



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**
Thirty-second session

Summary record of the 680th meeting

Held at Headquarters, New York, on Monday, 24 January 2005, at 3 p.m.

Chairperson: Ms. Manalo

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

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

Combined initial, second and third periodic reports of Samoa (continued) (CEDAW/C/WSM/1-3; CEDAW/PSWG/2005/1/CRP.1/Add.7 and CRP.2/Add.6)

1. *At the invitation of the Chairperson, the delegation of Samoa took places at the Committee table.*

Articles 7 and 8 (continued)

2. **Ms. Heather-Latu** (Samoa), replying to questions raised at the previous meeting regarding the inadequate representation of women in the Legislative Assembly, said that the Samoan context had to be understood. The primary tenet of Samoan culture was that an individual's identity was determined through bloodlines and the combined male and female ancestry, not through gender, as was also the right to a chiefly title; traditionally, only men could be title holders and only chiefs could sit in ruling bodies. The Constitution adopted after independence, which it had been agreed would reflect cultural observance, had provided for recognition of chiefly title only by consanguinity, but now it could be recognized by adoption or by service as well, and there was now a critical mass of women undertaking chiefly titles, three of them in the delegation itself. In 2005, over 2,000 women were title holders, a doubling in the past three years. The Constitution also provided that the only persons who could vote were men registered as chiefs and men or women registered in the Individual Voters Roll (CEDAW/C/WSM/1-3, p. 18), open to Samoans of European descent without chiefly title. Thus, the institution of universal suffrage in 1991 represented significant progress, although admittedly it was only a start. The Government had to proceed with delicacy in a culture founded on a particular concept of identity and on the principle of family control — not government control — over the conferral of chiefly titles. It preferred to rely on social and cultural change and a change of thinking rather than on enforcement. Gradually, in fact, more women were seeking chiefly titles, as they were entitled to do by consanguinity.

3. Families expected women to perform civic duties and many of them were now very involved in government and corporate life. Young women were encouraged by the example of the older women already participating, and it was clear that public service was a real option, especially in the urban areas.

4. Part of the prospective reform of family law would be to adopt a consistent minimum age of eligibility, in keeping with appropriate international standards. Currently, the minimum age was 21 for voting, 18 and 16 for marriage, and 16 for criminal responsibility.

5. **Ms. Eteuati-Shon** (Samoa) said, on the question of HIV/AIDS, that the Government had established a National Coordinating Committee to develop policies and programmes and to promote its campaign against the disease. In the 1990s, the former Ministry of Women Affairs — now reorganized as the Ministry of Women, Community and Social Development — had developed a strategic plan of action on HIV/AIDS and on women in Samoa, adopted by the National Council on HIV/AIDS and implemented by the CEDAW Partnership, the interministerial body responsible for the implementation of the Convention. A multisectoral working group had been set up to implement the strategic plan for 2001-2005, and to date over 60 per cent of the scheduled activities had been carried out. In addition, the Division for Women within the Ministry of Women, Community and Social Development conducted ongoing programmes such as the HIV/AIDS workshops for spouses and the village women's committees small grants scheme, through which women were given funds to organize a one-day village session on HIV/AIDS, using traditional learning methods like songs, dance and poetry.

6. There were no official statistics on prostitution per se or on male prostitution. The Government had recommended the commissioning of a study to determine the actual involvement of men, women and children in prostitution, which did exist.

7. With regard to the chiefly title system, a chief was considered the representative of the extended family and as such was entitled to vote and stand for election, was the custodian of family land and assets and was responsible for the behaviour of the entire family. Women did not take on chiefly titles in part because of a traditional deference to male members of the family and in part because they were loath to

assume the weight of responsibility involved. Women holding chiefly titles, however, had the same privileges and responsibilities, and were entitled to sit on the village council, the deliberative body of village chiefs.

8. A village women's committee was a council composed of the women in a village, which took decisions on women's issues. The committees had proved very effective in getting things done in the community.

9. The Government was thinking of doing away with the Individual Voters Roll, which was seen as discriminatory.

10. Among the special measures for young women, the Division for Women offered training in livelihood skills, such as negotiation and decision-making, to young women to help build their self-esteem. Similarly, the Ministry's Division for Youth held an annual national youth forum as part of its leadership training programme for young people. In addition, one of the strategies of the draft National Plan of Action on the Convention on the Elimination of All Forms of Discrimination against Women, which was scheduled to be adopted and implemented later in 2005, was to conduct confidence-building programmes and advocacy and lobbying training for women, youth leaders and those with special needs. Another strategy trained women for participation in national politics and political parties by helping them develop advocacy and lobbying skills.

11. Although there was separation of Church and State in Samoa, the Government had engaged in consultations regarding the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child with the National Council on Churches and with church leaders, through the Ministry of Women, Community and Social Development and its Divisions for Women and for Youth.

Articles 9 to 11

12. **Ms. Saiga** asked whether both parents could transfer nationality to their children.

13. **Ms. Dairiam** asked whether she had correctly deduced from the chapter on the strengthening of the role of women in the Government's strategy for development 2002-2004 that women were systematically associated with and channelled towards community or social services, an approach that could remove them

from taking an active part in mainstream planned development. In the new strategy for development 2005-2007, what role was planned for women, would temporary special measures be included to ensure equal opportunities for women, and would women benefit equally from economic growth? Apparently, all development plans had to be submitted to a cabinet-level committee for a review of their impact on women, but no indication was given as to how the impact was assessed or whether the Convention was used as a reference. Also, she would like to know who was monitoring the ongoing public sector reform, in order to ensure that each Ministry made women's issues an integral part of its concerns.

14. **Ms. Arocha Dominguez** said the information on the economic situation of women seemed contradictory and requested more data on the impact of the current economic transition on women, in particular in the manufacturing sector, where working conditions, especially for women, were often poor, and in the agricultural sector, where women played a major role in the family and in farming without remuneration. She also wondered what if anything had been done to reduce the effects of climate-related problems, to which small island developing States were so vulnerable, and requested clarification on the numbers of men and women involved in non-remunerated work, including an explanation for the drop in the number of women in paid employment.

15. **Ms. Patten** asked whether there was any legislation guaranteeing equal pay for men and women for work of equal value and, if so, the extent to which that legislation was in fact implemented and whether any mechanisms existed to ensure that women received effective training and job counselling, including with regard to non-traditional roles in both the private and public sectors. Given that working conditions were generally better in the public sector than the private sector, for example with regard to maternity leave, she wondered whether the Government was making any effort to improve the working conditions of women in the private sector. More information would also be welcome on whether the Occupational Health and Safety Bill of 2001 mentioned in the written report (CEDAW/C/WSM/1-3, p. 67) had in fact been adopted.

16. The State party's response to the Committee's question 25 (CEDAW/PSWG/2005/1/CRP.2/Add.2, p. 22) was inadequate; it was essential that legislation should be adopted to protect women against discrimination on the

grounds of gender, marital status or pregnancy. The Labour and Employment Act should be reviewed in the light of that requirement and she wondered whether the relevant International Labour Organization Conventions had been ratified, including Convention No. 103 on Maternity Protection (Revised) of 1952. It was also important to take measures to prevent sexual harassment, which was an attack on women's dignity and affected their ability to contribute fully to society and their work; in that context she noted the Committee's general recommendation 19 on violence against women. Finally, she wondered to what extent the Ministry of Women, Community and Social Development was involved in the review of gender issues being undertaken by the Ministry of Industry, Commerce and Labour, and to what extent that review focused on gender mainstreaming.

17. **Ms. Tavares da Silva** asked how women managed in the absence of any paid maternity leave; perhaps they took sick leave but she stressed that maternity was a basic social function, not a sickness, which required that women receive special treatment, including protection against dismissal on the grounds of pregnancy. She agreed that the State party's response to the Committee's question 25 was inadequate and wondered when and how the Government intended to enact legislation to protect women in the labour market and extend public sector benefits to the private sector.

18. Concerning childcare facilities, the State party had indicated that most childcare centres, for children aged 2 to 5, were operated by the churches and non-governmental organizations, but there was a gap in childcare services for children up to 2 years old (CEDAW/PSWG/2005/I/CRP.2/Add.6, p. 22). Childcare was an essential service given the changing nature of the family and the increasing numbers of women in the workforce; the Government had a responsibility to anticipate the growing need for childcare and address the problem. She also expressed concern that the quality of life of older women in rural areas might be increasingly at risk as more were sent to homes for the aged rather than being cared for in the family; more information on the Policy Paper on the Care of the Elderly submitted by the National Council on the Elderly would therefore be welcome.

19. **Ms. Heather-Latu** (Samoa) said the new Citizenship Act of 2004 gave both men and women equal rights with regard to obtaining or transmitting Samoan nationality, whether through marriage, birth,

descent or naturalization. Efforts were also being made to ensure rural women were not left behind by the new forms of socio-economic change at the village level, through increased access to credit such as microfinance schemes for women, who had no land or assets to use as collateral; there were also projects to assist urban women. The Government's microfinance policy had led to a real increase in the number of women involved in developing cottage industries. The figures which indicated a drop in the number of women involved in paid employment could be explained by the fact that many women currently owned their own business, which meant that technically speaking they were no longer paid employees; many of the so-called unemployed were in fact self-employed and had a shop or were selling products or produce. Pay equity issues were governed by the Constitution and the Labour and Employment Act and regulated by the Commissioner of Labour; her Government's approach had been first to ensure full equality within the public sector and it was currently working to extend equivalent working conditions to the private sector.

20. Issues such as pregnancy rights for women had been addressed in the legislative reviews; measures were being introduced and the situation would be evaluated over the next two years; all issues affecting the employment of women should be addressed in the near future. Proposed amendments or bills were submitted by ministries to the Office of the Attorney General, which shared them with concerned ministries for comments, including the Ministry of Women, Community and Social Development; international best practices were also taken into account.

21. She noted that the Occupational Safety and Health Bill 2001 had been adopted but was not yet in force because the necessary supporting administrative structure was not in place. Discussions had taken place on whether the Bill needed to be amended to include comprehensive provisions on sexual harassment or whether they should be incorporated into a new labour and employment act. With regard to maternity leave, she said that the public sector conditions served as a benchmark and efforts were being made to extend the same level of benefits to the private sector; the new employment law would include definition of grounds for termination, including illegal grounds such as pregnancy.

22. **Ms. Simi** (Samoa), referring to the effect of economic development on women, said that there had

been a tremendous increase, especially in rural areas, in the participation of women in micro and small enterprises. Government credit schemes had been introduced; a small business development facility implemented in cooperation with the Asian Development Bank had made 60 per cent of its loans to women, mostly with regard to business opportunities and a small business and entrepreneurship scheme organized in cooperation with development partners had made 54 per cent of its loans to women. They were also non-governmental mechanisms aimed at ensuring all women had access to credit.

23. Women working on family agricultural holdings were considered to be in unpaid work and she recalled that 49 per cent of the population was still involved in subsistence agriculture to meet the basic needs of the family; any surplus was sold at market. Over the next three years framework indicators on the economic situation of women would be developed in consultation between the Ministry of Women, Community and Social Development and stakeholders with a view to developing a framework of indicators which would draw on the provisions of the Convention and help evaluate the impact of economic development on women.

Articles 12 to 14

24. **Ms. Khan** said there seemed to be some contradictory information regarding health; for example, although women had a longer life expectancy than men, they represented only 47 per cent of population and she wondered how their apparently higher mortality rate could be explained. Although the written report stated that the entire population had access to the health services, one of the leading causes of death for women was complications from pregnancy and childbirth; she wondered whether the latter might be explained by some gender bias, for example, with women having to remain at home or not having ready access to services.

25. She also expressed concern that despite the high literacy rate, the fertility rate, at 4.3, remained high and the contraceptive prevalence rate, 33 per cent in 1999, was low. She wondered whether those figures could be explained by lack of access to services despite the claim that there was full access to health services. Information on how much contraceptive information was provided to adolescents to reduce teen pregnancy and on the rate of illegal abortions would be welcome.

She also wondered whether there might be some cultural bias in favour of male babies, who were less likely to suffer from nutritional deficiencies, and asked for information on the rate of suicide for women. More data would also be appreciated on the number of disabled women, and on special measures, if any, being enacted to meet their needs as well as on whether the HIV test for pregnant women was compulsory or not.

26. **Ms. Belmihoub-Zerdani**, noting that according to the written report (CEDAW/C/WSM/1-3, p. 20), prenatal care was free, enquired whether, after childbirth, follow-up care including vaccinations was free and for how long. She said the drop in the fertility rate could be explained by later marriage, delayed pregnancy or use of contraception but felt the rate of use of contraceptives of 33 per cent was still not high enough; normally economic growth would lead to a significant decrease in fertility rates. More information on the role played by the mobile family planning and health education clinics would be appreciated. She expressed concern that some women chiefs were opposed to family planning and also expressed concern that abortion was illegal even in the case of rape unless the life of the woman was in danger; she questioned the advisability of allowing a no doubt unwanted child to be born and stressed that women considering an abortion were in a situation of great distress.

27. **Ms. Simms** welcomed the Government's excellent intentions with regard to women's health as evidenced by the Breastfeeding Policy (1995), the Food and Nutrition Policy (1996) and the Population Policy (CEDAW/C/WSM/1-3, p. 73), but wondered whether they had been fully implemented and contained specific targets and timelines. They should be implemented in an even-handed manner so as to benefit both men and women equally.

28. Turning to the issue of stereotyping (CEDAW/C/WSM/1-3, pp. 47-48), she said that discrimination and patriarchal attitudes were being perpetuated by both traditional and more modern structures, the latter typified by colonial structures and attitudes. Both placed men on a higher level than women and she stressed the need for women such as the members of the delegation, women in positions of responsibility at the highest levels, to ensure that such stereotyping was eliminated.

29. **Ms. Zou Xiaoqiao**, noting that 78 per cent of the Samoan population lived in rural areas but that many

had jobs in urban areas, asked what percentage of rural women and men were fully engaged in agricultural production. She wondered whether any women could be elected as liaison officers or whether they had to have chiefly titles and whether a rural woman who felt that her basic rights had been violated had to address her complaint to a woman liaison officer or to the village committee.

30. **Ms. Pimentel**, noting that rural women suffered generally from the lack of access to health-care services, asked what measures the Government was taking to avoid the health consequences of illegal abortions, especially for rural women.

31. **Ms. Simi** (Samoa) said that Samoa's fertility rate had dropped over the past 10 years. The current contraceptive prevalence rate was 42.3 per cent, also indicating an improvement. However, it had not been possible to obtain a specific measure of the literacy rate from the recent census conducted in 2001. A recent malnutrition survey completed in 1999 had shown that malnutrition rates had fallen significantly from 6 per cent in the early 1990s to the current rate of 1.9 per cent. Some 25 per cent of suicides were women. As for HIV testing, it was done with the consent of the woman concerned. Prenatal and post-natal care were provided free of charge.

32. The fact that family planning was not carried out on a large scale had more to do with attitude than cultural constraints. Although women had full access to the same family planning services throughout the country, such services were currently placed in urban centres, where they could be readily accessed in anonymity, especially by teenagers and younger members of the population. Time was needed to overcome attitudinal barriers. As far as the health sector was concerned, policy instruments were being developed as a matter of priority for the three areas mentioned by Ms. Simms. However, she could not currently give a time frame by which those instruments would be completed. Some 48 per cent of women were involved in agricultural production as compared to 52 per cent of men.

33. **Ms. Heather-Latu** (Samoa) said that the country's laws on abortion had not kept up with the actual situation. Since abortion was illegal, some babies were being abandoned at birth and women were going abroad to obtain legal abortions, while in a recent case that had come to light, others had sought

the services of a backstreet abortionist. As a result of the latter case, Samoa's Chief Justice had issued a directive in 2004 urging the Government immediately to consider how abortions should be dealt with in Samoa's laws. The discussions on the issue were about to begin. Clearly, consultations needed to be held within the community in order to determine how the country was going to respond to that issue.

34. **Ms. Eteuati-Shon** (Samoa) noted that women did not have to be chiefly title holders to be selected by the women of the village as liaison officers. On whether it was the liaison officer or village women's committee that dealt with violations of basic rights, she noted that since the work of women's liaison officers was very new, time was needed to establish their responsibilities in that regard.

Articles 15 and 16

35. **Ms. Tan** commended the Government for its partnership with non-governmental organizations. There was an urgent need to put in place legislation against gender-based violence and a family law act. She asked whether the Government intended to devise an alternative route for victims of domestic violence who did not want to go to the criminal courts but needed an immediate protection order.

36. **Ms. Gnacadja** stressed the need to adopt legislation to raise the minimum age for marriage for both boys and girls and to ensure that that age was the same for either sex. In that regard, she wanted to know at what age people could freely consent to marriage without having to seek the authorization of a third party. Furthermore, the delegation should indicate the types of restrictions that customary law could impose on freedom of movement and freedom to choose a domicile. Turning to paragraph 16.1 of the State party's report, she asked for an explanation of the statement: "a married woman may be affected by the decisions of men and women in her spouse's extended family". Noting that customary law and case law provided the basis on which courts ruled on the sharing of marital property, she would appreciate the delegation explaining its customary law and indicating any trends in case law.

37. **Ms. Šimonović**, noting that the grounds for divorce were different for women and men, expressed particular concern at the onus placed on the woman to provide proof of habitual cruelty for three years. In that

regard, she wanted to know what kind of proof was required and who decided on what constituted cruel behaviour. It would be interesting to know whether the Government had any plans to review and change the grounds for divorce.

38. **Ms. Shin** said that the legal age for marriage of 16 for girls and 18 for boys was not only contrary to the Convention, but also to the Convention on the Rights of the Child. Since Samoans were getting married at an older age, the Government should consider amending the marriage age to bring it in line with the Convention. Referring to teenage pregnancy, she wanted to know what measures the Government was taking to prohibit punitive action against teenage mothers and their families at the village level. The delegation should provide details on actual cases that had been prosecuted.

39. **Ms. Heather-Latu** (Samoa) said that her Government was committed to adopting legislation on domestic violence. Part of that process would be to identify and review the various legislative options around the world and decide how they could be adapted to Samoa's cultural and social context. The overwhelming emphasis had been on the punitive side of legislation in terms of appropriate and suitably high penalties for domestic violence. However, protection orders, counselling for offenders and rehabilitation measures would also have to be included in any final legislation. In the absence of formal legislation, the courts and the Supreme Court had taken full advantage of the provision under article 111 of the Constitution which allowed them to include the common law developments in England and the rest of the Commonwealth. She acknowledged that the difference in marriage ages was inappropriate and would need to be addressed in the context of the overall legislative reform.

40. Concerning the dissolution of marriage, Samoa indeed had a fault-based system, which was a remnant of its colonial past. Her recommendation of no-fault divorce had been well received throughout the region. In terms of matrimonial property, the inadequacy of Samoa's current legislation, including the absence of specific legislative provisions, had led to some judicial innovation, such as the adoption of some cases from New Zealand, which had a 50-50 legislative split. The legal profession in Samoa actively discouraged couples from going through the courts, encouraging them to wait out the three-year separation period. In a recent

case on 19 April 2002, the Chief Justice had confirmed the equal division of property between a husband and wife. However, clearly, the law on marriage needed to be completely reviewed.

41. More must be done to address the issues of teenage pregnancy, abortion and contraceptive use in Samoa, particularly since the school curriculum did not cover reproductive and sexual health issues. Prevailing social attitudes remained the major obstacle to progress in that regard, hence the Government, in partnership with non-governmental organizations, was taking steps to change those attitudes through awareness-raising campaigns that focused on health issues.

42. **Ms. Saiga** asked for clarification about village structure. First, according to the report, chiefly title holders represented their extended family and she would like to know who was included in that group. Second, she enquired whether individuals who did not hold chiefly titles were eligible for election as village mayors and whether such titles could be bestowed upon individuals under the age of 21. Third, she asked about the relationship between the village council and the village women's committee. With reference to the latter, and in view of the importance of men's involvement in promoting the advancement of women, she wondered why such committees were composed solely of women.

43. **Ms. Shin**, returning to the issue of punishments meted out at the village level, enquired whether the Government could issue a decree prohibiting such activities, because a clear message emphasizing their inappropriateness was necessary. With reference to the unusually low female to male population ratio, she asked whether the Government planned to carry out research to determine its causes and, in that connection, noted that, in societies where boys were preferred, female foetuses were often aborted.

44. **Ms. Eteuati-Shon** (Samoa), replying to questions by Ms. Saiga, said that the extended family included all members of the chiefly title holder's family, whether or not they were resident in the home village. Chiefly titles could be conferred on individuals under 21, but only those over the age of 21 were permitted to vote in elections. The village mayor must be a chiefly title holder. Tradition decreed that Samoan villages were divided into the village of men and the village of women. The village women's committee, which was composed of all the women residing in the village, was

responsible for all aspects of village life involving women.

45. **Ms. Heather-Latu** (Samoa) pointed out that Samoan villages were self-governing entities. The village mayor, who was elected for a five-year term, was the official spokesperson of the village and the leader of the village council. In reply to a question by Ms. Shin, she said that the central Government could issue a decree prohibiting private individuals from meting out punishments at the village level provided that such punishments were in breach of the Constitution.

46. **The Chairperson** thanked the delegation of Samoa for its participation in the discussion and, in particular, for its detailed explanation of the chiefly system. The Committee had expressed concerns about a number of issues, including women's limited participation in the country's political life, their inability to transmit their nationality to their children, gender-based discrimination in the workplace and the number of illegal abortions. In addition, official statistics on the number of women infected with HIV/AIDS and gender-disaggregated data relating to victims of trafficking should be provided in the next report.

47. The high fertility and maternal morbidity rates indicated that, although Samoan women had access to family planning services, traditional attitudes still prevented them from taking full advantage of those services. Nevertheless, the establishment of women liaison officers at the village level was a major achievement.

48. **Ms. Eteuati-Shon** (Samoa) expressed her appreciation to the Committee for the enabling environment it had created, which had allowed her delegation to answer the questions posed as candidly as possible. Although progress had been made in Samoa, much remained to be done to promote the advancement of women in many areas: attitudes towards women were still heavily influenced by the country's traditions, and the process of cultural and social change was a lengthy one. However, the Government was committed to taking the necessary steps to ensure the full implementation of the Convention and, in that respect, would bear in mind the suggestions made by the Committee.

The meeting rose at 5.10 p.m.