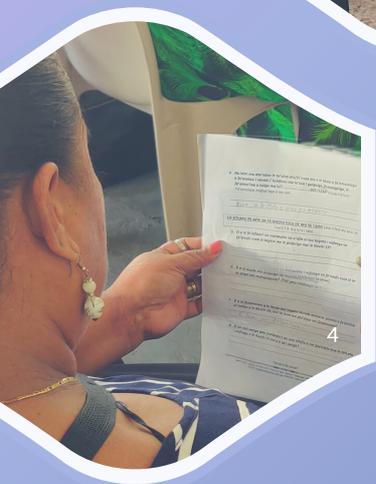


COVID-19 & HUMAN RIGHTS: THE CASE OF SAMOA

State of Human Rights Report



JUNE 2022

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COVID-19 AND HUMAN RIGHTS: THE CASE OF SAMOA

State of Human Rights Report



June 2022

"PROCESS" OF DISCUSSING STATE OF HUMAN RIGHTS REPORTS (SHRR) IN PARLIAMENT AND SUBSEQUENT ACTION

STEP 1:

The Office carries out assessment of human rights status in Samoa for the previous year and submits report to Speaker of Legislative Assembly (Omb Act s 40(1)).

The Office consults relevant stakeholders (public, government ministries, NGOs, etc.)

STEP 2:

The Speaker receives the Report and the report is referred to the Standing Orders, Electoral, Petition and Constitutional Offices Committee (Committee) for consideration (Standing Order (SO) 51) and (Omb Act s 40(2)).

STEP 3:

The Committee scrutinizes the report pursuant to the Standing Orders and call in relevant Government ministries to respond to any matters raised in the report (SO 54) and (Omb Act s 40(3)(a)).

STEP 4:

The Parliamentary Committee prepares its report and recommendations and submits to the Legislative Assembly for Government's response. The Committee is to also advise responsible Minister for feedback (SO54(4)).

STEP 5:

The Clerk refers Committee Report to Government (through relevant agency) for a response. The response to directly address Committee recommendations and affirm the Governments position on any issues raised (SO 55(1-2)).

The Office is not responsible to answer to its recommendations and therefore the report is not to be reverted back for a response. The response is to be provided by the Government through relevant agency.

STEP 6

Upon receipt of Government Responses the Clerk circulates the responses to all members prior to a Whole House sitting for debate. (SO 55(3)). If a member has a matter to raise in relation to the response by Government, the Clerk refers this to the Minister to provide response to during the Whole House debate (SO 55(4)).

STEP 7:

The Committee Chairperson during Whole House sitting moves, "That the report be adopted". There is no amendment or debate on the question (SO 128) and (Omb Act s 40(3)(b)).

STEP 8:

The Office monitors if recommendations have been implemented by Government.



OMBUDSMAN
— NHRI SAMOA

APPLICATION:

if a recommendation is in relation to improving access to health, then the most relevant government agency to address this would be Ministry of Health; if the recommendation is to improve water supply to rural communities the responsible agency would be Samoa Water Authority. There are also recommendations targeted to Non-Governmental Organisations (NGOs) as well as to the Office.

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FOREWORD

I am pleased to present the Samoa Office of the Ombudsman National Human Rights Institution's (NHRI Samoa) eighth State of Human Rights Report 2022 (the Report) on **COVID-19 and Human Rights: the case of Samoa** as mandated under section 40 of the *Ombudsman (Komesina o Sulufaiga) Act 2013*.

It has been over two years since the COVID-19 pandemic and its human rights implications have proven catastrophic. Families lost loved ones, businesses suffered, unemployment rates increased, and freedom of movement restricted. There has also been a grave impact on children's right to education, and the right to health continues to be challenged with resources stretched to the maximum.

However, human rights principles continue to play an important role in addressing discrimination and inequality and providing inclusion of everyone in the prevention of, and recovery from, COVID-19.

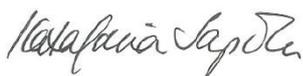
The Report provides an analysis of the impact of COVID-19 and government measures on the rights and freedoms of Samoans especially on the most vulnerable groups. Consequently, it provides recommendations for the Government as the primary duty bearer of human rights to consider in ensuring that its COVID-19 measures are consistent with our Constitution, domestic laws and policies safeguarding human rights, as well as with our international human rights obligations.¹

Likewise, stakeholders including civil society, the business community, the media, Village Fono and members of the public all have a role to play and must continue to work together with the Government to ensure better outcomes for all from this devastating virus.

I applaud and commend the Government for the work it has carried out to date to overcome such a momentous challenge to ensure the safety and wellbeing of all Samoans from the pandemic.

To further assist with its COVID-19 response, I strongly encourage the Government to favourably consider the recommendations formulated from submissions and research, and based on human rights principles contained in this Report. **Embedding responses and executing measures on a human rights-based approach will not only help protect public health and human rights during the pandemic, but also offer a unique prospect to benefit everyone, including vulnerable groups now and in the future.**

I acknowledge the contributions from all our stakeholders and the public in providing feedback which has helped to inform our analysis and recommendations to Parliament. We hope the Report will be a useful resource and will help the Government and our people to continue to safeguard our rights and freedoms as we continue to navigate the COVID-19 pandemic.



Luamanuvao Katalaina Sapolu

OMBUDSMAN

¹ Samoa is a party to 6 of the 9 core international human rights conventions including the International Covenant on Civil and Political Rights (ICCPR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), Convention on the Rights of Persons with Disabilities (CRPD), International Convention for the Protection of All Persons from Enforced Disappearance (CPED), and Convention Against Torture, Degrading and Inhumane Treatment (UNCAT). It has yet to ratify the International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), International Convention on the Elimination of Racial Discrimination (CERD).

EXECUTIVE SUMMARY

Built on available research on COVID-19 as well as responses from stakeholder and community consultations and a national questionnaire survey, the Report provides an analysis of the impact of COVID-19 on the economic social and cultural rights as well as civil and political rights of the people of Samoa especially the most vulnerable including – persons with disabilities (PWDs), children and young people, the elderly and people with underlying medical conditions (including those living with HIV), women and girls (including pregnant mothers), people in detention, frontline workers, and low income families.

Assessed against human rights principles and standards, the Report also analyses the Government’s measures in response to the pandemic, as well as the role various actors can play in Samoa’s COVID-19 response.

Finally, the Report provides practical information, recommendations, and guidelines for applying a human rights based approach given the restrictions and limitations imposed by the ongoing pandemic, for Parliament and the Government’s immediate consideration to ensure the continuous promotion and protection of the rights and freedoms of all the people of Samoa today and for any future pandemics or public health emergency.

The **key findings** of the Report include:



Government measures and the impact on human rights: Measures imposed by the Government to respond to COVID-19 had a great impact on the rights and freedoms of individuals including freedom of movement, access to health, right to education and work – See **Part 3**. It is crucial that the Government continues where necessary and appropriate to mitigate the effects of its decisions and measures.



Human rights are connected and interdependent: Our findings reinforce the understanding that all human rights are interconnected and interdependent in ways that are important for human survival. For example, job losses made access to food more difficult, poor access to internet services hindered the right to education for children etc.



Freedom of movement: The pandemic highlighted the importance of the freedom of movement. Lock downs and restrictions greatly affected the freedom of individuals to move around freely hindering other rights such as the right to work, attend school, and access to health care – See **Part 3(1)(b)**.



Access to information: While various measures were utilised to ensure that members of the public received information relating to Samoa’s COVID-19 response, there was still some confusion and inconsistency in the information being shared and messaging due to poor coordination by the Government – See **Part 3(1)(d)**.



Digital rights and right to education: The closure of schools had a great impact on the right to education for children. While many shifted to online learning, it did not reach many students especially for those in rural areas and low income families due to lack of internet access and not enough devices. This can result in existing inequalities being further exacerbated – See **Part 3(2)(c)**.



Economic impact: COVID-19 and the Government’s measures particularly the lockdowns and border closures had a great impact on the economy – with many businesses being forced to close down or struggling to pay rent despite the Government’s support. The economic impact on businesses resulted to some people losing their jobs as businesses were unable to pay wages – See **Part 3(3)(a)**.



Rise in the cost of food items and living in general: The increase in the cost of food items and the continued rise in the cost of living generally has greatly impacted many households’ especially low income families and the unemployed struggling to make ends meet. The continued rise in food prices can have a grave impact on food security and the right to food for those who are most vulnerable – See **Part 3(2)(e)**.



Social issues: The pandemic also led to the prevalence of social issues including gender based violence affecting women and girls, crime including theft and burglary, and discrimination especially towards those who test positive for the virus – See **Part 3(3)(b)**.



Vaccines: Vaccine hesitancy (due to lack of information sharing on vaccine effectiveness) and those against vaccines were some of the key challenges hindering efforts of the Government to efficiently roll out vaccines – See **Part 3(2)(a)**.



Public health disinformation and misinformation: There were some instances of disinformation and misinformation disseminated online especially in relation to vaccine efficacy, creating a challenge for the Government’s efforts and negatively influencing the views of members of the public – See **Part 3(1)(d)(iv)**.



Vulnerable groups: Those feeling the harshest impact of the Government’s COVID-19 measures were those already vulnerable. Low income families were most vulnerable to the economic downturn. Women and girls (including pregnant mothers) faced issues regarding access to sexual reproductive health rights (SRHR) support services and also gender based violence (GBV). The elderly and persons with disabilities faced challenges with restrictions hindering in person care and support which they depend on. People in detention and persons of diverse gender identities and expression (SOGIESC persons) were also disproportionately affected – See **Part 3(4)**.



Planning and coordination: While the Government had over 2 years to prepare learning from other countries experiences, the poor planning (as well as resourcing issues) resulted in consequences that could have been avoided especially in relation to information sharing (inconsistent) and community testing (delayed especially community testing) – See **Part 3(1)(d)(i)** and **Part 4**.



Participation: While the Ministry of Health’s (MOH) *National Epidemic and Pandemic Preparedness and Response Plan Financial Year 2020/21 – FY2024/25* (National Pandemic Plan) places importance on engagement as a core value providing empowerment of everyone from the political level to the community to participate in preventing and controlling of epidemics and pandemics, there was poor and insufficient engagement with private health service providers, vulnerable groups and oversight bodies for feedback and advice, especially prior to the community outbreak – See **Part 4**.



Cooperation: The pandemic has highlighted the fact that responding to a public health emergency such as the COVID-19 pandemic, cannot be done by the health sector alone. It requires the collaborative efforts by all sectors of society to ensure inclusion and better outcomes for all.



Individual responsibility and public safety: One of the major challenges faced by the Government was in relation to individuals not following State of Emergency (SOE) orders. This presented a major concern for collective health and safety – See **Part 2(4)**.

Recommendations

State of emergencies and human rights protection

1. The Government ensures that state of emergency measures are strictly temporary in scope, proportional and the least intrusive to achieve the stated public health goals, and include safeguards such as review clauses, in order to ensure return to ordinary laws as soon as the emergency situation is over.

Government measures and human rights considerations

2. The Government ensures that its responses to COVID-19 are inclusive, equitable and universal to ensure no one is left behind.
3. When enforcing vaccine mandates or proof of vaccination policies, the Government and agencies should take proactive steps to make sure that specific individuals are not discriminated and/or disproportionately targeted. Moreover, for people who cannot be vaccinated due to a *health*-protected ground, such as disability or a medical condition, reasonable accommodation by way of exemptions should be

provided by the Government. Such exemptions must be carefully balanced against the collective rights to health and safety.

4. The Government ensures that its procedures for handling persons in managed isolation and quarantine are sound and robust, and that they are strictly enforced to ensure the safety of everyone.
5. Any testing to detect viruses must be made readily available and carried out for everyone to ensure early detection and accessibility. Various testing methods including less invasive testing methods should be considered.

Transparency and accountability

6. The Government ensures that people are informed of its emergency spending, not only monies from the local budget but from foreign aid. This will not only ensure transparency and accountability but it is also a measure of good governance.
7. The Government ensures that it continues to uphold the rule of law by strictly following processes provided by Article 108 of the Constitution when dealing with persons detained for breaching state of emergency orders.

Addressing challenges

8. The Government ensures that greater attention is given to challenges it has encountered especially in relation to workforce burnout and mental health, as well as the enforcement of state of emergency orders to ensure that these are mitigated for any future public health emergency.

Right to life

9. The Government ensures that the most fundamental and basic rights including the rights to life and health for instance are respected, protected and fulfilled even in times of emergencies such as during a public health emergency. This is consistent with Samoa's human rights obligations under the International Covenant for Civil and Political Rights and other relevant human rights conventions Samoa is a party to.

Freedom of movement and freedom of association and assembly

10. The Government is encouraged to ensure that any future restrictions on assembly and association and especially free movement, should be strictly necessary for a designated purpose, proportionate and non-discriminatory.

Right to information, digital rights, media freedom and health disinformation

11. As a party to the International Covenant for Civil and Political Rights, the Government is encouraged to continue strengthening measures on information sharing and transparency including exercising proactive disclosure of information and working closely with the media to ensure that members of the public receive and access factual and science-based, timely and regular, consistent and comprehensive information on the effectiveness of vaccines available and the threat posed by COVID-19, to inform and respond to the outbreak. Consistency of messaging from the Government and the media is essential to avoid misinformation and disinformation, and mistrust among members of the public.
12. The Government ensures that it puts in place measures to address the digital divide between those with internet access and sufficient devices, and those without, (especially children and those in rural communities) to ensure digital inclusion.
13. While it is acknowledged that everyone has the right to free speech when it comes to vaccine effectiveness for instance, it is important that responsibility towards others is exercised to ensure that opinions expressed do not interfere with efforts aimed at achieving greater public good such as protection from the health impacts of a pandemic.

Public health surveillance, right to privacy and confidentiality of health records

14. Businesses engaging to assist with surveillance operations especially contact tracing must ensure that they have in place processes and guidelines for safely storing information and managing any breaches, including adequate redress for affected individuals. Moreover, accessibility issues to such technology should also be addressed to ensure reliable tracing and reporting.
15. The Government and authorities ensures that the privacy of individuals be strictly maintained when gathering health information for managing COVID-19. Such information must be subjected to the highest level of confidentiality. Legal safeguards for the appropriate use and handling of personal health information must be included in policies. Comprehensive trainings of health officials who manage and handle data must be consistent and regularly conducted.

Right to health

16. The Government ensures taking continuous steps and measures to prevent, treat and control diseases; provide reproductive and maternal health care; provide public education and access to information; and strengthen training for health personnel, including on human rights. In doing so, consideration should be given to available resources, and following the guiding principles for the provision of the right to health

contained in its *National Epidemic and Pandemic Preparedness and Response Plan Financial Year 2020/21 – FY2024/25*.

17. The Government is encouraged to further strengthen and continuously roll out its public health campaigns and strategies on vaccines, in an effective way using various modes of communication to address challenges of vaccination hesitancy and improve vaccination literacy not only for COVID-19 but for all other vaccines.

Access to justice

18. The Government and the courts are encouraged to utilise alternative methods for hearing cases and conducting hearings such as using video link to ensure continuous access to justice while restrictions are in place. This will help address issues that may arise as a result of further delays.

Right to education

19. The Government is encouraged to put in place adequate and reliable infrastructure to facilitate online learning to ensure digital inclusion and that children continue to receive quality education. Alternative methods for learning should also be utilised. Moreover, support and resources for students especially those living in rural communities and low income families should be provided to ensure that they have access to online learning. Consideration should also be given to their learning needs of children with disabilities when imposing stay-at-home measures as most rely and depend on face-to-face support.

Right to work

20. The Government is encouraged to ensure that measures are put in place to buffer the economic impacts of COVID-19 especially for low-wage workers as well as those in the private sector. Businesses should also consider providing support for those who have to isolate if they get infected by providing paid sick leave.

Food security and right to food

21. The Government and businesses are encouraged to ensure that they take into account the impact on supply chains and ensure that there is adequate food supply especially during lockdowns. Considerations must also be given to the potential rise in the cost of food items and cost of living generally as the world continues to face challenges with global supply of goods and services.

Right to water, sanitation and hygiene (WASH) and waste management

22. The Government is encouraged to ensure that people have continuous access to safe drinking water during the pandemic including those who may not be able to pay.

23. The Government ensures that there is adequate support for water and wastewater infrastructure to ensure good and consistently applied WASH and waste management practices in communities, homes, schools, and healthcare facilities. Awareness efforts on hygiene and sanitation including the safe disposal of COVID-19 waste need to be sustained and the Government should continue to work with communities to ensure adequate measures are in place for sanitation and hygiene.

Stimulus support and assistance

24. The Government is encouraged to ensure that its support and stimulus policies are inclusive with the aim of keeping jobs and creating alternative opportunities especially for vulnerable businesses and households to ensure sustainability. Consultations with these groups on ways to address economic impact should be carried out to ensure a targeted fiscal response.

Addressing social issues

25. The Government is encouraged to provide support for the continuation and full implementation of measures and actions including ensuring essential services are supported, to address gender based violence.

26. The Government is encouraged to take a holistic approach in addressing the impact on the right to health to include mental health. It should continue to work and consult with CSOs/NGOs working in the mental health space to ensure that support is available to those who need it most with a focus on vulnerable groups especially women and children.

Addressing discrimination

27. The Government is encouraged to continue monitoring and taking steps to respond to instances of discrimination and address these accordingly for example, through raising awareness. It should also ensure that it anticipates the potential for certain communities and vulnerable groups to experience increased discrimination as a result of its response to COVID-19. Individuals must also ensure that they treat one another with respect and kindness.

Women and girls including pregnant mothers

28. The Government should prioritise as a fundamental core health service, sexual and reproductive health rights services to assist women and pregnant mothers. It should provide support for women who are overrepresented in providing care for families and for women affected by gender based violence.

The elderly and people with underlying health condition including those living with HIV

29. The Government ensures that the impacts experienced by older persons including mental stress are adequately addressed through consultations with them.

30. The Government ensures continuous awareness and support for the specific needs of those with underlying health conditions and provide information as to why they are at more risk. Attention must also be given to ensure that people living with HIV continue to receive the support they need.

Children and young people

31. The Government is encouraged to continue implementing its obligations with regard to the rights of children contained in its national policies and also under the Convention on the Rights of a Child especially with regard to protection, participation and education.

People in detention

32. The Government is encouraged to favourably consider and implement recommendations contained in the NHRI Samoa's Inspection Report 2022: COVID-19 Assessment to ensure continued protection of those deprived of their liberties.²

Low income families and people living in poverty

33. The Government is encouraged to give proper and adequate consideration to the disproportionate impact experienced by those from low income families and people living in poverty when developing its stimulus policies, to ensure that these groups receive the necessary support to sustain their livelihoods and reduce incidences of poverty and exclusion.

Persons with disabilities (PWDs)

34. The Government ensures continuous awareness raising for members of the public in assisting PWDs during COVID-19 and most importantly provide the necessary support including financial assistance to ensure that the care needs of PWDs can be met. Engagement with PWDs through representative organizations in the design of measures to fight the pandemic should also be carried out.

Frontline workers

35. The Government in line with its commitment under its *National Epidemic and Pandemic Preparedness and Response Plan Financial Year 2020/21 – FY2024/25* should provide the necessary financial and psycho-social support for frontline workers to ensure that they continue to provide adequate and reliable health services to members of the public.

² See full list of recommendations in Annex 4.

SOGIESC persons

36. The Government working together with Faafafine, faatama and SOGIESC organisations is encouraged to provide support and address issues faced by SOGIESC persons in Samoa that have been exacerbated by COVID-19 and government measures.

Working together

37. The Government is encouraged to ensure that it follows its plans in relation to planning and coordination with private health providers to not only maximise resources and provide efficient care for the public, but to assist an already overworked health workforce.

38. The Government is encouraged to engage with vulnerable groups to seek feedback and views on matters that impact their needs and that will help inform the design of measures to fight the pandemic. This will help ensure that the national COVID-19 response policies are inclusive and targeted.

39. Businesses should ensure that,

- a. they continue to treat their workers equally and not discriminate, for example decisions to let go or make workers redundant;
- b. ensure that measures are in place for granting access to members of the public to services are non-discriminatory;
- c. ensure that measures are in place for responding to discrimination/ hatred faced by staff from members of the public.

40. The Government ensures protection and support for CSOs/NGOs doing charity/ community work to ensure that they continue to provide much needed support especially for the most vulnerable.

41. The Government ensures continuous utilisation of its community networks to enable the free flow of public health information to communities, and to assist with the enforcement of state of emergency orders alleviating pressures on law enforcement officials.

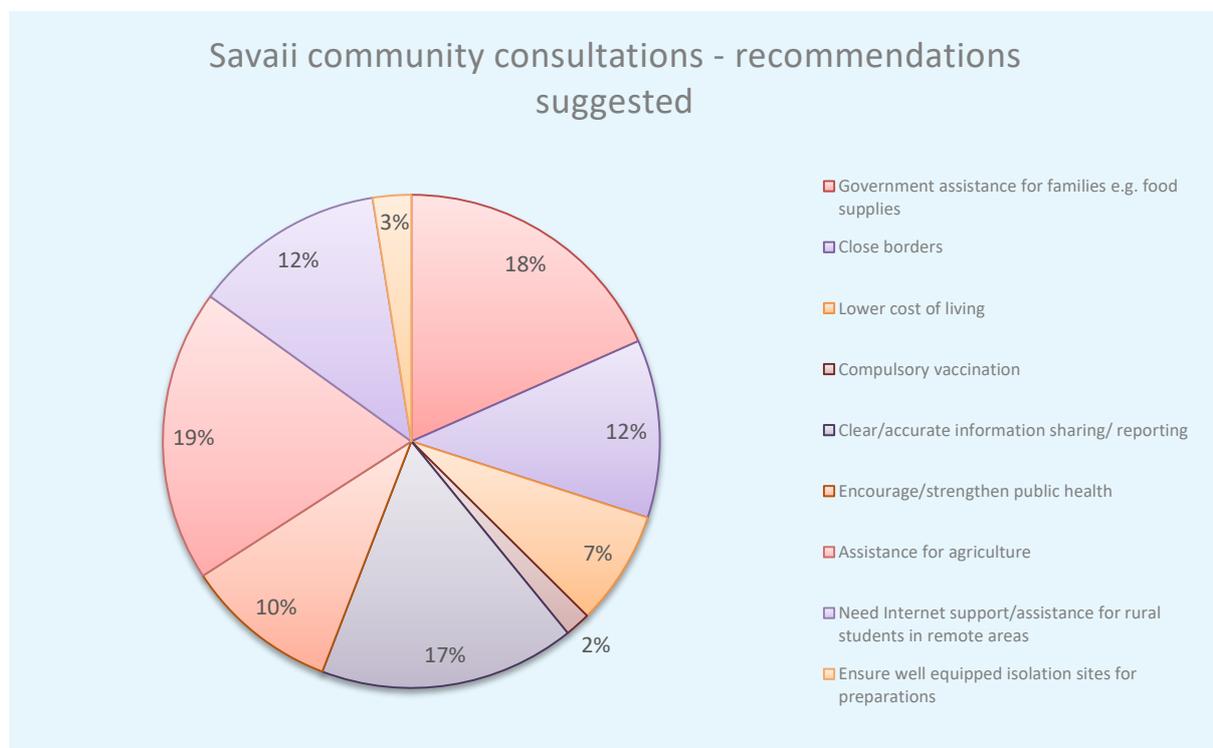
42. Individuals have a responsibility to ensure that they treat one another with respect and support efforts by the Government to combat the impact of the pandemic including following state of emergency orders and utilising opportunities for children's education.

43. The Government is encouraged to ensure that it engages with oversight bodies including NHRI Samoa for advice and guidance on human rights principles that must

be considered and incorporated in its decision-making and response to COVID-19. This will ensure consistency and compliance with human rights obligations under national and international (human rights) law. Equally important NHRI Samoa should do the same and proactively make its voice heard.

44. The Government is encouraged to continue cooperation with its international partners to respond to the impacts of the pandemic and ensure that the country can sustainably recover from it.

Below are two graphs highlighting recommendations suggested by those who took part in our community consultations in March 2022 from both Upolu and Savaii. The recommendations/suggestions are already factored into the NHRI Samoa’s recommendations listed above.



Recommendations from NHRI Samoa’s community consultations in Savaii that received a **15% and above rating** include:

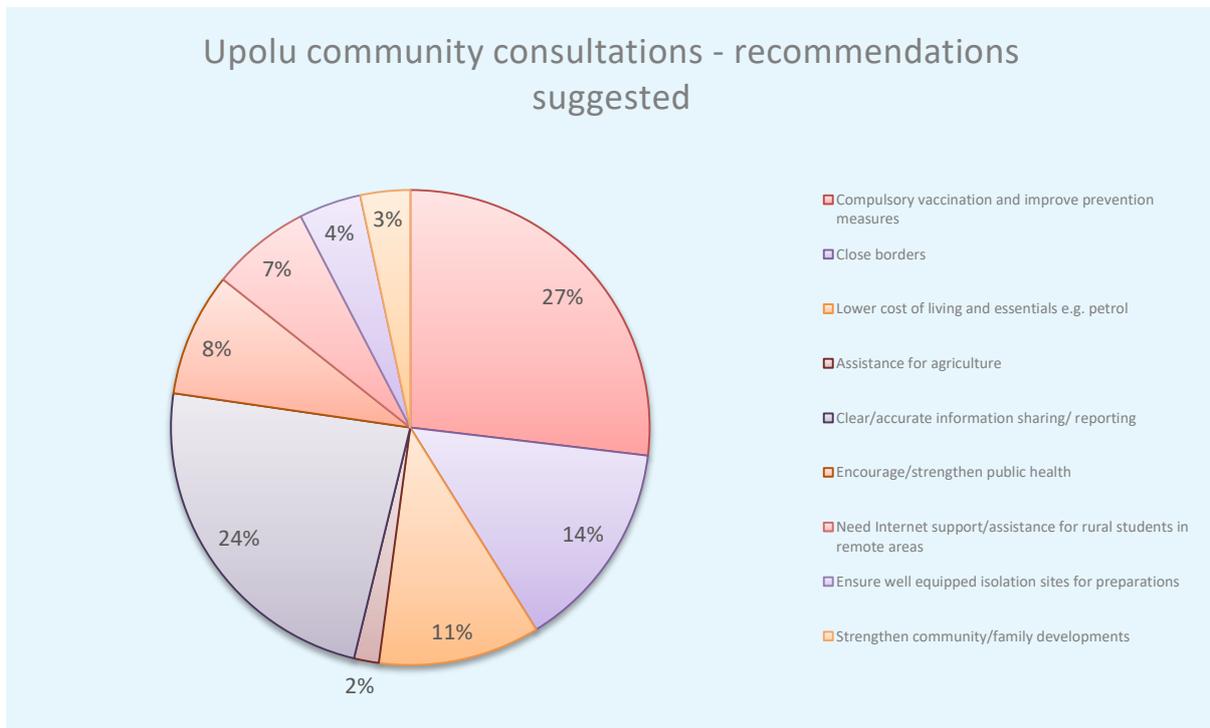
- Government assistance for families e.g. food supplies
- Clear/accurate information sharing/ reporting
- Assistance for agriculture

Recommendations that fall within the **10-14% bracket** include:

- Continue to close borders
- Encourage/strengthen public health
- Need Internet support/assistance for students in rural/remote areas

Recommendations that had a **9% rating a below** include:

- Lower cost of living
- Compulsory vaccination
- Ensure well equipped isolation sites



Recommendations from NHRI Samoa’s community consultations in Upolu that received a **20% and above rating** include:

- Compulsory vaccination and improve prevention measures
- Clear/accurate information sharing/ reporting

Recommendations that fall within the **10-19% bracket** include:

- Continue to close borders
- Lower cost of living and essentials e.g. petrol

Recommendations that had a **9% rating and below** include:

- Assistance for agriculture
- Encourage/strengthen public health
- Need Internet support/assistance for students in rural/remote areas
- Ensure well equipped isolation sites for preparations
- Strengthen community/family developments

INTRODUCTION

The COVID-19 pandemic has led to a great loss of human life worldwide with the number of hospitalizations and deaths rising each day.³ It presents an unprecedented challenge to public health, work, goods and services, education and life overall.

Since the beginning of the COVID-19 pandemic in 2020, the Government has been rapid with its response introducing innovative and oftentimes unprecedented measures to keep Samoa safe including the immediate closing of borders and nationwide lockdowns.

In March 2020, a Proclamation of Emergency and a State of Emergency (SOE) order was issued by the Head of State in accordance with the Constitution⁴, setting out certain restrictions on people's everyday living with the aim of preventing the rapid spread of the virus and most importantly to save lives. As of June 2022, Samoa continues to be under a state of emergency with various measures to manage the pandemic.⁵

Despite the necessity for imposing the SOE orders for public health purposes, it also fuelled criticism amongst members of the public particularly regarding its proportionality and reasonableness. The stringent measures put in place by the Government were criticized for challenging fundamental human rights. For example, restrictions and lockdowns affected the freedom of movement and the right to education for children with school closures. The business community expressed concerns regarding the economic impact suffered as a result of lockdowns and limited opening hours. Concerns were raised by those in managed isolation regarding health and safety. The compulsory showing of vaccine cards as well as the lack of information on vaccine effectiveness especially on children also raised concerns especially amongst parents and legal guardians.

In addressing these concerns the international human rights community has and continues to encourage Governments to make sure that they continue to place human rights at the centre of their efforts in responding to the pandemic. This stance is supported by NHRI Samoa and one that our Government needs to continuously promote.⁶

Scope and limitations

To further explore the above issues NHRI Samoa's 2022 state of human rights report:

- assesses and examines the impact of COVID-19 and the Government's measures on the rights and freedoms of the people of Samoa taking into account vulnerable groups, as well as the impact on businesses and services;
- analyses the compliance of measures imposed by Government with human rights standards;
- discusses human rights best practices to help inform the Government's current and future actions in dealing with pandemics and/or any major public health issue; and

³ See World Health Organisation (WHO) COVID 19 dashboard providing updated statistics on COVID-19 of deaths and hospitalizations around the world here: <https://covid19.who.int/>.

⁴ *Constitution of the Independent State of Samoa 1960*, Article 105.

⁵ See **Part 2(3)** of the Report regarding the 'Government's COVID-19 response measures'.

⁶ The Government has placed emphasis on ensuring the protection of individual rights to decision making as stipulated under various legislations and in conjunction with the Constitution of the Government of Samoa – see Key Strategic Outcome 3 on security and trusted governance of *Pathway for the Development of Samoa FY2021/22-FY 2025/26*, <https://www.mof.gov.ws/wp-content/uploads/2022/02/Pathway-for-the-Development-of-Samoa.pdf>.

- provides recommendations regarding areas for improvement to ensure that the rights of the people of Samoa in times of emergencies such as pandemics are continuously safeguarded.

NHRI Samoa encountered some limitations in the compilation of its report. Firstly, there was the lack of budget and capacity to undertake extensive consultations, and the nation-wide lockdown hindered plans for face to face consultations especially with children due to the closure of schools. To address this issue, NHRI Samoa had to utilise its online platforms to obtain information and data. Another limitation was the lack of cooperation from key agencies including the MOH in providing responses and information to our survey and requests for information.

Methodology

NHRI Samoa utilized various methods in the collection of data and information to inform its analysis and recommendations. The methodologies that were used included:



Desktop research: To obtain knowledge and understanding of COVID-19 information, as well as measures imposed by the Government to combat COVID-19 and the impact of such measures on the human rights of citizens. The research also allowed NHRI Samoa to gather information regarding the impact of COVID-19 in other countries, best practices for managing COVID-19 and upholding human rights, as well as the applicable human rights standards for responding to public health emergencies.



Written submissions: Call for submissions commenced in September 2021 and closed at the end of March 2022. The call was made on all of NHRI Samoa’s online platforms – website, Facebook, and twitter. It was also published in the media via a press release.⁷ Emails were also circulated to NHRI Samoa’s partners including CSOs/NGOs and the business community.



National questionnaire surveys: To better understand the issues especially regarding the impact of COVID-19 on rights and freedoms of individuals and groups including businesses, NHRI Samoa developed and launched a national questionnaire/survey in September 2021 for public feedback. There were three different questionnaires – one for the public (which includes business, individuals, and CSOs/NGOs), one for community consultations, and one specifically for children. See **Annexes Section** for all questionnaire surveys – Annexes 2, 3, and 4.



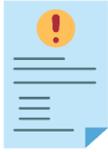
Community consultations: consultations were conducted in the districts of Faasaleleaga No. 1 (Savaii)⁸ and Lefaga (Upolu)⁹. Participants were split into different focus groups i.e. men, women and youth to answer questionnaires and discuss pressing issues. This was done to ensure views and opinions were expressed freely especially for women and youth. Around 186 people from Savaii and Upolu combined took part in the community consultations. The number of those consulted in community consultations are in addition to

⁷ NHRI Samoa, “Submissions for COVID-19 and human rights report 2022 still open”, *Press Statement* (3 February 2022) https://ombudsman.gov.ws/wp-content/uploads/2022/02/PRESS-STATEMENT_-submissions-for-SHRR-2022-still-open.pdf.

⁸ Villages represented: Salelavalu, Lalomalava, Vaisaulu, Safua, Salelologa, Iva, Vaiafai, Sakalafai, Samata-uta.

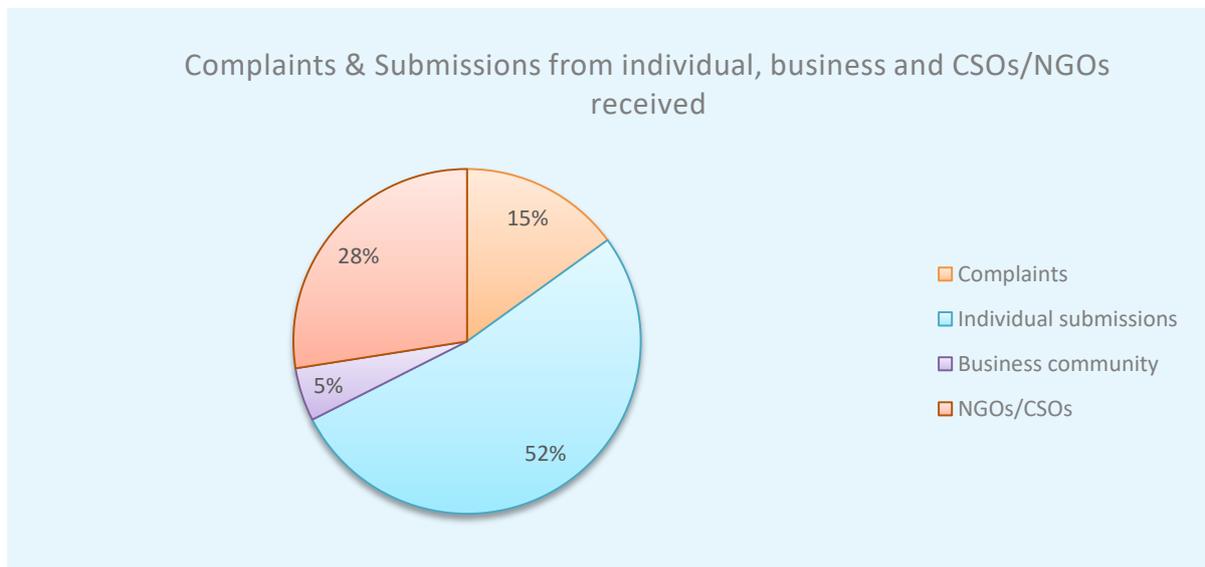
⁹ Villages represented: Savaia, Matautu-Lefaga, Tafagamanu, Gagaifo, Safa’atoa, Faleseela, Tanumalala, Matafa’a.

submissions from individuals, children, and CSOs/NGOs to our questionnaire surveys and written submissions from businesses.



Complaints: NHRI Samoa also received a number of complaints from members of the public regarding the challenges of COVID-19 and government measures on their rights and freedoms. Although such complaints were not in response to the NHRI Samoa’s call for submissions for the Report, the content of these complaints provide relevant information that will assist with our analysis.¹⁰

Overall, NHRI Samoa received 6 complaints (most of them on the impact of Government measures on their human rights), 21 submissions from individuals (including 1 from a young person), 2 collective submissions from the business community¹¹, and 11 submissions from CSOs/NGOs.¹² These are reflected in the graph below.



The Government was also consulted via the Chairman of the National Emergency Operations Centre/Committee (NEOC). Due to the lockdown and closure of schools NHRI Samoa was not able to hold face to face consultations with children however a children’s questionnaire was distributed online for feedback.

From our community consultations, 186 individuals including men, women, youth and persons with disabilities (PWDs) were consulted. Out of this number, there were 92 males and 87 females. It is important to note that other genders including faafafine and faatama were also made available on the registration sheets.

¹⁰ Note: Complainant’s information are treated with the highest regard to confidentiality. References in the Report to any of the content of these complaints will be anonymized to protect the privacy of complainants.

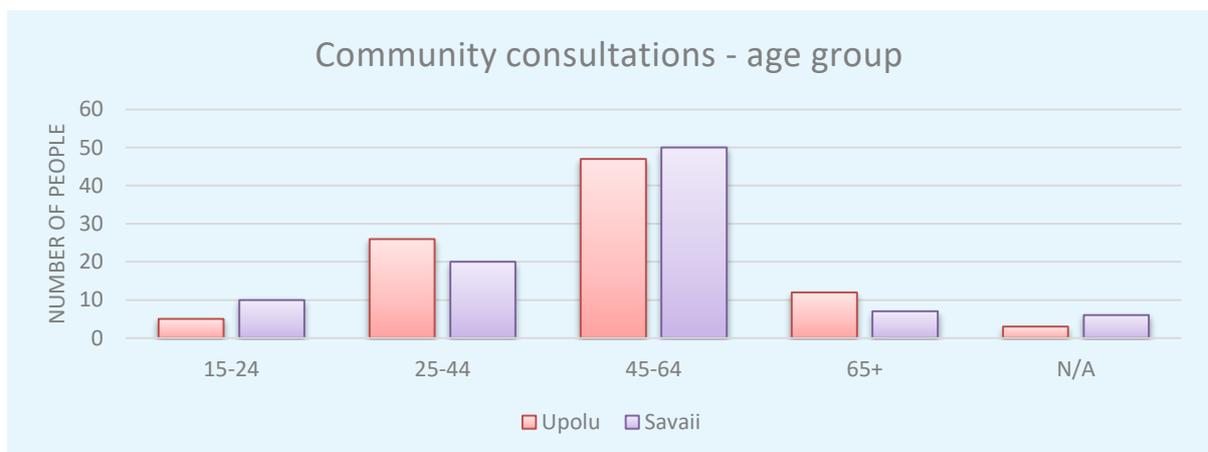
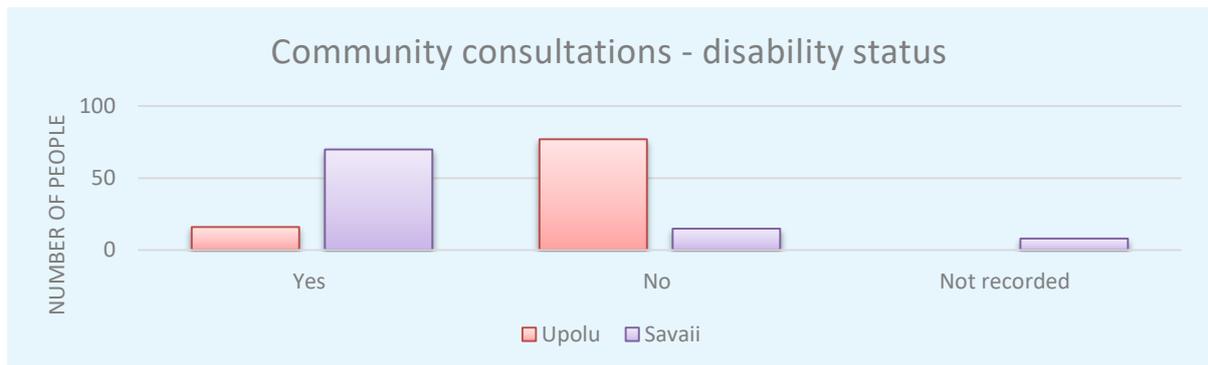
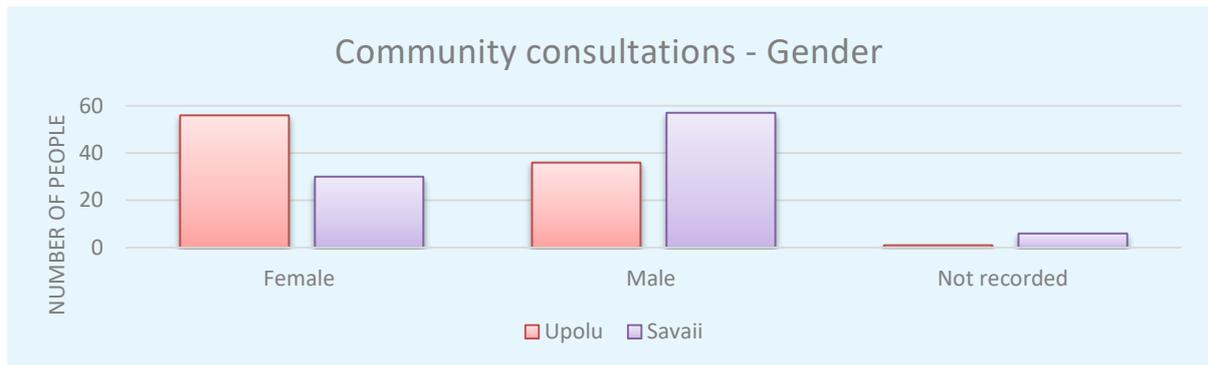
¹¹ Submissions from the business community were compiled together by two key agencies that work with private businesses – Samoa Chamber of Commerce (SCC) and the Samoa Business Hub (SBH).

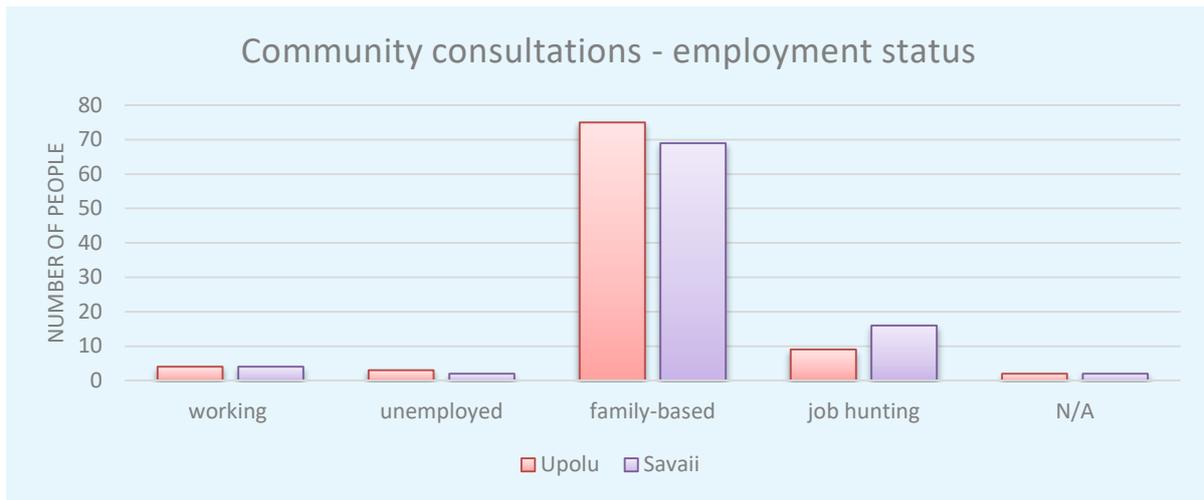
¹² The CSOs/NGOs consulted included: Samoa Family Health Association (SFHA), Faataua le Ola (FLO), Samoa Victim Support Group (SVSG), Samoa Umbrella for Non-governmental Organisations (SUNGO), Loto Taumafai Incorporated Society, Samoa Education Network (SEN), Pasefika Mana Social Services Trust, Nuanua o le Alofa (NOLA), Brown Girl Woke, Goshen Mental Health Trust, Samoa Faafafine Association Incorporated (SFA).

In relation to disability status, 86 of the participants had some form of disability – poor eye sight or other physical disability. Reasonable accommodation was given such as assisting with writing down responses to ensure that they were able to take part effectively.

Out of the 186 people consulted majority (97) of them fell within the 45-64 age groups. 46 made up the 25-44 age group, 19 made up the 65+ age groups and 10 made up the 15-24 age groups. Nine people did not record their age.

With regard to employment status, the majority noted that they worked on family plantations (informal sector), with the second highest being those looking for a job as they had recently lost them due to the pandemic.





Structure of the report

The Report is made of an Introduction, 5 main parts, a Conclusion, and Resources.

INTRODUCTION – sets out the background, objectives and methodology of the Report.

PART 1: COVID-19 – SITUATIONAL ANALYSIS – sets out background information what COVID-19 is and the status of infections and deaths in the world and in Samoa.

PART 2: GOVERNMENT RESPONSE & THE STATE’S HUMAN RIGHTS OBLIGATIONS – provides a discussion of the Government’s human rights obligations under the Constitution and human rights law, as well as measures it had adopted to respond to the pandemic.

PART 3: IMPACT OF COVID-19 & STATE MEASURES ON HUMAN RIGHTS – discusses and explores the impact of COVID-19 and the Government’s measures on the rights and freedoms of all Samoans making reference to feedback provided by members of the public.

PART 4: WORKING TOGETHER – discusses the role of various stakeholders assisting the Government in its COVID-19 response.

PART 5: BALANCING HUMAN RIGHTS IN A COVID-19 ENVIRONMENT – ADOPTING A HUMAN RIGHTS LENS – discusses and provide human rights principles that the Government should and must take into account to inform its COVID-19 response. A brief compliance assessment with such principles is also provided taking into account discussions in Parts 2, 3 and 4.

CONCLUSION – provides a brief overall summary of the report and the way forward.

RESOURCES: GUIDES AND CHECKLISTS – provides guides and checklist that can help the state in mainstreaming human rights in its covid-19 response

ANNEXES – contains questionnaires used to gather feedback from the public, children and communities.

Within the different Parts, a number of devices are used to help the reader understand the nature of state obligations during an emergency and the human rights principles that apply, as well as to reflect views from members of the public consulted and whom provided submissions regarding the impact of COVID-19 and the Government’s measures on human rights in Samoa. These include:



Quotes: Direct quotes from submissions, media articles, reports, etc. to shed further light on the impact of COVID-19 and the Government’s measures on human rights and possible solutions.



Information points: Information points provide key facts and explanations of specific subject matters for knowledge building and readers’ information.



Resources: Contained within the Report and at the **Resources Section** at the end of the Report are ‘Resources’ providing guidance to all levels of government on the principles that underlie a human rights-based approach to managing the COVID-19 pandemic. It offers high-level guidance that applies across a range of potential policy, legal, regulatory, public health and emergency-related responses to the COVID-19 pandemic.¹³

Recommendations within the report

Recommendations made are targeted mainly to the Government as the primary duty bearer of human rights obligations to not only address areas that require more proactive attention to ensure that its response is not always on a trial and error basis, but also and most importantly to safeguard human rights in Samoa now during COVID-19 as well as with any future pandemic or public health emergency.

There are also recommendations targeted to NHRI Samoa, the private sector as well as civil society and community groups all of whom have a role to play working together with the Government to address the impacts of the pandemic.

¹³ The Government of Samoa is encouraged to consult the Report in conjunction with the United Nations Office of the Human Rights Commissioner for Human Rights [Emergency Measures and COVID-19 Guidance Note](#), which sets out proposed actions and considerations for governments to undertake and implement that are broadly consistent with a human rights-based approach in responding and managing the COVID-19 pandemic – See OHCHR, *COVID-19 Guidance*, <https://www.ohchr.org/EN/NewsEvents/Pages/COVID19Guidance.aspx>.

PART 1: COVID-19 – SITUATIONAL ANALYSIS

1. COVID-19 across the world

COVID-19 first emerged in December 2019 in Wuhan City, China. On 30 January 2020, World Health Organisation (WHO) declared the novel coronavirus outbreak a public health emergency of international concern – WHO's highest level of alert. At that time there were 98 cases and no deaths in 18 countries outside China.¹⁴

INFORMATION POINT: WHAT IS COVID-19?

Coronavirus disease (COVID-19) is an infectious disease caused by the SARS-CoV-2 virus.

Most people infected with the virus will experience mild to moderate respiratory illness and recover without requiring special treatment. However, some will become seriously ill and require medical attention. Older people and those with underlying medical conditions like cardiovascular disease, diabetes, chronic respiratory disease, or cancer are more likely to develop serious illness. Anyone can get sick with COVID-19 and become seriously ill or die at any age.

According to the WHO, the best way to prevent and slow down transmission is to be well informed about the disease and how the virus spreads. Protect yourself and others from infection by staying at least 1 metre apart from others, wearing a properly fitted mask, and washing your hands or using an alcohol-based rub frequently. Get vaccinated when it's your turn and follow local guidance.

The virus can spread from an infected person's mouth or nose in small liquid particles when they cough, sneeze, speak, sing or breathe. These particles range from larger respiratory droplets to smaller aerosols. It is important to practice respiratory etiquette, for example by coughing into a flexed elbow, and to stay home and self-isolate until you recover if you feel unwell.

Source: WHO, "Coronavirus disease (COVID-19) pandemic", https://www.who.int/health-topics/coronavirus#tab=tab_1. For more information on COVID-19 including guidance for the public and governments see: <https://www.who.int/emergencies/diseases/novel-coronavirus-2019>.

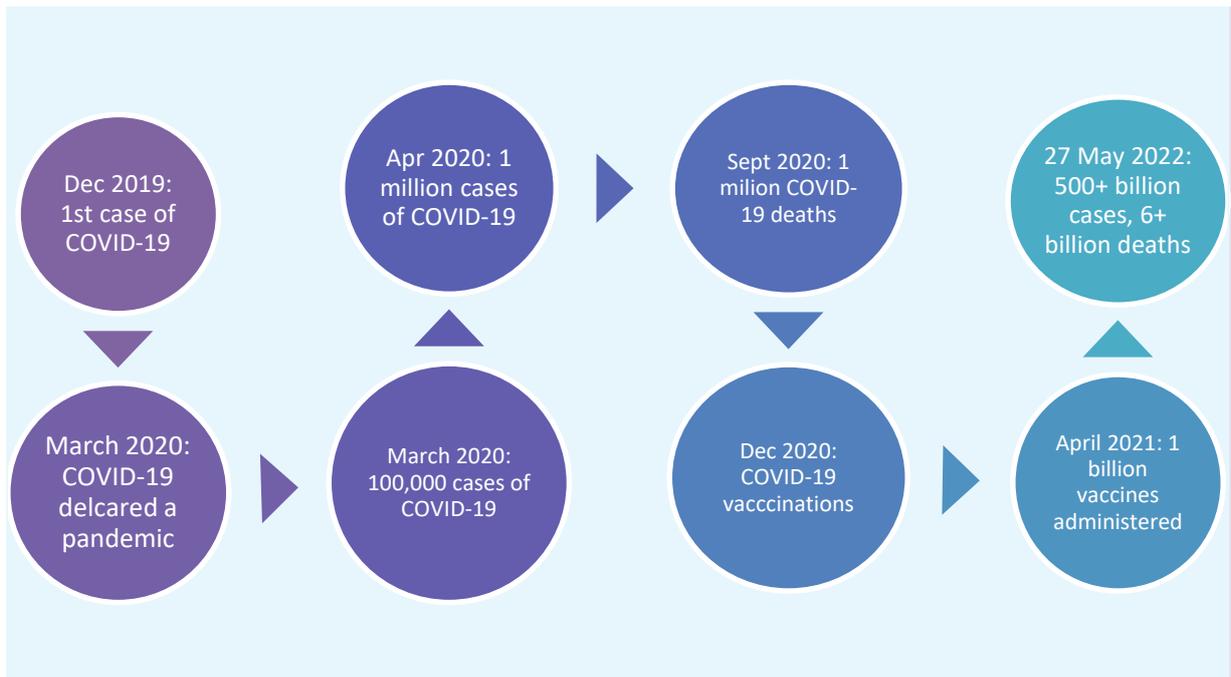
On 11 March 2020, the rapid increase in the number of cases outside China led the WHO announcing that the outbreak could be characterized as a pandemic. By then more than 118,000 cases had been reported in 114 countries, and 4291 deaths had been recorded.¹⁵ By mid-March 2020, the WHO European Region had become the epicentre of the epidemic, reporting over 40% of globally confirmed cases. As of 28 April 2020, 63% of global mortality from the virus was from the Region. By December 2021, over 278 million cases and just fewer than 5.4 million deaths have been reported globally¹⁶; and as of 27 May 2022 there have been over 500 billion COVID-19 infections and more than 6 billion deaths worldwide.¹⁷

¹⁴ WHO Regional Office for Europe, "Coronavirus disease (COVID-19) pandemic", <https://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/novel-coronavirus-2019-ncov>, accessed 2 February 2022.

¹⁵ WHO Regional Office for Europe, "Coronavirus disease (COVID-19) pandemic", <https://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/novel-coronavirus-2019-ncov>, accessed 2 February 2022.

¹⁶ WHO, "Weekly epidemiological update on COVID-19 - 28 December 2021", *Emergency Situational Updates Edition 72*, 28 December 2021, <https://www.who.int/publications/m/item/weekly-epidemiological-update-on-covid-19---28-december-2021>, accessed 10 January 2022.

¹⁷ See live updates on case numbers and deaths globally on the WHO Coronavirus (COVID-19) Dashboard: <https://covid19.who.int/>.



Source: Sarah Moore, “History of COVID-19”, NEWS Medical Life Sciences, <https://www.news-medical.net/health/History-of-COVID-19.aspx> and, Caroline Kantis, Samantha Kiernan, Jason Socrates Bardi, Lillian Posner, “UPDATED: Timeline of the Coronavirus”, Think Global Health <https://www.thinkglobalhealth.org/article/updated-timeline-coronavirus>.

2. COVID-19 in Samoa

Samoa’s first positive case detected in MIQ was recorded in November 2020. A further two cases also in MIQ were detected in January 2021 raising the number of cases in Samoa to three up until January 2022. In January 2022, 15 people from a returning flight from Australia who were in managed isolation tested positive for the virus triggering Samoa’s first nation-wide lockdown which lasted for more than a week.¹⁸

On 17 April 2022, Samoa’s first community case was detected triggering Samoa’s second nation-wide lockdown which lasted for 18 days.¹⁹

As of 22 April 2022 there have been 6,794 confirmed cases of COVID-19 with 13 deaths. A total of 304,893 vaccine doses have been administered as of 15 March 2022.

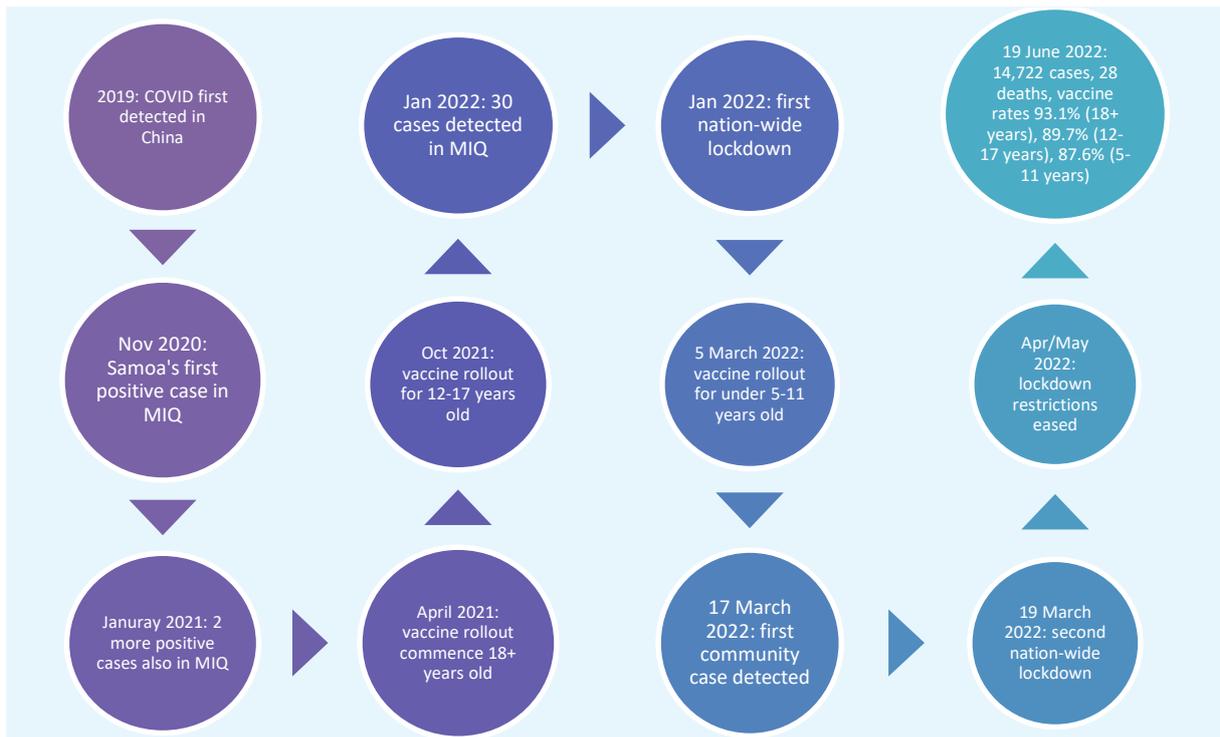
As of 19 June 2022, Samoa has recorded 14,722 COVID-19 infections since the start of the pandemic, with 28 COVID-19 related deaths.²⁰

For live updates on Samoa’s case number consult MOH Facebook page <https://www.facebook.com/healthsamoa> and website <https://www.health.gov.ws/covid-19/> as well as Samoa’s profile page on the WHO website: <https://covid19.who.int/region/wpro/country/ws>

¹⁸ The Associated Press, “Samoa goes into lockdown after 15 Australians test positive”, ABC News (23 January 2022), <https://abcnews.go.com/Health/wireStory/samoa-lockdown-15-australians-test-positive-82414658>.

¹⁹ See Hon. Prime Minister Press Conference 17 March 2022, <https://www.facebook.com/RadioSamoaPlus/videos/674420456939086/>. See also Matai’a Lanuola Tusani T - Ah Tong, “M.O.H. begins contact tracing following community transmission”, Samoa Observer (18 March 2022), <https://www.samoaoobserver.ws/category/samoa/97602>.

²⁰ See Government of Samoa, COVID-19 Situational Report No. 353-359, (19 June 2022), https://www.samoagovt.ws/wp-content/uploads/2022/06/COVID19-SitRep-353-359_190622_weekly-report_final-1.pdf. **NOTE:** To access the detailed situational analysis report, please visit the MOH website at <https://www.health.gov.ws/>.



Source: MOH Facebook page <https://www.facebook.com/healthsamoaand> website <https://www.health.gov.ws/covid-19/>.

Apart from the infections and deaths caused by the virus, countries around the world have, including Samoa, continued to suffer devastating impacts to the economy, social life as well as the rights and freedoms of individuals' especially vulnerable groups – as a result of the virus and measures imposed by governments. Measures imposed by the Government in response to COVID-19 are explained in **Part 2** of the Report. The impact of COVID-19 and the Government's measures on rights and freedoms are explored further in **Part 3** of the Report.

PART 2: GOVERNMENT RESPONSE & THE STATE’S HUMAN RIGHTS OBLIGATIONS

1. The State’s human rights obligations

INFORMATION POINT: STATE HUMAN RIGHTS OBLIGATIONS

The Government has to:		
Respect	Protect	Fulfil
<i>Refrain</i> from interfering with the enjoyment of the right	<i>Prevent</i> others from interfering with the enjoyment of the right	<i>Adopt</i> appropriate measures towards the full realisation of the right

Source: OHCHR, Factsheet 33, Frequently Asked Questions on Economic, Social and Cultural Rights, <https://www.refworld.org/docid/499176e62.html>.

Samoa’s Constitution guarantees certain fundamental rights and freedoms of citizens including among others the Right to life (Article 5), Rights regarding freedom of speech, assembly, association, movement and residence (Article 13), and Freedom from discriminatory legislation (Article 15).²¹ Human rights are also safeguarded in several national laws and policies.²² The Pathway for the Development of Samoa under its Key Strategic Outcome 3 on security and trusted governance provides that, “the Government will seek to ensure protection of individual rights to decision making as stipulated under various legislations and in conjunction with the Constitution of the Government of Samoa”²³.

Article 106 (3) of Samoa’s Constitution limits the application of these rights when SOE orders that are necessary or expedient for securing the public safety, for maintaining public order and the supplies and services essential to the life of the community, and generally for safeguarding the interests and maintaining the welfare of the community, come into effect.

International human rights law permits in an emergency that threatens the life of the nation, that certain rights can be derogated or suspended i.e. limited or restricted.²⁴ The emergency must be officially proclaimed, and such measures must:²⁵

- only be taken to the extent strictly required by the exigencies of the situation;

²¹ Other fundamental rights contained in the Constitution include: Right to personal liberty (Article 6), Freedom from inhuman treatment (Article 7), Freedom from forced labour (Article 8), Right to a fair trial (Article 9), Rights concerning criminal law (Article 10), Freedom of religion (Article 11), Rights concerning religious instruction (Article 12), Rights regarding property (Article 14).

²² Examples of legislations include the *Labour and Employment Relations Act 2013* provides for non-discrimination in the workplace, the *Education Act 2009* provides for the right to education for children of compulsory school-age, and the *Family Safety Act 2013* provides for the protection from family violence. Examples of policies supporting human rights include the *Child Care and Protection Policy 2020-2030* providing for protection of children from violence, *National Policy on Gender Equality and Rights of Women and Girls 2021-2031* which aims to realize gender equality and empower all women and girls of Samoa, and the *National Policy for Persons with Disabilities 2021-2031* advancing a human rights based approach in facilitating the inclusive development of persons with disabilities in Samoa.

²³ See *Pathway for the Development of Samoa FY2021/22-FY 2025/26*, <https://www.mof.gov.ws/wp-content/uploads/2022/02/Pathway-for-the-Development-of-Samoa.pdf>.

²⁴ Human Rights Committee (HRC), *General Comment No. 24: State of Emergency Article 4 of the ICCPR*, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2F21%2FRev.1%2FAdd.11&Lang=en.

²⁵ United Nations, “COVID-19 and Human Rights We are all in this together”, April 2020, <https://unsdg.un.org/sites/default/files/2020-04/COVID-19-and-Human-Rights.pdf>.

- not be inconsistent with other obligations under international law;
- be time-limited; and
- not discriminate.

No derogation is permitted from certain specified rights, including the right to life.

While derogation of duties will mean that the State can adopt exceptional measures (that meet the requirements of legality, necessity and proportionality, and be non-discriminatory) to protect public health that may restrict certain human rights²⁶, it is still required to ensure that it does all it can to ensure that the most fundamental and basic rights are still respected, protected and fulfilled.²⁷

At the start of the pandemic in March 2020 a state of emergency was declared in Samoa similar to many countries around the world. Exceptional measures (justified under any state of emergency but following the requirements provided above including proportionality and legitimacy) were adopted to deal with the pandemic derogating some the state's human rights obligations. Discussions on the issuing of Samoa's state of emergency and measures imposed by the Government to respond to COVID-19 are provided in the below sections.

2. Proclamation of Emergency and State of Emergency (SOE) Orders

On 21 March 2020 the Head of State (HoS) issued the first Proclamation declaring Samoa to be in a State of Emergency (Proclamation of Emergency) in response to the COVID-19 pandemic and continues to be effective to date.

Article 105 of the Constitution of Samoa empowers the HoS to declare a state of emergency when the security or economic life of Samoa is threatened. The Proclamation of Emergency is effective for 30 days and can be extended if required.

Article 106 (1) allows the HoS to make SOE orders from time to time as appears necessary or expedient for securing public safety. SOE orders may empower or provide for empowering authorities, persons or classes of persons as may be specified in the SOE orders to make regulations, rules or by-laws for any of the purposes for which the SOE orders are authorised. Such regulations, rules or by-laws, may contain certain restrictions on the rights of citizens. Restrictions on rights must however be necessary, legitimate and proportionate. The COVID-19 pandemic has made the issuing of SOE orders by the Government necessary.²⁸ These SOE orders continue to be effective as of June 2022.²⁹

²⁶ HRC, *General Comment No. 24: State of Emergency Article 4 of the ICCPR*,

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.11&Lang=en.

²⁷ In doing so, states must refrain from interfering with or limiting the enjoyment of human rights (respect), interfere in order to protect individuals and groups against human rights abuses by others (protect), and must take positive measures to facilitate the enjoyment of human rights such as the provision of basic needs such as food, water and health care (fulfil) – see UN Office of the High Commissioner for Human Rights (OHCHR), *Fact Sheet No. 33, Frequently Asked Questions on Economic, Social and Cultural Rights*, December 2008, No. 33, <https://www.refworld.org/docid/499176e62.html>.

²⁸ See **Part 5** which provides a compliance assessment of the Government's response with human rights principles of necessity, legitimacy and proportionality et al.

²⁹ See Government of Samoa webpage for all the latest SOE Orders issued by the Government here:

<https://www.samoagovt.ws/category/novel-coronavirus-covid-19/covid-19-state-of-emergency-soe-orders/>.

3. Government response to COVID-19 in Samoa

It is essential that responses to COVID-19 be aligned with Samoa’s Constitution, domestic laws that safeguard human rights, and international human rights treaties to which Samoa is a party.

Since the beginning of the COVID-19 pandemic in 2020, the Government has been rapid with its response introducing innovative and often times unprecedented measures to keep Samoa safe. Extensive public health campaigns, restrictions on freedom of movement and social interaction, targeted economic stimulus packages and mandatory vaccination campaigns are a few of these measures. However, measures to protect public health and citizens’ right to health can have a negative impact on another person’s right to health or on other human rights, such as freedom of movement and assembly, the right to education, the right to employment and non-discrimination.³⁰

To get a better understanding of measures undertaken by the Government to date to manage the pandemic in Samoa, below is a brief chronology of events gathered from official government information sources.

INFORMATION POINT: CHRONOLOGY OF EVENTS ON COVID-19 IN SAMOA

Note: the list of events below is not exhaustive, it contains some of the key events on COVID-19 in Samoa especially measures taken by the Government to respond to the virus

<i>November 2019</i>	→ COVID-19 detected in Wuhan China.
<i>February-March 2020</i>	→ The Government of Samoa introduced strict rules including halting international flights, and sea vessels except those bringing oil and good supplies. Restricted travel with returning citizens only being allowed to enter Samoa. Those returning required quarantining for 14 days. Gatherings on Sundays were banned.
<i>April 2020</i>	→ Stimulus measures including relief package for hoteliers ³¹ support for individuals and families, as well as SNPF members. ³²
<i>June 2020</i>	→ Relaxation of restrictions in country only. Borders remained closed.
<i>November 2020</i>	→ First suspected case in managed isolation.
<i>April 2021</i>	→ Vaccination for 18-84 years rollout.
<i>April-May 2021</i>	→ Support for agriculture farmers. ³³
<i>August 2021</i>	→ 2-day mass vaccination campaign for 18-84 years.

³⁰ See **Part 3** which discusses the ‘impacts of COVID-19 and the Government’s measures’ on rights and freedoms of citizens.

³¹ BDO, “Stimulus Measures”, <https://www.bdo.ws/en-gb/services/special-events/covid-19-crisis-hub/government-support-measures>, accessed 10 February 2022.

³² Samoa National Provident Fund, “SNPF Concessionary Assistance – COVID 19”, *Press Release*, https://www.bdo.ws/getmedia/619a1f54-b0e3-4384-9e6c-364b2c2a07d1/SNPF-COVID-19-PR_ENG.pdf.aspx.

³³ Samoa Global News, “Over 1,300 Farmers and Fishers Approved to Receive Grant Assistance”, *Samoa Global News* (18 April 2021) <https://samoaglobalnews.com/over-1300-farmers-and-fishers-approved-to-receive-grant-assistance/>. See also SPC, “New poultry units to boost Samoa livestock industry”, *News* (12 October 2021) <https://www.spc.int/updates/news/media-release/2021/10/new-poultry-units-to-boost-samoa-livestock-industry>.

October 2021	→ Quarantine period for returning travellers extended from 14 days to 21 days. Vaccination of 12-17 years old rollout. ³⁴
November 2021	→ Tourism stimulus assistance package 3. ³⁵
December 2021	→ Private sector stimulus package. ³⁶
January 2022	→ More than 20 positive cases detected including those in managed isolation from people returning from Australia and frontline workers.
22 January 2022	→ First nation-wide lockdown with strict restrictions. Only essential services were allowed to operate (does not include private health care and pharmacies). Shops had limited opening hours.
29 January 2022	→ Lockdown lifted and all restrictions lifted. Samoa moves from Alert level 3 to Alert level 1.
29 January 2022	→ Samoa Medical Association raised concerns of a potential community outbreak and encouraged the Government to undertake community testing.
February 2022	→ Managed isolation breach by nurse and driver.
5 March 2022	→ Vaccination of 5-11 years commence.
13 March 2022	→ Booster vaccination halted due to lack of vaccine doses.
17 March 2022	→ First community case detected.
18 March 2022	→ Community testing commence but in two locations only.
19 March 2022	→ Samoa at Alert Level 3: Nation-wide lockdown for 3 days, with restrictions eased on businesses (banks, pharmacies, gas and petrol stations, wholesales and supermarkets) to operate in addition to essential services. Community testing opened and booster vaccinations recommence.
22 March 2022	→ Nationwide lockdown extended to 5 April 2022 and zoning activated.
31 March 2022	→ Quarantine period for returning travellers reduced to 7-10 days instead of 21 days.
2 April 2022	→ SVSG gets grant to assist with violence prevention. ³⁷

³⁴ Adel Fruean, “Children receive first Pfizer vaccines”, *Samoa Observer* (23 October 2021) <https://www.samoaoobserver.ws/category/samoa/93540>.

³⁵ Samoa Tourism Authority, “Tourism Industry Welcomes Launch of Government Stimulus Assistance”, *News Release* (3 December 2021) <https://www.samoatourism.org/articles/373/tourism-industry-welcomes-launch-of-government-stimulus-assistance>. Packages 1 and 2 were awarded in 2020 which included the freezing payments for the Samoa National Provident Fund (SNPF) and the Accident Compensation Corporation (ACC) for six months for tourism sector businesses including accommodation providers, restaurants, travel agents, tour operators, rental vehicles, tourism sites and activity providers (Package 1), and the reduced rates on electricity usage for three months among other assistance (Package 2) – see Government of Samoa, “Government relief assistance announced for Tourism Sector COVID-19”, <https://www.samoagovt.ws/2020/04/government-relief-assistance-announced-for-tourism-sector-covid-19/>.

³⁶ Ministry of Commerce Industry and Labour, “Government COVID-19 assistance for private sector”, *Public Notice* (February 2022) https://www.mcil.gov.ws/storage/2022/02/COVID19-Assistance_Public-Notie-English-Version-Samoa-Versiion.pdf.

³⁷ Government of Samoa, “Official Signing of the Government of Samoa/SVSG Funding Agreement on Efforts to Eliminate Violence Against Women and Girls”, *Government of Samoa Official Facebook page* (2 April 2022), <https://m.facebook.com/samoagovt/videos/official->

4 April 2022	→ Alert Level 3 downgraded to Alert Level 2 for two weeks with amendments. Amendments include opening hours for businesses from 6am – 2pm from Monday to Saturday, church services and funerals allowed but with a maximum number of 30 people. Other gatherings allowed with a maximum of 15 people only. Schools still closed and children under 12 years old are banned from public places. All public services reopen from 8am – 2pm. Community testing and vaccination roll-out continue. ³⁸
11 April 2022	→ Stimulus measures regarding SNPF interest for contributors and 13 CSOs/NGOs. ³⁹
19 April 2022	→ Samoa remains at Alert Level 2 for another two (2) weeks with further amendments. Amendments include opening hours for businesses to be from 6am – 8pm Monday to Saturday and Sunday from 12pm – 8pm. Curfew for movement commences from 10pm – 6am. Public gatherings are capped at 50 people for indoor and 100 people for outdoors activities. Schools remain closed. ⁴⁰
3 May 2022	→ Samoa remains at Alert Level 2 for another two (2) weeks with further amendments. ⁴¹ Only university to reopen. Business opening hours from 6am – 10pm. Curfew for movement commences from 11pm – 6am. Businesses open on Sundays from 12pm – 10pm. Public gatherings are open with no limit in number but health measures are to be observed. Returning citizens can enter Samoa for any purpose. Opening of international borders to take place in August-September
16 May 2022	→ Samoa remains at Alert Level 2 for another two (2) weeks with further amendments. Amendments include removal of curfew hours which now allow people greater mobility throughout the whole day. Opening of our national borders to everyone on the 1 August 2022. The resumption of Colleges, Post-Secondary Education Training on 18 May, 2022, primary schools on the 30 May, and pre-schools on the 4 July, 2022. ⁴²
30 May 2022	→ Alert Level 2 downgraded to Alert Level 1 with Amendments. Amendments include, businesses to return to normal opening hours from Monday to Sunday. Children under five (5) years old are now allowed in public places conditional on adherence to health

[signing-of-the-government-of-samoasvg-funding-agreement-on-efforts-to-/664809841462271/](https://www.samoasvg-funding-agreement-on-efforts-to-/664809841462271/). See also Adel Fruean, “Government, S.V.S.G. sign off on \$500,000 funding”, *Samoa Observer* (2 April 2022), <https://www.samoasvg-funding-agreement-on-efforts-to-/664809841462271/>.

³⁸ Hon. Prime Minister, “Samoa’s COVID-19 Alert Level 3 downgraded To Alert Level 2”, *Government of Samoa Official YouTube Channel* (4 April 2022), <https://www.youtube.com/watch?v=5GaxiZ3NENI>.

³⁹ Adel Fruean, “S.N.P.F. Board approves \$42M interim interest payment”, *Samoa Observer* (11 April 2022), <https://www.samoasvg-funding-agreement-on-efforts-to-/664809841462271/>.

⁴⁰ Special Announcement from the Office of the Prime Minister, Government of Samoa Official Facebook page (19 April 2022), <https://www.facebook.com/samoagovt/videos/358410456235748>.

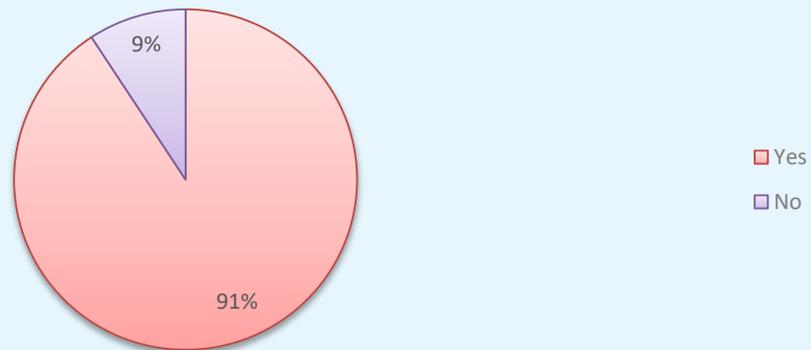
⁴¹ Special Announcement from the Office of the Prime Minister, Government of Samoa Official YouTube Channel (2 May 2022), https://www.youtube.com/watch?v=SDCZw4l4V_8.

⁴² Special Announcement by the Hon. Prime Minister, Fiame Naomi Mataafa: Next Steps for Covid-19 Alert Levels in Samoa (16 May 2022), <https://www.samoasvg-funding-agreement-on-efforts-to-/664809841462271/>.

requirements. Resumption of daily flights from American Samoa to Apia. Continued encouragement of the wearing of facial masks, social distancing and good hygiene.⁴³

Source: information taken from Government of Samoa COVID-19 webpage and official Facebook page, and the Ministry of Health website and official Facebook page

Govt response necessary/proportionate/ reasonable



There were mixed responses from our consultations and submissions received regarding the proportionality, necessity and reasonableness of measures undertaken by the Government to the pandemic. While majority provided that it was necessary; there were also some that revealed that some of the measures were disproportionate or unreasonable as shown in the graph above.

Those who supported measures imposed by the Government as being necessary and proportionate provided that:

- The closure of borders helped kept the virus out of Samoa⁴⁴
- Having MIQ was necessary to stop the virus from spreading into the community⁴⁵
- The mass vaccinations campaigns was really good as it helped increase the reach especially to rural communities⁴⁶

On the contrary, those who criticised the Government’s response for being disproportionate and unnecessary expressed that:

- the continued closure and restrictions of borders despite most of the population being doubled vaccinated is disproportionately affecting businesses and the economy⁴⁷
- the requirement to show vaccine cards at shops and many public places is disproportionate and affects our rights to health and access to basic services such as food⁴⁸

⁴³ Address by the Prime Minister, Afioga Fiaame Naomi Mataafa: Alert Level 2 Downgraded to Alert Level 1 with Amendments (30 May 2022), <https://www.samoagovt.ws/2022/05/address-by-the-prime-minister-afioga-fiaame-naomi-mataafa-alert-level-2-downgraded-to-alert-level-1-with-amendments-monday-30th-may-2022/>. Government of Samoa, State of Emergency Order No. 80 (31 May 2022), <https://www.samoagovt.ws/wp-content/uploads/2022/05/order-80.pdf>.

⁴⁴ NHRI Samoa, SHRR 2022 community consultations, *Youth group Upolu* (16 March 2022).

⁴⁵ Submitter EB, *Written submission* (8 March 2022).

⁴⁶ NHRI Samoa, SHRR 2022 community consultations, *Youth group Savaii* (14 March 2022).

⁴⁷ Adele Kruse, *Written submission* (9 March 2022).

⁴⁸ Daniel, *Written submission* (14 January 2022); Ben H, *Written submission* (2 March 2022); Matz, *Written submission* (March 2022).

- the lockdowns and curfew times has disproportionately affected many businesses pushing them into economic hardship impacting revenue and loan repayments⁴⁹
- the opening hours for shops during the March 2022 lockdown were unrealistic and problematic as not everyone got served and there was extreme overcrowding⁵⁰
- families with low economic status did not afford to bulk purchase food when shops were open every 2 – 3 days
- the amended curfew times imposed on 19 April 2022 for transportation for instance was confusing and highlighted poor planning as many people finished work at 2pm which was also the time that people were banned from moving about on public roads.⁵¹ *Note this was later amended on 19 April 2022 to 6am-8pm and allowing 2 hours (8pm-10pm) for people to travel home.*⁵² *On 3 May this was further amended to 6am-10pm and 1 hour for travelling.*⁵³

Most of the above issues have been addressed via recent amendments to the SOE orders. The amendments were heavily influenced by concerns and criticisms from members of the public. As of the 31 May 2022, *SOE order No. 80* provides that people are able to move about freely, businesses are permitted to operate normal business hours, public gatherings have no limit regarding number of people, schools re-opened starting with colleges, international travel will commence in August/September. However, the showing of vaccine cards, maintaining social distancing, wearing of face masks remain mandatory in public places.⁵⁴

The measures imposed by the Government are explained in detail below.

a) Travel ban

In February-March 2020, the Government imposed a ban on international travel by plane coming in and going out of Samoa. Citizens and visitors alike were prevented from entering and leaving Samoa unless approved by Cabinet in exceptional circumstances. Through this exception, flights bringing cargo and taking cargo outside of Samoa were allowed from time to time as well as returning Samoan residents that were held up in overseas countries when the lockdown started. Travel bans were also taken by many countries across the world to manage the spread of the virus.

The closing of borders for Samoa although greatly impacted on the freedom of movement of many, was considered by the Government necessary to keep COVID-19 out, which Samoa managed to do for two years. Restrictions of travel started to ease in 2021 where seasonal workers were able to travel overseas for work and for expats to return to their home countries. Returning citizens as well as essential workers were also permitted to enter Samoa. Those entering as of 21 April 2022 were urged to have their booster doses done prior to boarding.⁵⁵

⁴⁹ Submitter EB, *Written submission* (8 March 2022); Samoa Business Hub (SBH), *Clients Impact Assessment*, 16 December 2021 (on file).

⁵⁰ NHRI Samoa, SHRR 2022 community consultations, (14 and 16 March 2022).

⁵¹ Ganasavea Manuia Tafeaga, "Public Confused Over SOE Orders Prohibiting Road Travel after 2pm", *Samoa Global News* (6 April 2022), <https://samoaglobalnews.com/public-confused-over-soe-orders-prohibiting-road-travel-after-2pm-level2/>.

⁵² Government of Samoa, *State of Emergency Order No. 77*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/order-77.pdf>.

⁵³ Government of Samoa, *State of Emergency Order No. 78*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/Order-78.pdf>. See also Special Announcement by the Hon. Prime Minister, Fiaame Naomi Mataafa (2 May 2022), https://www.youtube.com/watch?v=SDCZw4l4V_8.

⁵⁴ Government of Samoa, *State of Emergency Order No. 80*, <file:///C:/Users/dean.c/Downloads/order-80.pdf>.

⁵⁵ Adel Fruean, "Health issues revised travel advisory as COVID cases soar", *Samoa Observer* (22 April 2022), https://www.samoaoobserver.ws/category/samoa/98031?utm_content=bufferce790&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

The majority of those consulted during community consultations in March 2022 prior to the community outbreak on 18 March 2022 stated that the Government should not re-open the borders to avoid the diseases spreading.⁵⁶

On 3 May 2022, revisions to the SOE orders provided that Samoan citizens following health protocols can now travel to Samoa for any reason and international travel will be back in operation in August/September.⁵⁷ The new changes were met with mixed feelings and criticism from members of the public. For example, some provided that while re-opening Samoa's borders would be beneficial for the economy and tourism, the continuous rise in COVID-19 infections creates concern.⁵⁸ Others provided that the re-opening of borders poses the risk of emerging variants entering the country and which Samoa may not be ready to manage. Therefore, the Government needs to be vigilant of the dangers posed by emerging variants when considering the re-opening of international borders.⁵⁹

b) Lockdowns and stay-at-home instructions

Restrictions on the freedom of movement by way of lockdowns or stay-at-home instructions was the common public health measure taken by states including Samoa against COVID-19. The lockdown meant people were not allowed to move/travel freely outside of their homes during certain hours, businesses and government offices were closed except for essential services. Public gatherings (including church, sports, bars, restaurants etc.) were not permitted to open. Such measures were considered by the Government a practical and necessary method to stop virus transmission, prevent health-care services becoming overwhelmed, and thus save lives.⁶⁰

Samoa has had two nationwide lockdowns one in January 2022 and the other in March 2022. The January 2022 lockdown was activated as a result of the detection of more than 15 positive cases in managed isolation. The detection of Samoa's first community case triggered the second lockdown in March. While the purpose of the lockdowns was to contain transmission and protect the right to life, it had a severe impact on jobs, livelihoods and access to services, including health care and education.⁶¹

c) Vaccines

Being vaccinated is a human rights measure in itself. States under international human rights laws are to recognise the "right of everyone to the enjoyment of the highest attainable standard of physical and mental health" by taking steps necessary for the "prevention, treatment and control of epidemic, endemic, occupational and other diseases"⁶². One of these prevention measures is providing immunisation.

⁵⁶ NHRI Samoa, SHRR 2022 community consultations, (14 and 16 March 2022).

⁵⁷ Government of Samoa, *State of Emergency Order No. 78*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/Order-78.pdf>.

⁵⁸ Fuimaonno Lumepa Hald, "Mixed reaction to border reopening by beach fale owners", *Samoa Observer* (3 May 2022) https://www.samoobserver.ws/category/samoa/98151?utm_content=bufferc148a&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer&fbclid=IwAR0JxxbulXDmr27v3wZngBqS1wu8UT0RevIzOboWaD9M9n9q3JYP3Us87rY.

⁵⁹ Matai'a Lanuola T-Ah Tong, "Be vigilant of COVID-19 variants, says Tuilaepa", *Samoa Observer* (2 May 2022), https://www.samoobserver.ws/category/samoa/98138?utm_content=buffer0ce30&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

⁶⁰ United Nations, "COVID-19 and Human Rights We are all in this together", April 2020, <https://unsdg.un.org/sites/default/files/2020-04/COVID-19-and-Human-Rights.pdf>, p.4.

⁶¹ See United Nations, "COVID-19 and Human Rights We are all in this together", April 2020, <https://unsdg.un.org/sites/default/files/2020-04/COVID-19-and-Human-Rights.pdf>, p.4. See **Part 3** for more information on the impact of COVID-19 and government measures on rights and freedoms.

⁶² See Article 12 *International Covenant on Economic, Social and Cultural Rights*. Samoa has endorsed the WHO Global Vaccine Action Plan, <https://www.who.int/teams/immunization-vaccines-and-biologicals/strategies/global-vaccine-action-plan>.

The World Health Organization (WHO) provided that immunisation is a “core health service” that should be prioritised and safeguarded during the COVID-19 pandemic, where feasible.⁶³ Samoa has endorsed the WHO Global Vaccine Action Plan.⁶⁴

*Rolling out the Covid-19 vaccine is a reasonable and necessary step to protect people from a real and immediate threat such as the Covid-19 which is about protecting the right to health.*⁶⁵

In April 2021, the Government with the assistance from donor partners began its vaccine roll-out for those 18 years and above.⁶⁶ This was followed by vaccination of individuals aged 12-17 years in October 2021, and children between the ages of 5-11 years in March 2022.

Access to vaccines in Samoa has not been a problem with everyone eligible to get vaccinated receiving inoculation at various sites set up by the MOH. There has been two mass vaccination roll outs since 2021 where there was a nation-wide shutdown of services and medical officials travelled to districts to administer door to door vaccinations allowing for greater access. Apart from the mass vaccination roll outs, the MOH after the community outbreak on 17 March 2022 rolled out its vaccination services to schools and districts.

As of 30 May 2022, the Government reported that there has been extensive vaccination coverage for all age groups. For instance,⁶⁷

- 93.1% of the age group 18 years and above have completed two doses. Among this age group, 70,439 booster doses have been administered.
- 89.7% of children in the 12-17 years old eligible for the vaccines have had their two doses.
- From the 5-11 year old age group, 87.6% have had their two doses.

While getting a COVID-19 vaccine in Samoa is voluntary and not to be forcibly administered, current SOE orders implicitly makes vaccination compulsory through the showing of proof of vaccination, in order to enter certain public places. See section on ‘**Vaccine cards**’ below.

NHRI Samoa strongly encourages individuals to fully consider the consequences of their decisions on their health and their responsibility to others. COVID-19 vaccines provide strong protection against serious illness and death caused by the virus. By getting vaccinated you can protect yourself

⁶³ WHO, “Guiding principles for immunization activities during the COVID-19 pandemic”, *Interim Guidance* (26 March 2020), https://apps.who.int/iris/bitstream/handle/10665/331590/WHO-2019-nCoV-immunization_services-2020.1-eng.pdf.

⁶⁴ See WHO Global Vaccine Action Plan, <https://www.who.int/teams/immunization-vaccines-and-biologicals/strategies/global-vaccine-action-plan>.

⁶⁵ See WHO, “COVID-19 vaccines”, <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/covid-19-vaccines>, accessed 10 February 2022.

⁶⁶ UNICEF, “Australia-UNICEF’s COVID-19 Vaccine Support to Samoa”, *Press Release* (6 April 2022), <https://reliefweb.int/report/samoa/australia-unicef-s-covid-19-vaccine-support-samoa>; Official website of the New Zealand Government, “New Zealand donates more COVID-19 vaccines to COVAX and the Pacific”, *Press Release* (24 September 2022), <https://www.beehive.govt.nz/release/new-zealand-donates-more-covid-19-vaccines-covax-and-pacific>; WHO Western Pacific, “Samoa receives 24,000 doses of COVID-19 vaccines through the COVAX facility”, *News Release* (9 April 2021), <https://www.who.int/westernpacific/about/how-we-work/pacific-support/news/detail/09-04-2021-samoa-receives-24-000-doses-of-covid-19-vaccines-through-the-covax-facility>.

⁶⁷ See Government of Samoa, Address by the Prime Minister, Afioga Fiaame Naomi Mataafa: Alert Level 2 Downgraded To Alert Level 1 with Amendments (30 May 2022), <https://www.samoagovt.ws/2022/05/address-by-the-prime-minister-afioga-fiaame-naomi-mataafa-alert-level-2-downgraded-to-alert-level-1-with-amendments-monday-30th-may-2022/>.

and others.⁶⁸ See issues relating to vaccines discussed further in **Part 3(2)(a)** below in the section on ‘right to health’.

d) Vaccine cards

A vaccination card is an official proof someone is fully vaccinated for COVID-19.

In December 2021, the Government in its efforts to ensure the safety of the public who entered the hospital introduced a policy (which is now in the SOE orders) requiring members of the public who visited the Tupua Tamasese Meaole and Tuasivi Hospitals to provide proof of vaccination before being allowed entry.⁶⁹

In January 2022, the Government further proposed that the requirement to show proof of vaccination was also to be enforced in the workplace (public services) starting 1 February 2022 and those who do not provide such proof will not be able to work.⁷⁰ Showing proof of vaccination will also be made mandatory for students when they return to school.⁷¹ Majority of businesses have also put in place similar measures of showing proof of vaccinations for its employees and also members of the public when they enter their stores.⁷² Public places such as churches and public transport also require proof of vaccinations.

Requiring a proof of vaccination status to access services or enter a public venue engages several human rights, such as access to services and freedom of movement and assembly. NHRI Samoa received more than five complaints and submissions regarding the denial of access to health care, public service buildings and supermarkets as a result of not having vaccine cards.

Mandating and requiring proof of vaccination to protect people at work/public places and/or when receiving services including health care is generally permissible under international human rights laws. However, it is important that there is reasonable accommodation especially for those who are not able to be vaccinated due to *health*-related reasons.⁷³

Proof of vaccine policies that result in people being denied equal access to health, education and/or employment or services on justified grounds, should only be used for the shortest possible length of time. Such policies might only be justifiable during a pandemic. They should regularly be reviewed and updated to

⁶⁸ WHO, “COVID-19 vaccines provide strong protection against serious illness and death caused by Omicron”, Facebook post (5 May 2022), <https://www.facebook.com/WHO/photos/a.167668209945237/5420557857989553/?type=3&theater>.

⁶⁹ Samoa Ministry of Health, December 2021 – COVID-9 and Health care facilities: <https://www.health.gov.ws/covid-19/>. See Video regarding COVID-19 protocols when entering hospital including conducting COVID-19 tests upon arrival before entry - <https://www.youtube.com/watch?v=OFidR5jggj8>.

⁷⁰ See Government of Samoa, State of Emergency order No. 65, <https://www.samoagovt.ws/2022/01/order-66-poloaiga-o-faalavelave-faafuasei-numera-66/>. The Government through NEOC has also strongly encouraged private businesses to ensure that they put in place similar measures for the safety of their employees and members of the public.

⁷¹ See Government of Samoa COVID-19 webpage: <https://www.samoagovt.ws/category/novel-coronavirus-covid-19/>. Samoa Ministry of Health advice – What prevention measures should be implemented in schools to prevent the spread of COVID-19? <https://www.health.gov.ws/covid-19/>. See also Matai’a Lanuola Tusani T - Ah Tong, “Vaccine cards mandatory for public servants next month”, <https://www.samoaoobserver.ws/category/samoa/96680>.

⁷² See Government of Samoa, State of Emergency order No. 65, <https://www.samoagovt.ws/2022/01/order-66-poloaiga-o-faalavelave-faafuasei-numera-66/>. See also Samoa Ministry of Health advice - How can workplaces and businesses prevent COVID-19 transmission in the Workplace? <https://www.health.gov.ws/covid-19/>.

⁷³ See for example, New Zealand Ministry of Health, “COVID-19: Exemptions from mandatory vaccination”, <https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-response-planning/covid-19-mandatory-vaccinations/covid-19-exemptions-mandatory-vaccination>.

*match the most current pandemic conditions and to reflect up-to-date evidence and public health guidance.*⁷⁴

It has been a great challenge throughout the pandemic for countries to uphold individual human rights while trying to collectively protect the general public. It is crucial that the Government and agencies do their best to balance the rights of people who have not been vaccinated due to a health-protected ground, such as disability or a medical condition, while ensuring individual and collective rights to health and safety.⁷⁵ Proof of vaccine should not in any way limit access to essential services including health care for people who are unable to be vaccinated for medical reasons.

It is anticipated that proof of vaccination will continue for some time and while this is necessary for the time being, it is important that they should be used for the shortest possible length of time.

i. Duty to accommodate for medical/health-related reasons

Unless it would significantly interfere with people’s health and safety, people who are unable to receive a COVID-19 vaccine for *health*-related reasons must be reasonably accommodated.

It is unclear whether exemptions as such are applied and practiced in Samoa.⁷⁶ However, it should be the case that under any vaccine regime, people who are exempted must provide written confirmation from their doctors stating that they are exempted for a medical reason from being fully vaccinated and how long this would apply.⁷⁷ In the context of seeking medical care and for those who have not been vaccinated at all but still require *urgent* care, it is crucial that a system be put in place where such persons are still treated without being denied or turned away.⁷⁸

Overall, when enforcing vaccine mandates or proof of vaccination policies, the Government and agencies should consider taking proactive steps to ensure that specific individuals are not discriminated and/or disproportionately targeted.

INFORMATION POINT: WHAT IS REASONABLE ACCOMMODATION?

The human rights principle of equality makes it wrong to treat people differently based on certain grounds such as age, gender etc. There are, however, some situations where different treatment can be justified. Human rights laws recognize that to overcome discrimination, positive actions may be needed to help others in more vulnerable situations to be able to access services without barriers. These positive actions can be called ‘reasonable accommodation’.

Reasonable Accommodation refers to an adjustment or modification (that an employer/business/Ministries makes) to process/protocols/systems and based on a proven need to accommodate or provide or give a person with a disability or other vulnerable groups equal and continued access to services and opportunities.

⁷⁴ See OHCHR, *COVID-19 Guidance*, <https://www.ohchr.org/EN/NewsEvents/Pages/COVID19Guidance.aspx>. See also for example, British Columbia’s Office of the Human Rights Commissioner, *A human rights approach to proof of vaccination during the COVID-19 pandemic: Policy Guidance*, July 2021, <https://bhumanrights.ca/wp-content/uploads/COVID-19-vaccine-guidance-Oct.-2021-update.pdf>.

⁷⁵ See British Columbia’s Office of the Human Rights Commissioner, *A human rights approach to proof of vaccination during the COVID-19 pandemic*, October 2021, <https://bhumanrights.ca/wp-content/uploads/COVID-19-vaccine-guidance-Oct.-2021-update.pdf>.

⁷⁶ Note: NHRI Samoa made several attempts for an interview with the MOH with no success as of the date of finalising this report for publication.

⁷⁷ Samoa Ministry of Health - <https://www.health.gov.ws/covid-19/>.

⁷⁸ Consultations with NEOC provided that unvaccinated people are still allowed access to medical treatment and are not turned away.

Some accommodation measures may include:

- Modifying processes to ensure access and service for persons with disabilities, pregnant women, elderly etc.
- Granting of access to the unvaccinated public who require access to medical care.
- Create vaccination exemption proof cards for those unable to be vaccinated to allow them to access services on the same terms as vaccinated people.
- Putting in place measures that specifically cater for the vaccination of pregnant women, children and the elderly;
- Making available facilities for treatment of elderly, children, and persons with disabilities etc.

What is reasonable in any situation depends on factors including the legal provisions that may apply, the facts of a particular case, any costs involved, and whether the required actions could pose a risk to other people.

Source: Disability Rights California, "COVID-19: Reasonable Accommodations COVID-19 and work", <https://www.disabilityrightsca.org/post/coronavirus-reasonable-accommodations> (9 June 2020). See also Article 33 Convention Coalition Monitoring Group, New Zealand Human Rights Commission, Ombudsman New Zealand, Reasonable accommodation of persons with disabilities in New Zealand, https://www.hrc.co.nz/files/7814/4848/7923/imm_reasonable_accommodation_guide.pdf.

e) Face masks/coverings

In addition to showing proof of vaccination via vaccination cards, the Government under its SOE orders has also made it mandatory for members of the public to wear face masks/coverings especially in public places. This means that businesses, organizations and other entities can refuse entry or services to people who do not wear face masks. MOH has advised that wearing of face masks, especially in crowded and enclosed places helps protect oneself from COVID-19 and is necessary to ensure the protection of others.⁷⁹ It is unclear from government measures whether there are any exemptions to this requirement.

Similar to vaccine cards, the compulsory wearing of face masks are generally permissible under human rights laws and one of the most effective ways according to health professionals for containing the spread of the virus.⁸⁰ However human rights law also provide that positive actions may be needed to help others in more vulnerable situations to be able to access services without barriers.⁸¹ Therefore, people who cannot wear a mask due to medical reasons, disability or a condition that makes wearing a mask unsuitable, can be exempted (similar to the proof of vaccination).

People who object to face coverings due to their personal or singular beliefs are not exempted which in other words can be refused access.

f) Social distancing

Social distance measures were also put in place to reduce transmission. It was required for many services including public and private businesses. For many, social distancing norms were particularly

⁷⁹ See Ministry of Health website: <https://www.health.gov.ws/covid-19/>. See also Victorian Equal Opportunity & Human Rights Commission, "FAQs: Face masks and human rights", <https://www.humanrights.vic.gov.au/resources/faqs-face-masks-and-human-rights/>.

⁸⁰ See Centres for Disease Control and Prevention, "Masks", <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/masks.html>.

⁸¹ Special Rapporteur on the right to health, "Non-discrimination: groups in vulnerable situations", <https://www.ohchr.org/en/special-procedures/sr-health/non-discrimination-groups-vulnerable-situations>.

disruptive and made the experience unique. From a psychological point of view such measure may negatively affect the social life and, consequently, the emotional state of individuals.⁸²

To society, social distancing presents the dangers of increasing social rejection, growing impersonality and individualism, and the loss of a sense of community. It negatively affects learning and growth, and it prevents people from effectively socializing, which is a fundamental human need. First and foremost, the measures carried a strong psychological message, which is the fear of others, along with the idea that others are potential carriers of deadly germs and life-threatening diseases.⁸³

While the impact on social life was not highlighted in submissions and consultations, concerns were mainly in relation to the enforcement of social distancing where for Samoa was problematic.⁸⁴ For instance, one shop owner provided in a statement to the media that it has been a great challenge especially trying to enforce social distancing in stores. As a solution, the shop owner suggested for the Government to consider designating different businesses COVID-19-free in order to get customers to feel more confident about their safety when shopping.⁸⁵ While this is a valid suggestion for public safety, it is important that the setting up of these places does not lead to discrimination in relation to access to services.

The women focus groups during community consultations provided that at the community level, social distancing measures would be impossible to enforce. Therefore, support such as provision of hygiene packages and adequate water supply must be made available to ensure that people maintain good hygiene.⁸⁶

g) Managed Isolation & Quarantine (MIQ)

Citizens and travelers returning to Samoa were required to go into MIQ funded by the Government. Timeframes for MIQ varied from time to time – from 14 days, to 21 days, back to 14 days and as of 2 April 2022 to 10 days.⁸⁷

Since the beginning of MIQ in 2020, exemptions were granted to those who were able to self-isolate at home given that they were able to meet criteria set out by MOH including among others, having a two meter boundary around the house with a secure fence around the property, as well as having a place including a sanitary station for MOH security.

⁸² Fernanda da Fonseca Freitas, Anna Cecília Queiroz de Medeiros, and Fívia de Araújo Lopes, “Effects of Social Distancing during the COVID-19 Pandemic on Anxiety and Eating Behavior—A Longitudinal Study”, *Front. Psychol.* (1 June 2021), <https://www.frontiersin.org/articles/10.3389/fpsyg.2021.645754/full>.

⁸³ Kevin Sikali, “The dangers of social distancing: How COVID-19 can reshape our social experience”, *J Community Psychol.* (16 August 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7461541/>.

⁸⁴ Samoa Global News, “Long Queues and Desperate Crowds Need to Withdraw Cash and Make it to Shops Before Curfew”, (16 March 2022) <https://samoaglobalnews.com/no-social-distancing-observed-as-crowds-rush-to-shops-money-transfers-and-vaccination-sites1/?fbclid=IwAR3xonbrxDQ5YqomYsFXN77JEhP5WARJU2Y86auZICE8C77cq-Jm2akDs1M>.

⁸⁵ The Editorial Board, “A shop owner’s ‘food for thought’ and critical data”, *Samoa observer* (20 April 2022) https://www.samoobserver.ws/category/editorial/98010?utm_content=bufferbb5f0&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

⁸⁶ NHRI Samoa, *SHRR 2022 community consultations* (14 and 16 March 2022). See **Part 2(3)(i)** below on ‘Government Support and stimulus packages’ which highlight Government support to assist with hygiene in communities.

⁸⁷ Government of Samoa, *State of Emergency order No. 78*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/Order-78.pdf>.

Health and safety measures were deployed at MIQ facilities including security guards, conducting of regular testing, providing personal protective equipment (PPE) to MIQ site staff, as well as banning visits from members of the public. Meals were also provided excluding dinner.

While MIQ and home-isolation prevented the spread of the virus into the community, several issues were raised by some regarding the adequacy of safety and health measures especially at MIQ sites.

One submitter provided that many families were still able to visit some MIQ sites to drop off parcels despite being banned due to risk of exposure.⁸⁸ Another noted that some of the health staff who came around to do routine testing did not maintain strict distancing from guests and were able to enter rooms freely.⁸⁹ Another major concern regarding MIQ raised during consultations with CSOs/NGOs was in relation to stress and anxiety.⁹⁰

Furthermore, CSOs/NGOs also raised safety concerns as a result of an incident reported in the media at the beginning of 2022, where a nurse who was in quarantine near the town area left the MIQ site with a driver to go and get money from an A.T.M.⁹¹ Although the government acknowledged the mishap, such incident created reasonable concern among members of the public and health professionals especially with regard to the soundness and robustness of procedures in place at MIQ sites and how well these are being enforced.

This was the second reported case of a person leaving MIQ. The first incident took place in October 2021, when a returning citizen escaped and stayed out of MIQ overnight.⁹² The frontline worker and returning citizen were charged for breaching the SOE orders.

In relation to self-isolation at home, one submitter who returned from New Zealand and who was allowed to quarantine at home having met the MIQ exemption criteria, highlighted a positive experience.

I had no issues isolating at home upon returning from NZ... I found procedures around this and the security really good and felt confident Samoa was in good hands re border control after my experience. There were security guards stationed 24hours ensuring no one visited and there was a safe process for passing me things e.g. food from family that was contactless.⁹³

Recent amendments made on 19 April 2022, allowed for any person who is a forensic pathologist and fully vaccinated to forego MIQ stay.⁹⁴ The rationale for such exemption is to address the urgent need

⁸⁸ Submitter BC, *Written submission* (4 February 2022).

⁸⁹ Submitter XC, *Written submission* (10 December 2021).

⁹⁰ The impact of COVID-19 on the right to health and specifically mental health is further explored in **Part 3(2)(a)** below.

⁹¹ NHRI Samoa, *SHRR 2022 consultations with CSOs/NGOs* (24 February 2022). See also Matai'a Lanuola Tusani T - Ah Tong, "Police probe quarantine breach by nurse and driver", *Samoa Observer* (1 February 2022), <https://www.samoaoobserver.ws/category/samoa/96968>.

⁹² Samoa Global News, "Man Escapes Quarantine Site and Enters Western Union before he is Recaptured", (20 October 2021), <https://samoaglobalnews.com/man-escapes-quarantine-site-and-enters-western-union-before-he-is-recaptured/>.

⁹³ Dr. Malama Tafuna'i, *Written submission* (4 and 7 February 2022).

⁹⁴ Government of Samoa, *State of Emergency order No. 77*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/order-77.pdf>. See also Matai'a Lanuola Tusani T-Ah Tong, "Cabinet to approve passengers exempt from quarantine", *Samoa Observer* (20 April 2022), https://www.samoaoobserver.ws/category/samoa/98009?utm_content=buffer9c446&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer&fbclid=IwAR15X8_Q5siFXSznxviROIQrkDauWFBcjrUVvWnLJ_IzVmbhaXpNtRpo3M.

for post mortems for several deceased bodies that have been held at the hospital for over a year due to not having an in-country forensic pathologist.⁹⁵

Further amendments made on 3 May 2022 provided that only positive travelers will be required to undergo MIQ while those who are negative can self-isolate at home for 10 days as directed by the Director General of Health.⁹⁶

h) Testing

At the start of Samoa's COVID-19 response, testing was limited to MIQ and frontline workers. Routine testing was conducted for those who had returned from overseas as well as frontline workers including medical and border staff. Testing was crucial for detecting positive cases.

Community testing started on the 18 March 2022, after the detection of the first community case on the 17 March 2022.

Prior to the commencement of community testing, several concerns were raised by members of the public as well as medical professionals regarding delay on the Government's part to conduct community testing. In an open letter dated 29 January 2022 to the Minister of Health, the Samoa Medical Association⁹⁷ appealed to the Government to consider undertaking more surveillance testing for COVID-19 in the community⁹⁸ especially after the detection of more than 30 positive cases in MIQ from a flight from Australia which saw Samoa go into its first nation-wide lock-down from 22-29 January 2022.

Consultations with CSOs/NGOs and members of the public in February and March 2022 (prior to the detection of the first community case and the second lockdown) also supported the idea for extensive community testing and revealed that COVID-19 testing should be carried out in all districts to ensure comprehensive coverage.⁹⁹

There was also an issue regarding the high cost of rapid antigen tests (R.A.T) sold at chemist stores with one test costing \$20 tala. This steered many people away from getting tested.¹⁰⁰

To date testing is made available free of charge at the main hospital.

In relation to testing methods, one submitter raised a concern regarding the invasiveness of the procedure used, particularly, the nasal option and proposed the consideration of alternative testing methods such as saliva testing.¹⁰¹

i) Government Support and stimulus packages

To remediate the impact of the pandemic and measures imposed, the Government with the support of its foreign partners has provided assistance in various forms from stimulus packages offered to businesses to financial incentives offered to members of the public, as well as hygiene packages and

⁹⁵ Sunlinesamoa, "Police in Grateful Relief for Chinese Forensic Pathologists", (4 May 2021), <https://newslinesamoa.com/police-in-grateful-relief-for-chinese-forensic-pathologists/>.

⁹⁶ Government of Samoa, *State of Emergency order No. 78*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/Order-78.pdf>.

⁹⁷ The Samoa Medical Association represents most of Samoa's doctors in public and private practice and has a membership of 110.

⁹⁸ Adel Fruean, "Do more COVID-19 tests in community: Medical Association", *Samoa Observer* (29 January 2022),

<https://www.samoobserver.ws/category/samoa/96888>.

⁹⁹ NHRI Samoa, *SHRR 2022 consultations with CSOs/NGOs* (24 February 2022). NHRI Samoa, *SHRR 2022 community consultations* (14 and 16 March 2022).

¹⁰⁰ Submitter TM, *Verbal submission* (23 April 2022).

¹⁰¹ Submitter AR, *Written submission* (4 February 2022).

goods. CSOs/NGOs have also assisted in providing humanitarian support for low income families and frontline workers.

The table below highlights some of the support provided by the Government to assist with addressing the impacts of COVID-19 on businesses and communities.

2020	<p>→ A first stimulus package of USD\$23.6 million was introduced in 11 April 2020 to support, inter-alia, the business sector and tourism related businesses in particular which have laid-off over 500 workers.¹⁰²</p> <p>→ In the 2020/2021 budget tabled in June 2021, the government announced a phase II stimulus package amounting to USD\$29.88m targeted at the individuals and households most affected by the economic shock of the pandemic response. Some of these benefits included:¹⁰³</p> <ul style="list-style-type: none"> ○ \$300 tala one-off special pension to be added to the next monthly pension of \$145 tala; ○ Government to carry 2% of total interest on all loans with every commercial bank for 3months namely NBS, BSP, SCB and ANZ; ○ 10sene reduction in the price of electricity, the Ministry of Finance will carry 7sene and the Electric Power Corporation is to carry 3sene for 6months; ○ 20sene reduction in water rates for 6months which will be covered by the Ministry of Finance. <p>→ There was also a concessionary assistance for members of the Samoa National Provident Fund (SNPF) which included:¹⁰⁴</p> <ul style="list-style-type: none"> ○ One-month refund on member-loans repayments; ○ Six-month moratorium on contribution payments for hospitality sector; ○ Two-month FREE rent for all private-sector SNPF property tenants; ○ 20% early withdrawal for members in the Hospitality sector who have lost employment due to COVID-19.
2021	<p>→ In April-May 2021, over 1,300 farmers and fishermen were approved to receive Grant Assistance from the Government supported by the World Bank and the International Fund for Agriculture Development.¹⁰⁵</p> <p>→ The rollout of COVID-19 vaccines also began in April, 2021, where the governments of NZ, Australia and China provided thousands of doses of</p>

¹⁰² UN in Samoa, *COVID-19 Socio-Economic Response Plan*, 2020, https://reliefweb.int/attachments/d79e6353-d1da-3962-88a7-c710d9f1cfc2/WSM_Socioeconomic-Response-Plan_2020.pdf, p. 8. See also Loop Pacific News, “700 displaced tourism workers benefit from Samoa Government’s stimulus package”, (13 February 2021), <https://www.loopsamoa.com/samoa-news/700-displaced-tourism-workers-benefit-samoa-government%E2%80%99s-stimulus-package-97559>.

¹⁰³BDO, “Stimulus Measures”, <https://www.bdo.ws/en-gb/services/special-events/covid-19-crisis-hub/government-support-measures>, accessed 10 February 2022. See also Hon. Sili Epa Tuioti, “Second Supplementary Budget Address 2019/2020”, (7 April 2020), https://www.bdo.ws/getmedia/b5676db0-4b27-4429-a02d-32c88d2a8ddf/201920-Second-Supp-Speech-to-Parl-English_FINAL.pdf.aspx.

¹⁰⁴ Samoa National Provident Fund, “SNPF Concessionary Assistance – COVID 19”, *Press Release*, https://www.bdo.ws/getmedia/619a1f54-b0e3-4384-9e6c-364b2c2a07d1/SNPF-COVID-19-PR_ENG.pdf.aspx.

¹⁰⁵ Samoa Global News, “Over 1,300 Farmers and Fishers Approved to Receive Grant Assistance”, (18 April 2021), <https://samoaglobalnews.com/over-1300-farmers-and-fishers-approved-to-receive-grant-assistance/>.

	<p>COVID-19 vaccines to assist with the Government’s COVID-19 immunization programme.¹⁰⁶</p> <p>→ In September-November 2021, the Government’s Tourism Stimulus Assistance III enabled many hotel operators to benefit from a SAT\$5 million cash infusion. The assistance benefitted a total of 209 businesses including accommodation providers, tour operators and travel agents who have been allocated a lump sum to help towards operational costs or key priorities.¹⁰⁷</p> <p>→ In December 2021, the Government allocated SAT\$10 million to the private sector with an emphasis on small to medium sized businesses for COVID-19 assistance.¹⁰⁸</p> <p>→ On 16 November 2021, the National Policy Coordination Committee announced that it will be working on an “inclusive policy” that will cover risk allowance for 300 frontline workers who worked during the COVID-19 pandemic.¹⁰⁹ However, as of 8 March 2022, the Cabinet has yet to receive a submission from the Committee that proposes risk allowance be paid for Samoa’s frontline workers.¹¹⁰</p> <p>→ A disability benefit was also included in the Minister of Finance’s 2021/2022 Budget address.¹¹¹ The financial assistance for people with disabilities (PWDs) in the Government’s new budget was welcomed by NOLA especially with the impacts of COVID-19 on PWDs.¹¹²</p>
<p>2022</p>	<p>→ On 2 April 2022, Government signed a SAT\$500,000 Partnership with Samoa Victim Support Group to support elimination of violence against women and girls.¹¹³ Such support is timely especially with cases of violence experienced by women as a result of impacts and measures for COVID-19.</p> <p>→ On 11 April, 2022, SNPF members received a 5% interest payment and there was a \$250 tala one-off special pension to be added to the next</p>

¹⁰⁶ Official website of the New Zealand Government, “New Zealand donates more COVID-19 vaccines to COVAX and the Pacific”, *Press Release* (24 September 2022), <https://www.beehive.govt.nz/release/new-zealand-donates-more-covid-19-vaccines-covax-and-pacific>; Marc Membere, “China ready to help with vaccines”, *Samoa Observer* (14 April 2021), <https://www.samoaoobserver.ws/category/samoa/82389>;

UNICEF, “Australia-UNICEF’s COVID-19 Vaccine Support to Samoa”, *Press Release* (6 April 2022), <https://reliefweb.int/report/samoa/australia-unicef-s-covid-19-vaccine-support-samoa>.

¹⁰⁷ See Samoa Tourism Authority, “Tourism Industry Welcomes Launch of Government Stimulus Assistance”, *News Release* (3 December 2021) <https://www.samoatourism.org/articles/373/tourism-industry-welcomes-launch-of-government-stimulus-assistance>; Adel Fruean, “Stimulus to help struggling tourism operators”, *Samoa Observer* (2 December 2022), <https://www.samoaoobserver.ws/category/samoa/95428>.

¹⁰⁸ Ministry of Commerce Industry and Labour, “Government COVID-19 assistance for private sector”, *Public Notice* (February 2022) https://www.mcil.gov.ws/storage/2022/02/COVID19-Assistance_Public-Notie-English-Version-Samoa-Versiion.pdf.

¹⁰⁹ Matai’a Lanuola Tusani T-Ah Tong, “Frontline workers to get risk allowance”, *Samoa Observer* (16 November 2021), <https://www.samoaoobserver.ws/category/samoa/94694>.

¹¹⁰ Adel Fruean, “Cabinet yet to get risk allowance submission”, *Samoa Observer* (8 March 2022), <https://www.samoaoobserver.ws/category/samoa/97457>.

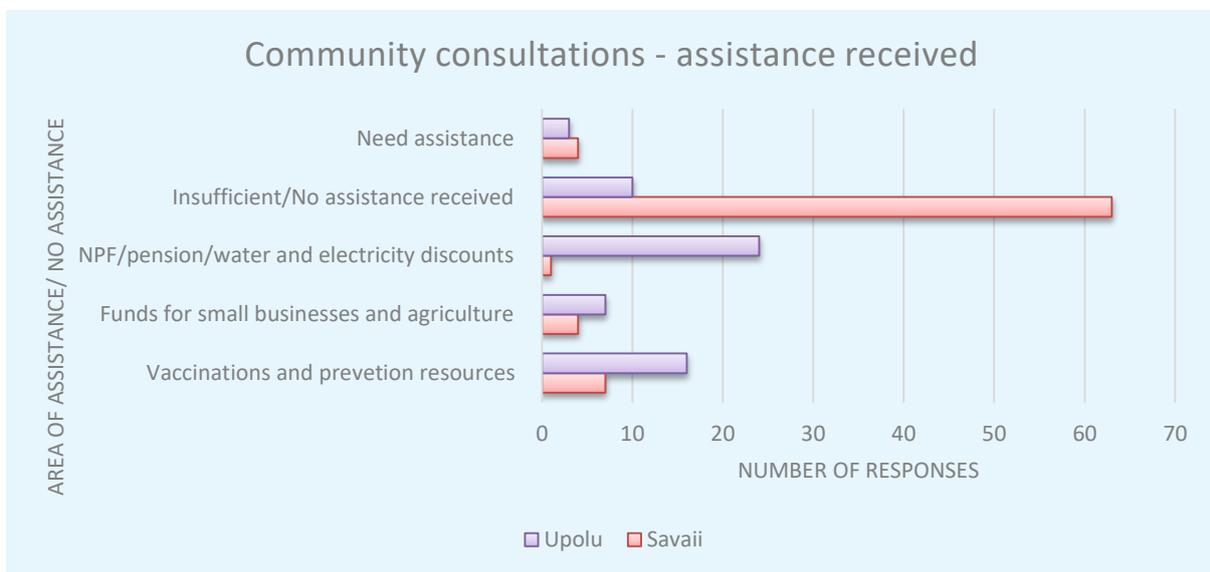
¹¹¹ Ministry of Finance, *Minister’s Budget Address 2021/2022*, 14 September 2022, <https://www.mof.gov.ws/wp-content/uploads/2021/10/ENG-Budget-Address-20212022-Final-for-Printing.pdf>.

¹¹² Marc Membere, “New funding disability advocates’ dream”, *Samoa Observer* (14 October 2022), <https://www.samoaoobserver.ws/category/samoa/93036>.

¹¹³ Loreta Kelemete, “Government Signs \$500,000 Partnership with Samoa Victim Support Group to Support Elimination of Violence against Women and Girls”, *Samoa Global News* (3 April 2022), <https://samoaglobalnews.com/government-partners-with-samoa-victim-support-group-to-eliminate-violence-against-women-and-girls-500k/>.

monthly pension. 13 CSOs/NGOs would also benefit from SNPF benefits.¹¹⁴

- Hygiene packages to support vulnerable families currently affected by COVID19 were also distributed by the MWCSO. The support prioritized low-income families struggling to support multiple children, a person(s) with a disability, elderly or a loved one infected with COVID-19.¹¹⁵
- The Samoa Nurses Association gifted SAT\$32,000 to more than 600 nurses around the country who are at the frontline caring for those infected as well as in administering of out vaccinations for the general public.¹¹⁶
- The Government signs agreements with village communities where SAT\$200,000 was allocated to each constituency to assist with development projects.¹¹⁷



Despite such assistance, community consultations revealed that many communities have yet to receive any assistance and thus more is needed (refer to above graph). In relation to financial assistance, there are still a lot of people who are not able to benefit especially those in the informal sector. Moreover, many people are not members of SNPF and therefore would not be able to receive any entitlements.¹¹⁸ There was a suggestion to consider having a children’s benefit to assist parents with education and learning of children at home with the closure of schools.¹¹⁹ It is important to note that many of those who were consulted especially in Savaii did not factor in collective support provided by the Government, for instance, support received through water and electricity discounts

¹¹⁴ Adel Fruean, “S.N.P.F. announces \$42 million payment to contributors”, *Samoa Observer* (11 April 2022) <https://www.samoobserver.ws/category/samoa/97922>. Note while the contributions by SNPF were awarded in celebration of its Jubilee, consultations with NEOF revealed that all assistance given to date by government institutions is to assist with the impact of COVID-19.

¹¹⁵ Ministry of Women, Community and Social Development, “Hygiene Packages to Support vulnerable families”, *Press Release* (11 April 2022), https://m.facebook.com/story.php?story_fbid=34444295438528&id=100064594783465.

¹¹⁶ TV 1 Samoa, “The Samoa Nurses Association gifts \$32 thousand tala to more than 600 nurses around the country”, *Talafou News* (13 April 2022), <https://www.facebook.com/429614057244016/posts/1941751816030225/>.

¹¹⁷ Ganasavea Manuia Tafeaga, “18 out of 51 District Development Committees Sign \$200,000 Funding Agreements” *Samoa Global News* (27 May 2022), <https://samoaglobalnews.com/18-out-of-51-district-development-committees-sign-200000-funding-agreements1/>.

¹¹⁸ NHRI Samoa, *SHRR 2022 community consultations* (14 and 16 March 2022).

¹¹⁹ Submitter M, *SHRR 2022 community consultations* (14 March 2022).

that applied to every household in Samoa. The focus was mainly on the direct tangible assistance for individuals and families (such as food and money).

Businesses during the nation-wide lockdown in March 2022 revealed that government assistance was highly needed as they had expended all their revenues and savings in order to stay afloat.¹²⁰ According to data provided by the Samoa Business Hub (SBH), around 75% of its members provided that further support from the Government is highly needed in addition to what had been provided already. Regarding the latter, 56.7% provided that the Government's previous support was extremely useful, while 36.43% said it was somewhat useful and the rest not useful at all.¹²¹ The Samoa Chamber of Commerce (SCC) members also provided suggestions for the Government to consider to address the impact being suffered including – providing assistance or grants to support recovery, support for micro or small businesses, and to reduce taxes and prices for rent.¹²² This feedback was relayed to the Government for consideration.

Others consulted during community consultations noted that in addition to financial incentives, resources including food supplies, health care products such as masks and sanitisers, as well as agriculture and fishing equipment and support (i.e. dissolving the registration fee for farmers) would greatly benefit families and communities.¹²³ The latter is especially relevant and practical as many families have now resorted back to the land and sea for daily subsistence.¹²⁴ As people turn more to the sea for food supply, the Government should continue to encourage sustainable fishing practices to not only sustain food supply but critically too, protect the environment.

Finally, with spending comes the need for transparency and accountability. The Government should continue to inform members of the public in a timely manner of its emergency spending not only of monies from the national budget but also in relation to foreign aid. This not only ensures transparency but it is also a measure of good governance.

4. Breaches of SOE orders

Under the SOE orders, punishment can be imposed on those who breach such orders. Some of the penalties for breaches of SOE orders include:¹²⁵

- SAT\$200 and SAT\$500 fine for continuous breach (for individuals) and SAT\$5,000 and SAT\$7,000 fine for continuous breach (for businesses and corporations) for breach of orders on isolation, public gatherings, church services, selling of alcohol and opening hours for businesses. Individuals may also be detained by Police for a period not exceeding 3 months;
- SAT\$2,000 fine for non-compliance with quarantine requirements issued by the Director of Health for home isolation;
- SAT\$10,000 fine or an imprisonment term of not exceeding 12 months, or both if a person is convicted of an offence under the SOE orders;

¹²⁰ Samoa Business Hub (SBH), *Clients Impact Assessment*, 16 December 2021 (on file).

¹²¹ Samoa Business Hub (SBH), *Clients Impact Assessment*, 16 December 2021 (on file).

¹²² Samoa Chamber of Commerce, *Business Confidence Survey Report 2021-2022*, March 2022 (on file).

¹²³ NHRI Samoa, *SHRR 2022 community consultations – Upolu* (16 March 2022).

¹²⁴ See Fuimaono Lumepa Hald, "Lockdown forces diet transition for villagers", *Samoa Observer* (15 April 2022)

https://www.samoaserver.ws/category/samoa/97969?utm_content=buffer45ae&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

¹²⁵ See Government of Samoa, *State of Emergency Order No. 79*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/order79.pdf>.

- Cancellation of business or liquor license for the duration of the SOE orders for businesses that breach orders relating to opening hours and selling of alcohol.

The Samoa Ministry of Police and Prisons (MPPS) has reported several breaches of SOEs orders (for instance more than 300 in April 2022) by individuals for escaping MIQ and for travelling outside curfew hours during the March 2022 lockdown period.¹²⁶ The most common breach has been in relation to people not wearing face masks in public areas and moving about during curfew hours.¹²⁷ Some businesses were also fined for operating despite not being permitted under the designated alert levels.¹²⁸

According to consultations with NEOC, the process for dealing with individuals who breach SOE orders includes – person breaches a condition of the SOE order and an incident report is compiled by the MOH, the report is passed on to the Chairman of NEOC who then passes this on to police for further investigation. If requirements for finding a breach have been made out a fine is then imposed on the person. The person has the opportunity to contest the charge before the Committee set up under Article 108 of the Constitution which deals specifically with offences that take place when there is a state of emergency. A person who breaches the SOE orders and in the process also commits a criminal offence, this is also taken into account and prosecuted for example, committing theft during curfew hours.

Article 108 of the Constitution provides for the mechanisms and procedures for dealing with breaches of SOE orders that authorizes the detention of any person. The Article provides that there shall be an advisory board made up of a Judge appointed by the Head of State and two other members. It provides that principles of natural justice must be upheld in dealing with persons detained.¹²⁹ The current orders authorizes the police to detain an individual for a period not exceeding three months for a breach of the SOE orders.¹³⁰ In the case of a detainment for a breach, the Government following the rule of law should ensure that detained individuals are dealt with in line with processes as provided by the Constitution.

5. Challenges faced by the Government

According to the Chairman of NEOC, the Government has faced several major challenges not only in relation to enforcement but also regarding its prevention efforts and resourcing.

The MOH from the start of the COVID-19 in 2020 had faced an enormous challenge especially with the measles epidemic in 2019 that had a devastating impact on families and communities and highlighted serious gaps within the national health system. Under COVID-19, resources have been stretched. As of January 2022, the Government reported that it has spent well over SAT\$20 million on direct and

¹²⁶ Adel Fruean, "Police issue 300-plus fines for S.O.E. breaches", *Samoa Observer* (15 April 2022) <https://www.samoobserver.ws/category/samoa/97964>. See also Ganasavea Manuia Tafeaga, "11 Charged for Breach of SOE Orders – Samoa Police Call for Public Cooperation and Support", *Samoa Global News* (21 March 2022) <https://samoaglobalnews.com/11-charged-for-breach-of-soe-orders-samoa-police-call-for-public-cooperation-and-support/>.

¹²⁷ Adel Fruean, "Most fines for not wearing face masks: Police", *Samoa Observer* (24 April 2022) https://www.samoobserver.ws/category/samoa/98055?utm_content=bufferf575d&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer. Not wearing of face masks in public place carries a fine of \$200 tala.

¹²⁸ Ganasavea Manuia Tafeaga, "Police Issue Samoa National Lotto with Two x \$5,000 Tala Fines", *Samoa Global News* (12 April 2022) <https://samoaglobalnews.com/police-issue-samoa-national-lotto-with-two-x-5000-tala-fines/>.

¹²⁹ *Constitution of the independence State of Samoa 1960*, Article 108(2).

¹³⁰ See SOE Order No. 79 order 18(1)(b), Government of Samoa, *State of Emergency Order No. 79*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/order79.pdf>.

indirect costs to quarantine repatriated citizens over the past two years.¹³¹ As of April 2022, Samoa has spent approximately SAT\$35 million on COVID-19 response including purchasing of medical equipment, prevention and preparedness efforts with the bulk on MIQ costs.¹³²

Moreover, frontline workers continue to be exposed to the risk of infection daily with many already infected, as well as having suffered burnout and fatigue. See **Part 3(4)(g)** for further details on the ‘impact of COVID-19 on frontline staff’. There have also been challenges with regard to vaccination as highlighted in **Part 2(3)(c)** on ‘vaccines’ above.

In an interview with the media on the 14 April 2022, the Director General of the MOH revealed its reporting timeframes on the status of COVID-19 cases in Samoa will shift from 12 hours to every 48 hours. Reasons provided for the change was due to the lack of manpower to manage daily reporting.¹³³

These reports are prepared by the Ministry of Health, and reporting on a daily basis is not easy. The staff are feeling tired, and some have been affected by COVID.¹³⁴

These are areas of concern as they not only highlight the impact on frontline staff but also the right of the general public to receive timely and accurate information. The rights to access timely public health information is further explained in **Part 3(1)(d)(i)** below.

Similarly, law enforcement officials have faced major challenges in relation to resourcing and officers being exposed to the virus as well.¹³⁵ There has been difficulty in enforcing SOE orders with many people still breaching them as highlighted above – see section on ‘Breaches’. Generally, a challenge in the enforcement of social distancing rules has been apparent with many places being unable to manage crowds.¹³⁶ Controlling movement in designated zones was also a challenge. Furthermore, issues in relation to communication and coordination continue to hinder efforts.

In moving forward, authorities need to reflect on these challenges and develop strategies to resolve them for the future. The Government should ensure that greater attention is given to these issues and address them accordingly. Most importantly, members of the public must continue to work together with authorities and do their part to keep everyone safe.

Overall, while at the beginning in 2021 up to April 2022 there were several issues especially with regard to the reasonableness and proportionality of measures imposed (which continue to exist for some areas); there has been general compliance with most restrictions especially on movement and access to public services being relaxed to date. The constant review of imposed measures is highly necessary and required to ensure that things return to normal as soon as possible noting foreseeable

¹³¹ See Loreta Kelemete, “Samoa Has Spent Over \$20 Million on Quarantine Costs Since Borders Shut in 2020”, *Samoa Global News* (14 January 2022) <https://samoaglobalnews.com/samoa-has-spent-over-20-million-on-quarantine-costs-since-borders-shut-in-2020-not-sustainable/>.

¹³² NHRI Samoa, *SHRR 2022 consultations with NEOC*, 13 May 2022.

¹³³ Staff writers, “No More Daily Update Reports for Samoa’s Covid-19 Outbreak – Director General of Health”, *Samoa Global News* (16 April 2022) <https://samoaglobalnews.com/no-more-daily-update-reports-for-samoas-covid-19-outbreak-director-general-of-health/>.

¹³⁴ MOH Director General interview with media reported by Samoa Global news – Staff writers, “No More Daily Update Reports for Samoa’s Covid-19 Outbreak – Director General of Health”, *Samoa Global News* (16 April 2022) <https://samoaglobalnews.com/no-more-daily-update-reports-for-samoas-covid-19-outbreak-director-general-of-health/>.

¹³⁵ TV 1 Samoa, “More than 100 staff members of the ministry of Police and Prison Services have been infected with the COVID-19 virus”, *Talafou News* <https://ne-np.facebook.com/429614057244016/photos/a.450144138524341/1931348333737240/?type=3>.

¹³⁶ The Editorial Board, “Enforcement of social distancing needed during lockdown”, *Samoa Observer* (23 March 2022) <https://www.samoobserver.ws/category/editorial/97679>.

risks in the future. See **Part 5(2)** below for further information regarding ‘compliance assessment of the Government’s response’.

RECOMMENDATIONS

State of emergencies and human rights protection

1. The Government ensures that state of emergency measures are strictly temporary in scope, proportional and the least intrusive to achieve the stated public health goals, and include safeguards such as review clauses, in order to ensure return to ordinary laws as soon as the emergency situation is over.

Government measures and human rights considerations

2. The Government ensures that its responses to COVID-19 are inclusive, equitable and universal to ensure no one is left behind.
3. When enforcing vaccine mandates or proof of vaccination policies, the Government and agencies should take proactive steps to make sure that specific individuals are not discriminated and/or disproportionately targeted. Moreover, for people who cannot be vaccinated due to a *health-protected ground*, such as disability or a medical condition, reasonable accommodation by way of exemptions should be provided by the Government. Such exemptions must be carefully balanced against the collective rights to health and safety.
4. The Government ensures that its procedures for handling persons in managed isolation and quarantine are sound and robust, and that they are strictly enforced to ensure the safety of everyone.
5. Any testing to detect viruses must be made readily available and carried out for everyone to ensure early detection and accessibility. Various testing methods including less invasive testing methods should be considered.

Transparency and accountability

6. The Government ensures that people are informed of its emergency spending, not only monies from the local budget but from foreign aid. This will not only ensure transparency and accountability but it is also a measure of good governance.
7. The Government ensures that it continues to uphold the rule of law by strictly following processes provided by Article 108 of the Constitution when dealing with persons detained for breaching state of emergency orders.

Addressing challenges

8. The Government ensures that greater attention is given to challenges it has encountered especially in relation to workforce burnout and mental health, as well as the enforcement of state of emergency orders to ensure that these are mitigated for any future public health emergency.

PART 3: IMPACT OF COVID-19 & STATE MEASURES ON HUMAN RIGHTS

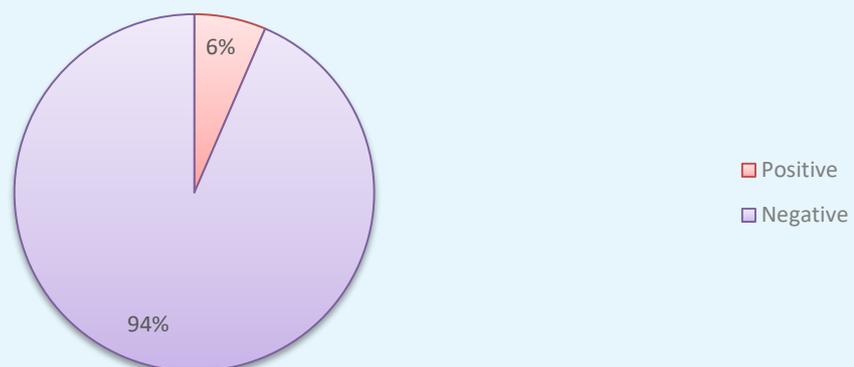
COVID-19 and measures imposed by the Government to prevent the spread and contain the virus have had a grave impact on the rights and freedoms of everyone with vulnerable groups being the most affected.

Whilst the COVID-19 virus does not discriminate, its impacts do. The virus and the measures necessary to combat it, including the introduction of emergency legislation and restrictions on the exercise of certain rights, have greatly impacted society and more so vulnerable groups.¹³⁷

As highlighted in **Part 2(1)** on ‘The State’s human rights obligations’ and in **Part 2(2)** on ‘Proclamation of Emergency and State of Emergency (SOE) orders’ above, human rights law recognizes that in the context of serious public health threats and public emergencies threatening the life of the nation, restrictions on some rights can be justified when,¹³⁸

- they have a legal basis;
- are strictly necessary based on scientific evidence;
- neither arbitrary nor discriminatory in application;
- of limited duration;
- respectful of human dignity;
- subject to review; and
- proportionate to achieve an objective.

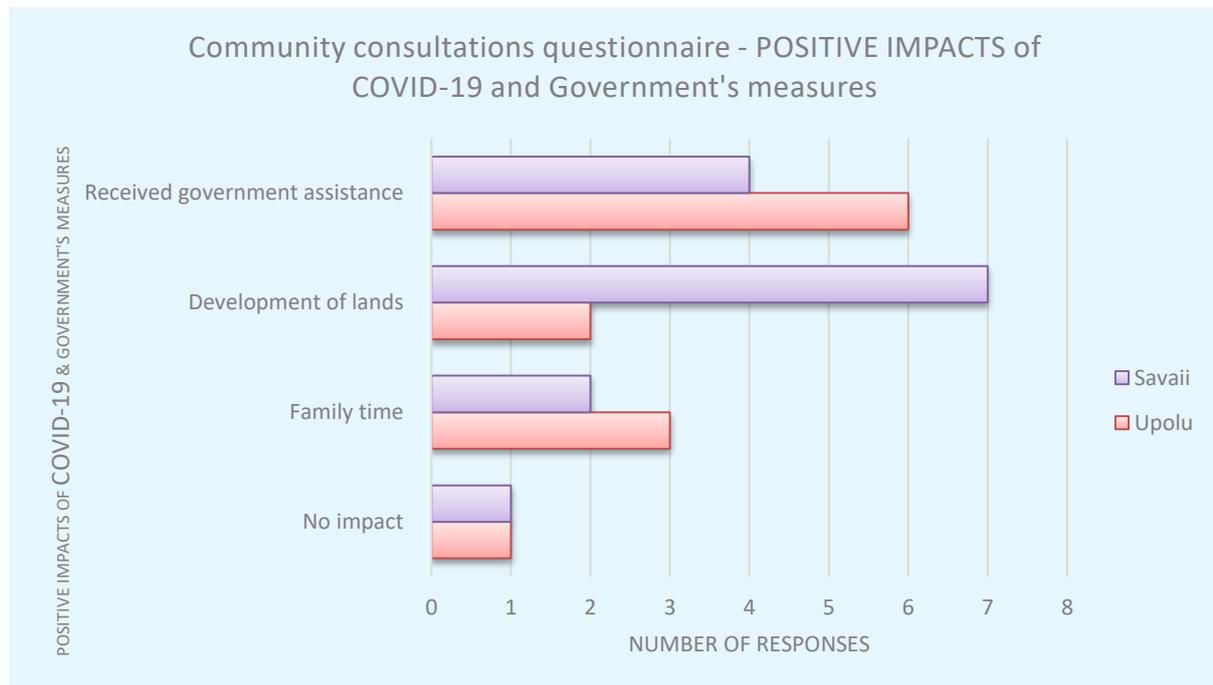
Overall views from community consultations on impact of COVID-19 and Government's measures



¹³⁷ United Nations, “COVID-19 and Human Rights We are all in this together”, April 2020, <https://unsdg.un.org/sites/default/files/2020-04/COVID-19-and-Human-Rights.pdf>.

¹³⁸ HRC, *General Comment No. 24: State of Emergency Article 4 of the ICCPR*, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2F%2F21%2FRev.1%2FAdd.11&Lang=en.

As shown in the graph above, majority of those consulted and who submitted individual feedback highlighted the negative impacts of the pandemic and the Government’s measures far outweighed the positive impacts.



Some of the positive impacts highlighted and as shown in the graph above include:

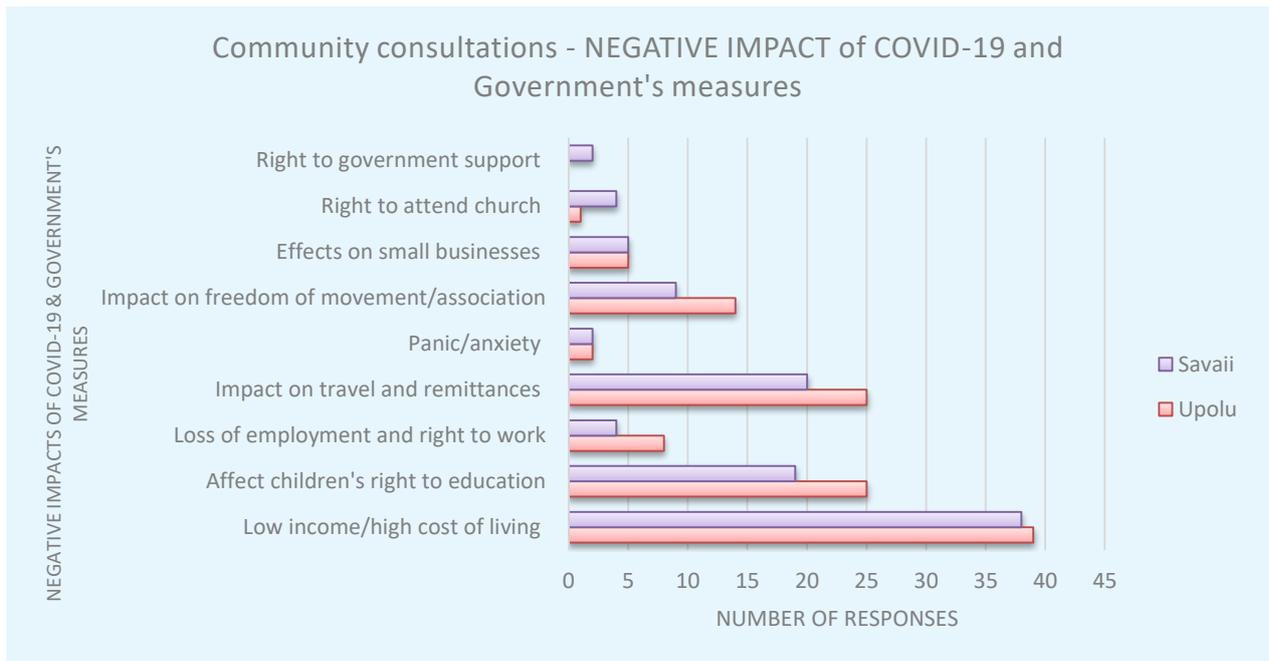
- the lockdowns and restrictions has had a positive impact on families where they get to spend more time together¹³⁹;
- The SOE restrictions made traditional obligations/faalavelave lighter as families did not have to contribute and attend funeral, weddings etc. due to ban on gatherings and social distancing measures¹⁴⁰;
- with many people stuck at home, families have been able to develop their land and plantations for food which was really good especially in these times with the increase in the cost of living.¹⁴¹

¹³⁹ NHRI Samoa, *SHRR 2022 community consultations* (14 and 16 March 2022).

¹⁴⁰ NHRI Samoa, *SHRR 2022 community consultations – women focus groups* (14 and 16 March 2022).

¹⁴¹ NHRI Samoa, *SHRR 2022 community consultations* (14 and 16 March 2022). See also Fuimaono Lumpea Hald, “My customers are struggling, says shop owner”, *Samoa Observer* (19 June 2022)

https://www.samoobserver.ws/category/samoa/98715?utm_content=buffer7db0d&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer&fbclid=IwAR1wbCfpgFAt5veYdfjJdc5EqH2RPQ8TUmlpUhseg7ZQVgT5Z0vZEBTvwYY.



Some of the negative impacts highlighted in consultations and submissions and as shown in the graph above include:

- The closure of schools and using alternative online learning disproportionately affected children, parents and legal guardians especially those without internet access or devices
- People were not able to visit their families and socialise with others in the community
- Families’ were not able to reunite with families overseas due to border closures
- The loss of jobs meant that many families had reduced/ no income. This impacted their livelihoods
- There was also panic and anxiety in some families due to fear from catching the virus and getting seriously ill and potentially die from it

The above impacts are explained further below linking it to citizens’ civil and political, as well as economic and social rights.

1. Impact on Civil and political rights

COVID-19 and measures imposed by the Government to combat the pandemic has hindered various civil and political rights including the right to life, freedom of movement, freedom of association, and freedom of opinion and expression and access to information.

a) Right to life

Community consultations revealed that COVID-19 has had a great impact on the right to life particularly in relation to health. As of 19 June 2022, Samoa recorded 28 deaths.¹⁴² More than 13,000 people have been infected including young children (especially the 0-4 age group) and elderly being in life threatening situations due to their vulnerability and inability to get vaccinated.

¹⁴² See Government of Samoa, *COVID-19 Situational Report No. 353-359*, (19 June 2022), https://www.samoagovt.ws/wp-content/uploads/2022/06/COVID19-SitRep-353-359_190622_weekly-report_final-1.pdf.

The right to life, as affirmed in Article 6 of the International Covenant on Civil and Political Rights (ICCPR), is the starting point for States' human rights obligations. According to the United Nations Human Rights Committee (HRC) the right to life is

“the supreme right from which no derogation is permitted even in situations of armed conflict and other public emergencies which threatens the life of the nation”.¹⁴³

States have a duty to protect life and should take appropriate measures to address conditions that give rise to threats to life or prevent individuals from enjoying their right to life with dignity such as the COVID-19 pandemic. Measures that states should take include,

where necessary, measures designed to ensure access without delay by individuals to essential goods and services such as food, water, shelter, health-care, electricity and sanitation, and other measures designed to promote and facilitate adequate general conditions...¹⁴⁴

As a party to the ICCPR the Government should take the appropriate and necessary measures to ensure the protection of the right to life of the people of Samoa.

b) Freedom of movement ¹⁴⁵

The international travel ban and lockdowns or stay-at-home instructions placed restrictions and limits on the freedom of movement. As highlighted above, Samoa has had two nation-wide lockdowns in January and March 2022.

Majority of those consulted in community consultations in March 2022 prior to the community outbreak provided that their freedom of movement was greatly impacted due to the lockdown imposed by the Government. For example, the focus group consultations noted that the closure of borders limited the opportunity to visit families overseas and vice versa.¹⁴⁶

Another submitter noted several issues with movement restrictions being imposed providing that,¹⁴⁷

although measures to impose restrictions on movement were necessary to reduce transmissions it was confusing and disproportionate especially during the first lockdown on 22 January 2022. Private health care facilities and pharmacies were not permitted to open despite being considered as essential service. People were instructed to only move about to seek help if it was an emergency. This restriction had a grave impact on children as parents

¹⁴³ HRC, *General comment no. 36, Article 6 (Right to Life)*, 3 September 2019, CCPR/C/GC/35, <https://www.refworld.org/docid/5e5e75e04.html>.

¹⁴⁴ HRC, *General comment no. 36, Article 6 (Right to Life)*, 3 September 2019, CCPR/C/GC/35, <https://www.refworld.org/docid/5e5e75e04.html>.

¹⁴⁵ Freedom of movement under international human rights law protects, in principle, the right of everyone to leave any country, to enter their own country of nationality, and the right of everyone lawfully in a country to move freely in the whole territory of the country. Restrictions on these rights can only be imposed when lawful, for a legitimate purpose, and when the restrictions are proportionate, including in considering their impact – see HRC, *General Comment No. 27 (67) Freedom of movement* (article 12) CCPR/C/21/Rev.1/Add. (1 November 1999)

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsiYoiCfMKoIRv2FVaVzRkMjTniRO%2bfud3cPvRcM9YR0iyTM5JG6ezzqyTK3dP9WEpoSy%2br%2fUX3265zq4wPz0Dm3XME7v23w4buJtGukID%2b1ocPstrJmk6cw8vHCV6DdBAA%3d%3d>.

Human Rights Watch, *COVID-19: A Human rights Checklist*,

https://www.hrw.org/sites/default/files/supporting_resources/202004_northamerica_us_covid19_checklist2.pdf, p.6.

¹⁴⁶ NHRI Samoa, *SHRR 2022 community consultations – men focus group Upolu* (16 March 2022).

¹⁴⁷ Dr. Malama Tafuna'i, *Written submission* (4 and 7 February 2022). See also LeMamea Mathew Mualia, “Are we community pharmacists not classified as essential frontline workers?” *Samoa Observer Letter to the Editor* <https://www.samoobserver.ws/category/letters/94751>.

did not want to go to the hospitals and seek help because did not want to breach the curfew hours (emphasis added).

On 7 April 2022, restrictions were eased on freedom of movement within Samoa but limited to certain hours from 6am – 2pm.¹⁴⁸ On 19 April 2022, amendments were made to free movement allowing people to move about from 6am – 10pm¹⁴⁹ which was again amended from 6am – 11pm on the 3 May 2022.¹⁵⁰ On the 16 May 2022, all restrictions on movement were lifted.¹⁵¹

While the confusion regarding restriction times on movement has been rectified, the Government should ensure that any future restrictions on free movement in times of emergencies should be strictly necessary for that purpose, proportionate and non-discriminatory.

c) Freedom of association and assembly

Another measure imposed to prevent the spread of COVID-19 was the restriction on freedom of assembly. Places where mass gatherings of people would usually occur such as churches, bars, restaurants and nightclubs were not permitted to open under the SOE orders during the first (22 January 2022) and second lockdown (19 March 2022).

Community consultations held in March 2022 prior to the community outbreak revealed that restrictions on freedom of assembly meant that people were not able to attend church service on Sundays.¹⁵² A youth submitter provided that attending church on Sundays is an important part of the Samoan culture and was interrupted by COVID-19.¹⁵³

On 7 April 2022, restrictions on gatherings were eased with the number of people allowed to gather capped at 15 people except for church services and funerals with 30 people only.¹⁵⁴ On the 19 April 2022, gatherings of 50 people indoors and 100 outdoors was permitted.¹⁵⁵ On the 3 May 2022, people were allowed to gather with no limit on the number; however safety health measures must still be followed including wearing of masks and social distancing.¹⁵⁶

Similar to the freedom of movement, the Government should ensure that any future restrictions on freedom of assembly and association should be strictly necessary for that purpose, proportionate and non-discriminatory.

d) Freedom of opinion and expression and access to information

The pandemic has brought with it several major challenges with regard to the freedom of opinion and expression in Samoa. Some of these challenges include access to information; access to the internet;

¹⁴⁸ Government of Samoa, *State of Emergency Order No. 76*, <https://www.samoagovt.ws/wp-content/uploads/2022/04/order-76.pdf>.

¹⁴⁹ Government of Samoa, *State of Emergency Order No. 77*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/order-77.pdf>.

¹⁵⁰ Government of Samoa, *State of Emergency Order No. 78*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/Order-78.pdf>.

¹⁵¹ Special Announcement by the Hon. Prime Minister, Fiame Naomi Mataafa: Next Steps For COVID-19 Alert Levels In Samoa (16 May 2022), <https://www.samoagovt.ws/2022/05/special-announcement-by-the-hon-prime-minister-fiame-naomi-mataafa-next-steps-for-covid-19-alert-levels-in-samoa-16th-may-2022/>.

¹⁵² NHRI Samoa, *SHRR 2022 community consultations* (14 and 16 March 2022).

¹⁵³ NHRI Samoa, *SHRR 2022 community consultations – youth Upolu* (16 March 2022).

¹⁵⁴ Government of Samoa, *State of Emergency Order No. 76*, <https://www.samoagovt.ws/wp-content/uploads/2022/04/order-76.pdf>.

¹⁵⁵ Government of Samoa, *State of Emergency Order No. 77*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/order-77.pdf>.

¹⁵⁶ Government of Samoa, *State of Emergency Order No. 78*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/Order-78.pdf> and Government of Samoa, *State of Emergency Order No. 79*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/order79.pdf>.

protection and promotion of the media; public health disinformation; and public health surveillance.¹⁵⁷

i. Access to information

Numerous international statements have stressed, in general terms, the importance of access to information during the COVID-19 pandemic. The United Nations Secretary-General has noted the need for the “free flow of timely, accurate, factual information and disaggregated data”, including to enable the scrutiny and critique of the effectiveness of government measures responding to the pandemic.¹⁵⁸

*A rights-respecting response to COVID-19 needs to ensure that accurate and up-to-date information about the virus, access to services, service disruptions, and other aspects of the response to the outbreak is readily available and accessible to all.*¹⁵⁹

The ICCPR recognises the importance of the human right to seek, receive and impart information.¹⁶⁰ It imposes on states a positive obligation to disclose on a proactive basis information including key emergency-related health information in times of emergencies and crisis.¹⁶¹

Never is access to information as important as at times, when critical decisions are being made that affects lives, livelihoods and freedoms. Therefore it is crucial that the right to information is maintained during emergencies such as a pandemic as much as possible.

*In times of public health emergencies, members of the public have the right to receive factual, regular, intelligible and science-based information on the threat COVID19 poses to their health, the role and impact of the measures adopted for preventing and containing the virus, the precautionary measures that members of the public should take, and on the scale of the spread.*¹⁶²

*States should proactively report in detail on the impact of the pandemic and on emergency spending, and do so in an open format accessible to all vulnerable groups, in accordance with best practices internationally.*¹⁶³

¹⁵⁷ See also John Kaye, *Disease pandemics and the freedom of opinion and expression*, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/HRC/44/49) [EN/AR/RU/ZH], https://reliefweb.int/attachments/65e88631-37ce-3839-88c4-7506c3f98cfc/A_HRC_44_49_E.pdf.

¹⁵⁸ United Nations, *COVID-19 and Human Rights: We are All in This Together*, April 2020, https://www.un.org/sites/un2.un.org/files/un_policy_brief_on_human_rights_and_covid_23_april_2020.pdf.

¹⁵⁹ Human Rights Watch, *Human Rights Dimensions of COVID-19 Response*, March 2020, https://www.hrw.org/sites/default/files/supporting_resources/202003covid_report_0.pdf, p.4.

¹⁶⁰ ICCPR, Article 19.

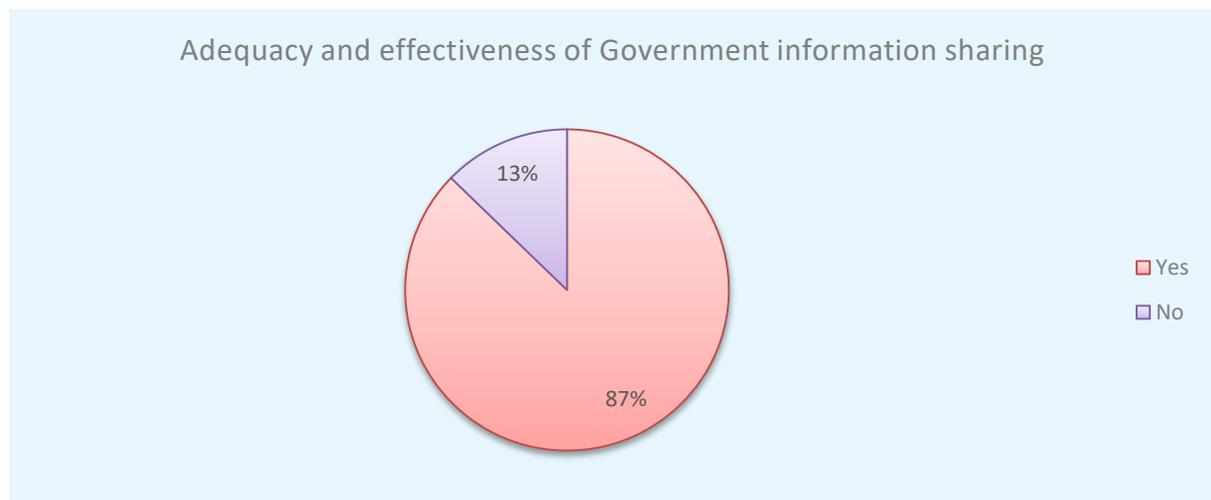
¹⁶¹ See UNESCO, *The Right to Information in Times of Crisis: Access to Information – Saving Lives, Building Trust, Bringing Hope!* https://en.unesco.org/sites/default/files/unesco_ati_iduai2020_english_sep_24.pdf.

¹⁶² Press Statement on Human Rights Based Effective Response to the Novel COVID-19 Virus in Africa, 24 March 2020, <https://www.achpr.org/pressrelease/detail?id=483>.

¹⁶³ Inter-American Commission on Human Rights, Resolution No. 1/2020, note 28, cited in UNESCO, *The Right to Information in Times of Crisis: Access to Information – Saving Lives, Building Trust, Bringing Hope!* https://en.unesco.org/sites/default/files/unesco_ati_iduai2020_english_sep_24.pdf.

Samoa is a signatory and a party to the ICCPR.¹⁶⁴ As a state party, the Government should ensure that members of the public receive and access factual, timely and regular, comprehensive and science-based information on the threat of COVID-19 to inform and respond to the outbreak. Such information must include information on restrictions and vaccination, the impact of the pandemic as well as emergency spending.¹⁶⁵ Having such information helps ensure public awareness and trust, assist people in making informed decisions, fight misinformation, promotes accountability as well as to develop and monitor implementation of public policies aimed at solving the pandemic.

While qualitatively many of those consulted in community consultations provided that information sharing was adequate and effective, quantitatively assessed, there was great concern regarding the inconsistency and inaccuracy of information shared during the lockdowns especially from those who provided written submissions.



a) Adequate and effective information sharing by the Government

One submitter provided that information shared was sufficient and the Government used various mediums which was good.¹⁶⁶ A Socio-Economic Impact Assessment conducted in 2020 to assess the impact of the COVID-19 pandemic in Samoa highlighted that “most Samoans were well-informed about the developments related to COVID-19 and its spread, relying on television, internet/social media, and radio to access information”.¹⁶⁷

The Government has been proactive in sharing information about emergency measures and vaccination rollouts in both English and Samoan languages. COVID-19 information were and continue to be disseminated widely on the MOH Official Facebook page¹⁶⁸ and website¹⁶⁹, the Government of Samoa’s official Facebook page as well as its Novel Coronavirus webpage¹⁷⁰. Information on COVID-19

¹⁶⁴ Samoa ratified and became a party to the ICCPR in 2008 which Article 19 provides for freedom of expression which the right to information i.e. the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

¹⁶⁵ See Article 19, *Ensuring the Public’s Right to Know in the COVID-19 Pandemic*, <https://www.article19.org/wp-content/uploads/2020/05/Ensuring-the-Publics-Right-to-Know-in-the-Covid-19-Pandemic-Final-13.05.20.pdf>.

¹⁶⁶ NHRI Samoa, *SHRR 2022 consultations with CSOs/NGOs* (24 February 2022).

¹⁶⁷ UN Resident Coordinator Office, *Samoa COVID-19 Socio-Economic Impact Assessment: Key Findings*, (August 2021) https://samoa.un.org/sites/default/files/2021-09/Samoa%20SEIA%20Key%20Findings%20v10_Final%20%28Sep%209%202021%29.pdf, p.2. The survey data collection was conducted from August to October 2020 and collected information from 22,774 households across the country.

¹⁶⁸ See Samoa Ministry of Health official Facebook page: <https://www.facebook.com/healthsamoa>.

¹⁶⁹ See Samoa Ministry of Health official website: <https://www.health.gov.ws/covid-19/>.

¹⁷⁰ See Government of Samoa, *Novel Coronavirus COVID-19 webpage*, <https://www.samoagovt.ws/category/novel-coronavirus-covid-19/>.

related measures were and continue to be televised and broadcasted on various TV stations and radio stations.

INFORMATION POINT: SAMOA MINISTRY OF HEALTH PUBLIC HEALTH EMERGENCY COMMUNICATION STRATEGY

1. Communication at the national level

At the time of a pandemic, if a public health emergency or pandemic is declared, the Disaster Advisory Committee will take charge of all aspects of the emergency. This provides the government, through the Ministry of Prime Minister and Cabinet in collaboration with the Ministry of Communication and Information Technology the overall responsibility for pandemic communications at the national and international levels.

To ensure consistency and accuracy of messages, communication to all target audiences will be controlled and monitored. The Hon. Prime Minister as the Chair of the National Disaster Council is designated to be the national spokesperson for the government.

When communicable disease outbreaks occur in non-pandemic situations, the Ministry of Health's Public Health Department is responsible for communications to the general public, health professionals and other stakeholders and the media.

In these situations, the Ministry of Health or designate is the usual spokesperson. It is anticipated that the Public Health Department will continue to have overall responsibility for public, media, and key stakeholder communication during epidemics and pandemics.

2. Communication at the sectoral level

At the sectoral level, the Ministry of Health will be the key spokesperson during all phases of pandemic influenza and they will prepare the health messages and content for public communications and continue to serve as the main conduit of epidemic/pandemic information to the health sector.

The Public Health Department of the Ministry of Health had developed the Public Health Risk Communication Strategy that guides the implementation of communications before, during and after epidemics and pandemics.

3. Communication at the community level

At the community level, the Ministry of Health in collaboration with the Ministry of Women, Community and Social Development and the Ministry of Education, Sports and Culture are responsible for delivering public health awareness information to increase the awareness of the community, and schools of the epidemic/pandemic influenza risks and prevention and control measures. This includes disseminating of information on effects of epidemics and pandemics response on mental health and protection (e.g. increase in family violence, feelings of anxiety), and where to go for support (e.g. details of Gender-Based-Violence), child protection and suicide hotlines and mental health support.

Source: The Ministry of Health, National Epidemic and Pandemic Preparedness and Response Plan Financial Year 2020/21 – FY2024/25 (National Pandemic Plan) pp. 43-45.

b) Poor and inconsistent information sharing by the Government

Despite the above, issues with regard to the accuracy, comprehensiveness, consistency and timeliness of information shared by the Government created some concerns and also confusion among some members of the public. Such concerns were expressed during CSOs/NGOs consultations and in individual submissions and complaints lodged with NHRI Samoa. These concerns were also highlighted in numerous media reports.¹⁷¹

One of the major issues expressed during consultations in March 2022 and highlighted in submissions was the inconsistent and confusing communication provided by the Government regarding SOE Orders and notices regarding vaccination rollout. This was a huge problem especially during the first lockdown in January 2022.¹⁷²

*There was poor communication from MOH. A lot of the messages were contradictory and were not well articulated to help people understand e.g. in relation to access to hospitals parents were under impression that we could not take children to hospital if sick, people thought they could only access hospital if an emergency and did not consider not having their medications an emergencies. This is a potential emergency as when their chronic diseases are poorly managed they are at higher risk of stroke, heart attack and death.*¹⁷³

This issue was also raised after the second lockdown in March 2022, with many expressing their discontent regarding poor and confusing communication by the Government especially regarding details of alert levels.¹⁷⁴

Concerns were raised regarding the lack of information on models used by the Government for predicting the spread of the disease and vaccine effectiveness.

*Information regarding models and assumptions used to predict disease spread or other health predictions, and vaccine efficacy has been scarce to say the least.*¹⁷⁵

*There was only information about getting the vaccine and very little to no information on side effects etc. This would allow people to have a more informed choice. MOH needs to stay current on what is happening in other parts of the world on COVID-19 because it is changing every day. Information therefore needs to be constantly updated.*¹⁷⁶

¹⁷¹ Ganasavea Manuia Tafeaga, “Public Confused Over SOE Orders Prohibiting Road Travel after 2pm”, *Samoa Global News* (6 April 2022), <https://samoaglobalnews.com/public-confused-over-soe-orders-prohibiting-road-travel-after-2pm-level2/?fbclid=IwAR0zKvXPEpEXtDJeVZS2BUEm7JRYeolRDYsUx2SyAGcOFdgG3UCLmuiUQ>; Ganasavea Manuia Tafeaga and Julius Netzler, “Government Clarifies – Permitted Road Hours same as Opening Hours, Services to Close Early and Allow Workers to Get Home”, *Samoa Global News* (7 April 2022) https://samoaglobalnews.com/government-notice-clarifies-permitted-road-hours-same-as-opening-hours-services-told-to-close-early-and-allow-workers-to-get-home1/?fbclid=IwAR38SGvaBWRM3WCh6nlkfdkNRzYv5h66TaCO5zyKk1MQvZK_NI2-8pxSngQ.

¹⁷² NHRI Samoa, *SHRR 2022 Community consultations* (14 and 16 March 2022).

¹⁷³ Dr. Malama Tafuna’i, *Written submission* (4 and 7 February 2022).

¹⁷⁴ See Ganasavea Manuia Tafeaga, “Public Confused Over SOE Orders Prohibiting Road Travel after 2pm”, *Samoa Global News* (6 April 2022), <https://samoaglobalnews.com/public-confused-over-soe-orders-prohibiting-road-travel-after-2pm-level2/?fbclid=IwAR0zKvXPEpEXtDJeVZS2BUEm7JRYeolRDYsUx2SyAGcOFdgG3UCLmuiUQ>.

¹⁷⁵ There have been several complaints lodged with the Office on such issues. On File.

¹⁷⁶ Daniel, *Written submission* (14 January 2022).

Consultations with CSOs/NGOs pointed to several areas for Government to consider in relation to information sharing including the need for government to make sure information shared is accurate and timely.¹⁷⁷ Moreover community consultation's provided that "we need one voice for information and instructions. There are times when the Prime Minister says one thing and another Minister says another thing. It is important we have one voice to listen to".¹⁷⁸

In light of the above issues, the Government should ensure that it continues to strengthen measures on information sharing and transparency in dealing with the COVID-19 pandemic in Samoa in order for people to be kept well-informed.

RESOURCE: GUIDANCE ON PROACTIVE DISCLOSURE OF INFORMATION DURING THE COVID-19

Some international civil society groups have developed quite specific guidance on proactive disclosure of information during the COVID-19 health emergency:

Health

- Disaggregated data on COVID-19 cases, deaths and tests conducted.
- Information on health care facilities, supplies and capacity.
- Models and assumptions used to predict disease spread or other health predictions.
- Information on vaccine efficacy (including side-effects) or treatment trials.
- Emergency and contingency plans.

Organizational

- Information on authorities' operations, projects and contact information during the pandemic.
- Staffing changes due to the pandemic.
- Public services which are suspended or provided during the pandemic.

Financial

- Details on budgets and funds disbursed in response to the pandemic.
- Details on contracts, procurement.
- Tender procedures during the emergency, particularly for emergency supplies and equipment.
- Information on any emergency budget and pandemic-related grants or loans.
- Budget oversight, inspection and audit information.

Legal and human rights

- Laws, regulations and policies related to the pandemic, especially those which alter normal procedures or which are of high public interest.
- Information on the human rights impacts of COVID-19 policies including information on prosecutions and penalties imposed under COVID-19 laws.
- Actions taken in response to disinformation/"fake news".

¹⁷⁷ Goshen Mental Health Trust, *Written submission* (24 February 2022).

¹⁷⁸ NHRI Samoa, *SHRR 2022 community consultations – women focus groups Upolu and Savaii* (14 and 16 March 2022).

- Information on the use of apps to contact trace or quarantine individuals, including data protection assessments.
- Policies and information aimed at specific vulnerable groups.
- Domestic violence data and resources.

Source: Taken directly from UNESCO, *The Right to Information in Times of Crisis: Access to Information – Saving Lives, Building Trust, Bringing Hope!* Issue brief in the UNESCO series: *World Trends in Freedom of Expression and Media Development*, <https://unesdoc.unesco.org/ark:/48223/pf0000374369>, p. 8.

ii. Digital rights and the internet

*Internet access and digital literacy are public goods, and the provision of quality access should be considered an essential service.*¹⁷⁹

Digital services are increasingly important in a lockdown, and the trend for remote working will accelerate as part of the public health response.¹⁸⁰ This has been the case for Samoa during the past two nation-wide lockdowns. While restrictions have eased and public employees have been permitted to go back to work, some continue to work from home using online tools.¹⁸¹ The closure of schools also meant that children had to resort to the internet and TV for education and learning.

One telecommunication network provided that there was a great surge in internet use especially during the lockdowns.¹⁸²

While internet use increased, the pandemic highlighted digital inequality, with widely varying access to the standards of connectivity required for many jobs and schools. Many of those consulted during consultations revealed that the lack of internet access as well as resources such as computers which has greatly hindered learning for children, especially for those in rural communities.¹⁸³ Some workplaces have also experienced similar issues with some employees having unreliable internet access at home thus hindering the provision of services to the public.

The Office of the Regulator provided that although it received only four formal complaints for the January-March 2022 period regarding internet services, it noted several informal complaints from members of the public on Facebook especially during the lockdowns in January and March 2022. The complaints were in relation to the following:¹⁸⁴

- Internet speed was slow
- Internet bundles were expiring while Internet speed was unsatisfactory
- Mere misunderstanding of customers regarding data entitlements

¹⁷⁹ Oxfam, COVID-19 and Human Rights: States' obligations and businesses' responsibilities in responding to the pandemic", *Discussion Paper* (August 2020) <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621037/dp-covid-19-human-rights-principles-070820-advance-en.pdf?sequence=4>, p.37.

¹⁸⁰ Oxfam, COVID-19 and Human Rights: States' obligations and businesses' responsibilities in responding to the pandemic", *Discussion Paper* (August 2020) <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621037/dp-covid-19-human-rights-principles-070820-advance-en.pdf?sequence=4>, p.37.

¹⁸¹ Government of Samoa, *State of Emergency Order No. 77*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/order-77.pdf>; Government of Samoa, *State of Emergency Order No. 79*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/order79.pdf>.

¹⁸² Digicel Samoa.

¹⁸³ NHRI Samoa, SHRR 2022 community consultations – Savaii youth focus group (14 March 2022). See discussion on impact on the 'Right to education' of children and measures imposed by Government to address issues including internet access (**Part 3(2)(c)**).

¹⁸⁴ Office of the Regulator, response to NHRI Samoa SHRR 2022 consultation queries, 18 April 2022 (email correspondence).

- Poor to zero connection. This was experienced in areas where there is no Tower nearby due to less people situating in the area or vegetation is extremely thick so received signal is weak when it gets to the customers' location.

All complaints were officially referred to the relevant service provider for their attention and responses.

While the scale of the problem is not as severe in countries with high populations the digital divide between those with internet access and sufficient devices, and those without, (especially children and those in rural communities) is still of great concern and must be addressed to ensure digital inclusion.

iii. Protection and promotion of the media

In many countries around the world including Samoa the role of the media has been crucial in disseminating to the public information about government measures and COVID-19 infection rates etc. To ensure accurate reporting the media relies heavily on the Government. However, some raised concerns regarding the Government's cooperation with the media and the hesitancy to answer specific question especially regarding justifications of measures undertaken and for decisions made.¹⁸⁵

On the contrary, several people also expressed concerns about responsible journalism, where some media platforms report different facts from official sources. This has created confusion and also led to misinformation. Consultations with CSOs/NGOs provided that the media plays an important role to make sure information is interpreted accurately when reporting.¹⁸⁶

To ensure that the right information is conveyed to members of the public, the Government needs to work closely and cooperatively with the media. The role of the media to hold the government to account by asking questions regarding rationales for decisions for instance is crucial for transparency especially when rights and freedom of individuals are being restricted. The media should also provide accurate reporting and ensure that stories especially regarding the Government's measures are verified before they are published. Consistency of messaging from the media and the Government is essential in order to avoid misinformation among members of the public.

iv. Public health disinformation

Public health disinformation has been a major concern for countries around the world including Samoa. NHRI Samoa received several complaints from members of the public in relation to vaccines that were based on health disinformation. Many people expressed views and circulated health disinformation on social media causing mistrust among members of the general public.

One submitter provided that,

I think many people especially those against vaccines are using this pandemic for political gain and are trying to interfere with the Government's vaccination efforts by spreading disinformation especially via social media. They are doing so in a highly organized manner and

¹⁸⁵ Submitter M, *Verbal communication* (4 March 2022).

¹⁸⁶ NHRI Samoa, *SHRR 2022 CSOs/NGOs consultations*, (24 February 2022). See **Part 4(3)** on 'Business community and the media' regarding the importance of the role of the media and how the media and government can work together.

many of them are from well-off families that will be protected from the consequences, while the families with fewer resources will pay the price.¹⁸⁷

Health authorities must take every effort to address health disinformation by publishing relevant information regarding vaccines as well as rationales behind decision making following scientific-based advice. While it is acknowledged that everyone has the right to free speech, it is also important that individuals exercise responsibility towards others to ensure that opinions expressed do not interfere with efforts aimed at achieving greater public good such as protection from the health impacts of a pandemic.

INFORMATION POINT: MISINFORMATION, PUBLIC HEALTH DISINFORMATION AND HOW CAN IT BE ADDRESSED

Disinformation refers to “false information deliberately and often covertly spread (as by the planting of rumours) in order to influence public opinion or obscure the truth”.¹⁸⁸

Misinformation refers to “false information that is spread, regardless of whether there is intent to mislead.”¹⁸⁹

Responses to COVID-19 have and continue to be hindered by misinformation and health disinformation creating in panic, uncertainty and mistrust among people. Governments have found it challenging to in some instances to conduct activities on prevention as a result.

To address disinformation and misinformation is it important for members of the public to always consult official sources for the most relevant, reliable up to date information. Government and health authorities must also take every step to ensure that information disseminated to members of the public are backed up by reliable and evidence-based research. Moreover, rationales for decision-making must also be publicized.

The key government platforms to obtaining official information on COVID-19 in Samoa include:

1. Government of Samoa Novel Coronavirus webpage <https://www.samoagovt.ws/cate.../novel-coronavirus-covid-19/> which provides all recent updates on government COVID-19 related measures
2. Government of Samoa Official Facebook page <https://www.facebook.com/samoagovt> which provides regular updates on State of Emergency measures and other important COVID-19 related information
3. Ministry of Health information on COVID-19 measures <https://www.health.gov.ws/covid-19/>
4. Ministry of Health Official Facebook page <https://www.facebook.com/healthsamoa> which provides regular health advice and updates for members of the public

Other important international online platforms which provides information on COVID-19 measures including implications on rights and freedoms are:

1. OHCHR and COVID-19, COVID-19 Guidance: <https://www.ohchr.org/en/covid-19/covid-19-guidance>

¹⁸⁷ BC, *Written submission*, (4 and 8 February 2022).

¹⁸⁸ Merriam-Webster, “disinformation”, <https://www.merriam-webster.com/dictionary/disinformation>, accessed 1 June 2022.

¹⁸⁹ Dictionary.com, “Misinformation vs. Disinformation: Get Informed on the Difference”, 15 May 2020, <https://www.dictionary.com/e/misinformation-vs-disinformation-get-informed-on-the-difference/>.

2. COVID-19 and Human Rights Treaty Bodies: <https://www.ohchr.org/en/treaty-bodies/covid-19-and-human-rights-treaty-bodies>
3. World Health Organization website on COVID-19: https://www.who.int/health-topics/coronavirus#tab=tab_1 and <https://www.who.int/emergencies/diseases/novel-coronavirus-2019> and Facebook page: <https://www.facebook.com/WHO/>

v. Public health surveillance, right to privacy and confidentiality of health records

a) Surveillance and contact tracing technologies

Although the use of technologies for surveillance and contact tracing in response to COVID-19 has helped the Government trace infections and manage the spread of the virus, it has also raised concerns regarding privacy and the effective management of personal health records.

Digital spaces especially the use of tracking apps need to be designed and operate around the principles of peoples' ownership of their data, of privacy, safety, accountability and equality.¹⁹⁰

In relation to accessibility of such technologies for tracing, community consultations raised that many people especially the elderly cannot access these as they are not tech-savvy and do not have smart phones. Therefore, the Government should make sure these applications are more accessible for members of the public.¹⁹¹

On the matter of reliability, the role of tracing applications was queried as it has been advertised that it would contact trace positive cases through Bluetooth technology to alert others of exposure risks. However its use and effectiveness has not been made known.¹⁹²

Businesses engaging to assist with surveillance operations especially contact tracing must ensure that they have in place processes and guidelines for safely storing and managing any breaches, including adequate redress for affected individuals. Moreover, accessibility issues to such technology should also be addressed to ensure reliable contact tracing and reporting.

b) Public health records and confidentiality

There were some concerns raised in relation to the security of health records. When Samoa recorded its first community case, private information about the person including the person's name and a photo was leaked on social media which led to targeted discrimination against the person. The Government acknowledged the mistake and expressed disappointment in staff for releasing the private details of the person which was meant for Cabinet eyes only.¹⁹³ This unfortunate situation highlights gaps not only in the robustness of information management processes but also the knowledge of health officials in managing personal health information. The leakage of such information can lead to incidents of discrimination and exposure to hatred and ridicule from others.

¹⁹⁰ See for example, Owen Bowcott, "COVID-19 tracking app must satisfy human rights and data laws", *The Guardian* (3 May 2020) <https://www.theguardian.com/world/2020/may/03/covid-19-tracking-app-must-satisfy-human-rights-and-data-laws> on the privacy aspects of contact tracing apps.

¹⁹¹ NHRI Samoa, *SHRR 2022 community consultations – Upolu youth focus group* (16 March 2022).

¹⁹² The Editorial Board, "A shop owner's 'food for thought' and critical", *Samoa Observer* (20 April 2022) https://www.samoaoobserver.ws/category/editorial/98010?utm_content=bufferbb5f0&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

¹⁹³ Sialai Sarafina Sanerivi, "Report was 'only for eyes of Cabinet', says N.E.O.C. Chairman", *Samoa Observer* (19 March 2022) <https://www.samoaoobserver.ws/category/samoa/97605>.

As a result, the Government and authorities must always ensure that the privacy of individuals be strictly protected when gathering health information for managing COVID-19. Such information must be subject to the highest level of confidentiality. Legal safeguards for the appropriate use and handling of personal health information should be included in policies and comprehensive trainings of health officials who manage and handle data should be conducted.

2. Impact on economic and social rights

Social and economic rights are of central importance in addressing both the health-related aspects of the pandemic and the wider impacts on people living in conditions of vulnerability.¹⁹⁴ The impact of COVID-19 on specific social and economic rights is discussed below. These rights include the right to health, right to education, the right to work, right to essential services such as water and sanitation, social protection and where food security is at risk, the right to food.

a) Right to health (including SRHR and right to vaccines)

The right to health is inherent to the right to life. COVID-19 is testing to the limit States' ability to protect the right to health. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity.¹⁹⁵ Everyone, regardless of their social or economic status, should have access to the health care they need.¹⁹⁶

To ensure citizens right to health, States should take steps towards “(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.”¹⁹⁷

In meeting their obligations under the right to health, States should ensure that in providing health facilities, goods, and services that the following human rights standards are met:¹⁹⁸

- available in sufficient quantity,
- accessible to everyone without discrimination, and affordable for all, even marginalized groups;
- acceptable, meaning respectful of medical ethics and culturally appropriate; and
- scientifically and medically appropriate and of good quality.

INFORMATION POINT: MINISTRY OF HEALTH GUIDING PRINCIPLES FOR THE PROVISION OF THE RIGHT TO HEALTH

- **ACCESSIBILITY:** Requires easy access to health and essential services before, during and after epidemics or pandemics
- **ACCOUNTABILITY:** Requires improvement, transparent and accountability of all to protect health and wellbeing of the population

¹⁹⁴ Oxfam, COVID-19 and Human Rights: States' obligations and businesses' responsibilities in responding to the pandemic", *Discussion Paper* (August 2020) <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621037/dp-covid-19-human-rights-principles-070820-advance-en.pdf?sequence=4>, p.23.

¹⁹⁵ See *International Covenant on Economic, Social and Cultural Rights*, Article 12 (1).

¹⁹⁶ United Nations, "COVID-19 and Human Rights We are all in this together", April 2020, <https://unsdg.un.org/sites/default/files/2020-04/COVID-19-and-Human-Rights.pdf>, p.4.

¹⁹⁷ *International Covenant on Economic, Social and Cultural Rights*, Article 12 (2).

¹⁹⁸ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 14: The Right to the Highest Attainable Standard of Health* (Art. 12 of the Covenant), 11 August 2000, E/C.12/2000/4, <https://www.refworld.org/docid/4538838d0.html>.

- **EFFICIENCY:** Requires efficient allocation of resources (fund, workforce, equipment, infrastructure)
- **EQUITY:** Requires all services provided before, during and after epidemics or pandemics are fair, just and unbiased
- **SAFETY:** Providing services before, during and after epidemics or pandemics is performed in the care of the public and workers as all times
- **QUALITY:** Strive to achieve high standards of operation of epidemics or pandemics preparedness, response and recovery services

Source: Ministry of Health, National Epidemic and Pandemic Preparedness and Response Plan Financial Year 2020/21 – FY2024/25 (National Pandemic Plan), p. 16

States also have obligations of comparable priority with regard to the right to health:¹⁹⁹

- a) To ensure reproductive, maternal (prenatal as well as post-natal) and child health care;
- b) To provide immunization against the major infectious diseases occurring in the community;
- c) To take measures to prevent, treat and control epidemic and endemic diseases;
- d) To provide education and access to information concerning the main health problems in the community, including methods of preventing and controlling them;
- e) To provide appropriate training for health personnel, including education on health and human rights.’

Samoa’s *National Epidemic and Pandemic Preparedness and Response Plan Financial Year 2020/21 – FY2024/25 (National Pandemic Plan)* highlights guiding principles for the provision of the right to health in Samoa, all of which are consistent with human rights standards. Despite such reference, several concerns were still raised especially regarding the observance of these standards in practice.

The majority of those consulted revealed that COVID-19 has had a grave impact on their right to health not only as a result of the risk to life but also in relation to access to health services. Some of the submissions received from consultations and surveys in relation to impact on access to health are highlighted below:

Parents were not able to take our children to hospital especially under the first lockdown in January 2022 because we were informed that the hospital was only accepting those in emergency situations²⁰⁰

Private health care operators were not able to open under the first lockdown in January 2022 despite us being essential services²⁰¹

We have not been able to access healthcare without showing vaccination despite being in need of care.²⁰²

Vulnerable groups who are dependent on in person care and support including persons with disabilities were not able to receive due to lock-downs and social distancing²⁰³

¹⁹⁹ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 14: The Right to the Highest Attainable Standard of Health* (Art. 12 of the Covenant), 11 August 2000, E/C.12/2000/4, <https://www.refworld.org/docid/4538838d0.html>.

²⁰⁰ Dr. Malama Tafuna’i, *Written submission* (4 and 7 February 2022).

²⁰¹ Dr. Malama Tafuna’i, *Written submission* (4 and 7 February 2022).

²⁰² Daniel, *Written submission* (14 January 2022).

²⁰³ NHRI Samoa, *SHRR 2022 consultations with CSOs/NGOs* (24 February 2022).

Several households faced difficulty in seeking healthcare. The main reasons were due to lack of cash and increase in drug prices. Limited transportation was also a factor for some households, particularly in Savai'i.²⁰⁴

One crucial right that contributes to ensuring the highest attainable standard of health for citizens that was greatly impacted was the right to SRHR services. According to one CSO/NGO working in the provision of SRHR services in Samoa, the pandemic greatly limited access to SRHR services leading to the risk in the rise of unintended pregnancies and other SRHR issues.²⁰⁵ Although online services were made available, many relied on face to face care. Such disruption in SRHR services and support had a great impact on women and girls especially those from low income families.²⁰⁶

Another important right of comparable priority to the right to health is the right to immunisation. As stated above, states must take steps necessary for the prevention, treatment and control of diseases to ensure the right to highest attainable standard of health which includes providing immunisation. (See **Part 2(3)(c)** on 'Vaccines'). While vaccinations are readily available in Samoa, there have been issues hindering its administration and roll-out. These issues include vaccine hesitancy due to lack of information on vaccine effectiveness, and personal preferences and singular beliefs against vaccines.

i. Vaccine hesitancy and vaccine effectiveness information (lack thereof)

Although vaccination numbers have been above average, the Government has also faced a challenge in getting people vaccinated. The MOH had faced a momentous challenge since the measles epidemic in 2019, in trying to convince people to get vaccinated especially parents regarding the vaccination of their children. Despite awareness on vaccines in the past, people were still hesitant. One submitter who is a medical professional noted that "it would have helped if there was redress for the measles epidemic which would have not only provided closure for those affected but also restore the trust of the public in vaccination".²⁰⁷

The anti-vaccination rhetoric fuelled by various competing medical views/opinions, personal and religious beliefs as well as misinformation contributed to the challenge of convincing some members of the public in getting vaccinated.²⁰⁸ One submitter provided that "the anti-vaccination rhetoric is unhealthy and can greatly undermine the vaccination efforts of Government".²⁰⁹

Another issue was in relation to the lack of information shared by the Government on vaccine effectiveness. Several submitters provided that there was a lack of information regarding the efficacy or effectiveness of vaccines. Submissions noted that:

The lack of information shared by MOH on the effectiveness of vaccines made it difficult for me to decide whether to get the vaccine or not.²¹⁰

There is a lack of information provided by MOH regarding the effectiveness of the vaccines especially on children. People have no way of knowing or determining the resulting

²⁰⁴ UN Resident Coordinator Office, *Samoa COVID-19 Socio-Economic Impact Assessment: Key Findings*, (August 2021) https://samoa.un.org/sites/default/files/2021-09/Samoa%20SEIA%20Key%20Findings%20v10_Final%20%28Sep%209%202021%29.pdf, p.2.

²⁰⁵ Samoa Family Health Association (SFHA), *Annual General Meeting 2021 presentation*, 23 November 2021, Taumeasina Island Resort.

²⁰⁶ SFHA, *Annual General Meeting 2021 presentation*, 23 November 2021, Taumeasina Island Resort.

²⁰⁷ Dr. Malama Tafuna'i, *Written submission* (4 and 7 February 2022).

²⁰⁸ BC, *Written submission* (4 and 8 February 2022).

²⁰⁹ BC, *Written submission* (4 and 8 February 2022).

²¹⁰ Alfred, *written submission* (4 February 2022) – unemployed because of vaccine mandate.

effectiveness of the medical mandates of vaccines, given the lack of reporting by local media and availability of data by MOH...²¹¹

Limited disclosure of the vaccine status and its effectiveness is a great concern especially for elderly and young people in Samoa. It is important that people fully understand the ramifications of the vaccine; an assessment of alternative remedies must also be validated and applied to those who are not for vaccinations.²¹²

ii. Personal preferences and singular beliefs against vaccines

While vaccinations have helped reduce the serious health impacts of COVID-19, there have been a select few against vaccinations. NHRI Samoa received several complaints questioning the efficacy of vaccines and did not see why they had to get vaccinated as it offered no protection given that vaccinated people still got infected.²¹³ Three submitters provided that they had lost their jobs or had taken leave as a result of not having vaccine proof. All three submitters on the date of their submissions were not vaccinated due to a personal preference.

Although receiving a COVID-19 vaccine is voluntary, at the same time a person who chooses not to be vaccinated based on personal preference or singular beliefs does not have the right to accommodation.²¹⁴ If a person has been denied a service or employment because of a personal preference or singular belief against vaccinations, the duty to accommodate them does not necessarily require they be exempted from vaccine mandates or certification. The duty to accommodate can be limited if it would significantly compromise health and safety amounting to undue hardship – such as during a pandemic.

In light of the above issues impacting the right to health, the Government taking into account its resources and following the guiding principles for the provision of the right to health contained in its *National Epidemic and Pandemic Preparedness and Response Plan*, should continue to take steps and measures to prevent, treat and control disease, provide reproductive and maternal health care and support (SRHR), provide public education and access to information, and strengthen training for health personnel, including on human rights.

In relation to issues on vaccines, it is important that in moving forward, strategies are developed to address these challenges including providing accurate and comprehensive information on vaccine effectiveness and to strengthen vaccine literacy.

b) Access to justice

The closure and limited hours for the courts operations presented a barrier for access to justice. Due to the lockdowns, many cases before the court had to be postponed resulting in further delays. The postponement of some cases had a great impact especially for those who were held or remanded in custody.

One person interviewed during NHRI Samoa's inspection of the Tanumalala Prison Facility on the 28 April 2022 noted that her probation hearing has been further delayed despite the availability of video

²¹¹ ASVR, *complaint lodged with NHRI Samoa on vaccine mandates*, 16 January 2022.

²¹² Anthony W, *complaint lodged with NHRI Samoa on vaccine mandates*, November 2021.

²¹³ NHRI Samoa had received 6 complaints regarding COVID-19 and vaccines since 2021.

²¹⁴ Right to accommodation refers to the right to be accommodated/ treated on a certain ground.

link for conducting hearings online. The further delay created uncertainty especially as she was looking forward to be released on probation to see her family and children.²¹⁵

The Ministry of Justice and Courts Administration *Business Continuity Arrangements Post Lockdown Policy* revised in March 2022, provided continued access to services but were heavily restricted. The lockdowns however saw a complete shutdown of services. New court service arrangements post lockdown included:²¹⁶

- Only counsel, parties, witnesses and media personnel are allowed to attend court.
- Court to schedule no more than 10 matters per list/call-over events at any one time.
- For court hearing with multiple defendants and/or witnesses, court arrangements will be on a case by case basis to be endorsed by the presiding judge beforehand.
- No more than 10 people allowed in a mediation/interview /Inspection meeting at one time.

To ensure continuous access to justice, the Government and the courts should consider utilising alternative methods for hearing cases and conducting hearings such as using video link. This will help address issues that may arise as a result of further delays.

c) Right to education

One of the most serious consequences of the COVID-19 pandemic has been the disruption of children's education with the closure of schools for public health reasons. The closure of schools magnified the obligations of the State to provide access to education.²¹⁷ In addition to providing access, states are also required to ensure the provision of functioning educational institutions with the necessary resources to enable learning both off and online to ensure that children continue to receive education.²¹⁸

Many of those consulted during community consultations in March 2022 prior to the community outbreak on the 17 March, noted that the pandemic had a great impact on their children's learning. One submitter provided that a continuous and prolonged closure of schools would have a great impact on the development of children.²¹⁹

A child submitter also provided that,

My right to education was impacted due to school closures. This was very challenging as we had to shift to online learning which was something new. I prefer in person learning as it is more helpful to my education.²²⁰

Some CSOs/NGOs working in the disability space provided that children with disabilities were greatly disadvantaged because they relied on in person/ face-to-face care and support.

²¹⁵ NHRI Samoa, *Prison inspections: COVID-19 preparedness, prevention and control in places of detention assessment*, May 2022, <https://ombudsman.gov.ws/wp-content/uploads/2022/05/COVID-19-Prison-Inspection-Report-2022-FINAL-ready-for-web.pdf>. See also, NHRI Samoa, "COVID-19 preparedness, prevention and control in places of detention assessment report published", *Press Statement* (7 June 2022) <https://ombudsman.gov.ws/wp-content/uploads/2022/06/PR-Detention-COVID-assessment-Report-FINAL-7-6-22.pdf>.

²¹⁶ Ministry of Justice and Courts Administration, *Business Continuity Arrangements Post Lockdown Policy*, February 2022 (on file).

²¹⁷ The right to education is found in three international human rights treaties, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities. Samoa is a party to the two latter conventions. See Sandra Fredman, "A human rights approach: The right to education in the time of COVID-19", *Child Development* (2021) <https://srcd.onlinelibrary.wiley.com/doi/epdf/10.1111/cdev.13654>, p.e902.

²¹⁸ See Sandra Fredman, "A human rights approach: The right to education in the time of COVID-19", *Child Development* (2021) <https://srcd.onlinelibrary.wiley.com/doi/epdf/10.1111/cdev.13654>, p.e902.

²¹⁹ Submitter EB, *Written submission* (8 March 2022).

²²⁰ Theresa Siaki – LDS Church College, *Written submission* (24 April 2022).

School closures created disruption to learning and for children with disabilities this was particularly challenging.²²¹

There was a great interruption with learning for children with special needs as family visitations were not possible under lockdown and current curfews. These students were not able to get the support they needed for their education.²²²

In relation to online teaching, it has been found that it only very partially achieves learning outcomes for children and only benefits a minority of learners.²²³ As discussed in **Part 3(1)(d)(ii)** above regarding ‘digital rights and the internet’, the digital divide between children with internet access and enough devices, and those without, was evident and high. This can result in existing inequalities being further exacerbated, with some children missing out much more than others.

One submitter provided that while there was support from schools in providing learning packages there were issues with regard to resources as well as internet access as not all children have internet access and devices in Samoa.²²⁴

An assessment conducted in 2020 by the United Nations Resident Coordinator’s Office on the impact of the COVID-19 pandemic in Samoa highlighted a similar issue with regard to poor access to education and online learning providing that²²⁵

across Samoa, nearly one in five children were not able to receive any education at home during school closure. The distribution of those receiving education was also uneven across the country, with children in urban areas attending schools remotely at a significantly higher rate than their peers in villages.

To address the inequality regarding education access, it was recommended during community consultations that having a benefit for children would help assist with educational needs of children especially for low income families and those who lost jobs.²²⁶

In addition to the lack of internet access, some noted that many children found it challenging to learn at home because they were occupied with doing chores or doing other things as they were not accustomed to home learning.²²⁷ The women’s focus groups consultations in Upolu noted that many parents especially those who did not have a good education or finished school, found it challenging to assist their children with their assignments.

During the 1 week lock down in February, we struggled to keep up with helping our children with their school homework/assignments. The content of assignments and homework nowadays are difficult compared to those days.

²²¹ Samoa Victim Support Group, *Written submission* (24 February 2022).

²²² Loto Taumafai Incorporated Society, *Written submission* (24 February 2022).

²²³ Sandra Fredman, ‘A human rights approach: The right to education in the time of COVID-19’, *Child Development* (2021) <https://srcd.onlinelibrary.wiley.com/doi/epdf/10.1111/cdev.13654>, p.e902.

²²⁴ NHRI Samoa, *SHRR 2022 community consultations – Savaii* (14 March 2022).

²²⁵ UN Resident Coordinator Office, *Samoa COVID-19 Socio-Economic Impact Assessment: Key Findings*, (August 2021) https://samoa.un.org/sites/default/files/2021-09/Samoa%20SEIA%20Key%20Findings%20v10_Final%20%28Sep%209%202021%29.pdf, p.2.

²²⁶ NHRI Samoa, *SHRR 2022 community consultations – youth focus group Savaii* (14 March 2022).

²²⁷ NHRI Samoa, *SHRR 2022 community consultations – youth focus group Upolu* (16 March 2022).

Mothers who went to school or have some knowledge are lucky to be able to assist their children.²²⁸

To ensure that children had continued access to education and learning, the Ministry of Education, Sports and Culture (MESC) had and continued to organise televised learning's for children which many welcomed. One CSO/NGO that provides educational support services for communities stated that, despite the lockdowns students were still able to receive education through online platforms and on TV.²²⁹

Education providers also provided learning packages for parents to pick up.

To assist with efficient internet access, the Government on the 5 April 2022 approved support to expand internet coverage in schools nationwide to ensure all schools across the country have connectivity.²³⁰

However, despite the provision of these educational services for students one of the major challenges was with regard to parents and students not taking advantage of them. In an interview with the media on 20 April 2022, the Minister for Education stated that, "there was no response from parents and students to the lessons teachers have provided online or through learning packages."²³¹ The Minister further urged parents and students to utilise what is being made available to ensure that children are on track and continue to receive the education they need. A child submitter also provided that "it is important for parents and children to not use schools closures as an excuse to not do any school work."²³²

The poor response from students and parents in relation to remote learning is a great challenge and one that must be carefully considered by the Government especially regarding its effectiveness. While providing online modules and packages is a positive move, it is important to ensure that these are fully utilised and also reaches every student. It is also important to stress that parents must continue to support the Government and play a role to ensure continued learning of their young ones.

As of 2 May 2022, amendments to the SOE orders were made allowing university students to return to school. According to the National University of Samoa Vice Chancellor, such move recognised a request it made to address the issue of many students not fully utilising the online platforms.²³³

On the 16 May 2022, there was a further easing of restrictions which allowed all schools to re-open in stages with colleges on the 18 May, primary school on the 30 May, and pre-schools to start back on the 4 July. The MESC and schools principals would be responsible for ensuring that robust safety measures are out in place for the gradual return of students to school.²³⁴

²²⁸ NHRI Samoa, *SHRR 2022 community consultations – women focus group Upolu* (16 March 2022).

²²⁹ Samoa Educational Network, *Written submission* (24 February 2022).

²³⁰ Sialai Sarafina Sanerivi, "NetVo gets approval to install school internet", *Samoa Observer* (5 April 2022) <https://www.samoobserver.ws/category/samoa/97826>.

²³¹ Adel Fruean, "Parents, students urged to utilise lessons", *Samoa Observer* (21 April 2022)

https://www.samoobserver.ws/category/samoa/98023?utm_content=bufferd5704&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

²³² Theresa Siaki – LDS Church College, *Written submission* (24 April 2022).

²³³ TV 1 Samoa, "The National University of Samoa has received its approval by the Government to reopen the University campus and resume classes", *Talafou News* (3 May 2022) <https://www.facebook.com/429614057244016/posts/1956762517862488/?sfnsn=mo>.

²³⁴ See Special Announcement by the Hon. Prime Minister, Fiame Naomi Mataafa: Next Steps For COVID-19 Alert Levels In Samoa, (16 May 2022) <https://www.samoagovt.ws/2022/05/special-announcement-by-the-hon-prime-minister-fiame-naomi-mataafa-next-steps-for-covid-19-alert-levels-in-samoa-16th-may-2022/>.

To ensure that children continue to receive quality education and there is digital inclusion, adequate and reliable infrastructure to facilitate online learning must be implemented by the Government. Alternative methods for learning should also be utilised. Moreover, support and resources for students should be provided to ensure that they have access to online learning especially for those living in rural communities and in low income families. Such support should also cover parents especially those who would find it challenging to home school their children. For children with disabilities, consideration should be given to their learning needs when imposing stay-at-home measures as many of them rely and depend on in person/ face-to-face support.

d) Right to work and income

Many of those consulted during community consultations noted that COVID-19 and the closure of borders has led to the loss of jobs especially those working in the tourism industry. Many workers were laid off as a result of employers not being able to afford paying them anymore as there was no incoming revenue.²³⁵ With the lockdowns in place, others also noted that they had to work reduced hours and this resulted in reduced income having an impact on supporting their families.²³⁶

Government measures such as mandatory showing of vaccine cards also impacted the rights of some to work. A few submitters provided that measures such as the mandatory showing of vaccine cards resulted in them losing their jobs and subsequently their livelihoods. These submitters did not believe in vaccination and therefore were not allowed to work.

Some workers especially during lockdowns also faced issues with lack of transportation to travel to work. According to one submitter,²³⁷

during the one week lockdown in January 2022, there were no proper measures in place to cater for transportation of workers in the private sector. For example, my husband is a security guard and works at one of the colleges here in Savaii. He finished work later at night and there was no means of transportation to take him back home. We had to contact the Police to provide transportation but were advised that the employer should provide the transportation.

Without assistance, many may face intense economic hardship and inequality. Therefore, measures need to be put in place by the Government to buffer the economic impacts of COVID-19 especially for low-wage workers and those in the private sector.²³⁸

e) Food security and the right to food

The lockdowns of January 2022 and March 2022 brought with them risks to food security and thus the right to food. Although many people resorted to their plantations and the sea for food, the reliance on overseas imports especially for those who lived in urban areas or those without land for plantations meant that they had to rely on buying food from shops.

Concerns were raised by wholesalers in relation to food supply and the draining of stock as a result of panic buying by people during the lockdown periods.

What should have been at normal levels of supply, are now being drained. It is expected that the worst is yet to come with isolated countries like Samoa having

²³⁵ Samoa Business Hub (SBH), *Clients Impact Assessment*, 16 December 2021 (on file).

²³⁶ NHRI Samoa, *SHRR 2022 community consultations – men focus group Savaii* (14 March 2022).

²³⁷ NHRI Samoa, *SHRR 2022 community consultations – women focus group Savaii* (14 March 2022).

²³⁸ See **Part 3(4)(d)** for further discussion on impact of COVID-19 on 'Low-income families and people living in poverty'.

*to cope with the delayed effects of market trends. Price increases will be felt across the board and not limited to food and groceries.*²³⁹

Regarding food costs, the majority of those consulted in community consultations revealed that there has been a great increase in the cost of foods and with the loss of jobs it meant that they were not able to afford some of the foods that they used to buy.²⁴⁰ This was also reported in the media where many members of the public expressed concerns about the rising cost of living and urged the Ministry of Commerce Industry and Labor (MCIL) to do random visits of business premises and impose measures to reduce price hikes in products.²⁴¹ If prices continue to soar and families are not able to afford food items anymore, this can have a grave impact on food security and their right to food.

In a summary of Samoa's February 2022 Consumer Price Index (CPI) report by the Samoa Bureau of Statistics, it highlighted that, "the CPI for February 2022 rose 0.4 percent compared to January 2022. It also increased 9.2 percent compared to February 2021".²⁴² For the month of March 2022, there was a further increase of 0.7 percent. The increase of the Imported Goods Component by 1.0 percent from the previous month was due to higher prices for fuel, exercise books, toilet paper, diapers, cement, washing soap and bush knives which were also the main contributors to the increase of 0.7 percent in the All Items Consumer Price Index.²⁴³

The Government and businesses need to ensure that they take into account the impact on supply chains and that there is adequate food supply to satisfy demand. Considerations must also be given to the potential rise in the cost of food items and cost of living in general as the world continues to face challenges with supply of goods and services.

f) Right to water, sanitation, and hygiene (WASH)

The right to water and sanitation are an essential component of the right to an adequate standard of living, and "integrally related, among other economic and social rights, to the right to health."²⁴⁴ According to the WHO, the provision of safe water, sanitation, and hygienic conditions is essential to protecting human health during the COVID-19 outbreak.²⁴⁵

While access to water in Samoa has remained mostly uninterrupted, the Government must still ensure that people have continuous access to safe drinking water including those who may not be able to pay.

²³⁹ Jarrett Malifa, "Supplies "drain" an already volatile market", *Samoa Observer* (7 April 2022)

https://www.samoaoobserver.ws/category/samoa/97886?utm_content=buffer350a4&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

²⁴⁰ NHRI Samoa, *SHRR 2022 community consultations* (14 and 16 March 2022).

²⁴¹ David Mala, "Price hike of goods in Apia challenging: public", *Samoa Observer* (15 January 2022)

<https://www.samoaoobserver.ws/category/contributors/96718>. See also Fuimaono Lumpea Hald, "My customers are struggling, says shop owner", *Samoa Observer* (19 June 2022)

https://www.samoaoobserver.ws/category/samoa/98715?utm_content=buffer7db0d&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer&fbclid=IwAR1wbCfqqFAt5veYdfjJdc5EqH2RPO8TUmlpUhseg7ZQVgT5Z0vZEBTvwYY.

²⁴² Samoa Bureau of Statistics, *Consumer Price Index*, February 2022, https://www.sbs.gov.ws/images/sbs-documents/Economics/CPI/2022/feb/2-CPI_feb_2022.pdf.

²⁴³ Samoa Bureau of Statistics, *Consumer Price Index*, March 2022, https://www.sbs.gov.ws/images/sbs-documents/Economics/CPI/2022/march/3-CPI_mar_22.pdf.

²⁴⁴ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant)*, 20 January 2003, E/C.12/2002/11, <https://www.refworld.org/docid/4538838d11.html>; Human Rights Watch, *Human Rights Dimensions of COVID-19 Response*, March 2020,

https://www.hrw.org/sites/default/files/supporting_resources/202003covid_report_0.pdf, p.20.

²⁴⁵ WHO and UNICEF, "Water, sanitation, hygiene, and waste management for SARS-CoV-2, the virus that causes COVID-19", (29 July 2020) <https://apps.who.int/iris/rest/bitstreams/1292822/retrieve>.

Concerns in relation to sanitation were also raised affecting PWDs and poor families.²⁴⁶

Support for water and wastewater infrastructure are crucial in times of a public health emergency to ensure good and consistently applied WASH and waste management practices in communities, homes, and healthcare facilities.²⁴⁷ This can help prevent human-to-human transmission of the COVID-19 virus. Moreover, awareness efforts on hygiene and sanitation need to be sustained and the Government should continue to work with communities to ensure adequate measures are in place for sanitation and hygiene. It is important to note that the MOH has and continues to raise awareness on hygiene and sanitation in homes and workplaces on TV.

3. Economic impact, social issues and environmental harm

*Protecting people's lives is the priority; protecting livelihoods helps us do it: We must deal with the economic and social impact alongside the public health response.*²⁴⁸

Further to the impact on the rights and freedoms of citizens, COVID-19 has had a devastating impact on Samoa's economy; social issues have come to light and risks to the environment from COVID-19 waste has created some concern.

Like many countries around the world, Samoa's economy continues to plummet as a result of COVID-19 where the closure of borders has hit the tourism sector hard – Samoa's biggest money earner.

COVID-19 has led to the increase in social issues affecting communities, businesses and most importantly vulnerable groups including women, elderly and PWDs.²⁴⁹ Some of these social issues include among others increase in crimes such as theft, domestic violence especially during lockdown; job losses affecting household livelihoods, mental health issues, and instances of discrimination especially on social media.

The impact of COVID-19 waste on the environment has also been seen as a major concern with the increased pressure on waste management systems and the poor disposal by members of the public of COVID-19 waste such as face masks among others. It is important to note, that the Government has and continues to provide awareness on COVID-19 waste disposal on TV.

a) Economic impact

Like many countries around the world COVID-19 has brought about the devastating impact on Samoa's small economy. According to Central Bank of Samoa figures in March 2021, Samoa's economy had collapsed by 8.6 percent with tourism earnings plummeting to zero compared with over \$US200 million to mid-2019.²⁵⁰ A report by the Asian Development Bank (ADB) warned that the biggest risk to

²⁴⁶ NHRI Samoa, Ombudsman Human Rights and Good Governance Dialogue, *NOLA presentation* (10 December 2021).

²⁴⁷ WHO, *Water, sanitation, hygiene, and waste management for SARS-CoV-2, the virus that causes COVID-19*, 29 July 2022 <https://www.who.int/publications/i/item/WHO-2019-nCoV-IPC-WASH-2020.4>.

²⁴⁸ United Nations, "COVID-19 and Human Rights We are all in this together", April 2020, <https://unsdg.un.org/sites/default/files/2020-04/COVID-19-and-Human-Rights.pdf>, p.7.

²⁴⁹ See **Part 4(4)** below on for discussion on the impact of COVID-19 on 'Vulnerable Groups'.

²⁵⁰ UNESCAP, *Micro, Small and Medium-sized Enterprises' Access to Finance in Samoa: COVID-19 Supplementary Report and Recommendations*, 2020, <https://www.unescap.org/sites/default/d8files/knowledge-products/Samoa%20COVID-19%20FINAL-formatted.pdf>; See also Radio NZ, "From pandemic to economic crisis: Samoa's COVID-19 journey one year on", 16 March 2021, <https://www.rnz.co.nz/international/pacific-news/438422/from-pandemic-to-economic-crisis-samoa-s-covid-journey-one-year-on>.

Samoa's economic outlook for 2022 would be the escalation in the community transmission of COVID-19.²⁵¹

In a TV interview, the Minister of Finance revealed that the recent lockdown in March 2022 affected the national economy and led to losses with an estimated SAT\$210 million drop in revenue. The shutdown of all businesses meant that the Government did not generate any revenue during the lockdown.²⁵²

Lockdown restrictions had an overwhelming negative impact on small to medium-sized businesses. In an interview with the media, the Chief Executive Officer of the Samoa Chamber of Commerce (SCC) revealed that "many small to medium-size business in Samoa are struggling and the recent nationwide lockdown in March left them penniless".²⁵³ SCC members including those from the formal business community, informal sectors including street vendors as well as canteen owners within schools noted that the shutdown of businesses resulted in the inability to finance loans as well as pay rent. It was further revealed that some businesses had to use personal savings in order to keep their businesses afloat.²⁵⁴

In a survey conducted by SCC from February 2022 – March 2022 of more than 500 SCC members, it highlighted that around 39% of members reported a decrease in profits in the last 12 months. Around 30% indicated that the conditions will worsen over the coming months, while 29% provided that it will improve. It was also highlighted in the survey that the three major constraints to business growth especially as a result of COVID-19 has been cost of doing business, government taxes and charges, and the low demand for goods and services.²⁵⁵

The SBH also conducted a survey on the impact of COVID-19 on the profits and revenue of its members and provided that the impact of COVID on business index went up from 59.66% in 2020 to 78.63% in 2021. More businesses reported significant problems with loan repayments in 2021 than in 2020. Three of the most significant financial problems experienced by businesses since the COVID-19 outbreak were loan repayments, staff wages and paying suppliers.²⁵⁶ In relation to the number of employees for businesses they interviewed, it was provided that the number of employees decreased by 15% in July 2020 compared to December 2019.²⁵⁷

On the 19 April 2022, the Government extended the opening hours for businesses which according to SCC was heavily influenced by the feedback from its members and the business community.²⁵⁸

²⁵¹ Asia Development Bank, "Maintain stimulus and support in Cook Islands, Niue, Samoa and Tonga until tourists return", *Press Release* (28 April 2022) <https://m.facebook.com/samoagovt/photos/a.900118486685841/4177140232316967/>.

²⁵² E.F.K.S. TV Soalepule programme on Wednesday 6 April, 2022. See also Adel Fruean "Recent lockdown impacted businesses: Minister", *Samoa Observer* 9 April 2022, https://www.samoaoobserver.ws/category/samoa/97903?utm_content=buffer3d79b&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

²⁵³ Adel Fruean, "'Businesses said there's no money': Chamber C.E.O.", *Samoa Observer* (6 April 2022) https://www.samoaoobserver.ws/category/samoa/97866?utm_content=buffer9e768&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

²⁵⁴ Adel Fruean, "Businesses said there's no money': Chamber C.E.O.", *Samoa Observer* (6 April 2022) https://www.samoaoobserver.ws/category/samoa/97866?utm_content=buffer9e768&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

²⁵⁵ Samoa Chamber of Commerce, *Business Confidence Survey Report 2021-2022*, March 2022 (on file).

²⁵⁶ Samoa Business Hub (SBH), *Clients Impact Assessment*, 16 December 2021 (on file).

²⁵⁷ Samoa Business Hub (SBH), *Clients Impact Assessment*, 16 December 2021 (on file).

²⁵⁸ Adel Fruean "Business community welcome easing of restrictions", *Samoa Observer* (23 April 2022) https://www.samoaoobserver.ws/category/samoa/98039?utm_content=buffera83e7&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

While the extension of opening hours is a positive step for businesses, it will not generate enough income to remedy the economic losses already suffered. Fortunately, such losses continue to be offset by international aid (although it is largely for COVID-19 response). People sending money home has also helped, with the latest data showing over SAT\$400 million being injected into the local economy from abroad.²⁵⁹ In addition to these revenue streams, it is important for the Government to continue to consider other measures for Samoa to recover safely from the pandemic.

A statement issued by the International Monetary Fund in 2021 provided a number of recommendations to assist Samoa in its economic recovery efforts. One of these recommendations included the expansion of its fiscal policy to ensure stimulus measures target vulnerable businesses and households.²⁶⁰

Working and consulting with the business community, the Government should look at ways to address the economic impact faced by businesses including for example allocating specific funding to assist with recovery.

b) Social issues

The pandemic has also foisted onto Samoan communities various social issues including discrimination, increase in gender based violence (GBV), increased job losses affecting livelihoods, rise in mental health issues as well as crimes including theft and burglary.

i. Gender based violence (GBV)

Pre-existing gender inequalities and social norms, rises in stress levels, and lockdown conditions have led to increased violence against women, mostly by intimate partners. Incidents of domestic violence in Samoa were reported to have increased during the lockdowns.²⁶¹ During the first lockdown, the Samoa Victim Support Group (SVSG) revealed that it noticed a marked increase in family violence.²⁶²

In a presentation made by a SVSG representative during a dialogue with CSOs/NGOs hosted by NHRI Samoa in December 2021 it was highlighted that²⁶³,

COVID-19 restrictions saw a spike in family violence cases and many families sought assistance from them. Most of those who sought assistance were mothers and also some parents wanted SVSG to take care of their children as they were not able to afford them during the COVID-19 lockdown. This was a challenge for SVSG especially as SOE measures reduced services provided as staff were not able to conduct community visits and awareness. SVSG had to resort to online platforms to continue raising awareness and handle its cases.

²⁵⁹ E.F.K.S. TV Soalepule programme on Wednesday 6 April, 2022. See also Adel Fruean "Recent lockdown impacted businesses: Minister", *Samoa Observer* 9 April 2022, https://www.samoobserver.ws/category/samoa/97903?utm_content=buffer3d79b&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

²⁶⁰ IMF, "Samoa: Staff Concluding Statement of the 2021 Article IV Mission", 25 January 2021, <https://www.imf.org/en/News/Articles/2021/01/25/mcs012521-samoa-staff-concluding-statement-of-the-2021-article-iv-mission>.

²⁶¹ Oxfam, COVID-19 and Human Rights: States' obligations and businesses' responsibilities in responding to the pandemic", *Discussion Paper* (August 2020) <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621037/dp-covid-19-human-rights-principles-070820-advance-en.pdf?sequence=4>, p.15.

²⁶² See Laufa Lesa and Louisa Apelu, "Help is not on lockdown: Samoan shelters and helplines continue operating through the pandemic", *Spotlight Initiative News* (22 September 2022) <https://www.spotlightinitiative.org/fr/node/36175>.

²⁶³ NHRI Samoa, *Ombudsman Human Rights and Good Governance Dialogue*, SVSG presentation (10 December 2021). See also Adel Fruean, "N.G.O. takes in children after positive mother's plea", *Samoa Observer* (16 April 2022) https://www.samoobserver.ws/category/samoa/97972?utm_content=buffer8a5ef&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

In addressing issues of GBV and domestic violence, it is essential for the Government to ensure support for the continuation and full implementation measures and actions including ensuring essential services are supported.²⁶⁴

ii. Crime

COVID-19 and lockdowns has seen an increase in criminal activity in Samoa. The MPPS issued a warning in the media on the increase in cases of burglary and theft during restricted hours, with at least one burglary case being reported every day, since the start of the lockdown in March 2022.²⁶⁵

Several businesses have been affected with culprits breaking in and taking goods and cash.²⁶⁶ In an interview with the media, the MPPS revealed that,²⁶⁷

...we have noticed that as of this week reports are coming in to the Police that the homes of some members of the public have been damaged. And not only do they experience damage to their properties but they are also victims of theft crimes. It seems that there is a rise for similar cases this week.

In addition to its efforts to save lives and prevent the spread of the virus, the Government should also continue to address social issues such as crime prevention to ensure continued safety of members of the public.

iii. Social exclusion and mental health issues

Social exclusion, lockdowns and MIQ have contributed to issues of mental health. An increase in mental health issues was observed during the measles epidemic in 2019 which has now been further exacerbated by COVID-19. One CSO/NGO that provides counselling services revealed that²⁶⁸,

...clients with cases of stress, anxiety and depression seeking their services have been on the rise since the 2019 measles outbreak and the COVID-19 pandemic. For example, loss of employment reverts to no income etc. The issue people face is often the result of not being able to generate enough income to support their family and children which may lead to violence within the family, theft and other issues.

Many of those affected include young people especially young boys. The Director of Samoa's Mental Health Unit (MHU) revealed that many of the cases referred to the MHU are boys who have been abused accounting for over 50 per cent.²⁶⁹

According to a report by UNICEF with a focus on children and mental health it revealed that, "suicide rates among adolescents aged 15-19 years in the Pacific region are significantly higher than in the rest

²⁶⁴ Government support for GBV services is discussed in **Part 2(3)** on 'Government response to COVID-19 in Samoa'.

²⁶⁵ Police warn burglary, theft on the rise, "Police warn burglary, theft on the rise", *Samoa Observer* (7 April 2022) https://www.samoobserver.ws/category/samoa/97884?utm_content=buffer9b2a5&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer&fbclid=IwAR0l0-zUiEGHtZuBwsamRx7faVRIMapuI9TURQVUntoRNFURiDDwvbfhdh_Q.

²⁶⁶ Marc Membrere, "Thieves break into Susega supermarket", *Samoa Observer* (28 March 2022) https://www.samoobserver.ws/category/samoa/97763?utm_content=bufferb85f5&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer&fbclid=IwAR2BC4YDXY1rpbxRI61Ur5_De2y4ffXXcdALgEgZwqQnJnxpk91DpxBYvsA.

²⁶⁷ Adel Fruean, "Burglary on the rise during lockdown, says Police", *Samoa Observer* (30 March 2022) https://www.samoobserver.ws/category/samoa/97783?utm_content=bufferb36fa&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

²⁶⁸ Krystal Selwood Juffa, "Stress, anxiety and depression on the rise: counsellor", *Samoa Observer* (19 May 2021) <https://www.samoobserver.ws/category/samoa/84159>.

²⁶⁹ Fuimaono Lumepa Hald, "Over half of mental health cases are boys: psychiatrist", *Samoa Observer* (15 January 2022) <https://www.samoobserver.ws/category/samoa/96723>.

of the Asia-Pacific region with countries including Vanuatu, Samoa and Solomon Islands being among those with some of the highest rates²⁷⁰.

Anxiety was also prevalent among parents especially mothers. Consultations with women focus group in Upolu and Savaii provided that many mothers were worried all the time about a community spread. It made them scared to get out into the community because of the fear of getting infected and potentially dying from the virus.²⁷¹

In light of the above issues, the Government needs to take a holistic approach in addressing the impact on the right to health to include mental health. It must continue to work and consult with CSOs/NGOs working to address mental health issues to ensure that support is made available to those who need it with a focus on the most vulnerable, especially children and young people.

iv. Job losses

The impact on the economy and businesses has also resulted in many losing their jobs ultimately having a negative impact on their livelihoods.

The majority of those consulted during community consultations and who provided individual submissions noted that COVID-19 has had a great impact on their employment. Many have either been made redundant, or have had their working hours reduced affecting their income and livelihoods.²⁷² The loss of income has also resulted in other issues such as violence with many struggling to put food on the table.

These sentiments are consistent with an assessment conducted in 2020 during Samoa's first lockdown which highlighted that in relation to job loss and household income,²⁷³

Nearly 11% of the households across Samoa had at least one member lose their job due to measures related to COVID-19. Moreover, 17% of the respondents also reported a decrease in their personal income due to the continuation of the SOE, with a slightly higher share among those with higher education. To cope with the financial stress, a considerable proportion of affected households relied on domestic farming and remittances from friends/family members.

The loss of jobs can have devastating consequences on the livelihoods of families especially those who have low income, unemployed or living in poverty. Therefore the Government must ensure that its support and stimulus policies are developed with the aim of keeping jobs and creating alternative opportunities especially for low income families and the unemployed. This will ensure more sustainable livelihoods and reduce incidences of poverty and exclusion.

²⁷⁰ UNICEF, "The State of the World's Children 2021 – Own My Mind: Promoting, protecting and caring for children's mental health", May 2022, <https://www.unicef.org/reports/state-worlds-children-2021>.

²⁷¹ NHRI Samoa, *SHRR 2022 community consultations – women focus group Upolu* (16 March 2022).

²⁷² NHRI Samoa, *SHRR 2022 community consultations* (14 and 16 March 2022).

²⁷³ UN Resident Coordinator Office, *Samoa COVID-19 Socio-Economic Impact Assessment: Key Findings*, (August 2021) https://samoa.un.org/sites/default/files/2021-09/Samoa%20SEIA%20Key%20Findings%20v10_Final%20%28Sep%209%202021%29.pdf, p.2.

v. Discrimination

The pandemic has also resulted in discrimination targeted towards certain individuals on the basis of their ethnicity and also COVID-19 status. News reports from a number of countries have documented bias, racism, xenophobia, and discrimination against people of Asian descent.²⁷⁴

In Samoa, the first community case saw many taking to social media pointing the finger to the infected person for spreading the virus and for causing the lockdown. Another case was reported on one of the online media outlets of a COVID-19 positive 76 year old grandfather receiving treatment outside the security hut of a district hospital.²⁷⁵ One submitter provided that one of the concerns she has observed especially with members of the public, is that there is a lot of stigma especially of those who have tested positive.²⁷⁶ **It is important to emphasise that no one must be discriminated against because of his or her COVID-19 status.** The Government should ensure that instances of discrimination are adequately addressed which can include raising awareness. Individuals must also ensure that they treat one another with respect and kindness.

c) Environmental impact and waste management

Although the focus of many governments has been on protecting lives and economic recovery, proper management of waste, including of household, healthcare, and other hazardous waste, is an essential civic service to minimize possible secondary impacts upon health and the environment.²⁷⁷

For countries such as Samoa where waste management is not as adequate as more developed nations due to technical, practical, and/or financial constraints, difficulties in relation to waste management during the pandemic will make it vulnerable.

Therefore, the Government should continue to strengthen its waste management systems and measures and raise awareness on the safe disposal of COVID-19 waste to ensure public safety and adequate hygiene.

4. Vulnerable groups

a) Women and girls (including pregnant mothers)

As highlighted above under the right to health, the lockdowns have had a great impact on women's access to SRHR services including contraception and pre- and post-natal and birth care.²⁷⁸

For pregnant mothers, the WHO standards require that they continue to receive care. It has been documented that “pregnant women and their families are likely to encounter greater tension and stress due to the COVID-19 pandemic within the community, therefore maternity services should be prioritized as fundamental core health service.”²⁷⁹ In relation to breastfeeding, although the risk of

²⁷⁴ Human Rights Watch, *Human Rights Dimensions of COVID-19 Response*, March 2020, https://www.hrw.org/sites/default/files/supporting_resources/202003covid_report_0.pdf, p.17.

²⁷⁵ Staff writers, “76 year old covid positive grandfather is treated outside of security hut of District Hospital”, *Samoa Global News* (27 March 2022) <https://samoaglobalnews.com/76-year-old-covid-positive-grandfather-is-treated-outside-the-security-hut-of-district-hospital/?fbclid=IwAR2gs7D2wfv1XzMpzstoauBC25dBGVFR0rPPXIJ9NKuTDwszZygxu6RM0Vs>.

²⁷⁶ Lemalie SP, *Oral submission* (28 April 2022).

²⁷⁷ IGES/UNEP, *Waste Management during the COVID-19 Pandemic from Response to Recovery*, (2020) <https://wedocs.unep.org/bitstream/handle/20.500.11822/33416/WMC-19.pdf?sequence=1&isAllowed=y>.

²⁷⁸ SFHA, *AGM presentation*, 23 November 2021 (on file).

²⁷⁹ See World Health Organization/United Nations Population Fund, *COVID-19 technical brief for maternity Services*, (July 2020) <https://www.unfpa.org/resources/covid-19-technical-brief-maternity-services>; Mona Larki, Farangis Sharifi and Robab Latifnejad Roudsari, “Models of maternity care for pregnant women during the COVID-19 pandemic”, *EMHJ*, Vol. 26 No. 9 (2020) <https://applications.emro.who.int/emhj/v26/09/1020-3397-2020-2609-994-998-eng.pdf?ua=1>.

infection through breastfeeding is not known, the UN Population Fund has recommended that breastfeeding mothers who become ill should not be separated from their infants.²⁸⁰

Women also face a higher risk of exposure to infection given their overrepresentation in sectors where they are at the front line (such as health and social care) and the informal economy. Women also face the additional burden of unpaid work, including caring for families, the sick, and the elderly, further reinforcing gendered stereotypes in society.²⁸¹

Social distancing and mandatory lockdowns increase the risk of exposure to domestic violence due to prolonged coexistence with abusive partners at home which is especially brought on by elevated levels of stress and economic uncertainty.²⁸² As highlighted in **Part 3(3)(b)(i)** on ‘social issues and GBV’, SVSG reported an increase in GBV incidents during lockdowns. This is a serious concern and one that should be addressed by providing continuous support to GBV services such as provision of shelters and a free helpline service to ensure that women continue to receive support.

To ensure that women and girls (including pregnant mothers) are not further disadvantaged by the impact of COVID-19, it is crucial for the Government to ensure that SRHR services are prioritized as a fundamental core health services, provide support for women who are overrepresented in providing care, and provide support for those who are affected by GBV.

b) The elderly population and people with underlying medical conditions (including those living with HIV)

The COVID-19 pandemic has and continues to pose severe threats to older persons and people with underlying medical conditions. Available evidence has shown that people who are over 60 years of age as well as those with underlying medical conditions are more likely to experience serious and life-threatening complications from COVID-19.²⁸³ Lockdowns and measures limiting access to visitors has greatly impacted the mental wellbeing of many older people especially those in care homes.²⁸⁴

*COVID-19, like other infectious diseases, poses a higher risk to populations that live in close proximity to each other. And it disproportionately affects older people and individuals with underlying illnesses such as cardiovascular disease, diabetes, chronic respiratory disease, and hypertension.*²⁸⁵

For Samoa, the MOH reported on the 1 April 2022 in its Situational Report on COVID-19 that the number of elderly people who were infected (mainly ages 65 and over) was increasing.²⁸⁶ As of the 8

²⁸⁰ Human Rights Watch, *Human Rights Dimensions of COVID-19 Response*, March 2020,

https://www.hrw.org/sites/default/files/supporting_resources/202003covid_report_0.pdf, p.15.

²⁸¹ OECD, “Caregiving in crisis: Gender inequality in paid and unpaid work during COVID-19”, (13 December 2021) https://read.oecd-ilibrary.org/view/?ref=1122_1122019-pxf57r6v6k&title=Caregiving-in-crisis-Gender-inequality-in-paid-and-unpaid-work-during-COVID-19.

²⁸² Kelly Scott, Celine-Da-Graca-Pires and Maria Bennici, “Respecting the Rights of Vulnerable Groups during the COVID-19 Pandemic”, *BSR Blog* (19 August 2020) https://www.bsr.org/reports/Respecting_Rights_of_Vulnerable_Groups_in_COVID-19.pdf.

²⁸³ Kelly Scott, Celine-Da-Graca-Pires and Maria Bennici, “Respecting the Rights of Vulnerable Groups during the COVID-19 Pandemic”, *BSR Blog* (19 August 2020) https://www.bsr.org/reports/Respecting_Rights_of_Vulnerable_Groups_in_COVID-19.pdf.

²⁸⁴ Oxfam, COVID-19 and Human Rights: States’ obligations and businesses’ responsibilities in responding to the pandemic”, *Discussion Paper* (August 2020) <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621037/dp-covid-19-human-rights-principles-070820-advance-en.pdf?sequence=4>, p.17.

²⁸⁵ Human Rights Watch, *Human Rights Dimensions of COVID-19 Response*, March 2020, https://www.hrw.org/sites/default/files/supporting_resources/202003covid_report_0.pdf, p.8.

²⁸⁶ See MOH, *Situational Report on COVID-19 Pandemic, 1 April 2022*, <https://www.facebook.com/samoagovt/posts/337930038370153>. On the 2nd of April 2022, Ministry of Health recorded 188 positive cases of people age 60+ and children less than 10 years old at 203 – see MOH, *Situational Report on COVID-19 Pandemic, 2 April 2022*, <https://www.facebook.com/samoagovt/posts/338378524991971>. See also

April 2022, the MOH confirmed 7 COVID-19 related deaths, of which 5 were above the ages of 60.²⁸⁷ As of 26 May 2022, there have been 25 COVID-19 related deaths mainly the elderly or those with underlying health conditions.²⁸⁸

The MOH also expressed that since the start of the community outbreak on the 17 March 2022, many of those who were infected included people aged 40 and above with underlying health conditions heightening their risk of getting seriously ill.²⁸⁹ To ensure protection, the MOH has been proactive in disseminating information on specific needs of those with underlying health conditions and explaining why they are at more risk on their online platforms.²⁹⁰

It is also important to highlight that people living with HIV may have compromised immune systems and may also be more at risk of severe illness and some may be denied access to essential medications, including antiretrovirals (ARVs), due to overburdened health systems.²⁹¹ Thus, attention must also be given to ensure that people living with HIV continue to receive the support they need.

c) Children and young people

The pandemic and measures imposed by the Government to prevent the spread of the virus has impacted children and young people in varying ways and in different areas of life.

As highlighted above in **Part 3(2)(c)** on the ‘right to education’, COVID-19 has led to the closure of schools interrupting learning and hindering the development of children.²⁹² The closure of schools has been especially difficult for children such as those with disabilities who rely and depend on in face to face learning and in-person care and support.²⁹³

There have also been concerns regarding the increased level of psychological distress among children resulting from increased social isolation and economic hardship.²⁹⁴

While earlier statistics showed that COVID-19 infection rates among children were much lower than adults, new studies have indicated that COVID-19 spreads among children more easily than previously reported.²⁹⁵ According to data released by the MOH on 21 March 2021, it revealed that five babies aged 4 and under contracted the virus together with six children between the ages of five to nine.²⁹⁶

Newsline Samoa “COVID Death Risk Highest in 16% of Population”, (25 April 2022) <https://newsline.com/covid-death-risk-highest-in-16-of-population/?fbclid=IwAR3eHZYFafObahChCaldhRsv73b-NkxnbQrDb4xCe8gi5uGNeVZwk2FUyl>.

²⁸⁷ See Government of Samoa, “Samoa records its second COVID 19 related death”, *Press Release* (3 April 2022) <https://www.facebook.com/samoagovt/posts/338889584940865>.

²⁸⁸ See Government of Samoa, “Situational Report on COVID-19 Pandemic 22nd -24th May 2022”, *Press Release* (26 May 2022) <https://www.samoagovt.ws/2022/05/press-release-situational-report-on-covid-19-pandemic-22nd-24th-may-2022/>. To access the detailed COVID-19 situational analysis reports, visit the MOH website at <https://www.health.gov.ws/>.

²⁸⁹ See Adel Fruean, “Rising positive cases of those aged 40-plus worry authorities”, *Samoa Observer* (27 March 2022) https://www.samoobserver.ws/category/samoa/97748?utm_content=bufferd2cbd&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.

²⁹⁰ See MOH website at <https://www.health.gov.ws/>.

²⁹¹ See UN Women and Translators without Borders, *COVID-19: How to include marginalized and vulnerable people in risk communication and community engagement*, March 2020, https://reliefweb.int/sites/reliefweb.int/files/resources/COVID-19_CommunityEngagement_130320.pdf.

²⁹² EB, *Written submission* (8 March 2022).

²⁹³ SVSG, *Written submission* (24 February 2022).

²⁹⁴ UN in Samoa, *COVID-19 Socio-Economic Response Plan*, 2020, https://reliefweb.int/attachments/d79e6353-d1da-3962-88a7-c710d9f1cfc2/WSM_Socioeconomic-Response-Plan_2020.pdf, p. 22.

²⁹⁵ Kelly Scott, Celine-Da-Graca-Pires and Maria Bennici, “Respecting the Rights of Vulnerable Groups during the COVID-19 Pandemic”, *BSR Blog* (19 August 2020) https://www.bsr.org/reports/Respecting_Rights_of_Vulnerable_Groups_in_COVID-19.pdf.

²⁹⁶ See Matai’a Lanuola Tusani T - Ah Tong, “Babies test positive to COVID-19”, *Samoa Observer* (22 March 2022) <https://www.samoobserver.ws/category/samoa/97671>.

The above impacts on children and young people in Samoa were similar to those recognised by the HRC in its forty-eighth session on the 13 September - 8 October 2021 for children across the world. In moving forward, it urged States to ensure that appropriate measures are put in place to eliminate forms of discrimination faced by children as well as to ensure that children and young people continue to receive education safely.²⁹⁷

Samoa is a party to the Convention on the Rights of a Child (CRC) which recognises the role of the state to ensure children's right to health (Article 24) and the right to education (Article 28) by ensuring that adequate resources and systems are in place to ensure children have access to uninterrupted learning, as well as involving them in decision-making (Article 12). As highlighted above in Part 3(2)(c) the Government has put in place measures to assist with children's right to education especially during the lockdown including investing in internet services for some schools and providing lessons on TV.

In light of the above, the Government should continue to implement its obligations with regard to the rights of children contained in its national policies and under the CRC.

d) People in detention facilities

COVID-19 can also have a devastating impact on the health of those in places of detention. The risk is particularly acute where the virus can spread rapidly, especially if access to health care is already poor.²⁹⁸ Populations in custody often include older people and people with serious chronic health conditions, meaning they are at greater risk for illness from COVID-19.²⁹⁹ Issues such as mental stress as a result of social exclusion can also have an impact. Lockdowns and measures limiting access to visitors can impact the mental wellbeing of many.³⁰⁰

For Samoa, it was reported almost three weeks after the lockdown on 18 March 2022 that the virus had been detected in the main prison facility at Tanumalala. Nine infected inmates (seven males and two females) were suspected to have contracted the virus from the police who were called in to assist with the managing of a prison breakout.³⁰¹ It was reported on the 28 April 2022, that 24 inmates at the Vaiaata Prison in Savaii had contracted the virus suspected to also have been infected from prison guards.³⁰²

In consultations with the Deputy Commissioner in charge of the prison facility during NHRI Samoa's inspection visit on 28 April 2022, he provided that measures have been put in place to prevent the spread of the virus to other inmates by isolating them to designated isolation cells.³⁰³ A *Prison COVID-19 Response Plan* had been developed prior to the community outbreak following advice from the

²⁹⁷ See Human Rights Council, *Human rights implications of the COVID-19 pandemic on young people*, Resolution A/HRC/48/L.26/Rev.1, <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G21/272/42/PDF/G2127242.pdf?OpenElement>.

²⁹⁸ Human Rights Watch, *Human Rights Dimensions of COVID-19 Response*, March 2020, https://www.hrw.org/sites/default/files/supporting_resources/202003covid_report_0.pdf, p.9.

²⁹⁹ Human Rights Watch, *Human Rights Dimensions of COVID-19 Response*, March 2020, https://www.hrw.org/sites/default/files/supporting_resources/202003covid_report_0.pdf, p.9.

³⁰⁰ Oxfam, *COVID-19 and Human Rights: States' obligations and businesses' responsibilities in responding to the pandemic*, *Discussion Paper* (August 2020) <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621037/dp-covid-19-human-rights-principles-070820-advance-en.pdf?sequence=4>, p.17.

³⁰¹ Matai'a Lanuola Tusani T - Ah Tong, "COVID-19 breaks into Tanumalala prison", *Samoa Observer* (6 April 2022) https://www.samoobserver.ws/category/samoa/97872?utm_content=buffer8b172&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer. See also NHRI Samoa, *Prison inspections: COVID-19 preparedness, prevention and control in places of detention assessment*, May 2022, <https://ombudsman.gov.ws/wp-content/uploads/2022/05/COVID-19-Prison-Inspection-Report-2022-FINAL-ready-for-web.pdf>.

³⁰² See TV 1 Samoa, "Twenty four prisoners at the Vaiaata Prison in Savaii have tested positive to the covid 19 virus", *Talafou News* (28 April 2022) <https://www.facebook.com/429614057244016/posts/1952642068274533?sfnsn=mo>.

³⁰³ NHRI Samoa, *Prison inspections: COVID-19 preparedness, prevention and control in places of detention assessment*, May 2022, <https://ombudsman.gov.ws/wp-content/uploads/2022/05/COVID-19-Prison-Inspection-Report-2022-FINAL-ready-for-web.pdf>.

MOH and this has been utilised for managing COVID-19 in all prison facilities.³⁰⁴ From NHRI Samoa’s inspection there are currently four isolation cells – 2 for male inmates, 1 for male custodies and 1 for female inmates. All four cells have ventilation and adequate sanitation facilities. Furthermore, the prison facility has a dedicated team responsible for conducting screening and testing, monitoring the infected inmates and relaying COVID-19 information to prisoners and staff on matters such as practicing hygiene, monitoring symptoms etc.

Moreover, a release policy for some inmates had been executed when the community outbreak took place. For instance, breastfeeding mothers, those with underlying health conditions and those whose sentences will expire within 6 months from the date of the community outbreak, were released subject to strict monitoring. This has greatly assisted with reducing the prison population and allowed for maintaining social distancing. More information about the NHRI Samoa’s inspection visit that focused on assessing prevention, preparedness and control of COVID-19 in prison can be found in its Inspection Report 2022.³⁰⁵

e) Low-income families and people living in poverty

Low income families and people living in poverty are more likely to be disproportionately affected due to having scarce resources to stay at home for long periods of time especially during lockdowns and are more than likely to have health issues due to their living conditions.³⁰⁶

*The pandemics disproportionately affects low income families and poor people, who are more likely to have health complications, live in crowded housing, lack the resources to stay at home for long periods, and work low-paid jobs that force them to choose between risking their health or losing their income.*³⁰⁷

Many of those consulted during community consultations in Savaii and Upolu in March 2022 prior to the community outbreak revealed that the loss of jobs meant that they were not able to support their families. One submitter provide that,

I am the only person working in my family and I only earn \$150 tala a week as a security guard, and because of COVID-19 my working hours were reduced which meant that my income also reduced. This made it difficult for us to cope.³⁰⁸

Another submitter provided that, “I do not earn much from my job and the pandemic has forced my family into economic hardship and we are not able to pay our loans.”³⁰⁹

³⁰⁴ NHRI Samoa was given a copy of this Plan and after sighting it provides adequate measures for managing COVID-19 in prison with some areas to be further strengthened.

³⁰⁵ NHRI Samoa, *Prison inspections: COVID-19 preparedness, prevention and control in places of detention assessment*, May 2022, <https://ombudsman.gov.ws/wp-content/uploads/2022/05/COVID-19-Prison-Inspection-Report-2022-FINAL-ready-for-web.pdf>.

³⁰⁶ Kelly Scott, Celine-Da-Graca-Pires and Maria Bennici, “Respecting the Rights of Vulnerable Groups during the COVID-19 Pandemic”, *BSR Blog* (19 August 2020) https://www.bsr.org/reports/Respecting_Rights_of_Vulnerable_Groups_in_COVID-19.pdf.

³⁰⁷ Philip Alston, “Responses to COVID-19 are failing people in poverty worldwide”, *Former UN Special Rapporteur on Extreme Poverty and Human Rights*, 22 April 2020, <https://www.ohchr.org/en/press-releases/2020/04/responses-covid-19-are-failing-people-poverty-worldwide-un-human-rights>.

³⁰⁸ NHRI Samoa, *SHRR 2022 community consultations – men focus group Savaii* (14 March 2022).

³⁰⁹ NHRI Samoa, *SHRR 2022 community consultations Upolu* (16 March 2022).

The disproportionate impact experienced by those from low income families and people living in poverty should be one of the key considerations for the Government when developing its stimulus policies to ensure that such group receives the necessary support to sustain their livelihoods.

f) Persons with Disabilities (PWDs)

The impact of the pandemic has resulted in many PWDs facing issues including, among others, having limited access to regular support within the community due to lockdown, as well as in many instances having decisions made on their behalf for them.

Feedback provided by Nuanua o le Alofa (NOLA), Samoa's main disability rights advocacy group, during a forum on human rights hosted by NHRI Samoa in December 2021 provided that,³¹⁰

COVID-19 restrictions in Samoa exacerbated the above challenges and also brought further challenges for NOLA and PWDs in Samoa. Challenges brought by COVID-19 included reduction in service provision, support from partners was not sustainable, many PWDs lost jobs especially those with office jobs, access to specific health service interrupted, and water access and sanitation issues were prevalent.

Similar to older people, many PWDs rely on uninterrupted home and community services and support. Ensuring continuity of these services and operations means that public agencies, community organizations, health care providers, and other essential service providers are able to continue performing essential functions to meet the needs of PWDs. Government strategies should minimize disruption in services and develop contingent sources of comparable services. Disruption of community-based services can result in the institutionalization of PWDs, which can lead to negative health outcomes, including death.³¹¹

As highlighted above in **Part 3 (2)(c)** on impact on 'right to education', one submitter provided that access by children with disabilities to services and education was greatly affected by the restrictions as most of them rely heavily on in person support and care and the lockdown interrupted with this.³¹²

The Convention on the Rights of Persons with Disabilities (CRPD) to which Samoa is a party, provides for the rights of PWDs and imposes obligations on States to take all necessary measures including the provision of PPE for care workers, and financial support to ensure that care needs can be met and are provided.³¹³ Emphasis is also placed on the right to participation requiring states to engage PWDs through representative organizations in the design of measures to fight the pandemic.³¹⁴

To help raise awareness of the vulnerability of PWDs, the Government through the Ministry of Women Community and Social Development (MWCSO) had published awareness videos for members of the

³¹⁰ NHRI Samoa, *Ombudsman Human Rights and Good Governance Dialogue*, NOLA presentation (10 December 2021).

³¹¹ Human Rights Watch, *Human Rights Dimensions of COVID-19 Response*, March 2020, https://www.hrw.org/sites/default/files/supporting_resources/202003covid_report_0.pdf, p.20.

³¹² SVSG, *Written submission* (14 February 2022).

³¹³ *Convention on the Rights of Persons with Disabilities* (CRPD), Article 11.

³¹⁴ *Convention on the Rights of Persons with Disabilities* (CRPD), Article 29. See also UN Committee on the Rights of Persons with Disabilities, *General comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention*, CRPD/C/GC/7 9 November 2018, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsnbHatvuFkZ%2Bt93Y3D%2Baa2pjFYzWLBuOvA%2BBBr7QovZhbuvqzIDN0plweYI46WXrJJ6aB3Mx4y%2FspT%2BQRy5K2mKse5zio%2BfvBDVu%2B42R9iK1p>.

public in practicing non-discrimination and treating PWDs with human dignity³¹⁵ and the use sign language to use when communicating during COVID-19.³¹⁶

The Government should ensure continuous awareness efforts on assisting PWDs during COVID-19 and most importantly provide the necessary support including financial support to ensure that their care needs can be met. The Government should also ensure that it engages PWDs through representative organizations in the design of measures to fight the pandemic.

g) Frontline workers

COVID-19 has tested the capacity of our national health system and has had a great impact on the health of our frontline workers, who continue to work around the clock to care for the infected and for preventing the spread of the virus.

Reports by the MOH have revealed several instances of frontline workers being infected and had to isolate. This has had a huge impact on service delivery.

Concerns were raised regarding stress, burnout and fatigue experienced by some frontline staff. One submitter who is a frontline worker revealed experiencing fatigue due to the long hours and not being able to see family.³¹⁷ There were also concerns raised with the media by some nurses for not being paid overtime and having to pay for their own expenses which the MOH is responsible for, such as fuel. The MOH provided that the delay in payments was a result of staff responsible for making the payments being on leave after contracting the virus.³¹⁸

The MOH *National Pandemic Plan* does recognise the need to look after staff wellbeing to reduce stress and risk of burnout. This can be done through supervision, setting up peer support networks and ensuring access to confidential, mental health support with clear referral routes for all staff e.g. staff counselling services.³¹⁹ It is unclear whether such support is made available however based on the submissions provided it does not seem so. The Government has provided during consultations with NEOC that support services for frontline workers is available but people are still hesitant to be open about their feelings and therefore are not making use of the services.

As part of the right to health, governments have an obligation to minimize the risk of occupational accidents and diseases including by ensuring workers have health information and adequate protective clothing and equipment, as well as receive psychosocial support to manage mental stresses.³²⁰ The Government has invested a great amount of money into procuring protective equipment and medical supplies to assist the efficient and safe delivery of healthcare services.³²¹ Financial incentives have also been proposed for frontline staff.³²²

³¹⁵ See video here: <https://fb.watch/cM96jR9nRU/>.

³¹⁶ See video here: <https://fb.watch/cM9eDrNOxK/>.

³¹⁷ BC, *Written submission* (4 and 8 March 2022).

³¹⁸ See Fuimaono Lumepa Hald, "Nurses pay for own fuel after virus strikes M.O.H. officials", *Samoa Observer* (28 April 2022) <https://www.samoaoobserver.ws/category/samoa/98096>.

³¹⁹ MOH, *National Epidemic and Pandemic Preparedness and Response Plan Financial Year 2020/21 – FY2024/25*, p.36.

³²⁰ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 14: The Right to the Highest Attainable Standard of Health* (Art. 12 of the Covenant), 11 August 2000, E/C.12/2000/4, <https://www.refworld.org/docid/4538838d0.html>.

³²¹ See MOH, *Samoa COVID-19 Emergency Response Project*, May 2020, https://www.health.gov.ws/wp-content/uploads/2020/09/Samoa-COVID-19-ESMF_May-22-Final.pdf. See also Australian Government DFAT Official website, *Pillar 1 – Health Security in Samoa*, <https://www.dfat.gov.au/geo/samoa/development-assistance/pillar-1-health-security-samoa>.

³²² Matai'a Lanuola Tusani T-Ah Tong, "Frontline workers to get risk allowance", *Samoa Observer* (16 November 2022) <https://www.samoaoobserver.ws/category/samoa/94694>.

In line with its commitment under its National Pandemic Plan, the Government should ensure that it provides the necessary financial and psycho-social support for frontline workers to ensure that they continue to provide effective health services to members of the public.

h) Faafafine, faatama & SOGIESC persons³²³

Faafafine, faatama & SOGIESC persons who continue to face many inequalities in society have been put in much more vulnerable positions as a result of the pandemic. Many SOGIESC persons continue to face challenges in accessing healthcare systems due to stigma and discrimination.³²⁴ SOGIESC persons may also face barriers to accessing COVID-19 services in a multi-sectoral response.

In Samoa many SOGIESC groups are faced with issues regarding access to health care, economic hardship due to loss of jobs, and some have been subjected to violence.³²⁵ The Government working together with SOGIESC organisations should ensure that it provides support and address issues faced by SOGIESC persons in Samoa exacerbated by COVID-19 and COVID-19 measures.

RECOMMENDATIONS

Right to life

- 9.** The Government ensures that the most fundamental and basic rights including the rights to life and health for instance are respected, protected and fulfilled even in times of emergencies such as during a public health emergency. This is consistent with Samoa's human rights obligations under the International Covenant for Civil and Political Rights and other relevant human rights conventions Samoa is a party to.

Freedom of movement and freedom of association and assembly

- 10.** The Government is encouraged to ensure that any future restrictions on assembly and association and especially free movement, should be strictly necessary for a designated purpose, proportionate and non-discriminatory.

Right to information, digital rights, media freedom and health disinformation

- 11.** As a party to the International Covenant for Civil and Political Rights, the Government is encouraged to continue strengthening measures on information sharing and transparency including exercising proactive disclosure of information and working closely with the media to ensure that members of the public receive and access factual and science-based, timely and regular, consistent and comprehensive information on the effectiveness of vaccines available and the threat posed by COVID-19, to inform and respond to the outbreak. Consistency of messaging from the Government and the media is essential to avoid misinformation and disinformation, and mistrust among members of the public.
- 12.** The Government ensures that it puts in place measures to address the digital divide between those with internet access and sufficient devices, and those without, (especially children and those in rural communities) to ensure digital inclusion.

³²³ **SOGIESC persons** refers to persons with diverse sexual orientation, gender identity and expression and sexual characteristics. In the context of Samoa this refers to faafafine, faatama, MSM groups and inter-sex. **It is important to note that faafafine and faatama are cultural gender identities and therefore do not necessarily fit under the SOGIESC umbrella.**

³²⁴ See OHCHR, *COVID-19 Guidance*, <https://www.ohchr.org/EN/NewsEvents/Pages/COVID19Guidance.aspx>.

³²⁵ NHRI Samoa, *SHRR 2022 CSOs/NGOs consultations* (24 February 2022).

13. While it is acknowledged that everyone has the right to free speech when it comes to vaccine effectiveness for instance, it is important that responsibility towards others is exercised to ensure that opinions expressed do not interfere with efforts aimed at achieving greater public good such as protection from the health impacts of a pandemic.

Public health surveillance, right to privacy and confidentiality of health records

14. Businesses engaging to assist with surveillance operations especially contact tracing must ensure that they have in place processes and guidelines for safely storing information and managing any breaches, including adequate redress for affected individuals. Moreover, accessibility issues to such technology should also be addressed to ensure reliable tracing and reporting.

15. The Government and authorities ensures that the privacy of individuals be strictly maintained when gathering health information for managing COVID-19. Such information must be subjected to the highest level of confidentiality. Legal safeguards for the appropriate use and handling of personal health information must be included in policies. Comprehensive trainings of health officials who manage and handle data must be consistent and regularly conducted.

Right to health

16. The Government ensures taking continuous steps and measures to prevent, treat and control diseases; provide reproductive and maternal health care; provide public education and access to information; and strengthen training for health personnel, including on human rights. In doing so, consideration should be given to available resources, and following the guiding principles for the provision of the right to health contained in its *National Epidemic and Pandemic Preparedness and Response Plan Financial Year 2020/21 – FY2024/25*.

17. The Government is encouraged to further strengthen and continuously roll out its public health campaigns and strategies on vaccines, in an effective way using various modes of communication to address challenges of vaccination hesitancy and improve vaccination literacy not only for COVID-19 but for all other vaccines.

Access to justice

18. The Government and the courts are encouraged to utilise alternative methods for hearing cases and conducting hearings such as using video link to ensure continuous access to justice while restrictions are in place. This will help address issues that may arise as a result of further delays.

Right to education

19. The Government is encouraged to put in place adequate and reliable infrastructure to facilitate online learning to ensure digital inclusion and that children continue to receive quality education. Alternative methods for learning should also be utilised. Moreover, support and resources for students especially those living in rural communities and low income families should be provided to ensure that they have access to online learning. Consideration should also be given to their learning needs of children with disabilities when imposing stay-at-home measures as most rely and depend on face-to-face support.

Right to work

20.The Government is encouraged to ensure that measures are put in place to buffer the economic impacts of COVID-19 especially for low-wage workers as well as those in the private sector. Businesses should also consider providing support for those who have to isolate if they get infected by providing paid sick leave.

Food security and right to food

21.The Government and businesses are encouraged to ensure that they take into account the impact on supply chains and ensure that there is adequate food supply especially during lockdowns. Considerations must also be given to the potential rise in the cost of food items and cost of living generally as the world continues to face challenges with global supply of goods and services.

Right to water, sanitation and hygiene (WASH) and waste management

22.The Government is encouraged to ensure that people have continuous access to safe drinking water during the pandemic including those who may not be able to pay.

23.The Government ensures that there is adequate support for water and wastewater infrastructure to ensure good and consistently applied WASH and waste management practices in communities, homes, schools, and healthcare facilities. Awareness efforts on hygiene and sanitation including the safe disposal of COVID-19 waste need to be sustained and the Government should continue to work with communities to ensure adequate measures are in place for sanitation and hygiene.

Stimulus support and assistance

24.The Government is encouraged to ensure that its support and stimulus policies are inclusive with the aim of keeping jobs and creating alternative opportunities especially for vulnerable businesses and households to ensure sustainability. Consultations with these groups on ways to address economic impact should be carried out to ensure a targeted fiscal response.

Addressing social issues

25.The Government is encouraged to provide support for the continuation and full implementation of measures and actions including ensuring essential services are supported, to address gender based violence.

26.The Government is encouraged to take a holistic approach in addressing the impact on the right to health to include mental health. It should continue to work and consult with CSOs/NGOs working in the mental health space to ensure that support is available to those who need it most with a focus on vulnerable groups especially women and children.

Addressing discrimination

27.The Government is encouraged to continue monitoring and taking steps to respond to instances of discrimination and address these accordingly for example, through raising awareness. It should also ensure that it anticipates the potential for certain communities and vulnerable groups to

experience increased discrimination as a result of its response to COVID-19. Individuals must also ensure that they treat one another with respect and kindness.

Women and girls including pregnant mothers

28.The Government should prioritise as a fundamental core health service, sexual and reproductive health rights services to assist women and pregnant mothers. It should provide support for women who are overrepresented in providing care for families and for women affected by gender based violence.

The elderly and people with underlying health condition including those living with HIV

29.The Government ensures that the impacts experienced by older persons including mental stress are adequately addressed through consultations with them.

30.The Government ensures continuous awareness and support for the specific needs of those with underlying health conditions and provide information as to why they are at more risk. Attention must also be given to ensure that people living with HIV continue to receive the support they need.

Children and young people

31.The Government is encouraged to continue implementing its obligations with regard to the rights of children contained in its national policies and also under the Convention on the Rights of a Child especially with regard to protection, participation and education.

People in detention

32.The Government is encouraged to favourably consider and implement recommendations contained in the NHRI Samoa’s Inspection Report 2022: COVID-19 Assessment to ensure continued protection of those deprived of their liberties.³²⁶

Low income families and people living in poverty

33.The Government is encouraged to give proper and adequate consideration to the disproportionate impact experienced by those from low income families and people living in poverty when developing its stimulus policies, to ensure that these groups receive the necessary support to sustain their livelihoods and reduce incidences of poverty and exclusion.

Persons with disabilities (PWDs)

34.The Government ensures continuous awareness raising for members of the public in assisting PWDs during COVID-19 and most importantly provide the necessary support including financial assistance to ensure that the care needs of PWDs can be met. Engagement with PWDs through representative organizations in the design of measures to fight the pandemic should also be carried out.

³²⁶ See full list of recommendations in **Annex 4**.

Frontline workers

35.The Government in line with its commitment under its *National Epidemic and Pandemic Preparedness and Response Plan Financial Year 2020/21 – FY2024/25* should provide the necessary financial and psycho-social support for frontline workers to ensure that they continue to provide adequate and reliable health services to members of the public.

SOGIESC persons

36.The Government working together with Faafafine, faatama and SOGIESC organisations is encouraged to provide support and address issues faced by SOGIESC persons in Samoa that have been exacerbated by COVID-19 and government measures.

PART 4: WORKING TOGETHER

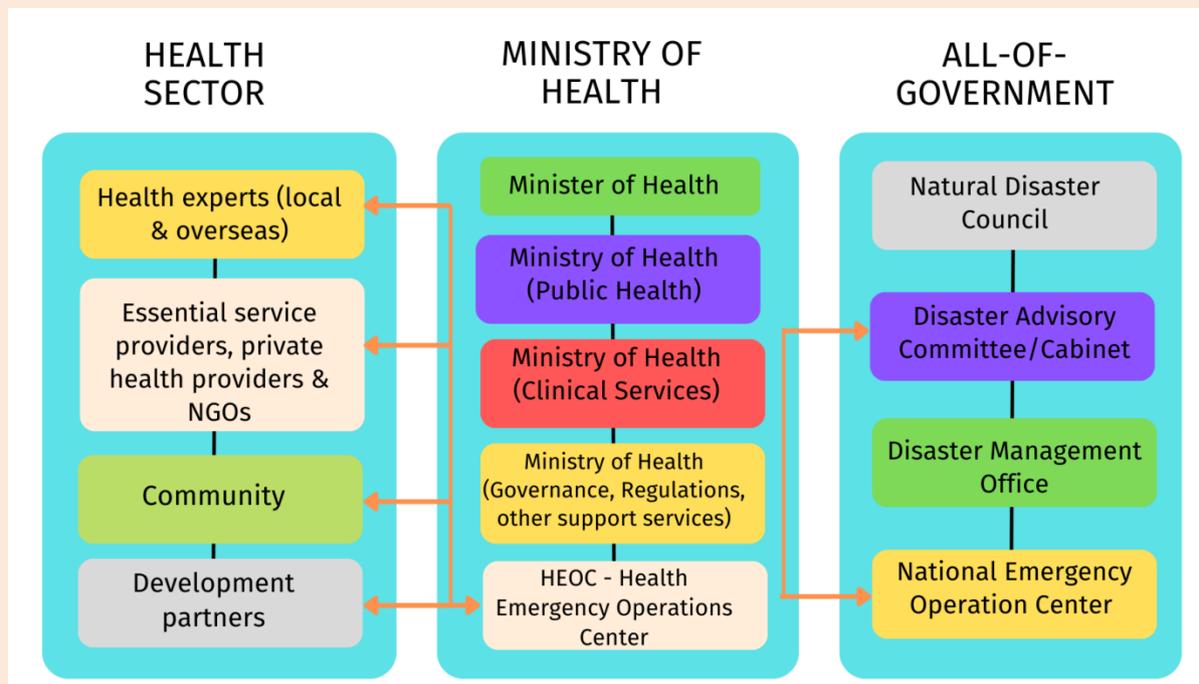
It has been recognised both globally and nationally that responding to a public health emergency such as the COVID-19 pandemic, cannot be done by the health sector alone. This requires the collaborative efforts by all sectors and the country as a whole. The Government according to its *National Pandemic Plan*, and *2019 Novel Coronavirus (COVID-19) Preparedness and Response Plan (2019 COVID-19 Plan)* published in February 2020 has therefore adopted the whole-of-country multi-sectoral approach in mitigating health risks and avoiding preventable deaths.³²⁷

The MOH *National Pandemic Plan* makes specific reference to ‘engagement’ as one of its core values providing empowerment of everyone from the political level to the community to participate in preventing and controlling of epidemics and pandemics. In relation to engagement on planning, it highlights that³²⁸,

Planning involves liaising and coordinating in advance of a public health emergency with health sector partners/stakeholders such as relevant government ministries and corporations, health NGOs, health professionals from both the public and the private sector and the community.

While engagement is considered a core value of the *National Pandemic Plan*, issues have been raised particularly with regard to how it has been applied in practice. These issues are discussed below.

INFORMATION POINT: SAMOA’S EPIDEMIC AND PANDEMIC PLANNING PROCESS FOR HEALTH SECTOR



Source: MOH, *National Epidemic and Pandemic Preparedness and Response Plan Financial Year 2020/21 – FY2024/25*, p.30.

³²⁷ MOH, *National Epidemic and Pandemic Preparedness and Response Plan Financial Year 2020/21 – FY2024/25*, p.24; MOH, *2019 Novel Coronavirus (COVID-19) Preparedness and Response Plan*, <https://www.health.gov.ws/covid-19/>.

³²⁸ MOH, *National Epidemic and Pandemic Preparedness and Response Plan Financial Year 2020/21 – FY2024/25*, p.31.

The above Information Point provides the planning process for the health sector in times of epidemics and pandemics. The MOH is the central agency and it works on one hand with stakeholders from the Health Sector which includes health experts, private health service providers, NGOs, and the community, and on the other hand all of government stakeholders which includes the NEOC and the Disaster Advisory Committee.

1. Private health care services

As experienced during the measles epidemic in 2019, international and local health volunteers played essential roles in public health emergency response by filling in service gaps. The MOH *National Pandemic Plan* provides that,³²⁹

- to further improve the utilization of volunteers before, during and after an epidemic/pandemic, MOH should look beyond the traditional workforce and utilize qualified volunteers and private health service providers. It is very important to:
 - a) engage and integrate private health service providers and local volunteers early in the planning process i.e. before an epidemic/pandemic influenza occurs.
 - b) develop effective working relationships and partnership with local and overseas volunteers and
 - c) develop effective communication among them, government ministries, the community and other stakeholders to enhance planning capabilities.

While this is recognised in the Plan, this was not fully realised in practice based on submissions received by NHRI Samoa from some private health service providers. One submitter who is a clinician provided that, “private health care services were excluded from information and planning in Samoa’s COVID-19 response and efforts to obtain information from the MOH has been futile”.³³⁰

Another health care provider noted that, “information sharing amongst service providers is lacking. Support services must be well informed of what is expected of them to assist the national campaign against COVID-19”.³³¹

In light of the above issues, the Government should ensure that it follows its plans in relation to coordination with private health providers to not only maximise resources and provide efficient care for the public, but to assist an already overworked health workforce.

2. Vulnerable groups

As highlighted in **Part 3(4)** on ‘Vulnerable Groups’ above, it is important that vulnerable groups are fully involved in decision making about their support especially the elderly, PWDS and children. Feedback must also be sought from low-income families, those in detention as well as women and girls and SOGIESC.

In a study conducted in June 2020 by UNFPA which collected more than 300 responses from Samoan youth (15-24 years), it highlighted that³³²,

³²⁹ MOH, *National Epidemic and Pandemic Preparedness and Response Plan Financial Year 2020/21 – FY2024/25*, p.36.

³³⁰ Dr. Malama Tafuna’i, *Written submission* (4 and 7 February 2022).

³³¹ LS, *Written submission* (7 February 2022).

³³² UN in Samoa, *COVID-19 Socio-Economic Response Plan, 2020*, https://reliefweb.int/attachments/d79e6353-d1da-3962-88a7-c710d9f1cfc2/WSM_Socioeconomic-Response-Plan_2020.pdf, p.33. See also similar call in NZ, Tagata Pasifika, “Covid-19: Young people call for a place at decision-making table”, (16 April 2022) https://tpplus.co.nz/health-lifestyle/covid-19-young-people-call-for-a-place-at-decision-making-table/?fbclid=IwAR3c13BlprThEeBUg9YDsoe-ixq8VleCvchmVGMmr5_K5TTCbCZxQ5mFt54.

many young Samoans are eager to contribute to the COVID-19 national response and engage in community preparedness measures for future health emergencies. Majority responded if provided with resources, they could support themselves and others by providing correct information on ways to limit COVID-19 spread (68 per cent), educating family and friends to try to follow a routine while taking necessary precautions (52 per cent), utilizing creative ways such as arts to disseminate accurate information (33 per cent) and by contributing to preparedness measures to effectively deal with similar situations in future (28 per cent).

To ensure that national COVID-19 response policies are inclusive and targeted, the Government should continuously engage with vulnerable groups to seek feedback and views that will help inform the design of measures to fight the pandemic. This should carry forward and applied during any future public health emergency.

3. Business community and the media

Businesses should be involved in decision-making and consulted to inform the Government of the impact of COVID-19 on businesses that will help ensure targeted approach for stimulus support.

Apart from receiving support, businesses have an important responsibility to play and should ensure that,³³³

- they continue to treat their workers equally and not discriminate, for example decisions to let go or make workers redundant;
- ensure that measures in place for granting access to members of the public to services are non-discriminatory;
- ensure that measures are in place for responding to discrimination/ hatred faced by staff from members of the public;
- consider proportionality issues especially for businesses working with the Government on tracking and tracing technology and surveillance;
- continue to review supply chains to take account of the pandemic to ensure that adequate food supplies are maintained.

The media including local newspapers and community radio continue to play a key role in public health education, disseminating important information on COVID-measures, the impact of COVID-19 as well as emergency spending. Therefore, it is important that freedom of expression and information rights along with media freedom is not constrained.³³⁴ As highlighted above in **Part 3(1)(d)(i)** on impact of COVID-19 on ‘access to information’ it is important that members of the public continue to have access to reliable, timely and accurate information. Likewise media entities must also ensure that there is responsible reporting to avoid any misinformation or inconsistencies in reporting with government media reporting.

³³³ Oxfam, COVID-19 and Human Rights: States’ obligations and businesses’ responsibilities in responding to the pandemic”, *Discussion Paper* (August 2020) <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621037/dp-covid-19-human-rights-principles-070820-advance-en.pdf?sequence=4>, p.26.

³³⁴ Oxfam, COVID-19 and Human Rights: States’ obligations and businesses’ responsibilities in responding to the pandemic”, *Discussion Paper* (August 2020) <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621037/dp-covid-19-human-rights-principles-070820-advance-en.pdf?sequence=4>, p.26.

4. Civil society and Non-governmental organisations (CSOs/NGOs)

CSOs/NGOs are instrumental in building and maintaining trust in the health system. They can help identify flexible and smart solutions that respond to the most urgent needs especially those of vulnerable groups in society.

*Civil society organizations initiate, develop, and refine new ideas and approaches to address social challenges, pioneering solutions that strengthen the capacity of governments.*³³⁵

*Civil society organizations are well positioned to engage in and support the delivery of a community-led pandemic response: providing life-saving services, running awareness campaigns, and addressing issues of livelihoods, among others. They can also support greater accountability of state institutions to all citizens...*³³⁶

Various CSOs/NGOs in Samoa have been doing critical work to support prevention efforts and ensure vulnerable groups have access to needed protection, care, and social services. Some of the support provided by CSOs/NGOs to assist vulnerable groups have included:

- Samoa Soccer Federation providing food supplies to club members³³⁷,
- Brown Girl Woke donating 30 boxes of groceries and food supplies to frontline workers³³⁸,
- ADRA Samoa “donating food supplies and hygiene kits totally valued at \$65,000 to the Police and Fire and Emergency Service Authority in recognition of their work during the pandemic”.³³⁹ ADRA also, with the financial assistance of the Government, has provided housing for vulnerable families.³⁴⁰

The Government should ensure that continues to protect and support CSOs/NGOs doing charity work to ensure that they continue to provide much needed support especially for the most vulnerable.

5. Village Fono and communities

The role of the Village Fono in Samoa is crucial not only in maintaining peace, but also in disseminating important information through Sui o Nuu and Sui Tamaitai o Nuu and mobilizing government support and assistance to villagers especially during times of emergency such as a pandemic. Samoa’s *National Pandemic Plan* recognises the important role of the Village Fono in disseminating health messages and

³³⁵ Oxfam, COVID-19 and Human Rights: States’ obligations and businesses’ responsibilities in responding to the pandemic”, *Discussion Paper* (August 2020) <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621037/dp-covid-19-human-rights-principles-070820-advance-en.pdf?sequence=4>, p.32.

³³⁶ Oxfam, COVID-19 and Human Rights: States’ obligations and businesses’ responsibilities in responding to the pandemic”, *Discussion Paper* (August 2020) <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621037/dp-covid-19-human-rights-principles-070820-advance-en.pdf?sequence=4>, p.32.

³³⁷ Marc Membrere, “Football club assists families with food donation”, *Samoa Observer* (4 April 2022) <https://www.samoobserver.ws/category/samoa/97845>.

³³⁸ Marc Membrere, “B.G.W. donates food to frontline workers”, *Samoa Observer* (27 March 2022) <https://www.samoobserver.ws/category/samoa/97737>.

³³⁹ Adel Fruean, “Police, F.E.S.A. receive \$65,000 worth of food”, *Samoa Observer* (13 April 2022) <https://www.samoobserver.ws/category/samoa/97944>.

³⁴⁰ Tracey Bridcutt, “ADRA Samoa building houses for vulnerable families”, *Adventist Record* (22 February 2022) <https://record.adventistchurch.com/2022/02/22/adra-samoa-building-houses-for-vulnerable-families/>.

content including awareness on social distancing and basic hygiene disseminated by government agencies.³⁴¹

In relation to SOE orders, community consultations provided that the Government should consider utilising the Village Fono to help with the enforcement of SOE orders. This will not only help with compliance but it will also greatly assist an already stretched law enforcement workforce.³⁴² Engagement with the Village Fono and communities can help inform the Government of relevant support that can be made available to assist families cope and recover from the impacts of COVID-19.

All in all, the Government should continue to utilise its community networks to enable the free flow of public health information to communities and assist with the enforcement of SOE orders alleviating pressures on law enforcement officials. Likewise, communities also have a responsibility to ensure that they treat others with respect and support efforts by the Government to combat the impact of the pandemic including following SOE orders and utilising opportunities for children's education.

6. National Human Rights Institutions (NHRIs)

In times of public emergencies, NHRIs can play an important role not only in providing policy advice to Government on ways to ensure continuous protection and promotion of human rights by adopting a human rights based approach in planning and decision-making, but it can also provide monitoring assistance and report on the human rights implications of the pandemic and government measures (i.e. oversight body).³⁴³

NHRI Samoa as an independent oversight body on human rights issues in Samoa, has the mandate under the *Ombudsman Act 2013* to carry out the following (including in times of emergencies):³⁴⁴

- **Promote public awareness on human rights:** NHRI Samoa through this function can share and inform the public with information about their human rights during COVID-19;
- **Monitor and promote compliance:** NHRI Samoa through this function can monitor, raise concerns and make suggestions or guidance to Government on decisions and actions in response to covid-19 to be consistent with national and human rights law;
- **Inquire into and report on alleged human rights violations:** NHRI Samoa through this function can investigate and report on an alleged human rights violation.

NHRI Samoa from the beginning of the pandemic in 2020 to date has carried out various activities including:

- Continuous monitoring of the implications of the pandemic on the rights and freedoms of Samoans through media and other sources;
- Received and responded to complaints from members of the public regarding the impact of the Government's measures on human rights;
- Conducted consultations with CSOs/NGOs and communities to obtain information to inform its report on COVID-19 and human rights to Parliament;
- Developed and published on its online platforms information on COVID-19 and implications on human rights for members of the public information;

³⁴¹ MOH, *National Epidemic and Pandemic Preparedness and Response Plan Financial Year 2020/21 – FY2024/25*, p.45.

³⁴² NHRI Samoa, *SHRR 2022 community consultations – men focus group Savaii* (14 March 2022).

³⁴³ United Nations Development Programme, *COVID-19 and National Human Rights Institutions: A Study by GANHRI, OHCHR and UNDP*, 31 March 2021, <https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/COVID-19-and-NHRI.pdf>.

³⁴⁴ *Ombudsman Act 2013*, section 33.

- Provided advice and guidance to the Government through its membership on the Disaster Advisory Committee to ensure that human rights are a key consideration in its COVID-19 planning and response.

To ensure that Samoa's COVID-19 response is consistent with human rights principles and that there is compliance with its human rights obligations under international human rights law, the Government should continue to engage NHRI Samoa for advice and guidance on human rights principles that must be taken into account in its decision-making and response to the pandemic. Equally important, NHRI Samoa should also do the same and proactively make its voice heard.

7. International community

*To the extent that a disaster manifestly exceeds its national response capacity, the affected State has the duty to seek assistance from, as appropriate, other States, the United Nations, and other potential assisting actors.*³⁴⁵

The international nature of the COVID-19 pandemic makes it important to consider states' obligations to cooperate with each other. International law addresses inter-state cooperation, for example in the WHO International Health Regulations 2005,³⁴⁶ which are the standard for almost all states. They include:³⁴⁷

- the duty to 'develop, strengthen and maintain ... the capacity to respond promptly and effectively to public health risks and public health emergencies of international concern' (Article 13);
- the duty 'to collaborate with each other, to the extent possible, in: (a) the detection and assessment of, and response to, events as provided under these Regulations; (b) the provision or facilitation of technical cooperation and logistical support, particularly in the development, strengthening and maintenance of the public health capacities required under these Regulations; (c) the mobilization of financial resources to facilitate implementation of their obligations under these Regulations; and (d) the formulation of proposed laws and other legal and administrative provisions for the implementation of these Regulations.'

To date, the Government has received various forms of support from its partners to assist with its pandemic response both in the forms of funds and resources. The governments of New Zealand³⁴⁸, Australia³⁴⁹, and China³⁵⁰ have all assisted providing both financial support as well as health care resources including COVID-19 vaccines and testing equipment. Japan provided vehicles to assist with community outreach work. The US Peace Corps group assisted with the rollout of vaccines for

³⁴⁵ Article 11 of the *Draft Articles on the Protection of Persons in the event of disasters* cited in Oxfam, COVID-19 and Human Rights: States' obligations and businesses' responsibilities in responding to the pandemic", *Discussion Paper* (August 2020) <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621037/dp-covid-19-human-rights-principles-070820-advance-en.pdf?sequence=4>, p.24.

³⁴⁶ WHO, *International Health Regulations 2005*.

³⁴⁷ Oxfam, COVID-19 and Human Rights: States' obligations and businesses' responsibilities in responding to the pandemic", *Discussion Paper* (August 2020) <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621037/dp-covid-19-human-rights-principles-070820-advance-en.pdf?sequence=4>, p.24.

³⁴⁸ Official website of the New Zealand Government, "New Zealand donates more COVID-19 vaccines to COVAX and the Pacific", *Press Release* (24 September 2022), <https://www.beehive.govt.nz/release/new-zealand-donates-more-covid-19-vaccines-covax-and-pacific>.

³⁴⁹ UNICEF, "Australia-UNICEF's COVID-19 Vaccine Support to Samoa", *Press Release* (6 April 2022), <https://reliefweb.int/report/samoa/australia-unicef-s-covid-19-vaccine-support-samoa>.

³⁵⁰ Marc Membrere, "China ready to help with vaccines", *Samoa Observer* (14 April 2022) <https://www.samoobserver.ws/category/samoa/82389>.

children.³⁵¹ Various international financial agencies and UN institutions including the World Bank³⁵², Asian Development Bank³⁵³, and WHO³⁵⁴ among others have also provided support.

While we continue to cope with challenges and impact, and sustainably recover from the pandemic, the Government should continue to cooperate with its international partners to make this a reality.

RECOMMENDATIONS

- 37.**The Government is encouraged to ensure that it follows its plans in relation to planning and coordination with private health providers to not only maximise resources and provide efficient care for the public, but to assist an already overworked health workforce.
- 38.**The Government is encouraged to engage with vulnerable groups to seek feedback and views on matters that impact their needs and that will help inform the design of measures to fight the pandemic. This will help ensure that the national COVID-19 response policies are inclusive and targeted.
- 39.**Businesses should ensure that,
 - a. they continue to treat their workers equally and not discriminate, for example decisions to let go or make workers redundant;
 - b. ensure that measures are in place for granting access to members of the public to services are non-discriminatory;
 - c. ensure that measures are in place for responding to discrimination/ hatred faced by staff from members of the public.
- 40.**The Government ensures protection and support for CSOs/NGOs doing charity/ community work to ensure that they continue to provide much needed support especially for the most vulnerable.
- 41.**The Government ensures continuous utilisation of its community networks to enable the free flow of public health information to communities, and to assist with the enforcement of state of emergency orders alleviating pressures on law enforcement officials.
- 42.**Individuals have a responsibility to ensure that they treat one another with respect and support efforts by the Government to combat the impact of the pandemic including following state of emergency orders and utilising opportunities for children’s education.
- 43.**The Government is encouraged to ensure that it engages with oversight bodies including NHRI Samoa for advice and guidance on human rights principles that must be considered and incorporated in its decision-making and response to COVID-19. This will ensure consistency and compliance with human rights obligations under national and international (human rights) law. Equally important NHRI Samoa should do the same and proactively make its voice heard.
- 44.**The Government is encouraged to continue cooperation with its international partners to respond to the impacts of the pandemic and ensure that the country can sustainably recover from it.

³⁵¹ U.S. Embassy in Samoa, “Peace Corps Assists with Paediatric Vaccine Rollout in Samoa”, *Press Release* (11 March 2022) https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwj1mtaJ9Zr3AhXqUGwGHfuNBGYQFnoECAyQAQ&url=https%3A%2F%2Fwww.usembassy.gov%2Fpeace-corps-is-assisting-the-pediatric-vaccine-rollout-in-samoa%2F&usg=AOvVaw13Oz7b1vAxilwyaE_b7yx1.

³⁵² World Bank, “World Bank Provides Additional \$3.4 million for Samoa’s Fight Against COVID-19”, *Press Release* (24 April 2020) <https://reliefweb.int/report/samoa/world-bank-provides-additional-34-million-samoa-s-fight-against-covid-19>.

³⁵³ Asian Development Bank, “ADB Provides \$10 Million Grant to Help Samoa Manage COVID-19”, *Press Release* (25 April 2022) <https://www.adb.org/news/adb-provides-10-million-grant-help-samoa-manage-covid-19>.

³⁵⁴ WHO, “15 tonnes of lifesaving COVID-19 supplies arrive in Samoa”, *Press Release* (3 May 2022) <https://www.who.int/westernpacific/about/how-we-work/pacific-support/news/detail/03-05-2022-15-tonnes-of-lifesaving-covid-19-supplies-arrive-in-samoa>.

PART 5: BALANCING HUMAN RIGHTS IN A COVID-19 ENVIRONMENT – ADOPTING A HUMAN RIGHTS LENS

In the context of COVID-19, balances have to be struck between competing human rights. This means for example, rights to life, healthcare, and health protection, on the one hand, would interfere with an individual's right to work, education, and freedom of assembly, and movement, on the other.³⁵⁵

The COVID-19 pandemic has raised complex questions not only in Samoa but across the world about when restrictions under SOE orders are justified, and where the balance lies between individual rights and freedoms and the right to health, which includes public health and safety.

While the approach to balancing rights will of course depend on the issue and context, **what is ultimately important is that human rights guide decision-making, whether by government decision-makers or businesses.** By adopting human rights based approach the Government will be able to balance human rights in a COVID-19 environment.

Integration of human rights principles in Government's response and recovery from COVID-19 will not only result in better outcomes for all but also will ensure healthcare for everyone and preservation of human dignity. Without a deliberate human rights-based approach to managing COVID-19, including independent oversight, the pandemic will further exacerbate existing inequalities especially for vulnerable groups.³⁵⁶

As stated above in **Part 2(1)**, human rights law provides that states have the ultimate responsibility of respecting, protecting and fulfilling human rights including taking necessary steps to prevent, treat and control epidemic diseases in order to realise the right to health. When taking such measures it is crucial that they are reasonable and proportionate to protect all human rights.

Article 106 (3) of Samoa's Constitution empowers the Government to impose measures including the issuing of SOE orders necessary for securing public safety i.e. in times of public health emergencies, which in turn limits the application of the rights of citizens. While the issuing of SOE orders is consistent with the Constitution and human rights law, the fundamental principles of necessity, legitimacy and reasonableness which justifies placing limitations on rights must be strictly observed by the Government. These principles and others are explored further below.

1. Human rights principles and COVID-19 response

Human rights law provides fundamental principles that are crucial for states to observe to ensure that the rights of citizens are respected and protected in their responses to the pandemic.

³⁵⁵ Human Rights Watch, *Human Rights Dimensions of COVID-19 Response*, March 2020, https://www.hrw.org/sites/default/files/supporting_resources/202003covid_report_0.pdf.

³⁵⁶ United Nations, "COVID-19 and Human Rights We are all in this together", April 2020, <https://unsdg.un.org/sites/default/files/2020-04/COVID-19-and-Human-Rights.pdf>, p.2.

Several core **human rights principles are particularly relevant to pandemic responses** including among others ***approaching COVID-19 prevention as a human rights obligations, equality and non-discrimination, participation and accountability, protection of vulnerable groups, proportionality, and the right to information.***³⁵⁷ Entrenching these principles in responses will help address inequalities and violation of human rights resulting from the impacts of COVID-19.

Various resources have been developed by the United Nations and various human rights organisations around the world that provide guidance for governments in relation to adopting a human rights based approach to their COVID-19 response. One of the resources (highlighting the above human rights principles) is provided below. **The key areas listed in the resource below are those that NHRI Samoa urges and encourages the Government to continue to consider in its decision-making, planning and response to the pandemic and its impacts in Samoa.**

RESOURCE: PRINCIPLES FOR A HUMAN RIGHTS-BASED APPROACH TO MANAGING THE COVID-19 PANDEMIC

Approach preventing and treating COVID-19 as a human rights obligation

1. Recognize that the COVID-19 pandemic engages the right to health and life under international human rights obligations.
2. Recognize that human rights laws require mitigating potential impacts on rights that are interdependent with the rights to health and life, including the rights to work, education, equality, access to information, freedom from cruel, inhuman or degrading treatment or punishment, and the freedoms of association, expression, assembly and movement.
3. Recognize that international human rights obligations prohibit discriminatory action, including harassment, against any persons or communities because of an association with the COVID-19, perceived or otherwise.

Set strict limits on measures that infringe rights and proportionality

1. Ensure that any public health or emergency-measures that are deemed necessary to prevent the spread of COVID-19 and that restrict the exercise of rights, are time-bound and subject to regular reviews.
2. Recognize that Samoa's international human rights obligations require that any measures that restrict the exercise of rights must be demonstrably justified as necessary, legitimate and proportionate.
3. Ensure that rights-based, legal safeguards govern the appropriate use and handling of personal health information.

Protection of vulnerable groups

1. Anticipate, assess and address the disproportionate impact of COVID-19 and related restrictions on vulnerable groups.
2. Make sure vulnerable groups have equitable access to health care and other measures to address COVID-19, including financial and other assistance.
3. Take steps to mitigate gendered impacts and ensure that responses to COVID-19 do not perpetuate gender inequity.

³⁵⁷ See for example, Oxfam, COVID-19 and Human Rights: States' obligations and businesses' responsibilities in responding to the pandemic", *Discussion Paper* (August 2020) <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621037/dp-covid-19-human-rights-principles-070820-advance-en.pdf?sequence=4>, p.4.

4. Ensure that public health and emergency measures consider accessibility and other needs of people with disabilities who face heightened susceptibility to contracting COVID-19 and may face extra challenges to obtaining services and supplies because of restrictive measures.
5. Ensure that any law enforcement of public health or emergency measures does not disproportionately target or criminalize specific individuals because of their background or status.

Human dignity and care, equality and responding to discrimination

1. Ensure that steps taken in response to COVID-19 are based on evidence, and deliberately challenge, reject and dispel stereotypes.
2. Anticipate and take into account the potential for certain communities to experience increased discrimination as a result of the government's response to the COVID-19 pandemic.
3. Take measures to avoid stigma and hatred during and after the pandemic
4. Monitor and report on any trends in discrimination related to the COVID-19 pandemic and pursue appropriate sanctions, including criminal prosecution where appropriate.

Participation and strengthening human rights accountability and oversight

1. Consult with human rights institutions and experts, vulnerable groups, as well as persons and communities affected by COVID-19, when making decisions, taking actions and allocating resources.
2. Institute formal advisory roles for representatives of human rights institutions within governmental COVID-19 task forces, special committees and working groups.
3. Take a deliberate and comprehensive approach to independent human rights accountability and oversight that ensures violations are anticipated, prevented and mitigated from the outset.
4. Collect health and other human rights data regarding the response to the COVID-19 pandemic, disaggregated by the grounds of age, disability, gender, social condition, etc.

Freedom of opinion and expression and information access

1. Provide reliable and accurate information on COVID-19 measures, cases etc. including clarifying false information, such as the peddling of false treatments.
2. Ensure unrestricted and reliable access to internet services and removing any constraints on freedom of opinion and expression including media freedom
3. Regularly monitor and report publicly on the human rights impacts, outcomes and inequalities related to the COVID-19 pandemic and its management.

Source: See OHCHR, COVID-19 Guidance, <https://www.ohchr.org/EN/NewsEvents/Pages/COVID19Guidance.aspx>. See also Ontario Human Rights Commission, Policy statement on a human rights-based approach to managing the COVID-19 pandemic, <https://www.ohrc.on.ca/en/policy-statement-human-rights-based-approach-managing-covid-19-pandemic> (accessed 16 January 2022); Oxfam, COVID-19 and Human Rights: States' obligations and businesses' responsibilities in responding to the pandemic", Discussion Paper (August 2020) <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621037/dp-covid-19-human-rights-principles-070820-advance-en.pdf?sequence=4>.

NOTE: Other useful human rights based approach checklists and guides that the Government can consider to inform its COVID-19 response can be found at the section on **'Resources'** below.

2. Compliance assessment of the Government's response

a) Approach preventing and treating COVID-19 as a human rights obligation

Two of the core values highlighted in the *National Pandemic Plan* include human rights and engagement.³⁵⁸

Human Rights: Everyone has the right to access health services including essential services before, during and after epidemics and pandemics

Engagement: Empower everyone from the political level to the community to participate in preventing and controlling of epidemics and pandemics.

The emphasis on the value of '**human rights**' in particular in the *National Pandemic Plan* is an important indicator of the Government's commitment ensuring that the right to health is promoted and protected during emergencies such as a pandemic, but also the important role various stakeholders play in decision-making and planning.

While emphasis on the right to health is given importance, it is important that consideration be given to other rights and freedoms also be affected. The impact on the right to health can also impact on other rights as highlighted above in the **Part 3**. Government measures and support continue to address some of the interrelated rights such as right to education by providing online access, as well as freedom of movement by lifting restrictions – See **Part 2(3)** on 'Government response to COVID-19 in Samoa'.

b) Set strict limits on measures that infringe rights and proportionality

Although strict measures were put in place restricting freedom of movement by way of lockdowns the Government has been quick in its response to ease such restrictions within weeks compared to months in other countries. The Government also continues to make orders as allowed by the Constitution necessary for ensuring public safety. However, as highlighted in **Part 3** on 'Impact of COVID-19 & State Measures', issues regarding the proportionality and reasonableness of these orders have been questioned by some. For instance, the lockdowns and curfew times has disproportionately affected many businesses pushing them into economic hardship and has caused them to let go some of their employees. Restrictions on movement on the 19 April 2022, especially for transportation was confusing and highlighted poor planning as many people finished work at 2pm but 2pm was also the time that people were not allowed to move around on public roads.

Despite these issues, there is good compliance overall with regard to the principle of proportionality. Most of the limits especially on movement and access to public services were for a short period of time and have been relaxed to date.³⁵⁹ It is crucial that the Government continues to review its measures and make necessary changes.

c) Protection of vulnerable groups

While support has been provided to assist vulnerable groups including disability benefit, increase in pension entitlements, and low income families receiving support from CSOs/NGOs (supported by the Government) for GBV and housing, more support is still required to ensure that vulnerable

³⁵⁸ MOH, *National Epidemic and Pandemic Preparedness and Response Plan Financial Year 2020/21 – FY2024/25*, p.16.

³⁵⁹ See Government of Samoa, *State of Emergency Order No. 79*, <https://www.samoagovt.ws/wp-content/uploads/2022/05/order79.pdf>.

communities are continuously protected especially as they continue to suffer from the impacts of COVID-19 which have exacerbated already existing inequalities.

One of the major gaps is in relation to participation of vulnerable groups in decision-making. Therefore, in addition to receiving financial assistance it is crucial that vulnerable groups have a say especially on matters that impact their needs. For example, the elderly and PWDs who rely on in person care support need to be considered when imposing restrictions on contact, women and girls need to have continuous access to SRHR support services, and children regarding their learning needs.

d) Human dignity and care, equality and responding to discrimination

While there have been instances of discrimination and stigmatisation especially for those who have contracted the virus, humanity, dignity, and care and equality have and continue to be generally observed for the most part. For example, people are able to receive unfettered access to vaccines; public services continue to provide services to members of the public including education for children online. Some however, have not been able to access services for being unvaccinated on grounds of personal preference and singular beliefs. Denying access on these grounds is generally permissible under human rights law for reasons of public safety.

To ensure non-discrimination is observed, the Government must continue to monitor and take steps to respond to instances of discrimination and address these accordingly. It should also anticipate the potential for certain communities and vulnerable groups to experience increased discrimination as a result of its response to COVID-19. This can be addressed by ensuring participation of these communities and groups in decision-making.

e) Participation and strengthening human rights accountability and oversight

As highlighted above in relation to participation of vulnerable groups in decision making (see **Part 4(2)**), participation is one area that requires further strengthening and improvement. Although NHRI Samoa has provided advice to the Government through its membership on the Disaster Advisory Committee, there is a challenge especially regarding poor cooperation from the Government with some health professionals including private doctors and clinicians and pharmacists (who have provided submissions that they were not consulted) to assist in the national COVID-19 response. There has also been little consultations of vulnerable groups.

In moving forward, the Government should ensure that it continues to seek feedback from various stakeholders including private health care services, businesses, CSOs/NGOs, oversight mechanisms including the NHRI Samoa and most importantly vulnerable groups to ensure inclusion and the achievement of better outcomes for everyone. Such engagement by the Government will also further strengthen transparency and accountability.

f) Freedom of opinion and expression and information access

While freedom of expression of citizens and the media have and continue to be unrestricted, one of the major issues that came out of the consultations and media reports was in relation to uncoordinated and inadequate information sharing by the Government especially during lockdowns regarding restrictions, information on vaccine effectiveness and reasons for certain decisions made. As highlighted above under **Part 3(1)(d)(i)** on 'access to information' and **Part 4(1) and 4(2)** on cooperation with 'private health care providers' and 'vulnerable groups', there was poor

communication from the MOH especially during the lockdowns. A lot of the messages were contradictory and were not well articulated to help people understand matters including access to healthcare for instance. Information on vaccine efficacy has been scarce and there were different voices in relation to announcements.

It is crucial that everyone is kept informed and receive reliable and accurate information from the Government especially in such times where decisions are being made that impact on the lives and rights of everyone. The Government should ensure that it exercises proactive disclosure regarding information sharing especially during emergencies such as a pandemic.

Overall, while compliance has been good for the most part, there are still areas that require further improvement to ensure that the rights and freedoms of citizens are safeguarded. These areas mainly relate to access to information, protection of vulnerable groups, as well as participation and strengthening human rights accountability and oversight.

CONCLUSION

COVID-19 has brought about various challenges to the economy, and together with the Government's measures, has greatly impacted on the rights and freedoms of all Samoan citizens with the most vulnerable suffering the most given existing inequalities. Various rights and freedoms including civil and political as well as economic and social rights have been greatly impacted with lockdowns restricting freedom of movement and the right to education for children. The right to health inherent to the right to life has been severely impacted and the pandemic has and continues to test the ability of the Government to protect such fundamental right.

While the efforts of the Government are to be commended, providing support and ensuring that every citizen's health and safety is safeguarded, more work is still needed in regards to ensuring better coordination and planning especially in information sharing; strengthening protection of all vulnerable groups and ensuring their needs are considered in the Government's COVID-19 response; as well as improving and strengthening cooperation, accountability and oversight, and the participation of various stakeholders in decision making. Taking these considerations into account and other human rights principles highlighted and discussed throughout the Report will not only highlight the Government's interest in applying a human rights based approach in its response to pandemics but also its commitment in ensuring that the human rights of citizens are continuously safeguarded in public health emergency situations.

We strongly urge and encourage the Government to consider and implement the recommendations contained in this Report to ensure an effective and inclusive response to COVID-19 in Samoa now and for any future public health emergency that threatens the lives of our people.

RESOURCES: GUIDES & CHECKLISTS

To assist and guide the Government and relevant stakeholders in the effective implementation of human rights principles in its response to COVID-19, below are resources including Guides and Checklist, extracted and adapted from existing documents of various international human rights organisations.

Please note that the below resources are not intended as prescriptive measures the Government and stakeholders need to adopt, but rather as evidence of policy choices open to the Government and stakeholders that seek to take their human rights obligations into account.

RESOURCE: COVID-19 PANDEMIC – A HUMAN RIGHTS CHECKLIST

Human Rights Watch identified questions to guide a rights-respecting response to this crisis that addresses the needs of groups most at risk, including people living in poverty. Those relevant to Samoa's context are listed below:

PREVENTION AND CARE

Keeping the Public Informed

1. Is your government providing the public with timely, accurate, and accessible information on the spread of the pandemic?
2. Is your government taking steps to address the digital divide by increasing the accessibility and affordability of internet access, especially in places under lockdown where education, work, and public information on COVID-19 have moved online?

Providing Testing and Treatment

3. Is quality affordable health care accessible for everyone in your country as a right without discrimination?
4. If your government is maintaining COVID-19 quarantine or isolation facilities, is it providing people with health care, protection from infection, and food and water?
5. Is your government trying to dismantle barriers to health care for people living in poverty and other historically marginalized groups like SOGIESC people and people with disabilities?
6. Are testing kits and ventilators being deployed equitably?

Protecting Doctors and Frontline Workers

7. Is adequate protective equipment being provided to health care workers?
8. Is the government taking steps to protect health care workers from reprisals for being potentially exposed to the virus?
9. Are businesses and governments ensuring employees who work in essential situations such as grocery stores, delivery and warehouses, prisons, and at-home care have adequate protection against COVID-19 and access to testing?

Reducing Risks in Detention Facilities and Jails

10. Is your government reducing its prison detainee population to ease crowding and allow for "social distancing"?
11. Is your government releasing people who should not be in custody, including most pre-trial detainees, people held for minor offenses, detainees who have not been charged, and non-violent juvenile offenders?
12. Are authorities considering for release prisoners at greater risk of serious illness from the virus, including older people, people with underlying health conditions, people with disabilities, and pregnant people?

Boosting Access to Water and Sanitation

13. Is your government taking proactive steps to ensure continuous access to clean water for all, including suspending water shutoffs?

RIGHTS-RESPECTING CRISIS MANAGEMENT

Using Emergency Powers and Addressing Security Force Abuse

14. Are emergency powers used in a way that is lawful, necessary, and proportionate?
15. Are emergency powers time-bound and covered by legislative or judicial oversight?
16. Is your government reporting any derogations (temporary suspension of performance of human rights obligations) to relevant treaty bodies?
17. If state security forces are enforcing SOE measures, are officials taking steps to prevent abuse and hold officers accountable?

Avoiding Sacrificing Other Rights

18. Is your government's use of digital surveillance technologies to respond to the pandemic narrowly tailored to protect the right to privacy, assembly, and expression?
19. Are contraception and adequate maternal health care still readily available?

Addressing the Economic Fallout

20. Are your government's plans to mitigate the economic harms of COVID-19 based on guaranteeing basic economic rights to all, including low-income, undocumented, and informal sector workers?
21. Is the government mobilizing services to support those whose homes are far from work places?
22. Is your government supporting women who are likely to bear a disproportionate share of childcare due to school closures and movement restrictions?

RESPONDING TO THE HARMS OF "SOCIAL DISTANCING"

Psychosocial Support

23. Is your government making mental health services available to its population, considering the psychological toll of "social distancing," the economic impact, and losing loved ones to COVID-19?

Keeping Kids Learning

24. If your government has closed schools, is it taking steps to ensure all children can study from home?
25. Is your government making distance learning systems accessible to historically marginalized communities, including children with disabilities?

Tackling Violence in the Home and discrimination

26. Are state authorities challenging discrimination both online and offline targeted towards other people including those who test positive for COVID-19?
27. Is your government mobilizing resources to support victims of violence at home?

Source: Human Rights Watch, *COVID-19: A Human rights Checklist*,

https://www.hrw.org/sites/default/files/supporting_resources/202004_northamerica_us_covid19_checklist2.pdf.

RESOURCE: Checklist for a Human Rights-Based Approach to Socio-Economic Country Responses to COVID-19**HEALTH FIRST: PROTECTING HEALTH SERVICES AND SYSTEMS DURING THE CRISIS**

<i>Actions and considerations</i>	<i>Yes</i>	<i>Not yet</i>
1. Are health facilities, goods, and services (including early testing and treatment for COVID-19 and other essential services, such as immunization, sexual and reproductive health (SRH), HIV/AIDS, Tuberculosis, non-communicable disease such as cancer and diabetes treatments, and medical and psychological support to survivors of gender-based violence) available, physically accessible, culturally acceptable, and affordable to all, without discrimination, including to groups most at-risk of being left behind?		
2. Are measures in place to ensure that health services and hygiene goods (such as clean water and soap) reach marginalized groups to mitigate the impact of the pandemic on them and to address structural, legal, and administrative barriers to access?		
3. Do measures take into account the particular risks faced by older persons and persons with disabilities (including isolation, neglect, or violence resulting from age-based or other discrimination) in access to medical treatment and other support?		
4. Is the occupational health and safety of those working during this crisis (including their mental health needs) particularly of health workers, support staff, and care workers at all levels, assessed and addressed?		
5. Is anonymized disaggregated data (at a minimum by sex, age, ethnicity, race, and disability) related to the pandemic collected and made public in order to inform health responses and identify those most at risk of being left behind?		
6. Have protections been put in place to ensure that the right to privacy is respected, especially in relation to tracing and tracking of COVID-19 cases?		
7. Are affected communities involved in designing the health response and in implementing measures?		
8. Are financial barriers for essential health services and treatment reduced, including through regulatory measures to prevent profiteering on hygiene products and essential medicines and supplies?		
9. Are budget allocations for the health and health-supporting sectors increased with resources deployed towards the strengthening of the health workforce (including women health care workers and those supporting SRH and rights services) and the acquisition of additional intensive care units, ventilators, personal protective equipment, and medications to treat secondary infections associated with COVID-19?		
PROTECTING PEOPLE: SOCIAL PROTECTION AND BASIC SERVICES		
<i>Actions and Considerations</i>	<i>Yes</i>	<i>Not yet</i>

1. Are social protection measures developed to ensure universal coverage of all basic goods and services under a transparent management with participation of all relevant stakeholders, non-discrimination of any of its users, and a specific lens on gender equality?		
2. Are targeted social protection measures adopted to protect and mitigate the impact of the pandemic on each of the relevant at-risk groups?		
3. Are social protection benefits easily accessible by beneficiaries? Administratively and physically?		
4. Are social protection measures gender-sensitive? Do they recognize women's unequal burden of unpaid care work and their over-representation in the informal economy? Do the measures aim to redistribute the unequal burden more equally between women and men (e.g. parental leave and public care services)?		
5. Is a contingency funding mechanism integrated in the national education finance system to ensure continuity of learning, in particular for compulsory education of all learners without discrimination?		
6. Do measures ensure that adequate standards of living are upheld and that no essential services are suspended or denied because of the informality of settlements due to the pandemic response, including water, electricity, heating, phone, internet, and telecommunications (e.g. a moratorium on public utilities)?		
7. Are there measures that ensure that at-risk groups who are unable to reach their homes or may need to leave a household due to violence (including gender-based violence), do not fall into homelessness and are provided with adequate alternative accommodations (including shelters), that ensure safety and provide access to water, sanitation, food, social support, health services, and testing for COVID-19?		
8. Are measures in place to ensure that sufficient and nutritious food remains available (including through the provision of food and nutrition assistance), especially for the most marginalized?		
9. Are there measures that address the water, sanitation, and hygiene needs of populations in vulnerable situations, including those with unequal and inadequate access to water?		
ECONOMIC RESPONSE AND RECOVERY: PROTECTING JOBS, SMALL AND MEDIUM-SIZED ENTERPRISES, AND THE INFORMAL SECTOR WORKERS		
<i>Actions and considerations</i>	<i>Yes</i>	<i>Not yet</i>
1. Are measures put in place to ensure the occupational health and safety of those who continue to work, in particular in the health, food supply and transport sectors and sanitation services, including by providing the necessary protective equipment?		
2. Are targeted measures put in place to support small-scale farmers, women especially, in order to secure food production, including through financial support, technology, and markets?		

3. Are measures taken to protect the jobs, pensions, and other health and social benefits of workers during the pandemic, including of self-employed workers, workers in non-traditional forms of employment (own- account, temporary, casual workers), workers in the informal economy, and migrant workers?		
4. Are the adverse impacts of COVID-19 responses on the employment and the remuneration of workers (such as child labour, unfair dismissals and layoffs, reduced working hours, and modifications to employment types) addressed and mitigated?		
5. Are measures being taken to protect employees with disabilities from being dismissed, including through workplace adjustments, as well as to make accessible the occupational, health, and safety measures taken to prevent further infection?		
6. Are measures taken to subsidize wages, provide tax relief, and establish supplementary social security and income protection programmes and do they cover groups at-risk of being left behind?		
7. Are there measures to mitigate the negative impact of unemployment on youth?		
8. Do effective remedies through both judicial and non-judicial grievance mechanisms exist for employees to address issues that arise out of COVID-19 related measures?		
Are there policies to ensure that names and contact information of workers found to have been infected by COVID-19 are not revealed to the workforce or the public at large, unless the worker consents or is required by the government as per applicable laws?		
MACROECONOMIC RESPONSE AND MULTILATERAL COLLABORATION		
<i>Actions and considerations</i>	<i>Yes</i>	<i>Not yet</i>
1. Have stimulus packages been developed and assessed with a human rights lens? Do the proposed fiscal and economic reforms address the pre-existing inequalities that are accelerating the pandemic's incidence and impact and ensure all people will have access without discrimination to food, essential health care, clean water, adequate housing, and essential levels of social protection?		
2. Do the proposed fiscal and economic reforms aim to deploy maximum available resources (including through progressive taxation) for medium and long-term investments in social services so that the minimum core obligations are met?		
3. If retrogression is unavoidable, are the proposed fiscal and economic policies aimed at ensuring that the retrogression is temporary, legitimate, reasonable, proportionate, non-discriminatory and protective of the minimum core obligations of economic, social, and cultural rights as well as consistent with the requirements of transparency, participation, and accountability as designed and adopted?		

4. Are country analyses and strategies addressing debt distress, risks of debt distress, and sustainability being undertaken with support of the UNCT? If so, do these incorporate Human Rights Impact Assessments and do they address the issues that arise therefrom? Are they geared towards ensuring that national revenue is sufficient to ensure that the minimum core obligations are met?		
5. Are there measures in place to ensure international financial institutions (IFIs) and donors refrain from attaching conditions to their financing that could undermine the state's ability to respect, protect, and fulfil its human rights obligations in the allocation of resources and the design of policies?		
6. Are loans and grants from IFIs and donors monitored, including by NHRIs and civil society organizations, to ensure that they are used to address demonstrated needs, with a focus on those most at risk of being left behind?		
7. In the design of fiscal and economic reform policies, has consideration been given to tax relief and suspension of loan payments for those most at risk of being left behind?		
8. Has support been provided to a fiscal policy review that assesses the impacts of value-added taxes on low-income households and adoption of progressive tax policy?		
9. Does the design of fiscal and economic reform policies prevent price gouging for basic food, essential medicines and equipment, water, and ground transport (in order to keep prices at pre-COVID-19 levels) and are fines introduced to facilitate compliance?		
SOCIAL COHESION AND COMMUNITY RESILIENCE		
<i>Actions and considerations</i>	<i>Yes</i>	<i>Not yet</i>
1. Are states of emergency being used only for legitimate public health goals, not as a means to quash dissent, shrink civic space, ban peaceful protests, postpone elections, silence human rights defenders or journalists or deny other human rights? Are states of emergency being declared in line with international obligations?		
2. Are emergency measures provided by law and regularly reviewed? Is their effectiveness assessed and is there a clear provision about when the emergency measures will come to an end? Can you confirm that non-derogable rights are not being affected?		
3. Are measures in place to support human rights compliant conduct by law enforcement in the context of lockdowns and curfews?		
4. Have measures been taken to protect the right to information and freedom of expression, including freedom of the press, to ensure everyone has access to accurate, clear, and evidence-based information?		
5. Is accurate information about the pandemic available on a regular basis, in an accessible format and in all local and indigenous languages, including to persons with disabilities and older persons, to ensure that no particular		

part of the population is excluded from access to information or stigmatized?		
6. Are most affected groups as well as society at large able to effectively participate in the design and delivery of the pandemic response?		
7. Are women and men, including youth and older persons, from groups at risk of being left behind consulted and participating in decision-making in relation to the responses to the pandemic at community, regional, and national levels, as well as through special mechanisms to respond to COVID-19?		
8. If health monitoring mechanisms are used to track and monitor behaviours and movements of individuals (such as surveillance and monitoring), are these used exclusively to fulfil the specific purpose of managing the COVID-19 pandemic? Do safeguards exist to manage risks of misuse?		
9. Is the Government supporting the NHRI to function in order to monitor and engage the government with targeted advisories and rights-based approaches?		
10. Are diverse civil society and human rights defenders, including women’s rights organizations and women human rights defenders, operating freely? Are they consulted in the Government’s response?		
11. Are measures being taken to ensure the health care of people in closed settings, including places of detention and in institutionalized care, to mitigate the risk of harm and increased vulnerability to infection?		
12. Are public authorities taking immediate steps to address prison overcrowding, such as measures to release individuals, including children, persons with underlying health conditions, persons with low-risk profiles who have committed minor offences, persons with imminent release dates, those in pre-trial detention, and those detained for offences not recognized under international law?		
13. Are authorities urgently establishing non-custodial alternatives to migrant detention?		
14. Has a moratorium been put in place on children entering detention and are efforts to release children underway in consultation and partnership with child protection actors and relevant government authorities to ensure adequate care arrangements?		
15. Are oversight and accountability mechanisms, including the judiciary, functioning and being consulted in the Government response? Are judicial services continuing to ensure due process and fundamental rights?		
<p>Source: Office of the United Nations High Commissioner for Human Rights, United Nations Development Programme, and United Nations Sustainable Development Group, “Checklist for a Human Rights-Based Approach to Socio-Economic Country Responses to COVID-19”, https://www.undp.org/sites/g/files/zskgke326/files/publications/gpn-crisis-human-rights_Checklist_Human_Rights-Based_Approach_to_Socio-Economic_Country_Responses_to_COVID-19_REPORT.pdf.</p>		

RESOURCE: Vulnerable groups, reasons for their vulnerability and risk communication and community engagement action to be undertaken to enhance their protection from impacts of COVID-19

Elderly

<p><u>Reasons for vulnerability:</u></p> <ul style="list-style-type: none"> • The evidence for COVID-19 shows they are the most vulnerable group with higher fatality rate. • Not always able to go to the health services or the services provided are not adequate for elderly. • May have difficulty caring for themselves and depend on family or caregivers. This can become more challenging in emergencies. • May not understand the information/ messages provided or be unable to follow the instructions. • Elderly in assisted-living facilities live close to each other and social distancing can be difficult. 	<p><u>RCCE action to be taken:</u></p> <ul style="list-style-type: none"> • Tailor messages and make them actionable for particular living conditions (including assisted living facilities), and health status. • Engage the elderly to address their specific feedback. • Develop specific messages to explain the risk for elderly and how to care for them, especially in homecare. Target family members, health care providers and caregivers.
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People with pre-existing medical conditions

<p><u>Reasons for vulnerability:</u></p> <ul style="list-style-type: none"> • They are generally at higher risk of developing serious illness. • Do not always get the clear information and explanation about why they are at higher risk. • They already need specific medical treatment which makes it even more challenging if they get sick. • They do not always follow the treatment advice or they might have limited access to health facilities during epidemics 	<p><u>RCCE action to be taken:</u></p> <ul style="list-style-type: none"> • Develop information on specific needs and explain why they are at more risk. • Encourage them to be prepared in case there is a shortage of medication or they cannot access medical facilities.
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Sexual and gender minorities

<p><u>Reasons for vulnerability:</u></p> <ul style="list-style-type: none"> • Face challenges in accessing healthcare systems due to stigma and discrimination, and in contexts where they are criminalized, face threats to their security and lives. • LGBTIQ seniors are more likely to be isolated. • LGBTIQ families or relationships may face barriers to accessing COVID-19 	<p><u>RCCE action to be taken:</u></p> <ul style="list-style-type: none"> • Include existing LGBTIQ groups, communities, and centres in engagement and outreach as they have key roles in prevention and supporting access to medical care. • Develop QandAs/FAQs in consultation with LGBTIQ community that respond to their specific vulnerabilities and concerns.
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<p>services and/or humanitarian aid in multisectoral response.</p>	<ul style="list-style-type: none"> • Reach out to regional LGBTIQ networks, if not safe or possible to do so at country or community level.
<p>Gender-based violence survivors</p>	
<p><u>Reasons for vulnerability:</u></p> <ul style="list-style-type: none"> • Pressure to respond to COVID-19 cases may disrupt care and support for gender-based violence survivors. • This may affect services in one-stop crisis centers in tertiary level hospitals. • Safety, security and access to justice services may be disrupted as government institutions shift resources to the public health crisis. • Primary and secondary health care facilities may be requested to take on the caseload of GBV survivors and only refer to tertiary hospitals when higher level of care is needed 	<p><u>RCCE action to be taken:</u></p> <ul style="list-style-type: none"> • Update GBV referral pathways to reflect primary and secondary health care facilities. • Inform key communities and service providers about the updated pathways. • Ensure that GBV risk-mitigation measures are in place in quarantine facilities and evacuation processes. • Reinforce support and surge capacities to other sectors in addition to the health response. For example, reinforce staff for emergency response hotlines and in the safety and security sectors. • Circulate PSEA Codes of Conduct and other safeguarding measures and remind staff of the need to comply with them
<p>Pregnant women</p>	
<p><u>Reasons for vulnerability:</u></p> <ul style="list-style-type: none"> • Services may be diverted when health services are overburdened, resulting in interrupted pre- and post-natal care. • Frequent and sometimes unnecessary contact with health facilities can increase the risk of infection, especially in health facilities with inadequate infection control measures 	<p><u>RCCE action to be taken:</u></p> <ul style="list-style-type: none"> • Develop education materials for pregnant women on basic hygiene practices, infection precautions, and how and where to seek care based on their questions and concerns. • Translate these materials into local languages and adapt to local context.
<p>People living with HIV</p>	
<p><u>Reasons for vulnerability:</u></p> <ul style="list-style-type: none"> • May have compromised immune systems and be more at risk of severe illness. • May feel that they have insufficient information on how to protect themselves from infection. • May experience stigma and discrimination in health care settings, including being tested for HIV against their will. • People living with HIV may be denied access to essential medications, 	<p><u>RCCE action to be taken:</u></p> <ul style="list-style-type: none"> • Utilise established community systems to facilitate communication with people living with HIV, including utilizing informal systems to avoid treatment disruptions. • Ensure access to information on specific needs based on their feedback, including up to date information regarding where and how to access ARVs. • Develop QandAs/FAQs in consultation with the people living with HIV community that respond to their specific vulnerabilities and concerns.

<p>including ARVs, due to overburdened health systems</p>	<ul style="list-style-type: none"> • Where possible, provide multi-month prescriptions to ensure that people living with HIV are able to have a few month's supply of ARV. • Suggest that people living with HIV keep a supply of non-perishable food in order that they are able to take their medication. • Provide psycho-social support to people living with HIV who may already feel anxious, stigmatised and vulnerable.
<p>Women and girls</p>	
<p><u>Reasons for vulnerability:</u></p> <ul style="list-style-type: none"> • Women make up large parts of the health workforce • Most primary caregivers to the ill are women. • Women are more likely to be engaged in the informal sector and be hardest hit economically by COVID-19. • Women experience increased risks of gender-based violence, including sexual exploitation. • Cultural factors may exclude women from decision-making spaces and restrict their access to information on outbreaks and availability of services. • Women might experience interrupted access to sexual and reproductive health services, including to family planning. • In some cultural contexts, gender roles may dictate women cannot obtain health services independently or from male service providers 	<p><u>RCCE action to be taken:</u></p> <ul style="list-style-type: none"> • Ensure that community engagement teams are gender-balanced and promote women's leadership within these. • Provide specific advice for people - usually women - who care for children, the elderly and other vulnerable groups in quarantine, and who may not be able to avoid close contact. • Design online and in-person surveys and other engagement activities so that women in unpaid care work can participate. • Take into account provisions for childcare, transport, and safety for any in-person community engagement activities. • Ensure frontline medical personnel are gender-balanced and health facilities are culturally and gender sensitive.
<p>Persons with disabilities</p>	
<p><u>Reasons for vulnerability:</u></p> <ul style="list-style-type: none"> • Access to information is often a barrier for persons with a disability who have specific communication needs. • They are often excluded from decision-making spaces and have unequal access to information on outbreaks and availability of services. • They can be socially isolated if they don't access the community regularly 	<p><u>RCCE action to be taken:</u></p> <ul style="list-style-type: none"> • Ensure active outreach to collect feedback from persons with disabilities. • Disseminate information that uses clear and simple language. • Provide information in accessible formats, like braille, large print. • Offer multiple forms of communication, such as text captioning or signed videos, text captioning for hearing impaired, online materials for people who use assistive technology.

<p>through employment or education for example.</p>	<ul style="list-style-type: none"> • Involve organizations of persons with disabilities in consultation and decision making. • Provide tailored approach to meet individual needs, work with personal carers and other social support networks
<p>Children</p>	
<p><u>Reasons for vulnerability:</u></p> <ul style="list-style-type: none"> • Younger children might not have access to or might find it difficult to understand publicly available information on COVID-19. • Unaccompanied and separated children may be particularly challenged in accessing timely and relevant information and health services. • Children are usually unable to express their fears / anxieties. • Prolonged periods of school closure and movement restrictions may lead to emotional unrest and anxieties. • Caregivers might not be able to take effective care of the children who depend on them. • If parents have to go out for work and children have to stay at home due to schools being shut, it has implications on their safety and security. • Heightened parental anxieties and frustrations might lead to an increase in violence against children at home. • If caregivers are infected, quarantined, or pass away, it could lead to protection and psychosocial issues for children. • While children seem to be less likely to become severely ill with the virus, they can unwittingly transmit to caregivers who may be more vulnerable to infection and severe illness. 	<p><u>RCCE action to be taken:</u></p> <ul style="list-style-type: none"> • Advocate to ensure that government and other stakeholders prioritize the information and communication needs of children and adolescents. • Consult children and adolescents, including unaccompanied and separated children, to understand their concerns, fears and needs. • Design information and communication materials in a child-friendly manner • Provide information about psychosocial issues, as well as general health and hygiene. • Provide parents with skills to handle their own anxieties and help manage those in their children • Advocate for family-friendly workplace policies so that parents can take better care of their children. • Promote fun activities that parents and children can do together to reduce anxieties and tension. • Advocate for counselling and support services for those affected. • Consider different needs based on gender, context and marginalized communities
<p>Source: UN Women and Translators without Borders, “COVID-19: How to include marginalized and vulnerable people in risk communication and community engagement”, https://reliefweb.int/attachments/034f414e-2885-3be5-ad2e-77c8240a96b6/COVID-19_CommunityEngagement_130320.pdf.</p>	

NHRI Samoa Detention Inspection Report 2022: COVID-19 Assessment

a) Annex 1: Tanumalala Detention facility COVID-19 Assessment – Full list of recommendations³⁶⁰

Overcrowding

1. Ministry of Police and Prison Services (MPPS) must address the systemic causes of overcrowding in prison including working with the courts and lawyers to facilitate more bail hearings and seek review of bail conditions especially for those who are likely to spend a longer period in custody awaiting trial.

Staffing and facilities for staff

2. MPPS should look at the proper utilization of available space in the facility to set up rooms and facilities onsite for prison staff and guards for taking breaks especially when they are on 24 hour shifts in times of need such as during a public health emergency.

3. MPPS should consider hiring more prison staff to manage inmates for safety and security reasons.

Communication of risks and plans

4. MPPS should ensure that there is timely communicating of information regarding plans and risks of COVID-19 in a way that is user friendly for all inmates.

5. MPPS should develop and display at all cell blocks and entry points COVID-19 related information on prevention and health measures including – what is COVID-19, symptoms, when to ask for help, hand hygiene etiquette etc. for inmates and visitor’s information to allow for greater protection from the virus.

Risk assessment and management

6. MPPS should continue to conduct risks assessments, screening and testing for inmates, staff and those who come in and out of the facility even if restrictions have been eased nationally until there is concrete evidence that the risk posed by the virus has subsided.

7. MPPS should continue to ensure that it maintains an up to date register of everyone visiting the prison facility during the pandemic to assist with tracing purposes even if national restrictions have been eased.

8. MPPS working in collaboration with the Ministry of Health and/or international donor partners should ensure that it has an adequate supply of PPE for use in prison by staff as well as testing kits.

9. For any future public health emergency, MPPS should conduct with the assistance of the Ministry of Health and the Office of the Ombudsman, a national comprehensive risk assessment of the prison system to ensure prevention and to adequately manage associated risks.

Participation

³⁶⁰ NHRI Samoa, *Prison inspections: COVID-19 preparedness, prevention and control in places of detention assessment*, May 2022, <https://ombudsman.gov.ws/wp-content/uploads/2022/05/COVID-19-Prison-Inspection-Report-2022-FINAL-ready-for-web.pdf>.

10. MPPS should put in place a system or mechanism to gather and integrate risk perception of people in prison (especially those most vulnerable including pregnant female inmates, older prisoners and inmates with underlying health conditions as well as young inmates), staff and visitors in planning and message development.

Psychosocial support

11. MPPS in the absence of contact rehabilitation activities and noting public health reasons should continue to provide low-risk social interactions and continued psycho-social support for inmates especially young offenders (in accordance with Samoa's obligations under the Convention on the Rights of the Child) to assist with concerns of anxiety and mental stress. The same support must also be provided for prison staff. In relation to providing psycho-social support, MPPS where necessary should work with counselling services NGOs to provide such support.

Right to health

12. Without limiting it to inmates who contract the virus, MPPS must continue to ensure that all inmates are provided with continuous access to health care including doctor visits, medicines and vaccines.

13. MPPS must accelerate without further delays the finalization of prison's in-house doctor's contract and have them commence work immediately to ensure that prisoners have access to a doctor for any medical concerns.

Restrictions on movement

14. Any measures to further restrict movement of inmates within prison apart from measures to contain the virus must be necessary, legitimate and proportionate.

Access to justice

15. MPPS must continue to work closely with the Ministry of Justice and Courts Administration and the Office of the Attorney General to facilitate hearings of inmates whose cases are due for hearing. Alternative methods for conducting non-contact hearings such as video links must be fully utilized.

Discrimination

16. MPPS must ensure that instances of discrimination especially against inmates who test positive for the virus are adequately addressed. Awareness to dispel such stereotypes must be communicated to inmates.

Questionnaires

a) Annex 2: National Public Questionnaire

COVID-19 AND HUMAN RIGHTS - THE CASE OF SAMOA

STATE OF HUMAN RIGHTS REPORT 2022 CONSULTATIONS

(NOTE: Answer all questions that are applicable to you)

NAME (OPTIONAL):	
AGE:	
GENDER:	
DISABILITY:	Yes / No
OCCUPATIONAL STATUS:	
VILLAGE:	

1. What are some of the impact of COVID-19 on you and your rights, your family, your business, education etc.?

O a ni a'afiaga o le Koviti-19 i ou aia tatau (f.t. a'oaoga, gaioiga), lou aiga, lau pisinisi ma isi?

2. Was the Government's response to COVID-19, necessary/legitimate? Proportionate? Effective? **YES/NO?** Please explain your answer

Na talafeagai ma aoga le tali a le Malo I le puipuiga o Samoa mai le Koviti-19? IOE/ LEAI?

Faamatala mafua'aga o lau tali.

3. What and how did the response by Government impact on your human rights?

Na faapefea ona a'afia ou aia tatatu I le tali ma gaioiga a le Malo I le Koviti-19?

4. Was there effective information sharing by Government/ NEOC regarding rules, guidelines, vaccination etc.? **YES/NO?** Please explain your answer.

Na lelei ma ato'atoa le faasoaina e le Malo o faamatalaga e faatatau I tulafono ma taiala I

puipuiga, femalagaiga, le faatino'ina o tuiga ma isi? IOE/ LEAI? Faamatala mafua'aga o lau tali.

5. What were some of the issues at managed isolation (e.g. mental stress etc.)?

O a ni faafitauli na maitauina pe na aafia ai lou tagata I nofoaga na tuuese ai tagata mo le puipuiga mai le Koviti-19?

6. Were there any safety measures at the managed isolation facilities and if so were such measures effective? *[Answer only if applicable]*

O a ni auala mo puipuiga na maitauina I notofoga na tuuese ai tagata mo puipuiga ma sa aoga ma malupuipua nei auala? [Tali pea talafeagai ia te oe]

-
7. What measures were imposed by Government to assist the public with the impacts **and** were these measures adequate/ sufficient?
O a ni fesoasoani a le Malo mo tagata lautele aemaise pisinisi e faaititia ai luitau o le Koviti-19, ma sa lava ma ato’atoa nei fesoasoani?
-

8. Are there any areas or matters that could be improved and how?
O iai nisi vaega poo mataupu e ao ona silafia e toe faaleleia aua le tali atu I aafiaga o le Koviti-19 ma o a nei vaega?
-

b) Annex 3: Children’s Questionnaire

COVID-19 AND HUMAN RIGHTS - THE CASE OF SAMOA

STATE OF HUMAN RIGHTS REPORT 2022 CONSULTATIONS

(NOTE: Answer all questions that are applicable to you)

NAME/IGOA (OPTIONAL):	
AGE/TAUSAGA:	
GENDER/ITUPA:	
DISABILITY/A’AFIAGA TUMAU:	Yes / No
VILLAGE:	

1. What are some of the impact of COVID-19 on you and your rights and freedoms e.g. right to education, right to health, freedom of movement, access to information?
a ni a’afiaga o le Koviti-19 i ou aia tatau, faamanuiaga faavae ma saolotoga (f.t. a’oaoga, gaioiga ma isi)?
-
2. Was the Government’s response to COVID-19, necessary/legitimate? Proportionate? Effective? **YES/NO?** Please explain your answer
*Na talafeagai ma aoga le tali a le Malo I le puipuiga o Samoa mai le Koviti-19? **IOE/ LEAI?** Faamatala mafua’aga o lau tali.*
-
3. Was there effective information sharing by Government (via MESC/ schools) regarding rules, guidelines, vaccination etc.? **YES/NO?** Please explain your answer.
*Na lelei ma ato’atoa le faasoaina e le Mālō o faamatalaga e faatatau I tulafono ma tiala I puipuiga, femalagaiga, le faatino’ina o tuiga ma isi? **IOE/ LEAI?** Faamatala mafua’aga o lau tali.*
-

4. What would you like to recommend to Government regarding the safeguarding of the rights and freedoms of children during these times and in the recovery from COVID-19?
O ni au fatuaga I le Mālō aua le malupuipua pea o aia tatau, faamanuiaga faavae, ma saolotoga a tamaiti o Samoa aua le feagaia ai o Samoa ma le faama’i o le Koviti-19?

c) Annex 4: Community Consultations Questionnaire

PEPA FESILI: KOVITI-19 MA A’AFIAGA I FA’AMANUIAGA FA’AVAE MA SA’OLOTOGA O TAGATA SAMOA | LIPOTI O TULAGA O AIA TATAU I SAMOA

O tali ma fa’amatalaga e tu’uina mai i nei fesili e teu fa’alilolilo ma malu puipua e le fa’ailoaina i seisi tagata vagana ua e malie iai. Fa’amolemole, tali mai ma le faamaoni fesili o lo’o i lalo.

SUAFA NAME (E LĒ FA’AMALOSIA):	
TAUSAGA AGE:	
ITUAIGA GENDER:	
A’AFIAGA TUMAU O LE TINO DISABILITY:	IOE/LEAI
TULAGA GALUEGA OCCUPATIONAL STATUS:	<input type="checkbox"/> O lo’o faigaluega <input type="checkbox"/> Ua lē toe faigaluega ona o le Koviti-19 <input type="checkbox"/> Faia le fatu aiga (ft.) tausima matua, maumaga, fai pisinisi i le fale, fagota ma isi <input type="checkbox"/> Tau saili se galuega
AFIOAGA VILLAGE:	

1. *O a ni a’afiaga o le Koviti-19 i ou fa’amanuiaga fa’avae/aia tatau (f.t. a’oaoga, sa’olotoga, gaioiga), lou aiga, lau pisinisi ma isi?*

2. *Na talafeagai ma aogā le tali a le Malo I le puipuiga o Samoa mai le Koviti-19? IOE / LEAI? (li’o na o le tasi)
 Fa’amatala mafua’aga o lau tali.*

3. *Na fa’apefea ona a’afia ou fa’amanuiaga fa’avae/ aia tatau/sa’olotoga I le tali ma gaioiga a le Malo I le Koviti-19?*

4. *Na lelei ma ato’atoa le tu’uina atu/fa’asoa atu e le Malo o fa’amatalaga e fa’atatau I vavao / tulafono ma ta’iala I puipuiga, femalagaiga, le fa’atino’ina o tuiga ma isi?.....IOE/ LEAI? (li’o na o le tasi)*

Fa'amatala mafua'aga o lau tali.

FA'ATUMU PE AFAI SA FA'ANOFO ESEA OE MO SE TAIMI [afai e leai alu sa'o i
le Fesili 7 & 8 o lo'o i lalo]

5. O a ni fa'afitauli na maitauina na a'afia ai lou tagata I nofoaga na fa'anofo esea ai tagata mo le puipuiga mai le Koviti-19?

6. O a ni auala ma puipuiga na maitauina I nofoaga na fa'anofo esea ai oe sa aoga ma malupuipua? [Tali pea talafeagai ia te oe]

7. O a ni fesoasoani a le Malo mo tagata lautele aemaise pisinisi e fa'aitiitia ai luitau o le Koviti-19, ma sa lava ma ato'atoa nei fesoasoani?

8. O iai nisi vaega poo mataupu e ao ona silafia e toe faaleleia aua le tali atu I aafiaga o le Koviti-19 ma o a nei vaega?



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