

# **SAMOA 2015 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Samoa is a constitutional parliamentary democracy that incorporates traditional practices into its governmental system. In 2012 parliament re-elected Head of State Tui Atua Tupua Tamasese Efi. The unicameral parliament, elected by universal suffrage, includes “matai” (heads of extended families). Charges of campaign bribery marred the 2011 parliamentary elections. Civilian authorities maintained effective control over the security forces.

The principal human rights problems were poor prison conditions and domestic violence against women.

Other human rights problems included lack of accountability of and adherence to the rule of law by village “fonos” (councils of matai), abuse of children, and discrimination against women and nonmatai.

The government took steps to prosecute officials who committed abuses. There were no reports of impunity.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary or Unlawful Deprivation of Life**

There were no reports the government or its agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

The constitution prohibits such practices, and there were no reports government officials normally employed them. Nevertheless, there were allegations of some relative minor police abuses.

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

Overall prison conditions were harsh and remained below international standards.

Physical Conditions: As of October there were approximately 501 inmates in the prison system, including 33 women and 25 juveniles. The Tafaigata men's prison was particularly overcrowded with ideal capacity of less than 300 inmates, yet it consistently held more than 400, including pretrial detainees. Authorities made only basic provisions for food, water (including potable water), and sanitation. Cell lighting and ventilation remained poor. Lights remained on all night.

Physical conditions in the separate Tafaigata women's prison, including ventilation and sanitation, generally were better than in the men's prison. Authorities housed juveniles (younger than age 26 years) at the Olomanu Juvenile Center, where physical conditions generally were better than in adult facilities.

Police held overnight detainees in two cells at police headquarters in Apia and one cell at Tuasivi. Following a visit earlier in the year, the National Human Rights Institute deemed the Tuasivi cell unfit for human containment.

There were no reports of prison deaths during the year.

Administration: The prison system faced challenges in its ability to house and account for all inmates. This was evident in the recurring prison escapes, and slow response time of police officers to recapture escapees. This problem came to the fore in September and October when several escapees remained at-large for weeks and allegedly committed a string of serious offenses throughout the country while loose. This insecurity was a serious concern to the public.

The law mandates that the Office of the Ombudsman receive and investigate complaints by prisoners and detainees on problems of overcrowding, the status and circumstances of juvenile offenders, pretrial detention, bail, and recordkeeping. Prisoners also could file complaints with the Professional Standards Unit of the police force.

Regulations require prisoners at all facilities, including the juvenile facility, to perform manual labor approximately 40 hours per week. Prisoners generally performed agricultural work and cooked food for inmates and prison staff.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities and request investigation of alleged inhuman conditions. Authorities investigated such allegations, documented them, and made the results publicly

accessible. The government generally investigated and monitored prison and detention center conditions.

Independent Monitoring: The government permitted monitoring visits by independent human rights observers, including the National Human Rights Institute, UN organizations, and diplomatic missions.

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

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. In September 2014 police locked a three-year-old boy in a cell with his father, who police arrested for driving an unregistered vehicle. Police released both after an hour. In November 2014 authorities demoted four officers involved in the incident. Earlier in the year, the boy's family filed a lawsuit seeking punitive damages for the incident. In October the Supreme Court rejected an application to dismiss the lawsuit filed by the Office of the Attorney General on behalf of the Ministry of Police and Prison Services.

#### **Role of the Police and Security Apparatus**

The national police force, under the Ministry of Police and Prison Services, maintains internal security. Local councils enforce rules and security within individual villages. Civilian authorities maintained effective control over police, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving police. Insufficient capacity limited police effectiveness.

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

The Supreme Court issues arrest warrants based on compelling evidence. The law provides for the right to a prompt judicial determination regarding the legality of detention, and authorities generally respected this right. Officials informed detainees within 24 hours of the charges against them, or else released them. There was a functioning bail system. The government allowed detainees prompt access to a lawyer of their choice. For indigent detainees the government provided a lawyer upon request. The government did not hold suspects incommunicado or under house arrest.

Pretrial Detention: Due to staff shortages, some Supreme Court and district court judges faced a backlog of cases. Pretrial detainees at the Tafaigata Prisons were in detention on average for one month.

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

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

### **Trial Procedures**

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. A trial judge examines evidence and determines if there are grounds to proceed. Under the law defendants have the presumption of innocence and may not be compelled to testify or confess guilt. Trials are public except for trials of juveniles, and only immediate family members may attend. Only the most serious criminal offenses, such as murder, manslaughter, and rape, employ juries (also known as assessors). Defendants have the right to be present; have timely consultation with an attorney; receive prompt and detailed information of the charges, including interpretation services if necessary; and to have adequate time and facilities to prepare a defense. Defendants may confront witnesses, present witnesses and evidence on their own behalf, access government-held evidence, and appeal a verdict.

Village fono handled many civil and criminal matters, but the councils varied considerably in decision-making styles and the number of matai involved in decisions. The law recognizes the decisions of the local council and provides for limited appeal to the Lands and Titles Court and the Supreme Court. The nature and severity of a dispute determines which court receives an appeal. Defendants may make a further appeal to the Court of Appeal. A Supreme Court ruling stipulates that local councils may not infringe upon villagers' freedom of religion, speech, assembly, or association.

The government continued a review of the 1990 Village Fono Act, which provides legal recognition of the decisions of the fono, to determine whether the act gives the local councils excessive authority to limit individual rights under a broadly defined "public order" exception. In 2012 the country's Law Reform Commission reported to parliament regarding amendments to the act. The commission stated that in its opinion the act did not violate the constitution but recommended amending the act to allow greater consideration for religious freedom principles in

the decision-making of the local councils. In 2014 a parliamentary committee recommended the government “take note and consider” recommendations contained in the Law Reform Commission’s report. During the year parliament tabled an amendment to the Village Fono Act. The amendment stipulates that the fono act be in accordance with the constitution.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Individuals or organizations may seek civil remedies for human rights violations.

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

The laws prohibit such actions, and the government generally respected these prohibitions. There was little privacy in villages, where there could be substantial societal pressure on residents to grant village officials access to their abodes without a warrant. There were reports some village councils banished individuals or families from villages.

There were developments during the year in a 2010 case of abuse of village authority in which the village council banished a family from the village and destroyed their home due to a property boundary dispute with the village church. After a lengthy appeals process, in February 2014 the court ordered the village matai, who directed the banishment and destruction of property, to pay restitution of WST \$350,000 (\$140,000) to the affected family. In May police arrested and detained seven matai for less than a week for failure to pay. In June a court decision declared eight of the matai bankrupt, thus excusing them from making further payments to the family. The matai reportedly repaid less than 5 percent of the restitution amount. The sole remaining matai made application for all village matai (approximately 250) to contribute restitution payment.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The law provides for freedom of speech and press, and the government generally respected these rights. An independent press, an effective judiciary, and a

functioning democratic political system combined to promote freedom of speech and press. The law stipulates imprisonment for any journalist who, despite a court order, refuses to reveal a confidential source upon request from a member of the public, but there was no court case invoking this law.

Press and Media Freedoms: Independent media were active and expressed a wide variety of views without restriction.

Censorship or Content Restrictions: A 2012 law on tourism development authorizes the Samoa Tourism Authority (STA) to exercise “lawful controls” over publication by any person of information about the tourism industry deemed prejudicial to a public perception of the country. Under this law violators are subject to a fine or maximum imprisonment of three months if they fail to retract the information or to publish a correction when ordered to do so by the STA. The STA did not exercise this authority during the year.

### **Internet Freedom**

The government did not restrict access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority. Internet access was easily available near Apia and throughout most of the country via cellular technology, but the high cost of access limited internet activity for much of the population. According to the International Telecommunication Union, approximately 15 percent of the population accessed the internet in 2013.

### **Academic Freedom and Cultural Events**

The government generally did not restrict academic freedom or cultural events.

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

The constitution provides for freedom of assembly and association, and the government generally respected these rights.

### **c. Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

#### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

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

Exile: Traditional law governs villages, and village councils regularly banned citizens from village activities or banished citizens from the village for failing to conform to village laws or obey local council rulings. Village councils rarely publicized cases of village banishment. Of known cases reasons for banishment included killing, rape, adultery, and unauthorized claims to land and matai title. In some cases civil courts overruled banishment orders, and some village councils reportedly refused to observe those orders. Village councils accepted some banished persons back into the village after they performed a traditional apology ceremony.

#### **Protection of Refugees**

Access to Asylum: The country's laws provide for granting refugee status, but the government has not yet established a system for providing protection to refugees. There were no requests for refugee status during the year.

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

The constitution provides citizens the ability to choose their government in free and fair periodic elections based on universal suffrage, and citizens exercised that right.

#### **Elections and Political Participation**

Recent Elections: Observers considered the general elections held in 2011 to be fair. The Human Rights Protection Party retained government control for a seventh consecutive term. For the first time since independence, a second party, the Tautua Samoa Party, received enough votes to form an official opposition. Following the elections plaintiffs filed eight electoral petitions with the Supreme Court on various grounds, including bribery, treating, and gifting during the campaign. Of the eight electoral petitions, one was withdrawn, the court dismissed three, and four resulted in orders to conduct by-elections because the court found the winning candidates guilty of bribery and other campaign violations. All the by-elections occurred in 2011.

Political Parties and Political Participation: While the constitution gives all citizens older than 21 years the right to vote and run for office, by social custom candidates for 47 of the 49 seats in parliament come from the approximately 17,000 leaders of extended families, and the families select those candidates. Although both men and women may become family leaders, only 10.5 percent were women. Matai controlled local governments through the village councils and appointment to the councils rather than by direct election.

Participation of Women and Minorities: A 2013 constitutional amendment requires that parliament include at least five female representatives, starting from the next general election in 2016. If women do not win five parliamentary seats in the next election, the amendment provides for the addition of up to five seats to the 49 to be filled by the five female candidates who received the highest number of votes.

There were two female representatives in the 49-member parliament following the 2011 general elections. One was the minister of justice and the other was associate minister of women, community, and social development. In a subsequent by-election, a third woman won a seat in parliament. A woman served as governor of the Central Bank. Five women served as chief executive officers of government ministries and nine as general managers of government corporations. There were two female Supreme Court justices and four other female judges. The president of the official opposition political party was a woman.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. The maximum penalty for corruption is 14 years' imprisonment. There were reports of government corruption during the year.

The law provides for an ombudsperson to investigate complaints against government agencies, officials, or employees, including allegations of corruption. The ombudsperson may require the government to provide information relating to a complaint. The Attorney General's Office prosecutes criminal corruption cases on behalf of the Public Service Commission. The Ombudsman's Office and the Public Service Commission operated effectively. The Ombudsman's Office included academics and other members of civil society among the members of its commissions of inquiry.



Corruption: In 2013 reports from the Office of the Controller and Chief Auditor covering the 2009-11 fiscal years became publicly available and documented abuses of power, corruption, and mismanagement within government ministries and state-owned enterprises. The most highly publicized account was of the incumbent Minister of Finance Faumuina Tiatia Liuga during his earlier tenure as chairperson of the Samoa Land Corporation. A parliamentary committee investigated and confirmed the abuses noted in the auditor's reports. Parliament tabled the committee report in April 2014. These reports, combined with public and political pressure, led the minister to resign in April 2014. According to the law, the government has 90 days to respond. The government responded in January, acknowledging the report but largely dismissing the recommendations of the parliamentary committee. Parliament approved the government's response without debate. In October a group of civil servants, including former members of parliament, pursued a case against persons involved in alleged corruption and misuse of funds in government as detailed in the parliamentary committee report. At year's end the court had not yet heard the case.

Financial Disclosure: Although public officials are not subject to financial disclosure laws, codes of ethics applicable to boards of directors of government-owned corporations encouraged such disclosure.

Public Access to Information: By law government information is subject to disclosure in civil proceedings, unless the government considers the information privileged or its disclosure would harm the public interest. There is no formal process to request government records outside of such court actions.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Government Human Rights Bodies: Observers considered the Office of the Ombudsman generally effective and able to operate free from government or political party interference. The government usually adopted its recommendations. The Office of the Ombudsman also houses the National Human Rights Institute, which published the country's first *State of Human Rights Report* in August.

## Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the government generally respected these provisions. Politics and culture generally reflected a heritage of matai privilege and power, and members of certain families of high traditional status possessed some advantages.

### Women

Rape and Domestic Violence: Rape is illegal, but there is no legal provision against spousal rape. The penalties for rape range from two years' to life imprisonment, but the court has never imposed a life sentence. Many cases of rape went unreported because societal attitudes discouraged such reporting. In recent years, however, authorities noted a rise in the number of reported cases of rape. This development appeared to be a result of efforts by government ministries and local nongovernmental organizations (NGOs) to increase awareness of the problem and the need to report rape cases to police. The courts treated rape seriously, and the conviction rate generally was high.

The constitution prohibits abuse of women, but societal attitudes tolerated their physical abuse within the home. Social pressure and fear of reprisal typically caused such abuse to go unreported. Village councils typically punished domestic violence offenders but only if they considered the abuse extreme, such as abuses involving visible signs of physical abuse. Village religious leaders could also intervene in domestic disputes. When police received complaints from abused women, authorities investigated and punished the offender, including imprisonment. Authorities charge domestic violence as common criminal assault, with a maximum penalty of one year's imprisonment. The government did not keep statistics on domestic abuse but acknowledged the problem was of significant concern. The Ministry of Police and Prisons has a nine-person Domestic Violence Unit that works in collaboration with NGOs and focuses on combatting domestic abuse. NGO services for abused women included public antiviolenace awareness programs, shelters, confidential hotlines, in-person counseling, and other support.

Sexual Harassment: No law specifically prohibits sexual harassment, and there were no reliable statistics on its incidence. The lack of legislation and a cultural constraint against publicly shaming or accusing someone, even if justifiable, reportedly caused sexual harassment to be underreported. Victims had little

incentive to report instances of sexual harassment, since doing so could jeopardize their career or family name.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children, manage their reproductive health, and have access to the information and means to do so free from discrimination, coercion, and violence. The National Health Service, the Ministry of Health's public awareness programs, general practitioners, and various health-care centers provided information and access to contraception and access to maternal health services, which included skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care. Nonetheless, some women could not fully access reproductive health services. In its *State of World Population Report*, the United Nations Population Fund estimated 31 percent of women of reproductive age used a modern method of contraception, and service providers met just 42 percent of the demand for family planning services for this cohort in 2014.

Discrimination: Women have equal rights as men under the constitution and statutory law, including under family, labor, property, nationality, and inheritance laws, and the traditionally subordinate role of women was changing, albeit slowly. The Ministry of Women, Community, and Social Development oversees and helps secure the rights of women. To integrate women into the economic mainstream, the government sponsored numerous programs, including literacy and training programs for those who did not complete high school.

## **Children**

Birth Registration: A child derives citizenship by birth in the country if at least one parent is a citizen. The government also may grant citizenship by birth to a child born in the country if the child would otherwise be stateless. Citizenship also derives by birth abroad to a citizen parent who either was born in the country or resided there at least three years. Sometimes parents did not register immediately the births of their children, and sometimes they did not register their children's births for many years. By law children without a birth certificate may not attend primary schools, but authorities did not strictly enforce this law.

Child Abuse: Law and tradition prohibit abuse of children, but both tolerate corporal punishment. Although no official statistics were available, press reports indicated an increase in reported cases of child abuse, especially incest and indecent assault cases, which appeared to be due to citizens' increased awareness

of the importance of reporting physical, emotional, and sexual abuse of children. The government aggressively prosecuted such cases.

The law prohibits corporal punishment in schools. In 2013 the Ministry of Education, Sports, and Culture stated the minimum punishment for a teacher convicted of corporal punishment of a student would no longer be a fine but a one-year prison term. There were two corporal punishment cases reported to the ministry in 2014 and three during the year. In November in the only case revealed to the public, the court sentenced a deputy school principal to 10-months' imprisonment for physically assaulting a 14-year-old male student and a 15-year-old female student.

Early and Forced Marriage: The legal minimum age of marriage is 21 years for a man and 19 years for a woman. Consent of at least one parent or guardian is necessary if either is younger than the minimum age. Marriage is illegal if a woman is younger than 16 years or a man is younger than 18 years. Early marriage did not generally occur.

Sexual Exploitation of Children: The minimum age for consensual sex is 16 years. The law has separate penalties for sexual relations or connections with children younger than 12 years and children between ages 12 and 15 years. The maximum penalties are life and 10 years' imprisonment, respectively. The 2013 Crimes Act contains a specific criminal provision regarding child pornography. The act specifies a seven-year prison sentence for a person found guilty of publishing, distributing, or exhibiting indecent material featuring a child.

The Ministry of Justice and Courts Administration and the Ministry of Education, in collaboration with NGOs, carried out educational activities to address domestic violence, inappropriate behavior between adults and children, and human rights awareness. Sexual abuse of children remained a problem.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **Anti-Semitism**

The country had no Jewish community, and there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

There were no confirmed reports during the year that the country was a source, destination, or transit country for victims of human trafficking.

### **Persons with Disabilities**

There is no law pertaining specifically to the status of persons with disabilities or regarding their access to buildings and public services. There is a law against discrimination with respect to employment based on disability (see section 7.d.). Tradition dictates that families care for persons with disabilities, and the community observed this custom widely.

In 2012 the death of a man with mental disabilities in Tafaigata Prison raised concerns about treatment of persons with mental disabilities while in police custody. The victim, Hans Dalton, initially went to the National Hospital for treatment but the hospital subsequently transferred him to police custody because of erratic and violent behavior. Authorities placed him in a jail cell where they later found him dead. Police charged a fellow inmate with Dalton's murder and a panel of assessors found him guilty in February 2014, but the judge overturned the verdict. The Dalton family sued the government for WST \$33 million (\$13.2 million). The case had not gone to trial by year's end.

Some children with disabilities attended regular public schools, while others attended one of three schools created specifically to educate students with disabilities. Many public buildings were old, and only a few were accessible to persons with disabilities. Most new buildings provided better access, including ramps and elevators in most multistory buildings.

The Ministry of Women, Community, and Social Development has responsibility for protecting the rights of persons with disabilities.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

"Sodomy" and "indecent between males" are illegal, with maximum penalties of seven and five years' imprisonment, respectively, but authorities did not enforce these provisions with regard to consensual same-sex sexual conduct between adults.

Although there were no reports of societal violence based on sexual orientation or gender identity, there were isolated cases of discrimination. While society publicly recognized the transgender Fa'afafine community, members of the community reported instances of social discrimination.

## **Section 7. Worker Rights**

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

The law protects the rights of workers to form and join independent unions, to conduct legal strikes, and to bargain collectively. There are certain restrictions on the right to strike for government workers, imposed principally for reasons of public safety. The 2004 Public Service Act states that a public sector employee who engages in a strike or any other industrial action is considered “to have been dismissed from...employment.” The law prohibits antiunion discrimination, such as contract conditions that restrict free association. The 2013 Labor and Employment Relations Act addresses a range of fundamental rights and includes the establishment of a national tripartite forum that serves as the governing body for labor and employment matters in the country.

The government effectively enforced applicable labor laws, and the government generally respected the freedom of association. The Ministry of Labor investigates any potential labor law violations in response to complaints. Other relevant government ministries are able to assist if needed. The Public Service Association functioned as a union for all government workers, who made up approximately 8,000 of the estimated 25,000 workers in the formal economy. Unions generally conducted their activities free from government interference.

Workers exercised the right to organize and bargain collectively. The Public Service Association engaged in collective bargaining on behalf of government workers, including bargaining on wages. Arbitration and mediation procedures were in place to resolve labor disputes, although such disputes rarely arose. The Ministry of Labor recommended that the newly established Mediation Council seek the opinion of the Ministry of Justice and the Courts in considering cases not covered by the Labor and Employment Relations Act, which only covers disputes between employers and employees.

Workers' organizations were generally independent of the government or employers, and there were no reported violations of freedom of association or collective bargaining. There were no reported strikes during the year.

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

The law prohibits forced or compulsory labor, and the government generally enforced such laws. There is an exception in the constitution for service required by local custom. A key feature of the matai system is that nonmatai men perform work within their village in service to their families and the village as a whole. Most persons did so willingly; however, the matai may compel those who do not.

The law states that forced labor is punishable by a maximum of 14 years' imprisonment, although the law does not consider work or services--which form part of the normal responsibility of a person towards his or her family, church, or village--as forced labor and, therefore, not protected under the prohibitions. Aside from this cultural exception and street vending by children, forced labor was not a major problem. The Ministry of Commerce, Industry, and Labor (MCIL) received no complaints and found no violations of forced labor during inspections conducted during the year. Under the Labor and Employment Relations Act, the penalty is approximately WST \$2,000 (\$800) for each offense by an employer, and under the Occupational Safety and Health Act, the penalty is approximately WST \$15,000 (\$6,000) for a corporation. These penalties were reportedly sufficient to deter violations.

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

The law prohibits employing children younger than 15 years except in "safe and light work." The law does not apply to service rendered to family members or the matai, some of whom required children to work for the village, primarily on family farms. The law prohibits any student from engaging in light or heavy industrial activity within school hours of 8 a.m. to 2 p.m. The law prohibits children younger than 15 years from work that could harm their physical or moral health. The law permits vending by children younger than 14 years.

The 2013 Family Safety Act contains provisions for protecting family members, particularly women and children. The MCIL refers complaints of illegal child labor to the attorney general for enforcement, but the government did not identify or prosecute any cases.

There were no reliable statistics available on the extent of child labor, but it occurred largely in the informal sector. Children frequently vended goods and food on Apia street corners. The government has not definitively determined

whether this practice violates the country's labor laws, which cover only persons who have a place of employment, and local officials generally tolerated it. In September 2014 the International Labor Organization coordinated a rapid assessment survey of 106 child street vendors, all of them younger than 18 years. The survey found that 70 percent of child street vendors were males ranging from seven to 17 years. Sources estimated that the actual number of child street vendors was 200; they observed children as young as three years old as vendors. The extent to which children had to work on village farms varied by village, although anecdotal accounts indicated the practice was quite prevalent. Younger children primarily worked doing household chores, yard work, and light work such as gathering fruit, nuts, and plants. Some boys began working on plantations as teenagers, helping to gather crops such as coconuts and caring for animals. Some children reportedly had domestic service employment.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination With Respect to Employment and Occupation**

The law prohibits discrimination, direct or indirect, against an employee or an applicant for employment in any employment policies, procedures, or practices based on ethnicity, race, color, sex, gender, religion, political opinion, national extraction, sexual orientation, social origin, marital status, pregnancy, family responsibilities, real or perceived HIV status, and disability. The country ratified the Convention on Rights for Persons with Disabilities in 2014.

The government effectively enforced the law. During the year the MCIL received no complaints regarding unfair hiring practices. The hiring and recruiting process for the private sector is outside of the scope of the Labor and Employment Relations Act. No cases drew public attention.

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

There were two minimum wages: WST \$2.30 (\$0.92) per hour for the private sector, and WST \$2.65 (\$1.06) for the public sector. Approximately 75 percent of the working population worked in the subsistence economy and had no formal employment. The Bureau of Statistics' *2008 Poverty Report* placed the national average of the basic needs poverty line at WST \$56 (\$22.40) per person per week or WST \$519 (\$208) per household per week.



The law covers private and public sector workers differently. The law stipulates a standard workweek of a maximum of 40 hours, or eight hours per day (excluding mealtimes), and prohibit compulsory overtime. For the private sector, the law specifies overtime pay at time and a half, with double time for work on Sunday and public holidays, and triple time for overtime on such days. For the public sector, there is no paid overtime, but authorities give compensatory time off for overtime work. There are generally nine paid public holidays per year. There are limits to the amount of hours a person may work in a day, and the number of consecutive workdays per week. The law states, “An employee must have at least 36 consecutive hours of rest from work within any seven days.” It also states, “An employer must not require an employee to work for a period of 12 consecutive hours in any day or adjoining days and must allow a period of rest for the employee of at least eight hours for each day or adjoining days of work.”

The law establishes certain rudimentary safety and health standards for workplaces, which the MCIL is responsible for enforcing. The law also covers persons who are not workers but who are lawfully on the premises or within the workplace during work hours. The 2014 Occupational Safety and Health Regulations Act contains provisions for the identification, assessment, and risk control for workplace hazards and hazardous substances, but does not contain a list of hazardous occupations or work.

Safety laws do not generally apply to agricultural service rendered to the matai or to work done within individual family homes. Government employees have coverage under different and more stringent regulations, which the Public Service Commission enforced adequately.

The MCIL had 11 labor inspectors. Independent observers reported that the ministry did not strictly enforce safety laws, except when accidents highlighted noncompliance. It investigated work accidents when it received reports. Under the Labor and Employment Relations Act, the penalty is approximately WST \$1,998 (\$800) for each violation by an employer. Under the Occupational Safety and Health Act, the penalty is approximately WST \$15,275 (\$6,110) for a corporation. These penalties were generally sufficient to deter violations.

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

The Commissioner of Labor investigates reported cases of hazardous workplaces. Workers are legally able to remove themselves from situations that endanger health or safety without jeopardy to their employment. The MCIL received reports of 44 work-related accidents during the year.