



**REPORT  
ON THE STATUS  
OF THE RIGHTS OF  
THE CHILD IN SAMOA**

**2005**

**INITIAL REPORT ON THE IMPLEMENTATION  
OF THE CONVENTION ON  
THE RIGHTS OF THE CHILD**

**The Government of Samoa with assistance from UNICEF  
and Government of Australia through the Pacific Children's Program**

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## FOREWORD

*Samoa became a State Party to the Convention on the Rights of the Child (CRC) in 1994. This report constitutes Samoa's initial report on the measures undertaken as well as those foreseen to be undertaken to ensure the full implementation of the Convention. Samoa acknowledges that it has satisfied many of the provisions of the Convention. At the same time, it recognizes that there are gaps that need to be addressed for the full realization of the articles of the Convention. Samoa is committed to addressing these gaps, as evident from the recommendations made in the report.*

*This report contains information on the current legislative, economic and socio-cultural contexts within which the rights of the child are protected in Samoa. This information demonstrates the influence of the interlinked cultural, religious and economic perspectives on determining the importance of the child to his/her family, community, church and country. The report will serve as a yardstick to measure progress in the implementation of the provisions for the protection of the rights of the child as stipulated in the Convention.*

*The government of Samoa notes with gratitude the assistance of UNICEF which funded the preparation of this report including its translation into the Samoan language. It also acknowledges with appreciation the assistance of the government of Australia, through the Pacific Children's Program which made possible a number of consultative processes on the report. Government Ministries and non-government organizations, particularly the partners of the CRC Partnership, are especially acknowledged for their contributions through their active involvement in the consultations and provision of information. Last, but certainly not the least, the commitment of the Division for Women - Ministry of Women, Community and Social Development (DFW-MWCSD), through the coordination of essential processes of this undertaking and actively moving it towards completion, is duly noted.*

*It is my hope that despite Samoa's status as a least developed country, this initial report reflects its commitment towards fulfilling its obligations as a State Party to the Convention. Where there are provisions remaining to be satisfied in the realization of this commitment, the government and people of Samoa will ensure that such are progressively addressed as appropriate within the nation's economic and social-cultural contexts.*

***Honourable Tuala Ainiu Iusitino***  
***MINISITER FOR WOMEN, COMMUNITY***  
***AND SOCIAL DEVELOPMENT***

## INTRODUCTION

Samoa ratified the Convention on the Rights of the Child, hereinafter referred to as the CRC, on 11 November 1994. The following is the initial report submitted by Samoa to the United Nations Committee on the Rights of the Child. The compilation of the initial report was funded by UNICEF. A number of consultative processes on the report was made possible with assistance from the government of Australia through the Pacific Children's Program.

The main objective of the report is to present a comprehensive description of the legal, sociological and economic situation in Samoa within which the rights of the child are recognized and protected. *General Guidelines Regarding the Form and Content of Initial Reports to be Submitted by State Parties Under Article 44, Paragraph 1 (a), of the Convention* – adopted by the Committee at its 22<sup>nd</sup> meeting on 15 October 1991, was used in the preparation of the report with the aim to reflect as near to actuality the situation in Samoa.

The first draft of the report was completed in 1999. Between that time and the final stages of the report's preparation, numerous reviews and extensive consultations on the draft report were conducted with various sectors of government and civil society. The CRC Partnership - an initiative of the Ministry of Women Affairs, now the Ministry of Women, Community and Social Development as of 2003 – comprising representatives of government agencies and non-government organizations has been actively involved in reviewing and updating information in this report. Public meetings afforded valuable input into the report. The final review of the report was undertaken by the National Coordinating Committee on the Convention on the Rights of the Child (NCCCRC). Revisions from this review were incorporated before the report was submitted for Ministerial endorsement.

Much of the statistical data on children in this report comes from the 2001 Census report and information systems of government Ministries.

The report encompasses the valuable contributions by government Ministries, Churches and non-government organizations which work are directly related to the implementation of various articles of the Convention on the Rights of the Child. As well, it reflects the important contributions of many individuals who had assisted in the preparation of the report, and identified under Acknowledgements. Special mention is made of the two local consultants - Donna Kamu and Afamasaga Faamatala Toleafoa – who were tasked respectively with the compilation and update of information for the report. Similarly, special note is made of the Chief Executive Officer of the Ministry of Women, Community and Social Development as well as the Assistant Chief Executive Officer and senior staff of the DFW-MWCSD who spent long hours on incorporating revisions into, as well as carrying out the final editing and proofreading of, the report.

## ACKNOWLEDGEMENTS

The following people willingly made time to be interviewed and provide information for the report: Gatoloai Tili Afamasaga, National University of Samoa; Donna Hartman, Aoga Fiamalamalama; Miriama Isara, Curriculum Development Unit; Sinapi Moli, Department of Education; Elisapeta Pasa, Statistics Department; Attorney General's Office, Christine Qusted, National Nutrition Centre; Doreen Roebeck, Department of Education; Maka Sapolu, Samoa Red Cross; Savea Fomai Sapolu, Ministry of Internal Affairs; Mataina Te'o, Nelson Memorial Library; Walter Vermeulen, O le Siosiomaga Society Inc; Momoe Von Reiche, M.A.D.D. Gallery; Faoliu Wendt, Mapusaga o Aiga; Peter West, Loto Taumafai School and Andrea Williams, Ministry of Foreign Affairs, Malaefono Taaloga, Ministry of Finance (Division for Statistics); Taumafai Poleka, Ministry of Health and the Partnership on the Convention on the Rights of the Child.

Members of the Steering Committee gave their time willingly to assist in the progress of the first draft report. They are: Office of the Attorney General, Margaret Fruean, Ministry of Justice and Courts Administration, Namulauulu Nuualofa Tuuau-Potoi, Ministry of Health, Lemalu Lafi Sanerivi, Ministry of Education, Sports and Culture, Noumea Simi, Ministry of Foreign Affairs and Trade, Luagalau Foisagaasina Eteuati-Shon, Ministry of Women, Community and Social Development. Members of the National Coordinating Committee on the Convention of the Rights of the Child carried out the final review of the report.

Appreciation goes to Palanitina Toelupe, Kuiniselani Tago, Louisa Apelu, Fiasili Leaupepe, Sina Malealona and Nesa Sinclair of the Ministry of Women, Community and Social Development, Keneti Vaigafa of the Ministry of Health, Beth Onesemo of the Public Service Commission, Terry Hawker and Ofie Spiller for technical assistance in the preparation of the report. Special mention is made of Lufilufi Taulealo who was tasked with the translation of the draft report into the Samoan language.

Thank you to the following people who read the draft report and offered comments: Foaluga Taupi, Avoka Girls College; Elizabeth CT. Peters, parent; Puletini Tuala, Sautiamai; Donna Hartman, Aoga Fiamalamalama (IHC); Lorraine Williams, Vaiala Beach School; Vice Principal Primary School, The Church of Jesus Christ of Latter-day Saints; Susitina Taiseqa Tafua, National Council of Women; Tapusalaia Faatonu Faletose, Samoa Women Committees Development Organisation, Inc., Peter West, Loto Taumafai Education Centre for the Disabled, staff of the Programs & Training Section of the Division for Women and members of the CRC Partnership.

## GLOSSARY

<b>Samoan</b>	<b>English</b>
<i>Aiga</i>	Family - also refers to extended family
<i>Aoga Faiifeau</i>	Pastor's school
<i>Aualuma</i>	Village daughters' group.
<i>Aumaga</i>	Village untitled men's group
<i>Fa'aSamoa</i>	Samoa way of life/culture
<i>Fa'aaumaga</i>	In the way of the village untitled men
<i>Faafaiilelega tama</i>	Process of exchanging gifts in celebration of the birth of a child
<i>Faamasino Fesoasoani</i>	Lay Magistrates
<i>Fale Komiti</i>	Village Women's Committee meeting house.
<i>Fale</i>	Traditional Samoan house
<i>Fofo</i>	Massage – also refers to treatment with traditional medicine
<i>Fono</i>	Meeting or council
<i>Ie</i>	Fine Mat
<i>Kilikiti</i>	Samoa version of English Cricket
<i>Komiti Tumama</i>	Public health committee
<i>Lauu'a</i>	Cloth made from bark of mulberry tree
<i>Malae</i>	Village green/traditional meeting ground.
<i>Manumea</i>	Tooth-billed pigeon
<i>Mapusaga o Aiga</i>	Women's Refuge Organization, a non-government organization
<i>Matai</i>	Chief or holder of family chiefly title
<i>Oloa</i>	Wealth- goods and chattels.
<i>Popo</i>	Mature coconut
<i>Povi</i>	Cattle.
<i>Pulenuu</i>	Village mayor
<i>Pute</i>	Umbilicus stump
<i>Samoa Maloloina</i>	Healthy Living

*Tapuaiga*

Prayerful attitude, religious faith.

*Taulasea*

Herbalist

*Tautua*

Service to chief, to family, to others

*Uatogi*

Wooden cutting instrument/warrior's club

## ABBREVIATIONS

<b>AusAID</b>	Australian Agency for International Development
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CRC</b>	Convention on the Rights of the Child
<b>DFW</b>	Division for Women
<b>DFY</b>	Division for Youth
<b>ECPAT</b>	End Child Prostitution and Trafficking
<b>FLO</b>	Faataua le Ola
<b>HRPP</b>	Human Rights Protection Party
<b>ICPD</b>	International Conference on Population Development
<b>IEC</b>	Information, Education, Communication
<b>MOA</b>	Mapusaga o Aiga
<b>MWCSD</b>	Ministry of Women, Community & Social Development
<b>NCCRC</b>	National Council on CRC
<b>NCECES</b>	National Council of Early Childhood Education of Samoa
<b>NCW</b>	National Council of Women
<b>NGO</b>	Non government Organization

<b>NZODA</b>	New Zealand Overseas Development Assistance
<b>PCP</b>	Pacific Children's Program
<b>PSC</b>	Public Service Commission
<b>PTCDS</b>	Programs, Training & Community Development Services for Women
<b>SBC</b>	Samoa Broadcasting Corporation
<b>SDUP</b>	Samoa Democratic United Party
<b>STDs</b>	Sexually Transmitted Diseases
<b>SWCDO</b>	Samoa Women's Committees Development Organization
<b>UNESCO</b>	United Nations Education, Social and Cultural Organization
<b>WSTC</b>	Western Samoa Teachers College
<b>YFC</b>	Youth for Christ

## EXECUTIVE SUMMARY

Samoa is a group of islands in the South Pacific consisting of two relatively large islands and eight smaller islands. The two large islands and two of the smaller islands are inhabited. Samoa has been independent since 1 January 1962 and is home to a race of people of Polynesian extraction.

Samoa ratified the United Nations Convention on the Rights of the Child (CRC) on 11 November 1994 with one reservation under Article 28 (1) (a) of the Convention on the Rights of the Child relating to the provision of primary education due to the fact that in Samoa, the majority of schools that provide Primary Education are owned and managed by individual villages and districts, bodies which are outside the control of the government.

Therefore, **PURSUANT** to Article 51 the Government of Samoa reserved the Right to allocate resources to the Primary Level Sector of Education in Samoa in contrast to the Requirement of Article 28 (1)(a) to provide free Primary Education”<sup>1</sup>.

In line with the ratification of CRC, a Steering Committee was appointed by Cabinet in 1994 to review existing legislation and policies relating to children and make recommendations to Cabinet on the adequacy of existing legislation/policies and the need to formulate new laws/policies to bring Samoa into line with the provisions of CRC. Members of the Committee were selected from: the Attorney General’s Office (chair), the Ministry of Health, Ministry of Education, Sports and Culture, the Ministry of Foreign Affairs and Trade, the Ministry of Justice and Courts Administration and the (then) Ministry of Women Affairs, which was mandated to be the National Focal Point for the Convention.

Further, the Ministry of Women Affairs was designated by Cabinet as the official national focal point for the Convention on the Rights of the Child in 1994.

In 1996 the Government of Samoa, with the assistance of UNICEF, completed *A Situational Analysis of Children and Women in Samoa*.

In 1997, Cabinet approved the establishment by the Ministry of Women Affairs of a National Coordinating Committee on the Convention of the Rights of the Child (NCCCRC). However, the work of the NCCCRC did not begin until its composition and functions were officially approved by Cabinet in 2003. The primary functions of the NCCCRC are: 1) to develop a National Plan of Action for the implementation and monitoring of the Convention on the Rights of the Child, and 2) to review and advise government on legislation and policies to ensure the fulfillment of the provisions of the CRC.

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<sup>1</sup> Copy of Reservation by the Government of the Independent State of Samoa to their Instrument of Accession to the United Nations Convention on the Rights of the Child

## **National Focal Point**

In late 1998, the Ministry of Women Affairs (MOWA), through its Programs, Training & Coordination Section, facilitated the establishment of a working group for the Convention namely the CRC Partnership made up of representatives of government and non-government agencies, all of which have direct responsibilities in the implementation of the different CRC articles. This was part of the MOWA's strategy to translate into reality a 'collaborative' approach to CRC advocacy. The Partnership's main role is to coordinate the implementation of CRC in order to ensure effectiveness and avoid unnecessary competition and duplication.

In 1999, the CRC was officially launched by the MOWA as the commencement of the promotion and implementation of the Convention in Samoa. An information package that included a copy of the *Convention on the Rights of the Child, The Facts of Life, The Convention on the Rights of the Child: Questions Parents Ask* in the Samoan language and a copy of *A Situational Analysis of Children and Women in Western Samoa 1996*, was made available to the public during the launch. In the same year, a Feasibility Study commissioned by AusAid was conducted to assess the situation of child abuse in Samoa. The study confirmed that child abuse was an issue and as such Samoa became one of the three countries in the regional project, the Pacific Children's Program (PCP), on the protection of children from abuse and neglect. The PCP is presently being transitioned to UNICEF management.

In 2003, as a result of the Public Sector Reforms, the Ministry of Women Affairs was realigned into the Ministry of Women, Community and Social Development with the Division for Women as one of its Divisions (DFW-MWCSD). Under this restructuring, the Division for Women assumes the roles of national focal point for the CRC as well as coordinating agency of the PCP.

## **Samoa Values and Children**

In Samoa, the cultural and Christian principles have a strong influence on child rearing practices. The Samoan proverb "O au o matua fanau" - Children are parents' ultimate treasures and the universal saying that Children are the future of families, communities and nation, are some of the many beliefs and principles associated with how children are nurtured and reared in a Samoan family.

The same is also said of the Christian principles. Children are regarded as a blessing and a responsibility from God. As a result, families are, on the whole, highly protective of their children. On the other hand, parents' expectations of their children rise dramatically as the latter get older and these expectations can often be very severe and exacting by the time children reach puberty.

The *Fa'asinomaga* (genealogical identity) of a Samoan child is a fundamental part of every child's life. In Samoa, all children have a *faasinomaga* regardless of how they were conceived. A child's *faasinomaga* establishes his/her cultural identity through kinship connections by blood, marriage and/or adoption and where they belong in terms of his/her family. It therefore asserts and ensures that even if the child grew up in village A, his or her *faasinomaga* ensures that he/she still belongs to village B, C

and D because it is where his/her parents and ancestors are from. The *faasinomaga* of the child also explains why one child has so many relatives and extended families, and that child has a right to claim his/her identity within several villages.

A fundamental part of one's *faasinomaga* is one's *Aiga* (family) which is a key aspect of the Samoan culture. Villages are made up of a number of *aigas*. Most *aiga* hold annual family reunions to maintain the importance of belonging to an *aiga*. All Samoan children have an *aiga* to which they belong in Samoa. The concepts of *faasinomaga* and *aiga* are the fundamental cultural principles which guarantee the protection of children in Samoa. It is normal practice for uncles, aunties, grandparents or other relatives to care for a child in the event of family breakdown. This "security" element of the Samoan culture is very much a strength in the protection of children, given the non-existence of a western welfare system for children in Samoa.

Most children belong to a church, Sunday School, Youth group or church choir. Those who lead and manage these groups are most likely to be church ministers and/or their wives. The influence of churches extends to the formation and function of women's groups which provide the foundation for much of village life including a range of development activities.

### **Education**

Samoans place high priority on education for their children as demonstrated by the high primary and secondary school enrolments in Samoa.

#### **In 1995, the Ministry of Education, Sports and Culture launched its Strategic Plan and Policy Directives for the period 1995-2005**

Under the Plan, Junior secondary schools have been upgraded to include year 12, making them full-fledged secondary schools. This makes education up to year 12 geographically more accessible to any child in Samoa.

At the time the Ministry of Education, Sports and Culture launched its Strategic and Policy Directives 1995-2005, there were 65 on-going projects for the Education sector worth SAT26.95 million, funded by thirteen different donor agencies.<sup>1</sup> In 1996 Government expenditure on education was 5 % of the GDP.<sup>2</sup>

### **Health**

In 1998 the Ministry of Health launched the Health Sector Strategic Plan. This has been updated by the Health Sector Strategic Plan 2004-2008. In 2003, Government Expenditure on Health was 4.% of the GDP.<sup>3</sup>

Care of children at the National Hospital was given a boost when the Paediatric out-patient area was separated from the general out-patient area. The Nutrition Centre has

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<sup>1</sup> Table 1: SUMMARY OF DONOR ASSISTANCE, Foreign Affairs Government of Samoa, p.1-5

<sup>2</sup> *Enhancing the Role of Government in the Pacific Island Economies*, World Bank, June 22, 1998.

<sup>3</sup> *Enhancing the Role of Government in the Pacific Island Economies, June 22 1998*, The World Bank, p.119.

an active program identifying and working with undernourished babies and children. The Family Welfare Centre provides baby clinics and immunizations against known children's diseases. A 'Child Health Project' in Samoa to cater for children's health started in February 1999 with NZ government assistance. There are twenty Health sector projects with a total budget of SAT31,443,473 being undertaken at present with aid donor funding.<sup>4</sup> Seven out of the twenty are for children while all of the other projects have components, which directly or indirectly involve the health and care of children.

### **Youth Justice**

In 1997 a Committee for the Rehabilitation Center for Young Offenders was appointed. Members of the Committee were the Secretary for Justice, Commissioner of Police, Prisons and Fire Services, Secretary for Youth, Sports & Culture, Director General of Health, Secretary for Women Affairs, the Financial Secretary for Treasury, Director for Education and the Director of Youth for Christ. The report of this Committee recommended the establishment of a Rehabilitation Centre for Young People. This initiative is now being taken on by the Ministry of Police, Prisons and Fire Services (MPPFS) Institutional Strengthening Project (ISP) proposing to establish a separate facility to house juvenile offenders. In July 2005, the MPPFS began its first lot of Life Skills Training for youth offenders who are presently in prison.

A Youth Justice Bill has been drafted and is currently under consideration by the Ministry of Justice with the aim for the draft bill to be distributed to community stakeholders by October 2005.

*Mapusaga o Aiga*, a non-government organization (NGO), was provided funding by UNICEF to promote activities supporting the CRC.<sup>1</sup> One of these activities is the translation into Samoan for general distribution UNICEF Pacific's two pamphlets: *Children's Rights*, and the *Responsibilities of Being a Child*.

### **Other Conventions and International Agreements**

Samoa signed the Universal Declaration of Human Rights (Vienna Declaration) in 1992.

In October 1992, Samoa ratified without reservation the Convention on Elimination of All forms of Discrimination Against Women (CEDAW).

Samoa has continuously supported the following UN Resolutions on children. The Rights of the Child; The Girl Child; Implementation of the CRC; Protection of Children Affected by Armed Conflicts and Need to Adopt Efficient International Measures for the Prevention and Eradication of the Sale of Children, Child Prostitution and Child Pornography; and Traffic in Women and Girls.

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<sup>4</sup> SUMMARY OF DONOR ASSISTANCE. Op. Cit, p.5-6

<sup>1</sup> Ibid.,p.9

Samoa has also ratified the Cairo 1994 International Conference on Population Development (ICPD) and the 1999 (February 1999) follow up of the ICPD Resolutions, ICPD +5 at The Hague.

In 1995, the Government of Samoa became party to the Beijing Platform for Action, one of the key issues of which is the protection of the rights of the girl child. As well, the government of Samoa officially endorsed the Pacific Platform for Action, one of the key concerns of which is the importance of the family.

The Government of Samoa became a member of the ILO in March 2005, with the intention to ratify two (2) of the eight (8) core Conventions of the ILO, namely C#138: Minimum Age Convention 1973 and C#182: Worst Forms of Child Labour Convention 1999.

**In cooperation with UNDP, the Samoan government, in 1998, published *SAMOA, A Situation Analysis of Human Development*.**

## RECOMMENDATIONS:

The recommendations were made against the sections in which they are listed as follows. These are also repeated under the relevant sections.

1. 9. b. 1 That the National Coordination Committee on the CRC be expanded to include a representative of the private sector and that the proposed Division for Children in the MWCSO provides the Secretariat.
2. 12.1.8 That an analysis be undertaken to determine the impact, if any, of different age definitions of a child in Samoa's legislation on the full realization of the rights of the child.
3. 12.4.3 That the 'Marriage Ordinance 1961' Section (9) be amended to make the age of marriage at least 18 years for both males and females.
4. 12.7.1 That the "Crimes Ordinance 1961" be amended to remove the terms 'idiot' or 'imbecile' and replace them with **the term 'person with mental illness and intellectual disability'**
5. 12.10.3 That existing legislation making it illegal to supply, sell and/or give tobacco, alcohol and other controlled substances to children, be strictly enforced.
6. 12.10.6 That the 'Infants Ordinance 1961' be reviewed to take into account the requirements of the CRC but more specifically to:
  - Impose more realistic penalties and to provide more effective deterrents.
  - Strengthen the administration, monitoring and enforcement of the Ordinance.
  - Raise public awareness and understanding of the legislation.
7. 15.d.6 That the Government makes provision on both state owned radio and television (SBC) for broadcasting without cost programmes on child protection and on the welfare of children as a community service obligation under the Public Bodies (Accountability and Responsibility (2) Act 2000).
8. 15.h.2 That the Government considers strengthening of the law on the protection of children, as well as on civil rights and freedoms, so that children are fully protected from all forms of abuse and inappropriate activity, within the framework of parental guidance.
9. 16.h.1 The Government should review all legislation relating to children to ensure it reflects best practice and consider accession to the number of international conventions which protect children's welfare i.e. Hague Conventions

10. 16.i.8 That Government strengthens its Protection of Children Services Section of the MWCSO and facilitate the channeling of resources from outside where appropriate, to enhance NGO capacity to deal with issues of child protection, abuse and neglect.
11. 16.i.9 That Government continues to raise awareness on the issue of corporal punishment and alternative methods of disciplining children, starting with an intensive week of high profile workshops, and media exposure. There should be ongoing activities and initiatives after that to ensure the subject remains in the public consciousness.
12. 16.i.9.1 That a major awareness raising campaign on alternative methods of disciplining children be launched using the mass media, workshops and other high profile activities for a week, with ongoing activities to continue after the event.
13. 16.i.10: All caregivers should be the focus of social programmes about changing the acceptance and practice of corporal punishment, including not only immediate family members but also extended family as well as the broader community who all play a role in caring for Samoa's children.
14. 16.i.13 That the government, in collaboration with relevant non-government organizations, provide counseling and other help and necessary support to the victims of abuse.
15. 17.2 That disaggregated information be collected regarding homeless children, abused or neglected children, domestic adoption and inter country adoptions.
16. 19.b.9 That given the traditional role of the family/*aiga* in taking care of its own members and the supportive role of organizations such as the Red Cross, Village Council, Religions and others, government should consider providing financial support to these organizations, in the same way that government provides non-government schools with financial assistance every year.
17. 19.d.2 That a study be conducted to consider the establishment of a system for those who are no longer cared for under the traditional/cultural *aiga* system, bearing in mind that establishing a social security system based on models from overseas is not feasible.

**Such a system will need to be designed according to Samoa's own needs and conditions in order to succeed.**

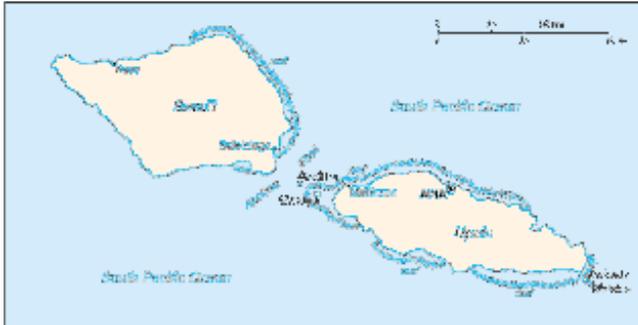
18. 19.e.4 That, until 19.d.2 is implemented, Government should consider providing an annual grant to an NGO like the Red Cross to help any children who do not have access to basic nutrition, clothing and housing.
19. 21.b.3 That Samoa sets a time frame for the removal of the Reservation "...to allocate resources to the Primary Level Sector of Education in Samoa in contrast to the Requirement of Article 28 (1) (a) to provide free Primary Education".

20. 21.b.4 That the Population and Household Census include data which will identify reasons children are not in school.
21. 23.c.i.15 That provisions in the Labour Act on the employment of children be reviewed to bring them into line with the Education Ordinance 1959.
22. 23.c.i.16 That the proposed ban (Labour Act 1972) on employment of children under 15 years be extended to cover children engaged in work in the non-formal sector which is currently outside the jurisdiction of the present labour laws.
23. 23.c.i.17 That a concentrated effort be given to obtain more data on children street vendors and, based on this, a programme be implemented to assist the families in keeping these kids off the street and sending them to school instead.
24. 23.c.i.18 That specific legislation be passed to make it illegal to depict, represent or include children in the production of pornographic materials.
25. 23.c.ii.4 That more severe penalties be imposed for offences by an adult(s) who involve children in the growing, production, selling or distribution of any prohibited drugs.
26. 23.c.iii.6 That specific legislation be passed to make it illegal to use depict, represent or include children in the production of pornographic materials.
27. 23.c.v Law enforcement officers to be trained to deal with cases involving children as victims, for example rape, sexual abuse and sexual exploitation and women police officers should be available to assist the victim through the police and court process for any criminal offence involving children.

**GENERAL RECOMMENDATIONS:**

28. That all legislation when reviewed use gender neutral language as most reflect only the 'male' interest of the issues discussed.
29. That government should ensure that facilities are in place to house babies of working mothers so they can breastfeed them during working hours.
30. That the Government implements one of the following in order to establish a framework in which the Rights of the Child will be fully addressed:
  1. Establish a separate Division for Children in the MWCSD.
  2. Establish a National Council for Children.
31. That the NCCCRC strongly advocates for the establishment of the Office of the Law Reform Commission

## SECTION 1: FACTS AND FIGURES ABOUT SAMOA



### The Land:

Samoa is an independent, Polynesian Pacific island country. It lies between latitudes 13° and 15° south and longitudes 168° and 173° west close to the international dateline. The group, comprising two relative large islands - Upolu and Savaii - and eight smaller islands - Manono, Apolima, Nuutele, Nuusafee, Nuulopa, Namua, Vini & Tapanu - is located 2600 miles south east of Hawaii, 800 miles north east of New Zealand and 2700 miles east of Sydney, Australia. Only four of these islands – Upolu, Savaii, Manono and Apolima – are inhabited.

Samoa's total land area is 1100 square miles. The islands are volcanic in origin as evident in the form of dormant volcanoes and extensive lava fields. Over 70% of the population live in small villages located along the narrow coastal plains that fringe the mountain ranges. Most of the country is covered by lush vegetation and rainforest, from which comes wood for housing and other household items, food and traditional medicines.

The physical compactness of the group makes communications between and within islands easy and relatively cheap particularly with the completion of ring and cross island roads, electrification and telecommunication. Concentrations of population are found along the coastal and main arterial roads particularly on the island of Upolu.

Over 43% of the total land area is classified as arable with most of the moderate to high fertility soil areas located on the biggest but less inhabited island Savaii. Intensive cultivation of limited flat land for agricultural and residential purposes has led to an increasing use of steeper slopes which could see erosion as a major environmental problem in the future.

Approximately 80% of the land is held under customary ownership. Land is one of the main sources of individual and family identity and security and as such, any adaptations to customary land holding systems will inevitably impact on the Samoan family system. The 1991 Agricultural Census estimated that an average household controlled 15.4 acres of land. However, one quarter of the households had less than the minimum amount of land of 5 acres required by a household which derives its total livelihood from agriculture.

**The people:**

The population, which totaled 176,848 in the Census of Population and Housing 2001, is mostly Samoan with the remainder being Samoans of mixed descent. The unit of Samoan life or *faasamoa* is the extended family or *aiga*. The *aiga* is headed by a *matai* or *chief* who can either be a male or female although in practice most are males. The *matai* is responsible for maintaining family unity and prestige, administration of family land and other assets, settling disputes and representing the family in the Village Council. In return, the *matai* is rendered service or *tautua* by the family members. The Samoan way of life puts emphasis on the group rather than the individual. However, this way of life is experiencing changes.

Samoa remains largely rural with 80% of its population scattered throughout the two main islands of Savaii and Upolu. However three quarters of the population live on Upolu where the capital city Apia is located. According to the Census of Population and Housing 2001, 38836 people or 22% of the population were enumerated in urban Apia which has the attractions of employment, education and other centralized services. North West Upolu had a population of 52, 714 (30%) while the rest of Upolu had a population of 42,474 (24%) and Savaii had 42,824 (24%).

**Language and Religion:**

The main language is Samoan although English is widely spoken and is the main medium of communication within Government Ministries and the private sector, as well as the language of instruction in higher educational institutions beginning at high schools. In Primary Schools, the language of instruction in Years 1 to 3 is Samoan, Years 4 to 6 is bilingual instruction with more English used in Years 7 to 8.

In 2001, 100% of the population acknowledged a religious affiliation, approximately 99% of whic claiming to be Christians. There is a small number of Baha'i and Islam followers. The main Christian denominations of Congregationalism, Methodism and Catholicism are experiencing declining membership, a trend which may be attributed in a large part to young people moving towards the new evangelical religions.

Children's Sunday, also known as White Sunday, is a special Sunday observed in Samoa to celebrate its children. Children's Sunday is held annually on the second Sunday of October, with the following Monday observed as a public holiday. In 1998 the Congregational Christian Church in Samoa celebrated 100 years of observing Children's Sunday, a day also celebrated by Samoan communities overseas.

**Historical background:**

The first European to sight Samoa was the Dutch explorer Jacob Roggeveen in 1722. The first Europeans to make contact with Samoans were mostly beachcombers, sailors and adventurers. They were followed by Christian missionaries, with the missionary explorer John Williams of the London Missionary Society making first contact with the islands in 1830. He was joined by converts from Tahiti and the Cook islands who

remained in Samoa as “teachers.” Other missionaries soon followed. Conversion to Christianity was rapid.<sup>1</sup>

From the 1840s until the turn of the century, Germany, the United States and Great Britain extended influence on the islands as a result of the number of their citizens who were resident in or regularly traveling to Samoa. After years of rivalry over control of the group, the three powers signed the Berlin Treaty in 1889 which saw the partitioning of the Samoan islands into Eastern Samoa to be governed by the United States), and Western Samoa to be administered as a German colony. Great Britain gave up its interest in Samoa for interests in other islands of the Pacific. Eastern or American Samoa has remained a territory of the United States of America whilst Western Samoa became the first Pacific island country to gain independence in 1962. In 1997, Western Samoa became known as Samoa as a result of a constitutional change which removed the word “Western” from the country’s name.

From 1900 to 1914, the German administration helped to develop the economy, turning uncultivated parts of the country into productive use. It was the period that saw the arrival of indentured labourers from China and later the Solomon Islands to work on commercial plantations. Political control changed hands in 1914, when Samoa became a League of Nations mandated territory administered by New Zealand. In 1948, Samoa became a United States trusteeship territory under New Zealand administration until 1962, when Samoa gained political independence..

### **Demography:**

The latest Population and Household Census was conducted in 2001. This Census results show that the population of Samoa has increased from 161, 258 in 1991 to 176,710 in 2001. With a total land area of 2785 square kilometers, the overall population density is 58 persons per square kilometer. Urban Apia however, has a population of 38,836 and a population density of 565 persons per square kilometer. The population growth rate is 1.29%, with emigration accounting for the reduction from a natural rate of increase of 2.36% per annum.

Children under the age of 15 years account for 4% of the total population. There has been a slight decline in the age below 5 years in 2001, which is attributed to the decline in fertility rates from 5.3 in 1986 to 4.5 in 2001. Improved access to family planning, women’s higher educational levels, and the later age of marriage are all factors contributing to the decline. The working population (15 – 59 years) was 55 % of the total while those 60 years and over accounted for only 4%.

Women make up about 48% of the population. The predominance of males at all ages below 70 is unusual in some parts of the world but not for Pacific Islands like Samoa since as a rule, the lower mortality for females leads to progressive advantage in numbers over males. The most likely explanation is that sex selective migration in favour of females has occurred. There is a rising proportion of widowed, separated and divorced women, with little change amongst men.

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<sup>1</sup> Kamu, Lalomilo, *The Samoan Culture and The Christian Gospel*, Samoa, 1996, p 69ff.

In 2004, the crude birth rate was 20.8 per 1,000 population, the crude death rate was 3 per 1,000 population, the infant mortality rate was 13 per 1000 live births and under five mortality rate was also 13 per 1000 live births.

The literacy rate of adults in 1991, in the vernacular, was 98.2%. However, an in-depth UNESCO sample survey in 1991 showed that the levels may not be that high, although those for women were consistently higher than those for men.

### **The economy:**

The Samoan economy is traditionally dependent on agriculture with the production and export of coconut products, cocoa and bananas which have been the economic mainstay for many years. But poor returns and diseases and volatile market conditions have, over the years, reduced their significance as major export crops.

Today, Samoa's main foreign exchange earnings are from remittances from Samoans living overseas, tourism, foreign aid moneys, fish exports (largely tuna) and a mixture of small manufactures such as textiles, food and beverages. A large part of the economy is still a mixture of cash and subsistence, where the majority of the people in the rural areas depend on the land and the surrounding seas for many of their food and cash needs. This is still possible because some 80% of Samoa's land is under customary or communal ownership.

Like most small economies with a narrow resource base, Samoa's economy is highly vulnerable to external conditions. After severe cyclone disruption in the early 1990s, a major economic restructuring and reform program since then has turned the Samoan economy around from one of the weakest in the region to "one of the best performing in the Pacific," according to an International Monetary Fund report in 2003.

In the last four years, for instance, average GDP growth has been consistently above 4% annually, whilst inflation and government spending have been kept under close scrutiny providing stable macro economic conditions for sustained economic growth.

With strong economic performance in the last several years, Samoa's per capita income in 2003 stood at ST\$ 5038.00, placing Samoa outside the UN's "Least Developed Country" category. Nonetheless Samoa's economy remains highly vulnerable to external events such as natural disasters (particularly cyclones) and any economic downturn in New Zealand or Australia from where the overseas remittances originate.

Government policy initiatives for Samoa's economy today are set out in the Strategy for the Development of Samoa 2005 – 2007, the Government's strategic planning document which is reviewed each three years and highlights the economic objectives of the country. The strategy has built on strong growth and economic stability in recent years, and seeks to provide opportunity for all Samoans to share in the benefits of national development.

After undertaking major tariff and tax reform and economic liberalisation in the mid 1990s, the SDS continues large scale reforms within the public sector in order to improve effectiveness and performance and service delivery. The SDS also continues

privatization of government owned companies, and further refinement of tax and tariff structures to improve competitiveness, in compliance with WTO and the Pacific Island Trade Agreements. These measures are designed to provide an environment conducive to the private sector becoming the engine for growth.

Despite improvement in economic performance in recent years, Samoa is still highly vulnerable to adverse external or internal changes in economic circumstances. Some 4000 young people leave school every year and need to be absorbed into the work force. While there are no up to date statistics available on unemployment, it is understood that many of these young school leavers cannot find jobs in the formal sector, and either emigrate or go back to the semi-subsistent informal village economy sector. A special immigration quota with New Zealand sees the migration of up to 1100 able-bodied Samoans and their families to New Zealand each year.

At the sector level, government in the last ten years has accorded priority in its spending programmes to the Health and Education sectors. Spending on these sectors has increased by 23% and 9% respectively between 1992/93 and 1996/97. But in order to improve service levels and to contain expenditure, government is looking at establishing policies on health sector funding which will clarify its position on health insurance, user pay charges and the involvement of the private sector in health services. The private health sector is confined to the urban area. Several centres are now operational; the private hospital Medcen, for instance, opened in December 1998.

### **Constitutional background:**

The Constitution of the independent state of Samoa is the supreme law of the country and has been entrenched and can only be changed by a 2/3 majority in the national parliament. Any Act, regulation, notice or exercise of executive power by the State which is declared by the Supreme Court as being inconsistent with the provisions of the Constitution can be declared unlawful and void. The supreme law establishes Samoa as an independent state, founded on the rule of law and its cultural and Christian traditions, based on a Westminster parliamentary system of government with the unique feature that only those who hold chiefly titles can be elected with the exception of 2 seats for voters of European descent.

### **Head of State**

The country's Head of State: His Highness Malietoa Tanumafili II is the holder of a paramount chiefly title and has held the post since Independence in 1962. The Head of State has important reserve powers under the Constitution which empowers him to dissolve Parliament in certain circumstances. In most other respects the Head of States acts on the advice of Cabinet and must give consent to all Acts of Parliament before they can come into effect.

### **The Executive:**

Pursuant to the Constitution, executive power is held by Cabinet comprising the Prime Minister and 12 Cabinet Ministers, all of whom are elected members of Parliament. The Executive is responsible for the administration and management of

the government of Samoa. Its role is to decide on policy matters, government budget estimates and bills to be introduced to Parliament.

**Parliament:**

Parliament consists of 49 members of the Legislative Assembly who are elected by universal suffrage every five years. 47 seats are held by matai elected from 41 constituencies with the remaining two seats reserved for representatives of individual voters who are defined as Samoans of mixed descent.

The Constitution provides that Parliament has full powers to make laws. A bill passed in Parliament becomes law when the Head of State assents to it.

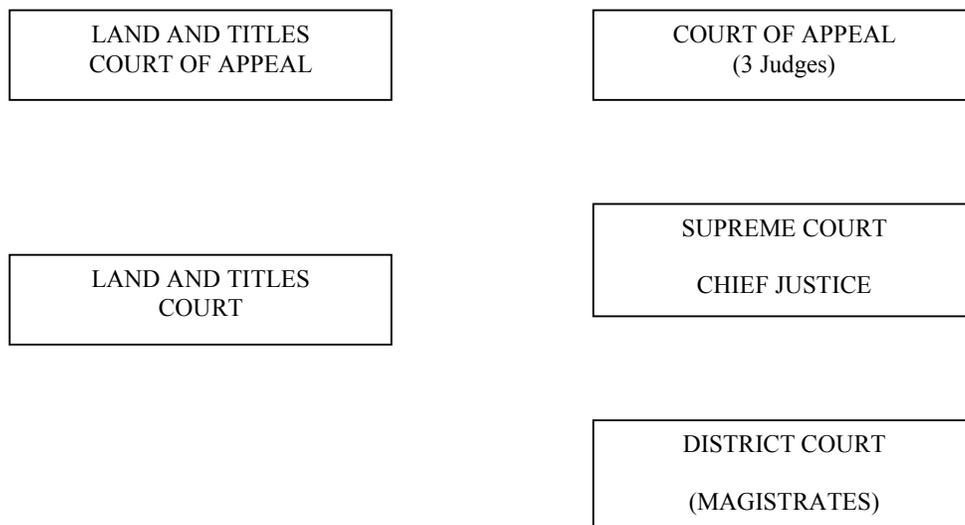
**The Judiciary**

The appointment of members of the Judiciary is decided by the Head of State acting on the advice of the Judicial Services Commission which comprises the Chief Justice, the Attorney General and a nominee of the Ministry of Justice and Courts Administration.

Samoa’s Judiciary is independently appointed and protected by law from removal from office for political reasons. The Judiciary’s key functions pursuant to the Constitution and necessity to maintain the rule of law are to interpret Acts passed by Parliament and review actions of the Executive to ensure it is acting within the law.

Samoa has a dual system of Courts reflecting the unique Land and Titles Court which has exclusive jurisdiction over Samoan chiefly titles and customary land, with the usual court hierarchy presided over by the President of the Land and Titles Court.

The hierarchy of the courts is as follows:



The Land and Titles Court is established pursuant to the Constitution of Samoa and Land and Titles Act 1981. Appeals against decisions of the Land and Titles Court are made in the first instance to the President of the Land and Titles Court sitting alone, and if allowed proceed to appeal before the President and Deputy Judges.

Decisions of the Lands and Titles Court may be reviewed judicially by the Supreme Court only in certain circumstances. Otherwise, it has distinct and separate jurisdiction as defined under the Constitution and Lands and Titles Act 1981.

### **Fundamental Rights:**

The Constitution guarantees to every Samoan certain fundamental human rights including the right to life, personal liberty, a fair trial, religious freedom, freedom of speech, freedom from inhuman treatment, freedom from forced labour, freedom of assembly and free association, freedom of movement and residence as well as freedom from discriminatory legislation.

These fundamental rights are to be enjoyed by women, men and children equally. Fourteen of the fifteen fundamental rights provisions are afforded to 'all persons' which is interpreted to mean adults, youth and children.

### **Political Parties:**

Since independence, a Westminster style party system has evolved. There are two main political parties, the Human Rights Protection Party (HRPP) which has now been in power for more than 20 years, and the Samoa National Democratic Party (SNDP) and more recently the Samoa Democratic United Party which is an amalgamation of the SNDP and independent members of Parliament

### **Public Service:**

The Public Service Commission (PSC) is responsible for implementing the policies of government with regard to its work force. The PSC is established by the Constitution. At present, the public service comprises 14 government ministries plus a number of constitutional offices and bodies, such as the Office of the Attorney General, Office of the Controller and Chief Auditor and the Public Service Commission. In 2003-04, salaries constituted 21% of governments total current expenditure budget. This figure has increased substantially to approximately 40%, following a major restructuring of public sector salaries in 2005. The retiring age for public servants is 55 years.

In 2004, Samoa's Public Service completed a major reform exercise that spanned several years and which resulted in the total number of government ministries halved with many of the functions of the Public Service Commission devolved to line Ministries. This allows the latter to take over more responsibility for their own operations, leaving the Commission to play a more strategic planning role in the development of Samoa's human resources.

It is expected that the development of the new merit based service will complement government strategies for economic development giving rise to a more effective and

efficient use of resources, better service delivery and ultimately a more competitive economy.

**Legal system:**

The written legal system is derived from the English common law system, with the Constitution as its cornerstone which includes a 'Bill of Rights' type list of fundamental freedoms. The Court of Appeal is presided over by 3 judges, usually selected from other Commonwealth jurisdictions.

The Supreme Court is presided over by the Chief Justice who is appointed on the advice of the government of the day. He or she is appointed for life or until retirement age, and can only be removed by a two thirds majority in Parliament.

The Attorney General is the constitutionally appointed law officer to government and derives certain powers under the Constitution and English common law. The Attorney General is responsible for representing the government as its principal legal officer and for drafting all legislation and supervises all criminal prosecutions. The Attorney General is required by law to act independently in the exercise of his/her functions and duties.

Samoa's legal system recognizes the role of custom and usage especially in relation to village government, which is the system of local government in rural areas.

An Office of the Ombudsman was established in 1991. Its mandate deals specifically with the conduct of government ministries and public officials.

Samoa operates a dual system of governance and law where it has adopted recognized commonwealth or common law models for its parliament, executive and courts system yet also acknowledges the role of 'village governance' through the mutual rights and obligations of chiefly title holders and their families. The holding of 80% of Samoa's land mass under customary land ownership means that the importance of Samoan custom and tradition in dictating social interaction remains a significant feature of Samoan life particularly in rural areas and all areas outside the Apia urban area.

## **SECTION 2: GENERAL MEASURES OF IMPLEMENTATION**

### ***9. The measures taken to harmonize national law and policy with the provisions of the Convention;***

9.a.1. Legislation has been passed to establish a Law Reform Commission to review all the laws and statutes of Samoa, including those relating to children. This mechanism will assist in ensuring that Samoa's statutes are brought into harmony with the requirements of CRC. To date however, the Office of the Law Reform Commission is yet to be established.

9.a.1.2 Other legislative measures that have been put in place since ratification include:

- (a) **The Youth, Sports & Cultural Affairs Act 1993/1994** – The Act establishes a Ministry with functions to promote and encourage the development of youth in Samoa of youth work (including out of school training, promotion of income generating activities, general education development) and sporting and cultural activities. The Act establishes an advisory board to advise the responsible Minister on matters of policy affecting youth. Following a realignment of Government ministries in 2003, responsibility for youth is now with the Ministry for Women, Community and Social Development under its Youth Division. Responsibility for the portfolios of sports and culture are now with the Ministry for Education, Sports and Culture;
- (b) **The Births, Deaths and Marriages Registration Act 2002** – The Act provides better regulation and obligations for registration;
- (c) **The Citizenship Act 2004** – The Act revises the law relating to citizenship and confirms citizenship to any child by birth in Samoa or by descent;
- (d) **The Electoral Amendment Act 2005**– The Act amends the Electoral Act 1963 to preserve the right of second generation descendants of persons of mixed descent who are registered on the individual voters roll to be eligible to vote on the individual voters roll themselves upon attaining 21 years;
- (e) **The Infants (Adoption) Amendment Act 2005** – The Act regulates the adoption of children overseas to foreign couples.

### ***9.b Existing or planned mechanisms at national or local level for coordinating policies relating to children and for monitoring the implementation of the Convention.***

**9.b.1.** The DFW- MWCSO, as the national focal point for the CRC, provides the overall coordination for the promotion, implementation and monitoring of the Convention at all levels. In 1997, Cabinet approved the establishment of a National Coordinating Committee on CRC (NCCRC) to oversee the implementation and monitoring of CRC at all levels. It was also tasked with the responsibility of ensuring national policies are in place to address children's issues in the various sectors. This was not realized until 2003.

**RECOMMENDATION:** That the National Coordination Committee on the CRC be expanded to include a representative of the private sector and that the proposed Division for Children in the MWCSO provides the Secretariat

In 1999, the Division of Programs, Training and Community Development Services for Women (PTCDS) of the former Ministry of Women Affairs (MOWA) now the DFW-MWCSO facilitated the establishment of the working group for the Convention namely the CRC Partnership. This group is made up of – government and – non government agencies, all of which have direct responsibilities in the implementation of the different CRC articles. The main criteria for membership stipulates that a member organization must have cross cutting and relevant core functions that address the government’s obligations in realizing, the children’s rights for life, health, education, protection and all the areas stipulated under the Convention.

The Partnership began with 4 founding members namely from government, the former MOWA and the Department of Justice and 2 NGOs, Mapusaga o Aiga (MOA) and ECPAT Samoa. To date, there are 15 Partnership members; 7 Government Ministries which include the DFW-MWCSO, Division for Youth of the Ministry of Women, Community & Social Development (DFY-MWCSO), Division of Research, Policy, Planning and Information Processing of the MWCSO (DFRPPIP-MWCSO), Ministry of Health (MOH), Ministry of Education, Sports and Culture (MESC), Ministry of Police, Prisons and Fire Service (MPPFS), Ministry of Justice and Courts Administration (MJCA) and 8 Non Government Organisations which includes; Youth For Christ, Sautiamai/Catholic Family Ministry, Aoga Fia Malamalama, Loto Taumafai Education Center and Fiaola Crisis Centre /Catholic Family Ministry.

With the establishment of the CRC Partnership the implementation of activities benefiting children have become more focused and better coordinated. It is one of the strengths of this alliance. Furthermore, through the CRC Partnership, the DFW-MWCSO has consistently maintained its coordinating role by ensuring that information get to the partners, capacity buildings on CRC are conducted for member organizations, community participation is strengthened through involvement in activity planning, implementation, monitoring and evaluation. In particular, the CRC Partnership provides the opportunity for the partners to share ideas and technical expertise on their areas of focus so as to further realize the principles of the Convention at all levels.

The CRC Partnership is part of the Ministry’s strategy to translate into reality a ‘collaborative and multisectoral’ approach to the work on CRC. The cohesiveness of the Partnership has facilitated a national understanding of the spirit and the meaning of the children’s rights. The partners know what others are doing and there is a consensual agreement on the CRC articles that the different organizations work on. For example the Article on Children’s Right for Education is the business of the Ministry of Education and its NGO education sector partners. The Article on Children’s right for Health is likewise the business of the Ministry of Health and its NGO alliances in health.

In 2000 the first Corporate Plan of the former Ministry of Women Affairs was launched, the objectives in the corporate plan focused on the provision of a better coordinated, managed and more credible community development services for women

and children. This was done through the Family and Wellbeing program which aimed to improve the physical and social environment of families and communities so as to enhance their capacities to promote and sustain a holistic healthy home environment.

In achieving these objectives 3 key strategies were identified as follows ;

1. **Partnership with stakeholders** - The establishment of the CRC Partnership fostered the network at the national level between Government and NGOs. It provided the framework for the establishment of the CEDAW Partnership two years later. Prior to the set up of the CRC Partnership, the former MOWA already had existing strong networks at the community level through the family and wellbeing program (Healthy Homes/Healthy Village Program). These networks were used as the vehicle to drive the promotion and implementation of the Convention at all levels. It also reflects the scope of opportunity for the community as a whole to be actively involved in child protection activities.
2. **Coordination, monitoring and evaluation of programs** - The former MOWA through its PTCDS Division provided the secretarial function for the NCCRC and Partnership to the CRC. The PTCDS was also responsible for coordinating national efforts for the promotion, implementation of CRC. Monitoring and evaluation as an integral part of activity implementation helped make available the information needed to meet the reporting requirements for CRC. In terms of the specific activities conducted annually, these included national children's forums on CRC, Mothers and their daughters' workshops, Women and their husbands' workshops and Livelihood skills training for young women. These annual activities were initiatives of the PTCDS that provided opportunities for children to participate in a meeting, for mothers and daughters to dialogue and discuss reproductive and sexual health issues; and women and husbands a forum to discuss sexual health issues and to learn and share ideas of good parenting practices which promote the protection of family members from the spread of HIV/AIDS & STI infections.
3. **Advocacy** – the Division for PTCDS was also responsible for conducting weekly radio programs, the production of the monthly newsletter in Samoan and the quarterly English newsletter – The Conch Shell. Annual TV and radio spots and printed IEC materials were also developed, all of which provided the different mediums for communicating CRC to the public at all levels. The opportunities through the various programs and activities coordinated by the PTCDS were also utilized to build the capacity of stakeholders to advocate for children's issues.

In 2001, the work of the Pacific Children's Program officially started. This program with all its available resources, contributed to the MWCSO's work in taking the work on CRC further than it had been, given Government budget constraints. The goal of the program aims to contribute to the reduction of abuse and neglect of children in Pacific Island Countries by increasing family, community and government responsibility for child protection in Fiji, Vanuatu and Samoa. The Program comprises the following components:

- Overall Preventive Strategies on Child Abuse & Neglect
- Appropriate country level information on child protection
- Family and community preventive action programs
- Government and institutional understanding of, and commitment to child protection
- Effective and efficient regional coordination, collaboration and management of the Program <sup>2</sup>

In 2003, the amalgamation of Government ministries and departments under the government's public sector reforms resulted in the former MOWA merging with the Division for Youth of the former Ministry of Youth Sports & Cultural Affairs, the Ministry of Internal Affairs and the Government Printing into the Ministry of Women, Community & Social Development. The realignment has had some positive implications on the work of CRC through further strengthening the available mechanisms in which children's issues can be realized.

In 2004 the first Corporate Plan 2004-2007 of the MWCSO was launched. The Ministry's vision is 'to be the lead agency in the provision of community welfare and social services to advance the attainment of quality of life for all'<sup>3</sup>. In the same fiscal year, Cabinet approved the appointment of government women representatives (GWR) from the women's committees in each village. The GWRs are utilized to lead the advocacy work in their own villages with the MWCSO-DFW providing the technical assistance as needed.

In terms of the CRC work, the Corporate Plan objectives from which the activities and programs for the work of CRC are derived are:

1. To provide quality advice on national policies and plans to promote the spiritual, cultural, social and economic development of families and communities in Samoa.
2. To coordinate the provision of effective and efficient community and social development services to enhance social harmony and economic wellbeing of families and communities.
3. To promote a gender responsive orientation in national initiatives so as to provide more choices and opportunities for men, women, youth and children.

Some of the strategies in place to achieve these objectives specifically in relation to children include the Development of a National Policy for Children, the coordination of the establishment of a Gender Management System which aims to incorporate a gender perspective into the work of CRC at all levels, and the coordination of the implementation of programs and activities for the realization of the principles of the Convention at all levels.

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<sup>2</sup> PCP PID, March 2002 pg 57

<sup>3</sup> MWCSO Corporate Plan, 2004 - 2007

These objectives and strategies are further broken down to reflect the roles and functions of the MWCSO-DFW as the national focal point for CRC, in the MWCSO-DFW's Strategic Plan for 2005-2007 which was launched in July 2005. In this document, the vision for the Division which emanates from the overall vision of the MWCSO is ***"To achieve excellence in the provision of community welfare and social services for women and children (0-18 years)"***.<sup>4</sup> To achieve this vision, the DFW-MWCSO's mission is ***"To actively contribute to the wellbeing of women and children (0-18 years) through networking and collaboration"***.<sup>5</sup> This is the first Strategic Plan for the MWCSO-DFW and it further refines the work on the Convention to the specific focuses and it documents the developments driven by the DFW for the work on CRC and CEDAW at all levels. The MWCSO-DFW continues to coordinate and conduct CRC activities in its role as the national focal point. As of Financial Year 2004/2005, a budgetary output on the Protection of Children has been incorporated into the MWCSO's budget under the Division for Women as a result of government's commitment to the sustainability of the Pacific Children's Program. The DFW has continued to coordinate and conduct annual programs some of which include the national children's forums, the mothers and their daughters' workshop and the women and their husbands' process. Others include the monthly meetings of the CRC Partnership which serves as a monitoring tool for the MWCSO-DFW on the implementation of the CRC by the partners and stakeholders of the Ministry.

In March 2005, the World Health Organization's Healthy Environments for Children Alliance (WHO HECA) approved funding for work on the National Policy on Children in Samoa. The Policy is planned to be completed in December 2005 for submission to the NCCCRC for its endorsement and submission to Cabinet for approval through the Minister for Women, Community and Social Development by December 2005. The policy will incorporate the WHO HECA focuses bringing together all the policies that are currently in place for the development and protection of children in various areas as highlighted in the different articles of the Convention. Work on a National Preventive Strategy for the Protection of Children from Abuse and Neglect under the Pacific Children's Program is proposed to be completed by June 2006. It is anticipated that this National Preventive Strategy will form part of the National Plan of Action for the National Policy on Children.

***10. In addition, State parties are requested to describe the measures that have been taken or are foreseen, pursuant to article 42 of the Convention, to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.***

10.a.1 Since ratification of the Convention in 1994, the Samoan government through the former Ministry of Women Affairs and now the Division for Women of the realigned Ministry for Women, Community and Social Development, the CRC Partnership and the community, has committed to implementing the Convention. This commitment includes the dissemination of information and sharing of knowledge to adults and children alike on the principles and provisions of the convention.

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<sup>4</sup> Division for Women Strategic Plan 2005-2007

<sup>5</sup> Division for Women Strategic Plan 2005-2007

In 1996, a study entitled *A Situational Analysis of Children and Women in Samoa* was undertaken by government with assistance from UNICEF. The report of this study provided valuable information on the situation of children in Samoa in terms of the socio-economic, cultural and religious contexts, and in relation to the provisions and principles of the CRC.

In 1999, the CRC was officially launched with support from government ministries as well as community and church leaders. An information package on the CRC which includes a copy of each of the following documents – the Convention, *A Situational Analysis of Children and Women in Samoa, 1996*; *Facts of Life* and Samoan translation of the *CRC: Questions Parents Ask* – was made available to the public and media.

Since the official launching of the Convention, community meetings have been organized to raise awareness and promote the spirit of the CRC, discuss the meaning of each article of the Convention and solicit views from the various sectors of the community on the Convention and its principles.

The CRC Partnership has facilitated national workshops for parents to explain the CRC and to obtain feedback from them as to their views on the provisions and principles of the CRC. As of 2000, a national children's forum is held annually to allow the opportunity for children to express their views on the rights of the child as well as demonstrate their awareness and understanding of the CRC. Children from the age of 10 – 17 years are invited to participate in these fora.

The effectiveness of these activities has been greatly facilitated by the availability of the Samoan translation of the articles of the Convention, the *CRC: Questions Parents Ask and the CRC: Rights and Responsibilities of the Child*, recently completed by the DFW-MWCSD. In the meantime, NGOs such as Mapusaga o Aiga (MOA) and ECPAT Samoa had done some work on the CRC particularly on their areas of focus.

The first National Meeting in Samoa on the Commercial Sexual Exploitation of Children (CSEC) took place in November 2003 with assistance from the Pacific Children's Program. This meeting brought together community leaders to consider CSEC issues that may and could affect the children in Samoa. The men and women present endorsed the need for the protection of children from commercial sexual exploitation and supported the importance of the Convention in realizing the protection of children in all areas including commercial sexual exploitation.

The MWCSD's Division for Youth conducts an annual National Youth Forum in which young people are afforded the opportunity to discuss a number of social issues affecting youth. These include HIV/AIDS and Sexually Transmitted infections, Youth and the Law and Human Rights of young people. A session on CRC is included as part of this annual program where young people are further informed of the principles and articles of the Convention.

Since the work on PCP started in late 2001, a number of processes which include workshops, trainings, consultations, sector meetings, forums for children and village based advocacy activities have taken place in Samoa. The work of the PCP which is implemented in the context of the CRC has provided the platform for raising the

awareness and understanding of the people in Samoa at all levels on CRC. To date, over a 100 villages in Savaii and over 80 in Upolu have been reached and made aware of the Convention with the work of PCP. The different components of the PCP have equally provided the opportunity for raising the awareness of the target audiences in the community about the Convention.

The MWCSD-DFW continues to coordinate and conduct programs and activities as part of PCP as well as that of the Division's work on the CRC such as the annual children's forums, small grants village based advocacy activities, national and religious advocacy activities, sector meetings and workshops for the Facilitation Package. The MWCSD-DFW utilizes its existing networks, the village women's committees and the Government Women Representatives at village level to implement key activities of the Program. The activity implementation reports indicate that the involvement of the community leaders in the work of the PCP has developed and strengthened their capacities to advocate for, and raise awareness on, child protection issues and the CRC at the village level.

The Ministry of Police, Prisons and Fire Services (MPPFS) has been conducting awareness programs in schools focusing on the rights of young people and the law. Additionally, the MPPFS implements a Road Show in the village communities, focusing on responsibilities of different sectors of the community to ensuring a "***Safer Samoa***" for all, particularly children. Sessions on the CRC are an integral part of this campaign.

***11. States parties are also requested to describe those measures undertaken or foreseen, pursuant to article 44, paragraph 6, of the Convention, to make their reports widely available to the public at large in their own countries.***

A number of consultations were held with the CRC Partnership, stakeholders and the community on the draft initial report on the implementation of the CRC. The main purpose of these consultations was for the various sectors of the community to review the content of, and provide feedback on, the draft report. Views from these consultations were incorporated into the draft report. Two public meetings were subsequently held to discuss the revised draft report. As with the consultations, views expressed in the Public meetings were incorporated into the draft report, before it was submitted to the NCCRC for its review and consensus for submission to the Minister for Women, Community and Social Development for official endorsement.

The Samoan translation of the draft report has been completed. However, the revisions which emanated from the consultations and public meetings and incorporated into the English version are being incorporated into the Samoan translation of the report. When this work is completed, Samoa's initial report on the implementation of the CRC in both Samoan and English will be made widely available to the public at large in Samoa.

### SECTION 3: DEFINITION OF A CHILD

#### 12 *Definition of a child*

12.1 There are different age definitions of a child used in the legislation in Samoa for particular situations,

12.1.1 Under the ‘Crimes Ordinance 1961’, the age of majority is 21 years.

12.1.2 Under the ‘Infants Ordinance 1961’ a ‘child’ means any infant under the age of 16 years; while an ‘infant’ is any person under the age of **21 years**.

12.1.3 The ‘Electoral Act 1963’ states that an ‘adult’ means a person over the age of **21 years**.

12.1.4 In the ‘Maintenance & Affiliation Act 1967’, ‘child’ means one under the age of **16 years**

12.1.5 Under the ‘District Courts Act 1969’ an ‘infant’ means any person under the age of **21 years**

12.1.6 The ‘Acts Interpretation Act 1974’ states that a ‘minor’ is any person under the age of **21 years**

12.1.7 Under the ‘Administration Act 1975:

- Section 2 Interpretation...”References to a child or issue living at the death of any person include a child or issue who is conceived but not born at the death but who is consequently born alive”
- Section 44 (1) (a) (i) Part IV – “Family protection” rights given to children of deceased if insufficiently provided for in parents’ will.
- Section 45 (1) (b) a child claiming right to estate may provide a receipt for his share at 18 years.

12.1.8 **RECOMMENDATION:** That an analysis be undertaken to determine the impact, if any, of different age definitions of a child in Samoa’s legislation on the full realization of the rights of the child.

#### **12.2 *Citizenship Act 2004***

12.2.1 Section 64 – every person born in Samoa shall be a citizen of Samoa by birth

12.2.2 Section 7 – citizenship by descent – if a father or a mother of a person born outside of Samoa is a citizen of Samoa, the child is a citizen of Samoa.

#### **12.3 *Education Ordinance 1959***

12.3.1 The ‘Education Ordinance 1959’ states “School Age” as any age between 5 years and 14 years. Education is compulsory for these years.

- 12.3.2 Section 16 (1) states “Subject to the provisions of this Ordinance, every child is hereby required to have his name enrolled on the register of some Government or registered school from the time when he attains the age of 5 years until either he attains the age of 14 years or sooner completes the work of year 8”.
- 12.3.3 Section (3) states: “It shall be the duty of every Pulenuu (village mayor) at all times to satisfy himself that every child residing in every village in respect of which he has authority who is required by subsection (1) of this section to be enrolled, is so enrolled.....”
- 12.3.4 Education is compulsory but not free. Approximately US\$ 4.00 per term – is collected by school committees from each child for the maintenance of school buildings. Village communities normally provide the school building, but today, overseas aid moneys are becoming increasingly available to assist communities with school construction. Some communities continue to provide lunch for teachers, but the practice is entirely voluntary today. Nevertheless Samoa, did sign this reservation when acceding to CRC<sup>1</sup>.
- 12.3.5 The Education Bill which is presently tabled with Cabinet for its consideration and approval, has quite encompassing key features in relation to the rights of the child. These include:
- (a) Attendance at school – implements system for monitoring attendance and enrolment, including widening the responsibility for school attendance and enrolment to principals and the CEO of the Ministry;
  - (b) Provides requirement for education for children with special needs;
  - (c) Regulates employment of school age children;
  - (d) Sets minimum standards for student welfare including standards for behaviour management and corporal punishment as well as standards for staff welfare including for abuse of staff;
  - (e) Provides system for registration and monitoring of schools including village schools;
  - (f) Sets teaching standards;
  - (g) Sets curriculum standards.

#### ***12.4 The Marriage Ordinance 1961***

- 12.4.1 Section (9) states: “A marriage officer shall not solemnize or record any marriage unless the husband is at least 18 years of age and the wife is at least 16 years of age, but no marriage shall be invalidated by a breach of the provisions of this section”.
- 12.4.2 Section (10) (1) states: “A marriage officer shall not solemnize or record the marriage of any man under the age of 21 years or of any woman under the age of 19 years without the consent of one of the parents or the guardian of such man or woman, if either of those parents or such guardian is alive and resident in Samoa. (2) A Magistrate may in any case, if he thinks fit to do so, grant

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<sup>1</sup> This is the Reservation which Samoa signed when ratifying the Convention on the Rights of the Child

exemption from the requirements of this section. (3) No marriage shall be invalidated by any breach of the provisions of this section.”

- 12.4.3 **RECOMMENDATION:** That the ‘Marriage Ordinance 1961 Section (9) be amended to make the age of marriage at least 18 years for both males and females.

## ***12.5 Child Labour***

Child Labour in Samoa is classified into three categories: Formal employment, semiformal employment and non-formal employment.

Please refer to the Section on *Special Protection Measures* for further discussion on Child Labour.

## ***12.6 Samoa maintains no standing armies or armed forces.***

**12.7 Sexual Consent:** The Crimes Ordinance 1961 Sexual Crimes has ten sections which provide for the protection of children who are victims of sexual crimes: Section 49 – Incest; Section 50 – sexual intercourse with young related girl living in his family; Section 51 – sexual intercourse with a girl under 12 years; Section 52 – indecency with a girl under 12 years; Section 53 – sexual intercourse or indecency with a girl between 12 and 16 years; Section 57 – sexual intercourse with a woman or girl with mental disability; Section 58B – indecent act between woman and girl (under 16 years); Section 58C – indecency between man and boy (under 16 years); Section 58D – indecency between males (no person under 16 years can be charged with this offence); Section 58E – where a person is charged with sodomy to a boy under 16 years the penalty is 7 years instead of 5 years.

- 12.7.1 **RECOMMENDATION:** That the ‘Crimes Ordinance 1961’ be amended by removing the terms ‘idiots’ or ‘ imbeciles’ and replacing them with the term ‘persons with a mental illness and intellectual disability’

## ***12.8 Voluntarily giving testimony in court:***

- 12.8.1 In the ‘Oaths, Affidavits and Declarations Act, Section (10)provides that: “All witnesses who are or appear to be under the age of 12 years may in any proceeding be examined without oath, but any such witness shall be required before being examined to make the following declaration. ‘I promise to speak the truth, the whole truth, and nothing but the truth”.
- 12.8.2 The common law stipulates that the Court questions a youth or witness about her/his understanding of the difference between something that is true and false and the significance of swearing on the Bible.

## ***12.9 Criminal liability***

- 12.9.1 Crimes Ordinance 1961: Section 11 – no child under 8 can be convicted of an offence.
- 12.9.2 Crimes Ordinance 1961: Section 12 – children between 8 and 14 can only be convicted if a jury or Court (in summary proceedings) is satisfied the child knew it was wrong.
- 12.9.3 Criminal Procedure Act 1972: Section 72 – defendant under 18 years may be remanded in the custody of a Child Welfare Officer pending trial.
- 12.9.4 In practice, young offenders are tried by the same judges who try adult offenders. Refer to 13. (b) for further information on this matter. It is a constraint that there are no child psychology services for offenders.
- 12.9.5 There are two correctional facilities, Tafaigata Prison on Upolu and Vaiaata Prison on Savaii. If a child should be imprisoned there is no facility separate from adults. However, in the Report of the Committee on the Rehabilitation Center for Young Offenders 1997; “Statistics show a substantial number of young offenders in the age group 15 to 21 years (offences are against morality and property) which in the Committee’s view, warrants the establishment of a rehabilitation center.” Money has since been allocated in government’s 2003-2004 budget for the construction of a Young Offenders Rehabilitation Center.
- 12.9.6 In 1994, offenses by age were: 11-15 years – 13 offences; 16-20 years – 93 offences; 1995 11-15 years – 3 offences; 16-20 years – 20 offences.

## ***12.10 Consumption of alcohol and other controlled substances***

- 12.10.1 Under the Liquor Act 1971 - Any licensee who supplies liquor to any person under 21 is guilty of an offence.
- 12.10.2 Tobacco Control Bill – will revise the law and further regulate the sale of tobacco to minors.
- 12.10.3 RECOMMENDATION:** That existing legislation making it illegal to supply, sell and/or give tobacco, alcohol and other controlled substances to children, be strictly enforced.
- 12.10.4 There are 11 General Rights (not applying specifically to children) in the Constitution which should be noted: Section 5 – Right to Life; Section 6 – Right to personal Liberty; Section 7 – Freedom from inhuman treatment; Section 8 – Freedom from forced labour; Section 9 – Right to a fair trial; Section 10 – Rights concerning criminal law; Section 11 – Freedom of religion; Section 12 – No person in an educational institution shall be required to “take part in any religious ceremony or attend religious worship...”; Section 13 – Rights regarding freedom of speech, assembly, association, movement and residence; Section 14 – Rights regarding property. Section 14 (2) Exceptions include laws relating to vesting and administration of infants; Section 15 – Freedom from discriminatory legislation (on grounds of descent, sex, language, religion, political or other opinion, social origin, place of birth or family status. Section 15 (3) B – Exceptions to “Freedom from

discriminatory legislation include power to make provision for protection or advancement of women or children....”

12.10.5 The Newspapers and Printers Act 1992/3 Section 10 Discovery in Case of Defamation in Newspaper can be interpreted as putting limitations on the basic right of freedom of speech. The provision compels a publisher to reveal his/her source in a defamation case.

12.10.6 **RECOMMENDATION:** That the ‘Infants Ordinance 1961’ be reviewed to take into account the requirements of the CRC but more specifically to:

- Impose more realistic penalties and to provide more effective deterrents.
- Strengthen the administration, monitoring and enforcement of the Ordinance.
- Raise public awareness on such legislation and its purpose.

## SECTION 4: GENERAL PRINCIPLES

13. “Children as a group and as entities are very much part of the social organization of Samoan society. Children in Samoan society are seen as a gifts from God and the *aiga* (family) network normally will care for all children born in and out of wedlock. The problems today lie in the quality of care”.<sup>1</sup> However, in the same source the author states: “They (children) are often considered to be seen and not to be heard.”<sup>2</sup> This statement is a reflection of the principles of “*va fealoaloi*” (respect) between children and adults in the family. The children know their place and when adults talk, they will wait for their chance to have their say.

The basic rights of everyone in Samoa are covered under the General Rights Section of the Constitution and other legislation already in place.

The spirit of the Convention on the Rights of the Child is generally in accordance with the founding spirit of the Independent State of Samoa which affirms that Samoa is founded God. This foundation embodies the cultural/religious vision that has guided the evolution of modern Samoa as a result of the mutual fusion of principles of the Samoan Culture and Christianity. It underscores the continuing predominance of the cultural/religious influences in all spheres of life in Samoa. It is generally understood that Christian principles contributes to the wellbeing of all forms of ‘the good life’ for humanity. Hence the principles of the Convention serve the purpose of the ‘good life’ for not only children but society as well.

### ***13.a Non-discrimination***

- 13.a.1 The right of a child to freedom from discrimination is provided for in the Constitution, Section 15 – “Freedom from Discriminatory Legislation”; on the basis of race, sex, language, religion, political or other opinion, place of origin or family status. These rights include the right to life, to liberty, to security and protection of the law, to freedom of expression, conscience and association as well as the protection of property, privacy and from deprivation.
- 13.a.2 Citizenship is granted on application to a child born outside Samoa whose father or mother is a Samoan citizen.
- 13.a.3 Under the Education Ordinance 1959, freedom from discrimination in education is guaranteed as it provides that entry into any school cannot be refused on the basis of descent, language, religion or gender, political or other opinion. The only stipulation is in the minimum and maximum age of entry into primary schools.

Schools for children with special needs have been established and have equal access to resources as regular schools. These schools are included in schools awarded annual grants by government. Since 2002 children with special needs

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<sup>1</sup> The Government of Samoa with the assistance of UNICEF, *A Situation Analysis of Children and Women in Samoa 1996*. 1996 Suva, Fiji, UNICEF Pacific p,4

<sup>2</sup> Ibid p 7

have been integrated into regular schools. A comprehensive study on special needs education in Samoa is due to be completed soon. The findings will be incorporated into the recently developed policy on special needs education which is now an integral part of the planning/programming processes of the Ministry of Education, Sports and Culture. Pilot projects are being developed to ensure the integration of disabled children and those with learning difficulties into the regular school system. Public education programmes by the various groups for the disabled aim to enhance the public's awareness of the needs of the disabled, in particular, the fact that the disabilities should in no way preclude them from leading normal lives.

- 13.a.4 Statistical data in some government Ministries is *disaggregated* and incorporated into data collecting systems such as the HIS (Health Information systems) and EMIS (Education Management Information system). Policy and research units within each Ministry collate, analyse and make such information available to all users. Under the Pacific Children's Program, the Division for Women has established a Child Protection Information System.

### ***13.b Best interests of the child.***

- 13.b.1 In the Infants Ordinance 1961 Part I Section 3 - Principle on which questions relating to custody, etc, of infant to be decided – states: “Where in any proceeding in any Court, the custody or upbringing of a child is in question, the Court in deciding that question **shall regard the welfare of the child as of the first and paramount importance**”.

While there is no legal definition of what constitutes the ‘best interests’ of the child, this is a paramount consideration in the Court of Law in respect of custody, access and maintenance proceedings, as embodied in the clauses of the Matrimonial Act which stipulate that “ the court shall regard the interests of the children as the paramount consideration”. The Supreme Court of Samoa is yet to be a signatory

- 13.b.2 It is a constraint that in the cases of young offenders, the best interest of the community, not the best interest of the child, is the guiding principle.
- 13.b.3 Under the Crimes Ordinance 1961, Section 11 states: “No person when under the age of 8 years shall be convicted of an offence by reason of any act done or omitted by him” and Section 12 states: “No person shall be convicted of an offence by reason of any act done or omitted by him when of the age of 8 but under the age of 14 years, unless the jury by whom he was tried, or the Court before whom he is charged having jurisdiction to deal, with the charge summarily, is of the opinion that he knew such act or omission was wrong”.
- 13.b.4 The best interests of a child include access to education; however, there are a number of children whose families allege that they cannot afford to educate them. The Reservation that was made by Samoa to the Convention of the Rights of the Child when the Convention was ratified in 1994 states: “The

Government of Samoa thus Reserves the Right to allocate resources to the Primary Level Sector of Education in Samoa, in contrast to the Requirement of Article 21(1)(a) to provide free Primary Education”. This recognizes the fact that schools outside the Apia urban area are owned and operated by the village and district authorities and a contribution from all families is required. As such, the Ministry of Education, Sports and Culture is not the owner of village school facilities. However, it contributes to national education through the provision of teachers and ancillary staff and educational resource material.

- 13.b.5 The Education Ordinance 1959 Section 16 states: “Subject to the provision of this Ordinance, every child is required to have his name enrolled on the register of some government or registered schools from the time he attains the age of 5 years until 14 years or sooner completes the work of Year 8”. Section 21 provides that “ In failure to enrol a child in a registered school, the parent commits an offence and is liable on summary conviction to a fine not exceeding \$100.” Section 23 states that “every child required to be enrolled must attend school.”

### ***13.b.6 Youth Justice***

- 13.b.6.1 There is no Juvenile Court or Juvenile Remand Facility. Young offenders are remanded with adults. An alternative often chosen by judges is to put young offenders on probation under the supervision of a Child Welfare Officer who counsels them while they are serving their probation. This situation has changed since 2003 when youth offenders were separated from adults. A Youth Justice Bill is currently being drafted for submission to Parliament in December 2005. The foundation of the new system is the establishment of a Youth Court (which currently operates internally) with special powers to treat young offenders with the aim of rehabilitation.
- 13.b.6.2 A Committee on Rehabilitation of Young Offenders was appointed in 1997. (See the Executive Summary for the composition of the Committee). A quote from the Committees findings says, “There are, of course, no institutions in Samoa or the holding of children but it is inhumane and contrary to all principles of modern justice to imprison young children or condemn them to a life of servitude and I feel the courts should avoid as far as possible the committal of children under the present condition.”<sup>3</sup> The prison has provided separate facilities for young offenders since 2003.
- 13.b.6.3 The government of Samoa has since made financial provision in its 2003/2004 budget to build and operate a Young Offenders Rehabilitation Centre.

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<sup>3</sup> Quoted from a “letter to the Minister for Justice 1974 – Chief Justice G J Donne, Supreme Court of Samoa”

13.b.6.4 Samoa has a legal aid system (not child specific) through which the Ministry of Justice and Court Administration provides an attorney for those who do not have the means to engage one. Legal aid is available to young offenders. It is however, available only for serious criminal offending and not for civil proceedings. The Office of the Attorney General has acted as advocate and provided independent legal representation for a child in family proceedings.

***c) The right to life, survival and development (art.6)***

13.c.1 Under the Constitution – General Rights (not applying specifically to children) Section 5 – “Right to Life” (1) As of 2003, Samoa removed the death penalty from its statute which since independence in 1962 has never been carried out. (2) Deprivation of life shall not be regarded as having been inflicted in contravention of the provisions of this Article when results from the use of force to such extent and in such circumstances as are prescribed by law and as are reasonable justifiable – (i) in defence of any person from violence; or (ii) in order to effect an arrest or to prevent the escape....(iii) for the purpose of suppressing a riot, insurrection or mutiny.”

13.c.2 Under the Crimes Ordinance 1961 Sexual Crimes with provisions relating specifically to children as victims of crime, there are seven sections addressing this issue: Section 60(2) “The killing of a child is homicide if it dies in consequence of injuries received before, during or after birth”; Section 72 – Infanticide – if a woman causes death to her child within 12 months of its birth; Section 73 – Killing an unborn child; Section 73 A-D Abortion offences; Section 74 Concealing the dead body of a child; Section 76 – Duty to provide necessities of life to, inter alia, persons who by reason of age are unable to provide for themselves; Section 77 – Duty of parents and guardians to provide the necessities of life for their children under 16 years of age; Section 83A – kidnapping of a child under 16 who is unable to consent to being carried off or detained; Section 83 B – abduction of a child under 16.

13.c.3 Page 5ff. of *A Situational Analysis of Children and Women in Western Samoa* spells out the cultural practices which show the importance of the traditional care of the birth of a new born baby. This puts the CRC principle of the right of the child to life, survival and development into a Samoan perspective.<sup>5</sup> See Appendix for the full text.

***13.d Respect for the views of the child***

13.d.1 Samoa’s constitution guarantees freedom of speech.

13.d.2 The Oaths, Affidavits and Declaration Act 1963 section 10 states: “**Evidence of children without oath**”. All witnesses who are or appear to be under the age of 12 years may in any proceeding be examined without oath; but any such witness shall be required, before being examined, to make

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<sup>5</sup> Ibid p.5

the following: 'I promise to speak the truth, the whole truth, and nothing but the truth,' or a declaration to the like effect; and such declaration shall be of the same force and effect as if the witness had taken an oath".

In custody disputes, a child has the right to express his/her own wishes. However, the child's best interest is of paramount concern to the court.

In relation to giving testimony in Court, the common practice is that the Court questions a youth witness about his/her understanding of the difference between something that is true and false as well as the significance of swearing on the Bible.

Within the school system, children have a voice through student councils where they can express their grievances and through representatives such as prefects. There are a number of opportunities through national cross-sectoral programmes by which children express themselves through the use of song, poetry and drama.

### **13.e Participatory rights**

13.e.1 The official government launch of the CRC was held on 15<sup>th</sup> March 1999. An information package on the CRC was distributed to all participants and made available to the general public. The information was in both English and Samoan.

13.e.2 Children and Youth forums on development issues receive wide coverage on national television and in the print media. Some governmental delegations to international conferences have youth representatives. Children are often involved on the radio and television to convey messages on children's rights and on the need for child protection. Since 1999, there have been annual National CRC Children's forums and National Youth Forums coordinated by the MWCSO to promote the participation of children and young people in the discussion of CRC articles and principles with the aim to facilitate feedback from them on these subjects. The PCP's implementation phase which started in April 2002 encouraged child/youth participation through the implementation of the Small Grant Scheme and the facilitation package in the villages.

Churches have played a major role in affording opportunities promoting the participation of young people in Samoa through activities such as weekly youth rallies and interdenominational fellowships. These have helped develop and/or enhance the confidence of young people to express their views in community and public settings.

### **14. Additional information:**

14.1. The annual Mothers and Daughters Process conducted by the MWCSO-DFW is also part of the implementation of the *Strategic Plan on Responding to the Impact of HIV/ AIDS to Women in Samoa 2001-2005*, to facilitate healthy

relationships between mothers and their daughters through dialogue and open communication. These processes have opened communication between mothers and their daughters. The participating mothers recognize the importance of respecting their daughters' views and hearing their concerns on issues affecting them. Livelihood Skills Processes for young women are also conducted annually by the DFW-MWCSD affording yet another opportunity for young women to learn skills in income generating activities and receive information on reproductive and sexual health. The purpose of the livelihood skills training is for young women to obtain relevant information for their self development. Through the Mothers and their Daughters processes, young women are able to acquire the necessary skills and knowledge which would empower them to participate with confidence in decision making on matters that affect them and their best interests.

- 14.2. The MWCSD-DFY has recently commenced the implementation of a joint Samoa government and UN system program for youth development. This program is called "Towards A Legacy of Achievement, Versatility and Opportunity through Unity" (TALAVOU). The TALAVOU Programme supports government's focus on the development and participation of youth in national development as identified in the Samoa Strategy for Development 2005-2007. Accordingly, this Program addresses key priority issues identified in the Samoa National Youth Policy 2001 – 2010. The 3 components of the programme include Self Worth Improvement Initiatives, Skills Formation and Human Development Initiatives and Income Generation and Livelihood Initiatives. The goal of the TALAVOU Program is for the youth of Samoa to participate actively in all areas of development at different levels. The age group for youth as defined under the Samoa National Youth Policy is 12 – 29 years.
- 14.3 As part of the advocacy work of the PCP, the MWCSD-DFW in 2004 facilitated the commemoration in Samoa of the International Day for the Prevention of Child Abuse (19/11) and World Day for Child Rights (20/11) with a mini Multi Media Campaign. The DFW-MWCSD plans to do a major campaign for 2005.

## SECTION 5: CIVIL RIGHTS AND FREEDOMS

15 The information available covers mainly the legislative, judicial, administrative and other measures in place.

### *15.a Name and Nationality*

15.a.1 There is a Births and Deaths Registration Ordinance 1961 which has since been amended and updated by the Births, Deaths and Marriages Act 2001

15.a.2 Section 9 – Duty to give notice of birth – A notice of the birth of a child is to be given within 7 days and a birth must be registered within six months or a monetary fine is imposed.

If the birth is in one of the hospitals, a birth notification form is given to the mother with the information needed for registration. The mother presents this at the Births, Deaths and Marriage Division within the Ministry of Finance. She signs the birth register where the particulars relating to the birth of a child are recorded.

The District nurse, the Government women representatives (GWRs) and the village mayors are required under this Act to register all babies who are born in the villages. Although this is the case, the GWRs who are responsible to the MWCSO-DFW are encouraged to register all new births including births in the hospitals. This is the MWCSO's attempt to ensure that all babies born are in fact registered, in the event that the hospital may not have a register of the child born there. There is now a countercheck system between the Registrar of Births, Deaths and Marriages with the Ministry of Finance and the Ministry of Health for accuracy. The church minister is also required to note births and deaths. In cases involving the absence of the registration required to be done 3 months after the birth of a child, the church minister is required to verify births when processing birth certificates applied for by adults on behalf of the child.

The system removes any gender bias and imposes an obligation upon the parents of a child to provide accurate information.

15.a.3 Section 16 – there is no requirement for the father of a child born out of wedlock to give notice of birth

15.a.4 Section 18 – registration of still-born children. Requirement of registration applies to a still-born child but it is not necessary to register the death. Any records may be destroyed after 10 years.

15.a.5 Infants Ordinance 1961 Part II Adoption of Infants – registration of adoption orders made by a Court. (1) a child may be adopted by any person (whether domiciled in Samoa or not) subject to provisions of this Ordinance. A child may be adopted by a couple or may be adopted by one person. The Court must be satisfied that the person(s) adopting the child is of good repute. (9) No payment in consideration of the adoption is to be made.

The District court has imposed a number of practice directions to ensure the future environment of the adopted child is safe and secure. Overseas adoptions have been restricted to adoptive parents who have either a blood or familial link to the adopted child or where the child has been abandoned or orphaned.

15.a.6 Citizenship Act 1972 – Please refer to Section 3: Definition of a Child.

### ***15.b Preservation of identity***

15.b.1 Cultural oral tradition which is very strong in Samoa helps to reaffirm and preserve a child's knowledge of his/her *faasinomaga*. The Samoan child from a very young age is provided with numerous opportunities through exposure to family and community processes and events, whereby he or she learns about his/her *faasinomaga*. A strong sense of belonging and identity is thus developed at a very early age and is legally protected through registration at birth.

15.b.2 Samoa recognizes multiple citizenship. As a result, a Samoan child is not required to renounce any other citizenship in order to hold Samoan citizenship.

### ***15.c Freedom of expression***

15.c.1 Article 13 of the Constitution – “Rights regarding freedom of speech, assembly, association, movement and residence” (not specifically for children) addresses this (1) “All citizens of Samoa shall have the right (a) to freedom of speech and expression...”

15.c.2 A special day for children which is the second Sunday of October is referred to as White Sunday. This is the day on which children are given the opportunity to lead the Sunday service in every church and express themselves through a number of activities such as dramas, singing, poetry, recitation and the lot. It is also the day on which children get the best of everything from the clothes they wear to the food they eat. Parents serve their children recognizing the special place of children. The emphasis on White Sunday is not in any way saying that children are not being cared for and are not given the best every other day. It is a reminder of and thus signifies the special place of children in Samoa and just how there is a Mothers' Day and a Fathers' Day, the same opportunity is also available for the children of Samoa through the White Sunday. There is also a public holiday on the Monday after White Sunday and this allows the children and their families time to get together, rest and to recover from the feasting on White Sunday. A sports program is usually organized by the Sunday School for children on this day before they start back in school the next day.

**15.d Access to appropriate information**

15.d.1 The mass media is available and accessible to both adults and children in Samoa. The languages used are Samoan and English.

**TABLE 1: HOUSEHOLDS IN SAMOA  
WITH ACCESS TO MASS MEDIA (BY REGION), 2001**

	Total	AUA	NWU	ROU	Savaii
Radio	20,414	4824	6192	4668	4730
TV	14,430	4230	4649	2789	2762
Internet	693	464	194	8	27
Phone	5180	2501	1614	417	648

Source: Report on the Census of Population & Housing 2001

15.d.2 Radio as a means of communication has been longstanding in Samoa. Virtually every household has a radio. The Ministry of Education, Sports & Culture used this medium for instruction earlier and it has now been reinstated in the Curriculum Materials & Assessment, Development Unit. Practically, every Government ministry produces a radio program. Others include children's programs on Saturday mornings which are aired over the national and private radio services. Two other new radio stations have been established, increasing use and availability of this medium. One local private radio station – Talofa FM airs a weekly talk back show on Protection of Children from all forms of Abuse.

15.d.3 A number of government ministries actively use the mass media to disseminate information to the public both by spot announcements and by programmes. These include the Ministry of Health, Ministry of Education, Sports and Culture and the MWCS D and they have a set time for their special programs on the radio every week. The Samoa Broadcasting Corporation (SBC) which is also government's national television station also has their own programs that government ministries and non government organizations utilize to disseminate appropriate information for the public, whether it be women, men or children. There is no free community service time allotted by government although programmes may be aired without cost when treated as news.

In addition to state radio, there are four privately owned and run radio services. One is Radio Polynesia, a commercial radio station. The other five are religious stations.

15.d.4 The MWCS D also offers students information for their research work in their subjects studied at school. Students often come into the office to seek information for these purposes and very often they conduct interviews with staff of the MWCS D on issues pertaining to the advancement of women, the protection of children and the development of youth.

- 15.d.5 With the expansion of electricity to most homes in Samoa, the introduction of TV has been widely accepted. TVS has normal hours of 4-11 pm daily. However, times can vary according to the interests and demands of the viewers such as when sports matches involving national teams are broadcast live from overseas.

The first hour of broadcasting each day is a children's programme from overseas. There are nature programmes and other educational/general interest programmes shown regularly. World news from New Zealand, Australia, China, and from networks such as CNN and BBC are rebroadcast daily by local television, plus local news and other interest programmes produced locally. Television broadcasts from neighbouring American Samoa are also received by people in many parts of Samoa. There are two cable TV networks but with coverage limited to the urban areas.

- 15.d.6 There are two Christian television services: Graceland Broadcasting Network (GBN) and Trinity Broadcasting which have national coverage and are free to air - international companies that offer television worldwide including Samoa. They provide almost round the clock religious programmes and commentary. There are other paid commercial television channels operated by local companies.

- 15.d.6 **RECOMMENDATION:** That the Government makes provision on both state owned radio and television (SBC) for broadcasting without cost programmes on child protection and on the welfare of children as a community service obligation under the Public Bodies (Accountability and Responsibility) (2) Act 2000).

For Government to screen on its local TV station – SBC TV 1 - more documentaries on Samoan culture and history to develop characteristics of high self esteem and preservation of identity for children.

#### ***15.d.7 Production of children's reading resources:***

- 15.d.7.1 The production of children's books has been confined mostly to the Ministry of Education, Sports and Culture. However, some local authors have also written materials and published children's books. The MWCSO through the Pacific Children's Program has also developed Information, Education & Communication (IEC) materials as well as a Children's Rights & Responsibilities Booklet for dissemination to the general public.
- 15.d.7.2 There have been several attempts over the years to encourage the writing and production of material for children. However, high production costs are a major hurdle, although there is no shortage of willing authors and illustrators.
- 15.d.7.3 As a result of a workshop on writing children's materials held in 1997 a group of authors has organized itself into a group called Evaitusi, Inc

encourage the writing of children's books and number of books have been published and are currently used in pre-schools and schools.

- 15.d.7.4 So far there have been a number of publications in the English and Samoan languages for children, as a result by local writers.

The children who participate in the MWCSD-DFW's annual children's forums also access the necessary information on the Convention and information from representatives of other relevant Ministries such as the Ministry of Police, Prisons and Fire Services and the Ministry of Justice and Courts Administration.

#### **15.d.8 Film/Visual Images**

- 15.d.8.1 The Films Control Act of 1978 provides for censorship of films. An Amendment Act 1998 spells out provisions regarding TV and videos. It states: "(2) the approval by the Principal Censor shall not be given with respect to any film or to any part of a film which in his opinion – (a) Describes, depicts, or otherwise deals with – (1) acts of torture, the infliction of serious physical harm, acts of significant cruelty or extreme violence; (ii) sexual violence or sexual coercion, or violence or coercion in association with sexual conduct; (iii) other sexual or physical conduct of a degrading or dehumanizing or demeaning nature; (iv) sexual conduct with or by children, or young persons, or both; (v) physical conduct in which sexual satisfaction is derived from inflicting or suffering cruelty or pain; (b) Exploits the nudity of children, or young persons, or both; (c) Degrades or dehumanizes or demeans any person; (d) Promotes or encourages criminal acts or acts of terrorism; (e) Represents (whether directly or by implication) that members of any particular class of the public are inherently inferior to other members of the public by reason of any characteristic of members of that class, being a characteristic that is a prohibited ground of discrimination specified under the Constitution of the Independent State of Samoa; and (f) Any matter which is contrary to public order or undesirable in the public interest." The office of the Principal Censor is located in the Ministry Justice and Courts Administration.

#### ***15.e Freedom of thought, conscience and religion***

- 15.e.1 This fundamental freedom is of general application.
- 15.e.1.1 Article 11 – Freedom of religion – "Every person has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others, and, in public or private, to manifest and propagate his religion or belief in worship, teaching, practice and observance...."
- 15.e.1.2 Article 12 – Rights concerning religious instruction – (1) "No person attending any educational institution shall be required to receive religious instruction or take part in any religious ceremony or attend religious

worship, if that instruction, ceremony or worship relates to a religion other than his own.”

However, there have been cases where Village Councils which are the local governing bodies in Samoa have imposed restrictions on the introduction and practice in their villages of new religions and faiths, in the name of social harmony and conformity.

More recently, the courts have ruled in several high profile cases of village councils deciding to limit religious observance to existing churches which generally are the main line churches namely the Congregational Christian Church of Samoa, Catholic Church and Methodist Church. However, in most of these cases, the Village Council does allow village people with a different religious affiliation to travel outside of the village to where their church is located. It is noted that most of the churches affected by such decisions of the Village Council are the relatively recent but fast growing evangelical and interdenominational Christian movements. Anecdotal evidence shows that young people tend to be attracted to the evangelical and interdenominational Christian movements, highlighting the reality that most persons wanting to follow a different faith are young people who would normally be expected to take up their parents’ religion.

15.e.1.3 Article 13 (1) “All citizens of Samoa shall have the right – (a) to freedom of speech and expression;

15.e.2 Crimes Ordinance 1961 Article 77 – duty of parents and guardians to provide necessities of life for their children under 16 years.

**15.f Freedom of association and of peaceful assembly**

15.f.1 This is broadly covered (not specifically for children) under the Constitution – Article 13.

**15.g Protection of privacy**

15.g.1 The openness of the Samoa culture indicated by the openness of the traditional Samoan dwellings or “fale”, often assumes that the protection of privacy does not happen in the cultural context. In actual fact, the principles of respect, “*va tapuia*” and “*va fealoaloai*” is essentially the basis of the claim that the protection of privacy is quite strong in the Samoan culture. These principles demand that there be respect for privacy between the brother and sister. Such respect and protection of privacy also extends to all females and males whether they are related or not. These principles also form the basis of the bond between brother and sister as a powerful paradigm for all female – male relationships.

15.g.1.1 Samoan culture is based on communal living, and the concept of **Reciprocity** allows for the sharing, giving and receiving process to take place liberally. The same use of the concept of **Reciprocity** is also applied to the responsibility for the children by all the members of the family. The traditional lifestyle was

one of pluralism and community living characterized by strong social norms and observances. However lifestyles and attitudes are shifting away from traditional norms particularly given the increasing trend of families moving to urban areas and migrating overseas. The traditional forms of social control no longer have the same effect when families are living on freehold (rather than customary land) in close proximity to strangers who have none of the traditional village and family links.

***15.h The rights not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment***

15.h.1 This is broadly covered (not specifically for children) under the Constitution – Article 7 – Freedom from inhuman treatment – “No person shall be subjected to torture or to inhuman or degrading treatment or punishment”.

15.h.2 Constitution Section 9 – Right to a fair trial (not applying specifically to children). “In the determination of his civil rights and obligations or of any charge against him for any offence, every person is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established under the law. Judgement shall be pronounced in public, but the public and representatives of news service may be excluded from all or part of the trial in the interests of morals, public order or national security, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice .....”

In the case of sexual abuse where children are involved, the Court orders name suppression for the accused in order to protect the identity of the children depending on the nature of the case and the need to protect the victim.

**RECOMMENDATION:** That the Government considers strengthening of the law on the protection of children, as well as on civil rights and freedoms, so that children are fully protected from all forms of abuse and inappropriate activity.

## SECTION 6: FAMILY ENVIRONMENT AND ALTERNATIVE CARE

### *16.a Parental guidance*

- 16.a.1 The chapter on *Society and Culture* in *A Situation Analysis of Children and Women in Samoa 1996*, provides information on how children are regarded. As well, it discusses the role of the parents.<sup>1</sup> The *faasinomaga* of the Samoan child, as discussed previously, provides security and protection through the child's heritage and origins from several lineages. As such, the Samoan child has more than one family and more than one "mother" with which he/she identifies and to which he/she belongs.
- 16.a.2 The responsibility to raise a child lies with not only the parents, but also the whole family. When a child's parents are not able to care for the child, other members of the family will take on that responsibility. Emanating from a strong religious belief that children are a gift from God, parents take full responsibility to nurture their children in mind, body and spirit by providing for their physical and intellectual needs, social-cultural upbringing as well as spiritual guidance.
- 16.a.3 Since the awareness and education programs on CRC started, the MWCS-D-FW has consistently emphasized the central importance of parental guidance in realizing the rights of the children. Parents have also been made aware that the Convention recognizes the importance of their role in realizing the rights of the children and they have accepted this.

Samoan society recognizes a cultural continuum which relies upon its offspring to carry forth its culture and tradition

- 16.a.4 It is of interest that the source cited above notes that "As in any other society, the welfare of children is closely linked to the status of women. The status of children reflects the generally high status of women in Samoa." The decision by Cabinet to designate the former Ministry of Women Affairs, now the MWCS-D-FW, the national focal point for the CRC recognizes the crucial importance of addressing children's issues alongside women's issues. Such recognition however, does not in any way reduce the important role of the father for the protection of the children in the family. Indeed, the work of the CRC through the PCP strongly advocates that the protection of children is the responsibility of both the mother and father.

### *16.b Parental responsibilities*

- 16.b.1 There are no specific laws concerning parental responsibilities. However, the Infants Ordinance Part 3 Section 12 provides for the punishment for ill-treatment and neglect of children. As stated in *A Situational Analysis of Children and Women in Samoa 1996*, "In proceedings where the custody or upbringing of a child is in question, the Court regards the welfare of the child as of the first and paramount importance..." Refer page 18, 13.b.1.

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<sup>1</sup> Op. Cit, p 4-9

- 16.b.2. In recognition of the importance of parental responsibilities for the protection of their children, the work on CRC through PCP has facilitated the opportunities to further strengthen and increase family and individual responsibility for the care of the children through reducing child abuse and neglect. The conduct of village based awareness and advocacy activities have provided parents in village communities with the information to strengthen and to revisit their roles and responsibilities as parents for the care of their children. These include the Small Grants Scheme activities coordinated by the Village Women's Committee, the Village Advocacy Activities targeting the Village Councils and the Facilitation Package Processes targeting the men, women and young people in the villages.
- 16.b.3. The Mothers and Daughters Processes conducted by the MWCSO-DFW annually emphasizes the important responsibility that mothers have with regards to making available the appropriate information on reproductive and sexual health matters to their daughters and consequently their sons. It allows for the strengthening of a healthy relationship between the mother and her daughter so that the latter at this stage feels secure through having the information that she needs for her self development and protection as a young woman.
- 16.b.4. One of the interesting observations made of these programs is that although the communication between mothers and daughters has opened up, they are still finding it hard to communicate openly on reproductive and sexual health issues. This is due largely to the upbringing of the mothers and how they were not given the same opportunity to discuss these issues at length with their own mothers. The work on the Convention, particularly the need to allow the child an opportunity to voice his/her concerns and opinions on matters affecting him/her is contributing to the facilitation of a change of attitude towards communication on these issues. Other programs on the advancement of women are further targeting communication and dialogue on reproductive and sexual health matters so that girls can access the relevant information on reproductive and sexual health when they need to in the home environment.

**16.c *Separation from parents***

- 16.c.1 In the traditional Samoan family/*aiga* setting, when the parents of a child are inadequate a child will then be cared for by other members of the extended family.
- 16.c.2 The matter of the child having a choice as to who cares for him/her, is again handled by the family/*aiga*. Most likely, the child will be cared for by a close relative with whom the child has established emotional ties such as grandparents, an aunt or uncle.
- 16.c.3 Under the Divorce and Matrimonial Causes Ordinance 1961 – Section 24 – the Court may make orders concerning the custody, maintenance and education of children, or may direct proper proceedings to be taken for placing children under the protection of the Court.

See 16.c.3 Because of the open environment of the *aiga* in which children are raised, most children who do not live with their natural parents would have contact with both parents. Other family members would ensure that the child knows both parents and his/her *aiga*. This process of ‘informal’ adoption is open to the extent that the child is told of his/her natural family connections.

Where a parent has not been granted custody, the non-custodial spouse may be granted access or visiting rights as determined by the court and such rights of access are premised on the fact that the child has the right to see or be visited by the non-custodial parent. Custody is usually granted to mothers; however there have been rare cases where this decision has been in favour of the father.

#### **16.d Family reunification**

16.d.1 A child is normally able to move freely within the family/*aiga* without any obstacles. The number of overseas adoptions from 2003 to 2005 however, led to serious concerns expressed by the community that adoptions by strangers in foreign lands would effectively remove those children from their genealogical heritage and birthright in respect of their entitlement to customary lands and chiefly titles. This led to the imposition of restrictions upon stranger adoptions. The adoption of a child by members of the child’s extended family overseas in order to provide access to more opportunities for the child is a common practice that continues, a significant feature of which is the ‘openness’ of the adoption where the child, his/her natural parents and adoptive parents is freely acknowledged.

#### **16.e Recovery of maintenance for the child**

16.e.1 Part IV, Affiliation Orders and Part V Maintenance of children of the Maintenance and Affiliation Act 1967 addresses the issues of maintenance for children.

16.e.2 Also Part IX Overseas Maintenance addresses the matter of maintenance in general quite extensively under:

16.e.2.1 Enforcement of Orders in Samoa Section 64 Confirmation of provisional Commonwealth country orders – (7) states; “The Court confirming any maintenance order...may also, in its discretion, if it is satisfied that the defendant is of sufficient ability, at the same time order the defendant to pay, at such time or times and in such manner as the Court thinks fit, any sum not exceeding \$100 on account of the maintenance of the person or persons in whose favour the provisional order was made between the date of the making of that order for the purposes of this Act. In the same Section under Provision for Enforcement of Foreign Orders (7) “For the purposes of this section the provisions of section 68 (except (3) and section 69 of this Act shall apply to maintenance orders and documents which originated in any country specified for the time being in an order made under subsection (2) of this section as if they were maintenance orders and documents which originated in a Commonwealth Country”. And under the section Western Samoan Orders for

Enforcement Overseas 73. (1) Provisional orders for confirmation overseas – (1) “On any application in Western Samoa for the maintenance order (other than an order in an affiliation order) against any person who is proved to be resident in a country outside Western Samoa or who is proved to have left Western Samoa with the intention of residing in a country outside Western Samoa, the Court may, in the absence of that person, if after hearing the evidence it is satisfied of the truth of the allegations in the application, make a provisional order which shall have no effect unless and until confirmed by a competent Court in a place outside Western Samoa.” 74. Effect in Western Samoa of confirmation overseas of provisional order – (1) “On the confirmation of an order made under section 73 of this Act, the order shall, in the form in which it is confirmed, for all the purposes of Western Samoa law, become an order of the Court which made the provisional order as if the order had been made under this Act.” Part X Offences identifies the responsibility of the person against whom a maintenance order is made. The specific sections are: 77. Failing to maintain wife, husband or children (1) (2) (3); Section Failing to pay money under order; 79. Leaving Western Samoa while payments under maintenance order are in arrears; 80. Leaving Western Samoa with the intent to disobey a maintenance order; 81. Leaving Western Samoa after application but before maintenance order; 83. Leaving Western Samoa while failing to provide for maintenance of child; 84 Leaving Western Samoa without making provision for maintenance of wife, husband or child during absence; 85. Person against whom affiliation order made leaving Western Samoa without Permission.

16.e.2.2. The support of children is recognized under Samoa’s legislation and maintenance orders are regularly sought and enforced through the Ministry of Justice and Courts Administration inheritance and entitlement to lands and titles depends upon consanguinity although adopted children are recognized how as having equal access previously denied them.

### ***16.f Children deprived of a family environment***

16.f.1 Every child in Samoa is an heir to family titles and land regardless of the nature of his/her parents relationship. In the Samoan *aiga* setting, a child will be cared for by other members of the family if the parents are unable to do so. A child born out of wedlock is usually cared for by the mother’s family and where necessary the family will also care for the mother. The child is raised within the family and accepted as a full member of that family.

The traditional family set up is undergoing change, and the traditional safety net previously offered by the family particularly where family groups live together within a particular village is being dissipated by migration and the creation of urban suburbs in Samoa where neighbours have no familiar OR traditional link to each other.

There is no legal difference between children born outside marriage and those born within it. Where a child is born to a married woman either spouse can

register the birth. Where the parents are unmarried, the father's name can be put on the birth certificate at the consent of the mother unless successfully challenged in court by the father.

The Infants Ordinance 1961 states that if a child is the subject of adoption, the consent of both parents is required by law even if the parents are unmarried. In instances where the whereabouts of the father is not known, or in exceptional cases, consent may be dispensed with by the court.

16.f.1.2. There is no specific Family Welfare Department to deal with family matters, but the newly aligned Ministry of Women, Community and Social Development in its role as the lead agency for the Welfare and Social Services Sector, will facilitate the provision of, and/or provide social services for, all who are in need of these services, including children, parents and families. A Draft Sector Plan has been put together with the aim to facilitate opportunities for putting in place within government counseling services for children and their families as the need arises. The MWCSO is therefore proposing for a Social Services Division to be established so as to realize the availability of some of these social services. Counseling services are currently being offered by a number of non governmental organizations such as MOA, Faataua le Ola - an anti suicide NGO, and faith based organizations such as the Catholic Family Ministry through the work of the Fiaola Crisis Clinic and Sautiamai program. Where appropriate, doctors or nurses may provide some kind of counseling. The National University of Samoa has a Student Counselor who provides counseling services to students. Counseling services are also provided at the Samoa Polytechnic and some secondary schools.

16.f.2 Under 'The Crimes Ordinance 1961', Part VII Crimes Against the Person and Reputation 76. Duty to provide the necessities of life is not child specific but states: (1) "Every one who has charge of any other person unable, by reason of age, sickness, insanity, or any other cause, to withdraw himself from that charge, and unable to provide himself with the necessities of life, is (whether such charge is undertaken by him under any contract or is imposed upon him by law or in accordance with Samoa custom or by reason of his unlawful act or otherwise howsoever) under a legal duty to supply that person with the necessities of life, and is criminally responsible for omitting without lawful excuse to perform such duty if the death of that person is caused, or if his life is endangered or his health is impaired by such omission." (2) "Every one is liable to imprisonment for a term not exceeding 7 years who, without lawful excuse, neglects the duty specified in this section so that the life of the person under his charge is endangered or his health impaired by such neglect." (3) This sub-section states that "For the purposes of this and the succeeding section, the term "necessaries of life" shall include the provision of proper and adequate care and attention, food, drink, clothing, shelter and medical treatment."

This provision provides a criminal sanction to ensure that parents and /or caregivers provide children with all the necessary support and care for their physical wellbeing.

### 16.f.3 *Care of children of divorced parents.*

Regardless of whether a child is born inside or outside a marriage both parents are expected to contribute towards child maintenance in proportion to their financial resources. A Maintenance order is mainly sought by women seeking maintenance for their children from the fathers of the children. This facility is also available to men.

If parents separate, each can apply for custody of the children if the issue cannot be settled out of court. Under these circumstances the welfare of the child is paramount in custody decisions.

### 16.g *Adoption*

16.g.1 Adoptions within extended family groupings are common in Samoa. The culture of the *aiga* where a child may choose with whom she/he would like to stay leads to many “informal” adoptions or the child merely taking the last name of the family she/he is living with. Traditionally, the first born would be ‘adopted’ by the father’s family i.e. bought up by the father’s parents and whether informal or formal the fact of adoption is freely known and accepted within the family with the child considered fortunate in having two identifiable parents who can and offer to assume parental responsibilities.

There are also formal adoptions which are of legal effect as provided for in the Infants Ordinance 1961.

16.g.2 **PART II Adoption of Infants:** The Infants Ordinance 1961 spells out the procedures for adoptions. Any person, whether living in Samoa or not, may make an adoption order in respect of any infant. An infant may be adopted by 2 spouses jointly or by the mother or the father. No infant shall be adopted by more than one person, except where otherwise provided in the Adoption of Infants section.

There are four conditions whereby adoption orders may be made: “a) That the person proposing to adopt the infant is of good repute and a fit and proper person to have the care and custody thereof and sufficient ability to bring up, maintain, and educate the infant; b) That the welfare and interests of the infant will be promoted by the adoption; c) That the infant if over the age of 12 years consents to the adoption; d) That the parents or such one of them as is living at the date of the hearing of the application or if both are dead then the legal guardian of the infant (if any) consent to the order of adoption.”

16.g.3 Part II Article 9 of the Infants Ordinance prohibits the giving or receiving of any payment or reward in consideration of making arrangements for an adoption or proposed adoption.

16.g.4 Part II Article 11 An Adoption order may be discharged. (2) “Upon an order of adoption being discharged then subject to the conditions, if any, named in the discharging order the infant and its natural parents shall be deemed for all

purposes to be restored to the same position *inter se* as existed immediately before the order of adoption was made”.

At the time of writing, an amendment to the Infants Ordinance 1961 had recently been passed by Parliament to make it more difficult to adopt Samoan children to overseas parents. The amendment was made after a range of incidences of concern including allegations that children had been ‘sold’ to overseas agencies for adoption purposes and concerns about the welfare of children awaiting adoption culminating in the death of a one year old child in the care of an overseas adoption agency, while awaiting the completion of adoption formalities.

### ***16.h Illicit transfer and non-return***

- 16.h.1 This is covered by legislation under The Crimes Ordinance 1961 Article 83. Abduction of woman or girl – “Every one is liable to imprisonment for a term not exceeding 7 years who takes away or detains any woman or girl, whether she is married or not, without her consent, or with her consent obtained by fraud or duress....” 83A Kidnapping – (1) “Every one is liable to imprisonment for a term not exceeding 10 years who unlawfully carries off or detains any person without his consent, or with his consent obtained by fraud or duress, with intent: a) To cause him to be confined, with intent; or b) To cause him to be sent or taken out of Samoa; or c) To hold him for ransom or to service.” (2) “A child under the age of 16 years shall be deemed to be incapable of consenting to being carried off or detained.” (3) “No one shall be convicted of an offence against this section who gets possession of any child, claiming in good faith a right to the possession of the child” And, 83B Abduction of child under 16 (1) “Every one is liable to imprisonment for a term not exceeding 7 years who, with intent to deprive any parent or guardian or other person having the lawful care or charge of any child under the age of 16 years of the possession of the child, or with intent to have sexual intercourse with any child being a girl under the age, unlawfully: a) Takes or entices away or detains the child; or b) Receives the child, knowing that the child has been so taken or enticed away or detained.” (2) “It is immaterial whether or not the child consents, or is taken or goes at the child’s own suggestion, or whether or not the offender believed the child to be of or over the age of 16.” (3) “No one shall be convicted of an offence against this section who gets possession of any child, claiming in good faith a right to the possession of the child.”

The law currently distinguishes between women and children younger than 16 years although attention needs to be given to ensuring domestic law is consistent with current best international practice.

**Recommendation** The Government should review all legislation relating to children to ensure it reflects best practice and consider accession to the number of international conventions which protect children’s welfare i.e. Hague Conventions

16.h.2 Samoa supports the UN Resolution on Trafficking of Women and Girls. At present, the MWCSO, through the Pacific Children's Program with funding from UNICEF, is carrying out a Situational Analysis on the Commercial, Sexual Exploitation of Children and is seeking funding to conduct a study on trafficking of women and girls in collaboration with its CEDAW Partnership.

***16.i Abuse and neglect, including physical and psychological recovery and social reintegration***

16.i.1 Infants Ordinance 1961 – Part III – Protection of Children:

16.i.1.2 Section 12 states: “Punishment for ill-treatment and neglect of children – Any person having the custody or control of any child under the age or apparent age of 14 years who in a manner likely to cause such child unnecessary suffering or injury to its health willfully ill-treats, neglects, abandons, or exposes such child or causes or procures such child to be ill-treated, neglected, abandoned, or exposed commits an offence and is liable to a fine not exceeding \$200 or to imprisonment not exceeding one year”.

16.i.1.3 Section 14 states: “Right of parent, etc, to administer punishment – Nothing in this Part of this Ordinance shall be construed to take away or affect the right of any parent, teacher, or other person having the lawful control or charge of a child to administer reasonable punishment to such a child”.

16.i.1.3.1 The disciplining of children by physical punishment ie the smacking by hand or the use of a belt or stick has been traditionally widespread. The work of NGO's however and the growth of a new 'middle class' of educated mobile and sophisticated parents has led to a reconsideration of these forms of punishment and increasingly pre-schools and some private schools now prohibit the use of physical discipline and there is increasing public comment and community support for rejecting extreme physical discipline and a gradual move to rejecting any physical punishment whatsoever. Teachers have been charged with assault in the courts and complaints are increasingly being made to the Police where physical discipline are considered inappropriate and unreasonable. Non-government organizations such as ECPAT Samoa, the National Council of Early Childhood Education, Mapusaga o Aiga, Special Needs (CRC Partnership), the National Council of Women and the DFW-MWCSO through the Pacific Children's Program (PCP), have all been working with community leaders and with parents, especially in rural communities, to improve parenting skills and change practices that lead to abuse of children.

16.i.1.3.2 In the newspaper *Samoa Observer* 12 November 1998 Thursday Edition, the headline article is entitled “Women's Council deeply concerned”. It states briefly that The National Council of Women in Samoa is concerned about recent incidents of physical violence against children. The NCW was holding two pilot district workshops for mothers addressing the issue of hitting children. “When we talk about hitting children first the members kept saying ‘this is the Samoan way’ – I hit them because I love them”<sup>2</sup>. As a result, the NCW formulated a

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<sup>2</sup> Samoa Observer, 12 November, 1998 issue Headline and lead article on front page

project which was also their own initiative called ‘Tetee Atu i le Sasa’ (Saying No to Physical Punishment) for children under the age of 18. This project was funded by assistance from the New Zealand government.

- 16.i.2. A major initiative to combat child abuse and neglect so as to improve child rearing practices in Samoa is the work of the Pacific Children’s Program. The challenges directly related to financial resources constraints meant that the national focal point at the time was not able to promote and implement the Convention at the pace and speed that the PCP has done since 2001.

The successful implementation of the project activities has been due largely to the approaches that the MWCSO-DFW, as the coordinating agency and government counterpart, opted to use for the activity implementation. The use of the community and strengths based approaches has facilitated learning at the community level and very strong ownership of the project within the community. The fact that the approaches are very country specific has also facilitated the receptiveness in communities of the project in terms of what it aims to achieve for the children of Samoa. The CRC Partnership is the Taskforce for the PCP and they are the technical working group for the project.

The program works from a primary prevention perspective which is further defined as building on traditional forms of child protection in Samoa, which allows for activities to reflect local cultural, legislative and institutional contexts. A central element of the Program, the Facilitation Package was developed with key partners to build on the strengths within communities to achieve the best outcomes for our children. The purpose is to start the process of drawing people together with a view to working out ways in which parents and families can be supported by everyone in the community to provide the level of care that keeps children safe, happy and positive. The program commenced in April 2001 and initially was to be completed in 2003, however an AUSAID mid term review of the program in September 2003, recommended a two year extension of the PCP until June 2006.

During the inception phase the program established implementation structures and working relations; appointed an in country Program Managers, undertook broad stakeholder consultations, produced and distributed a discussion paper and program information. A monitoring and evaluation framework was developed which included both monitoring targets for activities and evaluation measures to assess impact and outcome of the Program. Gender and development markers were developed to ensure that gender is mainstreamed through program implementation.

A Qualitative Study on the nature of child protection practices was conducted in 2002 by the University of the South Pacific based in Samoa. This study confirmed the original justification for the program in Samoa, and highlighted factors unique to Samoa that support and negate child protection. The analysis undertaken supported the overall framework and approach outlined in the Project Design Document, and provided insights that enable clear definition of strategies and their content.

Directed by the Division for Women, the content of program activities was determined by cultural context and supported by regional mechanisms where appropriate. Some of the achievements to date of the program include;

- Work on developing an overall intersectoral National Strategy for Prevention of Child Abuse & Neglect started early 2005, the intent of this strategy is to further support the compilation of a National Plan of Action for Children and the National Policy for Children which is scheduled to start September 2005.
- Key findings from Knowledge, Attitudes, Behaviour Practices Survey undertaken by the RPIPD – MWCSO are informing program strategies, IEC materials and messages and advocacy activities. Awareness raising on children's issues is being achieved through the dissemination of report summaries to stakeholders and interested organizations across the country.
- Skills of staff from coordinating organizations have increased as a result of undertaken the survey work.
- Technical and financial support from the program help set up a Child protection information system which used the UNICEF conceptual framework as basis for selecting the most appropriate child protection indicators for Samoa. The UNICEF framework is considered most feasible to Samoa and would be comparable when evaluating situations of Child Protection with other countries using the same framework. The purpose of the CPIS is to collect quality statistics and relevant indicators to monitor child protection developments in Samoa. The database as recommended by the CRC Partnership is centralized within the DFW because of the Ministry's role as the National Focal point on the CRC in country.
- The facilitation Package has been developed as an important tool in capacity building of stakeholder organizations and communities to undertake activities that promote child protection. It has also provided an opportunity for stakeholders to gain an understanding of community development, participatory approaches and collaboration with which can be utilized in areas beyond the program. Following a pilot phase and trialing in 28 communities across Samoa, the facilitation package was refined through participatory review at national and regional meetings and is being used in partnership with interested organizations, in particular the CRC Partnership, including Government and other community groups.
- Sectoral workshops raising further awareness and understanding on child protection issues targeting various sectors of the community, including church ministers, youth directors and non government organizations have been conducted across the country. Implementation of Small Grant Scheme activities achieved excellent coverage, raising awareness of child protection issues in over 120 villages. The SGS model is a community based approach which asserted; traditional learning methods, community ownership, community participation and leadership, community capacity building that facilitates understanding of issues on child protection, small scale proposal

writing, organizational skills, budgeting, accountability, report writing and evaluation.

- At the end of June 2003, the MWCSO-DFW launched and disseminated a series of Information Education & Communication (IEC) materials utilizing the audio and printed media- a wide range of leaflets, booklets, information/fact sheets, a booklet on child rights and responsibilities written by children themselves, TV/Video spots and posters have been developed and distributed throughout Samoa to support community child protection activities and for awareness raising. These IEC productions and SGS activities were used as part of a multi – media national campaign to mark the International Day for Prevention of Child Abuse & Neglect: November 19<sup>th</sup> and World Day for the Rights of the Child; November 20<sup>th</sup>.
- One of the key components of the program is National advocacy which has contributed immensely to increased awareness amongst members of the village councils (consisting of high chiefs) and more recently, church advocates have been selected to work with the religious leaders who are very much influential at the village level. The intention of this activity is to engage village and church leaders within different communities so that they can take up proactive leadership and protective actions for child protection within their own communities. The national advocate activities have been the best and most effective way to address the issue with village and church leaders, who also happen to be the heads of families, and whose orders carries a lot of weight. Part of the work of the national advocates includes targeting institutions such as the Rotary, Government Ministries, Professional Groups and the media to discuss child protection issues.
- The mid term review of the project in September 2003, commissioned by AUSAID, highlighted ‘there is strong government and other partner support and positive achievements to an unusual degree for a program that is addressing a complex and challenging issue’.
- The PCP therefore has relied substantially on the use of existing community institutions and systems to devise strategies and implement the principles and requirements of CRC. Relying on traditional grassroots institutions and using traditional strengths minimizes the risk of resistance of opposition, and ensures that once accepted by the community, CRC principles can be built into everyday life and monitored and reinforced by local institutions and communities themselves.

16.i.3. Cases of child abuse, especially sexual abuse, are the subject of increased complaints to Police and continue to be reported in the news media. It is possible that better awareness is encouraging victims to come forward, as well as the public discussion about the increasing unacceptability of physical violence against children by any adult – including parents and family members.

16.i.4. Other forms of discipline that constitute abuse include scarring or shaming young children into obeisance which relies upon their stature amongst family OR the church OR the village.

- 16.i.5. In the Education Department Policies, 1992 Clause 15 states: “Corporal Punishment – Teachers are not permitted to inflict any physical punishment on any student. In other words, it is an offence for a teacher to lay hands on any student.

Corporal punishment is not permitted in the schools and teachers can be dismissed for applying corporal punishment. Samoa is in transition regarding widely held beliefs on discipline of children, and is slowly moving away from physical discipline to other forms. Nevertheless, teachers’ practicing corporal punishment is still commonplace. The media regularly reports cases of students having been severely and physically punished by teachers, resulting in medical care being sought. Often and depending on the parents, these cases are referred to the Police to investigate whether charges of assault could be laid against the teachers concerned.

- 16.i.6. MOA provides some counseling services for victims of abuse but on the whole the counseling services for victims of abuse are rudimentary. Nevertheless, the capacity of the NGO community to deal with abuse cases is improving with training and funding from outside. FLO, an anti-suicide organization has run a regular training program for counselors not only to support its Lifeline telephone counseling service, but also to train counselors for other community groups. Increasingly, with the increased publicity given to abuse of all forms, the public is beginning to have a better understanding of the subject of abuse and where to seek help.

- 16.i.7. The Safer Samoa Campaign coordinated by the Ministry of Police, Prisons and Fire Services as part of their Institutional Strengthening Project (ISP) is a community based policing strategy which aims to improve the capacity of Police to provide a safer environment for all Samoans whether this is in the home, on the road or wherever. The program provides training opportunities for police to enhance their skills and knowledge on dealing with domestic violence cases and it also provides training for women so they are able to take on operational roles in the force. Already 15% of the Police force are women. The expansion of the service in terms of numbers is expected to help the police deal with domestic related problems more effectively.

A Safer Samoa, the Police Ministry’s new community based policing strategy, aims to improve Police capacity to provide a safer environment for all Samoans whether this is in the home, on the roads or wherever. Part of the strategy entails improving Police capacity to deal with violence in the community including domestic violence, through training, upgrading and increasing the numbers of women taking on operational roles in the force. Already, 15% of the Police force are women. Their expanded numbers is expected to help the Police in dealing with domestic related problems.

Community based policing has meant the Police going out to the community to highlight law and order issues including domestic violence against women and children, and to work on strategies to enhance safety and law and order in the community. A Safer Samoa is a five year program that started in 2004. The

Ministry of Police has joined forces with the MWCSO and other members of the CRC Partnership to implement this program in different communities.

- 16.i.8 **RECOMMENDATION:** That Government strengthens its Protection of Children Services Section of the MWCSO and facilitate the channeling of resources from outside where appropriate, to enhance NGO capacity to deal with issues of child protection, abuse and neglect.
- 16.i.9 **RECOMMENDATION:** That Government continues to raise awareness on the issue of corporal punishment and alternative methods of disciplining children, starting with an intensive week of high profile workshops, and media exposure. There should be ongoing activities and initiatives after that to ensure the subject remains in the public consciousness.
- 16.i.9.1 **RECOMMENDATION:** That a major awareness raising campaign on alternative methods of disciplining children be launched using the mass media, workshops and other high profile activities for a week, with ongoing activities to continue after the event.

A great deal of this work has already been done through the PCP and the implementation of the CRC itself. What is required now is financial support in the national budget to sustain the work of PCP and others, when external funding is reduced or stops.

At this stage, banning corporal punishment by a change of legislation in Samoa is not considered the most effective strategy to achieve what is essentially significant social change in both attitude and behaviour. Working with the community in understanding the issues and then achieving support for changes will bring about more lasting and positive results.

Promoting regulatory change also does not always bring the desired results because they cannot always be policed (Qualitative Survey and KABP Survey). The parenting workshops on the subject being conducted in the rural areas have revealed a greater willingness of people to evaluate and change parenting practices that are identified to be harmful to their children.

- 16.i.10 **RECOMMENDATION:** All caregivers should be the focus of social programmes about changing the acceptance and practice of corporal punishment, including not only immediate family members but also extended family as well as the broader community who all play a role in caring for Samoa's children.
- 16.i.11 There are also laws addressing the issue of sexual abuse under the Crimes Act 1961 – Sexual Crimes: Section 49 – Incest, Section 50 Sexual intercourse with a young related girl living with his family, Section 51 – Sexual intercourse with a girl under 12 years, Section 52 – Indecency with a girl under 12 years, Section 53 – Sexual intercourse or indecency with a girl between 12 and 16, Section 57 – Sexual intercourse with a woman or girl with a mental disability. Section 58B – Indecent act between a woman and a girl (under 16 years),

Section 58C – Indecency between a man and a boy (under 16 years), Section 58D – Indecency between males (No person under 16 years can be charged with this offence), Section 58 E – Where a person is charged with a sodomy to a boy under 16 years the penalty is 7 years instead of 5 years.

There is a need to review existing legislation in relation to sexual offences to ensure there are criminal sanctions in respect of all practices which are harmful to children. Samoa's legislation is over 40 years old and requires review and repeal.

16.i.12 Other types of neglect or abuse would most commonly be handled in the *aiga* in rural areas.

16.i.13 In practice, reintegrating the child into the family is left to the family.

**RECOMMENDATION:** That the government, in collaboration with the relevant non-government organizations, provide and other help and necessary support to the victims of abuse.

16.i.14 Children who are in need of care and protection because they are at risk of physical, emotional or sexual harm, are dealt with under the Infants Ordinance 1961. This legislation requires that children and young people must be protected from harm, their rights upheld and their welfare promoted. Where it is felt that a child is not under proper care or living in an environment detrimental to his/her physical and moral wellbeing, the Court has the power to place such a child under the care of an appointed Child Welfare Officer.

There is recognition of the family as an important unit to the development of the child; hence in the case of incest, the perpetrator is usually removed from the family. Applications to the court to have children placed in care are usually made on the recommendation of the Police, based on investigations during the course of any proceedings, in consultation with Justice Department.

Initial studies into the problem of child abuse, for example the UNFPA/SPC Samoa Family Health & Safety (2001) study, and an earlier AusAID funded Qualitative Survey on the nature of child protection practices in Samoa (2002) have resulted in current initiatives and strategies such as the Pacific Children's Project, to combat the problem.

There is no known case where a child has lodged a complaint with the authorities concerning abuse or neglect. It is important to assess how effective the public education campaigns have been on children's rights on these issues. National programmes under discussion will address the issue of mechanisms to be put in place by which children can notify someone if they are in a situation of abuse.

16.i.15 Programmes for abandoned children. The extended family normally provides a safety net for all its members. However there are some that fall outside the protection of this social web, as evident from the outcomes of unwanted

pregnancies. Otherwise, there are no official programs to look after abandoned children. But in practice, there is no shortage of people wanting to adopt abandoned babies as well as young children. But as the age goes up, people are not so keen to adopt abandoned children.

16.i.16 Legislative provisions largely focus upon the protection of children by the application of criminal sanctions and maintenance orders. However, there is a need to extend the blanket of protection to where children need intervention in their care or the quality of their care if unacceptable as well as where they need protection sometimes from their own parent or guardian.

**16.j Periodic review of placement.**

16.j.1 The Infants Ordinance 1961 Part IV Section Destitute and Delinquent Children provides conditions whereby a child may be placed with a Child Welfare Officer and the power of the Court to review any such placement at its discretion.

16.j.2 There are no institutions for alternative care of children such as children’s homes or foster homes. There has been no need for such alternative or institutional care up to now because the Samoan extended family setup has always taken care of its own and others who seek refuge there. But the situation may be changing with the growth of a money economy and changing way of life.

16.j.3 For the same reasons, social workers have not been required. Nevertheless, urbanization and a changing lifestyle have brought the need for social work professionals. So far, this is being done via NGOs, the churches and other volunteer services.

Part of CRC work by the Focal Point includes providing a catalyst for development of a body of social workers to provide counseling and other professional help to abuse victims. This initiative was facilitated as part of the implementation of the Strategic Plan on Responding to the Impact of HIV/AIDS on Women in Samoa 2001-2005, and their task was to develop national standards for counseling including the counseling of people living with HIV/AIDS and their families.

**17 Migration:**

TABLE 2: DEPARTURES BY AGE & GENDER 1998 – 2001

Year	T	Total		Under 15		15 – 19	
		M	F	M	F	M	F
1998	127898	70229	57669	9365	9082	3994	3815
1999	130173	72106	58067	9254	8818	3771	3751
2000	144110	80033	64077	10424	9952	3977	4123
2001	136823	76253	60570	9477	8909	3824	3854

TABLE 3: ARRIVALS BY AGE & GENDER 1998 - 2002

Year	T	Total		Under 15		15 - 19	
		M	F	M	F	M	F
1998	125231	68946	56285	8841	8645	3517	3511
1999	132875	72490	60385	9273	9208	3472	3692
2000	135947	75921	60026	9162	8764	3333	3563
2001	136182	75812	60370	8858	8508	3497	3666
2002	131211	73471	57740	8840	8532	3256	3476

Source: Annual Statistical Abstract 2001 - 2002

17.1 These statistics from the Immigration Office and the Department of Statistics show that a large number of children travel during any one year. There is no breakdown on how many travels to visit and how many to stay permanently overseas. There are no statistics to show how many children come from overseas to either visit or stay for a longer period.

17.2 **RECOMMENDATION:** That disaggregated information be collected regarding homeless children, abused or neglected children, domestic adoption and inter country adoptions.

Table 4: LEGAL ADOPTION BY AGE AND SEX OF CHILD 1997 - 2002

Age of Child	1997		1998		1999		2000		2001		2002	
	M	F	M	F	M	F	M	F	M	F	M	F
Total	176	259	158	184	93	112	134	198	94	118	209	229
<1	2	2	3	7	4	1	16	16	4	8	15	13
1	14	9	8	7	5	3	6	1	7	4	9	8
2	6	6	3	4	0	2	4	5	3	1	7	4
3	3	11	2	6	3	2	1	6	-	5	1	7
4	5	8	5	7	8	3	2	5	2	5	7	3
5	9	12	6	4	5	6	1	5	2	3	9	4
6	4	3	7	8	4	8	6	5	4	1	7	7
7	3	12	6	6	2	2	5	5	9	5	9	10
8	5	9	6	5	4	5	8	10	6	2	9	8
9	8	8	6	6	4	10	10	8	4	3	5	14
10	10	17	15	15	9	9	6	18	7	7	11	9
11	8	18	18	13	4	6	11	11	3	13	16	20
12	22	25	15	20	6	4	12	15	6	9	13	18
13	18	27	18	20	3	11	15	27	5	14	23	28
14	24	29	14	20	8	17	8	16	7	10	14	13
15	14	16	7	15	5	8	5	13	5	5	15	15
16	6	14	5	7	5	4	6	10	7	6	11	8
17	6	16	7	3	6	3	4	11	4	10	12	17
18	3	10	3	6	2	2	3	5	4	6	6	8
19	6	6	1	3	1	2	2	1	3	1	7	12
20	0	1	3	2	5	4	3	5	2	0	3	3

Source: Annual Statistical Abstract 2001 - 2002

**Table 4** gives legal adoptions for 1997 to 2002. Consistently more females than males are adopted.

## SECTION 7: BASIC HEALTH AND WELFARE

### 19.a *Survival and development*

- 19.a.1 The traditional rituals around the birth event highlights the importance of a child. This carries over into the very extensive celebration of the first birthday by a majority of *aiga*. After the birth of a child, a traditional process which marks the birth of the child referred to as the “*Faafailelegatama*” involves the exchange of gifts and feasting in celebration of the birth of the “*tama o le elele*” (child of the land) whereby the family of the mother of the child take traditional goods together with a special fine mat woven for the occasion, to the family of the father. The event also allows the latter to see the newborn and to have the umbilical cord buried on their soil as a sign of belonging. The burial of the umbilical cord signifies the “*faasinomaga*” and social links of the child to this piece of land, this family and village.
- 19.a.2 “Most villages have a *komiti tumama* (health committee) also known as the village women’s committee whose concerns and tasks include follow-up of pregnant and nursing mothers, the health of children, hygiene and sanitation of the village.”<sup>1</sup> This provides a structure in the villages where the health of children is addressed. This is also the focal point for any health programme in the village community including immunizations for children, identifying nutritional problems, and helping mothers/care givers gain an understanding of their role in caring for the children.
- 19.a.2.1 “The center for these activities is the *fale komiti*(Committee House). It is where the district nurse comes monthly to meet with the women of the village.”
- 19.a.2.2. “The health committee ensures that all mothers become members and that all children are registered for health programmes. The *village women’s committees* in collaboration with Division for Women of MWCSD, and the Aiga ma Nuu Manuia (Family Health & Well being Program) Working Group, also carry out regular inspections of houses, especially toilets and kitchens, together with the District Nurse and the Environmental Health Officer from the Ministry of Health. Pressure from the Aiga ma Nuu Manuia Working Group often helps families to improve hygienic standards.”
- 19.a.3. “All children under six years old are entitled to free primary<sup>2</sup> and secondary<sup>3</sup> health care in all government health facilities.”<sup>4</sup>
- 19a.4. “Hand in hand with modern day medicine is herbal or traditional medicine, administered by the *taulasea* (herbalist) or the *fofo* (masseur). Within the village, there are *taulasea* specifically for children. These are women who use

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<sup>1</sup> *A Situational Analysis of Children and Women in Western Samoa*, p. 6-7

<sup>2</sup> Primary health care or outpatient care for children under 5 is charged after hours (4pm – 8pm) at the normal after hours outpatient rate \$2

<sup>3</sup> Secondary health care includes free hospitalisation of children under 5 at all government owned health facilities

<sup>4</sup> The Population Council Technical Committee, *Samoa Population Policy*, 13 November, 1998, p.17

herbs, roots and barks of trees for medicinal purposes. The herbs are usually well known by other mothers but they would refrain from using the herb themselves as they believe that the traditional healers have the knowledge in terms of the best leaves and the time of day they should be picked for effective use. Traditional healers play an important role in the health of children in a village, particularly babies, where often the healers give gentle massages or herbal baths to babies.”<sup>5</sup>

19.a.5 The Ministry of Health National Health Accounts for the Financial Year 2000-2001 shows that people spent 22.61% of the total household health expenditure on traditional healers. This is very high as compared to what they spent on private clinics 6.33% and government hospitals 8.15%

19.a.6 According to regional distribution poverty is more prevalent in Savaii. “...regional distribution of the lowest 20% daily household expenditure, and once again total daily household expenditure was lowest in the rural areas. Savaii had the largest number of households in the lowest 20% of total daily expenditure, with 2,860 households. This represents 42% of all households in the lowest 20%. A further 25% of these households were in the Rest of Upolu, 20% were in North West Upolu and 9% were in Apia Urban Area.”<sup>7</sup>

19.a.7 The DFW-MWCSD is currently coordinating and implementing in collaboration with the Working Group the Family and Village Wellbeing Program (Aiga ma Nuu Manuia) a sub-setting of the Healthy Islands Promotion Project coordinated by the Ministry of Health. Healthy Islands is a regional commitment where Healthy Islands were declared by the Pacific Island Ministers of Health in 1995 in Yanuca Fiji, as places where:

- Children are nurtured in body, mind and spirit
- People age with dignity
- Environments invite learning and leisure
- Ecological balance is a source of pride

The Healthy Islands National Plan of Action by the Department of Health (1995) identified the former Ministry of Women Affairs as the most appropriate coordinating agency to facilitate the realization of the Healthy Home Healthy Village sub setting as part of the Healthy drive. True to the vision, the MOWA began the HHHV Program as a pilot initiative on October 1998 with three villages in Savaii and three villages in Upolu to kickstart the concept. Three additional villages for both islands joined the programme by the end of the financial year. With the appointment of GWRs, the Family and Village Wellbeing Program has increased its national coverage to a total of 182 participating villages currently - 100 from Upolu and 82 from Savaii. Today, the MWCSD-DFW continues to coordinate this program and are

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<sup>5</sup> *A Situational Analysis of Children and Women 1996*, Op. Cit, p. 6-7  
examines absolute poverty using food and basic needs poverty in Samoa and assesses relative poverty in terms of the characteristics of the poorest 20% of households.

<sup>7</sup> “Ibid., p.40.

utilizing the GWRs to implement and monitor the program in their own villages.

One of the key activities of the Healthy Home/Healthy Village sub-setting is family food production and nutrition which, with assistance from UNICEF, aims to improve the nutritional status of family members, particularly that of women and children. *Komiti Tumama*, with the assistance of the Canada Fund, supplies First Aid cupboards with basic dispensary needs for many villages throughout the country. [ Refer19.a.2]

- 19.a.8. “Children roam quite freely throughout the village and they are fed where they find themselves during meal times. They are told by other adults to return home to bathe or to sleep and often there is a sense of communal caring which generally exists today...”
- 19.a.9. “There are differences between the lives of children in urban and rural environments. Children in the rural environments are highly influenced by the practices and conditions and the values of traditional society...”
- 19.a.9.1 “Today about 20 percent of the children live in the urban area. It is in the urban area where the greatest influences of Western lifestyle and the cash economy have contributed to changes in the family network and the erosion of traditional values of communal sharing.”<sup>8</sup>

### **19.b Children with special needs**

- 19.b.1 “Children with special needs have been identified as those who are severely/physically disabled, deaf, mute, blind, mentally disabled and those who have learning difficulties in the special classroom”.
- “The main responsibility for the ‘care of the children who are born with disabilities or who later develop disabilities lie primarily with parents and families with appropriate support from various AID agencies”<sup>9</sup>, government and non government organizations.
- 19.b.2 “A coordinator for the National Council for Children with Special Needs was appointed in 1997 (VSA and Health Department)”<sup>10</sup> Through the initiative of the Minister of Health, a public awareness programme has resulted in facilities for people with special needs installed in many public places and buildings.
- 19.b.3 In the 2001 Census of Population and Housing there were a total of 1841 People with disabilities in Samoa <sup>11</sup>
- 19.b.4 The government is a signatory of the ESCAP Declaration on the rights of the Disabled. Initially the care for the disabled was the domain of the family; however, increasing advocacy from the NGO sector has helped the

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<sup>8</sup> *Ibid.*, A Situational Analysis of Children and Women in Western Samoa 1996

<sup>9</sup> *A Situational Analysis of Children and Women in Western Samoa 1996*,p

<sup>10</sup> *Samoa A Situation Analysis of Human Development, op. cit.*, p. 90

<sup>11</sup> *Ibid.* p. 90

government to review its position and to work towards policy directives for assistance to the disabled in the various sectors such as education (including scholarships) and health. There are six Special Needs Units attached to Primary schools: Prevention Rehab Education for Blind, Loto Taumafai Education, Aoga Fiamalamalama, Robert Louis Stevenson, Senese. There is an official Disability Action Task Force which came about from the Adults first Survey, 2002.

#### 19.b.5 Households with physical disabilities

The government is committed to a special partnership for persons of special needs. “To this end the government has begun with the assistance of UNDP, a programme to identify the extent of the situation in Samoa and to determine how best it can support and complement the work done by NGOs in line with the articulated guidelines of its Education Policy.”

There are 6 schools for children with special needs in Samoa. See the discussion of these schools.

- Early Intervention programme of PREB has been ongoing.
- 2 courses of Special Needs education at the National University of Samoa - Faculty of Education.
- Compulsory Special Needs teachers.
- Initiative of the Ministry of Education, Sports & Culture to have a Special Needs Coordinator with the Ministry’s Curriculum, Materials & Assessment Development/MESC
- Loto Taumafai Education School for the physically handicapped has its on going programs.

**TABLE 5: DISABILITY POPULATION BY URBAN – RURAL AND GENDER 2002**<sup>12</sup>

REGION	MALE	FEMALE	TOTAL
Samoa Urban Samoa Rural	2321126	244 1272	476 2398
TOTAL	1358	1516	2874

Source: Department of Statistics: Samoa Disability Report 2002: 8

19.b.6 The Ministry of Health provides medical assessment, physiotherapy treatment, and counseling for the physically disabled.<sup>13</sup>

19.b.7 “The government is committed to a working partnership for persons of special needs. “To this end the government has begun with the assistance of UNDP, a programme to identify the extent of the situation in Samoa and to determine how best it can support and complement the work done by NGOs in line with the articulated guidelines of its Education Policy.”<sup>14</sup>

<sup>13</sup> Ibid.p.31

<sup>14</sup> Samoa A Situational Analysis of Human Development, Op. Cit., p.90

- 19.b.8 The Red Cross in cooperation with the Nutrition Center and the District Nurses is able to give some support to families who have special needs person(s) but do not have the finances needed to meet all their needs.

The people with special needs are identified through five sources: the national Nutrition Centre, public health – district nurses, Loto Taumafai, Aoga Fiamalamalama and the Society for the Blind through their visits to families who have blind person(s).

All households which have persons with special needs and have received help from the Red Cross, also have at least one child or more.

- 19.b.9 The Red Cross which work is funded by local donations and from the International Red Cross has played a pivotal role during natural disasters and water shortages in the country.

**RECOMMENDATION:** That given the traditional role of the family/aiga in taking care of its own members and the supportive role of organizations such as the Red Cross, Village Council, Religious and others, government should consider providing financial support to these organizations, in the same way that government provides non government schools with financial assistance every year.

- 19.b.9.1 **Loto Taumafai** is a non government school for children with special needs (children with physical disability) founded in 1981. “Loto Taumafai is functioning extremely well in a society which has always acknowledged the disabled and their special needs, but did not have the skills needed to teach children with special needs. The curriculum for the school is based on the current programmes being taught in regular Samoan schools. Future plans include:

- “Increased lobbying of Government to have teachers’ salaries and school running expenses become part of the Ministry of Education, Sports and Culture’s financial responsibility.”
- Increasing sales from the workshop, so that not only can the venture cover it’s running costs, but trainees can become part of a profit sharing process;
- The establishment of an Outreach Programme to rural areas in order that the disabled outside Apia can benefit from Loto Taumafai facilities;
- Providing an ongoing opportunity for NUS Special Education teacher trainees to carry out observation and teaching practicum and to assist the NUS Special Education lecturer and the Ministry of Education in providing more teaching positions for graduates”

- 19.b.9.2 **Loto Taumafai** tries to maintain a high profile through media coverage, speaking campaigns, participation in high visibility activities, sports events, and through the performances of its Silent World Theatre.

- 19.b.9.3 The Loto Taumafai School has a performing arts group of deaf students called the Silent World Theatre. The group has performed nationally and in

New Zealand in 2003 “This is a world’s first for a Deaf Cultural Group to tour internationally”.

- 19.b.10 The **Aoga Fia Malamalama**, a non government school for Children with special needs (children with intellectual disability) celebrated its 20<sup>th</sup> Anniversary in 1999.

The school’s holistic approach is to develop children’s individual talents, instead of just focusing on their disabilities. Aoga Fia Malamalama’s aims and goals include: Providing general education and social and lifelong skills; raising public awareness to change attitudes towards children with special learning needs; assisting in integrating students into the community and advocating for their special needs.

Their programmes include; general education; socialization, and networking with other schools and partners.

Ulimasao College in Palauli Savaii also offers programs for students with special needs. Ulimasao is a Catholic Church school that provides vocational learning programs for students who have gone through the school system but must now learn a trade or vocational skills to enter the work force or undertake further training.

In addition, Ulimasao College provides vocational training for students with some disabilities but which are not debilitating enough to prevent them from learning new work skills.

**19.c Health and health services**

- 19.c.1 In 1998 the Ministry of Health launched its Health Sector Strategic Plan for 1998 – 2003 which has been updated by the Health Sector Strategic Plan 2004-2008

19.c.1.1 Health is defined as: “a dynamic state of complete physical, mental, spiritual and social well being and not merely the absence of disease or infirmity.” In adopting this holistic definition of health, government recognizes that health is multifaceted with many determinants beyond the influence of the Ministry of Health.

19.c.1.2 In line with government’s Strategy for the Development of Samoa 2005-2007, principles which guide the Health Sector development are stated as: 1) Strengthening Health Preventive Programs, 2) Developing Human Resource – Medical Personnel, 3) Improving health facilities and equipment, 4) Financing Health Services and, 5) Strengthening the Ministry of Health.

19.c.1.3 The Ministry of Health’s Vision states:

“THAT ALL SAMOANS WILL BE LIVING IN HEALTHY ENVIRONMENTS, WELL INFORMED ON AND PARTICIPATING IN HEALTH MATTERS, LIVING HEALTHY LIFESTYLES AND ACCESSING ESSENTIAL PRIMARY, SECONDARY AND

TERTIARY HEALTH SERVICES PROVIDED BY THE MOST APPROPRIATE HEALTH CARE PROVIDERS IN A SAFE, ETHICAL, CARING AND EMPOWERING ENVIRONMENT”

- 19.c.1.4 The main goal of the Health Sector within the next five years is ensuring equitable access to sustainable high quality health services, focused on primary health care and health promotion for all Samoans. This will be ensured through strong leadership, quality policy advice to the Minister of Health, developing and maintaining an appropriate workforce, supporting the effective and efficient management of publicly funded health services and forging strong relationships with private service providers.
- 19.c.1.5 Two projects with child health components are: 1) the NZODA funded Child Health Project which focuses on Child Health Scheduling and Monitoring. This project ended in 2002 with the exception of the Rheumatic Fever component which is still running as of today. 2) the WHO funded Safe Motherhood Project which is on-going with the aim to reduce maternal and Infant Mortality and Morbidity as well as improve the midwifery program.
- 19.c.1.6. The Ministry of Health and the Samoa Family Health Association are in the process of discussing strategies to strengthen partnerships aiming at improving the accessibility of children and women to services provided by the Family Health Association
- 19.c.2. As mentioned in the Executive Summary there are twenty projects being supported by donor funds. Among these, seven are child specific while all of the other projects have components which directly or indirectly relate to children. The children specific projects are: Health Promoting schools, Rheumatic Fever Program, Child Youth Health, Health promotion and education, Family Food production and nutrition, Vaccines and immunization, and National nutrition survey.<sup>16</sup>
- 19.c.3. “Samoa is well developed in terms of its provision of health facilities, with universal access to primary health care, good housing, water and sanitation services and a good record of immunization and maternal and child health care”<sup>17</sup>

**TABLE 6: HEALTH SERVICE INDICATORS<sup>18</sup>**

Access to health services	100%		
Access to sanitation	100%		
Access to safe water	68%		
Population per doctor	2270	Global Average	3780
Population per nurse	609	Global Average	1560
Nurse per Doctor	3.7	Global Average	2.9

Source: Ministry of Health Annual Report 2003/3004

<sup>16</sup> Summary of donor assistance projects, Government of Samoa p 5

<sup>17</sup> *Health Service Quality Improvement Project, Op. Cit., p.6*

<sup>18</sup> *Ibid., p. 21*

**TABLE 7: HEALTH FACILITIES**

National Hospital	1 TTM Hospital in Upolu
Referral Hospital	1 MTII in Savaii
District Hospital	3- 2 in Upolu, 1 in Savaii
Health Centers	9 – 6 in Upolu, 3 in Savaii
Health Sub-centers	21 – 13 in Upolu, 8 in Savaii

Source: Ministry of Health Rural Services Plan

- 19.c.4 “Key health indicators...demonstrate (relatively) low infant mortality (rate), relatively high life expectancies, and...(high) rates of immunization coverage. These are the result of the nation’s very fine primary health system, featuring a network of village based Women’s Committees working in close cooperation with the government’s Health Department – traditional healers have also been incorporated into this system...Attention to mother and child health needs to be continuous and important and on going: every antenatal visit represents an opportunity for health education”<sup>19</sup>

**TABLE 8: HEALTH INDICATORS<sup>20</sup>**

	Indicators	Data	Year	Source
1	Estimated Population (000s)	181611	2003-04	Ministry of Finance
2	Annual population growth rate (%)	0.01	2001	Census 2001
3	Percentage of Population - less than 15years - 65+ years	40.7% 29.7%	2001	Census 2001
4	Urban Population			
5	Crude birth rate (per 1000 population)	20.8	2003-04	MOH Annual Report
6	Crude death rate (per 1000 population)	3	2003-04	MOH Annual Report
7	Rate of natural increase of population	0.01	2001	Census 2001
8	Life Expectancy at birth (years):- - males - females	71.8 73.8	2001	Census 2001
9	Adult literacy rate: both sexes - male	98.2% 98.6%	2001	Census 2001

<sup>19</sup> Op. cit, p. 21-27

<sup>20</sup> Taken from *Health Profile*, Department of Health, Revised: April 1997 HRPIRD Division Department of Health

	– female	97.8%		
10	Infant Mortality rate (per 1000 live births)	13/1000	2003-04	MOH Annual Report
11	Under 5 mortality rate (per 1000 live births)	13/1000	2003-04	MOH Annual Report
12	Total fertility rate (women 15-49 years)	4.5	2001	Census 2001
13	Maternal mortality rate (per 1000 live births)	5.3	2003-2004	MOH Annual Report
14	% of newborne weighing at least 2500 grams at birth	95.8%	2002	MOH Annual Report
15	% of pregnant women with anaemia	44%	1999	Samoa National Nutrition Survey
16	Immunization coverage for infants % <ul style="list-style-type: none"> <li>• BCG</li> <li>• DPT3</li> <li>• OPV3</li> <li>• Measles</li> <li>• Tetanus 2</li> <li>• Hepatatitis B 3</li> </ul>	98% 99% 99% 99% 99% 98%	2003-04	MOH Annual Report
17	MCH coverage (pregnancies, deliveries, infant care) <ul style="list-style-type: none"> <li>• Delivery by trained personnel (% live births)</li> <li>• Care of infants by trained personnel (% live births)</li> <li>• % of pregnant women immunized with tetanus toxic (TT)</li> </ul>	90% 99% 98%	2003-04	MOH Annual Report
	Percentage of women in the reproductive age group using modern contraceptive methods	45.3%	2003-04	Samoa Family Health Association
	Local health services (percentage of population with access to)	100%		MOH Annual Report
	Percentage of population covered by Primary Health Care	99%		MOH Annual Report
	Percentage of population with access to safe water			
	Percentage of population with			

	adequate excreta disposal facilities			
	per capital GDP at current market prices (US\$)	US\$91	2000-2001	National Health Accounts – MOH 2000-2001
	Health Expenditure Amount (US\$ millions – current exchange rate)	( <i>in USD</i> ) \$15,457,943	2000-2001	National Health Accounts – MOH 2000-2001
	- Per capita (US\$)	\$91		
	- As % of total market	100%		
	- As % of GDP	6.1%		
	Manpower		2003-04	MOH Annual Report
	- Doctors	80		
	- Government	54		
	- Private	14		
	- Overseas for attachments	12	2000-01	MOH National Health Accounts
	- Dentist	8		
	- Pharmacists	6		
	- Registered Nurses	216		
	- Midwives			
	- Other/Nursing auxiliary staff (enrolled assistant nurses)	82		
	- Other paramedical (qualified/assistant)			
	- X-ray technicians	16/3*		
	- Laboratory technicians	11/8*		
	- Other health personnel (qualified/assistant)			
	- Health inspectors	10/7*		
	- Nutritionists	5/1*		
	- Health Educators	6/5*		

Key – \* trainees or assistants

1. **End note:** Births and deaths registration system has improved for reliable measurements of these values. The introduction of a computerized Health Information System in 1998 which was updated to a new system called the PATIS Patient Information System in 2005, certainly assist the Ministry of Health in their efforts to have an effective system for births and deaths registration

19.c.5 A constraint is: “While there are two general hospitals and twenty nine health centers placed across the two islands, the pattern of health service usage reflects serious inefficiencies and a manner of service delivery which cannot

be maintained in the context of output budgeting, staff shortages and changing disease patterns.”<sup>21</sup>

19.c.6 Under the Division of Preventive Health Services, Samoa has a national Nutrition Center that addresses all sectors of the nation regarding nutrition. A National Plan of Action for Nutrition 2002 – 2007, which was prepared by the National Food and Nutrition Council in 2002. It identifies nine broad objectives and corresponding specific objectives for Samoa. These objectives are: 1) Incorporating nutritional objectives, considerations and components into development policies and programmes. 2) Improving household food security. 3) Protecting consumers through improved food quality and safety. 4) Preventing and managing infectious diseases. 5) Promoting breastfeeding. 6) Caring for the socio-economically deprived and nutritionally vulnerable. 7) Preventing and controlling micronutrient deficiencies. 8) Promoting appropriate diets and healthy lifestyles and 9) Assessing, analysing and monitoring nutrition situations.

19.c.7 In the 1998 Annual Report the Aim of the Nutrition Centre is: “...to enhance the nutritional status of all people living in Samoa. To achieve this aim the following activities were undertaken in 1998: Nutrition surveillance, Food and nutrition education/promotion, Production and distribution of nutrition education materials, Data collection, analysis and reporting, Nutrition advisory services, Special projects.”<sup>23</sup>

19.c.7.1. The Nutrition Center has adopted a policy of using the mass media to advocate for sound nutrition of all ages, especially for children. This has being the practice for the last three years and has proven successfully. Unfortunately, due to financial limitation and budget constrains this cannot be done in this financial year and this raises a lot of concerns.

19.c.8 The Ministry of Health adopted a MOH Breastfeeding Policy in 1995. This policy aims to protect, promote and support breastfeeding in all Government health care facilities i.e. hospitals, clinics, community care services and baby care centers. Currently, there is no national policy for infant and young child feeding. A national team has just being coordinated to developed an Infant and young Child policy.

**19.c.8.1        *The Samoa National Nutrition Survey 1999 shows that:***

19.c.8.1.1        Nationally, 93.7% of children had initiated breastfeeding and the median duration of breastfeeding was 22months.

19.c.8.1.2        The exclusive breastfeeding rate at 4months of age was only 58.3%.

18.c.8.1.3        Only 35.8% of children first received soft foods between the ages of 6 and 9 months. 61.4% of children received soft foods when aged younger than 6 months.

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<sup>21</sup> *Ibid.*, p. 7

<sup>23</sup> *Nutrition Centre (Preventive Health) Annual Report for 1998*, p. 1

- 19.c.9 The Ministry of Health supports breastfeeding for health employees by: “Encouraging pregnant workers to take maternity leave, allowing babies to be brought to work to be breastfed, wherever practical, giving breastfeeding work breaks to mothers, encouraging mothers to express their breast milk when they are separated from their infants.”<sup>25</sup>
- 19.c.10 Government has a policy that mothers in permanent employment have 8 weeks paid maternity leave and mothers in casual or wage earner employment have 2 weeks paid maternity leave. Maternity leave for the Private Sector varies depending on the discretion of each employer, there is no legislation at this stage to address this issue.
- 19.c.11. Malnutrition is present in Samoa. The 1999 Samoa National Nutrition Survey shows that although there are sporadic cases of malnutrition and those they do not reflect the “tip of an iceberg” of a widespread public health problem as regards overall under-nutrition and growth. However this situation could change if there was a large change in food supply or eating habits, for example, after a cyclone.
- 19.c.12 High rates of anaemia were observed and reported in the National Nutrition Survey. It showed that 61% of children aged 6 months to less than 2 years, 23.2% of children aged 2-4 years, 10% of children 5-12years and 20.7% of teenagers 13-19 years, were anaemic.
- 19.c.13 The 2002 figures showed that Low Birth Weight Infants at the National Hospital was 4.2% . The number of Malnourished Children referred to the Nutrition Center had decreased from 48 in 1998 to 26 in 2002.
- 19.c.13.1. The National Nutrition Center is attached to the Tupua Tamasese Meaole National Hospital in Apia. According to the 2002 Annual Report. The aim of the Nutrition Center is to enhance the nutritional status of all people living in Samoa through:
- Monitoring and reporting on nutrition related matters
  - Food and nutrition education/promotion
  - Providing nutrition advisory services
  - Implementing special nutrition related projects
- 19.c.13.2 There are four components in the 2002 food and nutrition education/promotion programme: 1) mass media nutrition education/promotion campaign, 2) nutrition education sessions with groups and individuals, 3) nutrition training for trainers programmes and 4) the production and distribution of nutrition information, education and communication materials

The responsibility for providing counseling for the caretakers of malnourished children is currently carried out by the Clinical Nutrition section of the Tupua Tamasese Meaole Hospital. Referrals of malnourished children are made by:

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<sup>25</sup> Ibid. p.2

Paediatric B (children's ward at the Tupua Tamasese Meaole Hospital); District Nurses; Outpatients Doctors; District Hospital Staff and Others.

#### ***19.d Social security and child care services and facilities***

- 19.d.1. The Samoan government does not provide social security benefits, insurance or paid child care facilities except for a contributory National Provident Fund for all wage earners and a Pension Scheme for men and women 65 years or older. Traditionally the *aiga* has been the social security system and safety net for Samoans.

Today however, the traditional system can no longer cope with every situation of need. Especially at risk are those in situations where there is no one from their *aiga* to help them. This is not uncommon today as large numbers of people have emigrated to town or overseas. Work by the Red Cross (Samoa) has identified an at risk group who are people who have settled in Apia away from their family and social group networks but are reluctant to seek assistance from their families in their home villages.

The at risk group also includes people who live far away from village centers and are unable to attend Women's Committee Meetings and programs on a regular basis because of distance. People living far inland with poor road access are included in this group as well.

Another constraint is the restrictive policies of Women's Committees in the villages which result in families who are not members being charged higher fees to access hospital services due to the claim by the Committees that such families are not contributing to the committee's work particularly the maintenance of the district hospitals. Recommendation 19.b.8 provides a possible way forward in helping those who need help today outside of the *aiga* network.

- 19.d.2 **RECOMMENDATION:** That a study be conducted to consider the establishment of a system for those who are no longer cared for under the traditional/cultural *aiga* system, bearing in mind that establishing a social security system based on models from overseas is not feasible.
- 19.d.3 There is no legislation regarding child care for working parents other than what is in the breastfeeding policy as stated above. However, two centers have been established to cater for babies/young children of working mothers. These are run by the Doctors' Wives Association and the Nurses Association. A constraint is that they are both located near the national hospital in Apia making it difficult for working mothers of other areas to use the services for breast feeding. Note draft Policy on Breastfeeding (contact Rebecca of AG;s office)

#### ***19.e Standard of living***

- 19.e.1 There is no legislation covering this. However, Government's vision as stated in Samoa's Development Strategy (SDS) 2005-2007 is the attainment of quality of life for all.

- 19.e.2 There are programmes in the health system for assistance in nutrition where needed. This includes educating and advising parents on proper nutrition, feeding the malnourished children in the hospital (in extreme cases), and monitoring their progress after they leave hospital. The MWCS D Aiga ma Nuu Manuia program also helps raise the standard of food supplies and diet for families by promoting the production of food including vegetable gardens, by demonstrating the preparation of more nutritious and balanced meals for the whole family.
- 19.e.3 Through the Red Cross, there is limited assistance provided for food, medical supplies and clothing, especially after natural disasters such as cyclones.
- 19.e.4 **RECOMMENDATION** : That, until 19.d.2 is implemented, Government should consider providing an annual grant to an NGO like the Red Cross to help any children who do not have access to basic nutrition, clothing and housing.

## **20. Occurrence of HIV/AIDS**

The number of reported HIV/AIDS cases up to 2001 was 12, including 1 child. Eight of these including the 1 child have died. A nationwide educational campaign started in the late 1980s and is continuing. Publicity measures promoting AIDS prevention using well known sports figures on talk back shows, posters and publicity materials have been implemented along with sports tournaments.

A Situational Analysis of Women and HIV/ AIDS in Samoa was conducted in 2000 by the former Ministry of Women Affairs. A Strategic Plan on the Response to the Impact of HIV/AIDS on Women in Samoa 2001-2005 was subsequently developed and provides perhaps the only national plan on HIV/ AIDS in Samoa today. The work on these 2 documents was coordinated by the MOWA in close collaboration with a Working Group which was selected as the strategic planning team for these tasks. Membership of this multisectoral working group consists of the Ministry of Finance, Samoa Registered Nurses Association, YMCA, Sautiamai, Statistics Division of the Ministry of Finance, the Office of the Attorney General, Samoa Family Health Association and the Division for Women of the Ministry of Women, Community and Social Development. Some of the activities in this Strategic Plan that the MWCS D-DFW has weaned into its national budget to ensure sustainability include the Mothers and their Daughters processes referred to earlier, a process for Women and their Husbands which focuses on the protection of women and therefore children from HIV/ AIDS, and the ongoing dissemination of information through a series of workshops and forums coordinated by the MWSCD and its partners in the multisectoral working group.

## SECTION 8: EDUCATION, LEISURE AND CULTURAL ACTIVITIES

### 21.a *Education, including vocational training and guidance.*

21.a.1 The *aoga faifeau* or pastor's school is a unique feature of education in Samoa. It is recognized as the first educational institution for children. "In most traditional villages, even today, the pastor's house is the first school house of the village children. From three years of age children attend the *aoga faifeau* or the pastor's school and are introduced to the basics of literacy and numbers by the pastor and his wife."<sup>1</sup> Children are also taught life skills that include sewing and cooking for girls, and plantation work and fishing for boys. Children also learn Christian values, about correct behaviour, and about the Samoan culture and way of life

The *aoga faifeau* continues to be an important part of the community in spite of the growth of pre-school facilities. It reflects, among other things, the strength of the church and culture in the life of the communities and flourishes in the villages but has been increasingly put under pressure with other competing social activities in the urban area.

The influence and role of the church in nurturing and developing children to become responsible adults does not end with the *aoga faifeau*. The Sunday Schools also offer the same learning opportunities for children in Samoa. Almost all churches in Samoa have a youth group. Some even have 2 levels of youth groups namely the junior youth group and the senior youth group. The youth groups focus not only on the teachings of the bible but also social issues that are affecting the lives of youth today. These are done in a form of workshops, meetings and debates by the youth groups.

Recently, the Division for Youth of the MWCSO which is also a member of the CRC Partnership, began the implementation of a joint Samoa government – UN system program. The program is discussed earlier in section 4. This program targets youth defined in the Samoa National Youth Policy as those from 12-29 years of age. This joint program will provide opportunities for children 12 -18 years old.

Since 1998 Government has established the National Council for Early Childhood Education to promote education for children from 2 and a half years old to the age of 5 when they qualify for primary education. In 2002, the NCECES launched the first set of Standards for Pre-Schools in Samoa, which has basically provided the criteria for Pre-Schools to follow to ensure that children in pre-schools enjoy and benefit from the learning therein in all aspects. These standards are based on the MESC's Education Policies 1995-2005 and it stipulates that "all intending or existing Early Childhood Education management authorities must ... observe and adhere to these standards before registration can be considered or approved"<sup>6</sup>

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<sup>1</sup> *A Situation Analysis of Children and Women in Western Samoa 1996*, Op.Cit, p. 4

<sup>6</sup> *Standards for Samoa Preschools 2003*, p5

21.a.2 In the Education Policies 1995-2005 3.3 the Philosophical Understanding about Education states: “Education...is a lifelong process to which family, traditional village institutions, church, media and other modern community groups all contribute. In this broad sense, education is fundamentally about the maintenance, reproduction and recreation of culture.”

“Culture may be defined as the shared understanding between people which gives meaning and direction to social, political and economic relationships and structures. According to this definition the process of development is also, in the final analysis, cultural.” “Education, development and culture should be seen as interacting and dynamic.”<sup>2</sup>

21.a.3 Samoa is divided into 21 educational districts. Children throughout Sāmoa have access to primary and secondary education. Primary schools (Yr.1 – Yr.8) are established in every village, which is jointly supported by the government and the village community. In some villages, primary schools run by the Missions are an alternative.

Similarly, districts are made up of clusters of villages. Each district has a secondary school (Yr.9 – Yr.13) with the bigger districts having two.

21.a.4 “Education is compulsory but not free. The Compulsory Education Act of 1994 provides the legal mandate for all children of up to 14 years of age or until Year 8 is completed to attend school.”<sup>3</sup> Primary education is compulsory. It begins at age 5 and lasts for 8 years. Enrolment in secondary education is not compulsory.

21.a.4.1 Although the Compulsory Education Act provides that the *Pulenuu* (government representative), under 16.(3)(i) is to enforce school attendance of all children up to 14 years of age, there has been limited enforcement to date. This is especially evident in the urban area where child vendors are seen on the streets selling wares during school hours.

The Compulsory Education Act is addressed in the Ministry of Education, Sports and Culture (MESC) Bill currently under review by Cabinet.

21.a.5 In 1995 the Ministry of Education launched three documents; Western Samoa Education Strategies 1995-2005, Western Samoa Education Policies 1995-2005 and An Overview of the Integral, Upgraded Management Information System.

The Western Samoa Education Policies 1995 – 2005 and the Western Samoa Education Strategies 1995 – 2005 are currently under review. Draft documents for the next 10 years are being developed.

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<sup>2</sup> *Western Samoa Education Policies 1995-2005*, Education Policy and Planning Development Project, p. 9-10

<sup>3</sup> *A Situation Analysis of Children and Women in Western Samoa 1996*, Op. Cit., p 26

The Ministry currently has 2 major database systems for the management of information: (i) the Manumea database which records school details and enrolment numbers; and (ii) the Pelican Database which records personnel information.

21.a.6 The Education Policies were developed following a World Bank review in 1992 of Samoa's education system. The scope of the project incorporated a range of policies from; early childhood education (ECE) – highlighting the role of parents as first teachers; special needs education (SNE) as a result of universal primary education; post secondary education; and ways to strengthen the key roles of departmental and school management<sup>4</sup>.

21.a.7 Attention is drawn to the Foreword in the *Western Samoa Education Strategies 1995-2005* document for an overview of the preparation and purpose of the documents. The wide representation of both government and non-government educational institutions should especially be noted.

21.a.8 The Summary of Policies given on pages 5-8 is very comprehensive. It covers all age groups as well as school management. The Strategies document sets out Component Projects in Appendix 6. 81% of these projects have been or are being implemented.

**21.a.8.1 Completed Components:**

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21.a.8.2 Component Project 2.05 and 2.06 Malifa Primary School Restructuring (Part A) and (Part B)

Part A: The Malifa Primary School reopened in 2005 as Apia Primary School under the management of the school Committee.

Part B: Apia Primary School has been refurbished and furnished with all the equipment needed according to the criteria set out in the Ministry's Facilities Handbook developed under the Education Sector Project (ESP).

**21.a.8.3 Component Project 3.03 Establishment of Resource Centers.**

The Savai'i resource centre was officially opened in 2004. Work on the Upolu resource centre is currently underway.

**21.a.8.4 Component Project 3.06 Science Education Project:**

Resources for science education were received from the World Bank Project. The schools have used these resources. More resources were procured under the Education Sector Project I (ESP I). In-service training was conducted for science teachers in the use of these resources.

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<sup>4</sup> Western Samoa Education Policies 1995-2005, Introduction by the Minister and Foreword, para. 1

#### 21.a.8.5 Component Project 3.07 Library Facilities Project:

As part of components 3.04 and 3.05 on single stream comprehensive curriculum, the World Bank Project assisted in providing library materials for the schools. The ESP I also assisted in the refurbishment and procurement of library infrastructure and materials. In-service training was also part of ESP I.

#### 21.a.8.6 Component Project 7.01 Departmental Management:

The MESC-ISP was officially launched in 1999 and was completed in November 2004. The project was aimed at strengthening the key roles of departmental and school management within the Ministry.

#### 21.a.9 The Education system includes:

Primary schools	Yr.1 – Yr.8
Secondary schools	Yr.9 – Yr. 12
Colleges	Yr. 9 – Yr. 13

All secondary schools now teach the full 4-year secondary education. Government Colleges now total 11 – 4 in Savai'i and 7 in Upolu.

21.a.10 The government through the MESC continues to assist district schools by providing stationery and teachers to staff the schools.

21.a.10.1 “The influence of urbanization on the demand for schools and the resulting overcrowding in some urban schools has not been fully recognized. One indicator of quality education is a teacher pupil ratio. For Primary schools, the ratio is 1:30 while for secondary schools the ratio is 1:20. Currently, 49% of government primary schools have a teacher-pupil ratio above the ratio set by the Ministry. In the secondary level, 66% of schools meet the teacher-pupil ratio as set by the Ministry. Refer Tables 1 & 2.

*Table 1: Primary Teacher-Pupil Ratio for Government Schools*

**No. of Government Schools that are meeting the national standards for Primary student-teacher ratio of 1 teacher to 30 students (1:30)**

Year	No. of Primary Schools meeting National Standard (1:30)	No. of Primary Schools above National Standard (1:30)	% of Primary Schools meeting National Standards
2001	112	31	78%
2002	96	47	67%
2003	96	45	68%
2004	82	59	58%
2005	73	70	49%

Source: Ministry of Education, Sports and Culture, Education Statistical Digest 2005. Part 2, p. 6.

**Table 2: Secondary Teacher-Pupil Ratio for Government Schools**

**No. of Government Schools that are meeting the national standards for Secondary student-teacher ratio of 1 teacher to 20 students (1:20)**

Year	No. of Secondary Schools meeting National Standard (1:20)	No. of Secondary Schools above National Standard Ratio (1:20)	% of Secondary Schools meeting National Standards
2001	17	8	68%
2002	13	12	52%
2003	16	9	64%
2004	17	8	68%
2005	29	15	66%

Source: Ministry of Education, Sports and Culture, Education Statistical Digest 2005. Part 2, p. 6.

**21.a.11 Special Needs Education (SNE)**

21.a.11.1 Special Needs Education provision in the Policies addressed in 2. Summary, page 6.

***The Education Amendment Act 1991-1992 makes it mandatory for government to share the responsibility for special-needs children by supplementing and supporting community initiatives in special education***

- The Government through the Ministry provides financial assistance on a *per capita* grant to special-education institutions.
- A database has been developed to identify special needs students, their special need and their location. The database is called the Special Needs Assessment Program (SNAP).
- A Special Needs Coordinator has been employed by the Ministry and is attached to the Curriculum Materials and Assessment Division (CMAD).
- Teacher-education programmes will be developed which will produce and maintain a body of skilled special-needs educators.”<sup>6</sup>
- The teacher-education for Special Needs children has already been implemented at the National University of Samoa. A Lecturer has been appointed. As of 2002 all FoE teacher trainees are required to take a special needs course during their training.

21.a.12 Special Education Component Project 4.01, was funded by UNDP, under the Augmenting Institution for General Attainment (A.I.G.A.) Project.

<sup>6</sup> *Western Samoa Education Policies 1995-2005*, op. cit., p.6

- 21.a.12.1 Establish a working party to coordinate the department’s special education initiatives. The Special Needs Advisory Committee was set up to advise the Ministry on special needs education issues. The Advisory Committee is chaired by the Assistant Chief Executive Officer (ACEO) – CMAD.
- 21.a.12.2 “Evaluate results of surveys currently being conducted by department to determine extent of special-education needs by children now attending primary schools and those who have not been enrolled due to a lack of facilities and / or teachers with the necessary skills. The database has been set up and is located at the CMAD.
- 21.a.12.3 “Appoint WSTC (now the Faculty of Education at National University of Samoa) Special Education Lecturer to coordinate pre- and in-service special education courses and resources. All FoE students are required to undertake a special needs course during the course of their training.
- 21.a.12.4 “Provide fellowships to enable study and / or training in special education by FoE staff at institutions abroad.
- 21.12.5 “Establish special classes, and appropriate infrastructure, to provide for special-needs children in existing schools”<sup>7</sup>. There are now 6 special needs units in Sāmoa. The units are located at Saleimoa, Tutaga, Falefitu, Lalomanu, Magiagi, Sataua. The Ministry has developed a Facilities Handbook for the use by contractors when building new and refurbishing school buildings. The handbook has requirements for special needs students.

### ***21.b Aims of education***

21.b.1 In the *Education strategies* the Objectives are listed on page 3.

21.b.2 The aim of the Strategic Plan is to establish a framework for:

- “supporting early-childhood education;
- “improving the over-all quality of primary education, at the same time implementing the requirements of the *Education Amendment Act 1991-1992*;
- “increasing access to senior secondary education by merging the existing two streams into a single-stream system, at the same time improving overall quality;
- “meeting the requirements of special-needs students;
- “strengthening the administrative structure of the Teachers College (now FOE/NUS) and improving the quality of graduates;
- “facilitating linkages between secondary schools and post-secondary institutions;
- “introducing best-practice into the department’s central management, and,

- “providine advice and assistance to school management committees.”<sup>8</sup>

21.b.3 **RECOMMENDATION:** That Samoa sets a time frame for the removal of the Reservation “...to allocate resources to the Primary Level Sector of Education in Western Samoa in contrast to the Requirement of Article 28 (1) (a) to provide free Primary Education.”

In *The State of the World’s Children 1997 Summary*, page 6, it is stated “Basic education can be afforded if it is made a priority, as the Convention on the Rights of the Child demands that it must be. This is a question not of scant resources but of political choice.”

21.b.4 **RECOMMENDATION:** That the Population and Household Census include data which will identify reasons why children are not in school.

21.b.5 Refer to Section 9: Special Protection Measures 23.c.i.13 and 23.c.i.14 for a discussion on children as street vendors in relation to school attendance.

### ***21.c Leisure, recreation and cultural activities***

21.c.1 In *A Situational Analysis of Children and Women in Western Samoa 1996*, it is stated “Children roam quite freely throughout the village...”<sup>9</sup>

21.c.2 Children in the village settings not only roam quite freely but they have traditional games and play activities that they organize themselves. These children are “influenced by the conditions and the values of traditional society. They are often considered to be seen and not to be heard”<sup>10</sup>. While recognizing the traditional values relating to respect for parents and elders, and the need for children to be brought up with an understanding of their traditions and culture, CRC advocates that children’s voices be heard, but with parents’ permission and appropriate guidance, and within the context of an interactive and harmonious family relationship. It has been suggested that one of the causes of suicide among young people is their inability to express their views and talk to their parents about problems or about how they view life.

The advocates for children in education are:

- Education for All (EFA)
- Inclusive Education(IA)
- Community Learning Centers (CLC)

21.c.3 Children in the urban setting have a much more limited area for free play and leisure. There are public parks in Apia, one of which was established by the UN

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<sup>8</sup> Ibid., p. 3

<sup>9</sup> Op. Sit., p. 7

<sup>10</sup> Ibid., p. 7

Volunteers in 1993. Maintenance is required to ensure safety conditions for children. There are other recreational areas along the coastal beaches as well as village ‘malae’.

The Ministry under its development programs to the schools has constructed Sports Fields in villages for use by the students. The constructions of Sports Fields have been completed for Asau, Aleipata (Vaisuli), Lalomanu, Aufaga. The Sataoa sports field is near completion.

21.c.4 The M.A.D.D. (Motivational Arts, Dance and Drama) Gallery has undertaken various activities for children which have encouraged expression through art, dance and physical expression.

21.c.4.1 The aim of the gallery is: “the preservation of cultural materials and ways of doing things so they will be here for our grandchildren, for instance tapa making, including planting the trees from which tapa is produced.” Keep traditional art forms alive for children of the future; develop creativity; protect the environment.<sup>11</sup>

21.c.4.2 Other Government, mission and private schools, church organizations, and youth bodies including Girl Guides/Brigade, Boys Scouts/Brigades continue to organize youth focused programmes for members.

21.c.4.3 Some of the activities have resulted in the production of several basic reading books – both writing and illustrating the story - and sponsoring puppets shows from France.

21.c.4.4 Work with children has been funded from various international organizations including UNESCO, NZ High Commissioner’s discretionary fund, AusAid; and Australian High Commissioner’s discretionary fund.

21.c.5 There are numerous opportunities for Samoan children to play sports either informally in the back yard, on the beach, in the village green or in a more structured format at school, clubs, or during organized competitions. The sports most commonly played include running, swimming in the sea, boating, rugby, football, soccer, and netball. There is also cricket, tennis, and golf although these are confined to a small minority. One of the most popular games played by almost everyone is, *Kilikiti*, a local adaptation of English cricket.

Opportunities exist for children talented sports to participate in local, district and national competitions. In addition, opportunities for international playing contracts overseas, particularly in rugby union and rugby league, have provided incentive for young people to participate in sport in the country.

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<sup>11</sup> As stated in an interview with Mrs Momoe von Reiche on 29/10/99

**22. Public expenditure on education**

22.a 21% of the national budget is set aside for education. Of this, 61% is for primary education albeit it is not compulsory in practice. More than 50% of resources available under aid programmes are for education and training. There are also projects being funded from bilateral aid from overseas such as the Primary and Secondary Curriculum Development projects, which are funded by AusAid and NZODA respectively. The development of schools [buildings] is almost all aid funded. Stationery for primary schools is provided free of charge by the Department.

**22.b Costs of education at different levels**

22.b.1 Costs for having a child in school include fees, uniforms (schools and sports) & other necessary clothing, fares, contributions to fund raising activities and snacks/lunches. Annually this is in the range of \$100-\$150 for primary level, and \$200-\$400 secondary level. There are private schools whose costs are much higher than government schools. Since 2000, Government has awarded grants on an annual basis to the Pre Schools around the country.

Each family is responsible for funding each child’s education. As the education of children is generally given high priority in the Samoan family, many parents will borrow money from wherever they can to pay the fees and provide uniforms. In villages, transportation costs are not problem for primary level students who attend the schools in the villages.

No special measures have been put in place for ‘poor’ families, and whilst there is often a nominal fee for public schools there is a continuing need to ensure that parents who really cannot afford this are assisted rather than parents who prioritize family spending in other areas such as bingo and gambling or purchasing alcohol... Microcredit schemes for the low-income families have been established to help them set up microenterprises to improve their ability to earn cash income. Other than that, there is no special help available for schooling.

**22.c Levels of school enrolments:**

22.c.i This data is summarized in Table 9.

Table 3. NUMBER OF STUDENTS AND TEACHERS IN ALL TYPES OF SCHOOLS, 1999 – 2004							
Level of Sch/Year	Number of school	Number of Teachers			Number of Students		
		T	M	F	T	M	F
<b>Primary</b>							
1999	159	1439	404	1035	35671	18526	17145
2000	161	1681	1436	245	36399	5630	30769

2001	161	1504	407	1097	37705	19525	18180
2002	162	1446	396	1050	38946	20215	18731
2003	163	1426	376	1050	39639	20604	19035
2004	166	1411	384	1027	40173	20895	19278

Secondary Schools							
1999	24	318	149	169	5614	2758	2856
2000	24	312	47	265	5535	1039	4496
2001	27	317	130	187	6393	3303	3090
2002	25	311	146	165	6064	2873	3191
2003	21	309	138	171	5804	2844	2960
2004	21						
2005	14						
Senior Colleges							
1999	21	457	248	209	7614	3740	3874
2000	21	442	300	142	7880	4686	3194
2001	18	474	240	234	7290	3354	3936
2002	18	438	227	211	8095	4033	4062
2003	19	467	242	225	9043	4239	4804
2004	19						
2005	23						

Source: MESC Manumea Database

School attendance is monitored by the teaching staff. In recent years, the practice of having truancy officers no longer exists. The responsibility therefore to ensure that the child is in school lies with the family. Although education is compulsory by law, there is little enforcement of that at the primary level at the present time. However, work is being carried out to inform and educate people regarding the law for compulsory education. More options in vocational subjects are available at secondary level for those who are not able to pursue academic courses, so that they are made ready for livelihood choices once they leave school.

Table 4: School enrollments in ALL Schools by district in 2005.

District	No. of Schools	Total no. of Students
Faleata	22	8944
Malifa	2	2296
Vaimauga	22	9704
Aana No 1	11	3355
Aana No 2	10	2121

Aleipata	9	1328
Anoama'a No 1	5	1006
Anoama'a No 2	8	1081
Fagaloa	5	251
Falealili	11	2250
Lefaga	5	752
Lepa/Lotofaga	6	1013
Safata	9	1664
Sagaga	14	4778
Faasaleleaga No 1	12	2795
Faasaleleaga No 2	8	1626
Itu Asau No 1	6	1296
Itu Asau No 2	4	721
Itu o Tane No 1	7	1420
Itu o Tane No 2	8	1426
Palauli	9	2637
Savai'i Sisifo	10	2510
<b>GRAND TOTAL</b>	<b>203</b>	<b>57636</b>

Source: MESC Manumea Database

Table 5: Total Enrolment by Level by Gender and Status

LEVEL	Government			Mission			Private			All Schools		
	M	F	T	M	F	T	M	F	T	M	F	T
1	2406	2155	4561	345	316	661	132	117	249	2883	2588	5471
2	2253	2030	4283	346	311	657	97	93	190	2696	2434	5130
3	2304	2052	4356	319	308	627	85	85	170	2708	2445	5153
4	2318	2119	4437	307	298	605	110	96	206	2735	2513	5248
5	2155	2137	4292	315	266	581	86	82	168	2556	2485	5041
6	2178	1982	4160	291	295	586	90	85	175	2559	2362	4921
7	1955	1894	3849	312	310	622	56	64	120	2323	2268	4591
8	1943	1838	3781	318	313	631	61	46	107	2322	2197	4519
<b>Primary Total</b>	<b>17512</b>	<b>16207</b>	<b>33719</b>	<b>2553</b>	<b>2417</b>	<b>4970</b>	<b>717</b>	<b>668</b>	<b>1385</b>	<b>20782</b>	<b>19292</b>	<b>40074</b>
9	1336	1188	2524	614	661	1275	41	41	82	1991	1890	3881
10	1104	1054	2158	527	607	1134	33	36	69	1664	1697	3361
11	904	1026	1930	497	546	1043				1401	1572	2973
12	778	960	1738	630	682	1312	27	24	51	1435	1666	3101
13	279	392	671	433	433	866	15	32	47	727	857	1584
<b>Secondary Total</b>	<b>4401</b>	<b>4620</b>	<b>9021</b>	<b>2701</b>	<b>2929</b>	<b>5630</b>	<b>116</b>	<b>133</b>	<b>249</b>	<b>7218</b>	<b>7682</b>	<b>14900</b>
<b>Grand Total</b>	<b>21913</b>	<b>20827</b>	<b>42740</b>	<b>5254</b>	<b>5346</b>	<b>10600</b>	<b>833</b>	<b>801</b>	<b>1634</b>	<b>28000</b>	<b>26974</b>	<b>54974</b>

Source: MESC Manumea Database, Education Statistical Digest 2005. Part 1 page

Table 10 illustrates distribution of enrollments by urban/rural district and by gender.

Table 10: Summary of Government Schools by District					
District	No. of Schools	Females	Males	Total no. of Students	F-T ratio
Aana No.1	9	1155	1186	2341	28
Aana No.2	11	865	932	1797	22

Lepa Lotofaga	6	482	516	998	25
Aleipata	9	588	644	1232	22
Anoamaa No.1	5	446	476	922	23
Faasaleleaga No. 1	7	880	976	1856	21
Faasaleleaga No. 2	7	464	551	1015	15
Fagaloa	6	154	171	325	17
Falealili	11	997	1036	2033	22
Faleata	9	1557	1727	3384	29
Itu Asau No.1	6	587	590	1177	22
Itu Asau No.2	4	350	360	710	24
Itu-o-Tane No.1	7	710	651	1361	18
Itu-o-Tane No.2	7	610	685	1300	19
Lefaga	5	349	384	733	17
Malifa	4	2500	2165	4665	35
Palauli	9	1028	1133	2161	19
Safata	8	674	754	1428	25
Savaii Sisifo	9	959	1036	1995	22
Vaimauga	15	231	2634	4935	19
<b>Total</b>	<b>169</b>	<b>19105</b>	<b>20094</b>	<b>39199</b>	<b>23</b>

**The School districts of Malifa, Faleata and Vaimauga, are the urban districts.**

## **22.d Quality of teaching and education**

In 1995 the Department of Education launched the Education Policy and Planning Development Project with two documents: *Education Policies 1995-2000* and *Education Strategies 1995-2000*. Work has continued steadily on the implementation of these policies and strategies since that time.

The MESc has regular in-service teacher training workshops on the various subject areas and professional development during school breaks/holidays. These are well attended by the teachers. Teachers are also encouraged to upgrade qualifications with a scheme where they attend the local university while relieved by a volunteer teacher while receiving full salary. Some are able to have short-term attachments abroad.

The UNESCO-funded Basic Education and Life Skills Programme provides in-service training for primary teachers in literacy training and classroom skills,

facilitates community support for education and develops a management information system within the department.

The Ministry in the last two years has also assisted students who want to be trained as teachers by paying their tuition fees at the NUS/FoE program. This program is part of the Teacher Marketing conducted to attract school leavers' to the teaching profession.

#### **22.e *Use of the local language***

In the *Education Policies 1995-2000* document on page 5 it states “All schools will follow a systematic bilingual pedagogy that recognizes Samoan as the first language of the vast majority of students. Basic literacy in Samoa will be established before the introduction of English. The development of a literacy programme which ensures the systematic teaching and learning of Samoan throughout primary schooling, and of English from Year 4-8, will be a priority.”

It is a standard practice at the primary level that Samoan is the medium of teaching although this is not the case with private and some mission schools where Samoan is taught as a separate subject.

Bilingual Policies have been developed for language use in the classroom. The Ministry has also started work on setting up of the Samoan Language Commission to further strengthen the use of local language in the country.

#### **22.f *Integration of the subject of human rights into formal and non-formal education.***

22.f.1. In the formal education sector the Social Science Curriculum teaches the value of human rights as stated in the Constitution. The subject is most commonly raised in non-formal education programmes where legal literacy of the general public is the main focus.

22.f.2. The DFW-MWCSD, in its role to advance the status of women and to facilitate the protection of children, also to coordinate activities and programs for the development of youth, coordinate and conduct a number of learning processes for women, men, youth and children on a range of topics including human rights. The learning of human rights issues and facilitated and taught in the context of CRC and CEDAW. From experience, the subject of human rights is often mistaken as a new subject that was introduced by the ratification of these 2 conventions. This is due largely to the limited awareness that people often have of the Constitution and other legislations stipulating the rights of Samoan people in whichever area. However, once they get the information on their human rights as stated in the Constitution, they then find it easier to accept the rights that are being taught in the context of CEDAW and CRC.

22.f.3. The Ministry of Justice and Courts Administration and Non Government Organisations, such as Mapusaga O Aiga, National Teachers Association and ECPAT Samoa also conduct non formal education workshops and training on a range of topics relating to:

- domestic violence
- inappropriate behaviour between adults and children
- human rights awareness

## **SECTION 9: SPECIAL PROTECTION MEASURES**

### ***23.a Children in situations of emergency***

23.a.1 Samoa has developed a National Disaster Management Plan and Emergency Procedures. This was developed following the destructive hurricanes of the early 1990s. Although it is not child specific all emergency preparedness and implementation includes children as well as adults.

#### ***23.a.i Refugee children***

23.a.i No provision has been made because there are no refugees in Samoa.

#### ***23.a.ii Children in armed conflicts, including physical and psychological recovery and social reintegration***

23.a.ii.1 Samoa does not have an Armed Force or standing army.

### ***23.b Children in conflict with the law***

#### ***23.b.i The administration of juvenile justice***

23.b.i.1 Constitution – Section 9 – Rights to a fair trial – (not applying specifically to children). “In the determination of his/her civil rights and obligations or of any charge against him/her for any offence, every person is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established under the law. Judgement shall be pronounced in public, but the public and representatives of news service may be excluded from all or part of the trial in the interests of morals, public order or national security, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice...”

It is up to the judge to decide whether the evidence of victims of sexual abuse requires special provision but generally this evidence is given in closed Court with a close and trusted relative seated next to the child. There is, however, protection of names and identities - a condition that prohibits the media from reporting information identifying them.

Although there is freedom of expression of the media, they are limited in their reporting by the usual constraints and restrictions to do with obscenity, offending religious feelings, defamation of character and issues of public interest. These offer some protection to children from exposure to inappropriate information such as pornography, violence and sexual explicitness.

- 23.b.i.2 Constitution – Section 10 – Rights concerning criminal law – (not applying specifically to children) – (1) “No person shall be convicted of an offence other than an offence defined by law”
- 23.b.i.3 Constitution 15 (3) B – exceptions to “Freedom from discriminatory legislation include power to make provision for protection or advancement of women or children.”
- 23.b.ii Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings
- 23.b.ii.1 Criminal Procedure Act 1972 Section 72 – Young defendants – a defendant under 18 years may be remanded in custody of a Child Welfare Officer pending trial – “ ...if the defendant appears to be under the age of 18 years, law may remand him in the custody of a Child Welfare Officer appointed under the Infants Ordinance 1961, or of a probation officer if the law then provides for the appointment of such an officer or of the Commissioner of Police or of a senior member of the Police stationed for the time being in the vicinity of the Court or of any reputable adult person:  
“Provided that the Court or remanding officer may in any case in which such a defendant would not be liable as of right, other than by this section of this Act, direct that he be detained in a penal institution if in the opinion of the Court or remanding officer, no other course is desirable, having regard to all the circumstances.
- 23.b.ii.2 In fact, the practice followed is for offending children to be placed on probation when they break the law. He or she is most likely to remain with the family. As indicated previously a Youth Justice Bill is being finalized and a separate Youth Correctional Facility has been proposed. There are two correctional facilities, Tafaigata Prison on Upolu and Vaiaata Prison on Savaii. While in detention, prisoners are allowed visitors and weekend visitations.
- 23.b.ii.3 Samoa abolished the death penalty in 2003.
- 23.b.ii.4 The Ministry of Justice operates a legal aid system (not specifically for children), and its Division for Probation and Parole provides rehabilitation services for young offenders, including counseling. The NGOs in the CRC partnership such as ECPAT Samoa, the National Council of Early Childhood Education and Mapusaga have all been working with community leaders and with parents, especially in rural communities to improve parenting skills and change practices that lead to abuse of children.
- 23.b.ii.5 Reintegrating the child into society is left mainly to the family.<sup>7</sup>

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<sup>7</sup> The term ‘family’ is used here in the broader sense as described in A Situation Analysis of Children and Women in Samoa, 1996 Op. Cit., p, 4-5

***23.b.iii The sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment.***

23.b.iii.1 Crimes Ordinance 1961 Section 72 states that a defendant under 18 years may be remanded in custody of a Child Welfare Officer pending trial.

***23.b.iv Physical and psychological recovery and social reintegration.***

23.b.iv.1 In practice, these are left to the family. However the churches have begun to assist in providing social rehabilitation programmes for prisoners and young offenders. The Division of Probation and Parole under the Ministry of Justice has gone into partnership with church ministers in providing rehabilitation care for juveniles.

***23.c Children in situations of exploitation, including physical and psychological recovery and social reintegration***

***23.c.i Economic exploitation, including child labor (art. 32);***

23.c.i.1 Labour and Employment Act 1972, Part IV Working Conditions, Safety and Health 32 – Employment of children:

- (1) “It shall be unlawful to employ any child under the age of 15 years of age in any place of employment except in safe and light work suited to his capacity, and subject to such conditions as may be imposed by the Commissioner”.
- (2) “No such child shall be employed on dangerous machinery or in any occupation or in any place under working conditions injurious or likely to be injurious to the physical or moral health of such child.”
- (3) “No such child shall be employed as a worker upon any vessel unless such a vessel is under the personal charge of the parent or guardian of the child”.

23.c.i.2 Formal employment-engagement as paid workers under contract services.

23.c.i.3 The Trans National Crimes Unit of the Ministry of Police is responsible for conducting investigations in relation to trafficking of women and children and has links with the Australian Federal Police and a regional coordination body based in Fiji.

23.c.i.4 Covered under the Labour and Employment Act 1972 and the Public Service Act 1977. The minimum age for employment is 15 years and the minimum age for entering an apprenticeship is 17 years.

23.c.i.5 Minimum Wage Order 1996 covers all workers 19 years and over.

- 23.c.i.6 There is no provision for minimum wage for 15 to 18 year olds.
- 23.c.i.7 Presently, there is no one under 15 years old known to be working in the formal sector.
- 23.c.i.8 Part 1V of the Labour and Employment Act 1972 32 [2] states that children are not to be employed on dangerous machines or for any work which might be injurious either physically or morally.
- 23.c.i.9 Semi-Formal Employment Sector- The legislation coverage is unclear for this sector. The Department of Labour is presently undergoing a review of its legislation and coverage to include the semi-formal sector.
- 23.c.i.10 The demarcation between engagement as workers or as family members doing normal family chores is difficult to define given the traditional role of women and children with family groups.
- 23.c.i.11 Communal living in the Samoan context consists of a large family group in which each member, from children to parents, have a well defined and accepted role which together provide a functional household. Children might be given the task of picking up leaves in the morning and feeding the chickens as an example of the division of labour which exists in a family group.
23. c.i.12 Presently in Samoa, many children are being employed in this sector.
- 23.c.i.13 In the Non-formal employment sector, the main problem is two fold; employment of children in domestic work not suitable to their physical capacity or likely to be injurious to their health; and engagement of children in domestic work instead of sending them to school. Child street vendors is a case in point here. When asked why s/he is not in school the child will reply that there is no money in the family for fees and uniforms. The MWCSO through its Research, Policy and Planning Division, in collaboration with the CRC Partnership, has conducted a pilot survey on child street vendors, with the hope that a national survey will follow.
- 23.c.i.14 It has been suggested that child street vendors are ‘early starters’ in that they choose not to continue their education and choose instead to start earning a living, however parents send their children to sell produce instead of sending them to school to provide funds for their own activities ie gambling, drinking serious social comment and agitation has been directed to child vendors and intervention is being considered by Government.
- 23.c.i.15 **RECOMMENDATION:** That provisions in the Labour Act on the employment of children be reviewed to bring them into line with the Education Ordinance 1959.

23.c.i.16 **RECOMMENDATION:** That the proposed ban (Labour Act 1972) on the employment of children under 15 years be extended to cover children engaged in the non-formal sector which is currently outside the jurisdiction of the present labour laws.

23.c.i.17 **RECOMMENDATION:** That a concentrated effort be given to obtain more data on children street vendors and, based on this data, a programme be implemented to assist/compel the families in keeping these kids off the street and sending them to school instead.

23.c.i.18 **RECOMMENDATION:** That specific legislation be passed to make it illegal to depict, represent or include children in the production of pornographic materials.

- Under the Education Ordinance 1959 Section 26. Employment of children of school age - “ No person shall, after the commencement of this Ordinance, employ or continue to employ any child of school age at any time within school hours or at any other time if the employment of the child would prevent or interfere with this attendance at school, unless there is produced to the person a certificate of exemption or other satisfactory evidence that the child is exempted (otherwise than on the ground that s/he is under suitable instructions elsewhere than at school) from the obligation to be enrolled as a pupil at any school”
- “Section 27 – “ Parents not to permit employment of children of school age – The parent of any child of school age who permits that child to be employed contrary to the provisions section 26 of this Ordinance, and any person who so employs any such child commits offence, and is liable on conviction to a fine not exceeding \$100.”
- 23.c.i.8 In the Infants Ordinance 1961 this sector is covered and administered by the Ministry of Justice, but lack of awareness of such legislation by the public and inadequate enforcement by the authorities means the legislation is not fully effective.
- 23.ci.8.1 Under the District Courts Act 1969 Section 43 (1) – an infant may sue in Magistrate’s Court for money due to him for wages or piecework or work as a servant as if he were of age.

### ***23.c.ii Drug Abuse***

23.c.ii.1 There are no laws specifically related to children, however young offenders are subject to the same sanctions at the discretion of the judicial.

23.c.ii.2 In the Narcotics Act 1967 6. It is illegal to cultivate prohibited plants; 7. It is illegal to possess prohibited narcotics; 10. It is illegal to import and export prohibited narcotics. 13. There are 4 other miscellaneous offenses listed.

23.c.ii.3 The Liquor Act prohibits the sale of alcohol to people under the age of 21. The Act is not strictly enforced as alcohol is sold to under age drinkers from licensed retail outlets on behalf of a family member or adults. The same practice goes for the sale of cigarettes. Both liquor and alcohol legislations are undergoing review

which with the aim to have stronger restrictions on the sale, use and exposure of children to liquor, cigarettes and bars.

Public campaigns to discourage smoking and alcohol consumption are regularly staged with the help of sports bodies and sportsmen and women with a high profiles. The DFW-MWCSD Aiga ma Nuu Manuia program promotes smoke free homes and the Samoa Rugby Union in collaboration with the Ministry of Health, Ministry of Education and the private sector, organizes an annual Smoke Free Secondary Schools Boys Rugby tournament.

23.c.ii.4 **RECOMMENDATION:** That more severe penalties be imposed for offences by an adult(s) who involve children in the growing, production, selling or distribution of any prohibited drugs.

### *23.c.iii Sexual exploitation and sexual abuse*

23.c.iii.1 Under the Crimes Act 1961: Sexual Crimes- there are 10 sections to do with children:

Section 49 – incest; Section 50 – sexual intercourse with young related girl living with his family; Section 51 – sexual intercourse with a girl under 12 years; Section 52 – indecency with a girl under 12 years; Section 53 – sexual intercourse or indecency with a girl between 12 and 16 years; Section 57 – sexual intercourse with a woman or girl with mental disability; Section 58B – indecent act between a woman and a girl (under 16 years); Section 58D – indecency between males ( no person under 16 years can be charged with this offence); Section 58E – when a person is charged with sodomy to a boy under 16 years the penalty is 7 years instead of 5 years.

23.c.ii.2 Under the Crimes Ordinance 1961 Section Crimes Against Public Welfare 58M – Procuring sexual intercourse “ Every one is liable to imprisonment for a term not exceeding 3 years who, for gain 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.”

23.c.ii.3 There is no law regarding the use of children in pornographic performances and material however there are laws relating to indecent material which can address the adult participant.

23.c.ii.4 There are regulations under the Film Censorship Act which prohibit the showing of pornographic films/videos. Legislation treats pornography as applying to everyone, irrespective of whether they are adults or children.

23.c.iii.5 Under the Indecent Publications Act 3. (1) a) “ Everyone who...writes, draws, affixes, impresses, or exhibits, or causes to be written, drawn affixed, impressed, or exhibited, any indecent statement, word, picture, drawing, or sign in or upon a

public place, or so that the same is in view of persons in public place;..” This is not child specific.

23.c.iii.6 **RECOMMENDATION:** That specific legislation be passed to make it illegal to use depict, represent or include children in the production of pornographic materials.

23.c.ii.7 Existing legislation broadly protects children from sexual exploitation. The Infants Ordinance 1961 empowers a court appointed welfare officer to place in safety any child that is abused, ill treated or neglected or living in an environment detrimental to their physical and moral well being.

Children have the same protection as adults under normal laws. Under the criminal procedure code ‘Offences against Morality’, there are a number of offences forbidding sexual exploitation of females and of girls and minors. Again, the same legislation protects young boys and minors from sexual exploitation. Clause 58 M of the Crimes Ordinance 1961 states that it is illegal to procure or attempt to procure a woman or girl for prostitution.

#### ***23.c.iv Other forms of exploitation***

23.c.iv.1 There is protection under the General Rights of the Constitution but no child specific rights have been identified.

#### ***23.c.v Sale, trafficking and abduction***

23.c.v.1 Section 83 of the Crimes Ordinance 1961 prohibits the abduction of a woman or girl.

23.c.v.2 The sale, trafficking and abduction of children are concerns that have been expressed in general, in relation to the Pacific region. There are no known instances of these problems and practices in Samoa. The influence of the immediate and extended family, the role of the church, and the ability of government agencies to respond quickly to prevent and deter illegal practices mitigates against these becoming a serious problem in Samoa.

23.c.v.3 Samoa has sponsored and signed several resolutions in the UN regarding children. These are listed in the Executive Summary.

**RECOMMENDATION** – Law enforcement officers to be trained to deal with cases involving children as victims, for example rape, sexual abuse and sexual exploitation and women police officers should be available to assist the victim through the police and court process for any criminal offence involving children.

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