a person who by the use of threats or intimidation for the purpose of sexual conduct liable to imprisonment;
- Section 2 defines complainants as meaning any person without any distinction based on, amongst other things, disability;
- Section 15 of the Family Safety Act provides that police officers are to render assistance to the complainant without any discrimination on any grounds such as disability;
- Section 17 of the Family Safety Act also provides that where the complainant is a person with a disability, it is a special consideration for the Court when sentencing the offenders for an offence involving domestic violence.

112. The Constitution of the Independent State of Samoa Part II Fundamental Rights, Article 6 provides protection from personal liberty:

- (1) No person shall be deprived of his or her personal liberty except in accordance with law.
- (2) Where a complaint is made to the Supreme Court that a person is being unlawfully detained, the Court shall inquire into the complaint and, unless satisfied that the detention is lawful, shall order the person to be produced before the Court and shall release the person.
- (3) Every person who is arrested shall be informed promptly of the grounds of his or her arrest and of any charge against the person and shall be allowed to consult a legal practitioner of his or her own choice without delay.
- (4) Every person who is arrested or otherwise detained shall be produced before a Judge of the Supreme Court, some other judicial officer, the Registrar of the Supreme Court or of any subordinate Court or any Assistant Registrar of the Supreme Court or of any subordinate Court from time to time approved in writing for this purpose by the Registrar of the Supreme Court (hereinafter collectively referred to as “remanding officers”) within a period of 24 hours (excluding the time of any necessary journey), and no such person shall be detained beyond that period without the authority of one of the remanding officers. 7.

113. The Constitution of the Independent State of Samoa Part II Fundamental Rights, Article 7 provides protection from inhumane Treatment:

- No person shall be subjected to torture or to inhuman or degrading treatment or punishment.

114. In March 2020, NOLA with support and funding from the Australian High Commission, UN Women and the Pacific Disability Forum launched its first Toolkit on Ending Violence Against Women and Girls with Disabilities (EVAW). NOLA led the development of the Toolkit in consultation with women and girls with disabilities and all its partners. The Toolkit is for agencies working in the EVAW and disability space and aims at exemplifying the collective responsibility to ensure that women and girls with disabilities are aware of their right to live safe and violence-free lives.

115. The Samoa Victim Support Group and other non-government organisations provide support services for victims and survivors of violence including people with disabilities.

116. The Government of Samoa committed \$1million tala to support ending violence against women (EVAW) programs for financial year 2021–22, and continuation on next financial year FY 2023–2024. In addition, the government is looking at possible ways to sustain this grant which helped and contributed a lot to the development of Samoa especially in eliminating all forms of violence against women, children and persons with disabilities.

117. The EU funded Spotlight Initiative is a USD\$4 million program implemented by the UN in Samoa towards ending gender-based violence. The areas of focus include strengthening legislative and policy frameworks for preventing violence, improving responsible institutions and violence prevention, enhancing services including data and supporting women's organisations and coalitions for change.²⁶ The program in collaboration with the Government of Samoa is developing a National Prevention Framework and Action Plan for Ending Violence Against Women and Girls. The governance of Spotlight Initiative includes a Civil Society Organisations Reference Group which has a seat reserved for a representative of persons with disabilities with insights and experiences critical to holistically addressing the issue.

118. Samoa is also a member of Convention on Elimination of all forms of Discrimination Against Women (CEDAW) including women and girls with disabilities.

119. The National Public Inquiry into Family Violence undertaken in 2018 showed that Village Councils have stepped up to take the lead in their villages towards ending violence.

120. Samoa enacted the Family Safety Act 2013 to provide greater protection for families and better handling of domestic violence and related matters.

121. The Child Protection and Safety Bill sets out the legal framework for the protection and care of children and their rights. The National Child Protection and Safety Policy 2021 aims to better protect children including children with disabilities.

122. Samoa is also a member of the Convention on Rights of the Child (CRC). The Education Act 2009 assures the right of all children to be educated. Compulsory education is from ages 5–14 years old.

123. The laws and policies put in place will continue to be implemented and enforced with the monitoring and assistance by the relevant law enforcement agencies and Alii ma Faipule or Village Councils to ensure and improve the safety of our most vulnerable including people with disabilities.

124. Samoa has also started to gradually implement its National Social Protection Policy Framework 2023 which includes persons with disabilities and provides a platform to register all persons with disabilities in Samoa and become entitled to incentives for persons with disabilities.

²⁶ UNDP, 2020, *Launching of the Spotlight Initiative Program in Samoa*, accessed through ws.undp.org.

Article 17

Protecting the integrity of the person

125. The Constitution of Samoa Article 15 provides generally that all persons are equal before the law and are entitled to equal protection under it.

126. The Patient Complaint and Grievance Policy 2015 give recognition to the Rights of All Patients, their families or representative(s) of the patient. Relevant to this Article are:

(a) The right to quality and courteous health care regardless of religion, gender, age, race, social status, or sexual orientation, taking into account things such as cultural status, health status or persons with disabilities.

(b) The right to confidentiality, including anonymity and appropriate care, respecting privacy and dignity, in a safe, non-threatening environment.

(c) The right to all information such as aspects of services provided or treatment available, in order to make informed choices regarding their health care. The information should be easily understood and in an appropriate language.

(d) The right to consent to, or to refuse treatment, or to refuse to participate in educational, research programs, media release/interview, including treatment by a medical/nursing student.

(e) The right to decide who will be present at a consultation and right to request transfer to another staff member; and the right to request for a support person who understands their needs at any time of the day. This also includes the right to request the name, qualification of person giving treatment or service.

127. Conventional mental health legislation like Samoa's Mental Health Act 2007 provide for involuntary treatment for persons with mental disorder. Section 7 of the Act provides certain criteria for involuntary initial assessment. Further directions on how the involuntary assessment is to be carried out including the arranging of involuntary treatment of a person with mental disorder without requiring their consent.

128. Health professionals are able to make Community Treatment Orders and Inpatient Treatment Orders for persons with mental disorder to be given care, support, treatment and protection despite the absence of a refusal of consent by the person. Furthermore, the Mental Health Act also gives powers to health professionals to request a member of the Police Service to apprehend and return the person to the Treatment Centre.

129. The Mental Health Act 2007 further allows the health professional to make Community Treatment Order and Inpatient Treatment Order for persons with mental disorder to be given care, support, treatment and protection despite the absence or refusal of consent by the person. Moreover, the Mental Health Act also gives the powers to health professionals to request a member of the Police Service to apprehend and return the person to the Treatment Centre and only to use reasonable force and what is humanely necessary.

130. Samoa's Legislative Compliance Review and the National Policy for Persons with Disabilities 2021–2031 identified the need to review the Mental Health legislation to be compliant with CRPD. The review has not been undertaken. The Disability Bill and Mental Health Act should explicitly state the requirement to respect the physical and mental integrity of a person. Involuntary assessment and treatment will only be allowed in exceptional circumstances with vigorous safeguards built in aligned to best practice in the area.

Article 18

Liberty of movement and nationality

131. Article 13(d) of the Constitution affords to all citizens of Samoa the right to move freely and to reside in any part of Samoa. The use of the phrase "all citizens" shows that this right is attached to the right of citizenship and nationality under the Citizenship Act 2004.

132. Part 2 and 3 of the Citizenship Act 2004 respectively set out the ways through which citizenship may be acquired or lost. There is no provision for depriving one of his or her

citizenship on the basis of disability. A diagnostic system for early disability detection and provision of appropriate intervention needs to be put in place.

133. All children born in Samoa must be registered in accordance with the Births, Deaths and Marriages Act 2002 regardless of whether the child has a disability. Initiatives to improve the timeliness of birth registrations especially in rural villages include expanding the pool of those who can register births to include Village Women Representatives (Sui Tamaitai o Nu'u) and Church Ministers.

134. The CRPD Legislative Compliance Review has recommended further safeguarding the right to liberty of movement and nationality by including it in the proposed Disability Bill currently in the pipeline for development.

135. All citizens of Samoa are entitled to a passport and free to travel in and out of the country barring the usual application and travel processes.

Article 19

Living independently and being included in the community

136. The Government of Samoa through its national development strategy aims to prioritise equitable access to services and opportunities for those in hardship and poverty, particularly the elderly and persons with disabilities.

137. Samoa recognises the equal rights of persons with disabilities to live in the community and have the opportunity to choose their place of residence.

138. The Samoa Housing Corporation is the national housing agency of Samoa and has begun incorporating measures into their work plan that ensure an inclusive approach to housing improving the access of people with disabilities.

139. Outcome 6 of the National Policy for Persons with Disabilities 2021–2031 identifies as an activity the full harmonization of Samoa's laws with UNCRPD. The LCR recommended the inclusion of the requirement for reasonable accommodation in the proposed Disability Bill to enable removal of barriers hindering PWDs ability to live independently. It would also encourage inclusion as individuals in the community and reinforce the NBC while raising awareness to all, especially the business community and hotels, to be aware of PWDs and their needs.

140. Samoa is now implementing the National Social Protection Policy Framework which includes the payment of a monthly allowance to eligible persons with disabilities. Having access to a regular income contributes to increasing PWD's ability to live independently.

Article 20

Personal mobility

141. The Samoa Disability Program, led by the Government of Samoa and supported by the Government of Australia, developed and established the Samoa Integrated Mobility Device Service from 2014 to 2018. The new service includes four local staff trained to undertake individual assessments and provide wheelchairs, walking aids, prosthetic and orthotic devices. There is a purpose built building, equipped with tools and machinery needed by the skilled personnel to make individually fitted devices and repairs. The local staff are trained in prosthetics and orthotics and are capable of locally fabricating lower limb prostheses for the hundreds of diabetic amputees accessing the service. The service adopts a client-centred approach and involves people in the process of choosing their mobility device.

142. As of 2018, 1,367 people have registered with the MDS and were provided with 1,889 mobility devices by the end of May 2018. MDS has the capacity to provide over 600 devices in a year. Evaluation of outcomes for service users show that people with disabilities, NCDs and the frail aged in Samoa experienced increased mobility, participation, independence, self-esteem and confidence as a result of the new service. There is evidence of the increased participation of service users in many aspects of life and community, including attending schools, social activities, employment and livelihoods. Testament of

these immediate outcomes for people with disabilities are in the short film by Motivation Australia and Weightless Films, *Change in Motion*.

143. The GoS also worked with NOLA to develop an Inter-agency Referral system for PWDs to ensure that they and their families receive timely and appropriate response services and interventions.

144. Overseas-based and local NGOs have also assisted by donating crutches, wheelchairs and sometimes their expertise to help improve the mobility of PWDs.

Article 21

Freedom of expression and opinion, and access to information

145. Article 13(1) of the Constitution of Samoa includes the right to freedom of speech and expression for everyone. In relation to the requirement for enabling access to information including making them available in accessible formats and appropriate technologies so that the information can be received and understood by PWDs, these need to be part of the proposed Disability Bill as a start.

146. NOLA and its member organisations including the Deaf Association of Samoa, the Samoa Blind Persons Association have spearheaded efforts to improve access to information for PWDs. Initiatives include acquiring Braille machines to print resources, and incrementally working with different sectors including the Office of the Electoral Commissioner to identify ways to improve accessibility of information for PWDs.

147. The pool of trained sign language interpreters has been expanded through specialist training and support. The Samoa Association of Sign Language Interpreters has also been established and in addition to providing its specialist services also undertake awareness programs for different organisations. Increasingly, public service programs on local televisions are also simultaneously conveyed through sign language. Sign language trainings and awareness programs are an integral part of the annual National Disability Week, as well as the national policy consultations with all stakeholders.

148. During the COVID-19 State of Emergency, the Government initiated the inclusion of sign language in all of the Prime Minister's daily media programmes in partnership with NOLA. In addition to this, all MWCSO public announcements, seminars and consultations have since required the inclusion of a sign language interpreter. These were critical steps in ensuring inclusivity while also raising the importance and visibility of the issues faced by persons with disabilities. Subsequently, more government ministries have since begun initiating similar steps such as prioritising translation of information into accessible formats. Samoa's second VNR report, and several of MWCSO policies were translated to braille.²⁷

149. The NPPWD's Outcome 5²⁸ is focused on strengthening access to, inter alia, information and communication including:

- Ensuring that sector policies and plans incorporate strategies and actions to address barriers inhibiting the access of PWDs to, the built environment information, communications and all services and facilities;
- Improving PWD's access to information and communication technology (ICT) including addressing access issues such as having improved accessible information formats (braille, visual signals, audio indicators, etc.);
- Providing a range of climate change, disaster and emergency preparedness and response information in accessible formats;
- Improving PWD's access to public consultations on development of policies, sector plans, etc.

²⁷ Samoa Third UPR report, 2021 (paragraph 94).

²⁸ NPPWD, 2021 (pg 17).

Article 22

Respect for privacy

150. Samoa currently does not have privacy legislation thus to ensure the protection of the rights to privacy of PWDs, the LRC recommended the inclusion of a specific provision in the proposed Disability Bill.

151. Under the Samoan E-Health Policy and Strategy 2017–2022²⁹, a recommendation was included to put in place legislation for Patient Consent which would cover all patients including those with disabilities.

Article 23

Respect for home and the family

152. PWDs in Samoa enjoy the same rights as all other persons in Samoa in relation to marriage and child bearing. 30 percent of people with disabilities between the ages of 18–49 are married compared to 60 percent of people without disabilities.³⁰ Women with disabilities tend to have their first child earlier than women without disabilities, with approximately 20 percent of women with disabilities having their first child between the ages of 15 and 19 years, compared to 12 percent of women without disabilities. This data highlights the critical need for women with disabilities to have access to sexual and reproductive health education programs as well as maternal and child health services from an early age, and for health staff to be equipped with the knowledge and skills to ensure rights based and inclusive health services are delivered. There are ongoing sexual and reproductive health and rights (SRHR) services provided by Samoa Family Health Association in Samoa, including a component on the SRHR for persons with disabilities partnered with NOLA, and a component on gender-based violence with funding support from the Government of Australia.

153. Samoa developed a National Child Care and Protection Policy 2020–2030 which aims to create an environment where children are protected from all forms of abuse and exploitation while having access to recovery and rehabilitation, as needed. This policy targets all children including children with disabilities. Samoa’s Child Care and Protection Bill is currently being finalized as the legislative framework to give effect to the promotion, protection and realisation of the rights of children.

154. The Family Safety Act 2013 provides³¹ for greater protection of families in Samoa by issuing protection orders for cases where domestic violence and other related matters are involved. All victims including PWDs are able to issue complaints.

155. Samoa’s National Social Protection Program Framework is moving towards finalization and will include social security benefits for PWDs including persons caring for PWDs.

Article 24

Education

156. According to the 2016 Population and Housing Census, 51% of the entire population aged 5 years and above had completed secondary school as their highest qualification while around 2% had never been to school and these proportions were similar for persons with disabilities. By contrast, only 37% of persons with disabilities had completed secondary school and about 10% had never been to school. The proportion of school non-attendance was higher at 19% for persons with disabilities aged 5–19 years compared to 3% of persons without disabilities.

²⁹ Samoa E-Health Policy and Strategy 2017-2022 (pg 16).

³⁰ CEDAW State Report 2017 (paragraph 21), https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fWSM%2f6&Lang=en.

³¹ Family Safety Act 2013.

157. Data also showed that the proportion of persons with disabilities who have never attended school was higher in rural areas, which could be attributed to level of support available within the home and schools. For example, in the past children with disabilities faced challenges relating to accessing schools due to poor infrastructure and transportation. At 68.5%, literacy rates for people with disabilities was higher compared to persons without disabilities at 38.1%.³²

158. The Constitution of Samoa does not specifically enshrine a right to education but contains a general equality provision (Article 15) prohibiting discrimination on the grounds only of descent, sex, language, religion, political or other opinion, social origin, and place of birth, family status or any of them.³³ The Education Act 2009 lays the foundations for the regulation of the country's education system, establishing compulsory education for all school-aged children. The CEO, MESC is legally mandated to establish a policy or guidelines for schools and ECE centers in relation to:

- identification and assessment of students living with disabilities;
- modification of teaching programs for students living with disabilities;
- the level of training in special education required of teachers and any other matters relating to the education of students with disabilities considered appropriate³⁴.

159. At the policy level, the 2006 Special Needs Education Policy acknowledged the need to include all students in mainstream education wherever possible defining the different needs and sets guidelines for identification and assessment, the design of school curriculum and the learning environment. The policy focus shifted from special needs education to inclusive education in the 2007–2015 strategic plan for education, with the objective to develop a national education system able to provide a sustainable quality inclusive education for all.

160. Between 2004 and 2010, a program jointly supported by the European Union and the New Zealand government was implemented by the MESC, in collaboration with Senese and other non-government organisations, teachers, families and community members to establish inclusive education. The Samoa Inclusive Education Demonstration Programme was implemented between 2010 and 2014 with financial support from the Government of Australia. The program piloted a model of inclusive education for boys and girls with disabilities to be scaled up as required.

161. In 2014, Samoa through its Ministry of Education, Sports and Culture (MESC) introduced the National Inclusive Education Policy for Students Living with Disabilities (NIEP). The NIEP seeks to ensure access to basic learning in support of diversity, acceptance and respect. It provides the framework for collaborations between non-government organisations, the primary service providers for students with disabilities and MESC, to improve educational opportunities for children with disabilities. Teacher training have been conducted on the learning requirements for students living with disabilities. A growing number of children with disabilities are attending school including at tertiary institutions.

162. The dual system of disability-inclusive education operates through special schools for children with a disability and through the inclusion of learners with disabilities into mainstream education. Samoa has also established a dedicated Inclusive Education Unit (IEU) within MESC to coordinate and monitor the implementation of the NIEP. This includes training and working with school governance and teachers to change teaching practices to increase participation and meet the learning needs of all students including those with different learning needs. Supplementary resources have been developed and provided to schools.

163. The IEU works with Inclusive Education service providers SENESE and the Samoa Blind Persons Association to support children with disabilities in mainstream schools. Furthermore they work with the dedicated schools, Loto Taumafai Society for People With

³² Government of Samoa, 2018, *Samoa Disability Monograph: An Analysis of the 2016 Population and Housing Census*, Samoa Bureau of Statistics.

³³ See Article 15(2), *Constitution of Samoa*, 1960.

³⁴ Education Act 2009 section 61, accessed through the Parliament of Samoa website www.palemene.ws.

Disabilities and Aoga Fia Malamalama supporting them in their work to teach their students.³⁵ From 2014 to 2019, the number of students with disabilities increased from 133 to 469. In 2019, forty four percent (44%) of students with disabilities attended school.

164. Under the Australian Volunteer Program, specialists including an audiologist, early childhood teacher trainer, speech language therapist, plus inclusive education teacher trainers supported the IEU in:

- Developing guidelines and supplementary resources for principals and teachers;
- Developing the capacity of teachers within the identified Inclusive Education Champion schools and in the specialised schools;
- Conducting trainings for principals, teachers, National University of Samoa lecturers and for the national hearing screening program.

165. Government provides funding assistance for private sector schools including the three specialist schools for people with disabilities based on a per-capita/student basis. Data from the MESC shows that there is a good transition of children with disabilities from ECE to primary, however, the progression from primary to secondary remains challenging with high drop-out rates. Teacher aides are part of the inclusive education system in primary and secondary schools however this support is not available at the tertiary level. A recent development is the approval by the National University of Samoa of a Bachelor of Education degree program specialising in Inclusive Education. Planning is underway to consider pathways for older children in the TVET areas to improve their accessibility for persons with disabilities. Awareness on Braille and Sign Language was recently incorporated into the training programs for Early Childhood Education teachers.

166. Currently, the TVET providers for students with disabilities are SENESE, Fia Malamalama and Loto Taumafai. The providers educate children according to their interest and abilities, with an emphasis on practical, hands-on programs. Some of the students educated at the specialist schools, for example, Loto Taumafai have reached the Australian Pacific Technical College (APTC), while others have managed to secure employment. Similarly Fia Malamalama has also established a number of practical life skills programs including music with assistance from some development partners for its students. A work placement program in partnership with a private sector company is being piloted with the intention of scaling it up if assessed as successful.

167. MESC is currently reviewing its MOUs with the specialist service providers to consider widening the scope of the work of providers and strengthening their capacity. Other achievements include the completion of a Dictionary for the Blind, Dictionary for the Deaf, Training in Braille for selected teachers and a Handbook on Inclusive Standards.

168. Inclusive education in Samoa continues to face numerous challenges especially in rural schools. These challenges include:

- Continuing stigmatization of children with disabilities in school and communities including by teachers, other students, parents;
- Children with disabilities enrolled into schools still struggle as access to required teacher support, resources, assistive devices is not available and the quality of support varies;
- Large class sizes in schools, students to teacher ratio is very high, therefore limiting special teacher attention required for children with disabilities;
- Teachers lack special knowledge and skills required to handle children with disabilities;
- Special schools for disabled children are only available in the urban area;
- Absence of a specialist school for children who are deaf or hearing-impaired;

³⁵ MESC website, www.mesc.gov.ws.

- Lack of required specialist skills including audiologist, child physiotherapist, child psychologist.

169. The Education Sector programs for inclusive education are clearly articulated in its new Education Sector Plan. Work continues to transition teacher practice from ‘rote learning’ to a more student-centered approach to ensure that teaching strategies more effectively caters for different learning levels and needs. The introduction of vocational subjects in primary is being considered, targeting seamless transition into secondary levels as well as unpacking the TVET curriculum for colleges to provide more specific learning and career pathways. Awareness programs for children with disabilities under the umbrella of MESC and MWCSO. SQA is looking to work with service providers to ensure that the current qualification offerings in the area will be accredited by 2024.

170. Outcome Area 4 of the NPPWD 2021–2031³⁶ is about inclusive education and its objective is to improve inclusive education including participation in training, sports and recreation.

Article 25

Health

171. Samoa’s health system has as its vision “A healthy Samoa” with a mission of enhancing public health and primary health care to provide people-centered health services”.

The goal is to ensure that ALL Samoans have easy access to safe, quality and affordable health services.³⁷

172. Persons with disabilities together with children under 15 and pensioners are entitled to free health care.

173. There is subsidized healthcare provided by the MoH for people with psychosocial disability. The issuing of the card is at the discretion of the doctor and work continues to clarify the definitions for ‘disability’ for the purposes of a disability subsidy card. The development of the Disability Bill which clearly sets out the definition of disability to be adopted will be critical in ensuring the usefulness of this initiative.³⁸

174. The Samoa Health Sector has commenced implementation of the program to put more doctors and other critical health professionals in the District Hospitals to service the health needs of all Samoans who are unable to travel to the main hospital located in Apia. In June 2017, NOLA together with the Pacific Disability Forum with support from the Government of Australia and WHO organised the Samoa Quality Rights Training – Mental Health Human Rights and Recovery Support. A Mental Health Unit facility has been built at the Tupua Tamasese Hospital with assistance from development partners.

175. A National Hearing Screening program is conducted by SENESE annually who also perform this service as part of the referral system from the doctors of the Ministry of Health. The MOH has the expertise to undertake the specialist assessments requirement to determine next steps in response to needs of persons with disabilities.

176. As part of the Samoa Integrated Mobility Device Service project and to address a growing need for services, a multidisciplinary Diabetic Foot Clinic was established [year?] at the main hospital in Motootua. The DFC provides regular quality wound management and education services to Samoan patients with diabetic foot ulcers. To prevent amputations and resulting disabilities from diabetic foot ulcers, prevention and early treatment are prioritised. Under the same project, a training team consisting of a Prosthetist Orthotist and Podiatrist, trained and mentored community nursing personnel from the DFC, the District Hospitals and Health Clinics across Samoa in [insert year if not a regular program] to cater to all patients including PWDs.

³⁶ NPPWD, 2021.

³⁷ Consultations with Ministry of Health, 2021.

³⁸ Office of the Ombudsman/NHRI, *State of Human Rights Report: Persons with Disabilities*, Government of Samoa.

177. The NPPWD 2021–2031 has identified the following activities to be undertaken to strengthen health services and support for PWDs:

- Conducting a stocktake/review of available health support services for persons with disabilities and identifying gaps to address;
- Incorporating into relevant sector plans strategies and actions to address identified barriers to health services and programs for PWDs;
- Strengthen disability prevention programs in partnership with Senese and other Disabled Persons Organisations;
- Improve access to information about the causes of disability and early intervention measures;
- Strengthen the mobility device services, ENT services, eye services and other disability related services provided by MOH and other health service providers through improved provisions of expanded scope of services, assistive devices, staffing, capacity building, partnerships and other needed support;
- Develop and improve access to interpreting information, speech therapy, occupational therapy, sign language and other communication and information devices and formats that are needed by persons with disabilities;
- Develop a clear policy on accessible, quality and affordable health services for people with disabilities and conduct awareness programs that ensure wider understanding about the policy;
- Support provisions for mental health and related disabilities in order to improve coverage, scope and quality of services. This includes improving advocacy and awareness for psychosocial disabilities and mental health through collaborative work of the Ministry of Health, MWCSD and DPOs including the recruitment of a psychiatric survivor or mental health consumer representative on the implementation and monitoring team for mental health and disabilities;
- Strengthen sexual and reproductive health (SRH) education also through family life education and other community education and awareness programs;
- Provide as part of the social protection system, financial support provisions for parents and caregivers of persons with disabilities. An inclusive social protection system for persons with disabilities can be resourced through existing contributory measures (e.g. through the Accident Compensation Commission and National Provident Fund) and the non-contributory (e.g. cash grants from the government budget) measures through ensuring specific budgetary allocation for social protection for persons with disabilities;
- Support provisions for village and community-based support groups for persons with disabilities and their families.

Article 26

Habitation and rehabilitation

178. The development of a Community-Based Rehabilitation (CBR) plan was a key objective under Samoa's first National Disability Policy. The first Polynesian Sub-regional Workshop for CBR was conducted in Apia, as well as a national workshop in December 2013 was further strengthened.

179. The National Community Based Rehabilitation Framework to guide developments and work in this area for Samoa was developed in [insert year]. The CBR is a strategy to achieve community-based inclusive development and a process that breaks down community barriers and enables PWDs to participate fully. It focuses on enhancing the quality of life for PWDs and their families, meeting basic needs and ensuring inclusion and participation. It is intended to evolve into a comprehensive multi-sectoral strategy creating access to all other critical services. The habilitation and rehabilitation services and programs, especially in the

areas of health, employment, education and social protection are being considered in the Disability Bill.

180. The National Disability Policy 2020–24 Outcome 3 gives the mandate for facilitation of access for PWDs to rehabilitation services and assistive products including early intervention services for children and adults with impairments.

181. The Samoa Spinal Network, partnered with the Altus Resource Trust, to look into critical health problems for people with spinal cord injuries after they are discharged from medical care and return home and ways of preventing these for better quality of life.³⁹

182. The Government of Samoa is committed to continue the resourcing and implementation of the CBR as set out in the NPPWD 2021–2031.

Article 27

Work and employment

183. Persons with disabilities have the same access to legal safeguards as all other workers including in terms of harassment, unfair dismissal and trade union rights. Discrimination on the basis of disability in employment is unlawful under employment law and the Constitution. The Constitution exempts affirmative actions taken to address disadvantages faced by groups including persons with disabilities. The National Policy on Community Economic Development 2021–2031 and the Community Development Sector Plan, 2021–2026 identify persons with disabilities as one of the key vulnerable groups to be supported into jobs and entrepreneurship.⁴⁰

184. Legislative protections are in place for all employed Samoans including PWDs. The Labour and Employment Act 2013 provides that employees or applicants for employment cannot be discriminated against, directly or indirectly, in any employment policies, procedures or practices on one or more of the arbitrary grounds listed including being a person with disabilities. Under the Occupational Safety and Health Act 2002, employers are required to identify, assess and eliminate hazards which could include harm arising from bullying or harassment whether by employer or other employees.

185. The Public Service Act 2004 sets out principles of employment which includes requiring the Public Service Commission (PSC) and CEOs to, inter alia:

- make decisions on employment matters fairly and properly;
- provide employees with reasonable remuneration and terms and conditions of employment;
- ensure that eligible persons have reasonable opportunity to apply for employment in the public sector;
- ensure equal employment opportunity in the public service;
- provide a safe environment for employees to work in.

186. A new Samoa National Employment Policy has been launched as well as Labour Employment Regulations 2016. The Labour and Employment Act 2023 contains amendments aligning the labour laws to international labour standards and clarifying terms and conditions of employment and improved processes for grievances and complaints. A Job Seekers system has been established under MCIL to facilitate access to jobs and qualified workers.

³⁹ Government of Samoa, 2014, *Samoa Disability Sector: Profile and Directory*, Ministry of Women, Community and Social Development.

⁴⁰ Government of Samoa, 2021, *National Policy on Community Economic Development 2021–2031 & Community Development Sector Plan 2021–2026*, Ministry of Women, Community and Social Development.

187. While there is an apprenticeship scheme administered by the MCIL to provide other skills and a pathway for various trades, access for jobseekers with disabilities remains challenging.

188. Under the Samoa Disability Program, internship opportunities for youth including youth with disabilities were offered through the SCCI and MWCSO.

189. NOLA informed that employers have approached the organisation and employment agencies with requests for assistance in recruiting and supporting workers with disabilities. Government Ministries have adapted their procurement processes to make them more accessible to people with disabilities. Under the Samoa Disability Program, more than twenty persons with disabilities and their families have received training and start-up resources to establish micro businesses.

190. A National Action Plan for Employment of PWDs 2021–2031 under the leadership of the MWCSO, has been developed and will guide work to strengthen pathways to jobs for PWDs. Areas of focus include improving accessibility as well as provision of specific support including capacity building for job seekers with disabilities. The implementation of these will be challenging given resource limitations and the broader devastating impact of COVID-19 on Samoa's economy.

Article 28

Adequate standard of living and social protection

191. Access to safe and clean water and sanitation facilities are basic rights for all people including persons with disabilities. The 2016 Population Census showed that persons with disabilities have almost the same access to improved water compared to persons without disabilities at 95%.⁴¹ For the population of people 5 years and above, 97% of persons with disabilities had access to improved sanitation facilities compared to 98% of those without disabilities.⁴² In relation to energy, 30% of persons with disabilities use clean energy sources for cooking (electricity, gas and kerosene) compared with 67% who use unclean energy (charcoal and firewood/husks) sources.⁴³

192. Through a partnership with UNESCO and their participation in the UN Joint Program “Strengthening resilience of Pacific Island States through Universal Social Protection”, work began in June 2020 with the Government of Samoa, to develop Samoa's first Social Protection Program with emphasis to improve social protection policy and coverage for Persons with Disabilities. As part of the design phase, the Disability Reference Group (DRG) was established through the election of representatives of the disability community by disability service providers and stakeholders. The DRG is tasked with the responsibility of advocating for inclusion within the Joint Program and is comprised solely of persons with diverse disabilities. The NOLA chairs the DRG. A disability benefit of WST\$100 per month is currently being implemented.

193. The five UN agencies of UNESCO, ILO, UNICEF, UNDP and ESCAP are working with the disability community through the DRG, Government of Samoa, private sector and civil society to implement activities of the Joint Programme on Social Protection. Across the 4 Pacific Island Countries that are part of the program, a total funding of \$3 million USD is allocated to support implementation of the program. As part of the economic empowerment programs of the MWCSO and the Australian funded SDPP, and in partnership with the Samoa Business Hub, capacity building and start-up resources were provided to persons with disabilities and their families to start micro-businesses for income generation. With funding support from UNDP and other development partners, packages of essential supplies were also distributed by NOLA to the most vulnerable persons with disabilities and their families on Savaii Island.

⁴¹ Government of Samoa, 2018, *Samoa Disability Monograph: An Analysis of the 2016 Population and Housing Census*, Samoa Bureau of Statistics, p.15.

⁴² Ibid, p.16.

⁴³ Ibid, p.17.

194. Older citizens with disabilities aged 65 years and over are eligible to receive a monthly pension payment under the Senior Citizens Pension Scheme. Furthermore, pensioners with disabilities are entitled to travel for free on government owned vessels, and receive free medical services and medication.

Article 29

Participation in political and public life

195. The Constitution of Samoa and the Electoral Act 2019 governs all matters relating to elections in Samoa. In relation to eligibility to be registered as voters or candidates for elections, there are no distinctions made between people with disabilities and those without disabilities.

196. The NOLA worked with the Office of the Electoral Commission to raise awareness and support eligible voters with disabilities to be able to register and vote in the lead up to the 2016 and 2021 General Elections. The selection of polling booths took into account the need for accessibility of PWDs and staff were trained to be able to assist people with disabilities to cast their votes.

197. During the 2021 elections, early voting was introduced and persons with disabilities were one of the groups eligible to cast their votes over the four days of pre-polling or early voting. Special assistance was provided to voters with disabilities to enable them to cast their votes.

198. NOLA was established in 2001 and has grown over the years to be the leading partner for the government in the promotion of PWDs rights. Organisations of persons with disabilities have continued to evolve including the establishment of the Samoa Blind Persons Association (SBPA), Goshen Trust and the Deaf Association of Samoa (DAS).

Article 30

Participation in Cultural Life, Recreation, Leisure and Sport

199. Much work remains to be done to ensure accessibility of cultural, recreational, leisure and sporting activities for persons with disabilities. Except for a few programs, all of the television, film, theater and other cultural content in Samoa, are not in accessible format.

200. With the growing awareness on the rights of persons with disabilities and the number of people trained in sign language, some news and public interest programs especially for COVID 19 have put in place simultaneous sign language translation.

201. The National Sports in Education Policy (NSEP) 2018–2023 has as one of its guiding principles, Equity and Inclusiveness. Specifically, the NSEP seeks to ensure that sports through physical education and physical activity programs, services and systems develop accessible, inclusive and sustainable infrastructure. The aim is for every student, including the most vulnerable and with disabilities to be given opportunities to participate at every level.

202. As part of celebrations for Sports Day for People with Disabilities, 20 March of each year, NOLA in partnership with Special Olympic Samoa and the disability community organises events using sports as a tool for community inclusion. One of the programs aimed to develop confidence and competence of sports implementers with skills to adapt current sports programs and activities to include people with disabilities. Programs were also aimed at strengthening relationships between NOLA, the organisation for persons with disabilities and national sporting federations through improved awareness and understanding of inclusive organisations.

203. Government provides financial assistance to the Special Olympics Samoa (SOS) to help support its preparations and participation for the Special Olympics World Games. Furthermore, SOS43 provides a year round schedule for sports and offers children and adults with disabilities Olympic type training through the Australian Sports Commission and works with a range of Samoan sports organisations and NOLA. Samoa was the first Pacific nation to establish a Special Olympics organisation and has managed to send representatives to

international sporting events garnering a number of medals. SOS has also forged a strong relationship with the Football Federation of Samoa, to develop and offer a modified soccer program to children with disabilities and build capacity of staff.

204. The Tourism Sector have put in place accommodation standards inclusive of accessibility requirements, however, compliance with these remains challenging especially for small to medium size operators. The economic impact of COVID-19 on the business sector has delayed progress to fully comply with accessibility requirements.

205. In relation to development assistance, the Government of Australia through its Australian Sports Outreach Program partnered with MESC to implement a range of inclusive development through sports initiatives.

206. The NPPWD 2021–2031 Outcome Area 4: improvement of inclusive education including participation in training, sports and recreation will have:

- Initiatives targeting an increase in the number of persons with disabilities participating in sport activities;
- Provide appropriate sports activities, facilities and equipment for both competitive and social/recreational sports;
- Programs targeting the promotion of inclusive sport activities and participation in Paralympics and Special Olympics.

III. Situation of Boys, Girls and Women with Disabilities

Article 6

Women with disabilities

207. Samoa ratified the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in 1992. Samoa has made progress in implementing policies and strategies that see the inclusion of women regardless of their circumstances in all aspects of society.

208. Samoa is also a party to the Convention on the Rights of a Child. This led to the removal of corporal punishment and making it an offense for parents, guardians or anyone to abuse a child.

209. The Pathway for the Development of Samoa acknowledges that all persons living with disability including boys, girls and women face hardship and the Government will implement policies, frameworks and measures to improve the quality of life for all.

210. NOLA spearheaded the development of a Toolkit for Ending Violence Against Women and Girls with Disabilities which.

211. The Family Safety Act 2013 provides for protection orders to be issued to any person without distinction of any kind such as race, sex, language, religion, political or any other opinion, national or social origin, property, birth or disability or other status who is or has been in a domestic relationship with a respondent and who is or has been subjected or allegedly subjected to an act of domestic violence.

Article 7

Children with disabilities

212. Samoa signed the Convention on the Rights of the Child in 1994. Samoa has developed a National Child Care and Protection Policy 2020–2030 (NCCP) which maps out the work to be done to advocate, promote, protect and realize the rights of children. A draft Child Care and Protection Bill has also been developed and is planning to be taken into cabinet December 2024 and given the finalization of the NCCP policy, the legislative and policy framework to promote, protect and realize the rights of children is strengthened.

213. Under the draft Child Care and Protection Bill the following clauses provide specific protections for children with disabilities:

- Standards for quality of care assurance that all careers have to comply with. If a child has a disability, the approved career must ensure that the child receives care and help appropriate to the child's particular needs;
- In relation to special requirements applying to investigations and inquiries, special facilities and appropriate processes must be provided and applied where the child has a disability to ensure the effective application of the requirements of the clause.

214. The CCP Bill identifies that in all actions and decisions relating to children including children with disabilities, the 'best interests of the child' shall be given primary consideration. An existing gap is the absence of legislation addressing the evolving needs and capacities.

215. The newly launched Interagency Essential Services Guide is an important step in our efforts to protect children with or without disabilities from violence. It will also allow for registration of all relevant specialized service providers.

IV. Specific obligations

Article 31

Statistics and data collection

216. To improve data on persons with disabilities, the Washington Extended Set of Questions on Disability was incorporated into the 2016 Samoa Population and Housing Census. In 2018, the Samoa Disability Monograph was published, providing a statistical analysis of the 2016 Census data on the situation of persons with disabilities across all the key sectors. It was an important step forward to documenting the extent of disabilities and impact on people's lives, access to services and employment opportunities.

217. The work on collecting, analysing and reporting on statistics was guided by the Samoa Strategy for Statistics Development 2011–2021 aimed at ensuring relevant, quality, priority statistics for users including statistics on persons with disabilities.⁴⁴ The Government of Samoa signed up to the Sustainable Development Goals in 2015 and has sought to mainstream the different obligations thereunder into its national development agenda including developing a framework for monitoring progress on the SDGs indicators.

218. The NPPWD 2021–2031 identified the following initiatives under Outcome Area 6 to improve statistics and data capacity on PWDs:

- Mandate the incorporation of disability data collection within all national population-level data collection efforts and administrative datasets of priority ministries;
- Strengthen the collection of administrative data – education, health, employment and business development (e.g. number of PWDs in formal and informal employment) and including those collected by Disabled Person's Organisations (DPO);
- Develop data collection systems re: tools and mechanisms e.g. involvement of Sui o Nuu ma Sui Tamaitai o Nuu as well as Komiti Tina ma Tamaitai) for the identification of persons with disabilities within the communities, including their profiles and needs;
- Disaggregated data on persons with disabilities priorities and needs prior to and after disasters;
- Conduct more in-depth studies on characteristics of disabilities in Samoa;

⁴⁴ Government of Samoa, 2011, *Samoa Strategy for the Development of Statistics*, Samoa Bureau of Statistics.

- Conduct studies to show the roles, mind-sets and attitudes of parents/carers, families and community groups, organisations in the provision of care and other support services and assistance required by persons with disabilities.

Article 32

International cooperation

219. The Ministry of Foreign Affairs and Trade leads the conduct of Samoa's foreign policies including engagements with the international communities, countries and organisations. The development assistance from and cooperation with development partners and international organisations enables the implementation of work to realise the rights of persons with disabilities. For example, the Government of Australia has been a substantial partner through its support of the Samoa Disability Program (2013–2017) and its successor program, the Samoa Disability Partnerships Program (2019–2023).

220. Furthermore, regional organisations like the Pacific Disability Forum have been a strong support and resource for the Samoan organisations for persons with disabilities. Samoa delegations to international meetings including the Commission on the Status of Women, the Triennial Pacific Ministers for Women Meetings, Incheon Strategy forums have regularly included a representative of persons with disabilities.

Article 33

National implementation and monitoring

221. The Ministry of Women, Community and Social Development is the designated national focal point for persons with disabilities. For non-government organizations and the community of PWDs, the Nuanua o le Alofa (NOLA) is the national advocacy organization for disability supporting all the associations and sub-groups for people with disabilities. NOLA is a member of the Community Sector Steering Committee, the apex governance entity for the Community Sector inclusive of the vulnerable populations.

222. A newly established National CEDAW, CRC and CRPD Committee to further refine the coordination of implementation and reporting on the said conventions. The Ministry of Foreign Affairs and Trade (MFAT) is the Chair and Secretariat of the National Mechanism for the Implementation, Reporting and Follow-ups (NMIRF) which drives and coordinates the implementation of Samoa's international human rights commitments including CRPD.

223. A web application was designed to help Samoa guide implementation and reporting on its international human rights obligations called SADATA was used as a tool to help develop a national implementation plan by clustering Universal Periodic Review (UPR) recommendations, identifying implementation gaps and regularly collecting data through the consultations. SADATA was recently upgraded to include the SDG indicators as well as the inclusion of the Pathway for the Development of Samoa 2021/2022–2025/2026. This web tool is administered by the Ministry of Foreign Affairs and Trade.

224. Samoa has established the National Human Rights Institution (NHRI) to be an independent mechanism for monitoring the status of human rights in the country and whether the state is meeting its obligations under the international conventions that it has signed up to. Samoa's NHRI is the only accredited institution in the Pacific as per the ranking by the Global Alliance of National Human Rights Institute (GANHRI).

225. The NHRI produced a State of Human Rights Report focusing on persons with disabilities in 2016. In addition, its National Public Inquiry into Family Violence in 2018 delved into the extent to which persons with disabilities are affected and impacted by violence in all its forms. The Human Rights Advisory Council to the NHRI has a seat that is dedicated to a representative of persons with disabilities.