Committee on the Elimination of Discrimination against Women
Fifty-second session

Summary record of the 1055th meeting
Held at Headquarters, New York, on Thursday, 19 July 2012, at 10 a.m.

Chair: Ms. Pimentel

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Consideration of reports submitted by States parties under article 18 of the Convention (continued)

Combined fourth and fifth periodic reports of Samoa
The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention (continued)

Consideration of combined fourth and fifth periodic reports of Samoa (CEDAW/C/WSM/CO/4-5, CEDAW/C/WSM/Q/4-5 and Add.1)

1. At the invitation of the Chair, the members of the delegation of Samoa took places at the Committee table.

2. Ms. Gidlow (Samoa), introducing the periodic report, said that Samoa had undertaken a series of legislative reviews designed to incorporate both the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child into domestic law. No-fault divorce had been established by a recent Act of Parliament, and it was still considering a revision of the national Crimes Bill that contained a number of important changes affecting women, including the criminalization of marital rape, the decriminalization of abortion if a woman’s life was threatened, and penalties for human trafficking. Changes to the Family Safety Bill 2011 with respect to sexual harassment and additions to the Labour and Employment Bill 2011 providing paid maternity leave and other protections for women had passed the initial review stage, with both bills awaiting parliamentary approval.

3. The Samoa Law Reform Commission had been instrumental in providing guidance for policy changes at the Cabinet level with respect to women, youth, children and persons with disabilities, as well as in shaping Samoa’s response to emerging legal issues related to its obligations under both Conventions and its vision for development assistance.

4. A number of new bodies and mechanisms had been established in whole or in part to address the rights of women and girls, among them Women in Leadership Advocacy, a national human rights commission and, in line with the Paris Principles, support facilities specifically geared to the public sector, the private sector and civil society.

5. Legislation to establish a 10 per cent quota for women’s representation in Parliament was still pending and would represent a significant step forward for Samoa, albeit somewhat shy of the Convention’s 30 per cent target for advancing women’s political participation.

6. There were still barriers to women’s access to the title of matai, or chief, and its attendant privileges, including participation in village statutory boards and the ability to run for elective office. Meanwhile, eligible women needed further encouragement to take a more active role in line with the National Policy for Women.

7. In education, health and economic, social and cultural life there had been a number of positive steps towards eliminating discrimination against women. Policies against corporal punishment and bullying in schools had been enacted, along with minimum school service standards that would help minimize the risk of discrimination towards both sexes. More inclusive policies towards persons with disabilities, with specific provisions for their education, were part of Samoa’s ongoing deliberations on whether to accede to the Convention on the Rights of Persons with Disabilities. Structural shifts within the health sector were underway to ensure policy direction, health care delivery and universal access to facilities and treatment. The rise in non-communicable diseases among women had led to several initiatives that would be more fully supported when Parliament considered measures to incorporate the United Nations Political Declaration on the Prevention and Control of Non-communicable Diseases into domestic law.

8. With respect to eliminating discrimination in social and cultural life, women and girls had been enlisted across a broad spectrum of programmes that included such gender-specific issues as domestic violence and educational opportunities for females, including unemployed mothers, as well as society-wide areas of concern such as disaster preparedness, particularly in the wake of the 2009 tsunami. A persistent wage gap between male and female village representatives still needed to be addressed, along with other gender-related matters for which greater awareness on the part of both men and women needed to be developed over time. Assistance from regional and non-governmental organizations (NGOs) had been invaluable in helping traditional structures support and assimilate the vision of the Convention.
Articles 1 to 6

9. Ms. Patten said that she appreciated Samoa’s efforts to meet the challenges of implementing the Convention in different fields, especially in the area of law reform. She requested a time frame for adoption of the Crimes Bill and the law establishing the Office of the Ombudsman. Noting that Samoa had ratified the Convention without reservation, she inquired about the status of the Convention with respect to national law, specifically, which of the two had precedence in cases of conflict, as well as whether the Convention could be invoked directly and whether it had been cited in court proceedings.

10. Once new laws had been enacted to address equal rights, implementation was vital to ensure equality of results. It would be interesting to know what Samoa was doing to increase women’s awareness of the Convention in order to improve their access to justice.

11. With respect to the optional protocol to the Convention, there appeared to be a need for technical assistance to better understand the procedures involved in its ratification. It would be interesting to know whether, along with the Convention on the Rights of Persons with Disabilities, the Government was considering ratification of other core treaties, such as the International Covenant on Economic, Social and Cultural Rights.

12. Ms. Šimonović said that ongoing legislative reform was vital for incorporating the Convention into Samoa’s existing dualist legal system. With respect to article 4, paragraph 1, specifically, she wondered whether a proposed Constitutional amendment establishing the necessary legal grounds for requiring a 10 per cent quota of women in the political arena might also include special temporary measures for women’s advancement in other spheres. The provision of breastfeeding and day care facilities under article 4, paragraph 2, was important but was not a temporary special measure. Further clarification on the legal grounds for accelerating a higher representation of women in other areas, including on the range of boards mentioned in Samoa’s report, would be welcome.

13. Ms. Zou Xiaqiao said that she would appreciate clarification on the priorities and goals of the National Plan of Action for the Advancement of Women, as well as the timeline and specific measures for their implementation, including progress, challenges and gaps.

14. Commending the work of the Ministry for Women, Community and Social Development, she requested specific figures on the total number of staff members working for gender equality and on the budget allocation for that goal. She also wondered what measures had been established to allow the national machinery to coordinate with other stakeholders to eliminate sex- and gender-based discrimination against women in all sectors.

15. Ms. Ameline said that she applauded Samoa’s robust commitment to incorporating the Convention in a complex traditional and geographical context that also faced significant economic challenges. There had been impressive legal reforms, but it remained to be seen whether changes to the criminal code fully reflected the Convention, in particular regarding women’s access to justice. The National Plan of Action for 2008-1012 had sought to integrate traditional justice with legal norms, but it would be interesting to have a more exact assessment of the measures and actions that had been established, identifying both successes and challenges and describing how the country intended to address the latter. With respect to the situation of women prisoners, she asked if there was a specific initiative to address their needs.

16. Noting that Samoa had opted for participatory democracy, she wondered to what extent communities played a role in formulating and implementing policy. Along similar lines, given Samoa’s vulnerability to climate change and women’s primordial role in agriculture, she wondered what role women played in strategic planning for sustainable development.

17. With respect to the broad array of financing programmes currently providing assistance from abroad, she wondered how Samoa planned to ensure their continuity and what portion of the national budget would be allocated towards that end.

18. Ms. Tuala-Warren (Samoa) said that the Crimes Bill was being translated into Samoan and that it was difficult to pinpoint a time frame for its introduction in Parliament. The Office of the Ombudsman had been established twenty years earlier; funding to convert the ombudsman into the human rights commissioner was being provided by the Australian Government, with a feasibility study currently under way. With respect to educating women on their rights, the Ministry of Women was currently taking the lead. The human
rights commission, once established, would assist, as would a proposed community law centre.

19. With respect to incorporating the Convention into existing legal frameworks, no additional temporary special measures had been considered as part of the proposed Constitutional amendment establishing a 10 per cent threshold for women’s political representation. Traditional and national justice systems worked side by side. Offences committed at the village level would be taken to the national system, but any penalties imposed by local authorities would be considered in sentencing. A new corrections bill currently being prepared for presentation to Parliament would separate prisons from police and would also provide for the separation of female and male prisoners.

20. Ms. Tago (Samoa) said that the National Plan of Action for 2010-2015 had five priorities: ensuring responsible institutional mechanisms for the advancement of women; reducing violence against women and girls; improving health for women and girls; creating sustainable economic development opportunities for women; and increasing participation by women in public life and decision-making. With respect to implementation, the Plan of Action informed the work of her Ministry in advancing women’s status and in helping Samoa meet its obligations under the international instruments to which it was a party; the Plan of Action also served to guide the overall direction of the country’s legal reforms, including the pending Constitutional amendment to ensure women’s representation in Parliament. Programmes to improve women’s health and economic well-being were supported by a staff of 104 in the Ministry of Women, Community and Social Development and by some 300 village representatives throughout the country, with a budget of approximately $1 million, or 10 per cent of the total budget, for projects specifically geared towards advancing women.

21. Ms. Šimonović said that in its earlier review the Committee had recommended that Samoa should amend its Constitution to define the word “discrimination” in line with the Convention. Since there had been no revision of the 1961 Constitution, she wondered what was meant by the use of “gender-neutral” language in other proposed forms of national legislation, whether the current Constitution contained an explicit prohibition of discrimination based on sex, and whether it established the principle of equality between women and men. If so, it would be possible to proceed with provisions prohibiting discrimination in other pieces of legislation; otherwise, further Constitutional reforms would be needed to bring national law in line with article 2, paragraph 1, of the Convention.

22. Similarly, while the legal basis for setting a 10 per cent quota for women in the political arena had been established via temporary special measures, it remained unclear whether broader legal grounds needed to be built into the Constitution to allow for accelerated progress for women in other areas through mechanisms other than quotas.

23. Ms. Ameline said that a number of five-year programmes had been mentioned, but she wished to hear about the country’s commitments beyond that timeframe. With respect to Samoa’s acknowledged lack of effective assessment and training in the realm of justice, she wondered if the country had articulated clear, measurable goals to address those areas.

24. Ms. Tago (Samoa) said that, with respect to long-term financing, her Ministry’s $1 million annual budget was part of a multilateral approach. Annual development assistance from partners and collaboration with other Government ministries and civil society organizations meant that limited resources were maximized towards the shared goal of the advancement of women.

25. Ms. Tuala-Warren (Samoa) said that the Law Reform Commission was conducting a comprehensive review of compliance with the Convention. The need for additional Constitutional amendments to provide the legal basis for further measures or for additional legislation to advance women’s rights would be determined in the course of that review.

26. Ms. Zou Xiaqiao requested clarification on whether the figure of 104 employees at the Ministry of Women, Community and Social Development represented the total ministerial staff or the number of employees working specifically on gender issues.

27. Ms. Tago (Samoa) said that 104 was the figure for the total staff of the Ministry; there were 21 people working specifically on women’s issues.

28. Ms. Šimonović requested specific confirmation on provisions in the current Constitution with respect to the prohibition of discrimination based on sex and the principle of equality between women and men. The possibility of legal reform was encouraging, but a clear
understanding of the existing Constitutional framework would assist the Committee with its recommendations.

29. **Ms. Tuala-Warren** confirmed that both principles were enshrined in the current Constitution.

30. **Ms. Gabr** said that, with respect to negative stereotypes of women and violence against them, there was no wish to affect tribal traditions. Still, there might be a way to encourage them to evolve in a positive direction for women. She wondered whether women’s role as matais had an impact on their political representation and on their access to land ownership. She also inquired about the status of untitled women. It would be interesting to know if there were programmes to address their situation.

31. A related concern was the impact on a woman’s social status if her husband was punished. It would be interesting to have further information on specific provisions, both legal and logistical, including shelters, for women experiencing domestic violence. There needed to be greater awareness on the part of law enforcement personnel with respect to women in such situations.

32. **Ms. Šimonović** said that the pending Family Safety Bill appeared to address various forms of violence against women, but there was still a lack of statistical data on the issue, specifically on the number of women killed by their husbands or ex-husbands. Given the difficulty of establishing shelters in small island countries, it would be interesting to know the source of support for the one shelter that had been created, as well as the typical length of stay for women with children and the type of services provided.

33. The inclusion of marital rape in the pending Crimes Bill was a positive step, but information on the means of documenting the incidence of rape, including revenge rape, as well as the rate of prosecution of such crimes, would be welcome.

34. **Ms. Gabr** said that, with respect to article 6, women were particularly vulnerable to the crime of human trafficking. While it was true that no State in a globalized world could be immune to trafficking, she was concerned about the lack of specific data for Samoa.

35. In that regard, she wondered why Samoa had not adhered to any of the relevant international conventions or to the Palermo Protocol, which specifically addressed human trafficking. There had been mention of a draft report on the topic, but while the intent to punish human trafficking was commendable, States that did not protect their citizens with effective legislation would be vulnerable to organized crime. Preventive measures, including legislative ones, to protect the State as well as its citizens should be considered. There had also been testimony on the problem of prostitution, including its export, which almost always implied traffic in human beings. It would be interesting to know what steps were being contemplated to address that scourge.

36. **Ms. Tago** (Samoa), regarding women’s political participation and matai titles, said that when Samoa was preparing for independence, it had decided to base its government structure on the chief system in order to provide stability during the transition. Universal suffrage was granted in 1991, with the exception that only those holding matai titles, whether men or women, could stand for election to Parliament. Bylaws were established village by village, and the issue of restricting titles to men in some villages still presented a challenge that the Government was addressing through advocacy and education.

37. The Government did not provide shelters for victims of domestic violence; those matters were the collective responsibility of the family or village. It was aware, however, that NGOs were providing such shelter for women and children. The most recent study on violence against women, conducted in 2000 in cooperation with the World Health Organization, had revealed that 46 per cent of women had experienced domestic violence. A family study in cooperation with the Bureau of Statistics was planned for 2013.

38. **Ms. Tuala-Warren** (Samoa) said that a project by the justice sector on improving crime statistics was in the pipeline. No statistics on spousal rape would be available until the passage of the Crimes Bill 2012, as it had not yet been made an offence. The Crimes Bill contained a section on transnational organized crime and human trafficking, as well. The Bill represented the results of a three-year review of law reform that had involved a time-consuming process of public consultation in order to ensure that the reforms were relevant to the people of Samoa.

39. **Ms. Gidlow** (Samoa) pointed out that it was possible to hold matai titles in several villages at the same time, allowing alternative avenues for eligibility to stand for election.
40. **Ms. Gabr** asked about land registration for women without matai titles, a very important issue for women, their children and the possibility of inheritance. She would also like to know if there were plans to adhere to and ratify the United Nations Convention against Transnational Organized Crime and its Palermo Protocol.

41. **Ms. Zou** Xiaoqiao asked if there was any punishment for the perpetrators of domestic violence, whether the Government provided any legal aid for women victims and whether they had easy access to justice. As domestic violence was not a private issue but a human rights violation, she inquired about any existing awareness-raising programmes.

42. **Ms. Tuala-Warren** (Samoa) said that there were two types of land ownership in Samoa: freehold land and customary land. Women could be registered as owners of freehold land; customary land was owned by the family, including the women members. She was not aware of any legal aid provided to victims of domestic violence; the police prosecuted such cases on their behalf. Samoa was already party to the most pertinent international instruments to fight trafficking, including the Convention on the Elimination of All Forms of Discrimination against Women.

**Articles 7 to 9**

43. **Ms. Pires**, noting that article 7 of the Convention required States parties to ensure that women were eligible to be elected to public office, said that she was concerned that the requirement of a matai title to run for public office presented an obstacle to women's political participation, and furthermore, women matai still could not participate in village council meetings. According to figures provided in the report, the number of women standing for election and elected to Parliament had actually declined between 2006 and 2011. Little information had been provided regarding women's participation on the boards of public organizations, making it difficult to assess the situation. She asked for more information on the reasons women did not stand for election, any measures taken to encourage them to do so and obstacles impeding them. It would be helpful to hear more about the time frame for the adoption of the women's amendment to the Constitution. She was curious to know why the target for women's participation in Government had not been set higher, at perhaps 30 per cent — the current level of 10 per cent seemed low. She wondered if the awarding of matai titles to women and their participation in village councils had become an issue in the National Women's Policy and whether the Law Reform Commission had taken a position on the matter. It would be helpful to receive any policy papers on that subject.

44. Lastly, it appeared that women’s participation in representation of Samoa at the international level was variable, with few women found at the highest levels. She asked for information on the percentage of women in the foreign service, obstacles to their participation and measures to address them.

45. **Ms. Gidlow** (Samoa) pointed out that holding a matai title was a prerequisite for election to Parliament for both men and women. Out of a total of some 300 villages in Samoa, only 10 did not allow women to hold titles. Titles were awarded as a consensus decision by the family as a whole, on the basis of the leadership qualities an individual possessed; gender discrimination was not a factor. As for the time frame for consideration of the women's amendment to the Constitution, it would be presented at the August 2012 session of Parliament and should be considered before the end of that year.

46. **Mr. Elisaia** (Samoa) said that, with regard to women's participation in Government, a major ministry was headed by a woman and they were also well-represented as deputies and department chiefs, which was actually the level at which policy was formed and driven. Women students were in the majority at the tertiary level of education, as well.

47. Before independence, a plebiscite had been conducted in Samoa which had resulted in a new Government that included a mix of traditional and modern practices, to which the stability the country had enjoyed since independence was often attributed. Indeed, Samoa was part of the global family, but preferred to introduce change step by step rather than forcing it simply because it was party to a Convention, so that people could adjust to the change and drive it themselves. The Samoan family structure was complex, and women were an essential part of the household.

48. **Ms. Tago** (Samoa) said that the objective of the National Women's Policy was to provide an enabling environment that fostered women's roles as leaders in the community and to improve local governance and increase the involvement of women in community
development programmes. A target had been set of increasing the number of women holding matai titles from 10 per cent to 20 per cent of the total.

49. **Ms. Tuala-Warren** (Samoa) said that the Law Reform Commission had no role in the discussion of matai titles. It could only address matters referred to it by the Prime Minister’s Office, the cabinet or the Attorney-General.

50. **Ms. Schultz** said that the choice Samoa had made at independence to promote stability in society through a mix of traditional and modern elements and to take a step-by-step approach in introducing change was understandable. Article 2 of the Convention, however, required States parties to outlaw gender discrimination immediately. She invited members of the delegation to comment on the dilemma posed when full observance of the Convention would have an impact on the organization of Samoan society and culture.

51. **Ms. Bareiro-Bobadilla** said that in setting a quota for women’s participation in public office, care should be taken that the 10 per cent target did not become a ceiling, as had happened in her own country. In order for the change to be truly progressive, it was important to raise the target level by a certain percentage at regular intervals, perhaps 5 per cent every five years, until the 30 per cent threshold was reached. In her view, the restrictions on holding matai titles affected women’s citizenship rights directly and represented a form of discrimination under law that should be removed.

52. **Ms. Šimonović**, noting that Samoa had accepted the obligation to eliminate discrimination against women by becoming a party to the Convention, said that the purpose of the constructive dialogue was not to force change but to better understand the challenges a country faced in implementing it. Flexibility in that implementation was, of course, important.

53. **Ms. Pires** said that it was unclear from the report and the responses whether the target for women’s participation in Parliament was 10 seats out of the total of 50 seats or 10 per cent of the membership.

54. **Mr. Elisaia** (Samoa) said that the change in the eligibility requirements for public office after universal suffrage was granted in the 1991 Constitution was a good example of the gradual pace of change in Samoa. The Government took seriously its obligation to implement all the provisions of the Convention, but believed that the Convention must be localized so that it made sense to the people.

55. **Ms. Gidlow** (Samoa) said that the Women’s Amendment to the Constitution called for a target of 5 women members, representing 10 per cent of the 50 seats in Parliament.

**Articles 10 to 14**

56. **Ms. Bailey** commended the Government for its “Education for All” action plan that included children with disabilities and for the progress it had made towards the targets established in the Millennium Development Goals. It was disappointing, however, that the most recent figures in the report dated from 2006 and that most of the 2011 figures available on line were not disaggregated by gender. She recommended that in future reports all relevant figures should be disaggregated by sex and location.

57. Noting that parity between boys and girls had been achieved at the primary school level, she noted with concern the sharp decline in the number of girls who went on to secondary schooling and asked what factors might account for it. She wondered if pregnant teen girls, who often did not complete their education, faced discrimination in re-entering school, whether there was a policy to allow them to return, and if so, how it was enforced and monitored.

58. She would like to know if an age-appropriate curriculum on reproductive health was available at primary and secondary level and whether teachers were trained to teach it. More information was also needed about sexual abuse and harassment in schools, either by teachers or students, any policies or guidelines for addressing it and how incidents were dealt with. The report had referred to the fact that more girls than boys were enrolled in secondary school and that policies should be adjusted to focus on the issues of boys rather than girls (para. 10.1.2). In her view, the underperformance of boys was not an educational but a social and economic issue; it was a dangerous move to shift the focus from girls, whose education must remain a priority concern.

59. **Ms. Patten**, turning to article 11 concerning employment, said that she would appreciate clarification of the scope of the Labour and Relations Bill 2011: did it apply to both the public and private sectors and protect women from discrimination on the grounds of pregnancy, family responsibilities and
60. **Ms. Murillo de la Vega**, turning to article 12 on health, said that sources indicated that 46 per cent of married women in Samoa had no access to family planning services and must ask their husbands’ permission to use contraception. She asked whether the Government was working to improve women’s access to reproductive health information and to eliminate the need for the husband’s permission regarding family planning.

61. It was of great concern to the Committee that abortion was illegal under the Criminal Code, and that no exceptions were allowed, even in cases of rape, incest or danger to the life of the mother. More information was needed on the legislation in that area, including the penalties imposed on women who had abortions.

62. Poor management of water resources, which had a direct effect on health, was another matter of concern on which the Committee would like more information. She asked to hear more about the training provided for rural health care professionals, particularly in addressing HIV/AIDS.

63. **Ms. Zou** Xiaqiao said that disaggregated data on women in rural areas should be provided in the next report. Poverty in rural areas posed great challenges in providing access to education and health care for women, and she asked for more information on poverty alleviation strategies and any programmes designed from a gender perspective. She would also like to hear about any concrete steps taken to improve the national policy regarding the rights of women with disabilities. Lastly, she asked for more information about customary or family ownership of land and whether any policy research had been done on its impact on women, including their risk of homelessness if they could not have title to land.

64. **Ms. Tago** (Samoa) said that teen pregnancy was indeed a factor in the drop in girls’ enrolment in secondary school, along with the fact that while primary schooling was free, secondary schools charged tuition fees. There was no specific policy designed to encourage teen mothers to return to school, although some certainly did and performed well. With regard to sexual abuse in schools, the Ministry of Education had established standards and behaviour management guidelines; any such incidents were reported to the Ministry. Although there was growing concern regarding the underperformance of boys, the educational concerns of both genders were taken into account.

65. **Ms. Toelupe** (Samoa) said that the basic principles applied to the provision of primary health care were universal access, equity and affordability. Rural women had access to a full range of health care services, including reproductive health care, although some rural facilities had been damaged by the recent tsunami. Access to family planning services did not involve women receiving permission, although a dialogue with their partners on that issue was needed. Prevention programmes for HIV/AIDS were provided by NGOs, with support from the public sector. There had been 22 cases reported since 1991, with the Government providing treatment. Testing for new cases remained a challenge. Access to water had improved with the help of a European Union-sponsored programme which had set up two different village-based water schemes. Health training was provided for teachers on an annual basis.

66. Abortion was illegal except for medical reasons that threatened the mother’s life. There was continuing advocacy regarding cases of pregnancy resulting from rape and incest, however.

67. **Ms. Tuula-Warren** (Samoa) said that abortion was still illegal under the Crimes Bill 2012, except when a medical practitioner deemed it necessary. The penalty for rape under that Bill was life in prison. Under the Land Registration Act, customary land could not be alienated but it could be leased, opening the way to developments such as hotels and resorts in the tourism sector. The impact on women and children was not yet known, but for the most part it was viewed as a means to create jobs.

68. **Ms. Tago** (Samoa) acknowledged the need for more data on the situation of rural women, although
there had been many initiatives for capacity-building in that sector. The poverty alleviation strategy placed priority on the community development sector, with a specific national policy on women and on youth development and improved village governance.

69. The Ministry for Women, Community and Social Development was also the national focal point for disability, and work had begun to develop a national policy and organize a disability task force. There were plans to ratify the Convention on the Rights of Persons with Disabilities, which had reached the stage of the legislative compliance review.

70. **Ms. Ameline**, noting that an increasing number of small businesses were being started and managed by women, asked if that was a result of a specific policy or microcredit scheme and if they were concentrated in any particular sectors. In her view, the new technology sectors were a good tool for the empowerment of women.

71. **Ms. Bailey** said that her main concern regarding the underperformance of boys was with the way it had been expressed in the report, which had seemed to shift the focus away from girls entirely.

72. **Ms. Murillo de la Vega** requested more information regarding the use of corporal punishment in schools. She would also like to know if there was any timetable for discussions on changes to the abortion laws.

*The meeting rose at 1 p.m.*