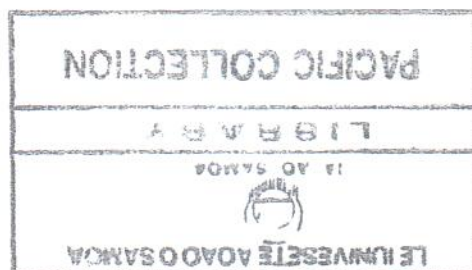


Funded and supported by the New Zealand Government

A Study of Sexual and Domestic Violence Against
Women in Western Samoa
1996

Research Report

Mapusaga o Aiga



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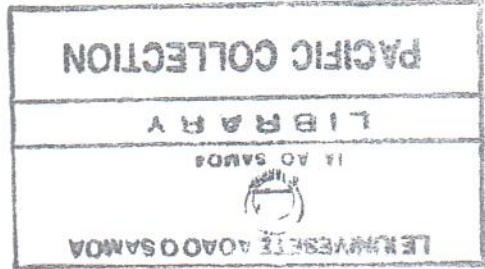
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We therefore take this opportunity to especially thank a number of people who have given tireless and endless enthusiasm, warmth and good humour. We thank the Commissioner of Police, Mr Galuvao Tanielu for providing us with access to police records; Athena Wright; Pauline Gray; The Secretary of Justice, Tuala Kerslake; The Deputy Registrar and Deputy Secretary for Justice Soa Tusipa Masina for access to the Justice Department records; "Le Car Rental" and Mr and Mrs Louis Chan Tung; The Presidents and Women's Committee members of Village A, Village B, Village C and Village D; Edith Fry, Coordinating Librarian at the National Hospital and Nursing School of Western Samoa; Louisa Nagler for her help with the literature search.



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There were other MOA members who were instrumental in first establishing the research project such as: Ms Helen Aikman - Former State Solicitor, and Ms Athena Wright (MOA Treasurer) who both left our shores before the completion of this work.

I wish to make special mention of Ms Peta Siulepa who has played a key role in obtaining funding for this project and has skilfully prepared our applications and proposals and presented them to our funders. This has enabled the research project to be completed without a hitch.

The moral support of all our Executive and financial members has been important also for we say : *"E le sili le ta'i ! lo le tapua'i"* - *"To give support is just as important as to lead"*

We thank God for his guidance and acknowledge the lessons we have learned and continue to learn as we struggle with our many MOA tasks and objectives. May God grant us, his children, the strength to continue working for a better society in which we are safe from the threat of physical violence and sexual abuse, such as he had intended for us all.

It is our hope that this document will spur debate and also other people to become involved and to work towards the elimination of sexual abuse and domestic violence in Samoa and wherever it may exist.

Soifua.



Maiava Visekota Peteru
PRESIDENT

A Few Statistics

To place this study in context here are some demographic details to assist in the interpretation of the statistics and analysis of the findings of this study.

The total population of Western Samoa in 1991 was 161,298 of which 98 percent were Western Samoans. This figure consists of 84,601 males and 76,697 females (Table 1).

Table 1. Population of Western Samoa, 1902 - 1991.

Year of Census	Samoaan Population	Total Population	Samoaan as a percent of total population
1902	32 612	-	-
1906	33 478	37 320	89.7
1911	33 554	38 084	88.1
1917	35 404	37 331	94.8
1921	32 601	36 422	89.5
1926	36 688	40 231	91.2
1936	52 232	55 946	93.4
1945	62 422	68 197	91.5
1951	88 153	84 909	94.4
1956	91 883	97 327	94.4
1961	113 101	114 427	98.8
1966	130 110	131 377	99.0
1971	144 111	146 267	98.3
1976	150 089	151 983	98.8
1981	153 920	156 349	98.4
1986	156 000	157 158	99.1
1991	158 121	161 298	98.0

Department of Statistics: Report of the Census of Population and Housing 1991

Educational indicators show that enrolment of Western Samoans at primary school level is very high but drops at the upper secondary school level (Table 2).

Table 2. Percentage distribution of persons attending school by age group and sex, 1981 and 1991.

Age Group	Males	Females	Total	Males	Females	Total
5 - 9	81	82	81	88	89	89
10 - 14	97	98	97	97	98	98
15 - 19	61	70	65	66	75	70
5 - 19	80	84	82	84	88	86

1981 Census
1991 Census

Department of Statistics: Report of the Census of Population and Housing 1991.

Relevant Laws of Western Samoa

"Sa'olotoga mai le Faiga Tulafono faaloga tagata
 15.(1) E tutusa tagata uma i luma o le tulafono ma e tofua tatau ona maua le
 pui-puiga tutusa i lalo o le tulafono.
 (3) E leai se mea i lena Mataupu o le a -
 (b) taofia ai o le faia o so o se aiaiga mo le pui-puiga po o le faagasologa i luma o
 fafine po o tamaiti o le vasega o tagata ua telegese le gasologa i luma o lo latou
 tulaga tau le vafealofa'i po o le a'oa'oina."

"Freedom from Discriminatory legislation
 15.(1) All persons are equal before the law and entitled to equal protection under
 the law.
 (3) Nothing in this article shall -
 (b) prevent the making of any provision for the protection or advancements of
 women or children....."

(Article 15(1)(3)(b) Constitution of the independent State of Western Samoa)

Western Samoa became independent on 1 January 1962. The legal system is
 derived from:

- a) the Constitution;
- b) New Zealand statutes applied to western Samoa and western Samoan
 Ordinances made prior to 1962;
- c) prior to 1962 the laws of England existing on 14 January 1840 (the date New
 Zealand became a colony) and the rules of English common law and equity
 developed in English and New Zealand Courts;
- d) in relation to the holding of a matai title and customary land and to the rules of
 village government, Samoan custom and usage.

The problem of domestic and sexual violence has in the past been seen to demand
 a legal solution to an essentially complex social problem.

The laws relevant to the area of domestic and sexual violence in Western Samoa in
 the punitive sense are found in the Crimes Ordinance 1961 ("the Ordinance"). This
 Ordinance is based on the original New Zealand legislation which has not been
 amended since its adoption in 1961. Sexual crimes are found in sections 46 to 54,
 Part VI of the Ordinance. "Physical assault" is covered under sections 78, 79 and
 80 of the Ordinance. At Appendix 1 these provisions are set out in full.
 There is no need to go into the legal requirements of each charge but it is
 necessary to explain a few definitions in relation to these provisions.

This is a classic example of how the adversarial and traditional criminal law model and sexual offences provisions do not assist in the rehabilitation of the victim and by implication do not encourage the reporting of sexual offences. In effect the present structure demands that the victim of a sexual assault go through her ordeal twice, once during the commission of the offence and once in the Court room when giving evidence in order for the victim to exercise her constitutional right to justice.

In practice then the criminal law provides little assistance in real terms to the victim of domestic or sexual violence. The issue is whether the criminal law is an appropriate tool in dealing with domestic and sexual violence. There are arguments on both sides of the coin. Arguments against the worth of the criminal law are:

- that it is punitive rather than rehabilitative of the victim; the process in obtaining the conviction punishes the victim as well as the accused
 - there are not the facilities available to facilitate the sensitive treatment of victims
 - likewise there are no facilities available to assist in the treatment of the accused e.g. in the areas of alcohol abuse; anger management
 - there are serious difficulties in obtaining a conviction because the prosecution must prove the charge "beyond reasonable doubt" which is heavily reliant on the credibility of the victim
 - there is always the risk that a violent man who is acquitted on a technicality will return to the home without the support services to assist him in treatment to avoid the continuous pattern of behaviour
 - even if the abuser is convicted and sentenced it does not assist the abuser's rehabilitation if the sentence is a short custodial one with weekend parole with no support services to address the source of the abuser's behaviour
 - the victim of domestic violence will suffer economically while the abuser is in prison because she will be denied economic security.
- There are forceful arguments for the maintenance of the status quo and in fact in support of the strengthening of the criminal law.
- a criminal conviction carries with it a statement of guilt and personal responsibility for his actions and the stigma and condemnation of society
 - that decriminalisation will result in the reducing of domestic and sexual violence to a social problem devoid of punitive force
 - there is no feasible alternative to the punitive criminal law model

Literature Review

A part of the research project carried out by Mapusaga o Aiga in 1995-1996, a review of current literature on domestic and sexual violence towards women was carried out. The purpose of this research was to collect and utilise baseline data and to place our findings in the context of work previously undertaken firstly in Western Samoa, and secondly within the Pacific region.

To this end, literature searches were carried out in libraries and universities in Western Samoa and overseas. A large amount of material has been generated on domestic violence, sexual abuse and child abuse, however very little of this is derived from Western Samoa.

The literature search is divided into 2 main areas:

- domestic violence against women
- rape and sexual violence against women

Although material on spousal violence of women towards men was found, it is not included in this survey.

Domestic Violence Against Women in the Pacific

The term "domestic violence" refers to violence that is "perpetuated by a man against a woman in the home".¹ In this research, this phrase will be used to describe physical injury to adult women caused by male family members who reside within the same household, be they partners, husbands, or relatives. In a wider sense, violence against women means "any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women".²

There is a vast spectrum of violent behaviour which spouses may demonstrate towards each other, and indeed many of the emotional and psychological scars from abusive relationships take much longer to heal and have a far more damaging effect on a woman's self esteem than physical injuries. They are however difficult to quantify, thus for simplicity of purpose in this research, the literature review will be confined principally to physical and sexual violence.

Western Samoa has taken the unprecedented step of becoming the first country in the Pacific to sign the Convention for the Elimination of all forms of Discrimination Against Women (CEDAW).³

This indicates a readiness on the part of decision makers to include women as equal partners in the development process.⁴ It has been recognised that women are unable to make a full contribution to society and sustainable development if they are subject to violence and oppression within their own homes.

These attitudes reflect those of other countries in the region⁹ and further afield. Recent surveys indicate that approximately a quarter of the world's women are subject to domestic violence.

Within the region, statistics from Papua New Guinea indicate that 60% of PNG women have been assaulted by their husbands within their own homes. Further afield in Thailand, figures show that 50% of Thai women have been similarly treated, and 80% of Pakistani women are abused within their homes.¹⁰

Many women for whom violence is commonplace come to accept beatings as a normal part of their lives, and may even believe, as is suggested in the interviews above, that they have brought the violence or abuse upon themselves, by a real or supposed infraction of the rules of conduct dictated by the male head of the household.

Inequality of power within the family unit is further aggravated by the addition of alcohol, consumed more frequently and in greater quantities by Polynesian men in comparison with Polynesian women.¹¹ Overseas studies have repeatedly shown the association between drinking alcohol and violent behaviour.^{12,13,14} One such study carried out in Scotland, Mexico and Zambia, by the World Health Organisation in 1985, found that "a drunken man hitting his wife" was a situation known to the majority of respondents.¹⁵ In Western Samoa, the Commissioner of Police in 1984 estimated that alcohol was involved in "sixty to seventy percent of violent crime(s)".¹⁶ Although no surveys have been performed as yet in Western Samoa regarding the effects of domestic violence on women and their families, overseas surveys have shown that battered women are four to five times more likely than women who are not victims of domestic violence to attempt suicide or need treatment for psychiatric problems. They have twice the risk of miscarriage, and four times the risk of having a low birth weight baby in comparison with their non-battered counterparts.¹⁷

Regional studies show that there is "ethnographic data from Oceania, that corroborate(s) evidence that wife beating is directly related to depression and suicide."¹⁸ Simply in terms of pain and injury, random surveys in Papua New Guinea show that approximately 18% of urban Papua New Guinean women have in the past sought hospital treatment for injuries inflicted by their husbands.¹⁹

Recent research has shown that although "Samoans consider it proper to correct a wife's misbehaviour with a few blows of a stick, an open hand, or even a closed fist,"²⁰ this is not widely accepted by women in the community. Surveys undertaken by Critch in 1995 indicate that 80% of women interviewed in Papa village (a rural village in Savaii) are non-acceptors of domestic violence.²¹

The women sampled suggest, as does Simi,²² that traditional methods of escaping domestic violence can be helpful. Specific suggestions given included seeking shelter with the pastor and his family, or with other members of the extended family. This would appear to be an effective solution for women who live in their own natal village, but the majority of women move to their husband's village after marriage²³ and in these cases the issue of seeking shelter with blood relatives of the abuser becomes complicated for all concerned, and ineffective as a solution for the victim.

Children in violent families are learning about adult relationships from their parents. This creates a cycle of violence which carries on from one generation to the next unless responsibility is taken by someone in the family to bring to an end the destruction wreaked by domestic violence on those whom they love best. Solutions to domestic violence, such as educational programmes, must therefore include young people and school children, in order to effectively interrupt the natural continuation of inherited family violence. These programmes, coupled with a reaffirmation of the customs and traditions which grant Samoan women respect, self esteem, and equality,²⁹ both within the household and the nation, would provide an effective strategy for dealing with the problem of domestic violence.

In combination with increased public awareness of the problem of domestic violence and its consequences within the Samoan community,^{30,31,32} and further training and expansion of existing support services and legislation,^{30,31,32} it is clearly possible to mount an effective campaign against domestic violence, and to provide the necessary support services for those women who are currently victims of a behaviour pattern which demonstrates a fundamental disrespect for the lives, roles, and rich contribution made to national life by the women of Western Samoa.

The seeking of these penalties however, generally also entails much shame for the victim, and a great deal of anger by the perpetrator's family at the disgrace brought upon them. It has been suggested by Simi³⁹ that such measures are invoked in only a small minority of villages. A woman who chooses not to use traditional sanctions but seeks redress solely through the courts, does however risk punishment by the village council for not requesting their assistance and thus defying village laws.

It is not surprising therefore that many victims choose to suffer in silence rather than bring the perpetrator to justice.⁴⁰

It is notable that there is no such thing as spousal rape under Western Samoan law, unless there is a judicial separation or separation order in force at the time the rape takes place. This renders those women who are sexually abused within violent marriages helpless in the face of the law, and makes women who are trying to escape from such a marriage particularly vulnerable in the period prior to obtaining a separation order.

Although there are countries such as Ireland, Israel, Poland, and Portugal⁴¹ where the situation is similar, they are an international minority, and most other countries have laws protecting women from rape by their husbands or partners. Within the region, criminalisation of spousal rape has occurred in Australia and New Zealand, and is seen as an important step in reducing sexual violence against women.⁴²

Other forms of assistance to women who are victims of spousal violence and sexual abuse include recognizing "at-risk" marriages, and offering increased social support to families thus identified. Factors associated with the increased risk of violent assault in New Zealand within marriage (with or without rape) include non-attendance at church, a young husband, a poorly educated wife, short length of marriage, a lack of pregnancy planning and lower socio-economic status.⁴³

It is not known how these factors relate to Samoan communities but the concept of an "at-risk" couple is one which may be useful in developing village level support services for families suffering from sexual and domestic violence. There are also training programmes^{44,45} available within the region and manuals specifically designed to assist counsellors working on an individual basis with rape or child sexual abuse victims.

Child sexual abuse and incest is a difficult subject for any society to discuss in public, and is especially so in Polynesian culture. That it does occur in Western Samoa, is suggested by the presence of a traditional village punishment for incest,⁴⁶ confirmed by the incidence of court appearances by perpetrators and their prosecutions in recent years, and corroborated by case studies from health workers, teachers, and counsellors, and verified by statistics on complaint rates.

Footnotes for Literature Review

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39. See note 6
40. See note 37
41. *Counselling on Rape and Sexual Abuse of Children, Report of IPPF Workshop, 30 Nov-3 Dec 1988, Denmark, 1988*
42. See note 20 and 32
43. Fergusson et al: *Factors Associated with Reports of Wife Assault in New Zealand*, in *Journal of Marriage and the Family*, May 1986
44. Carter, C.: *Community Education Programme, Trainer's Manual, Second Edition, for Fiji Women's Crisis Centre, Suva, Fiji*
45. Carter, C.: *Counsellor Training Programme, Trainer's Manual, Second Edition, for Fiji Women's Crisis Centre, Suva, Fiji*
46. See note 6

The survey was carried out over a period of two months between December 1995 and January 1996. The interviewers were Samoan speaking members of the research team who also have a command of the fa'a Samoa which is essential for the authentic and unbiased gathering of data.

Scope of the study

Women aged over 15 years and upwards are included in the sample. Some participants were as old as 80 years old. The sample size is 257 women from 4 different villages. The surveys were carried out in Savaii and Upolu.

Some Definitions

Obviously clarifying issues of definition of "domestic violence" and "sexual violence" are crucial to the integrity and usefulness of this study.

For the purposes of this study we have been guided by the following definitions using key words to guide us:

(a) "Domestic Violence" consists of the following elements:

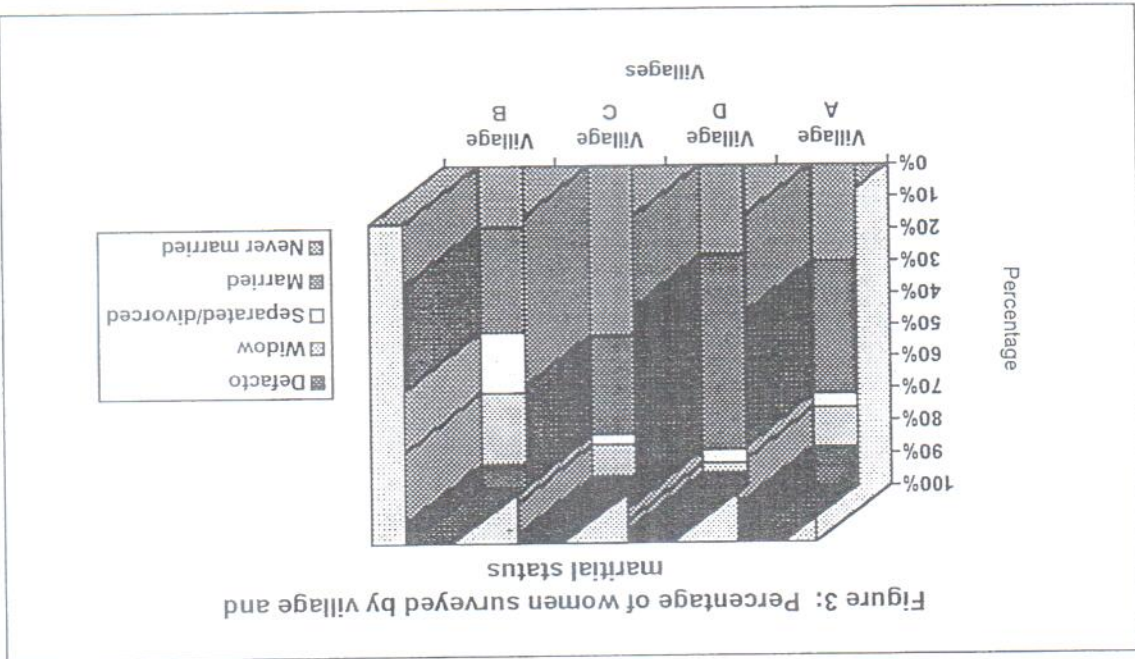
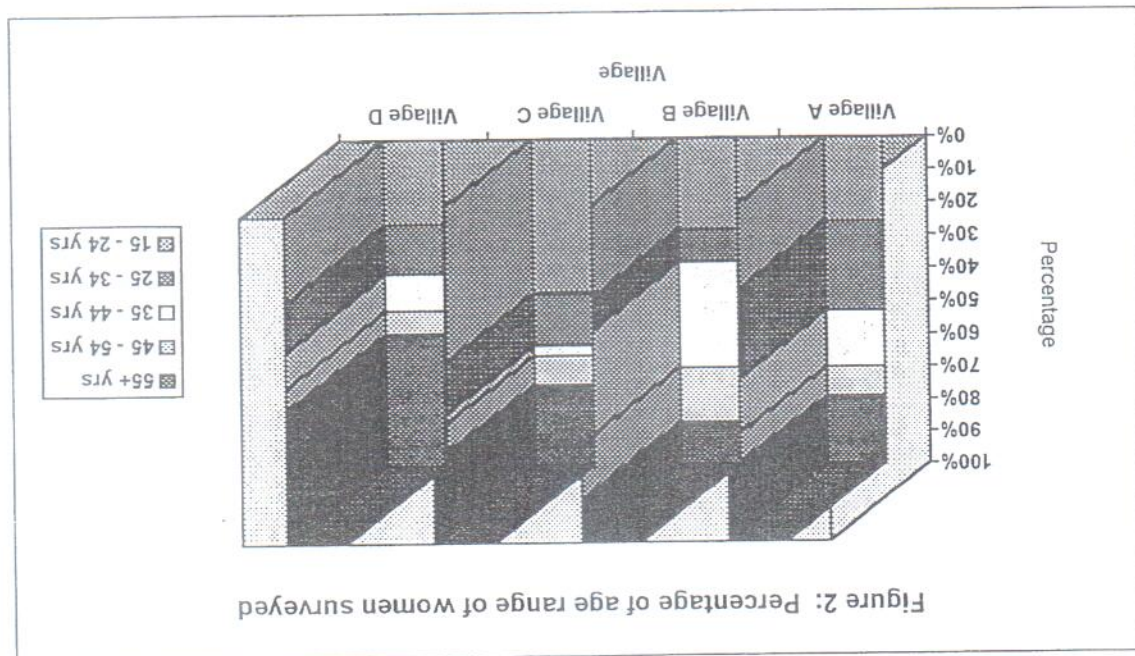
- (i) unwanted physical touching of varying force and intimacy by a male (including husband/brother/defacto husband) on a female
- (ii) physical touching of varying force and of asexual, intimate or indecent manner
- (iv) in the home

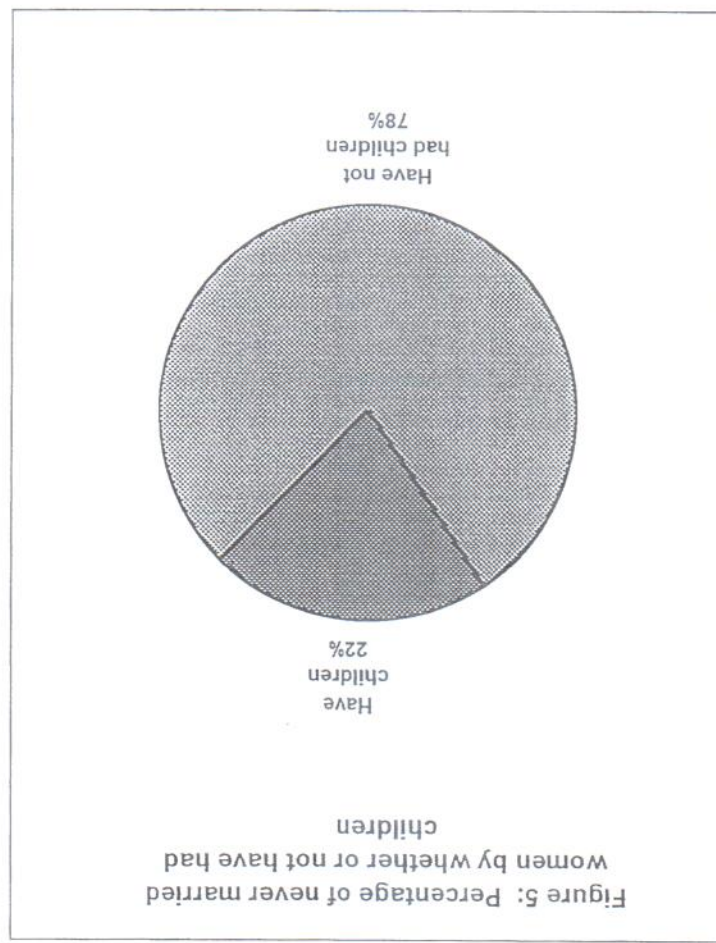
(b) "Sexual violence" consists of the following elements:

- (i) unwanted physical touching of varying force and of asexual, intimate or indecent manner
- (iii) by a male on a female

We have used these definitions throughout this study. They often overlap with the legal definitions as defined by the Crimes Ordinance provisions. This overlap does not effect the definition used. For example the crime of "rape" as defined by section 47 of the Crimes Ordinance fits in within the definition of "sexual violence".

This study is confined to violence of a physical nature. Although "violence" can be non physical including lewd remarks, pornography etc this study focuses on the physical.

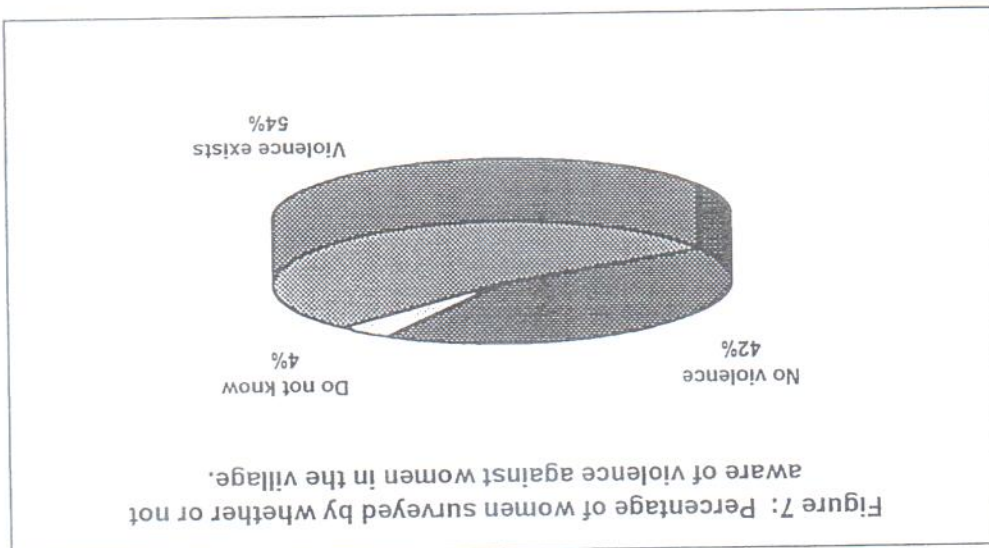




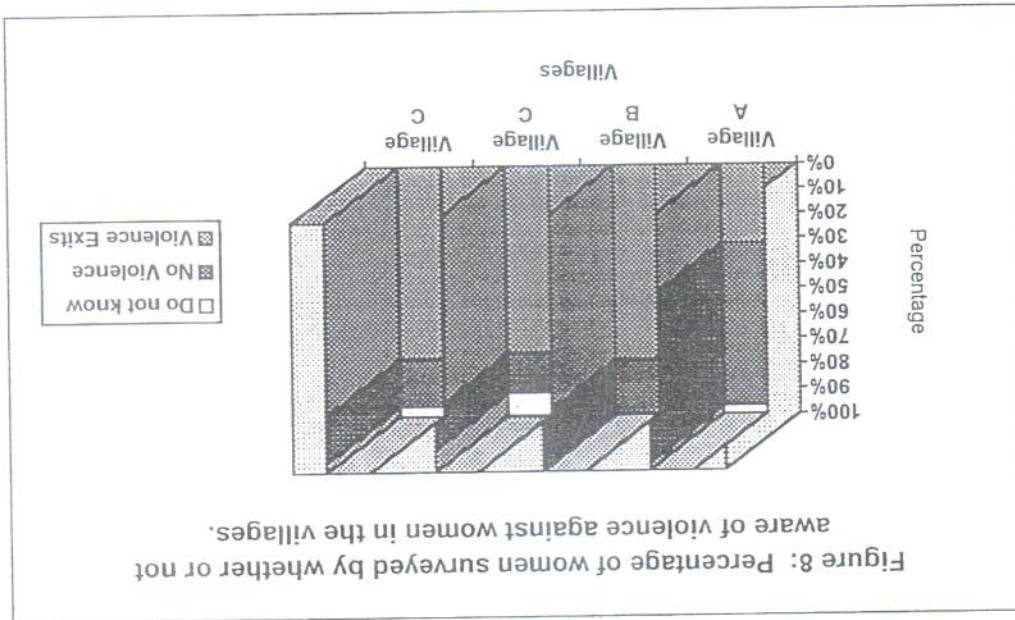
Of the total of 79 women who never married 78, per cent (62) have not had a child while 22 per cent (17) have had one or more children. During the interviewing process, women have expressed their concern over single women in their villages who have had children. Some women said that having a child without a father is an abuse as it would seriously disadvantage the mother and the child. Also they said single mothers not only need financial but moral support for the upbringing of the children. Despite this, some single mothers have said that they can manage with the help of their family to care for their children. Some single mothers have said that they are reluctant to marry the father of their child because he drinks alcohol.

Topic 2: Women's Awareness of Violence Against Women in the Village

All women surveyed were asked, "Do you know of any act of violence against women in the village you are living in?"



As shown in Figure 7, 54 per cent (139) of women surveyed said that violence against women existed, 42 per cent (108) said that they did not know of any violence, and four per cent (10) did not know whether violence was taking place in the villages.

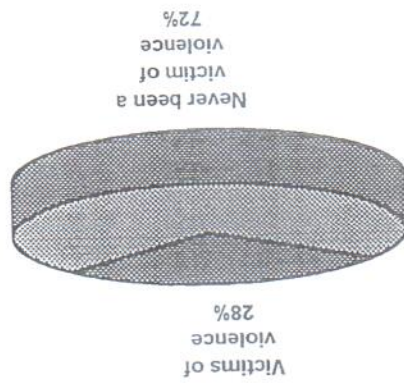


It is shown in Figure 8 that only Village A of the four villages has a lower proportion of women who said that there was no violence against women in their village than those who said that violence was. Of Village A, 65 per cent (84) of women interviewed said that there was no violence, 32 per cent (41) said violence was occurring and three per cent (4) did not know whether there was violence. Of Village D, 77 per cent (53) reported that there was violence, 19 per cent (13) no violence and four per cent (3) did not know.

Topic 3: Victims of Violence

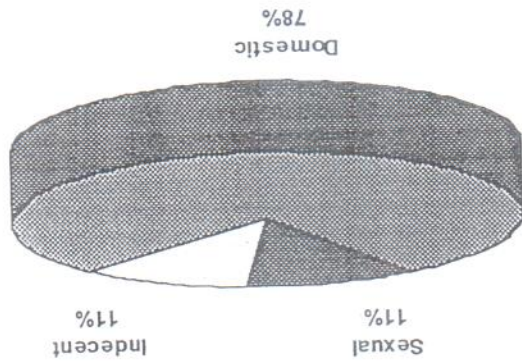
All women interviewed were asked "Have you ever been a victim of violence?". Several women said that they have experienced violence but rather through "fataala" (gossip), husband engaged in extra-marital affairs, single daughters having children without a father and being beaten up by parents.

Figure 9: Percentage of women surveyed by whether or not ever been victims of violence



Of the 257 women surveyed, 72 per cent (184) said that they have never experienced violence and 28 per cent (73) said they have been victims of violence (Figure 9).

Figure 10: Percentage of women who are victims of violence by type of violence



As shown in Figure 10, 78 per cent (57) of the victims experienced domestic violence, 11 per cent (8) experienced sexual violence and 11 per cent (8) experienced indecent violence.

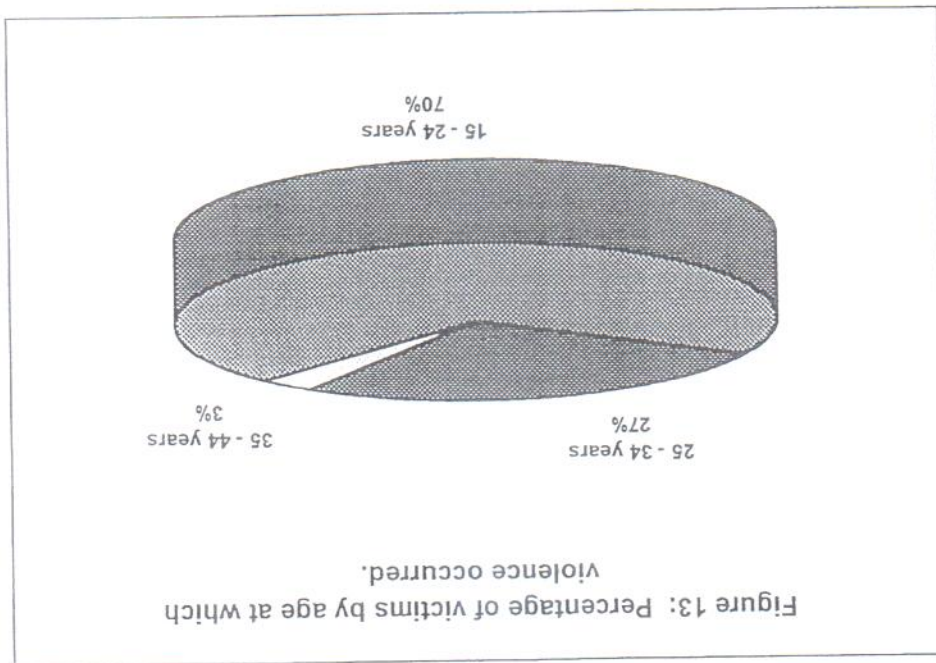
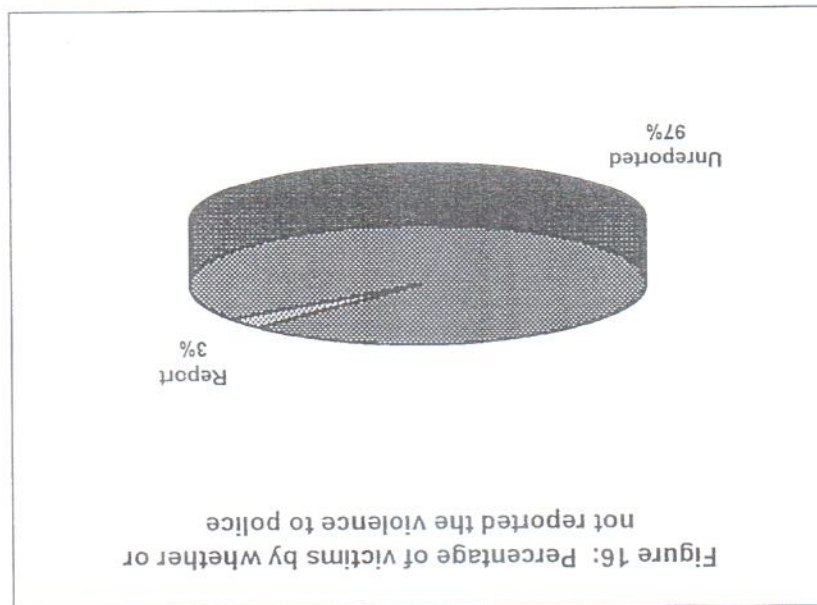


Figure 13 shows that 70 per cent (51) of the victims experienced violence at ages 15 to 24, 27 per cent (20) experienced violence at ages 25 to 34 and three per cent (2) at ages 35 to 44. There were two women who had experienced sexual and indecent violence at the age of thirteen.

The victims of domestic violence said they were subjected to frequent beatings by their husbands at the early stages of their marriages. However, once couples began to have children and became more mature, and responsible members of church and communities then the wives became less subjected to beatings.

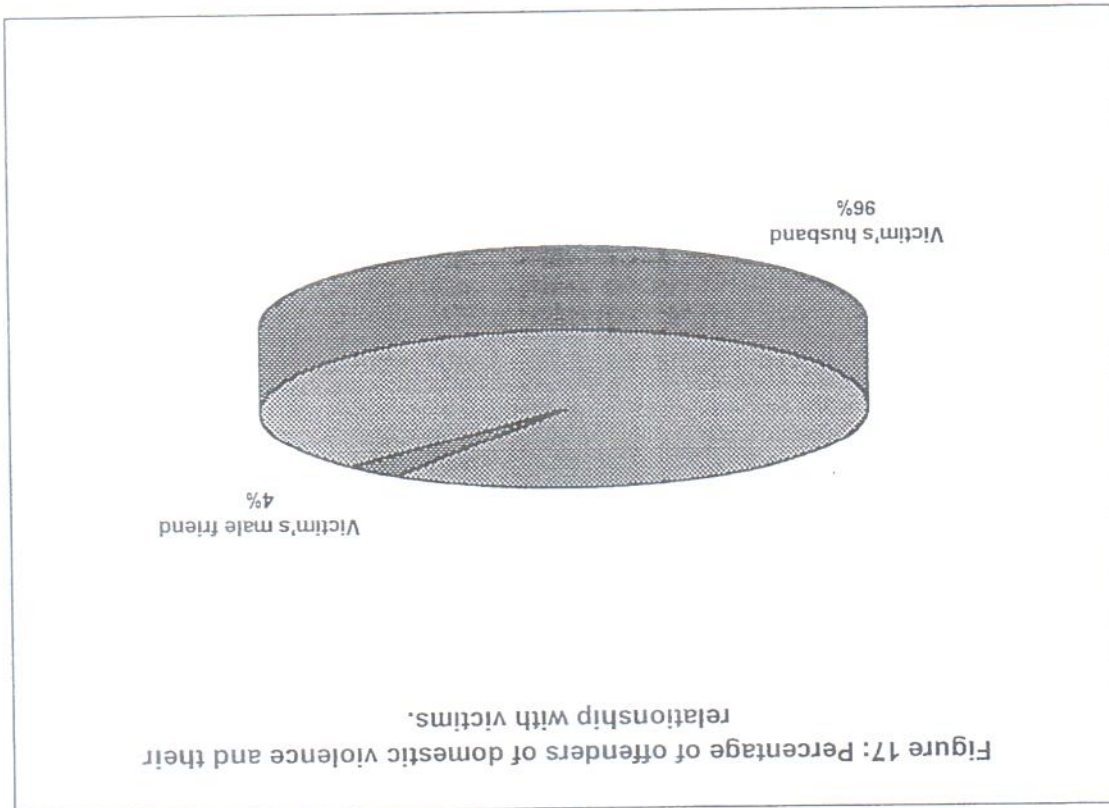
It is shown in Figure 15 that of the victims who discussed violence, 60 per cent (28) discussed violence with their families, 17 per cent (8) discussed with village women, nine per cent (4) discussed with families of their husbands, eight per cent (4) talked with friends and six per cent (3) discussed with their neighbours.



Of the women who experienced violence 97 per cent (71) did not report the act of violence to police and only three per cent (2) reported the violence to the police. However, of the two victims who lodged complaints to the police office regarding sexual assault and domestic violence, the complaint of sexual violence was later withdrawn as the family of the perpetrator performed a "foga" (traditional apology according to Samoan custom) to the victim's family. One woman who lodged a complaint to the police when she was subjected to serious beatings by her husband, saw the police take her husband to the office and talk to him.

Topic 5: Who is the Perpetrator ?

Seventy three women who were victims of violence were asked whether or not they knew of the offenders; if yes, then they were asked to describe their relationship with the offender.



Of the 57 women who were victims of domestic violence 96 per cent (55) of the offenders were husbands of the victims and four per cent (2) are male partners of the victims.

Of the eight women who were victims of sexual violence, four were men from the victim's village, two were uncles of the victims, one was a male friend and one was a man from another village.

Of the eight women who are victims of indecent assault, three of the offenders were men from the victim's village, two were men from another village and three offenders were not known by the victims.

Topic 6: Women's Suggestions on Actions to be taken when encountering Violence

All of the women surveyed (257) were asked for their suggestions on measures to be taken once a woman encountered violence. Table iv shows that of the three types of violence, the majority of women suggested that domestic, sexual and indecent violence should be reported to police. Of domestic violence 13 per cent did not know what actions were to be taken while 15 and 17 per cent did not know where women who are victims of sexual and indecent violence should go.

Table iv. Percentage of women surveyed by suggestions on action to be taken once encounter violence

Suggestions of actions to be taken	Type of violence	Sexual violence	Indecent
Total	100	100	100
Report to police	40	47	46
Do not know	13	15	17
Other	10	6	5
Consult Mapusaga o Aiga	9	8	8
Consult church minister	8	2	2
Talk to family members	7	7	7
Report to village council	5	9	9
Escape to one's own family	3	-	-
Escape from violence	3	3	3
Shout and stone offender	2	2	2

Topic 8: Administrative records on violence against women in Western Samoa

The research team compiled and tabulated statistics for year 1990 to 1995 on violence against women in Western Samoa by the Department of Police and Prisons. The data analysed in this report covered records of crimes against women reported to the Criminal Investigation Bureau (CIB) of the Police Department in Apia.

Figure 19 showed a slight increase followed by a slow decline of sexual violence within the five year period. Of physical violence, the number of cases declined from the year 1990 to 1992, increased from 1993 to 1994 and slowly declined in 1995.

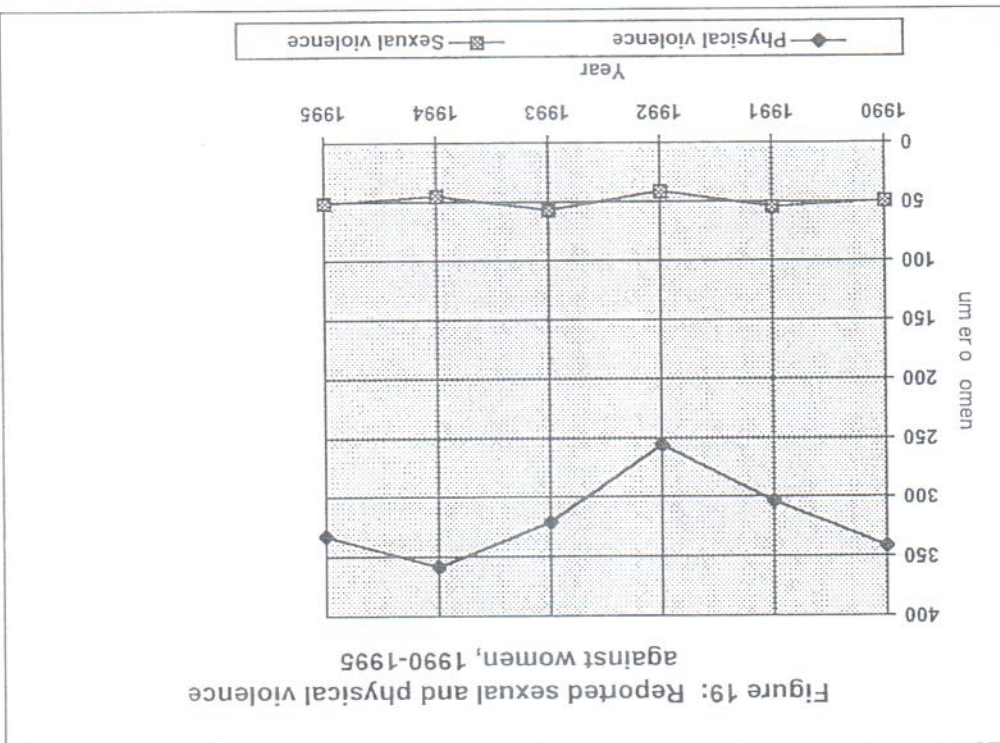
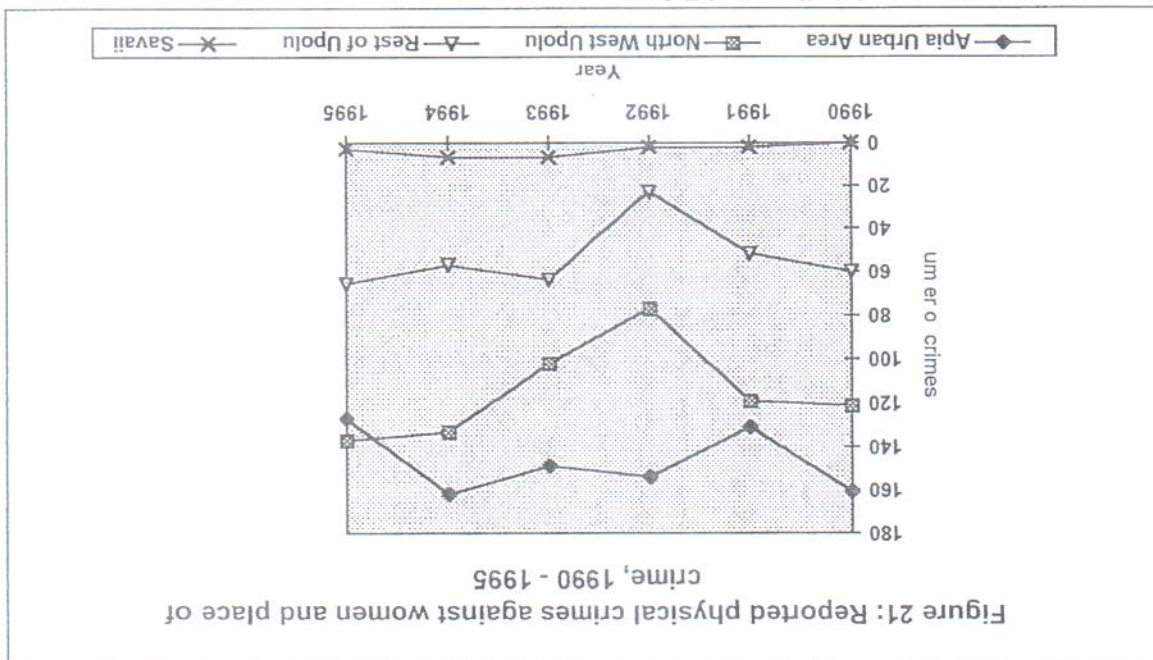


Figure 19: Reported sexual and physical violence against women, 1990-1995

Source: Department of Police & Prisons

The above chart is detailed in Table VI.



Source: Department of Police and Prisons

The two regions of Western Samoa namely North West Upolu and Rest of Upolu depicted a similar pattern of reported physical violence from year 1990 to 1995. For the Apia Urban Area the pattern was similar to North West Upolu and Rest of Upolu region except that it increased from 1991 to 1992 and declined from 1994 to 1995.

Figure 20 and 21 are detailed in Table vii.

Table vi. Reported crime against women by type of offence, 1990 - 1995

Crime	1990	1991	1992	1993	1994	1995
Total Crime	491	358	297	379	404	384
Total sexual violence	49	54	41	57	45	51
Rape	18	24	18	19	9	7
Attempted rape	2	3	0	5	5	10
Incest	0	3	5	5	4	3
Intercourse with girl under 12 years	1	2	0	4	2	2
Intercourse with girl under 12	6	5	5	9	9	5
Intercourse/incestency girl 12-16 years	9	13	7	7	9	11
Indecent assault women over 16 years	13	4	6	8	7	13
Total physical violence	342	304	256	322	359	333
Common assault	192	156	100	130	216	176
Indecent language	73	54	55	83	66	74
Wife bashing	63	74	90	97	64	58
Grievous bodily harm	1	0	2	3	1	6
Actual bodily harm	13	20	9	9	12	19

Source: Department of Police and Prisons

With regard to convictions of sexual violence offences against women within the five year period, more than half of the charges laid in the Supreme Court were convicted except for year 1995 (Table viii and Table ix).

Table ix. Number of convictions laid in the Supreme Court by type of offence, 1990 - 1995

Crimes	1990	1991	1992	1993	1994	1995
Total Crimes	19	15	40	29	17	10
Total Sexual Violence	17	14	36	27	17	10
Rape	10	6	11	8	4	2
Attempted rape	-	-	2	6	-	-
Incest	1	-	4	2	3	1
Intercourse with girl under 12 years	-	-	2	1	1	2
Intercourse with girl under 12 years	1	2	5	3	1	2
Intercourse/indecency girl 12-16 years	3	6	11	6	8	3
Indecency assault women over 16 years	2	-	1	1	-	-
Total Physical Violence	2	1	4	2	-	-
Common assault	-	-	1	1	-	-
Grievous bodily harm	1	1	1	1	0	-
Actual bodily harm	1	-	2	-	-	-

Source: Department of Justice

Table x: Number of withdrawals/dissmissals of charges laid in the Supreme Court by type of offence, 1990 - 1995.

Crimes	1990	1991	1992	1993	1994	1995
Total Crimes	8	4	26	16	14	26
Total Sexual Violence	5	4	22	14	13	26
Rape	3	1	9	7	2	6
Attempted rape	-	1	-	-	1	3
Incest	-	-	1	1	-	2
Intercourse with girl under 12 years	-	-	1	-	4	-
Intercourse with girl under 12 years	-	-	2	1	6	8
Intercourse/indecency girl 12-16 years	2	1	8	5	-	7
Indecency assault women over 16 years	-	1	1	-	-	-
Total Physical Violence	3	-	4	2	1	-
Common assault	3	-	3	2	-1	-
Grievous bodily harm	-	-	-	-	-	-
Actual bodily harm	-	-	1	-	-	-

Source: Department of Justice

Appendices and Bibliography

“Crimes Ordinance 1961”

- (2) It is a defence to a charge under this section to prove that the public good was served by the acts alleged to have been done.
- (3) It is a question of law whether the sale, exposure for sale, distribution, exhibition or presentation might in the circumstances serve the public good, and whether there is evidence of excess beyond what the public good requires; but it is a question of fact whether or not the acts complained of did so serve the public good and whether or not there was such excess.
- (4) It is no defence that the person charged did not know that the model, object, show or performance to which the charge relates was indecent, unless that person also satisfies the Court -
- (a) That he had no reasonable opportunity of knowing it; and
- (b) That in the circumstance his ignorance was excusable.
- (5) No one shall be prosecuted for an offence against this section without the leave in writing of the Attorney-General, who before giving leave may make such inquiries as he thinks fit.
- (6) Nothing in this section shall apply to any document or matter to which the Indecent Publications Ordinance 1960 relates, whether the document or matter is indecent within the meaning of that Ordinance or not.
- CF 1961, No. 13, s. 5; 1961, No. 43, s. 124 (N.Z.); 1966, No. 98, s. 3 (N.Z.)

[4. Indecent act in public place -- (1) Every one is liable to imprisonment for a term not exceeding 2 years who willfully does any indecent act in any public place, or within view of any such place.

(2) It is a defence to a charge under this section if the person charged proves that he had reasonable grounds for believing that he would not be observed.

CF 1961, No. 13, s. 56; 1961, No. 43, s. 125 (N.Z.)

[45. Indecent act with intent to insult or offend --Every one is liable to imprisonment for a term not exceeding 2 years who, with intent to insult or offend any person, does any indecent act in any place.

CF 1961, No. 43, s. 126 (N.Z.)

“Sexual Crimes”

[46. **Sexual intercourse defined**--For the purposes of this Part of this Act, sexual intercourse is complete upon penetration, and there shall be no presumption of law that any person is by reason of his age incapable of such intercourse.
 Cf. 1961, No. 43, s. 127 (N.Z.)

[47. **Rape** -- (1) Rape is the act of a male person having sexual intercourse with a woman or girl -

- (a) Without her consent freely and voluntarily given; or
- (b) With consent extorted by fear of bodily harm or by threats; or
- (c) With consent extorted by fear, on reasonable grounds, that the refusal of consent would result in the death of or grievous bodily injury to a third person; or
- (d) With consent obtained by personating her husband; or
- (e) With consent obtained by a false and fraudulent representation as to the nature and quality of the act.

(2) Every one who commits rape is liable to imprisonment for life.
 (3) Notwithstanding anything in subsection (1) of this section, no man shall be convicted of rape in respect of his intercourse with his wife, unless at the time of the intercourse there was in force in respect of the marriage a decree of judicial separation or a separation order.
 Cf. 1961, No. 13, s. 50; 1961, No. 43, s. 128 (N.Z.)

[48. **Attempt to commit rape** -- Every one who attempts to commit rape or assaults any person with intent to commit rape is liable to imprisonment for a term not exceeding 10 years.
 Cf. 1961, No. 13, s. 50; 1961, No. 43, s. 129 (N.Z.)

[49. **Incest** -- (1) In this section the term “child” includes an illegitimate child, and “grandchild” has a corresponding meaning.
 (2) Incest is sexual intercourse between -

- (a) Parent and child or;
- (b) Brother and sister, whether of the whole blood or of the half blood, and whether the relationship is traced through lawful wedlock or not; or
- (c) Grandparent and grandchild - where the person charged knows of the relationship between the parties.

(3) Every one of or over the age of 16 years who commits incest is liable to imprisonment for a term not exceeding 7 years.
 Cf. 1961, No. 13, s. 49; 1961, No. 43, s. 130 (N.Z.)

[50. **Sexual intercourse by man with young related girl living in his family** -- (1) Every one is liable to imprisonment for a term not exceeding 7 years who has or attempts to have sexual intercourse with any girl, not being his wife, who is under the age of 21 years and who, being his step-daughter, foster daughter or ward is at the time of the intercourse or attempted intercourse living with him as a member of his family.
 (2) It is no defence to a charge under this section that the girl consented.
 Cf. 1961, No. 43, s. 131 (N.Z.)

[51. sexual intercourse with girl under 12 -- (1) Every one who has sexual intercourse with any girl under the age of 12 years is liable to imprisonment for a term not exceeding 10 years.

(2) Every one who attempts to have sexual intercourse with any girl under the age of 12 years is liable to imprisonment for a term not exceeding 7 years.

(3) It is no defence to a charge under this section that the girl consented, or that the person charged believed that she was or over the age of 12 years.

(4) The girl shall not be charged as a party to an offence committed upon or with her against this section.

CF 1921, No. 16, s. 126 (N.Z.); 1961, No. 13, s. 51; 1961, No. 43, s. 132 (N.Z.)

[52. Indecency with girl under 12 -- (1) Every one is liable to imprisonment for a term not exceeding 7 years who --

(a) Indecency assaults any girl under the age of 12 years; or

(b) Being a male, does any indecent act with or upon any girl under the age of 12 years; or

(c) Being a male, induces or permits any girl under the age of 12 years to do any indecent act with or upon him.

(2) It is no defence to a charge under this section that the girl consented, or that the person charged believed that she was or over the age of 12 years.

(3) The girl shall not be charged as a party to an offence committed upon or with her against this section.

CF 1961, No. 13, s. 52; 1961, No. 43, s. 133 (N.Z.)

[53. Sexual intercourse or indecency with girl between 12 and 16 --

(1.) Every one is liable to imprisonment for a term not exceeding 7 years and attempts to have sexual intercourse with any girl of or over the age of 12 years and under the age of 16 years, not being his wife.

(2.) Every one is liable to imprisonment for a term not exceeding 7 years who --

(a) Indecently assaults any such girl; or

(b) Being a male, does any indecent act with or upon any such girl; or

(c) Being a male, induces or permits any such girl to do any indecent act with or upon him.

(3) It is a defence to a charge under this section if the person charged proves that the girl consented and that he is younger than the girl;

Provided that proof of the said facts shall not be a defence if it is proved that such consent was obtained by a false and fraudulent representation as to the nature and quality of the act.

(4) It is a defence to a charge under this section if the person charged proves that the girl consented, that he was under the age of 21 year at the time of the commission of the act, and that he had reasonable cause to believe, and did believe, that the girl was of or over the age of 16 years;

(5) Except as provided in this section, it is no defence to a charge under this section that the girl consented, or that the person charged believed that the girl was of or over the age of 16 years.

(6) The girl shall not be charged as a party to an offence committed upon or with her against this section.

(7) No one shall be prosecuted for any offence against this section, except under paragraph (a) of subsection (2) thereof, unless the prosecution is commenced within 12 months from the time when the offence was committed.

CF 1961, No. 13, s. 55; 1961, No. 43, s. 135 (N.Z.)

VIOLENCE AGAINST WOMEN IN WESTERN SAMOA
CASE STUDY QUESTIONNAIRE

CONFIDENTIAL

INTRODUCTION

The purpose of the research is to examine the characteristics of women who have experienced an act of violence in their own homes or outside their homes or are aware of such acts of violence; respondents suggestions on how to overcome violence against women. Further the research will examine the characteristics of the perpetrators.

The information you give is most valuable and will be kept confidential and it will not be shown to anyone outside the Mapusaga o Aiga. We are grateful for your time and cooperation.

Name:----- Date of birth: ----/----/----
day mth year

Village: District:

A. CHARACTERISTICS OF RESPONDENTS

1. Marital Status:

(If respondent says she is married then ask whether she is legally married or living in a defacto relationship).

2. (a) How many live births have you had? (If no live birth go to Q3).

(Adopted children must not be counted as live births)

(b) How many of the children you gave birth to are now living with you?

6. (a) Do you belong to any organization ?

(b) If yes, name organization(s) ?

7. (a) Are you living in an extended or nuclear family ?

(Ask whether she lives together with uncles, aunts, parents, etc or whether she lives with husband and children).

(b) Who is the head of your family ?

8. What kind of house are you living in ?

9. (a) Is this your home village ?

(b) If no, how long have you lived in this village ?

10. What is your position in this village ?

(Probe whether she is the wife of a matai, aaluma or wife of an untitled man)

14. Why do you think this (these) violence is happening ?

Horizontal dashed lines for writing.

C. RESPONDENT'S EXPERIENCE OF VIOLENCE

15. Have you ever been a victim of violence ? (If respondent has never experienced violence, go to Question 30).
(Probe whether she has been sexually or physically assaulted)

Horizontal dashed lines for writing.

16. What actually happened ?

(If respondent was assaulted ask to describe in detail what happened)

Horizontal dashed lines for writing.

21. (a) Were you satisfied with the help given?

(b) If yes, why were you satisfied with the help given?

(c) If no, why were you not satisfied with the help given?

D. CHARACTERISTICS OF THE PERPETRATOR

22. Who was the perpetrator?

(Ask the respondent whether she is related to the perpetrator, or knows the perpetrator personally. If yes, ask to describe her relationship with the perpetrator.)

23. What was the condition of the perpetrator at the time of incident?

(Probe whether the perpetrator was drunk, sober, angry, etc)

24. How old was the perpetrator at the time of the incident?

30.

If no, why did you not report it to police/hospital?

(Probe whether she was threatened not to report the act of violence to police/hospital).

F.

AWARENESS OF ASSISTANCE
(All women)

31.

What can women who suffer violence do to get help?

(Probe whether she knows of the assistance available from Mapusaga o Aiga, Police, etc.)

G.

SUGGESTIONS
(All women)

32. Do you have any suggestions on how to stop violence against women?

(Probe for suggestions such as: improved relationship with spouse, counselling of couples, teach children at very young age of the danger of violence. Write down the suggestions).

H. INTERVIEWER'S ASSESSMENT

SAUAGA O TINA MA TAMAITAI O SAMOA I SISFO
PEPA FESILI

FAAMATALAGA FAALLOILOLO

FAATOMUAGA

O le autu o lenei susuega ina ia maua mai faamatalaga mai tina ma tamaitai i lo latou silafia i sauaga o loo tutupu i totou o aiga poo fafo atu foi o aiga. O le susuega o le a mafai foi ona fesiligia ai tina ma tamaitai i ni a latou fautuaga i ni auata e foia ai le faafitauli o sauaga.

O faamatalaga uma e tuuina mai e tele lona taa i lenei susuega ma e faalilolilo foi sei vagana lava le Ofisa o Mapusaga o Aiga o le a silasila i ai. E faafetai tele atu mo le faavavavaaina o lou taimi ma lou lagoonaina o lenei susuega.

Igoa:-----
Aso fanau: -----/-----/-----
aso masina tausaga

Nuu: Itumalo:

A. FAAMATALAGA I LE SOIFUAGA O LE TALI FESILI

1. Tulaga tau faaiiipoga:

(Afa e tali mai na faaiga ona toe fesili lea pe na faaiiipo faaletulafono, pe o nofo faapoulu).

2. (a) E toa fia lau fanau moni? (A leai se fanau moni alu i le Fesili 3).

(Fesili i ai pe o lana fanau moni sa fanauina, e le tauila fanau fai)

(e) E toa fia lau fanau moni o loo tou nonofo nei?

(Na o le fanau moni o loo nonofo faatasi ma le tina. E le tauila fanau fai).

(i) E toafia lau fanau o loo nonofo ese ma oe?

7. (a) E te nofo faatasi ma le tou aiga potopoto, pe na o oe lava ma ou matua, uso ma tuagane ?

(Afa'i e nonofo faatasi ma nisi uso o le tina po o le tama o lona uiga o le aiga potopoto. Ae afa'i e fai sona toluva ae na o ia lava ma lona toluva ma le fanau, o lona uiga o le aiga nukilia. Lisi uma mai tagata o lona aiga o loo nonofo faatasi).

(e) O ai e faauulu i ai le tou aiga?

8. O le a le ituiga fale o loo tou nonofo ai nei?
(Fesili po o se fale apa ae pou Samoa, faleoo, falepalaagi, ma isi).

9. (a) O le tou nuu moni leni pe leai?

(e) Afa'i e leai, o le a le umi talu ona e nofo iinei?

10. O le a lou tulaga i totonu o leni nuu?
(Fesili i ai pe o ia se ava a le matai, se nofo tane, tamaitai o le nuu, ma isi).

E. MALAMALAMAGA O TINATAMAITAI I TULAGA TAU SAUAGA

11. (a) E te silafia e i ai ni sauaga e faasaga i tina ma tamaitai i totonu o le tou nuu?
(Fesili pe na te silafia o tutupu ni tulaga tau faamalosi teine, fasiava, ma isis i totonu o le latou nuu).

I. SAUAGA PATINO TONU I LE UA FESILIGIA

15. Ua tupu se sauaga ia te oe talu ona e soifua mai? (Afai e leai, alu i le Fesili 30).
(Fesili i ai pe sa aafia i ni faiaiga faama'olosi, fasi e le ava, ma isi talu ona soifua mai).

16. E mafai ona faamatala au'ilili mai le mea na tupu?

17. O le a lou matua i le taimi na tupu ai le sauaga?

18. O fea le nofoaga na tupu ai le sauaga?

19. (a) Na e faamatalaina i se isi nei sauaga?

(c) Afai e ioe, o ai na e faamatalaina i ai?

I. SAUAGA PATINO TONU I LE UA FESIILIGIA

15. Ua tupu se sauaga ia te oe talu ona e soifua mai? (Afa'i e leai, alu i le Fesili 30).
(Fesili i ai pe sa aafia i ni faiaiga faamalosi, fasi e le ava, ma isi talu ona soifua mai).

16. E mafai ona faamatala auilili mai le mea na tupu?

17. O le a lou matua i le taimi na tupu ai le sauaga?

18. O fea le nofoaga na tupu ai le sauaga?

19. (a) Na e faamatalaina i se isi nei sauaga?

(e) Afa'i e ioe, o ai na e faamatalaina i ai?

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15. Ua tupu se sauaga ia te oe talu ona e soifua mai? (Afa'i e leai, alu i le Fesili 30).
(Fesili i ai pe sa aafia i ni faiaiga faamalosi, fasi e le ava, ma isi talu ona soifua mai).

16. E mafai ona faamatala au'ilili mai le mea na tupu?

17. O le a lou matua i le taimi na tupu ai le sauaga?

18. O fea le nofoaga na tupu ai le sauaga?

19. (a) Na e faamatalaina i se isi nei sauaga?

(c) Afa'i e ioe, o ai na e faamatalaina i ai?

O. FAAMATALAGA O LE FAAOOSALA

22. O ai na faataunuuina le sauaga ia te oe?

(Fesili pe na te silafia le na faaooina le sauaga, po o lona toluva, ma isi).

23. O le a le tulaga sa i ai le na faaooina le sauaga ia te oe?

(Fesili pe sa ona, pe sa ita le sa faaooina le sauaga).

24. E te silafia o le a le matua o le na faaooina le sauaga ia te oe?

(Afai e leiloa e le tina/tamaiti ona fesili lea pe matua pe latiti foi ia te ia).

25. E te lua nuu faatasi ma le na faaooina le sauaga ia te oe?

26. E faapefa ona faaoga le tele o taimi i le aso o le na sauaina oe?

(Afai e le faigaluega mo se tologi, ma e le aoga foi ona fesili lea pe faifaifaoga, faifaiva ma isi le na faaooina le sauaga).

U. MALAMALAMAAGA I TULAGA I LEOLEO/FALEMAI

27. Ina ua e silafia pe aafia foi i se sauaga, sa e hipotiina i leoleo/falemai?

G. (Mo tina/tamaitai uma)
FAUTUAGA

31. O le a sau futuaga i ni auala e foia ai le saunima o tina ma tamaitai?

Handwritten responses in Samoan script, consisting of approximately 25 lines of text.

I. FAAMATALAGA A LE OFISA SUESUE

APPENDIX THREE

Table 1. Women surveyed by age and village

Table 3. Women surveyed by number of children ever born, marital status and village

Number of children ever born/Village	Marital Status				Total
	Married	Separated/Divorced	Widow	Defacto	
Total	129	38	55	5	6
0	28	25	1	1	15
1-4	52	13	17	4	5
5-8	39	1	31	1	5
9+	10	-	6	-	4
Total	27	5	9	5	2
0	4	3	-	-	1
1-4	13	2	6	3	1
5-8	8	-	3	2	3
9+	2	-	-	-	2
Total	32	17	10	1	4
0	15	15	-	-	-
1-4	6	2	1	1	2
5-8	7	-	6	-	1
9+	4	-	3	-	1
Total	69	19	43	3	1
0	21	19	2	-	-
1-4	17	-	12	2	3
5-8	25	-	24	1	-
9+	2	-	-	-	2

Table 4. Women surveyed by main activity and age

Village	Total	Age group				Total
		15-24	25-34	35-44	45-54	
Total	257	75	51	48	28	55
Domestic duties	189	35	40	38	24	52
Full time paid employed	40	12	11	10	4	3
Full time student	28	28	-	-	-	-

Table 9. Victims of violence by whether or not reported violence to police and type of violence.

Whether or not reported violence to police	Type of violence		
	Total	Domestic	Sexual violence
Total	73	57	8
Unreported	71	56	7
Reported	2	1	1

Table 10. Victims of violence by highest level of education completed.

Highest level of education completed	Total
Total	73
Primary level	36
Secondary level	34
Never attended school	3

Table 11. Victims who discussed violence by person whom discussed with and type of violence.

Persons who victims discuss violence with	Type of violence		
	Total	Domestic	Sexual violence
Total	47	32	7
Victim's family	28	14	7
Village women	8	8	-
Family of spouse	4	4	-
Friends	4	4	-
Neighbours	3	2	-

Table 12. Victims by type of violence experienced and state of offender at the time.

State of offender at the time offence committed	Type of violence		
	Total	Domestic	Sexual violence
Total	73	57	8
Angry	28	28	-
Drunk	16	12	1
Angry and drunk	5	5	-
Jealous	5	5	-
Angry when wife refuses to have sex	3	3	-
Sober	14	3	7
Other	2	1	-

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