

TOWARDS WOMEN-CENTRED JUSTICE IN THE PACIFIC

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ABBREVIATIONS

4WD	Four-Wheel Drive
A2JC	Access to Justice Clinic (Timor Leste)
ADC	Alcohol and Drugs Court (Samoa)
AP	Authorised Person (Vanuatu)
AUD	Australian Dollar
CAVAW	Committee Against Violence Against Women (Vanuatu)
CBO	Community-Based Organisation
CIJ	Customary and Informal Justice
CLA	Community Legal Advocates
CLAC	Customary Land Appeals Court
CSO	Civil Society Organisation
CST	Community Safety Team
DFV	Domestic or Family Violence
EVE	Evidence for Violence prevention in the Extreme study
FPU	Family Protection Unit, Vanuatu Police Force
FSM	Federated States of Micronesia
FVPRAC	Family Violence Prevention and Response Action Committees
FWCC	Fiji Women's Crisis Centre
GBV	Gender-Based Violence
GDP	Gross Domestic Product
HiiL	The Hague Institute for Innovation of Law
IDLO	International Development Law Organization
IPV	Intimate Partner Violence
KFHA	Kiribati Family Health Association
KWCSC	Kiribati Women and Children Support Centre
LDS	Church of Jesus Christ of Latter-day Saints (part of the Mormon Church)
LGBTIQ	Lesbian, Gay, Bisexual, Transgender, Intersex, or Questioning
MAP	Male Advocacy Program (for women's human rights)
MBC	Men's Behavioural Change / Men Be the Change programs (Vanuatu)

MICS	Multi-Indicator Cluster Survey
MoU	Memorandum of Understanding
MWYSSA	Ministry for Women, Youth, Sport and Social Affairs (Kiribati)
NGO	Non-Governmental Organisation
NZD	New Zealand Dollar/s
ODI	Overseas Development Institute
OECD	Organisation for Economic Co-operation and Development
PDO	Public Defender's Office (Timor-Leste)
PJSP	Pacific Justice Sector Programme
PJSPV	Policing and Justice Support Program Vanuatu
PNG	Papua New Guinea
PSO	Office of the Public Solicitor (Solomon Islands)
PTSD	Post-Traumatic Stress Disorder
PWNAVAW	Pacific Women's Network Against Violence Against Women
REACH	Relationship Education About Choices and Healing program
SDA	Seventh-Day Adventist Church
SDG	Sustainable Development Goal
SGBV	Sexual and Gender-Based Violence
SVSG	Samoa Victim Support Group
UN	United Nations
UNDP	United Nations Development Programme
UNODC	United Nations Office on Drugs and Crime
USD	United States Dollar
VFSC	Village Family Safety Committee (Samoa)
VPF	Vanuatu Police Force
VSC	Village Safety Committee
VUV	Vatu (Vanuatu's currency)
VWC	Vanuatu Women's Centre
WUTMI	Women United Together Marshall Islands

GLOSSARY

Alap	Land lineage heads in the Marshall Islands
Bulubulu	Customary justice processes in Fiji
Fa'a Samoa	The ' Samoan Way', is the traditional/customary way of life in Samoan culture.
Fala	Mat (Tonga)
Fono	Village-level authority in Samoa (council of chiefs) that determines village rules and policies, and when these are breached, also punishments.
Iroj laplap	Customary male leaders in the Marshall Islands
Kainga	Family clan (Kiribati)
Kastom	Pidgin (Bislama and Tok Pisin) word to describe traditional culture and law
Malvatumari	National Council of Chiefs, Vanuatu, recognised in the Vanuatu constitution and under statute as a body that provides advice to government
Maneaba	A term that refers to both to the community meeting place structure and the traditional Kiribati leadership system. Every village has at least one *maneaba*, which is used as a meeting place and for social and cultural events. It is the largest building in a village, signifying its importance and central role in the I-Kiribati way of life
Matai	Samoan word for leader, or chief
Nakamal	Chief-led community dispute resolution processes in Vanuatu, from the village level to the island level and ultimately the *Malvatumari*
Nofotane	Women who move into their husband's community upon marriage. *Nofotane* have low status and are required to serve and submit not only to their husbands but to their husbands' families and others in the community (Samoa)
Paramount chief	A paramount chief is the highest -level political leader in a regional or local polity, often at a provincial level in larger Pacific countries
Plural justice system	Where multiple legal systems operate within one society and/or geographical area
Rukjenleen	Customary advisors in the Marshall Islands
Talanoa	Pacific term for conversation, chat, sharing of ideas and talking with someone
Te unimane	Council of male elders, which make decisions for the village, resolves disputes and distributes responsibilities and resources amongst families (Kiribati)
Victim-survivor	A person with lived experience of family and/or sexual violence. This term is used to capture both the victim aspect of this experience but also the resilience of people who experience family violence, many who pointedly reject the notion that this experience could be used to define them.

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This work complements the efforts of many others to build knowledge about how to tackle the crisis in women's lack of access to justice, including for family and sexual violence, across the Pacific. I acknowledge the extensive experience, enormous expertise and tireless dedication of Pacific women's organisations across the region, which drive change as they support and empower survivors during their quests for protection and justice. It was a huge privilege to see firsthand how these organisations make a difference to the lives of family violence survivors and their communities.

Dr. Carolyn Graydon, Researcher

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EXECUTIVE SUMMARY

The research described in this report sought to discover what rural women in Kiribati and Vanuatu want and need when they seek help to solve problems related to family and sexual violence and abandonment. A woman-centred approach was used to identify these problems and the desired outcomes and to analyse the degree to which the justice options available are aligned with women's goals. The research also enquired into women's experience of plural justice systems, recognising the reality that multiple justice systems, state, customary and religious, operate within the same spaces across the Pacific. These create both barriers and potential opportunities for women as they try to navigate towards the processes best suited for delivering the solutions they need, while trying to sidestep the many pitfalls they so strenuously seek to avoid.

This research confirms many findings from previous research about the multi-layered barriers to rural women's access to justice in in the Pacific but also reveals enormous potential for harnessing and orientating local justice systems to better meet women's needs. It identifies specific entry points for change, including women's own recommendations. The outcome-focused vantage point of the research, directly juxtaposing what women want and what women 'get', enabled new insights into ways to engage justice systems to orientate them to work better for women.

Women in Kiribati and Vanuatu seek practical justice to solve problems of family and sexual violence and abandonment. Regarding family violence, the research found that most women want to preserve their marriages and hope for reformed, rehabilitated husbands who reject violence, reduce use of addictive substances, and invest more in shared responsibility for family life. Women who are abandoned by their partners seek adequate and reliable resources so they can care for their children without dependence on their extended families. However, none of the state, customary or religious justice systems available to them are focused on or concerned with delivering these outcomes. The research concluded that this misalignment of women's needs with the outcomes offered within all local justice ecosystems, is the key reason why women lack access to justice.

The research investigated some of the initiatives designed to improve justice mechanisms in the Pacific. Four inter-related strategies were identified, and experiences related to each are discussed from the perspective of meeting women's justice needs.

- **Strategy 1:** Include women in new bodies added to existing village governance, justice and security mechanisms and blended state and customary systems
- **Strategy 2**: Train people at the village/area level to help people navigate the local justice ecosystem
- **Strategy 3:** Create culturally resonant normative change through local change actors drawing upon supportive religious principals, texts and cultural values.

- **Strategy 4:** Support dialogue, knowledge exchange and relationship building within and between justice systems to improve alignment and coordination.

Lack of knowledge, coordination and coherence disproportionately disadvantages women and girls due to the tensions that arise between state, customary and religious justice systems when dealing with family and sexual violence cases and family support needs. Local justice initiatives must have a clear, women-led gender strategy at their core; gender-blind approaches risk amplifying and entrenching existing patriarchal power structures while reinforcing women's marginalisation and exclusion.

This research provides no silver bullets in the form of comprehensive answers to the "what" and "how" questions of how to increase integrated local justice systems' responsiveness to the needs of women in Kiribati and Vanuatu. However it recommends reframing state justice priorities around "getting local" and building capacity in the areas needed to deliver the outcomes women seek, including robust rehabilitation programs for family violence perpetrators and men with alcohol and drug problems. It also provides some guiding principles for undertaking the sensitive work of local-level engagement with customary, religious and state justice actors. Such initiatives must be based on careful analysis of the political economies and gender dynamics of local justice environments to avoid doing harm.

Engagements by development partners must work sensitively with local civil society organisations and actors to improve diversity in leadership and inclusive participation and consultation for all community members, focusing on socially disempowered groups (women, teenage girls, young women and men, and people with disabilities). Multiple initiatives can create broad symbiotic effects between justice systems and help drive momentum for local change. Blended initiatives that draw on customary, religious and state authority can catalyse greater traction and cooperation and alleviate difficult situations, such as when family violence cases are escalated to police and courts.

Achieving affordable and sustainable local justice will always be hard in resource-poor Pacific island countries. Nonetheless, the research identified ways to mobilise the resources needed to support greater investment in local justice in Kiribati and Vanuatu. Many local justice initiatives involve low costs, especially compared to costs of building and running centralised state justice systems and the counterfactual costs of doing nothing to improve local capacities to solve problems of family and sexual violence and abandonment. The costs, including enormous harm and suffering, are currently being paid by individuals and communities in rural areas, where most Pacific peoples live. The state also ends up paying a high price for not supporting efficient and fair local resolution of family violence and abandonment problems due to increased demand for remedial state services. Such unresolved problems also retard social and economic development in Pacific countries, because access to justice bridges all other rights.[1] There is a very strong case for prioritising investment in local justice initiatives – it just needs to be properly evidenced and forcefully made; this report makes that case.

[1] Task Force on Justice (2019). *Justice for All – Final Report,* Center on International Cooperation. https://cic.nyu.edu/wp-content/uploads/2023/02/english_task_force_report_27jun19-min_compressed.pdf, p. 19.

KEY FINDINGS AND RECOMMENDATIONS

Women's main problem types

The most common, serious and intractable problems faced by women and girls in rural Kiribati and Vanuatu are:

- Spousal violence, often also linked to the spouse's alcohol, marijuana and/or kava use
- Men abandoning their wives and children, leaving them without child or family maintenance or means of reliably achieving child support
- Lack of independent income that could reduce the financial blow of abandonment
- Sexual violence, including marital rape, incest (mainly directed at girls and young women) and rape of teenage girls

Women's justice goals: What women want and need

In family violence cases, women in rural Kiribati and Vanuatu want a justice process that will help them to (in descending order of priority):

- Preserve their marriage and maintain family unity (including by avoiding imprisonment or long-term legal consequences for their husbands, which they believed would be fatal to their relationship)
- Live with a reformed husband – no more violence; reduced use of kava, alcohol and marijuana; greater involvement with children and household work; provision of family income; and greater social interaction with his wife
- Receive access to justice within a cultural framework that is supported by community leaders and family, enabling women to retain their social status and community standing
- Sustain their livelihood, live in dignity with their children, remain independent of their extended families and retain their status within the community, if unable to continue living with their husband
- Have their husband jailed for serious and repeated violence, but only as a last resort and when they had decided the marriage had failed
- Receive justice locally and quickly (finalised within days or weeks). Women emphasised the importance of speed, because pressure to reconcile or withdraw their cases could not be resisted for long.

In child support cases, women seek a process that can:

- Reliably deliver regular or lump sum payments (money or in kind) from their husband or his family to meet the costs of raising and educating children
- Result in payments being made directly to them, not via their families.

Barriers and risks women face in accessing customary, religious and state justice

- Women in rural Kiribati and Vanuatu find great difficulty in accessing justice or protection systems when they face family violence or require child support. Spousal violence against women is very common, and women feel there is little they can do to stop it without paying a high price (such as losing custody of children or the ability to support them). They see no good options, just least-worst options.

- Disclosing family violence or other family problems is seen as shameful, reflecting poorly on women, so most women experiencing family violence do not seek help from anyone. Instead, they remain silent and try to self-manage violence or other family problems, often at high risk of harm and suffering to themselves and to children. Many eventually accept that they must live with the problem.
- Women perceive that seeking help for family violence or other family problems from outside of their community comes at high personal cost, including retribution from their partner, "losing their place in the world" due to community stigma, and lack of economic, social and cultural support from their family, local authorities and the wider community.

Women's experiences and views of customary justice systems

- Customary justice is the primary way women in rural Kiribati and Vanuatu try to resolve problems, mostly due to lack of better alternatives. There is strong evidence that women regard state justice options as fairer than customary processes but inaccessible and unreliable in response. Women have a strong desire for some level of proactive community policing in their communities.
- Customary systems are accessible to rural women by being known, understood, "stigma-free" and local. However, barriers include compulsory fees, inability to bring a case without family support, family violence not being seen as a "justiciable" case type or due to chiefs' reluctance to become involved in "private" issues, or the risk of upsetting important families.
- Women support customary and religious justice systems because they are the primary mechanisms for dealing with problems and enjoy community acceptance. Both systems are seen in the community as "the right way" to deal with problems involving family members. However, women who use customary justice systems find they are disadvantaged due to entrenched patriarchal gendered norms. Blame for family violence is usually attributed to both parties, preventing clear accountability of perpetrators or pressure for them to change.
- Chiefs and women's families involved in customary processes have interests that may not align with women's justice goals. While customary mechanisms may address inter-familial aspects of women's problems, they often fail to give women the practical outcomes they seek, such as reliable/adequate child support or an end to family violence. Women find it hard to ask for further help if the chief-led process fails to resolve a problem, and the fees to open another "case" are a deterrent.
- Women identified a range of measures they felt would make customary justice systems more responsive and relevant to their needs (such as waiving fees to bring a case, supporting women to speak or to have informal advocates speak for them in customary hearings or by taking more responsibility to check with the woman complainant that things have improved after a case has been decided). Some chiefs described already supporting some of these processes, and added other approaches they use, such as allocating community land to help female-headed families generate an income where the father cannot or will not pay or tasking community members to help them harvest crops. .

Women's experiences and views of religious justice systems

- Religious justice mechanisms often sit alongside customary mechanisms but are the main justice option in some locations in rural Kiribati and Vanuatu. Like customary systems, women value them highly because they are accessible to rural women in being familiar, "stigma-free", local and, unlike customary justice systems, free of fees.

- Despite some advantages, religious justice systems are entrenched in patriarchal norms that prioritise family unity and wifely obedience over the safety of family members. Therefore, they rarely give women the lasting practical outcomes they seek, such as an end to family violence or reliable/adequate child support.
- Religious counselling often results in reconciliation and each party promising to live up to their marriage vows but lacks any real pressure or encouragement for the husband to change.
- Women believed their husbands sometimes asked religious leaders to request that they attend counselling to "get them back home" after they had temporarily left to protest violence. Women find it difficult to refuse these requests due to the social power of the church leader and thus cooperate, often with the result that they return home to situations of ongoing violence.
- Women identified a range of measures they felt would make religious justice systems more responsive and relevant to their needs. These included church leaders using church doctrine to clearly communicate that family violence is unacceptable and improving church counselling to hold perpetrators of violence accountable and reject excuses or victim blaming, while supporting victim-survivors to seek help rather than reconciling couples and pressuring victim-survivors to return to situations of ongoing violence.

Women's experiences and views of police

- Women in rural Kiribati and Vanuatu believe that even an intermittent police presence would deter men from family violence and increase their feelings of safety.
- Most women are unable to get help from police due to lack of transportation or lack of response; many who manage to contact police do not receive the support and help they seek. Police rarely investigate, charge or arrest men for family violence, and often recommend women sort out their problems at home. Some police accede to pressure from village chiefs or perpetrators to shelve reports of family violence, thereby obstructing justice and placing women at risk of retribution.
- Experiences of unreliable police response undermine women's confidence to seek or continue with the process; many withdraw their complaints, and few family violence cases reach court.

Women's experiences and views of state courts

- Most women in rural Kiribati and Vanuatu have little to no knowledge about state laws, courts or processes for seeking help, including for family violence.
- Most women are unable to access any court due to: lack of transportation, money and carer responsibilities; the belief that courts should only be used as a last resort; lack of knowledge about laws or court processes or help available; fear of retribution from their husband and criticism from local leaders and family for going outside the community; fear that contact with police and courts will result in their husbands' imprisonment; and lack of confidence that police or court will provide a relevant and reliable response.
- Most women are aware that family violence is illegal but are unaware that family protection orders do not result in imprisonment unless the order is breached. They are also unaware that protection orders can be obtained by telephone directly from the court and that there is no need to go via the police, which is often the hardest part of the process for women.
- Local courts are supposed to serve women in remote locations but are currently under-resourced and unable to fulfil their mandates, including, crucially, to grant

family protection orders. Lack of female justices and lack of information combine to limit women's access to these important courts and their remedies.

- Women who apply to local courts for child support face transportation costs, cumbersome processes, protracted delays, low caps on entitlements and enormous difficulties in having decisions enforced, causing many to question whether applying to the court is worthwhile.

Lack of alignment of justice systems with women's justice goals and needs

The research produced a clear picture of misalignment of justice systems to women's needs. Hence, all elements of state, customary and religious justice mechanisms must work together to reduce the high stakes for family violence victims seeking help and to recognise and work better to meet their goals. Holistic strategies for change involving all three key justice types are needed to meet the needs of victims and achieve their protection and justice goals.

Poor alignment of state justice systems with women's justice goals

- State justice resources are mainly invested in means of punishment of perpetrators rather than rehabilitation included in the mix of remedies. Women's justice goals are high-quality, culturally relevant programs for holding family violence perpetrators accountable through robust rehabilitation, reducing drug and alcohol problems, and improving family relationships.
- State criminal justice processes disempower and marginalise family violence victims, limiting their control over the outcomes and often delivering the opposite of what they want.
- The research identified a distinct lack of state engagement and effort to deliver justice at a local level or to coordinate with customary and religious justice systems to align with women's justice needs and community needs more generally. State justice in both Kiribati and Vanuatu needs a people-centred revamp.
- Kiribati and Vanuatu invest little in overcoming key social and economic vulnerabilities that prevent victim-survivors from seeking help. Both jurisdictions lack housing and financial safety nets and organised opportunities for women to build independent sustainable livelihoods.
- Police and justice services are inadequate in remote and rural areas due to lack of insufficient and poor management of transportation assets; lack of information technology; slow processes that limit deterrence; longstanding unreliability of police response and low accountability; and poor enforcement of family protection orders.

Poor alignment of customary justice system offerings with women's justice goals

- Customary processes in Vanuatu and Kiribati are operated exclusively by men. They are typically based on dominant cultural views that privilege men and normalise family violence.
- Outcomes of customary processes are often ineffective in stopping violence due to lack of clear condemnation of violence and attribution of shared responsibility rather than application of pressure for perpetrators to change.
- While accessible in theory, customary systems are often inaccessible to women due to fees, need for family representation, inability for women to participate

meaningfully (to speak, be heard and for weight to be given to their views), and some village chiefs' unwillingness to become involved due to views that potential risks posed to inter-family relationships within the community and support for male community members outweigh women's needs and rights.

- Customary authorities rarely enforce or follow up justice system outcomes, despite problems continuing unabated. Women find further approaches to customary authorities difficult. Customary outcomes are not enforceable by law and depend on customary leaders' soft power based on local legitimacy.
- Inconsistency in the quality and legitimacy of customary authorities and lack of accountability can undercut basic standards of fairness. However, where customary systems are viewed by community members as legitimate, they can have strong normative power and immediate effect. Custom's flexible nature enables change in beliefs about acceptable standards of behaviour in the family that can contribute to peaceful and respectful family life.

Poor alignment of religious justice system offerings with women's justice goals

- Most local religious justice systems in Vanuatu and Kiribati apply biblical teachings that wives must obey and forgive their husbands for violence and that families must keep violence to themselves and remain intact despite harm caused to family members.
- Religious norms tend to align closely with dominant norms in customary systems, combining to create formidable social pressure on victims to tolerate and accept normalised violence.
- Like customary systems, religious systems have enormous potential to lead normative and behavioural change in perpetrators and contribute to sustainably non-violent family life. Through reinterpretation and clarifying responsibility for violence, religious justice systems can instil changed behaviours and new beliefs.

Strategies for aligning all justice systems with women's justice goals

Four types of strategies were identified as valuable for aligning plural justice systems in Kiribati and Vanuatu with women's justice goals. (Pacific experience with each of these strategies is discussed in this report.) All four strategies work best at the local level to achieve greatest relevance and impact but must be implemented sensitively to avoid harm. For example, a new strategy could reduce the functionality of well-understood existing mechanisms for community safety or justice, or inadvertently prevent marginalised groups from participating in developing, accessing, using and receiving fair and effective justice outcomes. Applying four key principles can help avoid such harms.

- Local actors must drive change processes that are based on careful analysis of the local political economy of justice mechanisms, with support from governments and development partners, mainly "from behind" throughout implementation.
- Recognise that there is no one-size-fits-all model for achieving local change; a customised approach is needed in each community context.
- Those supporting change processes must closely monitor ongoing results, focusing on women's safety and satisfaction with results, and be able to adjust and learn quickly from these ongoing results.
- Those supporting change processes must develop with local community members a gender and inclusion strategy to focus everyone on efforts to diversify leadership and maximise the participation and empowerment of women and other

marginalised groups in decisions and actions of the project. Projects should measure how well women and other marginalised groups are able to lead and participate in decisions about how the change process happens.

The following four strategies provide complementary ways for improving access to effective forms of locally available justice that is aligned to the justice needs of rural women in Kiribati and Vanuatu. Applied simultaneously, the combination of these approaches can intensify and accelerate change processes through bringing together mutually reinforcing strategies to maintain a focus on improving the relevance and effectiveness of justice outcomes for women and communities.

Strategy 1: Create inclusion opportunities in new or modified local governance bodies added onto existing village governance, justice and security mechanisms that blend state and customary elements. Key points gleaned from the data are listed below.

- State governance, justice and security mechanisms must also be present, although this need not be a permanent or physical presence, but must be continuous, at the local (village or area) level, to work alongside customary and other community authorities so that the strengths of all systems can be harnessed.
- New or adapted community governance community mechanisms must from the outset have diverse participation in leadership and consultation processes, including from women, youth and people with disabilities. Support local leaders who recognise and support the need to include more voice and diversity in local governance processes.
- Bringing together state, customary and religious actors, along with more diversified local governance mechanisms, will together create combined, symbiotic effects that can help maintain momentum for change.

Strategy 2: Train local people to become community paralegals and women's advocates and help women and other community members navigate the justice ecosystem to resolve their problem.

- Community paralegals and women's advocates can counterbalance power disparities between parties and improve the function of customary mechanisms by helping women and other non-elites to navigate state law and justice systems.
- By working closely with customary and religious authorities and with local police/courts, community paralegals and women advocates can support and advise and hold justice actors to account for performing their mandates.
- Community paralegals and women's advocates work best when they have a clear pathway for escalating relevant case types to state justice mechanisms and the ability to provide supported referral and accompaniment. They are therefore best linked to or embedded within a competent expert body – a national women's organisation, community policing service, legal aid organisation or local government authority – to provide both supervision and back-up support to those performing these important but difficult functions.

Strategy 3: Use culturally resonant frameworks for normative change efforts.

- Reframing or reinterpreting customary or religious norms in ways that contest gender-based violence (GBV) and support re-evaluation of rigid gendered norms can increase the traction and effectiveness of community engagement and awareness-raising efforts.
- Government and civil society collaborations bring the strengths of both organisational types to bear on community normative change, including by engaging and training customary and religious authorities.

- Enlist health and education experts and male advocate programs to create a comprehensive approach for preventing sexual and GBV.

Strategy 4: Support dialogue, knowledge exchange and relationship building within and between justice systems to improve alignment with women's justice needs as well as encourage greater general coherence and coordination.

- Create opportunities for dialogue within customary and religious leaderships to share existing good practices for making justice processes more responsive to women's needs.
- Create opportunities for mutually respectful dialogues between customary and religious authorities, women's organisations and state justice actors to build the knowledge of chiefs and religious leaders about state justice processes, and vice versa.
- Advocate for gender justice needs across all systems, including improved information and support between all justice systems and clarification of the roles of justice systems in relation to family and sexual violence cases.

Reframe state justice around the outcomes women want

This research found that state justice in Kiribati and Vanuatu must become more relevant and responsive to the largely unmet needs of women seeking protection and justice for family violence, sexual violence and other family problems. State justice systems should:

- Create robust behavioural change and rehabilitation programs for family violence perpetrators that apply culturally and spiritually relevant frames, include feedback from family members, and feature ongoing community-based mentoring, monitoring and support.
- Create robust drug and alcohol rehabilitation programs that apply culturally and spiritually relevant frames, include feedback from family members, and feature ongoing community-based mentoring, monitoring and support.
- Implement economic safety net and housing programs for victim-survivors, and programs for building sustainable livelihoods for victim-survivors and vulnerable women.
- Improve the reach of local state justice services. Use the existing jurisdiction available to hybrid (island/village) courts, including to grant protection orders; enable them to circuit through remote areas; recruit more women justices and provide them with gender-responsive specialised support; develop and promote more remote service options, including telephone-based temporary family protection orders, child support orders and enforcement orders; provide accessible public information about court processes and services, including via community radio; and maximise opportunities for in-person outreach in rural communities whenever courts go on circuit.
- Encourage and provide opportunities for state court leadership to engage with customary and religious justice actors to strengthen the linkages and functionality of pathways between state and non-state justice processes.
- Accelerate court processes to enable family and sexual violence criminal cases to be finalised in days or weeks if possible and issue protection orders in the meantime.

Sustainability of local justice initiatives

Most Pacific countries face acute resource constraints. Investment designed to invigorate and strengthen approaches to local justice must not only be highly cost-effective but demonstrate the resources that will be saved and the suffering prevented and be affordable

for governments in the long term. The following recommendations are intended to improve the affordability and sustainability of local justice initiatives aligned to women's justice needs.

- Compile evidence about the effectiveness, low cost and cost-saving effects of local level justice initiatives. Pacific governments must be persuaded that more efficient and fairer dispute resolution can prevent problems from occurring or escalating and reduce overall expenditure on government services.
- Encourage donor/development partners to earmark funding for local justice initiatives that engage with local state, customary, religious justice providers and civil society actors.
- Analyse court budget allocations and identify savings that can be reallocated to enable provincial and district courts to perform all their functions and/or reduce budget allocations for superior-level courts to meet this need.
- Develop low-cost methods for courts to operate in remote and rural communities, such as incorporating outreach into existing mobile court circuits, using community radio to provide information about court processes and services, providing more court services by telephone or video conferencing where possible, and activating local-level courts' full existing jurisdiction (for example to hear family protection order applications) and providing transportation for mobile local courts to meet unmet community needs, including for family protection orders.
- Initiate discussions about village chiefs' practice of charging fees for customary justice and how to improve consistency and equity through lower fees and exemptions for people who cannot afford fees or who need urgent access to local justice to provide for their personal security or basic human rights.

PART A: BACKGROUND, RESEARCH QUESTIONS, SIGNIFICANCE AND METHODS

1. Background

This study was designed to determine what Pacific women living in rural areas want and need from justice systems when they experience gender-based violence (GBV) and other common problems. Women's justice goals and aims were compared with the remedies and responses available to them from across the justice ecosystem. This ecosystem consists of community-based justice systems (customary and religious), as well as symbiotic interactions with state justice systems, sometimes mediated by local services provided by state or non-government actors, including women's organisations.

This study aimed to highlight the key areas in which justice systems fail to consider women's justice goals and needs. Its ultimate objective was to increase awareness amongst court staff, local justice actors and development partners of interventions and linkages between justice systems that need to be developed or strengthened to provide more relevant and effective justice to Pacific women. These themes were examined through a synthesis and analysis of literature and data collected via focus group discussions with Pacific women living in rural and remote areas, mainly in Vanuatu and Kiribati, and with members of women's organisations that serve female survivors of family violence in those countries and in Tonga, Samoa and the Solomon Islands.

This study is the second report commissioned by the New Zealand Ministry of Foreign Affairs and Trade (MFAT) to explore women's roles in and experiences of Pacific justice systems. The studies investigate women's experiences as consumers, covered in this report, and providers of justice services (as judicial officers and customary or faith-based leaders), covered in part in a report released in May 2024 titled *Towards gender balance and equality in Pacific judiciaries.*[2] Together, these studies aim to provide a holistic picture of women's contributions to Pacific justice systems and their needs for and struggles to obtain protection and justice within plural legal environments. Examining these interdependent perspectives was intended to provide new insights to inform change and advancement of gender equality in the performance of Pacific justice systems and access to justice for Pacific women.

2. Research questions

- What are the key protection and justice issues faced by women (and girls) in rural and remote areas of Kiribati and Vanuatu?
- When women experience family violence or other family-related problems, how do they see their options for getting help? How do they see the risks and potential benefits of seeking help? What factors or variables may assist them or prevent them from seeking help?
- What outcomes are women hoping to achieve when they seek help for family violence or other family-related problems from community or state authorities?

[2] Graydon, C. (2024a). *Towards gender balance and equality in Pacific judiciaries.* IAWJ. https://iawj.clubexpress.com/content.aspx?page_id=2507&club_id=882224&item_id=5268&pst=24493.

What outcomes are they hoping to avoid? How do they see their protection and justice goals and priorities?

- How well aligned are community-based justice systems and state-based justice systems to providing the outcomes that women seek? In theory? In practice?
- How do women in rural and remote areas of Kiribati and Vanuatu think that the community-based and state justice systems could work better, as well as together, to help them achieve their protection and justice goals?
- What are the most urgently needed changes that would make the biggest difference for women living in rural and remote areas? What priorities should become the key focuses to increase rural women's access to effective justice relevant to their needs?
- What are the practical steps and processes needed for the most urgently needed changes to occur? How can women's needs be placed at the centre of processes to develop and implement these changes, and be regularly tested to ensure they are achieving better alignment to women's desired outcomes?

3. Significance of the study

Many researchers have sought to identify the causes and prevalences of violence against women and the most effective interventions to reduce it. However, very little of that research has focused on identifying the outcomes women want and need when they seek help to escape or eliminate violence.

Explorations of the challenges Pacific women face as they seek access to justice have tended to focus on the responses of the state or community-based justice systems, neglecting the overarching impacts of the plural justice ecosystem and how these are experienced by Pacific women living in rural or remote locations. This study sought to fill these knowledge gaps by focusing on rural Pacific women's perceptions of justice: how they see their options in practice, the accompanying risks and benefits, and to what degree they can solve their problems.

The lack of existing research on the foundational question of what outcomes Pacific women seek from justice processes has obscured the degree and nature of structural and practical misalignment of available justice processes to women's justice goals, and likely dampened debate about solutions. By documenting and amplifying justice outcomes sought by Pacific women living in rural and remote areas, this research highlighted structural and normative tensions that may flow from articulation of women's justice goals, right across the 'menu' of justice options. State criminal justice systems, even when operating as designed, have insufficient scope and power to meet the key justice needs of victims.[3] State justice systems' responses often bear little relevance or correlation to women's justice priorities, and this discord may deter many from seeking help. Similarly, normative and structural issues in customary and religious local justice systems may not deliver the outcomes women seek.

The lack of weight given to 'what women want' may have perpetrated a mistaken belief that, despite decades of investment in making state laws and processes more gender-

[3] Several studies identify Pacific family violence survivors' goals and needs from justice systems. While these vary between individuals, studies of survivors' needs highlight how many of these are not addressed through state justice system offerings. See Havea, S., Alefaio-Tugia, S., & Hodgetts, D. (2021). Kainga (families) experiences of a Tongan-Indigenous faith-based violence-prevention programme, *AlterNative*, 17(1), 83–93; Hau'alofa'ia Koloto, A. (2005). *The needs of Pacific women when they are victims of family violence*; Roguski, M., & Kingi, V. (2011). *Update of baseline in-country review Samoa report*, Pacific Prevention of Domestic Violence Programme.

responsive, women are reticent to use them due to lack of access to information and assistance. Rather, a deeper reason – lack of relevance – is the main factor. Unwillingness to acknowledge this inconvenient reality may have prevented justice systems from improving their processes, remedies and outcomes for women.

The available data shows that many Pacific women survivors of family violence never seek help. Those that do turn first to family, friends, trusted women's organisations and sometimes to non-state justice systems, which are usually unable to provide the protection and justice survivors seek. Only as a matter of last resort do some turn to the state. Using state systems is especially difficult for those who lack the support of their families and community leaders, and many face ongoing social ostracism for doing so. Using state justice can come at a high cost for survivors, with lasting social, cultural and economic consequences, well beyond the duration of any formal penalty imposed on the perpetrator.

Changing norms that tolerate and normalise family violence is the most sustainable way to reduce its social, economic and cultural costs and enable survivors to seek and receive protection and justice. However normative change takes time. Meanwhile, strengthening information and support for people using state and community-based justice systems offers the best way to improve alignment of support and remedies to the needs and justice goals of survivors. Building these pathways and forms of engagement, based on research on women's help-seeking behaviours and the outcomes they seek, will enable development of more gender-responsive options that help women achieve safety without at risking their "place in the world" – their social, cultural and economic security. These are the key reasons why discussion about Pacific women's access to justice must focus on the voices of women themselves.

4. Methods

4.1 Literature review

The researcher reviewed studies of women's access to justice in plural legal environments in the Pacific and worldwide, focusing on studies that identified women's justice goals and priorities and their experiences of navigating within and between redress options. The outcomes of the literature review guided the development of the research questions listed in Section 2 (above), which were tested and explored in several Pacific countries through the qualitative research methods set out below.

4.2 Qualitative research methods

This study employed the following qualitative research methods.

- Focus group discussions: in-person group discussions were held with women in rural locations in Kiribati and Vanuatu about legal needs and options for child support, family and sexual violence, and other common legal problems (such as animals damaging crops).
- Key informant interviews and group discussions were conducted with "women justice providers" in Kiribati, Vanuatu, Tonga and Solomon Islands, including:
    - Staff from women's organisations representing and supporting women survivors of family violence and meeting women's other legal needs
    - Lawyers from legal aid and prosecution services
    - State court judges, magistrates and lay magistrates
    - Senior and junior police, both specialised in family protection response and regular officers.

Table 1 describes the research participants in terms of informant category, gender and location.

Table 1. Research participants by informant category, gender and location

Informant category	Kiribati	Vanuatu	Other countries
Women in rural/remote areas	Total: 65 Ribono & Abaiang 30 Abaokoro, North Tarawa 9 Maiana 9 Ronton, Kiritimati 5 Poland, Kiritimati 5 Banana, Kiritimati 4 Tabwakea, Kiritimati 3	Total: 150 Tanna 30 Pentecost 48 Espiritu Santo 14 Ambrym 31 Malekula 27	Total: 2 Solomon Islands: Women Justices located in Guadalcanal
Men in rural/remote areas, including community leaders	Total: 2 Poland, Kiritimati	Total: 135 Tanna 27 Pentecost 53 Espiritu Santo 1 Ambrym 27 Malekula 27	Total 5: Solomon Islands: Male Justices located in Ngella, Isabel and Malaita
Staff from women's organisations (in-house lawyers, counsellors, advocates, leaders)	Total: 3 (all W) Tarawa 2 Kiritimati 1	Total: 6 (all W) Efate 4 Ambrym 2	Total: 12 Tonga 7 (6 W, 1 M) Samoa 2 W Solomon Islands 2 W, 1 M
Lawyers from legal aid services	Total: 20 (12 W, 8 M) Tarawa 14 Ronton, Kiritimati 6	Total: 1 (M) Tanna 1	
State court judges, magistrates, lay magistrates, 'authorised persons' and court clerks	Total: 45 (22 W, 23 M) South Tarawa 19 (13 W, 6 M Tabero, Abaing 9 (3 W, 6 M) Abaokoro, North Tarawa 8 (3 W, 5 M) Maiana, 9 (3 W, 6 M)	Total: 40 (13 W, 27 M) Efate 13 (7 W, 6 M) Tanna 6 (1 W, 5 M) Pentecost 3 (3 M) Espiritu Santo 8 (1W, 7 M) Ambrym 6 (2 W, 4 M) Malekula 4 (2 W, 2 M)	Total:35 (23 W, 12 M) Nuku'alofa, Tonga 7 (6 W, 1 M) Apia, Samoa 3 W Solomon Islands 25 (14 W, 11 M)
Government welfare agencies	Total: 3 (all W) Tarawa (1 W) Abaing (1 W) Ronton (1 W)	N/A	Solomon Islands (SAFENET) 1 M

Prosecutors and police	Total: 12 (5 W, 7 M) Family violence specialists 3 (3 W) Urban 2 (1 W, 1 M) Rural 7 (1 W, 6 M)	Total: 7 (2 W, 5 M) Efate FV specialist (1 W) Tanna 1 W Pentecost 1 M Ambrym 3 M Malekula 1 M	Tonga 35 (20 W, 15 M) 34 Prosecutor's office (20 W, 14 M) 1 Specialist police officer (1 M)
Totals:	150 (110 W, 40 M)	339 (171 W, 168 M)	58 (37 W, 21 M)
Grand Total:	**547 (318 W, 229 M)**		

W = Woman/Women, M = Man/Men

Focus groups, meetings and discussions were largely undertaken in combination with assessments of rural women's protection and legal needs and local-level justice responses to victim-survivor's needs, undertaken by courts with support from the Pacific Justice Sector Programme (PJSP). These activities occurred in Tonga in June 2023 and February 2024, Kiribati in September 2023, Vanuatu in October 2023, Samoa in February 2024 and in Solomon Islands in June 2024.

The following sections provide details of the conduct of focus groups and discussions with major categories of research participants.

4.3 Meetings with groups of women living in rural and remote locations

Focus group discussions with rural women were conducted with the support of officers from the respective Vanuatu and Kiribati courts, who co-facilitated the sessions and interpreted in local languages. In Kiritimati, meetings with women were conducted in the presence of the leading women's organisation, which supports victim-survivors.

Most women participating in the meetings were farmers who also performed home and childcare duties. Some participating women were currently or formerly employed as health care workers, teachers or performed voluntary catechist or women's committee roles within their churches. Only one female participant held a community leadership role – as Minister of the Uniting Church in Poland, Kiritimati.

Women's participation in the meetings was entirely voluntary, and it was emphasised that they could leave at any time. The meetings' purpose was explained as being to learn how women see their legal needs and options to inform better alignment of state and local justice systems to their needs.

Participants were assured that no information collected during the meetings would be used to identify them individually or collectively. The meetings were always conducted in private to increase women's confidence about speaking openly. To minimise risks to participants of disclosing sensitive or distressing personal information, it was emphasised that participants should feel free to contribute, or not, as they wished. Women were encouraged to talk about their justice goals and views about their options in terms of situations in the broader community, rather than their personal circumstances. Women present at these meetings were also requested to respect each other's confidentiality and privacy, especially with respect to those who shared personal information.

The meetings were also opportunities for women to ask questions and for court (and Kiribati women's organisation) representatives to inform participants about how family protection orders operate, court and other services available, and how they could obtain orders or other forms of assistance. Women participants at all meetings were very keen to receive this

information and asked many questions about the laws and the processes for enforcing their rights in courts. Some women raised their own personal situations in the meetings or privately afterwards, and some asked for help. These women were either given individualised information their options or assistance from the relevant court clerk, or directly linked to a local women's organisation or legal aid service. Some women sought and were given assistance in contacting police.

4.4 Meetings with groups of men living in rural and remote locations

Most of these meetings occurred in Vanuatu, and focused on justice needs, how legal problems are solved in the community, with police and the kinds of court information and services that would help them more readily access court processes. Men were also informed about laws to family violence and child and family maintenance, as well as the processes for obtaining protection under these laws.

The men participating in meetings in Vanuatu always included the village chief and often other levels of chiefs from the customary justice system, as well as church leaders and current local government, health and education sector workers. Some meetings featured strong representation from young men, mostly working as farmers. Men in these meetings often spontaneously raised family problems as an area of legal need; in response, participating customary and religious leaders were encouraged to describe their approaches to such disputes. This included clarification about the fees, who could bring a case, the types of processes used to resolve disputes, and the kinds of outcomes provided, including in cases involving family violence, divorce, and custody and support of children. The meetings also elicited views about how state and community-based justice systems interact and how men think they should interact, which was very relevant to the discussions about women's access to justice.

4.5 Engagement with women's/survivor response organisations

Following consultations with women's organisations working directly with survivors of family violence, it was decided that the risks of directly interviewing individual victim-survivors outweighed any direct benefit to them. Instead, it was agreed that discussions with service providers who worked directly with victim-survivors of family violence would produce valuable insights about the outcomes they sought from engaging with service providers and legal processes more generally.

In Tonga, engagement with family violence services included a four-day workshop with staff of the Family Protection Legal Aid Centre to build capacity for survivor-centred services. The workshop engendered useful descriptions of experiences and perspectives related to victim-survivors' justice goals and priorities. It also prompted the Centre to adjust its model to place victim-survivors' goals and priorities at the heart of all its aims and services.

In Kiribati, meetings were held with staff from the Kiribati Women and Children Support Centre (KWCSC) in South Tarawa and Kiritimati. In Kiritimati, KWCSC staff participated in all meetings with rural women; KWCSC staff members provided transportation to and from meetings, and informed women about access to KWCSC services, especially regarding protection from family violence. These outreach activities, catalysed by the research project, had immediate effects: several women living in rural areas of Kiritimati applied for protection orders via telephone, either calling the Magistrate's Court directly or via the KWCSC. Contact with the Court in the months since the visit revealed a steady flow of requests for protection orders from women in rural locations and from urban Ronton. Meetings were also conducted with civil servants from the Ministry for Women, Youth, Sport and Social Affairs (MWYSSA) in South Tarawa and in Abaiang regarding services offered to victim-survivors, including livelihood programs for female-headed households.

In Samoa, engagement with the Samoa Victim Support Group (SVSG) for family violence survivors highlighted that survivors' goals were at the heart of their interventions and programs. In addition to emergency assistance and provision of shelter and accompaniment through the legal process, the SVSG offers long-term shelter options and economic support programs to victim-survivors unable to remain within their communities, and to women who are vulnerable to family violence, as a preventative social protection measure.

In the Solomon Islands, introductory engagement occurred with a range of civil society organisations (CSOs) that support victim-survivors or who work at the community level providing awareness as a preventative approach, including the Family Support Centre, Hope Trust, Stages of Change, and Olafou. The parties discussed community-based approaches to increasing support and protection for victim-survivors and linkage to accessible court and other services.

4.6 Engagement with state court justice actors: judges, magistrates, lay magistrates, court clerks and lawyers

Engagement with state justice court actors occurred via PJSP-supported workshops aimed at increasing court responsiveness to the needs of family violence survivors. Topics included increased court outreach and information, more accessible, simplified people-centred procedures, and more consistent application of family protection laws. Influences on victim-survivors' decision-making arose frequently in these forums. State justice court actors recognised the barriers to family violence victim-survivors' access to protection and justice from courts. They also discussed the difficulties courts face when victim-survivors seek to withdraw their complaints of family violence due to reconciliation with the perpetrator despite ongoing concerns for their safety.

In Vanuatu, meetings were held with women magistrates, including a two-day workshop for all magistrates, with a substantial part of the program dedicated to implementation of the *Family Protection Act 2008*. In Tarawa, Kiribati, workshops were held with women magistrates and half-day sessions involved combinations of senior court staff, magistrates, and junior court staff. All focused on providing people-centred justice services, including to survivors of family violence, and implementation of the *Family Peace Act 2014*.

In the Solomon Islands, the engagement consisted of three days of workshops with magistrates and Magistrate Court clerks. Participants discussed plans for establishing accessible court services for interim protection orders by telephone and meetings with Local Court Justices about response to family violence issues. Meetings were also conducted with SAFENET members, a coordination and referral services network, and the Ministry of Justice and Legal Affairs to discuss establishing more Authorised Justice services as provided for under the *Family Protection Act 2014*.

Several meetings and a one-day workshop were conducted with lawyers and staff of the Office of the People's Lawyer in Kiribati; they included a focus on survivor-centre legal representation. In Vanuatu, meetings were conducted with lawyers from the Public Solicitor's Office in Tanna to discuss coverage of legal aid services in family law and family violence cases. In Samoa and Tonga, two professional development workshops were conducted with Samoa and Tonga Law Society lawyers covering provision of survivor-centred legal representation services.

4.7 Engagement with police and prosecutors

Engagement with prosecutors and police in Kiribati and Vanuatu occurred in a range of contexts linked to court responses to family violence. Specific meetings were held with the

specialised family violence policing units in both countries' capitals, and in Nukualofa and Vava'u in Tonga.

Other meetings with police occurred in Vanuatu (Tanna, Ambrym and Malekula) and Kiribati (Abaiang, Maiana, North Tarawa, Roland, Banana, Tabwakea and Poland). Police response to family violence was part of wider discussions around community policing needs and responses. Some one-on-one interviews focused on how police in rural locations respond to family violence reports, with some sharing that they allowed victim-survivors to shelter in their own homes for protracted periods if no housing services were available. Other one-on-one interviews occurred with senior police, who described how they train police to respond to family and sexual violence incidents, and how they discipline police who fail to meet standards of response and support for survivors.

A meeting with prosecutors occurred in Kiritimati; participants discussed protection of sexual violence complainants from perpetrators living in the community during protracted pre-trial periods. In Tonga, a one-day workshop with prosecutors included significant focus on the Prosecution Code and the exercise of prosecutorial discretion, including to support victim-survivors during legal processes. In Vanuatu the researcher met with lawyers involved in the drafting of the Vanuatu Victim-survivor Charter.[4]

[4] Sackett, L.-A. (2023). *Vanuatu Survivor Victim Charter*, UNDP. https://www.undp.org/pacific/publications/vanuatu-victim-survivors-charter.

PART B: LITERATURE REVIEW

Part B presents an in-depth review of global and Pacific literature on women's justice goals and priorities for reducing family violence and solving other family-related problems. It included exploration of the outcomes women seek and their views on the accessibility, usefulness, relevance and effectiveness of the justice options available to them in plural legal environments in the Pacific.

5. Terminology

5.1 Terminology regarding people who experience gender-based violence

Language matters in the way we describe and think about people who experience GBV. Some sufferers GBV think the term "victim" best describes their experience, others prefer "survivor," others again use "victim-survivor." These differences reflect the fact that every person's experience is unique.

In this report "victim-survivor" is used to both acknowledge the ongoing effects and harm caused by abuse and violence, as well as to honour the strength and resilience of people with lived experience of GBV. As those with lived experience understandably resist descriptors that define them by their experience of violence, where context allows, the report uses the term "people who experience GBV."

5.2 Terminology and concepts regarding plural justice systems

There are longstanding debates within legal pluralism and people-centred justice literatures over the pros and cons of the terminology used to describe community-based dispute resolution mechanisms. They are variously referred to as alternative, customary, religious, grassroots, hybrid, indigenous, informal, local, non-state, folk or everyday justice systems.[5]

This report uses the term "community-based" justice systems, or if it is important to specify the system, "customary" or "religious" justice systems or processes.[6] While the pidgin (Bislama and Tok Pisin) word *kastom* is commonly used in Melanesian countries to describe

[5] Chirayath, L., Sage, C., & Woolcock, M. (2005). *Customary Law and Policy Reform: Engaging with the plurality of justice systems*. World Bank; Wojkowska, E. (2006). *Doing justice: How informal justice systems can contribute*. United Nations Development Programme and Oslo Governance Centre; Albrecht, P., Kyed, H. M. Isser, D. & Harper, E. (Eds.), (2011). *Perspectives on involving non-state and customary actors in justice and security reform*. IDLO and DIIS.

[6] For example, "state" versus "non-state" justice does not account for the many mechanisms provided for under state law or linked to state structures that apply laws or procedures that do not originate from state sources, such as customary or religious laws or those that use non-adversarial dispute resolution processes. Nor does "formal" versus "informal" meaningfully capture differences. Many non-state justice systems are, especially from the perspective of communities governed by them, very formal in their procedures and application of rules. For a good discussion of these issues, see Denney, L. & Domingo, P. (2023). *Taking people-centred justice to scale: the role of customary and informal justice in advancing people-centred justice*. ODI; Denney, L. & Laws, E. (2019). *Diverse pathways to justice for all: supporting everyday justice providers to achieve SDG 16.3*; and IDLO (2019). *Navigating complex pathways to justice: Engagement with customary and informal justice systems.* IDLO.

traditional culture and law, it is uncommon in Polynesia and Micronesia, so this report uses "custom" and "customary" throughout.

There is also debate about terminology for "state" or "formal" justice systems. This is because there is no clear-cut dichotomy between community-based and state justice systems, especially in the Pacific, where customary justice systems typically intersect with statutory law, both formally and informally.[7] In addition, Pacific state justice systems include many local hybrid state courts, such as island courts,[8] village courts,[9] local courts and customary land appeal courts,[10] village *fono*,[11] justices of the peace,[12] municipal courts,[13] traditional rights courts and community courts.[14] These are courts provided for by statute that usually operate at the most grassroots level in the hierarchy of state justice courts. They are described in this research as "hybrid local" courts because while they are recognised in state law, they usually apply processes and principles based on custom.

Hybrid local courts are typically presided over by government appointees of high standing (without legal qualifications) in the local community, often leaders such as chiefs, church leaders or civil servants. These actors' multiple hats create informal links between state and non-state governance systems. They typically apply customary law or community justice processes, based on participatory mediation and localised normative standards within stated limits.[15] Women are typically poorly represented amongst those serving in local hybrid state courts[16] and in customary and religious leadership roles, which is a key factor in women's access to dispute resolution and the outcomes they receive.

The term "state courts" is used in this research to describe courts presided over by legally trained decision-makers (magistrates or judges), who apply statutory law, rules of evidence, follow caselaw precedent and hear appeals of the decisions of hybrid local courts. They may also interact formally with customary and religious systems, for example, by judges taking customary settlements into account in sentencing or other formalised interactions.[17] Informally, police rely heavily on customary justice processes to maintain community peace and, as noted above, these often involve village chiefs, who also often sit as decision-makers on panels in hybrid local courts. Whatever the statutory arrangements, customary justice actors cannot operate separately from national constitutions and statutory laws. Conversely,

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[7] Forsyth, M. (2007). *How to 'Do' Legal Pluralism*. Social Science Research Network. Swenson, G. (2018). Legal Pluralism in Theory and in Practice. *International Studies Review*, 20(3), 438–462; Harper, E. (2011). *Customary Justice: From Program Design to Impact Evaluation*. IDLO.

[8] Vanuatu and Tuvalu.

[9] Papua New Guinea.

[10] Solomon Islands.

[11] Samoa. Village *fono i*s the village-level authority in Samoa (council of chiefs) that determines village rules and policies, and when villagers breach these, also punishments.

[12] Cook Islands.

[13]Chuuk, Pohnpei and Yap, FSM.

[14] Marshall Islands.

[15] For example, the *Island Courts Act* (Vanuatu) states (s. 10) that "an island court shall administer the customary law prevailing within the territorial jurisdiction of the court so far as the same is not in conflict with any written law and is not contrary to justice, morality and good order."

[16] 6.7% of hybrid Pacific court justices are women. Graydon, C. (2024a) n 2, p. 6.

[17] Such as the formal, recognised referral process between the Marshall Islands High Court and Traditional Rights Court.

state police and courts rely heavily on customary and religious justice actors to meet demand for security and justice services, and cannot operate without a keen appreciation of custom, especially regarding rights relating to land. Custom is also influential in men's control of women, as discussed throughout this research.

For these reasons, the notion of two separate hemispheres – state and non-state justice – is meaningless in the Pacific and misconstrues how justice is typically dispensed across the region. Justice delivery across the Pacific region is pluralistic, hybrid and fluid. Hence, this research regarded Pacific justice systems as justice ecosystems, encompassing connections and webs across customary, religious, hybrid, and local/state justice. This understanding of Pacific justice systems is essential for understanding and lowering the barriers that women and girls experience in attempting to secure protection and justice.

6. Global developments in gender-responsive people-centred justice

6.1 Global justice deficit

The *Justice for All* report (2019)[18] revealed that 5.1 billion people, two thirds of the world's population, lack meaningful access to justice, another factor trapping them in poverty, inequality and marginalisation and contributing to conflict and violence in societies. Sustainable Development Goal (SDG) 5 is aimed at achieving gender equality and empowering all women and girls, and SDG 16.3 focuses on achieving equal access to justice for all people by 2030, "leaving no one behind." Thus access to justice for women is a key focus of multiple SDGs, and the lack of access to justice is understood to be both a consequence and a cause of structural inequalities,[19] constraining achievement of other basic rights, including gender equality.

The *Justice for All* report also reported that the burden of lack of access to justice is disproportionately borne by vulnerable groups, including women, children, people with disabilities, refugees and displaced persons, ethnic and religious minorities, and indigenous peoples. The Taskforce's High-Level Group on Justice for Women also found that more than one billion women were vulnerable to sexual violence from an intimate partner, while an estimated 1.5 billion were without legal protection against sexual harassment at work.[20] Since the Taskforce's seminal investigation, researchers have continued to document and quantify the severe impacts of unresolved disputes on individuals, communities and states, including in fiscal terms.[21]

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[18] Task Force on Justice, *Justice for All – Final Report*, loc. cit. n 1.

[19] OECD & OSF. (2016). *Leveraging the SDGs for inclusive growth: Delivering access to justice for all*, available at: https://www.globalprotectioncluster.org/index.php/publications/469/reports/report/oecd-osf-leveraging-sdgs-delivering-access-justice-all-2016.

[20] Tavares, P., & Wodon, Q. (2018). *Ending violence against women and girls: Global and regional trends in women's legal protection against domestic violence and sexual harassment*. World Bank.

[21] Globally, conflict costs around $2,000 pp/year, (Task Force on Justice, loc. cit.); Scaled-up prevention could save $5-70 billion per year (UN/World Bank 2018); up to 20% of country GDP can be lost when levels of non-conflict violence very high (OECD & OSF, 2016); Direct costs of unresolved justice problems are very high: lost income, damaged health & cost of seeking redress : 0.5%–3% GDP per year in OECD countries; everyday justice problems cost <2% GDP in most low-income countries (where data exists). See OECD and World Justice Project (2019). *Building a business case for access to justice*, https://www.oecd.org/gov/building-a-business-case-for-access-to-justice.pdf.

While the "justice gap" in Pacific island countries has not been measured comprehensively, it is evident that it is similar to, if not larger than, that measured globally. This is due to the challenges of providing justice services to the high proportion of Pacific people living in remote and difficult-to-access locations. In these locations, people rely heavily upon customary and religious justice; both state legal pluralism and deep legal pluralism are commonly present.[22]

6.2 Need for people-centred and woman-centred justice

Over the past two decades, intransient and persistent challenges in providing effective, accessible, affordable and relevant justice to diverse and differently situated people across the world have driven major repositioning of concepts of people-centred justice delivery. People-centred justice is less concerned with the type of legal redress mechanism than the most relevant, accessible and effective approach to resolving disputes and achieving the outcomes people need. The pursuit of SDG 16.3 on access to justice has sharpened global focus on the need to bed down practices of people-centred justice and legal empowerment and apply legal pluralist understandings of how the contributions of multiple legal traditions are needed to provide more equal, universal and relevant justice.

Accompanying this growing appreciation of the need for people-centred justice is determination to prevent women being left behind in these change processes. This means reforms across all justice systems need to be informed by the barriers women typically face and designed to overcome them to meet specific protection and justice needs. These needs most commonly relate to redress for family violence, as well as family law remedies for divorce, child support and custody. Women's access to property rights (land and inheritance), as well as processes for resolving employment disputes and access to state welfare are also important areas of legal need for women.[23] They are often key to women's economic independence, which is essential for increasing social protection, reducing GBV and advancing gender equality. Women's legal needs typically remain largely unmet due to barriers they face in all justice systems (state, customary and religious), as discussed below.

6.3 Persistent barriers to women's access to state justice and gaps in knowledge about women's desired justice outcomes

While legal systems, customs and other contextual elements differ between countries and communities throughout the Pacific region (and worldwide), the reasons why women do

[22] State pluralism refers to the coexistence of two or more bodies of norms that are recognised by the state, but with the proviso that the state is the source of authority for all laws. Deep legal pluralism refers to the coexistence of legal orders with different sources of authority. See Corrin, J. (2017). Exploring the deep: Looking for deep legal pluralism in the South Pacific, Victoria University of Wellington Law Review, 48(2), 305-322.

[23] IDLO (2013). *Accessing justice: Models, strategies and best practices on women's empowerment*, available at: https://www.idlo.int/publications/accessing-justice-models-strategies-and-best-practices-womens-empowerment; UN Women. (2012). *Progress of the world's women: In pursuit of justice*, available at: https://www.unodc.org/ji/en/resdb/data/2012/progress_of_the_worlds_women_in_pursuit_of_justice.html.

not seek state justice legal remedies are fundamentally similar, even where non-discriminatory state laws exist.[24] These include:

- Lack of legal literacy and legal assistance, knowledge of rights, and/or empowerment to exercise rights
- Lack of practical access to state justice systems –geographical and gendered restrictions on freedom of movement, including safety during travel and the disproportionate burden of carer roles; costs of transportation, legal assistance, court fees, accommodation and food while away from home, and of lost work time (paid and unpaid)
- Poor performance of state justice and lack of trust – inability to provide reliable and timely justice outcomes; lack of trust in formal authorities due to discriminatory attitudes and gender biases perpetuated throughout the justice chain
- Insufficient pathways to justice, including lack of enabling environments, centralisation of formal justice systems, and legislative frameworks
- Fear of retribution from perpetrators, local authorities, family members and community stigma for seeking justice, including for not conforming with gendered norms of obedience, passivity and selflessness.

Recent research by The Hague Institute for Innovation of Law (HiiL)[25] highlights how these points are only part of the story. Poor alignment of the outcomes delivered by state and other justice systems with women's needs is a large and intransient barrier: even when justice systems operate as designed, they still do not meet women's justice needs. This point highlights a major knowledge gap: despite the enormous amount of research on the causes and prevalences of violence against women and interventions to reduce it, very little research has focused on the outcomes women want and need from protection and justice processes.

As stated in HiiL's study of outcomes for survivors of intimate partner violence (IPV):

> The outcomes that IPV (Intimate Partner Violence) survivors seek – which are so often overlooked or misunderstood by practitioners and society at large – merit their own careful research and should not be conflated with the outcomes sought by those who harmed them.[26]

The 2022 HiiL study included a review of the few studies focusing on what justice "looks like" for family violence victim-survivors. While most of the studies include data related to experiences of victim-survivors in Western countries, the findings included that:

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[24] UN Women. (2023). *Community-based justice: A model to accelerate justice for women*, available at: https://asiapacific.unwomen.org/en/digital-library/publications/2023/05/a-model-to-accelerate-justice-for-women; UN Women. (2012). *Progress of the world's women: In pursuit of justice*, available at: https://www.unodc.org/ji/en/resdb/data/2012/progress_of_the_worlds_women_in_pursuit_of_justice.html.

[25] HiiL. (2022). *Focusing on outcomes for survivors of intimate partner violence*; available at: https://dashboard.hiil.org/publications/focusing-on-outcomes-for-people/focusing-on-outcomes-for-survivors-of-intimate-partner-violence/; HiiL. (2023). *Measuring the justice outcomes that survivors of intimate partner violence seek,* https://dashboard.hiil.org/measuring-the-justice-outcomes-that-survivors-of-intimate-partner-violence-seek/.

[26] Ibid., p2.

- The outcomes IPV victim-survivors seek change over time[27]
- Following an attack, victim-survivors first focus on safety for themselves (and their children)
- IPV necessitates an urgent and practical need for secure temporary and sometimes long-term housing, for transportation, or for the perpetrator to be removed from the home[28]
- Soon after the aftermath of an attack, victim-survivors' needs shift to long-term economic security including needs for education, assistance securing employment or compensation, due to loss of income from their partner or rejection by their own families. Access to long-term economic security is a key determinant of whether victim-survivors persist with legal processes[29]
- Victim-survivors often need emotional support focused on reducing PTSD, depression, anxiety, shame, guilt, anger and increasing self-esteem and self-empowerment[30]
- Victim-survivors have legal needs, not uniformly related to the arrest, removal, or prosecution of perpetrators, but also to fight landlords, file for divorce, negotiate custody, visitation or child support payments[31]
- Victim-survivors often prefer restorative approaches for achieving safety and protection, such as acknowledgement, apology, reconciliation, reparation, or rehabilitation of the perpetrator through behavioural change programs. This is contrasted with "retributive justice" needs, such as incarceration or retaliation, which are higher-priority needs for victim-survivors of crimes committed by strangers[32]
- Contrary to the traditional view of victim-survivors as passive recipients of the law and legal outcomes, "their interaction with both civil and criminal legal systems [is] part of their 'active negotiation and strategic resistance'" to violence[33]
- For those victim-survivors who stay with the perpetrator (whether for economic or relational/familial reasons), a warning by the police or temporary separation may

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[27] Allen, N. E., Bybee, D. I., & Sullivan, C. M. (2004). Battered women's multitude of needs: Evidence supporting the need for comprehensive advocacy, *Violence Against Women*, 10(9), https://doi.org/10.1177/107780120426765.

[28] Ten Boom & Kuijpers (2012). *Victims' needs as basic human needs*. International Review of Victimology, 18*(2), 155-179*. https://doi.org/10.1177/0269758011432060.

[29] Ibid.

[30] Ibid; Bender, A. (2016). *Ethics, methods, and measures in intimate partner violence research: The current state of the field*; Arroyo, K. et al. (2015). Short-term interventions for survivors of intimate partner violence: A systematic review and meta-analysis; O'Doherty et al. (2014). *Selecting outcomes for intimate partner violence intervention trials: Overview and recommendations*.

[31] Allen, N. E., Bybee, D. I., & Sullivan, C. M. (2004). Battered women's multitude of needs.

[32] Ten Boom, A. (2016). Victims of crime by intimates, acquaintances or strangers. Differences in contexts, experiences and needs of the judicial system; Ten Boom & Kuijpers, loc. cit. n28; Decker et al Defining Justice: Restorative and Retributive Justice Goals Among Intimate Partner Violence Survivors, (2020); Pemberton & Groenhuijsen, (2016).

[33] Lewis et al. Protection, Prevention, Rehabilitation or Justice? (2000).

be more desirable than arrest or incarceration, and rehabilitation of the perpetrator is the highest-priority goal[34]

- Victim-survivors also seek restorative outcomes related to friends, family, and the broader community,[35] including community condemnation of the offence and acknowledgement of the roles of perpetrator's enablers and accomplices.[36]

These findings are important because they highlight how women victim-survivors of violence often prioritise practical remedies over punitive ones so they can achieve lasting improvements to their lives. These remedies include rehabilitation of violent partners (rather than imprisonment); individual and community recognition they were wronged, including through compensation; restoration of social and reputational status; economic empowerment; and, if necessary, lasting economic support for themselves and their children. State justice systems do not generally offer or deliver these kinds of remedies to survivors of violent crimes.

These factors underscore the high risks that seeking state justice often entails for women's short and longer-term futures, not only due to fear of retaliation but the disturbance to their social, cultural and economic worlds. Even women with legal literacy and access to quality legal support (who can exercise a real and informed choice of which justice pathway to pursue) often still (very rationally) decide that the risks of pursuing state protection or justice far outweigh any potential practical or other benefit.

HiiL's qualitative research with victim-survivors of intimate partner violence in Uganda, Nigeria and the Netherlands (and practitioners who help them) confirmed many of the conclusions reached in its literature review. It highlighting how women victim-survivors want justice processes to provide increased safety, secure housing, economic security, improved physical and mental health and increased confidence, and increased understanding and acceptance of responsibility by the perpetrator of the harm they caused and skills enabling them to change. [37]

The research also identified some important additional outcomes sought by some victim-survivors, including: improved relationships with the perpetrator, improved wellbeing of the perpetrator, improved wellbeing of children, and a healthy change in relationships within the family. Some victim-survivors also prioritised outcomes related to community, including decreased isolation and increased community understanding and proactive action to prevent family violence against others. Survivors' feedback on service providers emphasised the importance of increasing victim-survivors' agency while providing empathetic, competent and unbiased treatment.[38]

The main cross-cultural differences observed between national respondent groups were high focus of the Netherlands victim-survivors on mental health and empathetic, empowering treatment by service providers, versus high priority on the need for acceptance and support from extended family and community in Uganda and Nigeria. These differences are consistent with the very different social structures and sources of support available to victim-survivors across the three countries. Notably, there were still

[34] Ten Boom & Kuijpers, loc. cit. n 28.

[35] HiiL (2022), loc. cit. n 25.

[36] Ten Boom & Kuijpers, loc. cit. n 28.

[37] HiiL (2023) loc. cit. n 25.

[38] HiiL,(2022) loc. cit. n 25, p. 6-11.

many commonalties in the justice outcomes sought and prioritised by victim-survivors across the three nations.[39]

6.4 Misalignment of state justice with victim-survivors' needs

The key takeaways from this emerging area of research is that many of the justice and protection outcomes women seek (identified above) are not the primary focuses of the state justice system. Criminal justice proceedings primarily frame (or relegate) victim-survivors' roles to being witnesses of crimes committed against the state. Civil law remedies, such as protection orders, which discourage future violence and only become criminal matters if they are breached, offer valuable legal protection. However, they are not well understood by victim-survivors, who fear that any contact with the justice system will mean the arrest or imprisonment of their partner and destroy the relationship.

A large gap exists between the outcomes victim-survivors' seek to eliminate the violence they face and improve their lives and what state justice provides. Lack of relevance explains much of why victim-survivors' uptake of and retention in state justice processes remains so low. This is the case despite the massive global effort in recent decades, including in the Pacific, to improve laws and processes; build capacity of justice actors to reduce gender bias and provide survivor-centred services; and provide specialised policing, prosecution, judicial and integrated survivor-centred services for psychosocial and legal support.[40] Despite all these efforts, progress towards more women achieving justice in state systems remains slow and uncertain.

Many hybrid and community-based justice systems meet women's needs no better than state systems. While it is often assumed that these are accessible to everyone in the community, this is rarely the case, as revealed throughout this research. Even when they can be accessed, women often feel they are ineffective because problematic behaviours recur due to perpetrators not being held to account, exposing survivors and children to ongoing risks of violence and other difficulties.

7. Global review of what works in expanding women's access to justice

The misalignment between women's justice needs and the outcomes even optimally functioning justice systems deliver to them was confirmed by the United Nations Development Programme's (UNDP) independent evaluation of its global work to expand women's access to justice.[41] The evaluation covered a seven-year period (2017–23), 423 projects in over 75 countries (including several Pacific countries) with a budget of USD3.2 billion.[42] It provides a global picture of what works to improve women's access to justice, including justice related to GBV.

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[39] Ibid.

[40] UN Women; International Development Law Organization (IDLO); World Bank; Pathfinders for Peaceful, Just and Inclusive Societies, 'Justice for Women: High-level Group Report', 2020.

[41] UNDP (2023) *The evaluation of UNDP support of access to justice,* p 51, available at: https://erc.undp.org/evaluation/documents/download/22249#:~:text=As%20detailed%20in%20its%20Practice,to%20legal%20and%20judicial%20proceedings

[42] Including through a massive injection of resources from the Spotlight Initiative, via which the European Union provided €500m to the UN system to work in partnership with CSOs to eliminate violence against women globally by 2030. For further information, see: https://spotlightinitiative.org/what-we-do.

The UNDP evaluation found that despite enormous investments in a range of strategies to improve the accessibility, quality and responsiveness of justice to women's needs, evidence of impact – especially regarding women's use of state justice systems – remained poor.[43]

> Gender prominently features among the factors contributing to vulnerability to exclusion in accessing justice, with a **significant mismatch reported between women and girls' needs and what justice systems provide** [emphasis added].[44]
>
> Resolution of cases has been limited, with more encouraging results achieved by fast-track and mobile courts. Attrition rates remain high due to entrenched social norms and insufficient attention paid to women's economic empowerment as a driver of choices.[45]
>
> The support provided, however, did not translate into court decisions, as the **number of cases proceeding to courts remains very low**. Interviews and documents trace the high attrition rates back to the **stigma associated with both reporting and legal processes; persistent lack of responsiveness and sensitivity to the issue by rule of law actors; length of judicial processes; and lack of economic support** [emphasis added].[46]

Key recommendations included:

> Given the importance of the issue and the limited effectiveness of current interventions, several stakeholders advocated for a reconsideration of UNDP's approach to SGBV, **working with partners in engaging men and boys (including through rehabilitation programmes for perpetrators) and furthering investments in communities' monitoring and referral mechanisms, including through community policing systems … and stronger emphasis to be placed on survivors' reintegration in communities and women's economic empowerment** [emphasis added] as both a prevention and response to GBV, given that current services are insufficient for meeting survivors' needs.[47]
>
> Issues of social norms and stigma, as well as unbalanced power structures and economic dependence when it comes to violence against women and girls, should be more carefully considered. **The justice that survivors of sexual and gender-based violence (SGBV) want and need, and their experiences on their justice journey, should be central to the design of any programme meant to benefit them** [emphasis added].[48]
>
> UNDP should enhance the breadth and depth of its work with a wider range of actors, including alternative dispute resolution mechanisms where non-State judiciable mechanisms provide a trusted response to people's issues.[49]

Many of these lessons about strategies for expanding women's access to justice are directly relevant in the Pacific context. The starting point must be the experiences and legal needs

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[43] UNDP (2023) loc. cit. n 41.

[44] Ibid, p 15. See also Task Force on Justice, (2019) *Justice for Women: High-level Group Report*, loc. cit. n 40.

[45] UNDP (2023) loc. cit. n 41, p. 51.

[46] Ibid, p. 52.

[47] ibid., p. 53.

[48] ibid., p. xv.

[49] ibid., p. xiii.

of women in their varied contexts, and engagement of all justice systems in processes of change. If successful, the "first door will be the right door" in whichever pathway women take in seeking protection or justice, because all justice systems will have improved capacity to reliably and coherently provide women and their children with safety and other outcomes that are effective and relevant to them.[50]

Accordingly, this research is important because it sought to identify the outcomes rural women in Vanuatu and Kiribati, especially those living with ongoing family violence, prioritise and seek. Its subsequent aim was to advise how plural justice systems can deliver those outcomes.

8. Elements of Pacific justice ecosystems

As noted in Section 5 (Terminology), Pacific justice ecosystems are comprised of multiple legal traditions and actor types working within community-based, hybrid and state justice systems. This section describes how these systems are explained in the literature, as well as the evidence about the benefits and drawbacks they present for women seeking protection and justice.

8.1 Context of Pacific state justice systems

State justice actors in the Pacific include those performing roles as judges, magistrates and court staff. State courts include magistrate, national, supreme and appeal courts. They generally use adversarial and adjudicative methods to decide cases, although there is a notable global (and regional) trend towards state courts making greater use of court-annexed mediation, early neutral evaluation and restorative justice approaches, bringing state and customary justice processes into greater alignment.[51]

State courts provide a range of civil remedies including damages, compensation, orders for payment of child support or spousal maintenance, alongside a great many non-financial civil remedies, including protection orders, declarations, injunctions, custody orders, adoption orders, grants of divorce, separation, and orders for division of marital property. Criminal sentences following a guilty verdict may include fines, community service, periods of imprisonment (including suspended sentences) and in some jurisdictions, corporal punishment (such as whipping)[52] or the death penalty.[53]

State justice systems struggle to cover most parts of many Pacific countries. They are highly centralised and may only exist minimally even in provincial capitals, let alone remote locations where both police and courts may have little to no presence.[54] Community access to legal information and where to get assistance is often very limited and resources for outreach and awareness-raising are generally not available or prioritised. Legal aid is heavily concentrated in capital cities but falls well short of demand and is completely

[50] Graydon, C. (2024c, forthcoming). Strengthening linkage and pathways between state and non-state justice mechanisms, PJSP.

[51] Judiciaries worldwide: A Resource on Comparative Judicial Practice, Alternative Dispute Resolution, https://judiciariesworldwide.fjc.gov/alternative-dispute-resolution.

[52] Such as in Tonga and Kiribati.

[53] Such as in PNG and Tonga, although a death sentence has not been executed for decades in either country.

[54] Graydon, C. (2024c) loc. cit. n 50.

unavailable in some countries.[55] As a consequence of lack of practical access to legal information and assistance, most people in Pacific island countries have no real choice or ability to access the state justice system to seek help or to enforce their rights. Therefore they cannot be said to enjoy equality before the law, as provided for in all Pacific constitutions, highlighting the existence of an access to justice crisis across the region.

Even where people can access state justice systems, they are often slow, expensive, and lack capacity to uphold human and constitutional rights, including due to gender bias.[56] Few courts provide people-centred processes and respond reliably and appropriately to the needs of vulnerable groups of court users, including victim-survivors of family violence, children and people with disabilities.[57] For women and children, court processes involving GBV are often retraumatising. Court outcomes often do not meet women's needs for practical remedies that improve their lives, such as rehabilitated non-violent partners, economic empowerment and support, community recognition they were wronged, and restoration of social status.[58] Conversely, many Pacific women feel that the quality of justice provided by courts is fairer than in community-based systems, where results vary according to the identity, status and social power of the parties and where women's participation is often highly constrained.

8.2 Hybrid state justice actors and mechanisms

Hybrid courts are comprised of lay (non-law trained) justices, often selected or nominated by communities but appointed by the state. They sit in the lowest levels of state court hierarchies[59] and typically have jurisdiction over customary land cases and sometimes minor civil and criminal matters and civil orders for family protection. They are not bound by the rules of evidence but apply a mix of state and customary law and process to impose fines, community work orders, compensation orders and short periods of imprisonment.[60] In some Pacific countries, local courts are inactive or function unreliably or sub-optimally due to lack of state resourcing and administrative capacity constraints,[61] as well as a lack of effective oversight from higher courts.[62]

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[55] Graydon, C. (2021) *Situation analysis of Pacific legal aid systems, PJSI,* available at: https://www.fedcourt.gov.au/pjsi/reports.

[56] Gender vias and human rights issues are not only in issue for community-based and hybrid justice systems but also afflicted state justice too.

[57] This is a key focus of PJSP's work to support courts' capacities to respond to the needs of vulnerable court user groups.

[58] Oliveira, B. N. (2023). *Law and Practice of the Criminal Proceeding in cases of Gender-based Violence in Timor-Leste.* https://www.jus.tl/_files/ugd/8f26a1_f673d234b7fb4189ba8b001031b9601a.pdf.

[59] PJSI, (2020) *Courts, Custom and Hybrid Justice Actors*, available at: https://www.fedcourt.gov.au/pjsi/reports.

[60] Or even longer ones, such as lay Magistrates in Kiribati who can impose custodial sentences of up to five years.

[61] See World Bank (2015) *Institutional and Fiscal Analysis of Lower-level Courts in Solomon Islands,* available at: https://documents1.worldbank.org/curated/en/429921468294672433/pdf/942380WP0P13250Islands0J4P0Feb02015.pdf.

[62] Graydon, C. (2024b) Overview of Pacific Local Courts and Proposal for Strengthening their Capacity and Oversight, PJSP, forthcoming 2024, copy on file.

Those appointed to these courts are typically village chiefs, customary, religious and other community leaders, and the vast majority are men.[63] There is a dearth of up-to-date information available about the work of hybrid local courts, with minimal case data presented in some (not all) court annual reports, and few hybrid court decisions on appeals that could shed light on legal issues arising from local court decisions. Key academic/practitioner studies have focused on Melanesian countries (Vanuatu, Solomon Islands and Papua New Guinea [PNG]),[64] especially during 2011–16 when the World Bank *Justice for the Poor* and other work on grassroots justice was unfolding. Notable studies include PJSP's forthcoming *Overview of Pacific Local Courts and Proposal for Strengthening their Capacity and Oversight*, which provides the only known mapping of Pacific local courts.[65] It is based on publicly available sources and is a live document, updated continuously based on inputs from PJSP partner courts and knowledge acquired through ongoing PJSP activities.[66]

The idea of hybrid justice bodies is to provide locally accessible, understandable and swift justice services but with the added benefits of consistency, accountability and coherence conferred by delivery through the state justice system. In reality, the lack of resourcing and capacity building for hybrid justice bodies in the Pacific means they cannot provide the customary expertise of community-based justice, while exercising state powers without the rights safeguards, knowledge, rigour and effective oversight of state courts, risking breach of constitutional rights.[67] On the other hand, there is evidence that women can and do use Village Courts in PNG to enforce their rights,[68] and that these courts can be an important

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[63] Evans, D., Goddard, M., & Paterson, D. (2010). The hybrid courts of Melanesia: A comparative analysis of village courts of Papua New Guinea, island courts of Vanuatu, and local courts of Solomon Islands, Justice and development working paper series ; no. 13, Justice for the poor Washington, DC: World Bank. http://documents.worldbank.org/curated/en/966011468286312445.

[64] Conducted especially in the period 2011-2016 when the World Bank 'Justice for the Poor' work was unfolding, and a more recent evaluation of training conducted for Village Courts in PNG. Goddard, M., & Otto, L.(2013) *Hybrid Justice in Vanuatu: The Island* Courts (2013) available at: https://researchers.mq.edu.au/en/publications/hybrid-justice-in-vanuatu-the-island-courts; Evans, D. Goddard, M. Paterson, D. *The Hybrid Courts of Melanesia: A Comparative Analysis of Village Courts of Papua New Guinea, Island Courts of Vanuatu and Local Courts of Solomon Islands,* available at https://researchers.mq.edu.au/en/publications/the-hybrid-courts-of-melanesia-a-comparative-analysis-of-village-; Pupu, N. and Wiessner, P. (2018) *The Challenges of Village Courts and Operation Mekim Save among the Enga of Papua New Guinea Today: A View from the Inside*, available at: https://openresearch-repository.anu.edu.au/handle/1885/144696; Chapman, P. World Bank Blogs (2012) *History of Hybrid Courts in East Asia & Pacific: A 'best fit' approach to justice reform? Hybrid Courts in East Asia & Pacific: A recipe for success? Hybrid Courts in East Asia & Pacific: Does the international community have a role to play?* (2012) available at: https://blogs.worldbank.org/en/eastasiapacific/history-of-hybrid-courts-in-east-asia-pacific-a-best-fit-approach-to-justice-reform.

[65] Forsyth, M. (2009). A bird that flies with two wings: Kastom and state justice systems in Vanuatu; Forsyth, M., & Eves, R. (2015). Talking it through: Responses to sorcery and witchcraft beliefs and practices in Melanesia.

[66] Graydon, C. (2024b) loc. cit. n 62.

[67] Ibid.

[68] Neuhaus, J. (2009) *Women in Village Courts in Papua New Guinea: The Transformation of Gender Roles,* (2009), available at: https://www.zora.uzh.ch/id/eprint/29914/.

ally for women who have few avenues for seeking justice and recompense.[69] According to Neu, in PNG women parties:

> … form the largest number of cases in village courts and in the village and [the cases] include such themes as conjugal rights, adultery, marital problems, incest, customary divorce, brideprice, child custody and neglect of dependents. Not only do women use these courts frequently, they also win at least as many cases as men … they help women to overcome customary discrimination in the villages and open up a new forum for the negotiation of gender roles.[70]

Nevertheless, an evaluation of a training pack provided to PNG Village Court justices in 2014[71] indicated that the percentage of women satisfied with village court handling of cases dropped from 58% to 44% in one year (men's satisfaction dropped from 67% to 65%). The percentage of women satisfied with Village Court decisions also dropped from 51% to 44% between 2014 and 2015 (men: 65% to 61%).[72] The same study found that the proportion of women who felt safe around the village reduced from 66% in 2014 to 42% in 2015, and that those women who felt least safe had been parties in village court cases concerning rape or sexual assault, adultery, stealing and domestic violence.[73] No more recent studies show how women use and experience Village Courts in PNG and their level of satisfaction with the outcomes they receive.

Much of the success of hybrid local courts relies upon the state's adequate support and resourcing. The sustainability of hybrid local courts is threatened across the Pacific and their effectiveness is often constrained by states' inability to provide sufficient support or oversight. This is not surprising given that their establishment in the first place was often due to the scant state resources available to provide regular justice services across all national territory. As the state courts closest to the people, there is a clear need for hybrid local courts to help fill the justice chasm that exists in many Pacific countries, and equally a need to improve their functioning and effectiveness.

8.3 Centrality and benefits of community justice mechanisms

Community justice actors and mechanisms are highly localised and variable across the region. Customary systems are comprised mainly of elders and chiefs (village, area, paramount and councils of chiefs), whereas religious-based systems involve church leaders (ministers, pastors, catechists, church elders and committee members) to whom communities look to resolve most legal disputes. In both systems, disputes are typically addressed through mediated agreement between the parties, and in customary systems commonly result in remedies including apologies, payments of compensation in money, goods or symbolic customary items, fines or community service.

In many places across the Pacific diverse local actors are increasingly participating in community security and governance due to processes intentionally designed to include women, youth, people with disabilities and in some places, LGBTIQ communities. These

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[69] Goddard, M. (2004). *Women in Papua New Guinea's Village Courts,* State Society and Governance in Melanesia, Discussion Paper 2004/3, ANU.

[70] Neuhaus, J. (2009) loc. cit. n 68, p. 153.

[71] PNG-Australia Law and Justice Partnership – Transition Program, 'Evaluation of Village Court Officials' Training Summary of Findings' (Volume 1 of the Evaluation Report), Annex 4, 'Summary Tables, Community Perception Surveys 2014 and 2015', p6, Final Report March 2016, available here.

[72] Ibid, p.6.

[73] Ibid, p iii.

are often community-based initiatives supported by local CSOs or through community policing projects and often show real potential for achieving change at the local level by engaging a wider range of community actors in awareness and change processes. These initiatives are discussed further in Part E of this report, but it is important to note that many of these are gaining real traction. Agreed-upon norms are being achieved through inclusive representation, community consultation processes are being mandated in by-laws and enforced by community leaders, often markedly reducing family violence and other forms of violence in the community.[74] Their effectiveness stems from their capacity for immediate, accessible and relevant response; their legitimacy stems from reliance on local leadership augmented by more diverse and inclusive community processes. They are seen as far more relevant than policing and justice processes that lack a visible presence or capacity to respond quickly. They may lead to greater power-sharing and fairness for socially disadvantaged community members by modifying customary or religious mechanisms that reinforce high tolerance of GBV.

Exploring community-based mechanisms is crucial given the considerable advantages they offer for delivering people-centred justice where customary leaders enjoy community legitimacy. Such mechanisms are:

- *Readily accessible because they operate at the village level*, although their accessibility cannot be assumed for all women and girls or for all case types
- *Understandable*, because they are based on familiar processes, conducted in local languages and without formalities of rules of evidence[75]
- *Affordable*, although not always or for everyone (that many traditional customary justice providers charge substantial fees to resolve disputes)[76]
- *Speedy*, with cases resolved in days or weeks at the most, although the degree to which decisions are abided by cannot be assumed and enforcement may be minimal
- *Accepted*, because the parties using them do not face stigma and outcomes are generally accepted by the community
- *Flexible,* because they can adjust to changing circumstances. Processes of internal contest are supported by local actors and therefore can disempower patriarchal normative structures that disadvantage women and other marginalised social groups within communities.

8.4 Risks of engaging with customary and religious justice systems

As noted earlier, most customary systems use restorative remedies such as compensation, apology, reconciliation, fines and sometimes community service. In some places and cases, more controversial remedies include corporal punishments, banishment (including of dependent family members) or forced marriage and child marriage. Forsyth's study of

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[74] UNDP. (October 2022). *Piloting the Village Family Safety Committee Program* undp.org/samoa/stories/piloting-village-family-safety-committee-programme.

[75] However, this cannot always be assumed. 'The common assumption that community level processes are well understood by all community members may also not be completely true,' See The Policing and Justice Support Program (Vanuatu) (2018), (PJSPV), https://www.dfat.gov.au/about-us/publications/Pages/conflict-management-access-justice-rural-vanuatu. p.96.

[76] Note, the fee charging practices of customary justice providers is a very sensitive and under-studied area and presents a major challenge to the common assumption that customary justice is available to everyone in the community.

customary justice in Vanuatu identified cases of customary authorities ordering that women be whipped, beaten and have their hair cut off, requiring youth to cut grass, grind kava and run around naked in public, as well as punishments of exile and banishment.[77] Forsyth also identified cases of payback on the island of Malo, where chiefs authorised the family of the deceased to attack and kill a family member of the perpetrator (but was stopped before anyone was harmed). Thus, customary justice is not always or intrinsically restorative rather than punitive. Customary justice outcomes commonly require women to submit to rigid gender roles in exchange for their safety, which can result in continuing patterns of GBV.

Aside from punitive punishments, commonly identified challenges for customary and religious justice processes include their:

- *High variability and localised nature*, causing inconsistency and lack of certainty in outcomes. While many contexts allow appeals to higher customary bodies, much depends on the parties having the status and wealth to escalate cases to higher levels
- *Lack of effective oversight or accountability*. Risks of corruption and lack of monitoring of processes and outcomes are associated with the speed of resolution and the remoteness of many locations, as well as the lack of written records of processes or decisions
- *Gender and other social bias*. Customary and religious justice processes reflect existing social hierarchies and dominant norms, so outcomes favour stronger, more socially or economically powerful parties and disadvantage vulnerable community members and minority groups. For women, procedural and substantive unfairness result when dominant norms of gender inequality apply in decision-making and limit women's participation as both decision-makers and parties
- *Unreliable rights protection*. Women often find customary and religious justice systems ineffective in providing protection from ongoing harm or for holding perpetrators to account for GBV. Victims may face blame or apportionment of blame for domestic violence, incest and other forms of GBV.[78] In some cases, victims may be required to submit to perpetrators through forced marriage or held to fulfilling rigid gender stereotypes of subservience in intimate relationships. Female victims are frequently overlooked in compensation payments, which are typically paid to male family members.

[77] Forsyth, M, (2009) loc. cit. n 65, p. 108.

[78] PNG-Australia Law and Justice Partnership – Transition Program., (2016) Evaluation of Village Court Officials' Training Summary of Findings (Volume 1 of the Evaluation Report) FINAL REPORT, p II, 3-12. The Evaluation reviewed the impact of training provided to village courts in PNG, which highlighted concern about the handling of rape, sexual assault and family violence cases in the PNG village courts even after decision makers had received intensive training in 2014/15. Notably, PNG women in 6 provinces felt 'less safe' after, than prior to the training programme, with safety ratings dropping from 73% to 63% in 1 year, and lowest satisfaction rates given by women on rape, sex assault cases. Out of 21 such cases coming before the village courts only 2 were reported to police. Neither was progressed by police and perpetrators were released and at large within the community in both cases. Notably, the village courts proceeded to handle these matters despite having no jurisdiction to do so, except family violence as authorised justices issuing Interim Protection Orders under the Family Protection Act.

Further research is necessary to confirm or refute the many assumptions about customary and religious justice qualities, especially around prevalence of human rights violations.[79] Moreover, such assessments must also consider the (often low) human rights compliance of the state's justice systems. Further, note that Western human rights frameworks and "classic" human rights evaluation checklists may not capture the protective mechanisms that exist in some customary and religious systems. Modified assessment frameworks may be needed to produce a contextualised picture of human rights risks and protections.

In 2021 the International Legal Development Organization (IDLO) undertook a global review of customary and informal justice (CIJ) systems as means for expanding women's access to justice.[80] While acknowledging the often-complex challenges, the study offers models, examples, lessons and approaches that can be used to pursue strategic engagement with CIJ systems to expand women's access to justice and support gender equality. Its policy recommendations were:

- Ensure that women's human rights are recognised as central and indispensable to engagement with CIJ systems
- Focus on empowering women to make informed decisions when seeking justice and to participate in and benefit from CIJ decision-making processes
- Deepen efforts to support CIJ systems that are committed to improving women's rights and their access to justice
- Facilitate safe environments for women to enjoy their rights and pursue justice
- Ensure that women's voices at local, national, regional and international levels are heard and constitute a critical part of reform strategies
- Strengthen investment in participatory and collaborative research that informs policy and programming on CIJ
- Explore partnerships and strengthen alliances to build momentum for transformative change for justice for women and girls.

8.5 Global practices for empowering women in customary and religious justice systems

The IDLO's global CIJ review also produced the following guidelines.[81]

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[79] Applying similar methodology as used in Harper E., Colliou, Y, *Re-Imagining Customary Justice Systems: Interrogating Past Assumptions and Entertaining New Ones*, Hague Journal on the Rule of Law (2023) Vol.15:75–94, available here. This study relates to customary law actors dealing with cases involving juveniles across several Middle Eastern countries and found very low levels of human rights concerns and very high levels of informal interaction between state and customary systems, for example with many customary processes involving police giving evidence or using police investigation reports in their processes.

[80] IDLO. (2020). *Issue Brief: Navigating complex pathways to justice: women and customary and informal justice systems*, available at: https://www.idlo.int/sites/default/files/pdfs/publications/idlo-issue-brief-women-cij-final-web.pdf.

[81] Ibid.

Empower women to achieve justice:

- Strengthen women's knowledge of state laws and their rights under state laws (to provide them with greater leverage in CIJ justice environments)
- Amplify women's voices and provide platforms for expression and action
- Facilitate and build on the work of local women's organisations to support women to navigate justice mechanisms, both state and community-based.

Pursue gender-sensitive reforms of CIJ systems:

- Improve gender sensitivity and responsiveness of CIJ actors
- Strengthen representation and participation of women in CIJ decision making
- Locate and eliminate processes, procedures and practices that restrict or nullify women's human rights
- Strengthen gender-sensitive accountability and oversight mechanisms.

Adopt and implement normative frameworks that benefit women and protect their rights:

- Fill gaps in the legal protection of women's rights
- Advocate for gender-responsive normative reforms
- Address challenges that arise in implementation.

Build and expand alliances and partnerships that support women's human rights in CIJ systems and strengthen research on women's experiences with CIJ systems.

These are very helpful guidelines for improving women's equality and access to justice in Pacific state, hybrid and community-based justice processes, as discussed below. Regarding broader engagement with customary systems, the global experts in the CIJ Working Group[82] identified the following recommendations for engaging with customary and informal justice systems, many of which are highly relevant to Pacific contexts.

- Adopt a justice ecosystems approach to understand the diversity of justice providers and shape reform plans.
- Deliver a step-change in justice support through expanded CIJ engagement to achieve justice for all by 2030.
- Empower justice seekers, especially marginalised groups, to participate in and benefit from CIJ systems.
- Advance women and girls' participation and leadership and ensure the protection of their rights in CIJ systems.
- Support development partners to engage with CIJ to deliver people-centred justice.
- Increase investment in people-centred justice, including CIJ systems.

9. Overview of women's access to justice in the Pacific

Global findings about women's struggles to access justice in plural legal systems reflect those of research conducted in the Pacific. The legal needs of women in Pacific countries

[82] Working Group on Customary and Informal Justice and SDG16+ (2023). *Diverse pathways to people-centred justice: Report of the Working Group on Customary and Informal Justice and SDG16.3*, p.3, available at: https://www.sdg16hub.org/sites/default/files/2023-09/diverse_pathways_to_people-centred_justice_sept_2023_0.pdf.

relate predominantly to family violence (mainly IPV) and family law disputes (many with abuse as their underlying cause) over claims for child support, divorce, custody, adoption and paternity confirmation.

While Pacific countries vary, women remain under-represented overall in legal matters concerning land, somewhat surprisingly, including in matrilineal communities.[83] This underscores women's marginalisation, because land is the issue at the heart of all Pacific societies. In Vanuatu, it is often said that "Land is to ni-Vanuatu what a mother is to a baby."[84]

Women's limited participation in land transactions and disputes reflects the common erosion of women's roles and power under customary, economic and social systems. This typically began with colonisation, was reinforced by Christianity and became further entrenched as commercial resource extraction and land investment activities (largely managed by men) increased. Marginalisation from ownership, management and control of land – the main source of wealth in their countries – has cemented women's economic and social vulnerability[85] and greatly increased their vulnerability to GBV.

As has been well documented, women in the Pacific face amongst the highest global rates of IPV worldwide, with some Pacific countries reporting more than double the global average of 30% of women experiencing IPV over their lifetime.[86] Over a million women and girls (aged 15 years and over) are affected by violence in the Pacific each year.[87] Despite 13 of 15 PJSP partner countries enacting family protection laws (some more than a decade ago) that provide highly accessible civil protective order regimes, court annual reports for 2020–22 show only 1250 protection order cases reported across the five Pacific jurisdictions (with a total female population of 313,500) that produce relevant data.[88]

The following sections provide an overview of women's access to justice, focused on Vanuatu, the Solomon Islands and Fiji, the only three Pacific countries that have undergone detailed legal needs and justice assessments. This highlights a major gap in the state of knowledge about community legal needs in the Pacific and the needs and barriers facing women in search of protection and justice.

10. Women's access to state justice in Vanuatu

10.1. Family violence and sexual violence data

According to the Vanuatu National Survey on Women's Lives and Family Relationships, conducted by the Vanuatu Women's Centre (VWC) and the Vanuatu National Statistics

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[83] Stege, K, Maetala, R, Naupa, A, Simo, J, Huffer E (Eds.) (2008). *Land and Women: The Matrilineal Factor. The cases of the Republic of the Marshall Islands, the Solomon Islands and Vanuatu.* Pacific Islands Forum Secretariat, available at: https://rmicourts.org/wp-content/uploads/PIFS-Land-and-Women.pdf.

[84] Ibid, p. 77.

[85] Ibid, pp. vii-x.

[86] With Kiribati at 60% over women's lifetimes and 36% in the past 12 months: Vanuatu at 60% over women's lifetimes and 44% in the past 12 months. See The Pacific Communities Pacific Data Hub http://pacificdata.org/ population and SDG5 dashboards.

[87] Ibid. Based on the aggregate of all estimated incidents of violence reported by women across 15 Pacific countries.

[88] Based on a manual review of publicly available court Annual Reports for Kiribati, Marshall Islands, Palau, Tonga and Vanuatu. See also Sumner, C. Ten years of reporting Family Protection Acts across the Pacific: 2011-2022, PJSP Baseline Report (2022) copy on file.

Office in 2009, 60% of women aged 15–49 who had ever been in a relationship had experienced physical or sexual violence (or both) from an intimate partner, and 68% had experienced emotional violence. Within the Pacific region, Vanuatu has the highest lifetime and current prevalence of emotional violence from intimate partners. In the 2011 national survey, 68% of ever-partnered women reported experiencing emotional violence from a partner in their lifetime, with 54% reporting this in the 12 months prior to the survey.

In Vanuatu, the National Survey on Women's Lives and Family Relationships[89] found that 30% of women reported sexual abuse under the age of 15; most perpetrators were male family members (55%) or boyfriends (33%). A third of women reported sexual abuse since the age of 15 by someone other than an intimate partner, while 28% of women stated that their first sexual experience was forced. Experiences of physical and/or sexual abuse by someone other than an intimate partner were more common among rural women (50%) than urban women (39%).

A VWC study of the experiences of young women undertaken in 2020[90] found that most sexual assault offences against girls (39%) occurred when living in informal adoptive families. It also found that while the length of time that young women and girls endure violence varies widely, 28% endured it for over five years before seeking help.

In Vanuatu, the age of consent for sexual activity is 15 for both men and women. The legal age of marriage without third-party consent is 21. With parental consent, it is legal for girls to marry at age 16 and men at age 18. Early marriage is believed to be common in Vanuatu, particularly on isolated atolls. In some areas of Vanuatu, *kastom* may advise that a girl is available for marriage and sex once menstruation has begun. It is estimated that between 2012 and 2018 in Vanuatu, 3% of women aged between 20 and 24 were married by age 15, while 21% of women and 5% of men were married by age 18. Section 90 of Vanuatu's Penal Code defines rape but does not explicitly include marital rape.

UN Women undertook a detailed study[91] of women's access to state justice in Vanuatu in 2016 and found a lack of uptake of state justice by women, similar to the global patterns noted earlier. The study found that despite high levels of violence and the existence of progressive family protection laws,[92] very few Vanuatu women sought protection or justice from state systems. Of those who did, only 2% of reports to police resulted in police charging alleged offenders[93] and an even smaller proportion progressed to the courts.[94] Lack of police resources and prioritisation of response to family violence, including service

[89] Vanuatu's Women's Centre. (2011*). Vanuatu National Survey on Women's Lives and Family Relationships* https://www.dfat.gov.au/about-us/publications/Pages/vanuatu-national-survey-on-women-s-lives-and-relationships-may-2011.

[90] Vanuatu Women's Centre. (2020). *Violence against young women and girls in Vanuatu The effectiveness of outreach and prevention strategies*, available at: https://www.sistalibrary.com.vu/wp-content/uploads/2021/03/VWC-research-on-violence-against-young-women-and-girls-2020-1-1.pdf.

[91] UN Women, (2016) *Women and Children's Access to the Formal Justice System in Vanuatu*, available at: https://asiapacific.unwomen.org/en/digital-library/publications/2016/07/women-and-childrens-access-to-the-formal-justice-system-in-vanuatu.

[92] Family Protection Act 2008, one of the earliest Pacific protection laws, providing civil protection orders and defined offences of family violence, and specifying coordinated duties of police, counsellors and the courts.

[93] 2011 Vanuatu Women's Committee Survey, data section.

[94] UN Women, (2016) Women and Children's Access to the Formal Justice System in Vanuatu, loc. cit. n 91,p. 10.

of protection orders, along with gender-stereotypical attitudes that family violence is a "private matter," were found to contribute to the low rates of investigations and charges.[95]

10.2 Lack of information about state justice systems

UN Women's report on women's access to the state justice system in Vanuatu[96] also found that while 75% of Vanuatu's population lives in rural areas, less than 8% of family violence cases coming before magistrates courts and 4% of marriage-related cases in the Supreme Court emanated from areas outside Port Vila and Luganville. Court funding deficits for regular circuits to remote locations, especially magistrates courts, were found to have exacerbated this lack of access, along with a lack of community legal information and awareness, especially for women.[97] This study confirms the global pattern that lack of information, awareness, assistance and physical proximity to a functioning court are major barriers to women's access to justice in Vanuatu.

Similar results emerged from another justice study in 2016, *Conflict Management and Access to Justice in Rural Vanuatu.*[98] The researchers investigated a wide range of areas related to grassroots justice in Malekula, including men and women's knowledge of state law and their use and preferences regarding state and "chief" justice systems. While male and female respondents had similar levels of education, women's lower level of legal literacy was striking: 28% of women had "no idea" what justice meant, compared to just 7% of men, and no chiefs; 44% of women had no knowledge of human rights, compared to 20% of men, and no chiefs; and 60% of women had no knowledge of the law, compared to 27% of men and 5% of chiefs.[99]

10.3 Under-utilisation of (relevant) island courts

While these studies confirm significant barriers to court access, especially for women, local-level state courts in Vanuatu – island courts – are important in providing grassroots justice. This is especially true regarding orders for payment of maintenance for child support, a key area of legal need for women. Island courts have a constitutional basis[100]and operate under the *Island Courts Act 1983* on the 13 most populous islands. They are headed by lay justices appointed by the President on the recommendation of the Judicial Services Commission. Their jurisdiction covers minor criminal cases (property damage, criminal trespass, abusive and threatening language, adultery, theft, minor traffic offenses) with maximum penalties of fines up to 24,000 Vatu and imprisonment for up to six months,[101] and civil claims up to the value of 50,000 Vatu.[102] Island courts have no jurisdiction in land disputes,[103] including over customary land, which are now covered by the Customary Land Tribunal.[104]

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[95] Ibid., Finding 5 at p. 11.

[96] UN Women, (2016) Women and Children's Access to the Formal Justice System in Vanuatu, loc. cit. n 91.

[97] Ibid., Finding 9 at p. 11.

[98] Policing and Justice Support Program Vanuatu, (PJSPV), loc. cit. n 75.

[99] Ibid., p 42.

[100] Art 78 (2) and 52.

[101] s11 Island Courts Act 1983.

[102] s12 Island Courts Act 1983.

[103] s 8(2) Island Courts Act 1983.

[104] Customary Land Tribunal Act 2001.

Island court justices are also deemed to be Authorised Persons (APs) under the *Family Protection Act 2008*[105] and able to issue temporary protection orders,[106] but to date the Court has not activated this jurisdiction due to lack of capacity. This is a missed opportunity, especially given that island court justices live in remote and rural locations in which they represent the only practical way for survivors of family violence to secure legal protection.

This underscores how the Island Courts are under-utilised yet still highly relevant local justice actors. The Policing and Justice Support Program Vanuatu's (PJSPV) study of conflict management and access to justice in rural Vanuatu found that 23% of women and 40% of men had experience of using an island court to solve a justice problem, very similar rates to those who had sought justice from a magistrate (22% of women and 39% of men).[107] Respondents made positive comments about Island Court clerks conducting community information sessions.[108] Chiefs indicated high confidence in Island Courts and 67% had previously worked with an Island Court justice (two of the 39 chiefs interviewed doubled as Island Court justices).[109] Chiefs strongly supported more interaction between them and courts, including greater consultation, more awareness, information and training about the law and providing assistance for case types chiefs cannot solve.[110] Almost all chiefs (95%) said some case types should be dealt with exclusively by state justice systems, top of the list being criminal cases, then rape and incest, then land cases.[111] This confirms that local community authorities struggle to resolve land and chiefly title cases, which are often linked to land disputes.[112]

In recent years the Vanuatu judiciary has increased its focus on the work of Island Courts. In its 2021 report it was able to report that "The positive changes experienced in the Island Court reflects the island court gradually reviving back the confidence and trust that the community at large has had in the Island Court."[113]

To its credit, the Vanuatu judiciary maintains detailed data on Island Court cases and observed the following trends. In 2021, 553 new cases were filed, the highest since 2016, with 204 of these being child maintenance cases, an increase of 90% from 2020. However, in 2022 there was a sharp drop in island court case filings (by 38%) and disposals (by 68%), with the lowest clearance rate since records began; the Vanuatu judiciary is investigating the reasons for these changes. Lack of capacity building, legal resources and transportation have been highlighted as key issues constraining the effectiveness of Island courts.[114]

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[105] s 7 Family Protection Act 2008.

[106] See s 17 of the Family Protection Act 2008.

[107] Policing and Justice Support Program Vanuatu (PJSPV) (2016), loc. cit. n 75.

[108] Ibid, p.25.

[109] While 74% of chiefs had worked with a Magistrate, surprisingly, only 26% said that they worked with police.

[110]Policing and Justice Support Program Vanuatu, (PJSPV) (2016), loc. cit. n 75, p. 24.

[111] Ibid, p.23-24.

[112] Ibid, p. 36.

[113] *Vanuatu Courts Annual Report 2021: Court of Appeal, Supreme Court, Magistrates Court, Island Courts*, p 10, available at: https://courts.gov.vu/images/downloads/Annual_Reports/2021%20Annual%20Statistics.pdf.

[114] Ibid, p 33, 39.

Difficulties for women using island courts for child maintenance matters are highlighted below.[115]

10.4 Women use customary justice but prefer state justice fairness

In 2016, the PJSPV reported that 76% of women in their survey had sought help for family violence – mainly from family (49%), a chief (24%), a religious leader (15%) or the police (5%).[116] When asked how they would resolve cases of ongoing domestic violence, 98% of women and 99% of men said they would turn to chiefs, family, and religious leaders. However, more than half of the women and men (and almost half of the chiefs) said that state justice would be the best place to solve a conflict of this kind.[117] This indicates that high usage of local justice systems is often not a matter of preference, but a reflection of the lack of availability of state justice.

Underscoring this point, 74% of women identified magistrates as "fair" compared to only 41% of chiefs,[118] suggesting that women's use of chiefs to solve problems is not their preference. This finding was confirmed by women's levels of satisfaction with services provided, with 81% of women who had accessed a magistrate reporting they were satisfied with the service, compared to 64% of women reporting satisfaction with chiefs. This dilemma was aptly captured by one woman participating in community meetings for this research in Malekula, who stated:

> If we can use the chief system it is much easier for us as we don't have to go anywhere, we know how it works and our families and chiefs will prefer to deal with the problem this way. But on the negative the chief system is not fair to the woman and probably will not solve her problem. It depends on the chief as well as if her husband will listen to the chief. It also depends on whether her own family will push the chief to deal with it seriously. If she is alone, then even with a good chief it will be hard for her to be heard. The problem is while the court might be fairer, if she goes to the court then she might face new problems from the chief and her family.

This participant accepted the necessity and accessibility benefits of customary law processes but argued that women should be included in them to strengthen their peace-focused aspects process and improve justice for women and all community members. Highlighting her conditional support for restorative justice processes in Vanuatu, she added:

> Used well it can make justice faster, less expensive, more creative and able to address the underlying interests of all parties … but not before women are able to play a full part … In all conflicts and particularly those of national importance, the concept of "restorative justice" cannot function properly without the participation of women. Women and children are usually the first victims of a conflict; "restorative justice" should accommodate their participation and women should be prepared to assist in negotiations.[119]

The solution to this dilemma is to improve both customary and state systems of justice so that they become more responsive to women's protection and justice needs. However,

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[115] See Section 36 of this report.

[116] Policing and Justice Support Program Vanuatu, (PJSPV) (2016), loc. cit. n 75, p. 74, Section 5.4.

[117] Ibid, p.107.

[118] Ibid, p.19.

[119] Ibid, p.98.

many Pacific women highlighted deficiencies in both the criminal justice system and village courts or *kastom jifs* (customary chiefs) in dealing with those cases that most graphically embody conflicts between men and women – rape and domestic violence.[120]

As noted by Professor Forsyth, customary law systems can and do change over time and thus are well worth investment:

> Despite these many ways in which women are discriminated against by the *kastom* system, there is a vast amount of support by women and women's groups in general for the *kastom* system. The general view is that there are problems, but these can be fixed and are worthwhile fixing because the alternative – reliance on the state system – also has its problems and does not have many of the advantages of the *kastom* system. I spoke with several representatives of women's groups at a national and a regional level and they all affirmed the fact that the chiefs at an individual level were very receptive to their awareness-raising work and supportive of many of their projects and ideas. The head of the Vanuatu National Council of Women stated that the *kastom* system would be preferable to deal with a woman's complaints than the state system, provided the right person was the chief.[121]

That women understand that state justice offers important elements of protection not often available to them under customary and religious justice systems was confirmed in an innovative study of women's perceptions. Authors Bull and George (2021) wrote that:

> … while there is evidence to support claims of the "constructive complementarity" between formal state security agencies and other sources of regulatory authority, women in Vanuatu understand the police and sources of authority founded in RoL [rule of law] and rights-based principles as key in preventing violence against women.[122]

The research further found that there were six main ways women thought that police might assist women in preventing violence against them, as detailed below.

> Police were identified as being able to protect and defend women from violence, investigate and solve cases of violence, mediate conflict between intimate partners, intervene or assist when other sources of authority are unable or unwilling to do so, enforce the law and protect women's rights. They were also considered helpful because they were 'trustworthy' in relation to handling or resolving such cases[123] … The most frequently mentioned capability of police regarding violence against women across all scenarios was their ability to protect or defend women. This was achieved through enforcing the law, arresting perpetrators, taking offenders into custody, limiting violence, enforcing a protection order, simply being present in the community as deterrence or offering women reassurance.[124]

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[120] Jolly, M. 'Epilogue – some thoughts on restorative justice and gender', p.271 in Dinnen, S (ed) A kind of mending: Restorative Justice in the Pacific Islands, ANU Press, 2010, available at: https://www.jstor.org/stable/j.ctt24hbc4.11.

[121] Forsyth, M. loc. cit. n 65, p.123-124.

[122] Bull, M., & George, N. (2021). Policing and Gender Violence in Vanuatu. *International Journal for Crime, Justice and Social Democracy*, 10(4), available at: https://www.crimejusticejournal.com/article/download/1768/1175/8344.

[123] Ibid, p.254.

[124] Ibid, p.249.

Thus, women in Vanuatu understand and value the role of police and the rule of law for protecting them from family violence, despite many having disappointing experiences when they engage with police, as discussed later. In short, they value police and the rule of law but want better performance.

10.5 Women's views on the fairness of customary-based justice processes

Bull and George (2021) highlight that a key reason why women have less confidence in customary-based justice than state justice is they consider them to be less fair, in terms of both process and outcomes. Several studies highlight restrictions on women's ability to participate in customary-based justice processes. In many places in Vanuatu, including most communities in Malekula, the *nakamal* is the place where community decisions are made, and in many locations, women are restricted from speaking in this space. A male relative normally speaks on behalf of the family and does not necessarily represent the views and interests of women or young people, particularly in cases where their interests differ from, or even conflict with, the perceived interests of the family. [125] Professor Forsyth's research on justice systems in Vanuatu[126] makes similar findings.

> In some islands, women are not allowed to talk in the *nakamal* … in the *kastom kot* observation study, women spoke in 58 per cent of cases; they were too scared to speak in 8 per cent of cases; they were not allowed to speak in 29 per cent; and in one case the chief was allowed to speak to the woman involved alone.[127]

In PJSPV's research on conflict management and access to justice in rural Vanuatu, women (and men) held mixed views about these constraints on women's participation. In response to the statement "Everyone – including women and youth – should have the right to speak and defend themselves in the nakamal," 56% women agreed, 49% of men agreed and 38% of chiefs agreed, suggesting this is an area of practice open to shifts and change. Forsyth made a similar observation.

Overall, the literature calls into question the popular view that people prefer customary or chief justice to court justice and highlights that women may prefer using state justice to solve their problems, because they are perceived to be fairer and more neutral. At the same time, women maintain strong support for customary and other community-based justice processes, including church-based processes, recognising the many challenges and difficulties of state justice. As Forsyth stated:

> Despite these many ways in which women are discriminated against by the *kastom* system, there is a vast amount of support by women and women's groups in general for the *kastom* system. The general view is that there are problems, but these can be fixed and are worthwhile fixing because the alternative—reliance on the state system—also has its problems and does not have many of the advantages of the *kastom* system.[128]

This conclusion is the key reason why it was important for this research to investigate how the constellation of community-based justice systems comprised of customary justice and community security systems, religious authorities, as well as state systems – need to adapt

[125] Ibid, p.112.

[126] Forsyth, M. (2009), loc. cit. n 65.

[127] Ibid, p.101.

[128] Ibid, p.124.

and cooperate to meet women's needs. The role of hybrid local courts in Vanuatu are part of this equation and are discussed below.

10.6 Conclusion

The literature confirms the challenges women face in using varied types of justice in Vanuatu. State justice is not readily available to women in most parts of Vanuatu, due to lack of reach and physical access, too few magistrates and court circuits to remote locations, cultural barriers, and lack of awareness and legal assistance. While island courts can decide child maintenance cases, there is no published information available regarding women's satisfaction with their decisions or their enforcement. Therefore, this topic was canvassed in the meetings conducted with rural women; as discussed below, it was found that the island courts do not currently fulfil women's need for child support, let alone women's other common unmet legal needs within their jurisdiction. This includes island court justices' power under the *Family Protection Act* to grant temporary protection orders. However, due to limited capacity, no island courts exercise this power, despite the dire need of women for legal protection from family violence. While customary-based justice is more accessible at the village level, most women consider it significantly less fair and less effective in its outcomes than state justice, especially for family violence cases.

11.Women's access to justice in Solomon Islands

While Solomon Islands was not a specific focus of this study, the country completed a survey of access to justice in 2019 (the *Access to Justice* assessment[129]) that enables useful comparisons with the situation in Vanuatu. Like Vanuatu, Solomon Islands has many islands, and state justice has even less reach across its vast archipelago. With 77% of its population living in rural areas, most Solomon Islanders rely heavily on community justice systems.[130]

11.1 Access to Justice assessment

Covering all nine provinces as well as Honiara, the *Access to Justice* researchers surveyed nearly 2700 Solomon Islanders. The most common legal dispute types identified by women and men were:

- Land disputes (29% overall, 13.3% of women, 43.7% men)[131]
- Family/child support disputes (28% overall, 45.3% women, 12.2% men)
- Fights/assaults (17%), domestic violence (15% overall, 24.7% women, 5.7% men) and drug abuse (7%).

The disputes identified as having the most severe impact on the lives of those involved concerned:

- Family/child support (27% overall, 42% women)

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[129] UNDP (2019a). *Access to Justice Study Solomon Islands*, available here: https://www.undp.org/pacific/publications/access-justice-study-report-solomon-islands.

[130] Sloan, T., Dinnen, D. & Rowe, M. Department of Pacific Affairs. (2021). *Access to Justice in Post-RAMSI Solomon Islands Part 2: Perceptions of Access to Justice,* available here.

[131] This is also consistent with the reported lack of women parties appearing in customary land matters in Local Courts or Customary Land Appeal Court cases, likely due to the demise of women's roles as customary authority in land matters even in matrilineal locations. See Maetala, R. *'Matrilinieal Land Tenure Systems in Solomon Islands: The cases of Guadalcanal, Makira and Isabel Provinces'* in Huffer E. (ed), *'Land and Women: The Matrilineal Factor. The cases of the Republic of the Marshall Islands, the Solomon Islands and Vanuatu.'* Loc. cit. n 83, p. 39.

- Land (25%, 9% women)
- Domestic violence (13%, 21% involving women plaintiffs)
- Fights/assaults (12% overall).[132]

These results highlight the highly gendered nature of disputation in the Solomon Islands, the continuing dominance of men in matters involving land, and the concomitant constraints on women's control of land, wealth and economic security. They also confirm that women's justice needs centre on family violence and other kinds of family disputes. It is interesting that while men are usually the defendants in such disputes, they do not identify these case types as having a severe impact on them, likely because they are most commonly respondents in these cases, suggesting they consider such issues to be of lower priority than others, such as disputes concerning land.

The *Access to Justice* study also found (encouragingly) that normative values regarding family violence have changed over time. In the 2018 study, 92% of survey respondents agreed that men should not use violence against women to resolve disputes and 87% supported punishment of perpetrators, whereas in the Pacific Community's (2009) *Solomon Islands Family Health and Safety Study*, 73% of women believed a man was justified in beating his wife under some circumstances.[133]

The study found that village chiefs handled most disputes (67%), followed by church leaders (36%) and the police (30%). However, police were the justice service that most respondents wished was more available in their communities (60%). [134] Major gender differences also emerged regarding women and men's justice pathways. When asked about where they would go to seek justice related to domestic violence and land disputes, women were more likely to go to the police (53%) and only 28% to the village chief, while men were more likely to consult the village chief first (42%). In addition, only 14% of women said they would ask family for help first, and 7% church leaders, whereas 24% of men said they would ask family first and 16% church leaders.[135] These patterns are consistent with a UN Women study conducted in Solomon Islands in 2013, which found that 74% of women believe the formal justice system is the most effective forum for pursuing justice, but only 33% use it.[136]

The *Access to Justice* study also confirmed that women were much less aware of justice institutions and less confident in their ability to solve disputes than men. Nonetheless, women were five times more likely than men to have sought information on domestic violence and twice as likely to do so in relation to family disputes and child support, indicating the particularly high needs for women in these areas.

Overall, the *Access to Justice* study confirmed the conclusions of the earlier World Bank study[137] and mirrored those of studies conducted in Vanuatu. While community-based justice mechanisms remain the most accessible form of justice provision for most Solomon

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[132] Sloan, T., Dinnen, D. & Rowe, M. Department of Pacific Affairs, (2021) loc. cit. n 130, p 1.

[133] Pacific Community. (2009). Solomon Islands Family Health and Safety Study.

[134] Ibid.

[135] UNDP (2019a) loc. cit. n 129, p. 2.

[136] UN Women, (2015) *Seeking Redress: Challenges and Recommendations to Increase Women's Access to Justice in Solomon Islands.*

[137]Dinnen, S., Porter, D. and Sage, C. *Conflict in Melanesia: Themes and Lessons*, (2010), available at: https://documents1.worldbank.org/curated/en/970751468144280744/pdf/620250WP0Confl0BOX0361475B00PUBLIC0.pdf.

Islanders, this does not necessarily reflect people's preferences; both men and (particularly) women continue to desire greater access to state justice services, especially police.

11.2 Access to Solomon Islands Local Courts

Solomon Islands has several legally recognised hybrid local courts.[138] Local Courts are headed by non-law trained justices from the court's region or locality – mainly chiefs, paramount chiefs[139] or other community leaders, whose selection has at times been ad hoc.[140] Local Courts have exclusive jurisdiction over disputes on customary land,[141] minor civil and criminal cases and have jurisdiction to grant interim protection orders under the *Family Protection Act 2014*.[142] However, for the past decade or more, Local Courts in Solomon Islands have dealt only with customary land cases (of which there is a large backlog), and lacked capacity to exercise all other existing civil and criminal jurisdiction, partly due to the costs of doing so.[143]

Rather than seeking to resolve these problems in Local Courts, the judiciary leadership has prioritised investment in building the capacities of provincial-level Magistrates Courts. While this has undoubtedly reduced access to justice in remote and rural areas, as of 2024, 50% of magistrates were women, including a female Chief Magistrate and six female Principal Magistrates,[144] and Magistrates Courts are working to provide services by telephone, email and other means to improve access. As of 2024, 221 justices were working across 14 Local Courts[145] based in five provincial capitals, which also go on circuit to remote locations), yet only five Local Court justices (2%) across the whole country are women. In addition, despite at least five Solomon Islands provinces having matrilineal land systems,[146] Local Court and Customary Land Appeals Court (CLAC) justices report that very few women parties appear before them,[147] strongly suggesting that women's customary roles in owning and managing land in matrilineal areas has been eroded and sidelined.[148]

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[138] See the Local Courts Act (Cap. 19) and the Land and Titles Act (cap. 133), which jointly establish the CLAC.

[139] A paramount chief is the highest -level political leader in a regional or local polity, often at a provincial level in larger Pacific countries.

[140] Court staff shared that resourcing was inadequate for robust in-location recruitment processes including community references, resulting in some inappropriate appointments (such as family violence perpetrators) who had to be removed from the Court.

[141] Appeals on customary land cases from the Local Courts are heard by the CLAC.

[142] s9(a) Family Protection Act, 2014.

[143] World Bank (2015) *Institutional and Fiscal Analysis of Lower-level Courts in Solomon Islands,* available at: https://documents1.worldbank.org/curated/en/429921468294672433/pdf/942380WP0P13250Islands0J4P0Feb02015.pdf.

[144] Graydon, C. (2024a) loc. cit. n 2, p.30.

[145] Eastern Outer District: (18 justices: Santa Cruz, Reef Islands, Vanikoro, Duff Island, Utupua (not operational); Eastern Inner District: (57 justices, Makira, Ulawa/Ugi; Malaita District: (30 justices); Central District: (32 justices, Guadalcanal, Isabel, Russell, Savo, Ngella, Rennell, Bellona; and Western District: (87 justices, Ghorena, New Georgia, Shortlands, Laura).

[146] Guadalcanal, Western, Isabel, Central and Makira Provinces. See Maetala, R, loc. cit. n 78, p. 44.

[147] As was confirmed at a workshop with CLAC justices, Honiara, June 2024.

[148] Ibid, p.44.

> Women have always taken a keen interest in land issues but today their roles in land matters have become invisible. Even when they are present or represented in the different decision-making structures (whether traditional, contemporary or faith based), women's views and decisions may not receive priority.[149]

While the decision to investment in magistrates court capacities is understandable and has undoubtedly increased the quality of justice dispensed, many Solomon Islanders lack access to them. This, and the limited functionality of local courts, means many people have no realistic options for accessing state justice. Inevitably, women find it most difficult to access local or state courts due to lack of awareness, knowledge, assistance, funds and cultural permission to travel.

The literature supports the view that women in the Solomon Islands, like women in Vanuatu, struggle to access state protection or justice due to patriarchal social norms, lack of knowledge of state justice laws and processes, lack of funds for transportation costs and fees; poor coverage and limited activity of hybrid local courts; and lack of trust in customary and religious justice processes provided by chiefs, customary leaders and (unlike in Vanuatu) religious leaders.

12. Women's access to justice in Fiji

A detailed legal needs assessment was undertaken in Fiji in 2018/19,[150] enabling useful comparisons with other countries with similar data. It is important to note that unlike Vanuatu. Kiribati and Solomon Islands, Fiji has no hybrid local courts and custom has no recognised constitutional or statutory role.[151] While access to state courts remains poor for many Fijians, the level of resourcing and spread of state justice courts is much greater than in other large Pacific countries (such as PNG and the Solomon Islands). Notably, the level of resourcing per capita and reach of the Fiji Legal Aid Commission is also much greater than for legal aid services in other South Pacific countries,[152] meaning legal awareness is greater and assistance is more readily available.

12.1 National legal needs assessment 2018/19

The national legal needs assessment conducted in 2018/19 found that 47% of Fijians deal with one or more serious legal problems every four years and that 67% of Fijians who

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[149] Ibid, p. 41.

[150] Hiil (2018/19), *Legal Needs and Satisfaction Survey for Fiji*, available at: https://www.undp.org/pacific/publications/justice-needs-and-satisfaction-fiji-report.

[151] The 1997 Fiji Constitution omitted s 100(3) of the 1990 Constitution giving some legal recognition to customary law, and the 2013 maintains this non-recognition status, although there was a lengthy debate 2009-2016 regarding the passage of village bylaws re-recognising custom. Women's organisations were opposed to the Bylaw on grounds sections allowing village councils to pass bylaws to 'safeguard traditions and customs' would be used to weaken women's rights and gender equality. See Cokanasiga, J. (2018), *Codifying custom and the situation of women in a Fijian village setting*, available at: https://www.usp.ac.fj/discipline-of-law/wp-content/uploads/sites/128/2022/02/Cokanasiga__Codification_of_custom_in_Fiji.pdf.

[152] The Fiji Constitution requires that the Legal Aid Commission be adequately resourced (s 118(9). Fiji likely has the highest per capital government spending on legal aid in the region. Its budget for August 2016 – July 2017 was $5 million FJD, or approximately $6 FJD per capita (approximately $2.87 USD), which compares favourably to many developed countries. The Legal Aid Commission has 15 district offices across the country, where around 60% of legal staff and 48% of non-legal staff are posted, unlike most other Pacific legal aid services which are concentrated in the capitals. See Graydon, C. (2020), loc. cit., n 55, pp.5-7.

encounter a legal problem, take action to resolve it. People initially try to resolve the problem themselves, usually through contacting the other party (step 1). If this does not work, they engage someone from their social networks as a neutral decision-maker (step 2). If this also fails, formal institutions are approached (step 3). Most justice journeys involve two steps, but in 15% of cases all three steps are needed to resolve legal problems. Less than 10% of the legal problems that Fijians experience in their daily lives are referred to courts of law. This means that 90% of justiciable problems are either resolved outside of courtrooms or abandoned without action.[153]

Professor Corrin-Care from the University of the South Pacific has highlighted the reduced legal status of customary justice processes (*bulubulu*) in Fiji following enactment of the 1990 Constitution where *bulubulu* is not recognised as a source of law,[154] however is still widely used to informally resolve cases of family violence.[155] Participants in the Legal Needs and Satisfaction Survey for Fiji stated that they are more satisfied than those who use customary justice because they are given more voice, respect and dignity, as well as more clarity about the dispute resolution process. Fijians value the ability to express their views and feelings and are more confident that their voices will be heard in state justice than other processes.[156]

The national legal assessment found that family violence was the most serious legal problem identified by women and that nearly 70% of women who had experienced family violence said it had a "high" or "severely" harmful impact on them.[157] However, only one in five survivors reported cases to police and very few progressed to courts. The most common strategy women used to resolve a domestic violence situation was to talk to the perpetrator to convince him to stop, but this approach was found to be the least successful.

Around 70% of survivors who took action said they did not use a state dispute resolution mechanism, with 20% "abandoning the problem," 20% deterred by fear of harming their relationship, and 15% deterred because they did not believe that they could achieve a positive outcome. Therefore, at least 55% of family violence survivors who decided to take action discerned no viable options to reduce the violence and instead accepted the high risk of violence continuing. Shame and social stigma, as well as pressure to reconcile domestic violence at family and community level, emerged as serious barriers to justice.[158] The uneasy transition from *Bulubulu* processes to formal state justice institutions is another barrier for many.

Victim-survivors of domestic violence in Fiji see police as the most useful of all available justice providers. Community-based justice options are seen as more user-friendly than state processes but less likely to resolve the problem.[159] The Fiji Legal Aid Commission, one of the most trusted justice actors in Fiji, assists around one in 10 family violence victim-

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[153] Hill (2018/19) loc. cit. n 150, p.4.

[154] Corrin-Care, J 'The Status of Customary Law I Fiji Islands after the Constitutional Amendment Act 1997', Journal of South Pacific Law, Vol 4, 2000.

[155] Amnesty International, Briefing to the Committee on the Elimination of Discrimination Against Women: Violence against Women in Fiji, June 2010.

[156] Hill (2018/19) loc. cit. n 150, p. 5.

[157] Ibid, p.52-54.

[158] Ibid, p.58-61.

[159] Ibid, p.5.

survivors and this proportion is growing.[160] However, uptake of state protection by Fijian women is low by global standards and case attrition is high[161], despite best practice laws and stronger, decentralised resourcing of state courts and legal aid than in other Pacific states. This highlights the continuing disconnect between women's protection and justice needs and what state justice systems in the Pacific deliver, even when they are operating largely as designed and working hard to provide accessible, people-centred justice service models.

13. Women's access to justice in Kiribati

No national legal needs survey has been conducted in Kiribati. Thus, this research carries particular importance as the only known detailed assessment of Kiribati women's legal needs, perceptions and use of state, customary, religious and other community-based justice pathways.

13.1 Family violence and sexual violence data

Research indicates that women in Kiribati face high levels of family violence – like in the Solomon Islands, amongst the highest in the Pacific and the world – while uptake of state justice to reduce it is low. According to the 2019 Kiribati Social Development Indicator Survey, 58.5% of ever-partnered women aged 15–49 years reported that they had experienced IPV in their lifetime, while 39.4% experienced IPV in the 12 months prior to the survey.[162] Among women who had experienced physical or sexual violence, 54.8% stated that they never sought help or told anyone about the violence, while a further 16.3% told someone but did not seek help; only 29% sought help. Most women who sought help turned to their own families (70.1%) and friends (22.0%). This data suggests that family violence is an area of high unmet legal need for women in Kiribati.

Another survey that included men found that 57% of ever-partnered i-Kiribati men reported perpetrating physical and/or sexual IPV in the past year. More than half of ever-partnered men said they had perpetrated emotional (57%), economic (52%) physical (42%) or sexual violence (37% against their female intimate partner.[163]

The age of sexual consent in Kiribati is 15. For offences relating to sexual conduct by a person in a position of trust, the age of consent is 18. Rape, including spousal rape, is a crime, with a maximum penalty of life in prison, but sentences are typically much shorter. Spousal rape is not explicitly included in the definition of rape. (Penal Code, Sec. 128). The 1977 Penal Code defined rape as an offence that could only be committed against a woman; a 2017 amendment redefined sexual intercourse in gender-neutral terms. The amendment also introduced peer exemption in consent laws, whereby individuals between the ages of 13 and 15 can legally consent to sexual acts with an individual less than two years older than them.

Kiribati's *Marriage Amendment Act 2002* specifies the legal marriageable age as 18 with consent from parents or guardians – 21 without consent – for both men and women. The 2020 census revealed that 11.1% of women and 5.7% of men aged 15–19 were married.

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[160] Ibid.

[161] Ibid, p.58-60.

[162] *Kiribati Social Development Indicator Survey Report* 2019, p. 72, available here.

[163] The Equality Institute, 'South Tarawa Healthy Living Study: An Impact Evaluation of the *Strengthening Peaceful Villages* Violence Prevention Intervention in Kiribati: Baseline Report', December 2019 available at: https://asiapacific.unwomen.org/en/digital-library/publications/2020/07/south-tarawa-healthy-living-study.

Among 15–19-year-old women who were married or in a union in 2019, 11.9% had a spouse at least 10 years older.

13.2 State justice system response to family violence

The *Family Peace Act 2014* provides a progressive legal framework for responding to family violence. It provides for on-the-spot police safety orders, as well as court-issued emergency, temporary and final civil protection orders, breach of which is a criminal offence.[164] Like other family protection laws, the Act sets out the duties of police, health workers and the courts.

Police in Kiribati receive specialised training in family violence, and in 2015 established the Domestic Violence and Sexual Offence Unit. The Unit has a temporary accommodation safe space waiting area for survivors to receive related counselling and legal services[165] and health services can be provided in a well-equipped gynaecological room in South Tarawa's hospital.[166] In 2019 police established comprehensive standard operating procedures for family violence, covering response to incidents, investigation and a 'no drop' policy[167], community awareness roles, safety planning for survivors and integrated referral for survivors to other services available in Kiribati contexts for health, legal, counselling and housing needs.[168] The KWCSC, established in January 2017, provides women with counselling, legal advice, court services and accompaniment to police and hospital if needed.[169]

13.3 Court-provided justice

It remains difficult to determine the impact of the *Family Peace Act* in Kiribati due to a lack of publicly available police and (sex-disaggregated) court data. However, data from the judiciary provides some insights into areas of women's legal need and challenges they face in accessing justice.

The Kiribati Magistrates' Court is comprised of 12 law-trained (Class 1 and 2) magistrates (69% women, including the Principal Magistrate[170]), 10 who sit in South Tarawa and two on Kiritimati (aka Christmas Island), who sit in the capital Ronton.[171] On outer islands, panels of

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[164] s 33(1)(b) & (c) Family Peace Act 2014.

[165] DFAT, Case study: Saying no to domestic violence and sexual assault in Kiribati, 28 November 2015,

https://www.dfat.gov.au/news/news/Pages/saying-no-to-domestic-violence-and-sexual-assault-in-kiribati.

[166] See *Pacific Women Shaping Pacific Development Kiribati Snapshot*, (2020), available at: https://pacificdata.org/data/dataset/pwl-country-brief-kiribati-a-snapshot-of-project-highlights.

[167] Meaning that complainants cannot withdraw their police complaints except with court permission.

[168] Kiribati Police Service Domestic Violence and Sexual Offence Standing Orders and Procedures (2019).

[169] Between (January–June 2019), 123 cases were received and supported by the KWCSC concerning domestic violence, child sexual abuse and rape and child abuse however the number to progress through the state justice system is not reported. See Kiribati Universal Period Review National Report ' *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, Kiribati* 2020, p.18.

[170] Graydon, C. (2024a) loc. cit. n 2, p.30.

[171] With plans to establish two mobile court circuits on the Island.

lay magistrates (three for civil and criminal cases and five for land cases, [172] totalling 139 magistrates, of whom 39% are women[173]) exercise Magistrates Court jurisdiction and decide 3000–4000 cases per year, sitting across the 20 inhabited outer islands of Kiribati. Lay magistrate panels have the same powers as class 1 and 2 (law-trained) magistrates, with jurisdiction in civil matters valued up to $3000 (and divorce), and in criminal matters can sentence people to up to five years imprisonment and issue fines of up to $500 (or both).[174] They can also sentence children under 14 years to six strokes of the cane and those aged 14–17 years up to one month imprisonment and up to 12 strokes.[175] According to the Kiribati Government's report to the Universal Period Review (2020):

> Judiciary prioritises domestic violence cases, custody and maintenance of children cases. The cases are treated as urgent matters and magistrates are expected to immediately deal with such cases for victims to be socially, emotionally, financially safe and secure and protected. Court clerks are also expected to provide special care and reliable customer services to vulnerable GBV survivors when dealing with them.[176]

In 2021, there were 535 civil cases filed in South Tarawa: 68 for divorce, 23 for custody, nine for protection, six for maintenance and none for paternity. There were 252 civil cases filed on the outer islands: three for divorce, two for custody, one for paternity, none for maintenance or protection.[177] The gender of the complainants is not recorded, but anecdotal evidence suggests that most of these cases were brought by women. Informal reports suggest commercial fishermen sexually exploiting young girls, but no cases have been investigated or prosecuted in the courts.[178]

Five hundred and one criminal complaints filed under the *Family Peace Act 2014* in 2021 related to family violence, the third-largest caseload after penal code (other) and traffic offences.[179] By contrast, just one complaint under the Act was made from the outer islands,[180] indicating women living outside of South Tarawa lack access to protection. Despite the large number of criminal prosecutions of family violence cases, only three protection orders were granted, indicating a major under-utilisation of civil protection order mechanisms. Moreover, of the 36,605 cases finalised between 2018 and 2021, only 98 (0.27%) were finalised via circuit courts and only 2.1% of plaintiffs received legal aid. Since then, the *Te unimane* (customary male elders), Island Council staff, mayors, medical assistants, police and court clerks, all considered key stakeholders in community security and governance, have performed community outreach to the Outer Islands working to increase community awareness of how to use state law enforcement and justice services.[181]

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[172] See Magistrates Court Ordinance: Laws of the Gilbert Islands, Chapter 52 Magistrates Courts.

[173] Graydon, C. (2024a) loc. cit. n 2, p.30.

[174] s 24 Magistrates' Ordinance 1977.

[175] s 24 Magistrates' Ordinance 1977.

[176] See Kiribati Universal Period Review National Report loc. cit. n 166, p.17.

[177] Kiribati Judiciary Annual Report 2021, p. 49.

[178] See Kiribati Universal Period Review National Report loc. cit. n 169, p.10.

[179] Kiribati Judiciary Annual Report 2021, p. 50.

[180] Ibid, p.50, the report notes that this case was erroneously recorded as a 'miscellaneous matter'.

[181] As reported in the See Kiribati Universal Period Review National Report loc. cit. n 169, p.17.

Given the few cases of family violence and family issues (divorce, separation, custody, child support, adoption, etc.) coming before the Kiribati Magistrates' Court, it can be assumed that most such cases are dealt with in community-based justice processes. The preamble of the *Constitution of Kiribati* states that "we shall continue to cherish and uphold the customs and traditions of Kiribati," but does not explicitly recognise custom as a source of law. However, the *Laws of Kiribati Act 1989* does recognise customary law and allows courts to refer to customary law selectively in cases related to adoption, marriage, divorce, custody and guardianship, providing these customary laws are consistent with the rights contained in Articles 3–17 of the Constitution. In contrast to the rest of Kiribati, in Kiritimati, all land is state-owned and no *Te unimane* exist.

14. Conclusions from Pacific studies of women's access to justice

The studies examined in this literature review confirm that many women in Pacific countries face numerous and sometimes insurmountable barriers to solving family violence and related problems. Women usually keep these problems to themselves due to cultural, social and gendered taboos that leave many women feeling ashamed to seek help. If they do disclose their problems, it is usually to trusted family members or friends, who often counsel them to endure their situation because the social, cultural and economic costs of seeking help can be lasting and severe.

Even women who search for a way to solve their problem(s) find it difficult to access justice. Most Pacific women find it impossible to access state justice processes, as reflected in low levels of court usage, due to remoteness and lack of affordable transportation. Those able to travel find it very difficult to maintain their engagement in legal processes for days or weeks due to pressure from husbands, family and community members, including village chiefs.

Customary or religious justice processes are physically accessible but disadvantage women for a range of reasons, including lack of status to participate and compulsory fees. Embedded in patriarchal normative frameworks, customary and religious justice systems reinforce gendered expectations and thus are often incapable of freeing women from subservience to their husbands, male family members and men generally. It is therefore unsurprising that many Pacific women consider customary justice systems less fair than state systems and would prefer to access state courts if possible.

Most Pacific women have no good justice options, only least worst options. However, many women are unable to identify their least-worst option due to low legal literacy. Lack of knowledge of state justice processes and laws prevent women from achieving better legal outcomes.

Notwithstanding many women's disappointing experiences with police (reflecting gender bias), most women would like to see more police (as opposed to other justice actors) in their communities. A police presence creates a sense of accountability and safety that can deter violence against women, while providing emergency response and in theory, a conduit to protection and justice from the courts.

Local courts are positioned to provide access to judicial remedies in remote locations in the countries covered in this review. However, they are under-capacitated and under-resourced so are unable to fulfil their mandates, including, crucially, to grant family protection orders, or to fulfil their potential to bridge community–state justice divides. Too few women justices and lack of information combine to limit women's access to these important courts and their remedies.

15. The circumstances of female participants in Vanuatu and Kiribati

As noted earlier, 215 women participated in discussions held in remote and rural locations in Kiribati and Vanuatu. The factors detailed below relate to the accessibility of physical locations, access to government and private services, telecommunications, internet and information more generally, the force of local cultural gendered norms, and the governance arrangements in each location as influenced by individual leaders.

15.1 Realities for women living in remote and rural parts of Kiribati and Vanuatu

The social, economic and other effects of living in remote or rural locations in Vanuatu and Kiribati are profound. All spheres of life are affected by physical and psychological distance from the national capitals and provincial/district capitals.

Most women who participated in the meetings were married women with children, although sizeable minorities were single mothers, widows; few single women attended. Most had primary and some secondary school education. Most participants undertook full-time home duties, caring for children, parents, tending to kitchen gardens and livestock (mainly chickens and pigs). A few participants were in paid employment, mainly in local health or education sectors, and most participants in Kiribati volunteered for their local church.

15.2 Poor road conditions and scarce and expensive transportation

In all locations visited roads were in poor condition, mostly unpaved for several kilometres before reaching the relevant village. Some locations have no roads accessible even by four-wheel drive (4WD) or boat, with the main forms of transportation being foot, off-road motorcycle in the hands of a highly skilled rider, or horseback. Some women participants walked a long way to attend the meetings.

Even where roads were accessible by 4WD vehicles, in all locations visited there was no public transport available. Wealthier members of local communities may own their own motorcycle, but very few own cars. The few 4WD vehicles in local communities are mainly privately owned. Those owned by local councils are often rented out to fund local council activities. Thus, regardless of public or private ownership, all transportation involves out-of-pocket expense. While most 4WD vehicles are used only by their private owners, many truck owners bolt seating to the tray to provide transportation to community members, charging fees to sit or stand in the back of a truck.

Fares varied by location but were very expensive compared to typically small disposable incomes, especially those of women. For example, many villages in north Tanna are only accessible by boat. It can cost VUV30,000 (NZD421) to hire a boat and a further VUV20,000 (NZD281) to travel to the furthest of the four villages compared to average weekly earnings of VUV3108.[182] It costs VUV15,000–20,000 (NZD211–281) to hire a car for half a day and more than VUV20,000 for longer journeys (such as to east or west Tanna to serve documents). Public service providers such as local courts must find creative ways to avoid

[182] The latest Household Income and Expenditure Survey (HIES) used to estimate poverty in Vanuatu was conducted in 2019/2020. Using the World Bank's definitions, Vanuatu's poverty line is US$3.65 (444VT) per person per day, 3108VT per week. World Bank, Poverty & Equity Brief Vanuatu East Asia & Pacific April 2023.

these prohibitive costs. For example, to deliver court notices to coastal communities, the court clerk for North Tanna goes to the market and tries to find someone who can take the court notice with them, because it is unaffordable for the court to deliver its notices directly. Thus, for most women participating in these meetings, there is no viable way to travel to a town where a police post or station is located or to a provincial centre that has a court.

Kiribati has extraordinary geography, with 33 islands in three primary groups – the western Tungaru chain (16 islands), the Phoenix Islands (eight islands), and the Line Islands (eight of the 10 islands in the chain) – plus Banaba (Ocean Island) at the western edge of the nation. Kiritimati (aka Christmas Island) is some 3300 km west of South Tarawa and once could only be reached by ship, taking 2–3 weeks or by a circuitous flight via Fiji. In July/August 2023, Air Nauru commenced direct flights between Tarawa and Ronton, taking five and a half hours however costs remain high, at around AUD1400 one way. Some islands are located several hundred kilometres further again from Kiritimati, such as Fanning and Washington Islands and serviced by unreliable air and sea links. The ferry to Washington Island from Kiritimati takes two full days. The lack of affordable transportation even for short distances in Kiribati presents a major challenge to the provision of justice and all other government and private services.

15.3 Absence of permanent or regular police presence in communities

Most communities visited in Vanuatu had no police station or post, and for some the closest police presence was many kilometres away by land or only accessible by boat. In other locations, the only police presence occurred when police responded to an incident, usually reported by a local community leader. In some locations in Vanuatu, a community policing program enabled police to visit remote areas regularly, but this was exceptional. As discussed in further detail below, police often do not respond to telephone calls requesting assistance from regular community members, especially women, who commonly experience being told that they must pay for vehicle fuel for police to attend. For most women the only way to seek police assistance is to attend the closest station, which is often impossible due to lack of transportation, funds or others willing to help.

15.4 Absence of permanent or regular court presence in communities

None of the communities where discussions took place in either country had a permanent court presence, but several had local courts Island Courts or outer-island Magistrates' Courts) comprised of lay justices who occasionally form panels to hear cases within their jurisdiction. In Vanuatu the Island Courts operate mainly from provincial buildings; in Kiribati, outer island Magistrates Courts operate from privately rented spaces in central locations and are not mobile. In both countries, no local-level courts provide access to family protection orders despite having jurisdiction to do so. While courts in both countries are legally able to receive applications for family protection orders via telephone and other means, in practice this is rare; almost all such applications are made in person. As noted above, it is extremely difficult for most women to travel to provincial capitals. These issues are discussed further below.

15.5 Variable access to communications

Internet access and telephone network coverage in rural Vanuatu and Kiribati are both expensive and patchy. Internet access, as well as signal strength of in remote locations, varies with the weather. However, in most locations mobile telephone network coverage remains the most available means of telecommunications. Many members of rural and remote communities own mobile phones and those who do not (including women, who are

statistically less likely to own a phone[183]) are still often able to borrow a telephone if needed. The main constraint on use of telephones is cost credit, which is very expensive; calls are charged per second. Hence, cost is a deterrent to making the long calls needed to contact police or courts to report family violence or arrange family protection orders.

15.6 Variation in community governance and local justice systems

Important variations exist in relation to the community justice and other local governance mechanisms available to women both within and between Vanuatu and Kiribati.

15.6.1 Community governance and justice systems in Vanuatu

In rural and remote Vanuatu, all communities visited were predominantly governed through the "chiefly system" overseen by a village chief, sometimes also involving other customary authorities. Unresolved disputes can be escalated to higher-level processes involving multiple chiefs up to the level of the Island Council of Chiefs and ultimately the *Malvatumari* Council of Chiefs, whose role as an advisory body is recognised in the Vanuatu constitution and under statute.[184]

While the chiefly system appears systematic and comprehensive, this research revealed highly variable realities across locations, even within the same island and sometimes between neighbouring communities. How chiefs are selected and retain their roles varies significantly, as does their power and perceived legitimacy, as well the practices and approaches they use for resolving the problems women bring to them. These phenomena are discussed in detail below.

The chiefly system has less normative and legal power in urban than rural locations in Vanuatu (although still exercising significant influence and power through the Urban Councils of Chiefs). However, the assumption that the chiefly system is available to all members of the community for dispute resolution is incorrect. The findings of this study show chiefly justice at the village level is unavailable to many (if not most) women in rural Vanuatu. This is one of this report's most important findings in relation to options for increasing women's access to justice.

Local Government Area Councils are a local governance lynchpin in Vanuatu, linking local governments with councils of chiefs. There is often significant overlap between those who exercise chief roles and areas council roles, as well as a major overlap between chiefs and Island Court justices. All these bodies are almost entirely comprised of men, and many of these male community leaders wear 'multiple hats' across these institutions, meaning that community governance power is concentrated in the hands of a small number of men.

15.6.2 Community governance and justice systems in Kiribati

Local governance arrangements vary considerably in Kiribati. South Tarawa is a densely populated urban island where *te unimane* and customary land ownership has waned over time, especially with increasing levels of i-Kiribati migration from other islands to the capital, reducing the homogeneity of formerly close-knit communities. Outer island lands and communities are governed in part by powerful *te unimane* councils that issue by-laws and exercise customary power to enforce them in communities. The most common form of punishment issued by *te unimane* councils is fines, but banishment from the community

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[183] FitzGerald, I., Moriarty, A., For the Pacific to Prosper, More Women Need to Benefit from Technology, 8 March 2023, Asia Development Blog.

[184] The *Malvatumauri* was established under the Constitutional of the Republic of Vanuatu chapter 5 and operates under the Chiefs Act Number 23 of 2006 defines the composition of the Council as consisting of custom Chiefs elected by the Island Council of Chiefs and Urban Council of Chiefs.

also occurs, and may include banishment of dependent family members, violating the basic rights of affected women and children.

Within each *maneaba* (meaning both the community meeting place and the customary system itself), every *kainga* (family clan) has a particular role. Some families are designated speakers for the community, and some oversee welcoming new visitors to the village with the traditional woven floral garland. Each family has a place to sit under the *maneaba*, and all the families contribute to providing food for community meetings, reflecting the principle that full community participation is essential for the success and survival of the village.

In Kiritimati, due to historical differences, there are no *te unimane* or customarily owned land and all land is state land.[185] Land cannot be privately owned but is leased from the Government for around $160 per year per plot. Thus, local governance in Kiritimati is essentially state and church-based. This gives the four major churches in Kiritimati (the Uniting Church, Catholic Church, Seventh Day Adventist Church, and Church of the Latter-Day Saints), considerable power and influence over dispute resolution processes, including in relation to situations of family violence. Also of note is Kiritimati's relatively low population density,[186] with its population largely comprised of recent migrants from other parts of Kiribati. These quite fundamental differences result in significant variation in the opportunities and constraints women live under throughout Kiribati, including when seeking protection and justice for family violence or help with other legal needs. On one hand, they do not face the impacts of patriarchal te unimane decision making bodies, however on the other, Church patriarchal structures fill this vacuum rather than state police and justice actors especially because the speed of court trial processes is so slow. While the lower population density in Kiritimati might be expected to create conditions with reduced levels of family violence compared to more densely population South Tarawa, some interlocuters reported that higher levels of sexual offending reported particularly against girls in Kiritimati is in part due to less populated spaces providing more opportunities for perpetrators to commit acts of sexual violence undetected.

15.7 Variable but strong cultural rigid gender norms and high levels of family violence against women

A common issue for women in Vanuatu and Kiribati is high levels of family violence, with 60% of women in both countries experiencing spousal violence over their lifetime and 36% in Kiribati and 44% in Vanuatu experiencing spousal violence within the past 12 months.[187] Women's vulnerability to family violence in both countries is grounded in gender inequality

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[185] Anthropologists believe that historically, Kiritimati was never permanently occupied but rather Polynesian peoples came and went intermittently until British colonial permanent settlement commenced in the late 1800s and Kiritimati became part of the colony in 1919 and the Phoenix Islands were added in 1937. This was followed by Japanese occupation during World War Two and following that, use of the Island by both the US and the UK for nuclear testing in the 1950's and 1960's. Kiritimati and the Phoenix Islands were governed by a single high commissioner until 1971, when the islands became autonomous and then part of the independent country of Kiribati in 1979.See Anderson, A. et al. (2000). 'Towards a first prehistory of Kiritimati (Christmas) Island, Journal of the Polynesian Society, available here.

[186] Kiritimati is almost 40 times larger than South Tarawa, where the capital is based; South Tarawa had 4672 people per square kilometre in 2020, and Kiritimati only 16.6 people per square kilometre. National Census 2020.

[187] See The Pacific Communities Pacific Data Hub: http://pacificdata.org/ population and SDG5 dashboards.

in both countries. Violence towards women is tolerated and seen as a valid tool of discipline for women who do not conform to rigid gender role expectations about their performance as wives and mothers. This information is consistent with the accounts of participants in the discussion groups who indicated family violence was common in their communities. Women did not commonly discuss their family violence experiences with each other, also consistent with national survey data on help-seeking behaviours.

Variations were observed in acceptance for women to speak within community justice processes across and within islands in Vanuatu. Again, this is consistent with the work previously done in Malekula (Vanuatu) [188] documenting variation in the acceptability of women speaking at the family level of dispute resolution (the *nasara*) but not in the *nakamal,* where in some places only chiefs can speak and only men in others. Variation also exists in levels of acceptance of women as decision-makers in local-level state courts, again consistent with previous research in Malekula.[189] In most places women are accepted as decision-makers by male justices in the court and communities generally, but in a minority of locations in both countries women's roles as local court justices are not accepted and considered highly controversial.[190]

[188] The Policing and Justice Support Program (Vanuatu) loc. cit. n 71, p. 112.

[189] Ibid, pp. 113-115.

[190] In Vanuatu, in Pentecost Island Court, and in Kiribati in Maiana Outer Island Magistrate Court.

PART C: FINDINGS FROM FOCUS GROUP DISCUSSIONS & INDIVIDUAL INTERVIEWS

Part C of this report documents the findings from the application of the qualitative methods employed for this research, namely focus group discussions and community meetings primarily with women in rural and remote locations in Kiribati and Vanuatu. Focus group discussions and community meetings with men in Vanuatu and meetings with a range of key justice actors including village chiefs, religious leaders, women's organisations and state justice actors, are also referred to as appropriate.

16. Community meetings with women

As noted in the methods section (Part A, section 4), 65 women living in rural areas of Kiribati participated in focus group discussions or community meetings in Kiritimati (aka Christmas Island) in four villages and four outer islands. In Vanuatu, 150 women from rural areas participated in meetings held in 20 villages across five islands.

The community meetings in both countries followed a similar outline, with questions adjusted according to issues raised, responses provided and questions asked. Following introductions and detailed explanations regarding the purposes of the meetings, voluntariness of participation and assurances regarding deidentification of findings, the researcher began by asking open-ended questions about common disputes and problems in their communities. This typically triggered quite different answers from men and women, so the meetings ran different courses. The meeting structure varied somewhat in Kiritimati because the participants were all representatives of church committees; those initial discussions focused on their main areas of work and activities.

16.1 Outline of themes discussed in meetings with women

Family problems were often raised very early in the women's meetings, so the facilitator guided discussion to less sensitive topics – whether there were many single mothers in the village and what kind of support was available to them. This theme led to questions around whether non-custodial fathers are expected to contribute to their children's support, and whether the participants were aware of processes to secure child support or had tried to use them. Discussion of their and others' experiences followed.

Often these conversations around child support linked back to the reasons why some parents were single; abandonment was common, including during overseas seasonal work programs, as was adultery, usually by men. Conflict was also raised as a reason, providing a segue into discussion of family violence, including its types, frequency and common triggers. Women discussed their options for redress, including self-help strategies to manage violence, as well as experiences or observations of how others had fared in seeking help from family, friends, customary and church authorities, police and courts. Discussions of family violence lead to even more taboo subjects, such as marital rape, incest and issues of consent associated with the high prevalence of young teenage mothers.

For each theme developed in the meetings, questions were asked about what factors would enable women to protect themselves and the changes they believed were needed. These changes included increasing access to state justice, changing the way that community justice processes are conducted, improving the mobility and responsiveness of police, and increasing the presence, visibility and performance of police in rural and remote locations. Participants were hungry for information about the state justice system and were informed about how family protection laws operate and ways to obtain protection orders without

attending a police station or court, both of which participants confirmed they found extremely difficult.

Child support laws and processes were also discussed, including that applying when a father lives in another part of the country or overseas (both common scenarios). Court information pamphlets were distributed in some parts of Vanuatu. Finally, women commonly raised concerns about the destruction of food crops by untethered animals and threats to their safety associated with the cultivation and widespread use of marijuana (in Vanuatu) and kava (in both Vanuatu and Kiribati).

16.2 Outlines of themes discussed in meetings with men

A wider range of disputes were generally raised in meetings with men, including land disputes and the difficulties in resolving them, as well as issues of theft, cultivation and sale of marijuana, and the effects of heavy use of marijuana, alcohol and kava, especially amongst young men. Lack of opportunities for young people in rural and remote areas was highlighted as a particular concern, as well as state lawmakers allegedly imposing laws and rules on communities without showing respect for local solutions. Knowledge of state laws was clearly higher amongst men than women, although both groups clearly sought a much greater presence of police and the courts in their communities.

17. Key protection and justice problems for women and girls in rural and remote areas of Kiribati and Vanuatu and their perceived solutions

This part of the report discusses key aspects of women's experiences in seeking to solve a range of common problems:

- Women's experiences of key protection and justice problems in their communities
- What women hope to achieve in taking action to solve these problems
- How women perceive their options for solving these problems and the benefits versus risks of pursuing them.

These three dimensions are discussed in relation to the key protection and justice problems identified by women in rural and remote locations of Kiribati and Vanuatu.

Women in Vanuatu and Kiribati face similar challenges and problems that are very difficult to solve without assistance from a state, customary or religious dispute resolution mechanism:

- Divorce, custody, child support and family maintenance
- Family violence, including that linked to use of alcohol, marijuana and kava
- Sexual violence: including marital rape, incest, statutory rape of teenage girls and in under-age marriages
- Lack of support for widows and income producing opportunities for women more generally
- Damage to crops caused by untethered animals
- In Vanuatu, in some locations, lack of security caused by trade and use of marijuana and fear of use of sorcery.

17.1 Divorce, custody, child support and family maintenance

Despite strong cultural, economic and religious pressures for marriages to remain intact in both countries, the researcher observed many single mothers in Vanuatu, and some in Kiribati (especially Kiritimati). Women in both locations described commonly experiencing family violence, which is often an underlying cause of marital stress. Family violence seems

more likely to result in marital breakdown in Vanuatu than in Kiribati, where many women continue to live within violent broken marriages. In Kiritimati, this may be because religious power is especially strong (due partly to the lack of customary sources of authority), and several of the main religions, notably the Roman Catholic and Seventh Day Adventist Churches, essentially prohibit divorce. However further research on these issues of cause and effect is needed to reach firm conclusions.

Divorce and family law remedies in Kiribati are sought rarely. Court data from 2021/22 indicated only 71 divorce cases filed across the whole country, all but three in South Tarawa. Only 25 cases for child custody were filed, 23 in South Tarawa and two in the outer islands. Regarding child or spousal maintenance, only six cases were filed across the whole country, all in South Tarawa. Similarly low numbers of divorce and other matrimonial applications are made to courts in Vanuatu. In 2023 only 63 matrimonial-related cases were filed across Vanuatu, three in the Supreme Court and 60 in magistrates courts (disaggregated data about divorce and custody is unavailable). Jurisdiction for child and spouse maintenance is split between the island courts and magistrates courts, with 128 child maintenance cases filed in 2023, a 40% increase since 2022 but significantly lower than the 204 cases filed in 2021.[191]

These figures indicate very low incidences of state-based family law remedies in both countries. In Kiribati, community members informed the researcher that neither customary authorities (*te unimane*) nor churches in the outer islands provide family law remedies. There may be numerous reasons for these low numbers, but the huge disparity between South Tarawa and outer islands suggests lack of access to courts is a significant factor.

17.3 Women's experiences of family violence

Data collected during conversations with i-Kiribati and Ni-Vanuatu women was qualitative in nature. However, the views of the hundreds of research participants confirm the findings of national prevalence surveys that many i-Kiribati and Ni-Vanuatu women experience family violence and sexual violence.

17.3.1 Self-management of "normal" family violence

Women in remote and rural locations in both countries felt that violence in the family was "normal" unless it threatened permanent injury or risk of death, and that there was little they could do to stop it anyway. They felt customary systems were ineffective in stopping violence and they could not access police or state justice without huge social, cultural and economic risks and little guarantee of success. Consequently, most women living with family violence tried to self-manage or work around violence by changing their own behaviours. This included trying to meet all their husband's expectations, removing themselves from the home when they knew their husband would arrive home drunk, or avoiding sensitive topics when interacting with their husbands. Using avoidance strategies and tolerating "normal" violence seemed the best option unless a serious incident occurred, its frequency became unbearable, or when children were threatened. Confirming the findings of other Pacific studies, most women said they had never reported or shared their experiences with anyone, not even family or friends, because they found it shameful to admit they were being treated that way and feared being judged or looked down upon by others.

17.3.2 Contextual triggers of violence

Many women blamed abuse of alcohol, kava and (in Vanuatu) marijuana for creating conditions for family violence. This was because men were more likely to use violence when

[191] *Court Annual Statistics 2023*, at p.27,copy held on file.

they were substance-affected; women described men returning home late and waking their wives demanding they prepare meals or provide sex and using violence if they did not submit uncomplainingly to these requests. Often these scenes were accompanied by jealous and possessive accusations that women had been secretly meeting or speaking with other men. Women found these nighttime experiences of violence particularly harrowing because they often occurred in the presence of children, including sexual violence. They often submitted to reduce the risk of children being woken and witnessing violence.

During the daytime, violence was more likely to be used casually when a wife was perceived to have lapsed in her duties, such as preparing a meal on time or looking after children. The other common scenario triggering violence was when sensitive topics arose, such as perceived adultery, lack of money to cover basic family expenses, and men's use of alcohol, kava or marijuana. Women participants universally highlighted men's use of these substances being their biggest concern, because (as well as fomenting violence) it reduced men's productivity, leaving women to maintain their livelihood and income. In addition, men's use of family income to purchase alcohol, kava or marijuana often left the family with insufficient income to meet household expenses and fund children's education.

17.4 Women in Kiribati: The problem of drug and alcohol addiction

A KWCSC case worker was present in all meetings with women in Kiribati, enabling KWCSC to conduct outreach to share information about their services and approach. KWCSC does not have a vehicle in Kiritimati and it is often difficult to hire one at short notice, so they rarely travel to Poland, Banana and other remote communities or to respond to individual calls for assistance. Lack of transportation is a major limitation on KWCSC's work to protect family violence survivors.

17.4.1 The effects on women of men's kava use on women

I-Kiribati women said that when they raised questions or challenged their husbands about their choices about use of their time and money, men often reacted very defensively and violently. In the words of one woman:

> Many women are beaten. Men drinking kava and sleeping a lot and not working, this causes many fights.[192]

Kava is not a traditional drink in Kiribati but has become popular in the past decade or so. Many men have become addicted and unproductive, leaving all the work to women. They use family money to support their habits. They become angry and violent when their wives ask them to change their behaviour for the sake of their children. Women feel powerless; most of the community leaders drink kava too and don't want that to change.[193]

Women consistently complained that kava addition has become an entrenched way of life for i-Kiribati men and is even being offered by religious authorities to encourage men to attend church meetings. Most political leaders, whether *te unimane*, state local councils or Church leaders, are now heavy users of kava and lack motivation to lead changes to regulation or norms about the impact of this behaviour on women, notably increased family violence. Women also felt they lacked power to solve this problem within their relationships.

> I have to let my husband go to kava bars as he just won't listen to me. I have no choice or say in it. It is better I just let him go than to keep getting beaten up. It is

[192] Woman participant, Ribono, Abaiang, Kiribati.

[193] Woman participant, Poland, Kiritimati, Kiribati.

> better to just give him what he wants than him forcing himself onto me. But this is not a good environment for the children.

Some women in Kiribati reported that their husbands were out drinking kava from 8 pm to 3 am most nights of the week, then failed to get up to work or fish in the morning. Under the Kava Act 2018,194 kava bars' opening hours are liberal: 5 pm–1 am Monday to Friday, 5 pm–2 am on Saturday, and 2 pm–1 am on Sunday. Even when kava bars are closed, kava can be purchased and consumed at home.

Many women feel abandoned and excluded from their husband's social lives when they go out to drink kava. They are left at home to care for the children and feel jealous because the only women in kava bars are single. Ironically, their husbands often accuse them of showing interest in other men while they sleep after kava. Women also complain there is no law against drink-driving after using kava, and accidents causing injury and damage to precious vehicles have become more common.

One woman from the Uniting Church highlighted that women also contribute to family problems by spending too much of their time and family money attending bingo sessions, which run several times a week, for hours at a time. Others agreed that some women were addicted to bingo and that this was unhealthy. The combination of men drinking kava and sleeping excessively, while women play bingo, often means children are unsupervised and increasing numbers are reportedly missing school.

17.4.2 Correlation between family violence and heavy kava, alcohol or drug use

The KWCSC's family violence case worker had noticed clear correlations in family violence and particular religious denominations' rules about kava and alcohol. Seventh Day Adventists (SDA) and members of the Church of Jesus Christ of Latter-day Saints (LDS) are not allowed to drink kava or alcohol, and she observed that they have the lowest rates of family violence. Conversely, she claimed that the highest rates of family violence occur amongst Catholics, comprising an estimated 60% of cases, followed by Uniting Church adherents (30%); both churches allow use of kava and alcohol.

This association between use of kava and alcohol and intimate partner violence (IPV) in Kiribati is borne out in quantitative studies showing that:

> Men's substance use and abuse was associated with IPV. Overall, 31 percent of women reported that their husband frequently drank alcohol, 66 percent saw their husbands frequently drunk and 35 percent reported problems related to their husband's drinking. A higher proportion of women who reported past year physical and/or sexual IPV reported frequent alcohol use by their partner (41 percent), compared to women who did not experience violence (23 percent). Similarly, 59 of men who reported physical and/or sexual IPV perpetration self-reported significantly higher alcohol consumption compared to men who had not perpetrated IPV.[195]

Women generally expressed disappointment with their marriages. Most emphasised they wanted to remain married but hoped their husbands would reduce their kava use and spend more time providing for the family, playing with and caring for children, and socialising with their wives. When the violence was extreme, women said they would return to their parents' houses to "send him a message." This is consistent with findings from a survey of Kiribati women conducted in 2013, which found that "among women who

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[194] Kiribati Kava Act 2018

[195]The Equality Institute, (2019), loc. cit. n 163, pp. 15–16.

experienced past year physical and/or sexual IPV, 64 percent reported that they had ever left home for at least one night as a result of the violence."[196]

However, many women lack this option because their parents live on other islands and transportation costs are prohibitive. KWCSC has assisted a few women with transport and other relocation costs to enable them to leave violent relationships, but only in cases of extreme violence or the rare cases of women wanting a permanent separation. Most i-Kiribati women continue to endure violent relationships due to no alternative that did not risk them losing custody or access to their children.

Some women suggested ways they could influence their environment; one said:

> If, as individual women, we cannot make our men listen to us then women must act together and we need to find some men to support us.

Another related that:

> One man in the village stopped going to the kava bar when his children asked him not to. He wouldn't listen to his wife, but he did listen to his children.

And another said:

> Kava needs to be regulated in Poland, but the problem is the members of the local council who could pass a bylaw regulating it all regularly drink it too. Women should call a meeting to get this issue discussed. It is time for women to share this problem and act together rather than us all trying to pretend the current situation is ok. We need some women elected to the council and also some men who can see damage the kava use is doing to us all, especially the children.

Women in Vanuatu also reported strong correlations between men's use of alcohol and kava (and marijuana) and their violence against wives and other family members. The violence was more likely to occur when men were under the influence of these substances, in the evenings, on weekends and during public holiday periods. However, violence also occurred when women questioned or challenged men's choices to spend time and money consuming these substances that could otherwise benefit their family life. As in Kiribati, both of substance abuse and being challenged about using addictive substances at the cost of family life contributed to the high prevalence of family violence. This is consistent with the findings of the Vanuatu-Australia Policing and Justice Services Study 2023,[197] which found that:

> Out of a list of 18 social behaviours and kinds of disputes, there were clusters that were viewed as 'big' problems, with drug and kava use being the most common. The second cluster comprised alcohol-fuelled violence, threatening language or behaviour, drunkenness, and young men out of control, followed by issues such as black magic and land disputes. Kava use ranked as the biggest social problem.[198]

In community meetings, women recounted experiences of feeling insecure in public spaces or when tending their gardens, fearing that they would encounter men who were drug-affected, armed and guarding marijuana crops, who behaved in aggressive and

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[196] Ibid, p.17.

[197] Putt J., Dinnen, S., *Vanuatu-Australia Policing and Justice Services Study 2023,* ANU, available at: https://openresearch-repository.anu.edu.au/handle/1885/292288.

[198] Ibid.

unpredictable ways towards women. This is consistent with the findings of the Vanuatu-Australia Policing and Justice Services Study 2023.[199]

> The focus groups provided more nuanced accounts of the circumstances in which different social groupings feel unsafe. These included gendered accounts about women not going to gardens alone and women not walking around at night, including in urban settings where there is no street lighting, making it difficult to recognise people.[200]

17.5 No good options for stopping violence

The overall picture from women participants' responses in both Kiribati and Vanuatu was that spousal violence against women was very common and there was little they could do to stop it. For a range of cultural, economic and social reasons, few women participants considered that leaving the marriage would help. In the outer islands of Kiribati, women shared that divorced women lost their social status and often the support of their families because they were seen to have failed in keeping the marriage and family together. Hence, divorce can risk them being unable to support their children and even losing custody. Many stated that the largest looming risk is that their husband may leave them or remain within the marriage but start a relationship and family with someone else. These fears were common to women in both countries, highlighting the social and economic factors that make women more vulnerable to abuse and force them to tolerate violence.

In both Vanuatu and Kiribati, very few separated and/or divorced women saw themselves as better off without their husbands, even when the men were extremely violent. No divorced or separated women said they had initiated the divorce or separation but were abandoned. Nonetheless, as noted above, others in the community saw them as failures, reducing their social status and reputation and those of their birth families – another reason why a woman's family will often pressure her to remain within a violent marriage and refuse to support or assist her is she does otherwise.

Women in both countries noted a double standard – that men did not lose social status upon separation or divorce. Strong Christian and customary norms in Vanuatu and Kiribati are applied very differently to men and women. While men are not encouraged to engage in adultery or to abandon their wives, these behaviours are much more highly tolerated than the reverse situations.

The social and cultural position of widowed women was described as very different from that of separated or divorced women. Women explained that widows did not experience the negative community judgement and loss of social status that divorced or separated women do; they are seen as blameless, whereas divorced or separated women are always regarded as having caused or contributed to the failure of their marriage. Indeed, communities in Vanuatu and Kiribati see widows as deserving of support. Often women's or church social committees will support widows, and villagers may offer ad hoc or regular seasonal help with tasks like home maintenance, clearing land, harvesting crops, or donate food or other items. Single women and single mothers who are not widows are generally excluded from such community support.

17.6 Seasonal work programs and ways to mitigate their impacts

Many women identified seasonal work programs as associated with separation, divorce, lack of child support and family violence, generating a lot of heated discussion as these

[199] Ibid.

[200] Ibid, p.1.

programs were seen as causing significant social upheaval with few participants mentioned economic benefits. Commonly reported complaints – from women, men and chiefs from locations across Vanuatu – included men:

- Leaving their families for overseas work opportunities without their wives' agreement
- Failing to send money back to the family
- Forming new relationships while away and abandoning their first families
- Not returning at all
- Returning but showing less respect to their wives and using violence against them
- Abandoning their families in-country and failing to support their wives and children.

Chiefs expressed their frustration at their lack of power over men who had left the village and who failed to support their families, creating a burden for the village. They also highlighted that several men from one village or area joining seasonal work programs could leave the village with insufficient labour to perform heavy work such as clearing land, harvesting crops and cyclone-proofing houses. When asked if the wealth the workers bring back to their families and communities offsets some of these disadvantages, there was unanimity that overall these programs were harmful for women, families and communities. Participants explained that most men joining seasonal work programs see them as a way of achieving economic freedom and evading family and community responsibilities.

Participants offered a range of suggestions to solve or mitigate some of these problems. Women would like to see seasonal work programs change in several ways. First, families should be able to accompany the workers; women felt this would prevent workers seeing their earnings as a private benefit and not a family asset. They also felt this would give spouses and children a better standard of living and access to better health and education services. Village chiefs were less positive about entire families leaving, fearing that this could eviscerate villages, leaving few working-age people to support vulnerable and elderly people, and create social and economic divisions.

Women suggested stronger safeguards were needed for spousal consent for husbands to join seasonal work programs. Participants claimed that it was easy for men to forge their wives' signatures on application forms; others had threatened or pressured wives to agree to them joining programs. Women supported compulsory preparatory programs for couples to help prepare them for the difficulties of maintaining long-distance relationships. They also suggested including compulsory maintenance provisions in seasonal work program contracts so that a proportion of wages is automatically sent back to families. Chiefs recommended stronger visa enforcement action against workers who overstayed their seasonal work visas to ensure they returned. They also wanted workers who brought money home to invest in local businesses to spread the benefits across village communities. They saw this as a way to counteract the envy and social tensions that overseas seasonal workers' sudden wealth could create

Women's suggestions to improve fairness of seasonal work programs

- Families to accompany workers
- Robust consent processes for spouses to prevent fraud
- Pre-departure preparation for long-distance relationships
- Automatic deductions from salaries for family maintenance
- Lump sum child maintenance payments to meet returning seasonal workers' unmet commitments
- A limit on the number of workers from each village
- Worker selection should occur at a community, not individual level
- Wealth-sharing investment in communities
- Programs to provide support to non-accompanying families
- Support chiefs to advocate for families who lack child support.

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17.7 Sexual violence against women and girls in Kiribati

Considering the sobering statistics on sexual violence in both Vanuatu and Kiribati (see sections 10.1 and 13.1 respectively),[201] it is unsurprising that it emerged as a major issue facing women and girls. The women-only nature of the meetings conducted in both countries made it possible to broach this sensitive topic. Female participants in Vanuatu shared their observations and views on the main forms of sexual violence in their communities. Participants in Kiribati, who were mainly representatives of local church women's committees, were more constrained, likely due to taboos around conversations about sexual issues in religious contexts. This was possibly also because some women from different Churches considered each other to be rivals, reducing the trust needed to share sensitive information and personal views.

17.7.1 Marital rape

Despite the issues mentioned above, women participants in Kiribati did discuss rape within marriage. Most women said they felt obliged to consent when their husbands wanted sex, even when they did not want it themselves. However, if they did not agree, they expected their husbands would force them to have sex, so the threat of sexual violence was ever-present. Women related experiences of being forced into sex when they had rejected their husbands' advances because they were pregnant, sick or when children were awake and they lacked privacy.[202]

[201] See Section 19 of this report.

[202] These responses are consistent with other quantitative studies of family and sexual violence in Kiribati. See World Health Organization. (2013). *Measuring and responding to violence against women in Kiribati Action on gender inequality as a social determinant of health*, available at https://www.who.int/publications/i/item/978929061619 and The Equality Institute, (2019), loc. cit. n 163.

17.7.2 Incest and sexual abuse of girls by male relatives

Criminal cases involving sexual violence in Kiribati are likely just the "tip of the iceberg";[203] sexual abuse of girls by adopted, step or biological fathers and other male relatives is common. While the researcher was in Kiritimati, over two weeks in September 2023 the High Court heard 16 criminal cases involving sexual abuse against girls, 14 involving girls aged under 13. Court officials said most suspects pleaded not guilty, meaning that these victim-survivors had to give evidence in court. No accompaniment or other support was available; the local women's organisation lacked the resources to transport and accompany victim-survivors, or to counsel them and help prepare them for court appearances.

None of the defendants in any of the 16 cases had been remanded pending trial, none were on bail conditions requiring no contact with the victim-survivors, and no protection orders were in place. Consequently, several defendants continued to live under the same roof as the child victims until trial, leaving vulnerable girls at high risk of continuing abuse or high risk of interference with their evidence.

The researcher asked various court actors, including the prosecutor, why the number of incest cases was so high. The most common response was that while they know it is wrong, many men see their own daughters or related girls as being available to them and feel entitled to sexually abuse them and have little fear of legal consequences. Many cases are never reported due to perpetrators threatening or silencing victim-survivors, the unwillingness of their mothers to report their partners due to social and economic vulnerability, and the general unwillingness of other community members to report such cases or become involved.

17.7.3 Sexual violence by local men, families, police and foreign seafarers

In Kiribati, girls can be sexually exploited by sailors and other people living on boats anchored offshore. Various studies show that some family members encourage or require girls to visit foreign fishing vessels and engage in sex for money and/or goods,[204,205] and can become dependent on this income. Studies also indicate that some girls take pride in helping their families, and while their families may judge them morally, their economic contributions give them more say in the family and ability to protect themselves from familial sexual and family violence. Some girls have been abused by family members and seek to escape, and sex work on ships enables them to do so.

The Kiribati Family Health Association (KFHA) reported that fewer under-age girls are involved in sex work on ships than had been the case in previous years, and that more women are choosing to do this work freely, and many are looking after their sexual health.[206] Much of this sex work is not one-off but rather serially monogamous, sometimes for three months or more while the ship is anchored offshore, and sometimes over multiple voyages to Kiribati. Reportedly, girls have married sailors and left Kiribati with them.

Some girls and women say they feel safer and have better lives on the ships than on shore with local men or in Kiribati society more generally due to poverty, gendered economic

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[203] Due to under-reporting and cases dropping out of the state justice process before they reach the trial stage.

[204] McMillan K., & Worth, H. (2010). Risky Business Kiribati: HIV prevention amongst women who board foreign fishing vessels to sell sex. International HIV Research Group, UNSW, Sydney available at: https://www.aidsdatahub.org/sites/default/files/resource/risky-business-kiribati-hiv-prevention-women-who-board-foreign-fishing-vessels-sell-sex.pdf.

[205] Ibid, p. 9.

[206] Interview with President KFHA, September 2023. See also McMillan (2010), loc. cit. n 201 .

inequality, and violence against women.[207] However these women do risk rape, including gang rape by local men, by men in the bars where transport to ships is arranged, or by the boatmen taking them to the ships, who may threaten to abandon them on small islets unless they provide sex. These women also risk arrest for prostitution, with police demanding sex in exchange for their release. Detained women reported being brought food and being bailed out by their sailor boyfriends.[208]

The greatest risks women face in undertaking sex work on ships appear to be posed by i-Kiribati men, not foreign sailors. These situations reflect the depressing vulnerability of girls and young women to sexual abuse from male family members and other local men, reflecting deep misogynism in Kiribati male culture and lack of normative boundaries. As the KFHA emphasises, that clamping down on girls and women working on ships risks paternalism and harming women who may want to escape family and sexual violence at home.

17.7.4 Risks of trafficking and sexual exploitation via irregular adoption and illegal surrogacy

Other sexual trafficking risks can arise for girls due to irregular adoption and courts failing to ensure adoption applications are bona fide and in the best interests of the child; laws and standards are particularly lax in Kiribati. Other situations where girls may be at risk of exploitation surround illegal arrangements or entrapment for the purpose of surrogacy, as occurred under an unlawful scheme in the Marshall Islands. Pregnant girls and young women were trafficked by an American former SDA Minister and adoption attorney to the United States for the purpose of selling their newborn babies. The women were told that they had no right to change their mind regarding adoption and were kept in poor conditions until they gave birth.[209]

17.8 Sexual violence against women and girls in Vanuatu

Forms of sexual violence described in discussions with participants in Vanuatu included marital rape, incest and rape of teenage girls, including in underage marriages. While not discussed in the meetings with women, several other contexts for trafficking and sexual exploitation of Vanuatu women and girls were also identified in the research, as discussed below.

17.8.1 Marital rape

Women in Vanuatu expressed similar views to those in Kiribati: they generally agree to have sex with their husbands even if they do not want to because they expect that their husbands would otherwise use force and that children would be disturbed by witnessing such abuse. Women confirmed that rape within marriage is common but is shameful to discuss; women feel they cannot talk about it with each other, let alone ask for help from the police or their chief.

One participant described her anguish at learning of her recently married 17-year-old daughter's severe physical and sexual abuse when she resisted her husband's demands for sex. She said that this had occurred several times, and that her daughter had left the marital home and refused to return; this caused a major rupture in family relations. She was under enormous pressure from her husband to pressure her daughter to return to her husband and "accept her situation." Other women in the meeting expressed their support for her

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[207] McMillan (2010), loc. cit., n 201, p. 8.

[208] Interview KFHA President, September 2023.

[209] See United States District Court for the Western District of Arkansas, United States of America v. Paul Petersen and Maki Takehisa, Case No. 5:19-CR-50079-001-002, Indictment, 4 October 2019.

and discussed various strategies for protecting her daughter while managing the wider family pressures. The mother did not want to go to the police but said she would do so if these strategies did not work out. This was one of many examples that arose during these meetings of women receiving support from other women in their village, which was clearly valued and helped them to work through options for response to violence.

17.8.2 Incest and sexual abuse of girls by male family members

Women described multiple cases of stepfathers, adopted fathers, biological fathers, grandfathers, uncles or other male relatives sexually abusing teenage girls and young women with impunity, often with the knowledge of mothers, who looked the other way or counselled their daughters to keep it to themselves. Women shared that many mothers in this situation felt too afraid and insecure to challenge their husbands despite the harm being done to their daughters and were even less likely to report the abuse to the chief or police. When these cases surfaced, they were usually reported by an extended family member.

The high proportion of incest among family violence cases in Vanuatu was confirmed in police reports, including this one from August 2022:

> The Family Protection Unit (FPU) of the Vanuatu Police Force (VPF) in Port Vila has recorded 10 domestic violence cases so far this month. Seven of these cases are sexual abuse cases. The suspects of the cases have been remanded at the Correctional Centre while three have been released on bail. Of the seven sexual abuse cases, majority are incest. FPU has conveyed that a contributing factor of incest involving father and daughter is consumption of marijuana by the suspects.[210]

Women participants said that the younger the victim the greater the likelihood that the abuse would be reported, because sexual abuse of a child was definitively seen as wrong. However, as soon as a girl reaches the age of 11 or 12 years, she may be seen as having provoked or consented to sexual contact, even when the abuser is trusted adult family member. This confirms the view that, like in Kiribati, many men in Vanuatu see the girls around them, including their own family members, as available for sex.

Women shared multiple stories of sexual abuse being reported to police without consequences, either because the perpetrator or the village chief pressured the victim-survivor to withdraw their report or the perpetrator or chief pressured the police to drop the case. Men in Vanuatu know that they can abuse women with impunity by exploiting cultural shame and fear. If perpetrators think victim-survivors may report them they may resort to radical means of silencing them.[211] Should the abuse come to light, the perpetrator may be able to channel its "resolution" to village justice processes, where they may face a minor sanction or no sanction (see the examples below). If the abuse is reported to police, perpetrators or chiefs may interfere directly in the investigation, as several women noted. Thus perpetrators can and do take a range of approaches to avoid detection and accountability for their sexual abuse of girls and women (as also discussed in section 17.8.6 below).

17.8.3 Incest dealt with by customary authorities with the knowledge and support of police

A case arose during the researcher's visit to Vanuatu, involving a 15-year-old girl, a keen year 10 student, who alleged sexual abuse from her father over several months while her

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210 'Police Briefs', Aug. 31, 2022, Hub Sista, available at: https://www.sista.com.vu/police-briefs-4/.

211 As per the case recounted in section 48.1, where an incest victim-survivor narrowly escaped being murdered by her father and only survived thanks to lifesaving action taken by a member of the local women's CAVAW (part of the VWC).

mother was away. When she tried to flee, he followed her, violently assaulted her in the neighbouring village, and forced her to go home; he then prohibited her from attending school. The village chief agreed to conduct a "reconciliation" meeting between father and daughter, which reportedly occurred in the presence of police "to maintain security" but gave it the appearance of a state-sanctioned process. A further meeting involved the chief from the adjoining village where the assault had occurred, and the police were also invited to attend. More than a year had elapsed since the sexual abuse began and the victim-survivor continued to live with her father throughout, even though her mother and many people in the village were aware of the risk she faced.

Demonstrating a similar point, a woman participant shared her observations on a case closed by police after intervention from the village chief, even though the victim-survivor was accompanied by a VWC advocate.

> There was a case in my village where a mother took her victim teenage daughter to the Vanuatu Women Centre and they went to the police, and even with that case, the chief demanded the case be removed and it was.

These are two of several examples shared by women where the sexual abuse of girls was swept under the carpet by village chiefs who chose to protect the perpetrator rather than the child. These cases also highlight the vulnerability of police to pressure to ignore such corruption or even to support village chief proceedings rather than investigating and charging perpetrators. However, it is important to note that some women describe instances of village chiefs protecting victims and facilitating their access to police, and many village chiefs told the researcher that they were frequently involved in this way.

> Yes, we have had a case of that sort in our village. The perpetrator abused his stepdaughter and he was sentenced to prison. The chiefs helped the victim to bring her case to the police.

This case highlights the crucial role that chiefs can play in supporting victim-survivors to access police and other state justice actors.

17.8.4 Sexual abuse of women and girls with disabilities

Women participants spoke of several cases of sexual abuse of women with disabilities that had been reported or were known to the police, but no action had been taken. One involved a severely intellectually disabled woman who became pregnant after being raped by someone in her household. After giving birth, the woman was sterilised so she could not become pregnant again and her baby was adopted and sent to another island. Police were aware the woman was pregnant and due to her disability, must have been raped, yet there was no investigation. The woman continues to live in the same household and may still be subjected to abuse, which, now she cannot become pregnant, is even less likely to be detected. A second case in the same community, which had occurred around four or five months earlier, involved the sexual abuse of a child with a disability. Her family reported the abuse to the police and alleged a neighbour was responsible. The police said they planned to arrest the neighbour and transfer him to detention in the provincial capital, but several months passed without any action, and he continues to live next door to the child victim.

17.8.5 Sexual abuse of teenage girls and within underage marriages

Women participants raised concerns that while most village chiefs agreed that sexual abuse against young children was serious and had to be dealt with by police, there was much less consensus around sexual abuse against adolescent girls, or within child marriages. As noted earlier, once a girl reaches 11 or 12 years in Vanuatu her vulnerability to abuse increases significantly. This is confirmed by a recent study of perceptions of community security in Vanuatu, in which teenage girls were ranked the least safe (73.3%), whereas men

were ranked the most safe (87.5%).[212] Women participants confirmed that despite disapproval, many girls in villages become pregnant at a young age, but this was not the case in all communities. One participant said:

> Most girls in our village do not marry until they are around 20. We don't have many teenage pregnancies. Most girls are focused on doing well at school.

Women uniformly confirmed that young people in Vanuatu receive very little sex education.[213] They do not receive sex education in school; parents often feel embarrassed to provide it, and Churches reportedly oppose sex education in schools. This is where CSOs can make a big difference; Wan Smolbag Theatre[214] and Sista in Vanuatu produce plays and videos that provide information and provoke discussion of many taboo issues involving youth, including consent for sex.[215]

Most women in the meetings had never considered whether girls were having consensual sex or being raped. Based on their own experiences, most women participants were confident that teenage girls were often under pressure from teenage boys to have sex and lacked capacity to say no or to provide informed consent. Most participants regarded teenage pregnancy as a regrettable but almost unavoidable part of life. They were most concerned about a teenage pregnancy preventing families from securing a good marriage for their daughter, because a girl with a baby and who therefore not a virgin was considered less "valuable." Few women were aware of the heightened risks to girls' health of early pregnancy, including maternal and infant mortality. Women explained that when girls became pregnant, they had to leave school, and in fact several girls were expelled from the local secondary school for this reason while the researcher was in Malekula.

Women shared that where a girl became pregnant and the father was not married, the customary process would ordinarily result in a decision that the girl marry the father, because this solves the "problem" of children being born out of wedlock. Women participants confirmed there is little consideration given to the context of the pregnancy and whether the sex was consensual:

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[212] Putt J, Dinnen, S, (2023), loc. cit. n 197, p17-18. Yet despite this finding, when village-based community safety team models are developed there seems limited consideration given to the need to identify what reporting processes and composition of local security teams would be most accessible to those at greatest risk, being teenage girls, and how such bodies can effectively respond to the needs of teenage girls for safety. In addition, strategies recommended to address the risks faced by teenage girls include increasing their access to safety information through free telephone lines and providing them with specific advice on how they can maintain their physical and online safety, including through safe social media groups where women and girls can share information regarding how to improve their safety. However these strategies seem to transfer the burden for girls' safety onto their own shoulders rather than tackling the source of the problem, most often male behaviours.

[213] Kennedy, E.C., Bulu, S., Harris, J. et al. "These issues aren't talked about at home": a qualitative study of the sexual and reproductive health information preferences of adolescents in Vanuatu. BMC Public Health 14, 770 (2014). Available at: https://bmcpublichealth.biomedcentral.com/articles/10.1186/1471-2458-14-770. See also available at: Family Planning New Zealand, 'Planem Gud Famili Blong Yumi: Knowledge, access and barriers to family planning in rural Vanuatu', 2019, Family Planning New Zealand. Wellington, New Zealandhttps://sexualwellbeing.org.nz/media/dq0p0vx5/fp_planem-gud-booklet_14_2020.pdf

[214] See https://www.wansmolbag.org/theatre/ and https://videos.wansmolbag.org/.

[215] See for example, 'No I minim no', Sista, available at https://www.sista.com.vu/no-i-minim-no-music-video-about-consent/.

> We don't think about how the pregnancy happened. It has happened and now the main solution is to cover the problem by the girl marrying the man. If she is able to marry him then most people would think she was lucky.

In some instances teenage pregnancy resulted in underage marriage (if the boy involved is identified), often due to the girl's family applying pressure to the boy's. However, disputes can arise between families if the boy and his family deny that he was responsible. Girls remain vulnerable to the harmful effects of gossip. Women reported quite high rates of teenage girls with babies remaining single and living with the support of their parents. For many women, teenage pregnancy attracted some stigma but was so common that it was normalised to a degree. Girls are given responsibility for performing domestic tasks and in return receive help with childcare. Teenage motherhood is an intergenerational phenomenon in Vanuatu: in Ambrym, the researcher met a 25-year-old woman who was about to become a grandmother. She had the first of six children at the age of 13, and her 13-year-old daughter was about to have her first child.

Given the lack of sex education in Vanuatu and the cultural and gendered difficulty of girls saying no to males in any context, it is likely that a high proportion of teenage girls' sexual encounters lack informed consent. Sexual violence is common for girls in Vanuatu, unlike recourse for victim-survivors.

17.8.6 "Adultery" cases

Women participants stated that some potentially punishable sexual conduct is described as "adultery," with cases handled by village chiefs. In Vanuatu "adultery" includes its standard meaning of consensual sex between adults who are married to other people, but it also includes sex under circumstances that would constitute rape or incest under state law.

Chiefs explained that in an "ordinary" adultery case involving extramarital affairs, the aim of the process is to preserve the family units of the married parties and to punish those who have had relationships outside of their marriages. This involves requiring adulterers to pay compensation to each other's spouses, or, if the woman involved is not married, to her male relatives. Adultery compensation can be considerable. In Ambrym, women adulterers must pay VUV15,000 to the wife of the male adulterer, whereas the male adulterer must pay VUV18,000 to the husband of the woman adulterer. Often the fines will amount to more than VUV30,000, divided between the offended husband and wife, with a portion also paid to the chief. One chief described a recent case of "ordinary" adultery involving a married woman who became pregnant in an affair with a married man. The customary settlement involved each party paying VUV15,000 compensation to the other's spouse and VUV5000 each to the village chief. In addition, the man agreed to pay maintenance to the woman for support of their child, who continued to live with and be raised by the mother and her husband with their other children.

A chief explained that he had recently resolved a case of "adultery" involving a married man and his 20-year-old niece. The chief said the man had taken advantage of his niece, but she was not considered to be a rape victim, but an adulterer because she had been with a married man. The chief explained that the customary settlement required the man to apologise to his wife and his niece to pay compensation to the man's wife. The chief said it would now be difficult for the niece to marry due to her damaged reputation. This case highlights how victim-survivors can face victimisation under customary law systems by being misidentified as offenders and their prospects for marriage and family life diminished.

17.9 Conclusions about the failings of customary law with respect to sexual violence in Vanuatu

This research found that several forms of sexual offences under state law are not necessarily seen as crimes, let alone serious crimes, by many community leaders and members in Vanuatu. Gendered notions of women's sexual availability and double standards for men and women explain this in part. Another reason is poor recognition of the concept of consent in customary systems. Whether sexual relations are sanctioned depends on whether it occurs within marriage, or if not, whether it threatens a marriage. In this understanding, marital rape is not a crime, including in child marriages. Thus, the "cure" for extramarital relations between unmarried people, consensual or not, is for them to marry. This is seen as the logical and practical solution but can result in the heinous situation of a rape victim-survivor being forcibly married to her perpetrator and possibly facing a lifetime of rape.

Christian doctrinal frameworks strongly disapprove of extramarital relations yet apply different standards of sexual conduct to men and women. Thus customary and religious norms on these issues converge or at least align, creating a powerful mutually reinforcing normative framework permitting sexual abuse of women and girls. Across the Pacific, as across the globe, an increasing number of sexual abuse cases are being brought against male Church leaders every year, and Churches typically protect their own rather than the victims. As a judge said in sentencing an Anglican priest to 10 years for multiple rapes in Vanuatu:

> It is surely against the teaching of the Anglican Church to take a woman without her consent, more so a child and even more so a child under your protection. What steps are being taken within the Anglican Church to address this type of offending? Is it regarded as acceptable amongst church leaders? [216]

Other types of extramarital relations that is not necessarily seen as a serious crime warranting police investigation, despite being unambiguously "wrong," are incest and men taking advantage of adolescent girls and young women. Customary leaders may decide that their desire to protect the perpetrator from criminal justice outweighs their concern for the more socially vulnerable victim-survivor. The older the girl involved the less clear the wrong, because it is easier to generate a narrative that the girl provoked or acquiesced to the sexual contact, even if it was in fact non-consensual.

For many women participating in these discussions it was the first time they had shared their thoughts on these issues; this raised awareness and gave them new terminology and ways of thinking about sexual violence. Many of the women's meetings concluded with commitments to overcome their fear and have the courage to report sexual violence occurring within their communities. Women also agreed to talk to their daughters about how to prevent unwanted sex and unwanted pregnancy and talk with their sons about respectful and consensual sexual relations. Some said they would ask their husband to be part of these conversations with their sons.

17.10 State justice responses to sexual violence in Vanuatu

An increasing number of rape and other sexual offences cases are being reported to police, prosecuted and ending with hefty sentences. Those convicted include senior politicians, church leaders, police and other men in powerful positions, who might in other times or

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[216] See *'Church leader gets 10 years in jail for rape'*, Oct 25, 2022, available at: https://www.sista.com.vu/church-leader-gets-10-years-in-jail-for-rape/.

circumstances have been able to use their power and influence to avoid accountability.[217] In other cases courts have given substantial sentences to men for assaulting their partners after they refused to have sex with them, contesting some of the dominant community norms discussed earlier.[218]

The Public Prosecutor has developed a Victim Support Service and Victim Survivor Charter[219] to promote justice for survivors and victims of crime in Vanuatu.[220] The Charter includes rights to:

- Be treated with fairness, courtesy, compassion, respect and dignity
- Have needs considered and supported by service providers
- Offer and receive information
- Consent, safety and privacy
- Apply for compensation and restitution
- File complaints if service providers fail to uphold the rights outlined.

The main issue is a lack of resourcing of the Victim Support Service currently comprised of only one officer to fulfil the Charter rights of all victims nationally. Given this lack of staff, the Unit understandably prioritises cases involving children,[221] meaning that others miss out. No evaluation of the services provided by the Prosecution's Victim Support Service could be identified for this research.

The VPF's Family Protection Unit and (an oddly named) the Morality Unit investigate sexual offences[222] for cases that progress beyond the regular station response to the specialised units. The VPF publicly urges members of the community to come forward and report sexual violence to police and not seek to resolve such cases in the community. An example of the injustices that the VPF wants to avoid follows. In 2020, an 8-year-old girl in Port Vila suffered sexual violence; in late 2024 the FPU received a report about a customary justice process performed to resolve the crime within the community. A VPF spokesperson was

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[217] See for example, 'Conviction of General Manager (GM) of the Vanuatu National Provident Fund (VNPF), guilty of multiple instances of harassment against female VNPF staff members, NPF GM Guilty of Harassing Female Staff', Jun 18, 2023, Hub Sista, available at: https://www.sista.com.vu/vnpf-gm-guilty-of-harassing-female-staff/; Pastor Jailed For Indecency,' Dec 6, 2021, Hub Sista, available at: https://www.sista.com.vu/pastor-jailed-for-indecency-2/ and finally, 'Police Officer arrested over alleged sexual offences', May 10, 2024, Hub, Sista available at: https://www.sista.com.vu/police-officer-arrested-over-alleged-sexual-offences/.

[218] See for example, '*7-Year Prison Sentence for Man Who Assaulted Partner over Sex Rejection*', Hub Sista, Jun 6, 2023, available at: https://www.sista.com.vu/7-year-prison-sentence-for-man-who-assaulted-partner-over-sex-rejection/ and '*Man gets 7 years for raping and assaulting partner*' Oct 17, 2023, Hub Sista, available at: https://www.sista.com.vu/man-gets-7-years-for-raping-and-assaulting-partner/.

[219]'*Vanuatu launches groundbreaking Survivor – Victims Charter*', Dec 1, 2023, Hub Sista, available at: https://www.sista.com.vu/vanuatu-launches-groundbreaking-victim-survivors-charter/.

[220] Complying with the *UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*- UNGA Resolution 40/ 34 of 1985. The Charter, 'Vanuatu Survivor Victim Charter', November 2023, loc. cit. n 5.

[221] Ibid, p. 41.

[222] See https://police.gov.vu/what-we-do/criminal-investigation/morality-crimes.

quoted as saying, "the suspect paid a fine, but what about the future of the little girl? She will be traumatized and will grow up in fear."[223]

As noted throughout this report, police responses to allegations of family violence and sexual violence, including collection of evidence and laying charges so that prosecutions can be brought, have long been insufficient in Vanuatu. Another key problem for the prosecution of sexual violence cases is the pace of trials: it can take months or even years for the Supreme Court to hear cases in remote locations. Moreover, a lack of forensic testing capacity also slows criminal trials in sexual offence cases. As of 2023, the Supreme Court had 123 pending criminal cases[224] (the number of these relating to sexual offences is unknown due to lack of data disaggregation). The Court is working hard to bring down the average number of days to finalise criminal matters, which in 2023 was an average of 193 days, down from a peak of 414 days in 2018; [225] however, 24% of Supreme Court cases remain pending for longer than three years.[226]

17.11 Church-based processes for resolving family violence and family law disputes in Kiribati

As noted above, customary authorities play smaller roles in governing day-to-day life in Kiribati than in Vanuatu, although the *te unimane* in the outer islands have a strong presence and operate similarly to the Vanuatu Councils of Chiefs. Instead, at the village level, religious actors are the dominant community justice actors.

17.11.1 Background to churches in Kiribati

Kiribati community life revolves around churches;[227] church complexes, which include *maneabas*, sit at the centre of community life. These large open-air covered structures perform a multitude of social, cultural, economic and religious functions within each community. They serve as places for community meetings, to sleep or seek refuge during emergencies, where people go to prepare meals and eat together, where children's activities are conducted, and where bingo games take place. Social divisions across churches in Kiribati are quite visible; local interlocutors described significant competition between denominations for resources, patronage and facilities. Some churches receive more foreign support than others, which is reflected especially in their school facilities, church compounds and capacity to provide social welfare and religious outreach. While church representatives are happy to talk and meet, exchanges between participants from different churches showed that all churches work differently despite undertaking similar activities, as discussed below.

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[223] '*Report unlawful sexual intercourse to police: VPF*, The Hub, Sista, May 19, 2022, available at: https://www.sista.com.vu/report-unlawful-sexual-intercourse-to-police-vpf/.

[224] Court Data contained in *'Vanuatu Courts 2023-A Reflection'*, at p.34, copy held on file.

[225] Ibid, at p.50.

[226] Ibid, p.10.

227 According to the 2020 census, approximately 59% of the population are Roman Catholic who live predominantly in the northern islands, while 29% protestants who live predominantly in the southern islands, comprised of the Kiribati Uniting Church (21%) and the Kiribati Protestant Church (8%). Other Christian groups include the Church of Jesus Christ of the Latter-Day Saints (6%), Seventh-day Adventist Church (2%), and other smaller groups including Jehovah's Witnesses and Assemblies of God. Non-Christian groups include the Baha'i Faith (2%) and less than 1% Muslims and atheists. Source: 2022 Report on International Religious Freedom: Kiribati available at: https://www. state.gov/reports/2022-report-on-international-religious-freedom/kiribati/.

17.11.2 Roles of Church women committees

Meetings with representatives of the women's committees of the main churches in Kiribati (Catholic, Uniting, Protestant, LDS and SDA) occurred in each location visited in Kiritimati. These committees are involved in delivering church-provided support and services such as house cleaning and help for vulnerable community members including the elderly, people with disabilities and widows. They also organise campaigns for house cleanliness, festivals, handicrafts and cooking classes for women and undertake fundraising activities. They contribute to church-provided pre-marriage classes for couples and counselling for couples having marital problems. One woman catechist[228] said:

> We assist with "family life" counselling. When couples have problems, they can come to us and we can discuss with her how she can be a good wife and mother. The pastor counsels men on how to be a good husband and father. We remind them about the promises they made when they married and how they can find a way to respect and support each other, which is necessary to create the best possible lives for children. I often highlight when the man has betrayed his commitments. Sometimes they change and I hear of improvement from the woman, but most times they don't change.

Aside from church leaders speaking with husbands and wives separately, pastors or ministers run counselling sessions with the couples, aimed at reconciliation. Two women amongst the groups shared their experiences of such meetings. Their first observation was that it is virtually impossible to decline to attend such a meeting. Once both parties are in attendance, the pastor or minister reminds each party of their vows to remain together their whole lives, and that they needed to overcome their differences to provide a stable and positive environment for raising their children. One woman, who said her husband had beaten her over several years, explained what happened in her case.

> My husband had beaten me again and so I went back to my parents. My husband asked the pastor to come and bring me back. The pastor came to me and said that my husband was sorry and wanted to talk to me about coming home. He said we should meet together to talk about the problems. I told him we have done this before and he still hurts me. He said he had spoken to my husband and he had agreed to change. But when we met together, the pastor treated us both like it was the first time we had any problems and like my husband had done nothing wrong. He told us to say sorry to each other and that we must find forgiveness in our hearts and be better to each other from now on. I respect the pastor but this made me feel like my husband used the pastor to trap me and bring me back. I went along with it again but he continued his bad ways. It made me sad to think the pastor just wanted us to be back together again and didn't care about what happened to me or the children.

Another woman said of the process brought about by her minister:

> The minister didn't seem to understand what I was facing with my husband. He said my husband should find other ways but that I also needed to find a way to still accept him and respect him as he was my husband. He said if I please him more he will be happier with me. I said I had already tried everything and he just told me to try harder … There is no way out of this for me.

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[228] Church member given special responsibilities to support the Church leadership and to provide a community example of living faith and applying knowledge of church doctrine.

17.11.3 Women's suggestions for change in churches' responses to family violence

Female religious committee members spoke openly about the ineffectiveness of many counselling processes for stopping family violence and offered suggestions about how the church should work to change violent men.

> Only the pastor can tell him and he should. But he is also a man and using kava too. The pastor sides with the husband … But we need men to teach other men. There is only one man here with a good mentality. He is a catechist and very supportive of his wife and children. He is a very quiet man. I'm not sure he will want to take on this role but he would be good. The rest of them are all part of it: drinking kava and believing men are superior. But we really do need to find other good men who are in the church to deal with this because the church has a lot of power here.

Another woman put forward a similar strategy:

> One approach is to get another man to talk to the husband about the impact of their behaviour. My husband may be able to help. He previously had a bad kava problem and became violent when I tried to tell him the problems his kava drinking was causing in the family. Now he is reformed so perhaps he is the right person for this job. However, he is an introvert so he won't like doing it. But I am so proud of my husband for how he turned things around for me and the children. I really wish it could be this way for other women and families too.

One woman elder from the Uniting Church in Abaiang presented a different view of the role of the church in family dispute resolution processes. She highlighted that in her church they do not pressure women to reconcile with their husbands after they are violent. She emphasised it was the woman's choice and that the church would support her, whether she wanted to stay separated from her husband for a short or long time, but that divorce should be avoided.

17.11.4 Church leaders' suggestions for responding to family violence

While most pastors, ministers and priests in Kiribati are men, there are a few exceptions, including in the Uniting Church. A Uniting Church minister shared that she was very concerned about the problems of men using kava and violence against their families. She also shared her concern that as women become increasingly unhappy and frustrated with their husbands drinking kava or sleeping all the time, they tried to escape their unhappiness by going to bingo. With neither parent investing in the family, children are neglected and do not eat regularly or attend school. She spoke of giving sermons on these issues and urging her congregation to think carefully about how they treat their family and how they spend their time and money, because they would ultimately be held accountable for their behaviour.

> I tell them God is watching them all the time and does not accept that the man is superior to his wife. He is watching to see how you respect your wife, how you love and provide for your children, how you choose to spend your time and money. He is watching to see how you respect your husband, how you love and nurture your children. Our children are our gifts from God, our future and we must cherish them. None of us can escape the fact that God will be judging us all on how we decide to live our lives.

She also highlighted how in some parts of Kiribati council bylaws already ban alcohol, and that this might provide a basis for increasing regulation of kava and restricting its use. Another church committee member, in whose local area alcohol is already banned, added:

> Perhaps the pastor could assist with this. He doesn't drink kava. Alcohol is already prohibited here and the pastor may be able to persuade the local council to create

a bylaw further regulating kava drinking hours and the amounts available. There needs to be an education campaign in support of this, and also another about the harms of women becoming addicted to playing bingo too, which can also cost the family a lot of time and money.

17.11.5 Churches as places of sanctuary

Churches in Kiribati may offer sanctuary for victims of family violence. For example, the (Catholic) Daughters of Our Lady of the Sacred Heart (in Tarawa) provides the only dedicated safe house for family violence survivors in the entire country. During community meetings, churches in other locations were mentioned as places to which women and children would sometimes flee for protection and often permitted to stay in church maneabas. One woman said that she was widowed with 11 children at a young age, and that the church agreed for her and children to live onsite and for her to become the compound cleaner. She later became a more senior member of the church, then a catechist. For the past 16 years she has been the presiding magistrate of the local magistrates court. She highlighted the church's crucial support for her in overcoming some very difficult problems and the opportunities it gave her in both the church and the courts.

17.11.6 The power of Church doctrine: A double-edged sword

While the doctrines of all four of the main churches in Kiribati differ, all espouse Christian values that recognise the man as the head of the family, the duty of women to obey their husbands, the expectation that women will sacrifice their own interests for other family members, and marriage as the basis of family life. These values intertwine with similar customary values, compounding the normative environment and fostering tolerance of family violence. While church leaders agree that using violence against family members is wrong, that it harms victims and creates a damaging environment for children, many women counter that it is not clearly condemned or called out when it occurs within religious communities, creating an environment of impunity for perpetrators. Women community members feel that when church leaders reconcile couples without laying clear blame for the violence, or stating who must change and be held accountable, they condemn families to continuing violence.

Church leaders are very powerful members of Pacific communities. As the voices of women have highlighted in this section, churches can be a significant part of the problem when they ignore or normalise violence in marriages.

17.11.7 Reinterpreting religious texts and using Church normative power

Church leaders can help in reducing family violence. Raising the issue and overcoming the taboo and stigma of acknowledging or talking about family violence are important contributions. A concerted effort by church leaders to develop doctrinal messaging clearly condemning violence in families would be another important contribution. Using their normative power in dispute resolution processes to call out perpetrators and demand that they change, while monitoring the safety of victims as part of their pastoral care, would be further steps forward. As identified by many participants in these discussions, identifying positive male role models and using them to influence and change men who use violence may also contribute to combatting this problem. Finally, church leaders publicly showing their support for victim-survivors, including by taking practical steps to support them through providing safety and protection, would help to destigmatise victim-survivors and reduce the costs of seeking help when they experience family violence.

Women's recommendations for community and church-based approaches to tackle family violence in Kiribati

- Sermons should include regular messaging that family violence breaches sacraments of marriage and that "God is watching."
- Encourage church leaders and women's committees to communicate that family violence is unacceptable and encourage any victim-survivor of violence to seek help if someone in their family uses violence.
- Churches should commit to take all reports from victim-survivors seriously and help them to get protection and support. This includes court protection orders and police safety orders, temporary solutions where the perpetrator leaves and the victims stay, or the church providing protection and shelter to victims.
- Establish a committee of highly respected men and women from churches, councils and communities to campaign for laws regulating the use of kava and alcohol.
- Educate the public about the impacts of kava and alcohol use on women, children and family peace and the unfair division of work within marriages.
- Improve church counselling to hold perpetrators of violence accountable and reject excuses or victim blaming.
- Encourage husbands to remember how happy they are when their wives and children are happy. Encourage men to contribute to housework, care for children and think about how they can support their wives.

18. Customary and church-based processes for resolving family violence and family law disputes in Vanuatu

Like in Kiribati, in Vanuatu, religious and customary norms are strongly intertwined, with Christian churches being a core pillar of civil society and source of community norms closely aligned to those emanating from kastom, creating a mutually reinforcing effect. Several customary leaders noted this close affiliation of norms in the context of critiquing and contrasting the role of the state, one saying:

> There is a need for a vision for how the state law and custom can work better together. The church is working well with custom but the state is not.

These interwoven normative sources are reflected in the backgrounds of community leaders. Many performing multiple roles across *kastom*, church, court and civil servant roles:

> We have many leaders who cross over between leading our customs and leading our churches. They are often one and the same.

Men occupying multiple leadership roles across multiple spheres of life inculcate a conflated version of norms drawn from all these sources of power. This notion of overlapping sources of authority across leaders is consistent with the composition of people who participated in the Vanuatu community meetings. Male island court justices were mostly village chiefs or paramount chiefs, but some were also church elders or former civil servants.

No women participants were village or paramount chiefs; no participants knew of women village or paramount chiefs anywhere in Vanuatu. There are also very few women pastors or ministers and no priests, but many female catechists or church committee members who wield significant community influence. Some female participants had civil service backgrounds, such as teachers or community health workers, which gave them status as educated women performing public roles, but none of them occupied senior roles (e.g., as school principals or administrators).[229]

19. "First lady" power in Vanuatu and Kiribati

Many female research participants, when introducing themselves, mentioned their role as wife of a chief, area administrator, local council member or police commander. It is important to identify and make visible all the ways that women, especially those in strongly patriarchal cultures, accrue social power that may position them to influence change, even when they are not in direct leadership positions themselves (as the old saying goes, "behind every great man is a great woman"). It was evident from community meetings that being the wife of a man in a direct leadership position can provide leadership opportunities for women, albeit ones dependent on variables such as the willingness of husbands to allow them to assume associated but separate roles, as well as their own leadership qualities.

Several examples of "power couples," whose combination of experience and skills resulted in greater protection and access to justice for women, emerged during the research. For example, one wife of a village chief, who was also an elder in her church, explained that she would receive and talk to women who came to her husband seeking help with family problems. She explained that her husband would speak briefly to the woman but then ask the complainant to meet with her privately. Sometimes the wife, with her husband's agreement, would take a complainant into their home for safety.

> We only do that where it is too dangerous for them to go home. They are safest with us because no one here would dare to touch them while they stay with the chief.

She would also brief her husband on the woman's story and perspective prior to the case being heard in the *Nakamal*.[230]

> As women often cannot speak in the *Nakamal* or may be shy, I can make sure my husband understands the woman's side before the meeting so he can ask questions of the men.

If a woman needed ongoing support, the chief's wife would ask if she would like to be included in church support activities, enabling supervision. Other wives also said they sometimes assisted women who approached their husbands for help and that they wielded considerable influence.

Other examples of power couples include a husband-and-wife police team on an outer island in Kiribati: he is the local commander and she leads family violence police responses. They shelter women and child victims of family violence due to a lack of other safe options. In Vanuatu, a pastor, also a trained male advocate, an appointed AP under the *Family Protection Act* and a local government Area Administrator who sits on the chiefs council, works with his wife to counter family violence. She is a registered counsellor under the *Family Protection Act* and has 25 years' experience working as a volunteer member of her

[229] However, one of them had acted against a school principal who used corporal punishment against children.

[230] The chief-led community dispute resolution processes in Vanuatu, from the village level to the island level and ultimately the *Malvatumari*.

local Committee Against Violence Against Women (CAVAW). She also works for the Department of Corrections, providing rehabilitation programs to family violence perpetrators in prison and community settings via a non-governmental organisation (NGO). These example and others highlight a need for further research into these forms of women's leadership to explore how women can and do exercise power through informal leadership related to their husband's roles, so-called first lady power, and how they improve protection and justice outcomes for other women in their communities.[231]

20. Women's power as church leaders

As mentioned earlier, religion is a powerful force in Vanuatu232 and many church leaders hold multiple community leadership roles. Twenty-seven church leaders were amongst those who participated in the community meetings across the five islands, including 11 women. Many male participants who identified themselves as senior leaders in various churches, as pastors, deakins, catechists and elders, also identified themselves as chiefs, Island Court justices or civil servants.

Anglican Church leaders in Pentecost shared their views on how they see their role in cases of spousal violence as taking a "hands off" approach.

> We offer spiritual encouragement to couples to address the issue. We prompt both parties to think about this issue for themselves and we offer them options, but it is up to them to come up with their own solutions.

Options mentioned included counselling for both parties by pastors, as well as shelter and support services for victims of violence provided through The House of Mary safe house run by the church in Pentecost. Pastors mentioned that the VWC has outreach to help victims secure restraining orders but:

> We discourage that because that helps make a small problem into a big problem, including separation and creates more choices for the parties to go elsewhere and to leave their marriages and families.

The pastors also said that they include messages around positive parenting in their sermons and the impacts of fighting in the family on the wellbeing of children. They said the church had gender policies to ensure women had their own committees and activities within the church and a place where they could speak openly. Others characterised the roles of church actors in Melanesia as threefold:

> There are three different roles that churches in Melanesia have played in relation to responding to DFV [domestic or family violence]: 1) develop programs (informed by Christianity) that ask perpetrators to confront their DFV and avow a Christian manhood that does not perpetrate violence; 2) provide Christianity-based counselling services to victims who contact them that may lead to additional "work"

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[231] This theme will be a covered in a further research paper that is part of this same series regarding how Pacific women both provide and use plural protection and justice mechanisms.

[232] According to Boston University's 2020 World Religion Database, approximately 93% of the population are Christian comprised of 32% Presbyterian, 13% Anglican, 13% Roman Catholic, and 12% Seventh-day Adventist. Other Christian groups (totalling 14%) include the Church of Christ, Apostolic Church, Assemblies of God, other Protestant denominations, The Church of Jesus Christ of Latter-day Saints, and Jehovah's Witnesses. The John Frum Movement, an indigenous religious group with its own political party, is centred on the island of Tanna and includes 5% of the population. There are also small numbers of Baha'is and Muslims. Source: 2022 Report on International Religious Freedom: Vanuatu available at: https://www.state.gov/reports/2022-report-on-international-religious-freedom/vanuatu/.

with the couple to reassert the ideals of a Christian marriage and 3) providing shelter for victims who have fled their community. Cases of DFV reported to churches do not usually go to police, and police have been known to advise women to go to their church leaders for help.[233]

While instances of the second and third church roles mentioned in this quote were identified, discussed or observed during the research, no interlocutors mentioned church programs in which perpetrators "confront their DFV and avow a Christian manhood." Nonetheless, such programs do exist, and as discussed later, offer the most effective church-based approach for reducing family violence because they focus on changing perpetrator behaviour.

21. Women's views on how churches could improve protection of survivors of family violence in Vanuatu

Women participating in community meetings asserted that churches could do much more to protect victim-survivors. Most expressed the view that church leaders are not providing adequate support or taking necessary action on family and sexual violence and are not using their roles in resolution or mediation to good effect. One woman participant said that on these issues, church leaders are "all talk and no do." They also challenged the accuracy of the local pastor's statement that the church offers a safe house for survivors of family violence; they were unaware of it, despite living in the adjoining village. Women would like to see churches take a clearer position against any person who uses violence and provide public support for the victim.

These views were largely consistent across the four islands where consultation sessions were conducted and expressed particularly strongly by women in Pentecost and in Ambrym. Notably, they contrast somewhat with findings about women's justice options in Malekula in the study *Conflict Management and Access to Justice in Rural Vanuatu,*[234] which found that of all justice actors (courts, police, customary and religious) women were most satisfied (88%) with their engagements with religious leaders.[235] This could be due to local differences, because the study was confined to Malekula. Nonetheless, women participants clarified that religious leaders, especially women church leaders, are among the most approachable for women, therefore supporting strengthened church responses to family violence is an important element of any effort to increase access to justice for women.

[233] Watson, D, Amin S, & Robinson A, (2024) Responding to domestic and family violence in resource-constrained contexts: A case study on rural policing innovations in Melanesia, p.5, Policing: An International Journal of Police Strategies and Management. Available at https://eprints.qut.edu.au/247482/1/AAM_responding.pdf.

[234] Policing and Justice Support Program Vanuatu, (PJSPV) (2016), loc. cit. n 75.

[235] Ibid, p. 19.

Women's suggestions for improvement to Church responses to family violence in Vanuatu

- Church leaders should take a clear and public stand against family violence and those who use violence are the ones responsible for breaking up families, not victims who seek help.
- Churches should provide public and practical support for victims and should mentor and monitor perpetrators.
- Focus on promoting more women into leadership roles in Churches as they are best place to help women and can work with male church leaders to deal with the men.

22. Customary processes for resolving family violence and family law disputes in Vanuatu

Dialogues with women, men and village chiefs in Vanuatu provided particularly rich data regarding women's perceptions and use of customary and state justice systems for common problems.

22.1 Background to customary processes in Vanuatu

Community practices vary and reflect significant diversity across the five islands visited (Efate, Santo, Malekula, Pentecost and Ambrym) as well as within those islands. Practices can vary between adjoining villages due to chiefly influence. This report describes the systems or practices observed and commentary on some of the local variation identified in discussions. However, it does not purport to capture the full diversity of practices in use across these five islands, let alone the other 78 islands that comprise Vanuatu.

22.2 Steps taken to resolve problems in marriages

Where problems arise within a marriage, families, village chiefs and church representatives may all become involved, usually with the common goal of reconciling the couple. Sometimes these reconciliation processes involve multiple elements and involve significant pressure on both parties to continue their marriage. Despite this pressure to reconcile, some marriages fail. According to chiefs and women, this occurs mainly when men have already left or repartnered and commenced a new family. Women from the first marriage are abandoned, often without support for their children.

Chiefs and women said that very few women leave their marriages to be with another man. They explained that such a decision comes at a high price for a woman, who would typically lose custody of and possibly access to her children. She may also lose the support of her own family and face harsh judgment by the wider community. A woman who leaves her husband will typically move to her new partner's village, leaving all the people in her previous life behind.

If a man abandons his family, usually the woman's parents and grandparents will step in to support the woman and her children. Most do not seek to settle their case with the husband or the husband's family, although the lack of any settlement may sour relations between the two families. If a woman or her family seeks to settle a case against the father or his family, it is most likely to be resolved through a process with the chief rather than with the church or by taking a case to the island court or the magistrates court. The decision to bring a case to court is usually one that women make with their families, but the researcher heard stories of women bringing their own child maintenance cases to island courts without family support. Most women state that they were not satisfied with the outcomes achieved through either process, as discussed below.

22.3 Preliminary inter-family dispute resolution processes

Marital or other family-related problems are often longstanding before the parties seek help from senior members of both families. The problem is unlikely to be raised at all unless the woman's family supports her, unless the husband is bringing the case against the wife.

In cases involving spousal violence, violence is rarely the central issue of the dispute, unless it is severe. More often violence is considered a backdrop to the main dispute, which is likely to be related to infidelity, neglect of responsibilities to children or lack of family support. In the lead up to inter-family meetings, there may have been short periods of separation when the woman and her children have returned to her birth family. Inter-family discussions are then held to determine the terms on which the wife and children will return, with the husband's family often pressing for this outcome.

If a marriage has already broken down, this is most commonly due to the husband leaving the family, often having commenced a new relationship during or after a seasonal work program. In this situation, under customary law in Vanuatu, responsibility for support of the woman is seen as reverting to her own family, because customary concepts of maintenance do not extend to the wife. However, it is expected that the father continues to support his children, and that if he does not, this becomes the responsibility of his extended family. Thus, the woman's family may ask the man or his extended family to contribute to supporting the children. Depending on the man's circumstances, this could be a lump sum payment but is more likely to be regular financial or in-kind payments such as land, crops or food.

If this inter-family negotiation process breaks down or does not occur, women or the extended family typically look to the village chief to broker agreement. The chief process was described similarly by women (and chiefs) across Vanuatu, with one of the main variations being the degree to which women were able to participate in the process.

22.4 Customary dispute resolution fees

The topic of fees for customary dispute resolution emerged as a significant issue early in discussions with women; fees are an important element of women's access to customary justice processes. Data on fees was collected throughout the visits.

The party bringing the case, or sometimes both parties, must pay a fee to the village chief/s to begin dispute resolution. Fees vary significantly across Vanuatu and depend on the type of case and the level of the chiefly system used to resolve it. In no place visited was dispute resolution available from chiefs for free. The issue of fees also surfaced in the Conflict Management in Rural Vanuatu study, with 69% of the participants, all from Malekula, saying they had to pay fees and noting that conflict management at the community level,

particularly with chiefs, had become increasingly monetised.[236] It seems likely that this monetarisation has likely continued to increase in the years since.

The fees charged by chiefs can be hefty, especially considering the poverty of most Vanuatu villagers.[237] In one community in Tanna the chief charges a standard fee of VUV5,000 (NZD56) to resolve any kind of dispute. In one location in Ambrym, the fee was VUV3000 (NZD42) for the "small chief," VUV6000 (NZD84) for the village chief, VUV12,000 (NZD168) for the paramount or "area" chief, and an "even larger amount" for the council of chiefs. In two other locations in Ambrym, the village chief fee was VUV12,000 (NZD168). In Malekula, fees for local village chief dispute resolution were cheaper, 600–3000 VUV (NZD8–42) in one location; in another, all case types attract a standard VUV1000 (NZD14) fee. In yet another location in Malekula, fees ranged from VUV400 (NZD5.50) for the "small chief" to VUV1500 (NZD21) to have the case decided by the council of chiefs.

Women said that if they could not afford the fee they would have to ask for a loan from family, and if that was not available, they would have to "stay alone with our problems."

> If you can't afford the fee then you can't afford to report a problem. Sometimes the parents of a woman will help pay the fee but if not, she just keeps quiet.

Men were also concerned about the village chiefs' fees to resolve disputes. One man in Ambrym said:

> Often chiefs charge too much and there is no regulation or consistency of their services.

Some chiefs (in Pentecost) admitted that the purpose of fees was not only to cover the cost of their time, but to limit access to and curb demand for chief-assisted resolution of disputes, especially marital disputes, because they believed couples should resolve them privately.

> The fees encourage people to think twice before taking our time with these problems that need to be solved in the family. If more of these cases keep coming to us then it tells us we need to increase the fee.

Some chiefs took a different view. While they still required payment to resolve disputes, they took account of the ability of a person to pay and would either waive fees or make alternative payment arrangements to resolve the dispute, as the three examples below show.

- In Ambrym, a village chief said that while dispute resolution fees were generally payable to chiefs – VUV6000 (NZD83) for land cases, VUV5000 (NZD56) for adultery cases and VUV3000 (NZD42) for most other case types, including marital disputes – single mothers could bring their claims to him for child support for free.
- A chief in Espiritu Santo said that if a woman could not pay his fee up front, she could pay it back to him later or in produce rather than in cash.
- A chief in Malekula said that he never charges fees to women "fighting with their husbands" or if their husband had "run off with someone else."

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[236] The Policing and Justice Support Program (Vanuatu), loc. cit. n 57. p.92.

[237] The latest Household Income and Expenditure Survey (HIES) used to estimate poverty in Vanuatu was conducted in 2019/2020. Using the World Bank's definitions, Vanuatu's poverty line is US$3.65 (444VT) per person per day, 3108VT per week. World Bank, Poverty & Equity Brief Vanuatu East Asia & Pacific April 2023.

However, these were the only three exceptions to the requirement to pay dispute resolution fees identified in discussions conducted with approximately 35 chiefs in community meetings and 21 chiefs who were also island court justices.

22.5 Reflections on fees preventing women's access to customary justice

Compulsory fees for resolution of disputes act as a major restriction on women's access to justice. That chiefs make money out of resolving disputes highlights how chiefs have vested interests in expanding or retaining these roles. This is likely to reduce their willingness to facilitate women's access to police or courts. While it is not suggested that all or most chiefs are financially motivated to block women's access to police or courts, this conflict of interest should be considered in approaches to overcoming chiefs' resistance to helping women seek state justice.

These findings about fees limiting access to customary justice are also significant because customary justice is usually assumed to be accessible, available and cheap for everyone living in the community. The quantum and impact of fees on access to customary justice in Pacific countries is not well-documented and requires further investigation. Note that none of the chiefs interviewed for this research volunteered information about their approach to fees, and this topic is clearly sensitive.

This research found that customary justice fees are an insurmountable barrier to many Ni-Vanuatu women's access to dispute resolution. Furthermore, few chiefs currently offer fee waivers or other arrangements for impecunious parties who need help resolving disputes and do so only on an ad hoc basis and applicable in exceptional situations. Nonetheless they provide important precedents for encouraging other chiefs to make resolution processes more accessible to disadvantaged community members.

These findings contest the common assumption that customary law leaders resolve disputes voluntarily as part of maintaining community peace, and that development partners should not invest resources in these processes to avoid disrupting existing systems. However, these systems are already monetised on a user-pays basis that excludes poor and vulnerable community members. Most chiefs interviewed saw no moral imperative to provide dispute resolution services to those who cannot afford to pay, viewing it as a service that comes at a price. As one chief stated:

> If people know they cannot afford the fee to solve a problem, then they will also know they cannot afford to have a problem in the first place.

This approach of repressing problems and limiting dispute resolution to those able to pay disadvantages most Ni-Vanuatu women. Moreover, they are in a no-win situation, unable to obtain customary justice due to fees on one hand, and on the other, incurring disapproval from chiefs for bypassing them to seek state justice. A better understanding is needed of the degree to which chiefs make a living from dispute resolution and the degree to which this interest detracts from community access to justice, especially for vulnerable social groups. Such knowledge will inform local organisations' and development partners' advocacy approaches with customary leaders to encourage them to offer local dispute resolution based on need, while also facilitating women's access to police and courts.

22.6 Access to *Nakamal* also linked to relative social status of the parties

Ni-Vanuatu women participants said that whether they could access a *Nakamal* process depended not only on family support but on their family's relative to the other party. If the woman's family is important within the community, the chief is more likely to take the complaint more seriously and work harder to ensure the other party respects and abides

by the outcome. The chief has less incentive to resolve the dispute to the satisfaction of the less important family involved. Thus not only is there a gendered power differential between disputing husbands and wives, but power dynamics related to families, which may either exacerbate or bolster the wife's typically weaker position and be reflected in the outcome.

22.7 Bias, lack of recusal, and lack of chief accountability

Women raised the issue that in many cases at least one of the parties is related to the chief, raising issues of actual or perceived bias and potentially resulting in unfair outcomes. Chiefs in some locations were sensitised to this issue and claimed they recused themselves in cases involving their close family members, whereas others said they had no difficulties in deciding cases involving anyone in the village, including their close relatives. If a village chief does recuse himself, other chiefs in the village may take the case. Otherwise, the chief may ask the parties to agree to another male elder resolving the dispute, or alternatively, that they should take their case to the next level of chiefs, involving a higher fee.

In some locations both women and men highlighted situations where the chief's bias had reduced his legitimacy and respect from the community. For example, in one village the chief's sons repeatedly damaged the gardens of community members by not restraining their large stocks of animals. Following the devastation wrought by cyclones Judy and Ken in March 2023, damage to gardens caused by untethered animals left many families severely short of food, allegedly exacerbated by the chief's sons corrupt practices in the distribution of emergency relief. When aggrieved community members complained, the chief refused to hear the case and blocked them from taking it to higher chiefs. The aggrieved parties then complained about their garden damage to the local police, but the police did nothing, not wanting conflict with the village chief. Thus, villagers had no avenue for redress for the behaviour of the chiefs' sons and the damage their animals caused. They said they were unaware of any body or process for bringing complaints against the chief or having him replaced.

The experience of these villagers highlights both the great variation in the quality and legitimacy of chief leadership across Vanuatu and the low awareness of options for villagers to hold their chiefs to account. Issues of chiefly bias and favouritism to important families were also key themes identified in the Conflict Management and Access to Justice in Rural Vanuatu study:

> A key area of concern about chiefs who are involved in managing conflict related to what community members often talked about as "favouritism," referring to a perceived bias or lack of neutrality in the decision-making of some chiefs. This sometimes relates to gender and may be part of the reason why women seemed to find chiefs and their decisions less fair than men did in the research. This may also have to do with the idea […] that some chiefs may be more interested in making decisions that result in greater community harmony, which may in turn predispose them to finding on the side of more "important" community members.[238]

Forsyth also noted the lack of effective oversight bodies that could combat chief misconduct or bias, finding that:

> A major factor in this cycle is the current absence of an effective way for a community to free itself of such chiefs. The introduction of such a mechanism, as well as improved processes to determine legitimate claims of chiefly title, are important

[238] The Policing and Justice Support Program (Vanuatu), loc. cit. n 95, p90-91.

challenges that must be taken up, in addition to any reform of the relationship the *kastom* system has with the state system.[239]

While the *Malvatumari* is supposed to provide oversight of chiefs, how an individual or a group of villagers could bring a complaint before it and what kind of remedies would be available to them are unclear. Moreover, the complainant would have to approach the *Malvatumari* via the area-level Council of Chiefs, which would include the chief concerned.[240] This is an area worthy of further research, because the patchy legitimacy of customary power severely limits its usefulness for meeting local justice needs and leaves many communities with few or no effective dispute resolution options.

22.8 Women's right to speak at *Nakamal*

Women stated that they struggled to bring a case before *Nakamal* without the support of their own families, not only due to pay the fee but because their male relatives typically represent women in *Nakamal* hearings. In some places, women may not even be permitted to be present at the hearing, so lack of family support will prevent them from bringing a case.

This research found significant variation across locations in whether a woman is permitted to be present, or to speak or otherwise participate in *Nakamal*. It seemed more difficult for women to be present and to speak for themselves in *Nakamal* in Tanna, Pentecost and Malekula than in Efate and Espiritu Santo, but there remained significant variation within each island.

This is consistent with the findings of Forsyth's study of customary justice,[241] which found that women spoke in 58% of cases and were not permitted to speak in 29% and were too scared to speak in 8% of cases.[242] Two chiefs in this study mentioned that in sensitive cases involving women they would ask their wives to hear the woman's perspective, then brief the chief prior to the *Nakamal* hearing. They said they had achieved good results using this method because the women felt more comfortable explaining problems to the chiefs' wives than speaking directly to men and the wider community.

Chiefs increasing women's participation in customary justice processes through allowing their wives to converse with female plaintiffs is a positive practice. Another example of empowering female plaintiffs through the involvement of other women is a representative of the CAVAW in Ambrym meeting with a chief and plaintiff prior to a *Nakamal* hearing and attending the hearing to provide support.

22.9 Apportionment of blame

The usual process at a *Nakamal* is for each party to give their version of the problem and its causes. In cases of a marriage under stress, providing neither party has already re-partnered, the chief ordinarily tries to broker reconciliation between the couple. Reconciliation is often achieved by apportioning blame to both parties, rather than finding one party to be in the wrong. Women claimed that this occurs even after serious violence or abandonment, which they regarded as a weakness of the process.

Women participants described lengthy discussions of whether women had adequately performed their roles as wife. This included whether they accepted their husband's

[239] Ibid, p.127.

[240] Ibid, p.94.

[241] Forsyth, M. (2009) loc. cit. n 65.

[242] Ibid, p.101.

authority or "talked back"; whether her cooking and cleaning was acceptable; whether she adequately cared for children, ageing parents, the kitchen garden and animals; and whether she met her husband's sexual and other needs. They also noted discussion in the *Nakamal* of how the man had performed his role as a husband: whether he had done his best to support the family; whether he had shown respect to his wife and children; and whether he had been faithful to his wife. However, women participants felt that the standard used to judge men and women differed. If the woman was perceived to have failed in her obligations as a wife, then she was seen as fully responsible for these shortcomings. Women felt there was more understanding shown to men's problems or mistakes, and they were not seen as responsible for their failures in the same way as women. Chiefs were more likely to take the view that men had tried their best or demonstrate low expectations of men's family obligations, reducing their responsibility for marital difficulties.

22.10 *Nakamal* outcomes

If the chief(s) consider(s) the man to be predominantly in the wrong, he may be required to make a customary settlement. This would ordinarily involve him or his family paying a fine or surrendering one or two pigs. The pigs are often cooked and shared to symbolise the closing of the dispute and the reconciliation of the couple or given to the woman's family as compensation. In either event, neither the fine nor the pig is given to the woman to help her support the children but is shared in a feast or absorbed into the property of her family.

If reconciliation is not achieved through this process, or cannot be (because one party, usually the man, already has a new partner and family), the chief will often require the man or his family to provide child support. As noted above, the form of support depends on the resources available to the man and his family. It may be a monetary lump sum, regular payments, or in-kind payments of land, crops or food. If neither the man nor his family can pay, village chiefs' responses vary. In some locations chiefs said there was nothing further that could be done and the woman/her family needed to accept the reality and find a way to support the children. In others, the chief felt it was ultimately his responsibility to ensure the needs of vulnerable villagers were met, such as by allocating some unused land to the woman or her family so they can use it to produce food.

Women participants and chiefs both said that the use of violence against a wife was rarely the subject of a standalone case before the *Nakamal*. They added that issues concerning spousal violence usually only arose as elements of a dispute over separation, divorce, support for children or "adultery" (a term covering several categories of behaviour, sometimes including sexual violence; see section 17.8.6).[243] Most chiefs thought it made no sense to conduct a *Nakamal* hearing for a victim of family violence who had remained with her husband, because in their view there was no dispute to resolve. Thus, a major finding of this research is that under customary systems in Vanuatu, spousal violence is not seen as a justiciable problem that needs to be resolved; it is so normalised that it does not register as an issue.

Some chiefs mentioned that after a particularly serious incident of violence against a wife the wife's family might push for a *Nakamal* hearing, causing a dispute process to be framed around the incident. In such a case, if the *Nakamal* considered the husband to have used "too much" violence (beyond the threshold considered "normal" or "tolerable" within marriage), compensation or pigs may be awarded to the wife's family, but not to the wife. Most chiefs thought it made no sense to award compensation to a victim of spousal violence who remained with her husband, because "the husband would just be paying the pig to

[243] As discussed at Sections 24 and 25 of this report.

himself." In such a case the chief would usually order the perpetrator to apologise, or that both parties apologise for their respective wrongdoing, as one chief explained.

> Both parties come and chief asks them both what happened. The chief has to find the cause of the problem and decide who is wrong. In a major case, the chief may impose a fine on the wrong party to pay the other party. This is a bit strange between husband and wife, as their money is the same. More often, an apology is given, and most often they are both wrong and so both must apologise. Usually the person who has used the violence is in the wrong but sometimes the other party can provoke the violence by their words and behaviour. Who is wrong also depends on the seriousness of the violence and how long it has gone on for. And then we bring them back together again …

This discussion highlights some conceptual constraints in the use of customary law processes for sanctioning spousal violence, in that blame is often not clearly identified. Importantly, this quote demonstrates that the offence of violence is lessened if the victim was found to have "provoked" it and how blame is usually apportioned between the parties, rather than the perpetrator being clearly identified as such and required to change.

22.11 Lack of follow-up and enforcement of customary decisions

Another issue raised by women was that even if the chief decides that a man or his family must pay compensation or child support, or stop using violence against his wife, there is no follow-up or enforcement of the decision. Sometimes the man may make an initial payment or two, then stop. As a woman participant said:

> It's fine he paid for four months, but his children will need support for ten years or more and the chief has said he's already done what he can. So where does this leave me?

This issue with lack of follow-up and enforcement of chiefs' decisions is consistent with findings from previous research:

> In focus groups the participants stated that they would ask the chief to resolve disputes, but they also raised the issue of chiefs' decisions or directives not being respected or followed.[244]

If a man with maintenance obligations stops paying, the wife's first problem is the difficulty in simply reporting the non-compliance to the chief. The problem has been customarily "resolved" and "sealed" through symbolic acts of reconciliation or feasting, so it is seen as embarrassing for the woman or her family to bring such lapses to the chief's attention. No one wants to trouble the chief by highlighting the ineffectiveness of his decision and authority.

If a chief is informed or aware of non-compliance, he might confront the man's family, but there is little more that he can do in practice, having no legal powers of enforcement. In some locations chiefs are willing to re-sit a case, and in other locations chiefs said they would advise the woman or her family to raise their complaint to the next level of chiefs, which would require a higher fee. Faced with these options, many women feel there is little to be gained from continuing to pursue a claim for ongoing child support within the customary system. They stand to lose even more by being perceived to be a nuisance or disrespectful to the village chief for pursuing their rights, even via customary systems.

[244] Putt, J., Dinnen, S, ANU, (2023), loc. cit. n 197, p. 2.

22.12 Effectiveness of customary processes and remedies for family violence and support of children

Discussions with chiefs and women participants indicated that most customary law leaders in Vanuatu do not take an active and firm approach to family violence. Many still see such violence as either a private issue to be solved within the marriage. If it is brought to the *Nakamal*, the outcome does not challenge the perpetrator's behaviour in any serious way or involve any monitoring or follow-up with the perpetrator to prevent the violence recurring. These views were not unanimous. Some women said that chiefs in their villages had admonished their husbands strongly and allocated blame to them. One woman in Malekula said:

> The chief told off my husband. Said he was sick of hearing from everyone about how my husband sat around doing nothing and then went home and hit his wife and children like a coward. I felt the chief understood what I was going through and told my husband he was wrong. It made a big difference to me as my husband changed after he was told off in public like that by the chief.

However, most women participants' said they found the *Nakamal* process hard to access, difficult to participate in, and unfair in its allocations of blame. While some women said their husband's behaviour improved for some time after the hearing, violence often resumed and women felt unable to ask for further help from their chiefs. These views are unsurprising and reflect the deeply patriarchal norms apparent in customary processes and the findings of many other studies, including Forsyth's:

> There were mixed views about the extent to which chiefs were prepared to deal with domestic violence and sexual abuse. Several women said that the chiefs did listen to them and lectured their husbands and fined them, but that the men did not listen to the chiefs and continued with their abuse. The majority of women, however, were of the view that chiefs did not act enough in cases of domestic violence … Some respondents said that some chiefs blamed women for domestic violence. For example, one respondent said that if a man beat his wife because she was complaining to him all the time, or did not have dinner ready on time, some chiefs would authorise the man to beat her and would make the woman pay a *faen* [fine]. One woman reported that a chief had said to her in such a situation: "*yu yu woman, ples blong yu hem i blong mekem evri wok long haos*" (you are a woman and it is your job to do all the housework). Chiefs are said to be sympathetic to the men because they are their friends or because they are also a man. One respondent commented, "[*O*]*li yusem kastom blong stan bihaen*" (they hide behind *kastom*). Another woman observed that chiefs favoured men because they did not want to be seen to be putting the man down, as this would harm the chief's reputation in the community.[245]

For similar reasons, Rita Naviti, former Registrar of the Supreme Court and the Court of Appeal of Vanuatu, questioned customary law systems' effectiveness in providing the remedies and outcomes that women need. She argued that this was due to inherent power differentials between male customary decision-makers and male parties, and the limited or negligible power of women parties, resulting in unjust and poor outcomes for women.

> In a male dominated society such as ours women are easily intimidated. It would be unwise to use the concept of restoring justice in a conflict between individuals where there is a power imbalance between the parties. Its practical implementation would

[245] Ibid., p. 122.

> also be difficult. Sometimes justice might be restored at the cost of a dissatisfied woman. Is that justice truly restored? As women have usually been peacemakers, they could voluntarily give up discussion and/or negotiation for the sake of having peace restored. Will that result in reciprocal justice? Will that benefit a woman victim of conflict? How can these questions be answered?[246]

She also pointed to the costs that many women pay when their problems are dealt with under customary law systems:

> Many women today pay the price of that [customary] practice. They silently accept the prejudices directed against them. Take for example the dissolution of marriage cases in which women get the decree of dissolution to be free from an unhappy marriage. Consider that after ten years or so of marriage the unemployed wife is divorced and sent away to start her new life with nothing. In my view there is no justice in such cases. Or take the case when an unhappy wife leaves home. Because she [her family] was paid the bride price, the children of her marriage who love her belong to her husband. She has to leave home without them. Or consider a wife who is convinced that she cannot leave home because she was paid for. Restorative justice is a good concept, but it needs careful analysis before it is introduced. It is my view that Vanuatu women of today will legitimately have reservations about its capacity to restore justice in legal cases today. How can justice be restored when the mediators are all men who use ideas that favour men?[247]

Nonetheless, none of the participants in this research – women, chiefs, women's organisations, state justice actors or others – doubted the enormous normative power and untapped potential of chiefs to be more effective in stopping family violence and changing perpetrators. Given their authority and physical presence in the community, chiefs, unlike other justice actors, can ensure the accountability of perpetrators. They can intervene in violence when it occurs, protect and support victims, bring perpetrators before *Nakamal* processes, identify blame and who needs to change, and monitor behaviour. These are all things that police or other more distant actors cannot do at all or in an immediately relevant way. Thus, if chiefs have legitimacy in their community (which, varies significantly between places), and they understand the woman's perspective, then customary justice can deliver women outcomes better aligned to their goals[248] than they would likely receive via state justice processes. However, this ideal version of customary justice occurs very rarely in practice in Vanuatu.

If a father remains in the village after his child support dispute is resolved, chiefs are well positioned to ensure that he continues to provide for his children. If he has left the village but his extended family remains, the chief can still require his family to support his abandoned wife and family. However, many chiefs will only initiate a dispute process if the wife's father or other family members apply pressure. As noted already, women without support from their families struggle to bring a case.

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[246] Naviti, R, '*Restorative justice and women in Vanuatu'*, p 96, in Dinnen, S (ed) *A kind of mending: Restorative Justice in the Pacific Islands*, ANU Press, 2010, available at: https://www.jstor.org/stable/j.ctt24hbc4.11.

[247] Ibid., p. 97.

[248] As highlighted throughout this research, these goals usually revolve around their husbands' changing through ending their violence and investing more time and effort in family life, and women seek ways to achieve this outcome but without the high economic, social and cultural stakes that women often face when they seek help from police and the courts.

Chiefs could also ensure that child support payments are used for that purpose. Many women highlighted that such payments from the father or his family are often absorbed by the mother's family and are not used to benefit her children. This was one of Ni-Vanuatu women's main complaints.

Notably, even if child maintenance payments filtered down to women, women felt dependent on their families, and feared the support ending if they had a falling-out or other major change occurred within their own family. Women also said that receiving support from or via their own families meant they were given less respect than if they were independent or received the support from the father directly. Women's loss of social status after marriage breakdown was considered a heavy blow, leaving them feeling like an unwanted burden. They saw no way to restore their status as respected women within productive family units.

Some of these issues could be resolved in part by chiefs directing that payments go directly to abandoned mothers rather than their families (the usual practice). One chief claimed he always directed child maintenance to the mother[249] specifically to avoid the situation where her family kept the payments. It would be very valuable to share this example and its outcomes with other chiefs, who may be willing to adopt this approach.

23. Summary: Woman-centred stakeholder analysis of customary law processes for child support and family violence cases

23.1 Alignment of child support resolution processes to women's goals

Women claimed customary law processes provided by chiefs rarely result in reliable economic support for them and their children from the father, his family, her family or her community. In addition to the barriers already discussed, this is due to the deeper issues of the scope and purpose of the "case" being defined differently by actors with varied interests and different desired outcomes, as follows.

- The chief's primary interest is to ensure peace and stability in his village, especially amongst the larger and more socially powerful families on which his legitimacy and power depend.
- The woman typically seeks reliable and adequate income or other support from the father or his family so that she can care for her children without dependence on her own family and/or losing social status as a contributing adult in the community.
- The woman's family typically seeks acknowledgement and sometimes compensation for the man's family neglecting its obligation to support the woman and her children and for the breakdown of the family alliance forged by the couple's marriage.

Many women emphasised repeatedly that while the first and third goals may be achieved routinely through family and chief-supported resolution processes, women's own goals – to receive support from the father or his family, without dependence on their own families – is the goal least often achieved in chief-run child support dispute processes.

[249] This was described by a chief in Espiritu Santo.

23.2 Alignment of family violence resolution processes to women's goals

The interests of customary authorities and women's own families are poorly aligned to the goals of victim-survivors of spousal violence, as outlined below.

- As noted earlier, most spousal violence is considered a normal part of marriage that the couple must deal with themselves. Thus it is not even identified as a justiciable dispute unless it is connected to another problem that is considered more serious, or involves egregious violence, AND the victim-survivor's family pushes for a case to be heard.
- Chiefs' primary interest is to maintain overall peace and stability within the village. They are not motivated to get involved in couples' problems that don't meet the criteria above, until it becomes a problem that affects relationships between key families in the community.
- Even if there is a *Nakamal* process aimed at preventing future violence, blame will not be attributed to the perpetrator alone but to both parties, which does not motivate the perpetrator to accept that he must change. For the reasons above, chiefs are not motivated to enforce agreements or to intervene if violence recurs.
- The victim-survivor's family is highly motivated to ensure that their daughter's marriage continues due to pressure from religious and customary norms. In some instances a bride price may additionally have been paid to the victim-survivor's family, which may be refundable to the perpetrator's family if the marriage fails. Victim-survivors' families may therefore pressure their daughters to tolerate violence to maintain religious norms, family reputation, alliance with her husband's family or to avoid repaying the bride price.
- The interests of the chief and victim-survivor's families dwarf her interest in ending the violence without threatening the continuation of the marriage. This power imbalance increases her social, economic and cultural vulnerability and her ability to retain custody of her children.

This section highlights the fundamental misalignment of key stakeholders' interests in customary processes which form part of the entrenched patriarchal norms preventing women from achieving their goals of either securing ongoing reliable economic support for children or preventing further violence being used against them. These misalignments of interests add to the barriers to justice for women – the need for family support to bring a case, fees, patriarchal norms about women's roles, and male-dominated processes that suppress women's voices – outlined in earlier sections.

24. Women's suggestions and good practices for improving customary law processes

Despite the clear risks and difficulties for women in using customary law processes, participants supported and accepted their continuing role in meeting their needs for protection and support. However, women want fairer processes and more meaningful outcomes.

The researcher sought women's suggestions for how customary processes could become more accessible, relevant and fairer to them. The research identified some good practices chiefs used to respond to some of women's concerns about child maintenance and family violence cases. Most suggested actions for family violence cases focused on the role of the chief. However, as discussed later in this report, many of these actions could be driven by

inclusive village safety committees (VSCs), which include women from churches and other community leadership roles, that support the chief.

The text boxes below outline women's suggestions for improvements to customary processes for spousal violence and sexual violence cases, practices some chiefs use in child maintenance cases, and practices some chiefs use to increase the fairness of customary law processes.

Women's suggestions for improvements to customary processes for spousal violence and sexual violence cases

- Chiefs prioritise protecting all community members from violence, including women, teenage girls, other children and people with disabilities.
- Chiefs intervene to stop family violence occurring in the village.
- Chiefs and their wives offer women and children threated by or experiencing violence immediate sanctuary and protection.
- Chiefs hold men accountable for family violence and sexual violence.
- Chiefs help women access police and obtain protection orders for cases of family and sexual violence and maintain community peace while state justice processes continue.
- Chiefs publicly support victims' decisions to involve the police.
- Chiefs waive fees for women seeking customary help to end violence in their relationships.
- Chiefs establish safety committees that include trusted local women who can receive and forward complaints from women and children about threats to their safety.
- Chiefs allow women to give their story to him or his wife before the *Nakamal* hearing and allow and encourage them to speak at the hearing.
- Chiefs publicly declare that the party who uses violence is the one who needs to change.
- Chiefs monitor perpetrators' behaviour and take further action if they do not cease using violence, without the victim needing to ask for help.
- Chiefs ensure that sexual violence complainants are not left to cohabit with the suspect while waiting for the case to come before the court.

Practices some chiefs use to increase the fairness of customary law processes

In discussions with chiefs, the researcher identified some existing practices chiefs use to respond to women's concerns about the overall fairness of customary processes, as set out below.

- Allowing women to speak in the *Nakamal* and supporting and encouraging them to do so.
- Chiefs' wives or women's organisations consulting separately with women parties and briefing chiefs on the woman party's perspective prior to the *Nakamal* hearing.
- Women's NGOs supporting female plaintiffs by consulting with the village chief prior to the *Nakamal* and supporting women during it.
- Encouraging women to become customary decision-makers or take on associated roles.
- Implementing a clear, safe and anonymous process for people to lodge complaints about their chief to the Council of Chiefs.
- Waiving case fees for parties who cannot pay, especially women.
- Standardising fees and approaches between villages to increase consistency.
- Recusing themselves in all cases involving close family members. Some chiefs have agreements with chiefs from adjoining villages to hear each other's cases if conflicts exist.
- Sharing approaches between chiefs to increase equality and fairness of customary law processes for poor and vulnerable groups.

Practices some chiefs use in child maintenance cases

In discussions with chiefs, the researcher identified some existing practices chiefs employ to respond to women's concerns about using customary processes for child maintenance cases.

- Waiving fees (or up-front payment of fees) for resolving child maintenance cases.
- Allowing women to speak in the *Nakamal* and support and encourage them to do so.
- Ordering that customary compensation be paid direct to the custodial parent, not to their family, in a lump sum if the non-custodial parent has the means.
- Encouraging the custodial parent to report to them for no further fee if the other party does not comply with the *Nakamal* decision.
- If the non-custodial parent ignores the requirement to pay maintenance, providing village land for the custodial parent to use for producing food and income.
- Supporting livelihood programs for women so they can live independently and in dignity.
- Maintaining a sound understanding of court-based maintenance processes and assist custodial parents to access them.

It is important to document these practices so that chiefs can discuss them, adopt them and use them to drive change.

25. Lack of knowledge about entitlements to child and family maintenance in Vanuatu

Very few Ni-Vanuatu women in community meetings were aware of their rights under the *Maintenance of Children* Act [Cap.46] or the *Family Maintenance Act* [Cap 42] or knew how to go about applying for child or family maintenance orders. Many chiefs and other men were also unaware of these laws and processes. Overviews of these laws and processes in community meetings were well received by all.

Women stated that even if they did not apply to the courts for these orders, it was helpful to know their rights under the state justice system. This knowledge means they can leverage better outcomes from family and chiefly settlement processes and discussions with their husbands, families and the village chief. They found it particularly helpful to know the following facts.

- The island court can order the father to pay up to VUV4000 (NZD56) per month until a child turns 18, whether they were in a recognised marriage or not.
- If they are in a recognised marriage (under customary or state law) and have been abandoned by their spouse, police can charge the man with the crime of abandonment and the magistrate's court can order child and spousal maintenance for more than VUV4000 per month.

This information was particularly relevant to women whose spouses had joined seasonal work programs, returned to Vanuatu, and formed new relationships without providing for their first family. Women said it was empowering to know that they could apply to the magistrates court for family maintenance to be paid as a lump sum from their spouse's saved earnings. This avoids ongoing efforts to extract regular payments from their former spouse over a long period of time. Some research participants said that they planned to apply for lump sums, not only to meet their children's living, health and educational costs until the age of 18, but for spousal maintenance, as per their legal entitlement, freeing them from dependence on their own families.

In many locations men were surprised to hear that they are legally financially responsible for their children, birthed within a recognised marriage or not, until the child turns 18. They were also surprised to hear that abandoning financial responsibility for a wife and children is a crime and that they could face orders for payment of child and spousal maintenance. Most chiefs were aware of some legal obligation to pay child support but not of the particulars and were unaware of the criminal implications of abandoning a legally recognised spouse. Chiefs said this information would help them to make fairer decisions in such cases coming before them, because they knew what the complainant could receive from the state. They said they believed this knowledge would strengthen the power of the complainant in the customary resolution process.

The immediate usefulness of this information to participants in the meetings highlights the need for much greater efforts to communicate legal information to community members, especially women and chiefs. This is highlighted in other research, such as the Australia-Vanuatu Police and Justice Services Survey 2023, which recommended:

> Building on and recognising the role of multiple actors in the community management of problems. Engaging with non-state justice actors, particularly chiefs and other community leaders, around awareness of law, formal justice processes, human rights and the different roles of different justice actors.[250]

[250] Putt, J., Dinnen, S. ANU, (2023), loc. cit. n 197.

26. Women's experiences of Island Court and Magistrates' Court child maintenance processes in Vanuatu

Despite the lack of awareness about child support, several women in the discussions had applied to the island court for child support orders, and some had secured them. However, most identified barriers and frustrations in using the process and receiving the maintenance to which they were entitled.

26.1 Transportation costs

The cost of transportation to reach an island capital was the largest barrier to Ni-Vanuatu women making an application for child support. The costs for such transportation vary enormously across the five islands. Many places have no regular transport links, and chartering a boat or hiring a car are the only options. It costs around VUV30,000 (NZD411) to hire a boat, and up to 20,000 VUV (NZD274) to travel via public boat from the northernmost village of Tanna to the provincial capital Lenakel. It costs VUV15–20,000 (NZD205–274) to hire a car for half a day and around VUV8000 (NZD110) return to reach east or west Tanna villages via public truck, the equivalent of a week's average wage (VUV8788). Even those few women able to pay said they would find it difficult to take children with them in the back of a truck, the only form of transportation available. They also said they would struggle to meet the costs of food and accommodation for themselves and their children during the journey.

26.2 Court fees and knowing what to bring

Women claimed that a court clerk was not always available to help them complete their application after they arrived in the provincial capital. Most women need assistance to complete court forms due to low literacy and lack of familiarity with forms. They also asserted that the court's telephone number was hard to find, making it difficult to learn what documents were needed. Some had not brought the necessary documents and were told to return with them later, meaning they would incur further transportation and travel costs, which caused them to abandon the process.

As of 202. a fee of VUV4000 (NZD56) is payable for an application for child support. This was a barrier to applying for some women, especially on top of transport costs. Women agreed that abolishing the fee, or waiving it for those in financial hardship, would increase their access to the court. Given almost all child support applicants are poor, these changes would benefit this vulnerable group markedly.

Women stated that if their husband was no longer living within their island court's jurisdiction (i.e., in another part of Vanuatu), the court clerk told them that they must lodge their application in the island court where the spouse was located. Some women said they dropped out of the process at this stage due to it being too expensive and cumbersome – if not practically impossible – for them to do.

26.3 Delays in court hearings

Women complained about the long delays before the court considered their applications. Given that child maintenance cannot be awarded retrospectively, the longer the courts delay in making the order, the smaller the claimant's entitlement, which expires when the child turn 18. These anecdotes of long delay matched with court data showing that in 2020 it took on average 1321 days (3.6 years) to decide island court cases. This decreased in 2021 to 724 days (still almost 2 years). In 2022 the island courts took on average 169 days

to decide a case, a significant improvement,[251] but child maintenance cases still make up the large case-type pending hearing, suggesting they are not being prioritised [252] despite the vulnerability of many applicants and their urgent need for support. Island court hearing processes are generally very slow because hearing listings depend upon budget, which varies because island courts only receive funds "left over" from higher court budgets. Budgetary processes for island court cases also deprioritise child support cases relative to cases about land and other matters. This leaves vulnerable women without means of support for long periods.

26.4 Proving paternity

If a woman seeking child maintenance is not in a recognised marriage, then the man must either admit that he is the biological father or has cared for the children as their father, or the mother must try to convince the island court that he is in fact the children's father. This may be as simple as providing a birth certificate that names the person as the father. If the father is not named on the birth certificate, the applicant must submit other evidence, such as witness testimonies to an intimate and exclusive relationship between the couple at the relevant time. It may be difficult for the mother to provide this evidence, given the passage of time or the lack of people aware of the relationship at that time. Moreover, the man may assert that the woman had intimate relationships with others, and such assertions may be very difficult to prove false. The Efate Island Court has heard cases in which DNA testing was used to prove paternity, but this is expensive (around VUV50,000, or NZD695). It also requires the respondent's consent; the court has no power to compel a person to undertake such a test.

26.5 Low caps on maximum maintenance payable and capacity to pay

To secure a maintenance order a woman must attend the court for a hearing, paying a second round of transportation costs. If the court makes an order for child support, which will last until the child turns 18, the amount payable per month is limited to VUV4000 (NZD55). This maximum amount has not been increased since the *Family Maintenance Act* was passed in 1966, some 58 years ago, and now reflects a tiny proportion of the actual cost of supporting a child. Hence, many women feel that the costs of this protracted, expensive process outweigh the benefit (unless they have multiple children for whom they can apply for child support simultaneously).

Justices of the Island Court noted that many fathers lack capacity to pay child maintenance, due to being unemployed and/or lacking productive land that would enable in-kind payments. The Court avoids making orders it knows the respondent cannot fulfil. Under state law, liability for child maintenance is limited to the father; the court cannot order the father's family to take responsibility, unlike in the customary system. Thus, there is no point in a woman commencing this process if her partner has insufficient means.

26.6 Protracted and onerous enforcement processes

After low child maintenance payments, women's most common complaint was about poor enforcement of court orders. If the respondent fails to pay regularly, the woman must return to the island court to lodge an application for enforcement. This entails a third round of transportation costs and payment of another VUV4000 (NZD56) fee.

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[251] Vanuatu Courts Annual Statistics 2022. Available here: https://courts.gov.vu/services/downloads/64-annual-reports-and-statistics/245-2022/2500-2022-annual-statistics.

[252] Ibid, p. 33.

In addition, an island court cannot enforce its own orders so the application for enforcement is transferred to a magistrates court and is heard in person. The woman must wait a further one to two years[253] and bear a fourth round of travel costs to attend the hearing in the provincial capital. Even if she secures an enforcement order and her former partner commences paying monthly child support, if he lapses in his payments before the child turns 18, she must repeat the entire enforcement process, although subsequent enforcement application fees are waived.

Women expressed strong views that the court was too soft on court order breaches and that the court should enforce its own order rather than burdening the applicant. One participant expressed frustration that every avenue she tried had failed and she was forced to raise her children in poverty.

26.7 Encouraging chiefs to support abandoned mothers to access entitlements to child and family maintenance

Women stated that some village chiefs disapprove of women approaching the court, seeing this as disrespecting or insulting his authority.

> If the woman goes to the police for protection or wants to take her case further, then the chief asks, 'Who contacted the police without my permission?' and when the woman is identified, he will ask her, 'Why did you jump over me? You should have kept your case in the village and accepted the outcome.'

Losing the chief's support can have heavy consequences for a woman and create further tensions within her family – often her only source of support. Educating village chiefs about child and family maintenance processes and entitlements may encourage them to support women's access to court-provided maintenance. In meetings, chiefs appreciated the point that more women receiving maintenance entitlements would assist them in maintaining harmonious relationships and adequate support for vulnerable community members.

[253] According to Island Court Clerks, Magistrates Courts may visit some locations on circuit only once or twice a year, depending upon demand.

Women's suggestions for improvements to courts' child maintenance processes in Vanuatu

- Provide accessible step-by-step information about child and family maintenance rights, processes, documents required, court fee and waiver arrangements, and court telephone numbers, for women, men and village chiefs.
- Abolish child maintenance and enforcement application fees or introduce a court fee waiver process for those in financial hardship and publicise this widely.
- Introduce regular, scheduled court clerk visits to villages to inform and assist people wanting to lodge child support applications and other kinds of court applications.
- Establish a telephone-based application and hearing process for child and family maintenance cases to obviate the need for parties to attend in person, speed up the hearing process; and simplify processes for parties living in different parts of Vanuatu.
- Fund Island Courts to circuit through villages to increase access, speed of decisions and opportunities for villagers to witness courts in operation.
- Aim to decide maintenance cases within a maximum of 2 months, recognising that these applications are urgent and relate to parties in highly vulnerable situations.
- Increase the maximum monthly child maintenance payment from VUV4000 to VUV12000.
- Provide public information explaining that people in state recognised marriages can apply for family maintenance without paying any fee by reporting to police they have been abandoned by their spouse. By doing so, they can also receive spousal maintenance and more than the monthly maximum child maintenance payment per child, which may be especially relevant to those whose former partner has been working overseas and has available funds to support their family.
- Magistrates courts expedite family maintenance enforcement hearings by conducting them by telephone and aim to finalise them within two months.
- Inform village chiefs about child and family maintenance entitlements and encourage them to facilitate women's access to court orders.

27. Women's experiences of seeking help from police

27.1 Seeking help from police in Kiribati

Police provide security, emergency response and act as a conduit to court processes. In Kiribati police are often the only visible representatives of the state, and certainly of state justice, in many rural locations; they are therefore crucial to women's access to protection and justice. Women participants had a lot to say about their experiences of seeking help from police.

I-Kiribati women who sought help from the police reported mixed experiences. One woman said that when she ran to the police station to seek help for spousal violence, the police believed her and took her complaint seriously. They took her for medical treatment, issued a police safety order against her husband, and explained to him that it was against the law to use violence against his wife. Her husband heeded this warning and ceased using

violence against her for the duration of the order (14 days).[254] However, like many other women, she did not renew the police safety order or seek a longer court order. She also withdrew her criminal complaint, which the police had forwarded to the Magistrates' Court, which the Court allowed on the basis that she had reconciled with her husband. She did not want to antagonise her husband by seeking a further order but lived in the hope that the violence would not return.

Unfortunately, the violence resumed. This time the police were less interested in helping her, saying that she had not followed through with her criminal complaint. She told them she had been confused and afraid to continue with the process, but the police told her that she needed to make up her mind – to either follow through on a criminal case or stay at home and put up with the violence She said that police did not explain the option of seeking a civil protection order from the court, either instead of or as an adjunct to a criminal complaint against her husband.

Three other women involved in the meetings had reached out to the police and said the police treated them with respect; the main problem was that police stations were distant and hard to reach. They thought police safety orders were quite effective; they had not been attacked while orders were in place. They hoped that the problem of violence was now behind them and did not seek continuing protection orders from the Magistrates' Court.

Another woman had a less positive experience with police. She telephoned police seeking help because her husband had just beaten her and she was afraid he would do it again. They said they could not come unless she agreed to pay for their fuel (which she was unable to do), or she could find her own way to the police station. She felt the police were uninterested and unconcerned about her safety. Moreover, the police had told her husband that she had called them and he beat her again, threatening to kill her if she was "disloyal" to him again. She said her situation was only worsened by her efforts to get help from police, and that her husband had become even more suspicious and controlling since, confiscating her phone. She said she would never call the police again, no matter how desperate she became.

Visits to numerous police stations revealed their meagre resources. Police's lack of means to communicate with their colleagues on remote islands was particularly concerning. For example, a man living on a remote island was awaiting trial for the alleged sexual abuse of his nine-year-old daughter; he was not on bail or conditional release. Police in the provincial capital received a report he had reconciled with the child's mother, returned to the family home on the island, was cohabiting with the victim and continuing to abuse her. The police command in the provincial capital had no means of communication with the single police officer on the island because telephone and internet services were frequently inoperable. The police were therefore unable to follow up on this serious report. Police lamented that the high-frequency radio system used in the 1990s had not been retained as a back-up after internet connections, which had proven to be much less reliable, were introduced.

27.2 Seeking help from police in Vanuatu

Consistent with other studies of women's help-seeking behaviours regarding family violence, women who participated in this research in Vanuatu confirmed that they rarely contacted police unless a matter was very serious. Most participants (70.3%) said they would contact the chief first to seek help if she or a family member was the victim of

[254] S 26(4) of the Family Peace Act 2014.

domestic violence; only 12.9% opted for the police. This may be partly due to difficulty in contacting police, and because domestic violence continues to be viewed as household or family problem that should be dealt with locally, without outside/state intervention.[255]

27.2.1 Distance from and access to police stations

At least a dozen women attending the meetings reported trying to contact police and reported consistent problems and difficulties doing so. Women said that they did not know and could not easily discover the local police station's telephone number, and that police may not respond to telephone calls anyway. In addition, distances to police stations made attendance difficult. Many communities, especially on remote islands and in other remote locations, have no police nearby. Some villages had never had a police presence anywhere in their vicinity since independence in 1980.[256] A sizeable majority of women participating in the meetings said that unless a police station was within walking distance it was very difficult to reach police; other means of transportation were unaffordable or unavailable.

These accounts contrast with results from the 2023 Australia-Vanuatu Police and Justice Services Study, in which 56.1% of respondents found it very easy or somewhat easy to access police services, 33.5% said they faced challenges to police access, and only 10.4% said police were inaccessible.[257] The differences result from two factors. First, the respondents in the Australia-Vanuatu Police and Justice Services study lived in a mix of rural, remote and urban locations, whereas participants in the current research lived on remote and rural locations. Second, unlike in the current research, Australia-Vanuatu Police and Justice Services study data was not gender-disaggregated, so women's views are unknown.

Women in locations that had never had police coverage were overjoyed when a police circuit commenced a few years ago. Police now visit the community at the end of every quarter, usually staying a week and conducting door-to-door community policing, checking on vulnerable community members. They said this built trust in the police and encouraged women to disclose problems directly. Women said they liked the proactive community policing approach much better than passive policing from a faraway police station.

27.2.2 Women's experiences of police response to family violence

Even in areas of Vanuatu where police could be reached easily, women participants claimed their local police were passive, inactive, difficult to find at police stations or uncontactable by telephone, often sleeping and unresponsive, used police vehicles for private activities, and refused to assist unless complainants paid for fuel.[258] None of them had contact with specialist family violence policing units based in the capital, whose coverage is thin in the

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[255] Putt, J., Dinnen, S., ANU, (2023), loc. cit. n 197, p. 2.

[256] This point was highlighted by an encounter during the visit to Pentecost. As the research team was travelling in a banana boat en route to the northern village Loltong in Pentecost, the boat was flagged down by a man waving from the shore. The boat approached the man who introduced himself as a lone police officer who had no access to radio communication or transportation and needed a lift to Loltong where he could meet his colleagues coming from the Espiritu Santo regional post to provide backup to him in apprehending a murder suspect. By way of background he explained that he had been posted in September 2023 to the community close to Loltong, to establish the first ever police post for the area since independence and conducted his patrols on foot from village to village, hiking up and down the mountains.

[257] Putt, J., Dinnen, S., (2023), loc. cit. n 197, p.27.

[258] Rural women participants in the Australia-Vanuatu Police and Justice Services Study also said that 'victims of domestic violence would not have the confidence to access police because of the 'need to pay them to come to the community', see Putt, J., Dinnen, S., (2023), ibid p.29.

provinces and even worse in remote and rural locations. This difficulty in contacting police was observed firsthand when the research team tried to contact a local police officer to make an urgent report, eventually finding him asleep at home during assigned working hours.[259] Many villagers, men and women alike, view police with cynicism.

Family violence services complained about police deprioritising family violence and confirmed that police made their response to family violence incidents conditional on payment for fuel. Women's organisations in both Vanuatu and Tonga reported that their organisations maintained substantial budget for police fuel, because otherwise victim-survivors would not receive assistance. This is confirmed in the VWC's annual reports detailing expenditure in relation to assisting "clients to access justice, including the payment of fuel for police to serve family protection orders (FPOs) and funds to make arrests on outer islands."[260]

In some remote locations it is difficult for police to respond swiftly due to lack of serviceable vehicles. This is often a result of poor maintenance: in many places broken-down police boats and 4WD vehicles are not repaired for years or months.

One woman participating in a meeting in Tanna said she had called the police seeking urgent help with family violence. The police told her to deliver money to police for the fuel via a relative who lived close to the police station, but even though her relative paid for the fuel, the police did not come. In another case, a woman explained how her sister-in-law needed police assistance urgently to stop family violence and was told to pay for the necessary fuel. She did so, and while police eventually arrived and arrested the perpetrator, they then released him the next day and no further steps were taken.

> My sister-in-law felt that she paid all this money for nothing. She still had the same problem to deal with by herself.

Police demanding payment for fuel seemed a consistent problem across all the islands visited in Vanuatu, except Malakula. The Malampa Province Police Commander said firmly that police under his command would be disciplined for requesting payment.

> Police under my command are never allowed to tell community members they must pay for police fuel or for any police service. We are not a private security company. Arranging for response is the job of police and even when we are short of fuel, we must take responsibility and make arrangements to purchase extra privately, on credit, if necessary, but we must always find a way to respond.

The issue of police fuel raises questions about the police resources and their management. The Malampa Commander's approach is clearly best practice that others should emulate.

27.2.3 When police are perpetrators

The Malampa Commander described various instances of action against police who had allegedly broken the law. These included suspending an officer who had allegedly killed his pregnant girlfriend and was facing trial, and disciplinary action against several other police officers in relation to family violence offences. He noted that such offenders had enjoyed impunity under previous commanders.

Public accountability of police perpetrators is crucial for demonstrating that nobody is above the law and to build community trust and confidence in police. Failing to discipline

[259] During visit to Ambrym Province, October 2023.

[260] As per Vanuatu Women Centre Annual Report 2014 and as discussed in Bull, M., & George, N., loc. cit. n 122.

police who perpetrate family violence undermines victim's and the general public's confidence in the justice system.

The difficulty of holding police family violence perpetrators accountable, including in Pacific countries, is well documented,[261] and is why some police services have developed special policies and processes.[262] No such special reporting or investigation processes exist in the Pacific to date for handling complaints against police.

Victim-survivors being deterred from reporting police violence due to a culture of impunity was highlighted while the research team was in Vanuatu. A woman approached an FPU officer to report family violence from her husband, a police officer. She had complained to the unit on several other occasions, but each time withdrew her complaint due to fear of retribution from her husband or other police. She was not convinced that the FPU could protect her from her husband or his colleagues.

Members of the specialist family violence police units in several Pacific countries have informed the researcher that their units are marginalised within the police force. They often lack senior police posts, are overlooked for promotion opportunities and do not have access to transportation or other basic needs for their roles. Some members of these units suggested this was because they have more women police than other parts of the police force and are perceived to do 'soft' police work. This is consistent with commentary regarding the risks of women being typecast within Pacific police forces.[263]

27.2.4 Problems with police accountability in general

The Malampa Commander stated that Vanuatu police had received thorough training on responding to family violence over the past decade or more. He said the issue was lack of accountability, in that no consequence followed if police failed to provide the support required under the *Family Protection Act*. He felt that commanding officers holding their individual police and police units to account was the key to changing official culture and attitudes towards family violence cases. He believed that if police who failed to perform their duties properly received immediate sanctions, this would be very effective in changing practices. He confirmed that he had seen significant changes in the behaviours of police under his command due to his attention to discipline.

These views on the importance of police accountability were underscored by the responses of others, including VWC staff and FPU officers, who felt the Professional Standards Unit did not enforce police accountability at the scale needed to minimise "everyday" breaches of policing standards. Complaints processes may take years or not be investigated at all, and even when they are, many complainants are never whether any penalty or disciplinary action had resulted. The consensus to emerge from various discussions was that all commanding officers must be proactive in upholding police ethics and standards, including

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[261] Police can perpetrate gender violence in their own relationships and during their professional duties; See Bull, M., & George, N. (2021), loc. cit. n 122, p.253.

[262] For example in Victoria, Australia, cases involving police perpetrators can be reported directly to a specialised section of the Professional Standards Command which manages the investigation directly and which triggers civil interventions, a criminal investigation and an internal misconduct investigation. See *Options Guide For Victim Survivors of Victoria Police Perpetrated Family Violence or Sexual Offences,* available at: https://www.police.vic.gov.au/options-guide-victim-survivors-victoria-police-perpetrated-family-violence-or-sexual-offences.

[263] Watson, D., Howes L., Dinnen, S. Bull, M., Amin, S. N. (2023) Policing in the Pacific Islands, Chapter 6, p. 151-186, Palgrave McMilan.

statutory duties under the *Family Protection Act*. Members of the public need a complaints mechanism that ensures they can report incidents of poor service from police and receive a rapid and meaningful response.

Magistrates in Vanuatu pressed for increased police accountability in relation to the timely service of family protection orders, emphasising that this is the weakest point in the whole process and undermines efforts to protect victims from ongoing violence. They reported that court orders often lapse before being served, leaving the victim without legal protection and necessitating application for a new order. Efficient police service of court documents is a critical element of successful implementation of the *Family Protection Act*.

Magistrates discussed the problem of poor police service of family protection orders, mentioning summoning officers to explain under oath why they had not served orders as required. They said that police often claimed they lacked vehicles and fuel or could not find the respondent. Magistrates were dissatisfied with these answers, because police had had plenty of time since the enactment of the *Family Protection Act* to ensure they always had vehicles and fuel for family violence response, yet this issue kept arising. They hoped to establish monitored time standards for service of protection orders to improve the reliability of this part of the process.

These issues of family violence policing are not limited to Vanuatu but extend to the entire Pacific region. Some family protection laws, such as the *Family Peace Act* in Kiribati, stipulate that police who fail to meet their statutory obligations will be subject to professional disciplinary processes. The Act states that "The failure of a police officer to comply with the obligations under this Act shall constitute misconduct for the purposes of s.41 of the Police Services Act 2008."[264] However, there is little evidence of this or other police accountability provisions being enforced by police oversight units. The Solomon Islands' *Report of the Review of the Implementation of the Family Protection Act 2014*,[265] released in 2020, found that police were not implementing obligations under the Act due to:

- Lack of resourcing and training
- Conflicts of interest for police officers in responding to issues involving family members
- Insufficient supervision of junior police officers
- A systemic lack of accountability for individual police officers.

The review made several recommendations relating to police, including to:

- Significantly increase the scale of training for all police officers on gender equality and about their duties under the *Family Protection Act*, including issuing police safety notices
- Strengthen accountability measures for police officers
- Amend the *Family Protection Act* to clarify the obligation of a police officer to take steps that result in an application for a protection order.

27.2.5 Police maintaining culturally ingrained gender stereotypes and failing to perform mandated roles

In the Review mentioned above, the National Coordinator for Family Violence in the Solomon Islands identified the biggest barrier to police reliably implementing the *Family*

[264] S 30(4) Family Peace Act (2014).

[265] Copy on file.

Protection Act being the conflict between family protection laws and police's cultural norms and practices.[266] Many police believe that a wife must submit to her husband and tolerate family violence, contradicting the principles of the *Family Protection Act,* which asserts women's rights to report and be protected from violence. This is a major problem with policing family violence in other Pacific countries too.[267] Police are cast as the "on the ground" ambassadors of family protection laws, and if they are not convinced that victims deserve protection and support, then it is difficult to see how progress can be made on this issue.

Police's dual status as members of the population and officials has both benefits and drawbacks. One benefit is that local police have "embedded within their professional and personal comportment familiarity with both guiding cultural norms and practices and the authority of RoL [rule of law]."[268] However, 'fragmented subjectivity'[269] can place police in conflict with their duty to appropriately respond to survivors when they seek help for family violence. This may be due to informal operational cultures and "broadly held social prejudices that may be generally gender-discriminatory or discriminatory to particular groups,"[270] which can result in subversion of their role, especially in plural legal contexts.

Some women participants complained that when they did attend a police station, they did not feel welcome or comfortable. Police did not greet them and ask how they could assist, seemed reluctant to accept their reports, and made them feel that they were causing the police trouble by raising complaints. One woman who had walked several kilometres to get to her closest police station said:

> The policemen were sitting and chatting together when I walked in. They made me wait some minutes before noticing I was standing there. When the officer asked me what I wanted he seemed annoyed that I was disturbing him. I told him that my husband had beaten me and I was worried for the children still at home. He told me that sounded like a problem I should have stayed at home to sort out.
>
> I made my report to the police but then nothing ever happened. I still don't know what happened to my report. They never talked to my husband or took any action against him. It was like I had only imagined I had gone to the police.

Unlike in Kiribati, police in Vanuatu lack powers to grant police safety orders, which prohibit future acts of family violence for up to 14 days and if breached, result in a criminal offence. However, police duties to act on family violence complaints in Vanuatu are stated clearly in s.44–46 of the *Family Protection Act*, based on reasonable grounds to believe family

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[266] Report of the Review of the Implementation of the Family Protection Act 2014, p. 19, copy held on file.

[267] See Watson, D. et al (2023) Policing in the Pacific Islands, n 263.See also comments on police attitudes to family violence by Pohnpei Chief of Police, Mr Hermis Edmund, in Pacific Community, Legislation and the Role of Police Prosecutors Across the Pacific in Ending Violence Against Women, 22 August 2019 at https://www.spc.int/updates/blog/2019/08/legislation-and-the-role-of-police-prosecutors-across-the-pacific-in-ending, Putt, J. Kanan, L. (Eds). *Family protection orders in the Pacific region: Report from a symposium held in December 2021*, available here.

[268] Bull, M., George, N. loc. cit. n 122, p.252.

[269] Where police know what the formal expectation is to uphold gender equality in their role but at the same time, the informal operational culture of the police force and the mindsets of many individual members remain dominant and grounded in rigid gender stereotypes where violence against women is tolerated. As discussed in Bull, M., George, N. loc. cit., n 122.

[270] Ibid.

violence is occurring, or on a family protection order. These include a duty to enter premises, separate or remove people as needed to stop violence, ensure there is no immediate risk of family violence occurring, give or arrange assistance to victims as needed, confiscate weapons if needed.[271] The Act also includes compulsory duties to investigate all alleged offences,[272] file charges based on a reasonable belief family violence has occurred,[273] take suspects into custody if a complainant is in danger of personal injury,[274] and present suspects to court within 48 hours.[275]

The experiences shared by women individually and in meetings with the VWC suggest that police are not reliably fulfilling these statutory duties. This was confirmed in the 2023 Vanuatu Police and Justice Services Study, which found that "police practice reported through the focus groups is usually to remove the woman from the situation to resolve the issue without arresting the offender." However, the Act mandates the arrest or removal of the perpetrator from the family home to minimise disruption to the victim and dependents. This also emerged as an issue in Kiribati; the KWCSC said that police rarely arrested or required perpetrators to live elsewhere as a condition of police safety orders and usually removed the victim from her home and placed her in a safe house or her birth family's home.

While this may be a response to victims feeling unsafe in the family home, even with the perpetrator removed, due to the presence or proximity of his family members, the fact remains that in both Kiribati and Vanuatu the victim is typically the one moved from her home, along with her dependents, disrupting their support networks and education. In addition, victims being removed from their homes while perpetrators remain reinforces community assumptions that the victim is to blame. This reality confirms women's fears that the burden of taking action for family violence ultimately falls on them, not perpetrators, despite both countries having progressive family protection laws aimed at meeting the needs of victims.

27.2.6 Challenges for family violence victims accessing police in contexts of hybrid authority

Several women participants noted cases reported to police being diverted to informal resolution processes rather than being investigated and perpetrators being charged. One participant from Malekula shared that after she reported family violence against her husband at the police station, the village chief told the police to forget about the complaint; police complied with his request and destroyed her report. Several other reported examples of corrupt practice involved village chiefs, relatives of perpetrators or perpetrators themselves approaching police and requesting that victim-survivors' complaints be pulled and police acceding. In some instances, police initiate this contact with perpetrators, further endangering victim-survivors and deterring seeking help from police.

> Because of these failures and the **tendency of the police to cross-check with the perpetrators when survivors report domestic violence** [emphasis added], and the

[271] s 46(1)-(5) Family Protection Act 2008.

[272] s 44(1) Family Protection Act 2008.

[273] s 44(2)(c) Family Protection Act 2008.

[274] s 44(2)(d) Family Protection Act 2008.

[275] s 45 Family Protection Act 2008.

> slowness and reluctance to carry out an investigation, survivors are further harmed and put in greater danger.[276]

In a case mentioned earlier, the police disclosed the victim-survivor's complaint to the perpetrator; he beat the victim-survivor again and confiscated her telephone, demonstrating the harmful consequences of such collusion. One of the authorised persons interviewed described the efforts of village chiefs, family members and perpetrators to intervene in and derail his ability to support victim-survivors through police and justice processes. He detailed threats on his life, pressure being applied in his roles on other bodies, and sometimes pushback from police when he pressed them about why cases were dropped or not progressed. This is despite this authorised person wielding significant social and cultural power as a prominent pastor and area administrator, including sitting on the Area Council of Chiefs. While he had been able to resist these multi-pronged pressures, he had concern for most "ordinary" authorised persons, especially women, whom chiefs or perpetrators may see as soft targets for their threats.

Most women participating in the community meetings said that one of the greatest risks of going to the police was offending the village offside. In many communities the village chief would not support people contacting police, even when police visited their village.

> Police do come to the village from time to time but they mainly just talk to the chief and then they leave. They don't go around asking everyone if they have any problems they need to bring to them. Everything going to the police only goes via the chief.
>
> The chief does not agree with villagers contacting the police directly. Family disputes only go to the chief, including family violence.

There were also examples of chiefs supporting women to contact police about family violence if they considered that a particular threshold had been met. As one chief in Tanna explained:

> If the woman has been badly hurt or if the man has ignored the village chief process and keeps repeating his mistake then I will get involved and help the woman get to the police.

While a minority of women said their village chiefs did not mind them directly contacting police, most said that their village chief would perceive this as insulting their authority. Women expected that chiefs would prioritise protecting men in their village from the law over protecting victims.

> Women do not feel able to contact the police and the cost of transportation makes it hard for them to get to police. The chief is the only one who interacts with police in our village.

Several village chiefs confirmed they felt that women contacting the police directly was disrespectful and undermined the village's process for dealing with problems.

> When cases go straight to the police and they take over, there is no chance for reconciliation to be carried out.
>
> The Government is eroding the power of chiefs but the reality is that chiefs are still left to deal with the consequences of disputes because the government systems

[276] Mane, A, More than words on paper: The reality of protection orders for service providers in Papua New Guinea, Solomon Islands and Timor Leste, in Putt, J. Kanan, L. (eds) (2021) n 267.

> don't work: they are slow, expensive and very bureaucratic. Often, they still ultimately do not solve the problems.

A chief in Tanna, who had helped several victims of family violence to contact police, reinforced this point:

> But even where we take the woman to the police ourselves or pay for someone to take her, often we find the police just take a report and don't really take much action so then it falls back onto us anyway. So I would only bother taking women to the police now if the injury was really serious and then we would first take her for medical treatment and worry about the police later only if she wanted that.

Given unreliable police and court coverage and responses, especially in remote locations, chiefs' frustrations are understandable. It is also important to note that village chiefs may have several other motives for acting as gatekeepers to police, such as to maintain their authority in the community, and their financial interest in disputes being resolved in the village due to the fees they receive. It is important to recognise these disincentives for village chiefs to allow or facilitate community access to police or courts as part of the reality of local economies and politics and to factor these issues into program design. However, there are ways to move ahead through dialogue, awareness raising and liaison between police and village leaders in remote locations, as highlighted below:

> While there has been sometimes been an issue of chiefs coming in and asking cases to be dropped, over time with awareness raising [sessions delivered] by police and Vanuatu Women's Centre with the chiefs and so on this has resulted in chiefs actually coming in with women to report cases against perpetrators.[277]

27.2.7 Female police

It is important to note that not all reported interactions with police were negative. The researcher met many inspiring and hard-working police who were doing everything possible within their resource and institutional constraints to provide quality responses in family violence cases. Many criticisms of police response to family violence came from police themselves, with several calling for changes from the top to improve police culture and accountability. It is also important to emphasise the contribution of women police to improving the experience of women complainants, but there are unfortunately still only very few women police stationed in remote and rural areas of Vanuatu.

One woman participant said police made her feel safe and confident when she went to the station to report family violence. She was assisted by a female officer and felt respected and heard. She said that after taking her report, two police took her back to her house and warned her husband that any further complaints against him would result in arrest. Her husband assured the police he would not cause any more trouble. The police checked that she felt safe to stay in her home, then left. The woman said that while there was no follow-up of her report, if her husband assaulted her again, she would still report it to the police and demand that they intervene.

While this woman was satisfied with the police response, it did not comply with police obligations under the Act to investigate and file charges against her husband. However, she reported a more positive police experience than many others and had not been deterred from reaching out to police. Women complainants feel reassured when a female police officer is involved, consistent with research conducted in 2023 in Vanuatu, which found that "the majority of the focus group participants supported having more police

[277] Watson, D., Amin, S., & Robinson, A. (2024) loc. cit. n 233, p.11.

women, because they were easier to talk to, especially for women, and respond more responsibly."[278]

In their paper on policing and gender violence, Bull and George discussed the role of policewomen in Vanuatu and how issues of cultural and legal contestation relate to them :

> They [women police] are insiders because they belong to the same gender as victims, sharing an awareness of the culturally located experience of violence – this sense of connection enhances women's willingness to confide in them. However, by also being outsiders with state power to enforce laws that criminalise gender violence, women police are situated in the unique position of being able to challenge local norms that underpin gender violence and take action against perpetrators (in ways that other authorities cannot).[279]

As with police more generally, the status of policewomen as both insiders and outsiders enables them to bridge worlds and provide valuable assistance and support to victim-survivors. Moreover, several women police shared lived experience of family violence, ongoing in some cases, highlighting how family violence permeates Pacific societies. Similarly, several women magistrates across countries described lived experience of family violence and difficulties in seeking help for this problem. In addition, the experiences of violence of many women working in family violence services drive them to help others. The skills and experiences of women employed in the state justice system can be valuable in supporting victim-survivors and changing underlying dominant gendered norms within police forces. However, women mostly hold junior positions within Pacific police forces, limiting their ability to progress change.

27.3 Conclusions about women's access to and experiences with police

Overall, the feedback received from rural women in both Kiribati and Vanuatu was that they had difficulties in accessing police and eliciting relevant and helpful responses, either in person or by telephone. In contrast, women were very enthusiastic about community policing initiatives rotating through remote communities, as well as assistance from policewomen.

While most women reported negative experiences with police or little confidence that their local police would provide a reliable, respectful and relevant response, nonetheless most wanted a greater police presence in their local areas. Most women felt that a proximate and visible police presence deterred violence in their communities and made women feel safer, offering backup if their situation deteriorated and became urgent.

These views are consistent with those of a UN Women study undertaken in 2013, which found that 74% of Ni-Vanuatu women believe the formal justice system is the most effective way to obtain justice but only 33% use it.[280] This highlights women's unmet demand for state justice, even though it is currently unreliable and not particularly responsive to women's needs. This feedback from women in Vanuatu is consistent with that of women in the Solomon Islands, who were most likely to go to the police (53%) and only 28% to the village chief for help.[281]

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[278] Putt, J., Dinnen, S., ANU,(2023), loc. cit. n 197, p.2.

[279] Ibid, p.254.

[280] UN Women, (2015), loc. cit. n 127.

[281] UNDP (2019a) loc. cit. n 121, p. 2.

Investment in police training in responding to family violence has been substantial across the Pacific in recent years and investments in Pacific policing are increasing with establishment of regional training centres.[282] However, there is a long way to go before police attitudes, capacities, resources and accountability are aligned to family protection laws. As participants in this research noted, many family violence victims report no response from police when called, reports not being taken seriously, a lack of effort to collect evidence, no assistance with health care or emergency housing, all of which is mandated under family protection laws. Ultimately, for police protection to operate reliably, police who remain unwilling to do their job as required by law must be disciplined and if necessary, replaced by others willing to do so. This is likely to require recruitment of many more female police and promotion of more women to senior positions within Pacific police forces.

Despite the problem outlined above, there are signs of improvement in police response. The 2023 Australia-Vanuatu Police and Justice Services Study found that most respondents perceived improvements in policing in the previous two years. Sixty-four per cent of combined male and female respondents said police response to family violence had improved, 28.3% that it had stayed the same and just 7.3% that it had got worse.[283] While this data is promising, it is not gender disaggregated and may mask significant differences in men's and women's perceptions of changes in policing.

Some policing experts suggest Pacific states will never have the resources to police remote and rural locations adequately. They argue that sharing responsibility for family violence response between customary law leaders and religious leaders, with women's organisations holding both accountable, is a valuable, decolonised approach to policing, justice and community security in the Pacific. True or not, the way forward necessitates improved and better coordinated multi-sector partnerships and increasingly formalised arrangements that empower community actors to assist on the frontline. This does not mean handover of policing roles to civilians or diminish the need for increased police presence across rural Melanesia. While effective innovations have developed out of necessity, the absence of police denies individuals timely state justice. Poor availability of services for victims is another pressing challenge. Innovations at the community level include low-cost strategies that can significantly improve the quality of DFV response. Stakeholders emphasise the need for greater reliance on indigenous strategies that are shown to be promising in rural Pacific island contexts.[284]

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[282] Olbrycht-Palmer, J. Australia launches $400m regional policing scheme in major Pacific win, 11 December 2024, https://www.news.com.au/national/politics/australia-launches-400m-regional-policing-scheme-in-major-pacific-win/news-story/470932a5cdc9ab18ac40e41b6cc5aea6.

[283] Putt, J., Dinnen, S., (2023), loc. cit. n 197, p.27. However as this data is not sex-disaggregated as it is not possible to ascertain women's assessments of changes in police response to family violence, and notably any differences in views regarding people in urban areas compared to those in rural and remote locations.

[284] Watson, D., Amin, S. & Robinson, A. (2024) loc. cit. n 233, p 11.

Some examples of partnership between communities and police are discussed in Part F. However, a concerted effort is needed to encourage women and other diverse local actors to lead and participate in these community security initiatives. responsibility for security and family violence response will remain male dominated and immersed in patriarchal normative values that normalise and tolerate family violence. Without this, responsibility for security and family violence response will remain male dominated and immersed in patriarchal normative values that normalise and tolerate family violence.

Women's suggestions for improving police response to family violence and sexual violence

Police Commissioner:

- Review procurement and logistical systems for police vehicles and fuel and allocation for family violence response
- Develop a protocol for prioritisation of police vehicles and fuel for family violence response
- Institute an independent mechanism (perhaps through the Ombudsman's Office) that allows women to give feedback on their experiences of seeking help from police. Enable it to inform reporting and investigation of alleged breaches of individual police misconduct
- Develop a code of conduct for response to family violence that specifies disciplinary offences.

Commanding officers:

- Prioritise the provision of fuel and vehicles for family protection response as required by Family Peace/Protection Acts
- Discipline police for failure to fulfil their responsibility to protect family violence victims.

Officers:

- Respond rapidly and respectfully to requests for assistance via telephone or in person
- Do not request money for fuel for police vehicles or any other reason
- Do not suggest that police attendance or response is conditional upon the complainant or an associate providing money or fuel for police vehicles
- Do not suggest that an incident or history of family violence is not serious and does not warrant police time, encourage a victim to resolve a family violence issue at home, or deter a victim from seeking police assistance
- Investigate, arrest and charge alleged DFV perpetrators when warranted
- Provide a police safety order when warranted (Kiribati only)
- Prioritise serving family protection orders
- Remove DFV perpetrators, rather than victims, from the family home
- Give victims medical, housing or other support as per the Family Protection Act.

Accountability and transparency:

- Undertake a public awareness campaign for the (proposed) new police code of conduct for responses to family violence offences and advising how the public can complain of breaches
- When police do not issue a police safety order in response to an apparent DFV incident, provide an explanation for this decision
- Magistrates courts: routinely summon police to give evidence in cases involving protection orders lapsing due to failure of police to serve them, or involving complaints of police breaching statutory obligations under family protection or policing laws
- Train police on the new code of conduct for family violence response

Cont...

- Require the Professional Standards Unit to report annually to the Police Commission and Ministry of Justice on implementation of the code of conduct, including the number of complaints received from the public and the outcomes: proven/not, disciplinary action taken/not, and tracking repeated disciplinary offences by individual officers.

Recruit and promote more female police:

- Ensure every police station has at least two female police officers
- Aim for community policing initiatives to include 50% women police
- Prioritise recruitment of female police officers as existing officers retire and develop training and promotion streams to support women's progression to senior roles.

28. Women's experiences of accessing courts

Very few women participating in the meetings in both countries had ever applied to, or engaged with, a court. Women said this was because they lacked information about what the court did, how it was relevant to them, how it operated and how to get help. This is consistent with the most recent study of access to justice issues in Vanuatu, which found that:

> Lack of awareness of justice services and availability was the key issue revealed by the survey results and focus groups. Very few respondents or participants had direct experience of the formal justice sector; 93.8% of survey respondents had no contact with any of the listed justice services in the past 12 months.[285]

As referred to in the earlier literature review, it is well established that women in Vanuatu[286] and very likely Kiribati[287] have significantly lower legal literacy than men. Women participants posited several reasons for this:

> Maybe our leaders talk about this information when they are with other men. Men get information from talking to other men and going around other places. We don't talk about courts or go around other places.
>
> More men deal with problems about land and the courts always get involved in this so that's how they know about it.

The lack of regular court presence in remote locations was highlighted as the main reason why women knew little about courts. Women said the idea of a court was "just an idea"; they had never seen one operating. Women contrasted courts with other government service sectors, saying "we see health and education [officials] coming here. Where is justice?"

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[285] Putt, J., Dinnen, S., ANU, (2023), loc. cit. n 197, p.2.

[286] In Policing and Justice Support Program Vanuatu (PJSPV), loc. cit. n 75, p.42,28% of women responding they had 'no idea' what justice meant (compared to just 7% of men, and 0% of chiefs); 44% of women had no knowledge of human rights (compared to 20% of men, and 0% chiefs); and 60% of women had no knowledge of the law (compared to 27% of men and 5% of chiefs.

[287] Although no studies have been completed regarding this.

These views reinforce the need for state justice systems to develop a much stronger presence in rural and remote Pacific communities. While a permanent presence will be unaffordable for most locations, a stronger court presence can still be established through more affordable methods. These include:

- Mobile courts for conducting hearings and providing community outreach
- Distribution of information about courts, including via community radio
- Provision of some court services by telephone or via digital means
- Activation of authorised person jurisdiction to grant protection orders.

All these ideas would help courts become more accessible and relevant to communities in remote and rural locations in Kiribati and Vanuatu.

28.1 Data on victims' use of courts for seeking protection or justice

Women's reported lack of engagement with courts in Vanuatu and Kiribati is mirrored in data that shows major underutilisation of family protection laws despite many years elapsing since enactment of the *Family Protection Act* in Vanuatu in 2008 and the *Family Peace Act* in Kiribati in 2014. Very few people apply for protection order in other Pacific courts.[288]

In Vanuatu, even though applications for protection orders now make up almost half (some 47%) of the magistrate court's total caseload, the 1011 applications filed in 2023[289] represent only 3.5% of the estimated 28,585 incidents of family violence occurring nationally against women and girls each year.[290] It is also notable that 71% of protection order cases in 2021 were filed in urban areas, whereas 76% of the population in Vanuatu live in rural areas, and only 4% of cases filed concerned complainants who lived outside of the capital or provincial capital towns with permanent court registries.[291]

This data confirms the major barriers facing those living in remote and rural areas of Vanuatu in applying for protection orders. Unfortunately, no court data shows the number of criminal cases proceeding in either Magistrates' Courts or the Supreme Court involving family violence arising from breaches of protection orders or offences under the Family Peace Act or Penal Code. Thus, the proportion of estimated incidences of family violence that are criminally prosecuted in court remains unknown.

In Kiribati, national surveys indicate that 25% of women and girls aged over 15 years old experience family violence (10,500 incidents) per year.[292] However, court data indicates that

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[288] See Sumner, C. ' Ten years of reporting Family Protection Acts across the Pacific 2011-2022, Baseline Report', 2023, available at https://pjsp.govt.nz/assets/ModuleDocuments/Ten-Years-of-Reporting-Family-Protection-Acts-Across-the-Pacific-2011-2022-Feb-2023-HE.pdf.

[289] See 'Vanuatu Courts- 2023, A Reflection, Version 7' at p19 and 21, copy on file.

290 Calculated based on 29% of the total number of Vanuatu women and girls aged 15 or over (92,700), who reported partner violence in the past 12 months as per the Vanuatu National Survey on Women's Lives and Family Relationships, 2011, loc. cit., n176. See also Pacific Community, 'Stat of the week: almost 1 in 3 ever-partnered women and girls in Vanuatu were a victim of violence', November 2021.https://www.spc.int/updates/blog/did-you-know/2021/11/stat-of-the-week-almost-1-in-3-ever-partnered-women-and-girls-in.

[291] Vanuatu Court data. For data from multiple Pacific Courts on family violence cases see PJSP, (2023), loc. cit. n 268.

[292] Based on national population figures showing there are approximately 41,700 women and girls aged over 15 in Kiribati and then calculating 25% of this number.

in 2021, only nine people applied for protection orders nationally – just 0.08% of the estimated total number of partner violence cases against women and girls. However, records also indicate that many criminal offences related to family violence proceed to court. In 2021, 501 criminal cases relating to family violence were filed in either magistrates courts or the High Court and 316 were finalised. In only three of these cases were protection orders in place, all based on motions from the prosecution and not the initiative of the Court,[293] underscoring the underutilisation of protection orders by both the courts and complainants.

This data confirms the views expressed by women participants that very few women in either Kiribati or Vanuatu turn to courts to seek protection or justice for family violence. As is discussed in the sections below, lack of access to relevant and accessible information about protection orders and the available processes are likely reasons for this. Most women do not realise that protection orders are different from criminal justice and offer protection in ways better aligned with women's justice goals than most other state justice offerings.

28.2 Providing information about laws and court processes for addressing women's problems

As noted earlier, a court officer accompanied the researcher at meetings with women in both Kiribati and Vanuatu, enabling them to inform women about the laws and court processes most relevant to their problems. This information was received gratefully and many animated questions and conversations followed. These dialogues also enabled us to hear women's assumptions about engaging with the court and their experiences in trying to access or use courts.

One of women participants' most common assumptions was that they should only turn to the court as a last resort. They said:

> The court is only for the highest most serious problems. Not *our* problems.
>
> We deal with problems in our families and with our chief and never even think about courts as they are not here with us.
>
> Court is a big step to take and only if nothing else has worked.

Other frequently expressed views about courts were that:

> The court is for dealing with bad criminals. Why would we want to go there?
>
> We are scared of the court and hope we never have to go.
>
> It [court] is not for people from here. Our village chief deals with that.
>
> People say the court is very expensive and takes a long time but I don't really know.

These are all valid and understandable responses considering the courts' lack of presence in remote and rural areas, and the scarcity of information about them. Most women participants had never thought about applying to a court and did not know that it was feasible or could be relevant to them.

28.3 Knowledge needed to inform decisions to access state justice

As noted in section 25 on access to child maintenance in Vanuatu, while most women were unaware of their legal rights to child or family maintenance, a few had applied to an island court for child maintenance (none had applied to a magistrates court). They shared the

[293] Despite Courts having powers to initiate the grant of protection orders in family or criminal cases coming before the Court. See s. 13 Family Peace Act 2014.

many difficulties they experienced in obtaining court orders and having them enforced.[294] Even those who had secured court orders and therefore "succeeded" believed the result was not worth the effort. The low child support entitlement (maximum VUV4000/month) came nowhere near to meeting the costs of raising a child, and outweighed the time, money and effort required and the impacts of pursuing legal remedies on relationships within their families and villages. Those who had attempted to enforce a breached court order for child support considered the process to be an even greater waste of time.

While many Ni-Vanuatu women indicated that they were aware that violence in the family was illegal, few knew about the *Family Protection Act* and its contents. This was the case even close to provincial capitals where community awareness campaigns have been conducted in the sixteen years since the Act was enacted. Very few knew about family protection orders or how they operated.[295] The report of the Vanuatu-Australia Policing and Justice Services Study (2023) states that:

> Lack of awareness of justice services and availability was the key issue revealed by the survey results and focus groups. Very few respondents or participants had direct experience of the formal justice sector; 93.8% of survey respondents had no contact with any of the listed justice services in the past 12 months. [296]

None of the women participating in any of the discussions the researcher held in Kiribati or Vanuatu had ever applied for a protection order. A few women in Kiribati had made criminal complaints against their husbands, but all withdrew them from police or the court.

Several women participants who were aware of the *Family Protection Act* described it as "the women's law" (reflecting the VWC's local promotion of it). They knew it focused on protection for women (the largest complainant group by far) and were very surprised to hear that men made around one in four applications for family protection orders and the number of male applicants had almost doubled in the previous four years.[297]

Men attending separate community meetings had also formed a strong impression that the *Family Protection Act* only covered acts of violence against women and were surprised to hear that men were seeking protection under it. Many chiefs also assumed that protection orders could only be obtained by women against men and not by men or other family members, underlining the need for education that the law covers violence against any member of the family and by any family member.

Amongst the small minority of women participants who were aware of the *Family Protection Act* and their options for legal protection from family violence, most said they were deterred from seeking help from police or from the courts because they feared the consequences of reporting violence to state authorities. Their biggest fear was that reporting violence to the police or the courts would result in their husbands' arrest and imprisonment and lead to the

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[294] See Section 36.6 of this research.

[295] According to the Vanuatu-Australia Policing and Justice Services Study (2023), loc. cit. n 183, p. 26, 80.7% of surveyed male and female community members knew that domestic and family violence is against the law; 62.7% had heard about temporary protection orders or family protection orders; 46.1% had heard of the Family Protection Act and 18.5% had heard of Authorised Persons under the Act. These figures are likely considerably higher than they would be for women, if gender-disaggregated results were available.

[296] Ibid, p.2.

[297] Court statistical data indicates that in 2019 the Court received 129 protection order applications from men, which increased to 213 cases in 2023. Data available here: https://courts.gov.vu/services/downloads/64-annual-reports-and-statistics.

end of their marriages. This would leave them without financial support and unable to support their children and potentially jeopardise support from their own families due to the dishonour associated with seeking external help.

These responses reflected women's weighing of the costs and benefits of state justice, notably their husband's possible imprisonment and its effect on them, their livelihood and family; the time, money and effort involved in pursuing uncertain state justice outcomes; versus the relatively likely and immediate risk of violent retribution; and the risk of losing family and community support. However, most women participants lacked the knowledge of their rights and options that would enable them to undertake a comprehensive cost-benefit analysis.

28.4 Women need to know how civil protection orders differ from criminal cases

Women assumed all court processes involved the same perceived risks. However, when the nature of protection orders and the mechanisms associated with them in the *Family Peace Act* (Kiribati) and the *Family Protection Act* (Vanuatu) were explained, they understood that they are a civil preventative measure. They understood that protection orders act as a warning or "shield," and only become a "sword" (a criminal case) if breached. With this knowledge, women could see how family protection orders were a way of warning their husbands to stop using violence while putting the onus for triggering a (disastrous) consequence such as arrest or imprisonment on their heads.

As noted earlier, some women had sought help from police and lodged criminal complaints but withdrew them after reconciling with their husbands. Having gained an understanding of protection orders, these women could see that they could solidify the peace achieved through reconciliation. Women liked the idea of not being limited to the all-or-nothing approach of criminal prosecution. They saw that protection orders were especially important for the many women who continued to live with violence. They thought a protection order could help them gain support from other family members and village chiefs by demonstrating they were giving their husband the chance to change before pursuing a criminal complaint.

In summary, protection orders can help women eliminate family violence without jeopardising their relationships. This point must be conveyed in accessible ways so that women can make informed decisions about using protection orders to increase their safety. Moreover, women must understand that the civil nature of protection orders carries much lower risks of the long-term negative consequences (see above, and section 28.3) they wish to avoid. It is vitally important that women know family protection orders are about deterring violence, not punishment for previous acts. Local expertise is needed to find ways of explaining how protection orders operate and how they can help.

28.5 Chiefs' learning how protection orders work and can benefit them

This research has confirmed that the ability of victims of family violence to obtain help often depends on their village chief. Like other participants, most village chiefs lacked knowledge about protection orders, how they differ from criminal processes, and how they could not result in the arrest or detention of respondents unless breached. Misunderstandings about the nature of protection orders commonly meant village chiefs did not support members of their community securing them; they did not want police entering the village and arresting people without notice or coordination. When chiefs understood the purpose and effect of the protection order, their views softened noticeably, and they were much more likely to see them as complementary to their own roles in maintaining peace in the

community. Again, this outcome highlights the importance of widespread education about protection orders.

Increasing village chiefs' understanding of protection orders may result in more chiefs supporting victims to seek them. Chiefly approval would give a strong cue to DFV victims' families and the wider community that victims deserve support and maintain the victim's social standing. Some readily acknowledged that they could not "have it both ways" by not providing an affordable way for victims to resolve their problems locally and blaming them for going elsewhere for assistance and protection.

28.6 Lack of awareness that protection orders can be obtained by telephone

Most women in Kiribati and Vanuatu were aware that they could ask the police for help, and some in Kiribati knew the police could issue an immediate police safety order. However, very few women in either country were aware they could apply to a court for an emergency or temporary protection order by telephone, with no need to attend the court or a police station. Given that many women felt contacting the police was the hardest part of getting help, these facts need to be known widely. The telephone could be a gamechanger in helping people in remote and rural areas to access legal protection. Women shared that they trusted courts more than police, seeing them as less threatening, less male-dominated, more professional and relatively gender-blind. As noted earlier, women participants lacked confidence that police would treat them respectfully, take their complaints seriously or follow through on actions.

A toll-free court hotline, available outside business hours (when most family violence occurs), is a potentially valuable way to increase community access to temporary protection orders in both countries. It would enable those at risk of family violence to obtain orders quickly, conveniently and cheaply. It would also boost access to legal protection for children and people with disabilities, who would find it much easier to seek orders over the telephone than attending a police station or court.

Women participants in both Kiribati and Vanuatu were also unaware that they did not need a lawyer, that a court clerk could help them complete their application in person or over the telephone,[298]and that the court hearing itself could also occur remotely.[299] Under the laws in both countries, complainants can apply for protection online,[300] so courts should advertise email addresses and Facebook or other social media channels to facilitate public access.

It was also news to women attending the meetings that courts are legally required to consider applications for protection urgently[301] – in Vanuatu, on the same day unless exceptional circumstances exist.[302] Women participants also assumed that courts charge substantial fees for protection order applications and police for serving them, whereas in fact they are free – another important piece of information that could reduce women's

[298] See s12(3) Family Peace Act 2014 (Kiribati) and s28(2) Family Protection Act 2008 (Vanuatu).

[299] . If the orders were issued, the court would arrange for the police to serve the order upon the respondent.

[300] See s12(1) Family Peace Act 2014 (Kiribati) and s28(1) Family Protection Act 2008 (Vanuatu)

[301] See s11(7) Family Peace Act 2014 (Kiribati).

[302] See s31 (1)(2) Family Protection Act 2008 (Vanuatu).

reluctance to apply. Most women in the community meetings were unaware of this.[303] They were also unaware that important conditions can be attached to court protection orders (but not police safety orders) about issues such as temporary custody of children, payment of urgent or emergency maintenance, and that the complainant and children stay in the family home and requiring the respondent to live elsewhere.

In short, this study found that women know little about protection orders and how easy they are to obtain. Lack of knowledge prevents informed decisions about whether applying for a protection order would help keep them safe. This section highlights a need not just for more general information about protection orders, but for specific information about the accessibility of family protection processes and debunking mistaken assumptions about courts. Providing this information could embolden potential complainants to contact a court. Public awareness campaigns must reach those most at risk of family violence: women, children and people with disabilities, especially those living in remote and rural locations.

What victim-survivors need to know about the protection order process.

- Protection orders act as a warning or guarantee against future acts of family violence but will not result in arrest or imprisonment for previous acts.
- Complainants do not need to attend a police station or court to secure a protection order; applications and hearings can take place via telephone.
- Lawyers are not needed; court clerks can help complainants apply for a protection order, and applications are free.
- Courts decide on emergency or temporary protection order cases on the day or day after an application, and without the presence of the complainant or respondent.
- Protection orders can include temporary orders for custody and maintenance.
- Once the court order grants an order, the police serve and explain it to the respondent.
- Only if the order is breached will the police arrest, investigate and charge the respondent with an offence.

[303] An issue discussed further below.

29. Women's justice and protection goals

Women participants' thoughts on the outcomes they wanted, and those threats and outcomes they wished to avoid, when seeking help with problems of family violence, are listed in the text boxes below.

What women perceive as threats and want to avoid when seeking help for family violence

- Family breakdown.
- Loss of economic support from their husband, their birth families and communities.
- Inability to raise their children.
- Judgement from others in the community that they had destroyed their family by seeking help from outsiders.
- Irreversible reduction in their social status.
- Increased dependence on their own families.

What women want when seeking help for family violence

- Local and rapid intervention.
- Marriage and family unity preserved.
- No more violence.
- A husband more involved with children, household work and earning family income, and who socialises with his wife.
- A husband who reduces or stops use of kava, alcohol, marijuana or other substances.
- Support from community leaders and family.
- Maintained social status and community standing.
- If unable to live with her husband, an independent means of family support.
- Independence from her birth family.
- Husband jailed for serious and repeated violence only as a last resort.

The goals listed in the text boxes above align very poorly with state, customary and religious justice remedies, as outlined in the following section.

30. Poor alignment of justice processes with women's goals

The findings presented herein illustrate that state, customary and religious justice mechanisms in Kiribati and Vanuatu must change to reduce the social, cultural and economic costs of taking action to eliminate family violence. State justice systems must become more efficient to enable survivors to resist pressure to resolve disputes through largely ineffective reconciliation processes. Holistic strategies for change involving all three forms of justice are needed to meet victims' protection and justice goals.

The sections below outline the main characteristics and modes of implementation of justice systems in Kiribati and Vanuatu that perpetuate their misalignment with the goals of women seeking help for family violence.

30.1 State justice system characteristics

- State resources are mainly invested in means of punishment of perpetrators.
- Few resources are invested in culturally relevant community- or corrections-based programs designed to reduce violence, use of addictive substances, or improve family relationships.
- State criminal justice processes marginalise the power and needs of victim-survivors, limit their control over outcomes and often deliver the opposite of what they want.
- States do not provide a financial safety net for victim-survivors needing to live separately from their partners. Maintenance orders depend on the perpetrator's compliance and having means to support his family.
- States invest insufficiently in sustainable livelihood options for female-headed households and for women vulnerable to family violence (preventative social protection measures).

30.2 State justice system implementation

- Weak coverage of police and courts in remote and rural areas: lack of mobile services, poor management of transportation assets, lack of information and services accessible via telephone or internet.
- Slow or patchy interventions, limiting deterrence of violence.
- Unreliable police response and low accountability, undermining victim-survivors' trust and confidence in the system.
- Too few female police and lower court justices in remote and rural locations.
- Underutilisation of protection orders.
- Insufficient state investment in informing communities about protection orders.
- Rural and remote communities have poor access to protection orders.

30.3 Customary justice system characteristics

- Unfair to women due to their basis in cultural norms that privilege men and male heads of households and tolerate use of family violence.
- Outcomes are ineffective in stopping violence due to lack of condemnation of such behaviour and tendency to attribute shared responsibility.

30.4 Customary justice system implementation

- Local but often inaccessible due to fees, need for family representation, and inability for women to participate meaningfully – to speak, be heard and for weight to be given to their views.
- In some places, village chiefs are unwilling to become involved in family violence cases.
- The quality and legitimacy of customary authorities varies widely, as does their accountability for operating fairly (especially for women).
- Poor enforcement or follow-up of decisions; repeated approaches are discouraged.

30.5 Religious justice systems

- Biblical frameworks hold that wives must obey and forgive their husbands for violence and that families should strive to remain intact at all costs.
- Religious norms align closely with dominant norms in customary systems, creating considerable social pressure on victims to tolerate and normalise violence.

PART D: COMMUNITY-BASED MODELS FOR CHANGE

Part D of this report discusses a range of strategies, options and assesses various approaches for community-based models for tackling family violence that have been piloted or implemented across the Pacific, including in Samoa, Vanuatu, Solomon Islands and Papua New Guinea.

A common element of these is they are 'grass-roots up' and self-driven by local community or village level change processes, offering more ethical and sustainable approaches for change. Several also involve attempts to draw upon existing local governance structures while also introducing a blend or hybrid mix of state-customary elements to these existing structures to create greater diversity of leaders and participants, and greater coherence across state and customary systems. As with all parts of this paper, these approaches are assessed from the perspective of the degree to which they can deliver the outcomes that Pacific women seek from justice processes.

31. Mapping and assessing approaches for change

Given the findings that better response to the protection and justice needs of women requires coordinated change across all elements of Pacific justice ecosystems, the following subsections:

- Identify options for community-level change, framed as "transformative justice" approaches
- Describe and assess the main community-based strategies and efforts across the Pacific region aimed at creating better local responses to the security and justice needs of women
- Identify how state justice priorities should be reordered to respond to women's justice needs with a focus on rehabilitation programs designed to change the beliefs and behaviours of family violence perpetrators and/or reduce their drug and alcohol use.

This review of women's access to justice in Vanuatu and Kiribati, which also considered experiences in some other Pacific countries, highlights how plural justice ecosystems present multiple and layered barriers. However, plural systems also offer options for expanding and building women's access to justice. For women in rural and remote locations, change is only helpful and relevant if it is experienced at the village level. Creative innovations are needed across all justice elements, including how they inter-relate, because this is how women and other community members experience justice in practice.

Margaret Jolly, renowned anthropologist and global expert on gender in the Pacific, argues that inclusive processes, ensuring participation not only of women but youth, are needed to challenge the self-perpetuating power systems of customary law processes.

> I ask what is the model and the value of "community" being evoked and how far is this a value for all, or rather reflects dominant voices? [...] how might gender and age be seen as integral to such processes of restorative or, better, transformative justice?[304]

[304] Jolly, M. 'Epilogue – some thoughts on restorative justice and gender', loc. cit., n 120 p.268.

> Best practice in contemporary restorative justice in the Pacific seems to me not so much a recuperation of pre-colonial forms of conflict resolution but the creative connection of indigenous and introduced forms […] The mediators involved in these processes are importantly not just older men or chiefs, but also younger men and women.[305]
>
> There does seem to be a promise of new forms of restorative justice for women, especially if this becomes a transformative justice which not only deals with women more fairly as victims (or offenders!) but also acknowledges women's particular capacities as peacemakers and mediators.[306]

Many Pacific communities are working towards accelerating change in customary and religious justice systems to increase their inclusivity while maintaining their cultural integrity, authority and legitimacy. They involve a range of actors and strategies, including customary and religious justice actors, women's organisations and other civil society actors, legal aid services and local government actors. They share understanding of the need to work at a grassroots level to achieve the desired change and impact. Notably, except for hybrid justice actors, state justice actors are largely absent from these efforts – a key target for change. Four change strategies are identified and discussed below.

- **Strategy 1:** Create inclusion opportunities in new bodies added on to existing village governance, justice and security mechanisms and blend in state justice elements. This will enable a wider range of village members to participate, be consulted and/or make decisions as part of, or alongside, customary systems for village safety.
- **Strategy 2:** Introduce village/area-level "navigators" to guide people through the local justice ecosystem to get the outcomes they need.
- **Strategy 3:** Reframe or reinterpret customary or religious norms in ways that contest GBV through community engagement and awareness raising.
- **Strategy 4:** Support dialogue, knowledge exchange and relationship building within and between justice systems to improve alignment and coordination. Support customary and religious actors to identify and share existing good practices for increasing gender responsiveness and fairness. Promote dialogue between women's organisations, customary, religious and other community leaders, local government and higher-level state justice actors, to coordinate plural justice system responses to family and sexual violence.

Examples of each of these strategies being implemented across the Pacific are discussed below.

32. Strategy 1: Create inclusion opportunities in new bodies added on to existing village governance, justice and security mechanisms

Many Pacific countries have village-level committee governance structures that are key to forming and maintaining cultural norms that affect FDV. Some of these bodies are invested with state powers, such as to issue and enforce bylaws.[307] These can form the backbone for

[305] Ibid., p. 270.

[306] Ibid., p.273.

[307] For example, village *fono* in Samoa have statutory power to issue and enforce bylaws.

more inclusive and diverse village bodies that can improve community security and justice mechanisms.

32.1 Samoa: Village Family Safety Committees

In Samoa, six villages, in partnership with the Ombudsman and a women's organisation, developed village family safety committees (VFSCs) as adjuncts to their existing village committees (the village *fono*[308]). Their aim was to reduce GBV and other forms of community violence, such as bullying, threats and violence between youth. Advocacy from the village *fono*, churches and major family groups in communities is crucial in reducing family violence, because their members have influence and understand the context.[309]

> It has brought together all the different organs of the village namely, the council of chiefs, daughters of the village (*nu'u o sa'oao*), *faletua ma tausi* (wives of chiefs and orators), untitled men and women (*nu'u o aumaga*).[310]

The strategy is modelled on the *Fa'a Samoa*[311], which uses a culturally responsive approach to empower village leaders and members to be the vanguards of FDV prevention. A pilot project established VFSCs comprised of male village *fono* members and other men and women, who participated in intensive awareness-raising sessions. Simultaneously, participatory dialogues were held for women and other less powerful social groups. Under the auspices of the village councils, the VFSCs developed safety plans through consultation with everyone in the village, including women and girls, people with disabilities and *fa'afafine* (LGBTIQ-identifying people). These consultations identified safe (confidential) ways for villagers who experience or witness violence to report it and access support. They also resulted in responses and penalties that village *fono* can apply to support victims of violence and punish and deter offenders (respectively). The VFSCs ran their own awareness-raising activities and refer victims to specialised support services and to police if necessary.

The result of the pilot was development of a community pact consisting of agreed-upon bylaws covering violence, including family violence, bullying, conflicts between youths. In addition, the VFSCs promoted positive parenting skills. In Taga village:

> The VFSC admitted that there were many different views about the programme in the beginning and it was not easy. However, at the end of the programme, there was a noticeable major change in the village because the village council stood firm in enforcing the bylaws and punishing those who did not follow the village rules. The village council members present at the time, who are also the key decision-makers for the village, gave the assurance that it is their responsibility to continue enforcing their recently developed village bylaws, to ensure that their village is violence free.[312]

In Vaie'e village:

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[308] Whose structure and authority is recognised by the State in the *Village Fono Act 1990*, see http://www.paclii.org/ws/legis/consol_act_2020/vfa1990128/.

[309] Luamanuvao Katalaina Sapolu, Ombudsman, in foreword p4, '*Talanoa Toolkit*' available at: https://www.ombudsman.gov.ws/wp-content/uploads/2022/10/FINAL-A4-VBA-Toolkit-ENGLISH-comprehensive-version-print-WEB.pdf.

[310] See UNDP '*Piloting the Village Family Safety Committee Program*', October 2022, available at: www.undp.org/samoa/stories/piloting-village-family-safety-committee-programme.

[311] The traditional/customary way of life in Samoan culture.

[312] UNDP, loc. cit. n 310.

> The awareness is at grassroots level, made up of four groups, whose members are actively keeping an eye out and have been trained to counsel and to remind people that DV [domestic violence] is against the law. The people are aware of how to access a protection order when required and where to seek help. As part of the day-to-day work, the VFSC have normalized this responsibility and are able to speak to people of the village on issues of DV and its consequences. They also remind the village that violence in our families if it can be eliminated, brings peace within the family. From your family, this peace can extend to the village. In addition, there are penalties [up to 2,000 tala; NZD1220] that the Vaie'e committee had instilled as part of the village bylaws.[313]

Four other Samoan village councils with safety committees have passed enforceable village bylaws with fines of up to 2000 tala for breaches. According to evaluations of this pilot project, since enactment of the bylaws, the number of reported family violence cases has decreased drastically.[314] Hence, this approach – based on inclusive community engagement backed up with local accountability of perpetrators through customary authority – appears promising in preventing family and other violence. It requires customary authorities with strong community legitimacy, who are open to changing community standards and involving the community in doing so, and willing to apply standards and penalties to people irrespective of power or status.[315] Consultative development of rules is also an effective way of increasing transparency and accountability in the exercise of customary power.

Another key to the success of this model is that it is managed and implemented at a village level but supported by both state (notably, the Ombudsman) and non-state national actors. The SVSG offered expertise based on years of responding to family violence and working to change community attitudes.[316] The pilot highlights the importance of broad collaboration to develop approaches for ensuring community safety and driving cultural change to reduce tolerance of family violence.

The pilot generated some very helpful resources that can guide other communities along a similar course. The Talanoa Toolkit[317] is a Samoa-specific resource that contains key messages that challenge practices and debunk myths and beliefs that normalise and perpetrate family violence. The Ombudsman also produced a separate "lessons learned" document and guide for other villages interested in establishing VFSCs.[318]

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[313] Ibid.

[314] Whether "reduced violence" means reduced incidence, and not suppressed reporting, should be investigated. For further information see ibid.; see also media release by the Samoan Ombudsman (National Human Rights Institution), and UNDP video.

[315] For further information see UNDP (2022), loc. cit. n 290. See also media release by the Samoan Ombudsman (National Human Rights Institution, UNDP video and UN Women Samoa Country Summary, June 2022, https://asiapacific.unwomen.org/sites/default/files/2022-06/4-Samoa-Country-Summary-FINAL-21.06.22.pdf.

[316] See Section48.4 of this report for further information about the SVSG's strategies. It also received financial and technical support from UN Women.

[317] Ombudsman, NHRI Samoa, loc. cit. n 309.

[318] Emphasising that that guide is not intended to be a template, but villages may adopt and amend the guide to what best suits their village settings, needs and structures. Available https://www.ombudsman.gov.ws/wp-content/uploads/2022/10/VFSC-set-up-TOOLKIT-A5-english.pdf.

32.2 Solomon Islands: Safe Families program

In 2015 a Safe Families program was established in the Solomon Islands in Malaita Province (Gwailiki and Lilisiana).[319] Family violence prevention and response action committees (FVPRACs) were formed, and village-level communities were supported to develop their own action plans, outlining their priorities for preventing and responding to family and sexual violence. FVPRAC committees were supported by community engagement facilitators who provided awareness raising, guidance and support. Provincial alliance networks established in Malaita and Temotu, comprised of staff from the provincial government, police, hospitals, welfare offices, and women's organisations, also supported the FVPRACs with advice.[320]

Prior to Safe Families, family-related troubles were mediated exclusively by village chiefs. Since the introduction of Safe Families, FVPRAC members have input to chiefly mediation processes, monitor reported cases of violence, and intervene appropriately. This more inclusive and diverse body that sits alongside and supports the customary process with its own inputs effectively creates a power-sharing arrangement with chiefs.

The initial phase of Safe Families (2015–18) was evaluated favourably.[321] While it was unable to verify a decrease in family violence, it documented greater community awareness of violence against women, change in some attitudes and behaviours, increased confidence of victims and others to talk about family violence as a problem, and strengthened local collective response to family violence through the work of the provincial alliances. The program was expanded for a further three years (2019–22) to 10 more Malaitan communities and to 12 communities in Temotu Province.[322]

32.3 Vanuatu: Community Safety Team

This model is an initiative of the VPF's community policing program and is supported by the New Zealand community policing program.[323] It involves establishment of community safety teams (CSTs), which support village chiefs, trained and supported by the VPF. To date, CSTs have been rolled out in nine locations across Vanuatu.[324] Each CST is comprised of volunteer selected by the Area Council of Chiefs to work within their communities and with their village-level chiefs to keep the peace and resolve problems. The CSTs are designed to:

- Assist DFV victims
- Prevent crime and motor vehicle accidents

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[319] Implemented by Oxfam in 2015, with DFAT funding since 2018.

[320] Homan, S., Honda, T., Leung, L., Fulu, E., Fisher, J *'Transforming Harmful Gender Norms in the Solomon Islands: A Study of the Oxfam Safe Families Program',* 2019, Monash University Equality Institute available here. See also The Equality Institute, Monash University, Oxfam, Oxfam Solomon Islands, 'Transforming Harmful Gender Norms in the Solomon Islands: A Study of the Oxfam Safe Families Program', Women in Asia Conference 21-22 June 2019, available here.

[321] Ibid.

[322] Area 4, BANEPA, Banie, Banua, Malo, Manoputi, Miner, Minevi, Nella, Nemba, Noepe and Venga.

[323] See *'Villagers welcome community policing graduates'* December 2023, Radio New Zealand, Available at: https://www.rnz.co.nz/international/pacific-news/504640/villagers-welcome-community-policing-graduates

[324] The nine locations where CSTs have been established since 2022 and were in place as of May 2024 are: Central Pentecost, South Pentecost, Torres Island, North West Espiritu Santo, East Espiritu Santo, South Espiritu Santo, South East Tanna, Ifira and Maewo.

- Resolve conflicts
- Solve repeated crime issues
- Increase communities' perceptions of safety and reduce fear of crime
- Report serious offending to the VPF
- Assist communities during emergencies and disasters.[325]

Community safety teams members do not have police training or powers but may investigate breaches of bylaws and encourage people to attend *Nakamal* dispute resolution processes to deal with bylaw breaches or other community problems. A VPF officer visits the community approximately fortnightly to support the CST by review reports, activities and community responses to the CST's work. A further innovation is that the CST is accountable to a local standards committee comprised of other local community members. The standards committee investigates reports that CST members have not acted in accordance with their values or ethics and advises the Village Council.

The CST workbook sets out principles for the establishment of community bylaws, noting that these are not recognised under state law and thus cannot be enforced by police or other parts of the state justice system. They are:

- Transparency: Any villager should be able to access and read the rules
- Accountability: Bylaws clearly state the rules to preserve peace and safety in the village
- Consistency: The maximum fine is stated and set at a level that people can pay
- Bridge *kastom* and formal justice: The bylaws specify *kastom* penalties for serious offences but also stipulate that the matter must be reported to police. *Kastom* penalties for serious offences allow the suspect or their family to repair some of the harm, while allowing for formal justice
- Chiefs should ensure that villagers have timely and equal access to justice, including people accused of breaking the rules, and the right to live in a harmonious and a peaceful community
- Community leaders and chiefs create bylaws to maintain peace and safety[326]
- Fines payable to Paramount Chiefs on top of Area Bylaw fines should be discouraged because they undermine the integrity of subordinate village bylaws; CSTs must not become involved in enforcing such *kastom* fines.

A person cannot be forced to pay a fine for breaching a bylaw. However, if the behaviour is a breach of state criminal law it can be referred to police for investigation. If the bylaw breach is civil in nature or if the person breaches repeatedly, the CST can do little beyond referring the case to the VPF Coordinator to "look for other ways to change the person's behaviour."[327] The CST workbook also discusses the *Nakamal* process, describing it as a "court" and as offering an alternative to state justice. However, it emphasises that a *Nakamal* can only be used if the offender admits their offending and is willing to be held accountable.

> Nakamal Courts do not have the power to compel people to pay fines or force people to attend. Offenders must be invited to attend the Nakamal Court and willingly take part in the process. Having the ability to send the case to National

[325] See Vanuatu Police Force Community Safety Team Workbook, p.14, held on file.

[326] However, the workbook does not specify a need for any inclusive community consultation process – a lost opportunity to address existing gender exclusion and local power hierarchies.

[327] See Vanuatu Police Force Community Safety Team Workbook, loc. cit. n 321, p.24.

> Police allows people to see the importance and values of the rules placed and enforced inside the community. The chiefs, community leaders and Community Safety Teams should always share ideas on maintaining the integrity of their area bylaws.[328]

Like other VSCs, the CST sits alongside and supports village chiefs. However, it has a relatively formalised role and structure, including training provided by police and a uniform, so it is likely perceived more as an authority than an advisory body. In addition, the CST seeks to have an impact on wider governance and justice processes through specific roles for CST members in the *Nakamal* process. Notably, the case presenter sets out the charges relating to the breached bylaw and the evidence, encourages the accused person to admit guilt, records the findings of the *Nakamal* and files a record of the case. Thus the CST adds many features from the state justice system to the *Nakamal* process in an ambitious effort to align local government and chief-led governance at the village level. No published information indicates how chiefs or others have reacted to these modifications to the *Nakamal* process.

A CST amplifies the power of the local chief, providing him with more resources for managing the security of the community. The VPF Community Safety Team workbook specifies that CST members "must be of good character and should reflect diversity including gender," but includes no standards or quotas.[329] While anecdotal evidence suggests some chiefs have invited women to join CSTs, many CSTs (including the one the researcher visited) have no female members.

Importantly, CSTs must not investigate domestic violence and other serious offences but report them to the VPF.[330] However given the common practice of chiefly resolution of cases involving rape, incest, sexual abuse and family violence (detailed in this study), the degree to which this instruction is likely to be followed in practice remains unknown. This area of CST practice requires independent monitoring because the CST standards committee – comprised of local community members – may lack have the social standing to monitor and report the CST or the chief.

32.4 Women's experiences and insights about gender and other inclusive processes for community safety models

Ni-Vanuatu women in the village visited shared that all CST members were men, selected by the chief. While they were satisfied with the men selected, they would have preferred the community to have a say and for women to be included, given that family and sexual violence are the largest threats to community security and disproportionately affect women and girls. A more inclusive and diverse CST would be a significant advance in female representation; women (and youth) are not represented in any other aspects of village governance. Throughout Vanuatu, women are never village chiefs, paramount chiefs, on area councils of chiefs, and barely present in area councils. Strong representation of women

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[328] Ibid, p.25.

[329] ibid, p. 10.

[330] ibid. The workbook states "Should a serious crime be reported or discovered (e.g. domestic violence, injury assault, sexual offending, death etc.) the Community Safety Team is not to investigate the offence. The role of the CST is to report the matter to the VPF and keep everyone safe until the VPF arrive. Upon arrival of VPF staff, the CST should comply with directions from VPF officers including requests for assistance" (p. 17). At p. 19 a list of case types CSTs cannot investigate includes deaths, serious injury, domestic violence, sexual offences, serious assault, witchcraft (by poisoning) and land disputes.

in CSTs is also intended to support community preparedness for natural disasters, which are unfortunately common in Vanuatu. Vulnerable community members, including women, frequently go without the support they require during emergencies, despite their higher needs.

These issues of gender balance and wider community inclusion are central to other VSC models. Chiefs in other contexts have accepted them, sharing power across a wider cross-section of community members, thereby adding to their legitimacy. For example, VWC members sit on the Council of Chiefs in Malekula and participate as full members, adjudicating on all case types, including those involving women parties.[331]

However while hybrid local-state bodies of this kind can certainly strengthen the coherence and consistency of community-state governance, it is also important to acknowledge risks that creating new bodies that empower and resource the chief may also reinforce power structures that marginalise women, youth and other less powerful social groups. This is not to say that it cannot or should not be done, but it needs to be done carefully. As policing experts note:

> The unequal gender dynamic between DFV victims who are women and the male dominated policing, customary and religious institutions can become reinforced rather than explicitly challenged depending on how these innovations are practiced [sic] "on the ground."[332]

While CST members are unpaid, the program offers them training and leadership opportunities, an increase in community power and status including through symbolic measures such as uniforms, and through close association with the village chief. The privilege of being a CST member should be allocated contingent on being willing to foster gender equality, inclusiveness and social mobility.

Initiatives that seek to enable marginalised groups to participate, such as in developing and upholding bylaws, can drive wider community change. Local actors must work closely with chiefs and other power holders to convince them of the benefits of including women, youth and others in their CSTs. Including more women in CSTs will improve their effectiveness by increasing access for women in need. It would also enable women to participate in developing community bylaws, support other women in community dispute resolution processes, and erode the deeply patriarchal nature of existing community governance mechanisms in Kiribati and Vanuatu.

32.5 Papua New Guinea: Komuniti Lo Program

Voices For Change is an organisation in PNG working to empower and mobilise rural women to take leadership in preventing GBV and increasing women's economic empowerment. Its Komuniti Lo (Community Law) program[333] commenced with training community law enforcers (police, village court magistrates, ward counsellors, community

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[331] The Policing and Justice Support Program (Vanuatu) loc. cit. n 71, pp. 127–128.

[332] George, N. 'Policing "conjugal order": gender, hybridity and vernacular security in Fiji', April 2017, *International Feminist Journal of Politics* 19(1), pp.55-70.

[333] Supported by the International Women's Development Agency (IWDA). For further background on evidence-base for programme see: Voice for Change (2013) *Community Survey: Violence against women and girls in Jiwaka Province, Papua New Guinea,* available at: http://www.voiceforchange.ngo/images/publications/VfC_VAWG_Community_Survey_Report2015.pdf.

leaders, women and youth) on themes such as GBV, human rights, conflict prevention and peace building. Subsequently, some participants decided that they should establish village rules and penalties for their breach.

Participating villages were supported to undertake a highly inclusive consultation process to articulate community rules about harmful behaviours. The process included discussing the scope of behaviours to cover (criminal cases required to be reported to police were excluded)[334] and by securing agreement on the penalties for breaching the rules, including for the first and subsequent times. A group of community members known as Lo Komiti are responsible for ensuring that Komuniti Lo rules are followed. A person who fails to follow a Komuniti Lo rule will be reprimanded by members of the Lo Komiti or another community leader.

> He is no longer free as there will now be resistance "*tok cros*" [reprimand]. Lo Komiti will continually do awareness on the rules contained in the Komuniti Lo so that people will follow it. And the Lo Komiti will use existing laws to enforce the rules in the Komuniti Lo. Lo Komiti takes up the responsibility to stop bad conducts and practices in the community and encourage good conducts.[335]

Some harmful behaviours within the scope of Komuniti Lo identified by three communities in Jiwaka Province were:

> There is the rise in the practice of marrying very young girls to a man that already has another wife. There is the practice of resolving disputes through fighting that causes a lot of destruction. The practice of calling someone "Sanguma" and attacking a person causes destruction and loss of life in communities. There is the practice of bringing guns into the community. There is the practice of domestic violence.[336]

The Komuniti Lo rules were assessed against PNG's laws, approved, and launched in December 2016. Komuniti Lo includes a process for referring cases of multiple breaches to village courts (hybrid local courts recognised by state law). No further results of this initiative are available.

Several other South Pacific approaches designed to help local communities articulate their customs and community rules were discussed and presented at the ANU College of Asia and Pacific conference *Codification and Creation of Community and Customary Laws in the South Pacific and Beyond* (26–27 July 2018).[337] Case studies presented highlighted the diverse motives, scale and forms of Pacific customary codification exercises with some initiated by and limited to local communities; others led by national law reform commissions or national councils of chiefs; some provided for in legislation and others not linked at all to state authority. Purposes of customary codification exercises included for conservation of customary law, community problem solving, to develop links with state law or underlying law, or to support development of blended laws or improved coherence between plural legal orders, with higher-order aims of such exercises to support conflict

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[334] How defined is unclear, given several of the case categories listed are criminal matters. BeSoer, L., Kolts Wusik, J. (2018), Voices for Change, (2018) *Community Laws by 3 Communities in Jiwaka*, available here.

[335] Ibid.

[336] Ibid.

[337] Recorded conference proceedings are available at https://regnet.anu.edu.au/news-events/podcasts/audio/7267/codification-conference-july-2018-day-1-session-2-community-law.

management, engaging with legal pluralism, community governance and addressing gender-based violence.[338]

32.6 Papua New Guinea: The Gor Community Base Laws – United Nauro Gor

Religious and village leaders wrote the Gor Community Base Laws, used to counter violence related to accusations of sorcery, enacted in 2006. They conducted an extensive and inclusive consultation process with the men, women and children of Gor, Simbu Province, to decide what the rules should be and the penalties for breaching them. A group known as United Nauro Gor was elected to draft a final version of the laws (which received formal endorsement across the community) and take ongoing responsibility for their implementation. A memorandum of understanding (MoU) between the Royal Papua New Guinea Constabulary and Simbu Administration was then signed.

> The laws were presented to the people by their village chief, Bruno. The people in the community agreed to follow the laws. At first nothing happened. However, after the implementation of the Gor police the executives had a meeting and Bruno told them that the community law was working. The people in the community are now aware and have agreed that accusing someone of practising sorcery and rape are criminal cases. They won't accept compensation (which is the traditional law) but will bring the culprit to justice. [339]

After the laws were implemented, the MoU was extended. The Royal Papua New Guinea Constabulary recruited young men and women from the community as auxiliary police to enforce the laws. The state supported these initiatives by training local police, assigning a senior sergeant, and providing local police with a police car to enhance enforcement.[340]

The project was assessed a success on many levels.[341] First and foremost, sorcery-accusation related violence ceased in Gor. This was a major achievement given that this issue involves deeply embedded community beliefs and has proved resistant to conventional rule-of-law approaches. Local people developed their own laws through community organisation and agreement, building new leadership and trust in a community out of reach of state justice. The people elected to the United Nauro Gor Executive were responsible and willing to work for the community. The laws were seen as legitimate because they were based on an extensive community process.

The community policing model eventually proved unsustainable due to the non-payment of salaries. In addition, it would be preferable for official police to undertake enforcement work, because civilian policing risks vigilantism and erosion of the rule of law. Ironically, lack of resources was the reason why members of the community resorted to providing policing services in the first place. Nonetheless, as described above, the initiative had many positive effects.

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[338] Dinnen, S. Community Law-Making and the Codification of Customary Laws, ANU Department of Pacific Affairs, New Currents In Brief 2018/18, athttps://openresearch-repository.anu.edu.au/server/api/core/bitstreams/ba818c72-61e1-49d8-82cb-0739fdb3231d/content.

[339] Bal, C. Kumo Koimbo, Accounts and Responses to Witchcraft in Gor, Simbu Province, Chapter 16, p299 in Forsyth, M., & Eves, R. (2015). Talking it through: Responses to sorcery and witchcraft beliefs and practices in Melanesia, ANU Press, p. 303.

[340] ibid., p. 299.

[341] ibid., pp. 304–305.

Suggestions for village safety committee initiatives

- Work with local actors to assess feasibility prior to establishing new VSCs.
- Limit establishment of VSCs to communities where the existing leaders enjoy strong legitimacy and trust and are willing to champion diversity.
- Introduce the VSC concept as being predicated on a need for an all-of-community approach, which requires diverse committee composition for response to the safety needs of all community members, including marginalised social groups.
- If needed, engage with existing authorities to build support for diverse VSC composition as a core element of its strength, effectiveness and legitimacy.
- Require that VSCs include a minimum of 40% women members and at least one woman on each standards committee. Offer women participants additional training, ongoing mentoring and peer-to-peer support to grow their influence and authority.
- Given the findings that teenage girls are the least secure community members, VSCs should be designed with accessibility for teenage girls in mind. For example, there need to be young women members of VSCs and young women who are assigned reporting focal points for VSCs to make it easier for young women to approach and report their cases.
- Empower VSCs to support women and girls complaining of family violence and sexual violence. Support should cover immediate protection and temporary accommodation; reporting to police and obtaining assistance from local women's organisations, public solicitor, or church-based women's committees; *Nakamal* or other customary hearing .
- Encourage VSC members to raise community awareness about how it handles reports of serious crimes, including allegations of family and sexual violence (with separate sessions run by female members for women and girls to increase their participation in discussion).
- Include information in VSC community awareness sessions about family protection orders and how to access them via local authorised persons, island court justices or telephoning a magistrates court, and how to get help from police and make a criminal complaint.
- Evaluate the impacts of VSCs on the participation and empowerment of women, youth and other marginalised social groups. Analyse these groups' perceptions and experiences of accessing the VSC and any subsequent customary justice or police processes.
- Monitor and report on how VSC/chiefly processes respond to reports of domestic violence and other serious crimes, their compliance with requirements to report them to police, and how they keep the peace and support victims while state justice proceeds.

33. Case study: Community-based justice and state protection mechanisms working together

In one community visited in Vanuatu, a combination of justice services were in place that blended state and customary justice systems at the village level, making it a good place to ask women for their thoughts on how these mechanisms, individually and together, impacted on their safety and access to justice. The four justice services available in this village were:

- **Authorised Persons:** Lay community members appointed under the *Family Protection Act* with jurisdiction to issue temporary protection orders. They also accompany victims to the police and follow-up on police investigations and progress of cases, [342] cooperating closely with chiefs
- **Rotating community police:** Rotations of VPF officers occur every few weeks, initially to show a visible policing presence in support of the AP and to provide follow up support for complainants
- **Community Safety Team:** As discussed above, the CST is a VPF innovation aimed at improving security and justice in villages throughout Vanuatu
- **Island Court:** The village chief in this location was an appointed island court justice, so the community had good access to information about the island court and the case types and assistance available. His dual authority also enabled close coordination between customary justice and island court processes.

33.1 Authorised Persons pilot

The Authorised Persons pilot, established in 2017 in two areas of Espiritu Santo by the Ministry of Justice with support from the Vanuatu Policing and Justice Program, demonstrated that the AP model gives victims an accessible way to secure police assistance and temporary protection orders while reducing family violence in communities. APs are being progressively appointed across Vanuatu, prioritising remote locations where court access is poor. As of 2023 10 APs had been appointed in Espiritu Santo and another 15 in Malekula. APs are unpaid but receive funds to cover transportation and other support costs for themselves and for accompanying victim-survivors to police, hospitals, courts, or other locations. A 24/7 helpdesk in Port Vila is staffed with skilled and experienced advisors who can support APs by telephone in difficult cases and coordinate support in emergency situations.

While significant logistical challenges remain, the women in the community visited were adamant that the AP's work was reducing family violence in the community substantially. He supported victims and helped them access police and pressed the police to follow their own procedures. Community police visit communities every couple of months to have a visible policing presence and to support APs in their work supporting follow up for family violence complainants.

This Ministry of Justice program supported by the Vanuatu Policing and Justice Program produced a 7-part audio radio series for chiefs on *kastom* and the law, and family and sexual violence, after finding low levels of literacy. The impact of the radio series on the attitudes of chiefs in multiple locations was then assessed. Some chiefs saw state law and the *Family*

[342] The AP function is part of a pilot under the auspices of the Ministry of Justice supported by the Vanuatu-Australia Policing and Justice Program, as are community police rotations through remote locations.

Protection Act as eroding their power and undermining *kastom*, but overall the assessment found increased understanding of and support by chiefs for state law in their villages.

33.2 Women's views and reflections on community-level protection and justice

Ni-Vanuatu women in the village visited felt that the combination of the four measures in place – an AP, community policing rotations, an island court justice and a CST – was reducing family violence and improving the safety and governance of the community. They believed that the proactive and courageous work of the AP in assisting victims to lodge police complaints, even when cases involved senior men in the village, and then following up with the police to ensure that alleged perpetrators were investigated, had been particularly useful. They observed that this work had resulted in some men in the village being held accountable for their violence, which according to women in the village had started to change other men's mentality and reduce the frequency and severity of violence in families in their village.

Women from the village were also delighted to have an occasional police presence in their community, the first since national independence 45 years ago. They liked the community police's proactive and inclusive approach, not just talking to the village chief but everyone, which made it easy and inconspicuous for women to raise security concerns. They were also pleased to have a CST, which had been in place for around 12 months before the researcher visited in late 2023, but would like it to include women, because women and girls had the greatest safety concerns.

Women believed this combination of state and customary community safety mechanisms was reducing family violence. They thought the most important aspect was that these mechanisms had a presence in the village. They also thought it was important that each mechanism drew on customary and wider community authority combined with state authority, which made them all more familiar and less intimidating. The fact that the state actors performing these roles were people from the community, rather than outsiders, facilitated this familiarity. These are key observations that could underpin principles for investment in community safety and justice initiatives, including those aimed at reducing family and sexual violence.

While the four mechanisms present in this village were judged to be effective, they could be enhanced if they involved more diverse participants, women in particular. As noted earlier, all the actors involved in these mechanisms in this village when visited – the AP, the village chief/island court justice, the entire CST and the community police – were male. Overcoming these inclusion and gender deficits should be prioritised when establishing new local security or justice mechanisms to make them accessible to a wider range of villagers and increase gender equality.

This combination of local blended security and justice mechanisms, along with telephone-based procedures for family protection orders and more active and mobile island courts, and gender and socially inclusive strategies for diverse representation and wide participation in their design and implementation, may be a model applicable to other remote communities in Vanuatu. It may also offer important lessons for similar services in other remote locations in the Pacific.

Cost is an inevitable hurdle to provision of justice in remote locations. One benefit of the mechanisms described above is that many of the people involved perform their roles voluntarily or for negligible payment (except for the salaried community police, and the village chief who receives fees). Thus, greater but still modest government expenditure on

local justice and security services would enable many more remote locations to benefit from these low-cost mechanisms, as discussed in sections 43 and 44, Part E.

34. Strategy 2: Introduce navigators to help people through the local justice ecosystem

34.1 Community paralegal/legal advocates

Community-based paralegals (sometimes termed "barefoot lawyers") provide effective, efficient and sustainable improvements in people-centred justice, including for women.[343] These include building agency, providing greater access to legal remedies, resolving more disputes, increasing accountability in customary, religious and state justice systems, leveraging positive outcomes in health and education, and improving state law, policy and practice. They are particularly effective in reducing power disparities between parties,[344] and improving the function of customary mechanisms by empowering women and other non-elites to utilise state law and justice systems.[345]

Most community paralegal models rely upon selecting approachable and trusted people and providing them with basic legal training and guidance. Their functions may vary from place to place, but they typically raise awareness and advise about ways for community members to resolve legal problems. Some provide mediation or advocacy support directly to disputing parties or support customary, religious or other community-based justice providers to improve the fairness of their processes.

Community paralegals can be gamechangers in increasing community access to justice, especially for women and other vulnerable groups. Their strengths flow from their presence in communities, the level where justice problems arise, and their ability to encourage state, customary and other justice actors to operate promptly and fairly. Due to their proven effectiveness and low cost, paralegals have become a feature of many customary/religious justice interventions worldwide.[346]

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[343] For an analysis of results of legal empowerment efforts delivered by paralegals across 199 studies, with 90 demonstrating effective results, see Goodwin, L. and Maru, V. (2014) *What do we know about legal empowerment? Mapping the evidence.* Namati Working Paper, available at: https://link.springer.com/article/10.1007/s40803-016-0047-5 . See also See IDLO (2021) *Navigating Complex Pathways to Justice: Community Paralegals and Customary And Informal Justice,* available at https://www.idlo.int/publications/community-paralegals-and-customary-and-informal-justice; Namati, Community-based paralegals: a practitioner's guide, 2010, https://namati.org/wp-content/uploads/2012/01/Paralegal-Guide-OSI.pdf.

[344] Maru, V. and Gauri, V. (2018) Paralegals in comparative perspective: what have we learned across these six countries?', in V. Maru and V. Gauri (eds) Community paralegals and the pursuit of justice. Cambridge: Cambridge University Press.

[345] As discussed in Golub, S. (2014) *Mitigating corruption in informal justice systems: NGO experiences in Bangladesh and Sierra Leone*, p2, U4 Brief 2014:1. Bergen: U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute, available at: https://www.u4.no/publications/mitigating-corruption-in-informal-justice-systems-ngo-experiences-in-bangladesh-and-sierra-leone. See also Asia Development Bank and The Asia Foundation *Legal Empowerment for Women and Disadvantaged Groups*, 2009, available at: https://www.adb.org/sites/default/files/publication/29170/legal-empowerment.pdf.

[346] IDLO Community Paralegals and Customary and Informal Justice, 31 August 2021, n 343.

Efforts to move community justice approaches in the Pacific in this direction are nascent, due to a lack of resourcing of legal aid and community justice initiatives.[347] The only community paralegal program identified in this research was in the Solomon Islands (discussed below), but the People's Lawyer in Kiribati has indicated that it plans to establish a similar model.

34.2 Solomon Islands: Legal aid-attached paralegals

Several Pacific countries have public legal aid services that provide free legal representation to poor people and run legal education and awareness-raising activities.[348] Like courts, they often struggle to reach remote and rural populations and are generally very overstretched,[349] with heavy caseloads and little geographic reach beyond capital and provincial offices.

In the Solomon Islands, the Office of the Public Solicitor (PSO) employs 29 lawyers, most based in Honiara, others in Guadalcanal (Honiara), Malaita (Auki), Makira (Kirakira), Temotu (Lata) and Western Province (Gizo). In recent years, with UNDP support, the PSO has employed paralegals (to support lawyers' casework) and community legal advocates (CLAs), who are located in villages and supervised by PSO lawyers based in provincial capitals by telephone.

The CLAs extend the PSO's presence to the community level, linking villages to the state justice system. CLAs work in teams of two, one woman and one man, to provide an accessible entry point to justice systems for all parts of the community. CLAs provide legal information, awareness-raising activities and education on legal rights, mediation and support in processes with village, church and other local justice actors. They refer people to the PSO for high-level advice and to police in cases involving serious issues such as sexual assault and murder. Thus, they play a valuable role in directing cases towards the appropriate state justice systems. A High Court judge and former Public Solicitor for the Solomon Islands shared his view that the CLA program had been the most impactful justice program of any in his 14 years of service.

Community legal advocates' specific duties are to:

- Attend police stations with survivors of GBV
- Refer cases requiring legal representation to PSO lawyers
- Refer people to non-legal support services
- Assist PSO lawyers with legal casework by preparing statements and evidence
- Support community advocacy to solve legal problems
- Deliver community legal education, rights and empowerment presentations, sometimes in collaboration with courts
- Facilitate informal dispute resolution through negotiation, mediation or conciliation between community members.

Community legal advocates are selected from the communities they serve. They require basic literacy and education and have diverse backgrounds – often as teachers, public

[347] Regarding the lack of update for office-based paralegals who work directly alongside lawyers attached to legal aid services, this is more to do with resistance from lawyers who fear that lower cost paralegals will undercut their livelihoods.

[348] For further information on Pacific legal aid systems see Graydon, C. (2020) loc. cit. n 55.

[349] Except for the Fiji Legal Aid Commission.

servants, social workers or health workers. To date CLAs have been based in rural communities within magistrates court circuits in Malaita, Temotu and Western Provinces.

The UNDP has developed a training program for CLAs and refresher courses covering:

- legal system knowledge
- communication skills
- administrative skills
- advocacy
- community education
- engagement with survivors of domestic violence
- engagement with youth, women and people with disabilities
- alternate dispute resolution, including negotiation, mediation and conciliation
- ethics.

While UNDP had intended to expand the CLA program until 2027, as of July 2024 the program had not been renewed. However, the researcher met several CLAs who were continuing to respond to the established community demand for their services, voluntarily and unsupported.

34.3 Provincial government-attached model

The Solomon Islands' Community Governance and Grievance Management Program engages community officers to link state and non-state actors. The program was established in 2014[350] and now operates in six provinces.[351] Community officers are selected through a community consultation process and then employed by the Provincial Government. They are mainly men with prior experience in state or community leadership roles. They communicate community needs to local government and help with tax collection, election notifications, and censuses. They also provide legal information to communities and help resolve disputes via mediation, often involving other community stakeholders such as women's groups, church leaders or chiefs.

While an assessment found that community officers are effective in connecting communities to provincial governments, their contribution to resolving disputes and enhancing access to justice, especially for vulnerable groups, was less clear.[352] Their mixed purposes are not always in harmony and their proximity to supporting local government community engagement reduces their focus on dispute resolution between community members. Evaluations have also found that community officers vary in their approaches to dispute resolution. Some work together with village chiefs, thus offer little differentiation in the type or quality of justice available. Others perform independent mediating roles in resolving disputes between youths and about natural resources.[353]

Lack of gender balance amongst community officers has limited their effectiveness in helping women. Some male community officers have sought support from key women in the community – nurses, church elders or teachers – to assist in cases involving women.

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[350] With the support of the World Bank.

[351] Renbel, Makira-Ulawa, Malaita, Central, Renbel and Makira-Ulawa Provinces.

[352] Najafi,S., Tat, S., Thawani,R., Ullal,S. & Salardi, P, Between State and Nonstate Systems: Access to Justice in Rural Solomon Islands, July 2021, https://reachalliance.org/wp-content/uploads/2021/03/SolomonIslands-Final-Aug13.pdf.

[353] Ibid.

However, there is limited evidence that this approach has increased women's access to protection or justice, with most disputes involving women remaining within customary or religious resolution systems.[354]

The World Bank once supported a similar model in Vanuatu and PNG through the Justice for the Poor Program, but now only supports community officers in Solomon Islands. It is unclear whether former community officers continue to offer help in Vanuatu and PNG.

34.4 Timor-Leste combined model

While Timor-Leste is not in the Pacific region, it has many commonalities with Pacific countries and has invested heavily in strengthening people-centred justice. With UNDP support, the Government of Timor-Leste has piloted a suite of strategies for improving people-centred justice outcomes. The combined model offers mediation, complementary to existing community-based mediation forms, with the possibility of state court enforcement of outcomes, mainly in land cases. However, it focuses on providing state law protection in family violence and other GBV cases, criminal justice processes for increased rights protection, and creating capacity to enforce outcomes from mediated land disputes. These areas were identified as in particular need of reform to improve coherence across Timor-Leste's plural legal system.

In this model, volunteer paralegals managed by a local CSO accompany victims of family violence to community-based Access to Justice Clinics (A2JCs), coordinated jointly by the Public Defender's Office (PDO) and the CSO, or refer family violence cases directly to the prosecutor or police. Paralegals also support village chiefs or other customary authorities to resolve civil cases, collect data for the A2JCs and support legal empowerment outreach campaigns. Paralegals are not mandated to mediate cases; this role is reserved for public defenders within the A2JCs. Most A2JC mediations involve land cases; if mediations are registered with the court, their resolutions can be enforced. Cases mediated at the individuals' initiative are archived with the PDO and can be admissible evidence if a later dispute arises.

Timor-Leste's model has several positive features. It was locally led via a participatory approach, involving a trusted local CSO. Volunteer paralegals' and A2JCs' community-based strengths combine with legal support from the state PDO to help community members to find the best approach. This may be customary resolution, lawyer-supported mediation, or, in the case of GBV, court adjudication within a wider system of survivor support services.

The model provides resulting mediation agreements with an enforceable status under state law and provides good examples of community customary authorities, state justice actors and civil society organisations coming together to form a linked-up system including a referral network. In addition, it includes mobile district courts that ease access to state justice. Most cases heard by the mobile courts are criminal, suggesting that civil cases are largely managed outside of court. Sixty per cent of court cases relate to GBV, which implies that the model is achieving the policy goal of GBV cases being dealt with as criminal matters.

The number of GBV case numbers coming to court remained steady over 2017-2019, suggesting there is continuing demand for this kind of justice. Further assessment is needed to confirm the alignment of Timor-Leste's model with survivors' needs, and the degree to which survivors' are satisfied with the process and its outcomes (such as

[354] Ibid, p.15-16.

preserving relationships, community reintegration, removal of stigma, etc.).[355] A2JC users responded very positively to surveys about outreach and mediation services conducted in 2019, with 85% and 89% either satisfied or strongly satisfied.[356]

The model's design was informed by data from public perceptions surveys on justice and security which have been conducted every two or three years by the Asia Foundation since 2008. The surveys provide baseline and progressive data, enabling tracking of macro-level trends and changes in community perceptions and use of justice and security services in Timor Leste.[357] There are also other robust studies that complement these, including those specifically investigating survivors' justice needs. [358] Access to sound data was essential to the success of the people-centred design of the A2JC service suite.

Some components of the model have been institutionalised, promoting its sustainability. For example, A2JCs are integrated into the PDO under the Public Defender Law, and mediation outcomes can be enforced or admitted as evidence in state courts. The Government provides financial support to some elements of the model, including the mobile courts, and has committed to continuing its support.[359]

34.5 Reflections on strengths of local justice navigation actors

This section highlights the value of training local men and women to help community members navigate local and state justice systems to find the avenue best suited to resolving their problems. Key takeaways from this discussion are that such roles should:

- Be performed at the area or village level and include a balance of men and women who are respected in their communities
- Have links to state justice mechanisms to facilitate escalation of cases, and ability to provide supported referral and accompaniment through state justice processes
- Involve working closely with customary and religious authorities and local police/courts, and balance supporting and advising with holding these actors to account for their mandates
- Receive regular support and supervision from expert bodies – a national women's organisation, community policing service, legal aid organisation or local government authority.

[355] As highlighted in the report by HiiL, loc. cit., n 26. as per sections relating to victims' views on damage restoration, also focused on perpetrator needs and healthy changes in relationship.

[356] Final Evaluation Report JSP IV, Timor Leste, December 2019, p. 23, available at: https://erc.undp.org/evaluation/documents/download/15539.

[357] The sixth such survey was produced in 2022. See The Asia Foundation, *Timor-Leste Safety, Security and Justice Perceptions Survey 2022*, available at: https://asiafoundation.org/publication/timor-leste-safety-security-and-justice-perceptions-survey-2022/.

[358] See for example Kovar, A. Approaches to Domestic Violence Against Women in Timor-Leste: A Review and Critique, Human Rights Education in Asia-Pacific, pp.207-252, ; Swaine, A. 2003. "Traditional Justice and Gender-based Violence." International Rescue Committee Research Report.

[359] Final Evaluation Report JSP IV, Timor Leste, December 2019, n 356.

35. Women's organisations working at the local level

Pacific women's organisations and other civil society family violence service providers are increasingly helping victims of family violence in rural areas obtain protection and justice across plural governance ecosystems. Successful models for providing grassroots assistance to women and other family violence survivors exist in many Pacific countries including Fiji, Samoa, Vanuatu, Solomon Islands, Kiribati and Marshall Islands.[360] They combat mutually reinforcing patriarchal customary, religious and state policing and justice bodies, seeking to uphold the rights and needs of victims, while providing practical assistance and legal empowerment and advocating to shift norms. Some of these organisations and their work are discussed in the following sections.

35.1 Vanuatu Women's Centre

The VWC, established in 1992, is an independent CSO that coordinates violence prevention and response services across Vanuatu. It offers counselling, helps women seek medical attention, empowers and assists victims of violence to file police reports and press charges, and provides free legal advice and representation. It works closely with the VPF, particularly the FPU, offering courses on domestic violence, counselling training, and financial support for police transportation if necessary.

The VWC offers a powerful national model that has deep reach into rural communities through the CAVAWs, committees comprised of female volunteers who receive training and support to advocate for victims of violence in rural and remote locations. They undertake important advocacy, training and *Talanoa,* or discussions, with local authorities, working to increase the accountability of village chiefs, church elders and other local leaders. The CAVAWs also work in partnership with male advocates. Many police officers, chiefs and other local authorities in Vanuatu have undergone male advocacy training, facilitating dialogue between women activists and local councils of chiefs. Evaluations have found that chiefs involved in the Male Advocacy Program (MAP)[361] trusted their villages' CAVAW members and often accompanied them on visits to neighbouring villages for violence prevention awareness sessions.[362]

In Ambrym, the researcher witnessed the establishment of a new CAVAW in a remote location. Local women had been convening for a whole week to select their CAVAW representatives, who then emerged from intensive training energised and equipped for their roles. Their first task was to introduce themselves to village chiefs and other local justice authorities, and their second to identify ways of collaborating with and support village chiefs to provide protection and fair justice to victims of GBV. CAVAW members combine their extensive local and cultural knowledge with a women's rights approach, and both advise and support village chiefs, while holding them accountable. CAVAW members also mentioned undertaking life-saving evacuations of women at acute risk of violence.

In one case described by a CAVAW member in Pentecost, a teenage girl, a long-time victim of incest who received no protection from the village chief despite his knowledge of the

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[360] See for example the Vanuatu Women's Centre here, Fijian Women's Crisis Centre here, Solomon Islands Family Support Centre here, Kiribati Women and Children Support Centre (KWCSC) here.

[361] Established by the FWCC in 2002 and now operating in six Pacific countries, see Section 53.4 of this research for further information.

[362] Ellsberg, M., Heilman, B., Namy, S., Contreras, M. and Hayes, R. (2011), '*Violence against Women in Melanesia and Timor-Leste: Progress made since the 2008 Office of Development Effectiveness Report*', AusAID, available at: http://www.icrw.org/ f iles/publications/Violence-against-women-in-Melanesia-Timor-Leste-AusAID. Pdf.

abuse, narrowly escaped being murdered by her father to silence her. The CAVAW member took the girl for medical treatment, then, with the VWC's organisational and logistical support, relocated her to another island and cared for her as she recovered. The CAVAW member also supported the girl to report her father's crimes to the police and throughout the ensuing justice process, and her father was eventually jailed. When it became clear that some key community members continued to side with the girl's father, and it remained unsafe for her to return to her village, the VWC supported her to complete her education and live in another community. This example shows that the CAVAWs are essential for protecting women and assisting in building new lives or reintegrating into their communities. They also encourage and support police and other state justice actors to respond adequately to reported family.

Women's organisations like the VWC and the CAVAWs are dedicated to helping women in rural and remote areas to access police, justice and DFV services. Unlike in contexts where police and women's rights organisations work separately or even in opposition, in Vanuatu these actors work together, even as women's organisations hold police accountable.[363] CAVAWs are also key participants in driving change in plural security and justice systems at the local community level. However, achieving change at scale remains beyond reach at present due to limited resources, especially in remote locations where transportation is scarce and expensive.

35.2 Fiji Women's Crisis Centre

Many other Pacific countries host longstanding, well-established women's organisations and victim support services with reach into remote and rural locations, many based on the seminal model of the Fiji Women's Crisis Centre (FWCC). Established in 1984, the FWCC provides services for female violence victims across Fiji, including through its four branch crisis centres.[364] It also nurtures and supports women's and family violence organisations in 13 Pacific countries through regional training programs it has run since 1995. The FWCC hosts the Secretariat of the Pacific Women's Network on Violence Against Women, which includes 24 family violence organisations from 13 Pacific countries and conducts training sessions twice per year. [365]

35.3 Family Support Centre, Solomon Islands

The Family Support Centre, established in 1995 in Solomon Islands, has branch offices in Honiara and Auki. It maintains provincial committees of volunteers trained in counselling, paralegal skills and psychological first aid working across seven provinces and with deep reach into remote and rural locations.[366] The Centre offers a 24/7 telephone hotline, face-to-face and mobile counselling (including in rural areas), legal representation in court (including for protection orders and family law orders for child maintenance and custody), counselling services for men and advocates for policy and law reform.

35.4 Women and Children Crisis Centre, Tonga

The Women and Children Crisis Centre, WCCC, established in 2009, provides a 24/7 help hotline for family violence victims, safe house, shelter, legal assistance and accompaniment through legal processes, financial support, advocacy, community awareness and static and

[363]Watson, D., Amin, S., & Robinson, A. (2024) loc. cit. n 233, p. 12.

[364] Located in Nadi, Ba, Labasa and Rakiraki.

[365] See Fiji Women's Crisis Centre website available at: https://www.fijiwomen.com/.

[366] Based on interview with Famil Support Centre Coordinator.

mobile counselling services, including to remote outer islands of Tonga through offices in Nuku'alofa and Vava'u. It also works closely with male advocates of ending violence against women and girls and is looking to establish a partnership with them to commence a perpetrator rehabilitation program.

35.5 Samoa Victim Support Group

In Samoa, the SVSG, established in 2005, runs many programs designed to prevent family violence. These include developing and implementing the highly successful VFSC pilot project in partnership with the Ombudsman (see section 32.1). VFSCs, developed through highly inclusive and empowering community consultations, build upon customary village *fono* to enforce bylaws against all forms of community violence, including family and sexual violence. The SVSG has also built village representative committees that provide referrals and assistance. The SVSG leadership stated:

> The strength of SVSG's community prevention program and response to GBV lies in its network of SVSG village representatives. They have been trained as first responders, as counsellors, as local researchers, necessary for their roles and responsibilities.[367]

Village representatives offer a very effective national network of referral points for victims who need intensive or specialised support unavailable at village level. Around a quarter of cases referred to the SVSG main branch office come from village representatives.[368] They help family violence victims to access welfare, justice, psychosocial support (counselling and mediation), community engagement, shelter, care and rehabilitation. The SVSG operates six shelters for women, children, teenage girls, pregnant girls and young mothers and two educational facilities,[369] probably the most comprehensive accommodation support for victims in the Pacific.

The SVSG has built the capacity of village representatives to adopt evidence-based approaches in preventing family violence in rural Samoan communities. The Evidence for Violence prevention in the Extreme (EVE) study, conducted between March 2020 and April 2024, noted that:

> Over the last four years, the research project trained village reps in interview skills and conducted village-wide interviews. We developed a theory of change to prevent violence against women based on these interviews and surveyed 9 villages to identify risk and protective factors. We then piloted an intervention to assist communities in developing their own strategies for violence prevention. [370]

The EVE study was a collaboration between University College London, the SVSG, the National University of Samoa and the Samoa Bureau of Statistics. It aimed to develop an indigenous approach to combatting violence against women, rooted in the *Fa'a Samoa*. Key recommendations from the EVE study (similar to those of the VFSC program discussed earlier) were:

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[367] SVSG Facebook page available at: https://www.facebook.com/samoavictimsupportgroup/?locale=en_GB&paipv=0&eav=AfbHpeYE4vNyhmSkN9ZkcNTsbiloEyy5isr6lNFU5QGGDciBms0vQODuA5fqlI372Us&_rdr.

[368] Based on the data provided in SVSG monthly Engage Newsletters Jan-May 2024. Copies on file.

[369] Based on interview with SVSG founder and SVSG website details at: https://svsg.org.ws/services/.

[370] SVSG Projects 2010-2013 Report, available at https://svsg.org.ws/wp-content/uploads/2023/08/SVSG-Projects-Report.pdf .

- Enact local bylaws that specify fines for acts of family violence
- *Matai* [371]must set an example for their villages by not committing family violence
- *Matai* should show leadership in preventing family violence by talking to families and supporting victims of violence
- Families use evening prayers as opportunities for families to discuss violence and reaffirm Christian teachings of peace
- Families go to church to reinforce community and support other families experiencing violence
- Preventing children from dropping out of school.
- Families discipline children without resorting to violence or punishment
- Village members must not blame a woman for experiencing family violence: the use of violence is never justifiable
- SVSG village representatives must support women to report family violence.

35.5 Women United Together Marshall Islands

Women United Together Marshall Islands (WUTMI) offers services for GBV survivors similar to those described in the sections above. It has a strong community-based voluntary model but also aims to bring customary women into advisory or leadership roles. This is aimed at bridging the gap between women who exercise customary power and women exercising power based on modern human rights ideas to prevent divisions between rural/urban and traditional/modern women. WUTMI is comprised of 26 local chapters, each with at least 10 women, including customary women leaders *(leroij*) serving as advisors and mentors alongside other women. A president from each local chapter serves on the executive. WUTMI seeks support from male customary chiefs (*iroj laplap)* as well as from local government and *rukjenleen* (customary advisors) to establish services in remote locations such as Ebeye.

This structure enables WUTMI to mobilise members in both rural and urban locations and to harness the customary power of women in advocacy efforts. For example, by mobilising women all over the country, WUTMI helped defeat Bill 84, a draft law brought by two male senators that aimed to strip women of their customary authority as *alap* (land lineage heads) by defining *alap* to include only men.

> Land is treasured in the Pacific, but it is often forgotten how precious it is to women. The modern emphasis on commercial agriculture, extractive and other commercial activities has often marginalized women, sometimes robbing them of their roots, status and authority. Governments, mirroring church and colonial administrations, have, for the most part, disregarded women's attachment to, and dependence on, land.[372]

Importantly, WUTMI also engages and challenges local patriarchal power structures and authorities and demands their accountability to the local women's committee or branch by inviting men who have reportedly used violence or transgressed acceptable conduct to come before the committee to explain themselves. Many chapters provide male advocacy programs that train influential men (of all ages and backgrounds) to advocate with other men for the elimination of GBV and to model positive forms of masculinity and reject the subjugation of women. Men who complete these programs and undertake advocacy in communities are monitored by WUTMI to ensure that their messaging remains grounded

[371] Samoan word for leader or chief.

[372] Stege, K., Maetala, R., Naupa, A., Simo, J., Huffer E. (ed), loc. cit. n 83, pp.VII.

in women's rights and men's roles in upholding women's rights. WUTMI also advocates for restoration of women's power in customary law systems where it has been eroded, especially in matrilineal locations.

35.6 Conclusions about the impacts of women's organisations' strategies

The examples presented herein represent only a tiny portion of the valuable work of women's organisations and family violence services across the Pacific. Local women's organisations are often the only rights-based actors present in rural areas and are crucial – sometimes life-saving – for GBV victims. They engage effectively with local customary and religious leaders to advocate for normative change. Their impact in assisting victims was observed firsthand during the field research in both Kiribati and Vanuatu, as were their roles in advocacy, training and *talanoa*, as the quote below explains.

> Participants highlighted that partnerships involving collaborations with women's rights organizations helped [to catalyse change in response of customary and religious actors to protect victims] … While customary practices, institutions and religious actors in Melanesia have often worked against justice needs of DFV victims, through advocacy, training and *talanoa*, these innovations in policing DFV in rural contexts may actually be working to shift this dynamic. In fact, our findings suggest that by drawing on gatekeepers (chiefs, pastors, other men) as allies in the process of responding to DFV in ways that prioritize women's justice needs, these partnerships [with local women's organisations and police] are potentially contributing to transforming aspects of patriarchal power to move away from legitimizing DFV and instead legitimize efforts to eliminate DFV.[373]

Able to work at all levels and with all actors, local women's organisations are key to finding ways to align plural governance, security and justice systems with the outcomes that women seek when they face family and sexual violence. Women's organisations reach deep into rural communities and provide specialised, gender-sensitive and culturally supportive services to survivors, including counselling, housing, health and legal support,[374] and accompaniment and advocacy in community-based justice processes. They help women make informed decisions about protection and justice options and offer support in dealing with state and/or community-based processes.

[373] Watson, D., Amin, S., & Robinson, A. (2024) loc. cit. n 233, p. 12.

[374] For example, the Family Support Centre in Solomon Islands, 2016.

Summary of key features of the most effective approaches used by local women's organisations and family violence services

- Flexible approaches grounded in women's rights-based philosophies applied strategically through culturally relevant approaches to:
  - Supporting victims of family violence
  - Engaging, supporting, educating and advocating with customary and religious leadership to improve village-level responses to family violence
  - Holding state justice actors accountable to their mandates
  - Supporting justice actors to build their capacities to provide coordinated, reliable responses to family violence.
- Reach into remote and rural locations via volunteers able to work across the full spectrum of state, customary and religious actors at the village and area level.
- Focus on strategic goals and sustainability, balanced with flexibility.
- Collaboration with a wide range of stakeholders at regional, national and local levels to maintain momentum for legal and policy reform.
- Strategic clarity around normative change and investment in building social protective factors, including economic independence for survivors and those vulnerable to violence.
- Ability to work across and mobilise support from women across rural and urban environments and "modern," customary and religious frameworks.
- Regional networking, learning best practices, service development, supporting and mentoring arrangements for younger organisations.
- Ability to collect and evaluate data and refine programming based on evidence to increase effectiveness and impact.

36. Strategy 3: Culturally resonant normative change

Pacific governments, CSOs, women's organisations and religious groups have prioritised community engagement to achieve the long-term aim of shifting norms that tolerate family violence. Significant changes in attitudes have been measured in some countries, suggesting that normative change approaches can work,[375] although further steps are usually required to change behaviour.[376] This section examines some approaches to normative change processes that have been undertaken in the Pacific to address dominant norms of high tolerance of family violence across the Pacific.

36.1 Spearhead normative change using culturally resonant frames to challenge gender-based violence

Normative change strategies need to be grounded in culturally resonant frames for them to be effective in challenging GBV. Strategies must balance upholding and drawing upon

[375] For example, the Solomon Islands Access to Justice survey in 2018 found that 92% of survey respondents agreed that men should not use violence against women to resolve disputes and 87% supported punishment of perpetrators, whereas in a 2009 study, 73% of women believed a man was justified in beating his wife under some circumstances. See UNDP (2019a) loc. cit. n 121.

[376] See also Section 54.1 of this research for discussion of World Vision programmes framed around religious teachings aimed at rehabilitating perpetrators of family violence.

dominant cultural values and identities to gain traction with the need to challenge aspects of cultural practices to match those values. For example, cultural values of respect for women and cherishing children can be used to challenge practices of violence.

Culturally resonant normative change strategies are regularly applied by governments and national and local branches of women's organisations. They can reframe rights-based narratives that may lack community resonance against common values in customary and religious normative orders. For example, human rights, custom and religious norms all recognise the family as the fundamental social unit, deserving protection. Increasing understanding of how family violence erodes cultural values and identity is achievable by highlighting key messages framed around these values.

Many women community members recommended that couching anti-family violence messages by focusing on the negative impacts of family violence on children, would provide the most resonant entry-point for framing messages against family violence for both men and women, along the following lines:

> Our culture cherishes children. They are our future. Witnessing or experiencing violence in their families causes deep harm to children and creates inter-generational cycles of violence.

Dr Adriu Naduva, a Fijian medical doctor and PhD candidate advocates for a similar approach for tackling child abuse issues by drawing on indigenous and religious values of i-Taukei cultures and Christian values.[377] Other messaging framed around Pacific cultural values suggested by women community members included focuses on cultural values of respect for women and for men who treat their families with dignity and respect, such as below:

> Our culture respects and values women. Allowing family violence to occur against women disrespects women and causes them deep harm, destroying their happiness and preventing them from making their full contributions across all spheres of life, to benefit themselves, their families, communities and local and national economies.
>
> Our culture respects men but men who choose to use violence against their families are cowards and do not deserve community respect. Family violence also harms men, because men are also unhappy when their families are unhappy and when men don't stop other men from using violence, it diminishes all men.

Messaging by family violence services often focuses on building the strength of families as the most important social unit of strong communities and how family violence is a destructive force that tears families apart, not the actions of victims seeking help.

> Families cannot be strong if they protect those who use violence. Without strong families, communities cannot be strong.

Using culturally resonant messaging to explain why family violence is wrong is crucial to long-term normative change. The Samoa Talanoa Toolkit[378] developed by the Samoan Ombudsman Office is based on this premise; it draws upon religious and cultural sources to dispel common misconceptions about GBV and IPV. Table 2 (overleaf) shows some (edited) examples.

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[377] Naduva, A. Opinion: Child abuse and iTaukei culture, 11 November 2023, The Fijian Times, at https://www.fijitimes.com.fj/opinion-child-abuse-and-itaukei-culture/.

[378] Ombudsman (Samoa) Talanoa Toolkit for Village-Based Advocates Against Family Violence, loc. cit. n 309.

Table 2. Examples of culturally resonant messaging from the Samoa Talanoa Toolkit[379]

Myth	Fact	Key messages
Violence against women is sometimes justified. Some women provoke the violence by talking back to their husbands and doing things that they know makes their husbands angry. The women should always tolerate violence to keep her family together. Reading the Bible and praying will solve IPV/family violence	Many women blame themselves for their husbands' sexual indiscretions with other women and girls. For example, they may say did not take care of themselves, look their best and or meet their husbands' sexual needs. This puts the blame on the woman, which is a form of manipulation, control and sexism Although reading the Bible and praying can provide spiritual healing, it does not address the root cause of IPV/ family violence, which requires changed mindsets	Men and women are equally entitled to be free from violence and safe in their own homes Blaming the victim/survivor takes the responsibility away from the perpetrator and reinforces the mindset of the perpetrator that it is ok for him to beat his wife/partner There is no excuse for violence in any relationship Target audience: survivors, perpetrator, community
The Bible says that wives are inferior to husbands and should be physically disciplined if they fail to obey	The Bible says that men and women were created equally in the image of God. It contains no reference to physical discipline between husband and wife or intimate partners. On the contrary, it includes extensive teachings around non-violence, kindness, tolerance, peacefulness and even sacrifice regarding relationships	*Husbands, love your wives, as Christ loved the church and gave himself up for her* – Ephesians 5:25-33 Target audience: perpetrator, community
If a woman was in real danger, she would just leave. If she hasn't left, it can't be that bad.	A woman is at highest risk of extreme violence, including murder, when she leaves an abuser. Many women stay because they fear for themselves or their children if they leave. If a woman chooses to stay, it doesn't mean the violence isn't bad, it means she's worried leaving might make it worse Other reasons why a woman might stay in a violence environment include low self-esteem, shame, guilt; lack of financial independence; desire to maintain the family unit; family pressure; belief that the partner can and will change; isolation – lack of family and social support networks	When women stay in abusive relationships it does not mean that the situation is not bad, it means she is worried that leaving may cause more harm. Leaving can be an easy solution, but for some women there may be reasons that hold them back – therefore it is important to be open and understanding
Only serious cases of IPV/family violence that may lead to loss of life can be reported to the village *fono*.	Violence, regardless of its severity, harms victims/survivors and requires solutions including reporting to police and a specialist service, not just to the village *fono*	Ignoring cases of violence and reporting only to the village *fono* and not to police obstructs justice. It allows violence to continue and violates the right of the victim/survivor. Any family violence must be treated as a serious matter

[379] Ombudsman (Samoa) Talanoa Toolkit for Village-Based Advocates Against Family Violence, loc. cit. n 309.

36.2 Case study Kiribati: Government and civil society collaborate to shift norms

The Government of Kiribati has prioritised tackling persistent cultural barriers to prevention of family violence in collaboration with CSOs. Integrated health clinics and a government-supported MAP are part of a comprehensive approach towards preventing and eliminating GBV. CSOs working to end violence against women and girls include the KFHA, Our Lady of Sacred Heart Crisis Centre, Alcohol Awareness and Family Recovery Centre, Aia Maea Ainen Kiribati, and the KWCSC. Partnerships with communities and island councils continue via annual campaigns against violence against women and girls, with support from donor partners. [380]

A Strengthening Peaceful Villages (SPV) project, supported by Pacific Women Shaping Pacific Development Kiribati, was implemented in 18 villages in South Tarawa between 2017 and 2021.[381] A community-based intervention from the Ugandan SASA! model[382] was adapted to Kiribati culture and context. The model aims to prevent family violence, promote safe and healthy families, support local activism, strengthen community responses and build institutional capacity. SASA! was developed by Raising Voices in Uganda, where a randomised controlled trial demonstrated that it reduced annual IPV incidence by 52% across the population generally and the incidence of continued violence in historically violent relationships by 54%, while increasing the acceptance of women's right to refuse sex. The model was introduced in the Pacific in late 2016 at a session in Port Moresby organised by Pacific Women, the UN Women Multi Country Office and Raising Voices, with participants from PNG, Fiji, Kiribati, Solomon Islands and Vanuatu.[383]

In Kiribati, the SPV project commenced with a baseline study[384] that developed into a multilevel, multi-stakeholder approach. It was designed to reduce the imbalance of power between women and men in the community at three levels:

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[380] DFAT Australia, UN Women.

[381] With support from UN Women and DFAT Australia.

[382] SASA! is a violence prevention intervention originally developed by Raising Voices and implemented by the Centre for Domestic Violence Prevention in Kampala, Uganda. SASA! is now being used by 20 organisations in 60 countries worldwide. For further information on the intervention, please see http://raisingvoices.org/sasa/.

[383] DFAT '*Mobilising communities to end violence against women*', 1 Dec 2017, available at: https://www.dfat.gov.au/news/news/Pages/mobilising-communities-to-end-violence-against-women.

[384] Undertaken in 18 communities involving 629 women and 556 men. Key findings: Men's substance use and abuse was associated with IPV.A higher proportion of women reporting violence also reported frequent alcohol use by their partner (41%), compared to women who did not experience violence (23 %). Similarly, 59 of men who reported physical and/or sexual IPV perpetration self-reported significantly higher alcohol consumption compared to men who had not perpetrated IPV. Most women (85%) and men (81%) agreed that people should be treated the same whether they are male or female. However, most women (90%) and men (93%) also agreed that a woman should obey her husband and over half of women (62 percent) and men (70%) agreed that a man should have final say in all family matters. Overall, 88% of women and 70% of men agreed that wife-beating was justifiable under at least one condition. Among women who experienced past year physical and/or sexual IPV, a total of 35% reported that they had ever been injured because of this violence and only 22% reported that they ever received health care for those injuries. One in three women (34%) who experienced physical and/or sexual past year IPV did not tell anyone about the incident. Women were much more likely to tell their parents, siblings or friends than they were to seek help from a formal service provider.

- *Local Activism*: 74 women, men and youth village activists engaged their communities in activities to spark self-reflection and positive change for peaceful and healthy relationships
- *Community Leadership*: 60 women and men village and church leaders encouraged peers and their communities to speak out against violence towards women and girls and provided support to women experiencing violence
- *Institutional Strengthening*: 11 institutional allies within the MWYSSA engaged employees and leaders to strengthen the MWYSSA's response to violence against women and girls.[385]

The SPV engaged approximately 56,400 people in Kiribati, including women, men, youth, community and cultural leaders, and religious leaders. The outcomes are yet to be evaluated.[386]

37. Strategy 4: Support dialogue, knowledge exchange and relationship building within and between justice systems

In discussions with chiefs, the researcher often shared practices other chiefs used to increase fairness of customary systems to gauge whether they could be adopted more widely. Chiefs were invariably curious and receptive to hearing about other chiefs' practices. This highlighted a need to bring chiefs together to share positive (currently minority) practices some leaders use to increase fairness in their dispute resolution processes and inspire other customary law leaders to adopt them. Doing the with religious leaders could encourage champions of change to emerge and build momentum for internal reform. Culturally sensitive conversations may lead to improvements in dominant customary or religiously based practices. The researcher identified and documented several positive practices,[387] providing a starting point for structuring dialogues between chiefs and religious leaders.

State justice actors and local CSOs, especially women's organisations, must undertake dialogues with chiefs and religious leaders to build each other's knowledge of their justice processes and gendered justice needs. Reluctance to acknowledge and support varied legal traditions can be due to fundamental differences in world views and justice concepts and/or to self-interest in the status quo. Persistence in creating opportunities for dialogue and collaboration can reduce differences and identify productive ways to improve coherence and assist justice seekers.

This kind of dialogue may include identifying the kinds of cases that can be resolved using customary law processes, those that require both state and customary law, and how these processes can be coordinated. These conversations are essential, because while most customary law leaders agree that serious crimes should be reported to police, definitions vary, especially when crimes occur within families or involve sexual violence against women and girls. These exchanges can help align actors' perspectives and build more coherent and predictable interactions between state, customary and religious justice systems.

Whatever their views on the role of state justice within their villages, chiefs indicated a strong desire to discuss these issues with each other, as well as with local state justice actors and women's organisations. As was also noted in the Conflict Management in Rural Vanuatu study,

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[385] See Pacific Women Shaping Pacific Development, Kiribati Snapshot, (2020), n 166.

[386] See The Equality Institute, loc. cit. n 163. An evaluation of the activities was planned but not commenced at the time of writing.

[387] Highlighted at sections 34, 34.1, 34.2 and 34.3 of this research.

chiefs welcome more such engagement to improve their knowledge of state law.[388] Chiefs thought these kinds of dialogues would help to identify how the systems can play mutually reinforcing roles and build trust, knowledge and cooperation to navigate thorny problems. These problems might include state justice failing to provide timely outcomes, resulting in problems bouncing back to chiefs. Conversely, problems might include chiefs acting to protect powerful community members from state justice accountability for serious crimes at the expense of the rights of other community members.

State courts' increasing use of mediation and restorative justice processes provides more opportunities to highlight the value and strengths of community-based justice systems. The Chief Justice of Vanuatu mentioned several highly productive gatherings of state and community-based justice providers in Vanuatu. One such was the Custom and Traditional Law Conference of the Pacific Judicial Council (covering FSM, Kosrae, Pohnpei, Chuuk and Yap) in June 2023, which resulted in increased sharing of knowledge and engagement between state judicial officers and customary decision makers from Micronesia, highlighting how this strong coherence and understanding ultimately works to improve the experience of justice by ordinary people.

38. Reflections on strategies

The four strategies discussed above (sections 32–36) tackle local justice needs for reducing GBV. Their success requires:

- Adopting means of meaningful redress at the local level, such as clear findings of fault, clear demands for behaviourial change, fines, compensation and ongoing monitoring of behaviour as some options.
- Applying highly consultative and participatory processes to maximise diverse leadership, including from marginalised groups
- Bringing blended state and customary/religious justice mechanisms into closer alignment
- Establishing local justice navigators to support justice seekers to find the best pathway and accompany them through the process
- Ongoing support for long-term normative change.

All four strategies provide complementary ways for improving access to effective forms of justice in remote locations, especially in relation to family violence and other sensitive issues associated with women's legal needs. Strategies must be based on:

- Deep understanding of the political economy of justice in the context
- Sensitivity to the risks of doing harm to people and community justice processes and working to mitigate them
- Monitoring the outcomes of community-based justice processes
- Working alongside community organisations, particularly groups representing marginalised peoples, to ensure their perspectives, concerns and experiences are heard and prioritised
- Recognition and respect for the value of community justice systems to communities
- Acknowledgement of the diverse ways that people resolve justice problems.

[388] The Policing and Justice Support Program (Vanuatu) loc. cit. n 75, p.96.

Pacific countries are implementing many of these approaches, but mostly as pilot projects and/or well below the scale needed to measurably expand access to people-centred justice. One of the reasons for this is the limited participation of state justice actors; many of the pilots are seen as marginal or tacked onto other projects, rather than as core to the mission of the justice system. This highlights the need to reframe state justice to be more relevant and responsive to the large unmet demand for resolution of difficult and persistent community problems, including family and sexual violence. Pacific governments must invest much more in locally driven approaches to strengthen the linkages and functionality of pathways between state and non-state justice processes.

Good practices for engaging with community governance, justice and security mechanisms

Working at the village or area level is best, but must avoid inadvertently causing harm by:

- Reducing the functionality of existing mechanisms for community safety and justice
- Weakening or missing opportunities to enable marginalised social groups to access community-based justice and security mechanisms and receive effective outcomes.

Applying the following four principles can help avoid such harms.

- Base change processes on careful analysis driven by local actors from the design stage and throughout implementation, with back up support as or if needed.
- No one-size-fits-all model exists; customised approaches should be driven by local actors in each community context.
- Give projects flexibility to adapt to local contexts and respond to lessons learned during implementation to enable continuous improvement.
- Incorporate locally designed inclusive approaches from the outset to create and maximise opportunities for participation and empowerment of all community members and contestation of entrenched community power hierarchies.

PART E: REORDERING STATE JUSTICE PRIORITIES TO ALIGN WITH WOMEN'S NEEDS

39. Key areas of investment to increase state justice actors' effectiveness and relevance to women in rural and remote areas

As highlighted earlier, there is a need to reframe and reprioritise state justice systems and their resources around the needs of remote and rural communities, which form the majority of Pacific populations. While Pacific governments cannot afford to provide fixed courts in all localities, courts can increase their presence through:

- Expanding the reach of state justice services, including enabling hybrid (island/village) courts to visit remote areas for hearings
- Wide-reaching and accessible public information about court offerings and processes on community radio, in pamphlets distributed at village level, on social media and websites, and in-person outreach in rural communities before courts go on circuit
- Remote state justice services, including provision via telephone or internet for temporary protection orders, child maintenance and enforcement of child maintenance cases.

Other priorities for state investment to align state justice systems with victim-survivors' needs are:

Local mapping and analysis needed to kickstart engagement projects

- Identify local partner organisations or bodies (as close to the village level as possible) that can support program development and implementation and (ideally) monitor its impact.
- Engage local organisations to map political economy and gender/social inclusion
- Identify the major security, protection and justice risks that the community-based mechanism should mitigate
- Determine the degree of inclusion of women, youth and people with disabilities in community governance, justice and security mechanisms, and its impacts
- Evaluate the relationship between those facing major security, protection and justice risks and those excluded from power or influence in community security, protection and justice mechanisms. Use the findings to guide program design.
- Assess the legitimacy of existing power holders and their openness to inclusive approaches to community participation in development of bylaws and their willingness to enforce them.
- Map existing and potential actors and leaders to identify allies and advocates for the better access for women and girls, youth, and people with disabilities to community security, protection and justice mechanisms.
- Use the mapping and analysis to inform project design.

- Robust behaviour change and rehabilitation programs for family violence perpetrators that apply culturally and spiritually relevant frames, involve monitoring and feedback from family members, and are linked to both state justice systems and customary systems
- Robust drug and alcohol rehabilitation programs that apply culturally and spiritually relevant frames, are linked to family violence rehabilitation programs if relevant, and are integrated into both state and customary justice systems for ongoing community-based mentoring, monitoring and support
- Economic safety nets and sustainable livelihoods for victim-survivors and as preventative strategies to reduce vulnerability to family violence.

Examples of approaches used across the Pacific to expand the reach of state justice and meet these areas of need are described below.

40. State rehabilitation programs for family violence perpetrators

As noted earlier, victim-survivors overwhelmingly want their relationships to continue but the violence within them stopped. Most victim-survivors continue to cohabit with violent partners, including while their cases are being dealt with in the state justice system. To align state justice systems' offerings with victim-survivors needs requires interventions that change the violent behaviour of perpetrators.

40.1 Lack of state investment in rehabilitation for family violence perpetrators

State investment in violent perpetrator rehabilitation programs in the Pacific is inadequate. Most Pacific countries consider such programs peripheral to their family violence and criminal justice strategies. Most state justice resources are invested in punitive responses to family violence through imprisonment and matching donor support for CSOs working to meet the needs of survivors, rather than dealing with the causes of violent behaviour. Pacific countries need more rehabilitation program to help DFV perpetrators undertake critical self-examination, take responsibility for violence, and learn skills to manage and change their behaviour and improve their family relationships.

Lack of investment in perpetrator rehabilitation programs across the Pacific is not due to deficiencies in legal frameworks. Courts in many countries already take a rehabilitative approach, ordering family protection order respondents or convicted perpetrators to attend a rehabilitation program as a condition attached to a protection order or sentence.[389] Thus, no legal obstacles prevent justice systems responding to women's primary demand for rehabilitation of their husbands to stop violence and improve family relationships. The problem is lack of evidence-based rehabilitation program capacity.

[389] Notwithstanding the civil nature of protection orders and therefore the absence of any finding of guilt to a criminal standard, most family protection acts, such as in Samoa, give courts the power to 'impose any additional conditions which it deems reasonably necessary to protect and provide for the safety, health or wellbeing of the complainant.' See s.10 Family Safety Act 2013 (Samoa). These can include orders for attendance at re-education and behavioural change programs, as such programs are not of themselves punitive in nature and can clearly be central to the complainant's safety, health and wellbeing.

40.2 Differences in program types and risks

If men are the main perpetrators of family violence, they must also be part of the solution, as is increasingly occurring through the expansion of MAPs. It is important to distinguish between MAPs aimed at DFV prevention through greater community awareness and those aimed at rehabilitating individual perpetrators, both those in the criminal justice systems and those who are not.

Tevita Seruilumi, a leading expert on Pacific male violence programs,[390] confirmed the need for robust re-education programs for perpetrators. He contended that they must be grounded in a women's human rights approach and include ongoing monitoring.

> While other interventions may work with men and boys, including domestic violence offenders, without the tools and expertise to assess and validate the behaviour change of individuals it is difficult to categorise awareness programs, school programs, curriculum programs and advocacy programs that engage with men as behaviour change programs working with domestic violence offenders.

Seruilumi highlighted the issue that many programs in the Pacific labelled as behaviour change programs, including some faith-based initiatives, do not necessarily engender behaviour change, employ a women's rights framework, or monitor men's behaviour during and after the program. Many Pacific providers of male counselling and advocacy programs lack proper training and still emphasise family unity rather than survivor safety, while reinforcing stereotypes and perceptions that promote male dominance, gender inequality and survivor blaming. Some anger management courses also treat family violence as simply inability to control anger, without addressing the deeper character of family violence as a means of control. Similarly, mediation approaches – customary, religious and otherwise – are often harmful unless accompanied by robust re-education, because they commonly apportion blame for violence equally and propose solutions that involve women working harder to comply with gendered expectations in exchange for their safety.[391]

40.3 Need for awareness to mitigate risks of collusion with perpetrators

Seruilumi highlighted the need for rehabilitation programs to resist manipulation and avoid collusion with perpetrators, some of whom try to weaponise legal processes, support services and faith-based organisations against their wives or partners. Rehabilitation program staff need the ability to identify these behaviours and respond appropriately. As noted earlier, men have better access to information and services than women, due to their greater control over funds and transportation. In many countries the sole legal aid provider is unable to act for both parties, so male respondents applying for and receiving legal aid prevents legal aid being granted to the female complainant – a substantial inequality.

Courts and related services should be aware that perpetrators can bring vexatious applications for protection orders or criminal complaints against victim-survivors as a form of harassment, creating a risk that victims are misidentified as perpetrators. The number of male family violence complainants has increased rapidly in some Pacific jurisdictions, such as Vanuatu. Pacific courts are already alert to some female complainants' family protection applications being perceived to be for a primary purpose other than protection from violence – such as to access remedies of temporary custody or maintenance under family protection

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[390] See Seruilumi, T. Re-educating perpetrators of domestic violence: A Pacific approach, in Putt, J. Kanan, L. (Eds.), Family protection orders in the Pacific region: Report from a symposium held in December 2021, n 267, p. 57.

[391] Ibid, p. 57.

laws, because accessing these remedies under ordinary civil family law processes is expensive, protracted and unwieldy.

Finally, male perpetrators are more likely than female victim-survivors to know men in positions of power, such as police or village chiefs and may seek to use this influence to derail complaints. In addition, perpetrators may threaten to harm victim-survivors as a way of pressuring them to withdraw their complaints. Many organisations and individuals working with men are unaware of these phenomena, exacerbating the risk of inadvertent collusion with domestic violence perpetrators.[392]

40.4 Male Advocacy Program for Women's Human Rights

There are various preventative programs working in the region that include boys and men, including the FWCC's well-established MAP program. The MAP was initiated in 2002 based on case studies of best practice worldwide and adapted to the Fijian context and has continued to evolve. MAP encourages men to become agents for change and positive non-violent role models by teaching other men about gender roles, gender equality and masculinity, and advocating for non-violent behaviour, while being monitored by women's organisations to ensure messaging remains supportive of women's human rights. The approach was adopted by the Pacific Women's Network Against Violence Against Women (PWNAVAW) and is expanding across the region, with MAPs now established in Cook Islands, Kiribati, PNG, Solomon Islands, Tonga and Vanuatu.[393]

Male Advocacy Program participants include men who are or have been village chiefs, police officers, youth workers, teachers, pastors, priests, policymakers and other influencers within communities. Over the years, the FWCC and other women's organisations, including the VWC, have trained thousands of Pacific male advocates, and these programs have been assessed as amongst the most successful in preventing family violence.[394] An International Center for Research on Women review undertaken in 2014 found that MAP was effective in driving individual and intrapersonal change among participating men in the Pacific. Men surveyed said that after undergoing the training they shared household tasks more equitably with their partners and stood up for women's rights in conversations with friends.[395]

Importantly, male advocates trained through MAPs in the Pacific are monitored by the women's rights movement and are accountable to PWNAVAW member organisations. Women's organisations have the ultimate say on whether a male advocate is ready to work in their community or can continue, with several having been dismissed due to lack of progress or use of violence against women.

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[392] Ibid, p. 58.

[393] Pacific Women's Network Male Advocacy Programme, Pacific Islands, Advancing Gender Equality: Case Studies from Across the Commonwealth p. 159. Chapter 19. https://www.thecommonwealth-ilibrary.org/index.php/comsec/catalog/download/821/821/6672?inline=1.

[394] Ellsberg, M., Heilman,B., Namy, S. Contreras, M. and Hayes, R. (2011), loc. cit. n 362.

[395]'Pacific Women's Network Male Advocacy Programme, Pacific Islands', loc. cit. n 393, pp.162-163, Advancing Gender Equality: Case Studies from Across the Commonwealth, available at: https://www.thecommonwealth-ilibrary.org/index.php/comsec/catalog/download/821/821/6672?inline=1.

41. Faith-based programs for family violence prevention and response

Numerous faith-based programs operate in countries across the Pacific.

41.1 World Vision Vanuatu's preventative and perpetrator programs

In Vanuatu, World Vision has worked for many years to reduce GBV using a faith-based approach, considered to be effective and appropriate because approximately 83% of Ni-Vanuatu identify as Christian. Faith and custom are often invoked to perpetuate and justify family violence and reinforce harmful gender norms, so World Vision sought to reframe or reinterpret faith leaders' religious texts and customary beliefs to deter harmful traditional and faith-based practices and risks.

> Some church leaders, including some who had undergone training as part of the Community Vision for Change project, preferred to provide counselling to perpetrators of GBV and urged forgiveness by the survivors and reconciliation of the couple. This reveals that mixed messages on protection for survivors of violence and gender inequality are given across some churches.[396]

Pastor Fiama, a co-designer of World Vision's GBV program, observed that it incorporates both Christianity and Ni-Vanuatu culture, appropriately in a nation whose pillars are "faith in God, Christian principles and Melanesian values."[397] Another co-designer, Kara Duncan-Hewitt, observed:

> A key and foundational part of this [program] is to promote empathy, using experiential exercises to support those in power to have a heart-felt understanding of the victim's experience and reality, in order to help shift and disqualify cultural and religious justification for the violence. Key to this exploration and uptake is education in the concept of spiritual abuse. To support this work, positive values of theology and culture are utilised to confront and challenge oppression and misuse of power and further utilised to advocate for healthy and safe families and communities. [398]

World Vision engaged local and international experts to support program design and implementation, while rigorously evaluating what works for both perpetrators of DFV and their victims. By integrating learning from evaluations into subsequent programs, over six years World Vision refined a range of programs to rehabilitate perpetrators and equip them with skills for building peaceful family relationships. The programs are now offered to perpetrators in prison and undergoing release or parole. Like the community-based programs, offenders' programs rely on religious and other community leaders to lead and facilitate them and provide monitoring and support to perpetrators and victims.

Given the positive results achieved in these programs (as discussed below) and the close alignment of these result to those found in this research regarding 'what women need' from justice systems to address family violence, it is important to explore the approaches used in these programs and assess their results and their potential for further linkage to state justice

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[396] World Vision, *'Hope for a safer Solomon Islands: Findings from evaluations of gender norms change and violence prevention initiatives in Honiara, Temotu and Weather Coast'*, February 2016, p.7 available at: https://www.worldvision.com.au/docs/default-source/publications/australia-and-the-pacific/channels-of-hope-for-gender-evaluation-brief---feb-2016.pdf?sfvrsn=2.

[397] Forsyth, M. *'Vanuatu Precursory Impact Study Men's Behaviour Change Program'*, p. 5, World Vision, August 2019, available at: Available at: https://www.stanapstrong.com/wp-content/uploads/2023/09/WV-Impact-Study.pdf.

[398] Ibid.

systems, including via family protection orders offered by courts. The evolution of World Vision programs in Vanuatu may also provide a very useful working model and learnings that with local customisation could enable other pre-dominantly Christian Pacific countries to fast-track similar approaches.

41.2 World Vision Vanuatu's REACH program

World Vision's first program aimed at perpetrators of family violence in Vanuatu was the Relationship Education about Choices and Healing (REACH) program. Implemented over 2016–2017, REACH consisted of a counselling skills course developed from World Vision's Channels of Hope for Gender approach (implemented in Vanuatu over 2014–18). The REACH program engaged church and community leaders and their spouses in discussions about gender equality and GBV, based on analysis of major religious texts commonly used to support women's subordination and condone violence against wives. Each workshop included around 20 community leaders and their spouses and 10 customary leaders and their spouses, as well as police, correctional officers and women's family violence service representatives.[399] REACH sought to increase understanding of family violence and improve ability to help both survivors and perpetrators of violence in their congregations and communities. It also engaged family violence service providers such as the VWC and the police, strengthening links and referral pathways.

The REACH course focused on counselling for men who use violence, supporting them to accept responsibility for their actions and to see violence as a choice, while providing them with practical tools and strategies to change their behaviour. REACH worked with women too, given that women also subscribe to harmful gender and religious norms that perpetuate violence, especially against children.

The program comprised three five-day workshops over six to nine months, and one-day post-workshop refreshers to enable participants to reflect on how their roles and responses to family violence had changed. Over the three workshops, participants discussed:

- What constitutes family violence and the impact of this violence on victims
- Typical patterns of violence and cover-up or minimising behaviours
- Gender equality
- Child abuse and its long-term impacts on children into adulthood
- Child development and healthy supportive parenting
- Intergenerational effects of trauma
- Belief systems that support violence, and Bible passages commonly used to perpetuate it
- Communication skills and tools
- Safety planning.

An independent evaluation conducted in June 2018 found that 74% of participants (59% men and 41% women) had stopped using violence within their families.[400] The impact of this

[399] See for example, *World Vision Councelling Training,* Vanuatu Police Force website, available at https://vpf.gov.vu/what-we-do/safety-security/crime-prevention/150-world-vision-councelling-training.

[400] Fred, P., Obed, S., Bani, H., Nahwo, J., Williams, M., Meyer, A. *'Evaluation Report PTL Reducing Gender-based Violence Project Vanuatu Counselling Approach*, World Vision Pacific and Timor-Leste, 2018, p. 3, available at: https://test.wvi.org/sites/default/files/2020-07/Counselling%20Evaluation%202018%20.pdf.

change was reported as very positive; many women reported that they were no longer being beaten and felt "100% better."[401] It also found that faith and community leader and participants' attitudes to violence and gender equality had changed, as had some gender norms in their households and communities.[402] The wife of one faith leader course participant said:

> Praise the Lord! He has changed in a big way. Now he has changed, he makes everything in the house – bathes the children, cooks; his mind has opened up about everything. Before he used to go to kava and lose money by spending too much on kava and smoking. He has given up kava and smoking from what he learnt in the course. In the past he would hit me every day. Now we share duties in the garden, resting and cooking. He has been changed since he did the course in 2016.[403]

Women participants also changed their behaviours involving family violence:

> Previously I always abuse my children and husband. I hit my husband and always use abusive language to my husband and to my children … I am very happy that this workshop has helped me realised my bad behaviours and have changed the way I treated my husband.[404]

> I am changed 100%, I'm happy because before my husband used to punch me. I am more confident. I used to beat my children and swear and argue a lot at home but now I've stopped doing that. It's more peaceful now in my home than before.[405]

The evaluation found that the faith-based medium was ideal for catalysing real change in the lives of Ni-Vanuatu people. The 65 men and 66 women surveyed demonstrated an increased understanding of types, patterns and effects of violence as well as how to disseminate faith-based, anti-violence messages.[406] Fifty-eight per cent of participants demonstrated increased acceptance of gender equality and referred survivors of violence to support services. Half of all participants indicated they now counselled perpetrators about the law and strategies to prevent violence. REACH resulted in measurable reductions of violence in a third of target communities in under two years.[407]

The evaluation identified some limitations of REACH, notably that traditional attitudes towards gender and justification for violence persisted in both women and men's groups in target communities. Moreover, the program did not create congregational and community champions for change as intended, with few leaders proactively supporting victims or those at risk to make safety plans. Finally, REACH resulted in few new links between formal service providers and community leaders.[408]

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[401] Ibid.

[402] Ibid.

[403] Ibid, p.10.

[404] Ibid, p.12.

[405] Ibid.

[406] Rakau, F., Tavoa, A., Greaves, M. *'A faith-based approach to reducing family violence in Vanuatu: counselling skills and men's behaviour change program'*, World Vision, 2019, p.3, available at: https://devpolicy.org/2019-Australasian-Aid-Conference/5gMillieGreaves.pdf.

[407] Ibid.

[408] With strong linkages created in one third of communities, 'limited' in another third, and not at all with the final third, demonstrating that further approaches are needed to create 'linked up' approaches between community responders and service providers, no doubt requiring reflection on both 'sides'. Ibid, p.3.

41.3 World Vision Solomon Islands' Preventative Programs

World Vision implemented a faith-focused program in the Solomon Islands[409] called Channels of Hope for Gender[410] in Honiara, Temotu and Weather Coast in 2014-2016. A second program in Temotu and Weather Coast, called Community Vision 4 Change (2015-2016, was evaluated independently, with perceptions of women's rights and roles found to be shifting gradually:

- The percentage of men who believe that a woman can accuse her husband of rape rose from 70% to 83%
- The percentage of women who claim that women should not make decisions fell from 34% to 4%
- The percentage of men who believe the Bible says that "man is boss" dropped from 83% to 66%[411]
- Identified focal points in Temotu and Weather Coast were found to have strong relationships with service providers and 'were clearly supporting survivors to reach such services.[412]

The evaluation also measured differences in men and women's reception of messaging around family violence, with, for example, 63% of women recounting pastors' giving the message to never use violence, compared to just 34% of men.[413] This highlights a need to explain such gendered differences so messaging can be targeted appropriately, and to identify the community activities or church sermons that have the deepest and most sustained impact on entrenched and harmful gender norms for men and for women. As Maddy, a program participant and an early childhood educator said:

> Before I began participating in World Vision's Community Vision 4 Change project as a focal point, I felt that I did not have the appropriate knowledge to refer survivors of GBV to support services such as health clinics, police or the Family Support Centre. Now I understand the different referral processes and what information about the incidents I need to report on. I feel much more confident to support people who experience GBV to seek support from these services. I also have a much better understanding of my role as a focal point linking survivors of gender-based violence to appropriate support services.[414]

Church elders, pastors, community members and other participants in both project sites expressed long-term commitment to the reduction of violence in the communities, and to the continuation of the Community Vision for Change project. By changing community attitudes

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[409] Where the population is 90% Christian.

[410] Available at https://www.worldvision.com.au/docs/default-source/publications/australia-and-the-pacific/channels-of-hope-for-gender-evaluation-brief---feb-2016.pdf?sfvrsn=2.

[411] World Vision, 'Channels of Hope driving a shift in cultural attitudes to violence', available at

https://www.worldvision.com.au/global-issues/work-we-do/poverty/tackling-gender-based-violence.

[412] World Vision,Tackling gender-based violence in the Solomon Islands, p.7 at: https://www.worldvision.com.au/global-issues/work-we-do/poverty/tackling-gender-based-violence.

[413]Ibid.

[414] Ibid, p.4.

and behaviours, women and children are better protected against violence, and families are safer, happier and healthier.[415]

41.4 Tonga's faith-framed model for perpetrators and others

Other Pacific countries have explored faith-framed *talanoa* models for rehabilitation of perpetrators. The Tongan *Kainga Tu'umalie* (Prosperous Families) family violence prevention program combines key customary concepts and is conducted through a series of eight sessions in weekend retreats.[416]

A feature of *Kainga Tu'umalie* is that facilitators (faith leaders) work with the whole *kainga*, not just men or women who have been violent. Another key aspect is the fusion of *Fofola e fala ka e talanoa e kainga* (a Tongan cultural metaphor of laying out a *fala* – mat – on which the families can sit and talk) and Biblical narrative. *The fala* provides a culturally safe space and encourages family members to discuss the often-taboo topic of violence and reduces power differences between facilitators and participants and between family members due to Tonga's hierarchical social structure.[417]

Kainga Tu'umalie's immediate effects upon participants were reportedly positive, although behaviour change has not been monitored or evaluated.

> Participating fathers demonstrated a commitment to transform their destructive disciplinary practices … Husbands and wives spoke in ways that invoked their dedication to building stronger marriages based on *'ofa 'aufuato* (submission), *'ofa* (love and compassion), *angafakatokilalo* (humility), and *faka'apa'apa* (respect). Children also demonstrated how they were emotionally liberated during the programme to share their own perspectives and feelings … The re-embedding of these faith-cultural values and principles among *kainga* relationships and in the home is an important step in preventing further family violence.[418]

41.5 Vanuatu Men's Behavioural Change pilot for perpetrators of violence

Based on evaluation of its counselling skills courses (part of the REACH program, described in section 41.2), World Vision Vanuatu decided to build on its work to change individual perpetrators and thus create a larger pool of community change champions. The Men's Behaviourial Change (MBC) pilot program, commencing in 2019, worked exclusively with male perpetrators of family violence. It was initially community based, involving 12 carefully selected trainee facilitators comprised of seven male pastors and five female trainers (a pastor, deaconess, Sunday school teacher and two community elders). The trainees were given in-depth training in risk assessment, safety planning, relationship building, stakeholder and client engagement, analysis and facilitation of complex group dynamics, and nuanced facilitation skills accompanied by mentoring, monitoring/evaluation and supervision.

The initial pilot program consisted of 11 weekly 3-hour sessions provided by three facilitators, two men and one woman, supported by World Vision throughout. Sixteen men aged 25–65 years old voluntarily participated in two community pilots of the program by the new trainers in 2018, having been nominated by faith facilitators as known users of family violence. A

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[415] Ibid.

[416] Havea, S. Alefaio-Tugia, S. Hodgetts, D. (2021), loc. cit. n 3, pp.83–93.

[417] Ibid, p.85.

[418] Ibid, p.92.

further two 11-week pilots were undertaken in March–June 2019, involving low-risk inmates convicted for family violence-related offences.

The safety of participants' families was prioritised throughout, with risk assessments conducted at the outset of and during the pilot. Male participants were required to agree to their current partner being contacted at least once a week for the program's duration so female facilitators could provide information to participants' partners about the program and offer support including contacts for the VWC and crisis management services. Family members' safety was assessed by triangulating disclosures from the men during the MBC sessions, their behaviour during the program, observations from course facilitators, and spouses' feedback during contact calls.[419]

The 11-week pilots were evaluated to assess the impact of the intervention and the value of including restorative justice aspects in the program.[420] The evaluation concluded that participants and their families valued the program highly and that it had transformed the participants' attitudes and behaviour towards their spouses. Specific findings of the evaluation were:

- All participants and their spouses and other family members identified significant changes in the participants' behaviour. These included greater engagement in housework and family life, less anger, more emotional connection with wife and family, and changed understandings about the relationship between men and women
- Interviewees and facilitators identified the impact of the program being due to:
    - Its Christian framing, which gave authority and a familiar means of transmitting messages
    - Its resonance with the issues men face, and the practical steps to resolve them
    - The emotional engagement with the concepts it engendered in the participants
    - The opportunity it offered men to recognise and acknowledge their behaviour and to forge new paths for themselves.
- The study also identified potential for sustainability of changes; the one participant interviewed, who had completed the program a year beforehand, had sustained the changes.
- All the participants apologised to their spouses, which both parties regarded as meaningful, but the apology and the reconciliation could be incorporated into the program in a restorative manner that would allow for the victims' voices to be heard.

The evaluators recommended continuing MBC, but adding the following components:

- Incorporate a restorative justice element to apologies and reconciliation by making space for victims' voices
- Link the MBC to probation officers to facilitate family and community reconciliations before parole is granted
- Involve spouses more in the final stages of MBC to ensure they understand the process and what can be done to support their husbands' change. This would also enable spouses to learn about tools and concepts they can utilise themselves.

[419] Rakau, F., Tavoa, A., Greaves, M. (2019), loc. cit. n 406, p.5.

[420] Forsyth. M. (2023), loc. cit. n 397.

- Respond to the desire of participants and facilitators to share their learning by preparing modules containing specific components of the program that they can use safely with their families and communities.[421]

41.6 Men be the Change Program for Perpetrators in Vanuatu

Based on the successful MBC pilot outlined above, in 2021 World Vision partnered with Vanuatu Correctional Services to launch its streamlined Men Be the Change (MBC) project, funded by the New Zealand Government until 2025. The new MBC provides rehabilitation programs for perpetrators of family violence both in prison and in communities. Like the pilot, the new MBC aimed to enable perpetrators to understand and take responsibility for the impact of their violence on their partners and families and give them tools for changing their behaviour. The new MBC remains an 11-week program for groups of up to 15 prisoners sentenced for family violence-related offences and for known perpetrators in the community who have not been through any justice progress. Trained faith and community leaders operate the program with support, supervision and mentoring from World Vision staff. Offenders' family members receive information about the program, safety planning, referral pathways; offenders are monitored by program staff and through contact with partners after release from prison.[422] The new MBC has not been evaluated, but anecdotal evidence suggests it is achieving the same level of impact as its predecessor. One facilitator said:

> First, the faith-based approach and use of the scriptures both provided authority for the new concepts and assisted in their comprehension through providing a familiar medium for the participants who all identified as Christians. One participant said: "The Bible texts help us to understand these topics more and relate them to our societies." Secondly, the participants seem to have genuinely not realised that their behaviour was wrong, and when they did realise this, it had a big emotional impact upon them that has propelled and sustained behavioural change.[423]

41.7 Family Violence Court Samoa

The Family Violence Court in Samoa brings together both justice and re-education elements. Established in September 2013, it remains the first and only dedicated Family Violence Court in the Pacific outside Australia, New Zealand and Fiji. The Family Violence Court deals with criminal cases related to family violence and features specialised judges, police prosecutors, community probation officers, victim advisors, court staff, and a variety of community support services. Victim advisors are a core part of the court process; they assist victim-survivors to apply for protection orders, advise them of their rights and case progress, and assist them to access support from government or community agencies.

Demand for the Family Violence Court's service is high. In 2o19/20 alone, 1217 cases came before the Court.[424] To improve the tracking of cases and identify obstacles to appropriate legal outcomes, Samoa implemented a monitoring and evaluation system for both the Family Violence Court and the Family Court, with support from UN Women. No data is available about recidivism rates to date. The Court has reported that it needs more resources

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[421] Ibid, p.3.

[422] *'World Vision Correctional Services Partnership to Help Inmates',* March 2021, Sista, available at https://www.sista.com.vu/world-vision-correctional-services-partnership-to-help-inmates/.

[423] Ibid.

[424] *Samoa Court Annual Report 2019/2020*, p.31, available at: https://www.mjca.gov.ws/wp-content/uploads/2021/05/MJCA-Annual-Report-FY2019-2020.pdf.

to provide counselling and guidance to families, highlighting this as a gap in the service delivery model.[425]

41.8 Samoa Victim Support Group – rehabilitative counselling for perpetrators

The SVSG provides rehabilitative counselling for perpetrators including through Family Court and Youth Court referral. This comprehensive program includes anger management, drugs and alcohol management, stress management, counselling, and reconciliation through family group conferences. SVSG reports to the Family Court on all referrals, estimated at approximately 4,000 men, women and young offenders over 2013–2023. The program remained self-funded until 2022, then secured support from the Governments of Samoa and Australia. Through the Tautua Partnership of the Samoa Gender Partnership Program, the court support services for offenders of violence have been funded since 2022.

In March and April 2024, 21 men and 16 women worked in the SVSG offenders program providing counselling aimed at changing offenders' mindsets and (ideally) transforming them into advocates against violence. SVSG staff observed that many of the men struggle with anger management, often exacerbated by alcohol and drug use, leading to violence. The women counselled in this period were in their early 40s and referred due to incidents of family violence. Through personalised counselling and targeted interventions, the SVSG strives to empower both men and women to break free from cycles of violence and to contribute to their communities.[426] The SVSG claims its program is very successful, with a less than 1% reoffending rate between 2013 and 2023.[427]

41.9 Reflections on models of male advocacy and behaviour change programs

There is strong unmet need in the Pacific for comprehensive, high-quality, culturally framed and robustly monitored violent offender rehabilitation programs. They should be integrated with the state justice system and with customary justice systems, providing a two-pronged approach for achieving perpetrator change and accountability. This requires development of

Good practices in behaviour change programs

- Challenge and support perpetrators to accept responsibility for their choices to use violence and the harm they have caused and equip them with the skills to change their behaviours.
- Prepare and support local religious and other community leaders to lead programs, including training to avoid inadvertent collusion with perpetrators.
- Involve families of perpetrators throughout programs and work with them to monitor perpetrators after programs are completed.
- Offer family violence programs in combination with drug and alcohol rehabilitation programs as relevant.
- Integrate perpetrator programs into state criminal and civil justice systems and community-based justice systems.
- Provide ongoing mentoring and support for perpetrators to reject violence and/or use of alcohol or drugs upon completion of programs.

[425] Ibid.

[426] SVSG March 2024 Engage Newsletter, p.11, copy on file.

[427] SVSG April 2024, Engage Newsletter, p.14, copy on file.

relevant expertise and training programs that operate according to standards[428] and can monitor the outcomes achieved during the programs and after perpetrators return to their families.

42. Drug and alcohol treatment and rehabilitation services

Pacific women who seek help for family violence want their men to reduce or stop using kava, alcohol, marijuana and other drugs. While alcohol and drugs are not the root cause of family violence, there is a correlation between heavy use of drugs or alcohol and family violence.[429] This overlap is identified in World Vision's Community Vision for Change program focusing on family violence, which also seeks to minimise substance abuse triggers in its community engagement:

> In addition to addressing the embedded social and gender norms that give rise to acts of GBV, both Community Vision for Change projects have also sought to address the substance abuse that is often correlated with high levels of violence. In sites where training in ending substance abuse has been delivered, community members and police have reported high levels of satisfaction with the knowledge and skills gained. Two Weather Coast area communities included in the study have had surprisingly positive results in this regard – including successfully negotiating with drug growers and suppliers to either destroy their own plants or stop the circulation of drugs.[430]

Women participants face violence when their partners use drugs or alcohol, and these behaviours also trigger disputes about men wasting time and money. Many Pacific women have become very dissatisfied with their partners' reduced productivity and contributions to family life due to their drug and alcohol use.

While the need to reduce drug and alcohol abuse was very evident in both Kiribati and Vanuatu, very few services are available. In addition, there is very little effort made to raise public awareness of the health and social risks of substance abuse and its impacts on individuals, families and their communities. This aligns with regional research demonstrating that harm reduction programs in the Pacific region are few and small in scale:

> Most programmes lack the technical capacity, human resources and [have] a limited scope of operations to respond effectively to the needs of drug users. Governments in this region should be encouraged to endorse evidence-based harm reduction programmes. [431]

A 2008 review of illicit drug use in Fiji, PNG, Samoa, Solomon Islands, Tonga and Vanuatu found that:

> Cannabis is the by far the most common and widespread illicit drug used in the six Pacific Islands reviewed. Drugs such as heroin, methamphetamines and cocaine are

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[428] Which could be Pacific-adapted versions of existing models, such as the Australian *National Outcome Standards for Perpetrator Interventions* available here: https://plan4womenssafety.dss.gov.au/wp-content/uploads/2015/04/nospi_coag_paper.pdf.

[429] As found in the Kiribati baseline study undertaken in 2019. See The Equality Institute,(2019), loc. cit. n 163.

[430] World Vision, (2016), loc. cit. n 369, p.8.

[431] Reid, G., Devaney, M., Baldwin, S. Harm reduction programmes in the Asia–Pacific Region, *Drug and Alcohol Review*, Volume27, Issue 1, January 2008, available at: https://doi.org/10.1080/09595230701711173.

> not used commonly due to their high cost compared to the average income. Currently, there is no overall regional or country-based illicit drug policy for the Pacific and few treatment programs; limited data exist to aid in understanding illicit drug use and the harms associated with its use in the Pacific. This review highlights the urgent need for strategic alcohol and drug research in the Pacific as a foundation for the development of policy.[432]

Worryingly, in recent years "hard" drugs have inundated many Pacific countries and the need for rehabilitation services has become even more urgent. The SVSG's reflected on the changing needs and situation in contemporary Samoa as follows.

> Fifteen years ago when SVSG initially took out community awareness program on violence, the contributing factors for perpetrating violence were usually poverty, alcohol, relationship issues, anger etc. The prevention programs were therefore geared towards addressing these contributing factors. Nowadays, methamphetamine or ice as it is commonly known, is turning violence into a deadly act, perpetrated by men, women and young people. People are not afraid to kill during violent acts. As such, SVSG is scaling up its prevention program, targeting children and adolescents, to influence a change in mindset and behaviour towards drugs and alcohol through Life Skills Development programs. [433]

Other studies highlight that lack of data hampers effective policy development and interventions and that "harm minimisation appears relatively new for policy makers in the region." [434] A lack of government-supported organisations mandated to reduce the health impacts of both illicit and non-illicit substance abuse hampers efforts to develop more effective services and responses. Given the large scale of alcohol and drug problems in many Pacific societies and the tragic consequences for individuals, families and communities, governments must prioritise provision of health-based harm reduction and treatment services, including as sentencing options for judges.

42.1 Drug & alcohol programs for offenders in Fiji, Tonga & Samoa

The Salvation Army provides much-needed drug and alcohol-related counselling and rehabilitation services, including as part of criminal sentences, for offenders in Fiji, Tonga and Samoa.[435] However demand for these programs far outstrips supply, so lengthy waiting periods may apply, including to those required to complete Salvation Army programs under court orders.[436] The Salvation Army's approach to addiction includes a spiritual dimension for reducing dependency on drugs and increasing wellbeing and connection with family. This

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[432] Devaney, M. Baldwin, S., Crofts, N., Power, R. Illicit drug use and responses in six Pacific Island countries, *Drug and Alcohol Review*, Volume 25, Issue 4, July 2006, available at: https://pubmed.ncbi.nlm.nih.gov/16854668/.

[433] SVSG Engage Newsletter March 2024, p.6, copy on file.

[434] Power et al. 'A response for substance and harm reduction in Pacific Island countries and territories', Harm Reduction Journal (2015) 12, p.51.

[435] See Salvation Army Facebook page https://www.facebook.com/100064919820612/posts/2549223251800932/; Narayan, V, Krishant, N, '*There-are-plans-to-setup-an-addiction-treatment-program-in-Fiji-by-next-year*', 13 November 2019, available at: https://fijivillage.com/news/There-are-plans-to-setup-an-addiction-treatment-program-in-Fiji-by-next-year---Irwin-2k5r9s/.

[436] Interview with Tongan probationary officer, February 2024.

approach has been evaluated and is considered successful in the New Zealand context,[437] but no published data show its effectiveness elsewhere in the Pacific. However, given the strength of religious beliefs and centrality of spirituality across the Pacific, it seems likely that programs with a spiritual wellbeing aspect would resonate with Pacific communities.

The Salvation Army has publicly expressed its concern that too much of the burden of addiction and substance abuse is borne by communities, families and churches.[438] Most Pacific justice and health sectors offer little support for substance abuse treatment and rehabilitation, typically outsourcing it to CSOs. The Salvation Army has a long track record in the field, including in the Pacific, but the programs offered by less experienced civil society providers lack rigour and exclude monitoring of results.

The United Nations Office on Drugs and Crime (UNODC) operates an Asia-Pacific program[439] and has undertaken research on some draconian compulsory treatment and rehabilitation services in East and Southeast Asia.[440] UNODC noted a need for harm reduction approaches and counselling services administered by health authorities,[441] but appears to invest little in supporting Pacific states in this area. Lack of international support and state investment and capacity will continue to constrain change in relation to response to drug and alcohol-related family violence within Pacific communities.

42.2 Samoa's Alcohol and Drugs Court

Samoa is a Pacific leader in therapeutic courts for alcohol and drug-related offending. The Alcohol and Drugs Court (ADC) was established in February 2016[442] to reduce alcohol and drug consumption and dependence, reoffending and imprisonment, and to improve offenders' health and wellbeing. Criminal cases are referred to the ADC for assessment of their suitability for the program, the criteria being that the defendant must:

- Have an indicative sentence of no more than three years of imprisonment
- Be a first offender or not offered the ADC program previously
- Meet the DSM-5[443] criteria for alcohol dependence in a 12- month period
- Agree to enter a guilty plea
- Voluntarily commit to participating in the program.

Some cases include consultation with family members to secure their support for the ADC program.

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[437] Egan, R., Gross, J., Cameron, C, Hobbs, L, Patterson, T. *'Spirituality: A Key Component of the Salvation Army's Bridge Programme Model of Treatment in Aotearoa New Zealand',* Journal of Religion and Health (2023) 62:2563–2584, https://doi.org/10.1007/s10943-022-01674-7.

[438] *'Pacific news in brief for January 15: Samoa addiction'*, 15 January 2024, Radio New Zealand, https://www.rnz.co.nz/international/pacific-news/506769/pacific-news-in-brief-for-january-15.

[439] See UNODC Regional Programme for Southeast Asia and the Pacific 2022-2026, available at https://www.unodc.org/roseap/uploads/documents/Publications/2022/RP_Brochure_2022-2026.pdf.

[440] See UNODC series of papers on *'Compulsory drug treatment and rehabilitation in East and Southeast Asia'*, 2022, available at: https://www.unodc.org/roseap/en/resources/publications.html.

[441] Ibid.

[442] Initially presided over by presided over by Justice Ema Aitken from New Zealand and then by Justice Tuatagaloa, the first female Samoan judge.

[443] American Psychiatric Association. (2013). *Diagnostic and statistical manual of mental disorders* (5th ed.). https://doi.org/10.1176/appi.books.9780890425596.

The ADC program is community-based and usually conducted with bailed offenders.[444] Various service providers support people undergoing the ADC program, including the Salvation Army, Samoa Teen Challenge, SVSG, Probation TASTF, and Samoa Social Welfare Fesoasoani Trust.[445] It has two phases: six weeks of twice-weekly psycho-educational sessions, followed by 12 weeks of twice-weekly intensive treatment. Participants must attend all 36 sessions to graduate. Legal representation is usually provided to the defendant throughout the program, which is carried out by the case manager and clinician and probation officers. It covers spiritual, physical and mental health as well as the customs and values of Samoa. Defendants who complete the program may have their cases dismissed without conviction or be subject to a non-custodial supervision order for a set period with special conditions decided by the court; they are never given a custodial sentence. Defendants who breach bail conditions or do not complete the program are usually expelled from it, then sentenced by the Court.[446]

The ADC program is reportedly reasonably effective, although no rigorous documentation of recidivism rates and other outcomes is available. However, the *Samoa Court Annual Report* for 2019/20 indicates that the Court undertook 154 screenings, 86 brief assessments and 51 family group conversations. Of 477 participants, only 120 (25%) graduated, indicating that most participants find the program challenging, but of completers, only 7% reoffended in the same period.

The main challenges facing the program relate to lack of resources, including professional probation, clinician and case manager officers with expertise in drug and alcohol addiction; funds to cover transportation costs for participants, legal representation for all program participants, and personnel to perform welfare checks. The ADC plans to secure stronger support from village mayors, church ministers, village representatives and family members of offenders to improve support and monitoring of participants. It also wants to recruit businesses to provide work for program participants and thereby reduce their risk of reoffending.[447]

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[444] See for example, bail conditions from case Police v Lofi [2016] WSADC 9 (12 July 2016):

- To sign in with probation every Monday and Friday before 12 noon
- Not to consume alcohol/drugs while undergoing treatment
- To report to his treatment programs every Wednesday before 10 am
- To fully comply with the ADC Participant Agreement
- To comply with directions of case manager
- Not to associate with anyone who is drinking alcohol or consuming illegal drugs
- Not to commit further offences
- To do community service for 4 hours every Monday.
- The defendant (until further order) is remanded for fortnightly monitoring by the court.

[445] A civil society organisation established in 2016 to assist offenders and members of the community with counselling, legal assistance and other social support. See '*Samoa Social Welfare Fesoasoani Trust Launched*', 3 September 2016, Loop News available at: https://www.loopsamoa.com/content/samoa-social-welfare-fesoasoani-trust-launched.

[446] This information is based on a review of Drugs and Alcohol Court cases available on PacLII at: https://www.paclii.org/ws/cases/WSADC/ combined with the insights of Supreme Court Officer Mautu, V. '*The Justice System in Samoa Focusing on the Alcohol and Drugs Court*' paper presented at conference "Achieving inclusive societies through effective criminal justice policies and practices', 2021, United Nations Asia and Far East Institute (UNAFEI), Resource Materials Series 13 available at: https://www.unafei.or.jp/english/publications/Resource_Material_113.html.

[447] Ibid.

This research was unable to identify evidence-based good practices or make recommendations for Pacific drug and alcohol rehabilitation programs. However, in general terms, such programs should:

- Be readily available to people in the community and those in the criminal justice system
- Be framed around relevant spiritual or religious themes for resonance and with linkages back to families and communities for ongoing local mentoring and support
- Address the link between alcohol and drug abuse and family or sexual violence
- Create positive vocational, employment and recreational pathways for young people to enable them to resist alcohol and drug use.

43. Meeting victim-survivors' need for economic safety

Survivors of family violence, and those vulnerable to it, need an economic safety net and livelihood support to continue to support themselves and their children and be productive members of their communities.

43.1 Economic support for victim-survivors

One of the most common reasons Pacific women feel unable to act against family violence is economic dependence upon their husbands or their birth families, forcing them to tolerate continuing violence. Women raised this issue repeatedly in this research, yet Pacific justice and social security systems fail to address it, highlighting the misalignment between state offerings and women's needs.

Few countries in the Pacific offer social security payments to vulnerable social groups. In the Marshall Islands,[448] FSM[449] and Palau,[450] people with disabilities, "survivor spouses" (widows/widowers) and their children, as well as retirees aged over 60 years, can claim regular benefits. Similar entitlements exist in Kiribati. However, in Kiribati the MYSSA offers AUD50 per month per person to private individuals or organisations, such as churches, who provide accommodation and food to family violence victims. This innovative approach for encouraging community support for family violence victims is worthy of further investigation.

This research identified no Pacific governments as providing financial support to victim-survivors. Most support for victim-survivors comes from women's organisations and family violence services, mainly in the form of a few nights of emergency accommodation and/or funds to cover immediate living costs. Some women's organisations offer livelihood programs, but few make these part of their family violence services, which are short-term in nature (except for legal assistance, which may continue for months or years). An exception to this is the SVSG, which has invested heavily in income-generating activities for victim-survivors and as a preventative social protection measure for women vulnerable to family violence (as discussed in section 43.2). The MYSSA in Kiribati supports microfinance and small business start-up support programs for vulnerable women, and similar programs exist in other countries, supported by governments or international or national NGOs.

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[448] Marshall Islands Social Security Administration, https://rmimissa.org/.

[449] FSM Social Security Administration at http://www.fsmssa.fm/benefits/.

[450] Republic of Palau Social Security Administration, at https://ropssa.pw/pgs/applying_for_ss_benefits.html#ui-id-7. See also the International Social Security Association at https://www.issa.int/databases/country-profiles.

As noted earlier, in many Pacific countries victim-survivors can seek a family protection order with temporary maintenance as a condition. This creates a legal obligation on their spouse to support the victim-survivor and any children for the duration of the order. Given that lack of means of support is a key factor deterring many Pacific women from acting against family violence, it is important that governments broadcast information about all available options.

The key point here is that Pacific countries' national strategies for family violence prevention do not prioritise the economic independence of victim-survivors and vulnerable women, despite this being a pre-condition for many women to access the other forms of assistance available. Economic safety nets for survivor victims should be high on governments' policy agendas.

43.2 Sustainable livelihood programs to prevent vulnerability to family violence

As noted above, the SVSG has expertise in designing and implementing income-generating programs to support vulnerable women. One of the key protective factors to emerge from SVSG's community research was economic independence for family violence victims. As evidenced throughout this report, economic insecurity is key to women's vulnerability to family violence and inability to escape from it. SVSG has therefore made women's livelihoods a core aspect of its long-term programming. This feature distinguishes the SVSG from most other Pacific women's organisations and family violence services, few of which offer livelihood programs, or see them as peripheral to preventing and responding to family violence.

The SVSG works to create sustainable livelihoods for victim-survivors so they can live independently from their husbands and families if needed. It also provides livelihood programs to increase the social status and perceived economic and social value of a category of particularly socially vulnerable women at very high risk of family violence. *Nofotane*[451] are Samoan women who move into their husband's community upon marriage. They have very low social status and are required to serve and submit not only to their husbands but to his family and others, exposing them to high risk of abuse.

During the COVID-19 pandemic, SVSG alleviated poverty, anxiety, and financial distress for 1,410 self-employed *nofotane* and their families.[452] SVSG supports *nofotane* to set up businesses and strengthen their business skills by focusing on product quality, marketing and financial literacy. The SVSG aims to transition the *nofotane* program to a social enterprise structure to ensure its sustainability.

Importantly, SVSG's investment in livelihood programs for *nofotane* is a strategic approach. This is complementary to SVSG's other ongoing normative change efforts but tackles the interrelated problems of low social status, lack of social protection and vulnerability to family violence by increasing *nofotanes'* economic capacity. The SVSG programs have proved that this also increases their economic and social value to their husbands, families and communities, thus affording them increased social protection, including from family violence. Economic independence gives *nofotane* the ability to leave situations of family violence if needed.

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[451] Meaning 'she who lives in her husband's home', 'in the village of her husband'. See Del Valle, T. (1993). *Gendered anthropology*. London: Routledge.

[452] Nofotone Samoa Social Enterprise (NSSE) Project, funded by the EU and the Catalysing Women's Entrepreneurship project funded by United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), see *SVSG Project Report 2010-2024*, available at: https://svsg.org.ws/wp-content/uploads/2024/03/SVSG-Project-Report-2024.pdf.

The success of these livelihood programs demonstrates that economic independence is not only crucial for victims seeking to escape family violence but is a preventative strategy that complements other normative change efforts. This approach is of particular significance given female research participants' identification of economic independence as a key need when they seek protection and justice from family violence but is rarely included in state or customary justice responses to the problem.

44. Cost and sustainability issues

The issue of cost is always high on the agenda in resource-poor Pacific countries. This section addresses concerns regarding Pacific governments' and courts' prioritisation and allocation of resources for justice services, as well as observing global trends of declining support for justice sectors from donors and development partners. It reviews available evidence regarding how support for customary and informal justice services can make a significant contribution to creating more sustainable and cost-effective forms of justice service provision aimed at achieving universal coverage of national populations, rather than acceptance that only those living in national or provincial capitals will in effect have access to justice, as is currently the case across most of the Pacific.

44.1 General observations on resourcing of local people-centred justice initiatives

Most Pacific government and donor funding for justice is allocated to centralised parts of state justice services; little is allocated to servicing remote and rural communities. Provincial and lower-level state courts are starved of resources for operations and capacity building. While around 75% of Pacific people live in remote and rural locations, it is estimated that less than 10% of Pacific courts' budgets are allocated to provincial or lower courts' operational needs. Hence, a higher proportion of funds must be allocated to lower courts. Increasing rural and remote communities' access to court services is necessary for courts to meet their obligations to deliver equitable, non-discriminatory justice.

More effective budgeting could save funds. Superior and magistrate court circuits are often managed from national capitals but could operate more widely and cheaply with decentralised logistical support, such as at provincial court level. More investment in communications technologies and mobile home office packs so magistrates and clerks can conduct telephone-based hearings for protection orders from their homes or other locations (without needing to be present in a court) provide rural and remote communities with access to urgent services, such as temporary protection orders and child support, at minimal cost. Community outreach and information sessions could be added to existing court circuits in remote locations without significantly increasing cost. Many other people-centred initiatives (e.g., enabling other kinds of court processes to be handled by telephone or video conference, reducing expensive travel costs for parties, are relatively inexpensive but require a shift in court perspective and approach.

Low-level courts need greater mobility so they can conduct hearings at the village level and rotate according to a roster through remote locations, offer at least an intermittent presence, and conduct community outreach and hearings. However, Pacific governments and donor allocate negligible funds to community (customary and religious) justice systems, despite growing appreciation of the need for people-centred approaches and to expand the reach of justice services. Community justice mechanisms (such as local level courts, APs and

telephone-based services) have low operating costs and are highly resilient and sustainable, so offer excellent value for money. To date, the money has not followed the policies.

Justice sector aid is declining at a global and regional level and is grossly inadequate for the task of filling the justice gap for remote and rural communities and disadvantaged groups like women. This is despite evidence that the benefits of providing effective local dispute resolution far outweigh the costs. Community-based organisations (CBOs) and small CSOs should be supported to undertake grassroots-level justice engagement, but lack capacity to manage grants, implement activities and provide reports. Thus, aid bypasses small local CBOs with local justice expertise and reach.[453]

The issues outlined above are discussed in greater detail in the following subsections.

44.2 Justice sector support is low compared to need

According to an Overseas Development Institute (ODI) analysis of justice sector funding,[454] total global donor support for the justice sector was USD2.9 billion in 2020, compared with USD15 billion for education and USD29 billion for health. Just 1.5% of global donor aid goes to the justice sector, falling from 2.4% seven years ago, a drop of 32%,[455] despite the very high costs of unresolved legal problems and excellent return on investment. The *Pathways to Peace* report found a return of $16 for every dollar invested in access to justice initiatives, due to reduced conflict risk.[456] Globally, conflict costs around USD2,000 per person per year[457] and scaled-up prevention efforts could save between five to seventy billion dollars per year.[458] The Organisation for Economic Co-operation and Development (OECD) estimated that countries can lose up to 20% of gross domestic product (GDP) when non-conflict related violence is very high. [459] The direct costs of unresolved justice problems – such as lost income, ill health and the costs of seeking redress – amount to 0.5%–3% of GDP per year in OECD countries,[460] and up to 2% of GDP in most low-income countries.[461] The World Bank's cost-benefit analysis of 50 legal aid service models concluded that the "benefits of legal aid overwhelmingly outweigh the costs: for the individual involved, the community, the justice

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[453] And beyond this, key informants emphasised that CBOs often view their relationship with CSOs to be primarily extractive, where CSOs are seen to piggyback off the work performed by CBOs, to access greater financial support, but without passing benefits on to CBOs.

[454] Manuel, M., & Manuel, C. (2022), *Justice aid update and lessons from latest evaluations of donor programming*, p. 9. available at: https://odi.org/en/publications/justice-aid-update-and-lessons-from-latest-evaluations-of-donor-programming/; ODI, *Investing in what works to deliver SDG 16.3 and people-centred justice in lower-income countries*, available at https://odi.org/en/insights/investing-in-what-works-to-deliver-sdg-163-and-people-centred-justice-in-lower-income-countries/.

[455] Manuel, M., & Manuel, C. (2022), loc. cit. n 425.

[456] United Nations and World Bank, Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict. (Washington DC: World Bank, 2018.

[457] Task Force on Justice, *Justice for all,* loc. cit. n.1; see also: World Economic Forum, 2021, *Can you put a price on peace? This study says you can*, available at: https://www.weforum.org/agenda/2021/02/war-violence-costs-each-human-5-a-day/.

[458] United Nations and World Bank,(2018), loc. cit. n 427, [1255].

[459] OECD, World Justice Project (2019), loc. cit. n 22.

[460] Ibid, p. 1.

[461] For which there is data. Ibid, p. 25.

sector, as well as the economy and the society."[462] Thus, there is already strong evidence for the cost-effectiveness of better supported dispute resolution. Studies of the cost-effectiveness of improving local and effective dispute resolution in the Pacific are needed to support advocacy for greater resource allocation.

44.3 Cost effectiveness of universal basic justice care

In 2021, ODI published an assessment of the cost of universal basic justice care – free and universally accessible mechanisms for resolving everyday legal problems.[463] It indicated that basic justice care would cost as little as USD20 per person per year in a typical low-income country, (compared to USD41 for basic education and USD76 for basic health care), USD64 in middle-income countries and USD190–230 in high-income countries.[464] However, 53 countries (34 low-income & 19 middle-income countries, with 2 billion people), cannot afford even half of the USD20/person/year needed for basic justice care; providing universal basic justice care worldwide would cost USD13 billion per year.[465]

44.4 Donor drift from justice despite low cost and high effectiveness

The Task Force on Justice report (2021) urged the justice sector "to increase the resources available for lower-cost models able to respond to unmet justice needs at scale."[466] The continued prioritisation of centralised state justice services remains undisturbed, despite little measurable impacts of many of these investments[467] and high operating costs, which have contributed to declining donor support.[468] Poor returns from state justice investments contrast to the high effectiveness and low costs of community-based justice. Donor evaluations of justice investments show that even in countries with poor overall compliance with rule of law, it is possible to improve justice service delivery to prevent and resolve justice problems from the community side. For example, ODI calculated that providing universal access to basic justice advice, assistance and empowerment would cost just 2% of the total cost of national justice systems (and only USD0.40 per person per year in low-income countries).[469]

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[462]World Bank, *A Tool for Justice: The Cost Benefit Analysis of Legal Aid,* available at: https://documents1.worldbank.org/curated/en/592901569218028553/pdf/A-Tool-for-Justice-The-Cost-Benefit-Analysis-of-Legal-Aid.pdf.

[463] Manuel, M. and Manuel, C. (2021) *People-centred justice for all – A route to scaling up access to justice advice and assistance in low-income countries.* ODI, available at: https://odi.org/en/publications/people-centred-justice-for-all/.

[464] Manuel, M, Manuel, C. Desai, H. for ODI, *Costing Sustainable Development Goal, 16.3,* 2019, Working Paper 554, available at: https://cdn.odi.org/media/documents/12702.pdf.

[465] Ibid.

[466] Task Force on Justice, *Justice for All*, loc. cit. n 1, pp.96-97.

[467] See Manuel, M, Manuel, C. (2022), loc. cit. n 425, p. 14. finding that donor assessments have common concerns regarding the lack of impact of justice aid investments either in relation to strengthened rule of law, and in improved state justice services.

For example, Independent Commission for Aid Impact (2015) *Review of UK development assistance for security and justice*. London: Independent Commission for Aid Impact, available at: https://icai.independent.gov.uk/report/uk-development-assistance-for-security-and-justice/.

[468] Manuel, M. and Manuel, C. (2021) loc. cit. n 434.

[469] Ibid.

44.5 Paralegals: low cost, high impact

Studies have shown that paralegal interventions are much cheaper than systems relying on lawyers.[470] Consider community nurses, who meet many primary health needs but escalate cases to doctors and specialists as needed. Similarly, basic justice care is needed at the grassroots level, with clear escalation pathways to lawyers and state justice actors. Community-based paralegals and women's organisations are not only cost-effective but more effective overall. This is because within plural legal environments , which exist across the Pacific, community-based paralegals and women's organisations can overcome justice barriers caused by lack of coherence between systems or an absence of clear pathways, while offering the expertise needed to solve common community-level legal problems.

44.6 Low costs and high sustainability of local justice initiatives

The suggestions put forward in this report for improving the alignment of community and state justice systems with the needs of women living in rural and remote Pacific locations have minimal operational, infrastructure and salary costs. Budgetary needs often relate less to the cost of running community justice mechanisms and more for surrounding efforts, such as for training, exchange activities between local justice and state justice actors to build relationships of trust and improved coherence between community and state justice systems. In short, community-based justice options can offer high returns on investment and be highly effective in increasing local capacity to resolve disputes, while creating more reliable escalation pathways for cases that require state justice support, such as family and sexual violence cases.

44.7 Need for delivery models that can work at scale

ODI's work shows the effectiveness of local justice services, especially when scalable delivery models are used, compared to the higher costs per service of small-scale CSO-provided services or services delivered via international consultants and NGOs.[471] Examples such as the Micronesian Legal Services Corporation, which provides civil legal aid across four Pacific states and territories, offers a model for achieving national coverage in countries unable to afford standalone services. Pooling resources into one organisational framework improves efficiency and affordability.[472]

Funding for community justice work is dispersed in a scattergun approach, often due to multiple donors funding small initiatives in an uncoordinated way, leading to proliferation of short-term small pilots and initiatives rather than strategic impact. It does not help build systems with capacity to provide universal people-centred justice. While small-scale pilots have often been shown to produce excellent results for targeted communities, their small scale means high unit costs. Moreover, the lack of a strategy to link these efforts into a more coherent model capable of supporting wider community needs represent a missed opportunity.[473]

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[470] Ibid.

[471] See Manuel, M, Manuel, C. (2022), loc. cit. n 425, p.31.

[472] See Graydon, C. (2021). loc. cit. n 55, Annex C 'Best Practices' for a description of *The Micronesian Legal Services Corporation (MLSC),* established in 1974 – the most innovative, ambitious and successful civil legal aid model in the region. Available at: https://www.fedcourt.gov.au/pjsi/reports.

[473] Manuel, M., & Manuel, C. (2021) loc. cit. n 425. See also Manuel, M., Manuel, C., Manea, S., Nagaria, D. for ODI (2023). *Domestic financing for justice,* available at: https://cdn.odi.org/media/documents/Domestic_financing-_for_website_FINAL.pdf.

44.8 Support needed at grassroots level

Resources from governments and donors for community-based justice work, including legal empowerment and customary and religious justice engagement, need to be directed to CBOs at the village and area level or to CSOs at regional and national levels. CSOs, including many Pacific women's organisations, provide crucial support to CBOs and act as vital participants in regional networks.[474] They may be the actors best placed to work with governments at regional and national levels to expand access to justice, including for women seeking protection and justice for family violence. [475]

Recommendations related to the sustainability and cost of local-level justice initiatives

- Assemble evidence about the effectiveness and low cost of local justice initiatives and use it to persuade Pacific governments and donors/development partners to prioritise them.
- Analyse court budgets to identify savings that can be reallocated to provincial and lower-level courts to increase access to justice.
- Focus on low-cost methods for courts to improve service in remote and rural communities, such as incorporating outreach into circuits, providing court information community radio, providing more court services by telephone, and increasing the mobility of local-level courts.
- Encourage donor/development partners to earmark justice funding for local initiatives that engage with all local state, customary, religious justice providers and civil society actors.
- Initiate discussions with village chief about practices related to fees to achieve more consistency, lower fees and exemptions for categories of people and cases.
- Support local CBOs and CSOs to implement low-cost justice initiatives and dialogues.

[474] Linking the global to the regional and national, as explained by Namati.

[475] Discussing the need to find suitable partners for at-scale delivery of justice at the community level. See Manuel, M. and Manuel, C. (2021) loc. cit. n 425.

PART F: CONCLUSION

This research traversed wide physical and conceptual territories. It began with the identification of common and thorny problems for women living in rural and remote parts of Kiribati and Vanuatu. Key issues identified by women were family and sexual violence, abandonment, economic vulnerability, the difficulty of obtaining legal and financial redress, and the social pressure and stigma associated with seeking help. It then identified women's priorities when seeking assistance to resolve family and sexual violence and family support needs. The research revealed that most Pacific women seek practical justice that will cause minimum disturbance to their familial, social and economic lives.

After establishing women's problems and what they seek from the justice system in solving them, the research turned to local justice ecosystems – customary, religious, and (to a lesser extent) state mechanisms. It examined how each form of local justice responds to family and sexual violence and family support needs and how they interact, primarily through the lens of women's experiences. While customary, religious and state systems in Kiribati and Vanuatu have differing strengths, none is well aligned to women's justice goals. This misalignment reduces women's access to justice, exacerbating the more obvious barriers such as remoteness, poor transportation, and lack of legal knowledge and assistance. The fact that none of them deliver the practical and enduring outcomes women seek explains women's very low uptake of state justice and their reservations about using customary and religious justice systems.

Justice solutions need to be as local as possible to be affordable, reachable and understandable. While customary justice systems are strong in some of these respects, they are less accessible to women than is often assumed, due to fees, gendered social norms, male-dominated processes, and other reasons. Simply trying to modify customary justice systems will be insufficient to improve justice for Pacific women; a holistic approach that incorporates state justice reforms is required.

There is undoubtedly enormous scope to engage and support people involved in customary justice systems to treat women more fairly and allow them to speak and be heard. This research identified opportunities for change, many of them suggested by women participants, which would help bring each justice system into better alignment with women's justice goals. Some chiefs already use enlightened methods such as receiving briefings on a woman party's circumstances via a female intermediary prior to a *Nakamal* hearing or directing compensation payments to women rather than to their families. Providing opportunities for progressive chiefs to share and discuss methods may encourage others to follow suit and generate momentum for system change.

Nevertheless, customary or religious systems will not provide reliable solutions to women's problems (notably, family and sexual violence) unless they are reorientated towards perpetrators' accountability and behaviour change. This research identified some promising examples of such reorientation in some Pacific countries. Customary authorities must have strong community legitimacy and be willing to share power and initiate participatory processes for developing bylaws, penalties and safe reporting methods. Using their customary power (and social licence reinforced by participation) to monitor and mentor errant community members and enforce the new standards can result in major reductions in

family violence in communities. Establishing such systems widely could reduce violence while strengthening marriages and preserving women's economic and social status.

State justice systems are critical too but are largely missing in action at the community level. Court systems must develop a local presence – not necessarily permanent or even physical, but continuous and real. Existing state justice mechanisms and bodies in Kiribati and Vanuatu, if functioning as intended, would alert women to the presence of state justice and give confidence they will protect her rights and back up local justice systems as needed. Criminal justice needs to be reorientated around women's justice needs and offer the remedies that women seek – rehabilitated partners and reliably enforced maintenance payments – in timely and practical ways.

Coordinated initiatives at local level can foster symbiotic change between and within with customary, religious and state mechanisms. Initiatives must be based on knowledge of women's justice goals and aim to achieve them, leveraging the strengths of each system . Such an approach must not merely *involve* women and women's organisations but must be *driven* by them to ensure that processes and outcomes remain aligned with and accountable to what women want and need. Women in Kiribati and Vanuatu have a right to demand an end to family and sexual violence and abandonment, and should such acts occur, that they can seek solutions that will not invite further violence, trap them in poverty and isolate them from their families and communities.

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