

NAVIGATING CEDAW OBLIGATIONS AND ‘CUSTOM’ IN SAMOA

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INTRODUCTION

The Samoa Law Reform Commission (SLRC) was established in 2008 under the *Law Reform Commission Act*. Tasked by the Attorney General’s Office to review state laws and propose recommendations, after consultation, the SLRC reports and discussion papers are submitted to Parliament for review and approval. Since its inception, the SLRC has produced a number of reports and discussion papers on various topics including: cultural heritage (2013), authority of the *Matai Sa’o* (2016) and more recently, the fabric of the laws of Samoa (2018). While the commission has been active in response to government requests, recommendations are slow to move towards legislative measures.

The SLRC’s recent report on Samoa’s compliance with the Convention for the Elimination of Discrimination against Women (CEDAW) was tabled in Parliament for consideration in 2017. Although Samoa had ratified the Convention in 1992, the CEDAW Committee in 2012 articulated concerns about women’s political participation and violence against women. A key recommendation from the SLRC was the amendment of the Village *Fono* Act, 1990 to ‘exclude consideration of customary practices’ such as *ifoga* (cultural apology by an offender or his/her family) in cases of violence against women. This paper explores the dynamic tension inherent within the legal and customary frameworks in Samoa, with particular reference to CEDAW, and the Village *Fono* Act 1990. It argues that while Samoa’s ratification of CEDAW is acknowledged, there is a need to further analyse the interpretation and implementation of the Convention at the village governance level with regard to the customary practice of *ifoga*.

THE 2017 SAMOA LAW REFORM COMMISSION CEDAW REPORT

The 159-page report produced by the SLRC proposes 62 recommendations, some of which suggest amendments to the Family Safety Act, 2013, and a more rigid approach for implementing protection orders. In relation to the Village *Fono* Act 1990 (hereafter the *Act*), the SLRC make seven recommendations; firstly, that a ‘guideline’ be developed to ‘deal with perpetrators of domestic violence and to impose a positive duty on the village council to report instances of domestic violence to Police’. Secondly, that the *fono* should ‘enforce protection orders’, and ‘be encouraged to include offences and recourse for family violence in village bylaws’. Another recommends the *fono* should work ‘collaboratively with police to enforce protection orders and also any bylaws in place’. Moreover, that the *Act* ‘should be amended to exclude consideration of customary practices (for example, penalties imposed by the Village *Fono* and *ifoga* by the offender’s family) in cases of violence against women (including sexual violence)’. A final recommendation encourages the ‘legal recognition’ of Women’s Committee under the Act as a platform for the inclusion of women’s voices. While more general in its scope, another recommendation stipulates that ‘Government should continue to direct its policy towards progressively removing discriminatory legislation when appropriate and with consideration of Samoan custom’.¹ This comprehensive report and its subsequent recommendations have wide-reaching implications at village and national governance level. It raises questions about the complex and dynamic relationship between Samoan ‘custom’, the Constitution and Samoa’s obligations to CEDAW.

COLONIAL CODIFICATION OF SAMOAN CUSTOMS

The codification of Samoan customs began in the colonial period. Under German rule (1900-14), a Lands and Titles Commission was established in 1903 which centralized lands and titles disputes in the Apia port-town.² Disputes were presided over by

¹ Constitution of the Independent State of Samoa (2016 version), 99-102.

² M. Meleisea 1987, *The Making of Modern Samoa: Traditional Authority and Colonial Administration in the History of Western Samoa*, Suva, Institute of Pacific Studies of the University of the South

European judges and Samoan advisers, for situations outside the usual customary practice where a dispute was the privilege of the village council or associated family members. Under Part IX of Samoa's Constitution, the Lands and Titles Court is authorized to adjudicate on matters pertaining to *Matai* (chiefly) titles and customary lands.³ This institution continues to play an important role in Samoan society since it facilitates family disputes, and has considerable status within the Samoan political sphere.⁴ Similarly, the *Land and Titles Act* (1981) aims to 'codify the customary law of Samoa in order to regulate disputes among Samoans in relation to customary land and titles'.⁵ Recent discussions have arisen on the authority of the *Matai Sa'o* (Heads of households) as mentioned in a discussion paper produced by the SLRC, whereby due to the increasing number of disputes and conflict, the government is considering qualifying and legislating the selection of the *Matai Sa'o*.⁶ These include requiring the individual to residence in Samoa for a period of time, the possibility of limiting the number of *sa'o*, and eligibility requirements.⁷ While discussions surround the characteristics of the *Matai Sa'o*, the village *fono*, where *matai* exercise their authority, is the forum for decision-making. Within this setting, the *matai* representatives have a designated seating arrangement according to rank and status, which also determines who may speak. Within this forum, issues are discussed and in most cases, a consensus is sought on an agreed position towards a resolution. In many cases, the village *fono* accepts and engages in the customary practice of *'ifoga*.

The practice of *'ifoga* or the 'public act of self-humiliation-accompanied by the gift of *'ie toga*' or finely woven mats is a recognized disputes resolution method.⁸ Scholars acknowledge this custom is rarely applied unless in very serious circumstances where a death has occurred or a serious crime has been committed.⁹ For example, in May 2018, Malauulu Solovi of Saleaamua village was sentenced to one year and three months, on a charge of manslaughter and unlicensed driving. While driving at speed,

Pacific. F. Aiono-Le Tagaloa 2009, 'The Land and Titles Court of Sāmoa 1903–2008: Continuity amid Change,' (PhD Thesis, University of Otago).

³ M. Meleisea 2016, 'Authority of the Matai Sa'o in Contemporary Samoa: At Home and Abroad', presentation at the Transnational Matai Conference, University of Auckland, New Zealand.

⁴ Ibid.

⁵ Samoa Law Reform Commission 2016-17, 'Samoa's Legislative Compliance with the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)', report, 14.

⁶ M. Meleisea 2016, 'Authority of the Matai Sa'o in Contemporary Samoa: At Home and Abroad'.

⁷ Ibid.

⁸ Cluny & La'avasa Macpherson 2005, 'The Ifoga: The Exchange Value of Social Honour in Samoa', *Journal of the Polynesian Society*, 114, 2, 109-134.

⁹ Ibid.

Solovi struck a 68-year-old Church Minister of Lauli'i village who died as a result from his injuries. According to Justice Leiatuaalesa Darryl Clarke, an *'ifoga* was performed by Solovi's family to the village of Lauli'i. The *'ifoga* comprised \$20,000.00, 10 large *'ie toga* (finely woven mats), payment of a village fine of \$4,000.00, 40 boxes of chicken legs, a cow and a sow which the village accepted'.¹⁰ According to the SLRC report, *'ifoga* as a 'customary reconciliation' has 'resulted in a reduction of sentence in cases involving violence against women'.¹¹ This is a concern since the compliance indicators state that customary practices 'shall not affect criminal prosecution or sentencing' as *'ifoga* 'may prevent adequate sanctions being imposed on perpetrators of violence against women'.¹² *'ifoga* is a widely practiced custom, and as aforementioned, is a considerable undertaking for those involved. However, in sexual violence cases, *'ifoga* presents an issue of concern. Since the village *fono* is the key forum for decision-making, the SLRC recommends to amend the *Act* to better comply with CEDAW obligations.

PROPOSED AMENDMENTS TO THE VILLAGE *FONO* ACT, 1990

Samoa's current population of 195,979¹³ is organized into 369 villages, which include traditional and non-traditional villages.¹⁴ Traditional villages are governed by a village *fono* or council of chiefs who represent their families, they have a *fa'alupega* (village constitution), and a Village Representative or *Sui o le Nu'u* (the village representative of traditional villages) who liaises with government. Until the Village *Fono* Act, 1990, council decisions were the prerogative of chiefs, and outside the reach of government. However, under the *Act*, the village *fono*, although empowered to exercise their authority, are required to register council decisions, in line with the Constitution, with the CEO of the Ministry of Women, Community and Social Development (MWCSD)

¹⁰ 'Main jailed one year and three months for manslaughter', 3 May 2018, Samoa Observer

¹¹ SLRC report 2016-17, p.34, fn.99.

¹² SLRC report 2016-17, p.34, fn.100-101.

¹³ Samoa Bureau of Statistics Census 2016, Preliminary Count [Census Brief No.1 (Revised Version)].

¹⁴ M Meleisea, M Meredith, M Chan Mow, P Schoeffel, S Lauano, H Sasa, R Boodoosingh, M Sahib 2015, *Political Representation and Women's Empowerment in Samoa*, Volume 2, Research Methods and Results, Centre for Samoan Studies, National University of Samoa, p.14. According to this study, 'traditional' refers to villages with both a village mayor (*Sui o le Nu'u*) and a village council. A 'non-traditional' village may have a village mayor (*Sui o le Malo*) but not a village council.

which administers the Act.¹⁵ The MWCSD also administers the Internal Affairs Act 1995 which provides ‘for the promotion of the well-being of villages, village authority’ and ‘for matters relating to the culture and traditions of Samoa’.¹⁶ It further outlines the duties of the *Sui o le Nu’u* and *Sui o le Malo* (the village representative of non-traditional villages) which includes ‘to promote harmony in his or her village’ and ‘to encourage the maintenance of law and order’.¹⁷ In 1995, the government approved the addition of a Women’s Village Representative (*Sui o Tama’ita’i*) for each village.¹⁸ In 2017, there were a total of 195 Women’s Village Representatives, and similar to their male counterparts, the *Sui o Tama’ita’i* receive a fortnightly payment from the government.

The enactment of the *Act* paralleled the amendment to the Electoral Act, 1963 in Samoa, which extended voting rights beyond chiefs to all Samoan citizens from 21 years and over.¹⁹ In permitting universal voting rights, in many ways the *Act* reinforces the importance of the chief representative, within the village decision-making body. The Village *Fono* Act 1990 was enacted to empower and limit the authority of the village council. The five objectives of the *Act* comprise of the following; firstly, to provide for the recognition and protection of Village *Fono*; secondly, to confer the exercise of power and authority by Village *Fono* in accordance with custom and usage of their village; thirdly, to validate the past and future exercise of powers and authority by Village *Fono*; fourthly, to provide procedures to be followed by Village *Fono* when undertaking inquiries into village misconduct or imposing punishment, including banishment or ostracism; and fifthly, to empower Village *Fono* to make *faiga fa’avae*

¹⁵ See Village *Fono* Act 1990. Also see ‘*Pule a le Matai Sa’o, Pepa o Talanoaga*’, Samoa Law Reform Commission, July 2016.

¹⁶ See Internal Affairs Act (1995).

¹⁷ *Ibid.*

¹⁸ CEDAW, C/WSM/CC/1-3, 15 February 2005, Committee on the Elimination of Discrimination against Women, Thirty-second session, 10-28 January 2005, 3.

¹⁹ Asofou So’o 1992, ‘Universal Suffrage in Western Samoa: The 1991 General Elections’, *Regime Change and Regime Maintenance in Asia and the Pacific*, Discussion Paper Series, Number 10, 2.

or *i'ugafono* (policy decisions).²⁰ The Act therefore recognizes the council as a key institution of Samoan society.

While the *Act* covers individuals residing on village customary land, those who live on government, freehold or leasehold land are exempted from the village rules. Although there are cases of village people occupying freehold land, and playing an active role in village affairs. However, any person who disturbs the 'harmony within the village' may be summoned by the *fono*. The register of council decisions is open to public scrutiny. In some cases, village by-laws have legal recognition, for example, the Village Fisheries By-laws in line with the 'national Fisheries Legislation' is 'accorded legal recognition', which includes restrictions on fish and shellfish or bans on some fishing methods.²¹

Similar to the SLRC report, scholars suggest the *Act* 'must provide clearer guidelines firstly on developing village rules' and 'secondly on the scope within which the traditional powers of the village councils may be exercised'.²² To support the community lawmaking process, in 2017, a guideline on *Legislative Drafting in the Pacific Context* was developed by Samoan legal scholar Telei'ai Lalotoa Mulitalo in order to 'reduce the distance between the customary legal system and the state legal system'.²³ Although targeting lawmakers, the text provides a broad background to the context of Samoa and the Pacific region. While *Drafting Manuals for Samoa* (2014) and *Nauru* (2015) exist, further revisions to these manuals are needed. Thus, the current guideline is significant since it deals with custom within the legal framework, particularly as most Pacific Island countries recognize 'custom' in their constitutions.²⁴

²⁰ Village *Fono* Act (1990).

²¹ U. Fa'asili & I Kelekolio 1999, 'The Use of Village By-laws in Marine Conservation and Fisheries Management', Fisheries Division, Ministry of Agriculture, Forests, Fisheries and Meteorology, Apia, Western Samoa, 1st Secretariat of the Pacific Community Heads of Fisheries Meeting, Noumea, New Caledonia, 9-13 August.

²² T. Lalotoa Seumanutafa 2018, *Law Reform in Plural Societies*, Springer: Germany, 149.

²³ Teleiai Lalotoa Mulitalo 2017, *Legislative Drafting in the Pacific Context*, 1.

²⁴ Teleiai Lalotoa Mulitalo 2017, *Legislative Drafting in the Pacific Context*, 10-12.

In July 2018, the National University of Samoa developed and introduced a new community course programme for a Certificate in Customary Adjudication (CCA).

Initially developed from a request by the Ministry of Justice and Courts Administration, this course was jointly developed by the Centre for Samoan Studies (CSS), the Faculty of Business and Entrepreneurship (FoBE), and the Oloamanu Centre for Professional Development and Continuing Education (OCPDCE). The key learning outcome for students will be the ability to ‘demonstrate knowledge, skills and attitude that reflects professional competence and confidence in performing their duties as judges and staff of the Lands and Titles Court’.²⁵ While the course targets a specific group, 20 students have enrolled from various backgrounds. The public interest in the certificate programme indicates recognition of a formal qualification for individuals employed in judicial work but also for those likely to engage in family disputes.

From an MWCSD (2015) report on *Matai Leadership in Samoa*, findings indicated that ‘the legal system of Samoa recognizes the role of the *fa’amatai* in regulating village laws and upholding order in the village setting’.²⁶ Furthermore, that ‘disputes within the community are often handled by traditional or village law’.²⁷ Therefore, the role of *matai* is recognized as a ‘system or social protection and organization the *Fa’amatai* is a success – it protects the vulnerable and maintains peaceful governance at the village level’.²⁸ The survey found that only 10% of women held chiefly titles in Upolu, and 4% in Savai’i.²⁹ Of this number, 368 held *Ali’i* (High chief) titles, and 330 held *Tulafale* (Orator) titles.³⁰ Research findings from the CSS study on *Political Representation and Women’s Empowerment in Samoa* (2015) recommends a Bill to amend the *Act*, in order ‘to define village council policy (*faiga*

²⁵ Programme design for the Certificate in Customary Adjudication, 1-2.

²⁶ Ministry of Women, Community and Social Development 2015, *Women: Matai and Leadership Survey*, p.26.

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ *Ibid.*, p.8.

³⁰ *Ibid.*

fa'avae) and establish procedures to be followed in making village council decisions (*i'ugafono*). In addition, a Bill 'will give legal recognition to the authority of the village council to protect Samoan customs and traditions, and to safeguard village traditions, norms and protocols'.³¹ The three key recommendations suggest a provision relating firstly to the recognition of *matai* titles to 'disallow village councils to discriminate on the basis of sex', secondly for the village council to 'formally consult with the *Nu'u* or *Tama'ita'i* and the *Faletua ma Tausi* on the formulation and provisions of village council policy', and thirdly, village councils should follow their own procedures, with the inclusion of a representative from the women's committee to raise 'issues and concerns of the village women's committee to the council'.³² The *Nu'u o Tama'ita'i* (women of the village) are distinct from the *Faletua ma Tausi* (women marrying into the village), and each group has their own rank and status. In many ways, these recommendations echo those of the SLRC and scholars in terms of highlighting village council representation and procedures. Since rank and status within the forum are duly respected, these recommendations will need an integrated approach from the relevant ministries and in particular buy-in from the village communities.

SAMOA'S LEGISLATIVE FRAMEWORK AND CEDAW OBLIGATIONS

In 2005, the CEDAW committee highlighted Samoa's legislative framework as a barrier 'to ensure compliance with all the provisions of the Convention'.³³ Hence, the establishment of SLRC as a key agency to assist with changes and revisions to the laws was recommended, particularly since legislation as an important measure for supporting women sought 'to provide protection, support and rehabilitation services to victims, and punish the offenders'.³⁴ In addition to CEDAW, the committee advised Samoa to consider other treaties such as the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights.³⁵ Samoa has since ratified the Convention for People with Disabilities (CRPD).

³¹ Meleisea et al., 2015, 46.

³² *Ibid.*, 47.

³³ CEDAW, C/WSM/CC/1-3, 15 February 2005, Committee on the Elimination of Discrimination against Women, Thirty-second session, 10-28 January 2005, 3.

³⁴ *Ibid.*, p.4.

³⁵ CEDAW, C/WSM/CC/1-3, 15 February 2005, Committee on the Elimination of Discrimination against Women, Thirty-second session, 10-28 January 2005, 7.

Since its establishment in 2008, for the first time, the SLRC reviewed all the laws of Samoa. In its findings 285 laws were in existence, of which a number were pre-constitutional, and several new laws introduced following independence in 1962. Currently, Samoa has in place a community based justice system based on the Community Justice Act, 2008. Unlike the SLRC recommendation, the Community Justice Act provides 'opportunities for Samoan custom and tradition to be recognized in the sentencing, rehabilitation and reintegration of offenders'.³⁶ Thus, the exclusion of the practice of *ifoga* in the case of violence against women is a complex issue, partly because of the legal framework, but also since the punishments are imposed according to 'custom and usage of its village'.³⁷ However, criminal offences are under the jurisdiction of the Supreme Court, which, although considering customary practices, ultimately administers the law.

Samoa ratified CEDAW in September 1992, however for the most part; Samoa's compliance record has been non-committal. In 2012, the CEDAW committee articulated concerns about women's political participation and violence against women. The committee further expressed concern that 'women themselves, especially those in rural and remote areas, are not aware of their rights under the Convention, and thus lack the necessary information to claim their rights'.³⁸ Despite these concerns, the 2016 report on Sex Offenders states that 'the Samoan Courts are required by law to take into account as mitigation of sentence any punishment already imposed on the offender by his or her village council or any *ifoga*'.³⁹ Samoa's Constitution is a blend of Samoan custom and liberal democracy, and thus recognizes the fundamental rights of its citizens. Additionally it includes the broad term 'according to custom and usage'.⁴⁰ Samoa's efforts to comply with CEDAW have complex governance implications. *ifoga* is a mitigating tool and a customary conflict resolution method. There are concerns that this issue should be addressed in the broader gender framework in line

³⁶ See under section titled 'Purpose' (e) of the *Community Justice Act* (2008).

³⁷ See under section '2A' (b) of the *Village Fono Amendment Act* (2017). Also see Jivan, V and Forster, C 2009, 'Challenging Conventions: In Pursuit of Greater Legislative Compliance with CEDAW in the Pacific', *Melbourne Journal of International Law*, 10, 2, pp. 1-36.

³⁸ See CEDAW committee report, 52nd session, 9-27 July 2012, CEDAW/C/WSM/4-5, 3.

³⁹ See Report on Sex Offenders Register, 2016, Samoa Law Reform Commission, 76-77.

⁴⁰ A So'o 2007, *Democracy and Custom in Samoa: An Uneasy Alliance*, Fiji, Institute of Pacific Studies.

with Samoa's National Policy for Gender Equality (2016-20), developed by the MWCSO. This framework outlines seven priority areas including; peaceful families and communities, equal economic opportunities for women and increased participation of women in public leadership and decision-making. As the implementing agency for CEDAW, the ministry has established a bilateral five-year Gender Programme - Samoa Women Shaping Development (SWSD). Funded by the Australian Department of Foreign Affairs and Trade, it focuses on addressing 'gender inequalities in Samoa'.⁴¹

In line with this priority, since 2013, Samoa's temporary measure of a 10% quota of women in Parliament saw the amendment of the Constitution. Subsequently, the measure was applied for the first time in the 2016 general elections which saw the highest number of women candidates run for elections.⁴² Key agencies which have been established include the Office of the Ombudsman in June 2014, and the National Human Rights Institute two years later. The NHRI National Public Inquiry on Violence report launched in September 2018, documents the status of violence in Samoa. In this report, the village *fono* is challenged to 'encourage reporting and monitor protection orders and parole in relation to family violence'.⁴³ Furthermore, the report notes that during the inquiry 'not one by-law relating to the prohibition of family violence and possible consequences' was acknowledged, although subsequently the village of Asau in Savai'i now has a 'zero tolerance of violence against women'.⁴⁴

The MWCSO's 2017 report to CEDAW outlines positive steps towards recognizing the rights of women in political representation, and measures to tackle gender-based violence. However, despite these changes, the key agent of change at the local level is the village *fono* which governs village activities and protocol based on their own customary practices. The NHRI report contends that 'it is unreasonable to expect them [*matai*] to have the skills required to sensitively deal with such complex situations and that their true role should be in helping bring the matter to the attention

⁴¹ 2017 CEDAW report

⁴² R. Fiti-Sinclair, P. Schoeffel & M. Meleisea 2017, *Women and Political Participation: The 2016 Election in Samoa*, The National University of Samoa.

⁴³ Ombudsman National Human Rights Institute 2018, *National Public Inquiry into Family Violence in Samoa*, 4.

⁴⁴ *Ibid.* 26.

of the relevant authorities and services'.⁴⁵ With the development of legal guidelines and suggested recommendations from agencies such as the SLRC, there is room for the village *fono* to consider support and guidance in terms of policy-making. However, this will require negotiation and information-sharing between various partners, although under the *Act*, village autonomy prevails, despite emphasis on the constitutional alignment of village council policy-making.

SAMOA'S CONSTITUTION AS THE SUPREME LAW

Prior to independence, the formulation of Samoa's Constitution under the supervision of the United Nations was a complexity of negotiation and exchange. An important point of committee discussions was on the inclusion of the *Fa'amatai* (chiefly) system in the new Constitution as recognition of *Fa'asamoa* (Samoan way of life). Leaders at the time recognized Samoa as a Christian state, and included the broad term of 'custom and usage' as a way to navigate culture without defining the terms. While this vital piece of legislation governs the state and its people, since independence up until 2015, the Constitution has been amended eighteen times, mainly in relation to the Public Service.⁴⁶ The amendment to include at least five women representatives in Parliament makes a case for the possibility of women in the village *fono*. However, since Samoa exists on the belief and principle of '*Samoa ua uma ona tofia*', that is 'Samoa has already been organized', in most cases; the village setting has its own structures and processes. The work of the government and civil society to influence change within these structures will be a slow process. In fact, the CSS study on women candidates found that women themselves 'do not support women candidates because they are women'.⁴⁷ Instead, many women opted to vote instead for their uncle, brother, father or relative. In most cases, the idea of women's place in the domestic, rather than public, sphere prevails. However, the Constitutional amendment provides a clear example of international influence on the government agenda. With the customary practice of

⁴⁵ NHRI, *National Public Inquiry into Family Violence in Samoa*, 26.

⁴⁶ L. Mulitalo 2016, 'Samoa's Constitution: The limited references to Samoan custom', a paper presented at the Pacific Constitutions Research Network Conference, University of the South Pacific, Vanuatu.

⁴⁷ R. Fiti-Sinclair, P. Schoeffel & M. Meleisea 2017, *Women and Political Participation: The 2016 Election in Samoa* 3.

ifoga as a mitigating factor in the sentencing of perpetrators, a guideline provides guidance for village *fono* representatives to consider the nature of violence against women. On the role of the village *fono*, the recent NHRI report states the following:

In deciding on punishments for family violence, in rare cases where village councils do get involved, the decision is usually monetary based and a fine imposed on the perpetrator and their family. However, these can lead to increased financial pressures upon a family which can serve to act as a trigger for further family violence. Furthermore, victim blaming attitudes have been found to creep in to council decision making, further demonstrating the urgent need for consideration of how village councils can sensitively and effectively play a role in protecting against family violence.

In villages which prohibit direct reporting of matters to the police the situation is therefore not uncommon where a victim of family violence would have to seek approval from the very person who carried out the violence act to be able to approach the law enforcement authorities. Even if the perpetrator does not sit in the Village *Fono* it is not impossible to imagine reporting to the police being blocked because the perpetrator has close or family ties with those sitting on the council or a victim may not even try to report a matter as they know it will not go any further.⁴⁸

In this statement, the role of the village *fono* is crucial in relation to punishments and reporting. While there is a long process ahead, the proactive decision by the village of Asau for zero tolerance is a positive step.

CONCLUSION

This paper has explored the tension between custom and law through the CEDAW framework. While agencies such as the SLRC recognize the village *fono* as a key agent of change, research clearly suggests amendments to the Village *Fono* Act 1990 are necessary to support policy-making in this key forum. Although steps towards CEDAW compliance indicators are moving forward, there continues to be an issue in relation to implementation at the village governance level. The highly structured forum of the village *fono* and cultural protocols predict in many cases the likely outcome of

⁴⁸ Ombudsman National Human Rights Institute 2018, *Summary, National Public Inquiry into Family Violence in Samoa*, 30.

discussions. However, the presence of women in these decision-making forums will likely support a broader view of policy