



## State of Human Rights Report

June 2018



# NATIONAL PUBLIC INQUIRY INTO FAMILY VIOLENCE IN SAMOA

**'Oute lē lafi i le ata o le la'au'**

"Let the TRUTH be out and RIGHT be done"



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# FOREWORD



My fellow Samoans, it is with sadness but also great hope that I greet you and present to Parliament this Report on the National Public Inquiry into Family Violence in Samoa (**Inquiry**). Sadness because of what we have heard over the course of this Inquiry about the appalling violence suffered across our country within families, and the sheer scale of the problem we are facing. But also hope and optimism, arising from the practical solutions which have been put forward and a realisation of how our culture (*Fa'asamoa*), Faith, and human rights can help us in addressing the social ill that is family violence.

The issue of family violence and violence generally, is one which has come to dominate our news cycles in recent times and it was clear to my Office that something needed to be done. Many before us have tried, and multiple programmes are ongoing, yet the problem not only persists but appears to be worsening. As you will see, the approach that we have taken is a radical one, and only possible by a National Human Rights Institution (**NHRI**) with the broad mandate it has been given by Parliament.

Family violence sits behind a veil of silence so it was necessary to lift this veil and create a **national conversation** – to hear the stories of those from every corner of our country to fully understand the problem, and to ask our people what they think the solution should be. A process whereby everyone from Lalomanu to Falealupo, rural and urban had the opportunity to participate and be heard. Accordingly, my fellow Commissioners, the Inquiry staff and I have spent days, weeks and months travelling around Samoa to hear your voices and this Report is the end result of that. It is not by any means, however, the end of the process. For now the real work begins. Now it is up to each and every one of us to read this Report and develop the comprehensive understanding of family violence necessary for us to play our part in addressing this problem.

My staff and I approached the Inquiry with an open mind as to what the root causes were and what the solutions may be. I ask you all to do the same in reading this Report. Some of the findings may challenge what you believe to be true but we need to acknowledge that our current approach is failing. Family violence is flourishing and we need to be open and honest with ourselves if we are to defeat it.

On our part, in the process of this Report, we endeavor to accurately reflect the conversations, opinions, submissions and debates which took place in the course of this Inquiry. It was a national conversation like never before and will be reported as such with myself and fellow Commissioners drawing conclusions based on all of the evidence that was put before us.

As a nation, we have already come a long way in being able to talk about issues of this nature and that is no small feat. Now, the time for talking is almost over and by the end of reading this Report, I hope

you are ready to join us in taking action. I have absolutely no doubt in my mind or heart that if the findings and recommendations of this Report are universally accepted (not just among the political powers, traditional and religious leaders, but among every one of us) then we can not only defeat family violence and violence as a whole, but we can also strengthen and reaffirm our cultural beliefs and Faith.

This Inquiry would not have been possible without the bravery of the many survivors of family violence who spoke with us, shared their stories and bared their souls in the hope and belief that in coming forward it will prevent others like them suffering in the future. The strength, courage, determination and faith shown by all of the survivors in the process is in stark contrast to the characteristics of their perpetrators. For this reason, we must all find it within ourselves to reach this level of resolve to lift the veil of silence on family violence and to play our part in driving it out of our culture.



# ACKNOWLEDGEMENTS



The reality of family violence in Samoa would not have been possible to paint in this Report without the courageous survivors who shared their experiences of family violence through public and private hearings and written submissions from near and far – therefore we thank you. We also acknowledge those who came forward to share their past experiences of committing violence towards their loved ones with great commitment to make a difference for their own daughters and sons.

Furthermore, a sincere thank you to the financial and technical support of our partners (in alphabetical order): Asia Pacific Forum of National Human Rights Institutions, Auckland University of Technology, Bluesky Samoa, The Commonwealth Secretariat, Digicel Samoa, Government of Samoa, United Nations Development Programme, United Nations Population Fund and UN Women. Thank you very much and we value your commitment to the promotion and protection of human rights for all particularly women, young girls and children of Samoa.

It is also important to recognise the assistance, contribution and participation of various Government Ministries, NGOs, development partners, academics, lawyers, counsellors, health professionals, experts, youth, churches, *matais*, and the media in the Inquiry via village consultations, public and closed hearings and written submissions. Thank you for providing and making information available to the Inquiry when requested.

Thank you to everyone who participated in all village consultations and discussions. You made time to attend and participate, and provide valuable thoughts and experiences to inform the Inquiry.

I also would like to extend my great appreciation to the Commissioners who worked tirelessly throughout the many weeks to receive information and put together this Report.

To all the dedicated volunteers who took time out to assist the staff and the Office in different ways to complete this important project – *Faafetai lava!* May the Lord bless you abundantly.

Lastly, a very inadequate thank you to Mr. Ashley Bowe for compiling the Report, and Ms. Lufilufi Taulealo for translating the text.

# FINDINGS, RECOMMENDATIONS AND IMPLEMENTATION PLAN



## KEY:

<b>Urgent attention</b>	within 1-2 year from <i>release</i> <sup>1</sup> of Report by the Office
<b>Immediate attention</b>	within 2-3 years from <i>endorsement</i> of Report by Parliament
<b>Progressive attention</b>	within 3-5 years from <i>endorsement</i> of Report by Parliament

**INQUIRY FINDING 1:** Family violence is a complex social problem where causes, triggers and consequences are inter-connected. It requires a nationally coordinated approach to prevention and protection. Within the Samoa context, such a national approach should be driven by the *Fa'asamoa*, Faith and human rights framework.

**INQUIRY FINDING 2:** Physical, harsh verbal discipline/violence and sexual violence towards children has reached epidemic levels.

- 9 out of 10 children in Samoa experience violence in their lifetime;
- Physical discipline/violence is often extreme in nature, going way beyond what is 'reasonable punishment' under Samoan law;
- Sexual abuse of children and incest levels have reached 'epidemic' proportions in Samoa.

**INQUIRY FINDING 3:** Family Violence is affecting almost all families in Samoa, with extremely high numbers of people experiencing extreme violence in their lifetime:

- Almost 9 in 10 people have experienced physical or emotional violence within the family in their lifetime;
- The majority of women (6 out of 10) experience intimate partner violence in their lifetime;
- Violence at the hands of a non-partner is almost as prevalent as intimate partner violence;
- Up to 1 in 5 women are raped in their lifetime;

<sup>1</sup> Release refers to the **date** the Report was officially launch i.e. 12 September 2018.

- People are becoming so accustomed to violence that slapping, kicking, punching, swearing at or threatening is now instinctive for many and considered not serious or to fall within the definition of violence;
- Family violence is killing people and tearing families apart.

**INQUIRY FINDING 4:** Violence against specific groups such as persons with disabilities, the elderly, *fa'afafine* and SOGISC persons are poorly understood. Anecdotal evidence suggests that rates may be high and specific responses are required for these groups.

**INQUIRY FINDING 6:** The impact of family violence further increase the risk a person will become a perpetrator or victim of violence in the future.

**INQUIRY FINDING 7:** The economic cost of family violence is likely to be at least ST\$98m - \$132m per year (6 – 7% of Samoa's GDP).

**INQUIRY FINDING 8:** Family violence constitutes widespread violations of the *Fa'asamoa*, Faith and human rights.

**INQUIRY FINDING 9:** *Fa'asamoa*, Faith and human rights have the same roots, values and principles. They all offer different ways in which to protect the shared ideal and strengthening one results in the strengthening of the others.

**INQUIRY FINDING 28:** The Governments lack of commitment and approach through inadequate allocation of resources, support and lack of coordination sends to people a message that gender inequality and family violence is acceptable.

**INQUIRY FINDING 50:** Due to the cyclical nature of family violence the only way to address it and reduce prevalence is to foster a zero tolerance approach to all forms of violence across society.

RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 1:</b> By legislation, establish a Family Violence Prevention Office, National Family Violence Prevention Strategy and Communications Strategy, Family Violence Prevention Council and	<ul style="list-style-type: none"> <li>• Conduct consultations in the establishment of the Family Violence Prevention Office.</li> <li>• Develop legislation to establish Family Violence Prevention Office.</li> <li>• Develop a National Family Violence Prevention Strategy, founded on the principles of <i>Fa'asamoa</i>, human rights and Faith.</li> </ul>	<ul style="list-style-type: none"> <li>• MWCSD</li> <li>• OAG</li> <li>• NHRI</li> <li>• MJCA</li> <li>• Samoa Law and Justice Sector</li> <li>• SLRC</li> </ul>	<ul style="list-style-type: none"> <li>• Progressive attention</li> </ul>

<b>Taskforce to provide the foundation for a coordinated inter-agency response to family violence.</b>	<ul style="list-style-type: none"> <li>• Develop a Communications Strategy.</li> <li>• Coordinate all family violence prevention actors.</li> <li>• Collect and coordinate Family violence data.</li> <li>• Pursue and promote 'national zero tolerance of violence' in all activities.</li> </ul>		
<b>RECOMMENDATION 2: Parliament should expeditiously give proper and urgent attention (and implementation) to recommendations relating specifically to violence against women, girls, children and persons with disability contained in the 2015 and 2016 State of Human Rights Reports provided by the Office.</b>	<ul style="list-style-type: none"> <li>• Discuss the 2015 and 2016 State of Human Rights Report (<b>SHRR</b>).</li> <li>• Plan and delegate implementation of recommendations contained in the 2015 and 2016 SHRR to relevant Government ministries.</li> </ul>	<ul style="list-style-type: none"> <li>• Parliament</li> <li>• Government and relevant Government Ministries</li> </ul>	<ul style="list-style-type: none"> <li>• Urgent attention</li> </ul>
<b>RECOMMENDATION 3: Undertake a study to document the prevalence of violence and raise awareness of other human rights issues faced by <i>fa'afafine</i>, SOGISC persons and the elderly.</b>	<ul style="list-style-type: none"> <li>• Initiate dialogue and undertake study to document violence faced by <i>fa'afafine</i>, SOGISC persons and elderly.</li> <li>• Raise awareness about human rights issues affecting such groups at all levels.</li> </ul>	<ul style="list-style-type: none"> <li>• NHRI</li> <li>• MWCSD</li> <li>• SFA</li> </ul>	<ul style="list-style-type: none"> <li>• Immediate / urgent attention</li> </ul>
<b>RECOMMENDATION 4: Establish a 'Violence Free Village Programme' which provides financial incentives for the implementation of Family Violence Prevention</b>	<ul style="list-style-type: none"> <li>• Develop and implement Violence Free Village Programme.</li> <li>• Engage and consult with Village Fono where necessary.</li> <li>• Explore funding opportunities.</li> </ul>	<ul style="list-style-type: none"> <li>• MWCSD in collaboration with relevant stakeholders</li> <li>• Government</li> <li>• Village Fono</li> </ul>	<ul style="list-style-type: none"> <li>• Immediate attention</li> </ul>



initiatives based on Inquiry recommendations.			
<p><b>INQUIRY FINDING 2:</b> Physical, harsh verbal discipline/violence and sexual violence towards children has reached epidemic levels.</p> <ul style="list-style-type: none"> <li>• 9 out of 10 children in Samoa experience violence in their lifetime;</li> <li>• Physical discipline/violence is often extreme in nature, going way beyond what is ‘reasonable punishment’ under Samoan law;</li> <li>• Sexual abuse of children and incest levels have reached ‘epidemic’ proportions in Samoa.</li> </ul> <p><b>INQUIRY FINDING 5:</b> Family violence has a wide range of long-term impacts on the physical and mental well-being of its victims and those who witness it. They include:</p> <ul style="list-style-type: none"> <li>• Mental health problems, such as depression, anxiety, suicide and aggressive behaviours;</li> <li>• Greater use of alcohol and drugs, increased sexual promiscuity and multiple sexual partners;</li> <li>• Direct injury and even death;</li> <li>• Maternal health problems, including unwanted pregnancies, miscarriages and pregnancy complications;</li> <li>• Low self-esteem leading to health and behavioural problems;</li> <li>• Inter-generational violence;</li> <li>• Reduced future productivity and undermining national economic development.</li> </ul> <p><b>INQUIRY FINDING 10:</b> Children subjected to violence or those who witness violence growing up are at a substantially increased risk of becoming a perpetrator or victim of family violence later in life.</p> <p><b>INQUIRY FINDING 11:</b> Violence towards children worsens because parents falsely believe it aided their own development as children or through employing a variety of excuses for misbehaviour among the youth and fail to take responsibility for their own role.</p> <p><b>INQUIRY FINDING 12:</b> All forms of physical and harsh verbal discipline<sup>2</sup> are forms of violence, which directly contribute to the prevalence of family violence and indirectly by increasing the risk of a child becoming either a perpetrator or further victim later in life.</p>			
RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME

<sup>2</sup>Definition at Info Point 6.

<b>RECOMMENDATION 5:</b> <b>Government to commit to remove section 14 of the <i>Infants Ordinance 1961</i> and to consult appropriately. Gradually move to ban corporal punishment and harsh verbal punishment in homes.</b>	<ul style="list-style-type: none"> <li>• Initiate discussions/consultations on the removal of section 14 of the <i>Infants Ordinance 1961</i>.</li> <li>• Awareness raising for parents on the harmful impacts of corporal punishment and harsh verbal punishment.</li> <li>• Development of positive parenting programmes to be delivered by Village Family Safety Committees, through Village Representatives, the churches and other suitable vehicles.</li> <li>• Monitoring of rates of violence towards children and attitudes towards physical and harsh verbal discipline.</li> </ul>	<ul style="list-style-type: none"> <li>• Government</li> <li>• OAG</li> <li>• SLRC</li> </ul>	<ul style="list-style-type: none"> <li>• Immediate attention</li> </ul>
<b>INQUIRY FINDING 13:</b> <i>Talanoa</i> (communication) between parents and child has broken down and has been replaced by violence. The lack of communication also places children at risk of further violence.			
RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 6:</b> Re-establish the <i>Fa'asamoa</i> practice of effective communication between parent and child.	<ul style="list-style-type: none"> <li>• Teach effective communication and the relevant <i>Fa'asamoa</i> principles as part of the positive parenting programme.</li> <li>• Develop Samoan vocabulary around sexual violence, violence in general and any other gaps required to facilitate effective child-parent communication.</li> </ul>	<ul style="list-style-type: none"> <li>• Families</li> <li>• MWCSO</li> <li>• All other relevant stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>• Urgent attention</li> </ul>
<b>INQUIRY FINDING 14:</b> Stereotypical gender roles are taught from birth, reinforcing the patriarchal society, teaching girls to be subservient, encouraging sexual entitlement of boys, and creating an environment of impunity for perpetrators.			

RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 7: Promote a gender equal approach to parenting based on the <i>Fa'asamoa</i> and human rights to address patriarchy, female subservience and male sexual entitlement.</b>	<ul style="list-style-type: none"> <li>Through positive parenting programmes teach the consequences of gender inequality and raising children differently based on gender.</li> <li>Provide practical guidance on how to parent in a gender neutral manner and the benefits that can confer to a child.</li> <li>Monitor impact of programmes.</li> </ul>	<ul style="list-style-type: none"> <li>MWCSD in collaboration with relevant NGOs</li> </ul>	<ul style="list-style-type: none"> <li>Immediate attention</li> </ul>
<p><b>INQUIRY FINDING 15:</b> Samoa is a patriarchal society where women are seen as subservient to men. This gender inequality is the primary cause of family violence in Samoa as violence is the key tool in maintaining male superiority</p> <p><b>INQUIRY FINDING 16:</b> The patriarchal society is reinforced and maintained by:</p> <ul style="list-style-type: none"> <li>The popular conception of Samoan masculinity;</li> <li>Sexual entitlement of men;</li> <li>Lack of communication within relationships;</li> <li>Victim blaming and widespread internalisation of the justifications put forward for the use of family violence.</li> </ul>			
RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 8: Place gender equality at the forefront of the objectives of the Samoa Family Violence Prevention Office and develop activities and measures to modify the social and cultural patterns of conduct of men and women to eliminate patriarchal</b>	<ul style="list-style-type: none"> <li>Refer to Recommendation 1 above.</li> </ul>	<ul style="list-style-type: none"> <li>Refer to Recommendation 1 above</li> </ul>	<ul style="list-style-type: none"> <li>Immediate attention</li> </ul>

attitudes of male superiority, and monitor long-term impact.			
<p><b>INQUIRY FINDING 17:</b> The <i>Fa'asamoa</i> is widely used and misused to reinforce the patriarchal society, which is at the heart of all family violence.</p> <p><b>INQUIRY FINDING 18:</b> The <i>vā tapuia</i>, and <i>Fa'asamoa</i> generally, is no longer respected as it once was, removing a critical prevention mechanism against family violence contained within the <i>Fa'asamoa</i>.</p> <p><b>INQUIRY FINDING 19:</b> Communication in Samoa has broken down and is no longer a two-way process, increasing the risk and prevalence of family violence.</p>			
RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 9: Address misconceptions around the <i>Fa'asamoa</i> which further gender inequality and contribute to family violence and identify and implement ways in which it can prevent and protect against family violence.</b>	<ul style="list-style-type: none"> <li>Public awareness and school education on how the <i>Fa'asamoa</i> is used to create gender inequality and how this leads to family violence. Political, traditional and religious leaders also speaking out in this regard.</li> <li>Public and school education on effective communication and conflict resolution, drawing on cultural values.</li> <li>Development of Samoan language (vocabulary) around all forms of family violence through consultations and involving all demographics of Samoan society.</li> <li>Public awareness and school education on the <i>vā tapuia</i> and the importance of those relationships in the prevention and protection against family violence.</li> </ul>	<ul style="list-style-type: none"> <li>MWCSD</li> <li>MESC</li> <li>National University of Samoa</li> <li>NHRI Samoa</li> <li>All other relevant stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>Urgent attention</li> </ul>
<b>INQUIRY FINDING 20:</b> The Bible is wrongly used to justify violence against women and children and perpetuates the patriarchal society within which violence breeds.			



RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 10: Develop a public theology on family violence, which addresses Biblical misinterpretations that reinforce gender inequality and violence.</b>	<ul style="list-style-type: none"> <li>• Church led initiative in widespread consultation with experts in the field of family violence, victims, perpetrators, youth, and all major demographics in Samoan society, especially at a grass roots level.</li> <li>• Emphasis on identifying ways in which Biblical teachings can be used to help lift the veil of silence around family violence.</li> </ul>	<ul style="list-style-type: none"> <li>• All Church leaders</li> <li>• NCC</li> <li>• MWCSO</li> </ul>	<ul style="list-style-type: none"> <li>• Urgent attention</li> </ul>
<b>INQUIRY FINDING 21:</b> Women (and other specific groups) are systemically obstructed in their participation in the Village Fono, Parliament and Church, further entrenching the patriarchal system and jeopardising the success of any attempt to address family violence through not taking due consideration of the voices of those most directly affected.			
RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 11: Take necessary measures to remove barriers affecting the participation of women and other groups in the Village Fono, Parliament and Churches.</b>	<ul style="list-style-type: none"> <li>• Village Fono to initiate discussions to include in by-laws:               <ol style="list-style-type: none"> <li>a) Provisions requiring the village council to formally consult with <i>Sui Tamaitai o Nuu</i> and the <i>Faletua ma Tausi</i> on the formulation and provisions of village council policy and by-laws;</li> <li>b) Provision that the president of the village women's committee and/or the women's representative may directly represent issues and concerns of the village women's committee to the village council at its</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• MWCSO in collaboration with Village Fonos, <i>Sui o Nuu</i> and <i>Sui Tamaita'i o Nuu</i>.</li> <li>• Parliament/ Government</li> </ul>	<ul style="list-style-type: none"> <li>• Immediate attention</li> </ul>

	<p>meetings rather than indirectly through the village representative.</p> <ul style="list-style-type: none"> <li>• Continue female leadership programmes and monitor impact.</li> <li>• Facilitate constructive participation of women, families in low income brackets and others in church decision-making.</li> <li>• Parliament should expeditiously give proper and urgent attention to recommendations relating to effective participation of persons with disabilities contained in the 2015 and 2016 SHRRs.</li> <li>• Village Fono, Parliament and Churches to give proper and adequate consideration to the direct inclusion (or views, at a minimum) of SOGISC persons, children, youth and elders.</li> </ul>		<ul style="list-style-type: none"> <li>• Urgent attention</li> </ul>
<b>INQUIRY FINDING 22:</b> The absence of sexual education and healthy relationships in the school curriculum and the guidance provided to teachers around gender and sexual violence reinforces gender stereotypes and increases vulnerability of children to sexual violence.			
RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 12:</b> Through a consultative process develop a family safety curriculum to be delivered to all children.	<ul style="list-style-type: none"> <li>• Consult and develop Family Safety Curriculum to draw on human rights, the <i>Fa'asamoa</i> and Faith and include:               <ol style="list-style-type: none"> <li>a) Sexual and reproductive health rights;</li> <li>b) Types and causes of family violence;</li> <li>c) Healthy relationships (building on existing healthy relationships curriculum);</li> <li>d) Anger management and effective communication;</li> <li>e) Parental education.</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• MESC</li> <li>• MWCSO</li> <li>• All relevant stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>• Immediate attention</li> </ul>

	<ul style="list-style-type: none"> <li>Monitoring and evaluation of curriculum and its impact.</li> </ul>		
<b>INQUIRY FINDING 23:</b> Corporal punishment in schools contributes to the prevalence of family violence and other negative societal outcomes. Total prohibition is essential for the success of any family violence initiatives. However, the current ban in place in Samoa is not being fully implemented, thereby increasing the risk and prevalence of family violence.			
RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 13:</b> <b>Strengthen the ban on corporal punishment in schools through educating society on its negative impacts and how it violates the <i>Fa'asamoa</i> and human rights.</b>	<ul style="list-style-type: none"> <li>Incorporate teaching on the impacts of corporal punishment in schools into positive parenting programmes and disseminate through village representatives.</li> <li>Monitor attitudes towards corporal punishment in schools.</li> <li>Teacher training on non-violent discipline and monitoring of student perceptions of teacher violence to ensure full implementation.</li> </ul>	<ul style="list-style-type: none"> <li>SVSG</li> <li>MWCSD with collaboration with village representatives</li> <li>MESC</li> <li>NUS</li> <li>NHRI</li> </ul>	<ul style="list-style-type: none"> <li>Immediate attention</li> </ul>
<b>INQUIRY FINDING 24:</b> Family violence continues, in part, due to the absence of support for its elimination from leading politicians, public servants, traditional and religious leaders, and in their direct involvement in the perpetration of such violence.			
<b>INQUIRY FINDING 25:</b> There is a general lack of awareness of key laws and services, which means that many victims may not access the support they require and future prevention is not achieved, therefore allowing family violence to continue.			
RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 14:</b> Conduct a national public education and awareness raising campaign,	<ul style="list-style-type: none"> <li>Identify key role models across society, including in Government, civil service, traditional and religious leadership to be champions and lead awareness raising campaigns.</li> </ul>	<ul style="list-style-type: none"> <li>MWCSD</li> <li>Samoa Law and Justice Sector</li> </ul>	<ul style="list-style-type: none"> <li>Urgent attention</li> </ul>

targeting harmful attitudes and practices and raising understanding of key laws and services.	<ul style="list-style-type: none"> <li>Identify and disseminate information on key laws and services.</li> <li>Monitor and evaluate impact of campaign.</li> </ul>	<ul style="list-style-type: none"> <li>All other relevant stakeholders</li> </ul>	
<b>INQUIRY FINDING 26:</b> Journalists are a key partner in the fight against violence and the industry requires training in how to report and advertise in a manner which does not promote attitudes which lead to family violence or pose further risk to victims.			
<b>RECOMMENDATION</b>	<b>ACTION OUTCOME</b>	<b>IMPLEMENTATION/ RESPONSIBLE AGENCY</b>	<b>TIMEFRAME</b>
<b>RECOMMENDATION 15:</b> Ensure journalists are able to report on family violence in a manner which protects victims and enhances national understanding of the nature and causes.	<ul style="list-style-type: none"> <li>Consult and develop National standards for reporting on family violence.</li> <li>Conduct regular training for journalists and monitoring and evaluation of impact.</li> </ul>	<ul style="list-style-type: none"> <li>Journalists Association of Samoa in collaboration with relevant stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>Urgent attention</li> </ul>
<b>INQUIRY FINDING 27:</b> The media can and does increase the risk of family violence by promoting gender stereotypes and other harmful attitudes that cause it.			
<b>RECOMMENDATION</b>	<b>ACTION OUTCOME</b>	<b>IMPLEMENTATION/ RESPONSIBLE AGENCY</b>	<b>TIMEFRAME</b>
<b>RECOMMENDATION 16:</b> Minimise the harmful effects of media through education and standard setting.	<ul style="list-style-type: none"> <li>Consider and implement Inquiry Recommendation 12 on sexual education in schools.</li> <li>Through village level mechanisms provide parents with education on how to talk to their children about healthy relationships.</li> <li>Provide training to all media bodies in Samoa on the nature, causes and impacts of family violence</li> </ul>	<ul style="list-style-type: none"> <li>MESC</li> <li>MWCSD</li> <li>Journalists Association of Samoa</li> </ul>	<ul style="list-style-type: none"> <li>Immediate attention</li> </ul>



	and the role that they can play in promoting gender equality and avoiding stereotypes or violence.		
<b>INQUIRY FINDING 28:</b> The Government's lack of commitment and approach through inadequate allocation of resources, support and lack of coordination sends to people a message that gender inequality and family violence is acceptable.			
<b>RECOMMENDATION</b>	<b>ACTION OUTCOME</b>	<b>IMPLEMENTATION/ RESPONSIBLE AGENCY</b>	<b>TIMEFRAME</b>
<b>RECOMMENDATION 17: The establishment of a National Family Violence Crisis Centre with in-house certified counselors.</b>	<ul style="list-style-type: none"> <li>Initiate consultation on the establishment of a Crisis Centre providing a range of services and accessible in Apia and all rural areas.</li> <li>Develop a national qualification for counselors.</li> </ul>	<ul style="list-style-type: none"> <li>Government</li> </ul>	<ul style="list-style-type: none"> <li>Progressive attention</li> </ul>
<b>RECOMMENDATION 18: Universal Parliamentary support for tackling family violence.</b>	<ul style="list-style-type: none"> <li>Lobby to all Parliamentarians for acceptance and endorsement of Inquiry recommendations.</li> </ul>	<ul style="list-style-type: none"> <li>NHRI Samoa</li> </ul>	<ul style="list-style-type: none"> <li>Urgent attention</li> </ul>
<b>RECOMMENDATION 19: Increase spending and accountability on family violence programmes, placing gender equality at the forefront.</b>	<ul style="list-style-type: none"> <li>Independent evaluation of current programmes spending based on need and available budget and implementation of recommended spending levels.</li> <li>Consult and lobby for equal pay for women and men's village representatives, awarded on a performance based system that allows for effective monitoring and evaluation.</li> <li>Expand the mandate of MWCSO to include non-gender specific activities and activities which address gender inequalities, such as women in leadership.</li> </ul>	<ul style="list-style-type: none"> <li>Government</li> </ul>	<ul style="list-style-type: none"> <li>Immediate attention</li> </ul>

**INQUIRY FINDING 29:** In failing to adopt any formal measures to address family violence, Village Fonos are generally complicit in its prevalence.

**INQUIRY FINDING 30:** *Matais* are not able to directly protect victims of family violence and taking no responsibility for this, means that matters are kept within the family walls but not resolved. *Matais* are currently not doing enough to prevent family violence by leading by example and promoting non-violence among their relatives.

RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 20: Village Fonos to take a leading and proactive role in prevention of family violence.</b>	<ul style="list-style-type: none"> <li>• Comprehensive training for village representatives on the nature, causes and consequences of family violence, to be disseminated to all village <i>matais</i>, the impact of which to be monitored.</li> <li>• The immediate creation of Village Safety Committees, ensuring gender equality is considered when choosing such committees.</li> <li>• Amendments made to the <i>Land and Titles Act 1981</i> to require a non-violent history as a pre-requisite to holding a <i>matai</i> title, and provisions made for the removal of titles if found guilty of family violence in the court of law.</li> <li>• Implementation of village programmes to educate on the nature, causes and consequences of family violence and to reduce risk factors of family violence.</li> </ul>	<ul style="list-style-type: none"> <li>• MWCS in collaboration with Village Representatives and</li> <li>• Village Fonos</li> <li>• OAG</li> <li>• MJCA (Lands &amp; Titles Court)</li> </ul>	<ul style="list-style-type: none"> <li>• Immediate attention</li> </ul>

**INQUIRY FINDING 31:** The church is generally failing in its role to prevent family violence and is reinforcing the patriarchal framework which underpins family violence. The church contributes to the impunity of perpetrators and allows perpetrators within its ministry.

RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
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<b>RECOMMENDATION 21: Churches to refrain from promoting attitudes which family violence breeds and to become a leading actor in preventing family violence.</b>	<ul style="list-style-type: none"> <li>• <i>Faifeau</i> to participate in Family Village Safety Committees.</li> <li>• Conduct comprehensive training for <i>faifeaus</i> on the nature, causes and consequences of family violence, the impact of which to be monitored.</li> <li>• Church participation in the development of a family safety theology.</li> <li>• Develop guidance for church ministers on how to promote non-violence and preach a non-violence theology.</li> <li>• Carry out marriage counseling in their parishes similar to the programme now implemented by Harvest Centre Church.</li> <li>• Re-establishment of regular visits to those within a congregation to develop close links, increase spiritual guidance and act as an early warning system and preventive mechanism against family violence.</li> <li>• Set limitations on church obligations, linked to financial capacity of families.</li> </ul>	<ul style="list-style-type: none"> <li>• All Church leaders</li> <li>• NCC</li> </ul>	<ul style="list-style-type: none"> <li>• Immediate attention</li> </ul>
<b>INQUIRY FINDING 32:</b> Data collection on family violence is sub-standard, not disaggregated and routinely misreports the true scale of the problem, undermining the few efforts to combat it.			
RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 22: Establish data collection and Monitoring and Evaluation at the heart of all</b>	<ul style="list-style-type: none"> <li>• Develop a centralized data collection system across ministries and NGO service providers.</li> <li>• Data to be disaggregated by sex, gender, age, disability, geographical area, type of violence suffered, social/ economic status etc.</li> </ul>	<ul style="list-style-type: none"> <li>• SBS</li> <li>• MOP (DVU)</li> <li>• Ministry of Foreign Affairs &amp; Trade/NHRI Samoa (Sadata)</li> </ul>	<ul style="list-style-type: none"> <li>• Urgent attention</li> </ul>

family violence prevention work in Samoa.	<ul style="list-style-type: none"> <li>• All relevant stakeholders to utilize Samoa Bureau of Statistics in data validation and training on data collection for key actors.</li> <li>• Develop monitoring and Evaluation Framework for National Strategy on the Prevention of Family Violence.</li> </ul>		
<b>INQUIRY FINDING 33:</b> Samoa's family violence legislative framework is relatively strong, but implementation and monitoring of effectiveness is weak or non-existent.			
<b>RECOMMENDATION</b>	<b>ACTION OUTCOME</b>	<b>IMPLEMENTATION/ RESPONSIBLE AGENCY</b>	<b>TIMEFRAME</b>
<b>RECOMMENDATION 23:</b> Strengthen the legislative framework and develop a comprehensive monitoring and evaluation framework.	<ul style="list-style-type: none"> <li>• Enact the <i>Child Care and Protection Bill</i>.</li> <li>• Amend the <i>Family Safety Act 2013</i> to: <ul style="list-style-type: none"> <li>a) Include financial or economic abuse in definition;</li> <li>b) Include provision for required timeframe for the serving of protection orders;</li> <li>c) Afford protection to those who report family violence; and</li> <li>d) Require the Village Fono to help enforce and monitor protection orders.</li> </ul> </li> <li>• Develop a comprehensive monitoring and evaluation framework for all family safety legislation.</li> </ul>	<ul style="list-style-type: none"> <li>• Government</li> <li>• OAG</li> <li>• MWCSD (Family Violence Prevention Office)</li> <li>• Ministry of Foreign Affairs &amp; Trade/NHRI Samoa (Sadata)</li> </ul>	<ul style="list-style-type: none"> <li>• Immediate attention</li> </ul>
<b>INQUIRY FINDING 34:</b> The State is responsible for widespread human rights violations in failing to provide adequate services, support and prevention in relation to family violence, and in so doing implicitly endorses its continuation.			
<b>RECOMMENDATION</b>	<b>ACTION OUTCOME</b>	<b>IMPLEMENTATION/ RESPONSIBLE AGENCY</b>	<b>TIMEFRAME</b>



<b>RECOMMENDATION 24: Ensure the provision of universally accessible shelter services based on current need.</b>	<ul style="list-style-type: none"> <li>• Conduct independent needs assessment and recommendations made as to whether services provided should be NGO led, Government led, or a combination.</li> <li>• Provision of shelters to meet the identified need.</li> <li>• Enable the National Human Rights Institution to monitor mechanism for standards in places of shelter.</li> <li>• Increased capacity of mental health unit to meet national need (as found by the aforementioned needs assessment).</li> </ul>	<ul style="list-style-type: none"> <li>• Government</li> <li>• NHRI Samoa</li> <li>• MOH/NHS</li> </ul>	<ul style="list-style-type: none"> <li>• Progressive attention</li> </ul>
<b>INQUIRY FINDING 35:</b> Police are not adequately trained to properly deal with cases of domestic violence. There is no evidence to suggest that lessons were being learned from trainings to deal with victims of violence across the police force, and that harmful attitudes and practices were still dominant preventing reporting of family violence.			
RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 25: Increase the capacity of the Police service to be able to carry out its role as the primary protection agency for victims of family violence.</b>	<ul style="list-style-type: none"> <li>• Apply zero tolerance approach adopted throughout the police force.</li> <li>• Increased community policing.</li> <li>• Conduct Family Safety training for all new recruits and continue regular refresher courses for <b>ALL</b> officers (with greater focus in training outpost officers), covering:               <ol style="list-style-type: none"> <li>a) Gender stereotypes, bias and role in family violence;</li> <li>b) The role of power and control and the cycle of violence;</li> <li>c) Causes and impacts of family violence in Samoa;</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>• MoP</li> <li>• SVSG</li> <li>• MOH/NHS</li> <li>• NHRI Samoa</li> </ul>	<ul style="list-style-type: none"> <li>• Urgent attention</li> </ul>

	<ul style="list-style-type: none"> <li>d) Dealing with victims and perpetrators of family violence;</li> <li>e) Services and referral systems for victims and perpetrators of violence (e.g. filing protection orders etc.);</li> <li>f) Legislative framework;</li> <li>g) International human rights standards;</li> <li>h) Documentation of family violence.</li> </ul>		
<b>INQUIRY FINDING 36:</b> The National Health Services is lacking the resources and knowledge to effectively screen for victims of family violence and there is no allied health system for victims to be referred to. Harmful attitudes and perpetrators among some staff contribute to the lack of reporting and continuation of family violence.			
<b>RECOMMENDATION</b>	<b>ACTION OUTCOME</b>	<b>IMPLEMENTATION/ RESPONSIBLE AGENCY</b>	<b>TIMEFRAME</b>
<b>RECOMMENDATION 26:</b> Enhance the role and capacity of the health service to adequately protect against family violence and to play a role in ending the cycle of violence.	<ul style="list-style-type: none"> <li>• Ministry for Health to acknowledge family violence as a public health issue and to develop a comprehensive plan for its role in addressing the matter, including;</li> <li>• Establish a screening process for family violence, with the interests of the victim at the centre and ensuring no further harm is inflicted as a result;</li> <li>• Conduct regular training of health professionals on family safety covering the following topics:               <ul style="list-style-type: none"> <li>a) Gender stereotypes, bias and role in family violence;</li> <li>b) The role of power and control and the cycle of violence;</li> <li>c) Causes and impacts of family violence in Samoa;</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Health Sector</li> <li>• MOH/NHS</li> <li>• Samoa Family Health Association</li> </ul>	<ul style="list-style-type: none"> <li>• Urgent attention</li> </ul>

	<ul style="list-style-type: none"> <li>d) Dealing with victims and perpetrators of family violence;</li> <li>e) Services and referral systems for victims and perpetrators of violence;</li> <li>f) Legislative framework;</li> <li>g) International human rights standards;</li> <li>h) Documentation of family violence.</li> </ul> <ul style="list-style-type: none"> <li>• Improved data collection and documentation.</li> <li>• Formal referral system for victims and perpetrators of family violence implemented.</li> </ul>		
<b>RECOMMENDATION 27: Further develop the allied health service in Samoa to adequately cater for victims of family violence.</b>	<ul style="list-style-type: none"> <li>• Conduct review of current system and propose areas for improvement.</li> <li>• Explore and obtain further funding and technical support from International partners.</li> </ul>	<ul style="list-style-type: none"> <li>• Health Sector</li> <li>• MOH/NHS</li> <li>• Samoa Family Health Association</li> </ul>	<ul style="list-style-type: none"> <li>• Urgent attention</li> </ul>
<b>INQUIRY FINDING 37:</b> The justice system has made commendable progress in relation to family violence but issues remain around access to justice, community awareness and use of customary practices in sentencing.			
<b>RECOMMENDATION</b>	<b>ACTION OUTCOME</b>	<b>IMPLEMENTATION/ RESPONSIBLE AGENCY</b>	<b>TIMEFRAME</b>
<b>RECOMMENDATION 28: Strengthen the justice system to ensure equal access to justice, adequate standards of services and for the judiciary to proactively consider risks of <i>ifoga</i> and character references on victims of family violence.</b>	<ul style="list-style-type: none"> <li>• Set up Community Law Centre Office with sufficient resources to meet national need for legal aid provision and awareness raising.</li> <li>• Carry out impact assessment on the use of mediation in family violence cases and its discontinuation if any potential further harm to victims is identified.</li> <li>• Establish standards for referral services and regularly monitored.</li> </ul>	<ul style="list-style-type: none"> <li>• MJCA</li> <li>• MoP</li> <li>• MOH/NHS</li> </ul>	<ul style="list-style-type: none"> <li>• Immediate attention</li> </ul>
<b>INQUIRY FINDING 38:</b> Family violence is not explicitly listed in the <i>Village Fono Act 1990</i> as an area of concern for the Village Fono.			

**INQUIRY FINDING 39:** The Village Fono is not protecting victims of family violence and in some cases preventing access to justice and increasing the environment in which family violence thrives through ill-advised punishments and blocking the reporting of matters to the police.

RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 29: Amend the <i>Village Fono Act 1990</i> to specifically list Family Violence as an area of concern for the Village Fono.</b>	<ul style="list-style-type: none"> <li>Consult relevant stakeholders in amending the <i>Village Fono Act 1990</i> to specifically list family violence as an area of concern.</li> </ul>	<ul style="list-style-type: none"> <li>MWCSD in consultations with Village Representatives and</li> <li>Village Fono</li> </ul>	<ul style="list-style-type: none"> <li>Immediate attention</li> </ul>
<b>RECOMMENDATION 30: Empower the Village Fono and Village Family Safety Committee to play a role in bringing perpetrators of family violence to formal justice.</b>	<ul style="list-style-type: none"> <li>Abolish the requirement to report family violence to the Village Fono before the police in villages where this is the case.</li> <li>Introduce by-laws to encourage reporting of family violence to the Village Fono.</li> <li>Introduce mandatory reporting to the Police by the Fono and/or Village Family Safety Committee.</li> <li>Empower the Village Family safety Committee to monitor protection orders and parole in relation to family violence.</li> </ul>	<ul style="list-style-type: none"> <li>Village Fono</li> </ul>	<ul style="list-style-type: none"> <li>Urgent attention</li> </ul>
<b>RECOMMENDATION 31: Empower the Village Fono / Village Family Safety Committee to play a direct role in the protection of individual cases of family violence through provision of shelter for victims and</b>	<ul style="list-style-type: none"> <li>Allocation of designated shelters for victims of family violence by the Village Family Safety Committee</li> <li>Introduce by-laws outlining punishments for family violence matters based on suspended fines and/or community based punishments.</li> </ul>	<ul style="list-style-type: none"> <li>Village Fono in collaboration with Village Family Committee when established</li> </ul>	<ul style="list-style-type: none"> <li>Immediate attention</li> </ul>

appropriate penalties for perpetrators.	<ul style="list-style-type: none"> <li>Consider eliminating the general use of banishment for cases of family violence unless clearly justified.</li> </ul>		
<b>INQUIRY FINDING 40:</b> The Churches in Samoa are generally not offering protection to victims of family violence and often counsel them into returning to abusive relationships, placing them at risk of further harm.			
RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 32:</b> Increase the capacity of the church to protect against family violence and prevent placing victims at risk of further harm.	<ul style="list-style-type: none"> <li>Consult and establish a national guideline for church ministers dealing with victims and perpetrators of family violence, covering:               <ol style="list-style-type: none"> <li>The nature, causes and impacts of family violence in Samoa;</li> <li>Dealing with victims and perpetrators of family violence;</li> <li>Laws and services;</li> <li>Counseling of couples showing early signs or risks of family violence</li> <li>Prohibition of counseling to return to abusive relationships.</li> </ol> </li> <li>Consult with relevant partners and develop plans for emergency shelter system for victims of family violence.</li> <li>Establish a complaint and reporting mechanism (and associated disciplinary process) for perpetrators of violence within the church.</li> </ul>	<ul style="list-style-type: none"> <li>NCC</li> <li>All Church Leaders</li> </ul>	<ul style="list-style-type: none"> <li>Immediate attention</li> </ul>
<b>INQUIRY FINDING 41:</b> Non-government organisations play a substantial and admirable role in meeting the need not currently being met by Government. However, greater accountability, coordination, training and data collection is required for increased effectiveness and to ensure victims of family violence receive the relevant care to a required standard.			

RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 33:</b> Government to take a pro-active role in strengthening and coordinating the Non-Government Organisation sector response to family violence.	<ul style="list-style-type: none"> <li>Establish a Coordinated mechanism.</li> <li>Establish a national service standards for NGOs in relation to family violence prevention and protection, and monitoring of those standards.</li> <li>Conduct training and capacity building for NGO sector.</li> <li>Develop a standardized data collection system.</li> <li>Explore and obtain financial and technical support.</li> </ul>	<ul style="list-style-type: none"> <li>MWCSD in collaboration with SUNGO and other relevant NGOs</li> </ul>	<ul style="list-style-type: none"> <li>Immediate attention</li> </ul>
<p><b>INQUIRY FINDING 42:</b> The common misconception of alcohol as a ‘cause’ rather than a ‘trigger’ contributes to the culture of impunity, allowing perpetrators to ‘blame the booze’ rather than take personal responsibility for their actions. This misconception also deflects attention from the true causes of family violence – gender inequality and power and control.</p> <p><b>INQUIRY FINDING 43:</b> Abuse of alcohol is a trigger for family violence and by addressing alcohol abuse and misuse the prevalence of violence generally in society can be reduced.</p>			
RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 34:</b> Reduce alcohol abuse rates.	<ul style="list-style-type: none"> <li>Endorse and implement Samoa Law Reform Commission recommendations on alcohol reform to prevent alcohol abuse and ensure the relevant resources required for implementation and monitoring.</li> <li>Village Fonos to introduce by-laws outlining community based punishments for alcohol abuse cases.</li> </ul>	<ul style="list-style-type: none"> <li>Government</li> <li>Village Fono</li> </ul>	<ul style="list-style-type: none"> <li>Urgent attention</li> </ul>

	<ul style="list-style-type: none"> <li>Review and monitor impact of alcohol management programmes, assess national need and ensure universal coverage.</li> </ul>		
<p><b>INQUIRY FINDING 44:</b> The practice of <i>fa'alavelave</i> has lost its original meaning, become competitive and puts undue financial stress on families which can act as a trigger for family violence, increasing its prevalence nationally. Financial penalties and banishments imposed by Village Fonos are also having the same effect.</p> <p><b>INQUIRY FINDING 45:</b> Church contributions are spiraling out of control through competitiveness and a failure of churches to control amounts, leading to undue financial pressures which in turn trigger greater prevalence of family violence in Samoa.</p>			
RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 35: Address traditional and religious giving practices to reduce family violence arising from financial pressures and increase financial empowerment programmes.</b>	<ul style="list-style-type: none"> <li>Village Fonos to introduce by-laws to limit contribution to <i>fa'alavelave</i>.</li> <li>Develop church guidelines and introduce limitations on giving based on family income.</li> <li>Families to take responsibilities and to consider alternative ways to minimise cultural and religious financial obligations.</li> <li>Expand and monitor Government financial empowerment programmes.</li> </ul>	<ul style="list-style-type: none"> <li>MWCSD (Family Violence Prevention Office)</li> <li>Village Fono</li> <li>Families</li> </ul>	<ul style="list-style-type: none"> <li>Urgent attention</li> </ul>
<p><b>INQUIRY FINDING 46:</b> Anger and jealousy can both trigger family violence and be used as a tool by perpetrators; by addressing both issues the prevalence of family violence can be reduced.</p>			
RECOMMENDATION	ACTION OUTCOME	IMPLEMENTATION/ RESPONSIBLE AGENCY	TIMEFRAME
<b>RECOMMENDATION 36: Develop understanding of the role of anger</b>	<ul style="list-style-type: none"> <li>Develop diagnostic process for the role of anger management within individual cases.</li> </ul>	<ul style="list-style-type: none"> <li>MESC</li> </ul>	<ul style="list-style-type: none"> <li>Urgent attention</li> </ul>



in family violence, expand anger management programmes and address the role of jealousy through education and awareness programmes.	<ul style="list-style-type: none"> <li>Assess effectiveness of anger management programmes on an ongoing basis, ensure capacity meets need and develop referral network (to include Village Fonos / Village Family Safety Committees).</li> <li>Address the role of jealousy in education, awareness and anger management programmes.</li> </ul>	<ul style="list-style-type: none"> <li>MWCSD (Family Violence Prevention Office)</li> <li>MOH/NHS</li> </ul>	
<b>INQUIRY FINDING 47:</b> The introduction of the cash economy in Samoa and a lack of financial literacy combine to cause financial pressures which in turn increase the risk of family violence.			
<b>RECOMMENDATION</b>	<b>ACTION OUTCOME</b>	<b>IMPLEMENTATION/ RESPONSIBLE AGENCY</b>	<b>TIMEFRAME</b>
<b>RECOMMENDATION 37:</b> Increase national financial literacy.	<ul style="list-style-type: none"> <li>Integrate financial literacy into the school curriculum.</li> <li>Increase financial literacy programmes in villages through the village representative network and monitor impact.</li> </ul>	<ul style="list-style-type: none"> <li>Central Bank of Samoa in collaboration with MESC and MWCSD (Family Violence Prevention Office)</li> </ul>	<ul style="list-style-type: none"> <li>Immediate attention</li> </ul>
<b>INQUIRY FINDING 48:</b> Changes to the traditional way of living has increased privacy and physical separation of houses, reducing likelihood of family violence intervention and also has led to the disempowerment of both men and women in the village context.			
<b>RECOMMENDATION</b>	<b>ACTION OUTCOME</b>	<b>IMPLEMENTATION/ RESPONSIBLE AGENCY</b>	<b>TIMEFRAME</b>
<b>RECOMMENDATION 38:</b> Mitigate the loss of outdated family violence prevention mechanisms through strengthening other mechanisms and implementing	<ul style="list-style-type: none"> <li>Consider and endorse all Inquiry recommendations.</li> </ul>	<ul style="list-style-type: none"> <li>Government</li> </ul>	<ul style="list-style-type: none"> <li>Urgent/ Immediate/ Progressive attention</li> </ul>

the range of Inquiry recommendations to establish new ones. Full implementation of the Inquiry recommendations can also be used to re-empower men and women within the village context.			
<b>INQUIRY FINDING 49:</b> Increased use of electronics is likely leading to increased social anxiety among children, which in turn leads to an increased risk of family violence.			
<b>RECOMMENDATION</b>	<b>ACTION OUTCOME</b>	<b>IMPLEMENTATION/ RESPONSIBLE AGENCY</b>	<b>TIMEFRAME</b>
<b>RECOMMENDATION 39:</b> Raise awareness on the consequences of excessive use of technology and promote alternative healthy living activities.	<ul style="list-style-type: none"> <li>Conduct education for children and parents on the potential harmful effects and excessive technology use and how that can increase the risk of family violence.</li> <li>Develop and disseminate alternative activities for young people, especially those which are based in traditional practices such as <i>siva</i>, navigating, traditional crafts, etc.</li> </ul>	<ul style="list-style-type: none"> <li>MWCSD</li> <li>MESC</li> <li>Office of the Regulator</li> <li>NHRI Samoa</li> </ul>	<ul style="list-style-type: none"> <li>Urgent attention</li> </ul>

# FAMILY VIOLENCE IN SAMOA

**87%** **HARSH VERBAL VIOLENCE**

experienced threats of violence in family setting



## SEXUAL VIOLENCE & INCEST

**9.5%** female respondents reporting to have been raped by a family member in their lifetime.

## VIOLENCE BORNE OUT OF FRUSTRATION

One recurring theme throughout the Inquiry was the observation that physical and harsh verbal discipline / violence often occurred not because the child had done something wrong as a way for the parents to take their frustrations out.



## VIOLENCE TOWARDS NON-BIOLOGICAL CHILDREN

There were stories of adopted children being treated worse by their adopted or step families than biological children. E toso isi (non-biological/ adopted children), ae afisi isi (biological children).

## ADULTS

### NOFOTANE VIOLENCE

The treatment of nofotane women as inferiors is a breach of the human rights and undermines principles of the Fa'asamoa that of mutual respect (fe'avaa'i) and mutual protection (fepuipua'i).

**86%** women subject to kicking, punching, slapping, causing bodily harm using a hard object (rock, stick, tree trunk, hose, etc.)

**24%** experienced choking

**87%** women respondents subject to yelling and harsh words

**87%** women respondents experienced threats of physical violence or bodily harm

## INTER-FAMILY VIOLENCE

Violence is inter-related. The prevalence of male on male violence e.g. brother on brother (or between family members themselves), which is often less talked about was highlighted on several occasions to the Inquiry

## VIOLENCE TOWARDS OTHER GROUPS

Family violence can and does happen to anyone. There are certain groups who are at risk and to whom attention should be given to understand and to address their vulnerability.

"It saddens me to see young boys who are confused and unsure of their identity being subjected to physical violence by the hands of their own family in the name of making them tough so they do not turn into fa'afafine." ~ Anonymous fa'afafine participant

**SOGISC Persons**

**Elderly**

**Fa'afafine**

**Persons with Disabilities**



## CHILDREN

### PHYSICAL VIOLENCE

**86%** had been subjected to kicking, punching or other assaults

### CHILD PROSTITUTION & PORNOGRAPHY

The Inquiry also noted the occurrence of other types of sexual abuse of children, that of child prostitution (where the victims are both boys and girls), and child pornography.

"Have you heard about tourists coming here for sex with young boys? Yes it has occurred and it is happening. There have been cases reported and we also see it." ~ Police outpost officer, Inquiry public hearings



Source: National Public Inquiry into Family Violence Consultations 2017



# PARTICIPATION IN DECISION-MAKING

## NATIONAL GOVERNMENT / PARLIAMENT



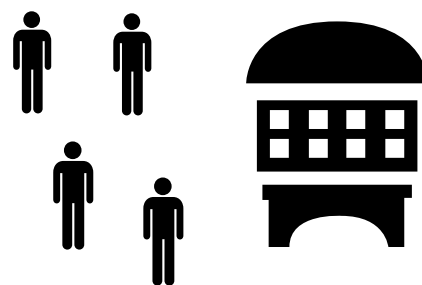
**5/50**

seats in Parliament held  
by WOMEN

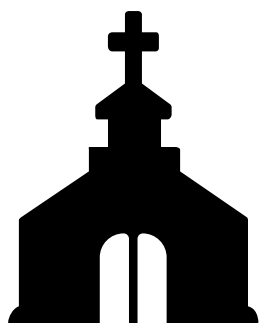
## VILLAGE GOVERNANCE / VILLAGE FONO

**11%** of all matai in Samoa are  
WOMEN

**36** villages DO NOT ALLOW  
women to hold a matai title



**21 (8%)** Villages recognise women as matai but DO NOT  
ALLOW women to sit on council meetings



## CHURCH GOVERNANCE

Churches have women in different levels  
of leadership. However, on the whole,  
DECISION-MAKERS are MOSTLY MALE

# PROTECTING WOMEN, GIRLS & CHILDREN FROM FAMILY VIOLENCE IS EVERYONE'S RESPONSIBILITY

## GOVERNMENT



Take a leading and proactive role in the prevention of family violence through making family violence as an area of concern for the Village Fono. Encourage reporting and monitor protection orders and parole in relation to family violence.

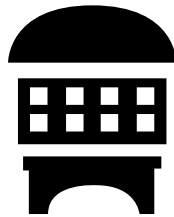


## FATHER/ PARENTS

Talk (talanoa), listen and spend time with mother and children. Provide guidance, care, love and support. Have mutual respect for one another. Identify and use positive parenting methods when disciplining children.

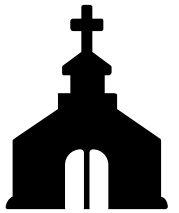
## VILLAGE FONO/ MATAI

Take a leading and proactive role in the prevention of family violence through making family violence as an area of concern for the Village Fono. Encourage reporting and monitor protection orders and parole in relation to family violence.



## CHURCH/ FAIFEAU

Be proactive in the prevention of family violence through promoting non-violence and preaching a non-violence theology. Offer help and support through spiritual guidance and act as an early warning system. Set limits on church obligations linked to financial capacity of families.



## INLAWS

Treat everyone equally and fairly. Greater emphasis on women as maupaolo rather than nofotane.



## DOCTOR/ NURSE

Be sensitive to victims of violence. Ensure the proper handling of cases. Offer appropriate help and refer to relevant services.



## JUDICIARY

Proactively consider risks posed by ifoga and character references from perspectives of victims of family violence.

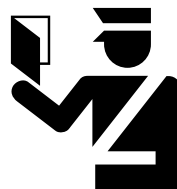
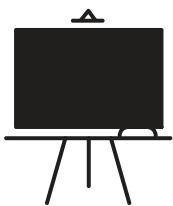


## FAMILY/ AIGA

Provide a supportive and caring environment for everyone to enjoy. Recognize and strengthen the 'vā tapuia. Make a positive influence.

## TEACHER

Educate and raise awareness of students about healthy relationships and sexual education. Eliminate the use of corporal punishment and identify appropriate ways of disciplining students.



## POLITICIANS

Universal moral support, acceptance and endorsement of Inquiry recommendations. Lead by example.

## POLICE

Be approachable & sensitive to victims of violence. Ensure the proper handling of cases and proper recording of data, and lead by example.

## NEIGHBOUR

Talk to your neighbours & don't be afraid to report incidents of violence to the relevant authorities where there is imminent harm to life.



## MEDIA

Report family violence in a manner which protects victims and enhances national understanding of the nature and causes. Promote gender equality and avoid gender stereotypes through appropriate media programmes etc.



**PLAY YOUR PART**  
**Let's not hide in the shadows of the trees anymore.**  
**Let the TRUTH be out and RIGHT be done.**





# FAMILY VIOLENCE PREVENTION & PROTECTION SYSTEMS

## FAMILY

- Re-establish talanoa between parents and children and between families to enable a safe space for sharing views and issues etc.
- Create a safe environment for everyone to be free from violence, and lead and set good examples for children.
- Place emphasis and importance on Fa'asamoa principles of fa'aaloalo, Vā Feāloa'i/tapuia etc.
- Identify and practice alternative ways of disciplining children and positive parenting.
- Take responsibility and consider alternative ways to minimise cultural and religious financial obligations.

## CHURCH

- Re-establishment of regular visits to those within a congregation to develop close links.
- Carry out marriage counseling in their parishes and set limits on church obligations
- Establish national guidelines for church ministers dealing with victims and perpetrators of family violence including cessation of counseling to return to abusive relationships.
- Establish emergency shelters for victims, as well as complaints and reporting mechanism (and associated disciplinary process) for perpetrators of violence within the church.

## MALO

- Make family violence an area of concern for the Village Fono.
- Create Village Safety Committees responsible for all matters relating to family violence prevention and protection.
- Introduce by-laws to encourage reporting of family violence to Village Fono; innovative punishments for family violence matters utilising suspended fines and/or community based punishments; community based punishments for alcohol abuse cases; and lighten burden of fa'alavelave contributions.
- Introduce mandatory reporting to the Police by the Village Fono/ Village Safety Committee.
- Monitor protection orders and parole in relation to family violence.
- Allocate designated shelters for victims of family violence and consider eliminating the general use of banishment for cases of family violence unless clearly justified.

# FAMILY VIOLENCE PREVENTION & PROTECTION SYSTEMS

## GOVERNMENT/ MINISTRIES

- Establish a Family Violence Prevention Office to coordinate key actors in the field of family violence and implement Inquiry Recommendations.
- Develop and include in school curriculum topics including family safety and financial literacy.
- Strengthen the ban of corporal punishment.
- Monitor and evaluate impact of existing and future awareness raising campaigns.
- Increase spending and accountability on family violence programmes.
- Establish centralised data collection system across ministries and NGO service providers.
- Strengthen the legislative framework by enacting the Child Care and Protection Bill and amend the Family Safety Act 2013 to include financial abuse as a type of violence.
- Provide shelters to meet the needs of victims and monitor standards.
- Police to adopt a zero tolerance approach throughout the police service, increase community policing and conduct family safety training for all.
- Health to acknowledge family violence as a public health issue, establish screening process for family violence, conduct family safety training for health professionals, and further develop the allied health service.
- Acquire trained counselling capacity.
- Establish Community law Centre with sufficient resources to meet national need for legal aid provision and awareness raising.
- Strengthen and coordinate the Non-Governmental Organisation sector response to family violence.
- Develop (or build on existing) educational programmes to address issues around causes and triggers of family violence.

## MEDIA

- Set national standards for reporting and to minimize harmful effects of media coverage.
- Train journalists/ media bodies on the nature, causes and impacts of family violence and the role that they can play in promoting gender equality and avoiding stereotypes or violence.

## NGOS

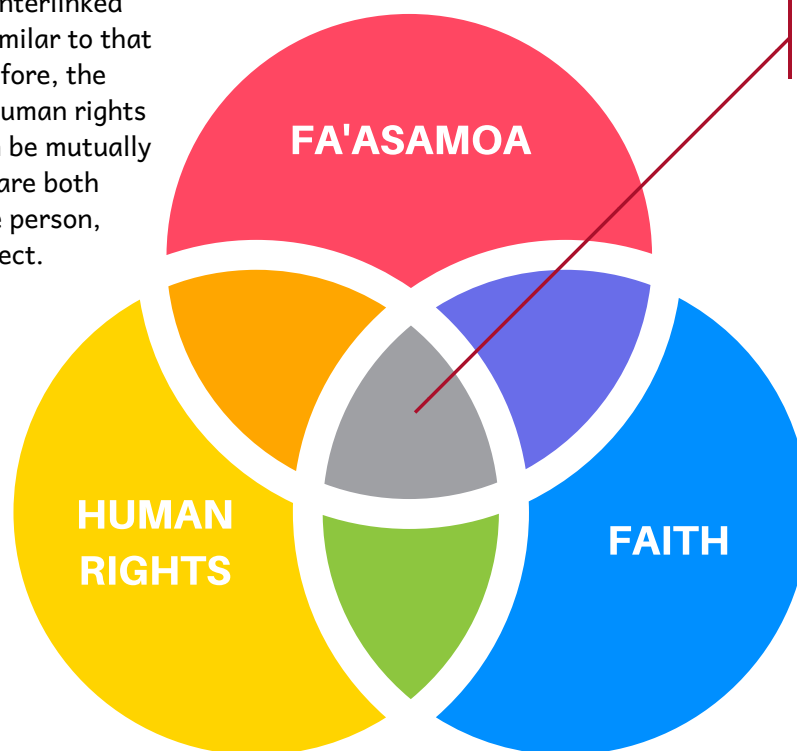
- Train and build capacity of NGO sector e.g. counselling services etc.
- Develop a standardized data collection system
- Ensure activities and programmes promote gender equality, and avoid stereotype and further harm.
- Work with Government in relation to providing needed services for victims of family violence.



# FAMILY VIOLENCE PREVENTION APPROACH: THE 3 PILLARS

The principles contained within the Fa'asamoa, Faith and human rights are central to the debate of the Inquiry. They contain standards, values, norms and approaches which, when well applied, can prevent and protect against all forms of family violence.

The Fa'asamoa embraces inclusivity, respect, communication and peace. It adheres to the view that its principles are interlinked and interdependent, similar to that of human rights. Therefore, the relationship between human rights and the Fa'asamoa can be mutually reinforcing given they are both rooted in dignity of the person, love, equality and respect.



Respect, Love, Protection, Security, Dignity, Equality, Fairness

Human rights principles are inextricably linked to the Fa'asamoa and Faith. Solutions are strengthened by an approach encompassing all three.

Christian values are founded on unconditional love, kindness, respect, integrity, peace and forgiveness, which are invariably interlinked with the Fa'asamoa in the same mutually reinforcing manner as described between the Fa'asamoa and human rights.

Respectively, the individual rights of survivors and protecting them from future violence, in turn strengthens the protection system for the whole community. Violence can spread and what starts out as violence in the home spills out into the villages and towns, as we have seen with the very public attacks that are becoming more commonplace.

By better protecting the rights of those individuals we will also be protecting the collective rights of others.

**INQUIRY FINDING 1: Family violence is a complex social problem where causes, triggers and consequences are inter-connected. It requires a nationally coordinated approach to prevention and protection. Within the Samoa context, such a national approach should be driven by the Fa'asamoa, Faith and human rights framework.**



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  - 16.5.1 Village Fono
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  - 16.5.3 Church
  - 16.5.4 Other Specific Groups

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  - 17.1.2 Corporal Punishment in Schools
  - 17.1.3 Public Awareness
  - 17.1.4 Media
- 17.2 Government Plans, Coordination and Programmes
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# ABBREVIATIONS & ACRONYMS



<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CRC</b>	Convention on the Rights of the Child
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>DMO</b>	Disaster Management Office
<b>DVU</b>	Domestic Violence Unit
<b>FGC</b>	Family Group Conferences
<b>FLO</b>	Fa'ataua Le Ola
<b>GBV</b>	gender based violence
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>Inquiry</b>	National Public Inquiry into Family Violence in Samoa
<b>IPV</b>	Intimate partner violence
<b>LJS Plan 2016-2020</b>	Law and Justice Sector Plan 2016-2020
<b>MESC</b>	Ministry of Education Sports and Culture
<b>MJCA</b>	Ministry of Justice and Courts Administration
<b>MoH</b>	Ministry of Health
<b>MoP</b>	Ministry of Police
<b>M &amp; E</b>	monitoring and evaluation
<b>MWCSD</b>	Ministry of Women, Community and Social Development
<b>NCC</b>	National Council of Churches
<b>NGOs</b>	Non-Government Organizations
<b>NHRI</b>	National Human Rights Institution
<b>NHS</b>	National Health Services
<b>NOLA</b>	Nuanua O Le Alofa
<b>NUS</b>	National University of Samoa
<b>Office</b>	Office of the Ombudsman
<b>OAG</b>	Office of the Attorney General
<b>PO</b>	protection orders
<b>SBS</b>	Samoa Bureau of Statistics
<b>SFA</b>	Samoa Fa'afafine Association
<b>SFHSS 2000</b>	Samoa Family Health and Safety Study 2000
<b>SFSS 2017</b>	Samoa Family Safety Study 2017
<b>SLJS</b>	Samoa Law and Justice Sector
<b>SLRC</b>	Samoa Law Reform Commission
<b>SN</b>	Sui o Nu'u
<b>SNYC</b>	Samoa National Youth Council



<b>SOGISC persons</b>	Persons of Diverse Sexual Orientation, Gender Identity and Sexual Characteristics
<b>SPC</b>	Secretariat of the Pacific Community
<b>SPCS</b>	Samoa Prisons and Corrections Services
<b>SRCT</b>	Samoa Returnees Charitable Trust
<b>STN</b>	Sui Tamaitai o Nuu
<b>SVSG</b>	Samoa Victim Support Group
<b>ToR</b>	Terms of Reference
<b>VFVP</b>	Violence Free Village Programme
<b>VFSC</b>	Village Family Safety Committees
<b>WHO</b>	World Health Organization

# PART: INTRODUCTION



## 1. National Human Rights Institutions

NHRIs are independent bodies established to protect and hold governments to account for their human rights obligations. They are the institutions which link the international human rights system to the domestic level, interpret human rights within the national context and take action to ensure the wide enjoyment of those rights. They also help to shape laws, policies and attitudes that create stronger, fairer societies.<sup>1</sup>

The Samoa NHRI was established in the already existing Office of the Ombudsman (**Office**) under the *Ombudsman Act 2013*. In 2016, the Office was awarded ‘A’ status by the international accrediting body, the Global Alliance for NHRIs. Accreditation at the highest level (A status) reflects international recognition of the independence of the Office and its record in effectively promoting and protecting human rights in Samoa since its establishment in 2013. It is currently the only NHRI to hold this status among the small Pacific Island nations.

## 2. National Public Inquiries

The *Ombudsman Act 2013* gives the Office wide-ranging duties and powers to promote and protect human rights in Samoa. One of its functions is to inquire into widespread, systemic or entrenched situations or practices that violate human rights.<sup>2</sup> This can take the form of a ‘National Public Inquiry’. A National Public Inquiry enables a broad human rights approach and examination of a large and complex situation where the general public is invited to participate. It has both fact-finding and educational roles and has been used to great success by NHRIs globally. It results in the production of a report that sets out the evidence received, analysis of the situation and recommendations addressed to Government, Non-Government Organizations (**NGOs**), the private sector and any other relevant stakeholders. The Inquiry is the first exercise of its type to be undertaken in Samoa and anywhere in the Pacific islands.

<sup>1</sup> Asia Pacific Forum of NHRIs. “What are national human rights institutions?” Retrieved from <http://www.asiapacificforum.net/support/what-are-nhris/>. Accessed 30 May 2018.

<sup>2</sup> See section 34 of the *Ombudsman Act 2013*.

## 3. National Public Inquiry into Family Violence

### 3.1 Focus

In 2014, the Office undertook an analysis of existing systemic human rights issues to determine priority areas of work. Violence emerged as the most urgent and widespread issue in Samoa.<sup>3</sup> Therefore, the Office decided that the most effective approach for such a complex systemic human rights issue would be a National Public Inquiry.

Due to the broad scope of violence in Samoa, the Office chose to focus its first Inquiry on **‘Family Violence’** with emphasis on violence against women and girls and the impact of violence in the upbringing of children. It will also address the impact of family violence on any other vulnerable groups identified during the process. For the purposes of the Inquiry:

“Family” means all members of a Samoan *aiga* (family) living in a typical communal or small unit setting.

“Violence” covers all forms of violence such as emotional/physiological, physical, sexual and financial. In addition, it also includes *“any other controlling or abusive behaviour where such conduct harms or may cause imminent harm to the safety, health or wellbeing of a person.”*<sup>4</sup>

### 3.2 Terms of Reference

The Terms of Reference (**ToR**) of the Inquiry was determined by the Chairman of the Inquiry in consultation with stakeholders and consist of:

- i. To inquire into and identify those most vulnerable to family violence and the nature of the violence experienced;
- ii. To inquire into and determine the causes and factors contributing to the occurrence of family violence;
- iii. To inquire into and identify the impact of family violence;
- iv. To inquire into and scrutinize the relevance, effectiveness and scope of the existing programmes and services involved in addressing the problems faced by survivors of family violence;
- v. To inquire into existing structures and institutions (e.g. church and *Fono a Alii ma Faipule*) with potential to contribute to identifying solutions and effective actions to curb family violence; and
- vi. To report on findings and make recommendations.

### 3.3 The Commissioners

The Inquiry Commissioners are ultimately responsible, on behalf of the NHRI, for the conduct of the Inquiry and for its reports and recommendations. It is of the utmost importance that the right people are selected for the role. In appointing the Commissioners consideration was given to the relevant

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<sup>3</sup> See Samoa Office of the Ombudsman/ NHRI. (2015). *State of Human Rights Report 2015: For Samoa by Samoa*. Apia: Government Printers.

<sup>4</sup> See section 2 of the *Family Safety Act 2013*.

skills, knowledge of family violence and personal integrity of potential candidates whilst ensuring equal gender representation.

The Inquiry Commissioners were:

- Maiava Iulai Toma, Ombudsman (Chairman);
- Hon. Tolofuaivalelei Falemoe Leiataua, former Parliamentarian (Vice Chairman);
- Tagaloatele Professor Peggy Dunlop, Professor of Pacific Studies, Auckland University of Technology;
- Leasiolagi Professor Malama Meleisea, former Director for Samoa Studies, National University of Samoa; and
- Falenaoti Mulitalo June Kolotita Ailuai Oloiali'i, Active Community Member and Women's Village Representative of Vavau.

The Commissioners were supported by a number of staff members from the NHRI and volunteers throughout the Inquiry process.

### 3.4 Methodology

Evidence for the Inquiry was collected through four different methods:

- Research:** It was carried out throughout the Inquiry process by Inquiry staff and partners. This involved the collection and analysis of data, media articles, case studies, reports and programmes relating to family violence.<sup>5</sup>
- Consultations:**<sup>6</sup> The Inquiry staff embarked on a three-phase consultation process with the following stakeholders:

**Phase 1: Relevant NGOs, Government ministries, development partners and the media.** Discussions focused on obtaining information on the work done and currently being undertaken to address family violence in Samoa, and to identify areas for improvement.

**Phase 2: Community bodies.** The objectives of these consultations were to, identify possible witnesses to tell their stories during the public or private hearings; gain the support of village bodies to spread awareness of the Inquiry; and encourage members of the community to attend the village consultations which followed. In addition, views on the nature and prevalence of family violence within respective communities and possible solutions were also sought.

**Phase 3: Villages.** Consultations sought to encompass all villages in Samoa and the involvement of as many relevant village institutions as possible. It was to ensure there was universal access to the Inquiry and every interested person had the opportunity to put forward their opinions and convey their experiences.

<sup>5</sup> A full list of evidence considered by the Inquiry can be found at Appendix F and the anthology of all documents can be accessed in full via [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>6</sup> For more information refer to "Stakeholder Consultations Report." Document 58 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

Participants were asked to complete a questionnaire and join a focus group where they were posed a series of questions. The questionnaire focused on identifying the prevalence of family violence in Samoa whilst the focus group discussions were designed to identify people's understanding of the root causes, effects and possible solutions. In total, 1,500 participated in the consultations which were held in villages which took account of distance and travel routes to ensure equal access across Samoa.

- iii. **Public and private hearings/forums:** The public and private hearings of the Inquiry were at the very heart of ensuring the process is an inclusive *national conversation* where everybody can participate and listen to what they have to say. The central purpose of the public hearings was to enable a wide range of perspectives to be placed before the Inquiry and before society in general. Commissioners were given the opportunity to ask questions of the witnesses to explore their experiences and knowledge. In some cases, it was not possible to hear vulnerable witnesses in public without risking further harm so private hearings were also held to ensure the safety of those giving evidence.

These forums were held over a period of three weeks across Samoa to hear evidence and personal testimonies from survivors, perpetrators, services providers, Government officials and any other interested parties. The value of the evidence provided during the public and private hearings is central to the National Public Inquiry process and as such this evidence forms much of the foundation of this Report and its findings.

Engaging survivors of family violence (especially those that are still in a violent relationship) to share their stories as part of the Inquiry was a sensitive matter given that the potential for further harm to result is high. The hearings therefore required extensive careful consideration to ensure the Office abided by one of its guiding principles, the *do no harm principle*. Such principle requires the total avoidance of any further harm being caused to the survivor.

The Office consulted with family violence experts, survivors and perpetrators in developing an approach to the public and closed hearings to ensure no further harm to survivors was caused.<sup>7</sup>

- iv. **Written Submissions:** For those who were unable to attend the public or private hearings (or did not wish to) the Inquiry also invited written submissions. Contributions were received from survivors, perpetrators, academics, lawyers, international agencies and other interested parties.

### 3.5 Inquiry Anthology

For those wishing to study the evidence upon which the Report is based in greater detail and to promote better understanding of the nature of family violence, all major documents and written submissions have been made publicly available through the Office website – [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws). Each document has been assigned a number (e.g. Inquiry document 1) and

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<sup>7</sup> Refer to “When collecting evidence from survivors of family violence.” *Guideline*. Document 125 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

is referred to as such throughout the Report for ease of reference for those wishing to access them online. A full list of all Inquiry documents can be found at Appendix F.

### 3.6 The Right to Reply

Following the completion of the initial draft, the Report was distributed to Government ministries and other stakeholders. A set time period was allocated to respond to those sections to clarify any factual mistakes or provide the Inquiry with additional evidence on which to make its findings. Where it was deemed appropriate the responses were incorporated into the final draft.

### 3.7 Timeframe

The Inquiry was officially launched by the Honourable Prime Minister Tuilaepa Sailele Malielegaoi on 10 December 2016, and the Final Report was submitted to Parliament in June 2018.

## 4. Structure of the Report

### 4.1 Part II: The Nature of Family Violence

The introductory sections in **Part II** provide a review of the nature, common causes and widely held myths of family violence in order to give the reader an understanding of the wider context. The Samoan context is then considered with an overview of the family violence situation currently, what the law says and the services and systems that are currently in place. **Part II** concludes with a look at what the *Fa'asamoa*, Faith and human rights have to say on family violence and the relationship between them. The purpose of **Part II** is to give the reader a general understanding and a baseline against which conclusions can be drawn.

### 4.2 Part III: Family Violence in Samoa

**Part III** addresses (i) and (iii) of the Inquiry ToR. It examines family violence in detail, as told by the victims, survivors and perpetrators themselves. It comprises a series of case studies and experiences organized by type of violence starting with early childhood. An analysis is provided at the end of most case studies to start developing an understanding of the common factors and causes in violent situations. **Part III** concludes with an analysis of the impact of family violence, drawing together all of the experiences, the impact they have, the cost to the Samoan economy, and to what degree violence has become normal.

### 4.3 Part IV: Existing Approaches, Causes and Triggers

**Part IV** addresses (ii) and (iv) of the Inquiry ToR. It details the evidence heard and seen by the Commissioners throughout the Inquiry on existing attitudes, beliefs and practices, the current prevention and protection frameworks, and the role they all play in relation to family violence. The Commissioners use the case studies from **Part III**, additional witness statements, the consultations and research to come to a series of findings relating to root causes and triggers that go on to form the basis for **Part V**.

## Part V: Analysis and Solutions

The final part of the Report addresses (v) and (vi) of the Inquiry ToR. It takes the findings from **Part IV** and links them to solutions put forward throughout the public and private hearings and consultations. The Commissioners also draw upon research undertaken by the Inquiry staff into global best practice and studies to help inform the recommendations where a consensus was not initially evident. The recommendations are predominantly made to three institutions: **Government, the Church and Village Fono**.

Throughout the Report a number of devices are used to help the reader understand the nature of family violence and to reflect the conversation around causes and solutions that was held in the course of the Inquiry. These include:

### Case Studies:

Individual stories told to the Inquiry directly or indirectly and reported to provide an insight into the lived experience of victims/survivors, perpetrators and those around them. The Inquiry case studies are drawn from all demographics of Samoa.



### Quotes:

Direct quotes from victims/survivors, perpetrators, civil servants, Ministers, academics, etc. to shed further light on the nature of family violence in Samoa and possible solutions.



### Information Points:

Information points are one of the ways key elements of family violence are communicated to the reader. They include general principles of family violence and details of legislation, services and programmes in Samoa.



### Myths:

Are widely held but false beliefs or ideas. A number of myths exist in Samoa around family violence that not only prevents effective action but actually worsen the problem. Throughout the Inquiry these myths will be highlighted to prevent confusion and clear the way for effective action.



### Findings:

Conclusions reached by the Commissioners on the state of family violence in Samoa.



### Recommendations:

Proposals for future action or work to address family violence in Samoa which are informed by the Commissioners' findings and suggestions from Inquiry participants.





# PART II: THE NATURE OF FAMILY VIOLENCE



## 5. The Nature of Family Violence

There are many faces of family violence, many victims, and many different kinds of perpetrators. Not only that, family violence affects people in different ways across different cultures. It is important for us all to have a general understanding of this so that we are able to recognize and address it within the Samoan context and drawing from international best practice and comprehension where appropriate.

### 5.1 Types of violence

The types of violence carried out are numerous and encompass:<sup>1</sup>

- *Physical violence*: anything from a slap or a push on one end of the scale to being hit with a machete or shot with a gun at the other end of the scale;
- *Sexual violence*: Physical violence can also be of a sexual nature and include unwanted touching, harassment, rape, incest;
- *Emotional/Psychological and Verbal abuse*: intimidation, isolation, coercion, jealousy, threats, neglect, blaming, shaming and name calling are all examples of verbal abuse which can have a negative impact on a person emotionally, often of a long term nature;
- *Financial violence*: when one person in a relationship has control over the other's access to economic resources, limiting their independence and forcing them to depend on their partner;
- Any other controlling or abusive behaviour where such conduct harms or may cause imminent harm to the safety, health or wellbeing of a person.

### 5.2 Who is affected?

Family violence is not just limited to a man beating his partner, it can start from birth right up until old age. It is not always physical and can be experienced in many different ways. It is rarely a one off. Certain groups can be particularly vulnerable to family violence and in Samoa the following groups experience violence within the family setting:

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<sup>1</sup> See *Family Safety Act 2013*.

- Children and teenagers (adopted and biological);
- Married and Unmarried Women;
- Men;
- *Fa'afafine*;
- Persons with Disabilities;
- The Elderly; and
- Persons of Diverse Sexual Orientation and Gender Identity and Expression (**SOGISC persons**).

Or, more simply put – **everyone is vulnerable to family violence**. The same is true for perpetrators, who similarly do not fit into one definable category. Those responsible for acts of violence can be men, women, *fa'afafine* or children, married or unmarried, *matai* (chief) or untitled, wealthy or poor, educated or not.

### 5.3 Impact

The impact of family violence is different from person to person and often victims can be re-traumatized if their reaction does not fit into what people think it should. For example, if a victim of rape does not fight back during the violent sexual assault, people sometimes question whether it actually constitutes rape, diminishing the experience of the victim, questioning their trauma and absolving the perpetrator of any responsibility.

Developing a thorough understanding of the ways in which family violence can impact people and the ways in which they may react is therefore crucial in ensuring victims are given the support they require and perpetrators are not allowed to act with impunity and are held responsible for their actions. This will be discussed in detail in **Part III** of the Report. Regardless of how a person reacts to being subject to violence the very act is a violation of their fundamental human rights such as the right to life, liberty and security of the person. It prohibits the full expression of life and violates principles of dignity, respect and *alofa* (love).

### 5.4 Language

The language we use when talking about someone who has experienced violence is important because the way we describe it has an effect on our perceptions of the act of violence and those involved. For example, referring to a person who has experienced family violence as a 'victim'. The word 'victim' can imply helplessness, pity and the sense of being trapped, which may not reflect the true situation of the individual and nor is it helpful in either coming up with a support plan or in the way we interact with that person from then on.

Alternatively, we may refer to people as 'survivors' which is associated more with a person who has overcome a situation. It is possible to be both a victim and a survivor and this Report will use the two terms interchangeably depending on the context.

## 5.5 Causes and Triggers

One of the key objectives of the Inquiry is to identify causes and triggers of family violence in Samoa. It is helpful to, first consider the difference between causes and triggers; the commonly accepted underlying causes of **all** types of violence worldwide; and the theory behind one of the most prevalent types - gender based violence (**GBV**).

### 5.5.1 Difference between Causes and Triggers

Understanding the distinction between causes and triggers is not often made but it is crucial to do so as classifying triggers as causes can often shift responsibility away from the perpetrator and contribute to the continuation of violence. Nonetheless, the Report will show it is important to address both causes and triggers to completely break the cycle of violence.

#### **Inquiry Info Point 1: What is the difference between a cause and a trigger of family violence?**

A **trigger** starts something that was already primed to happen. For example feelings of jealousy, alcohol, anger, stress, financial problems etc., can be triggers of family violence.<sup>2</sup>



A **cause** is the underlying reason family violence happens. For example, witnessing family violence as a child, power and control, gender inequality etc., can be causes of family violence.

Causes and triggers are usually inter-linked, in that they influence each other, so the only way to effectively prevent family violence is to identify and address each and every one.

### 5.5.2 Power and Control

Regardless of the type of violence, violence (within and outside the family setting) has its roots in **power and control**. 'Violence' is a means to exercise and protect power and control over another person. It is basic human nature to want to do so to protect ourselves by limiting the powers others have over us. However, this fails to take into account our civilization, our cultural values, our Faith or our

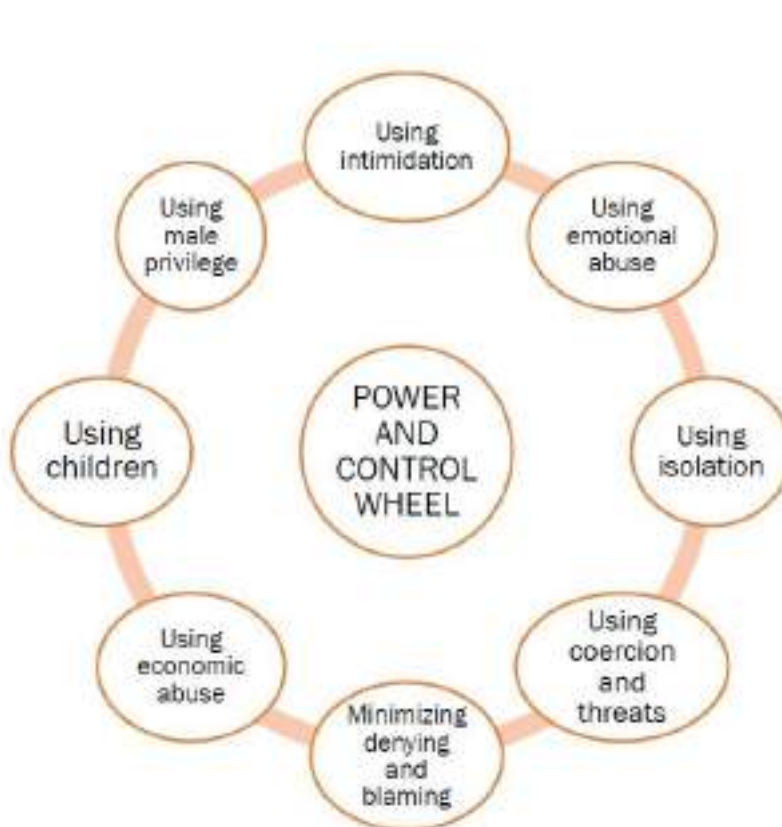
scared relationships. Power and control is exercised through violence by those who have forgotten or have never understood the value of sharing power and control through abiding by principles of love, dignity, equality and fairness. However, power and control is not the sole cause of family violence, rather it underpins all of the other causes and given the complex inter-linking nature it is absolutely necessary to understand those within the context of Samoa.

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<sup>2</sup>See **Myth 9** below for more details.

The power and control diagram below is a particularly helpful tool in “understanding the overall pattern of abusive and violent behaviors, which are used by a perpetrator to establish and maintain control over his partner in any given relationship”.<sup>3</sup> Case studies will be analysed later in this Report to identify elements of the power and control wheel to establish any linkage between family violence and power and control.

#### **Inquiry Info Point 2: The Power and Control Wheel**



**Adapted from:** *National Centre on Domestic and Sexual Violence*

### **5.5.3 Gender Based Violence and Gender Inequality**

A large proportion of family violence is perpetrated against women and girls and therefore one of the initial questions for the Report is whether gender inequality is the primary cause of family violence in Samoa, as it is in most other parts of the world. The Inquiry also considered all other types of family violence and whether the causes of that are also linked to gender inequality or if there are other roots.

<sup>3</sup> Refer to National Centre on Domestic and Sexual Violence. “Power and Control Wheel.” Retrieved from <https://www.med.unc.edu/im/files/patient-education-handouts/power-and-control-wheel>. Accessed 29 May 2018.

‘Gender inequality’ is a characteristic of many societies, “with males on average better positioned in social, economic, and political hierarchies”.<sup>4</sup> This is also the case for Samoa as highlighted later in the Report. Gender inequality is strengthened by power and control therefore maintaining the gender hierarchy in Samoa where women occupy a subordinate position and leads to the prevalence of GBV.

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“Gender based violence against women is one of the fundamental social, political and economic means by which the subordinate position of women with respect to men and their stereotyped roles are perpetuated.”



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*CEDAW Committee, General Recommendation 35, Inquiry Document 72*

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**Part IV** of the Report will examine to what extent power and control, gender roles and other causes and triggers all contribute to family violence in Samoa.

## 5.6 The Cycle of Violence

Consideration of both the *Power and Control Wheel* and *Cycle of Violence Wheel* will be of assistance when later analysing case studies and common trends from Samoa.

The cycle of violence wheel explains how and why the behavior of a person who commits family violence may change so dramatically over time. It also provides an understanding as to why the person affected by family violence continues to face a violent relationship.<sup>5</sup> The cycle goes through a number of stages as depicted in the graphic below.

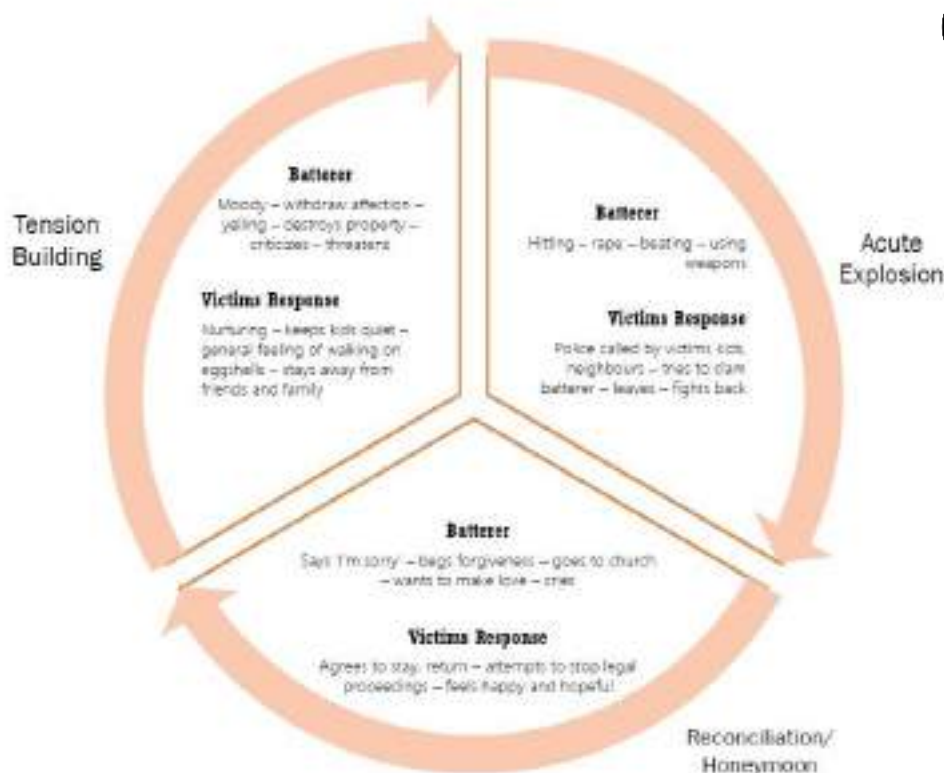
Variations of the cycle occur because not every person’s experience violence is the same. Nevertheless, it is important for Samoa to develop a national understanding of the cycle of violence in order to break it and to ensure that support services (such as the police, health workers, pastors, village councils, the Judiciary etc.) respond appropriately.

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<sup>4</sup> Refer to UNDP. *Humanity divided: Confronting inequality in Developing Countries*. (2013). Retrieved from [https://www.undp.org/content/dam/undp/library/Poverty%20Reduction/Inclusive%20development/Humanity%20Divided/HumanityDivided\\_Full-Report.pdf](https://www.undp.org/content/dam/undp/library/Poverty%20Reduction/Inclusive%20development/Humanity%20Divided/HumanityDivided_Full-Report.pdf). Accessed 27 May 2018.

<sup>5</sup> MICHA Projects Inc. “The Cycle of Violence.” Retrieved from [http://www.bdvs.org.au/resource\\_files/bdvas/IR\\_5\\_Cycle-of-violence-factsheet.pdf](http://www.bdvs.org.au/resource_files/bdvas/IR_5_Cycle-of-violence-factsheet.pdf). Accessed 13 May 2018.

### Inquiry Info Point 3: The Cycle of Violence



Adapted from: Arkansas Coalition Against Domestic Violence

The cycle of violence gives insight into one of the most confusing aspects of family violence – whereby the victim often believes that they are to blame and deserve what is happening to them. The cycle begins when the victim attempts to placate their abuser and anticipate what will make them angry such as disobeying him.

However, given violence is underpinned by a constant attempt to retain power and control and not because of actions of the victim, further violence is inevitable and the cycle continues.

Over time, the victim comes to internalise the attitudes of the perpetrator as a protection mechanism and they now believe they are to blame, just as their abuser does. This in turn facilitates a broader environment where violence is far more accepted. The Report it will assess if this is happening in Samoa and if so how it can be addressed.

## 5.7 Myths of family violence

Equally as important in building up a national understanding of the causes and impact of family violence is a comprehensive understanding of some of the myths of family violence in Samoa. Throughout the Report, the Commissioners highlight commonly held misconceptions and myths

relating to family violence in Samoa and the impact they have. Two common misconceptions, to begin the myth-busting process:

### **Myth 1: Alcohol and Drugs cause family violence**

Reality: Alcohol and drugs are not present in the vast majority of family violence incidents reported to the police in Samoa. Furthermore, many people consume alcohol and drugs without going on to commit violence. The reality is that alcohol and drug abuse can sometimes trigger violence by altering inhibitions and decreasing patience and tolerance levels, but it is not the root cause of that violence.



### **Myth 2: Family violence is caused by anger**

Reality: Anger is either a tool perpetrators use to scare their victim into submission or a trigger of family violence, it is not a cause of the violence itself. This is evident by when a perpetrator is committing a violent act they can easily pause if someone knocks at the door or the phone rings and not every person who angers the perpetrator is abused. Perpetrators are often in control of their actions, and not consumed by anger, to the point they can ensure any physical violence is carried out on parts of the body that are less likely to be visible to others. In other situations anger can trigger the underlying causes of family violence and therefore those people who struggle to contain their anger may be more at risk of perpetrating such violent acts.



Overall, due to the complex nature of family violence and its causes and triggers, effective responses usually require a coordinated centralized approach.

Therefore, rather than rely on external research to draw conclusions on the causes and triggers of family violence in Samoa, the Inquiry will instead restrict its use and focus on country-specific data, first hand research and evidence obtained in the course of the Inquiry to support its findings and recommendations.

“Though stakeholders in many countries are working to eliminate violence against children, their efforts are not always well coordinated and supported and few are undertaken at a large scale. Coordination mechanisms are therefore essential, as no single sector can deliver the full package of interventions.”



*INSPIRE: 7 Strategies for Ending Violence Against Children, World Health Organisation, Inquiry document 48*



## 6. The Samoan Context

### 6.1 An overview of family violence in Samoa

“Family Violence is a national crisis issue; it is complex given its cross-cutting nature, widespread and remains shrouded in a culture of silence and acceptance as normal.”

*MWCSD, written submission, Inquiry document 1*



“There is an epidemic of violence in our society. Far too many lives have been lost and serious injuries caused.”

*Justice Tafaoimalo Leilani Tuala-Warren, Inquiry document 49*

Twenty years ago family violence was not talked of publicly. Even five years ago it was not as common to talk about as it is today. Reverend Taumafai Komiti of the Methodist church highlighted to the Inquiry, “I think we need to acknowledge that we have come a long way – the awareness is starting to be there”.<sup>6</sup> The Commissioners agree that Samoa has indeed come a long way in terms of being able to speak about family violence where it was previously not possible and this has shone a light on how widespread the problem is.

In the first comprehensive Family Health and Safety Study 2000 (**SFHSS 2000**) carried out by the Secretariat of the Pacific Community (**SPC**) and partners, it was found that 46% of women had experienced domestic violence in their lifetime.<sup>7</sup> When the study was carried out again by the Ministry of Women, Community and Social Development (**MWCSD**) in 2017 (Samoa Family Safety Study (**SFSS 2017**)) this figure was found to be 60%.<sup>8</sup> In the survey carried out by the NHRI as part of this Inquiry, 87% of respondents within the family setting had experienced threats of violence and 86% had been subject to kicking, punching or other assaults. A shocking 9.5% of female respondents reported to have been raped by a family member in their lifetime,<sup>9</sup> almost one in ten.

Data collection on family violence is still in its infancy and so it is difficult to accurately conclude how prevalent family violence is in Samoa. However, the majority of the populations are in one way or another affected by family violence. Furthermore, it appears to be escalating in terms of prevalence and seriousness. Throughout the Inquiry and the drafting of this Report barely a day passed without another story of family violence of worsening proportions being reported by the media. On the day this section was drafted a husband attacked his wife with a machete in broad daylight in Apia.<sup>10</sup> The prevalence of family violence is such that it is spilling out onto the streets and no-one should be in any

<sup>6</sup> Statement made to Inquiry during public hearings.

<sup>7</sup> SPC and UNFPA. (2006). *Samoa Family Health and Safety Study 2000*. Document 83 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>8</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>9</sup> For more information refer to “Stakeholder Consultations Report.” Document 58 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>10</sup> See “Stabbing horror in Apia.” *Samoa Observer*. (18 January 2018). Document 113 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).



doubt that this is a critical issue of public concern, a widespread violation of human rights and a threat to the *Fa'asamoa* and Faith.

“Bullying is not just a relation between bully and victim. It’s really a three-way relation, between bully, victim and everyone who refuses to do anything about aggression.”<sup>11</sup>



A firm characteristic of family violence in this country is the veil of silence it hides behind, that is only slowly being lifted. This veil of silence is woven from a variety of threads, not least the fear of bringing shame upon one’s family if a victim decides to speak out. It is widely acknowledged that reported cases of family violence are only ever the tip of the iceberg. This is especially true of Samoa where the *Fa’asamoa* creates an added layer of pressure against reporting. Recent figures show that only 11% of victims of family violence reported the abuse they had experienced,<sup>12</sup> and if it is not reported it is allowed to flourish. One of the biggest barriers Samoa therefore has to overcome is the barrier to reporting family violence and this will be a major focus of the Report.

Family violence is not a unique problem to Samoa. It is a major concern for almost every country worldwide and few countries would claim to have it under control. However, prevalence rates in the Pacific do appear to be higher and an understanding of why that it must be arrived at before proposed solutions can be implemented effectively.

Awareness of family violence has now grown to such a point that 85% of Inquiry survey respondents across Samoa believe it to be an issue that should be addressed as a priority. **It is this consensus which provides the mandate for change, to which Samoa’s political, traditional and religious leaders should take heed.** We must also take note that while an overwhelming majority (85%) wishes for family violence to be addressed as a priority, there was an obvious lack of understanding among those people of the underlying causes of violence, with many women blaming themselves for acts of violence towards themselves and their children. This would suggest that Samoa is now in a situation where awareness raising efforts to date have succeeded in generating support for change. **However, it has yet to succeed in making people understand the real reason why such violence occurs.** The Report aims to comprehensively assess the causes of family violence in Samoa and contributes to strengthen Samoa’s understanding that is required to effectively address the problem.

## 6.2 Samoan law and family violence

### 6.2.1 Traditional protection mechanisms

“*A malu i fale, e malu i fafo.*” (If you are safe in your home, you should also feel safe in the community).



<sup>11</sup> Refer to “You should have been more careful: when doctors shame rape survivors.” *Guardian*. (15 October 2017). Document 55 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>12</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

“O aiga o le anofale o afio’aga ma le fatu o le aganu’u.” (Families are pillars of the community and the heart of the culture).



*Samoa expressions*

In the Samoan context, families make up communities and congregations which hold society together. The Samoan system of *aiga* lead by a *matai* provides a strong support network, helps individuals understand their responsibilities and duties within that network, and provides protection for family members.<sup>13</sup>

In addition to the *aiga*, churches play a vital role in binding Samoan communities and today the church continues to be a major factor in the social cohesion of society.<sup>14</sup> The Village Fono comprised of *matais* of *aiga* plays a crucial role in maintaining and preserving peace, harmony, security and stability through customary law and tradition. Samoa relies heavily on this effective system for the maintenance of law and order.<sup>15</sup>

## 6.2.2 Legal protection mechanisms

Protection against family violence is at the heart of the Constitution of Samoa which sets out fundamental rights to be enjoyed by every person:

- The right to life (Article 5);
- The right to personal liberty (Article 6);
- Freedom from inhuman treatment (Article 7); and
- All persons are equal before the law and entitled to equal protection (Article 15).

In addition, a range of legislative provisions establish crimes, penalties and protection mechanisms relating to family violence such as the *Family Safety Act 2013*, *Crimes Act 2013*, *Infants Ordinance 1961*, *Young Offenders Act 2007*, and *Education Act 2009*.

The *Family Safety Act 2013* is the key piece of legislation and provides for the “greater protection of families and the handling of domestic violence and related matters.”<sup>16</sup> It includes a definition of domestic violence as:<sup>17</sup>

“...physical abuse, sexual abuse, emotional, verbal and psychological abuse, intimidation, harassment, stalking or any other controlling behaviour towards a complainant where such conduct harms, or may cause imminent harm to, the safety, health of wellbeing of the complainant.”<sup>18</sup>

<sup>13</sup> IES. *The Cultural Atlas: Samoan Culture*. Retrieved from <http://www.theculturalatlas.org>. Accessed 15 May 2018.

<sup>14</sup> National University of Samoa. (2015). “Political representation and women’s empowerment in Samoa.” *Final Report 1*. Retrieved from <http://samoanstudies.ws/wp-content/uploads/2015/07/Centre-for-Samoan-Studies-Final-Report-Volume-1-English.pdf>. Document 63 Inquiry anthology.

<sup>15</sup> Refer to footnote 23 of Samoa Office of the Ombudsman. (2015). *State of Human Rights Report 2015: For Samoa by Samoa*. Apia: Government Printers. See also *Village Fono Act 1990*.

<sup>16</sup> *Family Safety Act 2013*, Long title.

<sup>17</sup> *Family Safety Act 2013*, section 2.

<sup>18</sup> *Family Safety Act 2013*, section 2.

The *Family Safety Act 2013* also establishes protection orders (**PO**), which can be applied for in relation to any domestic relationship.<sup>19</sup>

#### **Inquiry Info Point 4: What is a Protection Order?**<sup>20</sup>

A PO is an order issued by the Family Court to prevent an alleged perpetrator of domestic violence from accessing the victim for a set period of time in order to provide protection. It provides:

- A safety net for victims;
- A safety net for the children;
- A safety boundary for the victim and the perpetrator to continue to care for their children; and
- A safety space where the victim can continue their life without further suffering at the hands of the alleged perpetrator.

There are two types of protection – an ‘Interim PO’ or a ‘Permanent PO’

*Interim PO* must always be applied for first, and once the Court has received it they will promptly consider it and issue an Interim PO which is valid for 2 weeks (this can be extended when the matter is called to Court).

Once the order has been issued it is referred to the Police for execution and as soon as the police serve the order to the alleged perpetrator it becomes effective. After the Interim PO period the Court sets a date to hear the evidence put forward by the complainant and to give the alleged perpetrator the right to respond. If the Court is satisfied with the evidence of domestic violence, or if the respondent fails to turn up, a *Permanent PO* may be issued, valid for two years.



#### ***How does it work?***

***\*Filing a protection order application is free (unless applied for through a lawyer who may charge for their services)\****

There are four ways a person can apply for a PO:

- Directly in person through the Ministry of Justice and Courts Administration (**MJCA**), Court Division at Mulinu'u. The Registrar helps a victim (or a person acting behalf of a victim) complete an application form and prepare a sworn statement that sets out the incidents of domestic violence in support of the application; or
- Through a representative such as Samoa Victim Support Group (**SVSG**) or any other representative who may file the application on the victims behalf; or

<sup>19</sup> Refer to Part II of the *Family Safety Act 2013*.

<sup>20</sup> Explanation provided to the Inquiry by Savalenoa Mareva Betham-Annandale. Family Law Barrister and Solicitor. *Written submission*. Document 8 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

- Through an officer of the Domestic Violence Unit (**DVU**); or
- Through a private lawyer.



There has been a range of legislative reform in relation to family violence in recent years and this will be examined in more detail in the sections below.

### 6.3 Current systems and services

The Inquiry acknowledges the efforts of the Government to deal with family violence throughout the years. This is evident in the series of programmes established by relevant Government ministries such as MWCSO, MJCA and Ministry of Police (**MoP**).<sup>21</sup> A number of livelihood skill programmes for women are run by MWCSO in collaboration with its partners. These include public education programmes such as *Positive Parenting, Mothers and Daughters, Young Couples and Teen Mums*. These programmes are targeted to include both men and women promoting effective communication skills and non-violent manners in dealing with family related situations.

In addition to these programmes is the establishment of the Family Court under the *Family Court Act 2014* as a division of the District Court to provide protection and recourse for victims of family violence. The Family Court also deals with divorces, custody and maintenance. These courts are supported by the Youth Court, a branch of the District Court, which deals with criminal offences carried out by people aged 10-17 years old.

Further programmes by MJCA include the Family Group Conferences (**FGC**) as an alternative dispute resolution to respond to family violence cases particularly if the victim does not want the husband to be imprisoned. FGC makes recommendations to the court which often results with the perpetrator being referred to a rehabilitation programme run by SVSG or other church-based organizations.

The establishment of the DVU within the MoP is highly a significant achievement by the Government over the years. The DVU was set up in 2007 and is responsible for receiving domestic violence complaints, filing protection orders, prosecuting interim protection orders, referring victims to shelters and relocating families.<sup>22</sup>

However, the core services which cater directly to victims of family violence are run solely by NGOs such as SVSG. SVSG was established in 2005 with a focus on supporting child victims of family violence but quickly expanding to deliver a wide range of services including provision of the only shelter for survivors of family violence in Samoa, couples counseling, anger management courses, drug and alcohol programmes and the development of a network of SVSG representatives to help identify vulnerable people and victims in villages.<sup>23</sup>

In addition, other NGOs provide critical support to family violence survivors, seeking to meet their immediate needs and address the causes of family violence to prevent future harm and suffering

<sup>21</sup> Refer to written submissions for more information of programmes carried out by MWCSO, MJCA and MoP. Documents 1, 32, 33, 34 and 35 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

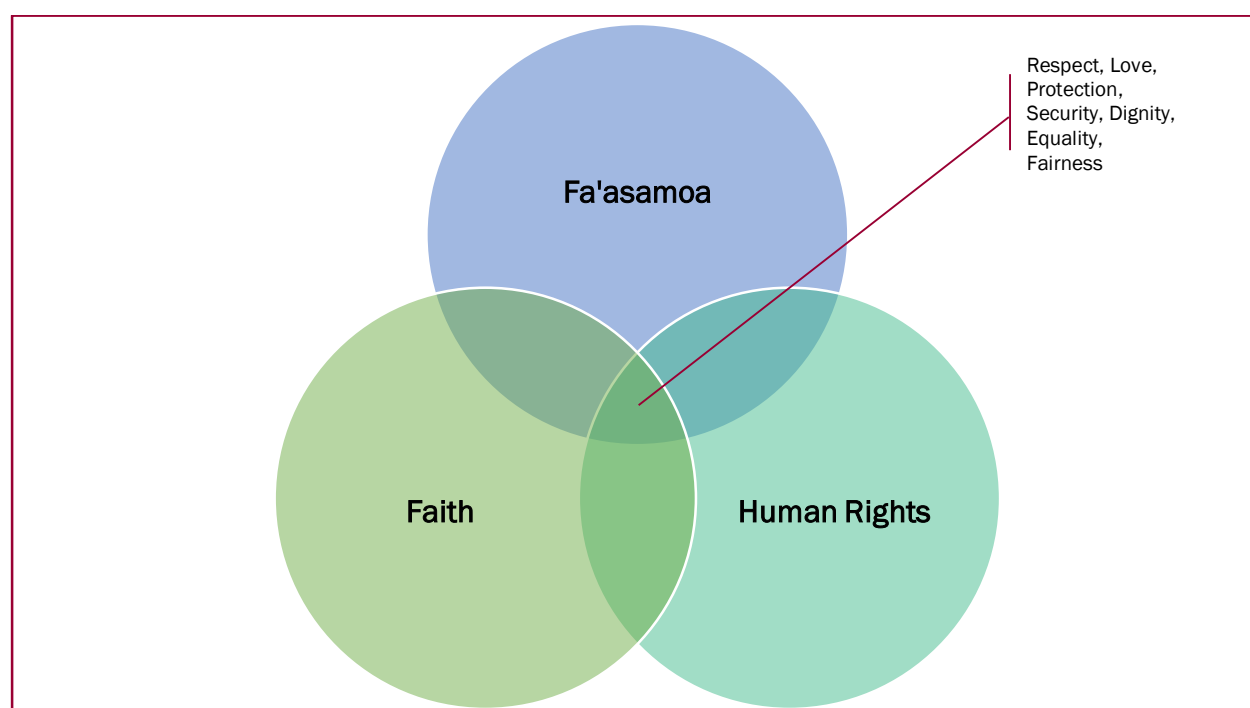
<sup>22</sup> Samoa Law Reform Commission. (2016). *Convention on the Elimination of All Forms of Discrimination Against Women Legislative Compliance Review Final Report*. p. 27. Document 89 Inquiry anthology. Ministry of Police submission to the Inquiry. Documents 33, 34 and 35 Inquiry anthology.

<sup>23</sup> Samoa Victim Support Group oral submission to the Inquiry.

including Fa'ataua le Ola (**FLO**), Samoa Returnees Charitable Trust (**SRCT**), Samoa Red Cross etc.<sup>24</sup> The challenge they face is indeed a monumental one and these organizations deserve to be recognized for their contribution to Samoan society. In due course, the Report will consider in greater detail the work they are undertaking and how they may be better supported to meet the huge demand for their services that the prevalence of family violence dictates.

## 6.4 Fa'asamoa, Human Rights and Faith

The principles contained within the *Fa'asamoa*, Faith and human rights are central to the debate of the Inquiry. They contain standards, norms and approaches which, when well applied, can prevent and protect against all forms of family violence. Understanding the relationship between the three is also important to identify how and where they can strengthen each other. Throughout the Inquiry process, it was universally held that any proposed solution to family violence could only be successful if it places the *Fa'asamoa* and Faith at its heart. The Commissioners agree and further believe that human rights principles are inextricably linked to the *Fa'asamoa* and Faith, meaning any solution can be further strengthened by an approach encompassing all three. An understanding of the key principles from each, as they relate to family violence is important from the outset.



*Inter-relationship between Fa'asamoa, human rights and Faith – all three share similar fundamental values and principles.*

### 6.4.1 Human Rights

Human rights are “rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled

<sup>24</sup> See **Info Point 16** for more information.

to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.”<sup>25</sup>

Freedom from all forms of violence is a fundamental human right. The right to protection from violence, security, and liberty of the person is recognized in the major human rights treaties, including those to which Samoa is a signatory:

- International Covenant on Civil and Political Rights (**ICCPR**);
- Convention on the Rights of the Child (**CRC**);
- Convention on the Elimination of All Forms of Discrimination Against Women (**CEDAW**); and
- Convention on the Rights of Persons with Disabilities (**CRPD**).

Family violence violates a range of human rights including:

- The right to life;
- The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment;
- The right to liberty and security of the person;
- The right to equal protection under the law;
- The right to equality in the family;
- The right to the highest standard attainable of physical and mental health;
- The right to just and favourable working conditions; and
- A child’s right to play.

Additionally, Article 1 of CEDAW defines discrimination against women as including GBV that is directed against a woman because of her gender or that affects woman disproportionately. It is now *opinion juris* (‘an opinion of the law’) and State practice that prohibition of GBV has evolved into customary international law.<sup>26</sup>

The CRC also requires State parties to take all appropriate measures to protect the child from all forms of physical or mental violence, injury, or abuse, including sexual abuse<sup>27</sup> and that there are absolutely no exceptions to this.<sup>28</sup>

The Government, as the primary actor of the State, is the main duty bearer of human rights meaning, it is the body responsible for ensuring the equal enjoyment of these rights in both law and in practice. The Government may also be held responsible for acts by private individuals if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence.<sup>29</sup> It is against these standards that the Government will be assessed in the course of the Report.

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<sup>25</sup>Refer to United Nations Human Rights Office of the High Commissioner. “What are Human Rights?” Retrieved from <http://www.ohchr.org/EN/Issues/Pages/WhatAreHumanRights.aspx>. Accessed 30 May 2018.

<sup>26</sup> Refer to UN CEDAW Committee (2017). General Recommendation No.35 on gender-based violence, updating General Recommendation 19. CEDAW/C/GC/35. Document 103 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>27</sup> *Convention on the Rights of the Child*, Article 19(1).

<sup>28</sup> Refer to UN Committee on the Rights of the Child. (2011). General Comment No. 13 on the right of the child to freedom from all forms of violence. CRC/C/GC/13. Retrieved from [http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13\\_en.pdf](http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf).

<sup>29</sup> Refer to UN CEDAW Committee. (1992). General Recommendation 19 on Violence against women. A/47/38. Document 105 Inquiry anthology.



The broader relationship between human rights and the *Fa'asamoa* must also be considered before findings are made because failure to address misconceptions of the incompatibility of the two could prevent effective lasting change.

The view that human rights are a foreign concept derives from the translation of 'human rights' to — '*Aia Tatau*' o *Tagata Soifua*'. It seems that when some people hear the term '*Aia Tatau*' they tend to pay strong attention only to the word '*Aia*' which implies 'non-interference from others' or 'I can do or say anything because it is my right.' As a result, the word '*Tatau*' meaning 'appropriate' is given less significance.<sup>30</sup>

A more comprehensive interpretation of *Aia tatau* is 'privileges that are appropriate for a human being's (whether a child, woman, man, person with a disability or prisoner) well-being. For instance, appropriate privileges for a child are to receive a proper education and not to be physically abused or subjected to child labor. It is not an appropriate privilege for the child to disrespect her/his parents. It is an appropriate privilege for a woman to be respected and loved by her husband. It is not appropriate for a woman to be subjected to physical abuse or discrimination.<sup>31</sup>

In this way, Samoa needs to consider the full meaning of the phrase and its practical application. This will enable an appreciation of the nature of human rights as a concept that confers both rights and responsibilities and is a framework which protects the minimum standards that we as human beings should enjoy and mirrors the standards envisaged in the *Fa'asamoa*.

It is also argued by some that the *Fa'asamoa* is concerned with communal rights whereas human rights seek only to protect individual rights. Human rights are indivisible, interdependent and interrelated. This simply means that a violation of one right (such as the right to health) may affect the enjoyment of other rights (such as the right to life) and that human rights cannot be placed in a hierarchy of importance – they are all equally important. Whilst human rights approaches and sees protection and promotion from an individual perspective (the very nature of them being indivisible, interrelated and interdependent), it means that if you protect the rights of an individual you are also helping to protect the rights of a community, and vice versa.

This is further strengthened when considering the universal nature of human rights. Human rights apply universally and equally to each and every one of us. If the rights of one person are violated then the principle of universality has been violated and the rights of others are likely to suffer too.

Within the context of the Inquiry if we protect the individual rights of survivors from future violence, it is in turn strengthening the protection system for the whole community. Violence can spread and what starts out as violence in the home can easily spill out into the villages and towns, as we have seen with the very public attacks that are becoming more commonplace. By better protecting the rights of those individuals we will also be protecting the collective rights of others.

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<sup>30</sup> Samoa Office of the Ombudsman/ NHRI. (2015). *State of Human Rights Report 2015: For Samoa by Samoa*. Apia: Government Printers.

<sup>31</sup> Samoa Office of the Ombudsman/ NHRI. (2015). *State of Human Rights Report 2015: For Samoa by Samoa*. Apia: Government Printers.

“Our fate as individuals is bound up with the fate of others in whose social context we find ourselves.”<sup>32</sup>



Therefore, human rights not only are not working against the *Fa’asamoa* but can actually work to strengthen and support cultural norms, practices and collective rights. Throughout the Inquiry report this will be explored in further detail.

### 6.4.2 *Fa’asamoa*

The *Fa’asamoa* is the culture or way of life of the Samoans which traditionally embraces inclusivity, respect, communication and peace. It adheres to the view that its principles are interlinked and interdependent, similar to that of human rights. For example, the principle of ‘*vā tapuia*’. The term ‘*vā*’ refers to the physical distance between objects, places or people. In the context of human relationships, ‘*vā*’ refers to a relational space, one that includes the physical, mental, spiritual, genealogical and historical.<sup>33</sup> ‘*Vā tapuia*’ are sacred relationships and considered the core of all relationships and founded and grounded on the principle of ‘*fa’aaloalo*’ (respect) for one another.<sup>34</sup> These relationships exist between parents and children, husband and wife, the living and dead, human beings and their environment, between the creator and the created, brothers and sisters, older and younger siblings, *matai* and family members, the elderly and the young.<sup>35</sup>

In essence community thrives when individual members have mutual respect and honor for the sacred relationship we have with another, which enables each individual to live their own rights in reciprocal interaction with other members of the community.

The *Fa’asamoa* goes further than human rights in some respects, describing an inter-relationship between everything and everyone. The field of human rights is gradually expanding its scope and the relationships it covers (including the recent establishment of legal rights for worldly features such as rivers or mountains)<sup>36</sup> and seemingly has much to learn from the *Fa’asamoa*. However, the reverse is also true and there are circumstances where human rights norms and standards are able to provide practical protection frameworks that can be adapted to the Samoan context, which may not already exist in Samoan society.

It is no surprise that the relationship between human rights and the *Fa’asamoa* can be mutually reinforcing given they are both rooted in dignity of the person, love, equality and respect. This relationship was recognized at the highest level when our forefathers incorporated fundamental

<sup>32</sup> See Philip Alston. (1985). “The Shortcomings of a ‘Garfield the Cat’ Approach to the Right to Development.” *California Western International Law Journal*, 15(3). pp. 510, 516.

<sup>33</sup> See Ministry for Women New Zealand. (December 2015). “Samoan people’s understanding of primary prevention of violence against women.” Document 91 Inquiry anthology.

<sup>34</sup> Meaola Amituanai-Tolosa. (2006). “The ‘Va-Tapuia’ (Space made sacred) in bridging research and relationships: Brown culture and commonsensical ethics.” *Alternative*, 3(1). pp. 201-219. Retrieved from [https://www.researchgate.net/publication/221675460\\_The\\_'Va\\_Tapuia'\\_Space\\_made\\_sacred\\_in\\_bridging\\_research\\_and\\_relationships\\_Brown\\_culture\\_and\\_commonsensical\\_ethics](https://www.researchgate.net/publication/221675460_The_'Va_Tapuia'_Space_made_sacred_in_bridging_research_and_relationships_Brown_culture_and_commonsensical_ethics). Accessed 30 May 2018.

<sup>35</sup> See Tamasese, K, Peteru, C and Waldegrave, C. (1997). *Ole Taeao Afua – The New Morning: A Qualitative Investigation into Samoan Perspectives on Mental Health and Culturally Appropriate Services*. The Family Centre. Wellington.

<sup>36</sup> Mihnea Tanasescu. (2017). “When a river is a person: from Ecuador to New Zealand, nature gets its day in court.” Retrieved from <http://theconversation.com/when-a-river-is-a-person-from-ecuador-to-new-zealand-nature-gets-its-day-in-court-79278>. Accessed 30 May 2018.

human rights into our Constitution. This is a testament to the longstanding understanding of how human rights can strengthen the *Fa'asamoa*.

Specific elements of the *Fa'asamoa* are very relevant to addressing and understanding family violence and the following principles will be referred back throughout the Report.

**Feagaiga** (Covenant) are spiritual covenants that exist between different sets of people and which determines the responsibilities towards one another within that relationship.

**Fa'aaloalo** (Respect refers to the respect that must be paid within social hierarchies and the respectful way in which one must go about their role in society.

**Feāvaa'i** (Mutual Respect) is a core value for which Samoan culture is well known. It is demanded of all Samoans, particularly children towards their parents, brothers towards their sisters, serving members towards their chiefs, young towards the old, congregations towards their pastor and so on. Respect is shown not merely in the manner of talking, but also in the body language of the person. Within all of these relationships the respect goes both ways.

**Vā Feāloa'i** (Respect within relationships) is another form of respect focusing more within a particular relationship, providing guidance and rules on the manner in which one person speaks to another and vice versa, the language they use and their behaviour.

**Malupuipua** (Being protected) is a state of protection for a person that can consist of a physical sanctuary such as a pastor's or *matai*'s house or it can refer to spiritual protection of a person. It can also be achieved through the protection afforded by being part of a safe community or household.

**Fa'asinomaga** (Identity/origin/roots) dictates that every Samoan person belongs, that they have roots in a family and a village and have a role to play in Samoan society. Through this belonging a sense of responsibility within each person is created which should play a preventive role in relation to perpetrating all forms of violence.

**Tautua** (Service) is to serve in a selfless manner in the way a *matai* serves their community. It can also extend to the service a church provides its parishioners or the way family members carry out their respective duties. Reciprocity and mutuality are built into the concept of *tautua*. The server serves the served and vice versa.

**Amiotonu** (honesty/justice) is a sense of justice that needs to be upheld in all circumstances in order to maintain the integrity of the *Fa'asamoa*. It can be achieved through a number of traditional justice mechanisms carried out by the Village Fono in a manner that upholds honesty and good governance.

**Soalaupule** (Discuss/deliberate/share) is a form of consensual dialogue which is based on an acceptance of differences within relationships and ensuring inclusivity to foster effective sharing of ideas. It represents a fine balance between *Vā feāloa'i* and enabling all voices to be heard and all experiences and ideas considered to ensure the best possible outcome for the community.

**Alofa** (Love) is expressed not only within the family and community but also towards guests. It includes parents caring and providing for their children, ensuring that they receive the best of everything; children caring and looking after their elderly parents; brothers and sisters looking out for each other; neighbours providing help and assistance wherever they can; the commitment and sacrifice families make towards the church; and welcoming visitors to Samoa with open arms.

**Fepuipua'i** (Mutual Protection) is demonstrated when parents care for and protect their children from harm and danger, and vice versa when roles are reversed later in life, or when the *matai* of the village ensures that members of the village live peacefully, and villagers uphold and protect the dignity of the *matai*.

It is clear from some of the common *Fa'asamoa* principles above, that nowhere in the *Fa'asamoa* where violence of any nature is condoned, whether it is physical, emotional or financial violence. The Report will examine to what degree the *Fa'asamoa* is adhered to today and the role it currently plays in family violence and how that may be strengthened.

### 6.4.3 Faith

Freedom of religion is enshrined in Samoa's Constitution.<sup>37</sup> Furthermore, the Constitution declares Samoa to be a Christian nation<sup>38</sup>, meaning Christian faith and values play a fundamental role in everyday life. Christian values are founded on unconditional love, kindness, respect, integrity, peace and forgiveness, which are invariably inter-linked with the *Fa'asamoa* in the same mutually reinforcing manner as described between the *Fa'asamoa* and human rights above.

Moreover, such values denounces all forms of violence. However, this is not universally accepted with many believing that physical discipline of children is necessary. Interpretations of the relationship between man and woman vary significantly having an impact on gender hierarchies, and in turn family violence. These discussions will be considered in detail throughout the Report and Faith considered as one of the key platforms for any solution, both in terms of its teachings and the significant role the Church can play in Samoan society.

Samoa therefore has three comprehensive doctrines to draw upon in the fight against family violence, which when deployed effectively can not only achieve that goal but can also reinforce and strengthen each other.

**INQUIRY FINDING 1:** Family violence is a complex social problem where causes, triggers and consequences are inter-connected. It requires a nationally coordinated approach to prevention and protection. Within the Samoa context, such a national approach should be driven by the *Fa'asamoa*, Faith and human rights framework.



<sup>37</sup>See Article 11 of the *Constitution of the Independent State of Samoa*.

<sup>38</sup> See *Constitution Amendment Act 2017*.

# PART III: FAMILY VIOLENCE IN SAMOA



This part of the Report will examine family violence in detail, as told by the victims, survivors, and perpetrators themselves. It comprises a series of case studies and experiences, organized by type of violence, which will inform later analysis of the issues.

## 7. A cycle of violence begins...

### 7.1 Children

Personal accounts collected during the course of the Inquiry will highlight the types of violence experienced by children in Samoa. The Inquiry considers these case studies part of the qualitative data which will inform and help gain a greater insight into the nature and causes of violence against children in Samoa. Impacts of such violence will be discussed in **section 10.1**

#### 7.1.1 Physical discipline/ violence

Like many other countries in the world, physical discipline/violence in Samoa as has been used for generations as a common approach for raising children. The overwhelming majority of Samoans believe physical violence/disciplines required teaching **right from wrong** and there are few calls for it to be banned.<sup>1</sup> Common parental approaches to raising children are commonly justified by the *Fa'asamoa* and religious texts. The validity of these justifications will be considered in **Part IV**.

“Teaching children in the family is not seen as a dialogue between the parents and child but as a process in which the parent gives advice or instructions, and the child obeys and listens.”



*Participant during Inquiry Community Consultations*

<sup>1</sup> Feedback received from Inquiry village consultations.

### Case Study 1: Tavita,\* the step-child beaten to death

Tavita was an 8 year old boy living with his mother and step-father Petelu. One day Petelu's niece told him that Tavita had burnt her shoes and had also cut the sole of Petelu's biological son foot with a razor.

Tavita was at school but Petelu sent for him immediately. Once he arrived home, Petelu took him into another room and beat him with a hose until his mother intervened and pleaded for him to stop. Soon afterwards Tavita began experiencing breathing problems and the pupils of his eyes became dilated.

He died before they could get him to hospital.

Petelu was initially sentenced to three and a half years in prison after an argument put forward by the defence that Petelu himself had been physically abused by his father and that this offence demonstrated the impact of such abuse.

The sentence was appealed by the Office of the Attorney General and the Court of Appeal held that the rights contained within the Convention on the Rights of the Child for children not to be subjected to cruel treatment or punishment should be applied and increased the sentence to five years.

\*Names changed to protect the identities of those involved



Petelu was under the mistaken view that physical beatings of this nature were necessary for the child to grow up in a respectful manner because that was the same way he was taught by his father.

What was intended to be physical discipline led to the tragic death of Tavita. It is clear that he was deprived from his right to life, guaranteed by Samoa's Constitution and the CRC. It also violated many of the principles of the *Fa'asamoa*, in particular the *vā tāpuia* between parent and child, where Tavita's parent did not carry out their responsibilities as parents to ensure Tavita is safe (*saogalemu*), protected (*malupuipua*), and of course loved (*alofa*). The Bible is equally clear on this matter as well, stating 'you shall not murder'.<sup>2</sup> Tavita's case is a tragic reminder in this Report of how human rights, *Fa'asamoa* and Faith are founded on very similar principles which in this case have been truly violated.

The CRC was used in this case to uphold the *Fa'asamoa* principle of *amiotonu* (justice) demonstrating a practical way in which human rights can strengthen cultural norms. Tavita's case also introduces the concept of an inter-generational cycle of violence where his father believed the punishment to be just because it was the way he was raised as a child.

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<sup>2</sup> Refer to Bible, Exodus 20:13.



## Case Study 2: Solomona's\* story of endless violence<sup>3</sup>

Solomona is the eldest boy of ten children living inland Upolu, away from where most of his village lived. His mother died when he was 11 years old and in the two years after, his father would always be angry and beat him up if he was slow doing his chores.

Solomona used to be beaten mostly by a stick or a piece of wood but was always especially scared when his dad would use a steel chain, the kind used to keep dogs restrained. He used to scream for help but no-one answered his calls.

One day he ran away and was eventually brought to one of the NGOs in Apia. He has not been able to forget the pain and suffering.

\*Names changed to protect the identities of those involved



Solomona was just an 11 year old child, who should have been enjoying his childhood surrounded with *alofa* and given his right to play and explore the world around him under the guidance of his father. Both human rights, the *Fa'asamoa* and the Bible all talk about the best interests of the child and their spiritual guidance as being the responsibility of their parents or guardians.

*"O au o matua fanau."* (Children are the 'core' of their parents).

*Samoa expression*



One of the notable features of Solomona's story is that nobody heard his continued pain. When villages are no longer the tight knit communities they once were, it removes one of the traditional protection mechanisms of Samoa – that of your neighbours. Children are unlikely to report violence but neighbours may intervene if they can hear it. If they cannot hear it, the child may remain helpless, like Solomona was for two years.

The Inquiry found physical or verbal discipline / violence to ensure obedience and retain power and control. 3 out of 4 caregivers in Samoa indicated that they had assaulted children in the name of 'discipline' within the past year.<sup>4</sup> This indicates that the majority of people who overstep the line have children in their care on a regular basis.

<sup>3</sup> Samoa Victim Support Group oral submission to the Inquiry.

<sup>4</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

### 7.1.2 Harsh verbal discipline/ violence

“They say words out of love for the child to make them *stronger*. I think sometimes these words go too far. I’ve even heard mothers calling their own daughters *pa’umuku* (sluts and whores) and they think those are the type of words that will challenge them to change but in fact they don’t.”



*Inquiry public consultations participant*

It was clear during the Inquiry that for some, harsh verbal discipline/violence was not considered a form of violence. Some reasons for this may include the lack of understanding of what constitutes harsh verbal/violence, or the consideration of it to be normal because of the way they were brought up.

#### **Inquiry Info Point 5: What is verbal abuse of a child?<sup>5</sup>**

Harsh verbal discipline or verbal abuse/violence can negatively impact the development of a child and includes:

- Verbal intimidation (shouting, yelling, threatening or screaming at the child);
- Vulgarity (swearing or cursing at the child);
- Humiliation (calling the child dumb, or lazy, or useless or something similar).



Harsh verbal discipline/violence (and emotional abuse) of children is hard to measure as it is very rarely reported yet the consequences can be far reaching. It often goes hand in hand with physical violence, as in the case of Falaniko’s wife with their children. The Commissioners were extremely concerned to hear stories relating to verbal discipline/ violence suffered by children and the impact that it could have on their lives.

“I have seen women and children [...] who are spoken to in a manner that is ‘violent’, and ‘negative’, sworn at, told they are useless, not worth anything – which in turn manifests itself physically in the form of illnesses like depression, anxiety, post-traumatic stress disorder.”



*Inquiry public consultations participant*

#### **Case Study 3: Teulia’s\* pregnancy**

Teulia became pregnant as a teenager. It was not planned but it was something that happened. She turned to her family for support and care.



<sup>5</sup> Ming-Te Wang and Sarah Kenney. (2014). “Longitudinal links between fathers’ and mothers’ harsh verbal discipline and adolescents’ conduct problems and depressive symptoms.” *Child Development Journal*, 85(3). pp. 908 – 923. Document 107 of Inquiry anthology.

Her family reacted by battering her with negative words constantly about the shame she had brought upon the family and what type of person she was to get pregnant at such a young age.

Teuila could not cope with the things that were said to her. She felt bruised, humiliated, helpless and alone.

One day she took her own life.



*\*Names changed to protect the identities of those involved*

Teulia is not alone. The National Council of Churches (**NCC**), especially the Samoa National Youth Council (**SNYC**), expressed serious concerns about the rates of youth suicide, believing harsh verbal discipline/violence to be the worst contributing factor. This is supported by Judge Sa'aga of the Family Violence Court who told the Inquiry that, "many of our children are dying because of the things that come out of our mouths". This was also reinforced by the MoP who is often the first responders in situations of this nature:

"Recently we dealt with a few cases of suicide and this all relates to family violence issues. In one case a father must have told off one of his sons and the words he used were verbal abuse and quite mean and they woke up one morning and the guy had hung himself. It all relates to family violence because of the verbal abuse."



*Police outpost officer, Inquiry hearing*

### 7.1.3 Violence towards children borne of frustration

A further recurring theme throughout the Inquiry was the observation that the use of physical and harsh verbal discipline / violence often occurred not because the child had done something wrong but because the parent was using that as an excuse to take their frustrations out.

"We normally smack/beat our children because we say they are naughty but when we think about it, even when the child is playing with his toys we say he is naughty, when he climbs up the chairs we say he is naughty. Maybe the cause is us. The parents not understanding the mind of the child and their developments. We are beating them up for no good reason."



*Inquiry public consultations participant*

The Inquiry participants shared that when children are disciplined for actions or circumstances directly because of their behavior, the risk of extreme violence is much higher. This is inevitable as they are not addressing the root cause of that frustration, instead projecting it on to the child and allowing the real root cause to go unaddressed.

#### 7.1.4 Violence towards non-biological children

##### Case Study 4: Falaniko's\* wife and the adopted children

Falaniko and his wife Susana adopted Falaniko's a son in 2001 and a daughter in 2003. All of which are Falaniko's younger sister's children. They raised them as their own for many years.

In 2013, Susana became pregnant to their first child and again to their second child in 2016.

Around that time Susana's behaviour towards the two adopted children changed dramatically. She started to treat them differently to her biological children.

She became violent towards them. Falaniko goes to work every day but knows they are vulnerable during that time as Susana beats them up and verbally abuses them.

*"The things she says to those kids was so mean and demeaning. It hurts me because at the end of the day they are my flesh and blood."* (Falaniko)

One day, Falaniko returned home and saw his adopted daughter had a blood clot in her eye. When asked why, she replied her mother had thrown a pen at her. On another occasion he returned home to find his adopted son with a cut on the back of his ankle only to discover that a knife had been thrown at him. Recently Susana has been known to throw the daughter's head against a concrete slab. According to Falaniko, Susana's reasons for her actions were because the children were disobedient.



\*Names changed to protect the identities of those involved

The Inquiry was saddened to hear many stories similar to that of Falaniko and his wife, where children when adopted, were treated worse by their adopted or step families than they would have been if were biological children.

The children in this case are flesh and blood (*tino ma āano*) of Falaniko and as highlighted were harmed in a space they were meant to feel safe and complete with *alofo*. The right to equality and to be treated fairly whether adopted or not was not upheld in Falaniko's home or used to guide the upbringing of their children. It is clear from this case that the adopted children were dragged while the biological ones were carried and were not seen as equals.

Falaniko's case also begins to give an insight into a different kind of abuse towards children that is less understood yet just as, if not more, harmful and prevalent – harsh verbal violence.

### 7.1.5 'Reasonable punishment (violence/discipline)' and violence against children as a private matter

In the course of the Inquiry, many stories were relayed of discipline/violence towards children and repeatedly the question was asked: What constitutes reasonable punishment (violence/discipline) of children? What is the legal standard in Samoa?

#### **Inquiry Info Point 6: What is 'reasonable punishment' of children by parents under Samoan law?**

Section 12 of the *Infants Ordinance 1961* makes it illegal for any person having the custody or control of any child under the age or apparent age of 18 years, to cause that child unnecessary suffering or injury (implicitly through discipline).

However, section 14 of the *same* Act allows a parent, teacher, or other person having the lawful control or charge of a child to administer reasonable punishment on that child. The Act is silent on what 'reasonable punishment' means.



Case laws leave it open to interpretation by the Judge hearing a particular case.<sup>6</sup> As such, there is no legal definition of 'reasonable punishment' in Samoan law and makes it harder to hold perpetrators of violence towards children to account.

This legal uncertainty has created a situation where parents and society at large don't understand where the line is. For some, slapping is ok but not punching; for others using a weapon or instrument to hit amounts to violence and some have no boundaries. Hardly anyone who came before the Inquiry viewed any form of verbal discipline/violence as crossing the line of 'reasonable punishment'.<sup>7</sup>

"The problem with this (reasonable punishment defence) is that your reasonable punishment and my reasonable punishment are very different."



*Justice Vui Clarence Nelson, Supreme Court Judge, Inquiry public hearings*

The consequence of this uncertainty is that there are people all along the spectrum of what is acceptable and there is no way of saying to any one person that their actions towards children are going too far.

<sup>6</sup>*Police v Lagaia* [2017] WSDC 23 (13 October 2017). Retrieved from <http://www.paclii.org/cgi-bin/sinodisp/ws/cases/WSDC/2017/23.html?stem=&synonyms=&query=reasonable%20punishment>. Accessed 30 May 2018.

<sup>7</sup> See section 14 of the *Infants Ordinance 1961*.

“Although most people know intuitively how normal physical or social interaction and abuse differ, lack of specification means that perpetrators, authorities and even victims can dismiss episodes as ‘acceptable’, or fail to report them. Differences in community perceptions as to what is and is not acceptable are major factors supporting the persistence of domestic abuse.”



*Family Health and Safety Study 2000, Inquiry document 83*

### **Case Study 5: Tina\*, the silenced witness**

Tina was a medical student in a rural clinic in Samoa and one day a young boy of 14 years presented himself for examination. The boy had a laceration to the back of the head and Tina referred him to a nurse for treatment. While the nurse was suturing the wound Tina asked how it had occurred. The boy replied that his father had hit him across the head with a plank of 2 x 4 wood. Tina enquired whether he had told the nurse how it happened and the boy replied that he had.



Tina asked the nurse whether they should report the matter but was told in no uncertain terms to mind her own business and that they shouldn't become involved in family matters.

\*This case study was relayed to the Inquiry during the public evidence provided by Dr. Malama Tafunai and is detailed in document 5 of the Inquiry anthology. Names have been amended to protect the identity of those involved.

Two elements of this story are alarming. The first is that the case above illustrates that a young boy being hit by his father with a plank of wood was considered ‘reasonable punishment’ not only by the father, but the nurse as well. The second is that by preventing this issue from being reported the nurse has contributed to the normalization of family violence by allowing the act to go unpunished, and therefore implicitly endorsing the behavior.

The health services can also be a first responder to cases of violence against children. However, there is a view amongst some people that violence particularly involving children should remain a private matter. This is a significant barrier to proper response, as discovered in Tina's experience above. This brings down a veil of silence around violence that allows the perpetrator to avoid taking responsibility for their actions and sends a message that society permits this type of behaviour. This could constitute a violation of the young boy's right to equal protection under the law and certainly impacts the *Fa'asamoa* principle of *amiotonu*. There is no reconciling the widespread practice of treating family violence as a private matter and *amiotonu* as experience shows that in doing so justice is very rarely served and the abuse continues.

The line between ‘reasonable punishment’ and violence against children is one which has yet to be defined in Samoa but the Report aims to do just that in the later sections. For now, the matter will continue to be referred to as physical and harsh verbal discipline / violence, until a clear definition has been arrived at and a determination made on a case by case basis as to whether an act amounts to discipline or violence.



### 7.1.6 Prevalence of physical and harsh verbal violence/discipline

The experiences of Tavita, Tina, Falaniko's children, Solomona and Teulia gave the Inquiry an insight into the types of violence endured by children in Samoa. Their experiences are representative of many, with 9 out of 10 of boys and girls being subject to violence in their lifetime, and 69% of girls and 63% of boys experiencing violence within the past 12 months.<sup>8</sup> This indicates violence is both widespread and common.

The most common type of violence experienced by both boys and girls in Samoa is emotional abuse. 43% of children reported experiencing emotional abuse, and 35% reported subject to both emotional and physical abuse, while 12% said they are subject to only physical abuse.<sup>9</sup>

The SYNC supported these statistics in their evidence to the Inquiry. They reported that regular forums and work undertaken by the SNYC has shown that the majority of their members suffer from low self-esteem due to continuous and consistent harsh verbal discipline/violence by family members and the community at large.

The above figures only account for the direct violence endured by children in Samoa. A rarely considered type of emotional abuse against children is the witnessing of violence within the family unit, usually towards one of their parents. The Inquiry heard stories of mothers being punched, stabbed and verbally abused as their children sat and watched, or sometimes pleaded for it to end. The Inquiry also heard as siblings watched on in horror as their father struck their brother with a machete who then died in a heap in front of them. Expert witnesses who have studied family violence for years highlighted numerous murder cases between intimate partners where the child was present in the final moments.<sup>10</sup>

Most parents would not classify their approach to discipline as a violent one. However, no matter whether Samoan parents believe their methods of discipline (verbal or physical) to be violent, the evidence above shows they are. Thus, we must consider why we continue to allow such disciplining methods in our society. In order to provide greater clarity on this matter the Report will later seek to provide the first national definition of what constitutes violence versus reasonable punishment.

The statistics and case studies highlight how emotional or physical violence plays a part in the majority of Samoan childhoods. The consequence of this upbringing and such exposure to violence needs to be fully understood in order to assess its effectiveness and determine whether it is in the best interests of the child. This is considered in **section 9.1**.

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<sup>8</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>9</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>10</sup> John Devaney. (2015). "Research Review: The Impact of Domestic Violence on Children." *Irish Probation Journal*, 12. p. 82. Retrieved from <https://pdfs.semanticscholar.org/506f/db2353976001352213a72baf3c48aaa743c0.pdf>. Accessed 30 May 2018. See also Terra Katherine Pingley. (2017). "The Impact of Witnessing Domestic Violence on Children: A Systematic Review." *Master of Social Work Clinical Research Papers*. Retrieved from [https://sophia.stkate.edu/cgi/viewcontent.cgi?article=1779&context=msw\\_papers](https://sophia.stkate.edu/cgi/viewcontent.cgi?article=1779&context=msw_papers). Accessed 30 May 2018.

### 7.1.7 Sexual abuse and incest

According to senior members of the Judiciary, sexual abuse of children and incest has become an epidemic.<sup>11</sup> It should come as no surprise given how common stories of sexual abuse and incest in Samoa in recent years. This was also confirmed by the stories of family members committing sexual violence towards other family members, as well as young girls enduring horrific acts of sexual violence often at the hands of those they should be able to trust the most.

The case studies below not only highlight some of the experiences of victims and survivors of sexual violence and incest during their childhood, but also unpack and dispel myths around sexual violence. These experiences need very little explanation. The facts speak for themselves and are a terrible reminder of the heartbreaking epidemic of sexual violence towards children in Samoa.

#### Case Study 6: Lani Wendt Young\*

Lani was about 7 when the abuse started. The abuser was a male relative who was welcomed into her home whenever he visited.

*"I say I was 'about' 7 because it's hard to pinpoint an exact moment. There's often no single traumatic event, but rather a gradual process where the child is groomed by the abuser so they are your friend.*

*The things they do to you are playful and fun, a special secret that you share. Sometimes the abuse can feel good to your innocent and trusting child's body. Until it doesn't.*

*And then they turn to threats and fear to keep you compliant."*

Lani did not tell anyone about her abuse for years, until she met her husband – someone she could finally trust again. It took another 20 years of counselling and further heartache before she was able to fully open up about what she had experienced.

\*Lani gave evidence to the Inquiry during the public hearings and consented to the use of her real name for the report. Her courage in speaking publicly, and that of the other public witnesses, is acknowledged by all of the Inquiry Commissioners with the hope of removing the veil of silence around family violence.



<sup>11</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

### Case Study 7: Sisilia and her trusted cousin

Sisilia had a very happy childhood, filled with family, church, friends, warmth and love.

*“And yet. In that happy childhood something horrible happened. I was abused by an older cousin. A cousin is like a brother. Brothers are supposed to protect. This was the foundation on which my world was built.”*

Even at the age of 4 Sisilia knew the abuse was wrong, but blamed herself.

Today Sisilia is a successful lawyer and mother of two children but she continues to bear the weight of the sexual abuse she suffered in her own childhood. She has worked hard to minimize the long term impacts but believes that coming to terms with abuse takes a lifetime.

\*Sisilia gave written evidence to the Inquiry and consented to the use of her real name for the report. Her courage in speaking publicly, and that of the other public witnesses, is acknowledged by all of the Inquiry Commissioners with the hope of removing the veil of silence around family violence.



### Case Study 8: Tasi's\* tragic tale<sup>12</sup>

Tasi's mother died when she was 14 years old, leaving her father responsible for bringing her up.

One night in 2009 her father had come home drunk and was in his room. He called her in to sit on his bed and as any dutiful daughter does, she complied. He then proceeded to rape Tasi, his own daughter, despite her cries and telling him how painful it was.

Afterwards he told her not to tell anyone about what had happened. He went on to rape her regularly after coming home drunk until she became pregnant with his child. She was confronted by her brothers and confessed that the child was her fathers. An altercation followed in the village which led to the father and the whole family being banished from the village.

Following the birth of the child, and after the family had relocated to another village, the rape continued and Tasi went on to give birth to another two children. When she became pregnant for the fourth time Tasi could bear the pain no longer and aborted the baby as she wanted it all to end.



<sup>12</sup> Samoa Observer. “Horrendous tale of sexual abuse.” (24 October 2017). Retrieved from [http://www.samoaoobserver.ws/en/25\\_10\\_2017/local/25840/%E2%80%9CHorrendous-tale-of-sexual-abuse%E2%80%9D.htm](http://www.samoaoobserver.ws/en/25_10_2017/local/25840/%E2%80%9CHorrendous-tale-of-sexual-abuse%E2%80%9D.htm). Accessed 30 May 2018.

In 2016, as the rape continued, Tasi married in the hope that this would stop the treatment at the hands of her father. It did not and the father again raped her while her husband was at work. This, however, led to a family meeting where the behaviour was uncovered and eventually reported to the police.



\*Names changed to protect the identities of those involved.

One defining feature of Lani's story, and many others like her, is the shame that she felt and how that prolonged her pain and suffering, delaying the moment when she was able to emerge from being a victim to being a survivor. Moreover, Sisilia's experience is not uncommon and the Inquiry heard and read numerous cases where a family member sexually abused their relative. In fact, many perpetrators described to the Inquiry had no distinctive features and what were otherwise being considered ordinary people. Similarly, Tasi is like many girls and women in Samoa who have to endure horrific acts of sexual violence, often at the hands of those they should be able to *trust the most*.

The Samoan Constitution provides for the freedom from inhuman treatment, a well-established human rights standard. Furthermore, the CRC provides for children to be free from all forms of violence including sexual abuse, neglect and mistreatment.<sup>13</sup> The *Fa'asamoa* takes equally strong measures to protect against this form of abuse through the construct of the *vā tapuia* and the *feāgaiga*. The stories above highlight how these women (during their childhood) were not afforded these rights and protections under the Constitution, human rights and the *Fa'asamoa*.

The families of these women have failed them, like the families of others in similar situations. Not only is the family failing people like Tasi, Lani and Sisilia, but also the *Fa'asamoa*, their community, their Government, their Village Fono and their churches are failing these women. This is because these women's suffering and the suffering of others like them are now well-known and yet no meaningful action is taken. There is no longer any excuse for not wanting to truly understand the true nature and root causes of family violence as a means of preventing further children having to suffer these types of violence.

One of the myths around sexual assault is highlighted by the above experiences.

### **Myths 3: Abusers are often strangers, or terrible monsters and only adults abuse children**

Reality: The Inquiry has heard multiple stories where the perpetrator of sexual violence against a child is a close family member. Other common perpetrators included teachers, pastors, neighbours or friends. Neither was there any upper or lower age limit of those carrying out the crimes, in keeping with research and studies undertaken in countries worldwide.



<sup>13</sup> See Articles 19, 37 and 39 of the *Convention on the Rights of the Child*.

### Case Study 9: Sala\*, her abusive step-father and disbelieving mother<sup>14</sup>

Sala is 12 years old, with four younger siblings and used to live with her parents in the village.

Everything was OK until her step-father began to molest her. Eventually she ran away from home.

Sala's mother came to pick her up and take her home again. When they got there she beat Sala with the cord of an electric kettle because of the account of the sexual abuse she gave. Her mother didn't believe her and continues to not believe her, despite the matter now being referred to the police.



\*Names changed to protect the identities of those involved.

### Case Study 10: Masina\*, her abusive step-father and provoking clothes<sup>15</sup>

Masina was 11 when the sexual molestation started at the hands of her late step-father. She was the third step daughter that he had inherited from his marriage to Masina's mother. After three years of abuse she decided to tell her mother and according to Masina this signals the end of their relationship for the years to follow.

Masina's mother did not believe her and resented her because of the shame that her story has on the family. "I was called a liar because no actual sexual intercourse happened and... my already modest clothes were inspected every day [by mother] to ensure that I was not provoking the abuse."

Masina is now married with children and still struggling to deal with the emotional effects of the abuse and her children and husband are now directly affected by the impacts of her experience.



\*Names changed to protect the identities of those involved.

Some caregivers often do not want to believe that horrific acts of sexual abuse can happen to their child and instead find it easier to believe that the child is making up lies, rather than telling the truth as this allows them not to confront the truth. Another disturbing issue that comes across from these young women's stories is the failure of their mothers to take an active interest in the welfare and protection of their children. In saying that, it is not only mothers that bear the responsibility of safeguarding the best interest of children, but fathers and their families also have a role to play.

The right of all children to be heard and taken seriously constitutes one of the fundamental values of the CRC. In the *Fa'asamoa*, '*O fanau o fa'amanu'iga mai le Atua*' (Children are blessings from God) and

<sup>14</sup> Evidence provided to the Inquiry by a victim.

<sup>15</sup> Anonymous written submission.

children are the 'core' of their parents. This implies that children are precious and parents are to nurture and guard them in a place of trust, *alofa* and support. Accordingly, Masina and Sala were not afforded these rights and protections.

#### **Myth 4: Children often make up stories and can't be trusted**

Reality: Children rarely report their abuse and when they do, they are often not believed. Reporting such an incident can cause extreme pressures and stress within the family, even arguments. Under emotional duress and heavy questioning children may even retract their statement. This does not mean that they have lied.



In the case of Masina, her mother viewed her clothing as provoking the abuse. This was also a common view shared by participants during the Inquiry that provoking clothes invite sexual attention. However, as shown by the myth below this is not the case.

#### **Myth 5: Children invite sexual abuse by acting or dressing seductively**

Reality: No child (or indeed adult) wants to be sexually abused and the psychological and physical impact can be devastating and last a lifetime. A child cannot give consent for sexual activity and by this reason alone cannot be held responsible for any sexual acts. By placing the blame onto the victim in this way society is merely allowing the abuser to avoid responsibility for their actions.



#### **Case Study 11: Iulia, Marisa and Tane\* and their abusive Uncle<sup>16</sup>**

Iulia and Marisa are 14 and 12 year old sisters, along with their 9 year old brother Tane.

Their uncle sexually assaulted all three of them and raped Iulia. While Iulia was being raped she was scared that her uncle would kill her afterwards.

Marisa, who was 11 at the time of the sexual assault, suffered injury to her vagina as did Tane to his anus. Tane, too was worried that he would be beaten by his uncle because of what he had done to him.

In sentencing their uncle, Supreme Court Justice, Tafaoimalo Leilani Tuala-Warren established a severe breach of trust, stating, "instead of protecting the



<sup>16</sup> See Samoa Observer. "Uncle jailed 13 years for raping sister." (12 December 2017). Retrieved from [http://www.samoaoobserver.ws/en/12\\_12\\_2017/local/27731/Uncle-jailed-13-years-for-raping-sister%E2%80%99s-kids.htm](http://www.samoaoobserver.ws/en/12_12_2017/local/27731/Uncle-jailed-13-years-for-raping-sister%E2%80%99s-kids.htm). Accessed 12 May 2018.



victims, he took advantage of his ability to sleep in the same house as the victims". In sentencing Justice Tuala-Warren also highlighted the psychological impact that the abuse would have on the children.



\*Names changed to protect the identities of those involved.

#### **Myth 6: Sexual abuse always leaves evidence**

Reality: A lack of physical evidence of sexual assault is often cited as support that an alleged perpetrator must be innocent. However, research shows that it is rare, even in cases where abuse has otherwise been proved.<sup>17</sup> Some acts, like oral sex and fondling, leave no physical trace. Even injuries from penetration heal very quickly.



#### **Myth 7: Only girls are sexually abused**

Reality: It is a dangerous myth that only girls are abused. Dangerous because it means that boys receive less attention and are therefore more vulnerable and also because our support services are then not set up to deal with such cases.



### **7.1.8 Prevalence of sexual violence and incest**

Reliable and comprehensive data on how many children this is happening to is hard to come by. In the last Government report to the CEDAW Committee<sup>18</sup>, the Government reported 198 sexual crimes between the year 2012-2015 with 53% (105) being children aged 13-16. However, the Planning and Policy Division of MoP has also reported 112 cases of rape or sexual assault of a girl under the age of 16 in the year 2013-2014 alone.<sup>19</sup>

As noted earlier barely a day passes without a report of a similar story in the national media. And if this were not enough to convince that the problem is widespread, the Inquiry heard evidence from service providers and the Judiciary who see the scale first hand. For instance, Dr. Malama Tafunai's<sup>20</sup> testimony to the Inquiry was heartfelt, despairing and tinged with great sadness. Fighting back the tears, Dr. Malama told the Inquiry of the numerous young women and children she had seen who she suspected had been raped, including one of her more sinister cases:

<sup>17</sup> See for example, Luci Pfeiffer, Edila Pizzato Salvagni. (2005). "Current view of sexual abuse in childhood and adolescence." *Jornal de Pediatria* 81(5). pp.197-2014. Retrieved at [http://www.scielo.br/pdf/jped/v81n5s0/en\\_v81n5Sa10.pdf](http://www.scielo.br/pdf/jped/v81n5s0/en_v81n5Sa10.pdf).

<sup>18</sup> Government of Samoa. (2017). *Sixth Periodic State Report to the Committee on the Elimination of Discrimination against Women*. CEDAW/C/WSM/6. Document 90 Inquiry anthology.

<sup>19</sup> Written submission to the Inquiry by Tuiloma Sina Retzlaff. Document 61 Inquiry anthology.

<sup>20</sup> Dr. Malama Tafunai is currently a senior clinical lecturer with the School of Medicine at National University of Samoa and has years of experience as a primary health care physician and general practitioner in Samoa and New Zealand.

“The most vivid that has lived with me for many years was a 13 year old (pregnant) girl who was brought in by her parents. I remember her being very withdrawn and her mother doing most of the talking. When I told them we had to report this (the rape of the daughter) to the police the story came out that the woman was making her own daughter have sex with her father (her husband) because he wanted more kids and threatened to leave her (the mother). This whole family disappeared soon after the baby was born, before the police arrived.”



*Dr. Malama Tafunai, Inquiry public hearings*

The widespread nature of sexual violence and incest was also impressed upon by the Inquiry by Justice Vui:<sup>21</sup>

“We have to listen to so much heartbreak. Stories that our community never gets to listen to. This is the room (his courtroom) you have a 10 year old girl telling me about being raped by her father. You will have a 6 year old boy telling us how his uncle sexually abused him. 6 years old! You will hear stories of incest where a father repeatedly commits sexual intercourse on his own biological daughter. There are three cases on today. All rape. In my courtroom it is the rape of a 14 year old niece by her 60 year old uncle. In the court next door it is rape by a 30 year old man on his 14 year old neighbor. In the court room next door it is the rape of a 17 year old boy by a 55 year old. This is our reality.”



*Justice Vui Clarence Nelson, Supreme Court Judge, Inquiry public hearings*

### 7.1.9 Other emerging forms of sexual violence against children

The Inquiry was also told of a number of other different types of sexual abuse of children, that of child prostitution (where the victims are both boys and girls), and child pornography.<sup>22</sup>

“Have you heard about tourists coming here for sex with young boys? Yes it has occurred and it is happening. There have been cases reported and we also see it.”



*Police outpost officer, Inquiry public hearings*

This concerning trend has been under-reported so far but was confirmed by other witnesses to the Inquiry, including those working in the media. Additionally, the Judiciary has started to come across cases of child prostitution and this was confirmed by Justice Vui.<sup>23</sup> Whilst strictly falling outside of the scope of the Inquiry, the root causes of child prostitution and child pornography may be similar to other types of child abuse and violence.

<sup>21</sup> Justice Vui Clarence Nelson is a Supreme Court Judge of Samoa and is also Committee member and Vice President of the UN Committee on the Rights of a Child.

<sup>22</sup> See Lurlene Christiansen. (2015). “Child Sex Tourism in Samoa.” *Global Study on Sexual Exploitation of Children in Travel and Tourism Expert Paper*. Retrieved from <http://www.ecpat.org/wp-content/uploads/2016/10/4.7-Expert-Paper-Christiansen-Lurelene.pdf>. Accessed 26 April 2018.

<sup>23</sup> MJCA and UNICEF. “Empowering the Youth & Empowering the Family Unit to stop Violence – Youth and Family Courts.” *Workshop*. Apia, November 2017.

### 7.1.10 Underreporting of violence against children

It was also highlighted to the Inquiry that cases of violence against children are rarely reported. Most children do not report their abuse and some who do are not believed or beaten into silence.

Children are an inherently vulnerable group to acts of violence and not empowered to raise concerns when they are subject to violence. The most common inflictors of violence against children are fathers (48%) and mothers (31%)<sup>24</sup> so it is little surprise that children are unable to raise concerns about the treatment they receive at the hands of their own parents, even without considering their potential lack of knowledge of how to do this or their physical capacity to do so.

This is a concerning issue because it indicates significant problems with data collection but also reflects only a small percentage of the actual number of such crimes.

#### **INQUIRY FINDING 2: Physical, harsh verbal discipline/violence and sexual violence towards children has reached epidemic levels.**

- 9 out of 10 children in Samoa experience violence in their lifetime.
- Physical discipline/violence is often extreme in nature, going way beyond what is 'reasonable punishment' under Samoan law.
- Sexual abuse of children and incest levels have reached 'epidemic' proportions in Samoa.



## 7.2 Adult violence

### 7.2.1 Intimate Partner Violence

Intimate Partner Violence (**IPV**) refers to any type of violence between partners in a relationship, whether married or unmarried. The type of violence it covers includes all of the types of violence set out in **section 5.1**.

### 7.2.2 Who is most at risk?

The SFHSS 2000 makes it clear that IPV occurs within **every** part of Samoan society. There is not a single demographic where the rate of IPV drops below 33% of all women surveyed, with a national average of 46.4%. The variation in prevalence within the demographics is mostly insignificant. For instance, the SFHSS 2000 found there to be no significant difference in the rates of violence if a woman was married, divorced, widowed or in a de facto relationship. The same was true of the position of the woman in the household or whether they belonged to any organization (women's committee, church, etc.).

<sup>24</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

However, there were differences when looking at the education level of women. For those whose highest education level was Primary or below, 60% had experienced IPV. For those who had reached secondary school it was around the national average, and for those who completed tertiary education it was 39.7%. This gives a strong indication that completing higher levels of education reduces (but by no means eliminates) the risk a woman will be subject to IPV. Unsurprisingly, this trend is mirrored in the economic status of each household with women living in low income groups more likely than those in high income groups to endure violence in their lifetime (57.6% in low income versus 38.1% in high income).

Education also appears to play a part in how likely a man is to use violence in an intimate partner relationship with 54% of those who finished school after primary school being abusers compared to 38.9% of men who finished tertiary education.

These statistics must be viewed in context, however. The fact that 4 out of 10 women in high income households or that 4 out of 10 men who finished tertiary education live in violent households is still unacceptably high and no demographic should be overlooked simply because prevalence rates are lower than in other groups.

The pattern of abuse in many of the relationships relayed to the Inquiry was one of worsening violence. The severity of the violence in some of the cases was shocking and in many instances it was only fortune that meant the victim was still alive. The following are some of the stories discovered in the inquiry of IPV.

#### **Case Study 12: Hope's\* abusive Cabinet Minister husband**

Hope never thought it would happen to her. She always believed herself to be a strong person with a strong will and someone who always stood up for her rights. She was brought up to believe in herself and was given a voice to express herself.

Everything changed when she got married to Ioane, who was a Cabinet Minister at the time. Ioane's family saw women as subordinates and her voice only now existed behind closed doors, but Hope accepted this although it meant her and Ioane often argued when she tried to tell him how she felt. The abuse started out as verbal and emotional to begin with.



*"My husband would say 'Kuu lou amio fa'amaile [ [...]] ma lou fiakagaka'.*

*I would feel like I had been kicked in the stomach. Words like these uttered in such a manner and in front of onlookers is humiliating and demoralizing. I understand now that this was his way of feeling empowered."*

Hope had come to half expect physical violence from Ioane because of the verbal abuse he gave her. She had also heard that he had been abusive in his first marriage, as had his father before him. However, even though she thought she was prepared she came to realise nothing could prepare her for the violence, which came out of the blue.

Hope was lying on the floor one day when, unprovoked, loane walked across the house and deliberately stepped on her head. From then on he started a pattern of regular violence towards Hope that she came to realise coincided with when he was angry with other things, such as the Manu team losing or if he had simply had a bad day.

Hope continued to put up with the verbal abuse until one day she was sat down having prepared dinner for loane and his family when he came home drunk with his relatives. As he passed her Hope felt something hit her on the head.

*"I was in shock. I just sat there until I felt blood trickling down my forehead. I realized he was holding a half bottle as it cracked from hitting my head!"*

*I saw my son standing there with fear in his eyes looking at me. No-one said anything."*

For Hope that was the final straw and she gathered up her son and fled the family house. She chose to remain quiet to protect the public image of her husband but later heard how he had boasted that he had *fasi* (hit) Hope because she deserved it.

Hope decided to file for a divorce but loane continued to threaten her. Despite this, she continued with the divorce and is now separated.

\*Names changed to protect the identities of those involved.



Hope's story highlights a number of important characteristics of IPV which were present in many of the cases heard by the Inquiry. The first point is to reaffirm that IPV, as with all forms of violence, is about *power and control*. They are not about disobedience, as the Inquiry has already outlined in relation to violence against children. Hope had done nothing more than make the family dinner on the night loane hit her on the head with a bottle. Furthermore, we must start to come to adopt the mindset that nothing excuses violent behaviour.

Secondly, Hope's experience demonstrates the similar nature of IPV to violence against children in that physical and verbal abuse are often linked and the impact of verbal abuse can be just as bad or worse than physical harm.

Thirdly, Hope was not treated as an equal in the household and was abused by her in-laws as well as her husband. The issue of inter-family violence and the position of *nofotanes* (married women living with their husband's family) will be discussed in **section 7.2.4**.

Finally, Hope's abuse was witnessed by her child and this is not uncommon either. What is more uncommon is an understanding of the impact of witnessing such abuse as briefly mentioned early in the Report and will be dealt further when considering the impacts of IPV in **section 9.2**.

IPV of this nature constitutes a breach of human rights, of the right not to be subject to inhuman treatment, the right to liberty and security of the person. These guarantees are also found in the Constitution of Samoa and because they disproportionately affect women constitute discrimination as well. The *Fa'asamoa* reaches a similar conclusion to that of human rights in that there should be respect within relationships (*fa'aaloalo, vā feāloa'i*) based on consensual dialogue (*soalaupule*). Whichever way you view the case of Hope, and all those who are abused by their partner, it is a clear and widespread violation of the *Fa'asamoa*, as well as principles of human rights.

### Case Study 13: Destiny's\* Survival

Destiny was 19 when she married her husband, Fetu, and only 6 months later the physical abuse started. On the night of her sister's wedding she was tired and wanted to go home. This led to an argument, which ended up with Fetu grabbing her by the throat.

*"Things went on and on like this and every time they did, the violence got worse. The more I pushed back, the more violent he became. It was how he proved his point. He made the choices for me, I did not. No I couldn't go home early. No I couldn't go to lunch with my friends. No I couldn't go to my cousin's house. There was no freedom in his love for me, if that's what it was at all.*

*My friend's brother died and I wanted to go to the funeral. He said no, but I went anyway, even though I knew what was coming. I remember him smashing [...] things that meant a lot to me. He controlled what I owned too.*

*That day he raped me. Grabbed me by the hair and dragged me to the bed. He had a pair of scissors in one hand and pointed it at my throat.*

*I was being punished, put in my place."*

Destiny continued to be raped within her marriage for years. She went on to have a child and Fetu used to threaten the child with a gun. The violence kept on escalating. One day Destiny took her child and managed to escape and has since found a partner she can trust who does not abuse her. However, both she and her daughter still have to have regular counselling.

\*Names changed to protect the identities of those involved.



Violence is a slippery slope. Often what is initially a little slap quickly becomes a punch, which becomes assault with a weapon, which becomes rape or sexual assault. Any tolerance of violence in society does so in the knowledge that situations such as Destiny's are inevitable.

Destiny's story also reaffirms how *power and control* is at the root of IPV, including when it is of a sexual nature. The power can be exercised through sex, through physical violence, verbal abuse or restricting a person's freedoms by not allowing them to go places or have access to finances.



**Myth 8: Women are obliged to have sex with their husbands once they are married**



Reality: The *Crimes Act 2013*<sup>25</sup> removes the specific exemption of marital rape contained within the *Crimes Ordinance 1961*. This means that rape within a marriage is a criminal offence, punishable by up to life in prison.

Marital rape is a crime in Samoa and amounts to inhuman treatment under the Constitution or human rights and is totally contrary to the *Fa'asamoa*. It is often part of a pattern of violent and abusive behaviour, as in the case of Destiny. The Report has highlighted time again how the *Fa'asamoa* is based on the principles of reciprocity and mutuality. There is a strong and valid reason for this and it is because those very values lose all meaning if they are only demanded and not offered in return. How is the protection of any person, spiritual or physical, going to be sustainable if that person demands it at the expense of the same for others? Marital rape is one of the most severe violations of the *Fa'asamoa* and of the principle of mutuality, respect, protection and love. Therefore, widespread understanding of marital rape is required to ensure the coercive nature of this type of behaviour is recognized and addressed.

**Case Study 14: Eteuati Ete, the Laughing Samoan<sup>26</sup>**

Eteuati is one half of 'the Laughing Samoans', a much loved comedy duo who have been putting a smile on people's faces for years. He also used to beat his wife, Mele.

*"There was a violent side to Ete," Mele says. "But to the rest of the world he was this charming, effervescent person."*

During their marriage there were several violent incidents, including once when Eteuati punched Mele in the face while she was driving, leaving her with a severely swollen black eye. The couple stayed together but lived apart for several years before reconciling and once Eteuati has overcome his violent past. This has only been possible through his acknowledgement that the violence was as a result of his desire to control Mele.



*"Publicly, people thought I was a funny guy, a great guy. But privately I was a guy with anger issues. I thought I'm going to be a really sad old man, if I continue to live in a controlling and violent way."*

<sup>25</sup> See section 49(4) of the *Crimes Act 2013*.

<sup>26</sup> Jared Nicoll. "Laughing Samoan confesses to his secret past as a wife-beater." (21 November 2017). *Stuff NZ*. Retrieved from <https://www.stuff.co.nz/national/98722131/laughing-samoan-confesses-to-his-secret-past-as-a-wifebeater>. Accessed 13 March 2018.

Eteuati is now a proud grandfather and says that facing up to his personality and himself was the 'scariest thing to do'.



The case of Eteuati Ete and Hope's story brings into sharp relief the fact that IPV can happen in any relationship, it does not matter who the couple are, how rich or poor they are, how well educated they are or how happy they appear to the outside world.

#### Case Study 15: Talia's\* shotgun hell<sup>27</sup>

Talia is a 50 year old mother of six children. One early morning, she felt like she was still dreaming and had something pointed at her forehead. When she opened her eyes, the muzzle of the shotgun was placed on her forehead by her drunken husband.

Why? She had disobeyed his orders not to go to church with their children the previous evening.

She fled with her children and when he couldn't find her, started to burn all of their possessions. Talia walked in desperation all the way to the police post in the next village but they would not help as they were too scared to intervene. They told her to wait until he calmed down.



\*Names changed to protect the identities of those involved.

*Disobedience* is a cover for the real reasons for any violence within a relationship – power and control. Reflect on this situation – Talia's husband **POINTED A SHOTGUN AT HER FOR TAKING HER CHILDREN TO CHURCH**. The actions of her husband were mainly driven by the need to control Talia. Who could reasonably argue that taking your children to church is even worthy of an argument? And never is it acceptable to point a shotgun at anyone, let alone your wife and let alone for the inconsequential matter of taking your children to church.

#### Case Study 16: Losa's\* path to speaking out

Losa is a nofotane with 11 children. She has been subjected to violence and emotional abuse from her first child to her last. Her husband got angry and beat her all the time and over the smallest things – commitments, the children, all of it an excuse to take it out on her.

"He is also a very jealous man and if I take too long to go to the shops he would get very angry."



<sup>27</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

She did not want to break her family apart so Losa suffered in silence, like many women all over Samoa in similar relationships.



\*Names changed to protect the identities of those involved.

### Myth 9: *Fuā* (Jealousy) causes men to beat their wives

Reality: Jealousy arises from a combination of the need for power and control and traditional gender roles of men and women. In a patriarchal society men are deemed to 'own' their women. Any man whose wife or partner is seen to be talking to other men can be viewed as being undermined or having lost power and control. Jealousy is the consequence of a man's need to retain power and control and perceiving that to be undermined by their partner talking to another man (or being suspected of it). Jealousy is a very powerful emotion which can be a trigger for violence but is not a cause. It must also be noted that jealousy is not solely a male preserve. It is simply far more prevalent among males arising from the patriarchal nature of society.



The presence of jealousy in a relationship shows how there has been a breakdown of the *Fa'asamoa*. If the *Fa'asamoa* is being well respected then there is *feāvaa'i* (mutual respect), *fa'atuatua* (trust), *amiotonu* (honesty) and *alofa* (love) in the relationship. Once these are violated or not respected it can lead to jealousy, which in turn can trigger violence. The human rights framework provides guidance on how to protect against violence and prevent it from happening. Applying these principles can in turn help to reassert the *Fa'asamoa* principles that were ignored in the first instance.

### Case Study 17: Malo's\* anger and finding God

Malo used to beat his wife and children routinely.

*"It was normal if they had done something wrong, or even if they had not done anything wrong. I used to beat my wife hard. Every time she speaks back to me or does not do what I say. That's one beating. If she sends money to her family without asking, that's another beating."*



For 20 years Malo beat his wife until one day she left, taking the children with her. It was many more years before Malo faced up to his problem and sought help. He found it in the form of his church minister and he has now turned his life around.

\*Names changed to protect the identities of those involved.

Malo confirms what we have already seen in violence against both children and adults – often it is nothing to do with the actions of the victim, it is solely arising from the frustrations of the perpetrator.

### Case Study 18: Malia\*and the slippery slope of violence

Malia met her partner in the 90s and he quickly started being violent towards her, starting off with a few slaps here and then and occasionally punching her. He got jealous every time she took her child from a previous relationship to kindergarten and the violence would often follow.

Malia left her partner and went overseas to get away but came back and they had their first child together. During the first year of being back together, things were not any better so Malia told her partner she was leaving.

He returned to the room with a picture of her daughter and a golf club. He hit her with the golf club with such force that the head broke off. After Malia left her partner, he tried to persuade her back and even sent his sister to appeal on his behalf but she feared for her life and that of her child and never returned back.



\*Names changed to protect the identities of those involved.

It appears that violence not only within relationships becomes worse over time, but in society generally as it becomes more acceptable it worsens across the board and becomes more visible, thus having a greater impact on the people who witness it.

The common traits seen in some of these cases were confirmed to the Inquiry by professionals working in the field of IPV. Ms. Savalenoa Betham-Annandale, a family law practitioner reported that 100% of her clients:

- Have suffered over an extended period (for example throughout a 20 year marriage);
- Have been hospitalized with severe injuries (for example one victim had a broken rib, black eyes and internal bruises);
- Have been beaten in front of the children and heard their children's cries (for example one child called out, 'that's enough daddy, please do not);
- Have reported each incident to the mother in law, or other family friends and as a result the mother in law beat her up or the family members ignored her;
- Have forgiven the husband or partner for the first incident and did not report because of fear.

Throughout the drafting of the Report similar cases appeared almost daily in the papers, including two extremely concerning instances, which highlighted how the nature of IPV appears to be worsening to such a degree it is spilling out onto the streets:

The first case involved a mother who was stabbed in the chest multiple times by her husband at night on a road on the outskirts of Apia. The stabbing occurred in front of her children who witnessed the whole event.<sup>28</sup>

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<sup>28</sup> Refer to Samoa Observer. "Man stabs wife in public." (20 July 2017). Retrieved from [http://www.samoaoobserver.ws/en/20\\_07\\_2017/local/22387/Man-stabs-wife-in-public.htm](http://www.samoaoobserver.ws/en/20_07_2017/local/22387/Man-stabs-wife-in-public.htm). Document 112 Inquiry anthology.

The second event, referenced in the introductory message, occurred on the streets of Apia in the morning. A man has now pled guilty to having approached his wife, arguing and then stabbing her multiple times before fleeing when challenged by members of the public.<sup>29</sup>

These events both indicate that IPV is becoming so common to the point that people are no longer trying to keep it hidden, away from public eyes. This is supported by the statistics on IPV from the various sources, which suggest that violence between partners is rampant across society and becoming the new norm in Samoa.

### 7.2.3 Prevalence of Intimate Partner Violence

According to the SFSS 2017, 60% of women aged 20-49 who had ever been in a relationship had experienced some form of intimate partner violence, up from 46% in the SFHSS 2000. The Policy and Planning Division of the MoP cites 2,892 cases of domestic violence as being reported to the Police in the year 2013-2014, although the DVU has 893 cases as being reported to them across both 2013 and 2014 combined.<sup>30</sup> The discrepancy in police data will be considered later in the Report but both figures are sufficient to demonstrate large numbers of complaints being made in relation to domestic violence.

The Inquiry survey of 1,500 people as part of the consultations also sheds further light on the prevalence of violence within our families (the following statistics apply to all family relationships and not just between intimate partners):

- 87% of respondents had been subject to yelling and harsh words;
- 87% had also experienced threats to cause physical violence or bodily harm;
- 86% had been subject to kicking, punching, slapping, causing bodily harm using a hard object (rock, stick, tree trunk, hose, etc.);
- 24% had experienced choking.

The statistics on prevalence of sexual violence within a relationship are just as concerning. The SFHSS 2000 reported one in five women had been forced or coerced into degrading sex in their lifetime. One in five women reported having been raped by their partner.<sup>31</sup> When we consider the previous statistic that one in ten women have also been raped by another family member the prevalence of rape in Samoan society is simply staggering.

5% of women who reported never to have been abused also said that their first time having sex had been forced<sup>32</sup>, demonstrating that the general understanding of what constitutes rape is poor and yet further evidence that the prevalence statistics available to us are an under-representation of the real picture.

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<sup>29</sup> See Samoa Observer. "Stabbing horror in Apia." (18 January 2018). Document 113 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>30</sup> "Exploring violence against women and girls in Samoa." *Fallen Lizard Films* (an analysis of data provided by MOP Policy & Planning Division and the Domestic Violence Unit). Document 117 Inquiry anthology.

<sup>31</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>32</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

This under-reporting of violence was apparent to the Inquiry as it was clear that people were becoming so sensitized to violence that for some a kick, a slap or a punch, no longer constituted violence and it had to be far more serious in order to meet that threshold. The perceived lack of seriousness was the primary reason for not reporting abuse according to 66% of respondents in the SFSS 2017. Outside of their definition of violence fell ‘a slap in the face, punching, shaming or being sworn at’ – all classic coercive behavioural types. When asked whether IPV was worsening 44% of women agreed, whilst 26% thought there has been no change and 23% viewed as it having improved. In considering these statistics we must also take into account the phenomenon described above in considering the cycle of violence whereby women often internalize abusive behaviours as a defence mechanism (and how that is reflected in high rates of acceptance among women of IPV). If a near-majority perceives family violence is worsening despite this internalization of abusive behaviours it suggests that the problem could be escalating at an alarming rate.<sup>33</sup>

The seriousness of the types of violence being perpetrated was already beginning to show its face in 2000 when almost one in ten women surveyed (8%) had lost consciousness because of the abuse they had suffered.<sup>34</sup> One person, possibly more than any other in Samoa today, understands the face of IPV and that is Siliniu Lina Chang<sup>35</sup> who has years of experience working with victims and survivors. Her views reflect the conclusion that IPV is not only becoming more prevalent but the nature of it is becoming more abhorrent.

“Today, the nature of violence is more serious and perpetrators are becoming more innovative in the way they carry out violent acts. In the old days it was just a case of scaring their wife but now it is about killing them. We have come across really horrific cases of violence, especially on women and children. Injuries you would never even imagine when you think about our cultural and religious values. This includes burning children with irons and cigarettes, knife injuries and more.”



*Siliniu Lina Chang, President of SVSG, Inquiry public hearings*

## 7.2.4 Other types of adult family violence

Whilst IPV constitutes a large amount of the violence within the family other types exist too. These include violence towards *in-laws* (*nofotane* (female in-laws) and *faiāva* (male in-laws)), and *interfamily or blood relations* (inter-sibling violence, and inter-generational violence between adults). The following case studies serve to illustrate the nature of violence found within these two broad categories.

<sup>33</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>34</sup> SPC and UNFPA. (2006). *Samoa Family Health and Safety Study 2000*. Document 83 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>35</sup> Siliniu is the President of Samoa Victim Support Group.



#### 7.2.4.1 Nofotane Violence

##### Case Study 18: Lote's mother-in-law

After they got married Lote moved in with her husband and his family and had high expectations. She used to enjoy living with her family where she felt free and there was no stress. She looked forward to the same. But everything changed.

From the start, Lote's mother-in-law made her life hell making her wake up at 5am to cook breakfast for everyone before they woke, cleaning up afterwards, and then going to the plantation for wood and taro before coming home to do the daily chores. By the time her husband came home every day she was almost too tired to tell him how her day had been. But more than the hard physical work she was required to do was the abuse she suffered at the hands of her mother-in-law.

*"The way I was treated by the mother-in-law was evil. I preferred being beaten than the words that were thrown at me. They were mean and demeaning and made me feel worthless. She said to me the reason you came to this family was to cook for us, to do everything for us, to burn your eyes. That is your role as a nofotane."*

*One day I did my normal chores and when I came back all my pots were outside as she had thrown them out. She was calling out that when I got there she was going to stab me with a crow bar. On another occasion my husband was angry because I had cooked a dish for the church minister and it was not good so he took off. I was trying to stir the pot for the family and felt a bang on the back of my head and the mother-in-law had come and hit me with a stick."*



\*Names changed to protect the identities of those involved.

The role of *nofotane* has been taken by some to an extent to be a menial one within the family, creating a hierarchy of power that is sometimes maintained through physical violence and verbal abuse, as was the case for Lote.

The treatment of such women as *nofotane* as inferiors is as a breach of the human rights through the violence they have to endure. This is also discrimination on their status as in-laws and a breach of their right not to be subject to degrading treatment.<sup>36</sup>

Further, it undermines principles of the *Fa'asamoa* that of mutual respect (*feāvaa'i*) and mutual protection (*fepuipua'i*). Moreover, the *Fa'asamoa* principle of *fa'asinomaga* determines that every person has roots within a family, a village and an important role to play in society. Through this sense of belonging, a sense of responsibility is created which should play a preventive role in relation to perpetrating all forms of violence. The way *nofotane* are now regularly treated is a breach of *Fa'asamoa*

<sup>36</sup> Convention on the Elimination of Discrimination Against Women, Articles 1- 5.

and the true role and importance of the person who has entered the family is denied. This conclusion is given further weight when considering how the perceived role has been undermined and misinterpreted over the years. The term *maupalo* is viewed as a more appropriate and respectful term than *nofotane* to be given to such a person. The term *maupalo* implies an elevated position within Samoan society that reflected their importance as the provider of future heirs to the family name and accordingly lived under the protection of that family.

Although the Inquiry did not hear direct evidence of such it was also found that this type of violence is not the preserve of women only and men who go to live with their wives' families (*faiāva*) also suffer this type of treatment in some circumstances.

#### **Case Study 19: Pandora's\* secret (abuse)**

Pandora married her husband Tapelu and moved into his family's house where they went on to have two young daughters. In Tapelu's house they live with his parents and four sisters who are also married with children.

The situation within the household was unusual, to say the least because Tapelu's father had remarried and his current wife was his own step-daughter. Pandora was aware of this but the family was not happy that she knew their secret and started to routinely beat her and verbally abuse her while Tapelu was at work.

The violence continued and developed to the point where Tapelu would return from work and take his family's side, joining in on the physical abuse and also beating his wife.



\*Names changed to protect the identities of those involved.

#### **Case Study 20: Lusia and the family bystanders**

Lusia had passed the test for a College and had high hopes and expectations when she married Siaki, a police officer. However, her world changed when she moved into the Siaki's family home. Lusia was viewed as a *nofotane* whose role it was to perform all the household chores from morning until dusk. Around this time her husband started to change and when he got home from work, he would drink and hang out with his boys. He had all the freedom he wanted as it was his family.

Lusia became pregnant but at that time there was no communication between her and Siaki. He still acted like he did not have a care in the world, drinking and socializing all of the time he was not at work. Lusia confronted him about his behaviour and then the physical abuse began.



Siaki even beat Lusia up when she was pregnant. His family stood by and watched the abuse happen, not saying a word to stop it or intervene even when she was carrying a child.



\*Names changed to protect the identities of those involved.

The in-laws in the case of Lusia are complicit in Siaki's behaviour. They stood by and watched when they could easily have stopped their son and brother from carrying out these violent acts. They bear as much responsibility for the suffering Lusia had to endure and are failing in their duty to uphold the *fa'asinomaga* and *malupuipua*. The Samoan proverb says '*a malu i fale, e malu i fafo*' and it is no longer a given that one feels safe in their homes, and as a result safety in the wider community is threatened too. It is important to begin to recognize that the impact of violence within the home does not stay within the family and often spills out into wider society.

#### 7.2.4.2 Inter-family violence

##### Case Study 21: Kori's\* Coercive Cousin

Kori is 21 years old and now attends the Teen Challenge rehabilitation programme and lives with his old brother. However, he used to live with his parents and extended family, which included his sisters, three cousins, and a partner of one of the cousins. His cousin with the partner used to enjoy beating her up in front of the family, punching and pushing her to show what he can do.

Kori asked him to stop many times but he continued. When she went to the shops the cousin would get angry for her taking her time and as soon as she returned would beat her up in front of everyone, saying it was because she does not listen to him and is talkative when out shopping.

One night some of the family had sat down for dinner and the cousin was waiting for his wife who was talking to someone on the road. She came in and went to sit down but did not make it onto the seat before the cousin punched her hard in the face, knocking her over and causing her to hit her head. The cousin grabbed a knife to strike her with and at that moment Kori intervened and stood in the way. The cousin shouted at him to get out of the way and that it was none of his business and then hit him. Kori retaliated and hit him three times with a stick he grabbed and then punched him until he was unconscious.

The cousin and wife have now moved out, as has Kori, who was reported to the police and is now taking part in the Teen Challenge programme as a result.



\*Names changed to protect the identities of those involved.

Kori's cousin was not just using violence against his partner to assert control and power. He was doing it in front of everyone else to assert power and control over them too. He used the pain and suffering of his partner to emotionally abuse his other family members and shows them what he was capable of. The violence drove Kori to react with violence himself and the family has now been torn apart as a result.

### Case Study 22: Afereti's\* tragic attack<sup>37</sup>

Afereti had been drinking heavily at a family gathering. He had ordered his wife to go and get another four large bottles of beer from the nearby store on credit, which she duly did. At 7pm the family sat down to eat but Afereti decided to take his remaining one and a half beers to his neighbour's house, where his brother, Onosai, was also drinking. With him, he also took his extremely sharp sapelu (machete).

His behaviour was aggressive from the moment he arrived, wielding his sapelu in a threatening manner. Onosai asked him to stop but Afereti's response was to put the blade to his brother's neck. He then struck him on his hand, drawing blood. As Onosai tried to back away, Afereti attacked again but the sapelu got caught in an overhanging electrical wire and cut all power to the house. The ensuing darkness brought the gathering to a close and Afereti was led away by his sons.

As they were walking away Afereti grabbed his oldest son, Taumafai, and pulled him close as they walked along, taking Taumafai's smaller knife from him. Afereti's wife had run away at the first sign of trouble and he wanted to know where she was hiding so questioned Taumafai who he suspected of knowing where she was. However, Taumafai denied knowing and every time Afereti asked he got more and more angry.

Afereti raised his right hand with the knife in it and Taumafai tried to escape but he was still in his father's clutches. Afereti drew him towards him once more and struck him with the knife three times. Taumafai ran to a neighbour's house for help but his father had cut his throat to the bone, severing the major arteries and veins in his neck. He collapsed and died.

Afereti was convicted of manslaughter and assault on his brother. He is currently serving 15 years in Tafaigata prison.

\*Names changed to protect the identities of those involved.



Afereti's desire to control and exert power over everyone in his family led to Taumafai's senseless death and is a stark warning of the consequences of violence within a family. Afereti had initially gone to

<sup>37</sup> *Police v Maposua*, [2017] WSSC 150. Reported at <http://www.paclii.org/cgi-bin/sinodisp/ws/cases/WSSC/2017/150.html?stem=&synonyms=&query=stab>. Accessed 30 May 2018.

intimidate his brother but the violent situation had many consequences – his wife fled and then Taumafai was dragged into the situation with fatal results.

Afereti was a dominating force within his family, displaying aggressive behaviours to exert control in a manner typical to many perpetrators. During sentencing it transpired that he already had a previous conviction for violence toward his wife and son, again with a machete. This attitude was worsened on the night in question by his abuse of alcohol. People are able to have a drink and do not commit violent acts. Afereti did not just have a few drinks that night. He consumed at least 37 units of alcohol. The weekly recommended limit in New Zealand is 19 units.<sup>38</sup>

Afereti always had the capacity to commit such an act, as his previous criminal record demonstrated. In the night in question alcohol triggered the underlying causes – Afereti’s own need for power and control. For Taumafai it was a fatal combination.

### **Case Study 23: Aleki’s\* fighting sons<sup>39</sup>**

Aleki has two adult sons – Paul and Enele. Enele returned to the family home one day to find Paul removing timbers from the house and this caused him to get angry and a fight ensued. Aleki saw his sons fighting and approached them and told them to stop. However, Enele instead turned to his father and decided to take his frustrations out on him and began punching Aleki.

Paul intervened to break them up and as Aleki broke free he grabbed a nearby machete and stabbed Enele right through his back into his internal organs, causing profuse bleeding. Fortunately for all concerned Enele was able to fully recover and the family reconciled.



\*Names changed to protect the identities of those involved.

Aleki’s story shares similarities with that of Afereti in that violence within the family quickly escalated and the end result could easily have been the same. Both stories show the cruel paradox of family violence – what starts out as a move to consolidate power and control often ends up totally out of control with tragic consequences. Violence quickly escalates as this case shows – what started out as a fist fight between brothers, within minutes ended up with a stabbing that could have resulted in the death of one brother and the long-term imprisonment of their father.

The prevalence of other forms of violence within the family in Samoa appears to be of a similar magnitude and equally worrisome to that of IPV. Take for instance the cases of Afereti and Aleki above. These cases were heard only one month apart in November and December 2017 respectively. Throughout this Report the Inquiry had too many examples and case studies it could have drawn from, and the number rose daily.

<sup>38</sup> The Inquiry has used the New Zealand alcohol limit because it is the most comparable. Samoa currently does not have a recommended limit.

<sup>39</sup> *Police v Bourne*, [2017] WSSC 139. Reported at <http://www.pacii.org/cgi-bin/sinodisp/ws/cases/WSSC/2017/139.html?stem=&synonyms=&query=stab>. Accessed 30 May 2018.

These cases also demonstrate the prevalence of male on male violence, which is often less talked about but was highlighted on several occasions to the Inquiry.

The stories above also reinforce the fact that violence is inter-related. In most of these studies the violence is not aimed towards one particular person but is a pattern of controlling behaviour towards those around the perpetrator. It is therefore not surprising to learn that perpetrators of IPV are two and a half times more likely<sup>40</sup> to have fought with another man, like Afereti above.

“I have seen men subjected to violence in homes. What is it that is causing us to live under this overwhelming stress that leads us to this dangerous behaviour?”



*Dr. Malama Tafunai, Inquiry public hearings*

Through anecdotal evidence, the SNYC has found that most young women who marry and settle in their husband’s villages experience forms of mental, emotional and verbal abuse from the husband’s family. A widespread multi-UN agency study undertaken in the South Pacific found that 62% of women reported to have experienced physical violence at the hands of a non-partner (usually, fathers, mothers, male and female family members and teachers).<sup>41</sup> In the same Study, 11% reported experiencing sexual violence at the hands of a non-partner. This supports the finding that almost one in ten women in Samoa has been raped by a non-partner family member.<sup>42</sup>

**INQUIRY FINDING 3: Family Violence is affecting almost all families in Samoa, with extremely high numbers of people experiencing extreme violence in their lifetime:**

- Almost 9 in 10 people have experienced physical or emotional violence within the family in their lifetime;
- The majority of women (6 out of 10) experience intimate partner violence in their lifetime;
- Violence at the hands of a non-partner is almost as prevalent as intimate partner violence;
- Up to 1 in 5 women are raped in their lifetime;
- People are becoming so accustomed to violence that slapping, kicking, punching, swearing at or threatening is now instinctive for many and considered not serious or to fall within the definition of violence;
- Family violence is killing people and tearing families apart.



<sup>40</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>41</sup> UNFPA, UNICEF. (2015). *Harmful Connections: Examining the Relationship between violence against women and violence against children in the South Pacific*. Document 54 Inquiry anthology.

<sup>42</sup> Explanation provided to the Inquiry by Savalenoa Mareva Betham-Annandale. Family Law Barrister and Solicitor. *Written submission*. Document 8 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).



## 8. Violence Against Other Specific Groups (Persons with disabilities, the Elderly, Fa'afafine and SOGISC persons)

Family violence can and does happen to anyone. There are certain groups who can also be at risk and as such attention should be afforded to them to understand why there is an increased vulnerability. The lived experiences of those within such demographic can form the basis of a more sensitive approach to prevention and protection.

The Inquiry engaged with key advocacy groups such as the Samoa Fa'afafine Association (**SFA**) and Nuanua O Le Alofa (**NOLA**) to encourage submissions from their networks and respective organisations. Whilst they were consulted during the initial consultations it was not possible to speak with NOLA and neither did either of the organisations make any further submissions. Furthermore, no survivors or perpetrators of family violence falling within these specific groups came to give evidence during the public or private hearings. Regardless, this chapter tries to shine a light on some of the experiences and types of family violence perpetrated against these specific groups and urges greater research and consultation in the implementation of the Inquiry recommendations.

### 8.1 Persons with disabilities

The Office in its State of Human Rights Report 2016 focused specifically on the rights of persons with disabilities. The report found that there was a clear lack of reporting in relation to abuse of women with disabilities to police. A reason for this was the absence of avenues of reporting for women with disabilities when they are subjected to abuse and exploitation.<sup>43</sup> Moreover, it was unclear whether or not the police are specifically trained and equipped to handle complaints of abuse and sexual exploitation of women with disabilities.<sup>44</sup>

The SFSS 2017 also had a focus on persons with disability but the sample sizes were too small to draw any firm conclusions about whether those groups are more vulnerable. Despite this, the Commissioners believe they (especially women with disabilities) are vulnerable to family violence. Therefore, this is an area that requires considerably more research to establish whether persons with disabilities are more at risk of family violence due to any impairment having an impact on their ability to resist any attempt of violence towards them.

### 8.2 The Elderly

The Samoa Law Reform Commission (**SLRC**) urged the Inquiry to consider abuse towards the Elderly.<sup>45</sup> The SFSS 2017 also raised concerns towards the abuse of the Elderly as an emerging issue of critical concern.

<sup>43</sup> Samoa Office of the Ombudsman/ NHRI. (2016). *State of Human Rights Report: Persons with Disabilities*. p. 29-30.

<sup>44</sup> Samoa Office of the Ombudsman/ NHRI. (2016). *State of Human Rights Report: Persons with Disabilities*. p. 29-30.

<sup>45</sup> Samoa Law Reform Commission written submission to the Inquiry. Document 83 Inquiry anthology.

Again the lack of reliable data and information on the impact of family violence towards this group requires comprehensive study in order for firm conclusions to be drawn.

### 8.3 *Fa'afafine*<sup>46</sup> and SOGISC persons

The Inquiry was told that verbal abuse of *fa'afafine* is so common and normal that many do not see it as a problem so it is not reported, with parents being the most common perpetrators. Once more the inter-related nature of violence is becoming more apparent.

The SFA highlighted that young boys showing feminine traits at a young age are often subjected to severe violence at the hands of their own families. This is not reported due to a number of reasons: intimidation of the victims, fear of reprisals and being disowned, lack of effective redress, and a belief that no crime has been committed.

“When I was young I thought it was normal to be smacked every time I hang out with girls or wear my sister’s clothes. Now that I’m older I realise how wrong it was for my family to do that but that’s Samoa [...] they beat us out of love to make us stronger men, at least that’s what I thought.”



*Inquiry public consultations participant*

“It saddens me to see young boys who are confused and unsure of their identity being subjected to physical violence by the hands of their own family in the name of making them tough so they do not turn into *fa'afafine*.”



*Inquiry public consultations participant*

In the same manner that physical and verbal discipline/violence/abuse within relationships and towards children is becoming accepted and normalised, it appears this is also the case in relation to *fa'afafine*.

Other groups which remain almost hidden are people of diverse sexual orientation, gender identity and expression or sex characteristics (SOGISC persons – including *fa'atama*, gay, and lesbian, bisexual, queer, transgender, intersex etc.). Public understanding of these groups and the meaning of the words describing them is zero awareness and understanding. The fact that these groups are hidden in Samoan society makes them particularly at risk of family violence because access to services and being able to report violence are even further limited than they are for people who do not identify within these groups. There is an almost widespread lack of understanding in Samoa of the differences between these groups. To help afford a degree of greater visibility it is beneficial to briefly describe the nature of these groups of people.

<sup>46</sup> The term *fa'afafine* is a cultural identity pertaining to Samoa and is not considered part of the western ideology of persons with diverse sexual orientation, gender identity and expression.

**Inquiry Info Point 7: What is sexual orientation, gender identity and expression, and sex characteristics?<sup>47</sup>**

*Sexual Orientation* – Each person’s capacity for profound emotional, affectionate and sexual attraction to, and intimate sexual relations with, another person.

*Gender Identity and Expression* – A person’s internal sense of being a man or a woman or a third or alternative gender, or a combination of genders.

*Sex Characteristics* – A person’s physical characteristics relating to sex, including genitalia, chromosomes or hormones and also secondary sex characteristics that emerge at puberty.

Sexual orientation, gender identity and gender expression are each a spectrum. They are not limited to two, binary options, such as heterosexual or homosexual, male or female or feminine. Similarly the umbrella term ‘intersex’ encompasses a broad range of variations in sex characteristics.



The prevalence of these groups in Samoa is unknown but if we take global estimates of 1.7%<sup>48</sup> for persons with inter-sex characteristics then it could be as high as 3,330 people alive in Samoa today. This is important because the lack of understanding or outdated attitudes towards these groups may be leading to higher rates of violence than in the rest of society.

The veil of silence that exists with these groups is exacerbated by the veil of silence around violence in general and therefore particular attention needs to be paid. Furthermore, the one personal testimony given to the Inquiry indicates that violence **because** of a person being in one of the aforementioned groups does indeed exist.

“There are many issues faced by lesbians in Samoa including myself. I’ve seen my friends coming out and admitting to their families but as a result are punished and forced to marry and have children. This is the type of violence that lesbians face.”



*Anonymous Fa’atama, Inquiry consultation participant*

This is but a brief glimpse of one particular type of violence, towards one small section of these broad groups. It does little to comprehensively identify the range of violence towards people of diverse sexual orientation, gender identity and expression and sex characteristics. Nor does it tell us of the prevalence of these types of violence. What it does tell us is that violence against these groups is occurring within the

<sup>47</sup> Definitions and explanation taken verbatim from the APF-UNDP Manual, ‘Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity and Sex Characteristics’, available at [http://www.asiapacificforum.net/media/resource\\_file/SOGI\\_and\\_Sex\\_Characteristics\\_Manual\\_86Y1pVM.pdf](http://www.asiapacificforum.net/media/resource_file/SOGI_and_Sex_Characteristics_Manual_86Y1pVM.pdf).

<sup>48</sup> Asia Pacific Forum of NHRIs. (2016). *Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity and Sex Characteristics*. Retrieved from [http://www.asiapacificforum.net/media/resource\\_file/SOGI\\_and\\_Sex\\_Characteristics\\_Manual\\_86Y1pVM.pdf](http://www.asiapacificforum.net/media/resource_file/SOGI_and_Sex_Characteristics_Manual_86Y1pVM.pdf).

family specifically because of who they are. This form of discrimination needs to have a spotlight shone on it in the near future and will be considered to the fullest extent possible throughout this Report.

**INQUIRY FINDING 4:** Violence against specific groups such as persons with disabilities, the elderly, *fa'afafine* and SOGISC persons are poorly understood. Anecdotal evidence suggests that rates may be high and specific responses are required for these groups.



## 9. The Impact of Family Violence

### 9.1 Children

Understanding the impact of violence is as important as understanding the nature and prevalence. The Inquiry has established that physical and harsh verbal discipline/violence against children is widespread and evidence suggests the impact that this is having on the children of Samoa is similarly dramatic. At the extreme end of the scale it leads directly to murder and suicide, as seen in the heart breaking cases of Tavita,<sup>49</sup> and Teuila.<sup>50</sup> In addition to this flagrant disregard of the right to life, family violence leads to a range of other outcomes, none of which are positive.

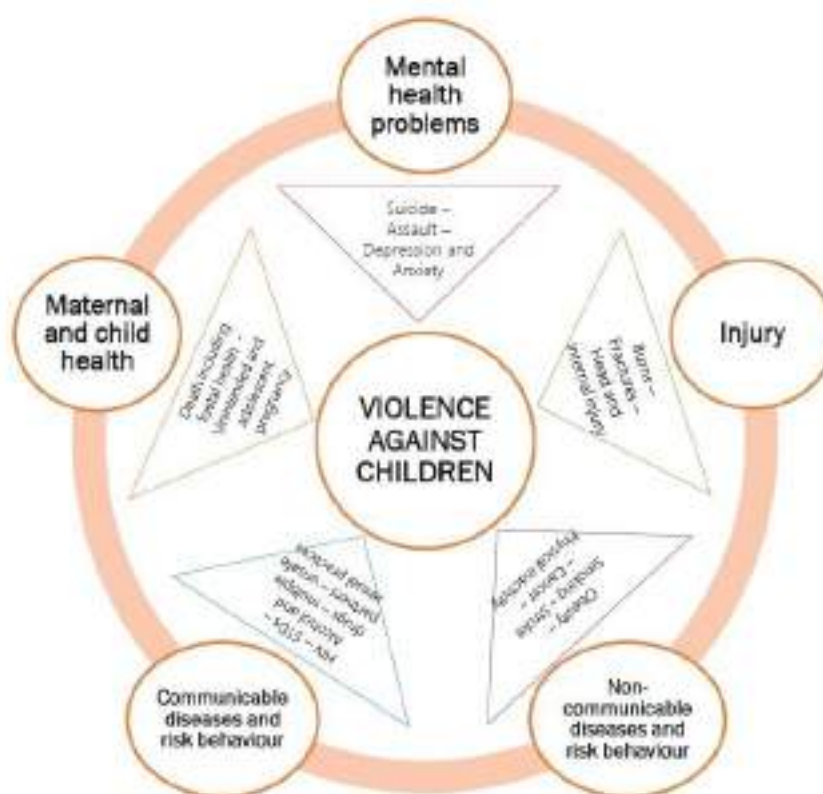
One of most recent and comprehensive multi-agency studies into violence against children, identified 24 consequences violence towards children can have:

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<sup>49</sup> Case study 1.

<sup>50</sup> Case study 3.

## Inquiry Info Point 8: The Impacts of Violence Against Children



*Adapted from: Equal Rights for Women Worldwide*

The report concluded that “exposure to violence at an early age can impair brain development and damage other parts of the nervous system and other bodily systems, with lifelong consequences.”<sup>51</sup> It is worth pausing for a moment to consider how necessary it is to ensure that this is avoided at all costs. Lani,<sup>52</sup> Sisilia,<sup>53</sup> Masina<sup>54</sup> and many children in Samoa who lived and continue to live with these consequences every day in their adult lives and finds it impossible to shed himself/herself of the pain and suffering.

<sup>51</sup> World Health Organisation. (2016). *INSPIRE: Seven Strategies for Ending Violence Against Children*. Document 48 Inquiry anthology.

<sup>52</sup> Case Study 6.

<sup>53</sup> Case Study 7.

<sup>54</sup> Case Study 10.

Data from a sample of 976, two parent families showed that harsh verbal discipline/violence at age 13 predicted an increase in adolescent conduct problems and depressive symptoms.<sup>55</sup> Furthermore, children who experienced frequent parental verbal aggression, such as swearing and insults, exhibited higher levels of physical aggression, delinquency and interpersonal problems.<sup>56</sup>

Children may internalize insults and verbal aggression and it has been shown that a young person may develop low self-esteem and negative self-worth through repeatedly being told they are stupid.<sup>57</sup> This global research appears to hold true in Samoa where three-quarters of children are made to feel angry, sad, unsure, and uncomfortable or scared because of the words that are directed at them.<sup>58</sup>

Research done by the World Health Organization (**WHO**) shows that verbal abuse may have a more detrimental effect on children than physical violence.<sup>59</sup> We do not need to accept the word of the WHO on this matter though – Samoa has known of the damaging effects of verbal abuse for generations and that knowledge is part of the *Fa'asamoa*.

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*"E pala le ma'a, ae le pala le tala."* (Rocks rot but words don't).

*Samoa expression*



This is especially worrying in the case of Samoa as verbal abuse is far more prevalent and less well understood. The Inquiry heard from a number of people who supported this conclusion:

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*"Beating is less painful than words, because they make me feel like committing suicide."*

*Inquiry public consultations participant*



The Inquiry heard how common verbal abuse has become in Samoa with children being told they are useless, lazy or worthless on a regular basis. Children are vulnerable in their formative years and they look to their caregivers for emotional support, love, reassurance and tenderness. When they receive harsh verbal discipline/violence instead, it sends a message of caregivers' hostility or rejection to the child. As noted earlier, this 'increases the risk of delinquency by lowering inhibition and fostering anger, irritability and belligerence'.<sup>60</sup>

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<sup>55</sup> For more information refer to "Stakeholder Consultations Report." Document 58 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>56</sup> Vissing, Y. M., Straus, M. A., Gelles, R. J., & Harrop, J. W. (1991). *Verbal aggression by parents and psychosocial problems of children*. *Child Abuse and Neglect*. See also "Stakeholder Consultations Report." Document 58 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>57</sup> John Devaney. (2015). "Research Review: The Impact of Domestic Violence on Children." *Irish Probation Journal*, 12. p. 85. Retrieved from <https://pdfs.semanticscholar.org/506f/db2353976001352213a72baf3c48aaa743c0.pdf>. Accessed 30 May 2018.

<sup>58</sup> Philip Alston. (1985). "The Shortcomings of a 'Garfield the Cat' Approach to the Right to Development." *California Western International Law Journal*, 15(3).

<sup>59</sup> World Health Organisation. *World report on violence and health*. Retrieved from [http://apps.who.int/iris/bitstream/handle/10665/42495/9241545615\\_eng.pdf;jsessionid=9EF0BF921A599DC45FAAC76A8A4E8014?sequence=1](http://apps.who.int/iris/bitstream/handle/10665/42495/9241545615_eng.pdf;jsessionid=9EF0BF921A599DC45FAAC76A8A4E8014?sequence=1). Accessed 6 May 2018.

<sup>60</sup> John Devaney. (2015). "Research Review: The Impact of Domestic Violence on Children." *Irish Probation Journal*, 12. Retrieved from <https://pdfs.semanticscholar.org/506f/db2353976001352213a72baf3c48aaa743c0.pdf>. Accessed 30 May 2018.

Therefore, even if harsh verbal discipline/violence of this nature is borne out of caregivers love and a belief that it is necessary for a '*child's development*', it can actually lead to precisely the types of behaviour the caregivers are trying to raise their child to avoid. In the extreme, it can lead to the loss of life, as seen in the case of Teuila and her unborn baby.<sup>61</sup>

Children who are exposed to violence suffer just as significant consequences as those who experience it directly. The SFHSS 2000, reported that the children of women who were abused are 35% more likely to display aggressive behaviour than the children of women who were not abused. They are also 54% more likely to drop out of school and 24% more likely to have nightmares.<sup>62</sup>

These consequences also appear to apply for child victims of sexual violence. Inquiry witnesses spoke emotionally about how their experiences had shaped and affected their lives including their own families, with many still trying to come to terms and cope with what they had gone through. Feelings of shame and a loss of self-esteem were commonplace among the survivors. Lani's story of survival<sup>63</sup> reflects how it took her 20 years merely to be able to speak about what had happened to her. The statistics indicate that many more still keep their stories to themselves to this day, to the detriment of their physical and mental well-being.

In addition, the Inquiry identified patterns of inter-generational violence where children who were subjected to verbal and physical abuse later went on to become abusers themselves. Petelu<sup>64</sup> is our first example but the Inquiry heard many more and the cycle of violence will be explored more in **section 14**.

The Inquiry has found the effects of child violence to be severe and far ranging. Furthermore, the consequences can be the same regardless of the type of violence experienced, further demonstrating the inter-relatedness of family violence. The impacts of violence against children cannot be dismissed lightly and neither can these be attributed to extreme violence only. The question of what constitutes 'reasonable' punishment of children lingers over the Inquiry and has yet to be determined. **Section 12.1** will seek to examine what the law currently says in Samoa and whether this adequately protects against causing the types of impacts above, which harm both the child and the society at large.

It is not just what constitutes violence which there is uncertainty and a lack of knowledge. The impacts of violence towards children are something not widely understood, as demonstrated by the responses of the 1,500 Inquiry consultation participants and among those giving evidence during the public hearings. It is essential for a broader understanding of these consequences to be developed in order to strengthen the mandate for change and to better inform future protection and prevention initiatives.

It is not only the health and well-being of a child which can be negatively affected by violence but the economic development of the whole country and this occurs in two different ways. The first is through the unnecessary strain it puts on service providers and the associated costs, primarily for the national

<sup>61</sup> Case Study 3.

<sup>62</sup> SPC and UNFPA. (2006). *Samoa Family Health and Safety Study 2000*. Document 83 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>63</sup> Case Study 6.

<sup>64</sup> Case Study 1.



health system and the police. Moreover, the poor standard of service provided by these agencies also contributes to the problem. The second is through the impact it has on the individual to secure and retain employment due to the negative consequences of violence they have to endure, such as low-self-esteem, health problems, anger and violence issues, etc. This affects their ability to work, provide for their family (further contributing to a loss of self-esteem) but it also undermines national economic growth directly through loss of productivity and undermining investments in education. The full economic cost of family violence is considered in **section 9.5**.

## 9.2 Adults

The SFHSS 2000 found that the respondents who had ever been abused were far more likely within the four weeks preceding the survey to have experienced pain, mobility impairment, dizziness, vaginal discharge or their work had been impacted due to health issues. Abused women were 56% more likely to always feel tired, 46% more likely to experience nervous tension and 38% more likely to be unhappy. These figures not only show how women's right to health is being affected but also reinforces the finding of the economic impact of family violence that came to the fore in examining violence against children. The extent of the physical and mental health consequences of adult violence undermines a person's economic productivity and their ability to live a happy fulfilling life. Once again, this leads to fatal spiral or worsening health and self-esteem, all trapped within the cycle of violence.

Indeed, all of the impacts that can be seen in relation to violence against children can also be seen in violence against adults such as the loss of self-esteem, health consequences and behavioral decline. Most concerning of all is the extremes to which the psychological and physical effects push many people.

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"The types of violence people are facing in all of our communities in Samoa can cause a person to lose all hope where they no longer value the gift of life."



*Fa'ataua Le Ola, Inquiry public hearings*

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33% of women who are raped contemplate suicide and 13% actually attempt to take their own lives.<sup>65</sup> When considered in conjunction with the statistic that, 1 in 5 women are raped by a non-family member and almost 1 in 10 by their intimate partner in their lifetime in Samoa, it leads to the startling conclusion that between 7% and 10% of women in Samoa may have considered suicide through rape within the family alone. This does not include rape by a non-family member, nor does it include consideration of suicide related to any other form of family violence, the psychological impacts of which the Inquiry has found to be extensive. This conclusion is supported by the SFHSS 2000 which found that 6.9% of ever abused women had thought about committing suicide and 2.5% had attempted to do so at least once. Ever abused women were twice as likely to have considered suicide and 3 times more likely to have attempted it than women who had never been abused. There is no doubt that family violence is causing

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<sup>65</sup> Refer to "You should have been more careful: when doctors shame rape survivors." *Guardian*. (15 October 2017). Document 55 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

extreme psychological damage to victims and can be directly attributed to significantly higher suicide rates.

There are currently approximately 92,000 women and girls alive in Samoa today.<sup>66</sup> If the above figures hold true then within their lifetimes:

- 18,400 will be raped a family member;
- 8,832 will be raped by their husband or partner;
- 6,348 will consider suicide;
- 2,300 will attempt suicide.

These projections are also more likely to be an under-estimate given what we know about under-reporting of matters such as this out of either fear or shame, or a simple lack of understanding of what constitutes rape. In the SFHSS 2000, 4.6% of the women surveyed who reported never having been abused also reported that their first sexual encounter had been forced. In other words they had been raped, yet did not regard this as abuse or a crime. Regardless of their perception of the act, the consequences remain the same.

These are not just numbers, they are sisters, mothers, daughters, wives, neighbours, and friends. They are people like Destiny and her daughter<sup>67</sup> who still have to receive regular counseling to deal with the long term effects that her husband's continuous violence had on them both.

### 9.3 Other Specific Groups

Given the lack of evidence and case studies presented to the Inquiry by or on behalf of specific groups (persons with disability, elderly, *fa'afafine*, SOGISC persons), it is not possible to draw many firm conclusions on the impacts, other than to say that they are not immune from the wide range of consequences already detailed in relation to children and adults generally. Furthermore, it is not difficult to imagine how barriers to reporting and access to services can be harder or how the psychological and physical impact of violence in the following situations can be even more substantial in certain hypothetical circumstances:

- A person with physical impairment who is constantly told by their families that they are useless and that their impairment is their fault.
- A person with a psychological condition which makes resisting unwanted sexual behaviour more difficult.
- An elderly person with memory difficulties who is subjected to financial and verbal abuse by their family.
- A young *fa'afafine* who is trying to understand and accept their own identity but who is physically and verbally abused for displaying their gender identity.

<sup>66</sup> Samoa Bureau of Statistics. (2016). *Samoa Census 2016*. Retrieved from [www.sbs.gov.ws/index.php/new-document-library?view=download&fileId=2114](http://www.sbs.gov.ws/index.php/new-document-library?view=download&fileId=2114).

<sup>67</sup> Case Study 13.

The impacts of family violence experienced generally can therefore be exacerbated if a person falls within a specific group in society. It is therefore necessary to develop a national understanding of the nature of these groups and how family violence is experienced from their perspective. By developing this understanding then, and only then, will it be possible to develop an effective and relevant protection and prevention framework.

**INQUIRY FINDING 5:** Family violence has a wide range of long-term impacts on the physical and mental well-being of its victims and those who witness it. They include:

- Mental health problems, such as depression, anxiety, suicide and aggressive behaviours;
- Greater use of alcohol and drugs, increased sexual promiscuity and multiple sexual partners;
- Direct injury and even death;
- Maternal health problems, including unwanted pregnancies, miscarriages and pregnancy complications;
- Low self-esteem leading to health and behavioural problems;
- Inter-generational violence;
- Reduced future productivity and undermining national economic development.



**INQUIRY FINDING 6:** The impact of family violence further increase the risk a person will become a perpetrator or victim of violence in the future.



## 9.4 The Normalisation of Family Violence

“Violence against women appears to be socially legitimized and accompanied by a culture of silence and impunity.”

*CEDAW Committee concluding observations during review of Samoa, 2012*

“I do not think this is an illegitimate suggestion that there is social legitimization.”

*Lemalu Hermann Retzlaff, Attorney General, Inquiry public hearing*



Throughout the Inquiry it became increasingly apparent that family violence in some form has become an accepted part of life for most people in society. It is something which is inevitable, tolerated or simply goes unnoticed. This in itself is a significant barrier to both reporting family violence and contributes to an ever worsening cycle of violence at a societal level.

“Not reporting violence implies the persistence of the belief among both victims and perpetrators that domestic abuse is a justifiable private affair and not a crime.”



*Samoa Family Safety Study, 2017, Inquiry document 46*

There are many different ways in which violence becomes normalized, all of which involve allowing it to go unpunished and flourish, such as:<sup>68</sup>

- Social norms around violence and reporting including embarrassment or fear or shame;
- Repercussions for reporting (either further violence, punishment or social condemnation)
- Not believing victims;
- Blaming victims for the violence they have endured;
- Inaction by service providers or community leaders;
- Lack of services of access to justice;
- The values children are raised with.

These will all be examined in greater detail in the next Part of the Report to assess to what degree, if any, they apply within the Samoan context. For now it is sufficient to rely on the fact that around 90% of IPV in Samoa goes unreported, leaving it to go unpunished and inherently accepted.<sup>69</sup> For violence against children, inter-family violence and violence against specific groups it is likely to be higher. Of the women who do not report IPV one study found 86% believe their abuse to be ‘normal’ or ‘not serious’ while in another 70% believe it to be justified.<sup>70</sup> The SFSS 2017 found that the predominant reason why violence is not reported is because it was deemed not serious, yet ‘not serious’ was commonly described as a slap on the face, being punched, shamed or being sworn at or told off.

When society is at a point where the abused are no longer able to recognize what is happening to them, then it can be concluded that it has been fully normalized and accepted in society regardless of the minority who choose to speak out about it.

It is quite easy to envisage how family violence becomes more prevalent and normalized over time, as the Inquiry has found. The nature of violence is such that it progressively gets worse over time, both at an individual level and a societal level. At an individual level, violence is an ineffective method of power and control and therefore those employing violence as a control mechanism come to believe they must become even more violent to achieve their aims if and when they inevitably do not get their way or simply feel frustrated with life in general. As the nature of violence worsens and goes widely unpunished, society’s tolerance increases – what was previously unacceptable becomes acceptable. This happens on a societal level because children are raised in environments where violence is prevalent. They learn from

<sup>68</sup> World Health Organisation. (2016). *INSPIRE: Seven Strategies for Ending Violence Against Children*. Document 48 Inquiry anthology.

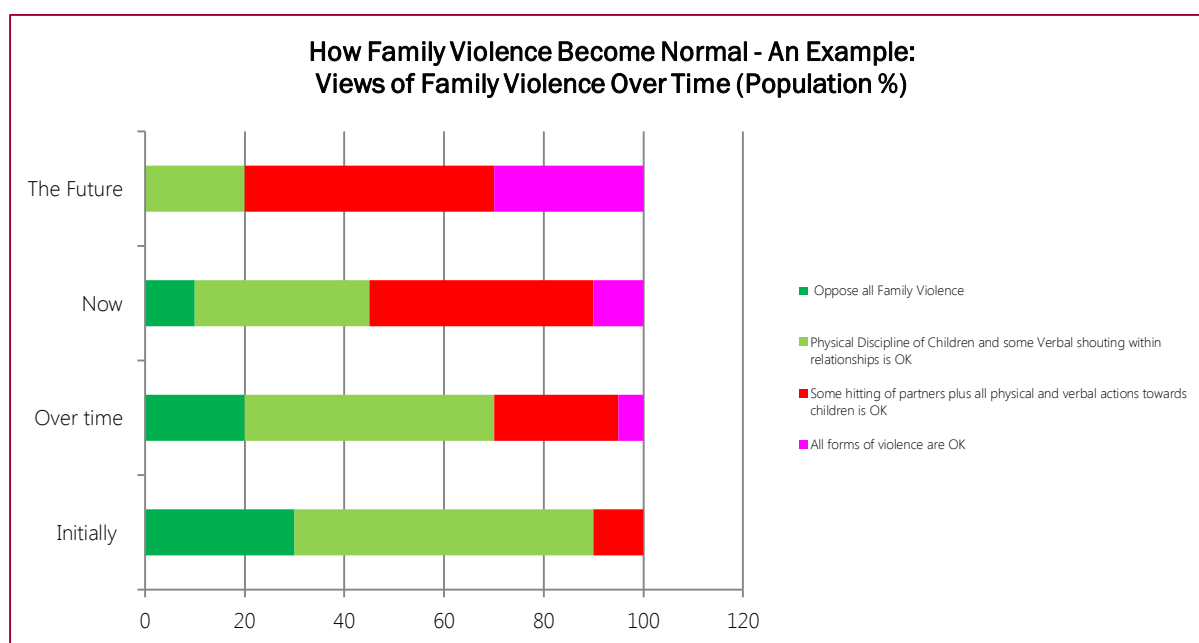
<sup>69</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>70</sup> SPC and UNFPA. (2006). *Samoa Family Health and Safety Study 2000*. Document 83 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

watching their father verbally abuse their mother or their uncles' fight to the point of hospitalization. They grow up having already learned that violence is an answer.

Furthermore, as the nature of violence becomes worse and more prevalent, it is less shocking. It is therefore not reported in the national media unless it is truly shocking. During the Family Violence Workshop,<sup>71</sup> Mata'afa Keni Lesa explained how they need to keep articles fresh and that there is a risk of readers becoming de-sensitized to family violence stories over time. Violence therefore starts to disappear out of view, unless it is extreme and once again goes unpunished. Over time what was once deemed extreme violence becomes the new normal, and so on.

Below is an example of how shifting attitudes of this nature can easily happen over time if violence goes unpunished and perpetrators can act with impunity. The figures used are illustrative but the four bars depict how public attitudes towards violence could change over time. It shows how initially a society may predominantly reject all forms of family violence and condone physical discipline of children, but how over time can move towards a greater acceptance of more violent methods, until violence becomes the norm. Samoa may not have reached the final bar, entitled 'the future' yet, but if violence is allowed to continue unpunished it is an inevitability.



<sup>71</sup> The purpose of the workshop was to inform and empower collaboration among all stakeholders, strengthen public awareness of the impact of violence on families and identify preventative measures that could be implemented by the Courts, Government, Development Partners and NGOs. The workshop was organised by the Ministry of Justice, Courts and Administration in partnership with UNICEF and was held 27-29 November 2017.

## 9.5 The price of violence

The case studies and lived experiences are starting to show how an acceptance of violence at any level leads to its normalization and decline into extreme violence across society, in and out of the family setting. The Inquiry has also started to highlight how a violation of an individual's human rights will inevitably impact on the rights of those in the wider society. There is of course a moral and a cultural argument that family violence should be a public concern. On top of all of this there is the economic cost of family violence to consider.

"For every death (due to violence) there are 10-40 times as many injuries severe enough to warrant medical attention. These consequences produce massive direct and indirect costs that can hinder economic development, increase socioeconomic inequality and erode human and social capital."<sup>72</sup>



World Health

Organization

A society in which family violence is allowed to flourish is a society whose economy is being constantly undermined. Family violence costs every single person in Samoa in a number of ways from the limiting of economic opportunities for those directly affected, to substantially damaging the overall economic development of the nation. The economic cost of family violence alone makes the matter one of great public concern.

From an individual perspective, family violence has a variety of consequences in terms of productivity (which will also be viewed from a national perspective below). The Inquiry found a range of psychological and physical consequences of family violence which limit a person's ability to work and provide for their family and the wider community. It is not simply the abused person who suffers the economic impact of the violence (from having to pay for their trips to the hospital to the loss of shared income), family violence can be debilitating on a family's economic well-being.

### **Inquiry Info Point 9: What types of cost to a national economy are generated by family violence?**

The costs related to family violence can be categorized as either 'direct' or 'indirect'.<sup>73</sup>

Direct costs:

- Police services
- National Health Service
- Prisons
- Ministry of Justice, Courts and Administration
- Judiciary



<sup>72</sup> A Butchart, D Brown, A Khanh-Huynh, P Corso, N Florquin, R Muggah. (2008). *Manual for estimating the economic costs of injuries due to interpersonal and self-directed violence*. Retrieved from [http://www.who.int/violence\\_injury\\_prevention/violence/activities/economics/en/](http://www.who.int/violence_injury_prevention/violence/activities/economics/en/). Accessed 13 May 2018.

<sup>73</sup> For a discussion on the definitions of indirect and direct costs see Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

- Transport to and from hospital (and other related services) for victims of family violence
- Pain and suffering resulting from family violence

Indirect costs:

- Absenteeism from work
- Premature death from health issues or suicide
- Reduced productivity, linked to health consequences of family violence and higher school drop-out rate
- Lower earnings, investment and savings
- Lower inter-generational productivity
- Loss of tourism earnings



It is notoriously difficult to calculate the total cost of family violence and there is no proven formula for doing so. It is no surprise after considering the list of costs. Whilst it can be relatively easy to calculate the amount needed for providing police services, it is very difficult to accurately calculate costs arising from work absenteeism and almost impossible to even quantify pain and suffering arising from family violence.

Nevertheless, several countries worldwide have attempted to do so and conclusions can be drawn from those experiences, and the work undertaken already in Samoa, to begin to estimate how much family violence costs the Samoan economy on a yearly basis.

### 9.5.1 The Cost of Family Violence around the World

Family violence has greatly impacted the economies of various countries in the world/ region posing risks to their future economic stability. For instance,

- *Fiji* – Two studies carried out in Fiji in 2002 and 2011 both concluded that violence against women and girls was costing USD\$135.8m, the equivalent of 7% of their GDP annually.<sup>74</sup>
- *Australia* - The cost of violence against women and their children in Australia was found to be AUD\$13.6bn in 2009 and that by 2021-2022 this figure will have risen to AUD\$15.6bn.<sup>75</sup>
- *New Zealand* – A New Zealand study indicated that the annual cost of family violence was at least NZD\$1.2bn in 1993-1994, more than the total amount the country earned for all of its wool exports.<sup>76</sup>
- *United Kingdom* – Domestic violence was found to cost £23bn in 2004, around 1.5% of GDP.<sup>77</sup>

<sup>74</sup> Asian Development Bank written submission to the Inquiry. Document 68 Inquiry anthology. See also Ministry of National Planning. (2010). *Millennium Development Goals 2<sup>nd</sup> Report, 1990-2009, Report for the Fiji Island*. Retrieved from <http://www.undp.org/content/dam/undp/library/MDG/english/MDG%20Country%20Reports/Fiji/Fiji-MDG%20Report%202010.pdf>.

<sup>75</sup> The National Council to Reduce Violence against Women and their Children. (2009). "The Cost of Violence against Women and their Children." Document 81 Inquiry anthology.

<sup>76</sup> The National Council to Reduce Violence against Women and their Children. (2009). "The Cost of Violence against Women and their Children." Document 81 Inquiry anthology.

<sup>77</sup> The National Council to Reduce Violence against Women and their Children. (2009). "The Cost of Violence against Women and their Children." Document 81 Inquiry anthology.



These studies begin to give the Inquiry a broad indication of how much family violence is costing Samoa each year. However, they are mainly limited to considering the costs of *reported* violence which only accounts for approximately 10% of all family violence perpetrated at best. Regardless, the studies are instructive and they are expanded upon by other studies which find that in the Pacific (and East Asia) the costs of just a few of the health consequences of child maltreatment can be in the region of 1.4% to 2.5% GDP.<sup>78</sup>

Efforts have already been made to calculate the cost of violence in Samoa and the SFSS 2017 found in 2013-2014 domestic violence cost ST\$14.7m on health and police services **alone**.<sup>79</sup> Furthermore, the report believed this to be only around 15% of the actual cost which would be ST\$98m or 5.8% of Samoa's GDP.<sup>80</sup>

The benefit of accurately knowing how much family violence costs Samoa helps to raise community and political awareness of the price of violence and build support for tackling it. Coming to an accurate figure is not within the power of the Inquiry as the required data simply does not exist currently, as highlighted by the SFSS 2017. However, what we do know already that it is certainly substantially more than ST\$14.7m per year and far more likely to be in the region of 6–7% of Samoa's GDP. The higher end of that figure would be in line with the Fiji study, which only considered violence against women and girls and not the broader area of family violence. This means that family violence may well have cost Samoa **ST\$132.02m**, or more, in 2016-2017,<sup>81</sup> the equivalent of ST\$1,090 for every person 15 years or older, the equivalent of approximately three month's work on minimum wage.

**INQUIRY FINDING 7:** The economic cost of family violence is likely to be at least ST\$98m - \$132m per year (6 – 7% of Samoa's GDP).



With the knowledge of what family violence costs the country each year, and how it undermines investments in education, health and other public services, the proposed solutions in this report are essentially self-funding. Any argument that the Government cannot afford to holistically address family violence is obsolete and invalid. Given the apparent worsening nature of family violence, and the increased damage that will cause to the development of the country and its economy, there is no way it can afford not to.

## 9.6 Violation of human rights, the *Fa'asamoa* and Faith

The overarching ethos of the Inquiry has been to view family violence through the lens of three value frameworks: the *Fa'asamoa*, Faith and human rights. These values, beliefs and practices will form the basis for the solutions in the Report. In **Part I**, an assessment has been made as to what degree they are being violated using the nature of family violence as explained by those people who understand it first hand in the case studies.

<sup>78</sup> The National Council to Reduce Violence against Women and their Children. (2009). "The Cost of Violence against Women and their Children." Document 81 Inquiry anthology.

<sup>79</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>80</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>81</sup> Calculated based on Real GDP reported by the Central bank of Samoa.

A clear picture emerges that where human rights are being violated, so is the *Fa'asamoa* and religious values. Without exception, the case studies include violations of all three and highlight that if one of the frameworks was being adhered to, then the rights and values contained within the others would also be met.

All three value systems are rooted in principles of human dignity, respect, equality, love and non-discrimination. But more importantly it is the way in which these values are put into practice that shows the true synergy between the three.

Human rights are based on the notion of rights and responsibilities – you cannot have rights without the responsibility to uphold the rights of others. It is often argued in Samoa that the CRC grants children unlimited and unfettered rights to do as they please but this is not the case. The CRC affirms the responsibility of parents and guardians to raise and discipline children. It provides a framework and set of standards which ensure that this is done in the best interests of the child.<sup>82</sup> These standards aim to prevent abuse or neglect and provide the mutual protection demanded by the *Fa'asamoa*. Children, by way of return, must behave within the confines of the law and similarly respect the rights of all adults contained within the various human rights instruments. If a person does not meet their responsibility to do so then the rights of others will be threatened.

Similarly, most concepts within the *Fa'asamoa* are based on reciprocity and mutuality. Mutual protection cannot be achieved by one person alone; it requires people to meet their own responsibilities towards one another to enjoy the protection the *Fa'asamoa* affords them. When it is not a two way process, abuse and violence can occur, as described above. The same is true of Faith where we are told to “love one another, for love comes from God.”<sup>83</sup>

The relationship between Faith and the other two is clear in many respects too. A good example is in relation to the principle of *soalaupule* (consensual dialogue) which is founded on the idea that the more people involved in a decision the wiser it will be. It was highlighted to the Inquiry that “Jesus in his own public ministry utilised this value to enhance the spirituality of his disciples and those who were oppressed in his own society. Jesus dialogued with people like Zacccheus, the Samaritan woman at the well, and the young lawyer to liberate them from their own narrow-mindedness”<sup>84</sup>.

All three value systems also have primary duty bearers. In the case of human rights it is the State, in the case of the *Fa'asamoa* it is the Village Fono and the *Sa'o* (principal *matai*), and in Faith it is through God's messengers. They are therefore founded on the same principles, operate in the same manner and have similar enforcement mechanisms. By strengthening one (either by increasing application of the values or improving the enforcement mechanism), the commonalities mean the other will naturally be strengthened too.

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<sup>82</sup> See Article 18 of the *Convention on the Rights of the Child*. See also UN Committee on the Rights of the Child. (2011). General Comment No. 13 on the right of the child to freedom from all forms of violence. CRC/C/GC/13. Retrieved from [http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13\\_en.pdf](http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf).

<sup>83</sup> 1 John 4: 7-8.

<sup>84</sup> Mercy Ah Siu-Maliko. (2016). “A Public Theology Response to Domestic Violence in Samoa.” *International Journal of Public Theology*. Otago University, Dunedin, New Zealand. pp. 54-67. Document 39 Inquiry anthology.

### 9.6.1 The public nature of human rights and emergence of ‘due diligence’

One of the key themes to emerge from the case studies is that family violence thrives because it is kept behind closed doors, where perpetrators are allowed to continue under no threat of having to face up to their responsibility. **Part IV** will consider to what extent the Samoan context contributes to this attitude but regardless, it is common worldwide and one which was also inadvertently endorsed by the human rights framework until relatively recently.

The evolution of that mindset within the framework of human rights is helpful because it shows how this mindset needs to be changed and also how the responsibility to address family violence now lays with the State. If the State meets this responsibility they will not only be enforcing human rights, preventing individual violations, but through the inter-connected nature of the value systems, be reinforcing the *Fa’asamoa* and religious values.

The development of State responsibility for individual acts of violence occurred in the mid-1980s as the connection between violence against specific groups and discrimination began to be better understood. Violence against women was starting to be viewed as a result of the inequality between men and women and this inherent discrimination led to the concept of ‘due diligence’ arising. This notion determines a State has responsibility for private actions even if they were not directly responsible and if it could be shown that a particular type of violence was discriminatory and a systemic violation of rights and fundamental freedoms.

It also held that if such violence was widespread in its nature and the State failed to act, then it was implicitly tolerating that type of behaviour.

“A State that does not act against crimes of violence against women is as guilty as the perpetrators.”<sup>85</sup>



*Radhika Coomaraswamy, Special Rapporteur on Violence Against Women*

This principle of due diligence now means that if a State does not take certain actions to address discriminatory violence then it is guilty of widespread violation of human rights. The case studies clearly demonstrate that women, children and specific groups suffer disproportionate levels of violence and the due diligence standard requires States to ‘prevent, investigate, prosecute and compensate’. This includes ensuring access to justice, an effective legal framework, access to shelters, allied health services and rehabilitation for both victims and perpetrators. The standard is high and **Part IV** will assess whether the current Government, as the primary actor of the State of Samoa, is meeting this obligation.

Should such a finding be made then the human rights framework provides an extremely powerful tool in effectively addressing family violence. This is because it provides concrete legal requirements for the Government to act. In doing so the Government would also be strengthening and reaffirming the *Fa’asamoa* and religious beliefs that are also violated through such violence.

<sup>85</sup> United Nations Commission on Human Rights. (1996). *Economic and Social Council Fifty-second session*. E/CN.4/1996/53/Add.2. Retrieved from <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G96/104/75/PDF/G9610475.pdf?OpenElement>.

**Inquiry Finding 8:** Family violence constitutes widespread violations of the *Fa'asamoa*, Faith and human rights.



**Inquiry Finding 9:** *Fa'asamoa*, Faith and human rights have the same roots, values and principles. They all offer different ways in which to protect the shared ideal, and strengthening one results in the strengthening of the others.



# PART IV: EXISTING APPROACHES, CAUSES & TRIGGERS



In order to tackle family violence, its causes must be fully understood and the effectiveness of the current protection and prevention framework assessed. **Part IV** examines the range of causes and triggers identified throughout the Inquiry and place them in the current context of beliefs, services and systems.

What is abundantly clear from the case studies and all other evidence before the Inquiry is that there is a common element to all forms of family violence in Samoa, as is the case with all forms of violence worldwide – power and control. The perpetrator in each of the case studies was attempting to control the victim or exert their power over them, usually to coerce them into a particular type of behaviour or borne out of the perpetrator’s own frustrations.

The nature of family violence is such that power and control underpins all forms of it yet there are always other causes or triggers which contribute. It is rare for family violence to be carried out simply for the sole reason of trying to exert power and control. It may be to coerce the victim into conforming to gender stereotypical roles, or out of misguided love for a child, or be related to financial or alcohol issues or any of the other issues discussed in detail below.

The causes and triggers are complex and inter-related and this means that there cannot therefore be one quick simple solution for addressing family violence. The only way to adopt an effective approach is to understand **all** of the causes and triggers and address each and every one of them. A fine balance also needs to be struck between attributing causes and triggers and also ensuring personal responsibility for one’s own actions.

## 7. Attitudes, Beliefs & Practices

### 7.1 Children

The Inquiry found compelling evidence to suggest attitudes towards children and the way they are treated and raised, is a significant contributor to family violence. This happens primarily in five ways:

#### 7.1.1 Intergenerational violence

Physical and harsh verbal discipline/ violence towards children are viewed as a necessity in their upbringing and development, and this is the majority view in Samoa currently. However, evidence shows

that where punishment becomes violence, it not only violates a child rights but it also places them at further risk of violence as either a victim or perpetrator later in life.

**Inquiry Info Point 10: What rights does a child have under the Convention on the Rights of a Child in relation to violence?**

Article 19: “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment of exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other parent who has the care of the child.”



Setting aside the question of where the line is between discipline and violence for a moment, where children are exposed to violence, it substantially increases the risk of them becoming either a victim or perpetrator of family violence in the future, effectively passing on violence from one generation to the next. Tavita<sup>1</sup> would be able to attest to this fact if he were still alive today. His father cited the abuse he experienced as a child as the reason why he used to beat Tavita. The Inquiry also heard from Fifita who had been beaten by his dad when he was young.

“I was beaten by my very violent father. I smack my kids as well because of what my dad did to me. One day I went too far and hit my kid with a machete, cutting them.”



*Inquiry participant, Inquiry public hearings*

The Inquiry has already detailed the consequences of violence towards children, among which it is shown that “children who experienced frequent parental aggression [...] exhibited higher levels of physical aggression, delinquency and inter-personal problems”.<sup>2</sup> Violent parents are simply teaching their children that violence and aggression is the answer either by being violent directly to the child or through the child witnessing IPV.

“The way I learned to argue was the strongest person won by lashing out.”



*Eteuati Ete, ‘the Laughing Samoan’, Inquiry document 101*

Children, especially boys are raised to view violence as the answer to problems and when they are not getting their own way, substituting communication and compromise for violence.<sup>3</sup> If this is the lesson children are learning, it should come as no surprise to learn that later in life people resort to violence rather than communication. This is not just a breach of the human rights of the victim but a breach of the

<sup>1</sup> Case Study 1.

<sup>2</sup> John Devaney. (2015). “Research Review: The Impact of Domestic Violence on Children.” *Irish Probation Journal*, 12. p. 82. Retrieved from <https://pdfs.semanticscholar.org/506f/db2353976001352213a72baf3c48aaa743c0.pdf> . Accessed 30 May 2018.

<sup>3</sup> See Nicole Spector. “Why boys are more likely to be violent — and what can we do to stop it.” (1 March 2018). *NBC News*. Retrieved from <https://www.nbcnews.com/better/health/boys-country-are-hurting-we-can-help-ncna851901>.

*Fa'asamoa* principles of *talanoa* (communication), *feāvaa'i* (mutual respect) and *fepuipua'i* (mutual protection).

As well as increasing the risk a child will go on to be a perpetrator, the use of physical and harsh verbal discipline/violence also increases the risk of them becoming a victim in the future. This happens in two ways. First is that violence towards children increases risk factors for further violence. Secondly through children watching how their parents live with violence, thinking it is the norm and replicating that behaviour as a victim when they grow older too. The cycle of violence therefore continues.

The risk factors which lead to further violence have been detailed in **section 9.1** and include psychological and physical harm which can lead to dropping out of school and in turn increase financial pressures which can trigger family violence. It also means they are less likely to be aware of protection services available to them. This is just one example of the path to a cycle of violence a child can find themselves on through no fault of their own, simply by being exposed to violence in their youth. The inter-connected nature of family violence means that these risk factors are all inter-linked and that violence breeds further violence.

The true scale of how violence towards children breeds further violence in Samoa is well illustrated by the SFSS 2017 which found:<sup>4</sup>

- children who have been subject to violence are nearly **three times as likely** to become victims of IPV later in life;
- boys who had witnessed IPV were also **three times more likely** to become perpetrators of IPV later in life.<sup>5</sup>

**INQUIRY FINDING 10: Children subjected to violence or those who witness violence growing up are at a substantially increased risk of becoming a perpetrator or victim of family violence later in life.**



### 7.1.2 Misunderstandings of cause and effect and failure to take parental responsibility

There is a growing realisation among society that parents generally need to start taking responsibility for the way in which children are growing up to embrace violent lifestyles and other negative behaviours. The Inquiry is not seeking to judge parents in any form – indeed for many a violent upbringing is all they have known and they are a broader part of the inter-generational nature of family violence in Samoa. However, it is possible to break that cycle and now is the time for parents to start asking themselves honestly whether they are truly living up to their responsibilities and if not what improvements can be made. In **Part V** this question will be considered in detail and guidance provided.

<sup>4</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>5</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).



Therefore, before moving on to other elements of attitudes towards children which have an impact on the prevalence of family violence, it is helpful to consider why so many people maintain the need for physical and harsh verbal punishment/ discipline of children. This happens for two reasons – the first being that violence towards children is a shortcut to discipline and those who wish to keep employing it find various excuses to do so and ignore the potential negative consequences. The second is that many people who were brought up being smacked or shouted at believe this to be why they turned out so well, despite no firm evidence to support this.

There is a simple misunderstanding of cause and effect that is widespread and is summed up by the common sentiments: ‘well I was hit as a child and it didn’t do me any harm’, or ‘getting beaten as a child made me the person I am today’.

Neither of these statements are true nor have any basis in fact. They highlight two common family violence myths which need to be dispelled.

**Myth 10: ‘Being smacked as a child made me into the good person I am today’ or ‘It didn’t do me any harm’**

**Myth 11: Being exposed to violence as a child means they are destined to go on and become a perpetrator or victim of violence when they grow up.**

**Reality:** When someone says of a violent upbringing ‘well it didn’t do me any harm’, or ‘it made me the person I am today’, neither are true or have any factual basis. However, neither does it mean that a child who has a violent upbringing is guaranteed to go on to become a perpetrator or victim of violence when they grow up.

A violent upbringing *increases* the chance a child will go on to become a perpetrator or victim, it does not make it certain. That means that a person can have a violent upbringing and go on to lead a life totally free of violence, and indeed many do. If we look at 100 children who grow up without violence 10 may go on to be victims or perpetrators of violence but for 100 children who grow up with violent discipline this number may be 30. Therefore the people who say ‘it made me who I am’ or ‘it never did me any harm’ may be the lucky ones who did not succumb to the increased risk.

Similarly, out of the 100 children who grew up with violence it is not inevitable that they will go on to experience further violence. This is important to acknowledge so that they are not stigmatized and assume the role of victim or perpetrator, fulfilling the prophecy that was put upon them.



In attributing their good character to their violent upbringing cause and effect is being confused. A person can grow up to be good *despite* having being physically and harshly verbally disciplined, but not *because*

of it. Similarly, a person who is brought up in a non-violent way can become a victim or perpetrator *despite* their upbringing rather than *because* of it. The statistics simply show there is an increased risk of further violence for a child who was brought up in a violent household rather than one who was not. This confusion allows the practice to continue and therefore it is important that this is widely understood.

This misattribution of cause and effect allows parents to continue physical and harsh verbal punishment towards their children believing it to be in their best interests. It also has the net effect of absolving them of responsibility for their actions and the negative consequences that arise from smacking and shouting.

The Inquiry spoke with many parents throughout proceedings, many of whom were concerned about perceived failing standards of behavior among the youth of Samoa. What was clear was the pervasive failure among parents to take responsibility for the actions of their children. Many excuses were put forward to the Inquiry:

- “The human right of the child is to blame for why kids are now rebellious. That’s the reason kids are all acting up”<sup>6</sup>
- TV and movies
- Loss of respect for elders
- Western influences

However, the types of behaviour adults express concern over includes behaviour that is made far more likely through a violent upbringing. This is either as a direct result of copying the behaviour children see adult members of their families carry out or as a consequence of the impacts caused by violence towards children. For many people it is easier to imagine that they can physically discipline children to be good people rather than lead by example.

“One of my friends said their dad told them ‘do what I say and not what you see me doing.’”



*Inquiry Youth Participant, Inquiry public hearings*

The reasons provided to the Inquiry merely serve as a mechanism by which the parent can avoid their own responsibilities and continue parenting through the exercise of violence / discipline.

An extreme example of this is the prevalence of youth suicide in Samoa. Senior members of the church and others in society have asserted the introduction of human rights has led to children believing they have unlimited rights, including the right to take their own life. No supporting evidence has been provided in relation to this claim. On the contrary, those who experience abuse are twice as likely to consider suicide and three times more likely to attempt suicide than someone who has not been abused.<sup>7</sup>

<sup>6</sup> Matai participant, giving evidence during Inquiry public hearings.

<sup>7</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

**Myth 12: The Convention on the Rights of a Child (CRC) gives children rights which lead to increased drug and alcohol abuse, sexual promiscuity, disrespectful behaviour, violence and suicide.**

**Reality:** There are no rights within the CRC which permit children to engage in any of these activities, nor remove the right of the parent to raise their child as they wish. Rather, it is violence towards children which contributes to these types of behaviours. The CRC prohibits all forms of violence towards children in order to prevent this, thereby better protecting the dignity and integrity of the child and protecting the rights of the parents. It is also a framework which can support the *Fa'asamoa* as the Inquiry found in the case of Tavita.<sup>8</sup> Samoa was actually involved in the development of the CRC and a leader in signing it before any of the other Pacific countries, as it was recognized at the time as embodying the principles of the *Fa'asamoa* and the Constitution. Used effectively it can strengthen the *Fa'asamoa* and application of religious values.



It is the violence itself, which is leading to the behaviours that are so lamented. Elsewhere on the spectrum, a violent upbringing for a child increases the risk of:<sup>9</sup>

- Alcohol and drugs abuse;
- Unsafe sexual practices, multiple sexual partners and unwanted pregnancies;
- Sexual Transmitted Diseases, HIV and Aids;
- Physical inactivity and diabetes;
- Depression, anxiety and nightmares;
- Increased aggression and anger management issues;
- Dropping out of school, inability to obtain and keep a job.

“Children are a reflection of their parents. If the children are rude and answer back then obviously the parents are just the same.”

*Seumanutafa So, Matai participant, Inquiry public hearings*

“Violence in the family all relates back to how parents raise their children. Parents are the first teachers for children. If a child is not good or disrespectful the parents are not doing their job.”

*Masoe Selota, Matai participant, Inquiry public hearings*



<sup>8</sup> Case Study 1.

<sup>9</sup> John Devaney. (2015). “Research Review: The Impact of Domestic Violence on Children.” *Irish Probation Journal*, 12. p. 82. Retrieved from <https://pdfs.semanticscholar.org/506f/db2353976001352213a72baf3c48aaa743c0.pdf>. Accessed 30 May 2018.

**INQUIRY FINDING 11: Violence towards children worsens because parents falsely believe it aided their own development as children or through employing a variety of excuses for misbehaviour among the youth and fail to take responsibility for their own role.**



### 7.1.3 Confusion over ‘reasonable punishment’

The fact that violence breeds more violence is clear. But what is still not clear is what acts towards children amount to violence? There is universal confusion in Samoa as to where the line between discipline and violence is in relation to physical discipline and lack of understanding of what constitutes verbal violence. For example, Teuila’s<sup>10</sup> family bombarded her with verbal abuse for getting pregnant until she took her own life. Most people would agree that this oversteps the line of ‘reasonable punishment’ but what of everything in between?

The current legislative framework in Samoa makes it against the law for anyone to use any corporal punishment in any setting,<sup>11</sup> yet section 14 of the *Infant Ordinance 1961* allows parents to administer ‘reasonable punishment’. This lack of clarity means that there will inevitably be parents who think they are simply disciplining their children when it should really be classified as violence. Having a clear definition of where the line between discipline and violence is of vital necessity and importance.

It therefore falls upon the Inquiry to draw this line between what constitutes discipline and what constitutes violence in order to be able to accurately assess to what degree violence and discipline is being conflated and bring to an end this period of uncertainty. In reading this section, any parent or decision maker should approach the issue with an open mind, rather than simply saying to themselves that the actions they take towards their children constitute discipline. Everybody believes that, and until people are prepared to reconsider, violence will remain.

To draw the line between violence and discipline it is necessary to do so within the cultural context of Samoa and not draw solely from a UN definition or other external explanation. That being said, human rights and *Fa’asamoa* share a common view when it comes to children and the role of parents in their development. They both hold children in the very highest regard and acknowledge that they can be particularly vulnerable due to their age, mental capacity and physicality. The role of the parent is therefore critical within both these frameworks to protect the well-being of the child and ensure their development. The CRC affirms parental responsibility “for the upbringing and development of the child where the best interests of the child will be their basic concern”<sup>12</sup>. Few would argue that the *Fa’asamoa* says any different. Indeed the role of the parent in ensuring the development and the best interests of the child is an integral part of the *Fa’asamoa* and much of the concern around the CRC is that it interferes with that responsibility, when it is actually the opposite that is true.

<sup>10</sup> Case Study 3.

<sup>11</sup> *Education Act 2009*, section 23.

<sup>12</sup> See Article 3 (1) of the *Convention on the Rights of the Child*.

**Myth 13: The Convention on the Rights of a Child (CRC) interferes with parental responsibility to discipline and raise one's children.**

**Reality:** The CRC affirms the right and responsibility of the parent to raise their children in their best interests. The CRC contains a series of rights for children to ensure their development and freedom from actions that are not in their best interests, such as ensuring they are raised in an environment that is free from violence or other inhuman or degrading punishments. No other limitations are put upon a parent's right and responsibility to raise and discipline their child.



Since it can be established that human rights and the *Fa'asamoa* are both seeking to protect the best interest of the child, the first step of the process in deciding what constitutes violence rather than discipline is to come to an understanding of what is in a child's best interest.

In **section 9.1** the potential negative impacts of **violence** were detailed, summed up well by the finding that 'exposure to violence at an early age can impair brain development and damage other parts of the nervous system and other bodily systems, with lifelong consequences.' This is obviously not in the best interests of the child.

**Discipline** is intended for the well-being and development of the child and these impacts of violence are certainly not in the best interests of the child and cannot be justified. Therefore a logical conclusion is to say: **If any action, verbal or physical, towards a child is shown to potentially cause the negative impacts commonly accepted to be caused by violence, then those actions constitute violence and not discipline.**

Armed with this conclusion we can remove the layer of subjectivity, which is the cause of the confusion and ambiguity and allows one person's reasonable punishment to be different to that of another's. This will provide the definition that many have called for throughout the Inquiry, a question which currently does not even have legal clarity, and allow parents to know what physical and verbal punishments stray from discipline into violence.

Once we can agree that all actions which potentially cause any of the range of negative impacts associated with violence are in themselves violent actions, then the final step is to assess which actions toward children have these consequences.

The answer, however, is one which many will find difficult to accept. All evidence points towards all forms of physical and harsh verbal reproaches (for definition of 'verbal abuse' see Inquiry **Info Point 5** above) as potentially causing the negative consequences that are associated with violence towards children. Therefore the final conclusion is that **all physical and verbal discipline potentially causes the negative impacts associated with violence, and therefore constitutes violence.**

For young children, the net effect of physical or verbal punishment is not only detrimental but there is not even any positive effect, which could be argued to justify the harm that is caused (although this argument would also be invalid given the potential harm is not in the best interests of the child's development).

Research shows that small children below the age of five or six lack the mental capacity to comprehend the reasons for smacking.<sup>13</sup> This not only means that the smacking has no benefit as the child is unable to link the punishment to the behaviour and learn for the future, but it increases the risks of the negative consequences which are borne out of the child perceiving abandonment and rejection by their parents.

To summarise:

1. The *Fa'asamoa* and human rights both enshrine the role of the parent to guide a child's development and that the standard for parenting is to ensure it is in the child's best interest.
2. The range of negative consequences of violence towards children can never be said to be in their best interest, therefore any actions which increase the risk of these consequences constitutes violence.
3. All forms of physical and harsh verbal punishment towards children can lead towards these consequences, therefore **all physical and harsh verbal punishment amounts to violence towards children.**

It is therefore the widespread belief that physical and verbal punishment of children is acceptable in any form that causes family violence both directly and indirectly. Directly in that **all** physical and harsh verbal punishment constitutes violence towards children and indirectly because it increases the risk of the child later becomes either a perpetrator or victim of violence.

**INQUIRY FINDING 12: All forms of physical and harsh verbal discipline<sup>14</sup> are forms of violence, which directly contribute to the prevalence of family violence and indirectly by increasing the risk of a child becoming either a perpetrator or further victim later in life.**



#### 7.1.4 Lack of parent-child communication

A feature of the common approach to parenting is that there is little dialogue between parent and child. It is considered that parent knows best and therefore communication is a one way process of instructing the child how to act and behave, to achieve their positive development. However, the Inquiry found this lack of communication to have negative consequences, among which were the perpetration of family violence (and violence more generally).

"The most important thing in parenting is communication. Currently there is hardly any communication. A child should be seen and not heard. They are told what to do, they have no say and if they don't do what they are told they are physically abused. It wounds them not only physically but emotionally and mentally. Then he or she grows up believing this is normal. It is handed down from

<sup>13</sup> Lisa Belkin. "Does outlawing spanking lower the crime rate years later?" (17 July 2013). *Huffington Post*. Retrieved from [https://www.huffingtonpost.com/2013/07/17/outlawing-spanking\\_n\\_3606886.html](https://www.huffingtonpost.com/2013/07/17/outlawing-spanking_n_3606886.html).

<sup>14</sup> Definition at **Info Point 6**.

generation to generation. Parents need to communicate and hear what the child is trying to say. They need to be allowed to speak.”



*Papali'i Carol Ah- Chong, Fa'ataua Le Ola, Inquiry public hearings*

The Inquiry has already found strong evidence to suggest that the lack of communication between parent and child, exacerbated by verbal abuse can lead directly to suicide and in Teuila's<sup>15</sup> case, like many others, this is exactly what happened. However, it also appears that this lack of communication leads to frustrations, anger and resentment within children, which can be harboured into adulthood and ultimately expressed through violent outbursts (whilst outside the scope of the ToR of the Inquiry it also plays a role in the current prevalence of inter-school violence.)

What is also true is that this did not always used to be the norm and some witnesses to the Inquiry gave evidence relaying how in times gone by families would routinely sit together daily after evening prayers and discuss any issues or concerns, working through them together as a group and where the principle of *fa'aaloalo* (respect) could be adhered to without depriving children of a voice.

“Children should be seen and not heard and eat last. I don't know where this fallacy came from. Growing up in Savaii and Upolu I experienced the joys of being a child. My grandparents were my storytellers and advocates, my voice. We ate at the same time and ate the same things. I believe this is the true Fa'asamoa when children are well fed and treated equally. Children should be restored to their original position within society”



*Fialauia Toailoa Amituanai, Inquiry public hearings*

Not only were children afforded a voice in previous times but they were also treated equally and afforded the reciprocal respect and protection the *Fa'asamoa* demands and this too has been lost over time. The increasing lack of communication between parents and children also makes sexual violence less easy for young people to report, and thus it is allowed to continue. This is also exacerbated by the fact that speaking about sex remains a taboo.

Lani's story<sup>16</sup> of survival neatly highlights the ongoing and gradual nature that sexual violence can take. If parents do not talk to their children about the nature of healthy relationships then children are less likely to be able to identify what is happening to them as abuse. Even if they are able to identify it then the lack of communication between themselves and their parents often means they are unable to raise the issue and have to continue to suffer in silence.

**INQUIRY FINDING 13: *Talanoa* (communication) between parents and child has broken down and has been replaced by violence. The lack of communication also places children at risk of further violence.**



<sup>15</sup> Refer to Case Study 3.

<sup>16</sup> Refer to Case Study 6.



### 7.1.5 Gender stereotyping of children and unequal treatment of boys and girls

Gender stereotyping and a belief that women are subservient to men is globally accepted to underpin all GBV leaving open the question of whether this applies in Samoa. The Inquiry found strong evidence to suggest that not only does it apply but that gender stereotyping starts from birth, which in turns facilitates and contributes to family violence.

Boys and girls are raised differently in Samoa and there are very strong, fixed ideals of their respective roles, duties and characteristics – all of which reinforce gender stereotypes. This also leads to a patriarchal society where men are able to act with impunity and the interests of women are not represented.

“There is a problem within families where brothers and sisters go head to head because parents are not doing their role. They are lifting one and they are dragging the other – there is an imbalance in the way they raise them.”



*Rev. Fred Sefo, EFKS, Inquiry public hearings*

From birth, girls are kept close to their mothers, usually within the household, where they are required to carry out chores, cook for their brothers and family and stay out of harm's way. In contrast, boys are seen as free to come and go as they please, with little responsibilities either in relation to their role or their actions.

Indeed, the primary reasons girls are not afforded the same freedom of movement as boys is the perception that boys are uncontrollable sexual beings who will be powerless to stop themselves if the opportunity arises.

“Boys, but not girls, are permitted to roam around in their spare time. Girls who roam about unsupervised are considered to be inviting sexual attention.”



*Participant during Inquiry Community Consultations*

This attitude teaches children that boys are not responsible for their actions. It fosters a sense of entitlement over girls and women that is taken into adulthood and that can lead to both sexual assault and IPV. If boys are told from an early age that they are not responsible for their sexual behavior, and it is the responsibility of the girl to prevent it happening it does two things. First it encourages this type of behaviour within boys (and subsequently men), and secondly it places the blame on the girl (and women), meaning that when it does happen it is less likely to be reported as the victim feels personally responsible and not entitled to complain.

This finding is evidenced by research from the region into why men carry out violence which found that the primary motivation for rape was a sense of sexual entitlement. Of those who had raped in their

lifetime half had done so under the age of 20,<sup>17</sup> showing how this entitlement can be developed from childhood.

Tasi<sup>18</sup> had to sit and watch as her father fell asleep at his own trial for her rape. Such was his indifference to the charges against him likely arising from the sexual entitlement he had been led to believe growing up. There is also a more general gender stereotyping that takes place from birth where boys are elevated above girls.

“It goes back to how we raise our boys. It’s not obvious but there is a silent way boys are treated differently. Mothers usually talk up the son. He’s good-looking, he’s ‘avi’ (a womanizer). Talking up your sons, leads boys into thinking they can do what they want and treat girls as they want. Samoans have this way of raising their boys whilst girls are made to stay in the house and do house chores.”



*Participant during Inquiry Community Consultations*

In addition to encouraging sexual prowess from an early age, boys are also provided with guidance on how to achieve their gender stereotype, at this point physicality starts to become a consideration.

“Boys are brought up with the expectation of society that they must be muscular men who must own their women and control their behaviour. The whole macho thing is they are competing with other men and the worry that another man will come and take their woman is at the forefront of their mind, it feeds their jealousy and insecurity.”



*Participant during Inquiry Community Consultations*

Through enforcing these gender stereotypes parents are laying the foundation for IPV such as that carried out by Losa’s<sup>19</sup> partner and many others. Additionally, it shows the roots of violence that extends outside of the family setting and between men, when ‘possession’ of a woman is deemed to be at stake.

**INQUIRY FINDING 14: Stereotypical gender roles are taught from birth, reinforcing the patriarchal society, teaching girls to be subservient, encouraging sexual entitlement of boys, and creating an environment of impunity for perpetrators.**



<sup>17</sup> UNDP, UNFPA, UN Women and UN Volunteers. (2013). “Why Do Some Men Use Violence Against Women and How Can We Prevent It? Quantitative Findings from the United Nations Multi-Country Study on Men and Violence in Asia and the Pacific.” Retrieved from <http://partners4prevention.org/sites/default/files/p4p-unmcr-ppt-lores.pdf>. Accessed 6 May 2018.

<sup>18</sup> Case Study 8.

<sup>19</sup> Case Study 16.

## 7.2 Gender roles

### Inquiry Info Point 11: What is patriarchy?

Patriarchy is a system of society or government in which men hold the power and women are largely excluded.<sup>20</sup>



#### 7.2.1 A Patriarchal Society propped up by Violence

It is commonly claimed that men and women enjoy equal status in Samoan society but the Inquiry found extensive evidence to the contrary and patriarchy reigns instead. This lies at the heart of the majority of family violence, as it does with GBV in the rest of the world.

The entrenchment of the patriarchal society has been the status quo for many years now. The SFSS 2017 clearly demonstrated this when it reported that:

- 90% of female respondents believe a good wife obeys her husband;
- 79% of non-victims of abuse and 87% of victims believed a man should show her partner who is boss;
- 97% of men believed women should obey.

The Inquiry has already identified how gender roles are attributed from birth and the case studies and research clearly show how this leads directly to the prevalence of family violence.

“It is clear that actions of men against women are a reflection of gender-based power and control. This means women are subordinated to their husbands and assumed to have less or no control over family affairs and their own bodies. The act of family violence is seen as a ‘policing mechanism’ to keep women in the household and society more generally.”



*Samoa Family Health and Safety Study 2000, Inquiry document 83*

The consequences of the gender hierarchy, instilled from birth are evident throughout the case studies so far. From Talia who had a shotgun pointed at her for taking her children to church to Losa whose partner would abuse her at the slightest sign of independence. Patriarchy is threatened by the independence of women so it is not uncommon to see men behave as they did in the case of Talia or Losa, because their power and control is under threat.

<sup>20</sup> Refer to K. Bhasin. *What is Patriarchy?* (2006). Women Unlimited: New Delhi cited in Abeda Sultana. (2010-2011). “Patriarchy and Womens subordination: A Theoretical Analysis.” *The Arts Faculty Journal*. Retrieved from <https://pdfs.semanticscholar.org/a1a1/956fe39a514e5128ec48b29fab7f45b1848e.pdf>. Accessed 30 May 2018.

### 7.2.2 Notions of Masculinity

The patriarchal gender hierarchy is reinforced by popular views on what it constitutes to be a ‘Samoa man’ and notions of masculinity.

“Popular modern representations of the masculine ideal appear on T-shirt designs showing heavily muscled and tattooed men in belligerent poses. Masculinity is particularly associated with sexual prowess, the sexual conquest, and the penetration and impregnation of women.”



*Ramona Boodoosingh, PHD on Violence Against Women in Samoa, Inquiry document 82*

This general view of masculinity in Samoa is reinforced everywhere, from in the home to adverts on TV to peer pressure among the youth. A number of people remarked to the Inquiry that western movies and music is responsible for sexual violence in Samoa. Whilst it may or may not play a small role in exacerbating it, the main causes lay much closer to home, with the promotion of this notion of masculinity from an early age by parents and the constant reinforcement of this image throughout a person’s life.

The problem with the masculine ideal is that it further creates a society which holds the victims to blame and misdirects attention away from the root causes, leading to the continuation and strengthening of the violent environment.

“Notions of masculinity excuse the behaviour of men and hold women responsible for it.”



*Ramona Boodoosingh, PHD on Violence Against Women in Samoa, Inquiry document 82*

The power of a patriarchal society and ‘what it means to be a man’ can lead to men using physical, emotional and verbal violence to control their wives, partners, children and family. It can also create an environment of peer pressure where men are expected to control these people. Failing to do so is perceived to be a sign of weakness and most of us have heard someone ask the question ‘are you a real man?’ in a situation where they have been perceived to not have total control over their partner, or do not react violently when they are slighted.

### 7.2.3 Jealousy

Jealousy was also often cited as a trigger for family violence and the prevalence and severity of jealousy in Samoa was clear to the Inquiry. This reflects the strength of the societal expectations that are put on men (usually by other men) that they control their partner. If a wife is seen to be even talking to another man it is commonly perceived to reflect the loss of control the man has over his wife. Jealousy is therefore the instinctive reaction to prevent this type of situation occurring. However, jealousy is a trigger for family violence and a by-product of the patriarchal society that has been created.

“As a result of these social expectations men may feel obliged to assert their dominance wherever there is a disagreement. If unable to obtain their partner’s compliance by negotiation, some men may feel compelled to resort to abuse because they fear social criticism if they appear to be dominated by a woman.”



*Samoa Family Health & Safety Study 2000, Inquiry document 83*

#### 7.2.4 Violence as a substitute for communication

Violence therefore not only becomes a last resort after trying to resolve matters through communication but eventually comes to replace communication altogether. With most children having been raised to be seen and not heard, effective communication skills are not generally high so the resort to violence occurs much quicker and may even be the default for some.

“Not only is abuse primarily about power, but it is often a substitute for effective communication. Abuse may become a habit, completely replacing all attempts to resolve conflict by peaceful means”.



*Samoa Family Health & Safety Study 2000, Inquiry document 83*

#### 7.2.5 Sexual entitlement

It is not just the lack of communication skills that carries over from childhood into adulthood and leads to family violence. The idea that men are natural sexual predators with an insatiable appetite is developed from a young age as girls are told to prevent men and boys being tempted. This inevitably leads to a sense of entitlement where both women and men believe it to be true. It is not.

“Violence is all because of the clothes. The way youths are dressing up. Kids do not know how to dress. Girls should not be wearing shorts in front of their brothers. That is why there is sexual violence.”



*Matai participant, Inquiry Public Hearings*

This argument does not hold true on any level. First let us consider that Samoan women have not always historically required to fully cover themselves in public yet in those days sexual violence of the nature we see today was not the problem it is now. Secondly, men walking down the street topless does not lead to women losing control of their sexual urges and assaulting them there and then. If the argument is that men have different sexual urges from that of women why then does this not apply to all men? Many men are able to control themselves yet others cannot. There is no evidence at all to suggest that men are uncontrollable sexual beings, and much evidence to the contrary.

#### 7.2.6 Victim blaming

The above logic, commonly heard throughout the Inquiry, is a classic example of ‘victim blaming’ and those who engage in it are playing a substantial role in allowing the continuation and growth of sexual

violence by absolving the perpetrator of any responsibility and allowing them to continue operating with impunity. It does not just apply to sexual violence either.

### **Inquiry Info Point 12: What is victim blaming?**

When the victim of a crime or any wrongful act is held entirely or partially responsible for the harm that happened to them. Examples may include the following:<sup>21</sup>



- “Well, when someone dresses the way she does, she’s asking for it.”
- “She was drunk; she must not be remembering things correctly.”
- “She was flirting with him, what did she expect?”
- “I know he is a really nice person and would NEVER do something like that.”

Victim blaming is a feature of all forms of violence and is so common that it has been accepted across society. Most of society believes there are justifications for IPV or physical or verbal discipline or violence towards children<sup>22</sup> but in many cases these are just further examples of victim blaming. The case studies have already revealed how Sisilia<sup>23</sup> felt responsible at the age of 4 for the sexual abuse inflicted on her by her cousin or Malo<sup>24</sup> who would beat his wife even when she had not done anything wrong but who would still tell her it was her fault.

Why do respected individuals, such as the *matai* above, and people from all across society hold these highly detrimental views and regularly blame victims for the violence they endure? Is it simply a misunderstanding of the true causes? The answer is no. It is for one of two reasons:

1. To consolidate power and strengthen the patriarchal nature of society; or
2. As an acceptance and internalization of the argument as a protection mechanism against being subjected to further violence.

Both of these things happen at both a societal and individual level. A man might not necessarily be protecting his own immediate power in victim shaming, but rather the system as a whole which grants him power and superiority. Similarly a woman may not be trying to protect herself from violence by internalizing rather than fighting victim shaming attitudes but it may have been passed down through generations and be ingrained into their belief system. The quote below is an example of mindsets that breeds victim blaming.

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<sup>21</sup> The SAVA Center. “It’s On Us.” Retrieved from <http://itsonusfortcollins.org/wp-content/uploads/2017/02/What-is-Victim-Blaming.pdf>. Accessed 30 May 2018.

<sup>22</sup> See Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws); SPC and UNFPA. (2006). *Samoa Family Health and Safety Study 2000*. Document 83 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws); and Samoa Office of the Ombudsman/ NHRI. (2015). *State of Human Rights Report 2015: For Samoa by Samoa*. Apia: Government Printers.

<sup>23</sup> Case Study 7.

<sup>24</sup> Case Study 17.

“Because men are held to have natural and uncontrollable sexual appetites women are to blame if their husband is unfaithful. She must satisfy him, and if he looks for sex outside marriage it is because the wife has failed in her duty to satisfy him.”



*Ramona Boodoosingh, PHD on Violence Against Women in Samoa, Inquiry document 82*

More than 70% of female respondents in the SFSS 2017 believed a woman should never refuse her husband sex and 30-36% of men believed a wife should have sex even if she did not want to. The sexual entitlement of men has become so entrenched in Samoan society that it has been internalized by women as well as men. It leads to situations such as the one described with horror to the Inquiry by Dr. Malama Tafunai who cared for a pregnant 13 year old girl who had been raped by her father on the instructions of her mother, who felt unable to perform her matrimonial duties. Instances such as this reflect harmful notions concerning sexual entitlement of men in patriarchal society which encourages sexual violence.

### 7.2.7 Internalisation of causes

The Inquiry consultations revealed a vast majority of people view family violence as a priority issue which must be addressed yet other statistics show that violence is accepted and widely viewed as justified. Often women view violence as more justifiable than men, despite far more often being subjected to violence rather than perpetrating it themselves. Why is this?

#### **Inquiry Info Point 13: How and why victims and groups internalise justifications of violence.**

Internalisation of the justifications of violence can happen at both an individual and societal level. At the individual level, if a woman is in an abusive relationship it is in her self-interest to understand the reasons behind her partner's abusive behaviour to such a level they are able to predict when it may happen and try to take evasive action (this is not always possible because violence often arises independently of the actions of the victim). Once they have reached this level of understanding, they embed it into their way of thinking to give them the best chance of survival. Over time it becomes second nature until eventually they tell themselves that they agree with the reasoning and they forget they ever thought differently. The internalization process is complete.



Consider a hypothetical victim, who has internalised the justifications for violence, gives birth to a little girl. She raises that little girl to deal with everything the world has to throw at her and passes on her new found beliefs about why violence can be justified. As this process happens in homes across Samoa, the internalization of the justifications for violence across the whole of society is complete.



“When women believe that abuse is a normal part of relationships, abusive men are unlikely to be condemned for their actions.”



*Samoa Family Health & Safety Study 2000, Inquiry document 83*

This is the situation which Samoa now finds itself in. The majority of people recognize that family violence is a major problem. It is hard not to when people are getting stabbed in the streets in broad daylight.<sup>25</sup> However, at the same time large sections of society either benefit from the patriarchal system (justifying the use of violence to protect the gender hierarchy), or have internalized these justifications as a protection mechanism against further harm. It has developed into a situation whereby effective change will only be possible by both groups coming to understand the justifications they believe to be true are fallacies, either designed to reinforce the status quo or having that effect.

### 7.2.8 Language

The social hierarchy between men and women, which facilitates the controlling environment out of which violence arises, is even reinforced in the language that is used.

“The kind of language used regarding women and their position in families fuels harmful attitudes against women. For example, using the word ‘itupa vaivai’ or ‘weak gender’ to refer to women, and ‘itupa malosi’ or ‘strong gender’ to refer to men.”



*Samoa Law Reform Commission, CEDAW Legislative Compliance Review, Inquiry document 89*

Language matters, as the Inquiry has already found in relation to the impact of verbal abuse on both children and adults within the family setting. Constantly being referred to as the weaker gender is a simple linguistic way of reinforcing the patriarchal society and the hierarchy between men and women at the heart of family violence.

Overall, between the way in which children are raised, the gender hierarchy of a patriarchal society, and masculinity expectations, it is inevitable that violence will rear its ugly head both within and outside the family unit. Many perpetrators of violence who came before the Inquiry often knew deep down that what they were doing was wrong but failed to take responsibility. Some felt that this was the only way of dealing with situations.

“I tried hard to be a good man but unfortunately no one ever told me what a good man looked like, what a good man does. Because all of the men I’ve known in my life perpetuated violence and that’s all I knew.”



*Inquiry public consultations participant*

<sup>25</sup> See “Stabbing horror in Apia.” *Samoa Observer*. (18 January 2018). Document 113 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

Whilst it is certainly hard to break this inter-generational cycle of violence, it is not impossible and nor does it absolve the individual of their own responsibility. Once again this report seeks to be the watershed moment for those who know they are doing wrong and do nothing and those who stand by and watch. There is no question of the devastating scale and impact of family violence in Samoa and now every person must accept how childhood and gender roles in particular create the foundation for family violence (and all violence), in order for it to be changed.

The creation and maintenance of the patriarchal society underpinning the prevalence of family violence occurs due to many factors and these will continue to be explored throughout the following chapters.

**INQUIRY FINDING 15: Samoa is a patriarchal society where women are seen as subservient to men. This gender inequality is the primary cause of family violence in Samoa as violence is the key tool in maintaining male superiority**



**INQUIRY FINDING 16: The patriarchal society is reinforced and maintained by:**

- The popular conception of Samoan masculinity;
- Sexual entitlement of men;
- Lack of communication within relationships;
- Victim blaming and widespread internalisation of the justifications put forward for the use of family violence.



### 7.3 *Fa'asamoa* and Societal Norms

“My question is where in the culture of *Fa'asamoa* does it say that if a woman does not do what the man wants, he can beat her or verbally abuse her? Where in our culture does it say that?”



*Luagalau Foisagaasina Eteuati-Shon, Matai, Counsellor, Former CEO MWCSO, Inquiry public hearings*

For many people the question of whether violence is part of the *Fa'asamoa* was critical as to whether it can be effectively addressed. Some view violence as an inherent part of Samoan society, a characteristic that can never be eliminated, and which is condoned by the *Fa'asamoa*. This perspective is both wrong and helps to further the environment of impunity for perpetrators of violence as, like notions of masculinity, it absolves the wrong-doer of any responsibility. Furthermore, regardless of whether violence is part of the *Fa'asamoa* any culture can adapt and evolve to meet changing environments.

Like Luagalau, the majority of Inquiry witnesses strongly rejected the claim that the *Fa'asamoa* condones any form of family violence. In theory this is absolutely correct – there is no part of the *Fa'asamoa* which specifies that violence should be used, either inside or outside the family unit. However, the Inquiry determined that the *Fa'asamoa* and other cultural norms are contributing to the persistence of family violence.

### 7.3.1 How the *Fa'asamoa* is (mis)used to strengthen patriarchy and perpetuate family violence?

The *Fa'asamoa* contributes to the patriarchal framework that underpins family violence in Samoa, often placing women in inferior positions and creating the environment for family violence to flourish.

“Samoa is a male-orientated culture, and women still hold a sub-dominant place in society. In a traditional cultural event [...] it is not uncommon for a woman of esteemed caliber or high social standing to be served from the back, unrecognized. As children are [...] so are women in our Samoan culture – they are to be seen but not heard.”



*Mercy Ah Siu-Maliko, 'A Public Theology Response to Domestic Violence in Samoa', Inquiry document 39*

The perceived gender roles and language reinforce this hierarchy and give further substance to notions of masculinity.

“Words like ‘pule’ (boss) reinforces behaviours and attitudes. The use of the word *pule* puts women as second class citizens. Even women use this word quite often and bow down to the view of the *pule*. In her world she is paying respect to that man but that can also reinforce these behaviours that fuel violence.”



*Rev. Fa'auuga Pula, Inquiry public hearings*

The role of the *Fa'asamoa* in strengthening patriarchy has contributed to the situation outlined previously in the Report whereby violence is seen as a necessity in maintaining those power relations. Despite the *Fa'asamoa* not explicitly endorsing the use of violence at any point, it is now used as a justification by many for beating wives<sup>26</sup> and children. It is easy to understand how this social shift has occurred – first the *Fa'asamoa* is interpreted to condone a gender hierarchy and then it becomes necessary to introduce violence to protect that hierarchy. Once violence has been introduced then the severity of the violence becomes worse over time and it becomes the new norm.

“Unless the woman in a family has been subject to heavy abuse such as being [...] thrashed with a bush knife blade, that I believe is violence.”



*Matai participant, Inquiry document 82*

When society has reached a point at which some *matais* only consider the threshold for violence to have been reached when a woman is physically assaulted with a bush knife, then it is time to consider whether the *Fa'asamoa* is being used in its true spirit or whether it is being misused to maintain existing power structures.

<sup>26</sup> See Philip Alston. (1985). “The Shortcomings of a ‘Garfield the Cat’ Approach to the Right to Development.” *California Western International Law Journal*, 15(3).

The gender hierarchy (which leads to the unequal power dynamic in turn leading to family violence) is intensified when a woman goes to live with her husband's family and becomes a *nofotane*, just as in the cases of Lote,<sup>27</sup> Pandora,<sup>28</sup> Lusia<sup>29</sup> and thousands more like them across Samoa.

*"Nofotane are especially vulnerable because of the position society places them in, and the power over them the husband and his family has."*

*Mercy Ah Siu-Maliko, 'A Public Theology Response to Domestic Violence in Samoa', Inquiry document 39*



What is becoming clear throughout the Report is that where power is placed in the hands of a single person or group of people, with no oversight or accountability mechanisms, it creates the breeding ground for family violence. That is **not** to say it is inevitable as there are many relationships within which violence does not play a part. However, the unequal power relations simply create the platform for it to flourish.

This appears to be true within the family unit in the various situations described in **Part III** and includes IPV. The power of an abusive partner is increased over a *nofotane* because they have the support of their entire family as was evident in the case of Lusia, whose in-laws stood by and watched as her husband beat her, even when she was pregnant. For many in Samoa, the in-laws become the abusers as well, like Pandora who was beaten and verbally abused by everyone in her household.

It is therefore clear that the *Fa'asamoa* is being used to reinforce the gender hierarchy and create unequal power relations that lead directly to the perpetuation and growth of family violence.

*"The imposition of this power imbalance is a breach of the principle of the *vā tapuia*. Power imbalances put women at risk of violence, physical and non-physical."*

*Samoa people's understanding of primary prevention of violence against women', Inquiry document 91*



The Inquiry finds that it is not just women placed at risk of physical and non-physical violence but anyone within an unequal relationship, and that this threatens part of the foundation of the *Fa'asamoa* principle of *vā tapuia*.

**INQUIRY FINDING 17: The *Fa'asamoa* is widely used and misused to reinforce the patriarchal society, which is at the heart of all family violence.**



<sup>27</sup> Case Study 18.

<sup>28</sup> Case Study 19.

<sup>29</sup> Case Study 20.

### 7.3.2 The breakdown of the *Vā Tapuia*

“Primary prevention of violence against women and girls (is largely understood) within the context of the *Fa’asamoa*. These concepts (such as the *vā tapuia*) were designed to keep women and girls safe from violence. When they were understood and observed this was perceived to be so. However, when they were misinterpreted, ignored and breached, women’s and girl’s safety were undermined or at risk.”



*Samoan people’s understanding of primary prevention of violence against women’, Inquiry document 91*

The Inquiry has already found that the *vā tapuia* is breached between a husband and wife where there is an unequal power dynamic and how this often leads to violence. One greatest importance of the *vā tapuia* is that of between the brother and sister which gives further insight into how the *Fa’asamoa* is being misused or largely ignored, leading to higher risk of family violence.

The *feagaiga* is the covenant between a brother and sister, and ‘*ole tauafafine ole i’oimata o lona tuagane*’ (a sister is the pupil of her brother’s eye) is a central principle of the *Fa’asamoa*, although one which extends to non-related males and females also. This principle creates an unwavering responsibility upon brothers to ensure the protection of their sisters and it shows how violence against women is intolerable from a cultural perspective. The strength of the covenant is such that simply asking “*pei oe e leai sou tauafafine?*” (As if you don’t have a sister?) in the face of unwanted conduct would stop it dead in its tracks. No person with a true understanding of the *Fa’asamoa* would persist with their behaviour. There could be no clearer example of the *Fa’asamoa* as a protection mechanism against family violence and as a rejection of the argument that Samoan culture actually permits violence.

“We have to be mindful that it’s not just men who are violent within the family. We have to also look at the mother and sister in-laws. It makes you wonder whether it ever occurs to her whether that the woman she is beating up is also the daughter of someone else’s who loves their child? It is the sister of another male. She is the treasure of another family. Does it ever occur to them? It is the *vā tapuia*, the sacred bond. Brothers and sisters, teachers, others in the village, every relation. People do not respect or acknowledge the *vā tapuia* anymore and this is why there are issues within families now.”



*Luagalau Foisagaasina Eteuati-Shon, Matai, Counsellor, Former CEO MWCS, Inquiry public hearings*

However, from the Inquiry case studies and prevalence data, it is evident that the *feagaiga*, and other *scared relations* (*vā tapuia*) are no longer respected the way they once were and therefore the protection they used to afford is no longer as robust. A study amongst Samoans in New Zealand links this decline to the arrival of the missionaries.

“In explaining the significance of the *feagaiga*, female participants drew on historical references to reflect how the *feagaiga* has changed over time. They described how in pre-colonial times, women held significant status and authority in the village. With the arrival of Christian missionaries that status was bestowed on the missionaries and later Samoan ministers of the church. Participants felt that their status as *feagaiga* was diminished by the bestowal of a *feagaiga* status to the church. The perceived loss of status was interpreted by some as a risk factor for violence.”



*‘Primary prevention of violence against women and girls’, Inquiry document 91*

The claim is that sharing of the “*feagaiga*” pedestal with *faifeaus* has detracted from the unique status women enjoyed in the culture and has reduced the protection afforded to women and girls. At any rate, one of the primary protection mechanisms against family violence, contained within the *Fa’asamoa* – the *vā tapuia*, has been eroded and this is a further reason why in today’s society violence is thriving. It is **not because** of the *Fa’asamoa*, it is because of the **absence** of the *Fa’asamoa*. Whether the churches have stepped in to fill this void will be discussed below.

The *vā tapuia* also plays a central role in creating the veil of silence around family violence that allows it to prosper. No one wants others to know of violence that may have occurred because it reflects a breakdown of the *vā tapuia* within that family unit. This dynamic is the primary reason why family violence is commonly viewed as a private matter and great lengths are gone to in order to maintain the illusion that the *vā tapuia* has not been breached. However, in doing so the veil of silence and shame is created, behind which perpetrators of violence can continue with impunity.

### 7.3.3 Family violence as a shameful and a private matter

“Abuse thrives because of shame, secrecy and silence. The more we shed light on this issue, the harder it is for abusers to hide. It is easier for perpetrators to abuse and rape when they can trust that their victims will not tell.”



*Lani Wendt Young, Inquiry public hearings*

Silence and shame go hand in hand when it comes to family violence. Silence is required so as not to advertise a breach in the *vā tapuia* within the family unit and to ensure this from the victim they are often shamed into not talking. Therefore, the honour and reputation of the family is kept intact.

The social stigma around family violence, the shame it can confer upon a particular family and the lengths to which society is prepared to accept to avoid this shame is a major (if not the primary) factor in the creation of a veil of silence behind which family violence operates.

“One of the most beautiful parts of our culture is our sense of obligation and devotion to our families. Protecting and honouring the family name, maintaining harmony are essential.”



*Samoa Planet, Inquiry document 45*

The idea that violence should stay within the family is therefore driven by this need to maintain harmony and over time this has led to a culture of extensive victim blaming, shaming and other devices which ignore the impact on a victim to ensure silence is achieved.

“There are common Samoan characteristics to be seen as a perfect person – trouble free. That is the reason why people do not report many of these cases. Goes back to feelings of shame and pride. This is particularly the case with incest. I think there are lots more cases than we hear of. They do not report out of fear and shame as it trashes the reputation of the family so they try to resolve it internally.”



*Police Outpost, Inquiry public hearings*

A pertinent example of ways in which the family name is often protected at the expense of the victim by resolving matters internally is the *ifoga* (traditional apology) where the families of the perpetrator and victim come to an agreement on a fine or punishment in exchange for an agreement to keep the peace. Often this happens without any involvement of the victim themselves, thus prioritising the maintenance of peace between community groups and their leaders over a woman’s well-being, and suppressing her right to access justice.

A more calculated and sinister mechanism to ensure silence is the emergence of victim blaming and shaming, and can even result in further violence just to prevent matters being reported. Across all of the Inquiry consultations, women spoke generally of experiences of violence but when asked to give individual evidence in the Inquiry hearings, even in the closed sessions, they were reluctant to do so. This was for various reasons including the belief that women are at fault for violence, for fear of not having support from family, or causing disquiet or that it was not viewed as a serious or ongoing problem. All of the reasons cited by victims for not reporting violence amount to the veil of silence that allows it to continue and the gender hierarchy to remain.

Shame and privacy as contributing factors of family violence are in no way unique to Samoa. This is a key characteristic of family violence anywhere in the world yet it can be argued that the *Fa’asamoa* strengthens these falsehoods which manipulate the principles of family harmony and honour to justify, excuse and hide all forms of family violence.

“There is an existing misconception that issues of domestic violence should be treated as personal matters or internal family matters (*mataupu-fa’a-loto-i-fale*) and it does not warrant public intervention (*e le aiāia e le to’atele*).”



*Vaipou Fetuliai Lagaaia, Lawyer , Inquiry public hearings*

The current approach of treating family violence as a private matter, and creating a culture of victim blaming and shaming to enforce that, is not working and the Inquiry agrees with Vaipou that it is a misconception and actually brings greater shame onto the family and Samoan society in the long term.



“A family is a nation in miniature. Simply enlarge the circle of the household and you have the nation. The happenings in the family are the happenings in the life of a nation.”



*Baha'i church Inquiry submission, Inquiry document 2*

Maintaining privacy and secrecy may once have worked as a way in which to protect the dignity of the family in Samoa, although it is more likely that this was never the case. It simply kept the issue out of view and denied the victim a way out of their suffering.

The very nature of family violence is that individual acts are always part of a wider pattern of abusive behaviour and if the root causes are not addressed then it will continue. A regular *matai*, despite their best intentions, will not have the knowledge or skills to provide the support needed by either the victim or the perpetrator to break the cycle of violence. Treating the matter as a private family affair is a likely way to ensure the violence continues.

Furthermore, consider that family violence is also linked to the prevalence of all forms of other violence and recall the international coverage of events such as the rape of the wife of a couple on their honeymoon in Samoa. The headline in the Samoa Observer was: 'National Shame'.<sup>30</sup> Secrecy and privacy does not maintain the dignity and honour of the family because the family is society as the Baha'i faith points out. By driving family violence underground, shame is brought upon the whole country, not individual families. The only people who will argue against this are those seeking to maintain the gender hierarchy and their own personal power and control.

Those who will never change their minds are motivated only by maintaining this status quo, or are too entrenched in their thinking to consider the facts. They should ask themselves this: 'Does the current approach work?' Can they be honest and argue that the *vā tapuia* among men and women, parents and children, among in-laws, is being respected when violence of the nature detailed in **Part III** is rife? Only 4% of the 1,500 participants in the Inquiry consultations thought family violence is not a problem and it is time for the 96% to consider how treating family violence as a private matter is not working and what the solution might be.

**INQUIRY FINDING 18: The *vā tapuia*, and *Fa'asamoa* generally, is no longer respected as it once was, removing a critical prevention mechanism against family violence contained within the *Fa'asamoa*.**



#### 7.3.4 Breakdown of Communication (*talanoa*) in Samoan families

Communication and oratory are at the heart of the *Fa'asamoa* and in principle should play a positive role in preventing the spread of family violence through creating pathways to reporting and preventing silence

<sup>30</sup> Samoa Observer. "National shame." (19 July 2016). Retrieved from [http://www.samoaoobserver.ws/en/19\\_07\\_2016/local/8871/National-shame.htm](http://www.samoaoobserver.ws/en/19_07_2016/local/8871/National-shame.htm). Accessed 12 May 2018.

descending behind which violence thrives. However, this is evidently not the case and there are a number of reasons for this and ways in which communication (or lack of it) contributes to family violence.

“One of the basic principles of *Fa’asamoa* is communication (*talanoa*). If there is something you are upset with your wife then talk to her. But there is no talking. We are not talking. Because there is a mindset of Samoan men that my wife is my property of which I’m in control. It’s no-one’s business but my own.”



*Luagalau Foisagaasina Eteuati-Shon, Matai, Counsellor, Former CEO MWCSO, Inquiry public hearing*

The gender hierarchy which has been constructed, and which facilitates family violence, is fundamentally at odds with the *Fa’asamoa* in regard to communication. It has long been recognized that communication is the key to a peaceful society and when that is removed peace is threatened. It could not be clearer in this instance how the lack of communication plays a direct role in the perpetration and continuation of family violence. Hope’s husband<sup>31</sup> was a Cabinet Minister, could not bring himself to communicate with his wife, instead resorting to physical and verbal violence any time he got frustrated. Many all over Samoa experience family violence like Hope simply because there is no way of talking, no way of solving problems without resorting to violence.

A further way in which communication channels have been eradicated is through the misapplication of the *Fa’asamoa* principle of *fa’aaloalo*. Throughout any Samoan person’s life they have a responsibility to instruct, advice and guide those around them.

“*E tu manu ae le tu le tau logo logo.*” (Birds may rest but our duty to inform does not).



*Samoan expression*

This responsibility is found within the context of the *vāfeāloa’i* and *fa’aaloalo* which demands respect of ones elders. Over time these have been conflated with the notion that women and children should be seen and not heard to the extent that the communication within these relationships is only ever one way. Many *Fa’asamoa* concepts are based on reciprocity and mutuality and therefore this is being misused to reinforce one of the mechanisms required for preserving gender inequality. The consequence of this is that it strengthens the framework that facilitates family violence whilst at the same time removing one of the key protection mechanisms found within the Samoa culture.

As a result of this, traditional means of communication and forums for exchanges have died out over the years, further bringing down the veil of silence. No longer do families sit around every evening to discuss their concerns and parents have become so used to this state of affairs many no longer know how to talk to their children in a constructive manner and so it continues over generations. Furthermore, the strict application of the *fa’aaloalo* and eradication of communication channels creates dangerous situations

<sup>31</sup> Refer to Case Study 12.

whereby children or adults may witness or experience violence but feel unable to speak out because of this principle.

“Maintaining the *vā tapuia* and *vāfeāloa’i* can sometimes have consequences. For instance, when children witness violence the *vāfeāloa’i* can act as a barrier for intervention or reporting because of the unspoken belief that it would be disrespectful or inappropriate.”



*‘Primary prevention of violence against women and girls’, Inquiry document 91*

Whether intentionally or not, the *Fa’asamoa* has become a barrier to speaking out and a justification for reinforcing the patriarchal system, the very opposite of what it should actually achieve when properly implemented. **Part V** will consider how that is possible once again.

**INQUIRY FINDING 19: Communication in Samoa has broken down and is no longer a two-way process, increasing the risk and prevalence of family violence.**



## 7.4 Faith

“Dear friends, let us love one another, for love comes from God. Everyone who loves has been born of God and knows God. Whoever does not love does not know God, because God is love.”

*1 John 4:7-8*

“Husbands, love your wives, just as Christ loved the church and gave himself up for her.”

*Ephesians 5:25*

“Children are a heritage from the LORD, offspring a reward from him.”

*Psalms 127:3*



The Inquiry sought to understand the position Faith takes on family violence, the impact on its prevalence and how it may play a role in the solution. Faith is fundamentally built on love – towards one’s partner, towards one’s children and towards one another, as the quotes above demonstrate. This was reflected in the overall consensus put to the Inquiry that Faith rejects the use of violence towards one another, especially within the family context.

However, what is less agreed upon is whether there is a total prohibition of all forms of physicality towards one another and the Inquiry heard from a variety of witnesses who believed physical discipline to be sanctioned by the Bible and other religious texts, both within a marriage and towards children.

### 7.4.1 Faith and Intimate Partner Violence

"I believe that men and women are not equal. Men have more authority than women because it says so in the Bible. I was created to have more strength and to have more authority than women."



*Matai Participant, Inquiry public hearings*

The *matai* quoted above is not alone in believing the Bible describes a social hierarchy where women are inferior to men and must 'submit to your own husbands',<sup>32</sup> 'for the husband is the head of the wife'.<sup>33</sup> A number of other verses are interpreted as the husband having a superior role to that of the wife, who should 'learn quietly with all submissiveness'.<sup>34</sup> However, to conclude that the Bible is advocating for a gender hierarchy is to engage in very selective reading of the Biblical texts and to misrepresent the word of God.

"In the Bible '*pule*' means head of the family, not that you control what the woman does or hit her whenever you want. You guide and direct the development of the family."



*Rev. Fa'auuga Pula, Inquiry public hearings*

The clearest evidence of selective reading is the most commonly cited justification for a husband's superiority, Ephesians 5:22 which requires wives to 'submit to their husbands'. However, this fails to account for earlier in the very same passage which calls for man and woman to 'Submit to one another out of reverence for Christ'<sup>35</sup> and later calling for, 'Husbands, love your wives, as Christ loved the church'.<sup>36</sup> How can a person argue that it is only women who should submit to men when the very same passage calls for everyone to submit to one another? The Biblical intention is not trying to create a gender hierarchy, it is promoting harmony, understanding and grace.

"So God created mankind in his own image, in the image of God, he created them; male and female he created them."



*Genesis 1:27*

The equality of men and women could not be made clearer than in the passage from Genesis. There are many more passages which demonstrate the equality of men and women and undermine the argument that women are inferior to men and should obey and submit.<sup>37</sup> Misinterpretation of the Bible now serves those in power well, as it justifies their continuing superiority over women. For women who subscribe to

<sup>32</sup> Ephesians 5:22.

<sup>33</sup> Ephesians 5:23.

<sup>34</sup> Timothy 2:11.

<sup>35</sup> Ephesians 5:21.

<sup>36</sup> Ephesians 5:25.

<sup>37</sup> Romans 2:11 – 'For God does not show favouritism'; Proverbs 22:2 – 'Rich and poor have this in common: The LORD is the maker of them all'; Psalm 67:4 – 'May the nations be glad and sing for joy, for you rule the peoples with equity'; Ephesians 2:14 – 'For he himself is our peace, who has made two groups one and has destroyed the barrier, the dividing wall of hostility.'

this interpretation as well, the reason lies in the internalization process which is also documented earlier in this Report.

“It is a patriarchal society and the bible was interpreted by men.”



*Rev. Fa’auuga Pula, Inquiry public hearings*

Among those who misinterpret the Bible in this manner there is a belief that wives who do not submit and obey their husbands have to be physically disciplined to learn their lesson. The Inquiry has found the interpretation of the Bible upon which this conclusion is drawn to be false but regardless it is still helpful to note that nowhere in the Bible does it advocate physical discipline or violence between a husband and wife. Nowhere. On the contrary, there are countless verses espousing non-violence, tolerance, patience and kindness.

“Husbands, love your wives, and do not be harsh with them.”

*Colossians 3:19*

“The Lord tests the righteous, but his soul hates the wicked and the one who loves violence.”

*Psalms 11:5*



“The mouth of the righteous is the fountain of life, but the mouth of the wicked conceals violence.”

*Proverbs 10:11*

The Bible is quite clear in its rejection of all forms of violence or any conduct by the husband that is harmful of a wife. It requires husbands to act towards wives in the way Christ has and continues to act towards his Church.

“For husbands, this means love your wives, just as Christ loved the church. He gave up his life for her [...] He did this to present her to himself as a glorious church without a spot or wrinkle or any other blemish [...] In the same way, husbands ought to love their wives as they love their own bodies. For a man who loves his wife actually shows love for himself. No one hates his own body but feeds and cares for it, just as Christ cares for the church.”



*Ephesians 5:25-29*

The Bible not only prohibits physical violence but also verbal violence<sup>38</sup> and decrees that this should apply universally, not just within the confines of marriage.

If there is nowhere in the Bible which calls for physical discipline of wives who are perceived not to obey their husbands then why did this become a practice in Samoa? The answer lies in the dynamic underpinning of all family violence – power and control. Where a group assumes power over another, and

<sup>38</sup> James 1:26 – ‘If anyone thinks he is religious and does not bridle his tongue but deceives his heart, this person’s religion is worthless.’

there is no accountability the use of that power often becomes arbitrary and violence is required to enforce it because there is no logic behind the enforcement of power. The case studies showed how the Manu Samoa<sup>39</sup> team losing could lead to a husband hitting his wife to reinforce who was the boss of the household. With no accountability, the exercise of power, and subsequent use of power is never questioned and allowed to flourish.

It is therefore clear to the Inquiry that two things have happened – the first is that there has been a misinterpretation of the Bible in favour of a patriarchal society, and that following that interpretation the use of violence has crept in to enforce this internalized hierarchy and to ensure that it is maintained.

**Myth 14: The Bible says that wives are inferior to husbands and should be physically disciplined if they fail to obey.**

**Reality:** The Bible is quite clear that men and women were created equally in the image of God and there is absolutely no reference to physical discipline between husband and wife or intimate partners. On the contrary there are extensive teachings around non-violence, kindness, tolerance, peacefulness and even sacrifice. This myth is perpetuated by those seeking to maintain the current patriarchal system.



#### 7.4.2 Faith and Violence towards Children

“Those who spare the rod of discipline hate their children. Those who love their children care enough to discipline them.”

*Proverbs 13:24*



The Report has so far detailed how there is a strong belief that children require physical discipline to ensure obedience and bring them up to be good people. However, the Report has also found that **all** physical and harsh verbal discipline/violence amounts to violence against the child. Part of the justification for violence derives from the Bible which warns against ‘sparing the rod’.

This passage is widely cited as the justification for physical discipline of children.<sup>40</sup> The passage certainly does encourage parents to be resolute in the disciplining of a wayward child. It is something else to insist that the passage advocates whipping with a stick (rod) in lieu of chastising and instruction by word of mouth. It is interesting that just four verses down from this particular passage Proverbs 14:3 declares that “a fool’s proud talk becomes a ‘rod’ that beats him.”

The presumption upon which the misinterpretation is founded is that the rod is a physical rod. Very often however, the rod in the Bible depicts the phenomenon of positive power and consequence as in ‘the Lord

<sup>39</sup> Refer to Hope’s story, Case Study 12.

<sup>40</sup> It is often confused with ‘spare the rod and spoil the child’, which is not from the Bible but from a 1664 poem by Samuel Butler.

is my rod and fortress'<sup>41</sup> and the rod/staff of Moses was used to perform miracles of profound spirituality. Throughout the Bible the rod is depicted as a symbol of strength, power and spiritual transformation.

This interpretation of the rod makes far more sense when considering other guidance on raising children found in the Bible and what the Inquiry has found about the nature of family violence. Proverbs 22:6 directs parents to 'train up a child in the way he should go; even when he is old he will not depart from it'. The Inquiry has found that by using physical and harsh verbal discipline/ violence and witnessing violence in the family home a child is more likely to either become a perpetrator or victim when they are older. The Bible also contains wisdom relating to the temperament of children when it instructs: 'do not provoke your children to anger, but bring them up in the discipline and instruction of the Lord'.<sup>42</sup> The Inquiry has found how physical and verbal abuse of children, combined with a lack of communication with parents, fosters anger and other negative emotions within children which can lead to suicide or perpetration of violence, and to a range of other consequences.

Whilst the Inquiry evidence supports the alternative interpretation of disciplining children it should not require a technical analysis of the Bible to come to this conclusion. 'Children are a heritage from the LORD'<sup>43</sup> and should be treated with the love, kindness and tenderness that underpins all Faith, and the *Fa'asamoa*. **They are born without knowledge of violence and should not be taught violence by parents or anyone else.**

Parents today may believe that the Bible encourages punishing children with a physical rod. This fallacy has been passed on down generations and derives from a lack of awareness of alternative parenting methods and a subsequent instinctive resort to violence to try to control one's child. Sometimes children are just being adventurous, exploring their new unfamiliar surroundings and will not understand if they are smacked or shouted at to stop. The violence does not change their behaviour and it starts them off on a possible path to violence themselves. Because alternative parenting methods are not commonplace in Samoa, it is understandable how this situation has arisen and why the Bible is used to justify parenting methods. However, inadvertently it contributes to the prevalence of violence in Samoa **Part V** will look at ways in which this can be addressed using Faith as a foundation.

**INQUIRY FINDING 20: The Bible is wrongly used to justify violence against women and children and perpetuates the patriarchal society within which violence breeds.**



## 7.5 Participation in decision making

Empowerment and participation in decision making of groups particularly vulnerable to family violence is critical because it ensures that their interests will be taken into consideration. Absence from the decision making process means that those groups cannot provide their insight into the true nature of violence, nor

<sup>41</sup> Psalm 18:2 and 31:3.

<sup>42</sup> Ephesians 6:4.

<sup>43</sup> Psalms 127:3.



help deliver justice, decide on strategic priorities nor design programmes aimed at addressing it. It is therefore important to consider the extent to which these groups participate in key institutions (the Village Fono, Parliament and the Church). The lack of equal representation has already been readily acknowledged by the Government.

“Exclusion of women’s voices in local and national governance may be counter-productive to the issue of family violence.”



*Sixth Periodic State Report to the Committee on the Elimination of Discrimination against Women, Inquiry document 90*

### 7.5.1 Village Fono

Women make up only 11% of all *matai* in Samoa, and only 5.5% of all village-based *matai*. This indicates that only half of female *matai* live in village settings and thus are theoretically easily able to participate in Village Fono meetings.<sup>44</sup> A *matai* title is a pre-requisite not only for having a voice in local Government but also in running for Parliament.<sup>45</sup> Therefore, a lack of female *matais* will inevitably lead to under-representation in Parliament too.

There are 21 villages (approximately 8% of all villages)<sup>46</sup> in Samoa where women are not allowed to hold a *matai* title, affecting the ability of women to stand for election to Parliament in 16 out of 41 constituencies (40%).

Those who are *matai* are still severely restricted in their ability to participate in the Village Fono meetings and play a role in the decision making process. This is due to formal and informal barriers which exist. In 36 villages women are recognized as *matai* but are not allowed to sit in Village Fono meetings.<sup>47</sup> This appears to be a formalization of the attitude which leads to 79% of women *matai* choosing not to attend Village Fono meetings due to feeling unwelcomed in male-orientated environments.<sup>48</sup>

<sup>44</sup> Samoa Bureau of Statistics. (2011). *Samoa Census 2011*. Retrieved from <http://www.sbs.gov.ws/index.php/new-document-library?view=download&fileId=1388>. See also Government of Samoa. (2017). *Sixth Periodic State Report to the Committee on the Elimination of Discrimination against Women*. CEDAW/C/WSM/6. Document 90 of Inquiry anthology.

<sup>45</sup> *Electoral Act 1993*, section 5.

<sup>46</sup> Samoa Bureau of Statistics. (2011). *Samoa Census 2011*. Retrieved from <http://www.sbs.gov.ws/index.php/new-document-library?view=download&fileId=1388>. See also Government of Samoa. (2017). *Sixth Periodic State Report to the Committee on the Elimination of Discrimination against Women*. CEDAW/C/WSM/6. Document 90 Inquiry anthology.

<sup>47</sup> National University of Samoa. (2015). “Political representation and women’s empowerment in Samoa.” *Final Report 1*. Retrieved from <http://samoanstudies.ws/wp-content/uploads/2015/07/Centre-for-Samoan-Studies-Final-Report-Volume-1-English.pdf>. Document 63 Inquiry anthology.

<sup>48</sup> See Samoa Office of the Ombudsman/ NHRI. (2015). *State of Human Rights Report 2015: For Samoa by Samoa*. Apia: Government Printers; Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws); and SPC and UNFPA. (2006). *Samoa Family Health and Safety Study 2000*. Document 83 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

“The most common obstacle to women’s voice in local government is that among the very few (female) *matai* living in villages, even fewer sit in the Village Fonos. A common justification is that when men jest together women cannot be present because of the customary concept of ‘*o le vā tapuia*’ (sacred space), an aspect of the covenant between brother and sister. Their absence reinforces public perceptions that decision making is a male prerogative, not only in Village Fonos, but in village committees, and by extension in national parliament.”<sup>49</sup>



*Political representation and women’s empowerment in Samoa*

The Inquiry heard from a number of *matai* who agreed with this view, that the Village Fono setting was no place for women because of the nature of the conversation, often sexual, which was inappropriate for women to be present for, and would be a breach of the *feagaiga*. However, the Inquiry finds this to be yet one more justification for attempting to maintain patriarchy in Samoa and deliberately exclude women from the decision making process. The Inquiry has already found that the *feagaiga* is broken, undermined because of family violence. One contributing factor to this is the lack of female participation in the Village Fono, perversely the very reason cited for why they are excluded.

### 7.5.2 Parliament

“The presence of more women in Parliament could influence and bring greater sensitization to a more balanced discussion of gender issues, as well as encourage a way forward to harmonise traditional customary practices with the law regarding women in politics and the empowerment of women in general.”



*Outcome document to Samoa’s 2<sup>nd</sup> Universal Periodic Review, Inquiry document 66*

The importance of female participation in Parliament has been recognized by the Government in addressing the gender inequality which underpins family violence in Samoa. There is also indirect discrimination against women preventing them holding office.<sup>50</sup> This is in direct contravention of the Constitution of Samoa, which grants all citizens freedom from discriminatory legislation.<sup>51</sup> The SLRC has called for the elimination of village bans against the appointment of female *matais*.<sup>52</sup>

Women currently hold 5 of the 50 seats in Parliament. This is following the *Constitutional Amendment Act 2013* which introduced a 10% quota for female Members of Parliament. However, 10% falls significantly short of the parity needed to ensure fair representation and have the strength of voice to adequately

<sup>49</sup> National University of Samoa. (2015). “Political representation and women’s empowerment in Samoa.” *Final Report 1*. Retrieved from [http://samoanstudies.ws/wp-content/uploads/2015/07/Centre-for-Samoan-Studies\\_Final-Report-Volume-1-English.pdf](http://samoanstudies.ws/wp-content/uploads/2015/07/Centre-for-Samoan-Studies_Final-Report-Volume-1-English.pdf). Document 63 of Inquiry anthology.

<sup>50</sup> Government of Samoa. (2017). *Sixth Periodic State Report to the Committee on the Elimination of Discrimination against Women*. CEDAW/C/WSM/6. Document 90 Inquiry anthology.

<sup>51</sup> Article 15 of the Constitution of the Independent State of Samoa.

<sup>52</sup> Samoa Law Reform Commission. (2016). *Convention on the Elimination of All Forms of Discrimination Against Women Legislative Compliance Review Final Report*. Document 89 Inquiry anthology.

address gender inequality and family violence.<sup>53</sup> For now, the law and the reality in parliament means women's voices are still relatively unheard and this plays a role in ensuring the continuation of the problem at hand, family violence.

### 7.5.3 The Church

Alongside the Village Fono and Parliament, the church stands as one of the most influential institutions in Samoa. Therefore, the participation of women in decision making in the churches would have an important impact in addressing family violence. Only one church in Samoa ordains women as priests and the Baha'i faith gives men and women equal roles in church leadership.<sup>54</sup> Other denominations have women in various levels of church governance.

The preponderance of males in Samoa's clergy could have the effect of the pulpit's voice being exclusively from a male's perspective and likely reinforce interpretations that protect patriarchy.

In the same vein as with the Village Fono and Parliament, if women are not given equal participation and representation then the church response to family violence will inevitably be inadequate.

### 7.5.4 Other Specific Groups

Whilst women are one of the largest groups affected by family violence, making their input in decision making of critical importance, they are not the only group to consider. The same logic applying to the under-representation of women in the Village Fono, parliament and the churches can also be applied to the other groups largely affected by family violence.

Whilst children are not able to officially sit in Parliament their interests are being protected by those elected officials. Consultation of Samoa's youth happens very rarely yet they are able to provide insights into issues such as family violence that may not otherwise have been taken into consideration. Such is the importance of ensuring the voices of children are taken into account. Their right to be heard is one of the core principles of the CRC in relation to any judicial or administrative proceedings that directly affect them,<sup>55</sup> and in the development of programmes, services and education in which they will take part.<sup>56</sup> Once again this indicates the synergy between human rights and the *Fa'asamoa*, which determines '*o le tele o sulu e maua ai figota e tele*' (the more lit fire we have, the more fish we are likely to catch), in accordance with the principle of *soalaupule* (consensual dialogue).

The absence of groups such as children, *fa'afafine*, the elderly and SOGISC persons in decision making processes is regrettable and constitutes a violation of their human rights and the *Fa'asamoa*. This also

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<sup>53</sup> This was also the concern raised by the CEDAW Committee Concluding observations in response to Samoa's 4<sup>th</sup> and 5<sup>th</sup> State Periodic Report on CEDAW. (9-27 July 2012). Retrieved from <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-WSM-CO-4-5.pdf>.

<sup>54</sup> Ramona Boodoosingh and Penelope Schoeffel. (2015). "Addressing Violence against Women in Developing Countries: The Case of Samoa." Document 82 Inquiry anthology.

<sup>55</sup> See Article 12 of the *Convention on the Rights of the Child*.

<sup>56</sup> UN Committee on the Rights of the Child. (2009). General Comment No. 12 on the right to be heard. CRC/C/GC/12. Retrieved from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>.

means that any response will not be comprehensive and therefore contributing to the perpetration of family violence.

**INQUIRY FINDING 21: Women (and other specific groups) are systemically obstructed in their participation in the Village Fono, Parliament and Church, further entrenching the patriarchal system and jeopardising the success of any attempt to address family violence through not taking due consideration of the voices of those most directly affected.**



## 8. Prevention Framework

Attitudes, beliefs, practices and representation have a direct impact on the prevention and protection frameworks. If slapping your wife for disobedience is commonly accepted as justified then there will be no protection for victims of such action or efforts to prevent it happening in the future. Similarly, if women are not represented within decision making institutions, the interests of women are unlikely to be reflected in national policies and programmes. It is therefore important to consider the context of the previous chapter when assessing the current prevention and protection frameworks and how successful they are in addressing family violence. Any proposed solutions must also take into account the findings in the previous chapter and address attitudes, beliefs, practices and representation to ensure their success. This chapter first looks at how prevention of family violence is approached in Samoa today, how successful it is, and seeks to identify any areas for improvement.

### 8.1 Education and Awareness

Attitudes and beliefs play a key role in the content of education and national awareness initiatives, which in turn has an impact on the risk of family violence. The Inquiry has so far determined a multitude of ways in which the patriarchal system of society is maintained and how victims are often blamed and shamed for the violence they experience. Unfortunately, those attitudes appear to have an impact on the way children are educated too.

#### 8.1.1 Education

Childhood is the most important and influential time of any person's life in deciding how they view and interact with the world and the two biggest influences on a child are their parents and their teachers. It is therefore essential that the content and delivery of the national curriculum is effective in giving children the skills and knowledge they need to live a peaceful life free of violence.

However, the reality today appears to be the opposite and that the current approach reinforces many of the beliefs and practices that the Inquiry has found to contribute towards the prevalence of violence. For instance, the Health and Physical Education Teacher guide for years 9-10 advises that "girls may be

restricted from moving around freely as they did earlier because of fears they may begin a sexual relationship and lose their virginity before marriage or get pregnant or get raped”.<sup>57</sup>

This approach reinforces the attitude towards children within the family home which the Inquiry found to shift responsibility from perpetrators of sexual violence to the victim. This allows men to act with impunity by promoting the myth that they are insatiable sexual creatures who cannot control their impulses. If both teachers and parents take this approach then it is little wonder that children grow up believing sexual assault is the fault of the victim, whilst the perpetrator is not asked to face up to their own responsibility.

The content of the curriculum itself is also not helpful in empowering children to live violence free lives. In order to be able to avoid, resist or report sexual violence children must have a basic level of understanding of what sex is, the notion of consent and what to do if someone touches them in an inappropriate way. The Inquiry found this is not happening in the home and neither is it happening in the schools.

In the school curriculum there is no content relating to safe sex and the only references relate to sex within a marriage and promoting abstinence in all other situations. This is an ideal most would like to realise, but it is not realistic. Youth and adults have sex outside marriage in all areas of society and to ignore this fact is to contribute to the perpetuation of violence.

This is because the lack of parenting and education for children on good versus bad sexual practices makes them substantially more vulnerable to sexual violence. Children are not able to identify what sexual assault is. They are led to believe that it is their fault in some way and have no channels of communication for reporting it. The absence of parenting or education derives from general beliefs and attitudes that sex is a taboo and outside of marriage, it should never even be discussed. However, this attitude, and the lack of education is directly contributing to the prevalence of sexual violence towards children (and later adults). If Samoa is serious about protecting the interests of the child then this attitude needs to change.

Whilst attitudes remain a barrier to effective education of children so too does language. Talking about sex can be a sensitive topic and even if teachers or parents did want to educate their children many find it difficult. This is because there are simply no right words to do so, in a positive manner and without using crude words.

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“We do not talk about the abuse that happens because we do not even have the words to describe the good aspects.”



*Lani Wendt Young, Inquiry public hearings*

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If the words do not exist to be able to talk about sex then children are not going to be educated and nor will they be able to report it if it does happen to them. It is therefore not only attitudes which need to change but the language around sex and sexuality which needs to evolve too. This will allow healthy

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<sup>57</sup> Ramona Boodoosingh and Penelope Schoeffel. (2015). “Addressing Violence against Women in Developing Countries: The Case of Samoa.” Document 82 Inquiry anthology.

discussions and to bring down the veil of silence which prevents understanding and reporting that allows violence to continue unabated.

Sisilia<sup>58</sup> was not given any of these tools to speak out about the abuse her older cousin inflicted upon her and so it continued. It continues for hundreds of children (and adults) today because they do not understand what healthy relationships are, or how to identify and report abuse if it happens. Sisilia was only able to escape her suffering because of a chance viewing of an advert on TV.

“I was empowered to tell someone because of a grainy (old/unclear) TV ad from Pago. Without that it may have progressed to rape.”



*Sisilia written submission, Inquiry public hearings*

The opportunity to break the cycle of violence should not be left to chance and whilst Sisilia was fortunate to have seen the advert before her abuse got worse. For others this does not happen and they remain trapped. It also highlights how simple and straightforward breaking the cycle can be if given the right knowledge. That knowledge should be given to all children as a matter of course and urgency.

**INQUIRY FINDING 22: The absence of sexual education and healthy relationships in the school curriculum and the guidance provided to teachers around gender and sexual violence reinforces gender stereotypes and increases vulnerability of children to sexual violence.**



### 8.1.2 Corporal Punishment in Schools

Whilst not strictly within the ToR of the Inquiry, the issue of corporal punishment is nonetheless relevant. This is because of the inter-connected nature of family violence and due to recent calls for its reintroduction in Samoa, following its prohibition in 2013. The Inquiry welcomes the recent reversal of the consideration by the Ministry of Education, Sports and Culture (**MESC**) to do just that following intervention from the MoP and the Office of the Attorney General (**OAG**).

“After receiving the legal opinion from the Attorney-General’s Office and a warning by the Ministry of Police that assault is assault, we have had to rethink our strategy.”<sup>59</sup>



*Hon. Loau Keneti Sio, Minister for Ministry of Education, Sports and Culture*

<sup>58</sup> Case Study 7.

<sup>59</sup> As reported by the Samoa Observer. “Government rethinks corporal punishment.” (27 February 2018). Retrieved from [www.samoasobserver.ws/en/28\\_02\\_2018/local/30541/Govt-rethinks-corporal-punishment.htm](http://www.samoasobserver.ws/en/28_02_2018/local/30541/Govt-rethinks-corporal-punishment.htm).

This advice from the MoP and OAG is interesting because there is conflicting legislation currently in existence. The *Education Act 2009* prohibits the use of corporal punishment by teachers,<sup>60</sup> yet it is still covered by section 14 of the *Infants Ordinance 1961* allowing the right to administer ‘reasonable punishment’.<sup>61</sup> The advice is interesting because it indicates that both offices, when faced with conflicting legislation have decided to conclude that any physical discipline amounts to assault. The natural assumption would be then that both offices also view any corporal punishment used by parents in the same light too.

There is comprehensive evidence to suggest that corporal punishment in schools does not have the intended effect of raising children to be disciplined.<sup>62</sup> Instead, it increases risks of anti-social behaviour and other negative impacts already identified in this Report. This has a knock-on effect on family violence and it is through this link that the Report must afford the matter some attention.

The issue of inter-school fighting and violence at schools has attracted much attention over the past five years which prompted MESC to reconsider the ban on corporal punishment before the intervention of the MoP and the OAG. In February 2018, an expelled student was alleged to have attacked a teacher.<sup>63</sup> However, it later transpired that the teacher is alleged to have been beating a number of students for matters such as their uniform or haircuts and at one point punched one in the face.<sup>64</sup> Should those allegations be proven it highlights once more how violence begets violence.

The Inquiry spent time considering this topic and conducted research into the effects of corporal punishment in schools and overwhelmingly found evidence to suggest that it does not achieve its aims, has significant negative societal outcomes and is a gross violation of the *Fa’asamoa* and human rights.

#### **Inquiry Info Point 14: A controlled case study of the impact of corporal punishment in schools**

America is an excellent case study on corporal violence as it has a number of States which have banned corporal punishment and a number which have not, making for a large controlled comparison. The impact of corporal punishment appears undeniably negative.<sup>65</sup>



- Of the states with the 10 highest murder rates, 8 allow corporal punishment;

<sup>60</sup> *Education Act 2009*, section 23.

<sup>61</sup> *Infants Ordinance 1961*, section 14.

<sup>62</sup> See Global Initiative to End all Corporal Punishment of Children. “Negative Effects of Corporal Punishment.” Accessed at <https://endcorporalpunishment.org/resources/research/>; Human Rights Watch. “Corporal Punishment in Schools and Its Effect on Academic Success.” *Joint Statement by Human Rights Watch and ACLU*. (15 April 2010). Retrieved from <https://www.hrw.org/news/2010/04/15/corporal-punishment-schools-and-its-effect-academic-success-joint-hrw-aclu-statement>; Save the Children. (1999). “Awareness Campaign against corporal punishment of children in families.” *Sixth Session*. Retrieved from <http://harprathmik.gov.in/pdf/rte/corporal%20punishment.pdf>.

<sup>63</sup> Radio NZ. “Samoa teacher files assault complaint against student.” (28 February 2018). Retrieved from <https://www.radionz.co.nz/international/pacific-news/351472/samoa-teacher-files-assault-complaint-against-student>.

<sup>64</sup> See Samoa Observer. “Vice Principal and teacher charged.” (16 March 2018). Retrieved from [http://www.samoasobserver.ws/en/16\\_03\\_2018/local/31150/Vice-Principal-and-teacher-charged.htm](http://www.samoasobserver.ws/en/16_03_2018/local/31150/Vice-Principal-and-teacher-charged.htm).

<sup>65</sup> Annie Reneau. “Has a decrease in spanking led to higher crime rates? Nope.” Accessed at <http://www.scarymommy.com/decrease-spanking-higher-crime-rates/>. Document 88 Inquiry anthology.



- Of the 10 states with the highest prison population, 9 allow corporal punishment;
- Of the 10 states with the lowest prison population, 0 allow corporal punishment;
- Of the 10 worst states in which to raise children (as measured by the condition of children index), all 10 allow corporal punishment;
- Of the 10 best states in which to raise children, 0 allow corporal punishment;
- Of the states with the ten worst high school completion rates, 7 allow corporal punishment;
- Of the 10 states with the best high school completion rates, 1 allows corporal punishment;
- Of the 10 most impoverished states, 7 allow corporal punishment;
- Of the 10 least impoverished states, 2 allow corporal punishment;
- Of the 10 states with the worst health rankings, 8 allow corporal punishment;
- Of the 10 states with the best health rankings, 1 allows corporal punishment.



Crime is a complex matter and the causes of these correlations cannot be attributed solely to the presence or prohibition of corporal punishment but that it significantly increases the risks of negative societal outcomes. Therefore by allowing corporal punishment in schools it creates the same negative impact as family violence and allowing corporal punishment in schools, will mean increased violence also creeping into homes. The two issues cannot be dealt with in isolation due to this inherent linkage.

Further, corporal punishment must also be viewed in the context of the *Fa'asamoa* and human rights. In doing so it becomes evident that it is a gross violation of both. Nowhere in the *Fa'asamoa* does it advocate teaching children through physical assault or harsh words and language. The opposite is true and children are supposed to be guided with words, wisdom and *alofa*. Similarly, the human rights framework provides that children should be free from all inhuman or degrading treatment or punishment and should be afforded equal protection by the law. Samoa's own MoP has recognized that to allow corporal punishment would be a violation of this right, given it constitutes assault of the child.

The spirit of reciprocity and mutuality embodied in the *Fa'asamoa* is intended to make the learning a two-way process. Teachers enjoy respect from students and it should be granted to them in return. Respect and non-violence leads to the same. It should therefore come as little surprise when society is teaching children to be violent from an early age through the actions of parents, teachers, *matai*, *faifeau* and others that violence is rife between school children. This is especially true when considered in the context of the lack of communication between children and parents and other elders that has developed. The frustrations and anger this fosters in young people can only find an outlet towards one another.

There is no clearer example of this than the case described above which initially caused MESC to consider reintroducing corporal punishment in schools. Initially it was just the assault of the teacher by the student

which was reported and the reaction was to call for the need to hit children in schools. As it later turned out the students alleged sustained violence from a particular teacher which had become intolerable.

Whilst the prohibition of corporal punishment in schools that was introduced in 2013 is a step in the right direction, it is also clear that it has not yet been fully implemented and that there are still some questions over the suitability of teachers to deliver the curriculum.

“50% of school children are fearful of a particular teacher because he/she is physically violent, while 38% are because he/she is verbally abusive.”



*Samoa Family Safety Study, 2017, Inquiry document 46*

The prohibition is all well and good but if it is not being adhered to by the teachers themselves, then it will continue to have the negative effects outlined in this report so far.

The question of corporal punishment will often rear its ugly head, as it did at the start of 2018 in Samoa, and the reason is simple. Violence is a short cut for spiritual guidance and positive discipline. It is the easy way out. But the consequences are overwhelmingly negative.

**INQUIRY FINDING 23: Corporal punishment in schools contributes to the prevalence of family violence and other negative societal outcomes. Total prohibition is essential for the success of any family violence initiatives. However, the current ban in place in Samoa is not being fully implemented, thereby increasing the risk and prevalence of family violence.**



### 8.1.3 Public Awareness

There is no doubt that public awareness of family violence has increased dramatically over the past 10-20 years and it is now a topic that people are able to talk about freely. It is reported regularly in the media and 85% of 1,500 people all across Samoa felt it was an issue which needs to be dealt with as a matter of priority. Only 4% believed it to not be a problem.

“15 years ago not a lot was said about violence. Now there is a lot of reporting on it, lots of awareness, yet the statistics have deteriorated.”



*Mata’afa Keni Lesa, Editor Samoa Observer, Inquiry public hearings*

The Inquiry found supporting evidence to Mata’afa’s assertion that despite this increased public awareness the situation is not improving. The reasons for the lack of progress are many. Much can be attributed to the reluctance of those in power to face up to the fact that patriarchy breeds and sustains family violence. They therefore stay silent on the matter.

“We can sit here and talk about it but if our Members of Parliament and our own Prime Minister say otherwise how do you expect members of the public to engage? They do not take it seriously. You need to take this to Parliament and the Prime Minister before anything else because people take guidance from the top.”



*Matai participant, Inquiry public hearings*

The Inquiry found it is not just politicians who remain silent on the issue of family violence, but all of those in power within the traditional village governance structures and the churches. When family violence remained a taboo topic it required brave survivors and victims of family violence to come out into the open and speak about their experiences. Mata’afa Keni Lesa told the Inquiry of the need for these champions because “if we bring it down to a more personal level we are likely to be more effective”. The voices of victims and survivors are now widely heard, which is progress, but what is still missing is the voices of the decision makers including politicians, church and community leaders. This is further exacerbated by the fact that many of the perpetrators of family violence can be found within these groups, and we need only look to Hope’s story<sup>66</sup> for evidence of this. There is therefore silence, complicity and direct involvement from those who, if they spoke out, could be the ones to bring about social change.

“We need people who are bold enough to speak out. We need champions from the church and the villages. If we can get these guys on board we all know the decisions come down from them. And they are perpetrators too. If you want to influence change then you start with the churches and villages.”



*Mata’afa Keni Lesa, Editor Samoa Observer, Inquiry public hearings*

Samoa is reaching critical mass in terms of the number of stories of family violence being reported before people start to become desensitized to the topic. There is a worry within the media currently that the public have had enough of ‘stop family violence’ headlines and that they will start to turn off and any chance of addressing the epidemic will be lost. Now is the time for the decision makers to step forward and get behind the movement and capitalize on the increased public awareness.

**INQUIRY FINDING 24: Family violence continues, in part, due to the absence of support for its elimination from leading politicians, public servants, traditional and religious leaders, and in their direct involvement in the perpetration of such violence.**



Another area where improvements can be made towards public awareness is in relation to knowledge of laws and services among the general population. This can have a significant effect on a person’s ability to access justice, the support they need for recovery or even for a person to know whether what they do is legal or not.

<sup>66</sup> Case Study 12.

There is a general lack of understanding and awareness of the *Family Safety Act 2013*. 30% of respondents to the SFSS 2017 knew of it but did not know what was in the Act and 24% were not aware at all. The report also found that “the lack of knowledge of the *Family Safety Act 2013* was not confined to the public and interviews conducted revealed that Ministry staff were still coming to understand it and the Police are still in need of more training in the legislation”.<sup>67</sup>

Both the OAG and the MJCA relayed to the Inquiry that raising awareness of the law was either not within their portfolio or was restricted by resources. The Inquiry found evidence of this lack of understanding in the case studies where marital rape was prevalent yet still not considered to be a crime. Having a strong legislative framework is essential in the fight against family violence, but the public must understand what the law is and how it protects them. For now, a lack of understanding of the law means that people are not being protected as they should and family violence continues.

There is also a general lack of awareness of service providers in relation to family violence, which has a similar impact to the lack of knowledge of the laws. The SFSS 2017 asked respondents which service providers they are familiar with and whilst SVSG was well known there was a lack of knowledge of the services Government provides. Only 56% were aware of the services provided by the MoP and 22% of those provided by MWCSO.<sup>68</sup>

The Government is the primary responsibility bearer for ensuring the rights of all citizens of Samoa are met, yet almost half of the population is not aware of how the police may be able to assist in cases of family violence. This lack of awareness is one more contributing factor to an environment where family violence is routinely left unaddressed, perpetrators absolved of responsibility and the status quo maintained.

**INQUIRY FINDING 25: There is a general lack of awareness of key laws and services, which means that many victims may not access the support they require and future prevention is not achieved, therefore allowing family violence to continue.**



#### 8.1.4 Journalism and the Media

“The role of the media is very important in prevention and intervention of family violence as the ones who can make stories public and write about domestic violence. But then it all depends on the approach that is taken and how the stories are written.”



*Faleafa Falaniko Taefu, Matai, Inquiry public hearings*

Journalism is critical in the process of effectively tackling family violence. The Inquiry found that their role in bringing the issue into the national consciousness was extremely effective and positive. The case of

<sup>67</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>68</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

Tuiloma Sina Retzlaff is one example where the Samoa Observer worked closely with her to tell her story. At the same time they made sure not to revictimise her by engaging in the type of victim shaming or blaming tactics that have also been highlighted by the Inquiry so far. The result of this approach was increased public awareness and a platform for further discussion on family violence. However, it brings into the spotlight the power of the media not only to have a positive influence but also a negative one, if the reporting is carried out in a different manner to that of Tuiloma's case.

Reporting on family violence is a sensitive matter that requires care and in depth understanding of how victims should be treated to prevent further harm. The Inquiry spoke to a number of media figures who readily admitted that expertise and understanding in this area could and should be improved.

"There needs to be more push done on the ethics on the report writers and more training for the report writers on how to report. Some of the reporters are just kids who have no training and you cannot expect them to know how to write on such important issues and try to create social change."



*Faleafa Falaniko Taefu, Matai, Inquiry public hearings*

The Inquiry therefore finds that journalism has already played an important role in bringing family violence into the public domain and continues to be of critical importance. To ensure that their considerable influence is consistently positive consideration must be given to how professional standards can be raised throughout the media.

**INQUIRY FINDING 26: Journalists are a key partner in the fight against violence and the industry requires training in how to report and advertise in a manner which does not promote attitudes which lead to family violence or pose further risk to victims.**



A specific concern raised throughout the Inquiry was of the broader role of media in the prevalence of family violence. This was perceived in two ways – the first being through reinforcing gender stereotypes through advertising, films and TV, and the second being the proliferation of sexual violence on TV/films and increasing access to pornography.

The Report has already detailed how the Inquiry heard how “popular modern representations of the masculine ideal appear on T-shirt designs showing heavily muscled and tattooed men in belligerent poses”<sup>69</sup> and the same is true on television programmes, and on adverts. One person speaking to the Inquiry even raised the issue of a popular local beer using violence to promote its drink. The Inquiry was unable to verify this claim but it reflects a broader concern that the media industry is buying into the harmful attitudes detailed earlier in this Report, which contribute to the prevalence of violence, rather than helping to address them.

<sup>69</sup> Ramona Boodoosingh and Penelope Schoeffel. (2015). “Addressing Violence against Women in Developing Countries: The Case of Samoa.” Document 82 Inquiry anthology.

The second area of concern was the availability and access to pornography on phones (especially for children) and the sexual violence that appears with greater regularity on TV and in films. All of these fit neatly into the traditional narrative of women as sexual objects whose role it is to meet the insatiable sexual appetite of men.

“These attitudes also contribute to the propagation of pornography and the depiction and other commercial exploitation of women as sexual objects, rather than as individuals. This in turn contributes to sexual violence.”



*CEDAW Committee General Recommendation 19, Inquiry document 105*

These developments in the use of media are therefore reinforcing the harmful gender stereotypes and gender inequality which leads to widespread acceptance of the sexual entitlement of men, and then the perpetration of sexual, physical and emotional violence.

**INQUIRY FINDING 27: The media can and does increase the risk of family violence by promoting gender stereotypes and other harmful attitudes that cause it.**



## 8.2 Government Plans, Coordination and Programmes

### 8.2.1 National Plans

The Strategy for the Development of Samoa 2016/2017 – 2019/2020 is the primary national policy framework and one of its strategic outcomes is “Family and sexual violence level reduced”.<sup>70</sup> This is found under the key outcome to strengthen social institutions (Key Outcome 8), suggesting that Government sees family violence as an issue which must be addressed predominantly within communities.

This conclusion is supported by an examination of the Law and Justice Sector Plan 2016-2020 (**LJS Plan 2016-2020**) which again places family violence under social development but is not addressed at all within ‘governance’ or ‘access to justice’. This is similarly the case when assessing the Community Development Sector Plan 2016-2021 where again all initiatives related to family violence are under social development and nothing under governance.

“This is an immediate challenge as there is no cohesion or coordinated approach. Is the sector approach even working in this area?”



*Leautuliilagi Vanessa Barlow-Schuster, consultant and lawyer, Inquiry public hearings*

The question posed by Leautuliilagi can be answered by looking at the key activities envisaged within LJS Plan 2016-2020. Firstly, the plan contains only a few high level activities. It does not attempt to consider how the root causes of family violence may be identified, nor the widespread attitudinal change achieved

<sup>70</sup>Ministry of Finance Economic Policy and Planning Division. (2016). *Strategy for the Development of Samoa 2016/2017 – 2019/2020*. Retrieved from <http://www.lse.ac.uk/GranthamInstitute/wp-content/uploads/laws/4836.pdf>.

that is required for lasting change. The activities include the establishment of a National End Violence Taskforce, a National Crime Prevention Strategy, a Community Law Centre and amendment of the *Village Fono Act 1990*. However, these are all carried over from the last Law and Justice Sector Plan. Therefore, not only are the activities insufficient in addressing family violence, they are old ideas which the last Strategic Plan cycle failed to deliver.

The Community Development Sector Plan 2016-2021 already looks to be going down the same path of non-implementation with a planned 'Safe Families and Ending all Forms of Violence Strategy' 2017-2021 already behind schedule. This plan also commits to the development and expansion of an inter-agency response system for victims of violence but nothing of note has been achieved in this area to date.

The Government noted that a previous significant milestone was "the National Women's Policy for Women of Samoa 2010-2015 which specifies the reduction of violence against women as a key policy outcome."<sup>71</sup> Yet the very report in which this was stated concludes family violence is actually dramatically **increasing**.

It is therefore apparent to the Inquiry that despite all of the national, sector and ministry-led plans, no positive change is being achieved. This is due to a lack of a coordinated approach and failure to fully consider the range of root causes and contributing factors of family violence, especially in relation to governance and access to justice.

### 8.2.2 Programmes and Budget

MWCSD is the main Government agency tasked with addressing family violence yet they were quick to identify their own shortcomings in this regard to the Inquiry.

"Our legal mandate (*Women Affairs Act 1990*) does not provide us with the necessary legal provisions or resources to be able to respond to domestic violence fully.

MWCSD receives 2% of Government budget allocation and relies heavily on the support of donor partners for implementation of educational/awareness programmes.

There is a current gap for targeted long term services/programmes towards victims of violence, in particular sexual violence. There is a need for targeted rehabilitation programmes for perpetrators of violence.

Monitoring and follow-through of programmes remains a challenge."

*MWCSD Inquiry submission, Inquiry document 1*

<sup>71</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).



This damning internal assessment highlights how the MWCSO has neither the mandate, nor the resources to effectively address family violence and monitor impact. This shortcoming is widely recognized:

“According to research and consultation carried out by the Commission on its CEDAW review, there is an obvious lack of programmes and services to address family violence issues.”



*Samoa Law Reform Commission Inquiry submission, document 38*

The SLRC also found that the very role of MWCSO reinforces the gender stereotypes which are at the heart of family violence. It does this through its mandate, part of which is to promote and facilitate gender specific activities such as fine mat weaving, home economics and the like.<sup>72</sup>

Despite this lack of commitment from central Government,<sup>73</sup> and gender stereotype-reinforcing mandate, it was clear to the Inquiry that MWCSO undertakes commendable efforts on the insufficient budget they are provided with. Also a number of its civil servants demonstrate a commitment to, and understanding of family violence that is a great asset to Samoa. Initiatives such as their programmes on positive parenting, child safety, social protection and men against violence advocacy<sup>74</sup> demonstrate what can be done on a shoestring but the lack of Governmental support in terms of mandate and budget means that these will only ever be piecemeal and of limited impact. It is nonetheless encouraging and should be acknowledged.

### 8.2.3 Village Representatives

The *Sui Tamaitai o Nuu (STN)* and *Sui o Nuu (SN)* are networks of village representatives which are the Government’s main entry point into the villages. MWCSO rely on these representatives to support village mobilization towards prevention and responding to incidents of violence in the village.<sup>75</sup> MWCSO reported to the Inquiry that where these representatives have been proactive, significant change has occurred. The potential impact from these networks is substantial. However, it was also clear to the Inquiry that full potential of these networks is far from being realized. Concerns were raised to the Inquiry around the effectiveness of these positions and the need for monitoring and evaluation (**M&E**).

“Village representatives should be doing more by leading awareness raising programmes for families and young couples because that’s why they were chosen in the first place. Every time they attend trainings in Apia but you do not see them done in the village.”



*Samoa Law Reform Commission Inquiry submission, document 38*

<sup>72</sup> Samoa Law Reform Commission. (2016). *Convention on the Elimination of All Forms of Discrimination Against Women Legislative Compliance Review Final Report*. Document 89 Inquiry anthology.

<sup>73</sup> The UN CEDAW Committee in response to Samoa’s 4<sup>th</sup> and 5<sup>th</sup> Periodic Report on CEDAW also made a similar concluding observation noting the lack of Government support injected into the national machinery for the advancement of women. Retrieved from <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-WSM-CO-4-5.pdf>.

<sup>74</sup> MWCSO written submission to the Inquiry. Document 1 Inquiry anthology.

<sup>75</sup> MWCSO written submission to the Inquiry. Document 1 Inquiry anthology.

This is yet another consequence of the Government's lack of commitment to addressing family violence, and in not providing sufficient resources to effectively monitor the effectiveness of village representatives there is a lack of accountability and ineffectiveness.

Furthermore, the Government's policy towards payment of the STN and SN is discriminatory and reinforces the gender hierarchy upon which family violence is premised. Prior to 2014 female village representatives received less salary than afforded to male village representatives. In December 2014, Cabinet endorsed an increase in the fortnightly salary from ST\$125 to ST\$195, despite male village representatives receiving ST\$250.<sup>76</sup> In the Government's submission to the UN CEDAW Committee in 2017, it summarized this as "a positive reflection of how serious the Government is in terms of applying gender equality and supporting achievement of gender parity".<sup>77</sup> The Inquiry agrees with this sentiment but not in the way it was intended. If the Government was indeed serious about gender equality it would have raised the salary level equal to that paid to the male representatives. In failing to do so they sent a clear message that they endorse gender inequality and accept the culture of violence that accompanies it.

**INQUIRY FINDING 28: The Governments lack of commitment and approach through inadequate allocation of resources, support and lack of coordination sends to people a message that gender inequality and family violence is acceptable.**

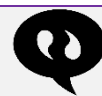


### 8.3 Village Fono

The role of the Village Fono is to ensure peace and harmony and the development of the village.<sup>78</sup> Time and time again the Inquiry heard *matais* claim that there are no instances of family violence happening in their village.

"In my village there are no cases of violence as the Village Fono is doing its job."

*Matai participant, Inquiry public hearings*



At one point during the public hearings another *matai* addressed the Inquiry and stated with absolute confidence that there were zero cases of family violence within his village. The very next witness countered that and stated this was untrue and that her daughter previously lived in that village until her husband knocked her teeth out and prevented her from going back. This raises two worrying points. The first is that *matais* are a big part of the problem by either being complicit in denying the existence of violence or directly involved as a perpetrator. The SFHSS 2000 showed that 35% of perpetrators of

<sup>76</sup> Confirmed to the Inquiry by the Internal Affairs Division, MWCSO. (Email correspondence). 20 March 2018.

<sup>77</sup> Government of Samoa. (2017). *Sixth Periodic State Report to the Committee on the Elimination of Discrimination against Women*. CEDAW/C/WSM/6. Document 90 Inquiry anthology.

<sup>78</sup> Refer to *Village Fono Act 1990*.

violence were *matais*.<sup>79</sup> Given only 15.5% of the total male population are *matai*,<sup>80</sup> this indicates that the rate of perpetrators is more than twice as high among titled men than the national average. The second worrying point is that if the numbers of perpetrators being *matai* is so high, it is highly unlikely that they will take action to address family violence. This not only applies within the Village Fono setting but also helps to explain Government inaction.

“Violence victims (are) reluctant to report cases to the (village) councils and instances were also reported where cases had not received a fair hearing due to the fact that some of these *matai* sitting there do this and they are not going to judge another *matai*.”



*Matai participant, Inquiry document 99*

Therefore the problem is, not only are Village Fonos unlikely to proactively prevent family violence, they are also likely to protect perpetrators. This is an alarming situation and reinforces the earlier findings that the standard of *matais* has declined in recent years. This is of course, a generalization and there are still many *matai* who embody the true spirit of the *Fa’asamoa* and are worthy leaders within their villages. There are also *matai* who are coming to understand the negative consequences of family violence and are bold enough to admit their past failings, and endeavor to make amends like the case of Milo below. Samoa is going to need many people to adopt this approach if family violence is to be defeated.

#### **Case Study 24: Chief Milo’s\* road to redemption**

Milo is a *matai* who is quick to admit he is far from perfect.

*“I am a person who exercises violence between myself and my wife and children. The decisions I make for my village even has violence as part of them. It’s because of that feeling that you have the control – over my wife, over my family. I feel I have every right to exercise this control.”*

Milo was able to take part in a number of programmes on family violence and over time came to realise he was not being a good example and the effect of his violent nature on his family and the wider community.

*“The turning point for me was seeing my role as a role model for the village, the youths and my role in making decisions. I realized I needed to change for people to actually listen to me. I need to practice what I preach.”*

Since his realisation Milo has gone to great lengths to try to understand and address the root causes of violence in his village. He has sought to limit monetary punishments as they can put families under greater financial stresses and lead to further violence. He also rejects the use of banishment because it is simply moving



<sup>79</sup> SPC and UNFPA. (2006). *Samoa Family Health and Safety Study 2000*. Document 83 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>80</sup> MWCSO. (2015). *Women: Matai and Leadership Survey 2015*. Retrieved from <http://www.mwcsd.gov.ws/images/2017/Documents/DFSD/Women-Matai-and-Leadership-Report-2015---FINAL-FINAL.pdf>.

the problem to someone else's village. He sees family violence as his responsibility and would like to establish a village committee to help address it.



\*Names changed to protect the identities of those involved

Milo is just one *matai* who has started to change his attitude towards family violence and has recognized some of the ways to go about that. However, the fact is that family violence flourishes despite the insistence of most *matais* before the Inquiry that it does not even occur in their village. This is evidence that Milo unfortunately appears to still be in the minority.

"We cannot do this alone. We cannot do it without the Village Fonos. They know what the law says already but despite having been through the trainings they are just not doing their job in spreading the word and building awareness. Some Village Fonos stand up for perpetrators and try to justify the abuse and that's why they end up reoffending."



*Police outpost officer, Inquiry public hearings*

Every village has its own by-laws, rules and regulations to govern the well-being of the community. The Inquiry heard of not one by-law relating to the prohibition of family violence and possible consequences. Rather, by-laws focused on drunken behaviour, wearing inappropriate clothing, and curfews. However, during the drafting of this Report, the Village Fono of Asau had approved policies for zero tolerance of violence against women, a positive step that should be commended.<sup>81</sup> Institutionalizing the prohibition of family violence and its consequences would send out a strong warning to all village habitants of the social behaviour that is expected of them.

The absence of such laws (with the exception of Asau) is a damning indictment of the general attitude towards family violence by the Village Fonos of Samoa and reflects an overwhelming lack of action on their part to play a preventive role in the spread of family violence.

**INQUIRY FINDING 29: In failing to adopt any formal measures to address family violence, Village Fonos are generally complicit in its prevalence.**



### 8.3.1 The Role of the *Matai* as family figureheads

The traditional role of the *matai* is of great importance in the battle against family violence. They are the family figurehead who is primarily responsible for resolving such matters and ensuring they do not have to be reported to the Village Fono.

"They (*matai*) should be the first responder to the issue within the family. He should seek advice from the *faifeau* (church minister) or Village Fono if it is a situation outside of their control. He is responsible for the well-being and

<sup>81</sup> Samoa Observer. "Asau moves to protect women." (5 January 2018). Retrieved from [http://www.samoaoobserver.ws/en/05\\_01\\_2018/local/28509/Asau-moves-to-protect-women.htm](http://www.samoaoobserver.ws/en/05_01_2018/local/28509/Asau-moves-to-protect-women.htm).

development of all people within his extended family. That is the whole purpose of why *matais* exist”.

*Matai participant, Inquiry Public Hearings*



However, the data<sup>82</sup> suggests that matters are not being reported to the Village Fono yet family violence is worse than it has ever been – strong evidence that *matais*, in general, are failing in their duties.

“Getting a *matai* title is thought not to be the sacred thing it once was and anyone can get one and once they do they think they rule their people and families.”

*Inquiry consultations participant, Inquiry public hearings*



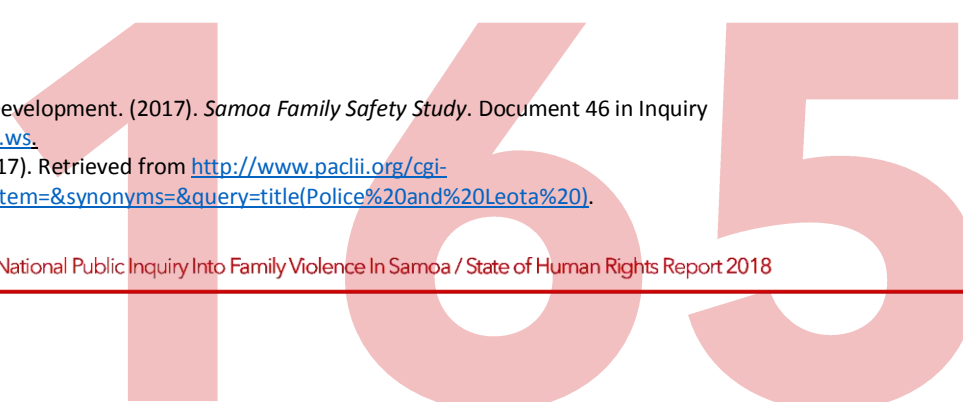
Before coming to a judgement on whether *matais* are meeting their responsibilities in relation to family violence, it is important to separate the protection and prevention elements. The Report has already outlined how the role of the *matai* is not well suited to the protection of individual victims of family violence. They do not have the requisite skills and knowledge to provide the care and support required to both victim and perpetrator to aid rehabilitation for one and recovery for the other. It is not realistic to expect this to ever be the case. However, the role the *matai* should play is bringing both victim and perpetrator to the right people so that this support can be provided, whether that is through the Village Fono or referring the matter directly to the Police. Due to the cultural context, they are viewed as failing if matters spill outside the family unit and their response is therefore to try to suppress the matter in any way they can. This puts the victim at further risk and ensures the matter continues. This situation must be put to an end immediately. *Matais* must begin to understand their role in matters of family violence as facilitating access to the required services for both the victim and perpetrator, and in consultation with both individually.

In relation to the prevention of family violence *matais* are generally failing by the simple fact that many are perpetrators of violence themselves, higher than the national average.<sup>83</sup> In order to prevent family violence, *matais* need to send a clear message of no tolerance and to provide practical guidance on how to live peaceful, non-violent lives. This is simply not possible if they are not leading by example.

During the Inquiry consultations it was raised on a number of occasions that the quality of *matais* is in decline. The reason for this was suggested to be that as Samoa has moved to a cash economy, chiefly titles have become inherently linked to land and money, rather than serving one’s family. This corrupted view of what it is to be a *matai* has led to a culture of power and demanding respect, rather than one of service. Consequently, another of the protection mechanisms against family violence has become obsolete.

<sup>82</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>83</sup> *Police v Leota* [2017] WSSC 113 (8 August 2017). Retrieved from [http://www.paclii.org/cgi-bin/sinodisp/ws/cases/WSSC/2017/113.html?stem=&synonyms=&query=title\(Police%20and%20Leota%20\)](http://www.paclii.org/cgi-bin/sinodisp/ws/cases/WSSC/2017/113.html?stem=&synonyms=&query=title(Police%20and%20Leota%20)).



This has been further exacerbated by the fact that the vast majority (89%) of *matais* are male,<sup>84</sup> and many of those are perpetrators of family violence or at the very least want to maintain the social hierarchy that affords them power and control. Combined with declining standards and shifting expectations of the role of the *matai* there is little inclination for *matai* to take the issue of family violence seriously and it is apparent that yet another one of the protection mechanisms constructed by the *Fa'asamoa* has been undermined to the point of non-existence. This is further broadening the foundation for family violence.

**INQUIRY FINDING 30: *Matais* are not able to directly protect victims of family violence and taking no responsibility for this, means that matters are kept within the family walls but not resolved. *Matais* are currently not doing enough to prevent family violence by leading by example and promoting non-violence among their relatives.**



## 8.4 Church

The Inquiry was encouraged to hear from a number of church ministers who spoke out strongly against family violence and the role of the church, explaining measures that have been put in place. The NCC, for instance, is a key partner under the National Action Plan for Children and has been actively involved in child protection activities and addressing some of the causes and triggers of violence. The critical role of the Church was agreed upon during the Inquiry consultations, but so too was the feeling that this responsibility is not currently being met in general, despite the few examples of good practice.

“Church ministers and their wives are very influential and have an important role to play in using teachings to build strong families, provide support, advise and counsel families in trouble. It is felt that church ministers are not currently doing their role in providing families spiritual and motivational guidance.”



*Inquiry consultations Report, Inquiry document 58*

The Inquiry has already uncovered how misinterpretations of the Bible are supportive of family violence. It was acknowledged by a church minister<sup>85</sup> that greater effort needs to be made by clergy to remedy this.

In addition to a failure to preach a consistent message of non-violence and gender equality, the Inquiry found a number of other practices or failings which contribute to the continuation of family violence. They are:<sup>86</sup>

- Church ministers being more detached from their congregations;
- increasing financial pressures on families; and
- providing disingenuous character references to perpetrators of family violence.

<sup>84</sup> MWCSO. (2015). *Women: Matai and Leadership Survey 2015*. Retrieved from <http://www.mwcsd.gov.ws/images/2017/Documents/DFSD/Women-Matai-and-Leadership-Report-2015---FINAL-FINAL.pdf>.

<sup>85</sup> Evidence provided by Father Lui Sanele, Inquiry public hearings.

<sup>86</sup> Views expressed during Inquiry public consultations.

It was reported to the Inquiry by a number of people that the role of church ministers is changing as they now visit their congregation far less than previously practiced.

“Church ministers are hardly doing visitations anymore. In the olden days they did not just visit your congregation – they used to visit everyone.”



*Inquiry Participant, Inquiry public hearings*

This echoes the sentiments of many other witnesses who bemoaned the fact that some church ministers are only ever seen on a Sunday nowadays and there is barely any interaction in the intervening days. Not only does this limit the amount of spiritual guidance provided to the congregation, but it prevents church ministers from identifying potential family violence before it occurs, or intervening when it does start. It is a key preventive mechanism of family violence in Samoa, which has now all but disappeared.

In addition to the lack of visitations by church ministers, the practice of *folafola* (calling out the names and amounts of financial donations on a weekly basis) has also contributed to the prevalence of violence. Whilst this does not happen in all churches, it reflects a wider issue of church obligations placing great financial pressure on families (to the point some have to take out bank loans) and bring shame on those who cannot donate much (and therefore showing the church’s insensitivity). Money issues was commonly cited as a trigger for family violence and by contributing to this problem, churches are directly contributing to greater risk and prevalence of family violence, and must start to take responsibility for this fact.

A further common policy of church ministers is in the provision of character references for perpetrators of family violence when they come before the courts. Character references can be helpful in helping judges determine appropriate sentences but in this context they are problematic.

Family violence is usually a pattern of abusive behavior, and whilst it may be a first court appearance it is unlikely to be the first time it has happened. The courts are usually unaware of any historical abusive behavior (particularly if it was never reported before) and do not have the means to explore this. Reaching out via character references is effort by the court to be informed in this regard. These character references however tend routinely to paint the perpetrator in the best light possible and glosses over other relevant factors. Through the provision of defective character references, church ministers are therefore increasing the space within which perpetrators can act with impunity and further strengthening the idea that family violence is a normal part of life to be accepted. This is less surprising when one considers the far more active role church ministers play in family violence – as abusers themselves.

“One of the reasons for their (church ministers) silence on this issue is that some clergy are themselves guilty of inappropriate behaviour toward women, either their wives or women in their parishes.”



*Mercy Ah Siu-Maliko, ‘A Public Theology Response to Domestic Violence in Samoa’, Inquiry document 39*



The Inquiry was extremely concerned to hear of church ministers who are violent towards their wives and the number of cases of those found to have sexually abused children within their care,<sup>87</sup> including the church minister currently facing charges of raping his own niece.<sup>88</sup> These cases would only be a small portion of something much larger that cannot yet be seen or understood. It is therefore not surprising, as is the case with Government and the Village Fonos, to note a lack of action to prevent family violence, and church ministers being **proactive** in the preservation of the status quo and protective of perpetrators rather than victims.

For all of the above reasons it is not surprising to hear many church ministers in complete denial and silence as to the existence and extent of the problem of family violence, as is the case within many Village Fonos.

“In my village I do not know of any cases of family violence.”

*Matai and Church Representative participant, Inquiry public hearings*

“Reverend Howard Leiataua did not perceive domestic violence was occurring often in the church congregation and most cases are one off incidents or disputes.”



*Ramona Boodoosingh, PHD on Violence Against Women in Samoa, Inquiry document 82*

Churches are therefore either turning a blind eye to family violence, have lost contact to the point they are unaware of its existence, or are attempting to explain it away as one-off incidents. The church needs to accept that fact in order to re-establish its preventive role.

**INQUIRY FINDING 31: The church is generally failing in its role to prevent family violence and is reinforcing the patriarchal framework which underpins family violence. The church contributes to the impunity of perpetrators and allows perpetrators within its ministry.**



## 8.5 Data Collection

Government, Village Fonos and the Churches are the three primary institutions that can prevent family violence in Samoa, with the right approach, commitment and strategy. However, it is the view of the Commissioners, that in order to know what that approach and strategy should be, it is imperative that effective data collection takes place. Good planning is reliant on reliable, up to date, accurate and detailed information on the prevalence of family violence, access to services, impact of programmes, etc.

<sup>87</sup> *Police v Paulo (Sentence)* [2002] WSSC 1 (13 February 2002). Accessed at <http://www.pacii.org/cgi-bin/sinodisp/ws/cases/WSSC/2002/1.html?stem=&synonyms=&query=paulo>.

<sup>88</sup> Samoa Observer. “Church Minister facing sex charges vacates plea.” (3 December 2017). Retrieved from [http://www.samoaoobserver.ws/en/03\\_12\\_2017/local/27360/Church-Minister-facing-sex-charges-vacates-plea.htm](http://www.samoaoobserver.ws/en/03_12_2017/local/27360/Church-Minister-facing-sex-charges-vacates-plea.htm).

The MJCA is a good example of a Government ministry who uses data and statistics on family violence to allow the Family Court to see where the biggest need is concentrated and to identify and utilize programmes that cater for that demand.<sup>89</sup> Nonetheless MJCA recognized data collection as an ongoing challenge. The Inquiry overall, found a very poor standard of record keeping and data collection across Ministries and NGOs, which severely undermines the ability to implement effective programmes and responses. The main sources of family violence related data – the DVU, SFHSS 2000 and SFSS 2017 are flawed, and a greater understanding of statistics and appreciation of their importance is required.

The statistics held by the DVU are widely reported, including to the UN international human rights bodies. However, these figures are almost certainly an under-representation of the true number of matters reported to the police. Evidence given by MoP before the Inquiry confirmed that only cases reported directly to the DVU in Apia are counted towards those numbers. Any matters reported to the police outposts in the villages (or Savaii as a whole) would not be counted. Furthermore, offences such as rape would also not be included as this is recorded in the statistics of the Criminal Investigations Division of the MoP.

The extent of the failings is laid clear in the differences of the numbers of domestic violence reported by the DVU and the Division for Policy and Planning of the MoP. The DVU reported 375 cases of domestic violence in 2013 and 469 in 2014. However, the DPP reports 2,892 cases of domestic violence across the financial year 2013/2014, significantly higher than that reported by the DVU. This has two important consequences. The first is that in widely publicizing the erroneous DVU statistics the Government is underplaying the severity of the problem Samoa faces – essentially covering up the extent of the violence. The second is that any strategic planning and accompanying budgeting will not be sufficient, as it will be based on figures which are much lower than reality, yet further allowing family violence to continue.

The erroneous use of statistics in addressing (or failing to address) family violence does not only apply to MoP.

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“The Family Safety Study is the baseline data for future family violence work.”



*MWCSD Inquiry submission, Inquiry document 1*

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Quite rightly MWCSD seeks to establish baseline data from which their programmes and strategic priorities can be identified. This is certainly the right intention but the Inquiry has found failings in both the SFHSS 2000 and SFSS 2017 studies, which raise concerns about the quality of data collection and therefore the subsequent strategic decisions upon which they are based.

The SFHSS 2000 was carried out by the SPC and drew upon their access to expert statisticians. Consequently, the data collection and analysis was of a reasonably high degree and accepted standards were applied to ensure statistical significance. However, errors still crept in, including basic errors of putting numbers in the wrong columns. This occurred when reporting the percentages of victims and non-victims who lived in rural or urban areas. The report then went on to conclude that “abused respondents

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<sup>89</sup> MJCA Inquiry public hearing presentation. Document 32 Inquiry anthology.

were significantly more likely (53%) to come from rural as opposed to urban (35%) households”.<sup>90</sup> Rural residents were also significantly more likely than urban respondents to experience all types of abuse.<sup>91</sup> In addition to the statistics being wrong due to erroneous data entry, it also highlighted a flawed approach to data analysis that continued through to the SFSS 2017.

In the SFHSS 2000 analysis, it was concluded that the majority of abused respondents come from rural areas. This is to be expected given 82% of the total population in Samoa live in rural areas.<sup>92</sup> However, the report then concludes that women in rural areas are **more likely to experience abuse** than those living in urban areas. The report is now confusing prevalence with rate, or risk. To come to this conclusion accurately, the analysis needed to go one step further and look at the prevalence of violence in rural areas and urban areas, and compare both to the national average to see if those in rural areas are more at risk. The Inquiry was able to use the data available from the SFHSS 2000 and reverse engineer the pure numbers and make these calculations for all demographics apart from rural versus urban due to the basic error that had been made in entering the numbers into the table.

This confusion between prevalence and rate/risk was a mistake carried over to the SFSS 2017 whereby only prevalence was analysed. Whilst it is important to identify the demographics among which family violence occurs the most, it is also important to identify the **rate**, within specific demographics to identify particular risk factors. For example, it is evident that the education level of the biggest group of respondents who had experienced abuse was secondary level education. But, using the analysis the Inquiry was able to perform using the SFHSS 2000, the rate of violence within that demographic was roughly the same as the national average, whilst the rate of violence among women who had finished primary school was much higher.

The SFSS 2017 goes on to make a number of other mistakes which undermine its findings, including drawing conclusions from sample sizes of 22 (persons with disabilities) and using an erroneous definition of abuse for elderly persons, which significantly inflated the findings.<sup>93</sup> Furthermore, the SFSS 2017 did not replicate the methodology of the SFHSS 2000, meaning the data is incomparable.

It appears that the SFSS 2017 did not benefit from the same level of statistical technical expertise as the SFHSS 2000 but that both made significant mistakes and included poor analysis which could significantly impact the effectiveness of prevention programmes and strategies based upon this data.

Although the SFHSS 2000 and SFSS 2017 were carried out in good faith and sheds light on the prevalence of family violence, it is the view of the Commissioners that higher standards should be demanded by both the implementing agencies and the funding partners when carrying out similar exercises in the future.

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<sup>90</sup> SPC and UNFPA. (2006). *Samoa Family Health and Safety Study 2000*. Document 83 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>91</sup> SPC and UNFPA. (2006). *Samoa Family Health and Safety Study 2000*. Document 83 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>92</sup> Samoa Bureau of Statistics. (2016). *Samoa Census 2016*. Retrieved from [www.sbs.gov.ws/index.php/new-document-library?view=download&fileId=2114](http://www.sbs.gov.ws/index.php/new-document-library?view=download&fileId=2114).

<sup>93</sup> This erroneous definition may also have been applied to other demographics with the same effect but an Inquiry request for clarification went unanswered.

**INQUIRY FINDING 32:** Data collection on family violence is sub-standard, not disaggregated and routinely misreports the true scale of the problem, undermining the few efforts to combat it.



## 9. Protection Framework

### 9.1 Legislative framework

Since signing the CEDAW, legislative reform has been impressive, demonstrating a will in some quarters for progressive reform and the positive influence being party to the international human rights conventions can have.

The legislative framework around family violence is the one area the Inquiry found to be reasonably robust and this opinion was widely shared.

“Samoa’s legislation is mostly compliant with the (CEDAW) Legislative Compliance Indicators concerning family violence.”



*Samoa Law Reform Commission, CEDAW Legislative Compliance Review, Inquiry document 89*

#### Inquiry Info Point 15: Key Family Violence Legislation and Laws in Samoa

**Constitution of the Independent State of Samoa 1960:** The Constitution contains guarantees of a range of rights for all citizens, including the right to life (article 5), right to personal liberty (article 6), freedom from inhuman treatment (article 7), right to a fair trial (article 9), and freedom from discriminatory legislation (article 15).

**Sex Offenders Registration Act 2017:** Requires people who have been convicted of sex crimes to provide police with their details and keep them informed of their whereabouts

**Village Fono Act 1990 and Village Fono Amendment Act 2017:** Establishes the authority of Village Fonos to enact by-laws and stipulates the consideration of customary practices in sentencing.

**Criminal Procedure Act 2016:** Allows the use of video evidence to protect victims of family violence.



**Family Court Act 2014:** Establishes the Family Court as a Division of the District Court.

**Family Safety Act 2013:** An act to provide for the greater protection of families and the handling of violence related matters. Allows for protection orders to be

issued to victims of family violence and outlines the duties of police officers, including the 'no drop' policy, meaning all reported cases of domestic violence must be investigated.

**Crimes Act 2013:** Establishes a range of crimes relating to family violence, including murder, manslaughter, and assault, rape of minors, marital rape and incest.

**Constitutional Amendment Act 2013:** Established the quota system for Parliament, requiring at least 10% female Members of Parliament.

**Ombudsman Act 2013:** An act which establishes the Office of the Ombudsman as the National Human Rights Institution, mandated to monitor State compliance with its human rights obligations and to protect and promote rights nationally.

**Community Justice Act 2008:** An act to allow community based sentencing, to minimize the number of custodial sentences handed down by the courts and to aid the rehabilitation of offenders.

**Alternative Dispute Resolution Act 2007:** An act which allows courts to refer matters to alternative dispute resolution rather than go through the formal and costly court process.

**Ministry of Women's Affairs Act 1990:** Creates the roles of village representatives and outlines the role of MWCSO.

**Infants Ordinance 1961:** An ordinance which establishes legal protection for children and standards for those who are guardians for children.



The *Family Safety Act 2013* remains one of the key pieces of legislation yet could be further strengthened to encompass financial violence within its definition and to include time limits for serving of protection orders.

"I have experienced delays in the serving of protection orders which has endangered my clients. I wonder how many applicants experience these unnecessary delays caused by either MJCA not referring to police or police not serving the order. I also wonder how many people have the means to follow up and push for immediate serving as I do with my clients. Do police consider the safety of the victim when they fail to serve the orders?"



*Savalenoa Mareva Betham-Annandale, Family Law Barrister and Solicitor, Inquiry public hearings*

The Inquiry also received strong calls from a range of legal actors for the immediate passage of the *Child Protection Bill*, and expressing frustration that it has not yet been enacted as an Act of Parliament despite years of deliberation, consultation and drafting. The Bill is intended to give MWCSO the legal authority to

monitor children at risk of violence and apply for court protection orders if necessary. If a child was deemed to be taken into custody then the costs would be borne by the Government and it appears that this is the biggest stumbling block. However, the Inquiry has already found that the cost of not addressing family violence in this manner amounts to millions, irrespective of the moral and legal argument that Government has a responsibility to intervene when a child is at risk.

The commendable legislative reform programme that has been achieved since the ratification of CEDAW is unfortunately not matched by its implementation and the Inquiry found various examples of a lack of awareness or willingness meaning that the legislative reform had little to no impact. As the Attorney General commented in his evidence to the Inquiry, “the application of the law will depend on social attitudes”. A good example is the ‘no drop policy’ in relation to complaints of domestic violence made to the Police provided under the *Family Safety Act 2013* sections 15 and 16. In theory such provisions are a good way to introduce accountability for perpetrators, to act as a deterrent and to send a message to society that it will not be tolerated. However, application of the policy appears to be patchy and the officers who gave evidence to the Inquiry demonstrated varying degrees of understanding of the policy and willingness to apply it. Some fully supported and implemented it, whilst others had not heard of it or believed it to not yet be in force.

The lack of implementation of the programme of legislative reform appears to derive from a lack of understanding or knowledge among law enforcement officials and the general public, and an unwillingness to abide by it because it contradicts engrained social attitudes.

“Notwithstanding these developments (legislative reform), acceptance of family violence still exists and presents a real challenge in reducing this issue.”



*Savalenoa Mareva Betham-Annandale, Family Law Barrister and Solicitor, Inquiry public hearings*

This conclusion lends greater weight to the Inquiry finding that current Government policies and programmes do not sufficiently address the root causes of family violence. Furthermore, whilst the programme of reform has indeed been commendable, there has been no M & E of any impact. It appears that for some decision makers the law is a means to an end, and that end might simply be giving the impression of social progress. If the Inquiry is wrong in this conclusion, then there should be no problem with reviewing the approach to implementation to identify why it has been slow to date and establishing an effective M&E framework to ensure effectiveness.

**INQUIRY FINDING 33: Samoa’s family violence legislative framework is relatively strong, but implementation and monitoring of effectiveness is weak or non-existent.**



## 9.2 Services

“While there are some improvements in the area of legislation, challenges remain particularly with ... the lack of relevant services for women.”

*SPC, 2015, 'Beijing+20: Review of progress in implementing Beijing Platform for Action in Pacific Island Countries*



The due diligence standard, outlined in **section 9.6.1**, requires the State to take extensive steps to address systemic and discriminatory violence, such as family violence. This includes the provision of shelter and the acknowledgement by the Government that there is a need. Government's failing to provide shelters violates the human rights of those who endure family violence.<sup>94</sup>

“Given the resources available, the Government of Samoa will not be able to establish shelters for victims of violence. Alternatively, it is using existing mechanisms like care provided by extended families, church and community leaders.”

*Government of Samoa to the CEDAW Committee, 2017, Inquiry document 90*



The statement by the Government above is highly illuminating and supports the suggestion that it is not entirely serious about preventing family violence in Samoa. The assertion that it cannot afford to provide shelters is untrue and sends a message that family violence is not perceived to be a significant problem, thus reinforcing national acceptance of it as the norm. The Inquiry has already found that the savings from addressing family violence would be in the millions and shelter services would be a self-funding part of that process. The Inquiry consultations, which canvassed 1,500 representative of the population as a whole, found that 85% view family violence as a priority issue. It is time the Government started to treat it as such.

In addition to the lack of any services in relation to family violence such as shelters, family violence crisis centres or rehabilitation programmes, the Government is conspicuous in its lack of efforts to provide qualified counselors for victims and perpetrators of family violence. Professional counseling is essential in rehabilitating victims of family violence, some of whom have endured horrific and sustained treatment at the hands of their loved ones, and often compounded by a false belief that they are in some way to blame.

“Providing counseling and social services to victims and perpetrators of violence can help to break the cycle of violence and help them better cope with and recover from the health and mental health consequences of these experiences including trauma symptoms.”

*INSPIRE: 7 Strategies for Ending Violence Against Children, WHO, Inquiry document 48*



<sup>94</sup> In 2005 the CEDAW Committee heard the case of *A.T. v Hungary* and found the state had failed to act with due diligence in providing the maximum protection of the law to victims of domestic violence (CEDAW/C/32/D/2/2003. Accessed at <http://hrlibrary.umn.edu/cedaw/decisions/2-2003.html>). In coming to its conclusion the Committee pointed to the Hungary's own admission that domestic violence cases are not afforded priority in court proceedings as evidence of the state's implicit acceptance of such violence.



Many of the survivors of family violence who spoke to the Inquiry identified their need for effective counseling. As one witness remarked, ‘it never really leaves you’. The lack of professional standards for counseling and Governmental services has left a void which is often filled by NGOs or religious bodies. Whilst admirable, counseling is an extremely sensitive, skilled profession with the potential for causing much greater harm.

“We need qualified counselors to do the job. It can be really deadly if you are doing counseling and doing it in the wrong way. If the way you unpick a situation is wrong it can have deadly consequences.”



*Luagalau Foisagaasina Eteuati-Shon, Matai, Counsellor, Former CEO MWCSO, Inquiry public hearings*

Victims and perpetrators require specialist care and counseling in order to avoid further harm and to begin to address the root causes of their suffering or deviances. Through a failure to provide for professional standards or qualified counselors, the Government is creating an environment where well-meaning but unqualified counselors can potentially do more harm than good. This will further allow the cycle of violence within society to continue.

**INQUIRY FINDING 34: The State is responsible for widespread human rights violations in failing to provide adequate services, support and prevention in relation to family violence, and in so doing implicitly endorses its continuation.**



### 9.2.1 Police

The Police are essential in the fight against family violence in any country as they are the first responders to victims of family violence. It is important to acknowledge that MoP has demonstrably taken measures to combat family violence and shape the awareness of officers in dealing with family violence issues. This has been done over the years through among others, the establishment of the DVU, the White Ribbon Day, neighborhood watch, community awareness programmes and sensitivity workshops and trainings for officers.<sup>95</sup>

Despite these positive efforts, more is still needed to be done. This is evident in the SFSS 2017 where only 18% of victims of family violence who participated chose the Police as the institution to report to. When factoring in the number of cases of violence which go unreported, **only 2% of all family violence is reported to the police.** This is in stark contrast to 67% who feel that the Police should be the primary response agency.<sup>96</sup> The Inquiry heard many reasons that inhibit victims of family violence to report.

<sup>95</sup> MoP submissions to the Inquiry. See also Samoa Observer. “Police tackle violence.” (20 December 2015). Retrieved from [http://www.samoaoobserver.ws/en/20\\_12\\_2015/local/472/Police-tackle-violence.htm](http://www.samoaoobserver.ws/en/20_12_2015/local/472/Police-tackle-violence.htm); and Samoa Planet. “Leading the frontline response to domestic violence.” (6 February 2018). Retrieved from <http://www.samoaplanet.com/leading-frontline-response-domestic-violence-samoa/>.

<sup>96</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

Reasons include privacy concerns, fear of reprisal, and desire to protect the offender and the family's reputation. Moreover concerns about police attitudes and lack of confidence lead to the low reporting rate.

#### 9.2.1.1 Police Attitudes

Positive police attitudes towards family violence are important in facilitating a sense of safety and comfort in women seeking justice and support for protection from family violence. During consultations, several participants gave examples where attitudes of police posed barriers to the victims, through discouraging reporting or trivializing the violence. Some expressed that as a victim, one of the greatest disappointments when seeking assistance from police, was the inconsistent and ignorant attitudes and behaviors towards victims. Some victims expressed feelings of embarrassment to go back to Police because of the fear for being told off by the officers for wasting time due to withdrawing complaints, while others felt reluctant to take their case any further and would rather tolerate the violence than the indifference from the response agencies.

In the SFHSS 2000, 26 of the female respondents had a partner who was a police officer. Of those officers 10 (38%) had abused their partner. Whilst the sample size is too small to draw firm conclusions it indicates that the number of officers who may be perpetrators themselves is significant. Furthermore, the presence of these officers (who are perpetrators) can place victims at even greater risk as those officers are not able to adequately deal with reported cases, and can also discourage victims from reporting. As such, this indicates a clear need for MoP to assess the attitude and perceptions of its officers towards family violence to ensure that their efforts to address family violence will not be compromised.

#### 9.2.1.2 Protection services by Police

Despite the 'no drop policy' clearly referred to in sections 15 and 16 of the *Family Safety Act 2013*, the Inquiry heard from a number of serving officers who still counsel victims of violence to go back to their partner, placing them at further risk.

"Usually if it's cases of verbal abuse [...] then we counsel the couple or family."

"Most of [our cases] are intimate partner violence. We try to sort the issue directly when they come. If they come twice we do the same again and if they come a third time that's when we say they should submit a complaint."

"We spend more time counseling people than being at the outpost. We try to encourage them to think about their action rather than lodging a complaint."



*Police outpost officer, Inquiry public hearings*

It takes a great deal of courage for a victim of family violence to report a matter. In some cases it may have been after years of abuse and very rarely is it the first time. To be counseled by the police to return to the abusive relationship is grossly irresponsible and that person is likely never to return, therefore

condemned to a lifetime of abuse. Further training and reinforcement is greatly needed to ensure that the no drop policy is to be universally applied and officers are fully aware of this.

The Police are also not fully utilizing their powers under the law to address violence in general.<sup>97</sup> For example, under section 17 of the *Young Offenders Act 2007* official warnings can be issued instead of criminal charges being laid against young people when the offence meets certain considerations.<sup>98</sup> Therefore the youth is given a second chance, rather than being adopted into the formal criminal justice system, from where it is proven to be very hard to escape and avoid a lifetime of violent criminality. The use of warnings is therefore an essential tool in the police's armory, which can prevent young people going to jail and reduce violent behaviour across society in general.

"The powers have been there for so long and they could help keep our kids out of the formal justice system and away from a life of crime. But what I have taken from this is that has never happened. Why not?"



*Judge Rosella Papali'i, Family Violence Workshop, Apia, November 2017*

### 9.2.1.3 Prevention programmes and activities

Although the Inquiry acknowledges efforts undertaken by MoP to prevent family violence, it also notes that the initiatives to address family violence are often not universally rolled out and not monitored for effectiveness. An overall lack of officers means that the matter receives even less attention than it should. The Inquiry is encouraged to see an increased recruitment to the force as recent statistics show a low number of officers compared to other countries in the region. For example, Samoa recruits 1 officer to 795 people, compared to 1:418 in Fiji, 1:226 in Tonga and 1:240 in Vanuatu.<sup>99</sup>

This lack of capacity also influences the force's ability to foster close links with the community, an essential relationship for identifying and preventing family violence and all other forms of criminal behavior. A number of the witnesses to the Inquiry lamented the decline in community policing over the years, observing that the relationship between police and communities used to be far stronger.

"We should focus more on community policing and relationship building. They should be visible advocates, not just there for enforcement and only around when laws have been broken."



*Leautuliilagi Vanessa Barlow-Schuster, consultant and lawyer, Inquiry public hearings*

<sup>97</sup> A representative to the MJCA Family Violence workshop explained that police officers have yet to be trained in these powers and that the Standard Operating Procedures are currently with the Commissioner awaiting his approval, and have been for nearly a year.

<sup>98</sup> *Young Offenders Act 2007*, Part 6.

<sup>99</sup> Ramona Boodoosingh and Penelope Schoeffel. (2015). "Addressing Violence against Women in Developing Countries: The Case of Samoa." Document 82 Inquiry anthology.

#### 9.2.1.4 Police Training

“The Police do not receive adequate training to deal with family violence.”



*Samoa Law Reform Commission submission, Inquiry document 38*

The inherent attitudes which lead to a lack of focus on family violence and inappropriate responses to victims can only be changed through strong leadership and quality, regular training. The DVU provides training for one officer from every outpost on how to deal with complaints of family violence but the last course was 5 years ago.<sup>100</sup> Given the pervasive scale and nature of family violence it is simply not sufficient to have a minority of officers receive family violence related training once every five years. Under the Pacific Prevention of Domestic Violence Project, the Australian Federal Police also provide technical training to officers in how to handle victims of violence. However, the Inquiry found no evidence to suggest that lessons were being learned across the police force and that old attitudes and practices were still dominant.

**INQUIRY FINDING 35: Police are not adequately trained to properly deal with cases of domestic violence. There is no evidence to suggest that lessons were being learned from trainings to deal with victims of violence across the police force, and that harmful attitudes and practices were still dominant preventing reporting of family violence.**



#### 9.2.2 Prison and Rehabilitation

The Inquiry acknowledges the rehabilitation programmes undertaken by the Samoa Prison and Correction Services (**SPCS**) which addresses violent behaviors. In 2016, SPCS reported 30 inmates as having been convicted of domestic **violence** related offences, or 8.8% of the prison population.<sup>101</sup> However, if 60% of women in Samoa have experienced family violence in their lifetime<sup>102</sup> then it is logical to conclude that a similar percentage of all prisoners have carried out acts of violence whether that was the crime they were convicted of or not. Therefore, SPCS has an important part to play in the rehabilitation of all prisoners to lead a non-violent life, not just those convicted of family violence.

At the time of the separation of the MoP and SPCS in January 2014, there was no focus whatsoever on rehabilitation within prison. The institution was seen solely as one of confinement and punishment. Since the separation the mindset has changed and rehabilitation is a core feature of the prisons. This is highly commendable, especially on a limited budget. Part of the rehabilitation programme focuses on anger management and has now been completed by 181 inmates.<sup>103</sup> Initiatives such as this are a good first step

<sup>100</sup> Samoa Law Reform Commission submission to the Inquiry. Document 38 Inquiry anthology.

<sup>101</sup> Samoa Prison and Correction Services submission to the Inquiry. Document 117 Inquiry anthology.

<sup>102</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>103</sup> Samoa Prison and Correction Services submission to the Inquiry. Document 117 Inquiry anthology.

for SPCS and now further work must be undertaken to widen the nature and scope of the programmes on offer, and monitor their effectiveness and long term impact.

### 9.2.3 Health

An effective health system should provide protection services for victims of family violence in both the immediate aftermath and in their long term recovery. Well trained front-line healthcare professionals are often best placed to identify family violence and then refer cases to the police and allied health workers who can address the causes and long-term impacts.

However, the picture painted to the Inquiry was one of overwhelming shortages, lack of skills and knowledge, harmful attitudes and practices and huge gaps in the range of services required.

#### 9.2.3.1 Hospital services

For many, simply accessing hospital services can be difficult, due to the cost and distances of travel, cost of services or even because of a controlling partner who restricts the movements of the abused person for fear of the violence being discovered.

The Inquiry was also told by those currently working in hospitals and doctors surgeries that there is currently a shortfall of around 230 doctors and 400 nurses. Inevitably, this has a detrimental impact on the level of care that can be afforded to patients and in being able to identify and adequately treat victims of family violence.

“There is a high degree of understaffing at the hospital which means staff simply do not have time for screening, even if they wanted to.”



*Ramona Boodoosingh, PHD on Violence Against Women in Samoa, Inquiry document 82*

The process of screening can be extremely effective in identifying victims of violence and referring them to the necessary justice and allied health care services. Many do not want to report violence because of feelings of shame, fear and acceptance. Intervention when they present at hospital can, if done well, overcome these barriers and make significant inroads into addressing family violence at a societal level. However, the current shortage of doctors and nurses leaves nowhere near enough time for this to happen, even if the hospital staff wanted to and had received the necessary training to be able to do so without the risk of causing further harm.

A further barrier to effective protection of family violence victims within the hospitals is a lack of privacy, which leads to an environment where healthcare workers cannot have discussions with patients about the causes of their injuries.

“The dividers are drawn so there is little privacy. Even doctors and nurses do not use these curtains so patients and families can watch others being examined. Beds are also in close proximity.”



*Ramona Boodoosingh, PHD on Violence Against Women in Samoa, Inquiry document 82*

The Inquiry received conflicting reports over whether a mandatory reporting process between the police and the National Health Services (**NHS**) exists. The Criminal Investigations Division of the MoP insists there is a close relationship between the two organisations and that NHS report cases even where they have not been asked to by the victim. Not only did the Inquiry hear that no such reporting process exists but if it did, it has the potential to risk further harm to the victim if a complaint is raised without their consent. It is essential for any screening process to be clear to all staff and place the needs of the victim at the heart of the decision making process. In relation to the police that currently does not exist.

Even if an effective screening process were in place for hospital workers to identify victims of family violence, it is of little use if there are no allied health services for them to be referred to.

“I have worked in systems (overseas) where if I am suspicious of violence or they tell me there was I can refer them to a social worker who can explore whether it was a one off violent act or whether it is repetitive.

As a clinician working here in Samoa one of the hardest things in identifying these issues is the hopeless and helpless feeling of ‘what do I do?’, ‘what can I do?’ and ‘where can I get help for these people who need it?’”



*Dr. Malama Tafunai, Inquiry public hearings*

The lack of allied health services is discussed in further detail below but it also became apparent to the Inquiry that the NHS and Ministry of Health (**MoH**) has failed to take advantage of the limited service providers who are currently operating in Samoa.

“We have been trying to develop a relationship with MoH for years but they [...] think we are not needed. However, we are trying to impress on them the need for follow-up help for families after suicide attempts. If we are told about attempts then we can provide that help.”



*Papali'i Carol Ah Chong, Fa'ataua Le Ola, Inquiry public hearings*

Whilst Government agencies should take great caution in ensuring certain standards when referring cases to outside agencies, there are currently few efforts to develop these types of relationships. This is despite them being necessary in building an effective referral system and meeting the ongoing needs of victims of family violence.

### 9.2.3.2 Allied healthcare

At the heart of any referral system, and an obvious pre-requisite, are allied healthcare services which diagnose and treat the causes and effects of family violence. Allied healthcare covers all health disciplines apart from doctors, nurses and dentists. In relation to family violence, this includes social workers, counselors, psychologists, physiotherapists and occupational therapists. In Samoa these services barely exist.

“There needs to be more trained counselors in Samoa who understand our language and culture and therapeutic processes and can work with our communities. I have had to take on private clients due to the presentation of suicide ideation with young girls who have been referred through friends because they do not know where else to turn.”



*Moana Regina Solomona, clinical therapist, MJCA, written submission, Inquiry document 13*

In 2013, the NHS established the Social Services Unit where suspected victims of abuse can be referred for assessment. Initially the unit was staffed by two overseas volunteers and a head of unit providing educational and recovery programmes. However, it faced a number of issues which included “understaffing, the lack of counseling services in Samoa, access of NGOs to patients at the hospital, management issues and the difficulty of applying the western care model in the context of Samoa”.<sup>104</sup>

Given the vast scale of family violence and how it affects nearly two in three women, establishing an allied health system based around a unit with two volunteers and one permanent member of staff is never going to be sufficient. This is again indicative of a lack of commitment within Government to effectively address the problem. It is this lack of commitment that enables family violence to persist and which constitutes a violation of the human rights of the thousands of women and girls, children, and other vulnerable groups who suffer family violence every day.

### 9.2.3.3 Attitudes of healthcare staff

The SLRC concluded that healthcare workers do not receive adequate training in dealing with victims of violence in the same shortcoming as with the Police.<sup>105</sup> The importance of training in this area for both services cannot be overstated. It is an opportunity to address the engrained social attitudes which reinforce family violence and can cause significant further psychological or physical harm to victims. It is worth recalling that the ‘no drop policy’ was in part as a result of a woman who was counseled to return to her abusive husband by officers who had not received training in dealing with victims of violence and her husband went on to hit her with a rock, killing her.

“(For family violence screening) to be effective and to enable staff to respond appropriately to the needs of women, it needs to challenge healthcare professionals to address the issues of power and abuse in their own lives, at work and in society”.



*Ramona Boodoosingh, PHD on Violence Against Women in Samoa, Inquiry document 82*

Pervasive attitudes of victim blaming exist within the healthcare system, as they do elsewhere and this is a major factor in victims not reporting incidents and maintaining the veil of silence which protects family violence from being addressed.

<sup>104</sup> Ramona Boodoosingh and Penelope Schoeffel. (2015). “Addressing Violence against Women in Developing Countries: The Case of Samoa.” Document 82 Inquiry anthology.

<sup>105</sup> Samoa Law Reform Commission submission to the Inquiry. Document 38 Inquiry anthology.



“One of the greatest disappointments when seeking assistance from agencies, namely police and health professionals, was the indifferent and ignorant attitudes and behaviours towards victims. It is extremely difficult for victims to gather the courage to step out and report behaviour in the first place but then they are further reluctant to pursue matters when met with negative attitudes and would rather tolerate the violence than the indifference from the response agencies”.



*Tuiloma Sina Retzlaff, survivor and family violence advocate, Inquiry public hearings*

Tuiloma quite succinctly highlights the critical role that the police and health services play in helping victims bring their complaints to the fore, seek justice, gain access to recovery services and in general help to bring family violence out into the open and make perpetrators accountable. If police officers and health care officials display judgmental attitudes towards victims then the victim is forced to retreat, the perpetrator is absolved of responsibility and once again society says family violence is okay and not to be addressed.

On top of the attitudes towards victims, the health services suffer the same problem as other protection and prevention institutions in that the perpetrators often are doctors and nurses or are close friends with perpetrators. This means that their response to victims presenting at the hospital is not likely to focus on their patients’ needs but over their own need to protect themselves and stop the victim from reporting the abuse.

“I have never sought the medics or police because my husband knew so many doctors, many police. All my husband’s friends are wife beaters. They silently do it and their wives refuse to speak for the same reason.”



*Anonymous witness submission, Inquiry document 24*

**INQUIRY FINDING 36: The National Health Services is lacking the resources and knowledge to effectively screen for victims of family violence and there is no allied health system for victims to be referred to. Harmful attitudes and perpetrators among some staff contribute to the lack of reporting and continuation of family violence.**



#### 9.2.4 Justice System

Within the courts and MJCA, there is the highest concentration of skilled professionals working toward the elimination of family violence within Samoa. Their commitment, passion and dedication demonstrates what is possible when there is the will to effect change.

##### 9.2.4.1 Current system

The Family Court, the Family Violence Court, the Youth Court and the Alcohol and Drugs Court are highly significant achievements in themselves and reflect the focus that has been placed on family violence within the legal profession. The Family Court is tasked with dealing with protection orders, divorces,

custody and maintenance whilst the Family Violence Court addresses breaches of domestic violence and domestic related criminal matters. The Youth Court is a branch of the District Court which deals with offences carried out by youths aged 10-17. To date, the majority of cases in the Youth Court have been violence related. The Alcohol and Drugs Court has been in operation for just over a year and refers defendants to their programme to help them overcome their addictions to alcohol and drugs.

Through advocacy work undertaken by lawyers, judges and other legal professionals, a range of improvements to the justice system have been achieved over the past decade, to put victims first and recognize their experiences to ensure further harm to them is avoided and justice can be served. These include prohibiting victims from being cross-examined by the defence in cases of family violence,<sup>106</sup> allowing the use of video evidence to prevent the victim and accused having to see each other,<sup>107</sup> and addressing parts of the process which were unfriendly to victims of violence, especially sexual violence.

“A complainant must feel they are protected to make a complaint right through from going to the police to going up to give evidence. The court room can be an intimidating setting. Imagine you are a domestic violence victim and you go into a court room to face someone who has had this power and control over you.”



*Lemalu Hermann Retzlaff, Attorney General, Inquiry public hearing*

The justice system has also built a network of partners to provide follow-up services to victims and perpetrators, and also developed in-house expertise.

“My case manager and I have designed rehabilitative therapeutic programmes which are also used for the family violence court and the youth court. They are specifically tailored to the Samoan context. To date we have set up an alcohol and drug education programme, group psychotherapy programme and an anger management programme. All offenders through the courts are required to undertake these programmes at the direction of the judge. I also provide training for NGOs.”



*Moana Regina Solomona, clinical therapist, MJCA, written submission, Inquiry document 13*

Further to these programmes MJCA also provides mediation services for family court matters and report that both the numbers going through these processes have increased as has the success rate.<sup>108</sup> In recognition of the dangers of custodial sentences, the courts favour non-custodial sentences and also place great emphasis on working with those on parole. This requires a community-based approach and relies on community justice supervisors, mayors and other community leaders to supervise offenders carrying out community based sentences.<sup>109</sup> This approach offers an insight into the type of community led relations with the justice sector that could also be extremely beneficial for the police to cultivate.

<sup>106</sup> *Evidence Act 2015*, section 80.

<sup>107</sup> *Evidence Act 2015*, sections 89 and 120.

<sup>108</sup> For more information refer to “Stakeholder Consultations Report.” Document 58 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>109</sup> MJCA Inquiry public hearing presentation. Document 32 Inquiry anthology.

“We have to work with the community because the court is only at the end (of the process). When the perpetrator is reintegrated back into society we need to know they will continue to change. We need to seek the views of those leaders in the community to help the court.”



*Judge Talasa Lumepa Atoa Sa'aga, Family Violence Workshop, Apia, November 2017*

Their focus on rehabilitation means that the courts require partnerships and an effective referral network of NGOs and services for victims and perpetrators of family violence have been developed. Regular collaboration occurs between the courts, MJCA (probation services), community justice supervisors, SVSG, Teen Challenge, the SRCT and the churches. For many years the courts have been referring perpetrators to the programmes run by SVSG and successful completion of these can be taken into account during sentencing.

The Inquiry commends the achievements of the justice system to date in the progress it has made and how a few committed individuals have come together to demonstrate, that it is possible to form a prevention and protection system which is rooted in culture. Continual improvement is now required to build on these early successes as a number of notable barriers and challenges still exist.

#### 9.2.4.2 Barriers to justice

For many in Samoa, the justice system is simply not accessible, and this represents a huge barrier to justice and in turn to holding those responsible for family violence to account, and bringing an end to the age of impunity.

“I wonder what services are available to those victims of domestic violence, who have no money, no source of money or are not as educated as my victims are, who cannot afford a lawyer, who do not understand the laws and are not aware of who to report an incidence of domestic violence to, and where to apply for a protection order?”



*Savalenoa Mareva Betham-Annandale, Family Law Barrister and Solicitor, Inquiry public hearings*

MJCA reports that the majority of victims of family violence are women and they are legally unrepresented,<sup>110</sup> making access to justice especially difficult. For instance, for protection orders to be granted historical abuse should be documented and evidenced to meet the burden of proof and for most people this would be unrealistic without legal assistance. In recognition of this, the *Community Law Centre Act 2015* provides for the establishment of legal aid for victims who cannot afford legal representation. However, it has yet to be made functional due to funding issues – another example of the lack of investment and commitment in addressing family violence.

Savalenoa also raises the issue of awareness and the Inquiry has already found that awareness of particular laws and legal services is limited across Samoa. This basic lack of understanding is yet another barrier to family violence being reported, perpetrators being held to account and inroads made into its

<sup>110</sup> MJCA Inquiry public hearing presentation. Document 32 Inquiry anthology.

prevalence. The Family Court is trying to be proactive and raise awareness of family violence in schools and whilst this is admirable, it requires a more holistic approach involving all relevant sectors of Government, NGOs and stronger support services if it is to be successful.

#### 9.2.4.3 Areas for Improvement

The Inquiry identified a number of other features of the current justice system which require further attention to ensure the aim of eradicating family violence is being achieved in the most effective manner and with due regard for the rights of the victim.

The first is the widespread use of mediation as part of the judicial process. Currently the Family Court refers all minor family violence crimes to probation for FGC, instead of sentencing. This is a form of mediation facilitated by probation officers where it calls upon relatives of the offender and the victim to meet and discuss ways forward with the family. It is not compulsory for the victim to attend and the conference focuses on the rehabilitation of the offender and gaining the necessary support of the family to achieve that. Whilst probation reports that this has been a successful approach to date, the Inquiry is concerned with the use of mediation without a full risk assessment and lack of M&E to ensure no further harm is caused to the victim. Mediation and its use in family violence cases has been a topic of extensive debate regarding its advantages and disadvantages. Despite this, most individuals consider mediation to be inappropriate especially if notions of evenhandedness and fairness to both parties are not present.<sup>111</sup> Whilst a total ban is not necessarily required, further care and monitoring on its use to ensure no further harm to victims is a necessity.

A second area of concern is the use of character references and *ifoga* (traditional apology) as mitigating factors in sentencing. The use of character references to determine a person's past behaviour and set an appropriate sentence is commonplace around the world, but in the context of family violence in Samoa it is problematic. The first point to note is that often the people providing the character references are either doing so out of social obligation, or are perpetrators themselves with a vested interest in the continuation of family violence and impunity for those who commit it. The second point to note is that family violence is still viewed as an inherently private matter in Samoa meaning that habitual and repeated family violence will usually not be known to those providing the character reference. Savalenoa reported that 100% of her clients had suffered over an extended period. Character references are therefore highly likely to be provided in ignorance of the repeated behaviour of the perpetrator, or as part of the wider environment of impunity. The consequences of these scenarios are that the victim does not receive the justice they deserve.

The use of *ifoga* poses a similar problem and "often prioritises the maintenance of peace between community groups and their leaders (male) over women's well-being".<sup>112</sup> Furthermore, such practice prevents adequate sanctions being imposed, thus furthering the lack of accountability for perpetrators

<sup>111</sup> Aimee Davis. (2006). "Mediating cases involving domestic violence: solution or setback?" *Cardozo Journal of Conflict Resolution* 8(253). Retrieved from <https://cardozo.jcr.com/vol8no1/CAC101.pdf>.

<sup>112</sup> Ramona Boodoosingh and Penelope Schoeffel. (2015). "Addressing Violence against Women in Developing Countries: The Case of Samoa." Document 82 Inquiry anthology.

and reinforcing the message that the behaviour is acceptable. The very purpose of the *ifoga* is different to that of the formal legal system – it is to ensure the collective peace and harmony within the community. This is an extremely important aim but one which differs from the legal system which aims to punish the offender and provide justice where possible to the victim. Most countries globally do not have the traditional cultural system which aims to maintain community harmony, and Samoa is fortunate in this regard. It does not mean that the two systems could or should interfere with each other. This view appears to be widely accepted within Samoa.

“An overwhelming majority of people consulted were of the view that customary reconciliation such as *ifoga* or penalties imposed by the village should not be taken into account as a mitigation factor to reduce sentences in cases of violence against women, especially cases of sexual violence, and that this should be removed from the *Village Fono Act 1990*.”



*Samoa Law Reform Commission, CEDAW Legislative Compliance Review, Inquiry document 89*

**INQUIRY FINDING 37: The justice system has made commendable progress in relation to family violence but issues remain around access to justice, community awareness and use of customary practices in sentencing.**



### 9.2.5 Village Fono

Lack of clarity of respective roles between the Village Fono and the justice system is problematic and may be one of the reasons for the lack of village led action to date. It does not help that family violence is not explicitly mentioned in the *Village Fono Act 1990* as an area of concern for the Village Fono.

“What we are hearing from the Village Fonos is that the (police) ‘no drop policy’ means that they are implementing a ‘drop it’ policy because they think that someone else now has responsibility for the issue and they can almost wash their hands of the violence that is happening in their village.”



*Leasiolagi Dr. Malama Meleisea, Inquiry Commissioner, Inquiry public hearings*

However, this is simply an excuse being used by some Village Fonos to continue with the patriarchal system that serves their interests so well and which they have no inclination to disturb. It is one of a range of reasons brought to the Inquiry as to why some Village Fonos are overwhelmingly inactive when it comes to the protection of family violence victims within their jurisdictions.

Two ways in which Village Fonos commonly influence the protection of family violence victims is through general punishments handed out and the role they play in facilitating family violence matters to be reported to the Police. Unfortunately both are negative influences.

The first is that punishments inflicted can further the environment in which family violence thrives, and in deciding on punishments for family violence (in the rare cases where Village Fonos 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 Village Fono decision making, further demonstrating the urgent need for consideration of how Village Fonos can sensitively and effectively play a role in protecting against family violence.

“One of the golden rules in our village is that pregnant unmarried girls get punished. The punishment is 40 boxes of tinned fish and \$2,000.”



*Matai participant, Inquiry public hearings*

This type of decision making fails to take into account the sexual entitlement engendered in some males in Samoa which can lead to sexual assault and rape. Therefore a victim of rape may be further punished by the Village Fono if she falls pregnant as a result of the violence inflicted upon her.

The Asau Village Fono has a zero tolerance for violence against women. To prove they are serious, they have recently approved policies that will see men who assault their wives banned from the village.<sup>113</sup>



*Samoa Observer article*

Another relatively common form of punishment as a result of serious family violence is ‘banishment’, and with this comes very serious risk of increasing violence. Banishment usually does not apply to the perpetrator alone but also to their family, often the very victims of the violence. This punishes the victim but more worryingly means they all have to move to another village where their history is unknown and the perpetrator is free to continue their abusive behaviour with even less scrutiny than before.

“Village Fono often requires that matters be raised with the Fono before being raised with the police. This may actually deter the laying of complaints, especially if the alleged perpetrator is a member of that Fono, and may also result in the matter not being reported to the police.”



*Samoa Law Reform Commission, CEDAW Legislative Compliance Review, Inquiry document 89*

Another way in which Village Fono generally fails to protect against family violence is where villages prohibit direct reporting of matters to the police. In this situation it is therefore not uncommon for a victim of family violence to have to seek approval from the very person who carried out the violent act to be able to approach law enforcement authorities. Even if the perpetrator does not sit in the Village Fono it is still possible that reporting to the police is blocked because the perpetrator has close or family ties with those sitting on the Village Fono. As a consequence, a victim may not even try to report a matter as they know it will not go any further.

<sup>113</sup> Refer to Samoa Observer. “Asau moves to protect women.” (5 January 2018). Retrieved from [http://www.samoaoobserver.ws/en/05\\_01\\_2018/local/28509/Asau-moves-to-protect-women.htm](http://www.samoaoobserver.ws/en/05_01_2018/local/28509/Asau-moves-to-protect-women.htm).

**INQUIRY FINDING 38: Family violence is not explicitly listed in the *Village Fono Act 1990* as an area of concern for the Village Fono.**



**INQUIRY FINDING 39: The Village Fono is not protecting victims of family violence and in some cases preventing access to justice and increasing the environment in which family violence thrives through ill-advised punishments and blocking the reporting of matters to the police.**



### 9.2.6 Church

In comparison to Government, the justice sector and the Village Fono, churches play less of a role in the protection of family violence with their role focusing more on the prevention aspect. However, there are times when victims go to their *faifeau* for support and guidance. Therefore it is necessary to assess how effective the current approach to protection is and, in **Part V**, how this may be improved.

Nearly one in ten female respondents in the SFHSS 2000 felt that a *faifeau* should be the ideal person to turn to if they were experiencing abuse.<sup>114</sup> However, only 1.2% of women that had ever been subjected to violence chose to disclose their abuse to a church minister. This indicates a lack of trust in the church as a protection mechanism. It may also be as a result of the presence of perpetrators within the church itself, or preaching which emphasizes the subservience and obedience of women towards their partners.

The latter of these two possible reasons also informs the common response of many within the church when approached by victims of family violence for assistance. *Faifeaus* are inclined to counsel the victim in a manner which emphasizes traditional roles and a gender hierarchy, and encourage them to return to their abusive partner and protect the sanctity of marriage.

“Conservative (religious) thinking may justify the use of physical dominance to maintain control of a wife who is perceived to be out of line or seen as subordinate. A woman who is abused within this construct may be advised by church leadership to be more submissive and to self-reflect as to how her actions have resulted in a beating. This is why previous research has found that counseling by pastoral leaders can have the lowest success rate out of all the different possible support groups.”



*Ramona Boodoosingh, PHD on Violence Against Women in Samoa, Inquiry document 82*

**INQUIRY FINDING 40: The Churches in Samoa are generally not offering protection to victims of family violence and often counsel them into returning to abusive relationships, placing them at risk of further harm.**



<sup>114</sup> SPC and UNFPA. (2006). *Samoa Family Health and Safety Study 2000*. Document 83 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).



## 9.2.7 Non-government organisations

### 9.2.7.1 The role of non-government organisations

NGOs arise to address a perceived social need, area of suffering or to advocate on behalf of a particular group who may not otherwise have a voice. Often they address gaps left by the Government, or work to improve services provided by the State to meet acceptable standards. In Samoa, as in most countries globally, there are a range of NGOs working across many different disciplines for a variety of causes. However there is not, and has not been for some time, an active and effective women's rights organization.<sup>115</sup> There are two possible reasons for this – the first is that there is no need for such an organization in Samoa and yet evidence provided proves that this is a serious need for women. The second is that patriarchy and acceptance of family violence are so strong across society that such an NGO has never had the necessary support to get off the ground.

Despite the unfortunate lack of established and effective women's rights NGO, there are many other organisations carrying out admirable work in Samoa in relation to family violence with little funds and little recognition.

#### **Inquiry Info Point 16: Key Family Violence NGOs<sup>116</sup>**

**Adventist Development and Relief Agency:** was set up by the Seventh Day Adventist Church in Samoa to provide rapid emergency response following natural disasters and to those in need.

**Faataua Le Ola:** a counselling organization for people considering suicide. In addition to face to face counselling they run a 24 hour hotline and undertake awareness and outreach in schools, churches, villages communities and the prisons.

**Men Against Violence Advocacy Group:**<sup>117</sup> initiative of the Division for Women to engage men and boys to advocate and combat all forms of gender based violence.

**Samoa National Youth Council:** focal organization for all youth related activities in Samoa and has regular forums with its members to discuss youth issues. Their organizational goals are to encourage responsible youth citizenship and enhance youth development for the social, economic and political stability of Samoa.

**Samoa National Council of Women:** the Council's traditional mandate is to support the Village Fono governance and decision making. In recent years they



<sup>115</sup> A new NGO called Toomaga o Aiga is reported to have been established within the past year with the support of MWCSO but the Inquiry was unable to obtain contact details of any person involved and they did not make any submission, written or orally.

<sup>116</sup> The following list is of the prominent NGOs working on family violence issues. It is a non-exhaustive and there are many other actors working in this field whose work the Inquiry acknowledges.

<sup>117</sup> This organization has not been active for several years.

have been active in advocacy efforts to increase female participation in politics as well on ending violence against women through community conversation.

**Samoa Returnees Charitable Trust:** established by the Samoan government to assist the rehabilitation of Samoans previously living overseas who had been deported back. They provide counselling and run a variety of programmes including 'Alternatives to Violence', 'Alcohol and Drugs' and 'Second Chances Initiative'.

**Samoa Social Welfare Fesoasoani Trust:** established in 2016 and focuses on assisting offenders and members of the community in court case matters, counselling, immigration and providing legal advice.

**Samoa Victim Support Group:** Initially established to provide assistance to victims of violence who had no family support. SVSG has expanded to provide a diverse range of services including counseling, shelter for victims of violence or abandoned children, support to the courts and welfare work.

**Samoa Family Health Association:** delivers family planning and reproductive health services in Samoa through a permanent clinic in Apia and a mobile unit for rural areas. They also carry out awareness raising initiatives on various issues relating to sexual and reproductive health.

**Teen Challenge Samoa:** Teen Challenge uses a faith-based approach to help teenagers and young adults deal with problems such as alcohol and drugs, depression, violence, sexual and reproductive health and peer pressure.

**Young Women's Christian Association:** aims to conserve culture and faith and promote positive change. In 2016 they ran the RISE UP programme which delivered training to women in rural and urban Samoan on leadership, sexual and reproductive health, healthy relationships, economic empowerment and human rights.

**Samoa Red Cross Society:** Provides training to staff and village representative on GBV in Emergencies and is funded by UN Women to provide this technical expertise.



#### 9.2.7.2 Samoa Victim Support Group

The most active NGO in Samoa in this field is the SVSG. 95% of respondents to the SFSS 2017 noted they were aware of the work of SVSG around family violence compared to only 56% who knew of the work of the police. This fact alone demonstrates that SVSG are filling a gap where the police are failing, which is problematic in itself given the fact that Government should ultimately be responsible for key areas such as this.

This aside, SVSG carry out a vast range of activities for victims and perpetrators of family violence and are widely acknowledged for their work.

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“SVSG has stepped up to fill a very important gap that society is yet to fulfill.”



*Tuiloma Sina Retzlaff, survivor and family violence advocate, Inquiry public hearings*

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The reason SVSG requires particular attention from the Inquiry, is around concerns that it has almost grown too big with very little oversight, and the lack of a Government coordinating agency means that it may have expanded into areas already being covered by other NGOs. Both the Government and SVSG have identified this lack of accountability as an issue which needs addressing.

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“There is an issue of accountability of non-government service providers when they are receiving all of their funding from external donors. It is the responsibility of the Government through the responsible agency to hold actors accountable especially for the wellbeing of victims under their care.”



*Samoa Family Safety Study 2017, Inquiry document 46*

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Therefore, just because the Government is not providing services, and NGOs have stepped in to fill the void, this does not absolve the Government of all responsibility. They are still required to ensure the NGOs are fulfilling their functions in a manner which protects the rights of the people within their care. In recent times, there were a series of newspaper articles about the standard of care being provided to children by SVSG, arising from an Australian volunteer who had been working with the organisation. Regardless of the validity of the allegations, the Government had a duty to investigate and ensure that minimum standards of care were being met.

This is an excellent example where the framework provided by the CRC can reinforce the *Fa’asamoa*. When a child is in the care of an external organization, the parent is unable to fulfill their parental responsibilities and facilitate their development. The CRC contains minimum standards for the treatment of children which, if applied, can ensure the development of the child even in the absence of the parent. By using the CRC framework, the Government would not only ensure the rights of the child are being met as per the convention, but reinforce the principles of the *Fa’asamoa* in that child.

A further potential issue with SVSG is whether they have expanded beyond their original mandate, and in doing so encroached on the work of other NGOs and taken on work they may not have the capacity or required skills for.

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“The (issue) is whether SVSG, by expanding to be ‘all things to all people in need’ has gone beyond what their staff are qualified to provide. In some respects SVSG could be seen as an organization with ‘mission creep’ by taking on important services in competition for funding with other service providers. For example, Samoa has a high suicide rate and counseling services for suicidal people usually requires specially trained counselors. This has long been the mission of FLO, a local NGO that provides telephone support by trained counselors for persons who are



depressed and suicidal. It might be better for SVSG to help FLO do its work, rather than compete with it for funds and clients.”



*Ramona Boodoosingh, PHD on Violence Against Women in Samoa, Inquiry document 82*

The issues arising from the dominance of SVSG are as a direct result of the Government failing to provide social welfare, essentially becoming privatized, and as a result leading to a lack of accountability, regulation and coordination. The aims and activities of SVSG are clearly well intentioned and without them many victims and perpetrators of family violence would be in a far worse position. Their work is to be applauded but it should not also be their role to regulate and coordinate the NGO sector, develop professional standards and monitor compliance. If the Government is happy to stand back and privatize the NGO sector in this way, it cannot simply absolve itself of all responsibility and let it take on a course of its own. This is because the risk of further harm to victims of family violence is high, and efficiency of the sector will not be achieved.

### 9.2.7.3 Challenges

The case of SVSG highlights the predominant challenge for the sector as a whole. Because Government is lacking in the area of family violence, NGOs have no guidance, no structure and are left to fight it out for themselves in terms of space in the sector. There are no standards, oversight, nor coordination meaning potential overlap of work, unfair competition and inconsistency of message, all of which amount to ineffectiveness. These challenges have also been recognized by the Government itself.

“The need for accountability measures to ensure quality service for all victims of violence is critical to ensuring quality and sustainability of the services by all providers.”



*Samoa Family Safety Study 2017, Inquiry document 46*

Aside from the challenges arising from the lack of a comprehensive Government framework to address family violence, NGOs generally face a number of other difficulties:<sup>118</sup>

- Core and programme funding;
- Professionalization and access to training;
- Absence of M & E systems;
- Positive working relationship with the Government.

Aside from the overarching issues relating to the Government, one of the more concerning challenges for NGOs and the impact it has on service delivery, is the lack of national standards for counseling. The Inquiry has highlighted this issue at many points already but it cannot be emphasized enough that where counseling of victims and perpetrators is undertaken the risk for further harm is extremely high. Many NGOs provide this type of service to its clients as it is an area of extensive need. However, very few have

<sup>118</sup> SPC and UNFPA. (2006). *Samoa Family Health and Safety Study 2000*. Document 83 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

professional qualifications in counseling and therefore there is widespread danger of greater harm to victims and continued violence as opposed to the intended aim of prevention, no matter how well-meaning it is.

“One of the most critical things we need, even at SVSG, is counselors with enough knowledge and experience to deal with situations. We need these people to discuss issues and reflect on what happened because that is the only way you can move on.”



*Siliniu Lina Chang, President SVSG, Inquiry public hearings*

**INQUIRY FINDING 41: Non-government organisations play a substantial and admirable role in meeting the need not currently being met by Government. However, greater accountability, coordination, training and data collection is required for increased effectiveness and to ensure victims of family violence receive the relevant care to a required standard.**



## 10. Triggers and Other Contributing Factors

The Inquiry has so far identified some of the key causes of family violence and the reasons why it is allowed to continue and flourish. The following chapter considers three areas which could more accurately be described as triggers rather than root causes and two areas considered to be a contributing factor. The three triggers are, alcohol, financial pressures, and anger management and jealousy, whilst the other contributing factors are technology and development.

It is important to make the distinction because wrongly ascribing triggers as root causes can help to advance the culture of impunity for perpetrators of family violence by providing an excuse for why they carried out certain acts. It is not acceptable to say ‘I only hit my wife because I was drunk’. Alcohol is not a **cause** of family violence but can sometimes (and by no means always) be a trigger. Regardless, triggers and other contributing factors should also be considered and addressed which will also help reduce the prevalence of family violence.

### 10.1 Alcohol

There are two considerations in relation to alcohol and the role it plays in family violence. The first is to detail how it is wrongly attributed as a root cause, thereby allowing perpetrators to avoid responsibility and instead ‘blame it on the booze’ and the second is to assess the extent to which it is a trigger of family violence.

Extensive research has been carried out worldwide on the role of alcohol in family violence, and violence in general, and it is commonly accepted not to be a cause but a trigger, and should be treated as such.

“The literature suggests that alcohol contributes to violence by enhancing the likelihood of conflicts, reducing inhibitions and providing a social space for punishment at the family level. (Alcohol) appear(s) to be a [...] trigger of violence in some contexts but must be addressed within the broader context of gender inequality.”



*Papali'i John Taimalelagi Afele, CEO, MJCA, Inquiry written submission, Inquiry document 32*

A simple way of looking at this matter is that if alcohol ceased to exist overnight, family violence would not suddenly stop. There may be a slight decrease but the underlying causes of gender inequality, power and control would remain. This means all that had been achieved was a small reduction due to removing one of the triggers which contributes to the **prevalence** of violence.

**INQUIRY FINDING 42: The common misconception of alcohol as a ‘cause’ rather than a ‘trigger’ contributes to the culture of impunity, allowing perpetrators to ‘blame the booze’ rather than take personal responsibility for their actions. This misconception also deflects attention from the true causes of family violence – gender inequality and power and control.**



However, it is not just the misconception around the role of alcohol which should be addressed – the role it plays itself should not be completely dismissed. After all, if family violence can be reduced in any way then it should for the simple reason of reducing suffering among victims and taking steps to ‘de-normalise’ it as a type of behaviour.

Alcohol (or drugs) was found to be present among 24% of perpetrators of violence against women and girls for all cases between 2007–2014.<sup>119</sup> Accordingly, this demonstrates that family violence happens far more frequently when alcohol is **not** present than when it is. These figures support the findings made in 1996 by the now defunct NGO Mapusaga o Aiga which reported 19% of perpetrators being drunk when the offence occurred.<sup>120</sup> Therefore, whilst alcohol is not a primary cause it is present in a sizable minority of cases and a thorough understanding of when it acts as a trigger can help to reduce the prevalence of family violence.

The notion that alcohol *causes* family violence is wrong, as the Inquiry has found. But the assertion that it is a *trigger* for family violence is also an over-simplification. After all, many people drink and never lay a finger on their family members, or speak to them in a way which constitutes verbal abuse or emotional violence. Upon closer inspection it becomes obvious that it is **alcohol abuse, not alcohol itself** which triggers family violence in the man.

<sup>119</sup> “Exploring violence against women and girls in Samoa.” *Fallen Lizard Films* (an analysis of data provided by MOP Policy & Planning Division and the Domestic Violence Unit). Document 117 Inquiry anthology.

<sup>120</sup> SPC and UNFPA. (2006). *Samoa Family Health and Safety Study 2000*. Document 83 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

Afereti's tragic attack<sup>121</sup> is an excellent example of this. Afereti was not merely consuming alcohol on the day he killed his son, he was *abusing* it. In the hours leading up to his act of violence he consumed more than twice the New Zealand weekly recommended limit. That level of drinking is not normal, nor is it healthy. Alcohol abuse rather than alcohol use as a trigger for family violence is supported by national statistics, not just the case of Afereti. The SFHSS 2000 found that the partners of abused women are twice as likely to drink every day, rather than those who are not abused, suggesting once more that alcohol abuse is the trigger, more than alcohol use. This is supported by international research, which also provides helpful suggestions for approaches to limiting alcohol as a trigger for violence, which will be considered fully in **Part V**.

"Heavy alcohol consumption is a clearly established risk factor for most forms of violence. A review of scientific studies published between 1950 and 2015 concluded that the price of alcohol, restricting the days of sales and limiting the clustering of alcohol retail outlets is all associated with a substantial reduction in the perpetration of interpersonal violence."



*INSPIRE: 7 Strategies for Ending Violence Against Children, WHO, Inquiry document 48*

These findings can certainly be applied to the Samoan context as one need only look at the statistics which show family violence prevalence by day of the week to see that Sundays, when the sale of alcohol is banned, is significantly lower than any other day.<sup>122</sup>

"We need to look at the regulation of beer in Samoa. There needs to be something done. More often men are just drinking uncontrollably as there is nothing that regulates the sale of alcohol in Samoa."<sup>123</sup>



*Selesele Oto, Matai participant, Inquiry Public Hearings*

**INQUIRY FINDING 43: Abuse of alcohol is a trigger for family violence and by addressing alcohol abuse and misuse the prevalence of violence generally in society can be reduced.**



The inter-connectedness of family violence also comes to the fore when considering family violence because heavy consumption of alcohol often leads to greater financial pressures within a family, the second of the triggers the Inquiry will consider.

<sup>121</sup> Case Study 22.

<sup>122</sup> "Exploring violence against women and girls in Samoa." *Fallen Lizard Films* (an analysis of data provided by MOP Policy & Planning Division and the Domestic Violence Unit). Document 117 Inquiry anthology.

<sup>123</sup> The Samoa Law Reform Commission completed a review of Samoa's alcohol laws and published a Final Report in 2016. The Alcohol Reform Final Report looked at regulating the availability of cheap liquor, alcohol content in liquor, alcohol advertising, as well as introduction of age limits for the consumption of alcohol among others. The Final Report resulted in an Alcohol Reform Bill which is currently being finalized before it is tabled in Parliament. Copy of the report found at: <http://www.palemene.ws/new/wp-content/uploads/05.Annual%20Reports/LRC/LRC-Alcohol-Report-2015-2016-Eng.pdf>. See also Samoa Observer. "AG Lemalu proceeds with Alcohol Control Bill." (7 August 2017). Retrieved from [http://www.samoaoobserver.ws/en/07\\_08\\_2017/local/22988/AG-Lemalu-proceeds-with-Alcohol-Control-Bill.htm](http://www.samoaoobserver.ws/en/07_08_2017/local/22988/AG-Lemalu-proceeds-with-Alcohol-Control-Bill.htm).



## 10.2 Financial Pressures

A number of studies in Samoa show that families with low incomes are more vulnerable to family violence. Furthermore, money was cited as a contributing factor by 10% of respondents who had ever been abused.<sup>124</sup> Whilst the SFSS 2017 does not analyse whether lower income families are more at risk, it is possible to calculate from the SFHSS 2000 that the prevalence of family violence in low income households was 58% of all respondents within that demographic, compared to 45% in middle income households and 38% in high income households. This does indeed suggest there is a correlation between income and family violence and that money worries may indeed be a trigger.

Family violence is worsened in Samoa by cultural practices emanating from cultural and church obligations.

“Financial pressures associated with church contributions and family obligations are unique underlying causes of family violence in Samoa.”



*Justice Tafaoimalo Leilani Tuala-Warren, reported in Inquiry document 82*

The concept of *fa'alavelave* is any event that interrupts the daily routine and includes weddings, funerals, *matai* title ceremonies, building openings, special birthdays and more. During these events contributions are required from those immediately and indirectly involved. It is an obligation which encourages the sense of community and mutual respect and protection, upon which Samoan society is founded. However, this practice has evolved over time, becoming competitive,<sup>125</sup> a form of social boasting and increasingly a financial strain on many families. In many cases a family will have to contribute thousands for a funeral and it is not uncommon to have to take out a bank loan or sell off family assets to meet these obligations.

“Misunderstanding of *Fa'asamoa* values and practices can lead to or be a risk factor for violence against women. Obligations to *fa'alavelave* have changed over time. The monetary amount determined by the heads of family for *fa'alavelave* has increased which in many cases places excessive demands on family or household incomes. The practice of competitive gift giving exacerbates the burden causing disharmony in families and community.”



*Samoa people's understanding of primary prevention of violence against women', Inquiry document 91*

Financial burdens can also be worsened due to cultural practices and the fines imposed by Village Fonos for transgression of local by-laws. The majority of punishments are monetary based, or in extreme cases banishment and both place great financial duress upon families. In its report to the CEDAW Committee in 2017, the Government highlighted this as an issue which they are aware of.

<sup>124</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>125</sup> This may also be linked into the notion of man as the provider and men seeking to demonstrate their prowess through ever increasing *fa'alavelave* contributions.

“Penalties imposed by the Village Fono provide further substance to women’s fears of financial hardship. For example, a fine imposed on the husband would in most cases fall on the extended family whose resources are ultimately shared anyway. Banishment is also possible which would similarly entail loss of financial support for the family.”



*Samoa people’s understanding of primary prevention of violence against women’, Inquiry document 91*

**INQUIRY FINDING 44: The practice of *fa’alavelave* has lost its original meaning, become competitive and puts undue financial stress on families which can act as a trigger for family violence, increasing its prevalence nationally. Financial penalties and banishments imposed by Village Fonos are also having the same effect.**



In a similar manner, church contributions are becoming an increasingly burdensome obligation in the lives of many and this has also taken on a competitive nature, which in some churches is driven by the practice of *folafola*. Like *fa’alavelave*, church obligations can be crippling and lead to extreme financial pressures which can act as a trigger for family violence. Often those who are vulnerable to money problems are excluded from the decision making process around amounts which are to be given.

“Families who normally make all the decisions in the congregation are the ones who are better off [...] they normally set the standard for church commitments, donations, etc.”



*Inquiry consultations participant, Inquiry document 58*

Some *faifeau* see the collection of money as the main goal and are blinded by this to the suffering and family violence it can trigger.

“I think *faifeaus* are part of the problem. In the ideal world they would be the solution but they have to take the blame for what is happening. They ask for too much in contributions and add to the stresses, which leads to family violence. They ask, knowing that families cannot provide that much so why are they asking?”



*Mata’afa Keni Lesa, Editor Samoa Observer, Inquiry public hearings*

Financial pressures are a trigger in the same way that alcohol is and by addressing the issue, less family violence will be triggered, bringing the overall prevalence down. It has been found that IPV is 1.3 times more likely among families who experience food insecurity compared to families who enjoy food

security.<sup>126</sup> By addressing the causes of financial pressures this disparity can be eliminated and family violence reduced.

The extent of the problem in Samoa, and the impact it has on overall prevalence rates can be neatly highlighted by the Household and Income Expenditure Survey which reported:

“Overall Samoans spend \$1,479,686 every week on church, village and school contributions and \$1,625,260 on *fa'alavelave*. This is 486% the amount spent weekly on education fees, tuition fees, school supplies and children’s lunches.”



*Household and Income Expenditure Survey 2008, reported in Inquiry document 82*

**INQUIRY FINDING 45: Church contributions are spiraling out of control through competitiveness and a failure of churches to control amounts, leading to undue financial pressures which in turn trigger greater prevalence of family violence in Samoa.**



### 10.3 Anger Management and Jealousy

The SFHSS 2000 found that 45% of perpetrators of IPV felt if they could control their anger, it would prevent them from hitting their wife or girlfriend. This is not to say that anger is a cause of family violence in itself but that unresolved angry feelings can trigger violence.

Violence also breeds anger with children of abused mothers, 35% more likely to display aggressive behaviours than those with mothers who were not abused.<sup>127</sup> Likewise, children who were physically disciplined or experienced violence experienced long-term feelings of anger as a result. It is consequences of violence such as this which make it easy to understand how once a society starts to become violent, it quickly spreads until it has become the norm. This is also why family violence can no longer be seen as a private matter as invariably it will not just be confined to the family setting.

Anger can arise as a result of many different situations, and often depends largely on a person’s ability to manage that anger and their own personal characteristics. Anger can arise out of frustration and pent up emotions and that is especially relevant to Samoa where contemporary practices dictate a strict hierarchy of communication that often makes it hard for people to express themselves, especially between children and parents. Furthermore, the traditional stereotype of what it is to be a man does not lend itself to expressing one’s feelings, which can in turn lead to frustration and anger, and then trigger violence.

<sup>126</sup> Hernandez, D. C., Marshall, A., & Mineo, C. (2014). “Maternal Depression Mediates the Association Between Intimate Partner Violence and Food Insecurity.” *Journal of Women’s Health*, 23(1). pp 29–37. Accessed at <http://doi.org/10.1089/jwh.2012.4224>.

<sup>127</sup> SPC and UNFPA. (2006). *Samoa Family Health and Safety Study 2000*. Document 83 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

An even more fundamental contributing factor to anger is language. If a person does not possess the vocabulary to explain themselves we can only imagine how frustrating that must be. This might happen because they have not been taught the words, or how to communicate, or might even be because the words in a particular language just do not exist. The Inquiry has found evidence of all of these factors throughout the course of gathering evidence.

Whilst it is a myth that anger causes family violence there are instead two ways in which it plays a role. The first is that some abusers use anger as an intimidation mechanism to scare the abused into submission. The second situation is when anger arises and triggers a violent episode. They are two very different situations and only by addressing anger management issues and anger as a trigger can the other use of anger, as a control mechanism be isolated, identified and addressed.

In a similar vein to anger, jealousy was often mentioned throughout the Inquiry as playing a role in family violence. Like all of the factors in this chapter so far, it is not a cause but a trigger and myth 10 above explains how it arises. Jealousy does trigger a considerable number of violent episodes in Samoa and therefore contribute to the overall prevalence. By understanding and addressing the underlying dynamics of jealousy, namely gender stereotypes, sexual entitlement and notions of masculinity the prevalence of family violence can be reduced.

**INQUIRY FINDING 46: Anger and jealousy can both trigger family violence and be used as a tool by perpetrators; by addressing both issues the prevalence of family violence can be reduced.**



## 10.4 Development and Technology

The way the world works and interacts is changing at a pace quicker than ever before and the consequences of those changes are not always foreseen or positive. The way in which Samoan society interacts is no longer the same as it once was and some of these changes were identified as playing a role in the prevalence of family violence.

“There is some evidence that modernization and rapid social change may be responsible for an increase in the frequency of domestic violence (Counts 1990).”

*Samoa Family Health and Safety Study 2000, Inquiry document 83*

“Samoa has experienced two periods of major cultural change over the past 150 years. The first was the gradual reorganisation of traditional religious and political systems in the period 1830-1880 in response to Christianity and other external influences. The second was the modernizing impact of mass migration to the USA, NZ, and more recently, Australia in the period 1960-1980, which created a remittance economy. There has been spatial reorganization of villages from



nucleated to dispersed modern settlements in response to modern housing styles and as a result of increasing dependence on cash incomes.”

*‘Political representation and women’s empowerment in Samoa’, National University of Samoa, Inquiry document 63*



The Inquiry has already focused on how the arrival of the missionaries resulted in a drop in status of women in Samoa and a loss of protection against family violence. The second period of social change experienced in Samoa had similarly enabling consequences in relation to family violence, in ways which were not predicted and therefore not guarded against. These adverse developments can be grouped into four categories:

#### 10.4.1 Cash Economy

The transition to a cash economy has not in itself contributed to the prevalence of violence but it has laid the foundations for a number of other contributing factors or triggers which have arisen because of the lack of foresight and planning involved in the transition.

“We have become a cash economy but not taught how to manage money or save, which leads to financial stresses which in turn can contribute to drinking and family violence.”

*Dr. Malama Tafunai, Inquiry public hearings*



Not only has the introduction of a cash economy brought increased pressures through a lack of financial education, which can lead to increased family violence, but those pressures have also increased due to the cash obligations of *fa’alavelave* and church obligations, as detailed earlier in the Report.

**INQUIRY FINDING 47: The introduction of the cash economy in Samoa and a lack of financial literacy combine to cause financial pressures which in turn increase the risk of family violence.**



#### 10.4.2 Housing patterns

One other consequence of Samoa moving to a cash economy was that the physical makeup of villages began to change as did the structures of houses. These developments both had an adverse effect on prevention and protection in relation to family violence.

“Settlement patterns have changed. In most villages, houses used to be located close to one another. Houses had open walls, everyone could see their neighbours, and there was little privacy. But Samoa has become more modern since money started coming in from migrants overseas. Nowadays families live in houses located in separate compounds. Villages are now spread out, and families



live more privately than before. When there are problems in the family, other people are less likely to know about them, or to intervene, than in the past.”



*Handbook for Community Conversations, Government of Samoa, Inquiry document 116*

This observation was founded on research undertaken which studied Samoan women who had moved abroad having previously lived in traditional close-knit Samoan communities. They noted that since moving overseas they had lost the protection that open-walled living afforded them and where the public nature of living naturally constrained family violence. Recall also the case of Solomona<sup>128</sup> where nobody could hear his screams. Solomona is not alone in having his cries go unanswered due to shifting patterns of habitation.

This development has been further exacerbated by increasing urbanization. As sections of extended families begin to move to Apia the rural living environment becomes more dispersed, living arrangements become more private still and the protections further lessened.

#### 10.4.3 Disempowerment of men and women

It is also worth considering whether the late colonial period and early years of independence also contributed to family violence by substantially altering the roles within society of men and women and subsequently disempowering both groups. Previously women’s committees were at the heart of village life, holding a large degree of authority as the major focus of the public health system.<sup>129</sup> Furthermore, the start of this period saw the introduction of a dual system of Government, merging the traditional Village Fono system with a centralized Westminster style. Whilst the Inquiry did not find irrefutable evidence to suggest there is a direct link between this disempowerment and prevalence of family violence, research has been carried out in the region which suggests this can and does happen.

“Violence against women may also be triggered by men’s perceived disempowerment in environments in which rapid social and economic structural changes impact perceptions around women’s and men’s roles and rights within the society.”



*‘Why do some men use violence against women and how can we prevent it?’ Partners for Prevention, 2013, Inquiry document 75*

It is easy to conceive how a sudden loss of responsibility, authority and social standing could bring about widespread social frustrations which in turn could manifest themselves in some cases in family violence. Therefore, given the understanding that this **can** happen and that Samoa went through such a social transformation, it should be a consideration in designing a solution framework.

<sup>128</sup> Case Study 2.

<sup>129</sup> National University of Samoa. (2015). “Political representation and women’s empowerment in Samoa.” *Final Report 1*. Retrieved from <http://samoanstudies.ws/wp-content/uploads/2015/07/Centre-for-Samoan-Studies-Final-Report-Volume-1-English.pdf>. Document 63 Inquiry anthology.

**INQUIRY FINDING 48: Changes to the traditional way of living has increased privacy and physical separation of houses, reducing likelihood of family violence intervention and also has led to the disempowerment of both men and women in the village context.**



#### 10.4.4 Technology

The nature of life in Samoa has changed almost beyond recognition in the past 20-30 years as a result of the onset of technology. It is not uncommon to be driving through the rural villages and see a large flat screen TV taking pride of place in a traditional, modest, open-walled *fale*. There are many advantages that these developments can bring. Access to information and entertainment is easier than ever before. In times of emergency it can play a vital role in saving lives. But there can also be negative consequences, usually unintended and unforeseen.

The pace at which technology is affecting the lives of the average Samoan is electric. Within a decade mobile phones have gone from the privilege of the rich to commonplace and now many children and young adults have unrestricted and constant access to the internet through their phones and/or through the phones of their peers. Whilst this can confer positive impacts, it can also lead to negative consequences, including reduced mental well-being, development of unhealthy sexual expectations, reinforcement of sexual entitlement and gender inequality. Such consequences were noted by Inquiry participants to be a result of promotions by service providers (e.g. late night free call, texts etc.).

The amount of time children spend on their phones, and particularly on social media, is a growing concern worldwide. The senior executives of companies such as Apple, Facebook and Twitter are speaking out on their concerns of the impact too much time using electronic devices is having on the younger generations. Research is showing that excessive usage of electronics and social media can lead to unrealistic expectations within children, low self-esteem, anger and frustration.<sup>130</sup> All of which can increase the risk of family violence.

**INQUIRY FINDING 49: Increased use of electronics is likely leading to increased social anxiety among children, which in turn leads to an increased risk of family violence.**



## 11. The cycle of violence

Violence is a self-sustaining phenomenon that can occur at both an individual and societal level. Violence is a cause of violence in itself and must be considered as such in order to design an effective response and so people can recognize their own position within the cycle of inter-generational violence.

<sup>130</sup> Eveline A. Crone and Elly A. Konijn. (2018). "Media use and brain development during adolescence." Retrieved from <https://www.nature.com/articles/s41467-018-03126-x.pdf>. Accessed 13 May 2018.



“The behaviours of the men coming through our programmes regarding violence have been learned behaviours that they have been subjected to themselves. They are using violence as a way to control their families and hide their insecurities.”

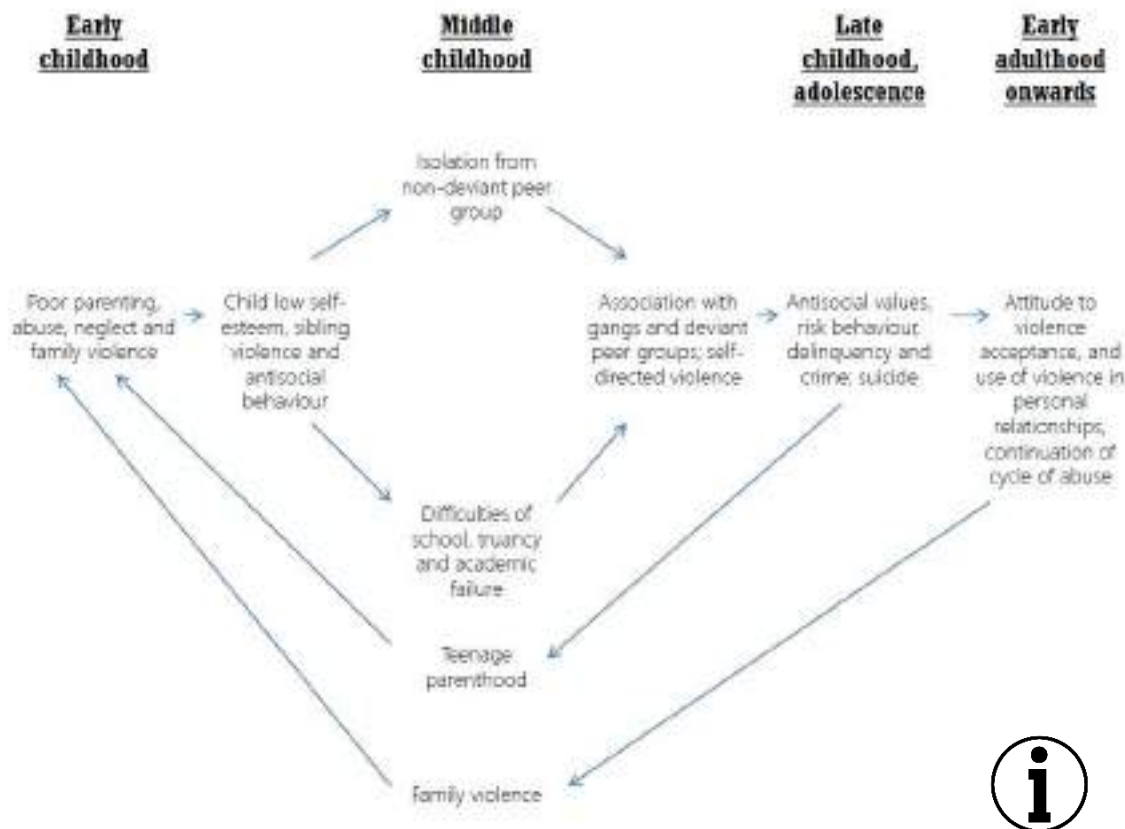
*Moana Regina Solomona, clinical therapist, MJCA, written submission, Inquiry document 13*



“Evidence points to a strong correlation between violence against children and violence against women. Children who grow up in violent households are more likely to be victims of child abuse themselves; girls are more likely to grow up and become victims of sexual and domestic violence as adults, and boys are more likely to grow up and perpetrate violence in their relationships.”

*Report on Pacific Conference on Ending Violence Against Children, UNICEF, 2015*

### Inquiry Info Point 17: Intergenerational family violence model



**Adapted from:** Browne & Herbert; Patterson, DeBaryshe & Ramsey

The Inquiry heard case after case of perpetrators and victims who had grown up in violent households. It may be the young boy who watched his mother regularly beaten who grew up to become a mirror image of his abusive father. Or else the children who are exposed to physical and verbal violence by their parents to such an extent that they have no sense of self-worth and resort to fighting and violence as a way of expressing their anger and frustration. The Inquiry sadly heard many examples of inter-generational violence of this nature.

It is now widely accepted around the world that exposure to any form of violence from an early age can physically impair the development of a child's brain and their cognitive development and that as a result their risk of experiencing or carrying out violence in the future increases.

"Intergenerational violence refers to a model of [...] violence where behavioural strategies are transmitted from parent to child and from sibling to sibling. It supports the notion of a cyclical pattern of violence where the perpetrator could also be the survivor of violence. Violence is a learned behaviour."



*UN, Harmful connections: Examining the relationship between violence against women and violence against children in the South Pacific, Inquiry document 54*

It is important to stress once again that people who are brought up in violent homes are not inevitably going to grow up to become a perpetrator or victim of family violence. There are many people in Samoa today who were raised in violent households who have chosen to reject that approach and enjoy non-violent lives. The relevant point is that a violent environment makes further violence **more likely, not a certainty**.

"Children exposed to family violence are more likely to hold attitudes that justify their own use of violence. This does not necessarily mean children exposed to violence will inevitably become perpetrators as adults or that they will necessarily suffer negative consequences in their lives; many children and young people demonstrate remarkable resilience in the face of family violence."<sup>131</sup>



*Victorian Royal Commission into Family Violence, 2016, see Inquiry document 98*

One study in the region found that men who experienced childhood emotional abuse or neglect were 1.53 times more likely to perpetrate physical or sexual violence toward their intimate partner in their lifetime. Those who had witnessed the abuse of their mother were 1.48 times more likely to become victims.<sup>132</sup> By making violence more likely in a variety of ways, among each new generation it is inevitable that prevalence will grow.

<sup>131</sup> Victorian Royal Commission into Family Violence. (2016). "Royal Commission into Family Violence Report." Retrieved from, <http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/Final/RCFV-Summary.pdf>. Accessed 2 May 2018.

<sup>132</sup> UNDP, UNFPA, UN Women and UN Volunteers. (2013). "Why Do Some Men Use Violence Against Women and How Can We Prevent It? Quantitative Findings from the United Nations Multi-Country Study on Men and Violence in Asia and the Pacific." Retrieved from <http://partners4prevention.org/sites/default/files/p4p-unmcr-ppt-lores.pdf>. Accessed 6 May 2018.

“Violence is a cycle that happens over and over again. Often it gets worse. As it gets worse the risks get higher.”



*UN Women speaking at Family Violence Workshop, Apia, November 2017*

What this all highlights are how any form of violence can create a domino effect of further violence. Violence does not happen in isolation and the consequences are often inter-generational. The diagram above shows how violent behaviours can be introduced into a child’s life and the bad news is that for each level you go up the risk of them becoming a perpetrator or victim is higher. The good news, however, is that it is possible to remove a child from this developmental path and break the cycle of violence. **The way to do that is to reject all forms of violence at a personal level and create a national zero tolerance approach.**

This Inquiry marks a watershed moment for family violence in Samoa. Never before has an exercise of this magnitude taken place, where the views of so many have been accounted for. It is highly unlikely to ever happen again. The causes and triggers of family violence are many and inter-linked. It is safe to say that almost every person in Samoa has played a role in the prevalence of family violence to date, from being a perpetrator of violence to standing by and watching it happen without standing up. However, the Commissioners do not find any value in ascribing blame and for many people violence is the only way they have known, unaware of the consequences. The Inquiry has, for the first time, provided a comprehensive understanding of the causes, contributing factors and triggers in Samoa. Now, no longer, should people be unaware of the consequences of their actions and no longer is there any excuse for standing by and not taking action to break the cycle. **Part V** explores exactly what actions need to be taken to achieve these ends, and the elimination of violence from our society.

**INQUIRY FINDING 50: Due to the cyclical nature of family violence the only way to address it and reduce prevalence is to foster a zero tolerance approach to all forms of violence across society.**



# PART V: ANALYSIS AND SOLUTIONS



Thus far the Report has established the pervasive and self-perpetuating nature of family violence that is facilitated within a patriarchal society where women are subservient to men and violence is a control mechanism to protect that hierarchy. It has also been found how violence becomes a part of people's lives from birth, substituting many other non-violent approaches and in an environment where children are raised, using the very gender stereotypes that cause adult family violence. The Report has detailed the many ways in which that occurs within the Samoan context and also found an overwhelming national consensus that this can no longer continue.

Armed with this understanding of both the nature and the causes of family violence, Samoa now needs to take a more serious and active approach to family violence to ensure success. The final part of the Report outlines a comprehensive nationwide solution which addresses all of the root causes and takes into account the nature of family violence, as told by those who live it. To be successful it requires three things:

1. For all recommendations to be implemented, not a select few. The nature of family violence has shown that anything but zero tolerance will ultimately lead to its continuation across society;
2. For the solution to be vocally supported by all leaders and decision makers, including politicians, church and community leaders;
3. **For every single person to play their part** – everybody has a personal responsibility and a role to play in the elimination of family violence.

Over the course of the Inquiry it has become evident that the prize for addressing family violence is not just increased peace, social cohesion and harmony. If the proposed solutions in this part of the Report are fully accepted and implemented, Samoa can expect to enjoy greater and more sustained economic development, increased quality of life, reduced poverty, reduced violence across society in general and an overall reduction in violent crimes.

Furthermore, through their basis in *Fa'asamoa*, Faith and human rights, implementation of the following recommendations will strengthen cultural and religious values, making them more relevant in today's society and therefore more resilient for the future. By embracing the mutually reinforcing nature of human rights, the *Fa'asamoa* and Faith, Samoa will be creating a framework for protection and prevention that extends far beyond family violence and will serve the country well for generations to come.

Those who hold power – the Government, the Village Fono, churches, parents, may see the solutions as ceding some of that authority, but this is not the case. In embracing the proposed societal, political and religious reforms, everybody in Samoa will be further empowered. It will allow everyone to break free from gender expectations creating a more diverse, healthy society. Communities will no longer be undermined by the social ill that is family violence, productivity will increase, and village harmony will be greater assured.

Changes to existing attitudes of people and established practices will have to be made, but in a society which values the collective above all else, this should be welcomed with open arms. Just one of the consequences of opposing these changes will mean that of the approximately 92,000 women and girls alive in Samoa today:<sup>1</sup>

- 18,400 will be raped by a family member;
- 8,832 will be raped by their husband or partner;
- 6,348 will consider suicide;
- 2,300 will attempt suicide.

The price of power, belligerence and ignorance is not worth the pain and suffering of those people and everyone else who is fated to endure violence in their lives. Neither is it worth the damage that it will do to the *Fa'asamoa* and to Faith in the long term if these value systems cannot adapt to prove their worth and defeat this social illness.

The following proposed solutions have been suggested by those who came before the Inquiry – the very people who understand Samoa and the nature of family violence in this country. It is a raft of solutions founded in the culture and Faith of Samoa and supported by the human rights framework.

## 12. Establishing the Foundation for Change – THE SAMOA OFFICE FOR FAMILY VIOLENCE PREVENTION

**INQUIRY FINDING 1: Family violence is a complex social problem where causes, triggers and consequences are inter-connected. It requires a nationally coordinated approach to prevention and protection. Within the Samoa context, such a national approach should be driven by the Fa'asamoa, Faith and human rights framework.**



<sup>1</sup> Samoa Bureau of Statistics. (2016). *Samoa Census 2016*. Retrieved from [www.sbs.gov.ws/index.php/new-document-library?view=download&fileId=2114](http://www.sbs.gov.ws/index.php/new-document-library?view=download&fileId=2114).

**INQUIRY FINDING 2: Physical, harsh verbal discipline/violence and sexual violence towards children has reached epidemic levels.**

- 9 out of 10 children in Samoa experience violence in their lifetime
- Physical discipline/violence is often extreme in nature, going way beyond what is 'reasonable punishment' under Samoan law
- Sexual abuse of children and incest levels have reached 'epidemic' proportions in Samoa



**INQUIRY FINDING 3: Family Violence is affecting almost all families in Samoa, with extremely high numbers of people experiencing extreme violence in their lifetime:**

- Almost 9 in 10 people have experienced physical or emotional violence within the family in their lifetime;
- The majority of women (6 out of 10) experience intimate partner violence in their lifetime;
- Violence at the hands of a non-partner is almost as prevalent as intimate partner violence;
- Up to 1 in 5 women are raped in their lifetime;
- People are becoming so accustomed to violence that slapping, kicking, punching, swearing at or threatening is now instinctive for many and considered not serious or to fall within the definition of violence;
- Family violence is killing people and tearing families apart.



**INQUIRY FINDING 4: Violence against specific groups such as persons with disabilities, the elderly, *fa'afafine* and SOGISC persons are poorly understood. Anecdotal evidence suggests that rates may be high and specific responses are required for these groups.**



**INQUIRY FINDING 6: The impact of family violence further increase the risk a person will become a perpetrator or victim of violence in the future.**



**INQUIRY FINDING 7: The economic cost of family violence is likely to be at least ST\$98m - \$132m per year (6 – 7% of Samoa's GDP).**



**INQUIRY FINDING 8: Family violence constitutes widespread violations of the Fa'asamoa, Faith and human rights.**



**INQUIRY FINDING 9: Fa’asamoa, Faith and human rights have the same roots, values and principles. They all offer different ways in which to protect the shared ideal and strengthening one results in the strengthening of the others.**



**INQUIRY FINDING 28: The Governments lack of commitment and approach through inadequate allocation of resources, support and lack of coordination sends to people a message that gender inequality and family violence is acceptable.**



**INQUIRY FINDING 50: Due to the cyclical nature of family violence the only way to address it and reduce prevalence is to foster a zero tolerance approach to all forms of violence across society.**



Inquiry findings 1-4, 6-9, 28 and 50 paint a clear picture of the sheer scale of the problem that family violence constitutes in Samoa. Moreover, its causes and impacts, how it violates the *Fa’asamoa*, Faith and human rights, and the cost to Samoa’s economy. The broad picture is an epidemic of violence driven by a range of inter-connected causes and triggers, with an equally extensive range of consequences for victims and perpetrators.

Before considering in detail the causes, contributing factors and triggers of family violence, identified by the Inquiry a broader question around how any proposed solution would be delivered is first necessary to consider. The Government is the primary body responsible for addressing the issue but has found to be wanting. The majority of people in Samoa live in rural areas and this is where change has to be effective for it to be lasting. The Village Fono and churches are other bodies responsible for ensuring social cohesion and harmony, peace and security etc., but they too have been found inadequate. Empowering and gaining the commitment of these institutions is therefore critical to ensuring the delivery of the full range of Inquiry recommendations.

## 12.1 Ministry of Women, Community and Social Development

Despite being tasked as the main agency to address family violence MWCSO is under no illusions as to the nature of the task and its inability to meet that responsibility.

“Family Violence is a national crisis issue; it is complex given its cross cutting nature, widespread and remains shrouded in a culture of silence and acceptance as normal.”

“Our legal mandate does not provide us with the necessary legal provisions or resources to be able to respond to domestic violence fully.”



*MWCSO submission, Inquiry document 1*



The submission made to the Inquiry by MWCSO validates **Inquiry finding 28** and it is commendable that the Ministry is honest in acknowledging its own shortcomings. This is not altogether surprising as there are evidently many civil servants who, through their work, have great insights into the nature and prevalence of family violence and are frustrated by the lack of resources and support by the political powers to make a difference.

One of the most common observations to the Inquiry was that the sheer scale of family violence and the many causes and triggers meant that if there was no overall coordinating body any efforts would be destined to fail as they could not possibly address the whole issue effectively. The calls for such an approach were consistent across NGOs, advocates and Government ministries themselves.

“My one recommendation is to have a ‘nation-wide strategy, a holistic approach to addressing violence in the homes.”

*Tuiloma Sina Retzlaff, survivor and family violence advocate, Inquiry public hearings*

“A multi-sectoral approach should be designed.”

*MWCSO, Samoa National Policy for Gender Equality 2016-20, Inquiry document 43*

“A multi-level and multi-sectoral approach involving all key stakeholders is required to address a SERIOUS and WIDESPREAD problem.”

*Young Women’s Christian Association, Inquiry submission, Inquiry document 28*



## 12.2 Benefits of a comprehensive national approach

There is great value in the widely made suggestion of a comprehensive national approach, led by Government, and that such an initiative would provide the necessary platform for addressing many of the root causes, barriers and difficulties encountered using the current ad hoc and under-funded approach.

A Government driven family violence initiative would provide the financial stability necessary to ensure efficiency, continuity and remove some of the risks under the current approach. It would achieve efficiency through the yearly allocation of funding from the Government budget, meaning 100% of resources could be allocated to addressing the problem at hand, rather than spending valuable time and energy fundraising. Continuity would be guaranteed in the same manner – whereas funding for NGOs can come and go over time, the Government budget is relatively stable. Finally, guaranteed funding would mean the elimination of competition between NGOs, which can lead to services being funding driven. It would also send a strong message to the nation that the Government is no longer willing to be complicit in the prevalence of family violence and usher in a new era of zero tolerance.

One of the biggest hurdles in addressing family violence at this point in time is the need for widespread education on the causes, impacts and solutions. A national approach would ensure the necessary consistency of messaging the absence of which would lead to a continuation of the current misunderstandings.

It is widely acknowledged that without a centralized coordinated approach then strategies and activities across Government sectors and among NGOs and other service providers will not be able to adequately address a problem with such widespread interlinked root causes as family violence. Comprehensive national coverage of awareness, education and services has to be achieved. In Samoa far too many services are only available to those within the Apia area. Family violence occurs in every village across all four inhabited islands. Only a nationally coordinated initiative can ensure comprehensive coverage and access to all.

Data collection has been identified by the Inquiry as an area of weakness and consequently preventing an effective strategic approach to family violence. A centralized national initiative could establish national indicators and work in collaboration with the Samoa Bureau of Statistics (**SBS**) to ensure effective, continual and consistent data collection by which progress can be measured and effective strategies implemented to address family violence.

### 12.3 The Disaster Management Office Model

The benefits of a national initiative to address family violence are compelling but what would that look like in practice? And what would work within the context of Samoa if the political will was there? A radical new approach may be required but that brings the risk it may not be suitable for the Samoan context, unless it has been tried elsewhere first.

“The Disaster Management Office (model) has worked. Why can we not use it for family violence? It’s a locally driven response.”



*Leautuliilagi Vanessa Barlow-Schuster, consultant and lawyer, Inquiry public hearings*

#### Inquiry Info Point 18: What is the Disaster Management Office?

The Disaster Management Office (**DMO**) was established by the *Disaster and Emergency Management Act 2007*, an Act to:<sup>2</sup>

“provide for the management of disasters and emergencies by effective planning and risk reduction, response and recovery procedures and the promotion and coordination amongst the response agencies, and for related purposes.”

The Act provides for the establishment of a National Disaster Management Plan and sets out what it should contain. This plan is the guiding document for all disaster and emergency risk reduction, preparedness and recovery activities across all agencies and actors.



The structure established by the Act is as follows:

- National Disaster Council: consists of the PM and Ministers, who review all recommendations and advice given by the Disaster Advisory

<sup>2</sup> *Disaster and Emergency Management Act 2007*, Long title.

Committee and oversee the implementation of the National Disaster Management Plan and risk reduction, preparedness, response and recovery activities.

- Disaster Advisory Committee: consists of heads of relevant ministries responsible for approving DMO plans, advising the Council, promoting the National Disaster Management Plan and ensuring a coordinated inter-agency approach.
- Disaster Management Office: established within the Ministry for Natural Resources and the Environment, headed by the CEO and afforded the power to second officers from other agencies. Responsible for assisting agencies and communities identify, implement and participate in disaster risk reduction activities and programmes, coordinate activities and the implementation of the National Disaster Management Plan.

The track record of the DMO since its establishment is impressive. The Plan itself is an achievement in that it details how a coordinated approach to disaster management and preparedness should take place within the Samoan context. Activities undertaken to date prove that this approach can be extremely effective. A number of successes include:



- *Regular newsletter*: detailing all activities and relevant news related to the National Disaster Management Plan, which keeps relevant actors up to date on progress, helps to coordinate activities and ensures a strong and consistent message relating to disaster management and emergency preparedness.
- *Community Disaster and Climate Risk Management Programme*: designed to strengthen capacity of communities to better prepare and respond to disaster. Over July and August 2017 the programme was carried out in collaboration with the Samoa Met Service, Red Cross Society, FLO, Samoa Fire and Emergency Services Authority, MWCSO, MOH and Samoa Police – a truly cross-sectoral approach, which also incorporated M & E of programme impact.
- *PARTneR & PREP Project Data Management System*: training workshop organised by the DMO and facilitated by the SPC and GNS Science NZ for ten different ministries and agencies on the implementation of a national management system for data collection.

The Inquiry heard family violence described as a ‘human tsunami’, ‘a national epidemic’, and ‘a human led disaster’. We dread natural disasters as a factor in life to be endured. We do not welcome these things but we did little to counter their impact upon us until 2007 when Government established the DMO. The wisdom of that move is seen in the degree of readiness and responsiveness with which Samoa can now

deal with natural catastrophes. **This capability rests on community-wide activities that are focused and ongoing under central coordination and encouragement.** The idea that a similar approach which has been demonstrated to work for disaster management is therefore not at all fanciful. Indeed, upon close inspection, the DMO model addresses many of the concerns around the current failing approach to family violence:

- Facilitates a multi-sectoral approach to a complex national issue;
- Ensures consistency of message and consistency of funding;
- Incorporates key decision makers from the Prime Minister down in the process;
- Focus on data collection, M&E.

Furthermore, such an approach would build upon existing structures, plans and policies, rather than create overlap and further confusion. A DMO type approach for family violence could be easily adopted, utilizing what already exists, and using an approach which is known to work within the Samoan context.

## 12.4 The Office for Family Violence Prevention

The DMO model is proven to be successful in Samoa in addressing a comparable issue to family violence and it is therefore relatively straight forward and logical to apply the same approach to the issue at hand. A potential platform with a high chance of success in addressing family violence could therefore be created through the following approach:

1. *Establishing a Family Violence Prevention Act:* with a purpose similar to ‘the prevention of family violence and protection of victims, through effective risk reduction, prevention and protection services, coordination across sectors and agencies, data collection and evaluation & monitoring’.
2. *Creating a National Family Violence Prevention Council:* an **appropriate** council consisting of Cabinet Members and others such as traditional and community leaders, religious leaders, private sector and NGO representatives as Cabinet may decide (ensuring gender equality on the council).<sup>3</sup>
3. *Stop Violence Taskforce:* consisting of relevant ministry chief executive officers responsible for approving Family Violence Prevention Office plans. This taskforce is already in existence so would be building upon existing structures.
4. *Samoa Office for Family Violence Prevention:* established within MWCSO this would have a permanent staffing budgetary allocation, headed by an ACEO, reporting to the CEO. The Office would be responsible for the overall implementation of the National Family Safety Strategy, coordinating agency responses and activities, implement and participate in activities, facilitating training for key actors, awareness raising, data collection and M&E.
5. *National Family Violence Prevention Strategy:* Provided for by the Family Violence Prevention Act and will incorporate all commitments under the existing sector plans, the Samoa Development Goals, Inquiry recommendations and drafted in consultation with key stakeholders including survivors of family violence from all demographics.

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<sup>3</sup> The **Council** will be responsible for giving advice and decision making. The **Taskforce** will mainly be responsible for strengthening of partnership and coordination of activities.

6. *National Family Violence Prevention Communication Strategy*: Aimed at improving understanding of the nature, causes and triggers of family violence, nationally and among key stakeholders. Based on Inquiry findings and myths and developed in collaboration with victims, perpetrators and young people.

Such an approach would not only build upon the existing structures, plans and policies, meaning it would not be 'recreating the wheel', but would also be able to draw upon frameworks for family violence prevention developed within the region and for small and middle income countries.

A Family Violence Prevention Office should also draw upon the following resources to ensure it is adopting the necessary comprehensive approach:

- 'Framework for Essential Services Package', pp. 11-12 of *Essential Services for Women and Girls Subject to Violence*, Partners for Prevention, (UN Women, UNFPA, WHO, UNDP & UNODC), 2015.
- 'Recommendations and Entry Points for Change', pp. 98-101 of *Why do some men use violence against women and how can we prevent it?*, Partners for Prevention, 2013.

In summary, it is quite clear to the Inquiry that the establishment of a national framework for family violence prevention is essential in effectively preventing violence and that any associated costs should be more than recovered through a year on year reduction of violence. The establishment of such a framework is therefore the Inquiry's first recommendation and the basis for all subsequent recommendations.<sup>4</sup>

## 12.5 'National Zero Tolerance of Violence'

The inter-connected nature of family violence and the cycle of violence mean that all forms of violence lead to increases elsewhere in society at a later stage. If violence is acceptable in one context it will permeate into other areas of society, just as it has done over time in Samoa. The only solution is for a complete rejection of family violence and the key message of the Family Violence Prevention Office should be one of zero tolerance. The prevalence of violence has been found to be closely linked to the implicit endorsement it is given by Government, Village Fonos, the Church, parents and by most people in everyday life and to effectively address the epidemic this message must change. Perpetrators, instead of knowing they will never be held to account, must fear that they will be caught and have to face the consequences, no matter whether they are a Cabinet Minister, a *matai*, *faifeau*, father, mother in law or were subject to violence themselves.

**RECOMMENDATION 1: By legislation, establish a Family Violence Prevention Office, National Family Violence Prevention Strategy and Communications Strategy, Family Violence Prevention Council and Taskforce to provide the foundation for a coordinated inter-agency response to family violence.**

- Development of a National Family Violence Prevention Strategy, founded on the principles of *Fa'asamoa*, human rights and Faith.



<sup>4</sup> Subsequent recommendations could be implemented without the establishment of a Family Violence Prevention Office but would stand less chance of success as the inter-agency coordination, sustainability of approach, consistency of message and strong focus on data collection and evaluation & monitoring would be harder to achieve.

- Coordination of all family violence prevention actors.
- Family violence data collection and coordination.
- Through all activities pursue and promote 'national zero tolerance of violence'.

**RECOMMENDATION 2: Parliament should expeditiously give proper and urgent attention (and implementation) to recommendations relating specifically to violence against women, girls, children and persons with disability contained in the 2015 and 2016 State of Human Rights Reports provided by the Office.**



**RECOMMENDATION 3: Undertake a study to document the prevalence of violence and raise awareness of other human rights issues faced by *fa'afafine*, other SOGISC persons and the elderly.**

## 12.6 'Violence Free Village Programme'

The majority of the population in Samoa lives in rural areas under traditional village systems governed by the Village Fono. This represents an excellent opportunity to develop a programme that utilizes this system and capitalizes on the competitive nature apparent in Samoan society. The very nature which the Inquiry has found to be a contributing factor to family violence through increased financial pressures.

The savings that effectively addressing family violence will bring are substantial and mean that considerable funds can be invested into prevention programmes confident in the knowledge that they will benefit the economy in the long-term.

Furthermore, a number of the proposed recommendations later in the Report will suggest relieving financial pressures on people in a number of ways which may affect the income of a village. Whilst fines imposed by Village Fono should not be a means of income generation, the reality is that many have become accustomed to a life of reward arising from punishments handed out.

To bridge this transition, and to incentivize Village Fonos to quickly implement the full range of Inquiry recommendations, it is suggested that a 'Violence Free Village Programme' (VFVP) is initiated by the Government whereby a scorecard system is implemented to assess each village's compliance with Family Violence Prevention guidelines based on the Inquiry recommendations.

Two categories of criteria would exist,

- eligibility criteria, aspects of governance, programmes or practices that are essential for a village to have and without which they would not be eligible for any VFVP funding.
- set of criteria would be an additional list of the same nature and the more a village complies with that list the more they receive from the VFVP fund, up to a set amount.

Throughout the subsequent Inquiry recommendations it will be noted which are to be essential for VFVP eligibility ("core VFVP") and which should be used to determine the amount a village receives at the end

of the financial year (“desirable VFVP”). The amounts distributed should be received on the basis they are spent on the development of peace and social harmony within that village and this should be monitored by the Samoa Office for Family Violence Prevention.

**RECOMMENDATION 4: Establish a ‘Violence Free Village Programme’ which provides financial incentives for the implementation of Family Violence Prevention initiatives based on Inquiry recommendations.**



## 13. Attitudes and beliefs

It is evident that there is a disconnect between an overwhelming consensus to treat family violence as a priority issue and in being able to effectively address it and that this is predominantly due to the attitudes and beliefs outlined in **Part IV**. Therefore, in order to turn the tide against the increase of violence, widespread attitudinal changes need to be achieved. This will not happen instantly and will require, time, patience, good planning and M & E. The recommendations in this, and the following chapters, are mainly intended to be tasked to the new Samoa Office for Family Violence Prevention (unless otherwise stated) but can be pursued in the interim period during its establishment by MWCSD and other relevant Government agencies.

### 13.1 Children

The Inquiry has uncovered what will be for some uncomfortable truths about the nature of family violence and the way in which children are raised in Samoa plays a central role. Violence towards children, whether physical, verbal or sexual, increases the likelihood they will go on to experience more violence as an adult, either as a perpetrator or a victim.

Furthermore, evidence suggests that current parenting methods do not have the intended impact on a child’s development. In fact the opposite is true and that the harm caused leads to the risk of more violence. The Inquiry has found that violence is a shortcut for effective parenting and that many parents cite a range of reasons why it is necessary from the Bible to their own experiences. The Inquiry has proved all of those to be without foundation.

The way in which children are raised also lays the groundwork for the patriarchal society upon which the majority of family violence in Samoa is premised, and has evolved to a point at which effective communication no longer exists, bringing down the veil of silence around acts of violence from birth.

The final revelation from the evidence gathered is that **all** forms of physical and verbal punishment amount to violence, and in doing so undermine the *Fa’asamoa*, violate the Constitution of Samoa, violate the rights of the child and go against the word of God. Many people will not be able to accept these conclusions but there is little evidence to suggest otherwise and plenty of supporting evidence.

For those who are prepared to consider the validity of these conclusions there is better news. The Inquiry has also uncovered evidence which lays out an alternative path. A path which will prevent family violence,



provide greater protection for victims of violence, and is based on the cultural values upon which Samoa was founded.

### 13.1.1 *Sasa* (smacking) and harsh verbal discipline/ violence

#### **INQUIRY FINDING 2: Physical, harsh verbal discipline/violence and sexual violence towards children has reached epidemic levels.**

- 9 out of 10 children in Samoa experience violence in their lifetime
- Physical discipline/violence is often extreme in nature, going way beyond what is 'reasonable punishment' under Samoan law
- Sexual abuse of children and incest levels have reached 'epidemic' proportions in Samoa



#### **INQUIRY FINDING 5: Family violence has a wide range of long-term impacts on the physical and mental well-being of its victims and those who witness it. They include:**

- Mental health problems, such as depression, anxiety, suicide and aggressive behaviours;
- Greater use of alcohol and drugs, increased sexual promiscuity and multiple sexual partners;
- Direct injury and even death;
- Maternal health problems, including unwanted pregnancies, miscarriages and pregnancy complications;
- Low self-esteem leading to health and behavioural problems;
- Inter-generational violence;
- Reduced future productivity and undermining national economic development.



#### **INQUIRY FINDING 10: Children subjected to violence or those who witness violence growing up are at a substantially increased risk of becoming a perpetrator or victim of family violence later in life.**



#### **INQUIRY FINDING 11: Violence towards children worsens because parents falsely believe it aided their own development as children or through employing a variety of excuses for misbehaviour among the youth and fail to take responsibility for their own role.**



**INQUIRY FINDING 12: All forms of physical and harsh verbal discipline<sup>5</sup> are forms of violence, which directly contribute to the prevalence of family violence and indirectly by increasing the risk of a child becoming either a perpetrator or further victim later in life.**



There is absolutely no doubt that the way in which children are being raised today in Samoa is a major contributor to the prevalence of family violence throughout the nation. What most call discipline actually amounts to violence and for those who are still left in any doubt they should consider why children are not afforded the same legal protection as adults. As the MoP have already highlighted in this Report, ‘assault is assault’ when talking about corporal punishment in schools. Is there any reason why it should be different in the home?

“Ask yourselves – what lesson are we teaching our children by assaulting them? No child is born into this world with a violent disposition (apart from children born to drug addicts. There are exceptions.) No child comes in as a violent person. They learn it. Who are their first teachers? We are. His parents, his family. He learns violence from us. Watching our uncle, our aunty, our cousin. We learned it. You call it smacking. I call it assault. We are teaching them to assault every time we smack them. We are teaching them that assault is a way to deal with behaviour that it is acceptable to deal with problems. Then we ask ourselves why domestic violence is a big problem in this country. It is because we learn violence from a young age. We grow up believing violence is a solution to a problem. First we hit our children, then we hit our wives. It is a cycle of violence because it begins when we are young and we carry it through to when we are grown up. Violence is inbred. Children are born pure. The book of Proverbs says that if you teach children from birth they will not deviate from that teaching. If we seriously want to address domestic violence we need to stop smacking our children and using abusive language that causes emotional harm. I think that is where we should start.”



*Justice Vui Clarence Nelson, Supreme Court judge, Inquiry public hearings*

The Inquiry has found a plethora of supporting evidence to suggest that Justice Vui is correct in his summary, which is unsurprising given his wealth of knowledge on the matter gained from both his role as Supreme Court and Family Court judge, and as a member of the Committee on the Rights of the Child.

The act of *sasa* or smacking, if done on another adult would be classified as assault under Samoan law and in almost any other country worldwide. Article 15 of Samoa’s Constitution provides the right to equality before the law. Allowing children to be smacked but not adults is not equality before the law and therefore is unconstitutional. Indeed it appears as though both MoP and AGO already agree that corporal punishment in the home constitutes assault. Their advice to MESC determines physical discipline of children by teachers to constitute assault. Given teachers are included in section 14 of the *Infants Ordinance 1961* in being allowed to administer ‘reasonable punishment’, alongside parents, the

<sup>5</sup>Definition at Info Point 6.

conclusion is therefore that both of these key law enforcement agencies already view parental physical discipline as amounting to assault.

There will still be those who say it is needed for a child's discipline. The Inquiry has shown that to be false and actually causes worse discipline, behavioural issues, health issues and violence. There will be those who say it never did them any harm or it made them the person they are today. The Inquiry has shown these to be myths. There will still be those who say the children of today are worse behaved because of x, y and z and so physical and harsh verbal discipline is required. The Inquiry has shown that many of the behaviours cited as x, y and z are actually caused by violent upbringings, and in that smacking and verbally abusing children exacerbates the problem.

This reluctance to accept the facts is understandable. Violence is the only way many people in Samoa know. It does not mean that this is the correct way. Indeed, the Inquiry has highlighted just how far violence goes in undermining the cultural values of Samoa and goes against the word of God. It is only going to get worse unless people are prepared to consider an alternative way.

*"O au o matua fanau."* (Children are the 'core' of their parents).

*Samoa expression*



What was undoubtedly borne out of love has transformed into part of the foundation of family violence. The way in which children are generally raised does not convey the love from a parent to their offspring. This is a painful realization to arrive at, but arrive at it we must. Samoa is not alone in coming to this realization and across the world countries have been gradually coming to terms with the consequences of physical and harsh verbal discipline of children. That is to Samoa's benefit as it means there are a range of case studies from which lessons can be learned.

The first point to note is that research worldwide shows countries experiencing exactly the same consequences as Samoa as a result of violent discipline and other violence towards children. It is beyond doubt that children who had an abusive upbringing are significantly more likely to commit violence than those brought up in non-violent, loving households, in some cases 5 times as likely.<sup>6</sup>

*"There is a strong correlation between those States that use corporal punishment and negative societal outcomes, and there is an equally strong correlation between those states that have banned corporal punishment and positive societal outcomes."*

*Ioane Guthrow, Inquiry document 84*



The world is waking up to these consequences and now only two<sup>7</sup> of the European Union countries have not already banned corporal punishment or are in the process of considering a ban. Sweden was the first to do so in 1979 when it changed their legislation to give children the same legal protection as adults. This was accompanied by a national education campaign and has been a huge success. In the 35 years following

<sup>6</sup> A.K. "Spanking and crime rates." *The Economist*. (15 July 2013). Retrieved from <https://www.economist.com/blogs/charlemagne/2013/07/spanking-and-crime-rates>.

<sup>7</sup> United Kingdom and Czech Republic

the ban on corporal punishment the percentage of children who were hit by the parents dropped from 90% to 10%. Even more interestingly was that when the ban was introduced over half of parents wanted to keep smacking but 35 years later this number had dropped to 10%.<sup>8</sup>

This provides a great degree of hope and optimism for Samoa. Currently support for corporal punishment is high, but there is nothing to suggest that not only could a ban be introduced but that once enforced, with the right support, it could actually be embraced by parents.

For any readers of this Report still with an open mind the burning question will be ‘well if I cannot physically discipline my children then what am I supposed to do?’

“Parents often ask us: ‘But if you do not beat them, how do you discipline your children?’ We maintain that you can get very far with words and that the child-parent relationship should not have to resort to violence.”



*Carolina Romare, Review of ban on smacking in Sweden, Inquiry document 88*

This insight into the approach taken from Sweden also helps to answer one of the concerns raised in the course of the Inquiry:

“It’s all well and good having positive parenting programmes but these are usually developed around *palagi* (foreigner) families.”



*Family Violence Workshop participant, Apia, November 2017*

The above quote from Sweden shows that, on the contrary, it is as though their approach is taken straight from the *Fa’asamoa* and the Samoan strength of *talanoa/ fa’asoa*; ‘o tama a tagata e fafaga l upu, a’o tama a manu e fafaga l fuga o laau’ (human offspring are fed with words in the same way birds are fed with blossoms).

The desire to find an excuse why we should not consider banning corporal punishment is strong because many now know of no other way. There is a natural fear of the unknown. However, as the above expression shows, maybe it is not so unknown after all and that the answers have been contained within the *Fa’asamoa* all this time. It is just a case that the lessons have been forgotten and lost over time.

The Inquiry did not set out to recommend the banning of corporal punishment. Indeed, it was not even discussed in the early stages by the Commissioners. Rather the process was approached with an open mind and after fully considering all of the evidence there was only one logical conclusion to arrive at – that Samoa must move towards banning physical and harsh verbal punishment of children in the homes. Not only does it violate the *Fa’asamoa* and a child’s individual rights but it is the starting point for the majority of violence in society today. Only by raising children that violence is **not** the answer can the cycle of violence truly be broken. The success of all of the recommendations within this Report therefore rely heavily on an acceptance that physical and harsh verbal discipline of children amounts to violence, and

<sup>8</sup> A.K. “Spanking and crime rates.” *The Economist*. (15 July 2013). Retrieved from <https://www.economist.com/blogs/charlemagne/2013/07/spanking-and-crime-rates>.

that this and its consequences can no longer be tolerated. What is encouraging is that there already appears to be a realization of this beginning in Samoa.

“Any violence, physical, psychological, emotional, it is violence. Violence is violence. We try to excuse it by saying it is discipline but this is not the case, it is still violence. It should not be acceptable.”



*Father Lui Sanele, Inquiry public hearings*

Before coming to a final conclusion that aiming towards a prohibition of corporal punishment is a good thing for Samoa, two further concerns conveyed to the Inquiry must be addressed.

**Myth 15: Banning corporal punishment will mean lots of parents end up in jail.**

**Reality:** “Parents are not jailed for a single spanking, just as adults are not imprisoned for slapping another adult once.”<sup>9</sup> To claim that such a law would lead to a mass imprisonment of parents is melodramatic and indicates the person using such an argument is looking for an excuse to carry on smacking children. Only adults who continually and/or severely beat their children will risk attention from the police and a custodial sentence.



**Myth 16: Banning corporal punishment will lead to increased crime.**

**Reality:** Because of the complex nature of crime rates in society it is difficult to accurately attribute cause and effect in relation to corporal punishment.

There is no definitive evidence to suggest this to be the case and research tends to show that the opposite is true, that banning corporal punishment can reduce crime rates and lead to a range of other positive societal outcomes. Sweden, for example, has one of the lowest homicide rates in the world.

The Inquiry has found how violence breeds violence so in itself must surely increase violent crime. The police reported an increase of violent crime in Samoa, supporting this conclusion. Further, the effects of family violence have consequences that increase the risk of many crimes. It increases school drop-out rates, which leads to lack of income which leads to stealing. It leads to anti-social behaviour that leads in turn to crime. None of the consequences of violence are related to the reduction of crime.



<sup>9</sup> Jonas Freden. “First ban on smacking children.” *Swedish Institute*. (21 May 2018). Retrieved from <https://sweden.se/society/smacking-banned-since-1979/>. Document 87 Inquiry anthology.

If we conclude that all physical and harsh verbal discipline of children is violence then it appears highly likely that this will only increase crime rates overall, whilst a ban on corporal punishment is likely to lower crime rates.

There will likely be strong resistance to a corporal punishment ban but to oppose this goal is to condemn thousands of children and adults like Tavita,<sup>10</sup> Solomona,<sup>11</sup> Teuila,<sup>12</sup> Masina<sup>13</sup>, Lani<sup>14</sup> or Sisilia<sup>15</sup> to a lifetime of emotional and physical pain, suffering and even premature death. Those people who stand in the way of progress will be doing so in direct contradiction of the *Fa'asamoa*, the Constitution, the word of God and human rights.

However, there will also be those who agree and over time there will be those who come to agree. In this period blame and accusations are not constructive, what is helpful is to consider exactly how this will be achieved.

It is not realistic or sensible to think that it may be achieved overnight or simply through the passage of a piece of legislation. The fact that there will be resistance and that for some people it will take time to accept these findings means that a transitional period is necessary. It is not realistic or helpful to expect that parents can go from one approach to a totally different one without being given the necessary skills and support to do so.

“Helping parents and caregivers understand the importance of positive, non-violent discipline in child development and of close, effective parent child communication reduces harsh parenting practices, creates positive interactions and helps increase bonding between parents or caregivers and children – all factors that help prevent violence against children.

Evaluations of these programmes also indicate that this type of prevention is less costly than paying for the consequences of violence against children.”



*INSPIRE: 7 Strategies for Ending Violence Against Children, WHO, Inquiry document 48*

The WHO's findings support the findings of the Inquiry in that the costs of addressing family violence are outweighed by the costs to the economy of not addressing the issue. Ending corporal punishment and violence against children can therefore not only reduce family violence but can be done in a manner which does not cost anything overall and can actually benefit the national economy.

There are a multitude of examples of positive parenting programmes worldwide that Samoa can draw upon to provide parents with the skills necessary to raise their children in loving, non-violent environments. One example, which further supports the economic costs findings, comes from a systemic

<sup>10</sup> Case Study 1.

<sup>11</sup> Case Study 2.

<sup>12</sup> Case Study 3.

<sup>13</sup> Case Study 10.

<sup>14</sup> Case Study 6.

<sup>15</sup> Case Study 7.

review of 20 home visiting programmes that provide parent support across the United States. The study found that they substantially reduced child maltreatment and that one, the Nurse-Family Partnership (NFP) had particularly positive results.<sup>16</sup>

“The NFP began in 1977 by promoting a safe home environment and promoting competent caregiving by parents and connecting them to health and social services. Central to the model are registered nurses who make home visits to young, first-time, low-income families in the first two years of their children’s lives. Long term positive outcomes included improved prenatal health, fewer childhood injuries, fewer undesired pregnancies and increased maternal employment.

The 15 year follow-up reported a 48% reduction in child abuse and neglect among families who received the home visit compared to those who did not.

A cost benefit analysis of the programme found that it saved four times as much money as was spent on it.

The NFP approach is now being scaled up across the USA and implemented in Australia, Canada, the UK and others.”



*INSPIRE: 7 Strategies for Ending Violence Against Children, WHO, Inquiry document 48*

The NFP is one example but there are many others, including those designed specifically for low and middle income countries<sup>17</sup> and Samoa can draw upon these. However, Samoa can also draw upon its own culture in designing positive parenting programmes. The *Fa’asamoa* contains many proverbs, principles and practices that can and should be incorporated into positive parenting programmes with non-violence as the central principle. The use of cultural norms in this manner has been found to be very effective in promoting positive change.

#### **Inquiry Info Point 19: What is positive parenting?**

Positive parenting is a broad approach to parenting that helps to foster a close loving bond between parent and child, based on communication and mutual respect, key principles of the *Fa’asamoa*. It is more than just parenting without smacking and has three major components:<sup>18</sup>

- Rules and consequences are laid out, discussed often and followed through;
- Parents focus on helping children internalize discipline rather than obey orders based on fear of punishment, in order to develop self-discipline;



<sup>16</sup> World Health Organisation. (2016). *INSPIRE: Seven Strategies for Ending Violence Against Children*. Document 48 Inquiry anthology.

<sup>17</sup> The Parenting for Lifelong Health programme in South Africa is one such example and is reporting great success in reducing prevalence of physical and emotional violence and improved parental skills.

<sup>18</sup> Barbara Harvey. “Positive Parenting Defined.” (12 December 2015). Retrieved from <https://www.kars4kids.org/blog/positive-parenting-defined/>.



- Parents use active listening to understand children's thoughts. This allows parents to correct misunderstandings or mistaken lines of logic.

Some of the easy things parents can do to provide their children with positive discipline include:

- Make punishments fair and relative to the behaviour;
- Keep calm;
- Explain how they have misbehaved;
- Require the child to perform a task as punishment.



In summary, the Inquiry has found that all physical and harsh verbal punishment of children amounts to violence because of the negative consequences it can have, which also increase the risk of further violence. Evidence also shows that a ban on corporal punishment is not only possible but that the programmes required for it to be effective are often based on fundamental *Fa'asamoa* principles and the costs are easily covered by the savings they create. Furthermore, all of the arguments for corporal punishment have been shown to be false or without substance. The Inquiry was left with only one course of action to recommend.

**RECOMMENDATION 5: Government to commit to remove section 14 of the *Infants Ordinance 1961* and to consult appropriately. Gradually move to ban corporal punishment and harsh verbal punishment in homes.**

- Awareness raising for parents on the harmful impacts of corporal punishment and harsh verbal punishment;
- Development of positive parenting programmes to be delivered by Village Family Safety Committees, through Village Representatives, the churches and other suitable vehicles;
- Monitoring of rates of violence towards children and attitudes towards physical and harsh verbal discipline.



### 13.1.2 Communication and Parent-Child Relationship

**INQUIRY FINDING 13: *Talanoa* (communication) between parents and child has broken down and has been replaced by violence. The lack of communication also places children at risk of further violence.**



A key characteristic of positive parenting is effective communication between parent and child and it is therefore no surprise that the Inquiry has found there to be a significant breakdown of this in Samoa. The *Fa'asamoa* is reciprocal in nature, what it demands of one it expects of the other. This is also a key

teaching of the Bible<sup>19</sup> and a core principle of human rights.<sup>20</sup> Yet, in many respects this reciprocity and mutuality has diminished in Samoa and communication between parents and children is but one of the areas in which this has happened.

Establishing effective communication with children has a number of effects on the reduction of risk of family violence. First it helps to form a close bond between parent and child that eliminates the risk of a child feeling rejected, which the Inquiry has shown to be the case with physical and harsh verbal discipline.

The second is that it provides children with an avenue to raise concerns and discuss what they are feeling in general. This has two positive consequences - it means that the child is less likely to suffer from pent up frustration and anxiety which can lead to violence and it also provides the parent with an opportunity to understand and shape their child's spiritual development. The child may have started to be influenced by troublesome peers or simply have misinterpreted what was expected of them behaviour wise. Having regular dialogue can help parents identify and correct this, reducing the risk of problematic behaviour.

A specific example of how effective communication can help prevent or protect against family violence is in relation to sexual violence. Currently a taboo, if parents are able to talk about sexual abuse, what it looks like and what to do if it occurs then this provides a child with the tools they need to prevent it, or in the worst case scenario initiate steps that will lead to it stopping and them being provided the care they need to recover.

It is very easy to talk about effective communication in theory but knowing how to achieve that in practice may seem harder, especially given the general lack of such skills currently.

The *Fa'asamoa* says children should be fed with words and that *talanoa* (communication) is a two way process. It can only be so if a parent is willing to listen and share (*fa'asoa*) with their child. In order to have constructive conversations, especially around sensitive issues such as sexual violence, the vocabulary to discuss these issues needs to be readily available and widely understood. In Samoa that is not always the case. Vocabulary should therefore be expanded to provide children and parents with a way to talk honestly and comprehensively about these matters.

All of these things can be encouraged, discussed and practiced as part of any positive parenting programme.

**RECOMMENDATION 6: Re-establish the *Fa'asamoa* practice of effective communication between parent and child.**

- Teach effective communication and the relevant *Fa'asamoa* principles as part of the positive parenting programme.
- Develop vocabulary around sexual violence, violence in general and any other gaps required to facilitate effective child-parent communication.



<sup>19</sup> Matthew 7:12 – “All things whatsoever ye would that men should do to you; do ye even so to them.”

<sup>20</sup> *Universal Declaration of Human Rights*, Article 1 – “All human beings are born free and equal... and should act towards one another in a spirit of brotherhood.”

### 13.1.3 Gender stereotypes

**INQUIRY FINDING 14: Stereotypical gender roles are taught from birth, reinforcing the patriarchal society, teaching girls to be subservient, encouraging sexual entitlement of boys, and creating an environment of impunity for perpetrators.**



The widespread nature and acceptance of patriarchy in Samoa has been found to underpin a vast amount of family violence perpetrated and that subservience of women is ingrained in children from birth. In order to effectively address family violence it is therefore necessary to prevent such a hierarchy being instilled in the way children view the world from an early age.

The primary means of achieving this is simply through education and awareness raising. Families need to be educated on the harmful effects of promoting gender stereotypes and fully understand the link between the way they raise their children, the subservience of women, sexual entitlement of men and the pervasiveness of all forms of violence.

Encouragement should be given through various channels to treat children equally and the benefits of doing so made widely known. Even the toys children are given, can affect their development. By limiting the choices for a child based on their gender, parents can be preventing certain skills and thought processes from being developed.<sup>21</sup> By breaking down gender barriers parents will be empowering both girls and boys. This will provide them with a wider range of skills and knowledge that, amongst other things, will help reduce the risk of being involved in family violence later in their life.

Gender equality means just that, ensuring children have the same opportunities and rules regardless of their gender identity. In practice, this means both are responsible as one another for chores, both being able to play and explore as much as the other and both given the same amount of personal responsibility for their own actions.

In adopting such an approach parents can immediately begin to neutralizing patriarchy, eliminate the subservience of girls and prevent the sexual entitlement of young boys and men – all of which will play a significant role in addressing the prevalence of family violence.

Gender equality is inherent in the true *Fa'asamoa*. The mutual protection of the community is not possible without it. As a result, raising children in a gender equal manner, and not favouring one over another, is simply going back to Samoa's cultural roots and the *Fa'asamoa* should be central to teaching positive parenting in this regard. This approach can be further enhanced by considering the CRC framework to ensure equality for all children and minimum standards to guarantee development that is in their best interests.

<sup>21</sup> BBC news. "Gender specific toys: do you stereotype children?" (16 August 2017). Retrieved from [www.bbc.com/news/av/magazine-40936719/gender-specific-toys-do-you-stereotype-children](http://www.bbc.com/news/av/magazine-40936719/gender-specific-toys-do-you-stereotype-children).

These efforts also need to be supported by other areas of reform identified in the course of the Inquiry, such as the enhanced role of the media, where local advertisers are more conscious of the impact they can have in promoting gender equality.

**RECOMMENDATION 7: Promote a gender equal approach to parenting based on the Fa'asamoa and human rights to address patriarchy, female subservience and male sexual entitlement.**

- Through positive parenting programmes teach the consequences of gender inequality and raising children differently based on gender.
- Provide practical guidance on how to parent in a gender neutral manner and the benefits that can confer to a child.
- Monitor impact of programmes.



## 13.2 Gender roles

**INQUIRY FINDING 15: Samoa is a patriarchal society where women are seen as subservient to men. This gender inequality is the primary cause of family violence in Samoa as violence is the key tool in maintaining male superiority**



**INQUIRY FINDING 16: The patriarchal society is reinforced and maintained by:**

- The popular conception of Samoan masculinity;
- Sexual entitlement of men;
- Lack of communication within relationships;
- Victim blaming and widespread internalisation of the justifications put forward for the use of family violence



The patriarchal nature of Samoa is at the heart of almost all family violence. It creates gender inequality which in turn requires family violence as a controlling mechanism to be maintained. Addressing patriarchy in all forms and fostering a society that is built on equality between men and women is therefore essential for combatting family violence.

The Inquiry found many ways in which patriarchy is reinforced and each must be neutralized in order to lay the foundation for a non-violent society.

“All of this violence is reinforced through the gender roles – women cleaning and cooking and men making decisions and doing whatever they want. All of these things are contributing factors that are fueling violence in families. I am one of very few men in my village who does the washing and cooking and I am not



ashamed to say it. If all men try a little bit, maybe try and change the gender roles then perhaps this will allow us to address these issues.”



*Church Minister Participant, Inquiry public hearings*

Inevitably there will be strong opposition to suggestions of gender equality and the Inquiry has already heard dissent along the lines of ‘our culture determines gender roles’ and ‘we already have gender equality’. The former claim, that culture determines gender roles, has some truth to it but these roles are determined more by the reality of physical strength than according strictly to gender (for example the tasks of making the *umu*). The Inquiry has shown that culture is forever changing and gender equality has historically been a fundamental part of the *Fa’asamoa*. Refusing to address gender equality issues will mean the *Fa’asamoa* fast becoming outdated in a world where gender equality is an increasingly globalized norm. Strengthening gender equality now will be re-strengthening the *Fa’asamoa* and ensuring it remains relevant for future generations.

There will also be opposition because it is simply very difficult to change ingrained and widespread attitudes at both the societal and individual level. Even if a man reading this report wants to change their ways, the social pressures on him to conform are great. It takes a strong-minded man to be ridiculed by his peers for not conforming to commonly accepted ideals of masculinity.

Neutralizing patriarchy will be a process that achieves its goals over time if a range of measures, activities and strategies are implemented covering all of society. The change must also be led by influential people, women, *fa’afafine* and especially men who are not afraid to stand up and challenge the status quo. Too often family violence and GBV is seen as a ‘women’s issue’. However, it is not a women’s issue, it is a societal issue which requires the involvement of all to be successfully addressed.

Neither should gender equality be seen as a process whereby men are simply ceding power to women. Change will empower all genders and provide a foundation for a more peaceful tolerant society where people are no longer required to suppress their emotions and all voices are heard, within the cultural framework.

“Men need to be ‘empowered’ as well, freed from gender based prejudices, fears and insecurities and misconceptions and in many cases ignorance that lead to the use of their physical strength to impose control over their spouses and children.”



*Afamasaga Faamatala Toleafoa, Matai/Advocate, written submission, Inquiry document 6*

The Inquiry has seen the extensive consequences of the current notion of masculinity, where men expect to do as they please, expect sexual gratification, exercise violence to maintain superiority, whilst suppressing all of their emotions and feelings. However, they are only able to respond in physical ways because they simply know of no other, and are unable to communicate effectively with their wives, children or extended family. Men do not benefit from this set up, neither do women, children, parents, grandparents, friends or society at large. Patriarchy leads to all of the consequences outlined in **Part III** yet confers no benefits. Changing this system is to the benefit of each and every person in Samoa.

For gender equality to be realized, each of the factors identified in **finding 14** which enable the continuation of patriarchy need to be addressed. The very notion of masculinity needs to be redefined in Samoa so that it is no longer premised on superiority and exercised through violence. This can only happen over time with a coordinated approach and consistent messaging.

This needs to be a collaborative and ongoing process, involving representatives from every demographic in Samoa. The process in itself will be educational and will ensure national ownership of the outcome, not something which could be achieved within the confines of the Inquiry.

Additionally, there are a number of broad approaches which must be incorporated into the process to ensure that the factors which support patriarchy in Samoa are adequately addressed:

- Address all harmful and prejudiced attitudes which further gender inequality identified by the Inquiry and fully implement the relevant recommendations;
- Promote shared family responsibility for work in the home;
- Engage, educate, encourage and support men and boys to take responsibility for their behaviour, including taking responsibility for their sexual and reproductive behaviour;
- Invest in the development and implementation of education, programmes and policies to increase understanding of the harmful effects of violence and how it undermines the *Fa'asamoa*, Faith and violates individual human rights;
- Promote respectful relationships and effective communication between partners and parents and their children;
- Political, traditional and religious leaders to publicly state their commitment to addressing patriarchy and the attitudes and practices that support it and specifically reject the idea that victims of family violence are in any way to blame for their experiences.

**RECOMMENDATION 8: Place gender equality at the forefront of the objectives of the Samoa Family Violence Prevention Office and develop activities and measures to modify the social and cultural patterns of conduct of men and women to eliminate patriarchal attitudes of male superiority, and monitor long-term impact.**



### 13.3 *Fa'asamoa* and Societal Norms

**INQUIRY FINDING 17: The *Fa'asamoa* is widely used and misused to reinforce the patriarchal society, which is at the heart of all family violence.**



The Inquiry found that the *Fa'asamoa* is simultaneously being used to justify family violence and at the same time failing to provide the protection it once did. This situation needs to be reversed: the justification

of family violence using *Fa'asamoa* eradicated and the protection mechanisms re-established. Neither of these goals are easy nor will they happen overnight, but they are possible.

The Inquiry found evidence that the *Fa'asamoa* is often used to justify male superiority over women. Those who seek to make this argument are therefore not only reinforcing the environment within which family violence thrives but also betraying the fundamental principles of *Fa'asamoa*, Faith and human rights.

On the contrary, when applied well the *Fa'asamoa* can play a strong role in the pursuit of gender equality, which in turn ensures the strengthening of the family unit – the heart of Samoan culture and essential for the well-being and peaceful development of the community. Family violence is inherently contrary to the *Fa'asamoa* and it is therefore entirely logical that when correctly applied, the *Fa'asamoa* should be one of the key tools in fighting this social ill.

The common misapplications of the *Fa'asamoa* and the consequences need to be thoroughly understood generally, among society and a renewed understanding of the original meanings, especially in relation to:

- The role of the male within the household as *pule*: Rather than being the ultimate authority, who inevitably has to use violence to demand compliance from his inferiors, this needs to be understood as a guiding role for the overall well-being and development of the family unit that cannot be achieved without the input of everyone.
- The role of *nofotane*: Greater emphasis on woman as *maupaolo* rather than *nofotane* to ensure their protection and the overall well-being of the family unit. Furthermore, recognition of the *feagaiga* between men and women where mutual respect is upheld by both parties.
- The application of *fa'aaloalo* (mutual respect): A narrow application of *fa'aaloalo* can lead to family violence going unreported as victims feel unable to raise matters with their elders. An understanding of how family violence can be discussed whilst still respecting the *fa'aaloalo* needs to be developed.
- Family shame: Violence is happening in every village in Samoa, in every extended family. The time for not talking about it because it is perceived to bring shame is long past. Shame has been brought onto the entire society and can no longer be hidden by this veil of silence. Family *matais* have to start being proactive in bringing perpetrators of family violence to justice and actively oppose any retribution for those who seek to expose such acts. This is another issue where leadership is required to direct the nation.

An excellent example of how these goals can be achieved can be found in the case of Lote and her mother-in-law.<sup>22</sup> After the mother-in-law passed away Lote went on to become the women's village representative and through her work became a *matai* and eventually the main decision maker in the family which once was the cause of her abuse. Lote's case highlights how it is just people's attitudes which stand in the way of embracing diversity and welcoming people into an extended family. It also

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<sup>22</sup> Case Study 18.



demonstrates how once that it is done it is to the benefit of the family in the long run, benefitting as they do from the additional wisdom and ideas, rather than suppressing that through violence.

The way in which the above aspects of the *Fa'asamoa* can be discussed and better applied vary and include education, awareness raising, improved leadership, and an open mindedness among all, as seen in Lote's case above. They can also be achieved through the other side of the coin – re-establishing the traditional protection mechanisms of the *Fa'asamoa* that have eroded over time.

**INQUIRY FINDING 18: The *vā tapuia*, and *Fa'asamoa* generally, is no longer respected as it once was, removing a critical prevention mechanism against family violence contained within the *Fa'asamoa*.**



**INQUIRY FINDING 19: Communication in Samoa has broken down and is no longer a two-way process, increasing the risk and prevalence of family violence.**



The Inquiry found that there has been a breakdown of the *vā tapuia* and especially the *feagaiga*. If these relationships can once again be strengthened it will provide some of the protection that is required to prevent family violence happening in the first place. The *feagaiga* no longer means what it once did but there is no reason that it cannot be reasserted through education and awareness raising, as is the case with all other *vā tapuia*. In doing so, the *Fa'asamoa* would be used to re-establish important protection mechanisms against family violence, address gender inequality and bring cultural values into the 21<sup>st</sup> century.

An underlying approach which needs to be adopted in order to re-establish the *vā tapuia* is a focus on improved communication.

“Returning to the *vā tapuia* means opening the door to listen to victims of violence.”



*Tagaloatele Professor Peggy Dunlop, Inquiry Commissioner*

The Inquiry found that the misapplication of *fa'aaloalo* and a breakdown in communication between husband and wife and between parent and child leads directly to an environment where violence is more likely and then less likely to be exposed, granting impunity to the perpetrator.

“Open communication within families prevents a culture of silence around violence. It is vital to break the culture of silence [...] and for the community to become accustomed to talking about issues of safety and violence. This may mean breaking *tapu* about who can speak when.”



*Samoa people's understanding of primary prevention of violence against women', Inquiry document 91*

Whilst it will ultimately be up to Village Fonos, *matais* of families and family members themselves to decide how best to develop communications to prevent family violence, the Inquiry encourages an emphasis on creating space to report incidents of family violence and establishing regular communications within families to prevent the build-up of frustrations.

The latter of those suggestions is already enshrined in the *Fa'asamoa*, just not currently widely practiced or used and that is the *talanoaga* (family meetings). For those families who do regularly schedule *talanoaga*, it can be monthly or more regularly and include either immediate or extended family. However, family violence is never a topic for discussion and as a result the feeling, emotions, frustrations that the Inquiry has seen leads to family violence and being subjected to violence remains unaddressed.

The *talanoaga* is the perfect forum for allowing each member of the family to raise their ongoing concerns and to be addressed by the *matai* in consultation with the family. The Inquiry heard from many people that both the *talanoaga* and evening prayers are the perfect forums for encouraging such family discussions yet are currently being under-utilised. Both are also forums at which the *matai* of the family can lead in rejecting all forms of violence and encouraging those who witness it to speak out. Both the *Fa'asamoa* and Faith will be strengthened with the revival and utility of such gatherings, whilst at the same time playing a significant role in the prevention of family violence.

In addition to providing a communication space that contributes to the prevention of family violence, equally important is a similar approach to the protection of victims. Social taboo sometimes renders it impossible for victims to report matters of family violence, especially sexual violence, because of the *Fa'asamoa* and the belief that it brings shame upon the family. However, with the acknowledgement that silence around family violence actually brings greater shame to the wider society, exceptions need to be created to encourage victims to speak out when a violation has occurred. This can only happen through the strong leadership of *matais* and a clear understanding of what constitutes family violence and when a victim should speak out.

A final pre-requisite for being able to speak out, which is currently not in place and further prevents the reporting of sexual violence and violence generally, is the language necessary to be able to do so. In many cases, the language itself actually reinforces the hierarchy upon which family violence is premised.

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“Samoan language is totally inadequate and cannot capture the full meaning of violence.”



*Tagaloatele Professor Peggy Dunlop, Inquiry Commissioner*

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Throughout the Inquiry it was clear that for victims of violence, especially sexual violence, one of the fundamental barriers to reporting was simply not having the words to describe what happened to them, and therefore not even being able to explain it to themselves, let alone articulate it to another person.

There is a clear need for the development of new vocabulary within the Samoan language to bridge this gap and the process must be an inclusive one, involving victims and perpetrators, children, persons with disabilities, the elderly, *fa'afafine* and all demographics of Samoan society. It is also an opportunity to

identify how traditional Samoan proverbs, concepts and sayings can be used to identify, report and prevent family violence. “*Pei oe e leai sou tuafafine?*” used to be an effective preventive phrase rooted in the *Fa’asamoa*. A new litany of such devices should be developed and taught to children and among the communities, so that once again the safety of the village is founded in the *Fa’asamoa* rather than under threat because of it.

**RECOMMENDATION 9: Address misconceptions around the *Fa’asamoa* which further gender inequality and contribute to family violence and identify and implement ways in which it can prevent and protect against family violence.**

- Public awareness and school education on how the *Fa’asamoa* is used to create gender inequality and how this leads to family violence. Political, traditional and religious leaders also speaking out in this regard.
- Public and school education on effective communication and conflict resolution, drawing on cultural values.
- Development of Samoan language around all forms of family violence through consultations and involving all demographics of Samoan society.
- Public awareness and school education on the *vā tapuia* and the importance of those relationships in the prevention and protection against family violence.



## 13.4 Faith

**INQUIRY FINDING 20: The Bible is wrongly used to justify violence against women and children and perpetuates the patriarchal society within which violence breeds.**



In a similar vein to the *Fa’asamoa*, the Bible is unfortunately used and interpreted in certain quarters to justify the gender hierarchy underlying family violence. In **Part IV**, the Inquiry found that emphasis on such interpretations undermine the fundamental teachings of the Bible on equality, non-violence, love and compassion.

“There needs to be a rediscovery of the Samoan-Christian values of *fa’aaloalo* (respect), *alofa* (love), *tautua* (selfless service), *amiotonu* (justice) and *soalaupule* (consensual dialogue).”



*Mercy Ah Siu-Maliko, ‘A Public Theology Response to Domestic Violence in Samoa’, Inquiry document 39*

By acknowledging that past interpretations of the Bible have often been prejudiced to serve the interests of those already in power, it allows fresh light to be cast on religious teachings and the mutually reinforcing relationship between religion and the *Fa’asamoa* be rediscovered.

“Theological reflection is needed to correct misinterpretations of selfless service which have been detrimental to Christian women.”



*Mercy Ah Siu-Maliko, 'A Public Theology Response to Domestic Violence in Samoa', Inquiry document 39*

There is therefore a great need in Samoa for a public theology on family violence to be developed that seeks to remove gender bias from Biblical interpretation and explore how those teachings support and relate to the *Fa'asamoa*. An example of this, which also addresses one of the issues in the previous chapter, is in relation to *fa'aaloalo*:

“Despite the hierarchies implicit in Samoan culture, *fa'aaloalo* can also create equality in relationships if it is used in its positive meaning, which is ‘*alo mai alo atu*’, or ‘reciprocal respect’. *Fa'aaloalo* is biblical in its very nature, as it requires one to treat their other as one would like to be treated. In relation to domestic violence, *fa'aaloalo* should be manifested in one’s respect for the sacredness of the space between persons, just as that respect also characterizes one’s relationship with God. This respect must be encouraged in the family, village, church, civil society and other public places in Samoan society.”



*Mercy Ah Siu-Maliko, 'A Public Theology Response to Domestic Violence in Samoa', Inquiry document 39*

Mercy therefore provides the Inquiry with a practical example of how biblical interpretations can be made in conjunction with an understanding of the *Fa'asamoa* and how in doing so they strengthen each other. Furthermore, this interpretation of *fa'aaloalo* is inherently linked to the human rights principle of equality, demonstrating the inter-connected and reinforcing relationship between the three belief systems.

“How does public theology fit into all of this? Domestic violence presents an enormous opportunity to rediscover our values. We face a profound values crisis. It is a problem that requires a common solution that draws upon our dignity and values that can be shared in all of our settings. Such a vision can restore peace.”



*Mercy Ah Siu-Maliko, Family Violence Workshop, Apia, November 2017*

In **Part IV**, the Inquiry references interpretations of the Bible that are in keeping with the *Fa'asamoa*, human rights and overarching religious principles, rather than patriarchy and violence.

“There needs to be a theology that widely consults and takes into account the views of experts in various fields and engages with the people at the grass roots level. Public theology is not about simply quoting the Bible, it requires deep analysis and insight.”



*Mercy Ah Siu-Maliko, 'A Public Theology Response to Domestic Violence in Samoa', Inquiry document 39*

The call is to develop an understanding of the Bible within the context of Samoa and drawing upon our understanding of family violence, the causes and impacts.

**RECOMMENDATION 10: Develop a public theology on family violence, which addresses Biblical misinterpretations that reinforce gender inequality and violence.**

- Church led initiative in widespread consultation with experts in the field of family violence, victims, perpetrators, youth, and all major demographics in Samoan society, especially at a grass roots level.
- Emphasis on identifying ways in which Biblical teachings can be used to help lift the veil of silence around family violence.



### 13.5 Participation in decision making

**INQUIRY FINDING 21: Women (and other specific groups) are systemically obstructed in their participation in the Village Fono, Parliament and Church, further entrenching the patriarchal system and jeopardising the success of any attempt to address family violence through not taking due consideration of the voices of those most directly affected.**



Not only is the minimal participation of women in decision making in the three most influential bodies in Samoa discriminatory and a violation of human rights, it is also contrary to the essence of *Fa'asamoa*.

#### 13.5.1 Village Fono

It was often relayed to the Inquiry that it is not possible to have women sit in council meetings as it would be a breach of the *feagaiga*, yet this seems to be the only time *matai* truly concern themselves with the preservation of the *vā tapuia*.

The Inquiry has already found that the *feagaiga* has diminished and needs restoring. The current approach has failed in that regard so it is now time to open the doors to female participation in village affairs once more. There was a significant amount of support for reform in this area, including from men and perpetrators of violence.

“Our culture is hypocritical. The reason we say women do not sit in the Village Fono is due to the covenant and men cracking jokes and talking crazy stuff in the meetings. I support the idea of allowing women in the council. They should scratch the whole idea of the meeting being a place for the men to say funny things they do not want to say in front of their sister. The Village Fono should not be a place for joking. It should be a place for solutions and discussing issues.”



*Previous perpetrator, Inquiry public hearings*

“Our research has not been able to discover any oral traditions or other historical evidence to support the prohibition of women matai.”



*‘Political representation and women’s empowerment in Samoa’, National University of Samoa, Inquiry document 63*

The current ban on female *matais* in some villages in Samoa is therefore not only unconstitutional, discriminatory and a violation of human rights but also contrary to the *Fa’asamoa*. It is to the detriment of the development of every family and community whilst it remains. This conclusion directly supports the findings of the SLRC in its CEDAW legislative compliance review.<sup>23</sup> The recommendations from that report are supported by the Inquiry and reaffirmed below. The recommendations are founded on the *Fa’asamoa* and human rights principles of equality and consensual dialogue and appear to be gaining popular support among all groups in Samoan society, demonstrating that the mandate for change is now present.

“The majority of submissions were in favour of allowing women *matai* to sit and participate in the village fono. It was considered that women’s participation in village governance is vital as they offer a unique perspective and can ensure the decisions [...] are fair and balanced.”



*Samoa Law Reform Commission, CEDAW Legislative Compliance Review, Inquiry document 89*

### 13.5.2 Parliament

Despite the quota system in Parliament introduced by the *Constitutional Amendment Act 2015*, female representation in Parliament is currently nowhere close to gender parity. This has a detrimental effect on decision making, the overall pace of development and the maintenance of gender hierarchies which facilitate family violence. The lack of women in parliament and the consequences of this have been acknowledged by the Government.

“Samoa recognized that the presence of more women in Parliament could influence and bring greater sensitization to a more balanced discussion of gender issues, as well as encourage a way forward to harmonise traditional and customary practices with the law regarding women in politics and the empowerment of women in general.”



*Outcome document to Samoa’s 2<sup>nd</sup> Universal Periodic Review, Inquiry document 66*

Whilst it is acknowledged that in the build up to the 2016 election there were considerable efforts to encourage greater numbers of female candidates, and that this did have a limited effect, the raw numbers show that only 10% of Parliament are women. Part of the reason for under-representation is linked to the prohibition of female *matais*, thus preventing women from certain villages running for Parliament. A

<sup>23</sup> See Samoa Law Reform Commission. (2016). *Convention on the Elimination of All Forms of Discrimination Against Women Legislative Compliance Review Final Report*. Document 89 Inquiry anthology.

greater barrier is the prevailing attitude that men are the ultimate decision makers. Continuing efforts are required to encourage more female candidates whilst at the same time addressing the cultural and attitudinal barriers which persist in keeping female representation at inadequately low levels.

### 13.5.3 Church

Justification for the exclusion of women from decision-making roles is based more on religious rather than cultural grounds.<sup>24</sup> It is important that attention be given to any arbitrary obstacles that precludes women from decision-making roles. Furthermore, the church should take positive steps to ensure those from different income groups are represented in decision making processes, to ensure financial burdens are not increased by decisions solely being made by those in the higher income brackets and to the detriment of others.

### 13.5.4 Other Specific Groups

It is not just women who are **systematically obstructed** from decision making processes; rather it is solely kept the preserve of men at the expense of all other groups. This has the same impact on other groups as it does on women. It removes their interests from the process meaning that decisions will not take into account their needs or experiences and in the context of family violence afford no protection or prevention. At every stage of considering greater female participation in the Village Fono, Parliament and Churches, consideration should also be given to the direct inclusion (or views, at a minimum) of other interest groups including, but not limited to:

- Children;
- Persons with disabilities;
- *Fa'afafine*;
- Elder persons;
- SOGISC persons.

**RECOMMENDATION 11: Take necessary measures to remove barriers affecting the participation of women and other groups in the Village Fono, Parliament and Churches.**

- Village Fono to include in by-laws:<sup>25</sup>
  - a) Provisions requiring the Village Fono to formally consult with the *Sui Tamaitai o Nu'u* and the *Faletua ma Tausi* on the formulation and provisions of Village Fono policy and by-laws;
  - b) Provision that the president of the village women's committee and/or the women's representative may directly



<sup>24</sup> National University of Samoa. (2015). "Political representation and women's empowerment in Samoa." *Final Report 1*. Retrieved from <http://samoanstudies.ws/wp-content/uploads/2015/07/Centre-for-Samoan-Studies-Final-Report-Volume-1-English.pdf>. Document 63 Inquiry anthology.

<sup>25</sup> A similar recommendation was made by the Samoa Law Reform Commission in its submission to the Inquiry. See Document 38 Inquiry anthology.



represent issues and concerns of the village women's committee to the Village Fono at its meetings rather than indirectly through the village representative.

- Continue female leadership programmes and monitor impact.
- Facilitate constructive participation of women, families in low income brackets and others in church decision-making.
- Parliament should expeditiously give proper and urgent attention to recommendations relating to effective participation of persons with disabilities contained in the 2015 and 2016 State of Human Rights Reports provided by the Office.
- Village Fono, Parliament and Churches to give proper and adequate consideration to the direct inclusion (or views, at a minimum) of SOGISC persons, children, youth and elders.



## 14. Prevention Framework

### 14.1 Education and Awareness

#### 14.1.1 Education

**INQUIRY FINDING 22: The absence of sexual education and healthy relationships in the school curriculum and the guidance provided to teachers around gender and sexual violence reinforces gender stereotypes and increases vulnerability of children to sexual violence.**



The Inquiry found that a general absence of sexual education and healthy relationships education in schools is a contributing factor to family violence in Samoa. Indeed it has been globally recognized that the potential effects of education and life skills for young children include:<sup>26</sup>

- Reductions in physical and sexual IPV victimization and perpetration;
- Empowers boys and girls to recognize and protect themselves against family violence;
- Reduction in aggressive and violent behaviours;
- Reduction in drug and excessive alcohol use;
- Reduction in bullying behaviours.

The importance of teaching children how to approach life in a non-violent manner and provide them with the tools to identify and address violent behaviour towards them cannot therefore be understated. The

<sup>26</sup> World Health Organisation. (2016). *INSPIRE: Seven Strategies for Ending Violence Against Children*. Document 48 Inquiry anthology.

above shows that the right education can both directly prevent violence and also reduce the behaviours which increase the risk of violence, such as alcohol abuse. The Inquiry has dealt with the role of parents and attitudes towards children and of equal importance is ensuring children are provided with the necessary skills and knowledge through the formal education system.

The need for a comprehensive sexual and healthy relationships education curriculum for Samoa was commonly identified throughout the Inquiry.

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“It is the contention of the Family Court that education is more effective as a preventive measure than a corrective measure.”

*Family Violence Court, Inquiry document 40*

“(The) education system needs to include comprehensive education on sexual and reproductive health rights and capacity building [...] on all forms of violence and existing services.”

*Samoa National Youth Council, Inquiry submission, Inquiry document 27*

“The school curriculum needs to include human rights, ‘healthy relationships’, the Constitution, how to be a good citizen and values education. Reintroduction of corporal punishment in schools is a step backwards.”

*Young Women’s Christian Association, Inquiry submission, Inquiry document 28*

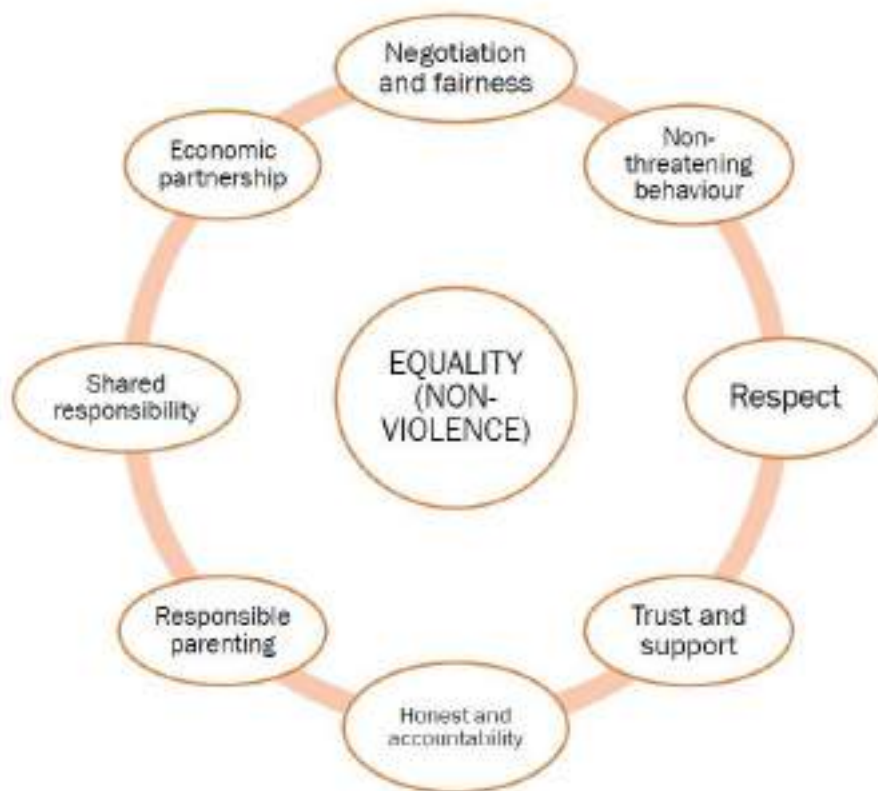
“The importance of a formal education in shaping positive behaviour among children cannot be emphasized enough.”

*Samoa Family Safety Study, 2017, Inquiry document 46*

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At the outset the Inquiry highlighted the power and control wheel, which attempts to show the different elements of family violence and the dynamics between them. On the other side of that coin is the non-violence and equality wheel, the principles of which should be instilled in children through their parents and teachers. Moreover, it should form the starting point for discussions on a new curriculum.





**Adapted from:** *The Domestic Abuse Intervention Project*

There are many global examples of best practice that Samoa can draw upon. However, it is important that the process of developing curriculum content is driven by national stakeholders and takes particular regard of the Samoa context, as highlighted by MWCSO in their recent study:

“The school curriculum programme should be developed by MESC, MWCSO and other stakeholders, take human rights based approach and be underpinned by Christian and Samoan values.”



*Samoa Family Safety Study, 2017, Inquiry document 46*

There will likely be opposition to suggestions of universal sexual education and healthy relationships in a society which often views these topics as taboo. The Inquiry has found that this reluctance plays a significant part in maintaining the veil of silence which allows family violence to continue and thrive. Regardless, debate on such an important topic is not only healthy but necessary and in the process of developing the curriculum all stakeholders should be invited to contribute to the discussion and crucially should involve children themselves. A recent Samoa Planet poll appears to suggest popular opinion is turning with 81% believing that condoms and information leaflets should be made freely and widely

available in secondary schools.<sup>27</sup> Whilst respondents of the poll are unlikely to accurately represent Samoan society it shows that at least in some demographics there is strong support for a change in Government policy and thinking.

The Inquiry urges those involved in the process to ensure that decisions are evidence based. From the findings of this process there is no evidence for the suggestions that universal sexual education leads to greater promiscuity or undermines Christianity. However there is plenty of evidence to the contrary which suggests it reduces the risk of sexual violence, other violence and increases self-esteem which actually leads to less promiscuity. Nonetheless, the process should be far more comprehensive than could be achieved through the Inquiry, the findings and research of which should be used as the starting point for the discussions on the new curriculum content. Furthermore, it should also consider education for parents in how to support children and families in developing and maintaining safe relationships.<sup>28</sup>

The results that can be expected from such a comprehensive curriculum will be significant if executed well. Examples from around the world demonstrate how empowerment programmes for girls can improve self-esteem, teach self-defense and thereby reduce the risk of sexual violence and lead to an annual decline in sexual assault.<sup>29</sup>

**RECOMMENDATION 12: Through a consultative process develop a family safety curriculum to be delivered to all children.**

- Family safety curriculum to draw on human rights, the *Fa'asamoa* and Faith and include:
  - a) Sexual and reproductive health rights;
  - b) Types and causes of family violence;
  - c) Healthy relationships (building on existing healthy relationships curriculum);
  - d) Anger management and effective communication;
  - e) Parental education.
- Monitoring and evaluation of curriculum and its impact.



### 14.1.2 Corporal Punishment in Schools

**INQUIRY FINDING 23: Corporal punishment in schools contributes to the prevalence of family violence and other negative societal outcomes. Total prohibition is essential for the success of any family violence initiatives.**



<sup>27</sup> Samoa Planet. "Readers say 'yes' to condoms in Samoa's schools." (2 March 2018). Retrieved from <http://www.samoaplanet.com/readers-say-yes-condoms-samoas-schools/>.

<sup>28</sup> Emma Heard and Professor Sina Va'ai. "Primary Prevention of Intimate Partner Violence with Young People in Samoa." Document 38 Inquiry anthology.

<sup>29</sup> World Health Organisation. (2016). *INSPIRE: Seven Strategies for Ending Violence Against Children*. Document 48 Inquiry anthology.

**However, the current ban in place in Samoa is not being fully implemented, thereby increasing the risk and prevalence of family violence.**



Whilst not strictly falling within the ToR of the Inquiry, corporal punishment in schools nonetheless has the potential to impact on the prevalence of family violence more generally. The inter-connected nature of violence, and the critical role teachers play in the development of the young, means that allowing corporal punishment in schools substantially increases the risk of a variety of negative societal outcomes ranging from increased family violence, to increased murder rates, decreased health, increased prison population and more.

It is tempting to revert to corporal punishment when faced with seemingly growing misbehavior among children but that is to misunderstand the impact of such actions. Rather than *preventing* further bad behaviour it *increases prevalence* of that type of behaviour along with other negative consequences, including increased family violence. It is therefore essential that Samoa does not regress in this area as it would be a substantial step backwards in addressing the prevalence of family violence. Furthermore, it appears there is still work to do in ensuring the current prohibition is fully implemented.

The appropriate curriculum content is half of the battle in educating children to enable them to live peaceful, non-violent lives. The other half of the battle is having the right teachers to deliver it.

“A concern for the introduction of an appropriate school curriculum on family safety is the skills of the teacher to deliver it.”



*Samoa Family Safety Study, 2017, Inquiry document 46*

The Inquiry has found that despite the ban on corporal punishment, there have been cases in the media of teachers reverting to physical and verbal abuse in the name of discipline.<sup>30</sup> Regardless of how good a school curriculum on family safety is, it will not be effective in achieving its goals if students are being taught by example that violence is okay by their teachers.

There is no doubt that the use of corporal punishment in schools is detrimental to the development of the child, teaches violence as an answer and increases risk behaviours that lead to family violence or being the victim of such acts. The Inquiry wholeheartedly agrees with the sentiments expressed during the process that ‘reintroduction of corporal punishment in schools is a step backwards’<sup>31</sup> and ‘internationally it would make us look bad’.<sup>32</sup>

Therefore, extensive work needs to be undertaken to enable teachers to undertake their role in a manner which does not resort to physical or verbal violence towards children. Without teachers who can teach in

<sup>30</sup> Samoa Observer. “Judge Alalatoa warns teachers.” (10 November 2017). Retrieved from [http://www.samoaoobserver.ws/en/10\\_11\\_2017/local/26516/Judge-Alalatoa-warns-teachers.htm](http://www.samoaoobserver.ws/en/10_11_2017/local/26516/Judge-Alalatoa-warns-teachers.htm). See also, Radio NZ. “Teacher in Samoa beaten on response to alleged corporal punishment.” (1 August 2006). Retrieved from <https://www.radionz.co.nz/international/pacific-news/309889/teacher-in-samoa-beaten-in-response-to-alleged-corporal-punishment>.

<sup>31</sup> Young Women’s Christian Association, Inquiry Submission. Document 27 Inquiry anthology.

<sup>32</sup> Justice Vui Clarence Nelson, testimony delivered during Inquiry public hearings.

a non-violent manner, an effective family safety curriculum cannot be taught and this is one of the key preventive approaches to family violence. A reversion back to corporal punishment or failing to properly equip teachers in this manner will condemn Samoa to many more years of suffering under the epidemic of family violence.

**RECOMMENDATION 13: Strengthen the ban on corporal punishment in schools through educating society on its negative impacts and how it violates the *Fa'asamoa* and human rights.**

- Incorporate teaching on the impacts of corporal punishment in schools into positive parenting programmes and disseminate through village representatives.
- Monitor attitudes towards corporal punishment in schools.
- Teacher training on non-violent discipline and monitoring of student perceptions of teacher violence to ensure full implementation.



### 14.1.3 Public Awareness

**INQUIRY FINDING 24: Family violence continues, in part, due to the absence of support for its elimination from leading politicians, public servants, traditional and religious leaders, and in their direct involvement in the perpetration of such violence.**



**INQUIRY FINDING 25: There is a general lack of awareness of key laws and services, which means that many victims may not access the support they require and future prevention is not achieved, therefore allowing family violence to continue.**



The education of children is essential in bringing up a new generation who are well versed on principles of non-violence, rather than the current situation where violence is the answer and the norm. However, wider public awareness is also important despite the Inquiry hearing opinions voiced such as:

“There is no point teaching the old ones like us because they are set in their ways. It’s our children we need to concentrate on [...] perhaps they will understand it better and their future will be improved”.



*Inquiry consultations participant, Inquiry document 58*

Whilst it is true that it is easier to educate younger people, with fewer preconceptions and prejudices, it is also the case that older people can also change their views. In doing so, they can become positive role models for others to do the same and to be able to speak from a position of understanding of both perspectives.

Public awareness is therefore just as important alongside the education of the youth in helping to change the attitudes and mindsets that contribute to the prevalence of family violence, as outlined in **Part IV**. There is also an identified need to further raise awareness of key legislation and services.

The lack of role models is something which severely hinders any effort against family violence and the Inquiry has already noted how key figures in Government, the civil service, traditional and religious leaders have been reactive in the fight against violence.

**RECOMMENDATION 14: Conduct a national public education and awareness raising campaign, targeting harmful attitudes and practices and raising understanding of key laws and services.**

- Identify key role models across society, including in Government, civil service, traditional and religious leadership to be champions.
- Monitor and evaluate impact of campaign.



#### 14.1.4 Media

There are two areas of focus in relation to the media to ensure it has an overall positive effect on the prevention of family violence and does not in any way contribute to further harm or suffering. The first is in relation to the reporting of family violence as both an issue and individual cases. The second is the promotion of attitudes within all forms of media and whether they have a negative or positive impact on the prevention of family violence.

**INQUIRY FINDING 26: Journalists are a key partner in the fight against violence and the industry requires training in how to report and advertise in a manner which does not promote attitudes which lead to family violence or pose further risk to victims.**



In relation to the reporting of family violence the Inquiry has already found that it is a technical and sensitive area of journalism, with the potential to cause significant further harm to victims, through victim shaming, misreporting and violations of privacy. Poor judgment and ethics can also have the knock on effect of dissuading other victims to come forward because of the treatment they see by the press, once again allowing perpetrators to avoid responsibility for their actions.

There was honest self-reflection from the journalists who gave evidence to the Inquiry and a general admission that standards among reporters need to be raised in order to reach the high standards required to avoid further harm. Furthermore, to bring family violence into the public consciousness in a manner that respects the victim and helps to raise awareness of the causes and consequences.



**RECOMMENDATION 15: Ensure journalists are able to report on family violence in a manner which protects victims and enhances national understanding of the nature and causes.**



- National standards for reporting on family violence.
- Regular training for journalists and monitoring and evaluation of impact.

**INQUIRY FINDING 27: The media can and does increase the risk of family violence by promoting gender stereotypes and other harmful attitudes that cause it.**



There have been calls in the media recently for the banning of films which heavily feature sexuality<sup>33</sup> and concern over local adverts which show violence.<sup>34</sup> Freedom of expression is an essential part of a free democracy and one which must be protected, especially when imitations are called for because of a modicum of offence caused. The Inquiry rejects calls to place blanket bans and favours education over censorship, to avoid the slippery slope towards the erosion of freedom of expression that other countries have experienced.

“You have to be careful when imposing restrictions on things like media and social media. Control is the easy option. Education is the harder choice to take.”



*Justice Vui Clarence Nelson, Family Violence Workshop, Apia, November 2017*

The Inquiry agrees wholeheartedly with Justice Vui that restrictions on media are not an approach that should be adopted in this context. For one, they are usually ineffective and people always find ways around any restrictions imposed. Secondly, it does not address the heart of the matter which is that these types of media only have an audience and an impact when education is lacking.

A good example of this is pornography in Samoa, which is now easily accessible by anyone with a smart phone and access to the internet with a growing percentage of the younger population. This is increasingly the first encounter many young boys have with sex, given the lack of sexual education in schools and a general reluctance to talk about it at homes or in the community. The Inquiry has heard several accounts of those working in the police, the courts, prisons and media where young boys have watched pornography on a phone and then tried what they had seen for themselves, often with a young unwilling family member. It is not possible to ensure the total prohibition of pornography and neither would this address the real root cause of the issue which is a **lack of understanding of healthy relationships and what is right and wrong when it comes to sex**. By refusing to have these conversations with the children

<sup>33</sup> Samoa Observer. “Call for ‘Fifty Shades Freed’ to be banned.” (18 February 2017). Retrieved from [www.sobserver.ws/en/10\\_02\\_2018/local/29840/Call-for-‘Fifty-Shades-Freed’-to-be-banned.htm](http://www.sobserver.ws/en/10_02_2018/local/29840/Call-for-‘Fifty-Shades-Freed’-to-be-banned.htm).

<sup>34</sup> MJCA Family Violence Workshop Report. Document 70 Inquiry anthology.

of Samoa either at home or in the classroom the risk of sexual violence increases and the only practical way to address this is by lifting the silence around sex in both of those environments.

Similarly, when it comes to the media there are two approaches to minimizing the risk of family violence arising from the nature of what people can see and read. The first, as described, is through fostering a national understanding of positive relationships so that the influence of negative media is negated. The second is education for the media in Samoa and standard setting which encourages the promotion of gender equality and raises awareness among broadcasters, advertisers and the like of the harmful consequences of promoting violence and stereotypical gender roles.

**RECOMMENDATION 16: Minimise the harmful effects of media through education and standard setting.**

- Implement Inquiry Recommendation 12 on sexual education in schools.
- Through village level mechanisms provide parents with education on how to talk to their children about healthy relationships.
- Provide training to all media bodies in Samoa on the nature, causes and impacts of family violence and the role that they can play in promoting gender equality and avoiding stereotypes or violence.



## 14.2 Government Plans, Coordination & Programmes

**INQUIRY FINDING 28: The Government's lack of commitment and approach through inadequate allocation of resources, support and lack of coordination sends to people a message that gender inequality and family violence is acceptable.**



The Inquiry has already identified the need for a National Family Violence Prevention Strategy, bringing all of the commitments of the various existing sector and ministerial plans under one roof, developing an effective M & E framework and using this as the mandate for the work of the Office of Family Violence Prevention.

### 14.2.1 Coordination and visible support

There is currently almost no Government-led coordination between the various actors. For example, if a victim of violence presents at the hospital there is either no established process of referring them to a relevant agency, or the service simply does not exist. This is also why among the few organisations that do exist, there can be duplication of activities such as the suicide prevention counselling SVSG provides when FLO is already working in that space.

The creation of a Family Violence Prevention Office will be a step in the right direction, especially in being able to coordinate key actors in the field of family violence. However, there is also a case to be made for a Family Violence Crisis Centre, which has in-house counselors and can refer clients to the full range of

services available in Samoa. Such a centre could and should have a mobile unit to provide coverage around all of the inhabited islands of Samoa and provide services such as day care and child care, education support and facilitate forums for survivors.

“Access to timely, clear accurate crisis information for any woman or girl who has, or is, experiencing physical, sexual or other forms of violence, wherever she is, at whatever time day or night, is vital in supporting her to access services to assist her safety.”



*Essential Services for Women and Girls Subject to Violence, Partners for Prevention, Inquiry document 65*

It could also be a place where perpetrators seeking to change their behaviours could go. One of the tragic aspects of the Inquiry was hearing from the number of perpetrators who do not want to be violent, but know of no other way.

Currently the Government is drastically underfunding the approach to family violence. Whether this approach is because of a lack of understanding of the damage it is doing to the social fabric and economy of this country or more worryingly because it actually wants to retain the patriarchal status quo is unknown. Either way, the lack of visible and vocal support from national leaders, backed up by financial under-investment now has to be justified in light of the Inquiry findings – that family violence is costly, undermines the development of the country, breaches the Constitution, *Fa’asamoa*, human rights and principles of Faith. If no counter argument is put forward then the Inquiry expects to see an immediate and substantial investment in seriously tackling family violence and for leading politicians to become experts in the causes and solutions and stand up to champion the cause, both within the house and in their own communities.

**RECOMMENDATION 17: The establishment of a National Family Violence Crisis Centre with in-house certified counselors.**

- National qualification for counselors established.
- Establishment of a Crisis Centre providing a range of services and accessible in Apia and all rural areas.



**RECOMMENDATION 18: Universal Parliamentary support for tackling family violence.**

- Universal moral support, acceptance and endorsement of Inquiry recommendations by all Parliamentarians.



## 14.2.2 Programmes

The current lack of support for tackling family violence is nowhere more obvious than in the programmes provided by Government ministries, limited by the wholly inadequate budgetary allocation that is granted.

Furthermore, the current approach is failing to collect sufficient data to be able to effectively monitor and evaluate progress. Additionally, the mandate of MWCSO itself reinforces gender stereotypes, rather than seeking to break them down and in doing so address the root causes of family violence.

This gender inequality is exacerbated by the Government's failure to award equal pay to men and women's village representatives. This is also in the face of widespread criticism of the effectiveness of many village representatives and a failure to hold them to account for the role they are supposed to play.

**RECOMMENDATION 19: Increase spending and accountability on family violence programmes, placing gender equality at the forefront.**

- Independent evaluation of current programmes spending based on need and available budget and implementation of recommended spending levels.
- Equal pay for women and men's village representatives, awarded on a performance based system that allows for effective monitoring and evaluation.
- Expand the mandate of MWCSO to include non-gender specific activities and activities which address gender inequalities, such as women in leadership.



### 14.3 Village Fono

**INQUIRY FINDING 29: In failing to adopt any formal measures to address family violence, Village Fonos are generally complicit in its prevalence.**



**INQUIRY FINDING 30: *Matais* are not able to directly protect victims of family violence and taking no responsibility for this, means that matters are kept within the family walls but not resolved. *Matais* are currently not doing enough to prevent family violence by leading by example and promoting non-violence among their relatives.**



The Village Fono has a critical role to play in the early prevention of family violence, they are expressly responsible for "promoting social cohesion and harmony".<sup>35</sup> Yet, the Inquiry found little to no evidence of any proactively preventing family violence and the prevalence of *matai* perpetrators is a significant barrier to it.

Given its direct links to the perpetration of family violence, the Village Fono cannot be directly empowered to prevent and protect against it until it has undergone a period of reform. In order to meet its

<sup>35</sup> Section 5, *Village Fono Amendment Act 2017*.

responsibility in relation to social cohesion and harmony, the Village Fono needs to establish a credible mechanism for preventing and protecting against family violence. A common suggestion made to the Inquiry was the establishment of 'Village Family Safety Committees' (**VFSC**) within each village, responsible for all matters relating to family violence prevention and protection.

The danger to be avoided in establishing such a committee is that it consists only of female representatives and is used as yet another mechanism for marginalising the issue. To be truly effective such a committee would **have** to include church ministers, *STN* and *SN*, senior members of the Village Fono and of the Women's Committee. All members would need to meet minimum requirements for practicing non-violence. It would be the focal point for all matters related to family violence and lead on the advocacy in the village. Only through this process can any Village Fono achieve the credibility it needs to actively ensure no further harm is done to victims and to facilitate justice.

The establishment of VFSC is therefore soundly endorsed by the Inquiry and an essential requirement for villages to participate in the VFVP.

In establishing a VFSC, the Village Fono will also be addressing one of the other concerns of the Inquiry which is the lack of leadership on the matter of family violence. A good place to start is the simple rejection of family violence by traditional leaders and a commitment to understanding and addressing the root causes at the village level. Eighty four percent (84%) of male respondents and 76% of female respondents felt that the Village Fono should be leading advocacy efforts to stop family violence.<sup>36</sup> However, the current situation is that the Village Fonos are often the ones playing a role in keeping it alive. The establishment of a VFSC would send a strong signal to the community that the village was serious about tackling the prevalence of family violence. It should not be the only measure however, and the Village Fono is encouraged to be far more vocal in its opposition to family violence wherever possible.

Village Fonos/VFSCs must respond to the 'overwhelming desire for Village Fonos to take the lead'<sup>37</sup> and develop their own capacity to become the leading advocates against family violence that is being asked of them. If the Village Fono is to remain credible and relevant in 21<sup>st</sup> Century Samoa, it must assume this responsibility with the sensitivity and diligence that is required.

That is not to say that they must do it all on their own and support should be provided to them by central Government in carrying out this new function.

The role of the Village Fonos/ VFSCs should be to educate their residents on the causes and effects of family violence, raise awareness of services and legislation and play a direct role in the protection of individuals. An example can be found in the case of Avele college, detailed above which resulted in the suspension of the vice-principal and teacher. In that instance, it was the intervention of the Village Fono after they had heard of the violence the students had been subjected to that led to the action against the teachers. Without this intervention it is unlikely that the teachers would have been disciplined. It is an

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<sup>36</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>37</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

excellent example of a Village Fono using its position to help protect and prevent family violence and the Inquiry also heard of broader approaches being taken too.

### Case Study 25: Judge Tusipa's Village of Anti-Violence

In Lefaga Judge Tusipa sits on the Village Fono and as a result of the awareness raising programmes they have been involved in have started to take active steps to prevent family violence within their community. Among the early initiatives they have implemented are:

- Bringing all village men together twice a month to remind them of their responsibilities towards their wives and children;
- House visits to identify early warning signs of family violence and to discourage risk behaviour such as alcohol abuse;
- Community service programmes to prevent idleness and to improve the economic prosperity of the village.



“We are really trying to push our *matai* to be good leaders. Because sometimes it is the *matai* who are the worst perpetrators. That’s the only way that your untitled men will follow suit. If you talk to these men twice a month about not beating your wife and children but they see the *matais* doing it, how is that going to change anything?”

*Tusipa Masinalupe Tusipa, Matai participant and Land and Titles Court Judge, Inquiry Public Hearings*

Judge Tusipa's village shows what can be achieved with an understanding of family violence and good leadership. Whilst there will be certain activities and approaches that can be universally applied, there will also be room for villages to develop their own responses to preventing family violence. In this example, Judge Tusipa and his fellow *matai* identified family violence as occurring more when men sat around bored. Their community service programme not only addresses that trigger of family violence but also contributes to the economic development of the village and will undoubtedly have a positive impact on the mental well-being of its participants.

It is this kind of leadership that will be essential if family violence is to be defeated. Worryingly, the Inquiry had far more evidence of *matais* as perpetrators and a declining standard of traditional leaders than it did of good examples such as the case study above. The Inquiry represents an excellent opportunity to reverse this trend in quality of *matais*. In doing so, they need to take steps towards the prevention of family violence. The first step is to remove any bans on the prohibition of female *matais* and strengthen programmes of women's leadership. As a result, the competition for *matai* positions will strengthen and the standard required to be afforded such a title should increase.

Secondly, the criteria by which *matai* are appointed and removed should also be revisited to incorporate principles of non-violence. One of the biggest barriers to addressing family violence is the prevalence of perpetrators with *matai* titles. Section 20A(1)(b) of the *Lands and Titles Act 1981* sets out the eligibility

criteria for holding *matai* title and requires them to be prepared properly serve his or her family, village or community according to Samoan custom and usage. Furthermore, it also provides for their removal when the holder of a title has brought shame, disrespect or disgrace to a family.<sup>38</sup>

In the light of the findings of the Inquiry, it would be beneficial to amend these provisions; first to say a *matai* must be prepared to serve in a non-violent manner, in addition to acting in accordance to Samoan custom and usage; second to include being found guilty of a serious violent offence (with a legal maximum punishment of 5 years or more) as an additional ground for removal of a *matai* title.<sup>39</sup>

It is not enough to simply make these changes in law, however. The family of any *matai* is supposed to play an important monitoring role in the conduct of that leader and this responsibility must be exercised. If a *matai* is leading a family in a violent manner, then the family must use the existing and proposed legislative provisions to hold that person to account and petition for the removal of their title if necessary. The *matai Sa'o* also has a role to play in advocating zero tolerance to violence and for families to undertake this monitoring function. If the *matai Sa'o* are themselves guilty of significant violence, each village needs to have established a reporting procedure whereby concerned family members can report the matter to the VFSC.

Only when *matais* are able to lead by example will they be able to fulfill their role of promoting social harmony and cohesion and reducing the prevalence of family violence and violence generally in Samoan society.

“Village Fono should not be just a gathering of *matais* to laugh and crack jokes [...] it's a very important tool that should be well utilized for the betterment of the village.”



*Inquiry consultations participant, Inquiry document 58*

#### **RECOMMENDATION 20: Village Fonos to take a leading and proactive role in prevention of family violence.**

- Comprehensive training for village representatives on the nature, causes and consequences of family violence, to be disseminated to all village *matais*, the impact of which to be monitored.
- The immediate creation of Village Safety Committees, ensuring gender equality is considered when choosing such committees.
- Amendments made to the *Land and Titles Act 1981* to require a non-violent history as a pre-requisite to holding a *matai* title, and provisions made for the removal of titles if found guilty of family violence in the court of law.



<sup>38</sup> See section 20A of the *Lands and Titles Act 1981*.

<sup>39</sup> Refer to 20B *Land and Titles Act 1981*.



- Implementation of village programmes to educate on the nature, causes and consequences of family violence and to reduce risk factors of family violence.



## 14.4 Church

**INQUIRY FINDING 31: The church is generally failing in its role to prevent family violence and is reinforcing the patriarchal framework which underpins family violence. The church contributes to the impunity of perpetrators and allows perpetrators within its ministry.**



“Recommendation: Strengthen the role of the church in promoting family safety. The church is called upon to be more visibly involved in the fight [...] by leading family safety programmes and encouraging participation.”

*Samoa Family Safety Study, 2017, Inquiry document 46*



The church was just behind the Village Fonos in who should lead advocacy efforts against family violence according to 64% of respondents in the SFSS 2017.<sup>40</sup> However, as with the Village Fono, the church is currently doing more to propagate views which lead to family violence than play a role in its prevention.

There are a number of different ways in which the church could and should reverse their contribution to family violence and become one of the key actors in reducing the prevalence across Samoa. The most critical of which is the involvement of *fai feaus* in the VFSC as outlined in the chapter immediately above. Diligently undertaking that role would enable them to become a pillar of that institution and play an important role in all of the work of the Committee, both preventive and protective against family violence.

### 14.4.1 Marriage counseling

In addition to this broad new role there are a number of specific actions that should be taken by the church in order to play a substantive role in preventing family violence. The first is to take the lead from the Harvest Centre church who has demonstrated how it is possible to facilitate healthy intimate partner relationships through relatively short marriage counselling programmes.<sup>41</sup> By providing similar services to all couples within a parish and re-establishing regular visitations within the village, the church can once again play an effective preventive role. It would also be an opportunity for the church minister to cement a relationship which would enable future visitations and the ability to mediate rising tensions and avoid violent outcomes.

<sup>40</sup> Ministry of Women, Community and Social Development. (2017). *Samoa Family Safety Study*. Document 46 in Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>41</sup> Whilst the Inquiry commends the Harvest Centre for its marriage course and the impact it has already had on the lives of many it should be a consideration for all future courses run by this church and all other churches to carefully gender and avoid gender stereotypes at all times.

Many witnesses in giving evidence to the Inquiry lamented the fact that the majority of church ministers no longer pay house visits and know their congregation.

“There are times when church ministers are not doing enough. There are times when they do not take their role seriously and this is one of the reasons why they are unable to deal with family violence. The very important role of the *faifeau* is to get to know his flock and that way he can pick up easily when something is wrong. It is important to do regular visits like they used to.”



*Samoa Family Safety Study, 2017, Inquiry document 46*

The Inquiry has found this to be the removal of a critical prevention mechanism to family violence as church ministers are no longer able to identify warning signs of family violence and take early preventive action. Two reasons were put forward as to why the role of church ministers has diminished in this way. The first being that some church ministers spend less time within their parish and were simply less inclined to spend their time in this way. The second was that people would make fun of them and say that these rounds were only conducted in order to collect donations.

Through a closer relationship with their congregation ministers could also undertake specific activities which would also reduce the risk behaviours associated with family violence.

#### 14.4.2 Limitations on church financial obligations

Churches can also play a preventive role in family violence by acknowledging how it contributes to its prevalence through the increased financial pressures arising from church obligations and addressing this issue. It has clearly spiraled out of all control and it is the responsibility of the churches to take action, else the Government should intervene. The tithe in the Bible refers to 10% of one's earnings as the required contribution.<sup>42</sup> An example of this is the practice by the Church of Jesus Christ of the Latter Day Saints. A similar means based contribution could be considered and applied in Samoa. People should no longer be made to feel ashamed for contributing less and no longer should economic disparity be worsened by the church and lead directly to a higher risk of family violence.

#### 14.4.3 Advocating against family violence

In general, the leadership of the church needs to improve and the current silence or reluctance to address family violence matters mirrors the Village Fono where patriarchy has tended to frustrate objectivity. Churches must adopt a zero tolerance approach to violence among church ministers themselves.

The Inquiry was referred to press reports and heard evidence of church ministers sexually assaulting family members or the congregation or counseling abused women back to their abusive partners. If this is the behaviour of church ministers who preach the word of God, it is hardly surprising that family violence is rampant. Individual churches therefore have to introduce effective monitoring and reporting

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<sup>42</sup> Leviticus 27:30-33; Numbers 18:21-28; Deuteronomy 26:12-13.

systems to identify church ministers who violate a zero tolerance of violence and take appropriate disciplinary action.

That is not to say that there are not already many admirable church ministers out there and many others with the potential to play a big role in the elimination of family violence. It is simply their knowledge and role which needs to be strengthened in order to realise that potential.

Once a public theology has been developed it will be up to the church ministers to teach their congregation and advocate non-violence using Biblical teachings, the *Fa'asamoa* and human rights. Furthermore, non-violence and healthy relationships should also be taught in Sunday schools, to reinforce the expanded curriculum proposed in this Report. Through the Office of Family Violence Prevention a consistency of message can be ensured.

### Case Study 26: A Friendly Faifeau

Reverend Niu\* is a *faifeau* and has been serving his village for 20 years. He does not believe in beating kids and never has. In the early years of his service, parents would beat their children in front of Niu and his wife. He spent years working with them to change their minds, devoting whole Sunday sessions to the issue and alternative parenting methods. He even worked with the Sunday school teachers to use alternative methods than corporal punishment.

Over time he began to see an attitude change and this has also been helped by his zero tolerance approach – if he sees parents beating their children they know he will report them to the police. It is hard though and Niu knows he can only preach non-violence if he himself practices it.

“In some congregations it is hard to say stop violence if the church is perpetrating it themselves. It has to come down from the top with those people practicing what they preach.”

Niu also sees how gender roles reinforce violence and has taken active steps in his own life to lead by example.

“All of this violence is reinforced through gender roles – women cooking and cleaning and men making decisions and doing what they want. I am one of very few men in my village who does the washing and cooking and I am not ashamed to say it. If all men try a little bit, maybe try and change the gender roles then perhaps this will allow us to address these issues.”

\*Names changed to protect the identities of those involved



Reverend Niu is an excellent example of the prevention of family violence that can occur with good leadership within the churches, and an understanding of the nature and causes of family violence. This

approach has been adopted by the Anglican Diocese of Polynesia centered in Fiji which has declared a ‘No Tolerance of Violence’ approach. Such an approach can encompass a variety of measures from preventing those who have been found guilty of family violence holding positions of authority within the church, to additional home visits for those deemed at risk. It is up to the church to formulate their own approach but based on a comprehensive understanding of family violence and the harmful interpretations of the Bible which must be avoided.

**RECOMMENDATION 21: Churches to refrain from promoting attitudes from which family violence breeds and to become a leading actor in preventing family violence.**

- *Faifeau* participation in Family Village Safety Committees.
- Comprehensive training for *faifeaus* on the nature, causes and consequences of family violence, the impact of which to be monitored.
- Church participation in the development of a family safety theology.
- Guidance for church ministers on how to promote non-violence and preach a non-violence theology.
- Carry out marriage counseling in their parishes similar to the programme now implemented by Harvest Centre Church.
- Re-establishment of regular visits to those within a congregation to develop close links, increase spiritual guidance and act as an early warning system and preventive mechanism against family violence.
- Limitations set on church obligations, linked to financial capacity of families.



## 14.5 Data Collection

**INQUIRY FINDING 32: Data collection on family violence is sub-standard, not disaggregated and routinely misreports the true scale of the problem, undermining the few efforts to combat it.**



“When performance is measured and reported, the rate of improvement accelerates.” – Pearson’s Law.

*Vaipou Fetuliai Lagaia, Lawyer, Inquiry Participant*



The few prevention and protection mechanisms, programmes and policies that do currently exist are undermined by a lack of reliable data, M & E. Decision making is not currently based on realities and the true scale of the problem is still unknown. The solutions put forward in this Report are therefore all pre-supposed by a strong M & E element so that progress over time can be tracked and risk factors and consequences of family violence better understood.

Samoa benefits from having one of, if not the strongest, SBS among the Pacific islands. The statistical capacity of this nation is therefore a key asset in the fight against family violence yet it is currently being under-utilised. SBS should be a key actor in the development of an M & E framework for the Family Violence Prevention Strategy and associated activities.

The UN CEDAW Committee provides clear guidance on what is required in terms of data collection in order to effectively address violence and includes:<sup>43</sup>

- Evaluation of all legislation, policies and programmes in consultation with civil society organisations (particularly women's organisations)
- Establish a system to regularly collect, analyse and publish statistical and disaggregated data on violence, including specifically on:
  - Number of protection orders served;
  - Rates of dismissal and withdrawal;
  - Prosecution and conviction rates;
- All data should be disaggregated by type of violence, relationship between victim/perpetrator, other socio-demographic characteristics such as age, income bracket, and in relation to other intersecting forms of discrimination;
- Analysis of data to identify protection failures and successes;
- Undertake surveys and research to continuously assess the prevalence and causes of violence.

Samoa is not alone in having inadequate data collection and M&E processes in place in relation to family violence. There is a significant lack of studies within low and middle income countries with just 6% of all studies globally on child violence between 2007-2013 being from those demographics.<sup>44</sup> This represents an excellent opportunity for Samoa to attract funding for family violence programmes that have a strong data collection and M&E component. It is an opportunity which should be immediately capitalized on given "the tremendous promise the field holds in reducing rates of violence, addressing inequalities, improving economic empowerment and sustainable economic growth."<sup>45</sup> Samoa can therefore not only address its own family violence prevalence but also become a role model globally in the process.

**RECOMMENDATION 22: Establish data collection and Monitoring and Evaluation at the heart of all family violence prevention work in Samoa**

- Centralised data collection system across ministries and NGO service providers.
- Data to be disaggregated by sex, gender, age, disability, geographical area, type of violence suffered, social/ economic status etc.



<sup>43</sup> Refer to UN CEDAW Committee (2017). General Recommendation No.35 on gender-based violence, updating General Recommendation 19. CEDAW/C/GC/35. Document 103 Inquiry anthology, accessible at [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

<sup>44</sup> World Health Organisation. (2016). *INSPIRE: Seven Strategies for Ending Violence Against Children*. Document 48 Inquiry anthology.

<sup>45</sup> World Health Organisation. (2016). *INSPIRE: Seven Strategies for Ending Violence Against Children*. Document 48 Inquiry anthology.

- Role for Samoa Bureau of Statistics in data validation and training on data collection for key actors.
- Monitoring and Evaluation Framework for National Strategy on the Prevention of Family Violence.

## 15. Protection Framework

### 15.1 Legislative framework

**INQUIRY FINDING 33: Samoa's family violence legislative framework is relatively strong, but implementation and monitoring of effectiveness is weak or non-existent.**



The family violence legislative framework is one of the few areas where Samoa can stand tall among the Pacific. However, whilst there have undoubtedly been some legislative successes there has been slow implementation, and there are still improvements to be made.

The slow pace of implementation has been found to be due to a lack of understanding of recent developments in the law, both among implementing agencies and the wider public. This is unsurprising given the level of investment and commitment the Government has afforded to the area of family violence. Notwithstanding this, there are areas of legislative reform still required, and the development of an M&E framework to measure impact of key laws.

*Child Care and Protection Bill* – The power to remove children from violent homes will give those children who are protected in this way a greater chance of living a non-violent life and breaking the cycle of inter-generational violence within that family. The primary bone of contention has until now, been the potential cost, but the Inquiry has demonstrated the savings that can be achieved through the reduction in family violence, meaning it should achieve greater economic prosperity in the long run if implemented well. The passage of the *Child Care and Protection Bill* is strongly supported by the justice sector.

*Family Safety Act 2013* – Amended to include financial or economic abuse within the definition. Exerting financial control over a partner is a well-documented form of family violence and its omission from the *Family Safety Act 2013* means victims of this are currently afforded no legal protection. The Act requires further amendment to include a mandatory timeframe for the serving of protection orders to ensure victims are not placed at unnecessary further risk caused by delays. Both of these suggestions were originally made by the SLRC<sup>46</sup> and are supported by the Inquiry. In amending the *Family Safety Act 2013* consideration should also be given to the inclusion of protection for those who report family violence (to

<sup>46</sup> Samoa Law Reform Commission submission to the Inquiry. Document 38 Inquiry anthology.

protect against possible recriminations) and a requirement for the Village Fono to help enforce protection orders.

**RECOMMENDATION 23: Strengthen the legislative framework and develop a comprehensive monitoring and evaluation framework.**

- Enact the *Child Care and Protection Bill*.
- Amend the *Family Safety Act 2013* to:
  - a) Include financial or economic abuse in definition;
  - b) Include provision for required timeframe for the serving of protection orders;
  - c) Afford protection to those who report family violence; and
  - d) Require the Village Fono to help enforce and monitor protection orders.
- Develop a comprehensive monitoring and evaluation framework for all family safety legislation.



## 15.2 Services

**INQUIRY FINDING 34: The State is responsible for widespread human rights violations in failing to provide adequate services, support and prevention in relation to family violence, and in so doing implicitly endorses its continuation.**



It is the responsibility of the State to provide victims of violence against women “with services such as telephone hotlines, health care, counseling centres, legal assistance, shelters, restraining orders and financial aid”.<sup>47</sup> However, in Samoa only protection orders are currently provided and even they are not universally accessible due to lack of awareness or affordability of legal services.

For many years the Government has failed in its responsibility to provide these essential services, relying instead on the goodwill of communities and NGOs who are simply not equipped to deal with the full scale of the problem. In a damning assessment of its own failings, the Government recently concluded a number of factors contribute to the high prevalence of violence in Samoa, including:

“(i) ineffectiveness of the current administrative and institutional framework for promoting family safety;  
(ii) limited access to prompt family safety assistance.”



*Samoa Family Safety Study, 2017, Inquiry document 46*

<sup>47</sup> Yakın Ertürk. “Report of the Special Rapporteur on violence against women, its causes and consequences.” E/CN.4/2006/61. Retrieved from <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G06/103/50/PDF/G0610350.pdf?OpenElement>.



The Government has therefore knowingly left hundreds, if not thousands, of victims of violence to accept their situation with many believing it to be their fault. The Inquiry points to this as not only a breach of the Constitution, human rights, the *Fa'asamoa* and Faith but that it also costs the economy hundreds of millions of *tala*.

There is no one-size-fits all approach to services and programmes and additional consideration will need to be given to establish the required services in Samoa, based on the current need. However, there are a number of essentials that must be made available.

The first is the provision of government funded shelters, which even SVSG has highlighted as necessary.<sup>48</sup> Whilst the current shelter provision is providing a critical level of care for many victims of family violence it is in no way sufficient and there are issues of accountability and standards of counseling which are acknowledged both within the organization and outside of it.

The Government has two options in this regard – it can choose to support the privatization of shelter services by providing financial support through an open tender process or it can choose to provide the services directly. Either way, a full independent needs assessment is first required to determine the level of services that are needed across Samoa and to ensure universal coverage, not just for those who live close to Apia.

Furthermore, there is a range of additional services which the Government is urgently required to address. The first, which has implications across many different aspects of family violence, is the establishment of counseling standards, a professional qualification for counselors and the re-establishment of the association for counselors. The Inquiry has heard from a variety of sources on the inherent dangers of non-qualified counselors providing care to family violence survivors. The risk of further harm is significant and cannot be tolerated. The provision of counselors must be assured to certified standards and it must also be universally available and at a capacity to respond immediately to the needs of victims.

“Crisis counseling is essential in assisting women and girls to achieve immediate safety, make sense of their experience, reaffirm their rights and alleviate feelings of guilt.”



*Essential Services for Women and Girls Subject to Violence, Partners for Prevention, Inquiry document 65*

The provision of such counseling services is supported by the Police<sup>49</sup>, who are often put in a position where they are required to undertake this role, with no training and at the same time trying to balance their need to adhere to the ‘no drop policy’.

<sup>48</sup> Ramona Boodoosingh and Penelope Schoeffel. (2015). “Addressing Violence against Women in Developing Countries: The Case of Samoa.” Document 82 Inquiry anthology.

<sup>49</sup> Police outpost officer, Inquiry public hearings.

There is also a need to strengthen the mental health services in Samoa, which currently do not have the capacity to adequately address the needs of those with mental health issues and as a result put them at increased risk of family violence.

The provision of these services needs to be well coordinated so that a victim of violence finding the courage to speak out is immediately referred to the right services in confidence and placing their needs at the heart of the response. During the Family Violence Workshop, it was observed that victims often report that the aftermath was worse than the event itself due to not being believed, blamed for their own abuse and repeatedly being asked to replay the traumatic incident. The potential damage of this type of response is not only a further violation of the *Fa'asamoa*, human rights and Faith but the impact also makes that person more vulnerable to further violence in the future. The potential effects of providing clinical, therapeutic and criminal justice support services have been found to include:<sup>50</sup>

- Reductions in recurrence of the same type of violence in the short term;
- Reductions in trauma symptoms;
- Reductions in sexually transmitted infections and negative reproductive health outcomes; and
- Reductions in victimization or perpetration of violence in the short term and later in life.

This need for coordination will be well served by the establishment of a Family Violence Crisis Centre, as recommended above.

At the time of the Family Violence Workshop, the Cabinet of Fiji was in the process of approving the National Service Delivery Policy to ensure this required level of coordination between service providers.<sup>51</sup> The region is waking up to the fact that ignoring family violence is no longer feasible, acceptable, nor economically viable. The recommendations in this Report provide Samoa an opportunity to become a beacon of best practice in dealing with family violence, not only within the Pacific but globally.

**RECOMMENDATION 24: Ensure the provision of universally accessible shelter services based on current need.**

- Independent needs assessment conducted and recommendations made as to whether services provided should be NGO led, Government led, or a combination.
- Provision of shelters to meet the identified need.
- Enable the National Human Rights Institution to monitor mechanism for standards in places of shelter.
- Increased capacity of mental health unit to meet national need (as found by the aforementioned needs assessment).



<sup>50</sup> World Health Organisation. (2016). *INSPIRE: Seven Strategies for Ending Violence Against Children*. Document 48 Inquiry anthology.

<sup>51</sup> Fiji News. "National Gender based violence service delivery protocol launched." (10 March 2008). Retrieved from <http://www.fbc.com.fj/fiji/60891/national-gender-based-violence-service-delivery-protocol-launched>.

### 15.2.1 Police

**INQUIRY FINDING 35: Police are not adequately trained to properly deal with cases of domestic violence. There is no evidence to suggest that lessons were being learned from trainings to deal with victims of violence across the police force, and that harmful attitudes and practices were still dominant preventing reporting of family violence.**



The provision of counseling, shelter and other services for victims of family violence will go a long way in helping the police be able to effectively protect those who come into their care. However, existing attitudes within the police remain harmful and would render those improvements less valuable, or even obsolete, unless effectively addressed. This urgent need was brought home by a case the Inquiry heard that happened a week before the public hearings here in Samoa where a woman was raped by a man she met in a bar. When she went to report the matter to the police she was treated in a dismissive and hostile manner and told by one officer that she was lying.

“Many times throughout that night, I just wanted to give up and go home. Police treatment added to my feelings of shame, guilt and self-blame. It was so hard to keep going to report this rapist. I thought about just walking out, going home and never even telling my family what happened and just keeping it a secret.”



*Anonymous rape survivor, Inquiry private hearings*

In a nutshell this demonstrates how the attitudes of the police maintain the veil of silence around family violence, granting perpetrators impunity and allowing it to flourish. The current approach by the police is undermining the *Fa’asamoa* and contributing to the violation of individual rights under the Samoan constitution and its human rights obligations. This urgently needs addressing and can be achieved through; (1) Stronger leadership in addressing family violence; (2) Family safety training for all officers; (3) Increased community policing.

It is imperative that police officers have stronger leadership in the area of family violence and are led by example. The current situation appears to be implicit endorsement of archaic attitudes which blame victims and lead to the continuation and increase of family violence. There needs to be wider understanding of family violence within the police and zero tolerance.

Furthermore, the Inquiry found that the initiatives to address family violence are often not universally rolled out and not monitored for effectiveness. Given the widespread nature of harmful societal attitudes towards family violence it is inevitable that these would also be prevalent within the police force. Regular training is required to educate officers on the consequences of these attitudes and how they lead to family violence, as documented earlier in the Report. Furthermore, mandatory training to examine gender roles in relation to family violence, the nature and causes of violence in Samoa and how to deal with victims and perpetrators should be carried out. The importance of this training and awareness is such that it should be monitored and provided to officers on a regular basis.

It is also of great importance for every police outpost to have the capacity to effectively deal with family violence, given the majority of the population live in rural areas. It was highlighted to the Inquiry that in Vanuatu each police station has a family violence unit, despite having more police stations than Samoa.<sup>52</sup> A similar strong focus on family violence within the police outposts here would be a positive step to effectively protect victims of family violence consistently and strengthen public confidence.

The final piece of the police jigsaw in being able to effectively prevent and protect against family violence is through increased community policing. The Inquiry found that there has been an underinvestment in police recruits and also a perception that community policing has been lost in recent years. That is not to say that it does not exist at all and the Faleolo outpost reported the relationship building programmes they carry out with the villages, which involves talking about particular cases and gaining cooperation to bring people to justice. It is this type of community policing which should be expanded and institutionalized. The police need to be more visible in communities and adopt an approach that once again is based on *talanoa*. Once the police have the respect of the community, victims will feel confident in being able to report the crimes against them and the police will enjoy a more fruitful and productive dialogue in return.

**RECOMMENDATION 25: Increase the capacity of the Police service to be able to carry out its role as the primary protection agency for victims of family violence.**

- Zero tolerance approach adopted throughout the police force.
- Increased community policing.
- Family Safety training for all new recruits and regular refresher courses for

**ALL** officers (with greater focus in training outpost officers), covering:

- a) Gender stereotypes, bias and role in family violence;
- b) The role of power and control and the cycle of violence;
- c) Causes and impacts of family violence in Samoa;
- d) Dealing with victims and perpetrators of family violence;
- e) Services and referral systems for victims and perpetrators of violence (e.g. filing protection orders etc.);
- f) Legislative framework;
- g) International human rights standards;
- h) Documentation of family violence.



## 15.2.2 Health

**INQUIRY FINDING 36: The National Health Services is lacking the resources and knowledge to effectively screen for victims of family violence and there is no allied health system for victims to be referred to. Harmful attitudes and**



<sup>52</sup> Justice Clarence Nelson's testimony, Inquiry public hearings.

**perpetrators among some staff contribute to the lack of reporting and continuation of family violence.**



Parallels between the police and the health service are easy to identify. There is a similar lack of focus on family violence as a matter of 'public health' and lack of training of health professionals. This allows harmful attitudes to place victims at further risk and strengthen the veil of silence around reporting. The lack of focus and training also means that there is no screening process, insufficient allied health services for referral and a need for proper documentation of cases of family violence.

"Family violence needs to be seen as a health issue, specifically a PUBLIC health issue. Developed countries recognize it as such and accordingly programmes are designed within the health and other related sectors to address this via screening and having resources available to deal with direct and indirect effects. Ministry of Health need to accept it as a public health issue."



*Dr. Malama Tafunai, Inquiry public hearings*

As part of the Government's commitment to address family violence it is necessary for it to become accepted as a 'public health issue' and that it is incorporated into all planning for the NHS and MoH and all services provision. This would provide the strategic and budgetary commitment required to establish a screening process for family violence, set up allied health services and ensure the necessary training for all frontline health staff.

"One of the best things we can do to prevent violence is screen in health clinics as an early warning system."



*UN Women, Family Violence Workshop, Apia, November 2017*

Lifting the veil of silence on family violence and helping victims to report the crimes against them is one of the keys to addressing the issue in the long term. Healthcare professionals are therefore critical in this. This is because they are one of the few people likely to come into contact with victims and if given the necessary training, time and process, will be able to effectively identify and support victims to report and access the necessary services for their recovery. However, research in the Moto'otua hospital found that 63% of front line staff<sup>53</sup> do not have any understanding of GBV, a given if they are to play a positive preventive role.

Further, it has been found that one of the barriers to reporting is the lack of agency victims have, due to family violence being viewed as a private matter and the blame that can be attached to reporting. External intervention has been found to circumnavigate this issue by absolving the victim of any potential blame and appears to be a widely supported approach in Samoa.<sup>54</sup> Given the potential effectiveness of

<sup>53</sup> Dr. Malama Tafunai, Primary Care Physician written submission to Inquiry. Document 5 Inquiry anthology.

<sup>54</sup> Ramona Boodoosingh and Penelope Schoeffel. (2015). "Addressing Violence against Women in Developing Countries: The Case of Samoa." Document 82 Inquiry anthology.

healthcare interventions it is logical to introduce a formal screening process, the presence of which has been demonstrated to increase identification of violence from 5% to 30% in patients.<sup>55</sup>

In establishing a screening process it is essential to avoid further harm to victims, which is easily possible if the process involved mandatory reporting for instance, and that led to repercussions inflicted by the perpetrator or the victim's family. Such a process must therefore be well thought out and relevant for the context of Samoa, where privacy and confidentiality can often be hard to achieve. One good suggestion made to the Inquiry is the use of tablets in the triage section of the new hospital to allow screening questions to be answered without having to answer out loud in front of relatives or possible perpetrators.

One of the pre-requisites for having a patient-centred screening process, and for dealing with victims of family violence in general, is the provision of comprehensive and regular training on how to deal with victims and perpetrators. This has been identified as a key area of improvement by the SLRC<sup>56</sup> and others throughout the Inquiry. Indeed, that much was obvious from the reports of attitudes of doctors and nurses in blaming victims and treating family violence as none of their concern, a problem that once again shares many similarities with that found within the police force. The solution is also the same for healthcare professionals to have regular and comprehensive training on the range of family violence topics recommended for all police officers. This training is also pre-supposed by the introduction of proper documentation procedures for matters of family violence and would include developing the capacity of the staff to meet these requirements.

A broader issue that will take longer to address is the total absence of any allied health services, the importance of which is of the utmost importance in helping to break the cycle of violence. Indeed, 63% of female respondents to the SFSS 2017 identified counseling as required by victims, placing it above all other possible responses. The need for counseling has been documented already in this Report but allied health services need to be much broader and all encompassing.

An insight into the value of such services can be found in the 'Moving on Art as Therapy' programme for children that were carried out in 2010 following the tsunami in Samoa the previous year. It was observed that the impact on children who had witnessed the event was substantial, in much the same way as it is for children who witness family violence. Upon conclusion of the programme it was found that it helped children and the community support the open display of their feelings and emotions and as a result facilitated cognitive, behavioural and emotional adjustment.<sup>57</sup>

Currently no consideration is given to children who witness family violence yet the Inquiry has found that it substantially increases the risk of becoming a victim to or perpetrating violence in the future. Allied health services such as these could be used by the courts, the police and healthcare professionals to once

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<sup>55</sup> Ramona Boodoosingh and Penelope Schoeffel. (2015). "Addressing Violence against Women in Developing Countries: The Case of Samoa." Document 82 Inquiry anthology.

<sup>56</sup> Samoa Law Reform Commission. (2016). *Convention on the Elimination of All Forms of Discrimination Against Women Legislative Compliance Review Final Report*. Document 89 Inquiry anthology.

<sup>57</sup> S Kehaolani Manoa-Slade. "Making emotions visible – expressive arts as therapy in Samoa." (1 December 2017). *Samoa Planet*. Retrieved from <http://www.samoaplanet.com/making-emotions-visible-expressive-arts-therapy>. Document 67 Inquiry anthology.

again help break the cycle of inter-generational violence. This is just one example of the benefit of an allied health system but they are extensive and not only provide the required support for victims and perpetrators, but mean that they are more likely to recover, enjoy increased productivity and thus offset the cost of such services to the economy. A full assessment of the needs related to an allied health service must be conducted and a plan developed to establish such a system.

From the outset, and especially once an allied health system has been established, it is absolutely necessary for a formal referral system to be in place with the healthcare system at its centre, alongside the police, as one of the agencies victims are most likely to come into contact with. The ultimate aim of such a system is to minimize the times a victim has to tell their story before they are given the assistance and support they need to fully recover and become a survivor equipped to deal with the consequences of what was inflicted upon them.

**RECOMMENDATION 26: Enhance the role and capacity of the health service to adequately protect against family violence and to play a role in ending the cycle of violence.**

- Ministry for Health to acknowledge family violence as a public health issue and to develop a comprehensive plan for its role in addressing the matter, including;
- Establish a screening process for family violence, with the interests of the victim at the centre and ensuring no further harm is inflicted as a result;
- Regular training of health professionals on family safety covering the following topics:
  - a) Gender stereotypes, bias and role in family violence;
  - b) The role of power and control and the cycle of violence;
  - c) Causes and impacts of family violence in Samoa;
  - d) Dealing with victims and perpetrators of family violence;
  - e) Services and referral systems for victims and perpetrators of violence;
  - f) Legislative framework;
  - g) International human rights standards;
  - h) Documentation of family violence.
- Improved data collection and documentation.
- Formal referral system for victims and perpetrators of family violence implemented.



**RECOMMENDATION 27: Further develop the allied health service in Samoa to adequately cater for victims of family violence.**

- Conduct review of current system and propose areas for improvement.





- Explore and obtain further funding and technical support from International partners.

### 15.2.3 Justice System

**INQUIRY FINDING 37: The justice system has made commendable progress in relation to family violence but issues remain around access to justice, community awareness and use of customary practices in sentencing.**



The Justice Sector has been found by the Inquiry to be in relatively good shape in relation to family violence and containing a significant number of legal professionals with excellent understanding of the nature, causes and impacts of family violence and a commitment to addressing it which is a significant asset to Samoa. In order to improve, a number of issues have been identified: (1) improve access to justice through the establishment of the Community Law Centre; (2) establish standards for partner agencies; (3) review the use of mediation in family violence cases; (4) address the value of using *ifoga* and character references in the judicial process.

#### 15.2.3.1 Community Law Centre

The *Fa'asamoa* and human rights take exactly the same approach when it comes to access to justice. It must be universally accessed and applied and if *amiotonu* is not achieved then it undermines the *Fa'asamoa*. However, the Inquiry has found that access to justice is not universal when it comes to family violence, especially for people living in rural areas in lower income brackets. Not only can this demographic rarely afford legal representation but they are often not even aware of the legal protections available to them.

It is the view of the Commissioners that the solution to this state of affairs has already been legislated for – the *Community Law Centre Act 2015*. This Act provides for the establishment of a legal aid service but has not yet been put into practice. Sufficiently resourced, such a Centre could both provide the required legal services for those who cannot afford it. It can also help raise awareness of legal protections victims of family violence can access, potentially through using the village representatives network.

#### 15.2.3.2 Use of Mediation in Family Violence

The use of mediation in matters of family violence is extremely contentious because the inherent power imbalance in most cases of family violence. It makes such dialogue on an equal footing impossible and can risk placing the victim in further harm. The courts in Samoa regularly refer victims, perpetrators and families to mediation services under the *Alternative Dispute Resolution Act 2007* but the general lack of monitoring of impact of legislation means there has never been a proper assessment of whether the inherent risks of mediation in family violence matters are causing further harm within the context of Samoa. Whilst the Inquiry does not wish to automatically rule out the use of mediation in future cases it

is imperative that a thorough impact assessment is first carried out to ensure the safety and well-being of victims and to ensure the process enables them to gain the justice they deserve.

### 15.2.3.3 Referral Agencies

Mediation services are, without exception, provided by NGOs and the courts rely heavily on such programmes for perpetrators and victims alike from the Harvest Centre's Teen Challenge to SVSG's range of programmes including anger management and drug and alcohol abuse. There is nothing wrong with this, per se, but there is nothing by way of monitoring of standards of the services that are provided. There is therefore a very real risk that victims are placed at risk of further harm again through ill-judged counseling, or ineffective programmes for perpetrators which lessen sentences but have little effect on behaviour. If the Government is going to rely on external agencies to provide key services in relation to family violence it needs to take responsibility for ensuring the standards of those services.

### 15.2.3.4 *Ifoga* and Character References

The use of character references and *ifoga* in determining sentences was found to be extremely problematic by the Inquiry due to the very real risk it would absolve perpetrators of past undetected further abuse or would violate the rights of the victim. It was found that the *ifoga* was a *Fa'asamoa* construct for the harmony and social cohesion of the village and should remain solely in that realm. Furthermore, the use of character references often either ignored past behaviour, was given out of a sense of duty or was likely given in solidarity by a person with a vested interest in retaining the patriarchal nature of society.

"I am one of the people who have provided character references for perpetrators of family violence. The church minister has done the same. I cannot really say no."



*Matai participant, Inquiry public hearings*

The inherent and very real risks the Inquiry found in the use of both the *ifoga* and character references in sentencing point to the need to ensure that these things do not de-track the hammer of justice from falling adequately upon the person of the perpetrator.

**RECOMMENDATION 28: Strengthen the justice system to ensure equal access to justice, adequate standards of services and for the judiciary to proactively consider risks of *ifoga* and character references on victims of family violence.**

- Establishment of Community law Centre with sufficient resources to meet national need for legal aid provision and awareness raising.
- Impact assessment on the use of mediation in family violence cases and its discontinuation if any potential further harm to victims is identified.
- Standards for referral services established and regularly monitored.



## 15.3 Village Fono

**INQUIRY FINDING 38: Family violence is not explicitly listed in the *Village Fono Act 1990* as an area of concern for the Village Fono.**



**INQUIRY FINDING 39: The Village Fono is not protecting victims of family violence and in some cases preventing access to justice and increasing the environment in which family violence thrives through ill-advised punishments and blocking the reporting of matters to the police.**



The Report has so far considered the role of the Village Fono in preventing family violence through advocacy efforts and setting a good example through their own behaviour. However, the question of what their role should be in relation to protection in individual cases of family violence is more complex. The Inquiry did not hear of any Village Fono that regularly deals with such matters and in some cases Village Fonos require victims to report matters to them before they go to the police. This means that in many cases they are not reported at all such is the resistance to involving the Village Fono for fear of shame or retribution. This issue must therefore be considered in terms of the current situation, what the ideal role of the Village Fono may be and how to transition from where we are today to that point without putting victims at further risk.

The primary consideration is that family violence is first and foremost a criminal matter and must be dealt with by the formal criminal justice system. Therefore, the role of the Village Fono must be to support that process wherever possible. That being said, there is still an active role for the Village Fono to take in matters of family violence, and in doing so carefully can play an important role in enhancing the social cohesion and harmony of their village, by helping to break the cycle of violence within families.

### 15.3.1 Village Fono's role in supporting formal criminal justice

"We must be mindful that the authority of law enforcement lies with police and the prosecution and that is for a couple of reasons: firstly to ensure consistency and secondly my concern is that the Village Fono would try to counsel a couple."



*Lemalu Hermann Retzlaff, Attorney General of Samoa, Inquiry public hearing*

It is therefore important that the Village Fono must not replace the formal criminal justice system in matters of family violence for the reasons set out by the Attorney General above, and the fact that conflicts of interest are bound to arise from adjudicating on family matters within tight knit communities.

The first role that the Village Fono must develop is facilitating the reporting of family matters to the police. This role is not currently being undertaken and in some cases actively prevented. Prevention of reporting happens in a number of ways and many people are reluctant to involve the Village Fono as the punishments they impose are often a significant financial burden.

“Village Fono often requires that matters be raised with the Village Fono before being raised with the police. This may actually deter the laying of complaints, especially if the alleged perpetrator is a member of that Village Fono, and may also result in the matter not being reported to the police.”



*Samoa Law Reform Commission, CEDAW Legislative Compliance Review, Inquiry document 89*

For those living in villages where this is the case it represents a significant barrier to reporting matters to the police and being able to gain access to justice. Regardless, in villages where this requirement does not exist, victims are still often dissuaded from reporting to the Village Fono because of heavy penalties which their family will have to bear and potentially because they know there are perpetrators sitting on the Village Fono, who are unlikely to afford the matter objective consideration.

The Village Fono must work to reverse this situation so that they are actively encouraging and facilitating the reporting of family violence matters to the police. The Village Fono is an extension of the State and so if it becomes aware of matters of family violence it should also adhere to the ‘no drop’ policy that has been determined beneficial for Samoa. Not only should it be mandatory that any family violence matter that comes to the attention of the Village Fono be reported to the police, but the Village Fono should also proactively encourage or require those within their village who are aware of such happenings to report matters to them.

The Village Fono also has an important role to play in cases which are part of the formal criminal justice system, whether it has been reported through them or not. The enforcement of protection orders is a difficult job for the police in terms of resources and logistics. The Village Fono is naturally well-placed to support the enforcement of such injunctions. However, the reality is that currently many *matai* sitting in Village Fonos’ are themselves perpetrators so the recommendation of the Inquiry is to only afford this responsibility to VFSC, which have been established through a process that ensures all members are non-perpetrators. The same role can be played in relation to those out on parole.

**RECOMMENDATION 29: Amend the *Village Fono Act 1990* to specifically list Family Violence as an area of concern for the Village Fono.**



**RECOMMENDATION 30: Empower the Village Fono and Village Family Safety Committee to play a role in bringing perpetrators of family violence to formal justice.**



- Abolish the requirement to report family violence to the Village Fono before the police in villages where this is the case.
- Introduce by-laws to encourage reporting of family violence to the Village Fono.

- Introduce mandatory reporting to the Police by the Fono and/or Village Family Safety Committee.
- Empower the Village Family safety Committee to monitor protection orders and parole in relation to family violence.



### 15.3.2 Individual cases

Samoa is fortunate to have the Village Fono system and this can substantially strengthen the Westminster style of government. The role of the Village Fono is different to that of the formal criminal justice system in that it is intended to ensure the social cohesion, harmony and development of the village. Therefore, any role in relation to dealing directly with individual cases of family violence must focus on this.

It must be reiterated that any such direct role must only be undertaken by a VFSC, at least in the interim, given the high prevalence of *matai* perpetrators and the issues that gives rise to. Once such a Committee is established, one role they can easily provide is in the provision of shelter for victims of violence in their hour of need once a matter has been reported to them. For many victims of violence, finding a safe haven for themselves (and their children) is essential for avoiding further abuse. This is a well-known function in Samoan society and is embodied in the *Fa'asamoa* principle of *malupuipua* (being protected). At a time when that protection is not possible within their usual place of residence, it should fall upon the VFSC to arrange for this obligation to be met. The Inquiry was heartened to hear how this is already implemented in some villages.

“In our village if there is a fight and someone is physically beaten, they may find sanctuary in the pastor’s house, which is often the designated sanctuary in the village. The perpetrator is forbidden to enter this place. Not only the house of the pastor, but also the houses of leading *matai* or chiefs of the family and the village, may be designated sanctuaries.”



*Matai, Samoa people’s understanding of primary prevention of violence against women, Inquiry document 91*

The second direct role the FVSC can play is in adjudicating in matters of family violence where the decision is then ratified by the Village Fono. Whilst the formal criminal justice system focuses solely on the individual perpetrator the village system has the benefit of being able to consider the wider community in coming to a punishment and resolution.

Should a village decide to take an active role in matters of family violence consideration should be given to the establishment of by-laws that regulate punishments so as to avoid further harm and ensure consistency.

Punishments handed out by the Village Fono currently are monetary based and often substantial. In the extreme, banishment is ordered. Both approaches further the risk of increased family violence – the first through increased financial pressures and the second through moving violence from one village to another and allowing it to continue hidden from sight.

The Inquiry acknowledges the effective nature of the current system and the preventive role it plays in addressing disharmony and social disorder. With matters of family violence a slightly different approach is advocated. In relation to punishments two different approaches should be considered as opposed to immediate financial penalties. The first is through suspending such a fine for a specified period of time and if the perpetrator is not found to carry on the abusive behaviour for that time then it is not paid. However, if they do re-offend then their family is required to pay not only the original fine but any subsequent penalty for the latest act.

This approach would take into account the ongoing nature of family violence and encourage its cessation without posing immediate additional financial hardships. A similar tactic would be to utilize community based punishments, rather than monetary based ones. Not only would the avoidance of financial hardships be avoided but the village would also benefit through the community service subsequently carried out. A combination of these two approaches could also be effective.

In relation to banishment the potential risk for further harm it leads to cannot be justified and its use in relation to matters of family violence is strongly suggested to be stopped. This view was widely supported throughout the Inquiry consultations, suggesting that it is time that Village Fonos started to consider reform in this area, as some already have started to do in relation to both this and monetary penalties.

“One of the things I am trying to incorporate in my village is to limit monetary punishments and try to address the root causes and behaviours that have led to the action. I am (also) trying to work towards eliminating banishment. If you banish people they just go into another village.”



*Lualua Tautu, matai participant, Inquiry public hearings*

**RECOMMENDATION 31: Empower the Village Fono / Village Family Safety Committee to play a direct role in the protection of individual cases of family violence through provision of shelter for victims and appropriate penalties for perpetrators.**

- Allocation of designated shelters for victims of family violence by the Village Family Safety Committee
- Introduce by-laws outlining punishments for family violence matters based on suspended fines and/or community based punishments.
- Consider eliminating the general use of banishment for cases of family violence unless clearly justified.



## 15.4 Church

**INQUIRY FINDING 40: The Churches in Samoa are generally not offering protection to victims of family violence and often counsel them into returning to abusive relationships, placing them at risk of further harm.**



The primary role of the Church in addressing family violence, as envisaged by the Inquiry, is through its position within the VFSC to be established in each jurisdiction within which the *faifeau* will be an essential pillar. The church should also strengthen its protective capacity in dealing with family violence.

The Inquiry has identified how almost one in ten women believe *faifeaus* are the ideal avenue for protection if they are experiencing abuse. However, it was also evident how this role is not currently being effectively undertaken, and in many cases made worse through misplaced counseling. For the church to play a positive role in protecting victims of family violence, national guidelines must be established and the capacity of church ministers increased to be able to approach family violence in a manner which protects the individual.

“Relevant training needs to be provided to *faifeaus* if they are going to play a role.”

*Family Violence Workshop participant, Apia, November 2017*



National guidelines on how church ministers can play a positive role in the protection against family violence should focus on three areas:

1. Training for all church ministers on the nature, causes and impacts of family violence in Samoa;
2. Laws and services available to victims, for referral purposes; and
3. Provision of emergency shelter where victims are at risk of further harm.

The biggest area of concern with the current approach of many church ministers is that victims of family violence are often counseled into returning to an abusive relationship and being placed at risk of further harm. Guidelines for church ministers should expressly forbid this practice and facilitate training for ministers to enlighten them on the nature, causes and impacts of family violence in Samoa. This will broaden their understanding required to respond appropriately to victims.

It cannot be expected that every church minister is going to be able to gain a qualification in counseling and provide direct and effective support to victims. However, with a broad understanding of family violence they will be able to approach victims in a non-judgmental manner, and armed with knowledge of the services and laws in Samoa, refer them to the appropriate agency.

There will also be occasions where the victim is at immediate risk of further harm from the perpetrator, and the *faifeau* not only needs to be able to identify that risk but be able to facilitate a temporary safe haven for the victim and any possible children. **This represents a very tangible role in which the church can play in protecting victims of family violence, in much the same way as the Village Fono.**

Two other pre-requisites for the church to effectively play a protection role exist and both relate to establishing the necessary confidence in *faifeaus* for victims of family violence to feel able to report the



matter to them. The first has already been covered by the Report and that is the development and delivery of a theology around family violence which does not promote a gender hierarchy, the subservience of women to their husbands, nor violence towards children. The second is dealing with perpetrators of violence within the church itself. The Inquiry has noted cases of sexual violence perpetrated by *faifeaus* and heard anecdotal evidence of a widespread problem. This is not an issue that exists only in Samoa and churches worldwide are battling to address this serious and systemic breach of duty of care. Without an effective mechanism in place that allows abusive church ministers to be identified and disciplined, victims of family violence will not be able to rely on the church as a protection mechanism.

The role of the church should not just be limited to protecting against family violence through assisting victims alone. There is also a need to offer support and practical help to potential perpetrators of family violence too.

“Perpetrators should feel encouraged to seek help from the church minister where they can admit their problem, talk it through and feel empowered to find a solution”.



*Father Lui Sanele, Inquiry public hearings*

### **RECOMMENDATION 32: Increase the capacity of the church to protect against family violence and prevent placing victims at risk of further harm.**

- Establishment of national guidelines for church ministers dealing with victims and perpetrators of family violence, covering:
  - a) The nature, causes and impacts of family violence in Samoa;
  - b) Dealing with victims and perpetrators of family violence;
  - c) Laws and services;
  - d) Counseling of couples showing early signs or risks of family violence
  - e) Prohibition of counseling to return to abusive relationships.
- Establishment of emergency shelter system for victims of family violence.
- Establishment of complaints and reporting mechanism (and associated disciplinary process) for perpetrators of violence within the church.



## **15.5 Non-government organisations**

**INQUIRY FINDING 41: Non-government organizations play a substantial and admirable role in meeting the need not currently being met by Government. However, greater accountability, coordination, training and data collection is**



**required for increased effectiveness and to ensure victims of family violence receive the relevant care to a required standard.**



The NGO sector shoulders much of the responsibility which Government should bear and this must be rectified either through direct Government intervention, financial and other support of existing services or a combination of the two. The establishment of the Family Violence Prevention Office and the Family Violence Prevention Strategy will provide the framework for this to happen, and must ensure effective inter-agency coordination, sector training, improved and standardized data collection and enforcement and monitoring of minimum standards.

The Government must be sensitive in its approach to this area, respecting the work which has been done largely on its behalf in the years when it has been failing in its own responsibility. The overall approach to family violence should therefore seek to entrench existing best practices within the NGO sector through Government support and assistance and identify gaps and areas when added value can be achieved.

**RECOMMENDATION 33: Government to take a pro-active role in strengthening and coordinating the Non-Government Organisation sector response to family violence.**

- Coordination mechanism established.
- Establishment of national service standards for NGOs in relation to family violence prevention and protection, and monitoring of those standards.
- Training and capacity building for NGO sector.
- Development of standardized data collection system.
- Financial and technical support.



## 16. Triggers

### 16.1 Alcohol

**INQUIRY FINDING 42: The common misconception of alcohol as a ‘cause’ rather than a ‘trigger’ contributes to the culture of impunity, allowing perpetrators to ‘blame the booze’ rather than take personal responsibility for their actions. This misconception also deflects attention from the true causes of family violence – gender inequality and power and control.**



**INQUIRY FINDING 43: Abuse of alcohol is a trigger for family violence and by addressing alcohol abuse and misuse the prevalence of violence generally in society can be reduced.**



Addressing alcohol abuse can be achieved through effective regulation and universal access to rehabilitation programmes. There is potential improvement in both of those areas, which can help alleviate the prevalence of family violence if addressed.

The SLRC made a series of wide-ranging recommendations in 2016 on the alcohol regulatory framework, which this Inquiry supports and urges the Government to implement without further delay.<sup>58</sup> Key proposals include:

- Increased price of cheap alcohol;
- Simplified enforcement powers, including the ability to issue on the spot fines, including for the sale of alcohol to visibly drunk people; and
- Monitoring of overseas minimum pricing schemes and implement in Samoa if effective (legislation already exists to facilitate this).

This is a further area where Village Fonos can play an active role through the introduction of by-laws targeting alcohol consumption and imposing punishments for alcohol abuse (which are community based, rather than financial in nature, in order to avoid an increase in the risk of violence arising from additional financial pressures).

Outside of the regulatory framework, services for people suffering from alcohol addiction and those prone to alcohol abuse should be widely available. Case studies presented to the Inquiry in the course of the public hearings highlighted how the cycle of violence can be broken through effective alcohol control programmes currently being offered by NGO service providers.<sup>59</sup> Additional work is required to monitor the success of these programmes and ensure their availability is universal.

#### **RECOMMENDATION 34: Reduce alcohol abuse rates.**

- Implement Samoa Law Reform Commission recommendations on alcohol reform to prevent alcohol abuse and ensure the relevant resources required for implementation and monitoring.
- Village Fonos to introduce by-laws outlining community based punishments for alcohol abuse cases.
- Review and monitor impact of alcohol management programmes, assess national need and ensure universal coverage.



<sup>58</sup> Samoa Law Reform Commission. (2016). *Alcohol Reform Final Report*. Document 117 Inquiry anthology.

<sup>59</sup> Moana Regina Solomona, Ministry of Justice and Court Administration clinical therapist, submission to the Inquiry. Document 13 Inquiry anthology.

## 16.2 Financial Pressures

**INQUIRY FINDING 44:** The practice of *fa'alavelave* has lost its original meaning, become competitive and puts undue financial stress on families which can act as a trigger for family violence, increasing its prevalence nationally. Financial penalties and banishments imposed by Village Fonos are also having the same effect.



**INQUIRY FINDING 45:** Church contributions are spiraling out of control through competitiveness and a failure of churches to control amounts, leading to undue financial pressures which in turn trigger greater prevalence of family violence in Samoa.



The potential effects of empowering families financially are considerable in relation to addressing family violence and include:<sup>60</sup>

- Reductions in physical violence towards children by parents or other caregivers;
- Reductions in IPV;
- Reductions in children witnessing IPV in the homes;
- Reduction in early marriage of young girls;
- Increases in social norms and attitudes that disapprove of IPV.

Not only does financial empowerment prevent family violence in the ways described above but it also protects victims and enables them to escape from abusive environments. Recall Destiny's survival<sup>61</sup> where her husband was so violent he had raped her with a pair of scissors at her throat. She was supported financially by her employer in order to leave and of that act concludes, "I owe her my freedom".

Financial empowerment therefore not only reduces the prevalence of violence but it helps to break the cycle as well. The Inquiry found two areas where undue financial pressures are being created by *fa'alavelave* and church contributions.

It is therefore within the power of the Village Fonos and the Church to directly reduce the risk of family violence caused by increased financial pressures by addressing these issues, of which there has been plenty of debate already but little action.

However, to continue the status quo would mean that both of these institutions disregard the consequences that victims of violence suffer. The Inquiry has already made a recommendation for church obligations to be limited in the future (**Recommendation 21**) and the same must be done for *fa'alavelave*. It is the responsibility of the Village Fono to introduce limitations within their own community based on

<sup>60</sup> World Health Organisation. (2016). *INSPIRE: Seven Strategies for Ending Violence Against Children*. Document 48 Inquiry anthology.

<sup>61</sup> Case Study 13.

what they deem to be appropriate but this should be done with the support and guidance of central government. MWCSO have already made efforts in this area and developed the book (*Tusi Fa'amāmāvega*), which looks at how Samoans can meet their cultural obligations without placing themselves in financial difficulties.<sup>62</sup>

The financial empowerment of families is a lofty ambition that will not be achieved overnight or through a singular approach. It will require multiple efforts on multiple fronts, most notably the Village Fono in developing and enforcing limitations and central Government in conducting effective programmes that are undertaken across the nation.

**RECOMMENDATION 35: Address traditional and religious giving practices to reduce family violence arising from financial pressures and increase financial empowerment programmes.**

- Village Fonos to introduce by-laws to limit contribution to *fa'alavelave*.
- Church guidelines introduced to limit giving based on family income.
- Families to take responsibilities and to consider alternative ways to minimise cultural and religious financial obligations.
- Government financial empowerment programme expanded and impact monitored.



### 16.3 Anger Management & Jealousy

**INQUIRY FINDING 46: Anger and jealousy can both trigger family violence and be used as a tool by perpetrators; by addressing both issues the prevalence of family violence can be reduced.**



In **Part IV**, the Inquiry identified the dual role anger plays in family violence, both as a control mechanism for perpetrators to scare their victims into submission, and in other situations as a trigger to violence. It is dangerous to ascribe the latter when the former is actually taking place as it absolves the perpetrator of total responsibility, enabling them to instead blame it on anger. To effectively address the roles anger plays in the prevalence of family violence a comprehensive understanding of the two different roles it plays must first be developed and widely understood.

Armed with that knowledge an assessment can take place as to whether a person has anger management issues or is using anger as a tool to control their victim. If a person does have anger management issues then they should be referred to Government evaluated and monitored programmes for rehabilitation.

<sup>62</sup> Ramona Boodoosingh and Penelope Schoeffel. (2015). "Addressing Violence against Women in Developing Countries: The Case of Samoa." Document 82 Inquiry anthology.

The role of jealousy is linked directly into the notions of masculinity identified earlier in this Report and must be dealt with in the process of neutralizing these roles and educating children and adults on the consequences of patriarchy. The role of jealousy should also be dealt with in all anger management programmes as there is often a direct link between the two.

**RECOMMENDATION 36: Develop understanding of the role of anger in family violence, expand anger management programmes and address the role of jealousy through education and awareness programmes.**

- Develop diagnostic process for the role of anger management within individual cases.
- Assess effectiveness of anger management programmes on an ongoing basis, ensure capacity meets need and develop referral network (to include Village Fonos / Village Family Safety Committees).
- Role of jealousy addressed in education, awareness and anger management programmes.



## 16.4 Technology & Development

**INQUIRY FINDING 47: The introduction of the cash economy in Samoa and a lack of financial literacy combine to cause financial pressures which in turn increase the risk of family violence.**



The consequences of financial pressures have been well documented in the Report so far and in the context of the recent development of Samoa. These have been further exacerbated by the introduction of a cash economy without the corresponding development of financial literacy, especially in rural areas. Most people in Samoa do not save money; they live from hand to mouth and from remittances received from family overseas. This has the effect of increasing financial pressure when unexpected obligations arise, or prevents victims of violence having the means to leave their abusive environment.

There have been a number of initiatives to teach financial literacy in some villages but the impact has not been measured and nor have these programmes been universally accessed. It is time to acknowledge that the development of the cash economy needs to be accompanied by a society which understands how to avoid financial difficulties through sound planning and saving. This needs to be taught from an early age and encouraged by traditional leaders, as opposed to placing more pressure through increasing *fa'alavelave* obligations.

**RECOMMENDATION 37: Increase national financial literacy.**

- Integrate financial literacy into the school curriculum.
- Increase financial literacy programmes in villages through the village representative network and monitor impact.



**INQUIRY FINDING 48: Changes to the traditional way of living has increased privacy and physical separation of houses, reducing likelihood of family violence intervention and also has led to the disempowerment of both men and women in the village context.**



There are certain developments that will never be reversed. The evolution of housing patterns is one of those as it is highly unlikely that people will choose to return to less private dwellings. The loss of the prevention mechanism that this causes can therefore only be addressed by improving and establishing other mechanisms. The Inquiry has made several recommendations for ways in which the village can establish protection mechanisms and break down existing barriers to reporting matters of family violence.

These recommendations also offer a potential solution to the possible disempowerment of both men and women in rural areas in recent periods of Samoa's development. The Inquiry has identified a number of ways in which the men and women, through the Village Fono or a VFSC can play a pivotal role in the social cohesion and harmony of their community. This is an opportunity to re-empower traditional structures within the context of a developed Samoa, thereby strengthening the *Fa'asamoa* and playing a role in addressing family violence at the same time.

**RECOMMENDATION 38: Mitigate the loss of outdated family violence prevention mechanisms through strengthening other mechanisms and implementing the range of Inquiry recommendations to establish new ones. Full implementation of the Inquiry recommendations can also be used to re-empower men and women within the village context.**

- Full implementation of Inquiry recommendations.



**INQUIRY FINDING 49: Increased use of electronics is likely leading to increased social anxiety among children, which in turn leads to an increased risk of family violence.**





The proliferation of technology continues at an unprecedented pace and even globally the effects are only just starting to be understood. Research is pointing to prolonged use of technology increasing family violence risk behaviours and characteristics, such as decreased self-esteem and anxiety among young people. Once again, it is not possible to turn the clock back to a more innocent age where children did not have widespread access to these technologies. Instead, as with many area of family violence, education is the key. Parents need to be aware of the consequences of excessive use of technology by their children and what constitutes 'excessive'. Furthermore, children should be educated in the risks of spending too much time using electronic equipment and alternatives explored.

**RECOMMENDATION 39: Raise awareness on the consequences of excessive use of technology and promote alternative healthy living activities.**

- Education for children and parents on the potential harmful effects and excessive technology use and how that can increase the risk of family violence.
- Alternative activities for young people promoted, especially those which are based in traditional practices such as *siva*, navigating, traditional crafts, etc.





# CONCLUSION

Throughout this report we have made some shocking revelations in relation to just how widespread and serious the problem we are facing is. Widespread sexual abuse of our children by those who are supposed to care for them. Husbands subjecting their wives to years of mental and physical torture and abuse. Multiple suicides arising from the words that come out of our mouths.

This is not the *Fa'asamoa* I know. This is not the Christian nation we profess to be. This is a violation of our collective and individual rights.

What we are experiencing in Samoa is happening because too many of us are standing by and allowing family violence to flourish, taking cover in the shadows. Those in power, who ought to know better, are silent. Those who perpetuate violence have been allowed to act with impunity for far too long. Those who endure violence have not been heard loudly enough.

The voices the Inquiry has heard show that the impact on victims of family violence is completely unacceptable. We are living in a country where the majority of women and children have to endure serious physical and mental violence and the long-term consequences of that abuse. Rape is widespread, our children grow up being abused and feeling unloved, those who are being hurt are denied the *fa'asinomaga* and any hope of *amiotonu*.

The *Fa'asamoa* is being grossly violated in this manner and even being used to justify its continuation. The same applies for our religious values.

The Commissioners of this Inquiry therefore call upon all of our Parliamentarians, all of our traditional and religious leaders, to acknowledge the widespread pain and suffering in which they are directly complicit. The blame is not entirely theirs, we all have responsibility and the seeds have been sown for generations past. However, it is up to the current administration and those in other positions of power to stand up and be counted. To demonstrate their loyalty to the *Fa'asamoa* and Christian values upon which this country has been built.

The human rights framework creates an obligation of due diligence that the State is currently a long way from meeting. We urge the implementation of this framework in accordance with the Constitution, the *Fa'asamoa* and the Bible to effectively prevent and protect against family violence. Enough is enough. It is time for us all to come together and for the sake of our future generations and say:

**‘OU TE LĒ ALO I LE ATA O LE LA’AU’ – I will not hide in the shadow of the tree.**

There have also been shocking revelations around the root causes, challenging some of our commonly held practices and ideas. The proposed solutions may therefore seem drastic but they have been carefully designed to address every aspect of the causes and triggers, using our cultural, religious and human rights values as their foundation.

Cost is no barrier to enacting the recommendations in this report. They will pay for themselves over time, such is the drain on our economy family violence causes. It is not just a drain on our resources but a drain on our moral compass and values. We are losing our *Fa’asamoa*, our religious values to family violence. We need to take meaningful action before it is too late.

The positive news is that the solution is within our grasp. It will require a change of mindset and a national commitment to zero tolerance of violence from here on. It will take time and will not happen overnight. But in implementing the recommendations within this report we will not only be taking the necessary steps to rid ourselves of this evil but we will be reaffirming our Faith and the *Fa’asamoa*.

For too long, the values we cherish the most have been undermined and misused. Through effectively addressing family violence we can reclaim and strengthen our social fabric for future generations to know, enjoy and benefit from. In doing so we will show the world what can be achieved with a combination of cultural and religious values strengthened by the international human rights framework.

The time is now Samoa. I stand with you. My fellow commissioners stand with you, as do my staff. Let us step out of these dark shadows together and not look back.



**Maiava Iulai Toma**



# FULL LIST OF RECOMMENDATIONS

RECOMMENDATION 1: By legislation, establish a Family Violence Prevention Office, National Family Violence Prevention Strategy and Communications Strategy, Family Violence Prevention Council and Taskforce to provide the foundation for a coordinated inter-agency response to family violence.

RECOMMENDATION 2: Parliament should expeditiously give proper and urgent attention (and implementation) to recommendations relating specifically to violence against women, girls, children and persons with disability contained in the 2015 and 2016 State of Human Rights Reports provided by the Office.

RECOMMENDATION 3: Undertake a study to document the prevalence of violence and raise awareness of other human rights issues faced by *fa'afafine*, SOGISC persons and the elderly.

RECOMMENDATION 4: Establish a 'Violence Free Village Programme' which provides financial incentives for the implementation of Family Violence Prevention initiatives based on Inquiry recommendations.

RECOMMENDATION 5: Government to commit to remove section 14 of the Infants Ordinance 1961 and to consult appropriately. Gradually move to ban corporal punishment and harsh verbal punishment in homes.

RECOMMENDATION 6: Re-establish the *Fa'asamoa* practice of effective communication between parent and child.

RECOMMENDATION 7: Promote a gender equal approach to parenting based on the *Fa'asamoa* and human rights to address patriarchy, female subservience and male sexual entitlement.

RECOMMENDATION 8: Place gender equality at the forefront of the objectives of the Samoa Family Violence Prevention Office and develop activities and measures to modify the social and cultural patterns of conduct of men and women to eliminate patriarchal attitudes of male superiority, and monitor long-term impact.

RECOMMENDATION 9: Address misconceptions around the *Fa'asamoa* which further gender inequality and contribute to family violence and identify and implement ways in which it can prevent and protect against family violence.

RECOMMENDATION 10: Develop a public theology on family violence, which addresses Biblical misinterpretations that reinforce gender inequality and violence.

RECOMMENDATION 11: Take necessary measures to remove barriers affecting the participation of women and other groups in the Village Fono, Parliament and Churches.

RECOMMENDATION 12: Through a consultative process develop a family safety curriculum to be delivered to all children.

RECOMMENDATION 13: Strengthen the ban on corporal punishment in schools through educating society on its negative impacts and how it violates the *Fa'asamoa* and human rights.

RECOMMENDATION 14: Conduct a national public education and awareness raising campaign, targeting harmful attitudes and practices and raising understanding of key laws and services.

RECOMMENDATION 15: Ensure journalists are able to report on family violence in a manner which protects victims and enhances national understanding of the nature and causes.

RECOMMENDATION 16: Minimise the harmful effects of media through education and standard setting.

RECOMMENDATION 17: The establishment of a National Family Violence Crisis Centre with in-house certified counselors.

RECOMMENDATION 18: Universal Parliamentary support for tackling family violence.

RECOMMENDATION 19: Increase spending and accountability on family violence programmes, placing gender equality at the forefront.

RECOMMENDATION 20: Village Fonos to take a leading and proactive role in prevention of family violence.

RECOMMENDATION 21: Churches to refrain from promoting attitudes which family violence breeds and to become a leading actor in preventing family violence.

RECOMMENDATION 22: Establish data collection and Monitoring and Evaluation at the heart of all family violence prevention work in Samoa.

RECOMMENDATION 23: Strengthen the legislative framework and develop a comprehensive monitoring and evaluation framework.

RECOMMENDATION 24: Ensure the provision of universally accessible shelter services based on current need.

RECOMMENDATION 25: Increase the capacity of the Police service to be able to carry out its role as the primary protection agency for victims of family violence.

RECOMMENDATION 26: Enhance the role and capacity of the health service to adequately protect against family violence and to play a role in ending the cycle of violence.

RECOMMENDATION 27: Further develop the allied health service in Samoa to adequately cater for victims of family violence.

RECOMMENDATION 28: Strengthen the justice system to ensure equal access to justice, adequate standards of services and for the judiciary to proactively consider risks of *ifoga* and character references on victims of family violence.

RECOMMENDATION 29: Amend the *Village Fono Act 1990* to specifically list Family Violence as an area of concern for the Village Fono.

RECOMMENDATION 30: Empower the Village Fono and Village Family Safety Committee to play a role in bringing perpetrators of family violence to formal justice.

RECOMMENDATION 31: Empower the Village Fono / Village Family Safety Committee to play a direct role in the protection of individual cases of family violence through provision of shelter for victims and appropriate penalties for perpetrators.

RECOMMENDATION 32: Increase the capacity of the church to protect against family violence and prevent placing victims at risk of further harm.

RECOMMENDATION 33: Government to take a pro-active role in strengthening and coordinating the Non-Government Organisation sector response to family violence.

RECOMMENDATION 34: Reduce alcohol abuse rates.

RECOMMENDATION 35: Address traditional and religious giving practices to reduce family violence arising from financial pressures and increase financial empowerment programmes.

RECOMMENDATION 36: Develop understanding of the role of anger in family violence, expand anger management programmes and address the role of jealousy through education and awareness programmes.

RECOMMENDATION 37: Increase national financial literacy.

RECOMMENDATION 38: Mitigate the loss of outdated family violence prevention mechanisms through strengthening other mechanisms and implementing the range of Inquiry recommendations to establish new ones. Full implementation of the Inquiry recommendations can also be used to re-empower men and women within the village context.

RECOMMENDATION 39: Raise awareness on the consequences of excessive use of technology and promote alternative healthy living activities.

# APPENDICES



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# **NATIONAL PUBLIC INQUIRY**

**ON**

**“FAMILY VIOLENCE”**

**BACKGROUND PAPER**

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## 1. INTRODUCTION

### *National Human Rights Institutions*

National Human Rights Institutions (NHRI) are independent bodies established by law to promote and protect human rights in their respective countries. They are the institutions which link the international human rights system to the domestic level, interpret human rights within the national context and take action to ensure the wide enjoyment of those rights.

The Samoa NHRI was established in the Office of the Ombudsman (“the Ombudsman Office”) in December 2013 under the *Ombudsman Act 2013* (“the Ombudsman Act”). In 2016 the Ombudsman Office was awarded ‘A’ status by the international accrediting body, the Global Alliance for NHRIs. This accreditation at the highest level reflects international recognition of the independence of the Office and its record in effectively protecting and promoting human rights since establishment in 2013.

### *National Inquiry*

The Ombudsman Act gives the Ombudsman wide-ranging duties and powers to promote and protect human rights in Samoa. One of its human rights functions is to inquire into widespread, systemic or entrenched situations or practices that violate human rights.<sup>1</sup> This can take the form of a ‘National Inquiry’ – one of the most powerful tools of any NHRI. A national inquiry enables a broad human rights approach and examination of a large and complex situation. It has both fact finding and educational roles and has been used to great success by NHRIs globally. Combined with the unique nature of NHRIs, the process has the potential to address and resolve wide-spread human rights issues, such as family violence, in a manner no other approach could achieve.

This background paper aims to provide an overview of the inquiry approach developed by the Ombudsman Office to investigate Family Violence in Samoa.

## 2. OVERVIEW OF THE SITUATION

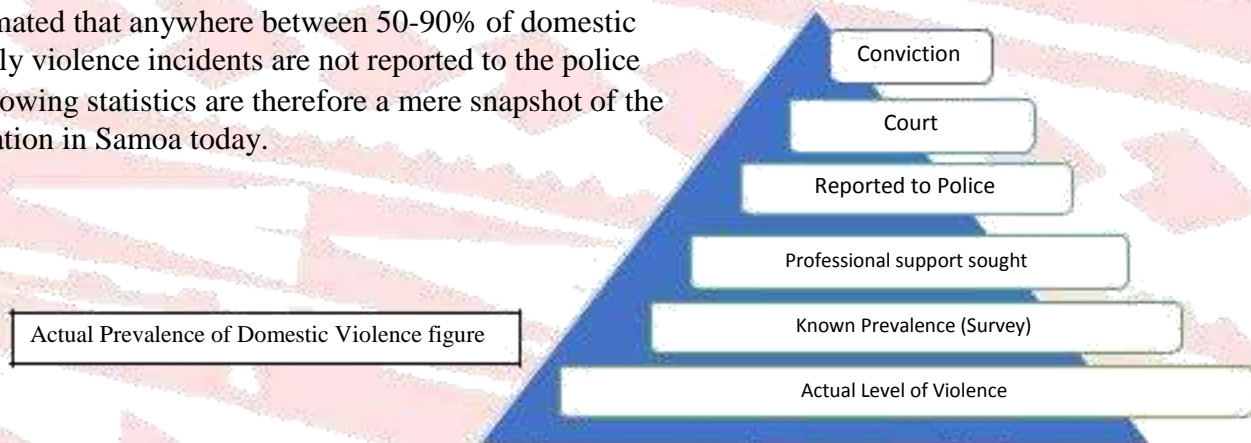
Family and domestic violence is under-reported - the true scale of such human rights violations and crimes is never truly known in any country anywhere in the world. Cases go unreported for a variety of reasons – intimidation of victims, fear of reprisals, lack of effective redress, a sense that no crime has been committed.

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<sup>1</sup> Ombudsman Act 2013 s. 34



It is estimated that anywhere between 50-90% of domestic and family violence incidents are not reported to the police - the following statistics are therefore a mere snapshot of the true situation in Samoa today.



In 2014-2015, the Office carried out the first ever comprehensive review of human rights in Samoa. As per the Ombudsman Act, an outcome report- the State of Human Rights Report 2015 (the “SHRR 2015”) was subsequently produced and submitted to Parliament for scrutiny in June 2015. One of the areas highlighted in the SHRR 2015<sup>2</sup> was violence against women, girls and children.

Data collected by the Office for the purposes of the SHRR 2015 showed that a total of 39%<sup>3</sup> of participants in the Office Survey 2014-2015 reported seeing abuse against women and girls in their village in the previous year. Over one-third (34%) of Survey participants witnessed domestic abuse against a child in the past year within the family or village.<sup>4</sup> Disturbingly, although not asked directly, a number of School Survey 2014-2015 participants indicated that sexual abuse and incest are taking place. This was corroborated by the Ministry of Police and Court records indicating a relatively high number of offences of incest and sexual offences affecting children.<sup>5</sup> Also, since the establishment of the SVSG House of Hope, SVSG has housed over 100 children who have been victims of incest. The SHRR 2015 also confirmed data collected by the Samoa Family Health and Safety Study in 2007 indicating that ‘almost half of women surveyed (46.6%) aged 15-49 reported experiencing physical and/or emotional and/or sexual violence by an intimate partner.’<sup>6</sup> Although these acts of sexual abuse and incest are forbidden within Samoan laws and culture, this is an issue that persists and the Office is concerned that it is becoming increasingly common.

In 2005, the Committee on CEDAW in its concluding comments during Samoa’s first CEDAW review recommended for Samoa to put in place without delay a comprehensive strategy to prevent and combat all forms of violence against women, including domestic violence. Such a strategy should include measures, including legislation, to prevent violence against women, provide protection, support and rehabilitation services to victims, and punish the offenders.<sup>7</sup> In 2006, the UN Committee on the Rights of the Child in its concluding observations noted that while Samoa has undertaken activities to prevent and combat child abuse, the Committee was

<sup>2</sup> Total number sampled-2515. Age group 10-88. State of Human Rights Report 2015.

<sup>3</sup> See Ibid above at pg 14.

<sup>4</sup> See Ibid above at pg 20.

<sup>5</sup> See Ibid above at pg 23.

<sup>6</sup> See Ibid above at pg 12.

<sup>7</sup> <http://www.mwcsd.gov.ws/images/stories/PUBLICATIONS%20WEBSITE/New-update%202013/CEDAW%20&%20CRC%20Concluding%20Comments/CEDAW%20Concluding%20comments.pdf>



concerned at the persistent occurrence of child abuse.<sup>8</sup> The Committee recommended to investigate cases of domestic violence, ill treatment and abuse of children and undertake studies on domestic violence in order to understand the scope and nature of these practices, adopt adequate measures and policies and contribute to changing attitudes. In 2011, similar recommendations were made by the United Nations Human Rights Council during Samoa's first UPR review to ensure steps were taken to address domestic violence (especially traditional attitudes towards domestic violence).<sup>9</sup>

There has been a great amount of support over the years amongst Government, NGOs, community and international partners to produce and implement effective measures to address this issue. Examples of these initiatives include the establishment of the Domestic Violence Unit, the Family Court, the *Family Safety Act 2013* and amendments to the *Crimes Ordinance 1961*.<sup>10</sup> The Ministry of Women, Community and Social Development and other organizations, implemented various community awareness and education programmes on domestic violence, which were publicized through, inter alia, television and radio talkback shows and in schools, youth groups and village communities. Those initiatives were aimed at disseminating information, educating, and enhancing public understanding at all levels of society on the scourge of domestic violence and gender discrimination. With assistance from the United Nations Population Fund (UNFPA), the Men against Violence Advocacy Group had been established to lead advocacy and to campaign, targeting men and village leaders to join forces to eliminate violence and gender discrimination.

Despite these initiatives and many efforts over the past years to address the issue of domestic violence against women and girls, still violence remains prevalent in Samoa and is increasing with serious cases resulting in the death of women. Data below from the Domestic Violence Unit of the Ministry of Police shows the increase of “**reported**” domestic violence cases of female victims between the ages of 17-33 between the years of 2007-2015. These numbers were cases reported only to the Police headquarters in Apia and does not include cases reported to police outposts.<sup>11</sup> This indicates that violence against women is endemic and widespread in Samoa.

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<sup>8</sup> CRC/C/WSM/CO/1 29 September 2006,

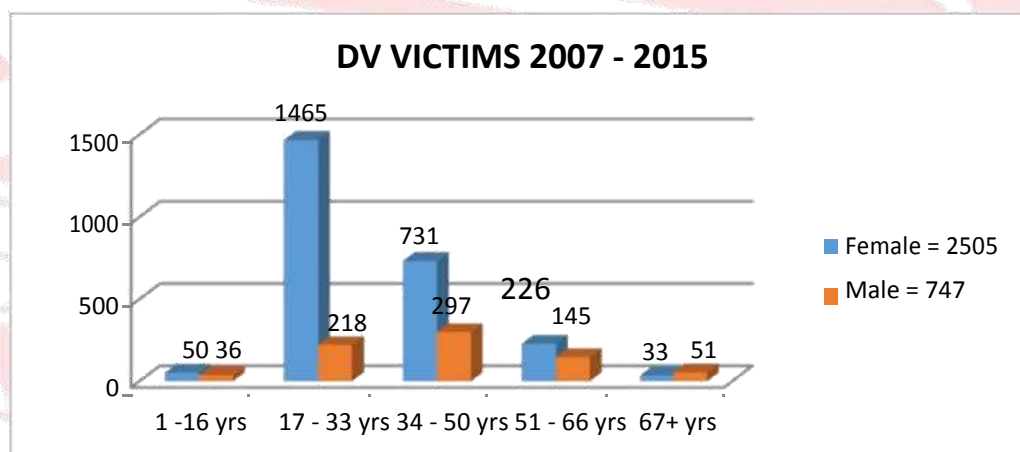
[http://www2.ohchr.org/english/bodies/crc/docs/co/CRC\\_C\\_WSM\\_CO\\_1.pdf](http://www2.ohchr.org/english/bodies/crc/docs/co/CRC_C_WSM_CO_1.pdf)

<sup>9</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/146/32/PDF/G1114632.pdf?OpenElement>, [http://www.samoaoobserver.ws/en/23\\_12\\_2015/local/613/Sex-predator-dad-jailed-Justice-Vui-revives-call.htm](http://www.samoaoobserver.ws/en/23_12_2015/local/613/Sex-predator-dad-jailed-Justice-Vui-revives-call.htm), [http://www.samoaoobserver.ws/en/31\\_08\\_2016/local/10651/Prison-for-rape-of-12-year-old.htm](http://www.samoaoobserver.ws/en/31_08_2016/local/10651/Prison-for-rape-of-12-year-old.htm), [http://www.samoaoobserver.ws/en/03\\_03\\_2016/local/3186/%E2%80%98Silent-epidemic%E2%80%99-discussed-at-Magiagi.htm](http://www.samoaoobserver.ws/en/03_03_2016/local/3186/%E2%80%98Silent-epidemic%E2%80%99-discussed-at-Magiagi.htm)

<sup>10</sup> The Crimes Act 2013 has increased the maximum penalties for most sexual offences e.g attempted rape increased from 10 to 14 years, sex with a minor under 12 years old increased from 7 years to life. Sexual violation now includes rape and unlawful sexual connections. The amendments also removes exemption of marital rape.

<sup>11</sup> Data shown is only on cases reported to the main Police Station in Apia, it does not include reported cases in police outposts and unreported cases.





There is concern and international pressure to address domestic violence especially with regards to women, girls and children. This was evident in Samoa's second UPR review earlier this year when the UN Human Rights Council recommended to Samoa to continue to take active steps to implement measures aimed at combating and preventing domestic violence.<sup>12</sup>

The media has been flooded with reports of court cases on domestic violence particularly with physical and sexual abuse of women and sexual abuse or incest involving young girls and children. At the same time there is strong concern from the public on the severity and increase of domestic violence.<sup>13</sup>

The concerning increase and widespread pattern of domestic violence in Samoa has prompted the Ombudsman Office to make Family Violence the focus of its first national inquiry.

### 3. INTERNATIONAL HUMAN RIGHTS LAW AND DOMESTIC LAW

The human rights treaties that Samoa has ratified that are relevant to the situation include CEDAW, CRC and ICCPR. By accepting CEDAW, State parties are committed to condemn and take all appropriate measures to eliminate all forms of discrimination against women. Article 5 obliges State parties to take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. The CRC provides that children have the right to be protected from being hurt and mistreated, physically or mentally. State Parties are to ensure that children are properly cared for and protect them from violence and abuse (Article 19).

In addition to Samoa's international obligations, Samoa also has in place constitutional provisions and domestic laws that provide direct and indirect protection against family violence which may include:

<sup>12</sup> Draft Report of the Working Group on the UPR, A/HRC/WG.6/25/L.3, 9 May 2016

<sup>13</sup> [http://www.samoaoobserver.ws/en/06\\_08\\_2016/local/9652/Father--slammed--for-sex-betrayal.htm](http://www.samoaoobserver.ws/en/06_08_2016/local/9652/Father--slammed--for-sex-betrayal.htm);  
<http://www.radionz.co.nz/international/pacific-news/280464/samoan-brothers-jailed-for-incest>;  
[http://www.samoaoobserver.ws/en/16\\_08\\_2016/local/10040/Sexual-crimes-continue-to-rise.htm](http://www.samoaoobserver.ws/en/16_08_2016/local/10040/Sexual-crimes-continue-to-rise.htm)



- Constitution of the Independent State of Samoa 1960 ( Art 5 Right to Life, Art 6 Right to personal Liberty, Art 15 Freedom from discriminatory legislation, Art 9 & 10 Right to a fair trial)
- Family Safety Act 2013
- Crimes Act 2013
- Village Fono Act 1990
- Infants Ordinance 1961
- Ombudsman Act 2013
- Family Court Act 2014

#### 4. MATTERS TO BE INVESTIGATED

In reviewing the available research, data and work by the Office on the broad issue of domestic violence, the Office considers it appropriate for the special perspective of the Inquiry to be the Samoan aiga (family), be it communal or small unit. The primary focus will be on women and girls with attention also on the impact of violence on the upbringing of children in Samoa and on the lines of marginalized individuals.

The definition of “**family**” may include all members of a Samoan aiga living in a typical communal or small unit setting.

The definition of “**violence**” may include:

- *sexual violence/abuse* (includes rape, unwanted sexual connection, incest, indecent assault or carnal knowledge);
- *physical abuse* (includes punching or hitting or slapping or kicking any part of the body throwing or struck with a stick, rocks or other objects, cut, hair pulled, burnt choked, killed, stabbed);
- *verbal abuse* (includes threaten to be killed, swearing, belittling); and
- *any other controlling or abuse behaviour where such conduct harms or may cause imminent harm to the safety, health or wellbeing of a person.*

The following are some of the matters that the inquiry will focus its investigation on. They will include but not limited to:

- ✓ Identify who are the victims of family violence
- ✓ Who are the most vulnerable to violence within a family context
- ✓ The nature of violence experienced by the victims
- ✓ The severity and level of impact of family violence
- ✓ The root causes and contributing factors to the occurrence of family violence
- ✓ Who are the first responses to family violence complaints and how effective are their responses (examining their roles and responses to complaints)
- ✓ Measures and initiatives established to combat the issue and how successful or effective have they been implemented
- ✓ What services are available to victims after the violence
- ✓ What legal methods are in place and how effective are they in protecting victims of family violence



- ✓ Availability and consistence of data on reported cases of family violence
- ✓ The causes and barriers to unreported complaints /cases of family violence
- ✓ Samoan culture and family violence
- ✓ The level of understanding of the community on family violence
- ✓ Existing structures and institutions with potential to contribute to solutions or effective action to curb family violence.

A finalised Terms of Reference and Objectives of the Inquiry will be produced soon after the completion of the consultations with all stakeholders.

## **5. METHODOLOGY**

It is envisioned that the Inquiry will utilize different methods of collecting information/evidence. Possible methods may include:

- i. Consultations:
  - a. Relevant stakeholders that have done or are doing related work on domestic violence (e.g Government Ministries, SOEs, NGOs and developing partners)
  - b. Village Focus Groups consultations- selected villages in Upolu, Savaii, Manono and Apolima to discuss the extent and nature of domestic violence and obtain their views on the issue
- ii. Research: Collecting and analysing data/statistics, reports, activities/programs etc on domestic violence.
- iii. Public Hearings: Hearing of evidence/stories from survivors, perpetrators and any interested party on the issue
- iv. Submission of written submissions by interested parties on their views on the issue.

The full details of this plan will be outlined in the Inquiry Plan.

## **6. POSSIBLE RESULTS OF THE INQUIRY**

The inquiry will only make findings and form recommendations when it has heard and considered all of the evidence it receives. However, it is helpful to consider some of the possible findings at the outset to inform the broad direction and framework of the inquiry, and for this to be considered throughout.

It is clear from the findings of the SHRR 2015 that there is a view held among a notable percentage of the population that family violence is an acceptable cultural norm. If the national inquiry uncovers supporting evidence this will constitute a substantial finding. The inquiry will then look into why this has occurred and make recommendations to the relevant stakeholders to address this belief. The inquiry in itself will foster a national conversation on family violence, with every person invited to participate. Once the true scale and nature of family violence is established through the inquiry, only then can we decide as a nation whether we are happy to continue with the status quo or whether reform is necessary. The ultimate solutions will therefore be formed by consensus and nationally owned.

A further key area for potential findings arising from the national inquiry is in relation to the services and support available to survivors of family violence. The under-reporting of cases of



family violence is likely to be a significant issue and the inquiry must look into the causes and barriers that exist.

The Inquiry may also expose existing institutional capacities and opportunities in village governance and social organisation that could properly be utilized to combat family violence itself or educate against it.

Responsibility for implementing the inquiry recommendations is likely to be spread among the Government, village councils and the churches. All will be given the opportunity to present their views and evidence to the inquiry.

It is hoped that the national inquiry will reveal the full dimensions of the situation in terms of the severity and extent of our family violence problem, human rights law and provide a human rights analysis and human rights recommendations. No issue will be ignored by the Inquiry and submissions will be welcomed on all forms of family violence. The final report will, however, focus on women and girls and other priority issues that come to light.

The public process of the inquiry will ensure that the issue itself becomes better known and that its dimensions are better understood. The media can raise the profile of little known and little understood issues. That in turn encourages greater political attention to the issue and promotes pressure for an adequate response and for changes in public policy and practice.

## 7. INQUIRY COMMISSIONERS

Inquiry Commissioners are the internal drivers and external face of the Inquiry. They are ultimately responsible, on behalf of the NHRI, for the conduct of the Inquiry and for its report and recommendations. They collectively lead the whole inquiry team, with the chairperson of the inquiry individually leading the inquiry member. Each inquiry commissioner is a person with the required qualities:<sup>14</sup>

- Recognized integrity
- Political independence
- Existing expertise and experience in at least one area to be covered in the inquiry
- Commitment to the inquiry process
- The ability to allocate the necessary time and energy to the conduct of the inquiry and its completion on time and within budget
- The ability to work collaboratively in a team

For the purposes of this inquiry, 3 external persons are selected as inquiry commissioners to assist the Ombudsman, who is the chairperson. We anticipate the agreement of a former Parliamentarian and two academics, all distinguished individuals with relevant experience and expertise, to serve on the Inquiry Commission.

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<sup>14</sup> Manual on Conducting a National Inquiry into Systemic Patterns of Human Rights Violation, APF & Raoul Wallenberg Institution of Human Rights and Humanitarian Law, Sept 2012, See pages 35-36



## 8. HUMAN RIGHTS EDUCATION THROUGH THE INQUIRY

One of the principal objectives of any national inquiry conducted by an NHRI is human rights education and raising awareness of the issues involved. This is especially true of the topic of family violence where attitudes and beliefs may be contributing to the prevalence of the violations. This national inquiry will therefore have a significant human rights educational and awareness raising component and seek to be as visible as possible throughout the inquiry process and in the implantation phase following its conclusion.

The Office of the Ombudsman has strong links with the media in Samoa and these will be utilised throughout the inquiry as part of the awareness raising component, including but not limited to:

- A national inquiry launch event to be covered by all media and publicised internationally through Office of the Ombudsman networks and partner networks;
- Regular (at least monthly) press releases on the progress of the inquiry;
- TV, radio and written media coverage of all public hearings;
- Radio talkback shows and TV discussions at key points during the inquiry with the inquiry Commissioners to discuss progress and findings;
- Weekly facebook updates;
- Final inquiry report, published in full and in summary in English and Samoan;
- National Inquiry video produced and broadcast on national TV.

In terms of human rights education the Office of the Ombudsman has identified the following key target groups and conducted an audience analysis and draft plan for each sector.

Audience Group	Knowledge, attitude and understanding of family violence	Desired change in attitude and behaviour	Methods
<b>Government Ministries</b>	Concerned about family violence and many efforts made to change policies and legislation but with little impact. A strong focus on work in Apia and consequently a lack of involvement at the grass root levels.	To fully understand the root causes of family violence, expand work undertaken in the village communities and work more in partnership with village councils and churches.	Public hearings and national inquiry recommendations
<b>NGOs</b>	Little focus on family violence. There are no dedicated women's rights NGOs. SVSG is the main NGO dealing with domestic violence, dealing directly with survivors.	Empower not just women and young girls but also the community to engage in dedicated women's rights NGOs.	Public hearings  Supporting the establishment of a women's rights NGO



<b>Village Councils</b>	Varies from village to village but overall there is a lack of responsibility taken for issues of family violence. It is seen to be an issue to be resolved within a family and may not therefore be addressed by the village chiefs.	Greater responsibility for issues of family violence to be taken by village councils.	Public hearings.  Village consultations.
<b>Churches</b>	Family violence is often excused as being condoned by the Bible. Some church leaders are reluctant to address this issue.	Church leaders to take responsibility for dispelling the myth that family violence is acceptable within the teachings of the bible and to consistently promote the message that it is unacceptable. To provide support for survivors of family violence.	Public hearings.
<b>Youth</b>	Children are often brought up to accept family violence as a norm. They can sequentially be victims, perpetrators and eventually advocates of family violence later in life.	Establish a common understanding of the consequences of family violence and a generation of children dedicated to the elimination of family violence.	Public hearings.  Private hearings and interviews.  Human rights friendly school program.
<b>Perpetrators</b>	There is an instilled mentality and belief with men that they have the right to beat their wife.	Establish a common understanding of the marriage or a partnership and the consequences of family violence.	Public hearings.  Private hearings and interviews.  Outreach in collaboration with relevant stakeholders e.g Men Against Violence, SVSG, MWCSD
<b>Women</b>	Studies and work of the Office shows that many Samoan women accept domestic abuse as a	Educate and Empower women to dispel the belief that men has the right to abuse them.	Public hearings  Outreach in collaboration



	man's right and as part of marriage. Many women stated that a man has the right to hit wife if she disobeys his orders or is disrespectful to his <sup>15</sup> parents.		with relevant stakeholders e.g. Young Women Christian Association, Youth, SVSG, MWCSD
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## 9. TIMETABLE

The inquiry will be carried out over a span of twelve (12) months starting January to December 2017. The Report will however be finalised, published and provided to Parliament in June 2018. The Inquiry will be officially launched on Human Rights Day December 8 2016.

## 10. RESOURCE REQUIREMENTS

To successfully achieve the objectives of the National Inquiry and to ensure the greatest chance of success in addressing family violence in Samoa, the Office will require additional resourcing on top of its existing budget. The Office has determined the National Inquiry to be its priority activity for the years 2017-18 and will allocate the majority of its human rights staff to the project. In addition to these resources a principal report writer, financial resources for the public hearings and related activities and sitting allowances for the three external Commissioners who will join the Ombudsman to form the Inquiry Commission.

## 11. STAKEHOLDER VIEWS

Once funding has been obtained to make this project viable, this scoping paper will be circulated amongst key stakeholders for initial comments and views. These views will be incorporated into this document and will also be instrumental in developing the final Terms of Reference.

<sup>15</sup> State of Human Rights Report 2015, see page 13; The Samoa Family Health Safety Study 2006, see page 52.

## Commissioners Profile

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Chairman – Maiava Iulai Toma

**Current Post:** Ombudsman

**Previous Work:** Secretary to Government

CEO Department of Prime Minister, Foreign Affairs & Cabinet, Samoa Permanent

Representative to the United Nations, Ambassador to the USA, High Commission to Canada.



Commissioner Falenaoti Mulitalo Kolotita June Ailuai Oloialii

**Current Post:** President of Vavau Women's Committee, Active Village Women Representative, Member of the Law and Justice Sector

**Previous Work:** She actively plays a role in mobilizing women to participate and be involved in various community advocacy programs to address social issues such as family violence. She has represented Samoa on Study tour to promote healthy living for communities in New Zealand. She also represented the Village Women Representative of

Samoa as Samoa's delegate to the 11<sup>th</sup> Commonwealth Women's Affairs Ministerial Meeting in 2016. Falenaoti strongly believes that the centre of every Samoan family plays a great role in nurturing a child, and an individual's whole being. It is that centre that we need to focus on to provide solutions to the issue of family violence.



Commissioner Tagaloatele Professor Peggy Fairbairn-Dunlop

**Current Post:** Professor of Pacific Studies, Institute of Public Policy AUT, Researcher. A wellknown author in Samoa and the Pacific. She has written and part of a number of research on the subject area such as;

**Fairbairn-Dunlop P, K Savali & E Puni (2016)** What makes for a good Samoan family relationship MSD New Zealand

**Fairbairn-Dunlop, P., & Lievore, D. (2007).** *Samoa Report: Preventing Domestic Violence* (NZAID/ PPDVP). p.69.

Kingi, V., Jordan, J., Moeake-Maxwell, T., & **Fairbairn-Dunlop, P.** (2009). *Pathways from crisis to recovery for adult victims/survivors of sexual violence. Ministry of Women's Affairs (NZ).* [Commissioned by Ministry of Women's Affairs]. Retrieved from <http://www.mwa.govt.nz/news-andpubs/publications/pathways-part-one>

**Fairbairn-Dunlop (2001)** Tetee Atu le sasa ma le upu malosi: hold back your hands and your harsh words *Pacific Health Dialogue* Vol 8 No 1, March 2001 (etc.)



Commissioner Meleisea Leasiolagi Professor Malama Meleisea  
**Current Post:** Director, Centre for Samoan Studies, National University of Samoa

A wellknown author and historian in Samoa and the Pacific. He has been a member of a number of recent research, survey projects which looked at participation of women in decision making positions, roles and traditional villages and new urban settlements. In previous work with UNESCO he oversaw and participated in UNESCO sponsored projects against domestic violence. He is a matai and sits in his village council. In his view

family based violence (like all other forms of violence) should be eliminated completely from Samoan society through law reform and an intense and on-going national community education programme.



Commissioner Tolofuaivalelei Falemoe Leiataua-Lesa

**Previous Work:** Member of Parliament for Aana Alofi No.2, Former Minister of Women Community and Social Development, Speaker of Parliament, Former Minister of Post & Telecommunications and has held prominent positions in various Government Ministries in the past.

He is the secretary for EFKS Leulumoega since 1989. He is a serving member of his church holding various important positions. He strongly believes that this modern era and changes to our lifestyles plays a huge impact on the social issues we have

today. We need to work extra hard for our young people before they fall further away. Everyone needs to do their part to end violence particularly parents and those most influential people such as church ministers and village leaders.





## **NATIONAL PUBLIC INQUIRY INTO FAMILY VIOLENCE**

### **TIMELINE**

**2016**

SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
<ul style="list-style-type: none"> <li>• Draft Inquiry background paper</li> <li>• Prepare Inquiry budget</li> <li>• Prepare Inquiry timeline</li> <li>• Seek funding</li> <li>• Identify relevant individuals &amp; key stakeholders to help identify witnesses and venues to hold hearings               <ul style="list-style-type: none"> <li>- Send out letters requesting meeting about inquiry</li> </ul> </li> <li>• Identify possible staff, volunteers and commission members and their roles and responsibilities               <ul style="list-style-type: none"> <li>- Prepare brief description of roles and responsibilities especially the commission members</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Finalise background paper, timeline &amp; budget</li> <li>• Hold meetings with key stakeholders to:               <ul style="list-style-type: none"> <li>- inform about the inquiry,</li> <li>- request how they can assist us,</li> <li>- obtain information about their work,</li> <li>- identify possible witnesses, and</li> <li>- target areas to hold hearing/consultations</li> </ul> </li> <li>• Cont' to seek funding</li> <li>• Recruit staff, volunteers and commission members &amp; allocate responsibilities/roles</li> <li>• Desktop Research</li> <li>• Prepare TOR &amp; Objectives</li> </ul>	<ul style="list-style-type: none"> <li>• Cont' to seek funding if required</li> <li>• Cont' gather/receive information from stakeholders</li> <li>• Plan launch (venue, guests/invitees, program, media, speakers)</li> </ul>	<ul style="list-style-type: none"> <li>• Launch Inquiry ( 8 December)</li> <li>• Cont' to Seek funding if required</li> </ul>

**2017**

JANUARY	FEBRUARY	MARCH	APRIL
<ul style="list-style-type: none"> <li>• Finalise Plan for Community Consultations</li> <li>• Organize/arrange for Community consultations</li> <li>• Prepare presentations for the community bodies consultations and the community consultations</li> <li>• Prepare &amp; organise for staff and media training</li> <li>• Desktop Research cont'</li> </ul>	<ul style="list-style-type: none"> <li>• Finalise details of meetings with community bodies</li> <li>• Consult with community bodies to assist in facilitating the community consultations</li> <li>• <b>Community Body consultations BEGIN</b> -</li> <li>• Desktop Research cont'</li> <li>• Update Commissioners on timeline and progress of preparation</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Community Body consultations COMPLETE</b></li> <li>• Staff training and Media Training</li> <li>• <b>Community consultations BEGIN (Mid-March)</b></li> <li>• Prepare public &amp; private hearings timeline</li> <li>• Desktop Research cont'</li> <li>• Advertise Inquiry and call for written submissions and witnesses</li> </ul>	<ul style="list-style-type: none"> <li>• Community consultations cont</li> <li>• Advertise inquiry and call for written submissions and witnesses</li> <li>• Desktop Research cont</li> <li>• Prepare and organise for public &amp; private hearings (e.g witnesses, venues)</li> </ul>
MAY	JUNE	JULY	AUGUST
<ul style="list-style-type: none"> <li>• <b>Community consultations COMPLETE (Mid May)</b></li> <li>• Draft desktop Research</li> <li>• Draft consultation report for Inquiry Commission</li> <li>• Report writer to submit first draft outline of Inquiry Report</li> </ul>	<ul style="list-style-type: none"> <li>• <b>INQUIRY BREAK!!!</b></li> <li>• Finalise consultation report and desktop research for Inquiry Commissioners</li> <li>• Cont' planning for public &amp; private hearings</li> <li>• Press release/Public awareness about Inquiry and public hearing</li> <li>• Advertise - Call for written submissions</li> <li>• Report writer to submit revised Draft outline Inquiry Report</li> </ul>	<ul style="list-style-type: none"> <li>• Identify, contact and brief witnesses</li> <li>• Cont press release/public awareness about inquiry and public hearing</li> <li>• Advertise -call for written submissions and witnesses</li> </ul>	<ul style="list-style-type: none"> <li>• Cont' to identify, contact and brief witnesses</li> <li>• Identify venues for hearings</li> <li>• Advertise inquiry and call for written submissions and witnesses</li> <li>• Finalise witness list and venues</li> </ul>

<b>SEPTEMBER</b> <ul style="list-style-type: none"> <li>• Staff &amp; Media refresher training</li> <li>• Briefing for Inquiry Commissioners</li> <li>• <b>Public &amp; private Hearings COMMENCES -18<sup>th</sup></b></li> <li>• Submission of report of community consultation and desktop research to Inquiry Commissioners</li> <li>• Advertise inquiry and call for written submissions and witnesses</li> </ul>	<b>OCTOBER</b> <ul style="list-style-type: none"> <li>• <b>Public &amp; private Hearings COMPLETE</b> (subject to changes)</li> <li>• Deadline for written submissions</li> <li>• Inquiry Commissioners discuss report with report writer (Commissioners debriefing- Tuesday 10-Friday 13 Oct)</li> </ul>	<b>NOVEMBER</b> <ul style="list-style-type: none"> <li>• <b>Report Writer to submit First Draft of Report</b></li> </ul>	<b>DECEMBER</b> <ul style="list-style-type: none"> <li>• Inquiry Commissioners to review draft report and provide comments to Report Writer</li> </ul>

## 2018

<b>JANUARY</b> <ul style="list-style-type: none"> <li>• Writer to address Inquiry Commissioners' comments and finalise report</li> <li>• Refer finalised report to translator for translation of report</li> </ul>	<b>FEBRUARY</b> <ul style="list-style-type: none"> <li>• Translation of report</li> </ul>	<b>MARCH</b> <ul style="list-style-type: none"> <li>• Translation of report</li> </ul>	<b>APRIL</b> <ul style="list-style-type: none"> <li>• Translation due</li> <li>• Print/publish report</li> </ul>
<b>MAY</b>	<b>JUNE</b> <ul style="list-style-type: none"> <li>• Submit report to Parliament</li> </ul>	<b>JULY</b> <ul style="list-style-type: none"> <li>• <b>Launch Report</b> (tentative date)</li> </ul>	<b>AUGUST</b> <ul style="list-style-type: none"> <li>• <b>Launch Report</b> (latest-tentative date)</li> </ul>

## Public and Closed Hearing Schedule

Monday 18 September	Tuesday 19	Wednesday 20	Thursday 21	Friday 22
Hon Faimalotoa Iemaima Kika Stowers <b>Minister for MWCS</b>	Lemalu Sina Retzlaff <b>Advocate</b>	Lani Wendt Young <b>Survivor &amp; Advocate</b>	Fifita Tafilelea Fifita	Sei Sefo
Ame Sene <b>Survivor</b>	Dr. Malama Tafuna'i <b>Primary Care Physician</b>	Maumalii Mulipola <b>Matai, Lotofaga Safata</b>	Salū M Fiso <b>Matai (SN), Falevai</b>	Police outpost <i>Lalomanu &amp; Poutasi</i>
Siliniu Lina Chang <b>President, SVSG</b>	Pastor Faafetai Fata <b>Chairman, Teen Challenge</b>	Vaitagutu Viliamu <b>Matai (SN)<sup>1</sup> Lepea</b>	Vou Kalauna <b>Survivor</b>	Faasi'i Siatu'u Fa'atiga <b>Matai, Saleaumua</b>
Hon Judge Talasa Saaga <b>Family Violence Court</b>	Leo'o Tautalatasi Dr. John Adams <b>Pediatrics Specialist</b>	Maulolo Tavita Amosa <b>Matai</b>	Ili Dalailama <b>Matai (SN), Nofoalii</b>	Pao Sagale <b>Matai (SN), Saleapaga</b>
Tofa Masinalupe Tusipa Masinalupe <b>Matai</b>	Afamasaga Faamatala Tolefoa <b>Matai/MAVA Advocate</b>	Father Lui Sanele <b>Ekalesia Katoliko Samoa</b>	Police outpost <i>Faleolo</i>	Lepau Faaifo <b>Matai, Saleapaga</b>
Det Sgt Tofilau Junior Tofilau <b>Ministry of Police- DVU</b>		Venerable Faamausili C Solomona <b>Ekalesia Egelani (Anglican) Samoa</b>		Leaugamata Tanielu <b>Matai (SN), Lotofaga</b>

<sup>1</sup> SN – Sui o Nuu replacing the term Pulenuu

## SAVAII

Monday 25 September	Tuesday 26	Wednesday 27	Thursday 28	Friday 29
Hon Tofa Lio Foleni <b>Matai/Associate Minister for MWCSO</b>	Seuulu Manu <b>Matai, (SN) Tufutafoe</b>	Malaeulu Amoni <b>Matai, (SN) Lano</b>	Vaifale Mokoi <b>Matai, (SN) Saleaula</b>	Susuga Taumafai Komiti <b>Ekalesia Metotisi Samoa</b>
Police Outpost <b>Tuasivi/Fagamalo Police Station</b>	Moefaaope Siaosi <b>Matai, (SN) Auala</b>	Selesele Oto <b>Matai, Vaega</b>	Elisapeta Lauulu <b>Sui Tamaitai Fogatuli</b>	Eric Poe <b>Teen Challenge</b>
Su'a Amani <b>Matai (SN), Falefia/Malaeta</b>	Masoe Selota <b>Alii Taua, Auala</b>	Fred Sefo <b>Faifeau EFKS</b>		Inu Amosa <b>Dean Bible Study, Harvest Centre</b>
Lualua Tautu <b>Matai (SN), Asaga</b>	Police Outpost <b>Asau</b>	Heta Sefo <b>Faletua EFKS</b>		Nua Palala Leuliaialii <b>Matai, (SN) Moataa</b>
Tugaga Tevesi <b>Matai (SN), Faletagaloa</b>	Rev Faauuga Pula <b>EFKS, Auala</b>	Police Outpost <b>Vaito'omuli</b>		
Seumanutafa So Ulufale <b>Matai, Palauli</b>				

Monday 2 October	Tuesday 3	Wednesday 4	Thursday 5	Friday 6	Thursday 12
Lemalu Si'omia Auvele <b>Chairman</b> <i>National Spiritual Assembly of the Baha'is of Samoa</i>	Mataia Valasi Tuala <b>SVSG Village Rep, Lefaga</b>	<b>Samoa Law &amp; Justice Sector</b>	1. Elder Meliula Fata <b>Area Seventy</b> 2. Elder Sapele Faalogo <b>National Public Affairs Director</b> <i>Church of Jesus Christ of Latter Day Saints</i>	<b>CLOSED HEARINGS</b>	Hon Justice Vui Clarence Nelson <b>Supreme Court and Member of the United Nations Child's Rights Committee</b>
Rev Nuuausala Siaosi <b>Protestant Church</b>	Luagalau Foisagaasina Eteuati-Shon <b>Matai/Counsellor/Former CEO of MWCSO</b>	Papalii Tiumalu Carol Paul-Ah Chong <b>Faataua le OLA</b>	Lemalu Hermann Retzlaff <b>Attorney General</b>		
Faleafa Henry Taefu <b>Matai, (SN) Vaimoso</b>	Fialauia Toailoa Amituanai <b>Advocate (NZ)</b>	Rev Dr Siaosi Salesulu <b>Church/ Youth Mentor</b>	Krystle Leavai & Cecilia Lemisio <b>Samoa Prisons and Corrections Services</b>		
Mataeliga Sioa Pio <b>Newsline NewsPaper</b>	Taulapapa Faamanatu <b>President Nurses Association</b>	Rev Samoa Unoi <b>Peace Chapel</b>	Vanessa Barlow <b>Private Consultant</b>		
Mataafa Keni Lesa <b>Samoa Observer</b>	Faoliu Wendt <b>Advocate</b>	Rev Vavatau Taufao <b>EFKS Church Samoa</b>	Dr. Elia Taulapini <b>National Health Services</b>		
Mareva Betham-Annandale <b>Lawyer</b>	Maiava Visekota Peteru <b>President of YCWA/ Advocate</b>		Quondolita Enari <b>Ministry of Health</b>		
	1. Taimalelagi Kaisarina Salesa, <b>Program Coordinator</b> 2. Tuala Victor Vaauli <b>Members Services Executive</b>	Tauaaletoa Uesiliana Lokou <b>Matai, (SN) Vaitele uta</b>	John Papalii & Faagutu Samuelu <b>Ministry of Justice and Courts Administration</b>		

	<b>Samoa National Youth Council</b>				
	<b>Andrew Mearthy Samoa National Council of Women</b>	<b>Ramona Boodoosingh Academic</b>	<b>Fonoti Samagapea TESFAC Research</b>		
	<b>Fetu Sailele Leapai Youth/Teen Challenge</b>	<b>Vaipou Fetuliai Lagaia Govt Lawyer and Former Prosecutor at NPO/AGO</b>	<b>Tavu'i Annie Laumea Survivor/Advocate</b>		



## Appendix E



### Office of the Ombudsman/National Human Rights Institution *National Public Inquiry on Family Violence in Samoa Survey*

The results of this questionnaire will be kept completely **anonymous and confidential**. Your answers will not be shared with anyone. Please answer truthfully and to the best of your ability.

#### 1. DEMOGRAPHIC DETAILS

**What is your gender?**

- ☐ Male
- ☐ Female
- ☐ Other

**What is your age?**

- ☐ Younger than 18
- ☐ 18-24
- ☐ 25-34
- ☐ 35-44
- ☐ 45-54
- ☐ 55-64
- ☐ Older than 65

**What village do you live in?**

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**Do you identify as a person with disabilities?**

- ☐ Yes
- ☐ No

**What is your marital status?**

- ☐ Never married
- ☐ Married/de facto/living together
- ☐ Widowed, divorced or separated

**What is your highest level of education?**

- ☐ Primary School
- ☐ Secondary School/College
- ☐ University or higher

- ☐ None of the above

**What is your religion?**

- ☐ Congregational Christian Church
  - ☐ Roman Catholic
  - ☐ Methodist
  - ☐ Assembly of God
  - ☐ Seventh-Day Adventist
  - ☐ Mormon
  - ☐ Baha'i
  - ☐ Other
- 

**What is your occupation?**

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#### 2. AWARENESS LEVEL

**Do you think family violence is a problem in Samoa?**

- ☐ Strongly disagree
- ☐ Disagree
- ☐ Neither agree nor disagree
- ☐ Agree
- ☐ Strongly agree

**Have you ever participated in an awareness/community outreach program about family violence?**

- ☐ Yes, more than one
- ☐ Yes, one
- ☐ No, never

### 3. VULNERABLE GROUPS

Who do you think are the people most vulnerable to family violence? Please rank the following in order of vulnerability (1 is most vulnerable):

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Girls younger than 6     | <input type="checkbox"/> Elderly women (65 and older) | <input type="checkbox"/> Teen boys ages 13 to 18    |
| <input type="checkbox"/> Girls ages 7 to 12       |   | <input type="checkbox"/> Men 19 to 64               |
| <input type="checkbox"/> Teen girls ages 13 to 18 | <input type="checkbox"/> Young fa'afafine             | <input type="checkbox"/> Elderly men (65 and older) |
| <input type="checkbox"/> Women 19 to 64           | <input type="checkbox"/> Adult fa'afafine             | <input type="checkbox"/> Other                      |
| <input type="checkbox"/> People with disabilities | <input type="checkbox"/> Boys younger than 6          |   |
|   | <input type="checkbox"/> Boys ages 7 to 12            |   |
- 

### 4. EXPERIENCE

Have you experienced any of the following **in the past 6 months by a family member**? (Please mark all that apply.)

- |  |  |
|--|--|
| <input type="checkbox"/> Kicking, slapping or hitting with a body part or hard object                        | <input type="checkbox"/> Unwanted sexual attention or harassment                                   |
| <input type="checkbox"/> Pushing, grabbing, shoving or hair pulling  | <input type="checkbox"/> Rape or sexual assault by a family member (not including a spouse)        |
| <input type="checkbox"/> Choking   | <input type="checkbox"/> Rape or sexual assault by a spouse  |
| <input type="checkbox"/> Yelling or verbal aggression  | <input type="checkbox"/> Rape or sexual assault by a stranger                                      |
| <input type="checkbox"/> Namecalling/humiliation/insults   | <input type="checkbox"/> Being followed or repeatedly contacted against your will                  |
| <input type="checkbox"/> Threats of physical violence  | <input type="checkbox"/> Being prevented from accessing your finances by a family member or spouse |
| <input type="checkbox"/> Being forbidden from spending time with friends or family or from leaving the house |  |
- 
- |  |  |
|--|--|
| <input type="checkbox"/> Kicking, slapping or hitting with a body part or hard object                        | <input type="checkbox"/> Rape or sexual assault by a family member (not including a spouse)        |
| <input type="checkbox"/> Pushing, grabbing, shoving or hair pulling  | <input type="checkbox"/> Rape or sexual assault by a spouse  |
| <input type="checkbox"/> Choking   | <input type="checkbox"/> Rape or sexual assault by a stranger                                      |
| <input type="checkbox"/> Yelling or verbal aggression  | <input type="checkbox"/> Being followed or repeatedly contacted against your will                  |
| <input type="checkbox"/> Namecalling/humiliation/insults   | <input type="checkbox"/> Being prevented from accessing your finances by a family member or spouse |
| <input type="checkbox"/> Threats of physical violence  |  |
| <input type="checkbox"/> Being forbidden from spending time with friends or family or from leaving the house |  |
| <input type="checkbox"/> Unwanted sexual attention or  |  |

harassment

Have you **ever** experienced any of the following by a family member **in your lifetime**? (Please mark all that apply.)

## 5. FOCUS GROUP QUESTIONS

1. What is your understanding of family violence?
2. What are the causes of violence that occur in the family?
  - Do you believe that violence is ok to punish a family member? Why? Why not?
  - Do you think violence in the family is acceptable? Why or why not?
3. What impact has violence had on the:
  - Individual?
  - Family?
  - Village/community?

Note: Since the presentation includes the types of impacts, then probably the way to phrase the question is “Do you see these types of impacts in your community?”

4. What are the possible solutions to eliminating/reducing family violence?
  - Who do you think should take responsibility for preventing family violence?
    - Matai council
    - Faifeau
    - Police
    - Women’s committee

What do you think should be their roles in preventing family violence?

- (i) If its the matai council, what should they do?

## Consultations Schedule

PHASE	DATE	CONSULTATION	VENUE
<b>Phase One</b>	Sep 2016– February 2017	<b>NGOs, Government Ministries, Developing Partners, Media</b>	
	4 October 2016	<b>Ministry of Police (DVU, Tofilau, Michelle)</b>	Police HQ
	10 October 2016	<b>Samoa Prisons and Corrections Services</b>	Tafaigata
	12 October 2016	<b>National Health Services</b>	NHS
	13 October 2016	<b>Ministry of Justice, Courts and Administrations-Probation &amp; Drugs/Alcohol Courts (Faagutu ..)</b>	MJCA
	14 October 2016	<b>National Prosecutions Office</b>	NPO
	14 October 2016	<b>Ministry of Women, Community and Social Development</b> (ACEO Division of Women and senior staff: Alana and Nathan)	MWCSD
	17 October 2016	<b>Samoa Victim Support Group</b> (President, Siliniu Lina Chang)	SVSG
	17 October 2016	<b>National University of Samoa</b> (Vice Chancellor and staff)	NUS
	17 October 2016	<b>Faataua le Ola</b> (President, Papalii Carol Ah Chong)	FLO
	24 October 2016	<b>Samoa Bureau of Statistics</b>	SBS Office
	23 October 2016	<b>Australia High Commission</b>	High Comm
	24 October 2016	<b>New Zealand High Commission</b> (High Commissioner)	High Comm
	25 October 2016	<b>UNWomen</b>	UN Compound
	25 October 2016	<b>UNDP</b>	UN Compound
	25 October 2016	<b>UNFPA</b>	UN Compound
	5 November 2016	<b>Newsline</b>	Nuu
	21 February 2018	<b>Australia Federal Police</b> (Peter Timson, Mission Commander)	Nourish Restaurant
<b>Phase Two</b>	February – March 2017	<b>Community Bodies</b>	
	Mon 20 Feb	Sui o Malo, SN & STN of Upolu	Tooa Salamasina
	Tues 21 Feb	Sui TupulagaTalavou of Upolu	Elisa Hotel
	Thurs 23 Feb	SN & STN of Savaii	Don Bosco Hall
	Fri 24 Feb	Sui TupulagaTalavou of Savaii	Don Bosco Hall
	Mon 27 Feb	SVSG Village Rep of Upolu	TATTE Conference Room
	Sat 4 March	Samoa Faafafine Association members	Elisa Hotel Conference, Room
	Tues 7 March	NCC church leaders (Savaii & Upolu)	NCC

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			Compound Sogi
	Fri 10 March	SVSG Village Rep Savaii	Don Bosco Hall
	March 2017	<b>Staff &amp; Media training prior to Village Consultations</b>	
	Wed 22 March	Staff Training	TATTE Conference Room
	Wed 29 March	Press Conference & Media Briefing on the National Public Inquiry into Family Violence	Elisa Hotel Conference Room
<b>Phase Three</b>	April – May 2017	<b>Villages</b>	
<b>UPOLU</b>			
	Mon 10 April	Siumu & Safata Districts	EFKS Saanapu
	Tue 11 April	Lefaga District	EFKS Savaia-uta
	Wed 12 April	Sapoe – Saleilua Villages	Poutasi Art Centre
	Wed 19 April	Lotofaga – Saleapaga Villages	EFKS Lepa
	Thurs 20 April	Lalomanu – Tiavea Villages	Katoliko Saleaumua
	Fri 21 April	Fagaloa District	EFKS, Taelefaga
	Mon 24 April	Saletele – Solosolo Villages	EFKS, Solosolo
	Tues 25 April	Manono tai Island	Metotisi, Faleu
	Wed 26 April	Matautu – Luatuanuu Villages	EFKS, Vailele
	Thur 27 April	Vaimoso – Leauvaa Villages	EFKS, Faleula
<b>SAVAII</b>			
	Mon 1 May	Faasaleleaga District	EFKS Sapapalii
	Tues 2 May	Gagaifomauga District	EFKS Fatuvalu
	Wed 3 May	Gagaemauga Districts	EFKS, Samalaeulu
	Thur 4 May	Vaisigano Districts	EFKS, Auala
	Fri 5 May	Satupaitea & Palauli Districts	EFKS Vailoa
<b>UPOLU</b>			
	Tues 9 May	Mulifanua – Falelatai Villages & Apolima Tai	EFKS, Apolima-uta
	Wed 10 May	Saleimoa – Satapuala Villages	AOG, Faleasiu

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## **National Inquiry into Family Violence**

### **Document Review Catalogue**

<b>#</b>	<b>Title</b>	<b>Author</b>	<b>Document Type</b>
1	Submission to the National Public Inquiry into Family Violence	MWCSD	Written submission
2	Baha'I Faith Submission to the Commission of Inquiry into Family Violence in Samoa	Lemalu Si'omia Auvale, Chairman National Spiritual Assembly of the Baha'is of Samoa	Written submission
3	Untitled	Fa'asi'I Siatau'u Fa'atiga, matai, Saleaumua	Written submission
4	Untitled	Lualua Tautu, Puleuu Faletogaloa	Written submission
5	Untitled	Dr. Malama Tafunai, Primary Care Physician	Written submission
6	Untitled	Afamasaga Faamatala Toleafoa, Matai/Advocate	Written submission
7	National Public Inquiry into Family Violence: Presentation by Tuiloma Sina Retzlaff	Tuiloma Sina Retzlaff	Written submission
8	Submissions by a Family Law Practitioner on Issues with Processes in Place to Respond to Family Violence	Savalenoa Mareva Betham-Annandale	Written submission
9	Submission Summary	Leautuliilagi Vanessa Barlow Schuster	Written submission
10	A Brief Study of Individual Reactions and Reporting of Domestic Violence	Vaipou A Fetuliai Lagaaia	Written submission
11	Testimony at Public Hearing on Family Violence	Luagalau Foisagaasina Eteuati-Shon	Written submission
12	Untitled	Fetu Sailele Leapai	Written submission
13	Untitled	Moana Regina Solomona	Written submission
14	What is Family/Domestic Violence?	Anonymous	Written submission

15	Untitled	Lani Wendt Young	Written submission
16	O le va ma lou siosiomaga	Tavu'l Anie Laumea	Written submission
17	Untitled	Anonymous	Written submission
18	Untitled	Anonymous	Written submission
19	Untitled	Anonymous	Written submission
20	Untitled	Anonymous	Written submission
21	Intimate Partner Violence	Anonymous	Written submission
22	Child Abuse	Anonymous	Written submission
23	Untitled	Anonymous	Written submission
24	Untitled	Anonymous	Written submission
25	Inquiry into Family Violence Submission	Sisilia	Written submission
26	Untitled	Unknown	Written submission
27	Position Statement re: the National Public Inquiry into Family Violence	Samoa National Youth Council, Faafo Vincent Faafo, President	Written submission
28	Submission for the National Inquiry into Family Violence in Samoa	Young Women's Christian Association of Samoa	Written submission
29	Family Violence in Samoa	Samoa Family Health Association, Lealaiauloto Liai Iosefa-Siitia	Written submission
30	The law, domestic violence and whether the law can actually fight 'social legitimization of domestic violence'	Office of the Attorney General, Lemalu Hermann P. Retzlaff, Attorney General	Written submission
31	Rehabilitation and reintegration of prisoners back into the Community (Family Violence related charges/offences)	Samoa Prisons and Corrections Services	Written submission
32	National Public Inquiry into Family Violence: Invitation to share and	Ministry of Justice & Courts Administration, Papalii John	Written submission

	discuss the Ministry's work relating to family violence	Taimalelagi Afele, CEO/Registrar	
33	Neighbourhood Watch Project 2011-2017	Samoa Police Service	Written submission
34	Crime Prevention Policy Presentation	Samoa Police Service	Written submission
35	Sauaga I Totonu o Aiga	Samoa Police Service	Written submission
36	Submission to the NHRI, Public Inquiry into Family Violence	Ramona Boodoosingh (NUS)	Written submission
37	Primary Prevention of Intimate Partner Violence with Young People in Samoa	Emma Heard (University of Queensland) and Professor Sina Va'ai (National University of Samoa)	Written Submission
38	Submission to the Family Violence National Public Inquiry	Samoa Law Reform Commission	Written Submission
39	A Public Theology Response to Domestic Violence in Samoa	Mercy Ah Siu-Maliko (Otago University, Dunedin, New Zealand), International Journal of Public Theology 10 (2016) 54-67)	Academic article
40	Community Initiative	Family Violence Court / UNICEF	Report
41	'Man speaks out against domestic violence'	Samoa Observer, Illa L Likou, 15.10.17	Media article
42	'You should have been more careful': when doctors shame rape survivors	The Guardian, Annalise Mabe, 15.10.17, found at <a href="https://www.theguardian.com/commentisfree/2017/oct/15/obgyn-doctors-shame-sexual-assault-survivors">https://www.theguardian.com/commentisfree/2017/oct/15/obgyn-doctors-shame-sexual-assault-survivors</a>	Media article
43	Samoa National Policy for Gender Equality 2016-20	MWCSD	Policy
44	'Guilty Plea for Sex Offenses Against Two Young Children'	Shivani Sharma, Samoa Planet, 7/11/2017 <a href="http://www.samoaplanet.com/guilty-pleae-for-sex-offences-against-two-young-children">http://www.samoaplanet.com/guilty-pleae-for-sex-offences-against-two-young-children</a>	Media Article
45	'Does our culture contribute to family violence? Interview with victim advocate Matapuna Levenson'	Shivani Sharma, Samoa Planet, 21/10/2017, <a href="http://www.samoaplanet.com/what-aspects-of-our-culture-contribute-to-family-violence/">http://www.samoaplanet.com/what-aspects-of-our-culture-contribute-to-family-violence/</a>	Media Article
46	2017 Samoa Family Safety Study	Ministry of Women,	Report

		Community and Social Development	
47	Pule a le Matai Sa'o	Samoa Law Reform Commission	Report
48	INSPIRE: Seven Strategies for Ending Violence Against Children	World Health Organisation, 2016	Report
49	"Judge Condemns Samoa's 'Epidemic of Violence'"	Samoa Planet, Shivani Sharma, 26.10.17	Media Article
50	"Horrendous tale of sexual assault"	Samoa Observer, Deidre Tautua-Fanene, 24.10.17	Media Article
51	Editorial	Samoa Observer, Keni Lesa, 24.10.17	Media Article
52	'Family Violence Court critical in fight against domestic violence'	Samoa Observer, Joyetter Luamanu, 26.10.17	Media Article
53	'Church minster admits rape of niece'	Samoa Observer, 27.10.17	Media Article
54	Harmful Connections: Examining the Relationship between violence against women and violence against children in the South Pacific	UNFPA, UNICEF, 2015	Report
55	'I didn't understand how widespread rape was. Then the penny dropped.'	The Guardian, David Graeber, 6.11.17, <a href="https://www.guardian.com/commentisfree/2017/nov/05/dsk-sexual-assault-feminism-weinstein-casting-couch">https://www.guardian.com/commentisfree/2017/nov/05/dsk-sexual-assault-feminism-weinstein-casting-couch</a>	Media Article
56	'Samoa's Nofotane Women Assert Their Rights and Independence'	Samoa Planet, 6.11.17, <a href="http://www.samoaplanet.com/samoa-nofotane-women-assert-rights-independence">http://www.samoaplanet.com/samoa-nofotane-women-assert-rights-independence</a>	Media Article
57	National Public Inquiry into Family Violence: Background Paper	National Human Rights Institution of Samoa	Report
58	Report for the Inquiry Commissioners into Findings from Stakeholder Consultations	National Human Rights Institution of Samoa	Report
59	Beautiful Samoa	Tamaitai Talavou Kerisiano Samoa – YWCA of Samoa	Written submission
60	What is Domestic Violence	Tavui Anne Eti Eves	Written submission
61	Understanding Issues of Domestic Violence in Samoa	Tuiloma Sina Retzlaff	Written submission
62	Background research on root causes of family violence	Matthew Willner	Written submission

63	Political representation and women's empowerment in Samoa	Centre for Samoan Studies, National University of Samoa, July 2015	Report
64	Notes from Consultations	NHRI	Report
65	Essential Services for Women and Girls Subject to Violence	Partners for Prevention (UN Women, UNFPA, WHO, UNDP & UNODC), 2015	Report
66	Report of the Working Group on the Universal Periodic Review	Human Rights Council, 27.7.2017 (A/HRC/33/6)	Report
67	'Making emotions visible – expressive arts as therapy in Samoa'	SKehaolani Manoa-Slade, Samoa Planet, 1.12.17, <a href="http://www.samoaplanet.com/making-emotions-visible-expressive-arts-therapy">http://www.samoaplanet.com/making-emotions-visible-expressive-arts-therapy</a>	Media article
68	Promoting evidence-based policy making for gender equity in the Pacific	Bridget Crichton, Asian Development Bank	Written submission
69	'How Scotland reduced knife deaths among young people'	Gary Young and Caelainn Barr, The Guardian, 3.12.2017, <a href="https://theguardian.com/membership/2017/dec/03/how-scotland-reduced-knife-deaths-among-young-people">https://theguardian.com/membership/2017/dec/03/how-scotland-reduced-knife-deaths-among-young-people</a>	Media article
70	Report: 'Empowering the Youth & Empowering the Family Unit to stop Violence – Youth and Family Courts Workshop'	Ashley Bowe, NHRI, 29.11.2017	Report
71	Declaration on the Elimination of Violence Against Women	United Nations General Assembly, 20.12.1993 GARES 48/104	Report
72	General Recommendation 19, Violence against women	Committee on the Elimination of Discrimination against Women, A/47/38 at 1 (1993)	Report
73	Report on the fifty-seventh session	Commission on the Status of Women (4-15 March 2013)	Report
74	Beijing Declaration and Platform for Action	United Nations General Assembly, adopted 15 September 1995	Report
75	Why do some men use violence against women and how can we prevent it?	Partners for Prevention (UN Women, UNFPA, WHO, UNDP & UNODC), 2013	Report
76	Public Statement from the Commission	Ombudsman, NHRI, 30.9.17	Media article



77	Intimate Partner Violence: High Costs to Households and Communities	International Centre for Research on Women, 2009	Report
78	Disaster and Emergency Management Act 2007	Parliament of Samoa	Legislation
79	Newsletter, Volume 5, Issue 3	Disaster Management Office	Report
80	Samoa's National Disaster Management Plan 2011-2014	National Disaster Council	Report
81	The Cost of Violence against Women and their Children	The National Council to Reduce Violence against Women and their Children, Australia, March 2009	Report
82	Addressing Violence against Women in Developing Countries: The Case of Samoa	Ramona Boodoosingh and Penelope Schoeffel, 2015	Report
83	Samoa Family Health and Safety Study	Secretariat of the Pacific Community, United Nations Population Fund	Report
84	Correlation between high rates of corporal punishment in public schools and social pathologies	John Guthrow, 2002, accessed at <a href="http://www.nospank.net/correlationstudy.htm">http://www.nospank.net/correlationstudy.htm</a>	Report
85	Has a decrease in spanking led to higher crime rates? Nope.	Annie Reneau, accessed at <a href="http://www.scarymommy.com/decrease-spanking-higher-crime-rates/">http://www.scarymommy.com/decrease-spanking-higher-crime-rates/</a>	Report
86	Does outlawing spanking lower the crime rate years later?	Lisa Belkin, 2013, <a href="https://www.huffingtonpost.com/2013/07/17/outlawing-spanking_n_3606886.html">https://www.huffingtonpost.com/2013/07/17/outlawing-spanking_n_3606886.html</a>	Report
87	First ban on smacking children	Carolina Romare, <a href="https://sweden.se/society/smacking-banned-since-1979/">https://sweden.se/society/smacking-banned-since-1979/</a>	Report
88	Spanking and crime rates	Charlemagne, 2013, <a href="https://www.economist.com/blogs/charlemagne/2013/07/spanking-and-crime-rates">https://www.economist.com/blogs/charlemagne/2013/07/spanking-and-crime-rates</a>	Report
89	Samoa's Legislative Compliance with the Convention on the Elimination of all forms of Discrimination Against Women	Samoa Law Reform Commission, August 2016	Report
90	Sixth Periodic State Report to the Committee on the Elimination of Discrimination against Women	Government of Samoa, 2 August 2017, CEDAW/C/WSM/6	Report
91	Samoaan people's understanding of	Ministry for Women New	Report

	primary prevention of violence against women	Zealand, December 2015	
92	Inquiry into Family Violence Submission	Sisilia Eteuati	Written submission
93	Presentation on key findings on family violence inquiry	Falenaoti June Suivai-Ailuai, September 2017	Report
94	General Responses to Enquiry presentations	Tagaloatele Peggy Dunlop, September 2017	Report
95	Analysis of Samoa's Legislative Framework – Laws Relating to Violence	Samoa Law Reform Commission, 2017	Report
96	Links between victims of child violence and perpetrators and the root causes of violence	Chris Rummery and Matt Willner, National Human Rights Institution, July 2017	Report
97	Human rights law and family violence	Chris Rummery, National Human Rights Institution, July 2017	Report
98	Research/Analysis on Ombudsman National Inquiry into Domestic Violence	Charles Dean, Law Reform Commission, July 2017	Report
99	A Public Theology Response to Domestic Violence in Samoa	Mercy Ah Siu-Maliko, Otago University, Dunedin, New Zealand, 2016	Report
100	Further information to assist national public inquiry	Fuimapoao Beth Onesemo-Tuilaepa, CEO MWDCSD, 17 November 2017	Report
101	Laughing Samoan confesses to his secret past as a wife-beater	Jared Nicoll, Stuff NZ, accessed at <a href="https://www.stuff.co.nz/national/98722131/laughing-samoan-confesses-to-his-secret-past-as-a-wifebeater">https://www.stuff.co.nz/national/98722131/laughing-samoan-confesses-to-his-secret-past-as-a-wifebeater</a> , 21 November 2017	Media article
102	'Our words are killing our children' says Judge	Judge Talasa Sa'aga as reported by Tina Mata'afa-Tufele, Samoa Planet, accessed at <a href="http://www.samoaplanet.com/our-words-are-killing-our-children-says-judge">http://www.samoaplanet.com/our-words-are-killing-our-children-says-judge</a> , 30 November 2017	Media article
103	General recommendation No.35 on gender-based violence, updating general recommendation 19	Committee on the Elimination of Discrimination against Women, 14 July 2017, CEDAW/C/GC/35	Report

104	Report on Youth and Family Courts Workshop, 27-29 November 2017	Ashley Bowe, 30 November 2017	Report
105	General recommendation No. 19: Violence against women	Committee on the Elimination of Discrimination against Women, Eleventh session (1992)	Report
106	Samoa Law and Justice Sector Plan 2016-20	Samoa Law and Justice Sector	Report
107	Longitudinal links between fathers' and mothers' harsh verbal discipline and adolescents' conduct problems and depressive symptoms	Ming-Te Wang and Sarah Kenney, Child Development Journal, 2014 May; 85(3): 908 - 923	Report
108	Some parents call it a loving smack. I call it violence	Susanna Rustin, The Guardian, accessed at <a href="https://www.theguardian.com/commentisfree/2018/jan/09/parents-smack-children-violence-ban-corporal-punishment">https://www.theguardian.com/commentisfree/2018/jan/09/parents-smack-children-violence-ban-corporal-punishment</a>	Media article
109	Kenya's unique approach to rape prevention should have the rest of the world taking note	Parker Molloy, accessed at <a href="http://www.upworthy.com/kenyas-unique-approach-to-rape-prevention-should-have-the-rest-of-the-world-taking-note">http://www.upworthy.com/kenyas-unique-approach-to-rape-prevention-should-have-the-rest-of-the-world-taking-note</a>	Media article
110	Young teen testifies of uncle's rape	Shivani Sharma, accessed at <a href="http://www.samoaplanet.com/young-teen-testifies-of-uncles-rape/">http://www.samoaplanet.com/young-teen-testifies-of-uncles-rape/</a>	Media article
111	Draft Samoa Crime Prevention Operating Strategy 2016-20	Samoa Law and Justice Sector	Report
112	Man stabs wife in public	Deidre Tautua-Fanene, 19 July 2017 accessed at <a href="http://www.samoaoobserver.ws/en/20_07_2017/local/22387/Man-stabs-wife-in-public.htm">http://www.samoaoobserver.ws/en/20_07_2017/local/22387/Man-stabs-wife-in-public.htm</a>	Media article
113	Stabbing horror in Apia	Deidre Tautua-Fanene, 12 January 2018, accessed at <a href="http://www.samoaoobserver.ws/en/12_01_2018/local/28760/Stabbing-horror-in-Apia.htm">http://www.samoaoobserver.ws/en/12_01_2018/local/28760/Stabbing-horror-in-Apia.htm</a>	Media article
114	Granduncle guilty of raping niece	Joyetter Luamanu, Samoa Observer, 18 January 2018	Media article

115	Exploring violence against women and girls in Samoa	Fallen Lizard Films	Report
116	Domestic Violence Data	Domestic Violence Unit	Report
117	Data/Statistics of people held in prison as a result of committing a crime relating to domestic violence	Samoa Prisons and Corrections Services	Report
118	Samoa Family Court and Family Violence Court: Monitoring and Evaluation Update Report	Loretta Pupualii, December 2016	Report
119	Samoa cop criticized over domestic violence message	Radio New Zealand, 27 November 2015	Media article
120	Violence against women and children is worrying	Newsline, 17 January 2017	Media article
121	State obligations regarding domestic violence	Lee Hasselbacher, Northwestern Journal of International Human Rights, Spring 2010	Report
122	State of Human Rights Report 2015	Office of the Ombudsman & National Human Rights Institution	Report
122	Tracer Youth Employment Survey	Samoa National Youth Council, 2017	Report
123	Community Capacity Enhancement Gender Issues and family Health and Safety in Samoa: A handbook for Community Conversations	Unspecified	Report
124	Alcohol reform report	Samoa Law Reform Commission, April 2016	Report
125	When collecting evidence from survivors of family violence	Office of the Ombudsman/ NHRI Samoa	Guideline

## **Overall participation numbers in Inquiry**

- 1,500 village consultations (45 % men & 54% women)
- 90 Sui Tamaitai ma Sui o Nu'u (Upolu & Savaii)
- 40 pastors and their wives
- 20 Fa'afafine
- 50 youth
- 83 individuals at public hearings
- 8 individuals at private hearings
- 27<sup>1</sup> individual who provided written submissions

**=1,818** (overall number of those who took part in the inquiry)

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<sup>1</sup> This includes church – 1; matai – 2; experts – 10; survivors and perpetrators – 11; NGOs – 3



*Conducting National Public Inquiries Workshop July 2016*



*National Public Inquiry into Family Violence in Samoa official launch 10 December 2016*





*Honorable Prime Minister Tuilaepa Sailele Malielegaoi speaking at the official launch of the Inquiry 10 December 2016*



*UNWOMEN Coordinator Ms. Papalii Mele Maualaivao, Annie Tavu'i, Ombudsman, Tagaloatele Peggy Dunlop and participants of the Launch, December 2016*



*Deputy Executive Director of Asia Pacific Forum for NHRIs Ms. Pip Dargan with Ombudsman & staff during the Official Launch of the National Inquiry, December 2016*



*Women participant expressing her views during the Inquiry public consultations held in Savaii April 2017*





*Women focus group during Inquiry public consultations held in Upolu March 2017*



*Youth focus group during Inquiry public consultations held in Upolu March 2017*



*Young untitled men (taulele'a) focus group during Inquiry public consultations held in Upolu March 2017*



*Associate Minister for the Ministry of Women Community and Social Development (in green) taking part in the Inquiry public consultations held in Savaii Fa'asaleleaga District April 2017*





*Children Participants during Inquiry Consultations in Upolu May 2017*



*Some of the children who took part in the Inquiry public consultations held in Savaii April 2017*



*Women focus group presenting their views during Inquiry public consultations held in Upolu, March 2017*



*Young men/ youth focus group presenting their views during Inquiry public consultations held in Fagaloa Upolu, May 2017*





*Women participants during Inquiry Consultations held in Manono-Tai, May 2017*



*Participants of Inquiry Consultations held at Vailele EFKS Hall, Upolu, May 2017*



*Participants at Inquiry Consultations with Fa'afafine Association Samoa, May 2017*



*Women participants during Inquiry Consultations in Savaii, April 2017*





*Police officers who took part in the Inquiry public hearings Upolu, September 2017*



*Staff during awareness raising of Inquiry Activities on radio*



*Rev. Taumafai Komiti providing submission to the Commissioners during Inquiry public hearings Upolu, September 2017*



*Commissioners hearing submissions from representatives of the Law and Justice Sector during Inquiry stakeholder hearings Upolu, October 2017*





*Dr. Malama Tafunai during Inquiry public hearings*



*Afioga Maulolo Tavita Amosa during Inquiry public hearings*



*Afioga Falefa Taefu Matai participant giving submissions*



*President of Faataua le Ola providing submission*



*Keni Lesa, Editor Samoa Observer during Inquiry hearings*



*Luagalau Foisaga Eteuati-Shon, Inquiry hearings*



*Pastor Samoa Unoi during Inquiry public hearings*



*Matai Participant during Inquiry public hearings*



*Children Participants during Consultations, Upolu*



*Standing for violence against GIRLS*





*Commissioners during Consultations with representatives of Judiciary and Member of Convention on the Rights of the Child Committee, Justice Vui Clarence Nelson, October 2017*



*Rev. Vavatau Taufao & Rev Dr. Nuuausala Siaso along with other participants giving submissions to the Inquiry*





*Participants giving submissions during Public Hearings, Upolu, September 2017*



*Participants giving submissions during Public Hearings, Upolu, September 2017*



*Participants giving submissions during Public Hearings, Upolu, September 2017*





*“SAY NO TO VIOLENCE”: Participants during Inquiry public consultations held in Savaii, April 2017*



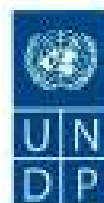
*Commissioners debrief on all evidence and submissions provided to the Inquiry, October 2017*



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