

# **Samoa 2023 Human Rights Report**

## **Executive Summary**

There were no significant changes in the human rights situation in Samoa during the year.

Significant human rights issues included credible reports of: serious restrictions on media freedom, including enforcement of or the threat to enforce criminal libel laws to limit expression; extensive sexual and gender-based violence, including domestic and intimate partner violence; laws criminalizing consensual same-sex sexual conduct between adults, although not enforced; and the existence of the worst forms of child labor.

The government took credible steps to identify and punish officials who committed human rights abuses.

## **Section 1. Respect for the Integrity of the Person**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports the government or its agents committed arbitrary or unlawful killings, including extrajudicial killings, during the year.

## **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

## **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and Other Related Abuses**

The constitution prohibited such practices, and there were no credible reports government officials normally employed them.

### **Prison and Detention Center Conditions**

There were no reports regarding prison or detention center conditions that raised human rights concerns.

**Administration:** Authorities investigated credible allegations of mistreatment.

**Independent Monitoring:** The government permitted monitoring visits by independent human rights observers.

## **d. Arbitrary Arrest or Detention**

The constitution and laws prohibited arbitrary arrest and detention and provided for the right of any person to challenge the lawfulness of their arrest or detention in court. The government generally observed these

requirements.

## **Arrest Procedures and Treatment of Detainees**

Courts issued arrest warrants with strong evidence, and detainees were promptly informed of the charges or released within 24 hours. The law ensured the right to a timely judicial review of detention, which was respected by authorities. A bail system operated, and detainees had access to a chosen lawyer, while the government provided legal assistance to those in need.

### **e. Denial of Fair Public Trial**

The constitution provided for an independent judiciary, and the government generally respected judicial independence and impartiality.

## **Trial Procedures**

The constitution provided for the right to a fair and public trial, and the judiciary generally enforced this right.

Village councils handled many civil and criminal matters, but the councils varied considerably in decision-making styles and the number of *matai* (chiefs) involved in decisions. The law recognized the decisions of village councils and provided for limited appeal to the Lands and Titles Court. The nature and severity of a dispute determined which court received an appeal.

## **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **f. Transnational Repression**

Not applicable.

### **g. Property Seizure and Restitution**

Not applicable.

### **h. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibited such actions, and there were no reports that the national government failed to respect these prohibitions. There was little privacy in villages, where there could be substantial societal pressure on residents to grant village officials access to their homes without a warrant.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

The law provided for freedom of expression, including for members of the

press and other media, and the government generally respected this right. An independent media, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for media members.

**Freedom of Expression:** The law authorized the Samoa Tourism Authority to file suit against any person who published what it judged to be false information that it deemed prejudicial to the country's reputation as a tourism destination. Violators were subjected to a fine or maximum imprisonment of three months if they failed to retract the information or to publish a correction when ordered to do so by the authority. The authority did not exercise this power during the year.

**Censorship or Content Restrictions for Members of the Press and Other Media, Including Online Media:** The law stipulated imprisonment for any journalist who, despite a court order and a court finding that disclosure was in the public interest, refused to reveal a confidential source.

**Libel/Slander Laws:** Libel could be prosecuted as a criminal offense. Local media regarded the law as an obstacle to press freedom.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content.

## **b. Freedoms of Peaceful Assembly and Association**

The constitution provided for the freedoms of assembly and association, and the government generally respected these rights. A Supreme Court ruling stipulated that village councils could not infringe upon villagers' freedom of assembly or association. Village councils, however, consistently ignored this ruling.

## **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

## **d. Freedom of Movement and the Right to Leave the Country**

The constitution provided for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

**In-country Movement:** There were reports that some village councils banished individuals or families from villages. In April, media reported the Faleata No. 4 constituency announced strict measures, including banishment, to safeguard nearly half a million tala (\$180,000) worth of equipment. In May, alleged drug dealers were banished from Toamua-Uta.

## **e. Protection of Refugees**

There were no requests for asylum or refugee status, and the government had no interaction with the Office of the UN High Commissioner for Refugees, whose regional representation was based in Canberra, or with other humanitarian organizations in providing protection and assistance to asylum seekers and refugees.

**Access to Asylum:** The law did not provide for granting asylum or refugee status, and the government had no established system for providing protection to refugees.

## **Section 3. Freedom to Participate in the Political Process**

The constitution provided citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

**Abuses or Irregularities in Recent Elections:** National elections held in 2021 were widely reported to be fair and free of abuses and irregularities.

**Political Parties and Political Participation:** The constitution permitted only the more than 17,000 persons with a matai title, the chiefly leaders of

extended families, to run for parliament or serve on village councils. Matai were appointed, not elected, to the councils. Although both men and women could become matai, most matai were men.

In addition to the restrictions favoring matai, all candidates had to satisfy a three-year period of *monotaga* (services rendered through participation and physical contributions) in their respective villages to be eligible to run. The government stated the law was to prove that candidates fulfilled cultural and other commitments to their village or church and could not simply use their matai status or make large, last-minute contributions to their villages to garner votes. The monotaga requirement at times led to disqualification of multiple candidates deemed to not meet the requirement. Such cases exposed deficiencies in the system, such as that monotaga was poorly defined and could mean different types of service (or exemption from service for certain matai) in different villages. Some saw such subjective disqualifications as human rights abuses.

## Section 4. Corruption in Government

The law provided criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were isolated reports of government corruption.

**Corruption:** There was public discontent throughout the year at significant changes within the government. For example, there were instances of



seasoned senior public servants being forced to resign or their applications to reapply not being considered, leading to dissatisfaction among the public.

For additional information concerning corruption in the country, please see the Department of State's *Investment Climate Statement* for the country, and the Department of State's *International Narcotics Control Strategy Report*, which includes information on financial crimes.

## **Section 4. Governmental Posture Towards International and Nongovernmental Monitoring and Investigation of Alleged Abuses of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction to monitor or investigate human rights conditions or cases and publish their findings. Government officials were cooperative and responsive to the views of these groups.

**Government Human Rights Bodies:** Observers considered the Office of the Ombudsman generally effective and able to operate free from government or political party interference. The government usually adopted its recommendations. The Office of the Ombudsman also housed the National Human Rights Institute.

## Section 6. Discrimination and Societal Abuses

### Women

**Rape and Domestic Violence:** The constitution prohibited the abuse of women. Rape of women and men was a crime. The criminalization of “unlawful sexual connection” with another person without that person’s consent applied to spouses and was punishable by 14 years in prison. The government enforced the law effectively. The courts treated rape seriously, and the conviction rate was high. The penalty for rape was up to life imprisonment, although no court had ever imposed a life sentence for rape.

When police received complaints from abused women, authorities generally investigated and charged the offender. Authorities charged domestic violence as common criminal assault, with a maximum penalty of 10 years’ imprisonment. Village councils typically punished domestic violence offenders only if they considered the abuse extreme, such as when there were visible signs of physical harm. In the past few years, several villages began taking the extra step of incorporating specific fines into their village by-laws.

The government acknowledged that rape and domestic abuse were of significant concern. The report *National Public Inquiry into Family Violence*, released by the government in 2018, revealed that 86 percent of women experienced some form of physical violence from an intimate partner, and

that 24 percent had experienced choking. Many cases of rape and domestic abuse went unreported because societal attitudes discouraged such reporting and tolerated domestic abuse. Social pressure and fear of reprisal typically caused such abuse to go unreported.

The Ministry of Police's Domestic Violence Unit worked with nongovernmental organizations and focused on combating domestic abuse. The Ministry of Justice and Courts Administration and the Ministry of Education, Sports, and Culture, in collaboration with nongovernmental organizations, carried out educational activities to address domestic violence, sexual abuse, and human rights awareness.

In November, media reported 2,916 uninvestigated cases of domestic and family violence in 2022. As a result, police launched the Domestic and Family Violence Strategy, including a "No Drop Policy," to better address the issue.

UN data released in November 2022 showed that 46 percent of women in relationships had suffered physical, sexual, or emotional abuse from an intimate partner. Reports also stated that 97 percent of domestic violence survivors did not report it to the police.

**Other Forms of Gender-based Violence or Harassment:** No law specifically punished sexual harassment, although the law permitted an employee who experienced harassment to break an employment contract. There were no

reliable statistics on the incidence of sexual harassment. The lack of legislation and a cultural constraint against publicly shaming or accusing someone reportedly caused sexual harassment to be underreported. Survivors had little incentive to report sexual harassment, as doing so could jeopardize their career or family's reputation.

**Discrimination:** Women and men had equal rights under the constitution and statutory law, but patriarchal norms consigned many women to subordinate roles. Women faced discrimination including in interactions with police and in some judicial processes. The government generally enforced the law effectively.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

According to a 2019-20 study released by the Samoa Bureau of Statistics and UNICEF, and a 2020 report from the World Bank, while 86 percent of women ages 15-49 had knowledge of modern contraceptive methods, 39 percent of married women in that age cohort had an unmet need for contraception. The government worked with the nongovernmental organization Samoa Victim Support Group to provide access to sexual and reproductive health services for survivors of sexual violence. Emergency contraception was available to survivors of sexual violence and to the general population.

## Systemic Racial or Ethnic Violence and Discrimination

The constitution stated that all persons were equal before the law and entitled to equal protection under the law, and barred discrimination on grounds of descent, language, social origin, or place of birth. There were no reports of racial or ethnic violence during the year. Some villages, however, banned ownership by Chinese nationals of shops on village-owned land (more than 80 percent of the land in the country).

## Children

**Birth Registration:** By law children without a birth certificate could not attend primary schools, but authorities did not strictly enforce this law.

**Child Abuse:** Law and tradition prohibited abuse of children, but both tolerated corporal punishment. The law prohibited corporal punishment in schools; a teacher convicted of corporal punishment of a student could face a maximum one-year prison term. In April, press reported that when authorities separated a wife and her children from an abusive husband, they also uncovered multiple instances of sexual abuse.

In October, police urged the public to report instances of parents being visibly intoxicated in public spaces while accompanied by underage children. In a statement to media, the police commissioner stressed that individuals engaged in this behavior would face legal consequences, as it was deemed a

form of child abuse.

The government aggressively prosecuted reported cases of child abuse.

**Child, Early, and Forced Marriage:** The legal minimum age for marriage was 18 for both men and women. Consent of at least one parent or guardian was necessary if either party was younger than 21. Early marriage did not generally occur.

**Sexual Exploitation of Children:** The minimum age for consensual sex was 16. Under the law the maximum penalty for sexual relations with children younger than age 12 was life imprisonment, and for children between ages 12 and 15, 10 years' imprisonment. The law criminalized child pornography, and authorities generally enforced the law. The law specified a maximum seven-year prison sentence for a person found guilty of publishing, distributing, or exhibiting indecent material featuring a child. Because 16 was the age of majority, the law did not protect persons ages 16 and 17.

Although comprehensive data on the child sexual abuse was not available, it remained a widespread problem, and the number of incidents reported by local media during the year remained high.

## Antisemitism

The country had a small Jewish community; there were no known reports of antisemitic incidents.

## Trafficking in Persons

There were no confirmed reports during the year that traffickers exploited domestic or foreign victims in the country or that traffickers exploited victims from abroad.

## Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

**Criminalization:** “Sodomy” was illegal, with a maximum penalty of five years’ imprisonment. The law also prohibited renting, leasing, occupying, or managing any premises used for the commission of “indecent acts” between males, with a maximum penalty of seven years’ imprisonment. Authorities did not enforce these provisions with respect to consensual sexual conduct between same-sex adults.

**Violence and Harassment:** There were no reported acts of violence against lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) persons.

**Discrimination:** Although there were no reports of societal violence based on sexual orientation or gender identity, there were isolated cases of discrimination. The law did not prohibit discrimination based on sexual orientation, gender identity or expression, or sex characteristics, nor did it recognize LGBTQI+ individuals, couples, and their families. There were no

hate crime or anti-gay-propaganda laws, nor were there criminal justice mechanisms to aid in the prosecution of bias-motivated crimes against members of the LGBTQI+ community. Although society accepted the traditional Polynesian *fa'afafine* (transgender, nonbinary) community, which played a prominent role in the country, members of the community reported instances of social discrimination.

**Availability of Legal Gender Recognition:** There was no mechanism for legal gender recognition or changing one's sex at birth on official documents.

**Involuntary or Coercive Medical or Psychological Practices:** Health-care professionals did not report treating sexual orientation. Other practices such as conversion therapy and intersex normalization surgeries were not explicitly prohibited.

**Restrictions of Freedom of Expression, Association, or Peaceful Assembly:** There were no restrictions on those speaking out regarding LGBTQI+ matters, such as so-called anti-gay-propaganda laws or "hate speech" laws, nor were there restrictions on the ability of LGBTQI+ organizations to legally register or convene events such as Pride festivities.

## **Persons with Disabilities**

Persons with disabilities were generally unable to access education, health services, public buildings, and transportation on an equal basis with others. Government information and communication on disability concerns was not



provided in accessible formats.

In December, the minister of women, community, and social development announced progress in advancing the rights of individuals with disabilities. Notable developments included the establishment of the National Disability Policy, integration of disability-friendly requirements in the National Building Code, promotion of inclusive education, enhancement of health services for disability needs, and the implementation of the Disability Benefit Scheme. This system, funded by the government, provided a monthly allowance of 100 tala (\$35.70) to each person with disabilities.

While no law prohibited discrimination against persons with disabilities in the provision of public services, the law prohibited disability-based discrimination in employment.

Most public buildings were accessible to persons with disabilities.

Some children with disabilities attended regular public schools, while others attended one of at least three schools in the capital created specifically to educate students with disabilities.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective**

## Bargaining

The law protected the rights of workers to form and join independent unions and collectively bargain. It provided for the right of private-sector workers to conduct legal strikes. The law stipulated that public-sector employees engaging in a strike or any other industrial action were considered “dismissed from [their] employment.” It prohibited antiunion discrimination, such as contract conditions restricting freedom of association. The law addressed a range of fundamental rights and included the establishment of a national tripartite forum that served as the governing body for labor and employment matters in the country.

The government effectively enforced laws on unionization, and freedom of association was generally respected. Penalties were commensurate with those under other laws involving denials of civil rights, such as discrimination. Penalties were regularly applied against violators. The Public Service Association functioned as a union for all government workers, and unions generally conducted their activities free from government interference.

Workers exercised the right to organize and bargain collectively. The Public Service Association engaged in collective bargaining on behalf of government workers, including on wages. Arbitration and mediation procedures were in place to resolve labor disputes, although such disputes

rarely arose.

There were no reported strikes.

## **b. Prohibition of Forced or Compulsory Labor**

See the Department of State's annual Trafficking in Persons Report at:

<https://www.state.gov/trafficking-in-persons-report/>.

## **c. Prohibition of Child Labor and Minimum Age for Employment**

See the Department of Labor's *Findings on the Worst Forms of Child Labor* at

<https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings/>.

## **d. Discrimination (see section 6)**

## **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** The law provided for separate minimum wage scales for the private and public sectors. Both minimum wages were below the official estimate of the poverty income level for a household.

The law established a 40-hour work week but covered private-sector and public-sector workers differently. For the private sector, the law specified overtime pay at time and a half, with double time for work on Sundays and public holidays. For some parts of the public sector, there was no paid

overtime, but authorities gave compensatory time off for overtime work.

**Occupational Safety and Health:** The law established certain rudimentary occupational safety and health (OSH) standards for workplaces that the Labor Ministry was responsible for enforcing. The law also covered nonworkers lawfully on the premises or within the workplace during work hours. The law contained provisions for the identification and assessment of, and risk control for, workplace hazards and hazardous substances. The commissioner of labor investigated reported cases of hazardous workplaces. OSH experts actively identified unsafe conditions in addition to responding to workers' OSH complaints. Workers were legally able to remove themselves from situations that endangered health or safety without jeopardy to their employment.

OSH laws did not generally apply to agricultural service rendered to matai or work in a family enterprise. Government employees had coverage under different and more stringent regulations, which the Public Service Commission enforced adequately.

**Wage, Hour, and OSH Enforcement:** The Labor Ministry was responsible for enforcement of wage and hour laws. The government generally enforced wage laws, and penalties were commensurate with those for similar crimes, such as fraud. Penalties were sometimes applied against violators. The number of inspectors was not sufficient to fully enforce compliance.

The Labor Ministry enforced OSH laws. It investigated work accidents when it received reports. The most prominent OSH violations were reported in the health sector. The number of inspectors was generally sufficient to deter violations. Inspectors were able to make unannounced inspections and initiate sanctions. Penalties for violations of OSH laws were commensurate with those for crimes such as negligence. Penalties were sometimes applied against violators.

Many agricultural workers had inadequate protection from pesticides and other dangers to health. Government education and awareness programs sought to address these concerns by providing appropriate training and equipment to some agricultural workers.

The Labor Ministry investigated any potential labor law violations in response to complaints. The police and education ministries could assist if needed; the Public Service Commission handled all government labor matters.

Approximately 75 percent of the working population worked in the subsistence economy and had no formal employment. The informal economy included small-scale trading, market vending, fishing, and agriculture. Informal workers were legally covered by labor laws and were eligible for social support, including the country's pension system.