

Gender and
Statelessness



Samoa

Gender, Citizenship Laws and Statelessness

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CONFERRAL TO BIOLOGICAL CHILDREN

Children born in the country

A child born in Samoa is a citizen by birth, provided that at the time of birth at least one parent is a Samoan citizen.¹

Where a child is born in Samoa and is not otherwise eligible for Samoan citizenship, where the child is stateless and is unable to obtain the citizenship of any other state, the Minister may grant the child citizenship by birth.²

Children born outside of the country

A person born outside Samoa is a citizen of Samoa by descent, provided that at the time of the person's birth at least one parent of the person is a Samoan citizen otherwise than by descent; or who has resided in Samoa for a period of three years or more.³

As an exception to the above, a person born outside Samoa is a citizen of Samoa by descent provided that at the time of the person's birth at least one grandparent of the person is or was a Samoan citizen by birth.⁴

ADOPTED CHILDREN

Citizenship for adopted children is not explicitly covered in the Samoan legislation.

FOUNDINGS

Citizenship for foundlings is not explicitly covered in the Samoan legislation. However as stated above, where a child is born in Samoa and is not otherwise eligible for Samoan citizenship, where the child is stateless and is unable to obtain the citizenship of any other state, the Minister may grant the child citizenship by birth.⁵

REGISTRATION OF THE BIRTH OF A CHILD

The father and/or mother of a child are required to notify the Registrar General of the birth of a child within three months of the date of the birth of a child.⁶ If a child is a foundling, whoever has care of the child must notify the Registrar General within three months from the date the child is found.⁷

LOSS AND RENUNCIATION OF CITIZENSHIP

A citizen of Samoa who is also a citizen or intends to become a citizen of any other

¹ *Citizenship Act 2004* s 6(1) ('Citizenship Act').

² *Ibid* s 6(3).

³ *Ibid* s 7(1).

⁴ *Ibid* s 7(3).

⁵ *Ibid* s 6(3).

⁶ *Births, Deaths and Marriages Registration Act 2002* s 12(1).

⁷ *Ibid* s 12(3).

state which does not permit dual citizenship may make a declaration of renunciation of his or her Samoan citizenship via the required form.⁸ When the declaration is registered the person ceases to be a citizen, however this will not take effect until the foreign citizenship is proclaimed or registered.⁹

A person's citizenship may be cancelled where the Minister is satisfied that the person has been or is disloyal or disaffected towards Samoa.¹⁰ This does not apply to persons who are citizens of Samoa by birth or descent.¹¹

A person may also be deprived of their citizenship, where they have obtained citizenship by permanent residence or marriage, and are found to have continuously resided overseas for a period of two years and are unlikely to reside in Samoa in the future.¹²

A person may also be deprived of their citizenship where it is found that their citizenship was obtained by means of fraud, false representation, concealment of any material fact or mistake.¹³

NATURALISATION FOR SPOUSE OF CITIZEN

A person may apply to become a citizen of Samoa by marriage to a Samoan citizen.¹⁴ Requirements for an application include that the person has been continuously married to and residing with their spouse, in Samoa or elsewhere for a period of five years preceding the application.¹⁵ The person must also be residing in Samoa with their spouse, and intend to continue to do so.¹⁶

⁸ *Citizenship Act* (n 1) s 14(1).

⁹ *Ibid* s 14(3).

¹⁰ *Ibid* s 15(1).

¹¹ *Ibid* s 15(2).

¹² *Ibid* s 16.

¹³ *Ibid* s 17.

¹⁴ *Ibid* s 9(1).

¹⁵ *Ibid* s 9(2)(a).

¹⁶ *Ibid* s 9(2)(b).

DUAL NATIONALITY

Dual citizenship is not explicitly mentioned in Samoan legislation. As the law allows renunciation of citizenship where a foreign country does not allow dual citizenship, however does not mandate this, it appears there is no prohibition on dual citizenship in Samoa.¹⁷

GENDER EQUALITY ACHIEVED

It appears that gender equality was achieved in Samoa with the introduction of the *Citizenship Act* in 2004. It is unclear what the status of the legislation was prior to 2004, due to difficulty obtaining a copy of historic legislation.

It is to be noted that the *Citizenship Act* does not use gendered pronouns throughout.

GENDER AND STATELESSNESS RISKS

Samoa does not discriminate on the basis of gender within its citizenship laws. However, as a nation with an established 'third-gender' *fa'afafine/fa'afatama* community, it is unclear that the male-female binary within existing provisions accommodates and recognises this community. There are also some risks with respect to statelessness however, due to gaps in the current legislation. These include where citizenship for foundlings and adopted children are not explicitly addressed. Additionally, it would be useful if the law were to explicitly state that dual citizenship is permitted.

UNHCR Representation in Canberra

Note: *This factsheet only provides information of a general nature. It should not be relied on for any other purpose, such as legal advice. This factsheet should be read in light of the last date on which it was updated.*

¹⁷ *Ibid* s 14.