

AN ASSESSMENT OF THE STATE OF
VIOLENCE AGAINST WOMEN
IN FIJI
2008

UNFPA Pacific Sub Regional Office
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FIJI

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ABBREVIATIONS USED:

CSO	Civil Society Organisation
CPC	Criminal Procedure Code
CEDAW	Convention on the Elimination of All Forms of Discrimination
DEVAW	Declaration on the Elimination of Violence Against Women
DSW	Department of Social Welfare
DV	Domestic Violence
FBO	Faith Based Organisation
FLRC	Fiji Law Reform Commission
FWCC	Fiji Women's Crisis Centre
FWRM	Fiji Women's Rights Movement
NGO	Non Government Organisation
SOU	Sexual Offences Unit
WPA	Women's Plan of Action
UNFPA	United Nations Population Fund
UNICEF	United Nations Fund for Children
UNIFEM	United Nations Development Fund for Women
WHO	World Health Organisation

COUNTRY ASSESSMENT ON VIOLENCE AGAINST WOMEN: CASE OF FIJI

I. INTRODUCTION

Over the last 20 years, violence against women (VAW) has been increasingly recognized as major health, human rights and development issues. The Secretary General's In-depth Study on all forms of violence against women (A/61/122/Add.1, and Cor.1) recommends intensified action to eliminate violence against women at all levels. The General Assembly's resolution urges United Nations (UN) entities to enhance coordination and intensify their efforts to eliminate violence against women in a more systematic, comprehensive and sustained way. It further calls upon UN entities to extend coordinated efforts to assist States in their efforts to eliminate violence against women.

For this coordinated effort in assistance to States against violence against women to become a reality, a programme has been initiated for 10 pilot countries including Burkina Faso and Rwanda for Africa, Jamaica in the Caribbean, Paraguay and Chile for Central America, Fiji for the Pacific, the Philippines for Asia, Jordan and Yemen for the Middle East, and Kyrgyzstan for Central Asia. The task force will assist States through supporting comprehensive national approaches against violence against women, for example in designing and implementing national action plans and other relevant programmes. Prior to this, a country assessment on violence against women is a priority.

It is within this framework that this country assessment on violence against women has been undertaken. The Fiji country assessment on VAW will emphasize the nature and extent of the following issues:

- The forms of violence that exist, who the victims and perpetrators are, and what the consequences entail;
- The relevant policies and laws that exist;
- The stakeholders involved and their respective capacities; challenges and gaps in addressing violence against women; and,

- The identification of priorities for interventions.

1.1 Country Profile

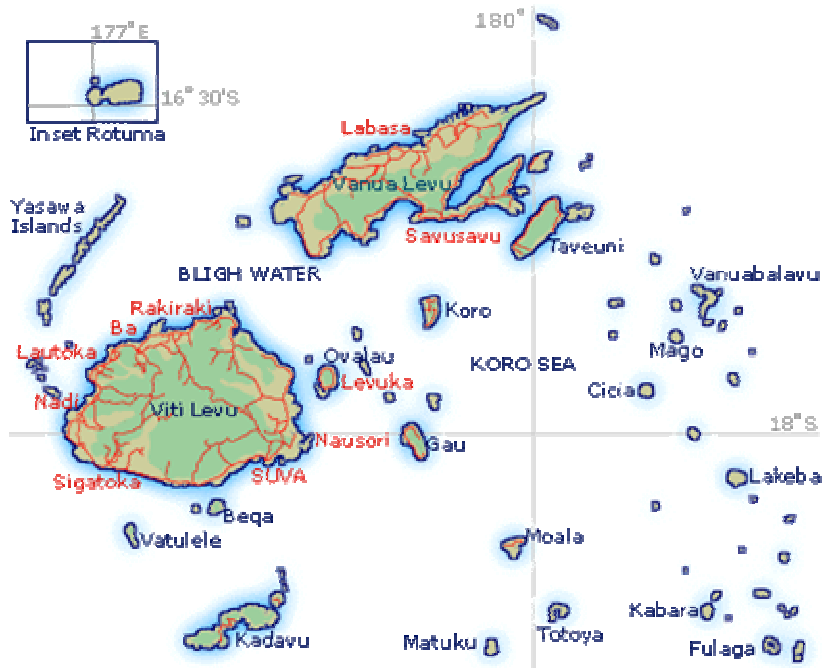
1.1.1 Geographical Location

The Republic of the Fiji Islands, which includes the island of Rotuma, lies wholly within the southern tropics, between the Equator and the Tropic of Capricorn. The area included within Fiji's Exclusive Economic Zone (EEZ) is 1,163,272 square kilometres but most of this is ocean with only 18,333 square kilometres of land. It is made up of over 300 islands. Only 16% of this landmass is suitable for agriculture and is found mainly along the coastal plains, river deltas, and valleys.

The majority of the total population of 835,230 people (2007 Census) live in the two main islands of Viti Levu (10,429 sq. km) and Vanua Levu (5,556 sq. km) which have mountainous interiors - over 900 metres above sea level. At the last census around 49% of the population still lived in rural areas but there is significant rural-urban movement. The combination of the prevailing south-easterly trade winds and these mountain ranges result in a distinct dry western side climate suited for sugar cane cultivation and a distinctive wet and humid eastern climate experienced in Suva, the capital city. Other main islands are Taveuni (470 sq. km), Kadavu (411 sq. km), Gau (140 sq. km) and Koro (104 sq. km). The second city in Fiji is Lautoka.

Fiji's central location within the South Pacific naturally makes it the location for many regional offices of international development partners, NGOs and FBOs. Regional agencies such as the Pacific Forum and the University of the South Pacific are also located in the country. In terms of telecommunications and airline and shipping links Fiji is relatively well served compared to other Pacific countries. It is now the most popular tourist destination in the Pacific, outside Hawaii.

Map of the Republic of Fiji Islands



Violence and the threat or fear of violence forms a part of many women's daily realities in Fiji. A range of social, economic, political, and cultural factors combine to create an environment where women are particularly vulnerable to abuse.

1.1.2 Economic context

The relationship between poverty and violence is not linear. However, it is clear that violence against women and children contributes to poverty in both direct and indirect ways. Fiji Women's Crisis Centre (FWCC) statistics show that about 60% of its clients do not engage in formal employment. Women's lack of economic independence is one of a number of key factors that prevent them from leaving a violent relationship and for many women who do leave a violent situation, they may end up living in poverty. The interview with the Department of Social Welfare (DSW) reinforces this as they report that women seek welfare assistance due to delayed maintenance payments after they have left a violent situation.

The Household Income and Expenditure Survey (HIES) of 2002/2003 showed that 34.4 percent of households live below the poverty line. The poorest households normally include those with low standards of education and skills and have difficulty finding employment.¹

The results from an Asian Development Bank (ADB) study shows that the cost of living has risen by 40 – 45 percent, while the mean wage rate has only increased by 28 percent over the same time period.² This suggests that the extent of poverty in Fiji has increased significantly. Around 1 in 7 of the poorest households are headed by women.³ The majority of the recipients of Social Welfare's Family Assistance Scheme are female (around 71 percent). A study by Dr Wadan Narsey found that for economically active persons, there is a sizeable negative gender gap of -19% with men earning an average of \$9,393 while women only earn \$7,600⁴. His study also found that despite doing 52% of all the timed work in the economy, women received only 27% of all income in the sector.⁵

1.1.3 Political context

Fiji's political landscape has been characterized by almost constant change, upheaval and ethnic conflicts. Four political coups in twenty years have caused serious disruptions to social and economic life. In the context of political violence, issues concerning women and their rights become secondary to issues of national security, and civil society organizations, including women's groups, have had to work much harder to highlight human rights issues.

After the 2000 coup women faced significant economic difficulties. According to research conducted by the Fiji Women's Crisis Centre, of those women surveyed who were in paid employment, 72 percent either lost their jobs or had reduced working hours

¹ Government of Fiji Parliamentary Paper No.92 of 2006: Strategic Development Plan 2007-2011.

² Government of Fiji & ADB. 2003. Discussion Papers. Government of Fiji & ADB, Suva, Fiji: 9.

³ Government of Fiji & UNDP. 1996: 48.

⁴ Wadan Narsey 2007. Gender Issues in Employment Underemployment and Incomes in Fiji Suva: x

⁵ Ibid x

and pay cuts as a result of the coup. The number of households earning less than \$50 (equivalent to US\$32) per week more than doubled following the coup.⁶

Following the December 2006 coup, economic hardship increased again. Costs rose on basic food items like flour and rice, and people experienced further unemployment or shorter working hours. In this context, women and children were left even more vulnerable to violence.

1.1.4 Socio-cultural context

Cultural, ethnic and religious fundamentalism is on the rise in Fiji. This promotes conservative ideas and negative myths about women and their rights. Some traditional leaders, such as chiefs, religious leaders and community leaders, are reinforcing the view that women's roles should be restricted to the realm of domesticity. According to community research undertaken by FWCC, women who lay claim to their rights are often blamed for family breakdowns, and implicated as blameworthy should they be subjected to violence or sexual abuse within the family.⁷

Girls comprise 48.6 percent of primary level enrolments and 50 percent of secondary level enrolments. However due to the increasing incidence of poverty in Fiji, families are beginning to restrict the education opportunities of young females. Many poor families prefer to invest in boys' education because it is still believed that boys will grow up and look after their parents, and that they will be the primary breadwinners for their families.

1.1.4 Key Development Indicators

- Population: 835,230⁸
- Total Fertility rate: 2.6⁹

⁶ Fiji Women's Crisis Centre. 2001. The Impact of the May 19 Coup on Women in Fiji. Fiji Women's Crisis Centre, Suva, Fiji: 4.

⁷ The FWCC has conducted 202 community education sessions over the past 4 years reaching over 8,000 women and men.

⁸ Fiji Bureau of Statistics, Provisional Census Data 2007

⁹ SPC Statistics and Demography Programme Pacific Islands Population Estimates

- Population Under 25 years: 53%⁸
- Adult Literacy: 93%¹⁰
- Poverty Line: 34.4%¹¹
- Infant Mortality Rate: 20.8 (rate per 1000 live births)¹²
- Under-five Mortality Rate: 26.0 (rate per 1000 live births)
- Maternal Mortality Ratio: 50.5 (rate per 100,000 live births)
- Urban Population: 51%⁸
- Annual Population Growth Rate: 0.7%⁸
- GDP per capita: US\$2188⁸
- Population Aged 65 and above: 4.6%
- Percent of population using an improved drinking water source: 65%

1.2 Definition of concepts related to violence against women

For the sake of clarification of some concepts that are interrelated but are sometimes used interchangeably in this assessment, it is important to define some of the basic concepts in the sections, below:

The term **violence against women** refers to any act that results in, or is likely to result in, physical, sexual and/or psychological harm to women and girls, whether occurring in private or in public. Violence against women is a form of gender-based violence and includes sexual violence¹³.

“**Gender-based violence** is an umbrella term for any harmful act that is perpetuated against a person’s will, and that is based on socially ascribed (gender) differences between males and females. Examples include sexual violence, including sexual

⁹ Ibid

¹⁰ Fiji Bureau of Statistics, Provisional Census Data 2007

¹¹ Government of Fiji: Strategic Development Plan 2007-2011

¹² Ibid

¹³ USAID and UNICEF: Strategic Framework for the prevention of and response to gender based violence in Eastern, Central and Southern Africa

exploitation/abuse and forced prostitution; domestic violence; trafficking; forced/child marriage; and harmful traditional practices such as female genital mutilation, honor killings, widow inheritance, and others.”¹⁴

Sexual violence, including **exploitation and abuse**, refers to any act, attempt or threat of a sexual nature that results, or is likely to result, in physical, psychological and emotional harm. Sexual violence is a form of gender-based violence.

II. METHODOLOGY

The following methodology was used to undertake the assessment:

2.1 Data collection consisted of:

- A literature review was undertaken of studies on violence against women in Fiji, Fiji Police Crime Reports, newspaper clippings on violence against women and women’s human rights issues and other relevant documents.
- Individual consultations with various stakeholders were conducted. Interviews were scheduled and discussions were focused on current programmes on violence against women to identifying gaps in services, programmes and legislation.
- A documentary review of policies and legal frameworks was carried out
- A focus group discussion was held with the counsellors at the FWCC.
- Data was solicited from the Police Statistics Unit as well as the Suva Magistrates Court and analysed.

2.2 Data analysis consisted of:

A critical analysis of various issues arising out of discussions as well as literature and document research.

2.3 Data presentation and interpretation consisted of:

¹⁴ USAID and UNICEF: Strategic Framework for the prevention of and response to gender based violence in Eastern, Central and Southern Africa.

All data collected was then classified into the following categories:

- Forms of violence against women and the environment and context in which this violence occurs
- Existing policies and laws on violence against women
- Service delivery and gaps in service delivery for victim/ survivors of violence against women
- Stakeholders involved and their interventions
- Available resources

III. VIOLENCE AGAINST WOMEN IN FIJI

3.1 Forms and incidences of violence against women

The data collection processes revealed the variety of forms of violence against women that exists in the country. Such human rights abuses results in increased poverty and a higher prevalence of Human Immunodeficiency Virus (HIV), Acquired Immune Deficiency Syndrome (AIDS) and Sexually Transmitted Infections (STIs), trauma, psychological troubles, unwanted pregnancies, disability, abortion, sterility, stigma, increased consumption of alcohol and drugs, prostitution, school drop outs, corruption and polygamy. Other consequences include mismanagement of family property, abandonment of children, personal isolation and even death.

The forms of violence against women, as evident through data collection, have been disaggregated into the following headings: domestic violence; rape within marriage; sexual violence; and prostitution and trafficking.

Domestic Violence:

Domestic violence refers to violence that happens within a relationship and includes intimate partner violence, violence between family members and in situations extends to other domestic relationships. Domestic violence is not just limited to physical violence

but includes sexual violence, emotional/ psychological violence and economic violence. Domestic violence stems from the unequal power relations between partners and involves the use of power and control of one person over another within the relationship. For the Fiji situation, the term domestic, as used in this baseline assessment, refers mostly to intimate partner violence.

Fiji Police Force statistics indicates that domestic violence made up around 13% of all Crimes Against the Person in the period from 2003 to 2007. During this period women made up about 82% of victims while men made up 18%. For 2007, the Fiji Police recorded a total of 457 cases of domestic violence throughout the country. During the period from 2003-2007, there were fifteen murders committed in a domestic violence setting and of this total 13 of the victims were women while two were men (see Annex 1). Overall, the Fiji Police Force data indicates a downward trend in cases of domestic violence over the past six years from 2001 to 2007 with a reduction in reporting from 941 cases in 2001 to 457 cases in 2007.

While the number of police-reported cases of domestic violence has dropped, these figures should not be taken *prima facie* as fully indicative of the prevalence of domestic violence in Fiji. A significant number of victims of domestic violence choose to report their cases not to the police, but to women's centres and organisations such as the FWCC. As indicated in the attached table, the FWCC in Suva, and its branches in Ba, Labasa, and Nadi recorded a total of 685 new clients¹⁵ for domestic violence for 2007. That is 228 more cases than those reported to the police in the same year (see Annex 2). The FWCC does not have the same geographical outreach as the Police Force. Therefore, the fact that the women's centre still received more complaints than the police suggests that domestic violence in Fiji remains underreported. Women who report cases of domestic violence to the FWCC are encouraged to report their cases to the police as well. Approximately 40% of women accessing FWCC services for domestic violence choose to follow this by going to the police.

¹⁵ New clients refers to women reporting to the FWCC for the first time

National research on domestic violence and sexual assaults conducted by the FWCC reveals that 80 percent of survey respondents had witnessed some form of violence in the home. Sixty six percent of women surveyed reported that they had been abused by their partners; 30% of these suffered repeated physical abuse; 44 percent reported being hit while pregnant. Seventy four percent of female victims did not report violence to the police or seek medical attention.

There are many disincentives to reporting cases of domestic violence and pursuing a case through the legal system, even with the Fiji Police Force “No Drop Policy” in place. Introduced earlier this decade the Policy was an undertaking by the Police Department to prosecute a case in court once domestic violence had been reported, even if the partners had reconciled after the event. The disincentives include certain religio-cultural issues such as pressure to keep the family together, keeping problems that occur within the family private and ‘commitment’ to marriage vows that tend to discourage women from seeking support for issues that are still widely considered ‘private’. For example, women are seen to be disrespectful of their marriage vows if they do report domestic assault or seen to be challenging cultural norms that strive to keep the family together, despite adverse and dangerous situations .

Some women report cases of domestic abuse to non-legal bodies, such as their religious leaders, family members, or others in their support network. In many instances, however, women are encouraged to ‘reconcile’ with their partner, or to accept the acts of violence in the relationship as a ‘part of marriage’. Women’s lack of economic independence is one of the key factors that prevents them from officially reporting cases of domestic violence to the police. Furthermore, financial dependency on husbands or partners makes it difficult for women to leave their home situations, even when and where they are being consistently abused.

Whilst the relationship between poverty and violence is not linear, it is clear that violence against women contributes to poverty. About 60% of FWCC clients are without formal employment. There are many cases of violence that result in separation or divorce. In

Fiji, where welfare payments are not available, this leaves the women and children dependent on irregular family or child maintenance, or on the generosity of relatives, who frequently do not support women in their decision to leave a violent partner. For women who have left violent situations, to be able to access family assistance schemes through the Department of Social Welfare, they must prove that their partner has defaulted on maintenance payments, and is not responding to a court order, before their application for family assistance can be considered.

There is still a great deal of stigma attached to being a divorcee or a woman separated from her partner. Pressure resulting from conservative cultural perspectives and interpretations of religious principles contributes to women remaining in violent situations. This view is reinforced in previous reports such as the Domestic Violence Law Reform Discussion papers where the following views were expressed in various submissions:

“(Victims of domestic violence in rural areas and isolated areas)... are more at risk since the communities are still fully indoctrinated with the teaching of the church and the ‘Vanua’ [traditional society] that women are subservient to men”.¹⁶

This view was reinforced by women’s representatives from the community when they said:

“They lord over the women folk as if it is their right to bash a woman, rape their own wives and do all this violence thinking they are lord and master of the house”.¹⁷

Furthermore, there appears to be a lack of understanding of the issue of domestic violence by people in positions of authority. This reinforces stereotypical responses to domestic violence. Some senior government officials have espoused the view that domestic violence occurs due to a lack of communication between the couple. This view obscures the power dimension that exists within domestic violence situations, and the cycle of abuse which develops from unequal relationships.

¹⁶ Comments from the Commissioner of Police: Volume 2, Part 1: Legal Response to Domestic Violence

¹⁷ Comments by Mrs Basawaiya. Volume 2, Part 1: Legal Response to Domestic Violence

Furthermore, the current political climate in Fiji has implications for the reporting of cases of violence against women to various agencies. The 2000 coup had a significant effect on the number of women reporting to the Police and the FWCC. In fact, research conducted by the FWCC indicated that the incidence of domestic violence increased significantly following the coup.¹⁸ The number of new and repeat clients visiting the FWCC decreased more than 31 percent from 1999 to 2000. In contrast to this situation, following the December 2006 coup, the number of women who reported cases of domestic violence to the FWCC actually increased by 5 percent. The FWCC believes that this is due to the consistent advocacy for women's human rights over the years, in particular their right to access justice.

Increased reporting has taken place despite the many disincentives that existed, such as fear of traveling outside the home immediately after the coup due to poor security and lawlessness; lack of money for transport (due to increased poverty following the economic upheavals related to the coup resulting in e.g. lay-offs from work); and in some cases scrutiny by their male partners who were temporarily out of work. However reports of domestic violence to the Police following the 2006 coup decreased by approximately 11 percent.

Emotional and economic violence: Emotional violence includes the use of coercion and threats, the use of intimidation and isolation, putting the victim down, name calling and shifting the responsibility for abusive behaviour to the victim. Economic abuse includes preventing the victim from getting or keeping a job, not letting her have any say in financial decisions for the family and controlling her access to family income. These forms of violence do not feature in police crime statistics in Fiji. Emotional violence can be verbal or non-verbal, and includes belittling, calling of names, and threats and intimidation. It also consists of depriving women of basic needs and controlling finances so that women are not involved in financial decision-making within the family. FWCC statistics for 2007 show that 95% of women experiencing physical violence in the home reported also experiencing emotional violence. Emotional violence has severe effects on

¹⁸ FWCC 2001 The Impact of the May 19 Coup on Women in Fiji Suva: 11, 17-19.

women's health. However, it is often overlooked by service providers. Many women seeking support from the FWCC have also disclosed how their partners fail to support them and their families economically, and in some cases deprived them of basic needs. This kind of financial control excludes women from the decision-making process within the home, and contributes to their disempowerment.

Rape within marriage: Rape or forced sex within marriage is an issue that has only recently been discussed publicly in Fiji and has only been brought to the fore following awareness programmes by organizations such as the FWCC and FWRM. There is a great deal of shame associated with sexual violence perpetrated by intimate partners. FWCC indicates that 32 percent of women reporting cases of physical violence suggested that the violence occurred after they declined to have sex with their husbands. Over the past 5 years, between 10 and 19 percent of women seeking assistance from the FWCC for cases of domestic violence have included instances of sexual assault in their complaints.

Discussions with police officers during the course of this study revealed their lack of awareness and understanding of the issue of marital rape. During personal communication with some police officers it was found that when women report sexual assaults perpetrated against them by their husbands, while police officers will record the reports of physical assault, they are likely to ignore instances of sexual assault. Interviews with a few police officers indicate that some senior officers are reluctant to let cases of marital rape go through the system because they are difficult to prove, in particular if the couple are not separated and are still living together. During the national consultations for a legal response to domestic violence, some of the submissions discussed the issue of marital rape. One of the examples is as follows:

*“In a confidential submission to the Commission a representative of the Soqosoqo-ni-Marama of one rural village said that most of the members were victims of domestic violence and one reason that it is difficult for women to report is that a prevalent form of domestic violence is marital rape”.*¹⁹

¹⁹ Report on the Review of Laws Relating to Domestic Violence Volume 2 Part 1 p.29

In 2004, a case of marital rape that did go through the court system ended in a ten-year jail sentence for the husband. However this was a case that was relatively unambiguous. The couple in question was separated, and the husband had indicated to the wife that he wanted to meet to discuss maintenance payments. When the wife obliged, the husband kidnapped and raped her.²⁰ Despite this, following the husband's appeal in the Fiji Court of Appeal, his original sentence was reduced to 7 years, on the grounds that he had pleaded guilty from the beginning of the trial.²¹

Sexual violence and harassment:

Sexual violence includes any unwanted sexual activity and moves beyond the current legal definition of rape which is limited to penile-vaginal penetration and includes forced oral and anal penetration by the penis as well as the use of animate and inanimate objects.

Police statistics from 2003-2007 show that of all sexual offences committed in Fiji, the number of cases of defilement of girls aged between 13-16 years is the third highest. Defilement is what is known in some jurisdictions as statutory rape and occurs when a person has sexual intercourse with a girl under the age of consent.²² There are two different classifications of defilement: defilement of girls under 13, which carries the maximum penalty of life imprisonment, and defilement of girl between 13 and 16, which carries a lesser penalty. According to human rights lawyer and activist Imrana Jalal, the law reflects widely held perceptions that when girl is under 13 years of age, she may be considered physically, emotionally, mentally and sexually immature and sexual intercourse would harm her, whereas girls over the age of 13 are perceived to be physically ready and willing to have sexual intercourse.²³ It is common for police to place a charge of defilement of girls between 13 and 16 because the bar for proof of lack of consent is lower than that for rape. However, girls in Fiji are often unsure of their position in these cases, in that they are not fully aware of their right to refuse sexual intercourse. For example, case studies from the FWCC indicate that the girls felt that they

²⁰ Fiji Times, *Ten Years in Jail for Wife Rapist*: pgl November 20 2004.

²¹ Criminal Appeal No. AAU0066.2005

²² Imrana Jalal 1998 Law for Pacific Women Suva: 94

²³ Imrana Jalal Law for Pacific Women

had to consent to sex because they had agreed to e.g. go for a walk on the beach. In these cases, coercion on the part of the perpetrator can clearly fall within the classification of rape.

Sexual assault remains one of the most under-reported crimes in the world and indeed this is the case for Fiji. While there has been no substantive study to determine the prevalence of sexual assault in Fiji, Police statistics show that sexual assault and harassment is prevalent across all age groups, with the largest group of victims falling between 11 and 15 years of age. Reported cases of sexual assault have increased steadily over the past 5 years with a 155 percent increase from 2003 to 2007. However, similar to the trend for domestic violence, there was a slight decrease in 2007 with a drop of about 0.7 percent. In 2003, sexual offences made up around 3 percent of all reported crimes and while in 2007 the figure was 4 percent.²⁴

Many women and girls are hesitant to report crimes of sexual violence because of the stigma and trauma attached to such crimes. Often, it is the victims of sexual violence themselves who are judged, and sometimes blamed for these traumatic events. This is perpetuated by longstanding myths about the issue of rape, which include the idea that women provoke acts of sexual violence by their dress or behaviour, or that men rape because of 'sexual frustration'.

A significant number of perpetrators of rape in Fiji are individuals known or trusted by the victim. These include family members, neighbors, and boyfriends. FWCC statistics indicate that amongst all reported cases of rape, 70 percent of victims knew their perpetrators. In cases of sexual abuse against children, 94 percent of perpetrators were known to the victim. Of these, fathers, stepfathers and grandfathers made up around 32 percent of the perpetrators.

Media articles and public forums indicate a rising awareness and growing intolerance to cases of sexual violence against women and children. However, deeper analysis of

²⁴ Fiji Police Crime Statistics 2007 (unpublished)

community reaction to this issue is necessary. For example, people in the community might have an immediate reaction of shock or disgust at a man who has raped his 15 year-old niece, or a father who has sexually abused his child. However, when the victim chooses to pursue the case through the justice system, family members sometimes step in to defend the reputation of the offender, and put pressure on the victims not to ‘tarnish the family name’ or ‘break up the family’. This has a clear effect on police investigations or a court case that may already be underway.

Research by the Fiji Women’s Rights Movement on sexual harassment in the workplace revealed that 1 in 3 women interviewed claimed to have been sexually harassed during their working life, with 20 percent of interviewees reporting being subjected to the sexual harassment in the previous 12 months. Fourteen percent of these women experienced harassment on a recurrent basis.²⁵

The power traditionally accorded to males in Fiji results in an unofficial sanctioning of sexual violence. This is evident at every level of society, as it is used as a means of ‘keeping women in their place’, especially if they show signs of going beyond the traditional gender roles accorded them by society. Ideas and attitudes on traditional gender roles are so engrained in Fiji that cases of sexual harassment and abuse are often not thought of as criminal offenses, particularly if the woman's ‘character’ or ‘modesty’ is considered ‘questionable’. It is often thought that if a woman wears revealing clothing or is very flirtatious then she is provoking acts of sexual abuse or harassment due to the commonly held belief that women ‘ask for it’, married women or women in relationships are often reluctant to tell their partners if they have been sexually abused or harassed by someone outside the relationship.

Sexual harassment is also used in the workplace as a form of reprimanding employees. In some garment factories where the workers have few negotiating rights, where wages are low, and when women have little option in terms of alternative forms of employment, women become vulnerable to sexual harassment. Garment factory workers have only

²⁵ FWRM 2002 Sexual Harassment of Women in the Workplace Survey Suva: 11

sought support when they are able to do so in groups. In a particular garment factory, the women complained to the FWCC that the supervisor would force his hand into their tops and grab their breasts if they missed a stitch. This led to the women wearing turtle neck tops to work in the sweltering heat of the factory, in an attempt to avoid the harassment.²⁶

Because sexual harassment includes such things as sexual jokes or comments, it is often argued that instances of sexual harassment were meant as a joke and that no real harm was meant by the perpetrators. Sometimes, traditional relationships such as "tauvu" (tauvu is a traditional Fijian relationship between people from different parts of Fiji who share ancestral gods and where coarse jokes are allowed between them, amongst other things) are used to cover up the sexual harassment thus leaving an area of gray when it comes to deciding whether it is harassment or otherwise. Sexual jokes which demean or put women down are sometimes claimed to be done within the spirit of the "tauvu" relationship. However, when the definition of sexual harassment is considered, the line is very clear - it is unwanted and unwelcome. Traditional relationships such as "tauvu" are actually used as an excuse in these circumstances but these relationships are traditionally grounded in mutual respect and caring for each other - they do not encourage deviations such as sexual harassment.

Trafficking

While there is no reliable data on the prevalence of trafficking of women and girls, there is some discussion that puts it forward as an emerging issue in Fiji. A situational analysis on commercial exploitation of children in Fiji was conducted by Save the Children Fiji and supported by UNICEF and UNESCAP in 2003. The study showed some real issues linked to the commercial sexual exploitation of children. The limitation, however, was that the study was largely qualitative and there remains insufficient quantitative data on the issue. According to some stakeholders, such as the Homes of Hope, trafficking of women and girls is not visible in available data because some of the trafficking that happens within the country (as opposed to trafficking across borders) is not recognized as

²⁶ Discussion with FWCC Counsellors

trafficking in the first place. Therefore, this presents limitations in the possible responses to the problem.

3.2 Existing policies and laws on violence against women

At the international level, the key instruments that Fiji has ratified include:

- The Universal Declaration on Human Rights (1948);
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979)
- The United Nations Declaration on the Elimination of Violence Against Women (DEVAW) (1994).
- The Beijing Platform for Action (1995)
- The UN Declaration of Commitment on HIV/AIDS (UNGASS). This Declaration identifies measures to address violence against women and children, including domestic violence, as a strategy to combat HIV/AIDS.

In addition to the above instruments, Fiji has the following in place:

- The Fiji Constitution reaffirms “.. our recognition of the human rights and fundamental freedoms of all individuals and groups, safeguarded by adherence to the rule of law, and our respect for human dignity and for the importance of the family...”. Furthermore, the Bill of rights in Chapter 4 includes the following:
 - The right to freedom from torture of any kind (physical, mental or emotional) and from cruel, inhumane, degrading treatment or punishment²⁷
 - The right of every person to equality before the law.²⁸
 - The right to be treated without unfair discrimination. This includes direct or indirect discrimination on grounds such as gender, sexual orientation, birth, economic status, age or disability.²⁹

²⁷ Constitution s. 25(1)

²⁸ Constitution s.38 (1)

²⁹ Constitution 3. 38(2)

- Government of Fiji Women’s Plan of Action which has five critical areas of concern. Two of these priority areas, which direct work on violence against women include:

- *To ensure gender equality and non-discrimination before the law*
- *To educate the community and law enforcement agencies to prevent and eliminate violence against women*

○ The Department for Women has recently put forward a cabinet paper to the Interim Cabinet for **Mandatory Reporting on Domestic Violence by health officials**. Department for Women officials indicate that this cabinet paper has been endorsed and supported by the Interim Cabinet. This cabinet paper or the policy document which followed on from it were not available to the author at the time this report was prepared.

○ Fiji Police No Drop Policy on Domestic Violence. The policy states that:

...Every complaint coming under this definition: “Violence between heterosexual adults who are living together or have previously lived together as husband and wife (conjugal relationship)” will be fully investigated and offenders taken to court. This policy applies to police officers too and under no circumstances will Police Officers promote reconciliation in (DV) cases.³⁰

Existing Legislations

Under existing legislation, violence within the home is recognized as a criminal act under the contextual heading of other crimes, including:

- Common assault,
- Assault occasioning actual bodily harm,
- Assault with intent to cause grievous bodily harm,
- Manslaughter,
- Murder and
- Attempted murder.

³⁰ FRO 51/95 22/12/95 Domestic Violence Policy

There is no specific law that clearly defines what constitutes domestic violence and prohibits it. In fact, violence against women in the home is only recognised as a crime in the above legislation but there has often been no attempt to lay charges on perpetrators of what was not considered a crime because it happened within the context of the privacy of the home. It was only through public discussion and the debate brought about by the local women's movement that the recognition of domestic violence as a crime came to be incorporated in the aspects of the legal code listed above.

This recognition, however, was not immediately followed by services and measures that could respond to reports of domestic violence, and many women continued to be turned away when they sought outside assistance and intervention. Finally, in 1995, following the large number of complaints of domestic violence received by the FWCC, the then Police Commissioner introduced the 'No Drop Policy'. Even with this policy in place, discussions with stakeholders such as the FWCC and the Homes of Hope indicate that there is a need for constant monitoring, to ensure its enforcement. Whilst monitoring is possible in urban centers, it can be difficult in rural areas and on outlying islands.

Generally, when women do pursue cases of assault through the criminal justice system, the outcomes of trials and punishments attributed to perpetrators often fail to reflect the crime in question. While the 'No Drop Policy' appears to offer some recourse, in that reported cases of violence against women must be taken all the way to court, this often ends in a 'reconciliation' process at the Magistrates Court. Focus group discussions with service providers indicate that women are often pressured into such 'reconciliation' exercises by court and magistrate officials themselves. Furthermore, media reports reveal many instances where perpetrators received suspended sentences for cases of domestic violence, even if they were repeat offenders. An FWCC analysis of 24 cases of domestic violence that went through the court system over the past 3 years revealed disturbing trends. In one instance, a case of attempted murder ended with the man receiving a 3.5 year jail sentence. In another instance, a case of assault ended in the man receiving six months imprisonment. In the other 22 cases, the perpetrators were given suspended sentences of 1 to 2 years.

Importantly, recent media reports also show that some magistrates are handing out custodial sentences for perpetrators of domestic violence. Further analyses of court records is needed to assess the overall trends in court cases on domestic violence.

Family Law Act 2004

A positive feature of the Family Law Act (2004) that is being utilized in domestic violence cases are the restraining/protection orders. Previously, under the criminal code, restraining orders were difficult to obtain and were impractical for women seeking protection from violent partners. The process of application took several weeks and when women did receive a restraining order, there were certain deficiencies in that Police could not detain the man for breaching the restraining order. For those that breached the restraining order, it was only the Magistrate who could make a decision on whether the perpetrator should be remanded or not. Under the Family Law Act, restraining orders are easier to obtain and police now have the power to arrest and detain a man for breaching the order for up to 48 hours before he is brought before the magistrate. The magistrate then decides whether the man will be remanded further for the breach. It is important to point out, however, that there is a lack of awareness amongst police officers that they have these powers under the Family Law Act. Therefore, the Act is not being used as effectively as it could be.

Rape

The definition of sexual assault and harassment in existing legislation is somewhat outdated. All sexual offences that come under offences against morality in The Penal Code and begins with the definition of rape under section 149:

149. Any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of bodily harm, or by means of false representations as to the nature of the act, or in the case of a married woman, by impersonating her husband, is guilty of the felony termed rape.

By this definition rape is the penetration of the vagina by the penis and does not include anal or oral rape, or rape with objects³¹.

Punishment of rape

150. Any person who commits the offence of rape is liable to imprisonment for life, with or without corporal punishment.

Attempted rape

151. Any person who attempts to commit rape is guilty of a felony, and is liable to imprisonment for seven years, with or without corporal punishment.

Abduction

152. Any person who, with intent to marry or carnally know a woman of any age, or to cause her to be married or carnally known by any other person, takes her away, or detains her, against her will, is guilty of a felony, and is liable to imprisonment for seven years, with or without corporal punishment.

Abduction of girl under eighteen years of age with intent to have carnal knowledge

153. Any person who, with intent that any unmarried girl under the age of eighteen years shall be unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, takes or causes to be taken such girl out of the possession and against the will of her father or mother, guardian or any other person having the lawful care or charge of her, is guilty of a misdemeanour:

Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the court that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of eighteen years.

Indecent assaults on females

³¹ Imrana Jalal 1998 Law for Pacific Women Suva: 81-91

154.-(1) Any person who unlawfully and indecently assaults any woman or girl is guilty of a felony, and is liable to imprisonment for five years, with or without corporal punishment.

(2) It is no defence to a charge for an indecent assault on a girl under the age of sixteen years to prove that she consented to the act of indecency.

(3) It shall be a sufficient defence to a charge for an indecent assault on a girl under the age of sixteen years to prove that she consented to the act of indecency and that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years.

Indecently insulting or annoying females

(4) Whoever, intending to insult the modesty of any woman or girl, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman or girl, or whoever intrudes upon the privacy of a woman or girl by doing an act of a nature likely to offend her modesty, is guilty of a misdemeanour, and is liable to imprisonment for one year.

Defilement of girl under thirteen years of age

155.-(1) Any person who unlawfully and carnally knows any girl under the age of thirteen years is guilty of a felony, and is liable to imprisonment for life, with or without corporal punishment.

(2) Any person who attempts to have unlawful carnal knowledge of any girl under the age of thirteen years is guilty of a misdemeanour, and is liable to imprisonment for five years, with or without corporal punishment

(3) It is no defence to a charge for unlawful carnal knowledge of a girl under the age of thirteen years to prove that she consented to the act.

Defilement of girl between thirteen and sixteen years of age

156.-(1) Any person who-

(a) unlawfully and carnally knows or attempts to have unlawful carnal knowledge of any girl being of or above the age of thirteen years and under the age of sixteen years; or

Defilement of idiots or imbeciles

(b) unlawfully and carnally knows or attempts to have unlawful carnal knowledge of any female person suffering from severe subnormality under circumstances which do not amount to rape but which prove that the offender knew at the time of the commission of the offence that the woman or girl was a person suffering from severe subnormality, is guilty of a misdemeanour, and is liable to imprisonment for five years, with or without corporal punishment:

Provided that it shall be a sufficient defence to any charge under paragraph (a) if it shall be made to appear to the court before whom the charge shall be brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years.

(2) No prosecution shall be commenced for an offence under paragraph (a) of subsection (1) more than twelve months after the commission of the offence.

(3) It is no defence to any charge under paragraph (a) of subsection (1) to prove that the girl consented to the act.

As you read through the report all offences which are being committed, investigated, prosecuted and sentenced would be a violation of the above provisions of the Penal Code.

Employment Relations Promulgation 2008

The Employment Relations Promulgation, which was passed by the Interim Administration in Fiji in April 2008, offers some protection for sexual harassment in the

workplace by making Sexual Harassment Policies a workplace requirement. This legislation has been discussed and debated for the past ten years and now provides some protection for women in the workplace. The Employment Relations Promulgation 2007 puts forward a National Policy on Sexual Harassment in the Workplace which defines sexual harassment as:

- a form of discrimination and a gross violation of a person's human rights and human dignity; and
- can occur at two levels –
 - in relationships of unequal power or authority, as in staff/ student and supervisor/ subordinate relationships; and
 - between peers or co-workers (eg. worker/worker), i.e. colleagues.

The definition also goes on to give a range of acts which can fall within the definition of sexual harassment including sexual or suggestive remarks, sexual gestures, displaying sexually explicit images, gender-biased bullying, offensive flirtation and sexual assault amongst other things.

The Promulgation also specifies that employers must have an internal written policy and grievance procedure and there should be an assigned Sexual Harassment Grievance Officer.

However, it is important to note that the passing of this legislation remains a contentious issue, in particular when matters relating to the legality of the interim administration are currently before the courts.

3.3 The main stakeholders and their interventions

3.3.1 Government Structures and the legal system

Within the government structure there are several services and agencies whose mandates include responding to violence against women. These include:

- The Ministry of Health, Women and Social Welfare
 - Department for Women
 - Department of Social Welfare
 - Hospitals and Health Centres
- Attorney General's Office and Ministry for Justice
 - The Fiji Police Force
- The Office of the Director of Public Prosecutions
- The Magistrates Courts
- The High Court and Court of Appeal

In 1995, the Fiji Police Force set up the Sexual Offences Units (SOU) to enable a more effective and sensitive response by the police to victims of sexual assault. At present there are four operational Sexual Offences Units throughout the country. However, each of these is under-resourced. They are:

- The SOU based in Nabua Police station, which caters for the Central and Eastern division, from Navua to Korovou.
- The SOU in Nausori, which has one officer but no designated space.
- The SOU in Labasa which has one officer.
- The SOU in Lautoka which has 3 designated female officers but there are recent reports that it has been disbanded.

The procedure for cases reported to the SOU in Nabua is different from the other stations in that when cases of sexual assault are reported, the Sexual Offences Unit staff are responsible for interviewing the victim, documenting her statement, taking the victim back to the scene of the crime and accompanying her to the hospital to undergo a medical examination. Following this initial groundwork, all relevant documentation is handed over to the police station within the vicinity of the offence and an Investigating Officer is allocated to look after the case from that Police Station. For the other 3 Sexual Offences Units, the SOU officers are responsible for all aspects of the case including initial documentation, as well as further investigations.

The serious lack of resources in the SOUs was an issue raised by the Police Officers themselves, as well as the other service providers who work with the Fiji Police. None of the sexual offences units have transport facilities, which makes it very difficult for them to respond efficiently to case reports. They have to wait for transport to become available from other divisions before they can attend to these cases. In the main SOU in Nabua, there is no fax machine, no digital camera for photographing victims and no medical kits for examining victims of sexual assault. The SOU in Nabua received some medical kits several years ago from British Aid. These were used whenever they took victims to be medically examined at the hospital. Upon running out of these kits, the police officers were met with hostility by hospital staff, who indicated that they, the police, should be bringing in their own medical kits to the hospital.

The only equipment at the SOU in Nabua is a computer and a printer. Lack of resources affects the standard of services provided by the SOU. However, some stakeholders, in particular those that also deal with victims of sexual assault, highlighted concerns about other aspects of the SOU service. These concerns ranged from the unavailability of police officers from the unit, insensitive and sometimes hostile attitudes when dealing with the victims, and unnecessary delays when attending to particular cases.

All cases of sexual assault and domestic violence that are reported to the Police in the Korovou to Navua region are dealt with at the Colonial War Memorial Hospital. Many stakeholders expressed the view that responses to cases of domestic violence and sexual assault by medical personnel at the hospital were inadequate and often inappropriate. According to the police, medical staff prioritise cases where the incident has occurred within or before the last 72 hours. If the incident occurred more than 72 hours before presentation, the victim is likely to experience a long wait for a doctor to attend to her case – sometimes up to 6 or 7 hours. There are no known policies or standard procedures within the hospital system to ensure that cases of gender-based violence are responded to in the correct medico-legal manner, with appropriate empathy.

Cases of domestic violence and sexual assault are prosecuted by the Office of the Director of Public Prosecutors which includes Police Prosecutors. According to senior prosecutors particular difficulties arise when relatives are the perpetrators. In such cases, victims often end up withdrawing the case due to the influence and pressure of other family members. According to prosecutors, if there is early intervention and professional counseling of the victim of sexual assault, they are more likely to pursue the case.

According to other stakeholders the withdrawal of charges also results from delays in the court processes. The Sexual Offences Unit indicated that it takes an average of 2.5 years for a case to go through the system and end up in sentencing. On average cases take about 1.5 years to reach the courts. Organizations like the FWCC and the Homes of Hope (discussed below) put the figures even higher than this, indicating that in their experience cases can take up to 3 or even 4 years to go through the whole justice process. The drawn out process of taking cases of violence against women through the justice system presents a serious disincentive for victims to report their cases.

A number of other factors combine to draw-out the justice process on cases of violence against women in Fiji. These include:

- Lack of legal representation for the accused
- Deliberate delaying tactics by the defence counsel
- Non-appearance of witnesses

Furthermore the process of transferring cases from the Sexual Offences Units to other police stations for further investigation is inefficient. In general sexual offences are not treated with the same urgency as other violent crimes, for example robbery that involves some act of violence. To complicate the issue, cases are assigned to individual Investigating Officers, and follow-up depends entirely on them. If that officer is on leave, or attending a training programme, or more 'urgent' matters, the case is put on hold. Those representing victims of violence, such as counselors or legal professionals, thus have the role of constantly following up on each case to ensure that progress is made. This is often a tedious and demanding task.

3.3.2 UN Agencies

Different UN Agencies are addressing violence against women and some of these include either direct support to existing programmes or through the implementation of various agency-specific or agency supported programmes. These agencies include UNIFEM, UNFPA, UNDP Pacific Centre and UNICEF.

3.3.3 Civil society organizations

- Fiji Women's Crisis Centre – Counselling and Support services, legal information, community education and training, male advocacy on women's human rights, research and advocacy for policy and legislative reform
- Fiji Women's Rights Movement – legal literacy, advocacy for policy and legislative reform, advocacy and monitoring of CEDAW
- Women's Action for Change – community education and awareness through drama and playback theatre
- The Regional Rights Resource Team provides training and resourcing on human rights issues relating to violence against women to the Police, the Judiciary and community based organizations.
- National Council of Women
- Zanana Muslim League – emergency accommodation for Muslim women
- The Society of Saint Vincent de Paul provides some emergency accommodation and assistance
- Salvation Army – Emergency Accommodation
- Homes of Hope
- Pacific Counselling and Social Services

3.4 Resources available

The different organisations listed above address violence against women in different ways, however there remain many gaps in terms of service delivery. Some of the gaps identified include but are not limited to the following:

3.4.1: Ineffectiveness of Current Services

As discussed above, while there are various programmes and policies in place to address violence against women, such as the Police No Drop Policy, the Sexual Offences Unit etc. some of these services remain ineffective and the multi-stakeholder discussion identified the issues of concern, including:

- Delays in service delivery
- Limitations in accessibility
- Attitudinal problems in service delivery

These areas of concern have been discussed above in relation to thematic issues and their surrounding context.

3.4.2: Lack of Emergency Accommodation.

For women wanting to escape violent situations, finding alternative accommodation often presents a significant obstacle. Rarely is the resolution to leave a violent situation a spur of the moment decision. Women who have children, and who have lived through cycles of physical, emotional, and sometimes sexual abuse have a range of issues to consider. For many women turning to extended family members is an option. This support network is placed under threat, however, as many people are struggling to survive economically. The Family Care Centre, which is run by the Salvation Army, has homes in Suva, Lautoka and Labasa, and is one of the main providers of emergency accommodation. In these homes women can stay anywhere from a few days up until a few weeks. However, very often these homes are full. Support organizations like the FWCC may then be left with the task of looking for other emergency accommodation, and sometimes pays for victims to stay in hotels as an interim measure.

The Homes of Hope is a home for single mothers operated by a Christian-based organisation . The Homes of Hope offers training programmes in business, in particular micro-finance enterprises for women to ensure some degree of economic empowerment, and provides young women and their children with access to an education by assisting with basic items such as the payment of school fees, uniforms etc. and arranging for transportation to and from the home. According to the Homes of Hope approximately 80

percent of single mothers who have lived in their facility were victims of some form of violence or abuse. This adds weight to the FWCC's analysis that a significant proportion of cases of teenage pregnancy can be attributed to sexual abuse of young girls. Young women who live at the Homes of Hope live there for an average of approximately 2-3 years. Some stay longer, particularly if they take up the option of buying a house on the Homes for Hope property themselves.

For girl children who have been sexually assaulted by someone who lives with them, including family members, the Department of Social Welfare assumes legal authority over them. The Department is mandated to remove them from the home, and place them in facilities such as the Mahaffy Girls Home, or in orphanages such as Saint Christopher's Home, and Dilkusha Girls Home. These homes are run by church organizations. According to the Department of Social Welfare, these girls are often left in the residential homes for too long as they need to await the completion of the Court case before alternative options are clarified. Furthermore, once girls reach the age of seventeen, they are considered legal adults and must find alternate accommodation. For young women in these situations, going back to their family can be traumatic. On the other hand, if they don't have family to go to, they may end up in situations where they encounter further abuse because of their vulnerability.

Providing accommodation for women and girls who are victims of abuse is not just about providing a space to sleep in and meeting other basic needs. A difficulty faced by some women and girls in some of these homes is that very often those in charge of such facilities have little or no understanding of the dynamics of violence against women and so reinforce various myths and stereotypes which victimize the women further. For example, in some cases women are pressured to reconcile with the husbands who have perpetrated acts of violence or abuse. There is also a lack of understanding of the issue of child abuse, and no standardized procedures of facilitating healing to enable them to cope with the trauma that they have experienced.

3.4.3: Human and Technical Resources

Most stakeholders interviewed expressed similar views about the shortage of skilled human and technical resources to deal with violence against women. For government agencies such as the Department of Social Welfare and the Sexual Offences Units, the staffing capacity which they had was being stretched to meet the present demand. For offices such as the Department of Social Welfare, the work of the staff was not just limited to dealing with cases of domestic violence but a great deal of time was spent administering funds such as the poverty alleviation fund and family assistance. For personnel in the Sexual Offences Unit and the Office of the Director of Public Prosecutions there were clear limitations with the shortage of skilled staff. The Social Welfare Department also identified the limitations of adequately trained personnel in areas such as the care institutions.

3.4.4: Services for Women and Girls Living with Disabilities

Women and girls living with disabilities are vulnerable to violence and abuse and are sometimes targeted because of their disability. However, there are no specialized services for dealing with women with disabilities who have been victims of violence or abuse. For example, if a woman or child who is mute reports a case of sexual violence, the parents and the prosecutor will have to depend on the teachers in schools for children living with disabilities. This can pose significant difficulties, in particular when the teacher concerned has no sensitivity for the issue of sexual violence.

3.4.5: Financial Resources

There are definitely limited funds to support programmes of violence against women, in particular within the government structure. While the Ministry for Women is mandated to carry out various programmes on violence against women, there is no budgetary allocation to allow them to carry out this work. Joint initiatives with organizations such as the Fiji Women's Crisis Centre assist in moving this work forward. The work of agencies such as the Fiji Women's Crisis Centre, Fiji Women's Rights Movement, Homes of Hope and other key players in the civil society sector has been possible

through the support of international donors such as AusAID, NZAID and the US State Department.

3.4.6: Lack of Appropriate Legislation

The current legislation on violence against women are outdated and in some cases is detrimental to women who are victim/ survivors of gender-based violence.

3.4.7: Lack of Sex Disaggregated Data

Apart from data from the Police and the Fiji Women's Crisis Centre, there is very limited data available on violence against women. While the various service providers may care for women who are victims/ survivors of gender-based violence regular information and data relating to these activities is not collated or available.

3.3.8: Lack of Monitoring and Evaluation for Existing Programmes on VAW

Apart from the monitoring and evaluation framework of the FWCC, there is not much monitoring and evaluation of various programmes or services on violence against women. This also stems from the lack of sound understanding of the issue of violence against women and national trends in relation to the issue.

3.5 Capacities to address issues related to violence against women

Fiji Government National Plan of Action and Violence Against Women Task Force

The Constitution of Fiji enshrines the principle of gender equality. Fiji ratified the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in 1995. The Women's Plan of Action (1999-2008) outlines the broad direction for action by Government in order to fulfill its national and international obligations according to the Beijing Platform for Action (1995). One of the five commitments made at the Fourth World Conference for Women in Beijing by the Fiji

Government is: *“to educate the community and law enforcement agencies to prevent and eliminate violence against women and children”*³²

To ensure the effective implementation of various strategies outlined in the Plan of Action by the Fiji Government, taskforces comprising both NGOs and government agencies have been set up. The Fiji Government has also made a commitment to review laws that are disadvantageous to women. The Violence against Women taskforce, previously chaired by the Chief Executive Officer for Justice, included various stakeholders including the Police Force, the Department for Women, the Department for Social Welfare, and NGOs such as the Fiji Women’s Crisis Centre, the Salvation Army, and the National Council of Women. However in the life of the previous government the taskforces were suspended by the Chief Executive Officer for Women. When it was working, the taskforce managed to achieve several milestones, including the push to reform domestic violence legislation, completed in 2005.

The Violence Against Women Task Force provided an important platform for working at the national level. Currently, attempts are being made by the Department for Women to revive the VAWTF. This work needs to be strengthened further.

Interagency Work on Violence Against Women

The FWCC branches in Labasa and Ba initiated inter-agency committees to assist stakeholders in the smooth handling of cases of violence against women and children. The inter-agency committee was comprised of key stakeholders such as the Police Force, the Department of Social Welfare, local hospital staff, the Court Register, the DPP’s office, the Legal Aid Commission, and NGOs such as the Salvation Army. The inter-agency committee meets on a monthly basis, and allows for healthy and open discussion about the different areas of work on violence against women and the various problems that each agency might be facing. It also allows for easier liaison when dealing with individual cases.

³² The Women’s Plan of Action 1999-2008, Volume 1.

In Suva, various stakeholders working through the Australia-Fiji Community Justice Programme,³³ initiated the Victim Support Group early in 2008. The Australia-Fiji Community Justice Programme supports crime prevention, crime prevention initiatives and community correctional programmes. The Victim Support Group looks at the rights of victims of crimes, including those who are victims of acts of violence against women. One of the main tasks of the Victim Support Group is to do an initial scoping exercise of the different agencies that may be in place to provide support to victims and identify possible gaps that may exist. This will be done through focus group discussions with various stakeholders and members of the public, as well as through interviews with key informants (victims) who had been through the justice system. An initial awareness raising session with all key stakeholders is currently being carried out by the Research Officer.

The initiatives of various stakeholders finding common ground and working together on issues of violence against women provide an important platform for the monitoring of service provision for victims of gender-based violence, as well as for identifying gaps that might be addressed jointly.

Domestic Violence Law Reform³⁴

In 2003, the Fiji Law Reform Commission began to investigate the need for separate and explicit legislation on domestic violence. Following initial discussion papers, a review team carried out extensive consultations and research. In November 2005, prior to the General Elections of March the following year, the report of the review of laws relating to domestic violence, along with proposed draft legislation, was submitted to parliament. The proposed Domestic Violence Legislation covers a range of relationships. In addition to spousal relationships, the legislation covers other family members and non-family

³³ Revised from AusAID Law and Justice Programme which predominantly worked with the whole Justice system to more community programming following the Australian Government stand on aid to Fiji after the coup of December 2006.

³⁴ Fiji Law Reform Commission: Report on the Review of Laws Relating to Domestic Violence Volume 2: November 2005

members living in the same household, boyfriend-girlfriend relationships, and paid or unpaid caregivers.

An important aspect of the legislation is the definition of domestic violence used. The legislation covers various forms of violence beyond physical abuse. It includes sexual abuse, emotional abuse, threats, and also causing or allowing a child to witness domestic violence. The extension of the legislation to include charging the perpetrator for allowing a child to witness domestic violence recognizes the effects of domestic violence on children and the intergenerational nature of the crime. The legislation also makes a point of exempting the primary victim from this charge, thus recognizing the disempowering effect of domestic violence and the inability of the victim to remove the child from the situation herself.

The proposed Domestic Violence legislation also places an emphasis on proper police duties by encouraging police to respond in a timely manner, and to assist victims by referring them to other specialized support services. It also extends police powers, enabling them to apply for a restraining order not only in cases where a person has been charged for domestic violence, but also where they *suspect* a domestic violence offence has been committed, is being committed, or is likely to be committed. An important aspect of the proposed legislation is the allocation for police to make an application for a restraining order by telephone to a Judicial Officer with the victim present. This provides an avenue for support for victims in remote areas and outlying islands where access to such resources are limited.

The proposed legislation also takes into account the fact that not many women access medical services when they experience domestic violence. The draft Domestic Violence Legislation also allows for the extent of injuries to be proven by the use of witnesses if there is no medical report.

Furthermore, the draft legislation offers protection for victims during court cases by stressing that if the victim does not have legal representation then he or she cannot be

cross examined directly. This proposed draft legislation is currently being discussed by the Government Violence Against Women Task Force and is with the Solicitor General's Office which has opened the document for comment from various stakeholders.

Review of Laws in relation to Sexual Assault

In 1999, the Fiji Law Reform Commission presented a report on Sexual Offences to the Attorney General's Officer. The report was prepared by Justice Anthony Gates. A concomitant report on Child Abuse was prepared by Judge Mere Pulea. The two reports were the result of extensive research, consultations with key stakeholders and members of the public throughout the country with submissions having been received from various stakeholders including civil society organizations, faith-based organizations and government agencies throughout the country. The report on Sexual Offences makes key recommendations for changes to legislation on sexual offences, some of which include:

- Broadening the definition of rape to include non-penile acts and penetration of the anus and mouth
- That non-consent be defined and that it include non-consensual acts during marriage
- Increasing sentences for the various sexual offences to reflect the severity of the crime
- Removal of sodomy (where it is consensual) as an offence
- That rape and sexual assault not be made reconcilable offences
- That traditional methods of reconciliation not serve to reduce the sentence of the accused
- Creation of an anti-stalking provision as an all encompassing offence which may cover conduct presently not covered

In a separate report prepared by Judge Scott on Criminal Evidence there was a recommendation that the Rule of Corroboration be removed from rape cases. This

suggestion was welcomed by the women's movement which has called for the removal of this rule for many years. A Fiji Court of Appeal Judgement in 2004 (*Balelala v State*) also called for the removal of the Rule of Corroboration, as the judge recognized the discriminatory nature of the rule as applied in rape cases.

The 2006 Fiji Law Reform Commission review of the Penal Code and the Criminal Procedure Code also acknowledged submissions which called for the removal of the Corroboration Rule from legislation and called for the use of the sexual history of rape victims in court trials to be prohibited.

These suggested legislative changes are still being discussed in government. As Fiji's current political situation is in a state of flux, it is difficult to determine when or if they will be passed. However, it is important to recognize and acknowledge that some groundwork in the area of legal reform has been done. It is imperative that the push for this to continue is applied when the country returns to democratic rule.

3.6 Priorities for action

As mentioned above, there are key programmes under way which are addressing violence against women. In addition, there are major developments, including legislative reform, which have been stunted by both a lack of political will as well as the tumultuous nature of politics in Fiji. There is a united view that violence against women needs to be addressed in a coordinated manner and programmes need to be targeted at the empowerment of women who are survivors of violence perpetrated against them. The main forms of violence against women which have been identified in Fiji are:

- Domestic violence including physical, sexual, emotional, psychological and economic abuse.
- Sexual assault
- Sexual harassment
- Commercial sexual exploitation and trafficking as an emerging issue

3.6.1 Key Recommendations

Gender Sensitivity and Issues Training

- There is a need to institutionalize gender sensitivity training for government service providers as well as all other government agencies. It is important that the training that is delivered has a rights-based approach and the trainers have a sound understanding of the issues of violence against women in Fiji.
- Training should also be provided to civil society organizations, in particular NGOs and faith-based organizations, which provide services for victim/ survivors of violence against women.

Emergency Accommodation

- There is a need for emergency accommodation specifically set up for women and girls who are victims/ survivors of gender based violence. This accommodation needs to be inclusive of the needs of women and girls with disabilities.
- Current standards of accommodation facilities needs to be examined and those working within these facilities need to be trained to ensure they have sound understanding of the issues of violence against women and operate using a rights-based approach

Police Units and Facilities

- The current Sexual Offences Units need to be appropriately resourced to ensure that they are equipped to respond effectively to cases of violence against women.
- Training of police officers operating these units is a priority
- Sexual Offences Units need to be extended to other parts of Fiji.
- Consideration should be given to the setting up of Domestic Violence Units within the Police Force
- Training of Police Officers within the Fiji Police Academy needs to be ongoing and refresher courses need to be introduced for all levels within the Police Force.
- Training needs to be delivered through a rights-based approach.

Medical Responses

- Training on issues relating to violence against women needs to be made compulsory within the Fiji School of Nursing and Fiji School of Medicine curriculums. This will also apply to new health professional education and training institutions that are set up.
- A “one stop shop” model for dealing with the victims of sexual assault needs to be set up within the public health system to ensure speedy handling of cases.
- Policies and protocols for handling of sexual offences cases need to be introduced into the health system.
- The data collection system needs to be updated to ensure that as much as possible all victims/survivors accessing health services are recorded. Special attention needs to be given to antenatal clinic to be able to support pregnant women who are living in violent situations.

Prevention Programmes

- There is a need to create greater awareness on the issue of violence against women. Coordinated awareness campaigns should be explored.
- Programmes targeted at men and boys need to be strengthened. Existing programmes need to be examined critically to ensure that they are not reinforcing gender stereotypes.
- Greater public awareness and more work needs to be done with faith-based organizations

Legislative Reform and Policies

- Draft recommendations for domestic violence and sexual assault legislation reform need to be supported as soon as Fiji returns to parliamentary democracy.
- There is need for a lobby for the introduction of court rules which set standards for the approach to cases of violence against women
- All Employers should introduce Sexual Harassment Policies in the Workplace and ensure appropriate complaints mechanisms are in place.

- All complaints of sexual harassment within the civil service should be monitored and implementation of the sexual harassment policy should be tracked.

Education Sector

- All schools should have a trained counselor who is available to respond to children living in violent situations
- Gender-sensitivity training as well as awareness on the issues of violence against women and children needs to be introduced into the curriculum of teacher's training institutions.
- All teachers need to be made aware of the Memorandum of Understanding between the Ministry of Education, the Department of Social Welfare and the Police which addresses the issue of reporting of cases of child abuse.

Research

- There is a need for greater research into the issue of violence against women in Fiji, in particular in the areas of trafficking and sexual assault.
- Data collection systems to monitor the situation of violence against women need to be strengthened and it is imperative that all such data is sex disaggregated.
- There is a need for baseline data on violence against women and girls with disabilities.

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Annex A: Fiji Police Force Statistics 2007

Crime Cases Recorded (Five Year Comparison)

		2003	2004	2005	2006	2007
OFFENCES AGAINST LAWFUL AUTHORITY						
1	Affray	19	24	13	6	10
2	Throwing Object	200	194	253	214	194
3	Corruption and Abuse of Office	22	31	21	11	12
4	Perjury	1	0	2	1	1
5	Escaping from Lawful Custody	78	115	112	100	89
6	Riot and Unlawful Assembly	3	3	1	4	0
7	Others Against Public Morality	161	195	232	220	235
Total		484	562	634	556	541
AGAINST PUBLIC MORALITY						
8	Rape and Attempted Rape	88	92	138	162	130
9	Indecent Assault	113	120	142	156	171
10	Defilement of Girl under 13	13	8	7	25	27
11	Defilement of Girl under 16-13	93	67	74	59	106
12	Incest	9	3	2	7	0
13	Unnatural Offences	19	14	15	5	13
14	Others Against Public Morality	155	157	340	349	311
Total		490	461	718	763	758
AGAINST THE PERSON						
15	Murder	32	23	23	24	22
16	Attempted Murder	4	1	2	3	1
17	Manslaughter	7	1	5	3	5
18	Infanticide	1	4	1	0	2
19	Causing Death by Dangerous Driving	9	4	1	0	0
20	Act with Intent to Cause Grievous Harm	362	421	446	464	508
21	Assault Occasioning Actual Bodily Harm	2943	2858	3333	3237	3230
22	Assault on Police	98	75	102	136	48
23	Common Assault	405	382	554	437	454
24	Others Against the Person	248	262	298	307	326
Total		4109	4031	4765	4611	4596
AGAINST THE PROPERTY						
25	Embezzlement/Larceny by servant	489	520	471	1077	706
26	Conversion	24	38	51	41	33
27	Larceny in Dwelling House	328	415	383	421	436
28	Larceny from Person	309	352	430	442	308
29	Larceny of Cattle	318	338	292	349	296
30	Larceny from Ship or Dock	11	8	11	22	3
31	Fraud and False Pretence	529	387	499	255	344
32	Demanding with Menace	2	10	9	4	4
33	Robbery with Violence	833	806	914	884	807
34	Burglary	725	816	850	869	736
35	House Breaking	1237	1137	1190	1172	1034
36	Other Breaking Offences	811	924	818	849	726
37	Receiving Stolen Property	51	64	46	39	45

38	Arson and Setting Fire to Crops	59	48	56	44	31
39	Theft	3205	2843	3380	3492	3648
40	Damaging Property	1003	1080	1275	1258	1192
41	Injuring Animal	61	53	64	54	61
42	Unlawful of Motor Vehicle	326	326	363	328	247
43	Others Against the Property	46	105	83	99	57
	Total	10367	10270	11185	11699	10714
	OTHER OFFENCES AGAINST PENAL CODE					
44	Forgery	522	337	724	527	944
45	Currency Offences	14	1	14	3	1
46	Criminal Trespass	501	570	653	637	709
47	Others Against Penal Code	45	30	45	14	31
48	Against Drugs Ordinance/Act	417	312	312	333	329
	Total	1499	1250	1748	1514	2014
	GRAND TOTAL	16949	16574	19050	19143	18623
	Percentage Change		-2%	15%	0.50%	-3%

Annex B: Fiji Women's Crisis Centre Statistics

Domestic Violence Victims by Sex : 2001-2007									
Year/sex	Murder	Attempted Murder	Man-slaughter	AWITCGH*	AOABH**	Common Assault	Other Offences Against Person	Total	% Rep Total
Male 2001	0	0	0	14	94	25	1	134	14%
Female	0	0	0	45	698	54	10	807	86%
Total	0	0	0	59	792	79	11	941	
Male 2002	1	0	0	12	19	28	0	60	7%
Female	1	0	0	62	626	57	3	749	93%
Total	2	0	0	74	645	85	3	809	
Male 2003	2	0	0	11	127	20	11	171	22%
Female	3	2	1	54	463	52	29	604	78%
Total	5	2	1	65	590	72	40	775	
Male 2004	0	0	0	12	107	19	6	144	21%
Female	3	0	0	51	422	43	19	538	79%
Total	3	0	0	63	529	62	25	682	
Male 2005	0	0	0	8	37	16	5	66	10%
Female	2	0	0	32	470	59	11	574	90%
Total	2	0	0	40	507	75	16	640	
Male 2006	0	0	0	10	93	7	6	116	22%
Female	2	0	0	31	320	35	12	400	78%
Total	2	0	0	41	413	42	18	516	
Male 2007	0	0	0	14	38	9	6	67	15%
Female	1	0	0	33	311	34	11	390	85%
Total	1	0	0	47	349	43	17	457	

AQABH* : Refers to Assault Occasioning Actual Bodily Harm

AWITCH** : Refers to Act with Intent to cause Griveous Bodily harm

Tabulated above are the total number of domestic violence cases recorded by police as crime report from 2001 to 2007. It gives a sexual breakdown and types of offences commitment in domestic violence cases. Assault occasioning actual bodily harm is the most common type of offence committed. It is noted that there is a decreasing trend from year 2001-2007.

