

United Nations Development Programme



UNDP Samoa Multi – Country Office

Initiation Plan Title : Strengthening equitable access to fair justice for ALL in Samoa

Expected UNSDCF/CPD Outcome(s) : UNSDCF 2023-27 Outcome 4

Expected CPD Output(s) : MCPD 2023-27 Outcome 3: By 2027, people enjoy and contribute to more accountable, inclusive, resilient, and responsive systems that promote gender equality, climate security justice and peace, ensure participation, and protect their human rights.

Initiation Plan Start/End Dates : 13th January 2025 – 13th January 2026.

Implementing Partner : UNDP Samoa MCO

Brief Description

Samoa is a small island developing state (SIDS) located in the South Pacific. The country faces a significant justice gap, where people are unable to fully benefit from equal access to justice, which hinders the country's human development and undermines trust in public institutions.

The Government of Samoa, in its current national development plan, the Pathway for the Development of Samoa (PDS FY2021/22-FY2025/26), has affirmed its commitment to upholding the rule of law and ensuring greater access to legal services and justice. This commitment is reflected in the expected outcomes of the plan under Key Priority Area 12 (KPA 12), which focuses on the protection of children, women, and the most vulnerable in society, including survivors of domestic violence. Critically, notable gaps in the sector are the lack of equal access to justice services in both criminal and civil proceedings, regardless of socio-economic status, affordability of legal services, which results in many Samoans refraining from filing a complaint or initiating a legal procedure, therefore puts the effectiveness and efficiency of the current legal aid scheme into question.

Leveraging on the comparative advantages of UNDP in partnership with the Government through the Ministry of Justice Courts Administration, this Initiation Plan will employ an inclusive and a whole of society approach at the sectoral level to strengthening equitable access to fair justice through the effective delivery of the following Outputs 1) Comprehensive review and situational analysis of Samoa's legal aid scheme and operational frameworks, and gender-based violence case management undertaken. 2) Informed by the findings of the Review and Situational Analysis, the Gender Responsive Legal Aid Policy for Samoa developed, and 3) Governance, monitoring and evaluation systems and national operators and service providers of the Legal Aid Programme and Policy are adequately enabled and capacitated.

Programme Period:	2023 - 2027	Total resources required	USD 100,000.00
Quantum Project Number:		Total allocated resources:	
Quantum Output Number:		• Regular	
Gender Marker:	GEN 2	• Other:	USD 100,000.00
		o Government	
		o Parallel Funding	
		Unfunded budget:	_____
		In-kind Contributions	_____

Agreed by UNDP:

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Aliona Niculita (Resident Representative)

I. PURPOSE AND EXPECTED OUTPUT

Samoa is a small island developing state (SIDS) located in the South Pacific. The country faces a significant justice gap, where people are unable to fully benefit from equal access to justice, which hinders the country's human development and undermines trust in public institutions.

The Government of Samoa, in its current national development plan, the Pathway for the Development of Samoa (PDS FY2021/22-FY2025/26), has affirmed its commitment to upholding the rule of law and ensuring greater access to legal services and justice. This commitment is reflected in the expected outcomes of the plan under Key Priority Area 12 (KPA 12), which focuses on the **protection of children, women, and the most vulnerable** in society, including survivors of domestic violence.

The Ministry of Justice and Courts Administration (MJCA) of Samoa, in line with the government's national priorities, is dedicated to ensuring "excellence in delivering accessible, fair, and modern justice services for all." However, the justice system faces several challenges. With a total population of 205,557 (2021 National Census) and its remote location, Samoa is characterized by **limited economic opportunities** and a constrained tax base, both of which contribute to scarce public resources. The MJCA, as the lead agency for the Law & Justice Sector, also continues to experience significant brain drain, with Samoans in this field emigrating to Australia and New Zealand for study or work opportunities.

Critically, notable gaps at the sector level such as the **lack of equal access to justice services in both criminal and civil proceedings**, regardless of socio-economic status, and the **affordability of legal services**, which results in many Samoans refraining from filing a complaint or initiating a legal procedure due to their inability to cover the associated costs. Article 9 of Samoa's Constitution guarantees every person the right to a fair trial, including the right to defend themselves either in person or through legal assistance. This also includes the right to free legal assistance when the accused cannot afford to pay for such services.

In the current system, the National Legal Aid Scheme only provides free legal assistance to certain defendants in criminal cases. Not all defendants have access to legal aid or legal assistance through the Ministry of Justice and Courts Administration (MJCA), even if they cannot afford legal representation. Legal aid services are primarily granted to defendants charged with serious offences that fall under the jurisdiction of the Supreme Court of Samoa, as well as defendants identified as young offenders under the Young Offenders Act 2017. However, in most criminal proceedings before the District Court and the Supreme Court, many defendants are self-represented. This has serious implications for access to justice and the right to a fair trial within a reasonable timeframe.

Additionally, in criminal proceedings, complainants are represented by government prosecution services, either through the Samoa Police, Prisons & Corrections Services (PPCS) or the Office of the Attorney General (OAG). The limited financial coverage available prevents complainants in criminal proceedings from accessing free legal services from registered lawyers. Furthermore, legal aid services funded by the MJCA and provided by qualified lawyers are not extended to parties in civil proceedings, including those in the Family Court of Samoa. This includes for example, civil proceedings for small claims (e.g. breach of contract) in the District Court, and applications for divorce, maintenance and/or child custody orders as well as Protection Orders (filed under the Family Safety Act 2013) in the Family Court). This creates a significant gap in ensuring fair and equitable access to justice, particularly for vulnerable groups under the jurisdiction of the Family

Court. Moreover, there is a strong need to consider how legal aid services or assistance could be extended or benefit vulnerable groups, including children and victims of GBV, including consideration of the role of key stakeholders and players involved in referral of GBV matters. At present, legal aid services do not extend to victims of GBV or young people (below the age of 17 years) unless they themselves are defendants in criminal proceedings. The Samoa Demographic and Health Survey 2019-2020 showed a high prevalence of gender-based violence in the country, with a third of ever-partnered women having experience physical violence from an intimate partner.

With the current Legal Aid scheme providing for free legal assistance to the defendants in criminal cases, gender inequality prevails as there is more likelihood that free legal assistance will benefit men involved in criminal cases. The exclusion of civil proceedings from the scope of the Legal Aid scheme means the absence of legal assistance in cases with strong gender implications, such as domestic violence and family cases such as divorce, child care and custody.

Domestic violence and other forms of violence against women and girls are prosecuted under the Samoa Crimes Act 2013, while family violence is defined in the Family Safety Act 2013. Yet prevention and response to these forms of violence need a robust and comprehensive referral mechanism which includes police, justice, and health services. According to the UNDP Gender Social Norms Index 2023, close to 9 out of 10 men and women hold fundamental biases against women, and Samoa ranks 111th out of 191 in the index.

MJCA capacity for data collection and disaggregation through its case management system needs to be strengthened to inform continuous review and improvement of its legal aid services to vulnerable groups.

Currently, legal aid provided by the MJCA covers the payment of legal costs to private sector lawyers who are engaged to provide legal assistance and representation to certain defendants in criminal proceedings. However, the scope of legal aid services is limited, primarily due to the constrained resources and funding allocated through the Government of Samoa's (GoS) local budget. As a result, a significant number of individuals navigate the justice system with their access to justice and the right to a fair trial compromised by the unaffordability of legal representation. There is a need to evaluate and explore ways to **expand the scope of legal aid services to ensure broader and more equitable access to justice**, while considering how this can be achieved within the limits of available resources.

Additionally, **the effectiveness and efficiency of the current legal aid scheme need to be reviewed** in consultation with key stakeholders, including local village representatives, youth representatives, church groups, lawyers, judges, civil society groups, and government officials in the law and justice sector. Improvements to the legal aid scheme should aim to ensure efficient use of resources and the effective delivery of legal services to those eligible. This includes reviewing and establishing clear eligibility criteria for both those accessing legal aid and the lawyers qualified to provide it, documenting clear policies and processes that are widely communicated, reviewing costs and fee structures, and ensuring that staff administering legal aid services are adequately resourced. This also entails maintaining accurate records and disaggregated data to inform future improvements and decision-making.

As such, Samoa's Legal Aid policy and scheme should be reviewed and updated to align with a people-centered approach. The Initiation Plan presents a key opportunity to **conduct a baseline**

assessment, informed by inclusive stakeholder consultations, to help produce frameworks that are centered around the needs of the people.

This initiation plan (IP) will draw on the comparative advantages of UNDP in partnership with the Government through the Ministry of Justice Courts Administration, and will employ an inclusive and a whole of society approach at the sectoral level to strengthening equitable access to fair justice, thus leaving no one behind with specific focus on one main Outcome of having a *“Strengthened Legal Aid Programme for Samoa, augmented to facilitate and provide equitable access to fair and unprejudiced justice for all”*. This outcome can be achieved through the implementation of the following Outputs and related activities:

1.1. Comprehensive review and situational analysis of Samoa’s legal aid scheme and operational frameworks, and gender-based violence case management undertaken.

1.1.1. The IP will engage a technical expert to review the current legal aid scheme provided by the MJCA, with regard to its scope, eligibility requirements, resourcing, cost/fee structure, mode of delivery, systems, processes/procedures, and legal framework. The review will be conducted holistically, taking into account the current situation (situational analysis) and other areas where legal assistance is provided or where some form of legal assistance is offered to address existing gaps. This includes consideration of the provisions and arrangements under the Community Law Centre Act 2015, as well as the assistance provided by the MJCA to parties involved in small claims civil proceedings and family court matters (e.g., protection orders, divorce applications). The review will be informed by thorough stakeholder consultations with key stakeholders, including judges, legal practitioners (such as those providing legal aid services), civil society, community representatives, women’s groups, and government officials. These consultations will aim to clarify issues and needs, identify solutions, and validate recommendations. Additionally, the review will include a gender-responsive analysis and action plan for the Legal Aid Policy, incorporating women-only focus group discussions to ensure legal assistance is not hindered by gender dynamics. It will also draw on lessons learned and best practices from legal aid schemes and policies in other comparable jurisdictions, making recommendations for improvements and proposed changes to inform the development of a new Legal Aid Policy for Samoa.

1.2. Informed by the findings of the Review and Situational Analysis, the Gender Responsive Legal Aid Policy for Samoa developed.

1.2.1. Adopting a participatory and consultative approach at the sectoral level, a Policy Expert will be engaged to support the MJCA Division for Policy Planning and Evaluation to develop a Legal Aid Policy, in collaboration with key stakeholders. Initiation Plan will also support the launching, publications, and public awareness on the Legal Aid Policy

1.3. Governance, monitoring and evaluation systems and national operators and service providers of the Legal Aid Programme and Policy are adequately enabled and capacitated.

1.3.1. Capacity development and support for key stakeholders implementing the Legal Aid Policy and Scheme inclusive of trainings on gender norms and biases, sensitive case management, and improved coordination of key stakeholders along the gender-based violence referral mechanism, with the support of legal experts. Public awareness initiatives for members of the public will be implemented, including through awareness sessions with community members and where suitable, through brochures and online publications. The Initiation Plan will also provide relevant ICT Resources (laptops/desktop PCs/iPad) for staff responsible to ensure timely, efficient, and

effective administration of the legal aid scheme in accordance with the new Legal Aid Policy to be developed and ensure timely and accurate record and data management, to inform future reviews and improvements.

This IP will therefore result in an evidence-based and widely consulted/co-designed policy that will constitute a solid foundation to address the gaps outlined above and expand access to justice in Samoa.

The IP is designed with a strong commitment to a human rights-based approach (HRBA) aligned with GP4's principles. A thorough human rights analysis will help identify rights holders, with a focus on vulnerable groups that might require enhanced access to legal aid—such as women, children, the elderly, persons with disabilities, and individuals from low-income communities—as well as duty bearers, including government agencies and legal institutions, who are responsible for upholding and protecting these rights. The human rights analysis will help uncover existing barriers that prevent individuals in Samoa from accessing legal aid, such as socioeconomic constraints, lack of awareness, and cultural stigmas, to enable more targeted interventions. Stakeholder consultations through participatory processes will ensure that their perspectives and lived experiences inform the design and implementation of the Initiation Plan, ensuring that justice pathways are experienced with dignity.

The Initiation Plan has the potential to positively impact human rights in Samoa. These positive outcomes include improved access to justice by enhancing legal aid services, empowering individuals to assert their rights and seek justice, thereby promoting the realization of fundamental human rights; strengthened legal frameworks and the capacity of legal aid providers to protect human rights; and increased awareness through community outreach and education initiatives to encourage individuals to claim their rights. Strengthened case management for gender-based violence will directly improve referral mechanisms and the justice pathway for survivors of violence in Samoa, as delays in case management can increase risks to the physical and psychological safety of victims.

However, there are potential negative consequences, including the risk of unintended exclusion. If not carefully designed with embedded consultations, interventions may inadvertently exclude certain marginalized groups. Additionally, there is a risk of misinterpretation of rights; without adequate training and clarity on human rights principles, there may be instances where legal aid providers misinterpret or misapply rights, leading to inadequate support for beneficiaries.

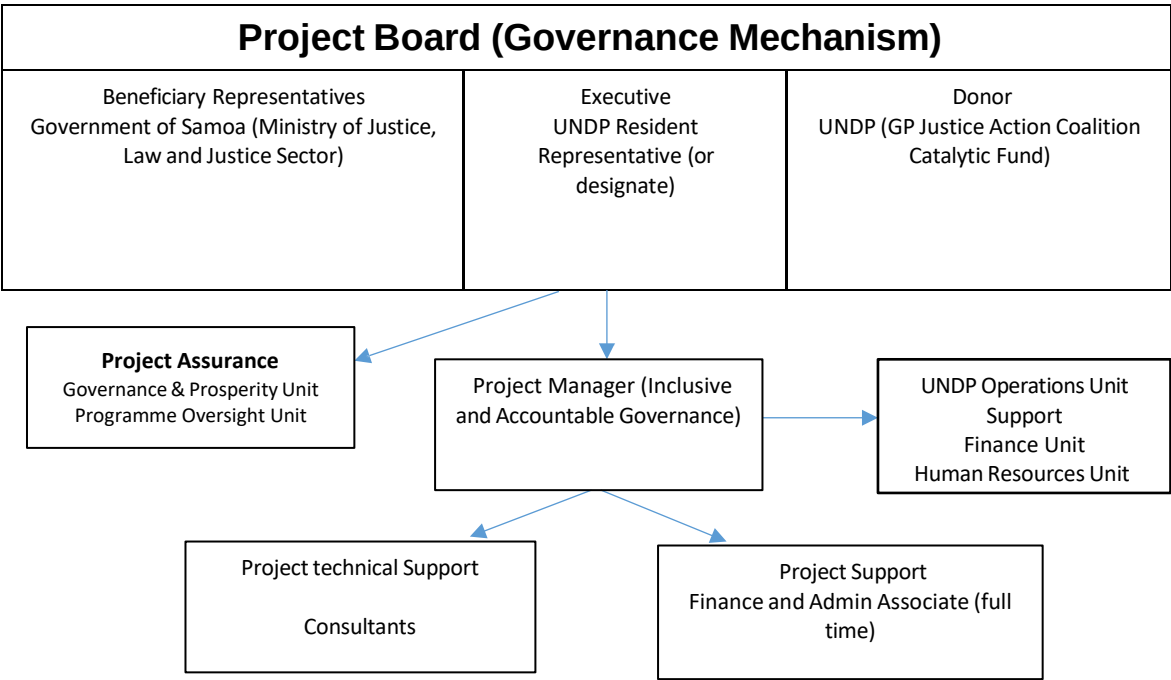
II. MANAGEMENT ARRANGEMENTS

This Initiation Plan will be implemented directly by UNDP through the Direct Implementation Modality (DIM), in close partnership and collaborations with the Ministry of Justice Courts Administration of Samoa as the main Responsible Party. UNDP will be responsible for the procurement of the required technical inputs including consultants and coordination with government and nongovernment partners to deliver the planned activities. Operational costs and services provided to the Initiation Plan will be directly charged to the Initiation Plan budget. The Initiation Plan will also set up the Initiation Plan Governance Board as the governing mechanism, which brings together the relevant national partners and is chaired by the UNDP Resident Representative. The Initiation Plan Governance body will be responsible for making by consensus

management decisions for the Initiation Plan when guidance is required by the Project Manager, including recommendations for approval of Initiation Plan work plans and revisions. To ensure accountability, the Initiation Plan Board decisions should be made in accordance with standards that shall ensure management for development results, best value for money, fairness, integrity, transparency, and effective international competition. In case a consensus cannot be reached within the Board, the final decision shall rest with UNDP.

The implementation management of this Initiation Plan will be led and managed by the Governance Portfolio Manager, with the finance and admin support of the Governance Portfolio Analyst. On a day-to-day basis the Governance Portfolio Manager has the authority to run the Initiation Plan on behalf of UNDP with the constraints laid down by the Initiation Plan Board and in accordance with the UNDP Programme and Operations Policies and Procedures (POPP). The Governance Portfolio Manager is responsible for the everyday management and decision-making of the Initiation Plan. Their primary responsibility is to ensure that the Initiation Plan produces the results (outputs) specified in the Initiation Plan Document to the required standard of quality and within the specified constraint of time and cost. To ensure effective implementation of the Initiation Plan, UNDP and Ministry of Justice & Courts Administration (and any relevant partner(s)) will convene at the technical level on a monthly, or more frequently as needed.

This Initiation Plan will be implemented in accordance with UNDP policies, rules, and regulations.



III. MONITORING

The UNDP M&E Analyst and the Governance and Prosperity Programme Unit (GPU) will conduct quarterly monitoring for verification of the progress of activities and results in line with the Annual Work Plan for the Initiation Plan with the oversight support of the Programme Oversight Unit, leveraging expertise of Monitoring and Evaluation Analyst, its Social and Environmental Safeguards

Analyst, and its Gender Specialist to develop a robust, gender-sensitive Monitoring, Evaluation and Learning (MEL) Plan for the Initiation Plan. Monitoring visits will be documented in the standard UNDP Samoa monitoring format. The responsible GPU Programme staff will be responsible for Initiation Plan Assurance in line with standard UNDP policies and procedures, including Initiation Plan Quality Assurance and Initiation Plan Management in UNDP's ERP system (Quantum). Implementation reports will be compiled by the Initiation Plan Management Unit, subject to the review and endorsement of the Initiation Plan Board. A Full Initiation Plan Completion Report will be prepared at the completion of this Initiation Plan.

IV. WORK PLAN

Period¹:

EXPECTED OUTPUTS <i>And baseline, indicators including annual targets</i>	PLANNED ACTIVITIES <i>List activity results and associated actions</i>	TIMEFRAME					RESPONSIBLE PARTY	PLANNED BUDGET		
		2025				2026		Funding Source	Budget Description	Amount (USD)
		Q1	Q2	Q3	Q4	Q1				
OUTPUT 1.1 <i>Comprehensive Review and Situational Analysis of Samoa's Legal Aid Scheme and Operational Frameworks, and Gender-Based violence case management system</i>	Activity 1.1.1 Technical Legal Expert to undertake the review and situational analysis of the Legal Aid Programme	X	X				UNDP	JAC Catalytic Fund (German-117)	National Consultant (71300)	22,000
	Activity 1.1.2 Public Consultation of Key Stakeholders and National Partners on the Legal Aid Programme	X	X				MJCA	GP Pipeline (Dutch – 182)	Training Workshop (75700)	8,000
OUTPUT 1.2 <i>Informed by the findings of the Review and the Situational Analysis, develop the Gender Responsive Legal Aid Policy for Samoa</i>	Activity 1.2.1 Technical Expert to develop the Legal Aid Policy for Samoa		X	X			UNDP	GP Pipeline (Dutch – 182)	Local Consultant (71300)	28,000
	Activity 1.2.2 Validation of findings, recommendations, and key actions of the National Policy on Legal Aid			X			MJCA	GP Pipeline (Dutch – 182)	Training Workshop (75700)	5,000
	Activity 1.2.3 Publication and printing of the National Legal Aid Policy			X	X		UNDP	GP Pipeline (Dutch – 182)	Audio Visual & Printing (74200)	5,000
OUTPUT 1.3 <i>Governance, monitoring and evaluation systems and national operators and service providers of the Legal Aid Programme and Policy are</i>	Activity 1.3.1 Public Awareness on the Legal Aid Programme and Policy, and Gender Based Violence Case Management System						UNDP	GP Pipeline (Dutch – 182)	Communication & Audio Visual (72400)	8,000

¹ Maximum 18 months

EXPECTED OUTPUTS <i>And baseline, indicators including annual targets</i>	PLANNED ACTIVITIES <i>List activity results and associated actions</i>	TIMEFRAME					RESPONSIBLE PARTY	PLANNED BUDGET		
		2025				2026		Funding Source	Budget Description	Amount (USD)
		Q1	Q2	Q3	Q4	Q1				
<i>adequately enabled and capacitated</i>	Activity 1.3.2 Capacity Development of Key Stakeholder and National Operators/Service Providers			X	X	X	MJCA	GP Pipeline (Dutch – 182)	Training Workshop (75700)	5,000
	Activity 1.3.3 ICT Equipment to facilitate Programme operations	X					UNDP	GP Pipeline (Dutch – 182)	ICT Equipment (72800)	5,593
General Management Services								GP Pipeline (Dutch – 182)	Facilities & Administration (75100)	7,407
Direct Initiation Plan Costs								GP Pipeline (Dutch – 182)	Staff management Cost (64300)	6,000
TOTAL PROJECT BUDGET										\$100,000.00

V. RESULTS FRAMEWORK

EXPECTED UNSDCF/CPD OUTCOME(S)		UNSDCF 2023-27 Outcome 4: By 2027, more people especially women, youth and the most marginalized and poor increasingly participate in, and benefit from, coordinated, accessible, participatory, transparent, and gender-responsive governance, access to justice and human rights and federal, provincial, and local levels.			
EXPECTED MCPD OUTCOME		MCPD 2023-27 Outcome 3: By 2027, people enjoy and contribute to more accountable, inclusive, resilient, and responsive systems that promote gender equality, climate security justice and peace, ensure participation, and protect their human rights.			
INITIATION PLAN OUTCOME		Strengthened Legal Aid Programme for Samoa, augmented to facilitate and provide equitable access to fair and unprejudiced justice for all.			
Initiation Plan Outputs	Output Indicators	Baseline	Targets		Verifications
			2025	2026	
Output 1: <i>Comprehensive review and situational analysis of Samoa's legal aid programme and Operational frameworks, and gender-based violence case management</i>	Indicator 1.1.1 Number of strategies, policies, and frameworks relative to the Legal Aid Programme reviewed and assessed.	0	3		<i>Review & Situational Analysis Report</i>
	Indicator 1.1.2 Number of representatives of key stakeholders, operators, and service providers who have participated and been consulted as part of the review, disaggregated by gender and PWDs, with at least 40% being women.	0	100 (40%≥women – 2025)		<i>Training Reports, Initiation Plan Reports, MJCA Annual Reports</i>
Output 1.2 <i>Informed by the findings of the Review and Situational Analysis, develop the Gender Responsive Legal Aid Policy for Samoa developed</i>	Indicator 1.2.1 Legal Aid Policy for Samoa adopted by Government of Samoa through endorsement of Policy Coordination Committee and Cabinet Approval	0	1		<i>Cabinet Approved Legal Aid Policy</i>
	Indicator 1.2.2 % increase of eligible defendants/beneficiaries of the Legal Aid Programme	0	5%	20%	<i>MJCA Annual Reports</i>
Output 1.3	Indicator 1.3.1	0	3		<i>Training Reports, Initiation Plan</i>

Governance, monitoring and evaluation systems and national operators and service providers of the Legal Aid Programme and Policy are adequately enabled and capacitated.	Number of capacity development trainings delivered for key stakeholders and operators of the Legal Aid Programme and Policy				<i>Reports, MJCA Annual Reports</i>
	Indicator 1.3.2 Number of key staff in Government, CSOs, and relevant stakeholders, trained with capacities built on operationalizing the legal aid programme and policy, disaggregated by gender and PWDs with at least 40% being women.	0	50 (40%≥women – 2025)		<i>Training Reports, Initiation Plan Reports, MJCA Annual Reports</i>
	Indicator 1.3.3. Extent to which key staff in Government, CSOs, and relevant stakeholders have improved knowledge on Legal Aid Programme and Procedures <i>To be assessed on the following rating scale:</i> <i>0 = No change</i> <i>1 = Knowledge has not improved</i> <i>2 = Knowledge partially improved</i> <i>3 = Knowledge largely improved</i>	0	Average of 3 (2025)		<i>Pre/Post Evaluations & Survey Training Reports, Initiation Plan Reports, MJCA Annual Reports</i>