



Published by the International Reference Centre for the rights of children deprived of their families (ISS/IRC)

# COUNTRY SITUATION

## Samoa



TABLE OF CONTENTS	
<b>GENERAL SITUATION</b>	<b>2</b>
<b>CHILDREN DEPRIVED OF PARENTAL CARE AND ALTERNATIVE CARE OPTIONS</b>	<b>3</b>
COMMENTS OF THE ISS/IRC	6
<b>ADOPTION</b>	<b>7</b>
COMMENTS OF THE ISS/IRC	12
<b>LEGISLATION</b>	<b>13</b>
<b>PARTICULARLY RELEVANT SOURCES OF INFORMATION</b>	<b>13</b>

METHODOLOGY CHECKLIST	
<input checked="" type="checkbox"/>	<i>Legal analysis</i>
<input checked="" type="checkbox"/>	<i>Desk review</i>
<i>Verification by local contacts (experts + govt)</i>	
<input type="checkbox"/>	<i>Alternative care section</i>
<input type="checkbox"/>	<i>Adoption section</i>

## GENERAL SITUATION

### Geographical situation

- Samoa, officially known as the Independent State of Samoa, is located in the central South Pacific Ocean and is one of the westernmost island nations in Polynesia. The country consists of two main islands, Upolu and Savai'i, and eight smaller islands. It has no land borders, being entirely surrounded by the Pacific Ocean. The nearest neighbours include American Samoa to the southeast, Tonga to the southwest, and Fiji to the west. The capital city is Apia, situated on the island of Upolu.
- Samoa, like many Pacific Island Countries and Territories (PICTs), faces ongoing challenges from climate change, including increased tropical cyclones and droughts. These climate-induced disasters disrupt access to essential services, affecting family livelihoods, and place children at heightened risk. The frequency and intensity of these events continue to place significant strain on Samoa's infrastructure and child protection systems ([UNICEF COAR, 2023](#), page 1; [UNICEF, 2017](#), page 88).

### Political situation & governance

- [Samoa](#) is a unitary state with a democratic parliamentary system. The head of state, elected by the Legislative Assembly for five-year terms, serves as the ceremonial head of state while the head of government is the prime minister, who is elected by the assembly and appoints a cabinet from amongst the elected members of parliament. The Legislative Assembly is unicameral body composed of members who are primarily elected by universal suffrage.
- The political system integrates elements of traditional Samoan leadership, with village chiefs (*matai*) playing a significant role in social and political spheres. Every Member of Parliament is a *matai*, meaning that they hold dual roles as both a chief in their community and a legislator in the national government.
- Samoa gained its independence from New Zealand in 1962 but remains a member of the [Commonwealth](#).
- The country operates under a two-tiered system of government: a national government structured on a modern state system, and local village governance rooted in traditional framework.
- Administratively, Samoa is divided into [eleven traditional political districts](#), known as *itūmālō*, each with its own constitutional foundation based on traditional customs and title precedents.
- Samoa is a [bijural state](#), where both the common law and indigenous customary law apply.
- In terms of the rule of law, the judiciary is generally independent. According to [Freedom of House](#), the country has received a score of 4 out of 4.

### Population

- The total population is 205,557, with 79,079 children aged 0-14 ([Samoa Population and Housing Census, 2021](#)).
- The [under-five mortality rate](#) is 16.1 per 1,000 live births.
- 7.8% of girls aged 15-19 in Samoa are currently married or in a union. However, the rates are higher in rural areas, among women with lower levels of education, and in certain regions like Northwest Upolu ([Samoa Demographic and Health Survey, 2021](#)).
- Samoa had an adolescent fertility rate of 44 births per 1,000 girls aged 15-18 ([World Bank, 2022](#)).

### Economic & social situation

- Child poverty in Samoa is a significant concern, with 26% of children aged 0-14 living below the basic needs poverty line (BNPL). Children in female-headed households are particularly vulnerable, with 41% in Apia and 29% in Savai'i living below BNPL. Additionally, 6.3% of children nationally live below the food poverty line ([HEIS, 2018, page 31-32](#)).



- In 2011, UNICEF stressed on the existence of a lack, on one hand of comprehensive social protection and other social welfare services, and on the other hand of opportunities for adolescents and young people which perpetuates cycles of poverty and has led to unhealthy behaviours, such as drug and alcohol abuse, as well as mental health issues (UNICEF, 2017, page 5).
- Poverty in Samoa is closely tied to education levels. In Apia, nearly 28% of women and 30% of men with only primary education live below the basic needs poverty line, compared to about 16% of those with higher education (UNICEF, 2017, page 94).
- Also, social insurance is limited to (mostly male) formal sector workers and excludes the majority of workers who operate in the informal economy. A relatively high proportion of the population receives social assistance benefits, though the value of these is small (UNICEF, 2017, page 9).
- Samoa faces a significant youth unemployment issue, with nearly half (47.6%) of the unemployed population being young people aged 15-24 (Samoa Labour Force and Child Labour, 2022, page 45).

### Children's rights

- **Birth Registration:** The last available data indicates that [67% of child's births are registered](#). The country ranks the lowest in birth registration rate in the Pacific. This is due to significant governance challenges, including issues with institutional capacity, accountability, and prioritisation. Additionally, outdated technology used for birth registration has been identified as a critical problem, leading to delays in the registration process (Intelligence Report, 2022, page 6).
- **Violence Against Children:** In Samoa, there's a widespread acceptance of corporal punishment and the normalization of violence as a corrective tool within families, villages, and institutions. The high rates of corporal punishment and domestic violence are reported, with parents often being the primary perpetrators. 51.4% of children reported experiencing physical violence. Despite legal prohibitions, physical punishment by teachers remains common in schools, and children also face high levels of peer violence and bullying. (UNICEF, 2018, page 71-73 and 78; CRC/C/WSM/CO/2-4/2016/page 8).
- **Child Labour:** Children are vulnerable to the worst forms of child labour, such as drug production, trafficking, and hazardous street work like begging and vending. These children face numerous risks, including abuse, accidents, heat-related illnesses, and harm from drunk individuals or other adults (UNICEF, 2017, page 75; U.S. Department of Labour Websites).

## CHILDREN DEPRIVED OF PARENTAL CARE AND ALTERNATIVE CARE OPTIONS

### Applicable laws and policies & competent authorities

#### Main relevant laws and policies:

- Samoa currently lacks a comprehensive child protection law that would provide a strong legal framework for developing prevention, early intervention, and response services for children and their families (UNICEF, 2017, page 78)
- A new Child Care and Protection Bill has been drafted and is awaiting approval (UNICEF, 2017, page 7).
- Presently, [the Infants Ordinance of 1961](#) serves as the primary legal basis for child protection.
- [The Family Safety Act 2013](#) is legislation enacted to address domestic violence and provide protection to victims. Under this Act, children or representatives can apply for protection orders against perpetrators of domestic violence.
- [Samoa National Child Care and Protection Policy 2020-2030](#) involves policy directions, legislative measures, and the implementation of services and programs aimed at ensuring the care and protection of children. The policy emphasizes community-based approach as a key element of its child protection strategy. It highlights the roles of families and communities in ensuring child safety and well-being, which promotes shared responsibilities for childcare. The system also aims to empower community actors



including individuals, groups, and organizations to play an active role in child protection, fostering collective efforts through early intervention initiatives.

#### **Competent authorities:**

- **Ministry of Women, Community, and Social Development (MWCSO)** is responsible for coordinating child protection services in Samoa through its **Child Protection Unit (CPU)**, which has one national-level social worker. The MWCSO provides training for staff and government officers in village to manage community-based child protection programs, with plans for specialised training ([UNICEF, 2017](#)).
- **Family Court**, which is established as a division of the District Court, has jurisdiction to oversee matters related to the Infants Ordinance 1961. The Family Court handles various proceedings, including protection orders, under this and other relevant legislation.

#### **Family support & prevention of unnecessary family separation**

- The CPU conducts regular positive parenting workshops in communities, which focus on understanding of children's rights, identifying forms of violence and the use of six parenting principles which promote violence-free, positive discipline practices and encourage the development of safe and healthy families ([UNICEF, 2017](#), page 83).

#### **Gatekeeping mechanism & family reintegration**

- According to the Infants Ordinance 1961, if the District Court, during any proceedings for an offence or upon the request of a police officer, finds that a child under the age of 16 is living in a place of ill repute, is neglected, indigent, delinquent, not under proper control, or in an environment detrimental to their physical or moral well-being, the Court has the authority to order the child to be placed in the care of a child welfare officer. If the District Court either issues or refuses to issue such an order, an appeal may be made to the Supreme Court.
- **Family Reunification:**

### **ALTERNATIVE CARE OPTIONS**

**Competent authorities:** District Court (Family Court)

**Main reasons:** Children ended up in care primarily due to cases of sexual and/or physical violence, abandonment, and disability. Children often required temporary care while their families worked to re-establish themselves and regain the capacity to resume caretaking responsibilities ([Alternative Care for Children Around the Globe, 2019, page 344](#)).

**Statistics:** no information found.

#### **Kinship care**

**Legal framework/policy when formal:** Not regulated by formal institutions or by laws in Samoa.

**Type:** Kinship care refers to care provided by immediate family members or extended family members (or aiga). Aiga refers to everyone related by blood, marriage and matai titles belonging to a clan or groups of family ([Samoa National Child Care and Protection Policy 2020-2030, page 28](#)). Children in need of care in Samoa are typically placed with extended family members. This informal care arrangement is deeply rooted in Samoan tradition ([UNICEF, 2017, page 82](#)).

**Available support:** no information found.

**Statistics:** no information found.



## Foster care

**Legal framework/policy:** There is no formal law or policy specifically mentioned foster care. The Infants Ordinance 1961 is the primary law regulating child protection, but it does not specifically mention foster care as a formalized program. The law allows the Courts to place children with child welfare officers when their family environment is deemed unsuitable, but these placements are usually temporary or informal, relying on family networks rather than a structured foster care system. As of now, foster care remains largely an informal practice without specific legal backing ([UNICEF, 2017](#), page 82).

**Types:** Samoa does not have a formal foster care system ([UNICEF, 2017](#), page 82).

**Eligibility criteria for children:** no information available.

**Requirements for carers:** no information available.

**Monitoring & complaint mechanism:** no information found.

**Support and follow-up:** no information found.

**Statistics:** no information found.

## Residential care

**Legal framework/policy:** No formal law or policy specifically mentioned residential care.

**Types:** Samoa has some forms of residential care, but it is limited. For instance, the Samoa Victim Support Group (SVSG) operates shelters that provide temporary residential care for children in need of protection or alternative care. The care provided in these shelters is often short-term until more permanent family-based arrangements, such as placement with extended family, can be made ([UNICEF, 2017](#), page 82).

**Main Reasons:** These shelters are primarily used for children who experienced violence, abuse and neglected ([UNICEF, 2017](#), page 82).

**Monitoring & complaint mechanism:** no information available.

**Support and follow-up:** no information available.

**Statistics:** In 2015, there were 90 children in institutional care across 4 residential facilities in Samoa. All of these institutions were operated by non-governmental organizations (NGOs). The number of children housed in each facility varied, with a range of 8 to 44 children per institution ([Alternative Care for Children Around the Globe, 2019](#), page 344).

## Leaving care

No information available.

## Focus on specific groups of children

**Children with disabilities:** Children with disabilities in Samoa are particularly vulnerable. They face limited access to education compared to their peers, which further contributes to their economic and social vulnerability. Cultural stigmatisation particularly toward those with mental disabilities, contributes to their isolation and



exclusion. The shortage of specialized teachers and the lack of accessibility to public spaces, especially in rural areas, hinder their development further. Moreover, inadequate funding for essential services such as rehabilitation programs and shelters for abandoned children with disabilities leaves many without proper care and support ([UNICEF, 2017, page 95](#); [CRC/C/WSM/CO/2-4/2016/page 10](#)).

## Comments of the ISS/IRC

### Progress

The ISS/IRC welcomes [Samoa National Child Care and Protection Policy 2020-2030](#) and acknowledges efforts made by the government in addressing child protection issues. The policy reflects Samoa's commitment to safeguarding the well-being of its children by promoting community-based support for children's well-being and fulfilling national and international obligations. Moreover, Samoa's commitment to community-based approaches to child welfare is commendable, as it strengthens collective responsibility within families, villages, and local communities and ensures that children receive care and protection within their cultural and local context.

### Remaining challenges to be addressed

*Legal framework:* First of all, it should be noted that Samoa currently lacks a well-defined child protection law that would establish a firm legal framework to support the development of crucial services for children and their families. This includes the creation of mechanisms for prevention, early intervention, and appropriate responses efforts to safeguard children's well-being. ([UNICEF, 2017, page 79](#)). The existing Infants Ordinance 1961 is outdated and does not adequately address modern child protection challenges. Additionally, Samoa lacks formal regulation for alternative care systems, including kinship care, foster care, and residential care. The absence of legal framework leaves gaps in oversight, quality assurance and monitoring of these care arrangements. This aspect calls for the development of a more comprehensive legal framework that not only modernise child protection law but also formalises regulations for alternative care arrangements since this would enhance the safety and well-being of children in these settings by establishing clear standards and accountability mechanisms.

*Alternative care options:* A second remark to emphasise is the lack of alternative care options in Samoa since it leaves may vulnerable children without adequate support systems. Without formalised system of kinship care, foster care, or residential care arrangements, children who cannot remain with their biological families are at risk of neglect, exploitation, or abuse. The absence of a regulated, formalised system of these types of care means that children often fall through the cracks, making it difficult to ensure children's safety and well-being. Furthermore, Samoa lacks specialised care arrangements, which are essential for addressing the unique needs of vulnerable children who require more than general care, such as children with disabilities, those who have experienced trauma, or children with specific medical, psychological, or emotional needs. Without these arrangements, many children may not receive the appropriate interventions necessary for their development and well-being.

*Monitoring mechanisms:* Another issue to highlight is the absence of monitoring and intervention mechanisms for alternative care arrangements in Samoa, including institutions run by non-governmental organisations and kinship care. To address this, it is recommended that the government strengthen its support by establishing robust monitoring system and offering financial and social services to families involved in kinship care ([CRC/C/WSM/CO/2-4/2016/page 9](#)).

*Coordination:* It is observed that Samoa struggles with fragmented child protection services due to the absence of a centralized entity overseeing case management and care. Without a unified authority, different government ministries and NGOs have their own standards and procedures, but these systems are inconsistent, uncoordinated, and lack of standardized tools for reporting, referrals, and follow-ups. There are no formal



mechanisms in place to ensure accountability, which creates gaps in the system, preventing it from functioning as effectively as needed to protect children ([UNICEF, 2017, page 82](#)).

*Data collection:* The absence of reliable statistic is also a significant issue that must be addressed. Without accurate data, it becomes difficult to fully understand the scope of the problem, including the profile and specific needs of these children. This lack of information hinders the ability to design, plan, and implement specialised programs and services that effectively target and support vulnerable children in alternative care settings.

## ADOPTION

**Accession to/Ratification of the 1993 Hague:** Samoa has not ratified the 1993 Hague Adoption Convention.

**National laws/policies:** [Infants Ordinance 1961](#) and Infant Adoption Regulation 2006

### CENTRAL AUTHORITIES

#### Ministry of Justice & Courts Administration

APIA

Tel: (685) 22-671

Fax: (685) 21-050

#### Office of the Attorney General

P.O. Box 27, APIA

Tel: (685) 20-295

Email: [attorney.general@samoa.ws](mailto:attorney.general@samoa.ws)

*Source:* [U.S. Department of State](#).

### FULL/SIMPLE ADOPTION

Adoption in Samoa is a **full adoption**. Despite being full, adoptions are revocable. For the effects, see section below.

*Source:* Infants Ordinance 1961, art. 10.

### SUBSIDIARITY PRINCIPLE

The child may benefit from an intercountry adoption only if the Court receives a certificate from the Attorney General certifying that:

- The child has no family suitable family, or other suitable persons in Samoa who can provide care, support, and welfare.
- No other suitable arrangements are available in Samoa.

*Source:* Infants Ordinance 1961, art. 7A.

### CHILD ADOPTABILITY

The Court may issue an adoption order for any infant upon application. An “infant” is defined as a person under the age of 21 years.

*Source:* Infants Ordinance 1961, art. 2, 7.

### PROSPECTIVE ADOPTIVE PARENTS

#### Age limits

PAPs should be at least 25 years old.



## Status

A child cannot be adopted by more than one person, except in the following cases:

- Two spouses who adopt a child jointly;
- A mother or father may adopt their minor either alone or jointly with their spouse.

## Residence or other criteria indicated by the law

The Court may issue an adoption order for any child, regardless of the applicant's domicile.

Before issuing an adoption order, the court must ensure:

- The person seeking to adopt is of good character, is fit to care for the child, and has the ability to provide for the child's upbringing, maintenance, and education.
- The adoption will promote the welfare and best interests of the child.

Sources: Infants Ordinance 1961, arts. 7, 7A, 8; [Lawzana's website](#).

## CONSENTS

### Consent of the child

Children over the age of 12 must give their consent.

### Consent of biological parents

The Court must obtain consent from the living parent(s) at the time of the adoption hearing. If both parents are deceased, consent must come from the legal guardian (if any).

However, the Court has the discretion to waive this requirement if certain conditions apply. These conditions include:

- The parent or guardian is permanently absent from Samoa.
- The parent or guardian is incapable of giving consent due to mental or physical incapacity.
- The parent or guardian is unfit to have custody or control of the child, which could be due to criminal activity, neglect, or other reasons.
- The parent has deserted the child, meaning they have abandoned or neglected the child and have no involvement in their care.

In these cases, the Court can proceed with the adoption even without the parent or guardian's consent.

### Withdrawal of consent

There is no provision mentioned for the withdrawal of consent in the legislation.

Source: Infants Ordinance 1961, art. 8.

## PROCEDURE

The adoption procedure in Samoa is a **judicial process**. It is primarily processed through the District Courts (Family Court), following the Infants Ordinance 1961.

Adoption proposals are typically submitted by law firms to both the Office of the Attorney General and the Ministry of Justice and Courts Administration (MJCA) for court review.

In cases of intercountry adoption, particularly when the applicant has no blood relation to the child, the Ministry of Women, Community and Social Development (MWCSA) conducts investigations, as mandated by the Infant Adoption Regulation 2006.





The Ministry assesses whether suitable care arrangements are available in Samoa by interviewing family members and consulting local authorities, such as village mayors or women's representatives, to explore alternatives for keeping the child within extended family networks. After reviewing all the relevant information, the Court makes a final decision on whether the adoption will proceed, based on the child's best interests.

Sources: [CRC/C/WSM/2-4.2014, page 29, para 5.11](#); Adoption Regulation 2006.

## **MATCHING**

No information found

## **PROBATIONARY PERIOD**

No information found

## **ADOPTION DECISION**

The District Court, specifically the Family Court, which has jurisdiction to oversee matters related to the Infants Ordinance 1961, is responsible for issuing the adoption decision based on the examination of qualifications and requirements. If the court is satisfied, it will grant an adoption order.

### **Intercountry adoption**

A Court cannot issue an adoption order for an intercountry adoption unless the Court receives a certificate from the Attorney General stating that:

- The child does not have any family members, suitable relatives, or other suitable persons in Samoa who are willing and able to care for, support, and ensure the welfare of the child; and
- There are no suitable arrangements available in Samoa for the child's care, support and welfare.

### **Variation or discharge of adoption order**

The Court has the discretion to vary or discharge an adoption order. This can be done based on the Court's judgement and under any conditions it deems appropriate. Upon the discharge of the adoption order, the child and their biological parents are, for all legal purposes, restored to the same relationship as existed before the adoption, unless specific conditions are set by the Court. However, the discharge of the adoption order does not affect any lawful actions that occurred while the order was in force.

*Source:* of the Infants Ordinance 1961, art. 2, 7A, and 11.

## **REGISTRATION**

Adoptions in Samoa must be registered with Registrar General. When an adoption order is made under the Infants Ordinance 1961, the Registrar of the Court must provide the Registrar General with a sealed copy of the adoption order, along with a notice that includes the following details:

- The full name of the child before the adoption order.
- The full name of the child after the adoption order.
- The date and place of birth of the child.
- The gender of the child.
- The full names of the natural parents, or the last adopting parents of the child.
- The full names, occupation and address of the adopting parent, or parents of the child.
- The name of the Judge who made the adoption order and the date of the order.
- Any other required information by the Registrar General.

If the child's birth has already been registered, the Registrar General must update the birth record to include the



new name conferred by the adoption order and replace the natural or previous adoptive parents' details with the adoptive parents' information. If the child's birth has not been registered, the Registrar General will register the adoption as if it were a birth notification. This process will involve making necessary modifications or adjustments as required, which will be approved in writing by the Registrar General to ensure the adoption is properly recorded in the official registry.

### **Variation or discharge of adoption order**

When the Court issues an order to vary or discharge an adoption order, the Court must provide a sealed copy of the order to the Registrar General. Upon receiving the variation or discharge order, the Registrar General must update the birth records of the child. This includes:

- Recording any new name conferred on the child in place of the previous name.
- Updating the details of the parents whose status has changed due to the variation or discharge, replacing the details of the parents recorded prior to the change.

If the child's birth has not been previously registered, the Registrar General must register the variation or discharge order, making necessary modifications or adaptations to the registration process as approved in writing.

### **Registration of intercountry adoptions**

If the Registrar General is satisfied that:

- An individual whose birth is recorded under the Registration Act, has been legally adopted in accordance with the laws of another country, and
- The necessary details for registration have been provided and appear to be correct.

The Registrar General may proceed to register intercountry adoption.

Source: [Births, Deaths and Marriages Registration Act 2002](#), arts. 32-34.

## **ADOPTION EFFECTS**

### **Rights**

For all civil and criminal purposes, as well as in regard to legal and equitable obligations, rights, benefits, privileges, and other consequences of the parent-child relationship, the adopted child will be legally considered the child of the adoptive parent, as if they were born within a lawful marriage. The adoptive parent will assume all responsibilities and liabilities for the child.

However, the adoption does not grant the child certain rights:

- The child will not inherit any property that would naturally pass to the biological children of the adoptive parent under a deed, will, or other legal document created before the adoption order, unless the document explicitly includes the adopted child.
- The adopted child will not have the right to inherit property that is specifically designated for the biological descendants of the adoptive parent, nor will they inherit property from the adoptive parent's relatives by right of representation.
- The adopted child will not inherit any property that would pass to the biological children of the adoptive parent in the event of intestacy, unless the inheritance is directly through the adoptive parent.

Additionally, the adoption order will also terminate all legal rights and responsibilities between the child and their biological parents, except for the child's right to inherit from their biological parents, either directly or by right of representation, as an heir or next of kin.



## **Name**

The adopted child will take the surname of the adoptive parent, along with any first or Christian name that the Court may assign.

## **Nationality**

No information found.

*Source:* Infants Ordinance 1961, art. 10.

## **POST-ADOPTION FOLLOW-UP**

No information found.

## **ADOPTION BREAKDOWN**

No information found.

## **SEARCH FOR ORIGINS**

No information found

## **ADOPTION ACCREDITED BODIES (AABs)**

Samoa has no Adoption Accredited Bodies (AABs).

## **SANCTIONS**

Unless authorised by the Court, it is illegal for any person to offer, accept, or agree to accept any payment or reward in exchange for facilitating or arranging an adoption or proposed adoption.

*Source:* Infants Ordinance 1961, art.9.

## **COSTS**

No information found.

## **STATISTICS**

There is a significant rise in adoption cases in Samoa from 2007-2008 to 2008-2009, with 557 more cases filed in the latter period. These cases include both local and intercountry adoption applications, with the majority of applicants coming from New Zealand, followed by those from Australia, American Samoa, Hawaii, and Samoa itself. The majority of these adoptions are intrafamily adoptions. The primary reasons for these adoptions include providing the child with better educational opportunities and an improved future, enabling them to support their families in Samoa.

*Source:* [CRC/C/WSM/2-4, 2014, page 30, para 5.13.](#)

## **Customary Adoption**

Customary adoption in Samoa is a traditional practice that is deeply rooted in Samoa culture. It involves placing children within extended family, and kinship ties are not only maintained but also strengthened. Customary adoption has traditionally provided for children born out of wedlock or to large families. Unlike formal adoption, customary adoption emphasises the continuation of familial connections, allowing the child to retain their cultural identity and close relationship with their biological family. There is no legal severance of ties between the child and their biological parents, allowing the child to maintain strong kinship links. This form of adoption typically lacks legal formalities, making it an open arrangement, and is based on mutual trust within the family rather than strict legal process.



## Comments of the ISS/IRC

### Progress

The ISS/IRC commends Samoa for its legal efforts in adoption, particularly through the Infants Ordinance 1961 and Infant Adoption Regulation 2006, which provide a framework for both domestic and intercountry adoptions. The emphasis on ensuring that intercountry adoptions are only approved when no suitable local care options are available reflects a commitment to the subsidiarity principle. The involvement of the Attorney General also adds a level of legal protection in intercountry adoptions.

### Remaining challenges to be addressed:

- Samoa has not yet ratified the Hague Adoption Convention of 1993. It is recommended that Samoa accede to the convention to align its adoption practices with international standards. By doing so, Samoa would enhance transparency, accountability, and safeguards against the risks associated with intercountry adoption.
- The law makes no provision for the involvement of a social workers or similarly trained welfare officials. Without such professionals, it is uncertain how much protection and support children will receive during the adoption process. It is essential to include provisions for their involvement to ensure adequate safeguards for children.
- It is crucial to establish intervention mechanisms and strengthen the Ministry of Women, Community, and Social Development's capacity to register, regulate, and monitor adoptions effectively ([CRC/C/WSM/CO/2-4/2016, page 9](#)).
- Samoa currently lacks a probationary period for adoption, which is a critical oversight. The absence of this period means there is less opportunity to assess whether the adoption arrangement is truly in the best interest of the child, potentially leading to long-term mismatches or issues in the adoptive home without adequate safeguards in place.
- The lack of post-adoption follow-up raises significant concerns about the potential for exploitation and abuse. Without a system in place to monitor the welfare of adopted children after the adoption process is completed, there is a risk that cases of neglect or abuse may go unnoticed, as evidenced by past instances of abuse following adoptions. This aspect calls for the establishment of mandatory post-adoption monitoring mechanism that would ensure the continued well-being of adopted children and provide a safeguard against potential mistreatment.
- There is limited oversight and regulation of international adoption agencies in Samoa. Limited government oversight has allowed these agencies to operate with minimal accountability, which raises concerns about potential exploitation and unethical practices.
- In determining the child's welfare and best interests, it is recommended to include adequate procedural safeguards in the act to ensure that the child's welfare is considered on a long-term basis as well and that children are placed with the right parent(s) through adoption processes.
- There are concerns about customary adoption in Samoa due to the informal nature of these arrangements since legal severance between the child and biological parents, which can create ambiguity in the child's rights and protection. Additionally, because these adoptions often occur within extended families, there is no formal systems to monitor the child's well-being or ensure accountability. This can result in a lack of safeguards against potential exploitation, neglect, or other forms of mistreatment, leaving children vulnerable in unregulated environments. This aspect calls for the establishment of necessary safeguards to properly monitor and oversee the welfare of children in these arrangements.



## LEGISLATION

### International instruments

	<b>Signature (S) / Ratification (R) / Accession (A) / In Force (F)</b>
<a href="#">United Nations Convention on the Rights of the Child (1989)</a>	30 September 1990 (S) 29 November 1994 (R)
<a href="#">Optional Protocol</a> to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000)	29 April 2016 (A)
<a href="#">Hague Convention</a> on Protection of Children and Co-operation in respect of Intercountry Adoption (1993)	-
<a href="#">Hague Convention</a> on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (1996)	-
<a href="#">United Nations Convention on the Rights of Persons with Disabilities</a> (2006)	24 September 2014 (S) 2 December 2016 (R)
<a href="#">Apostille Convention</a> (1961)	18 January 1999 (A) 13 September 1999 (F)

### Domestic legislation/regulation

	<b>Language</b>
<a href="#">Infants Ordinance 1961</a> (Date of Commencement: 28 September 1961)	In English
<a href="#">Infants Adoption Regulation 2006</a>	In English
<a href="#">Births, Deaths and Marriages Registration Act 2002</a> (Date of Commencement: 4 November 2002)	In English
<a href="#">Family Safety Act 2013</a> (Date of Commencement: 1 June 2013)	In English

## PARTICULARLY RELEVANT SOURCES OF INFORMATION

### Periodic review by the CRC Committee

- Concluding Observations of the Committee on the Rights of the Child: Samoa, [CRC/C/WSM/CO/2-4](#) submitted in 9 June 2016.
- Combined second to fourth periodic reports of States parties: Samoa, [CRC/C/WSM/2-4](#) submitted in 23 April 2014.

### Other organisations

- [UNICEF](#) – General information on the situation of children’s rights and child protection system in the country
- [US Department of State](#) – Information on the adoption procedure.
- [New Zealand Law Commission](#) – Information on customary adoption in Samoa

\*\*\*\*\*

