



Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women Seventy-first session

Summary record of the 1638th meeting

Held at the Palais des Nations, Geneva, on Friday, 26 October 2018, at 3 p.m.

Chair: Ms. Leinarte

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The meeting was called to order at 3 p.m.

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

Sixth periodic report of Samoa (continued) (CEDAW/C/WSM/6;
CEDAW/C/WSM/Q/6 and CEDAW/C/WSM/Q/6/Add.1)

1. *At the invitation of the Chair, the delegation of Samoa joined the meeting via video link.*

Articles 10 to 14 (continued)

2. **Ms. Rana** said that the State party was to be commended for having developed a new policy on sexual and reproductive health and a new policy on HIV/AIDS and sexually transmitted infections for the period 2017–2021. However, despite the strategies in place to improve women's access to health-care services, the Committee remained concerned about the population's poor understanding of and low testing rates for HIV/AIDS and sexually transmitted infections, low levels of condom use, increasing fertility rate, increasing teenage pregnancy rate, high unmet need for family planning and insufficient access to information on sexual and reproductive health rights.

3. Noting that some 40 per cent of the women seen at antenatal clinics were found to have a sexually transmitted infection, a condition often overlooked by health-care professionals, she asked whether there was a mechanism in place for referring pregnant women who tested positive for HIV, syphilis or hepatitis B to appropriate treatment services and what steps were being taken to promote the prevention of HIV and sexually transmitted infections. She also wished to know what was being done to ensure that key population groups that were at higher risk of HIV infection and persons with disabilities had access to HIV testing and treatment services. Noting that the overall maternal mortality ratio in Samoa had increased by 10 points, she asked whether any research had been conducted to determine the causes of that increase and what steps had been taken to address the situation.

4. Access to sexual and reproductive health services, including abortion, was critical for women with sexually transmitted infections and survivors of sexual assault. She asked when the State party planned to amend the Crimes Act 2013 to legalize abortion on specific grounds, such as rape, incest and severe impairment of the fetus, and to decriminalize abortion in all other circumstances, as called for by the Ministry of Health.

5. Although the number of cases of cervical cancer appeared to be decreasing, there was evidence to suggest that, in reality, the decrease meant not that screening or care had improved, but that Samoan women were not seeking early treatment. Furthermore, it seemed that the State party's efforts to raise awareness of cervical cancer and to establish screening centres were inadequate. She asked how the State party intended to sustain and extend its existing awareness-raising initiatives, to remove the stigma surrounding cervical cancer and to provide adequate and accessible treatment services, in keeping with the Committee's general recommendation No. 24 (1999) on women and health.

6. The Committee was also concerned about the high teenage pregnancy rate and the reported inadequacy of existing sex education programmes, which did not pay proper attention to the prevention of sexually transmitted infections. She asked what the State party was doing to support the establishment of youth-friendly drop-in centres as a means of ensuring that young people had access to sexual and reproductive health services. It would also be helpful to hear more about the State party's plans to promote sexual and reproductive health and rights education for adolescents.

7. **Ms. Mulitalo** (Samoa), replying to questions posed on the National Safe Schools Policy at the Committee's preceding meeting, said that the Policy prohibited all forms of violent behaviour in schools, including cyberbullying and stigmatization. It likewise strengthened the protection of teenage mothers from discrimination both in and outside school. Although no data on the number of teenage mothers who had resumed their studies after pregnancy were currently available, there were plans to conduct a research study to

determine why girls dropped out of school and to collect the necessary data. Awareness-raising workshops on the Policy had also been conducted.

8. The issue of traditional stereotypes was broached in the health and physical education curriculum in both primary schools, where it was compulsory, and secondary schools, where it was optional. Within that curriculum, the issue was covered in the modules on personal health and relationships and on family health, where the topic of gender equality was also addressed. With the support of the United Nations Population Fund, family life education had been further incorporated into the health and physical education curriculum and included material on sexual and reproductive health and gender equality for both primary and secondary school students. The students were thus taught about topics such as how to avoid contracting sexually transmitted infections and HIV/AIDS, how to avoid unwanted pregnancies and how to protect themselves from abuse. Family planning was also addressed as part of the social studies curriculum and reproduction was covered as part of the general science curriculum in primary schools and as part of the biology curriculum in secondary schools. The culture and heritage curriculum broached the topics of respect, relationships and family structures. Supplementary resources to raise awareness and to assist teachers in delivering the associated content had also been prepared. Teacher training programmes likewise included modules on sexual and reproductive health and gender equality. The Samoan Family Health Association assisted the Government in training teachers on those issues.

9. **Ms. Tapuai** (Samoa), replying to a question posed at the preceding meeting with respect to the amendment to the Education Act 2009 that would allow teachers to use “reasonable force” to stop fights between students, said that the Office of the Attorney General and the Ministry of Police were assisting the Ministry of Education, Sports and Culture in providing the required training to ensure that the definition of “reasonable force” was not misinterpreted or wrongly applied. The Education Act, which was still in force, prohibited the use of corporal punishment in schools.

10. **Ms. Strickland** (Samoa) said that the Government was intent on ratifying by 2020 the International Labour Organization (ILO) Maternity Protection Convention (Revised), 1952 (No. 103), the Workers with Family Responsibilities Convention, 1981 (No. 156) and the Domestic Workers Convention, 2011 (No. 189). The Government was giving priority to ratifying those three Conventions and to reviewing the Labour and Employment Relations Act 2013, after which it would consider the possibility of acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

11. **Ms. Tapuai** (Samoa), replying to questions posed on the gender pay gap, maternity leave and sexual harassment, said that the Labour and Employment Relations Act contained provisions aimed at introducing a broader requirement of equal pay for work of equal value, in keeping with the ILO Equal Remuneration Convention, 1951 (No. 100). The ratification by Samoa of the ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98) provided both men and women with the means of negotiating equal remuneration in the private sector.

12. As part of the ongoing review of the Labour and Employment Relations Act, the Ministry of Commerce, Industry and Labour was considering the possibility of gradually increasing the existing maternity leave entitlement to ensure compliance with article 11 of the Convention. The possibility of increasing the existing paternity leave entitlement was also being considered. As to alternative measures to help finance maternity leave in the private sector, in the future the Government might consider introducing a scheme funded through compulsory insurance or public funds to remove direct employer liability as part of wider policy initiatives in the area of social protection.

13. While no complaints of sexual harassment had been received through existing mechanisms, cases involving sexual harassment had been brought before the courts, which had ruled in favour of the victims. As part of the ongoing review of the Labour and Employment Relations Act, the Ministry of Commerce, Industry and Labour was considering the possibility of broadening the definition of sexual harassment contained therein. The Public Service Commission was likewise considering the possibility of adding

an express provision on sexual harassment to the Public Service Act 2004. Persons working in the public sector were bound by a code of conduct which prohibited sexual harassment.

14. **Ms. Mulitalo** (Samoa), replying to questions posed on the impact of the appointment of Dr. Mercy Maliko as the first woman lecturer at Piula Theological College, informal sector workers and sexual and reproductive health, said that Dr. Maliko had expertise in developing tools for using a faith-based approach to address domestic violence. Several workshops on that subject had been held within the College, the National University of Samoa and the Ministry of Women, Community and Social Development. Dr. Maliko also served as a gender specialist within the community development sector. In theological colleges, gender issues had been mainstreamed in courses on pastoral care and social issues, among other topics.

15. The Ministry of Women, Community and Social Development, in partnership with the Small Business Enterprise Centre and others, provided persons working in the informal sector with information on the social and economic benefits available to them. The informal sector was also supported through a microcredit scheme funded by the Ministry and the Development Bank of Samoa. The Samoan Women Shaping Development programme included a small grants scheme targeting informal sector workers, among other groups. Those persons were also covered by the programmes associated with district development plans, which addressed the issue of social and economic benefits in the informal sector.

16. All pregnant women were entitled to be screened for HIV and sexually transmitted infections free of charge. Family planning services were available and youth-friendly reproductive health centres had been established on the main islands of the country. The measures taken to reduce the maternal mortality ratio included the recruitment of more midwives, the availability of early antenatal checks and the provision of training on identifying high-risk pregnancies.

17. **Ms. Tapuai** (Samoa), replying to questions posed on abortion, said that the issue had been the subject of a nationwide consultation conducted by the Samoa Law Reform Commission. Abortion, which remained a contentious issue, constituted a criminal offence but was permissible in cases where the life or the physical or mental health of the mother was under threat, provided that it was performed at not more than 20 weeks' gestation. The maximum prison term for unlawful abortion had been reduced from 14 years to 7 years. The issue of pregnancies resulting from incest or rape had been discussed as part of the nationwide consultation. The majority of those consulted believed that measures should be taken to prevent sexual violence against women and girls. The issue would be the subject of further discussion going forward. In the meantime, the Government would focus on conducting community-based educational initiatives and ensuring that the police responded to cases of sexual violence in a swift and diligent manner.

18. **Ms. Mulitalo** (Samoa) said that, as there were no suitable facilities in Samoa, cancer screening tests had to be sent abroad for processing. Clinical pathologists were being provided with training on cancer detection. The "Pinktober" campaign could encourage Samoan women to undergo early screening for cancer.

19. **Ms. Gbedemah** asked whether there was a clear policy in place that obliged teenage mothers to resume their studies after pregnancy and that penalized their stigmatization; whether the teacher training curriculum included a specific module on addressing cultural stereotypes; and whether the State party had considered teaching sexual and reproductive health as a stand-alone subject. She also wondered when the State party would repeal the provisions of the Infants Ordinance 1961 permitting the use of corporal punishment against children and take steps towards abolishing the practice altogether. It would be useful to know how many women had graduated from Piula Theological College and had become ordained ministers and, if that number was unsatisfactorily low, whether the State party might consider adopting temporary special measures to raise it. Lastly, she asked how the appointment of Dr. Mercy Maliko had impacted the content of the curriculum followed at Piula Theological College.

20. **Ms. Rana** said that there were huge gaps in the State party's efforts to improve its health-care and referral systems and that it should take more practical steps to remedy that situation, bearing in mind its obligations under the Convention. She asked how the State

party intended to address the increased prevalence of obesity and diabetes among women and whether it had considered recognizing family violence as a public health issue and improving the related screening and referral services and the methodology used to document cases of that phenomenon. The Committee had been informed that the death of two babies following immunization in a clinic on the island of Savai'i had led to the suspension of the immunization programme until further notice. She asked whether the State party planned to review its immunization programme and how it assured the quality of the vaccines used.

21. **Mr. Bergby** said that the planned ratification by Samoa of ILO Conventions Nos. 103, 156 and 189 was a welcome development. Noting that the Labour and Employment Relations Act reflected the principles set out in ILO Convention No. 100, he asked how the State party had gone about giving effect to them in practice. Had a comprehensive survey on the gender pay gap been conducted? Was the labour inspectorate active in the tourism and manufacturing sectors?

22. Noting that a number of cases involving sexual harassment had been brought before the courts, he asked whether the State party had considered introducing a complaint mechanism to enable victims to avoid having to take that course of action.

23. **Ms. Schulz** said that she would urge the State party to review its current position and consider legalizing abortion in cases of rape or incest. The Committee was of the view that forcing a woman or girl to carry to term a pregnancy that was the result of rape or incest was tantamount to torture or cruel, inhuman or degrading treatment.

24. **Ms. Gbedemah** said that she wished to echo the concerns raised by Ms. Schulz and to encourage the State party to reconsider the ban on abortion. The impact of incest or rape of girls by fathers, brothers or other family members should not be underestimated. Power dynamics were often at play in such situations, making it difficult to apply preventive measures effectively.

25. **Ms. Mulitalo** (Samoa) said that pregnant girls and new mothers were encouraged to return to school to complete their education. Teacher training covered topics such as effective methodologies for teaching curricular content on sexual and reproductive health issues and gender equality. Concerning women graduates of theological colleges, she said that, while such women were awarded diplomas, they were not ordained as church ministers, and she had no information on the theological colleges' curricula.

26. In the area of health, efforts to combat obesity and diabetes included an increase in community-based screening initiatives and a focus on health promotion and education. Clinical management guidelines had been reviewed and a draft policy on non-communicable diseases was being developed. The immunization programme was currently being assessed to identify and address gaps in quality control measures. Lastly, while there was no specific public health programme to tackle family violence, efforts would be made to work with relevant partners in that regard.

27. **Ms. Tapuai** (Samoa) said that, regarding corporal punishment, amendments to the Infants Ordinance 1961 were being considered with a view to addressing any inconsistencies with the Education Act 2009. Government agencies were engaged in ongoing dialogue on the abolition of corporal punishment in the home. Concerning the equal remuneration provisions of the Labour and Employment Relations Act 2013, disaggregated data on the pay of women and men working in State-owned enterprises were not yet available, although there were plans for the Samoa Bureau of Statistics to collect such data in the future.

28. **Ms. Bethel** said that she wished to know what impact women's increased representation at the highest levels of sport had had on women's participation in sports and in other areas of economic, social and cultural life. Referring to article 15 of the Constitution, which prohibited discrimination on the grounds of sex or family status and provided for women's equal right to State benefits, she asked what benefits were available to women under that provision; what was being done to extend the social security regime, including maternity benefits, to women who worked in the informal sector or in the home;

and what steps were being taken to establish a social protection floor in line with the ILO Social Protection Floors Recommendation, 2012 (No. 202).

29. She wondered what effect the State party's efforts to diversify the economy — in particular through the light manufacturing and financial services sectors — had had on women's economic empowerment. In particular, she asked whether women received adequate training to enable them to take advantage of those new economic sectors and, if so, in what areas and positions women were employed. Data on the number of women and men working in those sectors would also be appreciated. She likewise wished to know whether the State party assessed the impact of trade and investment agreements on women's rights; whether women's economic participation had improved in the years since 2012, when the State party had become a member of the World Trade Organization (WTO); and what macroeconomic and other policies had been put in place to protect women workers and prevent the recurrence of the mass unemployment caused by the closure of the country's largest private employer in 2017. Lastly, she asked what measures the State party was taking to reduce the burden of unpaid care work on women, including by tackling gender stereotypes and outdated cultural norms and promoting shared responsibility for housework and childcare.

30. **Ms. Acar** said that she was concerned about rural women's access to justice and, in particular, their vulnerability to gender-based violence. Reports indicated that rural women victims of domestic violence were expected to report their complaints to village councils, which were known to be staunch defenders of traditions and discriminatory practices that contravened women's human rights. In fact, many perpetrators of gender-based violence were members of the village councils from which women were supposed to seek protection. Drawing the delegation's attention to the Committee's general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, she asked what services, including shelters and psychosocial counselling, were available to rural women victims of violence; what timeline had been set for the full implementation of the Community Law Centre Act 2015; and what measures were being taken to prevent village councils from preserving harmful traditions rather than protecting women's and girls' human rights. In that connection, she asked what temporary special measures were being taken to alleviate the suffering of rural women victims of violence and to uphold their legal rights, despite the slow pace of change in rural areas, and what specific training had been provided to sensitize health-care and other professionals working in rural areas to the needs and rights of victims of gender-based violence.

31. According to alternative sources of information, rural health clinics were underresourced and staffed by underqualified personnel working in unfavourable conditions, often without basic equipment and medicines. As a result, rural women often turned to traditional healers, especially for matters relating to pregnancy and childbirth. She therefore wished to know what action the State party was taking to increase the human and financial resources of rural health clinics and whether traditional healers were licensed, covered under the Allied Health Professions Act 2014 and trained to detect family violence.

32. **Ms. Strickland** (Samoa) said that, while no specific data were available to demonstrate the impact of WTO membership on women's employment, the removal of trade barriers had been of overall benefit. Trade and investment agreements were generally assessed to ensure that they did not have a negative effect on the rights of the population.

33. **Ms. Mulitalo** (Samoa) said it was true that the success of women Olympic athletes and women's increased representation in other sports were helping to encourage women to participate in such sporting activities. Concerning women's economic participation, a number of programmes were in place to help women working in the informal sector to enter the formal economy, such as the Small Business Incubator and opportunities to undertake internships or business and financial training. In that connection, the mass unemployment caused by the closure of the Yazaki EDS plant had been reduced through the provision of capacity-building programmes and recruitment by a number of new companies in Samoa.

34. The Allied Health Professions Act covered both traditional birth attendants and traditional healers. However, owing to the complexity of traditional healing practices, only traditional birth attendants received appropriate training and were formally registered under

the Act. Regarding rural health clinics, there was, admittedly, a shortage of human resources to address the situation. As part of health reforms aimed at strengthening primary health-care services, the Government was looking to establish multidisciplinary teams in rural health facilities and to upgrade the infrastructure.

35. Regarding rural women and family violence, the Ministry of Women, Community and Social Development encouraged victims to seek support from members of their extended family and from community leaders. Representatives of village councils and church groups were also involved in programmes aimed at protecting women from violence, as were members of the police and non-governmental organizations. The Ministry was also working with the community development sector to improve existing mechanisms and establish preventive measures to ensure that rural women could gain access to the protection they needed.

36. **Ms. Tapuai** (Samoa) added that the Government intended to ensure that the Community Law Centre was fully operational by July 2019.

37. **Ms. Gbedemah** said that she wished to know whether the gender perspective would be mainstreamed throughout the objectives contained in the next National Environment and Development Sector Plan and in all other environment sector plans. She would welcome further information on how plans aimed at enhancing the economic independence of rural women would be developed.

38. In view of the fact that Samoa was vulnerable to severe weather events and that the *State of Human Rights Report* issued by the Office of the Ombudsman acknowledged that women were disproportionately at risk of suffering the impacts of natural disasters and climate change, she asked whether gender equality was being ensured in rural communities as a means of enhancing their resilience in the face of climate change. The Committee also wished to know what mitigation and adaptation strategies had been implemented in respect of climate change, how women were involved in such strategies and whether the State party had given consideration to the Committee's general recommendation No. 37 (2018). With regard to climate change and education, she asked whether the Government would consider encouraging young girls to study climatology, fisheries and other issues related to the climate and the island environment. The Committee would also welcome further information and statistics on the situation of persons with disabilities.

39. **Ms. Bethel** said that it was still not clear what benefits, aside from pension rights, were made available to women under article 15 of the Constitution and whether women were being trained or employed in the areas of light manufacturing and financial services. Noting that some 42 per cent of women were in formal employment, she asked for further information on the employment situation of the remaining 58 per cent. It would be interesting to learn what steps were being taken to address the fact that women bore a disproportionate share of the burden of unpaid household and caregiving work.

40. **Ms. Acar** said that she would appreciate receiving answers to her earlier questions on whether shelters and psychosocial support were made available to rural women and whether health workers, including traditional healers, received training in how to address the needs of victims of gender-based or domestic violence. It was not clear what the delegation had meant when it had said that the Government was attempting to strengthen existing mechanisms relating to the role of the family or that it was looking into the underresourcing of clinics in rural areas.

41. **Ms. Strickland** (Samoa) said that the Government had established a disaster management plan that addressed the role played by women in managing natural disasters. Authorities in all sectors were required to mainstream the gender perspective in sectoral plans aimed at implementing the State party's sustainable development strategy.

42. **Ms. Mulitalo** (Samoa) said that the Ministry of Natural Resources and Environment, and the environment sector as a whole, would expand the scope of gender mainstreaming in their programmes, projects, policies and plans. As a small island developing State, Samoa was committed to reducing the impact of climate change while considering and addressing the needs of rural women and women with disabilities. In that regard, the Ministry of

Natural Resources and Environment had established a gender and disability policy that focused on mitigation and adaptation in relation to the effects of climate change.

43. **Ms. Strickland** (Samoa) said that an inclusive education policy, governing both mainstream and special schools, had been established in respect of pupils with disabilities. To that end, a memorandum of understanding had been concluded with service providers to ensure that girls with disabilities were empowered and that they acquired the skills they needed to enter the labour market.

44. **Ms. Tapuai** (Samoa) said that, under article 15 of the Constitution, the Government had established a system of accident compensation payments, to which women had equal access.

45. **Ms. Mulitalo** (Samoa) said that an educational programme on climate change had been developed at the National University of Samoa.

Articles 15 and 16

46. **Ms. Narain** said that she wished to know when the Government would amend its legislation as recommended by the Samoa Law Reform Commission in the light of its review of legislative compliance with the Convention. Given that most family law provisions, including the Divorce and Matrimonial Causes Ordinance 1961, the Infants Ordinance 1961 and the Maintenance and Affiliation Act 1967, dated from the colonial or early postcolonial period and did not fully reflect contemporary realities, she asked whether the Government would consider undertaking a comprehensive reform of family law.

47. Although the Committee welcomed the increase in the number of women judges, it was concerned to note that most if not all judges were also lay church leaders. In view of that situation, the Committee wished to know whether judges' Christian values coloured their judgments, particularly in relation to family law. For instance, were they inclined to order mediation rather than grant a divorce even in cases involving domestic abuse?

48. According to information received by the Committee, women who divorced had to institute legal proceedings in order to obtain their fair share of marital property, yet many women were unable to afford a lawyer, and no legal aid was available in such proceedings. In view of that situation, she asked whether the State party would adopt legislation that provided for the distribution of marital property in accordance with the Committee's general recommendation No. 29 (2013). In that regard, she wondered whether the Government would ensure that the Community Law Centre received sufficient resources to enable it to assist women who required legal advice.

49. The Committee would welcome further information on the status of the Child Care and Protection Bill, which was intended to incorporate the Convention on the Rights of the Child into domestic legislation and would establish a minimum age for marriage of 18 years for both boys and girls. She wondered whether consideration would be given to removing any exceptions allowing marriages to take place, with parental consent, when one or both of the persons involved were below the minimum age for marriage. It would also be interesting to learn how many teenage marriages took place every year with parental consent and whether such marriages involved pregnant girls who were coerced into marrying through societal pressure.

50. Although the Committee noted that men and women had equal inheritance rights under article 15 of the Constitution, it would welcome further information on the inheritance rights of women in practice. In particular, it was interested in learning whether women often renounced the title of *matai* (chief) in favour of their brothers and whether the inheritance rights of male family members descended from the male line took precedence over the rights of those descended from the female line. Were rates of landownership among women adversely affected by the fact that relatively few women held *matai* titles?

51. Given that Samoan tradition recognized premarital unions between a man and a woman and that marriage was not considered complete until the couple had their first child, it would be interesting to learn more about the status of women in childless unions. Did such unions ever acquire the status of marriages? Were any dowries paid merely symbolic, or could they involve significant amounts of money or property?

52. **Ms. Tapuai** (Samoa) said that the Samoa Law Reform Commission had initiated a comprehensive review of family law that was intended to bring about the development of a gender-neutral legal framework and contribute to the economic and political empowerment of women. The review was expected to be completed within two to three years. The question of teenage marriage would be considered in the context of that review.

53. Judges were required to act in accordance with the law. Their positions as lay church leaders had no bearing on the decisions that they took as judges.

54. **Ms. Mulitalo** (Samoa) said that the Ministry of Women, Community and Social Development was engaging a technical assistant to develop an action plan and policies on the care and protection of children, which would serve to support the Child Care and Protection Bill. When that process was complete, the bill would be referred to the Cabinet for endorsement before it was submitted to Parliament.

55. There were no legal restrictions on women's right to inherit property or *matai* titles. Furthermore, a person's right to inherit property no longer depended on whether he or she was descended from the male or the female line. Premarital unions were not in accordance with Christian values and were no longer encouraged or culturally accepted.

56. **Ms. Stowers** (Samoa) said that she wished to thank the Committee for giving the delegation the opportunity to present the sixth periodic report of Samoa. The dialogue had been thought-provoking and had enabled the Government to explain how it was implementing the Convention and the challenges that it faced in that regard. The delegation was grateful for the Committee's appreciation of the progress that Samoa had made in advancing women's rights.

57. In order to ensure that women and girls contributed to and benefited from social and economic development at all levels, the Government was determined to continue its efforts to advance the rights of women and girls in line with its national development plans, strategies and policies. The delegation had taken note of the concerns raised by the Committee and would continue to count on the support and collaboration of its national and international stakeholders and partners.

The meeting rose at 4.35 p.m.