

**Universal Periodic Review Submission for
Samoa
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CULTURAL SURVIVAL

Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous Peoples' rights in countries throughout the world and publishes its findings in its magazine, the *Cultural Survival Quarterly*; and on its website: www.cs.org

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I. Issue Summary:

Indigenous Peoples make up roughly 90% of the Samoan population, and therefore Indigenous rights issues are cross-cutting. Samoa participated in the United Nations Small Island Developing States Conference in late 2014¹ and have showed efforts to maintain Indigenous livelihoods and respect Indigenous knowledge to ensure environmental sustainability. Still, Indigenous Peoples in villages around the island currently find that their well-being is hindered by unpredictable, extreme weather conditions related to the impacts of climate change.

II. Background:

The nation of Samoa is a small volcanic under-water mountain island in the Pacific Ocean. It is home to strong communities of predominantly Indigenous Peoples. Formerly known as Western Samoa, the small island nation is inhabited by roughly 200,000 people. The country's capital, Apia, is home to approximately 40,000 residents and is the center for most trade and exchange in the economy.² The rest of the country is a smattering of villages of which the majority are controlled by familial lineage as is tradition to the Samoan people. After a transition from New Zealand rule to recognition as an independent nation state in the early 1960s, Samoa began to develop at its own rate. This includes joining the World Trade Organization in 2012, a large step for the small nation's economic standings.³

In 2007, Samoa was one of 11 countries who abstained from voting for the UN Declaration on the Rights of Indigenous Peoples.

On May 30, 2013, Parliament passed the Ombudsman (Komesina O Sulufaiga) Act 2013, to include human rights as part of the functions of the Office of the Ombudsman. The Office of the Ombudsman now functions as the National Human Rights Institution of Samoa.

III. First Cycle Review

Continue to seriously consider setting up a national human rights institution (Philippines), implemented to date--the Office of the Ombudsman was set up.

Consider ratifying the International Convention on the Elimination of All Forms of Racial Discrimination (Slovenia, United Kingdom, Argentina, Indonesia, Ecuador), Not Implemented to date.

Consider the possibility of acceding to and/or ratifying International Labour Organization Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries (Ecuador)- Noted, not implemented to date.

IV. Rights Violations

¹<http://webtv.un.org/meetings-events/conferencessummits/3rd-international-conference-on-small-island-developing-states-1-4-september-2014-apia-samoa/partnership-dialogues/watch/Indigenous-peoples-and-business-operations-panel-discussion-forum-on-business-and-human-rights-2013/2890835499001>

² <https://www.alsintl.com/resources/languages/Samoan/>

³ <http://www.bbc.com/news/world-asia-15673462>

Climate Change

In 2014 Samoa was listed among the top 10 most vulnerable countries in the region in a report by the International Panel on Climate Change⁴. Samoa is ranked 6th most vulnerable in terms of the percentage of population exposed to climate change risks, at 21.4% of the population. The country is ranked 8th most vulnerable in terms of economic loss, at 19.2% of Gross Domestic Product. The report also confirms 1990 research that a 30-50 cm sea-level rise projected by 2050 would threaten low islands, and that a 1 m rise by 2100 'would render some island countries uninhabitable'. In Samoa, approximately 70% of the population and infrastructure are located in low-lying coastal areas. Projected sea level rise will exacerbate coastal erosion, loss of land and property and dislocation of the island settlements. Coastal floods are also likely to become more frequent and severe. In the early 1990s, tropical cyclones Ofa and Val caused damage with costs estimates amounting to approximately four times the gross domestic product."⁵ The Samoan Islands have been ravaged with cyclones that are very detrimental to the health and well-being of the landscape and of the Indigenous People that live there. Poor funding has made recovery efforts hard to sustain and left many people displaced or financially ruined when their livelihoods are wrecked and damaged.⁶ Because of vulnerable locations next to the coast outside urban locations, many Indigenous Peoples are struggling to maintain their homes, jobs, and basic living necessities.

The delicate and diverse climate of the Samoan rainforest and surrounding coral reefs has long been an important source of sustainability and livelihood for the Indigenous villages that reside along the coast. Over the next UPR cycle, we can predict that climate change will be the single greatest cause of human rights violations in Pacific Islands, including Samoa. Increasing changes in the physical environment will result in the direct threat to many human rights, including: the right to life, the right to security of person, the right to water; the right to food, the right to means of subsistence, the right to sanitation; the right to health, the right to property, the right to housing, the right to self-determination, the right to an adequate standard of living, and the right to a healthy environment.

Samoa does have active programs within the Global Climate Change Alliance, that include adaptation to climate change to protect the water sector, as well as general disaster aid to remote areas. Even with this help, Samoa still needs to improve aid and relief for natural disasters and must do more to ensure the inclusion of Indigenous Peoples into policy making.

Climate change adaptation policy must actively include Indigenous community members. As Samoan climatologist, Dr Penehuro Lefale explained, "In small islands, which have diverse physical and human attributes, community-based adaptation has been shown to generate larger benefits when delivered in conjunction with other development activities."⁷ All policy on addressing climate change must be established with the participation and consent of Indigenous villagers who will be most affected.

⁴ IPCC, 2014: Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, R.K. Pachauri and L.A. Meyer (eds.)]. IPCC, Geneva, Switzerland, 151 pp.

⁵ <http://www.gcca.eu/national-programmes/pacific/gcca-samoa>

⁶ <https://sustainabledevelopment.un.org/samoapathway.html>

⁷ Ua afa le Aso - stormy weather today: traditional ecological knowledge of weather and climate, the Samoa experience, 2010, Dr Penehuro Lefale

Land Rights

For Samoan Indigenous islanders, collectively owned family lands are a sacred and integral part of their livelihoods and cultures. It has existed as an inherited community right along generational lines throughout their history.

Communal land rights were threatened starting in 2008 with the Land Titles and Registration Act. This act forgoes collective ownership of land meaning that those who collectively enjoyed access and shared responsibility of family lands, now must be subjected under the law to answer to one owner registered with the Land and Titles Court. According to Savea Sano Malifa in an editorial for the Samoa News, many of the Indigenous communities see this as a direct attack on their cultural heritage and right to the land. The Act also introduced the Torrens system. This system put the 82% of customary land at risk of resale through the government. The “Torrens system of land registration effectively makes lawful the lease and sale of all customary land in this country” by the government's right to “take land and convert it into freehold land.” The government officially argued that this is just a protection put in place to keep resold land registered as customary land, but many argue that the wording in the Act is ambiguous and left much room for speculation.

In 2013 the Acts Interpretation Bill⁸ perpetuated the issue with new policies. In this case, the land is now vulnerable to sale to foreign investors. Former Samoan Lawyer Maua Faleauto says, “These law changes appear geared towards alienating many people's rights and entitlements, while paving the way for the state to allow more foreigners access to customary land”. This presents more worry over the Torrens system that now gives the government more power to transfer land to foreign companies and developers. The bill is potentially detrimental to the Indigenous lands that hold sacred value to the communities that reside upon them. If not properly managed, the historically rich land of Samoa could be overrun by developers who lack the attentive and mindful care of the Indigenous peoples who have spent generations as stewards of their family lands.

Women's Rights

Currently there is no legal provision against spousal rape. Many cases of rape and domestic abuse go unreported because common societal attitudes discouraged such reporting. The absence of legal sanction is important because it reinforces the socialization that a woman's body belongs to her husband upon marriage. In a national sample, 11 percent of women in Samoa reported having experienced sexual violence from a non-partner.

Persons with Disabilities

There is no law pertaining specifically to the status of persons with disabilities or regarding accessibility for them.

V. Questions:

How is Samoa involving Indigenous Peoples in setting policies for climate change mitigation and resilience?

⁸<http://www.radionz.co.nz/international/pacific-news/212211/concern-over-effect-of-samoa-law-change-on-land-rights>

VII. Recommendations:

Cultural Survival urges the island of Samoa to:

1. Endorse the UN Declaration on the Rights of Indigenous Peoples
2. Ensure the participation of Indigenous communities in the development of policy on climate change adaptation and mitigation, in accordance with the principles of Free, Prior, Informed Consent
3. Continue to implement the agreements of the Outcome Document of the the Third International Conference on Small Island Developing States, especially the respect for Indigenous knowledge.
4. Adopt an action plan to distribute disaster relief to rural parts of the island to help ensure a speedy recovery for small Indigenous communities that lack current access to aid.
5. Ensure the Free, Prior, Informed Consent of Indigenous Peoples during every stage of infrastructure development projects.
6. Ratify the International Convention on the Elimination of All Forms of Racial Discrimination
7. Ratify the International Labour Organization Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries
8. Ratify Convention on Rights of Persons With Disabilities without reservation and ILO Convention 159 - Vocational Rehabilitation and Employment (Disabled Persons), 1983.
9. Take steps to protect communal land rights of Indigenous Peoples and ensure that any land concessions to foreign companies and developers follows a process of free, prior, informed consent.
10. Implement recommendations found in *State of Human Rights in Samoa (2015)* report by the Office of the Ombudsman, Samoa National Human Rights Institute.