

Copyright is owned by the Author of the thesis. Permission is given for a copy to be downloaded by an individual for the purpose of research and private study only. The thesis may not be reproduced elsewhere without the permission of the Author.

**A Research on Processes Used to Address
the Physical and Sexual Abuse of
Children in Samoa.**

*This thesis is presented in partial fulfilment of the
requirements for the degree in Masters in Social Policy.*

*Massey University, Albany, Auckland
New Zealand*

Karanina Siaosi Sumeo

2004

Abstract

This thesis looks at traditional and statutory processes that were used to address child physical and sexual abuse in communities in Samoa. The study involved interviews with individuals from government departments, independent agencies, and groups from six villages. The methods included the review of case files of convicted cases, and legislation relevant to the abuse of children.

The findings of the study indicate that child 'rights' is an issue that was perceived by participants beyond the wellbeing of the individual child. Children's rights were perceived by participants to have potential risks to collective existence and the preservation of Samoan traditional culture. Fundamental to the issue of rights was the conflict between local and state constitutions. The study found that rights were based on the country's constitution, were difficult to enforce in local communities where their own constitutions took precedent, based on customary rights and traditional social structures.

The study provides some insights into traditional practices, societal structures, beliefs, values, and elements within statutory processes that make children vulnerable to abuse. The lack of clarity between the responsibilities of customary and state authorities sometimes made it unclear who was ultimately responsible for addressing crimes against children. The study pointed to the need for legislated protocols and a shared constitution between local customary and state authorities, in order to adequately address abuse.

The thesis has implications for the social service sector, including judiciary processes. The thesis advocates for processes of 'justice' to make the safety and healing of children the priority, not the implementation of mechanisms.

This work is dedicated to my parents Taulauniu Sumeo nee Sa'alea from Fusi Safata, and Siaso Fa'aitamai Sumeo, from Lalomanu, Aleipata.

Ou te faatalofa ma ou faatulou atu i paia ma mamalu o Samoa. E leai so'u tomai ou te tautala ai i alagaupu matagofie a lo tatou gagana e talafeagai ma o outou paia ma mamalu, o lea ou the faamalulu atu ai. O paia o Samoa e tumau pea e oo mai le faavavau. O lenei taumafaiga na faataunuuina ma le autu tumua, o le manuia lea o fanau a Samoa. Ou te faamalie atu ona o se galuega ua lē atoatoa. Afai e a'afia se finagalo o se tasi i ni fa'amaumauga o loo saisaitia i totonu o lenei tusi, ou te talosaga atu ia fa'amagalo mai lenei auauna. Pau lenei o le faamoemoe, ia o'o mai se aso ona maua lea o se aoga o lenei taumafaiga, auā le atina'eina o fanau ma aiga o Samoa.

Ia Manuia.

Acknowledgement

Faafetai tele ia Andrew mo le onosa'i ma le lagolago, faapea si a'u fanau pele. Faapea foi i o'u aiga i Niu Sila ma Samoa mo le onosai, mo apoapoa'iga, faapea le tausiga o i matou ma si au fanau a o tauaveina lenei taumafaiga. Malo le tapua'i, faafetai le lagolago.

Faafetai atu i nuu o Amaile, Ulutogia, Leupuai, Fagamalo, Samauga ma Tufutafoe. Faafetai mo le taliaina o se talosaga na ala atu i lo'u nei tagata. Faafetai le agalelei, faapea le fesoasoani mai i se taumafaiga a lenei afafine.

I thank the Prime Minister's Office of the government of Samoa for allowing this research to be conducted. I also thank the government departments who participated. Thank you to Semi Puaalatamai at the Police department, and the officers at Criminal Records who dug out files, collated statistics, explained processes, provided insight into the effects of dealing with crimes against children, and tolerated my intrusive questions. Thank you to the late Liumaunu Faatonu Vaelua from the Ministry of Youth, Sports and Culture who was also one of my grandfathers; Savea Fomai Sapolu; Tusipa Masina Lupe, Tuli Samuelu and their officers in the Ministry of Justice; Lafi Taulealo in Statistics; the Honourable Naomi Fiame from the Ministry of Education and her officers; Palanitina Toelupe and her team at the Ministry of Women's Affairs; Francis Brebner and her team of statisticians in the Ministry of Health and the librarians at the National University of Samoa. Thank you all for allowing me access to files, research, legends, information, and interviews that yielded so much insight for this work. Thanks you also for tolerating my presence in your offices and imposing on your resources. You have all set a new standard for transparency and co-operation. May your courage be an inspiration to other societies to do the same.

Malo faafetai le onosa'i, le agalelei ma le tapua'i to my supervisor in Samoa, Dr Peggy Fairbairn-Dunlop. This work would have drowned me if not for your calm, probing and gentle guidance. Faafetai tele to my friend Dr Reverend

Philip Culberston for his patience and for helping me edit this thesis. Faafetai tele to Dr Marilyn Waring, my supervisor at Massey, who nurtured in me the will to complete this work.

Thank you to the workers at Mapusaga O Aiga, Komiti Tumama, Faataua le Ola and Manaia Psychological Services, for the support, laughter, information and assistance with this research. To Jeanette Blake and Ailaoa Aoina for providing much needed guidance.

My deep appreciation to the Ministry of Pacific Island Affairs (N.Z) for granting me the Louisa Crowley Scholarship in 2002 to conduct this research. Thank you to Massey University for the graduate fund assistance. Clearly the research would not have been possible without these funds.

Table of Contents

PART I

Definitions, Context, History and Literature	1
Chapter One: Introduction	2
Structure of the Thesis	6
Chapter Two: Research Context	9
Preliminary Definitions	9
Child	9
Abuse	10
Position of Children in Samoan Society	12
Western Religion	14
Traditional Authority	17
Urbanisation	20
Human Rights	22
The Constitution of the Independent State of Samoa 1960	22
Ministry of Women's Affairs	23
United Nations Convention on the Elimination of all Forms of Discrimination Against Women 1979 (CEDAW)	25
United Nations Convention on the Rights of the Child 1989 (CRC)	26
Critique of the CRC	30
CRC in Samoa	32
Conclusion	33
Chapter Three: Child Abuse in Samoa	34
Physical Abuse	35
Sexual Abuse	37
History	37
Virginity and Arranged Marriages	41
Recent Research	43
Teenage Births	45

Sexually Transmitted Infections	46
Other Issues	47
Suicide	47
Child Labour	48
Conclusion	50
Chapter Four: Why do People Abuse Children?	51
Religious Influence	51
Domestic Violence	57
Tolerance of Domestic Violence in Samoan Communities	59
Sexual Offenders	61
Conclusion	64
Chapter Five: Responses	66
Traditional Processes	66
Ifoga	67
Banishment and Death	69
Statutory Processes	70
Infants Ordinance 1961	70
Crimes Ordinance 1961	72
Barriers to Reporting	75
Conclusion	79
Chapter Six: Methodology and Methods	81
Methodology	81
Gender and Rank in Samoa Society	84
Attempt at a Participatory Approach	86
Access to Participants	87
Methods	89
Face to Face Interviews	89
Group Interviews	90
Review of Secondary Data	93
Reliability and Validity	93
Confidentiality	94

Consent	95
Accountability	97
Weaknesses in the Process	98
Conclusion	101
PART II	
Findings, Analysis, Conclusion	102
Chapter Seven: Village	103
Access to Participants	104
Social Context	105
Interview Structure and Objectives	107
Child Rights	108
Promotion of the CRC	115
Physical Abuse	116
Discipline and Abuse	119
Child Labour	123
Suicide	125
Sexual Abuse	126
Fono Processes	128
How Abuse was Addressed	130
Recommendations	133
Conclusion	134
Chapter Eight: Non Government Organisations	138
ECPAT Samoa	138
Mapusaga O Aiga	139
Media	143
Conclusion	144
Chapter Nine: Government Agencies	146
Health	147
Education	148
Police and Justice	154

Complaints Process	154
File Reviews	155
Out of Court Resolutions	157
Regional Patterns	159
Physical (Non Sexual) Offences	160
Perpetrator/Victim Age Profiles	161
Perpetrator/Victim Relationship	161
Sexual Offences	164
Perpetrator/Victim Age Profiles	166
Perpetrator/Victim Relationship	169
Comment on Processes: Statutory and Traditional	170
Manslaughter and Grievous Bodily Harm	171
Crimes Against the Newborn	175
Sexual Crimes	177
Male Victims	180
Youth Sex Offenders	181
Recidivist Offending	182
Conclusion	185
Chapter Ten: Case Study	189
Comment on Statutory Processes	193
Chapter Eleven: Summary, Conclusion, Recommendations	195
Summary	195
Conclusion	199
Recommendations	202
Climbing Mt Vaea	206
References	207
Glossary	220
Appendix	223
Ethics Application	224

List of tables

Table 1: Teenage Births 1999 – 2002	45
Table 2: Access to Villages	104
Table 3: Pathways to Make a Complaint	133
Table 4: Abuse by Teachers - Case Illustrations	151
Table 5: Physical (Non Sexual) Offences - Convictions 1996 – 2002	160
Table 6: Age Profiles - Physical Convictions	161
Table 7: Sexual Offences - Convictions 1996 – 2002	164
Table 8: Age Profiles - Rape, Attempted Rape, Sexual Intercourse	166
Table 9: Age Profiles - Indecent Assault	167
Table 10: Manslaughter – Case Illustrations	171
Table 11: Grievous Bodily Harm – Case Illustrations	172
Table 12: Crimes Against Newborns – Case Illustrations	175
Table 13: Sexual Crimes – Case Illustrations	177

PART I

Definitions, Context, History and Literature.

Part I contains six chapters that outline the topic, provide a background to physical and sexual abuse, research context, methodology and participant issues. This part provides the theoretical knowledge base for the study. Part I is structured as follows:

Chapter One – Introduction and the thesis structure

Chapter Two – Research context

Chapter Three – Child abuse in Samoa

Chapter Four – Why do people abuse children?

Chapter Five – Responses

Chapter Six – Methodology and methods

Chapter One

Introduction

Child abuse is a subject that some do not feel comfortable talking about, perhaps because it suggests a degree of breakdown within a family, or a crack in the mirror of society. While laws exist in many societies to address crimes against children, they do not necessarily prevent them.

The influences of family members living outside Samoa, the media, religion, globalisation and exposure to philosophies such as the United Nations Convention on the Rights of the Child 1989, continue to impact on the shaping of the political and economic status of children in Samoa.

My own frustrations with religious institutions and the *matai* system for what I saw was exploitation of Samoan people and the culture was a major driving force for this study. Some of the frustration I put down to being a Samoan who was educated and exposed to western lifestyles and philosophies. The other source of motivation was the result of having observed families in the Samoan community, both in New Zealand and in Samoa, trying to live a lifestyle beyond their means, because they believed it to be *fa'asamoa*. *Fa'asamoa* as I understand it, refers to the protocols and processes that identify the Samoan culture, language, and a way of living that is based on ideals about collective existence and reciprocity. This culture of *tautua* (service) to one's family and community has become, for some families, a life of overwhelming responsibilities and burden.

Reciprocity to me was something that filtered down to the most vulnerable members of the community, the children. In my experience as a social worker for a government agency in New Zealand, I did not always observe reciprocity within families or between families and religious institutions. Churches got bigger and church leaders lived in comfortable homes financed by their communities; meanwhile, the children's school fees fell behind, food got short and bills were left unpaid. While churches emphasised the need for parents to spend quality time with their children, they also engaged them financially and physically in

activities that took them away from the children. The stresses upon families often manifested in educational neglect, emotional neglect, domestic violence, drug and alcohol abuse, child abuse and family breakdown.

This thesis provides an opportunity to look at the breakdown close up. I wanted to make a constructive contribution, through those in positions of influence to find ways to stop this degradation to Samoan families, my family. The research approach that was adopted was developed and implemented with this goal in mind.

I am aware that a reader of this thesis could easily develop a negative view of Samoan society. This reaction is not unexpected when reading about child abuse. Readers need to remember that this thesis is about the ugly and cruel side of humanity and there is nothing diplomatic about child abuse. The agreement of the Samoan government for the research to be conducted, and the voluntary participation of agencies and villages, demonstrated a willingness to overcome the shame and dysfunction associated with abuse, to look for solutions to a problem of many faces.

Several people asked me why I had chosen to go to Samoa to conduct my research instead of New Zealand. My first response was because I was 'passionate' about Samoan people and I was 'interested' in child abuse, but these words however seemed inadequate. I later recalled the precipitating event that propelled my entrance into the social work profession.

In 1992, I came across a newspaper article about a two year old girl I will call Toddler X. Toddler X was placed in a hot bath by her stepfather causing burns to her body. The child was then left on a bare mattress with her burns while her mother and stepfather went to a party. The child died on the bare mattress, alone. Investigations found multiple evidence of previous physical and sexual abuse on the child's body. The following year, I was enrolled at the Auckland College of Education studying towards a Diploma in Social Work. During my studies, I discovered that the natural father of Toddler X was part Samoan. My initial shock and grief for Toddler X was accompanied by a sense of personal

loss for a Samoan child. At the end of my studies, I was employed as a government social worker in New Zealand in what is currently known as the Department of Child, Youth and Family. I quickly learnt that the case of Toddler X was not a rare one.

As a government social worker, I was involved in many incidents where children were removed from parents and caregivers they still clung to, even when those same people had battered, betrayed or violated them. I held a seven week old baby in my arms whose body was almost covered in plaster, she had broken bones on her arms, legs and rib cage, as a result of physical abuse from her father. Over time I developed a personal strategy of keeping some of myself numb during the removal of children from abusive parents or caregivers. Never did I question that I was doing the right thing or I could not have preformed those 'uplifts'. By my second year of practice, I was looking for opportunities to be around 'normal' children and 'normal' families, to remind myself that such a thing existed. Emotionally and psychologically I felt aged beyond my years. I silently thanked my grandparents for all the overprotective measures they placed on me in my upbringing.

So why did I choose to do this research in Samoa? Because of that Samoan child in 1992 and other abused children I had met during my practice, because of the poverty I had seen within Samoan families while their leaders thrived, and because I needed to go home.

I did not anticipate that a study on child abuse would lead me to challenge some of my so called 'educated' beliefs, theories, and experiences, or my biblical beliefs. What has been reinforced is my passion for my people and for Samoa as a country in the Pacific. I have attempted as much as possible to write this thesis in a way that would assist any member of the Samoan community to understand child physical and sexual abuse.

Many of Samoa's laws that directly relate to the protection of children were constructed outside Samoa prior to independence in 1962. The laws were heavily influenced by the New Zealand administration, whose philosophies and

ideologies originated from British society. In comparison, the Village Fono Act 1990 (Fono Act), which was developed in Samoa, validates traditional Samoan authority through the *matai fono*. The Fono Act legitimised the powers of village councils to exercise social control in local communities. The implication of these differences upon the processes of justice for children, are explored in the thesis.

As in any society, the preservation of practices, structures and values that identify one people from another, are critical to the survival of a culture, the future of which are dependent on the new generation. Human Rights policies, including the United Nations Convention on the Rights of the Child, 1989, have been introduced to the Samoan people as part of development and globalisation. Despite this, Samoa in its drive to develop has found children of primary school age selling on the streets to support their families (Lemesio, 2003a). The thesis explores the impact of these philosophies on cultural structures and considers their potential impact on the longterm safety of children in Samoa.

One writer offered the wellbeing of children as a measure of development; he said that "it is necessarily to do with a happier and more self-fulfilling experience during one's working life which must begin with happier and more engaged children" (Manley, 1991, p. 10). If the wellbeing of children was the measure of a nation's health, I felt that it made sense to look at areas in society where systems were failing them.

Children suffer abuse in society regardless of its political, economic, cultural or religious background. A child could live in a country that proclaims to legitimise child rights, but still die and suffer from abuse. An article in the *New Zealand Herald* on 3rd March 2004 by Phillipa Stevenson said that one child died in New Zealand every five weeks from abuse and neglect. A report released by the Ministry of Justice in New Zealand in 2001, showed that around 79% of all convictions for sexual crimes annually, were committed on children aged 16 years and younger (Saphira, 2002). Alternatively a child could exist without having heard the word 'rights' and be loved, nurtured and protected, knowing that she was valued by her family and society. The thesis explores beliefs, social

structures and practices that make children vulnerable to abuse, particularly the processes of justice.

Structure of the Thesis.

The thesis looks at traditional and statutory processes that are used to address child abuse in Samoa. The study addresses the topic by exploring four main questions:

- What does physical abuse mean?
- What does sexual abuse mean?
- What processes are there to deal with these abuses?
- Are these processes protective of children in the longterm?

Part I contains six chapters that outline the topic, provide a background to physical and sexual abuse, the research context, methodology and participant issues.

Following this introductory chapter is the second, which describes the social, historical and political context for the Samoan child. Issues around religion, urbanisation, political systems, and human rights philosophies are discussed in relation to how they impact on the protection of the Samoan child.

Chapter Three provides an exploration of child physical and sexual abuse in Samoa. The section reflects on documented legends, and the writings of foreign observers about Samoa before and after it gained independence in 1962. The chapter then reviews some of the more recent knowledge on family violence, suicide, child labour, teenage births and sexually transmitted infections.

Chapter Four addresses the question of why people abuse children. The section looks at some of the more frequently used rationales including those based on religious beliefs and sexual offender models.

Chapter Five discusses the responses to crimes against children in Samoa, under traditional processes and the state judiciary system. The chapter discusses the main pieces of legislation which impact on the protection of children

Chapter Six is about the mechanism of the study. The chapter provides a rationale for the methodology and the methods that were chosen. It also contains discussions around issues of consent, validity, access to the community and other participant issues. The last section of the chapter outlines some of the weaknesses in the process that was used.

Part II consists of five chapters that present the findings, analysis, conclusion and recommendations from the study.

Chapter Seven presents the outcomes from the village interviews. The areas that are specifically explored include the concept of child rights within the Samoan culture, the line between discipline and abuse, sexual abuse, suicide and child labour. The thesis analyses the traditional processes that were used to address abuse within the participant villages.

Chapter Eight discusses the findings from interviews and documents reviewed from non government organisations (NGOs). The two agencies specifically featured are ECPAT Samoa and Mapusaga O Aiga (MOA). The chapter also looks at the role of the media and the messages that the community interpreted from its publications.

Chapter Nine looks at processes within government departments on how to address child abuse. The findings are from the departments of Health, Education, Police, Justice and Statistics. These departments provided interviews, statistical information and other secondary data. The findings have been interpreted and analysed with the incorporation of the views from the villages, NGOs and independent informants. The final section of the chapter reflects on the outcomes from both the traditional and statutory processes using case illustrations.

Chapter Ten profiles a case of child sexual abuse that involved both traditional and state authorities in 2003. The case study is used to illustrate the reality for a child victim when she had to confront the judiciary systems. The case study considers the longterm effects of abuse for victims, independent of these outcomes.

Chapter Eleven provides the summary, conclusion, recommendations and final word from the study.

All translations in the text were produced by the writer. It is important to note that the majority of the interviews were conducted in the Samoan language. I attempted in the translation, to capture in English the concepts explained to me instead of word for word transcription. For example, the words *amioga mataga* refers to sexual abuse; if they were translated word for word they would mean embarrassing, humiliating or shameful behaviour. In addition, the translations do not capture the manner in which the questions were posed to the participants, or the manner of the responses. These issues are similar to those experienced by Maori writers when translating Maori into English, as expressed in the following quote:

Proverbs, legends, stories, history and particular knowledge, have hidden meaning and symbolic reference for those who understand the mythology and the cultural groups to whom they belong.One word or one single phrase can convey a host of meanings depending on the context in which something is said, including the intonation and tone of the voice that is used. (Pere, 1991, p. 10)

All Ministries and departments referred to in the thesis are of the government of Samoa unless otherwise specified.

Chapter Two

Research Context

This chapter provides a contextual analysis so that children, families, processes and legislation could be viewed in their interactive relationships. The areas I have chosen to discuss were deduced largely from my own life experiences as a Samoan child, and from working with Samoan families as a state social worker in New Zealand.

Preliminary Definitions

Before embarking on further discussion, some preliminary definitions for child physical and sexual abuse are provided. These definitions have been obtained from documentation produced by government departments and legislation in Samoa.

Child

The child is referred to in the feminine in the text as her or she, unless otherwise specified for consistency in the text.

A legal definition of a child by age is inconsistent under various pieces of legislation. The United Nations Convention on the Rights of the Child 1989 (CRC) that was ratified by Samoa in 1994 defines a child to be under the age of 18 years, including the unborn child. The Infants Ordinance 1961 defines a child to be under the age of 16 years (University of the South Pacific (USP), Infants Ordinance). The Crimes Ordinance 1961 classifies that a child in utero becomes a human being once she has been extracted from the womb, whether still connected to her mother or not, dead or alive (University of the South Pacific (USP), Crimes Ordinance). It is unclear if this implied therefore, that a child still in utero existed in the absence of the same rights and protection under the law, due to her relative invisibility from the world.

My own observations of social expectations and daily practices imposed on children, further confirmed inconsistencies between these and legal definitions.

A 10 year old is not allowed to consume alcohol but it is socially acceptable for her to purchase alcohol from the local store. While it is illegal to employ anyone under the age of 15 years, children of 12 years and younger are visibly engaged in selling goods on the streets. While it is illegal to have sexual intercourse with a girl under 16 years, unpublished data from the Ministry of Health for teenage birth rates suggest that the law is incongruent with attitudes, perceptions and practices around sexuality. These inconsistencies suggest need to review current legislation.

In the absence of a legal demarcation between a child and a young person under Samoan legislation (all of which were originally New Zealand laws), I have chosen to adopt the demarcation between a child and a young person from New Zealand legislation as the age of 14 years (Children, Young Persons and Their Families Act, 1989). A young person is therefore someone from the age of 14 to 18 years. I have specified young person here by age to aid discussions to follow.

For the sake of this thesis, the word child includes the unborn, up to but not including 18 years. The term children refers to the whole age span.

Abuse

The first research that was conducted on child abuse in Samoa was done under the Pacific Children's Project (PCP) in 2001. The PCP is funded by AusAid and involves three Pacific countries: Samoa, Fiji and Vanuatu. Unfortunately the research report was not publicly available at the time of writing hence there is no detail reference to it in this thesis.

During the course of the research for this thesis in 2003, the MWA was restructured. The new name for the department is the Ministry of Women, Community and Social Development Affairs. For the sake of this thesis, I will continue to refer to the department as MWA, as the documents received from them were produced under the old department, and have been referenced according to the original owner, which was the MWA. The definitions for physical and sexual abuse quoted here were produced jointly by the Samoan government

represented by the Ministry of Women Affairs (MWA), and the PCP under AusAid. The materials were publicly released in June 2003.

Physical abuse:

- *Le fa'aaogaina sese lea o le pule ma le malosi e faao'o manu'a ai i le fanau* (Government of Samoa/AusAid, 2003).
- The wrongful use or abuse of authority and strength to injure children.

Such acts include, but are not limited to, hitting with a stick or hose, pulling hair, punching, strangling, and stoning (Government of Samoa/AusAid, 2003).

The literature on physical abuse could be summed up to provide a general description of abuse, which is the *non accidental* infliction of physical force upon a child. Force includes, but is not limited to, biting, kicking, punching, burning, shaking, slapping and stomping (New Zealand Children and Young Persons Service, 1998).

Physical abuse is not a term used in Samoan legislation to define a crime. Definitions of physically abusive acts are classified under the Crimes Ordinance 1961 as: common assault, actual bodily harm (ABH), grievous bodily harm (GBH), manslaughter, murder, abortion, infanticide and so forth. Charges generally do not define the relationship between the victim and perpetrator for physical assault apart from infanticide. Apart from infanticide, charges are generally non specific to the age of the victim.

Sexual Abuse:

- *Fa'aaogaina o tamaiti mo feusuaiga fai faamalosi.*
- *Fa'aaogaina o tamaiti e faataunuu ai manaoga mataga ma le faa le alofa.*
- *Fa'aaogaina o tamaiti e faamalie ai amioga mataga.*
- (Government of Samoa/AusAid, 2003)
- The use of children for sex by coercion.

- The use of children to meet sexual needs (*manaoga matagā* or shameful needs or wants refers to sexual abuse; *faa le alofa* – a manner in absence of love).
- The use of children to appease sexual needs.

Sexual abuse is not a term used to define a crime in legislation. The various acts of sexual abuse are classified under rape, incest, sexual intercourse, sodomy, indecent assault, and sexual violation. Sexual abuse in recent years has included the economic exploitation of children through prostitution and the production of child pornography. The current laws however are not as clear about the last two forms of sexual exploitation.

With these broad definitions of the child, physical and sexual abuse, I will proceed to provide a contextual background to the Samoan child.

Position of Children in Samoan Society

Today, Samoa has a population of approximately 178,000 people, with a median age of 19.7 years (Department of Statistics, 2003). Demographically, the Samoan population is young.

The birth of a child in any family signifies the life of that unit and it is often the cause for celebration (Ngan-woo, 1985). As in other societies, the child is the physical and spiritual legacy of the generations before.

Even when a child was born outside of marriage, she was still acknowledged through the process of *faailoga tama*. This process involves the father's family visiting the child and presenting gifts to the mother's family, especially when the father has no intention of marrying the mother. The *faailoga tama* acts as the medium for reconciliation between the two families (Ngan-woo, 1985) for future relationships as a result of the child. Historically, pregnancies from liaisons prior to marriage and marriages into higher ranked families were acceptable as long as these unions advanced the interest of the mother's family in the form of *su'e malo* (advancement socially, economically, politically) (Mageo, 2001).

Adopted children or *fanau fai* in Samoa have equal status with birth children, mainly because adoption in the western sense is not the same concept as that of Samoan culture. Because Samoan children belong to their collectives, they can be distributed informally among family members in the same way as other family property, according to the discretion of the elders, and based on ethics of sharing (Mageo, 2001). Adopted children are therefore those who are simply raised by other family members, often with the knowledge of who their birth parents are. Kramer (1994) wrote of adopted children who inherited lands and became head of families.

The Samoan child is raised by members of the extended family (Ngan-woo, 1985); she is not regarded as an individual with separate rights to the collective (Meleisea, 1992). The collective holds the right and duty to provide and protect the child throughout her life. The collective commonly includes aunts, uncles, grandparents, cousins, and other relatives who live with or close to the child, even those connected by marriage, as it is common to have relatives by marriage living in the same house. The concept of children's rights must accordingly be interpreted within this context.

The child is born into a culture that teaches respect for authority, often through the display of obedience. Children learn their duties and responsibilities to others in the family and in the wider community through daily interaction and role modeling. The daily presence of family around the child, verbal engagements, carrying out chores, praying, singing, eating, sleeping, and disciplining reassure the child of her place within the collective.

Young children have the responsibility of caring for younger siblings, under the monitoring eye of another adult (Ngan-woo, 1985). Because Samoan culture recognises age as a hierarchy, a child who acts as a caregiver could physically discipline younger siblings if this was considered necessary (Freeman, 1985). Younger children are expected to obey the instructions of older siblings. As the order progresses to older relatives and parents, the child becomes more and more dominated physically, developmentally, socially and politically. Freeman observed that children were not encouraged to challenge as doing so could

result in physical retaliation (Freeman, 1985). The elders in a family are often accorded the most respect, as displayed in some families where elders are served food before the children. Identity, status, security, values and beliefs are all influenced greatly by this collective existence.

The traditional position of children has significant implications for their safety from abusive treatment within the family, and in the wider community.

Western Religion

Polynesian countries share a history of domination and oppression during the colonisation period from missionaries, foreign explorers and traders (Trask, 1999). Western religion has been a mixed blessing to Polynesian communities. Not all missionaries were trained clergy; some were trades people who ended up serving their own interests by accumulating lands and setting up businesses. Part and parcel of religious missions was the covert cessation of lands, political domination, and the imposition of new individualistic ideologies (Lewis, 1992).

The writings of one missionary in a book used for missionary training reflected a patronising attitude towards Polynesian people. This author described the Australian Aborigine as “the lowest type of human life on our planet” and advocated putting them into reserves; the native Fijians were “of a lower grade than the Tongans, Samoans, Tahitians and Maoris”; Samoans were regarded as aristocratic even in their “heathen state”; and Tongans were intelligent and capable “for a native race” (Burton, 1912, p. 160).

The history of the London Missionary Society Church (LMS) in Samoa tells how the arrival of western religion was foretold in Samoa. An historian of the LMS Church wrote that prior to the arrival of the missionaries, one of the regional leaders named Malietoa consulted the human demon named Nafanua about his prospects of becoming leader for all of Samoa (Faletoese, 1959). Nafanua was a great female warrior who was the child of the human-demon Saveasi'uleo and his niece Tilafaigā (Lafai-Sauoiga, 1988). Nafanua was said to have had a

vision that foretold the coming of a new God from the sky, and that Malietoa would lead the new kingdom (Faletoese, 1959).

Some believe that when the ships that carried the missionaries arrived in Samoa in the early 1830's, they appeared on the horizon as if they had come from the sky, hence the reference to the Europeans as the *palagi* (*pa* – explode, *lagi* – sky) (Meleisea, 1992). The appearance of the missionaries as apparently foretold by Nafanua provided justification for their acceptance, and Malietoa's leadership. While western religion discouraged people from consulting with some *fofō* (healers) who supposedly communicated with spirits (Mageo, 2001), it accepted the pivotal role of demonic spirits in the establishment of western religion in Samoa.

The existence of tribal wars in Samoa and the struggle for power made it easy for the missionaries to infiltrate the community. With the assistance of the missionaries and his allies, Malietoa centralised leadership over Samoa, promoting Christianity in the process. By 1839, tribal wars had effectively ceased (Burton, 1912). Ultimately, by supporting a centralised political leadership, the missionaries facilitated the creation of a country that was politically more accessible for the foreign administrators (Meleisea, 1992). The arrival of Christianity marked a turning point for Samoan society spiritually, socially, economically and politically (Faletoese, 1959; Burton, 1912; Meleisea & Schoeffel Meleisea, 1987).

Western religion transported and imposed a new culture in Samoa - a form of cultural imperialism. People's natural dress (or rather lack of it) was changed in order to cover their 'nakedness' in the eyes of the missionaries and foreigners. Shaming and teasing were used to make people feel embarrassed about nudity (Mageo, 2001). The *tatau* (tattoo which is a record of family genealogy and a mark of the transition from a boy to a *taule'ale'a*) was forbidden by the missionaries as it involved bloodshed. *Matai* who were the elected leaders of families stopped engaging in war alongside their collectives in order to promote peace as preached by the missionaries (Meleisea & Schoeffel Meleisea, 1987).

Power, control and loyalty gradually shifted from the hands of *matai* who represented collectives to the hands of a few religious leaders who represented their institutions. Currently, nearly 100% of Samoa's population classify themselves as Christians (Slade, 2000).

One research found that in some areas in Samoa where the majority of land was freehold, the churches had become the centre of community activity (Samuelu, 1999). Similarly in foreign countries where the traditional village no longer exists, churches are built by Samoans as a place of affiliation, identity, and one where they can do as they please as a community (Ngan-woo, 1985). The church becomes the pseudo villages with the *faifeau* as the head chief. The church communities provide places where the social structures are based on shared values and beliefs of Samoan people, not the surrounding foreign environment. Churches therefore preserve cultural identity and language; it is the medium for cultural continuance for the young (Tanielu, 2004). Culture is maintained through the *aoga a le faifeau* (church minister's school), *autalavou* (youth group), *mafutaga a tinā* (mother's group) and so forth. All engage in various fundraising activities to finance church initiatives.

In Samoa, religious leaders (*faifeau* and *faletua*) are relied on for psychological and spiritual support in times of difficulty; they are regarded as "the modern day spirit medium" (Ngan-woo, 1985, p. 31). The place of elders as the wise counselors has been taken over by religious leaders. In a society that distrusts therapeutic interventions such as counseling from outsiders, it readily accepts religious leaders as healers in whatever situation. The expectations placed on religious leaders to be spiritual shepherds, healers, advisors, and their locations within the village, means that the community accesses them according to need, twenty four hours a day.

The immediate families of many religious leaders are directly and indirectly supported by their church members. Support occurs through donations of money, food and concession services such as free health care, transport, use of church property, power, phone, and from some the provision of vehicles. Support to 'the church' is an added responsibility for families amongst other demands on

resources. At least 30% of family income goes to the church (Slade, 2000) which impacts directly on the resources available for education, clothing, food, health and overall standard of living for families.

In conclusion, the churches have pivotal roles in the daily lives of families. The engineering of values, beliefs and attitudes by religious institutions through biblical teachings directly impact on the physical and emotional development, protection and future of Samoan children.

Traditional Authority

The strength of the local authority or *matai fono*, is directly related to its ability to exercise social control. This includes the protection of children from offences committed by villagers. There are approximately 25,000 *matai* in Samoa today (Ministry of Women's Affairs (MWA), 2001); this figure equates to approximately 14% of the population. The influence of the *matai* system in local authorities is connected to collective land ownership. The significance of this for children will become clearer as the thesis progresses.

Samoa has a dual political system. The first tier is the traditional authority or the *matai fono*; it is the governing body in the majority of local communities, especially the rural villages. The *fono* or *saofaiga a ali'i ma faipule*, is the gathering of heads of families (*matai*) in a village who together, govern the use of land and maintain relationships between families (Meleisea, 1992). The second tier of authority is government, which was developed under the New Zealand administration and maintained after independence in 1962 (Meleisea, 1992).

Each village *fono* has its own constitution, laws and protocols, with the freedom to change these at any time with the consensus only of the village inhabitants. Village laws are known as *tulafono*, *matua moe*, or *aulape*; they are mostly unwritten (Sunia, 1997). While practices in the state arena are guided by legislation, the *fono* operates according to custom and tradition. The activities of the *fono* are transparent only to the village, to which it accords primary accountability and responsibility.

The collective ownership of land preserves traditional authority and the process of collective consensus. Unlike the Marxist bourgeois-proletariat system, family members do not pay the head *matai* for using collective land as it is their right. Reciprocity to the collective for the use of the land may occur through other services to the collective. Communal ownership theoretically ensures that every family has land to live on regardless of social or economic circumstance (Meleisea, 1992). This situation may, however, change dramatically should the government decide one day to charge land rates.

Once a person becomes a *matai* in the village, he is entitled to sit in the *fono*. A title does not necessarily give speaking rights in the *fono*, unless the title itself permits this (*tulāfale* – orator title), or unless one is given permission to speak by the higher ranked *matai*. The authority of each *matai* as the leader of his collective is recognised within the *fono* and throughout the community. The most powerful titles hold authority and responsibility over significant amounts of land and branches of the family in other villages (Meleisea, 1992).

The authority of the *fono* and its ability to exercise local authority is legitimised by the Village Fono Act 1990 (Fono Act), although it is the traditional authority of social control. The Fono Act 1990 is described as: “An Act to validate and empower the exercise of power and authority by Village *fono* in accordance with the custom and usage of their villages and to conform or grant certain powers and to provide for incidental matters” (University of South Pacific (USP), Village Fono Act 1990).

The *fono* is regarded by some people as an alternative justice system to the state judiciary (Sunia, 1997). Under the Fono Act, councils hold the right to exercise power and authority to deal with village ‘misconduct’. Village ‘misconduct’ is defined as “any act conduct or behaviour which is or has been traditionally punished by the Village Fono of that village in accordance with its custom and usage and has the extended meaning required by section 6 of this Act” (USP, Village Fono Act 1990).

The powers of the *fono* to issue punishment are stated in section 6:

Without limiting the powers of the Village Fono preserved by this Act to impose punishments for village misconduct the powers of every Village Fono to impose punishment in accordance with the custom and usage of its village shall be deemed to include the following powers of punishments:

- a) The power to impose a fine in money, fine mats, animals or food: penalty in one or partly in others of those things;
- b) The power to order the offender to undertake any work on the village land. (USP, Village Fono Act 1990)

The Fono Act does not specify if crimes like child abuse and domestic violence are considered misconduct.

The limitations of the fono's jurisdiction under section 9 states:

Limitation of jurisdiction of the Fono – The jurisdiction of any village fono shall not extend to include -

- a) Any person who does not normally reside in its village;
- or
- b) Any person who not being a matai of its village ordinarily resides in its village on Government, freehold or leasehold land and is not liable in accordance with the custom and usage of that village to render *tautua* to a matai of that village. (USP, Village Fono Act 1990)

The influence of the fono is clearly limited in freehold and urban areas.

While the Samoan Constitution supercedes the Fono Act, in reality the authority of the *fono* is only challenged when a citizen makes a formal complaint to state authorities, a process some villages discourage (Slade, 2002). Some of the recent complaints against the *fono* were by people who have been banished for exercising religious and political freedom from those of the *fono* (Slade, 2002).

People can appeal *fono* decisions under section 11 of the Act in the Land and Titles Court. Where one directs appeals for matters that are not related to land, such as child abuse, is not clear in the Act. This suggests that the Act is not intended to empower the *fono* to rule on crimes such as physical and sexual assaults. This is disempowering considering the traditional function and ongoing responsibilities of local authorities, to maintain control and social justice within their communities. In addition, the small police force is said to have limited effect beyond Apia (Slade, 2002), hence there is a need for *fono* to maintain social order in local communities. Regardless, physical and sexual offences between village inhabitants have traditionally been addressed by *fono*, and continue to be so (Sunia, 1997).

The Fono Act does not require the councils to keep records of any enquiries or any punishments imposed. For accountability and transparency purposes, this provision gives the impression of autonomy for the councils. For an individual who wishes to complain to state authorities about a *fono* ruling, the burden of proof lies with him and his supporters.

The degradation of traditional authorities clearly impacts on their ability to exercise social control. Regarding the protection of children, the Fono Act appears outdated, vague and in need of redefining.

Urbanisation

The main reasons for urbanisation are employment and education (Department of Statistics, 2003). In Upolu where 76% of the population live, 22.1% live in what are defined as urban areas. However, there are other areas which are not classified under the urban regions that have experienced a dramatic flux in population from urbanisation. The village of Vaitele in Upolu has a population of over 5000 residents, an increase of 423% since 1991 due to urbanisation. Similarly, the population of Vaialele has increased by 249% in ten years. Both these villages far outnumber most urban villages (Department of Statistics, 2003). The impact of urbanisation and the high populations within freehold land areas, particularly in Upolu, impact significantly on local *fono* (Samuelu, 1999).

In the traditional villages, the *fono* is made up of families 'of the land'. These families have intimate relationships that formed over generations. In the new settlement areas, the support mechanisms that existed in the traditional villages may not necessarily exist. For migrants from rural areas, the familiarity with neighbours, village rules and the *fono* may no longer be present. The search for a better life is accompanied by exposure to alternative lifestyles, philosophies, unknown risks, plus a sense of loss and insecurity.

The impact of the new settlers on local traditional structures was explored in a study by Tuli Fepuleai Samuelu (1999) using the village of Vaigaga, Upolu. Vaigaga is an area where a significant proportion of the village consists of freehold land. Samuelu primarily explored the impact of Christianity on the social structure of the village and the cultural identities of its inhabitants. The study found that the main church as opposed to the *fono*, had become the central place for village activities. Church leadership however, was fragmented because not all villagers attended the same church. There were also indicators that *matai* who migrated from other villages did not commit themselves to the affairs of their new community. The church therefore was unable to replicate the authority of the *fono*, which affected its ability to exercise social control (Samuelu, 1999).

The gradual degradation of traditional authority and customary law that Samoa displays is similar to that seen in Latin America and other areas of the world, where the power of customary law was closely tied to communal land ownership. The de-culturalisation of the people due to urbanisation in such societies made it easier for corrupt rulers to shift land ownership from communal to individual, and eventually to multinationals. Once collective ownership broke into individual ownership, traditional authority lost its grip on the community and eventually became ineffectual (Davidson, 1995). Samuelu's findings and rapid urbanisation suggest that traditional authority and the Samoan culture itself are at risk of rapid degradation. Communal land ownership and cultural survival are ultimately linked to social control, and hence the care and protection of children.

Human Rights

This section begins with a discussion of political developments and human rights policies in Samoa which impact on children. The areas where traditional processes of justice potentially conflict with legal provisions are highlighted.

The Constitution of the Independent State of Samoa 1960 (Constitution).

The Constitution commenced when Samoa became independent in 1962 (USP, The Constitution of the Independent State of Samoa). The Constitution was developed to the approval of the New Zealand administration prior to independence. This is the supreme law of Samoa. The following sections are those that relate directly to child abuse.

Section 7 states that “no person shall be subjected to torture or inhuman or degrading treatment or punishment” (USP, The Constitution of the Independent State of Samoa). All forms of physical, emotional and sexual abuse are against the law. The section makes no exceptions regarding circumstances, which directly rule out acts of abuse or extreme discipline in homes, schools, religious institutions and so forth. The words, torture, inhuman, degrading, treatment and punishment are not defined.

Section 8(1) states that “no person shall be required to perform forced or compulsory labour”. Forced labour under section 8(2) (d) did not include “any work or services which are required by Samoan custom or which forms part or normal civic obligations” (USP, The Constitution of the Independent State of Samoa). The Constitution rules out child labour except under certain conditions.

This section raises the risks that it may be permissible to compel a child to provide labour, as long as it is recognised (depending on who is making the decisions) as custom or is part of their normal civic obligation. Is a child working on the plantation on daily basis instead of going to school performing a normal civic obligation? Does ‘custom’ permit parents to coerce children to sell goods on the street? These are questions that arise regarding the risks for children under this provision.

The Constitution provides children with the right to freedom of speech and expression under section 13(1). This section provides an opportunity for children to participate in the public arena by having their views heard. It also provides an avenue for those in authority to seek the views of young people as of right. This provision is contrary to traditional beliefs and the social status of children, which does not encourage them to challenge authority but emphasise obedience.

Women as advocates for children have a limited voice in the development of rules and policies through traditional authority and state departments. However, women only hold 10% of all *matai* titles, with only 4 of the 238 *pulenu'u* (local mayors) in the country being women (MWA, 2001). While some department heads are women, there is only one female cabinet minister.

Section 15 states that all people have “freedom from discriminatory legislation”, where “all persons are equal before the law and entitled to equal protection under the law” (USP, The Constitution of the Independent State of Samoa). The provision implies that children are not to be disadvantaged because they lack the political and economic means to defend themselves. The issue of equality also conflicts significantly with the traditional status of children in society.

The Constitution grants rights of religious freedom. While this section is not as critical as the ones already mentioned, it impacts on children whose families may be punished or banned from their villages for exercising this right (Slade, 2000).

While the Constitution recognises children as individuals with citizenship rights and entitlements, it makes no provisions to enable children to pursue their entitlements or clear mechanisms to ensure those rights. The Constitution appears to contradict pre-existing cultural and social structures, and threatens traditional hierarchies of authority.

Ministry of Women’s Affairs

The introduction of universal suffrage in 1991 gave everyone from the age of 21 years the right to vote. Prior to this only *matai* could vote; the majority of whom were men.

State services were adapted to accommodate the new voting public which involved the establishment of new departments, including the Ministry of Women's Affairs (MWA) in 1991. While women have always been active in local and national politics through various committees independent of legislative support, the Ministry of Women's Affairs Act 1990 (MWA Act), universal suffrage and the ratification of the United Nations Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in 1992 made women political stakeholders in the state arena.

The functions of the Ministry under the MWA Act are to:

“promote and co-ordinate...the work of women and women's committees and in particular...primary health care, village and district sanitation, child care, handicrafts and domestic and community gardens, including gardens for growing of vegetables.” (Ministry of Women's Affairs Act 1990)

The mandatory responsibilities of the Minister are “to formulate and direct policy and generally to superintend matters pertaining to the special interests of women, and to exercise such power and functions as are vested in him under this Act” (Ministry of Women's Affairs Act 1990).

There is nothing specific in the MWA Act for the interests of children apart from the child care provision.

In an interview with Palanitina Toelupe, a senior officer in the MWA on 21 August 2003, I asked what the specific mandate of the department was regarding children. Toelupe advised me that because women were the primary caregivers for children, there was an assumption by government that any improvement in the rights and entitlements of women would also benefit children. Consequently, when Samoa ratified the United Nations Convention on the Rights of the Child (CRC) in 1994, the Ministry was made responsible for implementing its obligations.

I asked Toelupe if there was a possibility of reconsidering the provisions for children under the MWA Act, in light of the government's responsibilities under the CRC and the new restructuring of the department that involved a merge with the previous departments of Internal Affairs and Youth, Sports and Culture. Toelupe advised that no legislative changes were likely in the foreseeable future, as the current laws and programmes were considered adequate to address the government's obligations to the CRC. It was possible that this direction was influenced by the existence of the Pacific Children's Project, as Toelupe advised that the PCP had just received approval for funding for a further two years. It was clear that the outlook for policy and legislative development specifically for children in the near future by Samoa was unlikely. Meanwhile, the Ministry appeared to focus its activities on programme delivery.

United Nations Convention on the Elimination of all Forms of Discrimination Against Women 1979 (CEDAW).

The ratification of CEDAW in 1992 further enhanced the possibility of legislative support for the protection of children due to the empowerment of women. The responsibilities of the government to the CEDAW are also implemented by the MWA.

The first CEDAW report that was released by the Ministry of Women in 2003 portrayed a view that women had equal rights under law. While this was so in legislation, traditional practices portray a different view. The CEDAW report noted that traditionally, men continued to hold authority both in the homes and in the villages, as indicated by the small percentage of women who held *matai* status (MWA, 2001). The acceptance of CEDAW challenged patriarchal beliefs and worked towards reaffirming the value of women in society. Promotional programmes in the media regarding CEDAW focused on a balance between roles and responsibilities between the genders to acknowledge the role of women in society.

United Nations Convention on the Rights of the Child 1989 (CRC)

The country was still adapting to women and untitled people being granted voting rights when the CRC was signed in 1994. There are 54 Articles to this convention. While all the articles are significant, I have chosen to highlight particular sections because of their potential impact on the traditional roles of children and on traditional authority. The differences in value bases between the Samoan culture and foreign philosophies are apparent in some of the provisions. These differences may affect the ability of the community to accept the CRC, as well as the government's ability to enforce it. The term 'state' is used interchangeably with government; it does not refer to village *fono* as they represent singular communities.

Article 2 states that: "State Parties shall respect and ensure the rights set forth in the present Convention to each child ...without discrimination of any kind..". The same article then goes on to state that "States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members" (United Nations Convention on the Rights of the Child, 1989, (CRC)).

All children have the same rights without prejudice, which the government must then ensure for each child as an individual, independent of parental heritage or pre-disposition. Any punishment inflicted on the child's parent or her family could not be automatically imposed on the child. This provision is contrary to the traditional inclusion of children as part of the collective. The implication is that villages may no longer be able to practice family banishment as imposed on those who exercised political and religious freedom (Slade, 2002). Alternatively, this provision could empower the *fono* to prevent a sexual perpetrator from taking his children against their will.

Article 3 states that the best interest of the child shall be the primary consideration in all dealings by state and private welfare institutions, the courts as the institutions of justice are mentioned in particular. The article further states

that the government "shall take all appropriate legislative and administrative measures" (United Nations Convention on the Rights of the Child, 1989, (CRC)) in addition to consideration of the rights and duties of parents, guardians and other caregivers responsible for the child's care and protection.

The article imposes the responsibility upon the state to ensure that children are safe in institutions that engage them such as schools, public and private. While churches are not specifically welfare institutions, they engage the community financially and physically, in educational, spiritual, life skills, counseling and employment programmes. In Samoa, churches are essentially providers of social services. This article therefore could be applied to religious institutions. The article proposes a more regulated approach to provisions for children. This proposed situation is contrary to the relative autonomy currently held by families, *fono*, government institutions and churches.

Article 4 states that "States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention". In addition, "States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation" (United Nations Convention on the Rights of the Child, 1989, (CRC)). Compliance with this clause is dependent on resources which raises issues about distributive justice regarding government funds. The needs of the economically, socially and politically dependent (children) will compete with those of the more empowered, businesses owners for example.

While the clause implies the possibility of assistance and mutual support from the international community, it does not specify what type of assistance nor guarantee it.

Article 5 is significant as it reaffirms the role of the child's collective, it states that:

States Parties shall respect the responsibilities, rights and duties of parentsthe members of the extended family

or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention. (United Nations Convention on the Rights of the Child, 1989, (CRC))

The article reinforces the relationship between the child and the collective by acknowledging the role of the collective in the child's life, and in ensuring that she is able to exercise her rights appropriately.

Article 6 acknowledges the right for every child to life. It requires the state to take active measures to address the protection of all children throughout their development. This article is significant regarding issues such as abortion, infanticide, willful neglect, suicide, domestic violence and other acts that lead to the death of children. Ongoing development issues could be interpreted to include education, health, economic, political and social status, spiritual and physical aspects of life. The provision challenges traditional ideals about the unborn child, gender roles, individual and family autonomy. The article imposes a duty on the state to actively participate in the development and protection of all children including the unborn.

Article 19 firmly asserts the role of the state in the family. It directs and obligates the government to intervene to protect children "from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child" (United Nations Convention on the Rights of the Child, 1989, (CRC)).

In addition, the article requires the establishment of appropriate legislation and systems that facilitate the identification, reporting, and investigation of abuse. The article challenges the acceptance of violence in homes, schools, churches and so forth, and the authority of those institutions. Also, it requires the

establishment of preventative and support services such as therapy, counseling and rehabilitative services for both victims and offenders. The development and allocation of resources required in order to enforce this provision where no such systems and resources exist, as well as strong community resistance, would be significant.

In Article 20, the government is responsible for the removal of any child from an abusive environment, and her placement elsewhere with sufficient provisions to ensure her protection and care (United Nations Convention on the Rights of the Child, 1989, (CRC)). Such a situation may occur when a child is removed from her home after disclosing abuse or where she is believed to be suffering abuse. A similar power already exists under section 16 of the Infants Ordinance 1961. Again, this challenges traditional family autonomy and patriarchal beliefs.

Article 32 protects children from economic exploitation via engagement in any “work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development”. The article further states that legislative, administrative, social and educational measures “must be developed to ensure the implementation of the present article” (United Nations Convention on the Rights of the Child, 1989, (CRC)). The article proposes the imposition of minimum ages for employment, limiting the number of hours of work, and consequences to those who break the law. There is no exception for customary practices or civic obligations as there was under the Samoan Constitution.

Article 34 specifically targets the protection of children from sexual abuse and exploitation of any form including prostitution and the production of pornographic material. In the absence of specific legislation against child prostitution and the commercial exploitation of children in Samoa, the article provides a legal basis to address these forms of abuse. This article encourages the government to network nationally and internationally to prevent all forms of sexual exploitation of children. This would require the establishment of formal protocols, transparent processes, accountability and ongoing networking between the state and *fono* authorities.

Article 39 obligates the government to aid the healing of children from trauma and abuse (United Nations Convention on the Rights of the Child, 1989, (CRC)) and implies a commitment beyond moral support. This article is significant for Samoa in light of the current reliance of voluntary agencies that currently provide support services, on foreign aid (see Chapter Eight). The situation directs the government to assist in the development of existing and new rehabilitative and preventative programmes.

Critique of the CRC.

Critics of the CRC argue against the need to legitimise children's rights because in their view, children are naturally loved and protected in society (Fruean, 1997). Unfortunately the reality is very different. In cases of sexual abuse a significant number of offenders are family members and those who are known to the child (Dominelli, 1991). In Samoa, children have died from acts of discipline by family members (Freeman, 1985). Other studies conducted on child homicides found that the majority of offenders were caregivers (Goetting (1988) and Resnik (1969) as cited in Adinkrah, 2003). At the time of the research, I observed children walking the streets of Apia day and night selling goods. Clearly not all children live in an ideal world and there is a strong case for the CRC.

It has been suggested that the CRC was only set up to keep the developed nations in check because only they could afford to enforce it (Fruean, 1997). According to Fruean (1997), the cost of implementing the CRC is beyond the budgets of most non-western countries where half the populations are under 18 years, the implication of which on the working population and the consequent tax pool is significant. The promotion of rights and heightened awareness is considered inadequate without the resources to provide the follow up services. In Fruean's view, much "of the world has as much chance of implementing the Convention as sending its citizens to the moon. Unfortunately most countries would rather do the latter" (1997, p. 100).

In Samoa, the minimum wage is \$1.40 *tala* an hour. This implies a scarcity of finances both within households and government budgets. A concern about the distribution of government resources would arise if the worthiness of children for funds was compared against other competing interests, as children's dependency would clearly disadvantage them. An article in *Le Samoa* in the 1-7 October 2003 issue wrote of the public outrage at the slow response from the government to a rubella outbreak, which had already resulted in the death of three children and hundreds of hospital admissions. The article documented that a private medical facility had already brought into the country vaccines for the outbreak while the government was still deliberating its response ("Mass rubella vaccination in six weeks", 2003).

A significant weakness in the CRC is that it is not enforceable by the United Nations (UN). Governments are required to submit reports to the UN committee but this appears to be the only measure of accountability. Nevertheless, the CRC provides a legal starting point as rights made redress possible (Fruean, 1997).

Rights under the CRC have been referred to as 'soft rights' (Tang, 2003) as opposed to absolute rights. This is because the CRC can only be affected domestically if governments create laws that incorporate it, and systems to implement its provisions (Bartlett in Department of Child, Youth and family, 2001; Tang 2003). The active enforcement of the CRC by the judiciary in various countries has been recognised as a key element in implementing the convention. When the courts enforce the CRC, they actively advocate for child rights (Tang, 2003), and establish particular standards for conduct in society towards children.

In Samoa, the CRC is already visible through local media ("New kids right debate looms after Apia launch", 2003) and in the courts. The enforcement of the CRC was reflected in the sentencing statements in the cases of *Police vs Masimasi* in 1999 (USP, *Police vs Maumasi*, 1999); *Police vs Paulo* in 2000 (USP, *Police vs Paulo*, 2000) and in *Police vs Puni* in 2003 (USP, *Police vs Puni*, 2003). Puni was convicted for raping his 12 year old step daughter and

sentenced to 7 years jail; the judge noted in his sentencing statement that the court had to demonstrate accountability to the CRC.

CRC in Samoa

Publications about the CRC were produced for the public by both NGOs and state agencies. Both NGOs and MWA have used the media significantly in order to engage the different disciplines, including religious institutions, police and the judiciary, in debates about children's rights. The promotion of the CRC in Samoa is co-ordinated by a cabinet appointed committee made up of the departments of the MWA, Police, Justice, Education, Health, the Attorney General Office, and one NGO member; the NGO place rotates on a roster basis from relevant agencies. According to an NGO worker I interviewed, their presence on the roster list was also a cabinet decision. The function of the committee is to oversee the implementation of the convention, and provide a networking base for issues and developments relevant to children. The committee is a recent development; at the time of writing it had met only once.

In an interview with Toelupe of the MWA on 21 August 2003, I raised the issue about the CRC committee being dominated by government bodies. Toelupe assured me that representatives from the government departments were people who actively worked in the community and had grass roots knowledge. The reason why village representatives were not considered necessary for the committee, was according to Toelupe, due to the existence of networks between the MWA and the villages themselves, through which groups fed information directly to the MWA and vice versa. The network did not yet include all the villages in the country and was mainly with women's groups or *komiti*. Despite the gaps, Toelupe believed in the ability of the MWA to advocate accurately and adequately for the community, without compromising its own role and interests as a statutory agency.

I asked Toelupe how the government would meet its obligations to the CRC in the event that the AusAid funded project (PCP) came to an end. Toelupe explained that local village programmes that promoted the CRC were initiated and implemented by the communities themselves with only limited assistance

from the project, hence the progress was likely to continue. I commented that perhaps some of the programmes that included plays and the production of literature and so forth, may have occurred only due to the initiation of and funds from the project. Toelupe added that government departments were already engaged in related programmes under their own mandates independent of the PCP and so would continue. In Toelupe's view, the majority of the CRC principles were similar to the aspirations of Samoan parents themselves.

Conclusion

The legal definitions for a child appear to be inconsistent with social and cultural expectations in Samoa. This is perhaps not surprising as the original pieces of legislation and newly adopted ones such as the CRC were all produced from foreign societies. This ongoing conflict between legislation and traditional cultural norms and social structures appears to have begun with the Constitution and continued on with the adoption of universal suffrage, CEDAW, CRC and globalisation. The impact on children of the current conflicts between legislation and culture will be illustrated further in Part II.

The role of religion, urbanisation and the enforcement of individual autonomy by the government, have over the years created uncertainty about the future of cultural authorities, with the emergence of religious institutions as the new power. The gradual phasing out of the role of the *fono* in social control appears to have negatively affected the sense of responsibility and accountability within local communities for their members. Both the Constitution and the CRC increasingly reinforce if not obligate the government to actively protect children and ensure their rights. These directly threaten collective autonomy. These societal changes have had a flow on effect of raising the social status of women and children, at least from a political level. Samoa now appears to be on a journey that may in time lead to redefinitions or construction of policies, processes and legislation specifically for the protection of children.

Chapter Three

Child Abuse in Samoa

This chapter provides a background to child abuse in Samoa. While collecting material for this section, I was acutely aware of a statement by Haunani-Kay Trask, a Native Hawaiian, who spoke against the exploitation of her people by foreign observers and authorities. Trask stated that her people and culture were “fair game for tourists, adventurers, politicians, and, of course, purveyors of intellectual colonialism, including historians, anthropologists, and archaeologists” (Trask, 1999, p. 124). Trask further stated that “when it comes to Natives, negative statements are eagerly believed with but the thinnest evidence or none at all because of the general racist belief in Native cultural and physical inferiority” (Trask, 1999, p. 130).

It is unfortunate that the first documentations of Samoa’s history was done by foreigners – missionaries, anthropologists, historians and so forth - the famous Margaret Mead being one of them. In comparison, the history as documented by Samoans themselves clearly present alternative meanings and interpretations (Meleisea & Schoeffel Meleisea, 1992; Sunia, 1997; Lafa1-Sauoaiga, 2000) as other indigenous writers have done for their peoples in Hawaii (Trask, 1999) and New Zealand (Pere, 1991). More recent attempts have been made by the Samoan government under the previous Department of Youth, Sports and Culture to collate the history from Samoans themselves in the form of legends. These are referred to in this thesis.

In light of the lack of limited materials on child abuse from Samoa, other studies in the areas of health and social services that link to abuse have been used to provide indicators for areas for further consideration. I will discuss firstly what is documented about physical abuse and then sexual abuse.

Physical Abuse

While there were many legends of war and fighting between families, I found it difficult to find legends that documented child abuse, although admittedly my search was limited due to time restraints. There were isolated incidents of violence to children, as in the legend of the blind woman Fonuea, who due to her isolation and cruelty from her in laws, jumped to her death with her daughter (Ministry of Youth, Sports and Culture, 1997, pg. 31-37). There are also stories that mention children being killed by rivaling tribes in times of war (Ministry of Youth, Sports and Culture, 1997, pg. 183). I was unable to deduce if the lack of material was because abuse was not an issue of significance to be highlighted in the stories or that it did not occur. Many more legends told of sibling rivalry where one caused the death of the other, as in the story of Saveasi'uleo and his siblings (Lafai-Suaoaiga, 2000, pg. 51-52) and Sinatapuilea and her siblings (Ministry of Youth, Sports and Culture, 1997, pg. 163-172).

One legend did indicate that serious wrong doings by young people were addressed by extreme discipline and possibly death. The story of Fatu and her ten brothers, all named Tui from the island of Upolu, told how the parents threatened to burn the brothers if they did not locate their sister whom, the parents suspected, the brothers had thrown into the sea. The brothers feared the wrath of their parents and indeed recovered Fatu from the ocean (Department of Youth, Sports and Culture, 1997, pg. 154-161).

Freeman (1985) suggested that violence and child abuse was part and parcel of Samoa's culture, even before the missionaries arrived. According to Freeman, the use of severe punishment in child rearing in Samoan society was normal. These parenting beliefs "were integral to the pagan culture of Samoa" (Freeman, 1985, p. 206). Physical discipline appeared to have been further reinforced by the missionaries' biblical teachings (Ngan-woo, 1985; Freeman, 1985).

Freeman observed that from a very early age, children were expected to display humility, obedience and submission to authority. In one example, Freeman observed an 18 month old being disciplined by his mother, with the

expectation that the child would show no emotion by excessive crying, but would sit with head bowed and legs crossed. Children were taught not to challenge authority and to accept direction without question; any challenge was quickly coerced into submission by the threat of a heavier beating. Children interviewed by Freeman talked of feelings of extreme anger, resentment and hatred towards those who beat them, and regarded the beatings as terrifying attacks. The children's feelings of resentment and anger were suppressed due to fear, while outwardly they displayed love, respect and obedience (Freeman, 1985).

In Freeman's view, the traditional family structure in Samoa depended on compliance to the status quo, permeated by severe punishments inflicted upon children from a very early age (Freeman, 1985). Other writers also documented their observations of acts of extreme physical punishment in Samoan families (Holmes & Holmes, 1992).

The views of Freeman and other foreign observers suggest that Samoan childrearing was authoritative, controlling and reliant on violence. This conflicts with those of other observers Kramer (1994), including some Samoans, who reject the notion that physical abuse is an integral part of the general culture; believing instead that abuse is a familial culture. These advocates believed in the saying: *e fafaga manu i fuga o laau a o le tama a le tagata e fafaga i upu mata* - birds are fed on the fruit of trees but the human child is fed with words (Ngan-woo, 1985). Ngan-woo stated that "traditional belief is that insulting words or any action that causes the receiver to feel shamed is far more effective than a physical blow. It is said that injuries can heal, but words cannot be erased" (Ngan-woo, 1985, p. 18).

Ngan-Woo (1985) argues that physical discipline is the traditionally accepted form of child discipline, but only as a last resort. While this acceptance is not unique to Samoans, one New Zealand research found that Samoans in comparison to other cultural groups including *palagi*, appeared to have a higher tolerance for more extreme physical discipline (Department of Children, Young Persons and Their Families Services, 1998).

The use of physical discipline as the last resort sometimes eventuates in hospitalisation of children (Ngan-woo, 1985). Extreme or unreasonable discipline by parents is associated by Samoans with parental duty if they want what was best for the child and the family, mainly to reinforce obedience and respect (Fairbairn-Dunlop, 1998). The use of force to coerce compliance in Samoan families therefore does not necessarily imply a lack of emotional attachment or cruel intent, as is often associated with abuse. Samoans believe that they parent according to biblical beliefs (Freeman, 1985).

The general acceptance of physical discipline cannot be generalised as a cultural sanction for abuse. While many societies accept the use of physical discipline both in literature (Maxwell, 1993; Department of Children, Young Person and their Families Services, 1998; Tirosh, Shechter, Cohen and Jaffe, 2003), and from my own observations as a state social worker outside Samoa, use does not necessarily translate into abuse. This view is contrary to that of other colleagues who argue that any acts of violence to children are abusive. Unfortunately due to time restraints, this debate is merely highlighted but not discussed in any further detail here.

Sexual Abuse.

History

The traditional legends contain stories that show that sexual abuse occurred historically. Sexual abuse is not a new phenomenon to Samoan society although both its historical and current prevalence remain unknown.

Incest featured very early in Samoan history. The Samoan story of creation begins with two rivaling families. One couple were named Aau (wave) and Vasa (ocean), and the other were Mauga (mountain) and Tua (back). Aau and Vasa produced three boys: Amu, Fa and La, and two girls, Mo and Lolo. Mauga and Tua produced five boys: Ele, Maamaa, Ana, Ilili and To; and two girls, Au and Tu (Lafai-Saupoiga, 2000). (The translation of the children's names do not always make sense in English so I have not translated them).

La and Au became a couple and gave birth to Laau (tree, plant). Fa and Tu became a couple and gave birth to Fatu (seed). Fatu and Laau as cousins became a couple. The union angered the families as such a union was called *soli aiga*, incestuous. In retaliation, Fatu was sent away to the ocean where he was washed into land and washed back to sea for the rest of his life. This is why there is growth both on land and in the ocean. Lolo and To became a couple and gave birth to Loloto. Vasa, Lolo's grandmother, wanted Loloto and they became a couple. The union of Vasa and Loloto (grandmother and grandson) caused much anger, and Aau beat Vasa (Lafai-Sauoaiga, 2000, p. 151-153). These were the first incidents of incest.

The legends also told of an incestuous union between the *aitu tagata* (human-demon) named Saveasi'uleo and his niece Tilafaigā. Prior to the union, Tilafaigā and her sister had traveled to search for an uncle who they had never seen. One day the girls arrived at a place where they were told they may find their uncle. Saveasi'uleo, the uncle, in his human form, met the girls and lusted after Tilafaigā. The girls did not recognise this man as their uncle but he recognised them as his brother's children. One day at dawn while Tilafaigā was bathed in the local pool, Saveasi'uleo in the form of an eel, approached her and had sex with her (Lafai-Sauoaiga, 2000, p. 63). The incestuous union resulted in the birth of a blood clot named Nafanua. The name of the offspring came about because Tilafaigā tried to hide the clot by burying it (*fanua* means land, and *na* is short for *nanā*, meaning hide). Saveasi'uleo heard his daughter call to him from the ground, and eventually rescued her (Kramer, 1994).

Another incestuous union is recorded later in history, involving the leader Malietoa Uitualagi and the woman Gatoloaiaoolalagi. Gatoloaiaoolalagi was sexually violated by her brother Alamania and consequently fell pregnant. The girl's father approached Malietoa who had previously expressed interest in a union with the girl, to ask if he would marry his daughter, to which Malietoa agreed (Lafai-Sauoaiga, 2000, p. 84). It was unclear if Malietoa knew that Uitualagi was pregnant when he agreed to marry, but the union disguised the incestuous act.

Sexual relationships between family members defile the brother – sister covenant (*feagaiga*). The *feagaiga* between a brother and sister in its simplest form is a covenant that bound the brother to protect and provide for his sister. The word brother and sister in the Samoan context extended to include cousins and stepsiblings (Steubel, 1976; Ngan-woo, 1985). The incest taboo was so strong and the *feagaiga* so sacred that according to Kramer (1994) there was:

hardly a law as firmly expressed in the Samoan family as is the prohibition of incest,...Not only is it for brothers and sisters strictly taboo among themselves or even in the presence of cousins to engage in ambiguous talk,..... a well-bred brother will never speak to his sister of his love for a girl, be it ever so pure. (Kramer, 1994, p. 62)

Samoans historically forbid incestuous unions because of fear of miscarriage, premature births, malformed offspring, or that a serious illness would befall a family member as punishment from the gods (Kramer, 1994). According to Mead, incest referred to sexual relationships between a man and a girl living in his house, an adopted daughter and the sister in law (Mead, 1943). While it is unknown how prevalent incest was or how frequent miscarriages or premature births were, one assumes that there was sufficient experience of these events for people to maintain the incest taboo. Incest was therefore already a recognised crime prior to legislation.

Other cases of sexual abuse were documented in the writings of Mead (1943) about adolescent sexuality in Samoa. Mead wrote about the case of the rebellious Lola who at fifteen was sent to live with her uncle. The uncle soon began to engage in a sexual relationship with Lola, as well as her older sister. The relationship appeared to have been consensual and known to people in the community, including Mead. In this case, the relationship appeared to have been tolerated by the family while in another case of incest the man was exiled from the village. Mead suggested that the second man was banished not solely because he committed incest, but because the union violated other relationships in the village.

The idea that incest was a crime that may have been addressed selectively is supported by Hamer (2002) view that incest was not necessarily a coercive act, if it occurred between consenting partners. The fact that incestuous unions particularly by those involving individuals of high rank in the community were tolerated would support this notion.

Mead also believed that it was highly common for teenage girls to have their first sexual experience with adult men, particularly widowed *matai* (Mead, 1943), one could almost think the men were victims to teenage seducers. If this was so, then sex between adult males and young girls was normal and associated with status for both the girl and the male. If there was a high prevalence of such liaisons, they may have become criminal only due to laws that were introduced by the foreign administrations. This is not so far fetched if we consider that many young *taupou* were married to chiefs in historical times (Mead, 1943; Turner, 1884). If Mead was right about the prevalence of such liaisons between teenage girls and older men, the practice is likely to have continued in the rural villages where the authority of the state was less invisible. The other side of this is the possibility that some young girls may have been coerced into sexual liaisons by men. As Samoa only became independent less than fifty years ago, it is possible that some of the older generations still believe such behaviour to be acceptable.

One would expect that a high prevalence of sexual activity would be paralleled with a number of teenage pregnancies, yet I could find no documentation to support this assumption. However Kramer (1994), in his experience as a surgeon in Samoa prior to independence in 1962, noted that the performance of abortion by *fofō* in the community was not uncommon. Kramer noted that while infanticide was rare, abortion was not (Kramer, 1994). The practice of *faailoga tama* as mentioned by Ngan-woo (1985) suggests that despite the loss of social esteem for a family due to a pregnancy outside marriage (traditional or Christian marriage), a pregnancy to a high chief sometimes resulted in benefits for the teenager and her child (Kramer, 1994), depending on the status of the chief.

Virginity and Arranged Marriages

Mead's deductions about the prevalence of sexual activity by teenage girls contradicted the importance of virginity, and the status of the *taupou*. The female child of a high ranking family was the *taupou* of the village. The female child in particular the *taupou* was a treasured child as well as a political asset to the family and the village (Mageo, 2001; Kramer, 1994) through marriage. The *taupou* had the responsibility and duty of marrying into the right families as part of *su'e malō*. Consequently, the *taupou* was always accompanied by female attendants (*soāfafine*) whose main job was to ensure that she maintained her virginity (Kramer, 1994). Virginity was hence linked to social status and honour (Goldman, 1970), prior to any notion of purity introduced by the missionaries. Young men were not allowed around the *taupou* unless they were sons of other ranked chiefs in the process of performing tasks for the *matai*. Later when Christianity arrived, families protected the virginity of young girls by sending them to the church minister's house to prevent them from engaging in sexual activity (Mead, 1943).

So significant was virginity in Samoan culture that there was a deflowering process included in the marriage ceremony. The deflowering was called two names: *fa'amaseiau* for a *taupou* of high chief, and *tu'i* for a girl of lower rank (Kramer, 1994). Towards the final part of the marriage ceremony, the bride covered herself with a fine white mat. Wearing the mat around her, the bride walked back and forth between her *soāfafine* and her husband who sat between two *tulafale* (*orator chiefs*). The bride walked back and forth until the *tulafale* considered her ready to be deflowered. When it came time, the bride walked towards her husband, who then inserted his finger into her vagina until she bled. The bride then pulled off the mat and walked back to her *soāfafine*, displaying to all her 'pure' status. This resulted in further celebration. For lower ranked brides, the deflowering occurred in the home of a chief or an acquaintance (Kramer, 1994; Steubel, 1976). Girls who were not found to be virgins were severely beaten by their relatives for bringing shame on their families (Mead, 1943).

The age at which young girls were married was not clear from the literature, but there was some suggestion that it occurred in the early teens (Turner, 1884). It is

ironic that Turner appeared appalled that Samoan girls were married so early, when Christian historians themselves have suggested that the 'virgin' Mary was married at the approximate age of twelve years (Cahill, 2000). In the majority of cases, the *taupou* were much younger than their male suitors (Mead, 1943).

The point at which arranged marriages were abusive was that the *taupou* did not have to agree to the union as was the decision made by her father or chief. The story of Salamasina Tamaalelagi's marriage to Tapumanaia is an example of such a strategic marriage. Despite Salamasina's love for another man she married the courting chief Tapumanaia for the sake of her family and her village (Lafai-Sauoaiga, 1988).

The *taupou* took into her marriage a daughter of her brother, if not a daughter then some other female relative. This relative went in the place of the brother to continue his duty under the *feagaiga*, to care for and protect his sister. Historians wrote that sometimes these 'relatives' became the bed substitute for the high chiefs (Kramer, 1994). No doubt the brothers would have been aware of the risks for the female relatives who went with the *taupou*. The girls who accompanied the *taupou* also served the family of the husband (Kramer, 1998). The role of 'servant' and the implications of this position implied that the young girls were vulnerable to physical and sexual abuse from those who did not respect the cultural taboos and the new *feagaiga* with the girls.

The deflowering process and arranged marriages in Samoan history were areas where clearly abuse occurred, although this was not how they were viewed historically. One could imagine the psychological impact of deflowering on a young girl who had been protected all her life, to then have the most private and sacred part of her violated, all on public display. The deflowering ceremony was eventually outlawed under foreign laws.

In conclusion, it is hard to deduce from the writings the age or development stage at which sexual contact, or marriage, with a young person was historically permissible in traditional culture. Sexual liaisons which may have been acceptable in the community were later termed illegal once legislation imposed

arbitrary ages regarding intercourse and marriage. The Crimes Ordinance that was introduced by the New Zealand administration prior to independence made both sex with a 16 year old girl and coercing her to marry, illegal.

I was unable to locate any historical material on the sexual exploitation of boys although such actions were also made illegal under introduced laws. The limited research materials are relatively silent regarding the sexual exploitation of boys.

Recent Research

Recent research on sexual violence in Samoa has been on people 15 years and older. These studies (MOA, 1996; MWA, 2003) were done in relation to domestic violence. The MOA study found that convictions for sexual crimes against people under 16 years of age outnumbered those for adults (MOA, 1996). I will return to the sexual abuse of girls in the sections on teenage pregnancies and sexual transmitted infections (STI).

There is almost no research on sexual abuse on males in Samoa. The Family Health and Safety Study (FHSS) conducted by the MWA in 2001 found that from a sample of 664 males between the ages of 15 and 49 years, approximately 7% reported being sexually abused at some stage in their lives. The report did not specify the age of the victim at the time of the assault, the types of acts committed, nor did it explore issues around reporting or lack of it (MWA, 2003).

The FHSS study found that over half (57%) of the perpetrators of sexual abuse on males were *fa'afafine* (general term that refers to males who may be or perceived to be, homosexual, cross dressers, have female mannerisms, or transsexual). The other categories were female partners (27%), strangers (7%), neighbours (7%) and parents (2%). The report did not specify how much of the *fa'afafine* category fitted into the other categories. The feasibility study that was conducted prior to the PCP research in 2001 also noted a degree of sexual abuse to boys by *fa'afafine*, but did not quantify the finding (AusAid, 1999).

There is a concern that highlighting the prevalence of sexual abuse by *fa'afafine* may incorrectly target *fa'afafine* as perpetrators, and minimise the sexual abuse

of boys to a sexuality issue. On the positive side, the studies showed that males, if given an opportunity, would disclose their victimisation. As there has been no in depth study in Samoa on male victimisation, these results remain to be challenged and need to be further explored.

As a comparison to the Samoan material, a study in North America found that around 16% of males had suffered sexual aggression from other males by the time they reached 18 years of age. This was suggested to be a conservative figure (Dorais, 2002). The study in North America found that offenders of boys were predominantly heterosexual men, with a smaller category of bi-sexual and rarely homosexuals (Dorais, 2002). The rate of re-offending by men who victimised boys, was estimated to be twice as high as for men who offended against females (Frisbee & Dondis, 1965; Fitch, 1962; Radinowicz, 1957, all as cited in Finkelhor, 1986). These studies suggest that any minimization of sexual abuse to boys is socially negligent will allow reoffending to occur.

Boys did not readily disclose due to a combination of factors. Many victims were already vulnerable and emotionally isolated prior to the abuse. As boys sought affection and attention from others such as a father, brother or acquaintance, they were sexually exploited. Some victims tolerated the abuse because it was the only form of attention or love they got. Others blamed themselves for possibly inviting the abuse, particularly boys who were perceived to be effeminate, the *fa'afafine* in the Samoan context. For some boys, the abuse led them to believe that they were homosexual, particularly if part of the experience was physically pleasurable. Negative attitudes and beliefs in society around homosexuality therefore hinder victims from reporting their abuse. Societal beliefs and expectations that 'real men' were not victimised or helpless also hindered victims from disclosing (Dorais, 2002).

These are some of the factors that contribute to the relative invisibility of sexual abuse of boys. The sexual abuse of boys in Samoa needs further in-depth research.

Teenage Births

Unpublished information obtained from the Ministry of Health on 5 October 2003 provides insight into the prevalence of sexual activity that involves teenage girls. A teenager is classified in the data as 12 years up to and including 19 years. The following table lists these births.

Table 1: Teenage Births 1999 - 2002

Year	Total	Age
1999	313	12 to 19
2000	358	13 to 19
2001	299	14 to 19
2002	299	14 to 19

(Ministry of Health, 5 October 2003)

These figures only include births that were delivered inside public health facilities. The data does not include home births, still births, and pregnancies that may have been terminated or had somehow resulted in death.

Because of the lack of specificity in the data, I was unable to draw comparisons between birth rate and age. Although the information does not specifically suggest child abuse, it would be dangerous and negligent for one to assume that all these births resulted from consensual sex, particularly for the very young girls. It is unknown how many, if any, of these cases were the result of sexual abuse and how many of such cases were reported to the police. A police officer who was interviewed for this study suspected that health professionals did not report all cases of suspected sexual abuse that resulted in pregnancy, but he was unsure why, when circumstances made it clear that a crime had been committed. Of the girls who were victims of abuse, their safety from further abuse by the fathers of their babies post delivery was unknown. The births that resulted from abuse were further disguised by the common practice of the baby being registered under the names of relatives. This was a suspicion held by police and other independent informants.

One way to explore the circumstances of teenage pregnancies could be through the district nurses to the villages. Unfortunately I was unable to speak with individuals in the nursing faculty who may have been able to shed light on the issue. If nurses did record such data it was not broken down into categories that were easily identifiable or accessible through the statistics section of the Health department.

Traditional midwives, *fofō* and district nurses appeared to be key people who could be mediums for identifying victims of abuse, generational abuse, and for the promotion of educational and counseling programmes in local villages. The link between teenage pregnancy and sexual abuse requires more in-depth study than this thesis can offer.

Sexually Transmitted Infections (STI)

A recent study on the prevalence of sexually transmitted infections in Samoa, was conducted jointly by the Samoan government and the World Health Organization (WHO). The study, called "The Antenatal Clinical STI Survey", tested 427 women for STIs, from the age of 15 years upwards, between October 1999 and April 2000. The public was informed of the findings of the study, in an article by Terry Bourke in a local newspaper called *Le Samoa* (Bourke, 2002).

The study found that approximately 31.7% of the sample had one or more STIs. Of the 66 women aged between 15–19 years, 39.4% had at least one STI. The rate of STIs peaked with the next group between 20-24 years with 44.6% having at least one STI. The rates, according to Bourke, were comparable to countries in Asia and Africa. Assuming heterosexual relationships as the majority, the findings suggest that there would be a significant number of men carrying STIs, which consequently has implications for victims of abuse through transmission. Sex education was irrelevant to prevent the transmission of STIs in cases of child abuse as victims have no choice about whether to have sex or not, or about methods of protection. I was unaware if a similar study had been conducted for men.

If the prevention of sexual violence towards children is not taken seriously, the undetected transmission of STIs to children and trauma associated with sexual assault could have significant longterm effects on their physical and mental health, and for the country's health services in the near future.

Other Issues

Two other areas that involve the abuse of children, which are not classic physical abuse categories, are suicide and child labour. I had not identified these two areas in the development of the research, but upon my arrival in Samoa, it was clear that these very public issues were associated with child abuse. I will attempt to highlight some of the main issues related to suicide and child labour in Samoa.

Suicide

Suicide is often precipitated by life events. Factors that contribute to suicide include violence in the home, sexual and emotional abuse in childhood, poor parent-child relationship and communication, alcohol and drug abuse and parental relationship problems (Beautrais, 1997). In Samoa, youth suicide has been linked to verbal berating by parents (AusAid, 1999). This related to being unable to meet the expectations of their parents, society, personal aspirations; a feeling of isolation in times of emotional difficulties; anger, frustration, and an inability to deal with problems. Further insights into the causes of suicide within Samoan communities from this study are discussed in Chapter Seven in Part II.

Unpublished data from the Min. Health obtained on 5 October 2003 showed that the youngest person in Samoa to attempt suicide in recent years was a 10 year old girl in 2002. This child tried to hang herself. In 2001, 3 of the 18 unsuccessful attempts at suicide were by those under 18 years. In 2001, 4 of 30 who died from suicide were under 18 years. Comparatively, in 2002, 8 of the 17 failed attempts were of those under 18 years, and 2 of the 32 deaths were for people under 18 years. The increase in the number of attempts is concerning.

It is hard to draw any significant conclusions from two years of data but there were some general patterns. While both males and females attempted suicide,

males were more successful due to the methods they used. Hanging and chemical ingestion were the two main ways utilised by victims, with ingestion being the dominant one for victims under 18 years. Oral chemical ingestion was the most fatal medium due to the rapid manner in which the body absorbed chemicals.

Deaths from suicide overall in Samoa have decreased between 1987 and 2002 (Department of Statistics, 2003), but for a small nation, Samoa still features highly in suicide rates. In New Zealand in 2000, 458 people died from suicide, from a population of just under 4 million, a rate of 11.2 per 100,000 (Min. Health, 2003). In Samoa in 2000, there were 21 deaths to a population of approximately 180,000, a rate of 11.7 per 100,000; in 2002 the rate dropped to 8.3. The current rate is higher than the OECD global average of 5.9 per 100,000 (The Nationalist, 2003). Samoa's rate is affected by the rate of reporting and recording practices within the Health department. The main reason for the decrease over the years is increased awareness, education, and support work by agencies such as Faataua Le Ola, a suicide prevention agency. In 2003, Samoa received funding from an overseas donor agency to provide a 24 hour phone service (Afamasaga, 2003). The area of suicide needs further in-depth study than this thesis is able to provide.

Child Labour

There are two main types of child labour in Samoa are plantation labour and 'street selling'.

While it is illegal under current legislation to employ anyone under the age of 15 years except in 'safe and light work', it is normal in local communities for young people to work in plantations. A report on human rights states that child labour is an issue in Samoa, but there are difficulties in addressing the problem from a legal point of view due to a conflict between law and what is permissible under 'custom' (Slade, 2000). The detriment to children come about when they are deprived of their education and other forms of development, when they are engaged in such civic obligations, by working predominantly in the plantation.

Street selling is the more visible of the two forms of child labour, and has been linked to poverty and child abuse. A study on street sellers in Samoa found that the majority of sellers were aged between 10 and 12 years, and that 75% were girls. A third of those sampled did not attend school. The children worked on average 13 hours a day, and were the sole breadwinners for their families (Social Policy Group 2000 as cited in UNDP/ESHDP and Government of Samoa, Unpublished).

A recent United Nations report linked the problem of street children with child abuse and violence in the home. A statement from the report said:

In all countries, children who live or spend most of their lives in the street are more at risk in every count: from malnutrition or HIV infection to being dragged into the drug underworld. In some cities their very survival is at risk daily. Inevitably living on the margins of the law, they often find themselves in conflict with local authorities, and studies from many countries report that these children's most pervasive fear is of a violent death. (UNICEF, 2003, p. 37)

For children of Samoa, the fear of violence may be a combination of both violence from home if they do not sell, as well as violence from the streets while selling. The use of children to sell goods may alleviate the problem of poverty in families, but it impacts on their immediate physical safety, education, future employment, health, and overall standard of living (Child Poverty Group, 2001). The exploitation also violates children's basic rights under the CRC and the Constitution.

Currently there is some reluctance by the Samoan government to acknowledge child labour as a major problem (Lemesio, 2003). Normalising these activities in the public arena could lead to the perpetuation of child labour and poverty in the next generation, who may be born into an already disadvantaged family unit. Is it fair for children to not only carry the

responsibilities for their families, but also those of the state to provide for its communities?

Conclusion

Abuses occur in many forms and it is important to take a multidisciplinary approach to appreciate the size of the problem.

Historically, children in Samoa have died as pawns in war but also feared as beings more powerful than their own parents. The perception that violence affirms love for children parallels that for violence from men to women. Pious justifications for violence under the guises of discipline and love appear to be a contradiction in itself when children have died from such acts. While violence to children and women is not acceptable intellectually, research review suggest that a high tolerance for its existence. Research suggests that Samoan society still has some way to go in order to accept violence as a means of control, desperation and cruelty, where children have been innocent victims and scapegoated. More in depth analysis of this struggle will be occur in Part II from the research findings.

Sexual abuse appears to be a combination of consensual but illegal, and non-consensual relationships. The culture forbids incest, rape and other sexual abuses of children, but there are sanctioned exceptions as in arranged marriages; in addition, their historical definitions were unclear. Perceptions about teenage sexual exploration and perceptions that it is normal if not acceptable for men to be seduced by girls, make children vulnerable and susceptible to being blamed. The teenage birth rate and STI figures certainly indicate a significant amount of sexual activity involving young girls with some indication of abuse. In the case of male victimisation, societal beliefs around gender and sexuality silence boys, and shield offenders from accountability.

Victimisation of children through suicide and child labour are both challenges to a community that holds collective autonomy over individual well being.

CHAPTER FOUR

Why do people abuse children?

This chapter covers some of the more frequently used rationales provided by perpetrators to justify physical and sexual abuse. This thesis is not able to peruse the vast body of literature on why people abuse children. I will present only a brief outline of some of these areas. I have attempted where possible to use literature produced from the Pacific region in an attempt to keep the social and cultural context of the information as relevant to Samoa as possible.

There are many reasons why children suffer abuse, varying from religious justifications to systemic failure. That abuse occurs in 'normal' families suggests that it requires no special context. The areas I have chosen have been identified through the participant interviews in this study, as well as other studies previously conducted with Samoans on family violence and abuse.

Religious Influence

The strongest influence on Samoan family life is the Bible (Meleisea, 1992; Ngan-woo, 1985). As the country was predominantly Christian, the culture is heavily influenced by religious beliefs as promoted by churches.

The Bible is perceived by the majority of Samoans as the complete and error-free record of God's laws. The idea that the Bible could be in any way incorrect would almost be blasphemous in Samoan society. This belief ignores the fact that the Bible was the result of centuries of ongoing interpretations, translations, editions, omissions, and additions (McManners, 1990). The Samoan translation itself was only achieved in the late 1880's, many centuries, languages and editions after the first Hebrew version. No doubt, the missionaries to the Pacific had to deal with similar difficulties when they tried to explain the parable of the good shepherd to people who had never seen a sheep (Lewis, 1992).

Religious leaders are seen as spiritual shepherds to the people. Their interpretation of the Bible regarding gender roles, sexuality, spirituality, family

responsibility and community existence perpetuates a set of values and beliefs within Samoan families. The manipulation of religious language and rituals to enforce family commitments or to justify people's actions has been termed 'religious familism' (Cahill, 2000).

The beliefs and symbols of the religious tradition are manipulated in order to give divine sanction to the particular desires and objectives of a family or of those families exhibiting the structure, values, and social goals of the religious group providing the endorsement. (Cahill, 2000, p. 73)

The Old Testament repeatedly stresses the importance of absolute obedience, submission and sacrifice to authority to illustrate love, sometimes using sacrifice. The book of Judges 11:29-40 tells the story of Jephthah who sacrificed his daughter and only child to God in exchange for victory in war (International Bible Society, 1990, p. 258). The Passover in Exodus 11 is an illustration of the justified killing of children as a weapon in war, used to demonstrate the love of a God for his people (World Bible Publishers, 1986, p. 73). Both incidents indicate the higher value placed on beliefs and ideals over the lack of rights for children in that time.

The book of Proverbs is perhaps the strongest advocate of violence towards children with the intention to teach, discipline, and protect by preventing them from doing destructive activities. In Proverbs, physical discipline is symbolised by the word 'rod'.

Proverbs 13:24 / Faataoto 13:24

He that spareth his rod hateth his son but he that loveth him chasteneth him betimes. (World Bible Publishers, 1986, p. 934)

O le ua tuuna lana sasa, ua inoino o ia i lona atali'i, ao le ua alofa ia te ia, ua sailia le a'oa'iga mo ia. (United Bible Societies, 1979, p. 633)

The use of coercion to obtain the compliance of a child is also sanctioned in order to save the child's spirit. The verse from Proverbs 23:13-14 illustrates this:

Withhold not correction from the child: for if thou beatest him with the rod, he shall not die. Thou shalt beat him with the rod, and shalt deliver his soul from hell. (World Bible Publishers, 1986, p. 945)

Aua ne'i taofia le aoaiga I le tama; aua afai e te sasa ia te ia i se laau, e le oti o ia; e te sasa ia te ia i se laau, ona e laveaina lea o lona agaga ai seioli. (United Bible Societies, 1979, p. 640)

The word 'beat' in the English version appears as *sasa* (beat, hit), and 'rod' appears as a physical weapon, the *laau* or stick in the Samoan translations of the Bible.

An alternative interpretation of the 'rod' is found in Psalm 23:4 / Salamo 23:4 which states "thy rod and thy staff they comfort me." (World Bible Publishers, 1986, p. 832) – "*o lau la'au ma lou to'oto'o e faamafanafanaina ai au*" (United Bible Society, 1979, p. 561).

Because of this verse, biblical scholars have paralleled the shepherd's rod to parenting principles. The Hebrew word for rod is *shevet*, which specifically refers to the shepherd's guardianship over the sheep (Hille, 1985). Guardianship in terms of parenting refers therefore to providing security, acceptance, guidance, protection, evaluation of the child's development, and maintaining her emotional, physical and spiritual well being. As the rod provides comfort to the sheep in the parable, so should parenting deliver firm discipline in loving, assuring and comforting ways (Hille, 1985).

At the time of Jesus in the New Testament, children had no rights and child rearing was not highly regarded in society (Greven, 1991). Infanticide was common as unwanted children, including the disabled and female children were

sometimes killed, abandoned or left out on the street for animals to feed on (Cahill, 2000). In the gospels of Mark and Matthew, Jesus elevated the position of children in society and advocated for their protection.

In Matthew 18:4-5, Jesus is recorded to have said “whoever therefore shall humble himself as this little child, the same is greatest in the kingdom of heaven. And whoso shall receive one such little child in my name receiveth me” (World Bible Publishers, 1986, p. 30). Cahill suggests that Jesus targeted this parable to those of social standing (Cahill, 2000), perhaps to imply that true greatness comes via the protection and guardianship of the most vulnerable, and least valued members of society. This is contrary to the extreme measures used by which some of today’s religious leaders towards children as discussed in the previous chapter. Interestingly, the women in the FHSS study (MWA, 2003) reported pastors as one of the main perpetrators of physical abuse inflicted upon them.

Jesus emphasised the importance of obedience and respect to parents, but never advocated the physical punishment of children (Capps, 1995). In Matthew 18:6, Jesus warned people about mistreating children by saying: “But whoso shall offend one of these little ones which believe in me, it were better for him that a millstone were hanged about his neck, and that he were drowned in the depth of the sea” (World Bible Publishers, 1986, p. 31). The Bible further cautions parents against the emotional affliction of children in Colossians 3:21 and saying “Fathers, do not provoke your children to anger lest they be discouraged” (World Bible Publishers, 1986, p. 318). Such a verse may be helpful in the prevention of humiliation of the child which can result in self harming behaviour or suicide (AusAid, 1999).

Religious beliefs have become incorporated into cultural practices to such a degree that it can be hard to discern the difference. I recall an event in 1994 in New Zealand, when a Samoan woman was charged for a physical assault of a teenage boy in the care of a community agency. A visiting television crew recorded the assault on camera. The assault began with punches to the boy’s body, followed by a group assault by other young people on the premises. The

perpetrator's main defense was that it was culturally appropriate to use extreme discipline on difficult children. Television footage of the perpetrator outside court showed her with supporters singing hymns and praying.

Obedience and respect are values that Samoan parents stress as important for their children (Schoeffel et al., 1996) and physical discipline, or as some may consider physical abuse, is often used to enforce this. A study by Fairbairn-Dunlop (1998) found that Samoan mothers who beat their children did so due to disobedience. The beatings were intended by the mothers to teach children to respect and obey parental instruction.

The area of child sexual abuse is one where religious institutions have also struggled. Cases of sexual abuse of children within religious organisations are known worldwide (Cashman, 1993; Parkinson, 1997; Deans, 2001). The more consistent approach by churches towards allegations of abuse has been to muffle "the screams of the children in order to avoid damage to its reputation" (Parkinson, 1997, p. 4).

The Bible stresses the importance of forgiveness (Matthew 6:14-15), but according to one writer, this has been interpreted to mean forgive promptly (Parkinson, 1997). Christians feel guilty if they do not forgive those who hurt them. However, the Bible advocates for forgiveness after repentance. According to Parkinson, "forgiveness without repentance is not an act of love, it glosses over sin" (p. 157).

Luke 17:3-4 states that "If your brother sins, rebuke him, and if he repents, forgive him. If he sins against you seven times a day, and seven times comes back to you and says, 'I repent,' forgive him." (International Bible Society, 1999, p. 1132). Forgiving someone does not necessarily heal the victim or the perpetrator (Deans, 2001; Adams & Fortune, 1995). For victims, forgiving the perpetrator without having seen any remorse or some attempt by him to acknowledge his actions or change his behaviour creates further victimisation. Victims need to see justice before being able to forgive; they need to know that others in society will keep children safe from the perpetrator.

In New Zealand in 1991, Samoan pastor Reti Filipo was suspected of sexual abuse of a 12 year old girl who lived in the Filipo home. State authorities removed the child but Filipo denied the allegations and there was no evidence to support the allegations. The child concerned was later found dead under suspicious circumstances. A year later in 1992, Filipo was convicted on two charges of unlawful sexual intercourse with a 14 year old girl from his church. Filipo was sentenced to 11 months in jail. In 2001, it was reported in a local Auckland newspaper that Filipo was once again practicing as a pastor in a local Samoan church in Auckland (Coddington, 2004).

In the case of *Police vs Lafaele Paulo* in the Samoan Supreme Court on 29 September 2000, Paulo was convicted of indecent assault on a 12 year old girl. Paulo forced himself on the child by forcibly removing her top and kissing her. Paulo was a Catholic catechist and abused the child while in that role. The judges' statement disclosed that Paulo was convicted of a similar offence in 1992 while practicing in the same role. The judge commented that the Catholic Church knew of Paulo's previous conviction yet allowed Paulo to continue practicing, further exposing children to this man. The consequence imposed was a 2 year prison term (USP, *Police vs Paulo*, 29 September 2000).

Perpetrators of abuse disclosed that the process of confession, being prayed over and forgiven enabled them to avoid confronting their problems, and allowed them to continue offending (Adams & Fortune, 1995). Forgiveness does not mean that all was forgotten and does not replace consequences. Punishment is necessary to get the offender to take responsibility for his offence, to act as a deterrent to others for public safety, and to enforce society's moral standards (Parkinson, 1997).

Similarly, the Bible advises against acts of vengeance: "Do not take revenge, my friends, but leave room for God's wrath, for it is written: "It is mine to avenge; I will repay, says the Lord" Romans 12:19 (International Bible Society, 1990, p. 1244). Justice and accountability appear to belong to God and the associated institutions to somehow perform in an unspecified timeframe. Perhaps it is due to

such beliefs that poverty, abuse and other forms of inequalities and injustices are tolerated by believers.

The protection of abusive religious leaders by their own institutions further highlights the difficulties in dealing with abuse in communities that place obedience and submission to beliefs and values, at the expense of children. Clearly, religious indoctrination has contributed to the perpetuation of physical and sexual abuse, including domestic violence. The Bible appears to be contradictory in its messages; those who preach biblical values have a significant role to play in choosing which perspective to promote.

Domestic Violence.

Violence to children occurs in the home and in the wider community. Domestic violence in this thesis refers to all forms of violence in the home: physical, emotional, psychological and sexual. Violence in the home directly impacts on the safety of children.

In a study conducted in Fiji by Adinkrah (2003) found a link between domestic violence and child abuse. In one case, a father became so enraged that his wife would not warm up his meal that he burnt the house while his wife and four children slept. The wife managed to escape but all the children burnt to death. Another father hacked his wife and five children to death because he suspected his wife was having an affair. In another case a two year old child who ran to his mother who was being beaten by his father, was thrown against a wall by his father. The child's head hit the wall and he consequently died as a result of the impact. The mother told authorities that the child accidentally fell, in order to cover up for her husband. Two months later, another incident of domestic violence occurred and this time the mother disclosed what truly happened to her son. Adinkrah raised the possibility that there may have been other cases of 'accidental' deaths to children that were purposely inflicted in incidents of domestic violence (Adinkrah, 2003).

The Fiji study found that police did not automatically assess the safety of children during domestic violence call outs, and recommended that child

assessment become a routine part of investigations. Finkelhor and Ormond (2001) also stressed the importance of screening for offences to children in police investigation of domestic violence.

A study by Kruger and Diddridge (1997) of child abuse cases in Queensland, Australia also found links between family violence and child abuse. The study looked at cases of homicide between 1989 and 1992. It was found that 68.6% of the dead children were killed by a parent, (mother, father, step parent) and a further 19.8% were killed by a family member. Approximately 45.5% of the victims were under one year, and another 40% between 1 year and 5 years of age. Very young children were at highest risk of death due to abuse.

Similar to some of the findings of the Fijian study, the Queensland children died from being an 'unwanted child' (infanticide); 'discipline killings' where parents did not intend to kill the child but through constant and brutal abuse caused their death; psychotic parents (those who suffered from some form of psychiatric illness at the time of the killing); and retaliation killings. The 'retaliation killings' were when the offender killed the child as revenge against the other partner. In one case, a father got angry with his partner for telling him to leave and cut the 15 month old baby's throat (Kruger & Duddridge, 1997).

Another Australian study found that child abuse was a cause for partnership breakdown, or occurred as a consequence (Brown, Sheehan, Frederico & Hewitt, 2002). When there was an acrimonious relationship between the parents, allegations of child abuse were not always taken seriously by child protection agencies, or responded to as quickly through the court system. Allegations of abuse within domestic violence relationships were frequently minimised to custody matters and not treated as serious allegations (Brown et al., 2002). Domestic violence is therefore an indicator of possible child abuse within the family.

Tolerance of Domestic Violence in Samoan Communities

In light of the overseas findings, it is important to reflect on the material on domestic violence in Samoa. Previous studies in Samoa (MOA, 1996; MWA,

2003) alluded to links between family violence and child abuse, but did not explore the connection in depth as their main focus was violence between adults.

The MOA study in 1996 showed that 28% of the female participants had suffered from some form of family violence, but very few ever reported their abuse to authorities (MOA, 1996). The FHSS study showed that of 1646 women interviewed, 48% had experienced partner abuse (38% physical, 19% emotional, 20% sexual). Alarming, 24% of the physically abused victims in the FHSS study were pregnant at the time of the assault (MWA, 2003), highlighting the risks to the unborn child due to domestic violence. The occurrence rate from the FHSS study was higher than that found by the MOA study in 1996.

Half of the women in the FHSS study who experienced abuse never sought help or spoke to anyone about it. Of those who had suffered abuse, 73% believed that domestic violence was 'normal and not serious'. Of the men surveyed, 57% believed that domestic violence was a private matter between the husband and the wife (MWA, 2003). The lack of privacy between households especially in rural villages, suggests that the so called 'private' incidents were often witnessed by many in the community including children. Prevailing attitudes about male dominance and family autonomy suggest that intervention by members of the local community would not have been likely.

Of the 12% of men who admitted being abusive to their partners, 74% said they did so because their partners were disobedient or answered back. The other 26% hit because they were refused sex, and because their partner disrespected the abuser's parents. There was a strong belief (98%) by the male participants that a good woman obeyed her husband (MWA, 2003). In the MOA study (1996) on domestic violence, when women were asked how they thought domestic violence could be stopped, the most frequent responses were to develop a better relationship with God, and for wives to be more patient and not answer back to their husbands. These beliefs according to the women were based on biblical principles of female subservience to men. To challenge the beliefs were

similar to challenging God himself, as represented by his servants, who were also mainly men.

Moghadam (2003) suggested that biblical beliefs about male dominance over women were embodied in state laws (Moghadam, 2003). Rape in marriage is not illegal in Samoa; this implies that in marriage a man is legally entitled to sex with or without his wife's consent. The FHSS study found that 70% of women who had been in relationships felt they could not refuse sex. Of the men who self-disclosed the types of abuses they inflicted, none recorded sexual abuse as one (MWA, 2003), possibly indicating that they did not consider obtaining sex from an unwilling partner abusive.

The FHSS study found a continuation of violence from one generation to another, and from childhood to adulthood. Of the men who self-disclosed as abusers, 93% had experienced physical abuse before they reached 15 years of age, and 42% had witnessed their own fathers abusing their mothers for answering back or disobedience (MWA, 2003).

Cribb (1997) conducted a study on domestic violence with thirty Samoan women, mostly under 40 years, in New Zealand. The study found that violence was accepted by a third of the respondents. The younger women in the sample were more educated, more accepting of assistance, and less tolerant of partner violence. By contrast, older women remained in violent households, even in a society where support services were available to them. The study suggested that the older women were accustomed to using the *fono* system to counter violence, but this did not exist in New Zealand, and the church did not have the networks of the village. The older women therefore felt trapped, compounded by the lack of skills to access and utilise western services (Cribb, 1997). The finding by Cribb that traditional structures in Samoa act to prevent domestic violence, contradict the MOA and FHSS studies which found a significant rate of tolerance for, if not acceptance of, domestic violence. Only 30% of the female victims in the FHSS study left their relationships (MWA, 2003).

Other studies have linked child abuse to caregiver stresses, to which women more vulnerable than men due to their caregiving status (Salzinger et al., 2002). These stresses were children's behaviour problems, low partner support or absent partner, and the caregiver's own previous or current victimisation. Understanding why and how violence occurred does not make it acceptable.

The tolerance and acceptance of violence as a means to resolve disputes in families and society, sends a message that violence to children is part and parcel of daily life (Min. Health, 2002).

Sexual Offenders

The words offender and perpetrator are used interchangeably in this section. Youth refers to those from the age of 14 years to mid 20's.

Research has shown that in the majority of abuse to females, 95% of abusers were male. In the case of boys, 80% of the offenders were male (Finkelhor, 1986). Women offenders were few in comparison to male. Women were found to offend often in the company of male perpetrators who were the dominant offenders in the situation (Dominelli, 1991; Finkelhor, 1986; Cashman, 1993). Other studies raised the possibility that sexual offences by women may be disguised in their parenting activities (Parkinson, 1997). For example, a woman who touched her child's genitals may be observed as normal, yet if a man touched the child in the same manner he may be accused of abuse.

Some studies found that offenders came from all levels of society, regardless of social status, economic standing or culture. Offenders included fathers, brothers, cousins, judges, lawyers, church ministers, priests, politicians, mothers, teachers, coaches, and other young people. Dominelli cited studies which found that around 75% of incest cases involved fathers and stepfathers (Berlinger, 1977; Maisch, 1972; Francis (1969); all cited in Dominelli, 1991). The

implications of these studies for a child raised in a patriarchal society are significant.

Research quoted by Finkelhor showed that between 21% and 57% of male sexual offenders (exhibitionist, rapists, molesters) had suffered sexual abuse as a child (Finkelhor, 1986). Although there was a link between being a victim and becoming an offender, this was not the aftermath for all victims. There are large numbers of victimised women but offender statistics are minimal in comparison to male offenders. Some studies have shown that some perpetrators abused because they believed it was their 'male right' to use females, as well as weaker males (boys and homosexual men) to provide sexual gratification (Dominelli, 1991).

For a very small percentage of offenders, there was a physiological explanation which medication may assist. An element of mental illness has also been linked to sexual offenders, but also only to a very small percentage (Finkelhor, 1986). The majority of sexual offenders therefore come from the general pool of 'normal' citizens.

There are generally two types of sexual offenders. The 'preferential' offender prefers to have sex with children; these are often referred to as paedophiles. While they may engage in sexual relationships with adults, their preference is children. The other category is the 'opportunistic' offender. These offenders use children to have their needs met, who may also be in sexual relationships with adults. Whichever type of offender he is, the perpetrator rarely thinks about the child's feelings; he is concerned only with his own gratification (Haynes, 1998).

Paedophiles do not necessarily target one gender over another. The child is chosen because of the physical state of her body, her vulnerability, the emotional fulfillment and power the offender gets from committing the offence. As a child develops physically and emotionally, the attraction lessens and the offender looks for new victims (Haynes, 1998; Finkelhor (1986) as cited in Dominelli, 1991).

A model for studying sexual offenders was developed by Finkelhor (1986). This model incorporates elements of psychology, cognitive development and behaviour. Finkelhor proposes that there are four factors that an offender has to overcome in order to commit an offence: motivation, internal inhibitions, external inhibition, and the child's resistance (Finkelhor, 1986, as cited in Dominelli, 1991).

i) Motivation

The child becomes a source to meet sexual and emotional needs. This may be due to the physical make up of the child or convenience. The child may also be easier to manipulate as opposed to adults, if an offender had difficulty engaging in sexual relationships with adults.

ii) Internal Inhibitions

An offender knows that his intentions are unacceptable in society. The offender therefore must overcome his own inhibitions in order to follow through with his deeds. Drugs and alcohol may assist to lower inhibitions as well as the use of pornography. Communicating with other abusers could also affirm to the offender that his feelings are normal and permissible. Offenders make themselves believe that the child can make rational decisions about a sexual relationship with him, but he may not necessarily respect the child's decision if the response is rejection (Haynes, 1998).

iii) External Inhibitors

The offender must plan how to access the child physically to commit the offence and not get caught. Isolation is not necessary for the offence to occur, as in a case where a child was sexually violated while being held by the offender in a public swimming pool. A child could also be sexually violated while sitting on the lap of an offender watching television with the family.

iv) Victim Resistance

The process of grooming involves getting to know the child and gaining her trust, which often also involves getting the trust of the children's parents in order to

gain access to the child. Some of this grooming may involve playing physical games with the child so that the child becomes accustomed to being touched by the offender. Sexual abusers of children can be very patient, taking up to two years to groom a child (Haynes, 1998). Offenders are aware of their ability to dominate, instill fear, nurture trust, and control the child as well as those who surround her (Haynes, 1998).

The child's physical resistance itself must be overcome, often with the use of force, fear, domination, and manipulation. Threats to kill the child or someone close to her, telling the child that no one would believe her, and making the child feel ashamed or guilty for being used sexually are common tactics. The offender may convince himself that the lack of resistance from the child means consent. He may also justify his actions by blaming the victim, circumstances or by minimising the effects of his actions on the child. Emotional manipulation could allow the abuse to continue offending for years.

Conclusion

The reasons why people choose to abuse children are multi-factorial. Biblical teachings about the position of women and children clearly has a major impact on physical abuse, possibly through the over emphasis on the use of force, insistence on obedience and male control. Other biblical teachings suggest a less coercive approach to child rearing and advocates for the protection of children from abuse.

Literature shows that the tolerance of domestic violence in the community allows violence to children to continue. Research with Samoan communities linked violence to women and children to power and control, which makes Samoa no different to other countries and cultures. Where there was a high tolerance for domestic violence children are at risk. Foreign research reviewed suggested that the highest risk place for children is the home; and that the most fatal assaults were often caused by family members.

Domestic violence has a significant impact on the safety of children. This greatly disadvantaged children who rely predominantly on their mothers as primary caregivers to protect them. The impact on a child's emotional and physical sense of security when she watches her mother, the protector, provider and nurturer, being beaten by her father could be devastating. For society to imply in its daily existence and laws that this is normal and acceptable, models to children destructive values. Research has shown that such modeling leads to the ongoing perpetuation of abuse in adult life.

The demarcation of gender roles, the emphasis on male rights and domination in families and within society community are supported by uncritical religious beliefs. Religious institutions have a responsibility to affect people's attitudes and beliefs about child rearing, family life, gender equality, sexuality and violence in order for abuse to stop. The way in which society addresses abuse could either affirm the prevalent beliefs about their domination or reinforce their value in society.

The literature regarding sexual abuse suggests that it is not often an impulsive offence. The processes involved in order to commit an offence require deliberation, determination, deceit, patience and force. It is important to listen to a child who courageously discloses despite any threats that have been made to her.

The natural tendency for children and young people to seek assurance, security, love and affection are the same needs that lead to their exploitation and abuse from offenders. Similar to physical abuse, victims are as vulnerable, if not more, within their own family circles, and with people known to them. This means that often the offender and victim are from the same origin.

Chapter Five

Responses

This chapter discusses the responses to physical and sexual abuse of children in Samoa. A brief review of relevant legislation is provided. The chapter begins with traditional processes first, followed by a review of state processes. The strengths, weaknesses, and areas of concern in both processes for child victims are discussed.

State processes are guided by legislation, which eventually lead to deliberations by a select number of judges and assessors or jury members. As public servants, police, judges, state lawyers, doctors and so forth are ultimately accountable to the public. In comparison, each *fono* has its own set of rules and protocols. The *fono* makes whatever decisions it considers appropriate at any given time. *Fono* justice was subjective because victims, offenders and 'judges' are intimately connected as neighbours, friends and families. These relationships play significant roles in determining the final outcome. Independent of state law and *fono* justice is the ability of individual collectives to initiate their own form of justice according to custom. This is manifested in the process of *ifoga* or some other form of apology at a less public level. The following discussion will further explore these responses.

Traditional Processes

Samoa's traditional justice system is very much collective orientated. This is because each individual offender or victim is connected to his collective. An offence against an individual is thus an offence against her family. Consequences for an offender have repercussions for his whole collective as a form of collectively accountability.

Collective processes of justice focus on retribution and restoration from a collective basis, with an assumption that these two elements substantiate justice.

Ifoga

The *fa'aifo* often referred to as *ifoga*, is the highest form of apology in the Samoan culture. The process is initiated by the offending party. The *ifoga* was essentially a public admission of guilt, display of remorse, humility and submission. The *ifoga* involves two parties where one seeks the forgiveness of the other. The word *ifoga* comes from the word '*ifo*', meaning (to) 'bow'. The one who offered the apology displayed *to'ilalo* (defeat) and submission. The one who holds *malo* (victory, winner, triumphant) is the victimised party.

The origins of the *ifoga* are not clear, but the mat that is used in the process, known as *Pulou o le Ola* (shelter of life), comes from the story of Futa, the weaver of the *ie* (mat) that later became known as the *ie toga* (Steubel, 1976; Min. Youth, Sports and Culture, 2001).

The legends say that the *ie* that was woven by Futa was passed from generation to generation through daughters of her family, until it got to a descendant named Tauolo. Tauolo was abducted from Samoa with her entourage and taken to Tonga by the brother of the king of Tonga. Once in Tonga, the king fell in love with Tauolo and allegedly conspired to take her from his brother. The brother mysteriously died and the Samoans were blamed for his death. The Samoans apparently refused to tell the king where his brother was buried, and were sentenced to death. Appearing before the king, Tauolo and her entourage covered themselves with the *ie*. The mat so impressed the king that he sought further counsel from a *matai* in Samoa who advised him to pardon the Samoans and send them home, where they may disclose where his brother was buried. Tauolo and her entourage returned to Samoa with the *ie* where they apparently disclosed the burial place of the king's brother. The *ie* that was used for the *ifoga* became known as the *Pulou O le Ola* – Shelter of Life because it helped save the lives of the Samoans, but it is also known as '*Tasi ae afe*' - One equals a Thousand', because the legends say that it was worth a thousand Tongan mats (Ministry of Youth, Sports and Cultural Affairs, 2001, pp. 45-51).

During the *ifoga*, the party that represents the offender goes to the victim's family before dawn, where they sit before the victim's family dwelling and covering their heads with *ie toga*. The covering signifies submission. The offending party remain covered until the victim's family chooses to accept their apology (Sunia, 1997). By performing the *ifoga*, the perpetrator's family acknowledges the actions of one of their members, and come as a collective to be held accountable for it, according to custom.

The perpetrator's family does not wait for a court or the *fono* to decide if a wrong has been committed if they believe it themselves. The *ifoga* occurs normally within days of the offence. The expediency of the *ifoga* is important because harmonious relationships have to be restored to prevent further animosity by way of revenge that could cause further grief (Sunia, 1997). It is also one way to negotiate the future safety of the perpetrator from the wrath of the victim's family. The success of the *ifoga* relied on the oratory skills of the speakers who represented the families, something similar to lawyers in court. If the victim's family refused to accept the *ifoga*, the offending party will return the next day and so on until it is accepted. If the victim's family continues to refuse, the victim's village may accept the *ifoga*, and negotiate with the victimised party (Sunia, 1997). In the past, if the *ifoga* was not accepted, war was likely, hence those who went to *ifo* also prepared for an altercation (Kramer, 1994). The *ifoga* is therefore used only in cases of severe offence such as rape and murder.

Today the *ifoga* no longer includes the perpetrator as he would often be in police custody, sometimes for his own protection. There has been no record of anyone being killed during the *ifoga* in recent times, and more often than not, the *ifoga* is accepted. As a form of retributive justice, the offending family gives to the other party fine mats, material goods, and food; more recently money has been added to the list.

The *ifoga* is primarily to mend the relationship between the collectives and restore esteem to both parties. There are no measures for individual healing for victims or rehabilitation for perpetrators.

Banishment and Death

Banishment and death can only be ordered by the *fono*. While the Samoan Constitution exists which conflicts with these two practices, each village has its own constitution that forms the foundation for its processes. Incest and rape are incidents where banishment has occurred (Mead, 1943; Sunia, 1997). I was unable to find any recordings of banishment in historical times due to a physical assault on a child, although this does not preclude it.

Matters that are traditionally punished by *fono* included rape, adultery, incest and extreme violence causing bloodshed (Sunia, 1997). When infringements occur against village rules, matters are dealt with swiftly. Punishment is issued according to the seriousness of the offence and the circumstances of the offender's families.

Banishment is a last resort for villages where people have re-offended in very serious offences, or have violated important rules in the village. Banishment protects both the offending party and other villagers from engaging in vengeful retaliation, and is seen to have the ability to restore peace to the victimised family (Sunia, 1997). As the last resort, if the village cannot banish people or if individuals do not take notice of the banishment order, the ability of the *fono* to protect its community is significantly degraded (Sunia, 1997).

The effect of banishment as a deterrent today as compared to historical times is limited and the only benefit to the village is the removal of the risk from the community. It is no longer difficult for an offender to resettle in a new location either in Samoa or overseas. According to Sunia (1997), more people today have their own resources that enable them to live independently of the collective.

Historically, the death penalty took various forms. One method was called *fa'atafea*, which involved putting the offender and his family in a canoe then letting the canoe drift out to the open ocean. An offender could also be made to eat the root of the poisonous *tete* plant, which often resulted in a very painful and prolonged death (Kramer, 1994; Steubel, 1976; Freeman, 1985; Sunia, 1997). Another punishment involved tying an offender to a tree and then leaving him out

in the sun to die (Sunia, 1997). Foreign administrators prior to independence made death penalties illegal. The last known death sentence was in 2000, when a man who was shot for disobeying the orders of his village *fono* (Slade, 2000).

Today, punishment for extreme crimes in local villages consists of material fines such as boxes of tinned fish, *ie toga*, money, and/or banishment of the perpetrator with his whole family from the village.

Statutory Processes

State judiciary theoretically values objective justice, consistency and the equality of processes for all. As with traditional processes, there are spokespeople who are involved to operate the mechanism of justice. In this case, any form of retribution or accountability is to the state, not the victim. The victim is not offered the opportunity to retaliate and regain self esteem, but instead must prove that she has been wronged using rules, tools and processes that are not as familiar or accessible as in the village setting. Such tools may be medical examinations, professional assessments, money and legislation.

The two main laws that address offences against children are the Infants Ordinance 1961 and the Crimes Ordinance 1961. Both ordinances were introduced in Samoa under the New Zealand administration prior to independence, and remain in force. These laws are more aligned with the Constitution of the country than with local constitutions. The traditional processes previously discussed are not legislated to the same extent. I have chosen to highlight the particular parts of the ordinances that relate to the sexual and physical abuse of children.

Infants Ordinance 1961

There are three main sections in the Ordinance that are of particular significance in terms of child abuse. These are sections 12, 14 and 16.

Section 12 spells out accountability under the law for willful abuse and neglectful acts towards a child up to the age of 14 years. Section 14 affirms the right of

parent and teachers to inflict punishment on children, and section 16 gives power to the state to remove children from their homes.

Section 12:

Any person having the custody or control of any child under the age or apparent age of 14 years who in a manner likely to cause such child unnecessary suffering or injury to its health willfully ill treats, neglect, abandons or exposes such child or causes or procures such child to be ill-treated, neglected, abandoned, or exposed commits an offence and is liable to a fine not exceeding \$200 or to imprisonment not exceeding one year. (USP, Infants Ordinance 1961, p. 6)

The provision concerning 'procure' implicates those such as family members or school principals who knowingly turned a blind eye to child abuse, or willingly place a child in a position to be abused. The ordinance does not define 'ill-treat', 'neglect', 'abandon', 'expose', and 'procures'. The term 'unnecessary suffering' is significant particularly where a perpetrator may have deemed a degree of suffering necessary in order to teach, instruct, or protect a child. The law does not remove the right of parents or teachers to administer 'reasonable punishment' nor does it define 'reasonable punishment'.

One questions the rationale for the sentences. Is \$200.00 enough to afford ongoing medical treatment for a child who suffered longterm disability due to severe neglect or a beating? While it may have been a significant amount in 1961 it appears irrelevant in today's world. Is the fine merely a token consequence to society?

Section 14 states that "Nothing in this Ordinance shall be construed to take away or affect the right of any parent, teacher, or other persons having the lawful control or charge of a child to administer reasonable punishment to such child" (USP, Infants Ordinance 1961, p. 7). The rights of parents are not specified. The

line between 'reasonable' and abuse appears to depend on who defines the outcome of such punishment, which is unlikely to be the child.

Section 16 is significant. This section gives power to the court to make a child a ward of the court if she is believed to be in an environment that is detrimental to her. This provision may become more intrusive in due course as the government continues to enforce the CRC and people's Constitutional rights.

Crimes Ordinance 1961

The particular sections regarding sexual and physical assaults are in Parts V to VII, under sections 47 to 83 of the legislation. A brief discussion of these sections will follow, with those related to sexual crimes first followed by the sections on physical crimes. All penalties are maximum terms.

Sexual Offences

Rape under section 47 is described as sexual intercourse between a male and female; hence a male cannot be referred to being raped. Rape is complete upon penile penetration and is non consensual. Consent obtained under duress or due to threat or false pretences is not a defense for rape, neither is consent from a girl under the age of 16 years. The definition does not specify the degree of penetration or include penetration with objects. The maximum penalty for rape is life imprisonment, and for attempted rape is 10 years.

Incest under section 49 is described as *sexual intercourse* between a parent and child, grandparent and grandchild, brother and sister; and where the offender knows of the relationship between himself and the victim. The defined relationships fall short of the much wider definition of sibling, parent and grandparent in the Samoan culture. This gap is significant as many Samoan children live in extended family households, where their birth parents are not necessarily the caregivers, yet these caregivers or *mātua fai* are not acknowledged under the law as immediate family. The maximum penalty for incest is 7 years imprisonment. This implies that sexual assault by a family member is not as serious a crime as rape. In real life the two could occur in the same act.

Sexual intercourse that is not considered rape or incest is covered under sections 50, 51 and 53. The majority of sexual offences fall under this category; perpetrators include all other family members not classified under the categories of incest. Sexual intercourse with a girl under 12 years carries a maximum penalty of 10 years imprisonment, while attempted intercourse is 7 years. I was unable to explore why sexual intercourse with a girl under 12 years has a lesser sentence than rape; it possibly implies that a child could voluntarily contribute in some way to the act. The maximum penalty for sexual intercourse with a girl between 12 and 18 years is 7 years imprisonment. Consent only becomes a factor with a girl over 16 years. The differences in sentences raised questions about the beliefs in the society where the legislation originated, at the time of its construction.

It is illegal under section 83 to abduct a girl or detain her with the intention to have sex or marry her without her consent. This section of the ordinance makes arranged marriages against the will of the girl illegal. The maximum penalty is 7 years imprisonment.

Sodomy is covered under section 58. Similar to rape, sodomy is complete on penetration but again the degree of penetration is not specified. If the victim is a male under 16 years of age, he may be charged with indecency between males. This outlawed homosexuality. Consent is not a defense. The maximum penalty for sodomy on a female or boy under 16 years is 7 years; for attempt to sodomise is 5 years. These sentences are less for rape of a female, which possibly reflects attitudes about men and male sexuality around the time and society where the law was constructed.

Sexual indecencies or indecent assaults are covered in sections 52, 53, 54, 58B, 58C, and 58D. These include other sexual acts that do not involve intercourse, those committed on a child, or which the child was induced to perform upon the offender. The acts include oral sex, digital penetration, masturbation, fondling genitals, penetration using objects, same gender assaults, and so forth. The

maximum penalty for indecent assault is 7 years imprisonment. The ordinance is not clear about the exploitation of children in prostitution and in pornography production.

Physical (Non Sexual) Offences

Crimes that lead to the death of a child are covered in sections 59 to 74.

Homicide is defined under section 59 as 'the killing of a human being by another', directly or indirectly by whatever means. Homicide carries a maximum of 14 years imprisonment; manslaughter of a child carries a maximum of 5 years. It appears ironic that an offender who intentionally abuses a child on a daily basis and eventually kills her, may be given a lesser penalty than one who kills in a single event.

Crimes against the newborn need close attention. In the case of infanticide where the child dies within the first 12 months of birth, there is lenience to a woman regarding her state of mind at the time of the offence. Under section 72, it is a defense if the mother is found to suffer from some mental or physiological disturbance such as post natal depression, so that she cannot be held fully responsible for causing the child's death. The maximum penalty for infanticide is 3 years imprisonment; concealing the dead body of a child is 2 years. Abortion was illegal under section 73 of the Ordinance. Anyone who aborts a foetus, procures an abortion or provides the means for an abortion, can be sentenced to a maximum of 7 years imprisonment.

The differences in penalties between manslaughter (5 years), infanticide (2 years) and abortion (7 years) suggest conflicting ideals about the value of children in society. Someone who procures an abortion at the request of another may be punished more than a parent who kills a child as in infanticide, or intentionally beats a child to death.

Other crimes including child neglect and assault are covered in sections 76 to 82. *Assault* is defined in section 78 as "intentionally applying or attempting to

apply force to another, directly or indirectly or threatening by act or gesture to apply such force to another – if the one threatened believed in the offender's ability to carry out the assault" (USP, Crimes Ordinance 1961). The definition is so broad that any act of violence to a child could be classified as an assault but in reality this is not so. This definition appears to make uncertainties around 'reasonable punishment' under section 14 in the Infant Ordinance 1961 unnecessary.

Charges are assigned by police according to how severe they perceived the injuries from an assault to be. Actual bodily harm (ABH) carries a maximum sentence of 2 years. More serious injuries such as head injuries are classified under grievous bodily harm (GBH), which carries a maximum sentence of 7 years. Section 71 for 'Acts of Omission' causing bodily harm has implications for those who willingly choose not to act to prevent a serious assault. The provision has similarities to section 12 in the Infants Ordinance 1961.

Barriers to Reporting

Institutional Attitudes

Attitudes of public servants affect the manner in which abuse complaints and complainants are treated. Reporting rates for abuse in Samoa are affected by the fear of repercussion from *matai*, religious authority, loss of income, losing a second parent, and a general distrust of state authorities (AusAid, 1999); these fears are held by both parents and by professionals. Some teachers who made complaints to police reported that they were informed by officers to 'stay out of it', or to stop wasting police time. The MOA study also found evidence of complainants who were turned away by officers and told that there were no laws against abuse (MOA 1996).

The report AusAid report also states that doctors are reluctant to become involved in state processes by not co-operating with police and the courts (AusAid, 1999). An article in one of the local newspapers supported this claim. The article reported a direction from a judge to police to summon doctors to court if they refused to provide medical reports (Lemesio, 2003b).

Studies outside Samoa have found that tolerance of corporal punishment by doctors, teachers and social workers in areas where corporal punishment had been legally banned, affected reporting rates as professionals did not report as consistently as they should (Tirosh, Schechter, Cohen & Jaffe, 2003; Ashton, 2000). This meant that intervention did not reach some children in abusive situations. Even judges are not immune to such prejudices. Recently in Vanuatu, a women's group called for a review of sentencing practices for cases of rape and incest. This outcry followed the sentencing of a recidivist offender who was convicted for the fourth time for incest. The sentences that had been previously issued to the offender varied between suspended sentences to 3 years. The women's group who called for the review had little trust of state authorities due to previous pardons granted to the offender. Such treatment sent the message that children were fair game (Jeanette Bolenga, Vanuatu Pacific Women's Information Network, personal communication, 2003, August 3).

Processes

The requirement of corroborative evidence is a problem area due to the mere nature of abuse, particularly sexual abuse where there are often only two witnesses, the victim and the perpetrator. There is often no medical evidence to support the child's statement (Ceci & Bruck, 1993). One doctor wrote that in 90% of sexual abuse cases, there was no medical evidence to support the child's testimony, even when the child disclosed penetration, but this did not invalidate the disclosure (Gardiner, 1991). This is not hard to understand for acts of fondling, oral sex, partial penetration or attempted penetration and so forth. For very young children and victims with disabilities, the inability to recall events in ordered sequence or to communicate in language that is comprehensible to police and lawyers disadvantaged them.

The reactions of children to situations of trauma are naturally the fight or flight scenario, for most children at the time of the abuse neither was possible (Perry, 2000). The child then adapts other forms of 'escape' that include dissociation. Dissociation is used "to avoid conscious awareness of a traumatic experience while the trauma is occurring, and for an indefinite time following it, conscious

thoughts and feeling, or 'memories', about the overwhelming traumatic circumstances may emerge at a later date" (Sidran Institute, 1994). During dissociation, a child may have a distorted sense of time and develop a feeling that she is observing the event as if it were unreal. In some severe cases, avoidance of reminders of the trauma may cause a person to have 'dissociative amnesia' or memory blanks for important aspects of the trauma. The classic symptoms of Post Traumatic Stress Disorder (PTSD) include impulsivity, sleep problems, attention problems, distractibility, emotional numbing, dissociation, school failure, regression, delayed development and social avoidances (Perry, 2000). These consequences need to be considered when interviewing child victims after incidents and in court.

In addition to the effects of trauma on recall, the tendency of children to under disclose suggests that the true number of offences committed by a single perpetrator was often higher than those he admitted to, not including those against other victims who may remain unknown (Haynes, 1998).

A paper by Davies and Seymour (1998) suggested that the adversarial nature of the court system disadvantaged children, as it did not necessarily help children to disclose (Davies & Seymour, 1998). The physical setting itself of courts is intimidating, and the way in which children are questioned also affects their disclosures. Studies have found that for children to communicate accurately in court, questions have to be posed in words that they understand (Brennan and Brennan, 1988; Cashmore, 1992; Davies & Noon, 1991; Murray, 1995; Walker, 1993; all as cited in Davies and Seymour, 1998). Firing leading and misleading questions to children is unhelpful (Ceci & Bruck (1995) as cited in Davies and Seymour, 1998). The treatment of children in court affected the number of successful prosecutions. Conviction numbers therefore do not accurately reflect the prevalence of abuse cases in court.

One theory that tries to rationalise why victims of sexual abuse do not disclose is called the Stockholm Syndrome or the hostage theory (Graham et al., (1994) in

Jülich, 2001). Graham reviewed literature on victimized groups that included prisoners, hostages, prostitutes, incest victims, battered women and abused children. The four commonalities found among the groups were a perceived threat to survival and the belief that the offender would carry out his threat, isolation from the perspective of others apart from the abuser's, feeling trapped, and feeling somehow fortunate due to some show of kindness by the abuser within the context of the abuse (Jülich, 2001).

For children, these factors are even more, especially powerful when they live in isolated environments, and where the abuser is also the provider and protector, someone whom the child relies on emotionally and psychologically. All these factors can be very real when the offender is a parent, teacher, or someone else of authority. The fear of physical retaliation, isolation, emptiness, and feeling unable to live without the significant person contributes to the silencing of the child (Jülich, 2001).

Additional factors that influenced the tolerance of abuse were:

- a) Victims believed the abuser needed their help.
 - b) Victims saw the abuser as victim who only needed to be loved.
 - c) Victims believed they were only the ones who understood the abuser.
 - d) Victims wanted to protect the abuser because he had protected them.
- (Jülich, 2001, p. 190).

The silencing of the child can be transferred to her family, especially when the abuser is the dominant figure in the unit. As long as the collective internalises responsibility for the offender and his behaviour, the offender has no inducement to display accountability or accept responsibility for his own actions. As long as it is someone else's fault he is 'simply a victim'. If the collective can be trapped emotionally and psychologically in this way, how much greater it must be for a child who has been taught from a very early age to be responsible for her family, to take on those feelings and be coerced into silence.

Conclusion

Overall the priority of the two systems of authority appears to be the enforcement of their own power and existence (Sunia, 1997), but there are vast differences between them.

The traditional methods occur quickly and involve the primary parties taking responsibility for their members and advocating on their behalf. The collectives take ownership of the impact of the offence and work towards retribution and restoration, but only at a collective level. Traditional processes offer avenues for direct accountability between parties that are not available under the state system. Collective existence emphasises the maintenance of society's rules, as compared to an individual whose main concern is his own benefit. The imposition of collective consequences provides incentives for families to ensure that individuals maintain rules and standards, for the protection and social esteem of the unit.

The ability of people to engage in non coerced processes of retribution and restoration through the *ifoga* is a powerful one. This practice illustrates dignity, honour and respect between Samoans. The offender pursues the victim to implement justice, not the other way round as in state processes. The effectiveness of traditional processes of justice appears to be dependent on the close bonds between collectives, and the value of social esteem within the community. The success of the processes depends on the willingness of parties to reconcile.

A perceived weakness in the ability of the *fono* to be objective, or the lack of privacy for parties, do not appear to be hindrances to justice under traditional processes. The whole community is involved through their *fono* representatives. Privacy is ineffective because of the extensive family networks and it is not unusual for family members from other parts of the country to become involved. In any case, Samoa is so small geographically that little can be kept private.

What constitutes 'evidence' or justice in the community is not necessarily the same as defined in the state system. Considering the social status of children,

tolerance of violence, male authority, family autonomy and insulation of *fono* outcomes from observers, it is unclear how effective local justice is in comparison to state judiciary, regarding the protection of children as individuals. Under the state system, final acknowledgement comes through a verdict that is determined by evidence composed of assessments, statements, and the skills of lawyers, doctors, police, teachers, judges and so forth, as opposed to oral statements from community members under the *fono*.

The state system is procedurally focused, and theoretically offers objectivity with some possibility of equality for all people according to law. This is beneficial for children whose needs for protection may be overwhelmed by the needs of their collectives under the traditional system. In reality, the laws appear to be consistent with biblical principles where parents and adults in authority are allowed to inflict punishment on children as of right (Moghadam, 2003). The existing processes of justice appear to advantage the status quo, collectives and those in authority, not children.

The existing laws and their administration appeared in need of review to make them more protective and sensitive to child victims. The personal beliefs and attitudes of individuals who implement procedures and laws predominantly influence the way complaints are treated, or not, within institutions.

There are no adequate systems to monitor a child's safety once removed from an abusive environment, to ensure that the perpetrator has no access to her or to prevent others from trying to silence her (T. Fepulea'i, Assistant Chief Executive of Justice, personal communication, 2003, June 26). Police and justice officers depend on self-disclosure from the community for this 'monitoring'. Children's rights and entitlements to protection under the law appeared to fall far short of adherence.

Neither of the two systems of justice offers any direct healing, rehabilitation or restoration for victims or offenders. These areas need reconsidering.

CHAPTER SIX

Methodology and Methods

In this chapter, I explain the rationale for the methodology used and the methods chosen. I draw attention to cultural issues and participant concerns that influenced the approaches taken in the implementation of the study. The final section of the chapter outlines some of the weaknesses in the research.

Methodology

This study set out with one main goal:

- *To look at processes used to address the physical and sexual abuse of children.*

The key questions that were used to progress the goal were:

- What does physical abuse mean?
- What does sexual abuse mean?
- What processes are there to deal with these abuses?
- Are these processes protective of children in the longterm?

Prior to developing the research methodology, I was aware of the destructive history of western research on indigenous cultures. Indigenous researchers have written about foreign researchers who made token attempts to relay information from the perspectives of the peoples studied, assumed ownership of the knowledge, and exploited that knowledge at the expense of those communities (Smith, 1986; Russell, 1996; Trask 1999). Information from indigenous peoples was not considered credible because it was held in people's memories and passed through the generations orally, not documented and stored as is the custom with western knowledge (Trask, 1999).

I was aware of my own limitations in that although I was Samoan and raised in the culture, I had not lived for any significant length of time in Samoa since I was a child. In fact, whenever I returned home I was regarded as a visitor in my own village.

The requirement of researchers to be objective and not to influence people's responses worried me. I could not think of how to compartmentalise knowledge if people required it of me, possibly influencing their responses. To simply be an objective observer did not appear possible in light of the subject of the study. To expect participants to give information freely without some form of exchange appeared to be immoral, but I did not want to 'buy' the information, or to appear as if what I exchanged was in any way adequate in return for the participants' support.

With these limitations in mind, I looked for a research approach using methods that I considered most constructive for the study and sensitive to the community. As an exploratory study, I refrained from forming a hypothesis and aimed merely to "gather information to build a description of what is going on" (Bouma, 2000, p. 91).

The most appropriate methodologies appeared to be a mixture of qualitative and quantitative theories, with specific utility of feminist approaches because of the parallels between women's oppression and that of children. As feminism questions and challenges the subordination of women (Abbott and Wallace, 1990), this study attempts to do the same for children.

At the risk of oversimplification, feminist approaches concern themselves primarily with the examination of the "relationships between individuals and the social structures, between women's everyday experiences and the structures of the society in which they live, between men's power in interpersonal relationships and the ways in which that power is institutionalised in.....society" (Abbott and Wallace, 1990, p. 11).

One of the particular approaches adopted in this study was referred to in Carter and Delamont (1996) as the Critical Liberation Theory. This term describes an approach that was used by Powell (1996) to look at the impact and influence of women in positions of high authority, upon the lives of other women. Powell's participants were not the intended beneficiaries of the study. This approach

seemed appropriate to me because my study looked at the impact of other people's actions, decision or lack of these, and how they impacted on the protection of children. Also, the intended primary beneficiaries of my study are children but they were not active participants. I paralleled the women beneficiaries in Powell's study to the children in mine.

The Critical Liberation approach has three main aims:

- To promote the interests of the people adversely affected by attitudes, values and practices of the participants.
- To better understand the decisions made by participants.
- To relate to participants as to whether they promote or inhibit the interest of the oppressed. (Carter & Delamont, 1996)

This research also investigated whether the decisions made by others promoted or inhibited the interests of children.

Children were not targeted as participants as I could not guarantee the availability and accessibility of support services in the event of re-traumatisation. I was unaware of any professionals who had specific training in counselling children in Samoa or in the area of abuse when this research was developed. In addition, I could not guarantee confidentiality in the event of a disclosure. While this may not have been an issue for a child in a society equipped with social networks and resources to support her, it was not the case in Samoa.

Feminist ideals of mutual respect, reciprocity and valuing the experience of the oppressed appealed to this study. The participation of women and the 'young' were important. The mere approach to villages for their views on the law and state processes were regarded by some participants, particularly the women and young participants, as a new experience because they regarded the issues of the study as matters that were normally the 'business' of the *fono* and government agencies.

The methodology for this research required a degree of subjectivity. Samoans often communicate in lengthy dialogue and stories, within which one has to extract the information required. According to Denzin (1989), value free interpretive research is not possible, a view that was appropriate to this study. The need for personal connection with participants required a degree of subjectivity (Smith, 1986); this was a shared value between Samoan culture and feminist research theories.

Subjectivity was necessary in order to appreciate the responses from the participants of this study. Some of the responses were relayed in proverbs and ancient sayings whose meanings were associated with a group of beliefs and values in the community. Unless one explored the basis of the responses during the discussions, the final interpretation of information would have been incomplete or incorrect.

A combination of qualitative and quantitative approaches was required. Emotional responses to questions provided information that surveys, questionnaires and statistics could not provide; such responses required sensitivity and respect. Eloquent replies were plentiful but one had to listen through them to get the answer to a question. Even criticism and anger provided information. The combination of approaches provided a picture that made sense.

Gender and Rank in Samoan Society

I discuss these two elements in Samoan society, as they both influenced the approach to participants and the manner of verbal communication that was taken in this research.

Gender

Feminist pursuits of equality for the female gender in society are similar to those in Samoan culture. From a cultural perspective men and women are not equal economically, politically, socially, or physically. The differences are theoretically balanced by the sharing of roles and responsibilities. Traditional culture assigns roles to the genders in order to sustain, develop and preserve the collective unit. Gender inequality became an issue when power, authority, privileges and rights

are assigned to one gender at the expense of the other. This was an area where Samoan traditional culture conflicted with the evolved culture that is now seen by many as *fa'asamoa*.

Power as it is regarded today in the forms of politics and economics does not include the 'spiritual' element as there was in traditional culture. The spiritual element traditionally functioned to establish balance through reciprocity in relationships. This balance is reflected in the duties and responsibilities of the brother to the sister in the *feagaiga*, the *matai* to the family, and the *fono* to the village. Culture forbids the brother from violating his sister or neglecting her care. The brother's belief that his sister could curse him and his children if he neglects his responsibilities hold him to the covenant. The *matai* is nominated to the position by the family but his status does not give him autonomy over the people or the lands he becomes guardian of. The male dominated *fono* has no influence if the families within the village ignore it as previously discussed in Chapter Two; the *fono* members are merely representatives of the families with the village. The minimisation or devaluing of the spiritual element in relationships over time has degraded the systems that ensured balance.

Changes in society have contributed to the transformation of gender relations in other areas of the globe, and similarly in Samoa. Poverty, urbanization and single parent families have caused women to further challenge the structure and ideals of male domination out of necessity (Moghadam, 2003).

In recognition of the status of women in local communities, some of the villages were approached through the women's groups. For the majority of government departments who participated, the individuals who were interviewed or who were gatekeepers of information were also women, notably educated, passionate, proud and determined women, all of whom lived in urban settings.

Rank

Gender inequality does not explain inequalities in Samoan society without the impact of class as status overrules gender (Mageo, 2001). Historically, women from high ranking families could leave their marriages if they so chose but those

from the lower ranks could not (Kramer, 1994). There is no rule that prevents women from speaking in public forums on the basis of gender as in some other cultures. Instead, speaking rights come through rank dependent on cultural status, age, specific knowledge, or with the permission of higher ranked elders.

Three participants who were interviewed for this study were women who held high ranking titles in their villages. These women were senior ranking *matai*, known sometimes as *matai fai upu*, those who had the say in *fono* deliberations. When I asked if being women affected their ability to influence other *matai*, they emphatically said no. One of the women said the *fono* was like a club where membership automatically resulted in respect and acknowledgement. As representatives of their families in the *fono*, the women sat with *mana*, *mamalu* (authority, power, prestige, social esteem), ability, skill, and the mandate to make decisions on behalf of their collectives. Rank in the *fono* took precedence over gender.

During the group interviews, I had to keep in mind that it was common practice for participants of higher cultural status to speak first. This was the same with the *matai* group. I needed to make enquiries before and during the interviews to identify the higher ranked participants. Once identified, I stressed to the leaders that it was important to encourage all the participants to have input by speaking out. The other participants would then be encouraged to speak.

Attempt at a Participatory Approach

In the initial approach to departments and NGO's, I informed them of my hope that they would consider co-working the proposal, or at least to see if there was anything that could be of use for their particular agency. I asked one department who was involved in the first child abuse research in Samoa two years prior, if it would participate in a monitoring group, but I never received a reply. Another agency said that a similar study had already been done and suggested I re-draft the study to something 'more useful'. This agency was however unable to produce these prior works and I was unsure if it understood my proposal.

The villages were not pre-selected for the research so they had no input in the development of the study. Once communication with the villages began, the villages quickly influenced the research questions, interpretation of the law, and the overall analysis of the information. While I controlled the direction of the questions and what information was recorded to some degree, other elements of the study relied on the participants, such as the length of time made available for discussions, what groups or individuals the researcher could speak with, where the interviews were conducted and when, and what I could record with the audio recorder.

While I was disappointed that agencies and villages were unable to co-work the research, their input certainly affected the questions, interpretation of the data, and the final analysis. As the research proceeded, new issues were identified which I had not foreseen while developing the study. New questions evolved which were then explored in the next interviews, in the secondary data and with professionals in the appropriate fields.

Access to Participants

Discussions about sexual matters did not usually occur between a young female and groups of men, an event that was traditionally taboo. While the discussion of sex and sexual matters was common within circles of men, women, young men, young women, and between friends, to discuss sexual matters with a complete stranger in a group forum was highly unusual. It was also not normal for *matai* and *komiti* to be questioned on their rules and processes. I did worry initially about how many people would agree to talk after I had explained the research to them.

Due to the nature of the subject and the traditional attitudes about sex, I anticipated a certain degree of 'shielding' (Lee & Renzetti, 1993) from participants. I also anticipated a certain degree of shielding by government agencies towards outside researchers on Samoa. I respected the importance of gate keeping as a form of self preservation for communities and individuals, and to prevent people from reliving tragic events that had been 'dealt with' or put aside in order to move on with their lives.

I felt personally that I had no entitlement to ask the communities for support with my research. I had no personal relationship with the communities apart from any genealogical links. I had not served the communities in any way prior, nor did I have any official capacity to require their involvement. I also could not guarantee that this work would benefit them. Accordingly, a mediator with the appropriate skills, knowledge and networks, was engaged to facilitate my requests for participation.

The main mediator for the research was my stepfather, one of my many fathers, who was a preacher, a previous government diplomat, and previously a *matai*. The *matai* title was relinquished in order to enter the religious order to become a minister for the Samoan Congregational Christian Church (LMS). Other mediators were agency workers who I met during the research, and my research supervisor. I conducted the research with the knowledge that agreement to participate by many participants, particularly the village groups, was due to their relationships with the research supporters.

Mediators were keys to accessing participants who also provided emotional support and encouragement throughout the study. It was important that whatever I did in the way that I conducted myself, spoke to people, or utilised the information, that the reputation and social esteem of these supporters were maintained. Any negativity as a consequence of the research process could impact on these supporters. The mediators obtained physical access to certain individuals, agencies and villages. My role was to then establish rapport with the participants in order to gain social access (Lee and Renzetti, 1993).

I personally sought out selected individuals who were identified by others in NGO's and state agencies, as people with background knowledge and some political influence in the area of child abuse and children's rights. I contacted these people by phoning their secretaries, e-mailing them directly or their departments, negotiating with a junior officer, formal letters of request for an interview, and door knocking. Some required persistence to the point of harassment but thankfully they took it in good spirit.

Methods

It was obvious in the beginning that reliance on measurements such as reporting rates, conviction records, hospital admissions and so forth, to estimate the prevalence of abuse in Samoa was unrealistic. Due to the negative perceptions associated with abuse, self-disclosure was also unreliable. The research needed a combination of methods to adequately respond to the research goal.

The choice of methods was influenced by the sensitivity of the subject, the wish to minimise the introduction of foreign technology to the communities, and the limited resources and timeframe for the study.

Methods:

1. Semi-structured, face to face interviews with key people with cultural expertise, knowledge in the subject, and who were recognised leaders in the community.
2. Discussion groups from six villages from the perspectives of *matai*, *komiti*, and *taulele'a ma tamaita'i*.
3. Review of departmental documentation including statistics, case files, legislation and other secondary data.

Methods such as surveys, questionnaires and other methods that required written responses were not used as I was unfamiliar with them, and they imposed further demands on participant's time. I was aware from previous involvement in a rural village that not all people were literate; the expectation that anyone could fill in a form was likely to exclude people from participation.

Face to Face Interviews

The face to face method was crucial for this research. Prior to any visual contact or verbal exchanges, Samoans try to establish a link with a new person through their genealogy traced through the family name. Judgments about someone's personal dignity and value are made based on assumptions about one's family and background associated with the surname. The first contact is critical as it

determines whether or not there would be any further contacts. The achievement or the display of an academic qualification means little when carried by a stranger into a community. I was completely reliant on the co-operation and good will of the participants.

I expected that as private as information was to a family, so would it be to a village. The face to face approach enabled me to express sensitivity to the people about their families and their laws. Face to face contact allowed both the participants and the researcher to observe each other, share personal information, and deliberate on the appropriateness of the research for the village

The semi-structured interview method enabled exploration of responses in ways that surveys and questionnaires could not. As an example, I asked a group of *matai* why people sexually abused children. I was told almost immediately that it was because of Satan. When I queried if Satan actually came down to earth, took the perpetrator's hand and led him into the bedroom, the group laughed then went on to explain that Satan represented feeling tempted. In some circumstances, it was clear from the body language or from repeated diversions from the question, that it was not one that was going to be debated in the forum, or with me. This was a response, not an empty box in a questionnaire.

Group Interviews

The use of the group discussion was to collect majority and minority views on issues. The discussion approach as opposed to an interview was used to avoid participants' feeling as if they were being interrogated. For the villages who had high profile cases of child deaths, I wanted to minimise the time spent on discussing the actual event and focus on the learning from it.

The composition of the groups was the decision of the village although I did specify a number of four or five per group. I needed to keep groups manageable, have time for each individual to contribute, and not place demands on too many people. Once the group gathered I explained the research and the process again, and informed people of their rights as participants. Access to the next group was affected by the experiences of the first one. Always by the next group,

word of mouth had gotten around and the new group was usually more emotionally prepared.

All the interviews were conducted within the villages themselves. For the *komiti* discussion, I sat with them during their weaving sessions, or in a venue where they were already meeting. For the *matai* groups, I attended where and when I was advised to. Two of the group discussions were in the *fale fono*. The young people who participated attended at the invitation or direction of the elders, and I simply went to where I was directed to meet them.

I did not record the specific ages of individuals in each group, only the age span. I did not specifically ask for socio-economic details or educational level for individuals within the groups, apart from general questions about what businesses existed for the villages and the main occupations. This information was obtained throughout the discussions, although for the smaller groups I was able to directly ask this of the participants. The majority of the village group interviews were of *matai* and *komiti*.

I mistakenly assumed that all *tamaita'i* and *taulele'a* would be young, unmarried men and women. I had aimed to interview participants between 18 and 30 years, for a 'younger' perspective. Instead, the traditional description of a *taule'ale'a* included all 'untitled' men. Similarly, the *tamaita'i* group included single adult women, widows and the wives of the 'untitled' men. No wonder the mediators and negotiators were confused when I specifically asked for participants between 18 years and early 20's, yet referring to the groups of *tamaita'i* and *taulele'a*. The age group I wanted were not necessarily at the social level at which they could be admitted to the *tama'ita'i* or *taulele'a* groups.

Because of my mistake, I was unable to collect a 'youth' perspective. Nevertheless, I was able to speak with members of these groups who came for the sessions; they provided useful input to the study. If the 'youth' were not immediately available, I did not pursue it.

I did not aim for a representative sample because I had no control over who participated. Some villages decided to send a general invitation to everyone in those groups to participate, or I was invited to attend a gathering that was already set.

Prior to the sessions, I assumed that a basic level of knowledge about the CRC and laws against child abuse existed in the community due to media coverage during the time I was in Samoa. The discovery contradicted these expectations, mainly due to the dominance of traditional law in the villages sampled. This became an element that was significant to the outcome of the study.

In group discussions in western society, it is generally understood that everyone has the right to speak, and that any disclosures would be protected under confidentiality. In collective society, the expression of views contrary to that of the collective could have ramifications after the session. This element occurred in one session when a woman disclosed ongoing domestic violence towards her by her in laws. The disclosure exposed the family concerned for not doing anything to stop the violence, but it enabled other women in the group who had known of the situation to 'formally' offer support. The young mother returned to her family possibly in fear of retaliation for her exposure of the family, but with the security of public condemnation of her assailants, and the knowledge that if an incident occurred, it would be taken to the *fono* to deal with.

Physical presence among participants before and after the actual interviews enabled me to be part of conversations on a less formal level. During some of these informal discussions, participants joked or talked about matters within the village or within their own families, which revealed their individual beliefs around abuse that were not revealed in the 'formal' discussion. For some, the real answers were revealed outside the veil of diplomacy. The views expressed in the focus groups were of those who spoke, not necessarily the views of all the individuals.

Review of Secondary Data

Prior to conducting the research, I was informed by various public servants that some departments were in the initial phase of collating data on child abuse, but the process involved was still in the early stages of development. In the absence of reliable data or in some cases, lack of, I spoke with individuals about anecdotal knowledge. The lack of reliable data was not a hindrance to the study; the absence of any would have been.

It was not always easy to access data from any the departments. An attempt to simply find out how many complaints of child abuse were laid from one year to the next would have required more resources than I had. The number of convictions for crimes against children was incomplete due to the lack of systems to collate the information in each department. Some files were simply missing. The maintenance of records appeared to be the last on the list as public servants tried to cope with their daily workloads.

There were no clear protocols to guide the sharing of information between the departments, and there was an element of sharing based on a 'need to know' basis. One department had a number of computers and specially trained statisticians, another had one computer and no trained staff, another had a room full of files, neatly stacked but not in any order. It saddened me that information randomly scattered in offices were actually parts of people's lives for whom the trauma continued after the systems had finished with them.

Reliability and Validity

A western approach to research requires the researcher to consider ways to measure the data prior to implementing the research (Bouma, 2000). Reliability depends on the success of these tools. According to Kellehar, "scientific reliability says more about the culture of professional conformity than.... pursuit of understanding. And validity...is a changeable concept subject to shifts in the culture of the scientific community itself" (Kellehar, 1993, p. 42).

I did not pre-structure ways to measure peoples understanding of child rights, abuse or the law, because I did not know how these were understood in the

community. Discovering what these were was part of the study. I was not in a position to hold a 'professional' opinion on communities I knew very little about. The post-structuralist approach to validity was to see it as something that was time and context associated (Kellehar, 1993). This is my view was an appropriate approach towards the data and its analysis.

I adopted the post-structuralist view that reality was comprised of many definitions and stories, not one definition that held greater value over others (Kellehar, 1993). Samoan records of legends always acknowledged that different regions had different versions, and attempted to document the differences in respect of their validity within each context (Department of Youth, Sports and Culture, 1997 & 2001). As an exploratory study, all views expressed by participants were valid, whether it was expressed by an individual or shared with others. The view of a young woman was as valid as the views of the *komiti*. It was not my place to choose which life experiences were valid and which were not or whose opinion was more valued compared to another, even if I did not agree with them.

The research process had to be valid in the eyes of the Samoan community who was the intended audience of the study. Validity in the eyes of western researchers was of secondary significance.

Confidentiality

Confidentiality and privacy in a collective society often meant that everyone knew eventually, just not all at once. The only things I could guarantee confidentiality on were the identities of village participants, by not recording any names. The names of individuals whose files I perused under the consent of government departments were also kept confidential. Confidentiality was not guaranteed to any of the state servants.

The research was not based within any government department or community agency. Initially I was anxious that the lack of official attachment would be perceived in the community as a lack of credibility and therefore hinder participation. I later discovered that the lack of official attachment freed me to

conduct the study without worrying about disturbing any alliances with agencies or having to defend one.

In the knowledge of my detachment to any agency, village participants talked openly about public servants, community agencies, and incidents of abuse in other villages. State officials also were able to use examples of personal difficulties and political interests that affected their ability to implement processes to benefit children. I was given rare insights into personal agendas at a political level and learnt to appreciate the difficulties between departments, and between NGO's, customary and state authorities. It was not hard to see how the interest of children could get lost in the politics and loyalties that individuals attempted to maintain.

I marveled at the generosity shown by the amount of information that was shared. Perhaps because it was my lack of statutory power or lack of cultural authority that freed people to talk about their children and the laws. The most consistent feedback from the sessions was that they provided a reminder to participants about what was important: their families.

Consent

Consent for the research was obtained through methods that depended on the particular participant or group. There were 'hierarchies of consent' (Dingwall, 1980 as cited in Lee & Renzetti, 1993). Participants were from state agencies, NGO's, village groups, and a few were independent informants. I negotiated the agreements with NGO's, independent individuals, and government departments, while the mediators negotiated with all the villages.

In the beginning of the study, I carried a bulk of consent forms and information sheets to give to participants. Each time I approached a participant, I explained the study, the research process and my status as a student. I was a little anxious that no one seemed to be interested in the information sheets and consent forms but preferred to trust in the verbal discussion with me. I realised that Samoans continued to establish agreements in the traditional way, even when they worked in western style bureaucracies.

The three main levels of consent were government departments, individuals and agencies, and the villages.

a) Government Departments

The Samoan government in the recent years implemented a new approval process for all research conducted in Samoa by people from outside the country. The government was protective of its people due to previous experiences of foreign researchers exploiting knowledge from the community with no benefits to the people. This research was conducted under the condition that the thesis would contribute to the government's development work for children.

Apart from one member of the police department who was known to the researcher, the individuals who were interviewed from government departments were all new acquaintances.

b) Individuals and NGO's

Co-operation from particular agencies and officials was obtained through the ability to connect with participants, and to convince them of possible benefits of the study to Samoa. Once individuals were satisfied with my verbal explanation they advised that they did not need to see or sign a consent form. All consents were verbal and conditional on the respondent's having control of time, and the extent to which they were willing to discuss issues.

(c) Villages

All consents were verbal. Only one of the villages had a family connection to the researcher as the origin of one brother-in-law. I had not been to the village before and my relationship with the family concerned was formed only some weeks before the interview. This village was included due to a disclosure from a village member of a case of child sexual abuse that occurred approximately two years before. The case was reported to the police but the village never heard back. Apart from this incident, there had been no other in recent years. I was interested to see what happened to the complaint, and to explore out how such a

village maintained social order to such a degree; hence the inclusion of the village in the research.

My initial panic about proof of consent should there be any contentious matters out of the research was overcome with the greater concern that pursuing written consent may be perceived as disrespect of the oral agreement between the mediator and the elders who were involved. Accordingly, the oral consent obtained through culturally appropriate means was respected and accepted.

Accountability

a) Samoan Government

Towards the end of the research, I proposed to the Prime Minister's Secretary, who granted approval for the research to be conducted, that a representative from his office attend a feedback session to consider the main findings of the study. The session was to provide an opportunity for participants to offer comments and advice. The proposal was agreed to.

Prior to the feedback session, I presented the police information to one of the four Police Commissioner's for perusal to point out some of the main findings from the study. Admittedly this was a rushed session and only some of the points were discussed in detail. I was consequently given permission to discuss the information from the Police department in the feedback session.

b) Participants

All participants except those in the first group session were told that a feedback session would be held when the practical activities of the research were completed. The first group was not informed as I merely forgot.

The agencies were informed by phone. The villages were informed by two notices on a local radio station whose frequency range covered the country. One advertisement was run a week prior to the session in the evening, and the second in the weekend before the session in a morning slot. Both notices were aired during times identified by the station as peak listening times.

A member from the PM's office and Statistics department attended the session, accompanied by two NGO's and other interested individuals.

Weaknesses in the Process

The first area of weakness was the purpose of the study. The first purpose was to produce a thesis to meet academic requirements. The study therefore was primarily for the benefit of the researcher. I chose what issues were to be addressed, the goal of the study, and who were targeted as the unit of analysis. My intention was for the study to benefit both the researcher and the community involved. This intention affected the way in the study was developed, implemented and presented in the thesis.

The research was basically developed, implemented, analysed and presented by essentially one person. An individual's perspective is insufficient and potentially dangerous for the communities concerned. The following are some of the gaps where additional support could have influenced the outcomes of the study.

a) Planning and development

The participation of other cultural advisors, researchers, lawyers and so forth, could have added to the body of knowledge that formed the basis of the study. No one from the community involved took part in any of the development work for this study. While the community has identified a need for such a research (MOA, 1996), the researcher was not approached specifically to produce such a plan.

Community participation could have redefined the frame of reference to suit its needs, increased the sample, made more people available to analyse data and so forth. While this would have no doubt impacted on the requirement from the resources that were available, it would have been more ideal from a community perspective.

b) Methodology

The research methodology has been affected greatly by western research theories. The collective Polynesian culture has its own understanding of consent, confidentiality, participation, privacy, validity and reliability. Attempts to fit Polynesian culture into western research theories only made them seem invalid, when they were not; it was the theories that needed adapting to be valid in the Polynesian context.

c) Methods

The face to face, semi-structured interview method was the most appropriate method to discuss group issues. The weakness was in the inability of the researcher to limit the groups to specific characteristics, considering the cultural protocols to speaking in forums.

For an issue that was associated with shame, pain, and public humiliation for communities as well as individuals, the group sessions were still not ideal. If one was to rely on self-disclosure to estimate prevalence, a more established relationship with the participants was required than I was able to do. Participation of older men and women as co-researchers could have assisted this process.

d) Sampling

The choice of participants in village groups could have been tighter as discussed previously. A bigger sample would have enabled the study to produce more representative findings.

An interview with the mother of a victim produced insights that none of the other interviews or secondary data were able to produce. This interview illustrated the necessity for the specific inclusion of primary victims and offenders in such studies. This exclusion once again, of the voices of victims in the construction of a knowledge source, is an obvious weakness in the study.

e) Questions

The questions asked of participants, the way in which they were posed, and further exploration of the responses would have benefited from the input of other researchers and advisors. The art of Polynesian diplomacy could have eased the discussion on controversial issues in the study. Diplomacy involved the use of cultural proverbs and imagery of which I had limited knowledgeable. This knowledge and skill could have affected the content, depth of the responses and access to other participants.

f) Monitoring

The only monitoring that was available for this research was through supervision, informal discussions with peers, and advice from the study's cultural advisor. There was a general assumption by these supporters that I knew what I was doing, and that I would seek help when it was needed. A monitoring group could have identified other areas that were relevant as the study progressed. A committed monitoring group could have ensured the input of the communities at each phase of the study.

g) Interpretation, Analysis, Presentation

Many minds are better than one. Where information was contained in legends and ancient proverbs, the study would have clearly benefited from the input of other co-researchers, particularly those with knowledge of the history of Samoa, if not abuse. If this were possible, the final recommendations may have highlighted different areas for further intervention and exploration. This would also have added a depth of knowledge about the historical context of abuse, processes of justice and other bases for traditional values and beliefs. Unfortunately, the key cultural advisor and historian for this study passed away suddenly, prior to the implementation of the research.

h) Feedback

The feedback to the villages was not possible in the manner that would have been ideal. Because of the distances between the villages and Apia, it was no surprise that they were unable to attend the feedback session.

Conclusion

Part I has provided the background to abuse, research context, legal frameworks, traditional authority, statutory systems and relevant legislation. The rationale for the chosen methodology and methods has also been explained, as well as the weaknesses in the research process.

It is important to bear in mind the limitations of the statistical data, the gaps in research knowledge about particular areas within Samoa, and the weaknesses of the research as previously outlined. I now turn to the findings and analysis of the study.

PART II

Findings, Analysis and Conclusion

The second part of the thesis presents the findings from the interviews with villages, agencies, departments and individuals from selected agencies. Part II is structured as follows:

Chapter Seven - Villages

Chapter Eight - Non government organisations

Chapter Nine - Government departments

Chapter Ten – Case study

Chapter Eleven – Conclusion and recommendations.

Chapter Seven

Villages

This section presents the findings from the interviews with the six participant villages. Three of the villages were selected based on cases of serious physical and sexual abuse identified from police conviction records. All these turned out to be rural villages, a factor that was previously unknown to me. The other three were selected for their relative invisibility in these cases. As my interest was in seeing the *fono* in operation, I had a bias for rural villages where the traditional *fono* was more influential. It is highly likely that discovered if urban villages participated. While the research proposal included urban villages, the resource demands through the process hindered this from occurring in the course of the study.

There are no written documents to confirm or deny any statements in this thesis, nor any statistics to substantiate or quantify findings from participating villages apart from audio recordings obtained from this study. Due to the degree of autonomy and variation in 'rules' between villages, even within the same districts, the findings of this study are not representative of all Samoan villages.

The villages are not linked by name to any findings nor are individuals identified in relation to quoted statements. This is to protect the privacy of the communities and to minimise any negative consequences of this study on the individuals who participated.

The areas that were explored in the group discussions were: child rights, physical abuse, discipline versus abuse, child labour, suicide and sexual abuse. The final section of the chapter looks at the processes that were used in the villages to deal with abuse. I will firstly explain how the villages were recruited for the study and provide a brief description of the village contexts.

Access to Participants.

The following table shows the links between the villages and the researcher. The populations were obtained from the Department of Statistics, and have been averaged out to protect the identity of the villages. In villages where there was one main church, the negotiator approached the village through the church minister or the *pulenu'u*. In villages where the inhabitants were spread across several churches, the approach was made initially to a *matai* or a *komiti* member, then to the *pulenu'u*.

Table 2: Access to villages

Village	Negotiator	Contact	Population	Groups	Ages
1	Mediator	Pulenu'u	200-250	Matai (3) Tamaitai (1)	40 - 70 30 - 35
2	Mediator	Tausi	200-250	Komiti (13) Matai (15) Taulele'a (10) Aumaga (1)	30 - 70 30 - 75 15 - 65 30-35
3	Mediator	Faifeau	155-205	Komiti (10) Matai (4)	30 - 75 40 - 65
4	Mediator	Matai	275-325	Komiti (15) Matai (4) Aumaga (2)	40 - 70 35 - 50 25 - 30
5	Mediator	Faifeau	275-325	Komiti (10) Matai (4) Aualuma (3)	30 - 70 35 - 60 20 - 25
6	Mediator	Matai	310-360	Komiti (10) Matai (15)	30 - 65 30 - 65

For clarity, I have used the word *aualuma* to refer to women under 30 years. Similarly, I have used the word *aumaga* to refer to males under 30 years. I have also used the word *faletua* to refer to the wives of local preachers or *faifeau*, not to refer to the wives of chiefs who are also *faletua* in the *komiti*, in order to prevent confusion. These definitions are not the complete cultural definitions of the terms, but I have adapted them here to aid the discussion. The numbers in brackets indicate the number of participants in the group.

Group size obviously affected the extent to which the issues could be explored. The smaller groups provided more in depth discussions while the larger ones provided a greater variation in responses.

Village population varied from time to time due to frequent migration between the islands as well as to foreign countries. During the school terms, many of the young people stayed with relatives who lived near educational facilities, particularly high school and tertiary institutions, which were located in bigger towns. One elder told me that the village only looked big because of the numerous houses but each house only had a few people living in it.

Social Context

The main occupations for the men were tending the plantations and fishing. The majority of the women cared for the children, maintained the homes, engaged in recreational activities such as weaving or in church organised activities. A minority of the sample were small businesses owners such as local stores and a bakery. A few participants worked for the government as teachers and police. The majority of the participants lived directly off or from income generation from their plantations, the sea and financial assistance from relatives overseas.

Families lived in traditional *fale* or in *fale palagi* (typically a house with walls, tin roof and rooms). Two of the villages were dependent on rain for water and all had electricity. The majority of homes in all six villages did not have a phone. One of the villages was situated on one of the smaller islands and was only accessible by boat.

In villages 1, 2, 3 and 6, there were no schools. Children traveled on foot to the neighbouring villages to attend the district school.

Public transport was privately owned; they ran according to schedules set by the company owners and drivers who were often families from within the district. No buses ran after midnight, in some villages much earlier than that. In one village, there were no cars on the island. In villages 2 and 3, travel was free to the immediate families of the *faifeau*.

In all villages, the nearest public health facility was several villages away, again necessitating travel by foot, public transport or other means. The health facilities were allocated by district, and were not staffed after certain hours in the evening. If someone needed urgent medical attention, medical staff who resided on the facility grounds would be woken up to attend. For serious injuries or medical needs, patients needed to travel to the main hospitals for care. In-patients in local facilities were often cared for by their relatives who stayed with them. The facilities were cared for and monitored by a committee of representatives from the villages in each district. There was an unused health facility in village 4. I was informed by two locals that the facility was unused due to lack of government funds for operation and staff. Consultation fees cost around \$1.00 per patient not including prescriptions. In the district where two of the villages were located, services were free to the immediate families of local *faifeau*. There were no ambulances associated with any of the facilities.

Local health facilities appeared to provide very basic care. I had direct experience of this when my own child had to be admitted to a local facility at 2am. My child was asthmatic and urgently required assistance to breathe. The facility did not have a child mask to assist a child breathe in oxygen that came from a tube connected to an oxygen tank. After a brief time the oxygen ran out. There was only one other oxygen tank in the facility. The next morning, a 6 month old baby was admitted for the same reason. This child had to have the plastic tube that carried the oxygen held against her nostrils; the majority of the gas escaped from her tiny nose.

For many local people, the traditional *fofō* (healer) was the first point of call when someone fell ill. This often occurred even in the presence of 'western' health facilities due to beliefs in the spiritual element of illness and healing (Mageo, 2001). Alternatively, the *fofō* was sought if western medicine had failed to cure or provide relief, as there would be a suspicion that the illness was caused by some spiritual force.

Police facilities responsible for the participant villages were also located several villages away. In village 3, there was no police base on the island; police accessed the island by boat and vice versa.

Interview Structure and Objectives

The semi-structured interviews were conducted using a list of basic questions that were asked of all the groups. The questions were used as guides for the discussions, and to ensure that certain key areas were addressed in each interview. The core structure was to enable me to make comparisons and draw conclusions from the views of the participants. In all the interviews, I was asked my own opinion on issues, and was also guided by participants on things they considered important for the protection of children. The recommendations from the participants about strategies to address the safety of children are listed at the end of the chapter.

Prior to conducting the village interviews, I was aware that there was a degree of tolerance in Samoan communities for the use of extreme physical discipline. This view was formed from my own experiences as a child, from work as a state social worker in New Zealand with Samoan families, and having witnessed abuse in my local village during the time of the study. As to sexual abuse, the victimisation was much less visible.

Interview objectives:

- To explore the meaning of child rights in the Samoan context.
- To obtain some insight into actions that are considered abusive.
- To find what processes the villages were using to deal with child physical and sexual abuse, and what formed the foundation for these processes.
- How effective traditional and state processes were in their ability to prevent physical and sexual abuse of children, from the perspectives of the various communities.

The following sections on child rights, physical and sexual abuse begin with the main questions posed to the groups. The responses from the villages are

discussed in a general format, not in respondent percentages due to the exploratory nature of the study.

Child Rights

I saw rights as linked to entitlements, political, social, moral, economic and cultural status. I wanted to explore where adults saw the position of children within the collective society, by exploring their perceptions of rights. I anticipated that by discussing the issue of rights, we would eventually get talking about parental authority, adult authority, discipline, and eventually abuse.

Researcher:

Was there any consultation in your village about the CRC when Samoa ratified it? (*Na fa'atalanoaina le feagaiga a alo ma fanau i lo outou nu'u ae le'i sainiina e le malo?*)

The participant groups that there was any consultation between their *fono* and the government prior to the ratification of the CRC. The groups suspected that there was no national consultation. Villages stated that if they were consulted they would have opposed the Convention because in their view, it violated parental rights and went against traditional authority (*fono*). Only two *matai* out of all the groups recalled hearing a parliamentary discussion on the radio about the CRC prior to its ratification. The lack of public consultation resulted in a perception by participant *matai* that the government no longer took notice of the authority of the *fono* (villages 1 to 6 (V:1-6, *matai*)). Consequently there was an underlying resentment towards government agencies, in particular the Ministry of Women's Affairs (MWA) who were promoting the CRC.

According to all the groups, there were elements in the CRC that were similar to attitudes and beliefs of Samoans about the development and protection of children, there were also areas of difference. The main areas of contention from all the groups were the political and social equality of children to adults, and the prevention of physical abuse which many participants understood to mean the prevention of physical discipline. Both provisions under the CRC were considered by the majority as intrusions on parental authority. For some

participants, the prevention of physical abuse was a positive element as it encouraged parents to use other ways to communicate with their children and leave physical discipline as a last resort only.

At the most extreme end, some felt that the CRC was a 'foreign' document that was not based on biblical principles, hence it was inappropriate for Samoa. In comparison, the Samoan Constitution was locally constructed and considered to have been born out of Samoan values, 'founded on God' (V:6, *matai*). These *matai* implied that they would obey the Constitution but not the Convention. The same people appeared confused at the suggestion that the Constitution itself did not distinguish between children and adults in basic rights, therefore guaranteeing both the same entitlements. A few *matai* (V:6) countered my suggestion of equal rights by saying that the word 'children' was not in the Constitution specifically associated with these rights, nor did the word 'women'. While some men laughed at the opposing view, other indicted by their body language that they supported such a notion. No doubt my own challenging of their views was a cause of discomfort if not disguised anger for some of these men.

Researcher:

What does child's rights mean? (*O le a se fa'auigaina o le alagaupu
lea o le aiā tatau?*)

This question provided the most volatile responses from participants. Child 'rights' or *aiā tatau* had a mixed reception amongst participants.

'Rights' was interpreted by the majority of participants to imply '*pule*' (rule, authority, ownership). The child with *pule* was interpreted to be an individual who did not have to comply with the decisions of the family or the wider collective. For participants, entitlements to 'rights' enabled those historically and currently perceived in society as being immature and powerless, to challenge authority without necessarily the responsibilities or accountability for the collective good. Child rights were perceived by all groups to threaten basic social structures and authority, starting with the family. Child rights was considered beyond the

protection and well being of children, to social stability and the future of the Samoan culture (V:1-6, all groups).

Participants believed that giving rights or *sa'oloto* – freedom (as they defined it) - to children and young people who were immature or did not have the sense of responsibility to utilise these rights, threatened the stability of families, encouraged 'defiance' towards parents and traditional cultural authority and placed young people at risk (V:2-6, *komiti, matai*). Participants shared the view that youth suicide had increased ever since 'child rights' was made an issue in Samoa (V:1-6, all groups). Suicide was often perceived as a form of retaliation (*fa'ali'i* – resentful opposition) against parental authority (V:1-6, all groups). When I asked for an example of such 'retaliation', I was told of incidents when young people wanted to marry, but were forbidden because they were related. In retaliation, some eloped and some became suicidal (V:4, *matai*).

The majority of participants also linked rights to increased lawlessness by young people. Lawlessness was said to include alcohol and drug abuse, sexual crimes, stealing, burglary, and truancy. Participants' knowledge appeared to have come from the media, as few could provide examples of such activities by young people within their villages or denied that such behavior occurred there. Local 'non compliance' was said to be displayed through disengagement from church activities, refusal to immediately obey the instructions of parents regarding an activity or chore, and lack of attendance at family gatherings and at village meetings.

When younger participants (under 30 years) were asked what they understood child rights to mean, they replied it was the right to *pule i le ola* - take authority over one's life, a phrase commonly used to mean suicide (V:2,5, *aualuma*; V:2, *taulele'a*; V:4, *aumaga*). I attempted to explore other meanings for 'rights' with these participants, such as the ability for a child to say 'no' to a teacher or a parent who inflicted abuse on her. The participants in response to my query did not appear to readily accept the possibility that saying 'no' to an authority figure was a 'rights' issue, or that it was necessarily a good thing. Participants

explained such 'defiance' to be against cultural protocols about the authority of parents and elders in the *fa'asamoa*.

Overall, it became clear that rights had been interpreted by the majority of participants as more a destructive rather than an empowering term. The concept of child rights was so entwined with power and control, both of which were elements that were not traditionally associated with children and young people, that many participants saw little benefit in integrating it into Samoan society.

Researcher:

Does 'child rights' exist in the Samoan culture? (*E iai se mea e ta'u o se aiā tatau a se tamaitiiti po o se teineitiiti i le aganu'u fa'asamoa?*)

Participants attempted to explain that rights for any person, child or *matai*, existed in the context of the collective (V:4,6, *matai*). The *matai* had to respect the decision of the collective *fono* even if he did not agree with it. A child lived in co-dependent relationships with others, hence her rights existed in the same context (V:2-6, *komiti*; V:3-6, *matai*). Participants explained at length that the child was a member of the collective and her interests did not necessarily take precedence above what was best for the family.

Participants stated that in the Samoan culture, children did not have 'rights' as they were now defined, but children had freedom to express views within the family setting. All groups expressed the view that the absence of 'rights' as legal entitlements did not mean that children were not protected or treasured within families or within the *fa'asamoa*. Participants, mainly senior groups, recognized the role of children in the development of families (V:1-6, *komiti, matai*).

Participants also spoke about the value of children's voices in situations such as violence in the home, or where a parent abused alcohol and drugs. In such situations, it was appropriate for a child to express her unhappiness to her parents. For some participants, the child's voice became the counsel or the *faufautua* that they needed (V:6, *komiti, matai*) during times of conflict in families.

Particular issues mentioned by the groups were domestic violence, educational neglect, unreasonable child labour, excessive physical and emotional discipline as perceived by the child, and when a parent used alcohol or drugs to the family's detriment. One *matai* provided the following example:

Pe fai o lea ua ma fe'ese'esea'i ma lou koalua...oga ou faao'olima lea i le fafige, a o lea e pulapula maka o fagau... afai o le kamaiikiki ua feololo loga mafaufau, e mafai oga kaukala mai i se upu, o laga aiā kakau ga ..ua fai mai, lo'u kama faamolemole ua lava lega... e ookia loka loko i loka mafaufau i le aiā kakau lea ua fai e laka kama po o loka afafige, oga ua fai e ia le galuega i le mea leaga lea ua fai e le kama i le kiga ua fasi le kiga..O sesi tama,e keega e le kama le kuaiga me lea,.. kaimi o le loko kiga ma le ika....o la e kaumafai mai le kamiikiki, ae pa e le kama po o le kiga fo'i....faakapuni le gutu o lo kamaiiki, ae le iloa, o le kaimi kogu lea o le aiā kakau a le fagau i makua... o la ua aumai laga ia fesoasoani, o le feau ua aumai, o kaika lea ua saua i le kiga..(matai, 40-50 years)

If my wife and I had different views .. then I beat the woman as the children witness...if it's a child with a bit of maturity, she could express herself to me, that is her right....she says, father please that is enough...my heart is touched by the just call that my son or daughter has done, by taking responsibility for addressing the bad thing that I have done of beating up the mother... another father...would reject such a thing...in times of pain and anger ...when the child is trying to make an approach, (she) is hit by the father or the mother ...to shut the mouth of the child without realising that this is the exact time for the child to express herself...she is offering her help, to deliver the message, that I have abused the mother..

Other situations where children's views were appropriate was when parents kept them home from school to do chores and other jobs (V:2-6, all groups). This practice was mentioned in the majority of the senior groups and considered detrimental to children but no one admitted committing it until an elderly woman in her eighties stated that she was frustrated with the mothers in the village for doing the very same thing. While truancy was considered to be detrimental to children's development, the demands of daily life and the lack of active monitoring of school attendance in local villages, it appeared that it was simply an intellectual discussion point to some participants. Forcing parents to send children to school by enforce of current legislation regarding the issues, eventuated into a matter of significant concern from all the *komiti* and *matai* groups.

In cases of sexual abuse, it was considered the child's absolute right to tell someone and to be protected (V:2-6, all groups). Participants were emphatic that parental authority did not translate to sexual abuse of children, nor authority over the life of a child, as in cases where parents had beaten children causing death. Participants stressed that the child's life belonged to God and not to the parent. These points were stated very clearly in all the senior group interviews (V:2-6, *komiti*, *matai*). Apart from instances where there was sexual abuse and extreme physical punishment (although exactly what extreme meant varied), participants unanimously believed that the main duty of a child was to listen, obey and respect those in authority. The instilment of these basic values and beliefs were considered fundamental to child rearing, not the encouragement of challenge as rights was perceived by participants to promote.

All *matai* and *komiti* groups, appealed to the government for caution on enforcing child rights in Samoa. One group of *matai* (V:4) said that child rights could be as destructive as universal suffrage has been to the culture and traditional authority. Such 'foreign' policies were perceived to value individuals over the collective. Another *matai* (V:6) protested strongly against the CRC. This *matai* said that Samoans were good parents whose practices are based on values and beliefs appropriate to our culture, modeled by their parents and ancestor before them; Samoans did not need foreign documents telling them how to parent.

Many participants (V:2-6, all groups except V:4 *komiti* and V:5 *auauma*) said that if Samoa persisted in trying to enforce child rights, parents would not know how to discipline and would lose control their children.

Researcher:

At what age or stage is someone in the Samoan culture given rights? (*E iai se tausaga po o afea e tuu atu ai i se tamaitiiti po ose teineitiiti sona aiā i le aganu'u faasamoa?*)

Participants were unable to pinpoint when a person could be 'granted' rights. I therefore rephrased the word 'rights' to 'have a say' – *fa'aali sona lagona* - in important decisions about one's life. In reply, participants spoke of stages and social progression. The main stage appeared to be the point at which someone sought the approval of their parents to enter into a relationship or start a family. This shift from being a single person to a partnership with the goal of forming a family, appeared to be the separation between being the recipient of parental authority and wishes, and having charge of one's decisions for the future.

Independent choice was a concept enmeshed with rights but within a context. Participants explained that even a *matai* remained dutiful to respect the authority of her parents (V:2-6, all groups). It became clear that use of arbitrary ages in the western context to define rights as in legislation, were inadequate and inappropriate measures for the cultural context. Any reference therefore to an age at which Samoans are expected to automatically give a child a right, was likely to be ineffective or ignored, as rights appeared to be something one earned and not arbitrarily granted.

The little value placed on the views of young people in the villages was reflected in the responses to my requests to speak with them. While five of the six villages gave permission for me to speak to young people, their approval was accompanied by explanations that they were either in the plantations, busy caring for younger children, were living outside the village, or were simply unavailable. Eventually I was only able to interview a small number of 'young

people'. It was not until the final village that one elderly *matai* stated outright that it was not the place of young people to discuss laws and issues such as child rights, or to challenge the wisdom and authority of elders about village processes.

Promotion of the CRC

This research found some criticism of the methods used by government departments and agencies to promote the CRC. One *matai* was critical of the money spent on written materials distributed in the community and said:

Fa'afefea ona faitau tusi e o'o i le Tusi Paia e le faitaua?

(matai, 45-55 years)

How can they read a pamphlet when they don't even read the Bible?

This *matai* said that from his experience with rural communities, face-to-face discussions were more engaging. This participant considered that there was more hope of the current generation of children utilising written modes of communication than their parents, but if the parents were the target audience, then the methods needed to be appropriate to be effective. In addition, rural communities lived in environments that were socially, economically and politically different from the urban population; hence communication approaches needed to be adapted accordingly.

Now and then a few participants within the groups commended the work done by government agencies to promote the Convention. However the majority of *matai* and *komiti* groups expressed that they felt pressured by government departments such as the Ministry of Women's Affairs (MWA) to implement the Convention in their lives (V:1-6, *komiti, matai*). Some men expressed that they felt targeted by women on the radio promoting the CRC (V:1,2,4,5). These *matai* wanted to know where the men were in these programmes? How did men feel about the issues? Three *matai* groups (V:2,4,6) said that the CRC should be brought directly to the *fono* as the appropriate forum for discussion. In addition, they asked that all other laws about children should be brought to the *fono* by the

relevant departments. One *komiti* recommended that government department come out jointly to discuss the CRC and relevant laws regarding the protecting of children, instead of each department doing its own programmes. One *matai* also recommended that a joint approach from departments would lessen disruption to the villages, as the communities already have events scheduled throughout the weeks, months and the year that require their time, participation and personal resources.

The study found that the main source of awareness about the CRC and child abuse was through the media and community education programmes, promoted in particular by MWA and NGO's. The village based education programmes were said to have had the most lasting effect on participants' understanding of abuse. Unfortunately, not all the villages had these road shows on their soil. Two *komiti* groups said that the written materials were unhelpful for some of the villagers because not all were literate. While there were occasional community programmes run by MWA that representatives attended, it was not the same as having the actual programme on site for all to access.

Clearly public education needs to continue about CRC and relevant laws against the abuse of children. Overall, this study found that many participants remained unclear about the CRC and did not understand all its provisions. For some, the CRC was not simply a legislation that appeared to have been adopted by the government of the time, with negligent consideration for the longterm impact on the culture and society, without the confidence of the people. One *matai* stated:

*ua kelevave keke le malō ua le o faakasi ma kagaka (matai,
40-50 years)*

the government is moving too fast, without the people

Physical Abuse

The exploration of rights provided some insight in where children became vulnerable due to social, political and traditional structures. The next lot of questions aimed to explore how and when parental or adult authority was enforced, and what people perceived as physical abuse. These explorations

were important so that analysis of processes used to address abuse could be done in relation to daily reality.

Researcher:

What does physical abuse mean? (*O le a le uiga o le sauāina faaletino?*)

Participants referred to physical abuse as *sauāina fa'alefino*. Those who inflict abuse were referred to as *sauā* (cruel) or *fa'ao'olima* (violent). Physical abuse according to participants occurred in combination with emotional (*sauāina fa'alemafaufau*) and spiritual abuse (*sauāina fa'aleagaga*) (V:2-6, all groups).

Physically abusive actions were described by participants as follows:

togi i fafo, soli - throw (the child) outside, stomped/stood on

tago atu u'u le tamaitiiti ae velo i le isi itu – pick up the child and throw it to the other side

sasa ua pata le tino - beat causing welts on the body

na o le sasa ma faapologa i feau ma upu mamafa... le fafaga leleia,

tuu le alo l le fale e fai feau..le fa'aaogaina, sasa ma lafo iai upu

mamafa e mafatia ai le loto o le tamaitiiti - beaten, used like a slave

for chores and verbally abused,not fed properly, kept at home to

do chores, not educated....beaten and verbally abused to hurt the

child's feelings

ave tamaiti e faatau mea ae laiti, e lē tatau ona o'o iai latou i na

mea - children are taken to sell goods while young, inappropriate

position for them to be in

fetogi i ma'a - thrown with stones/ chased by stones

tatu'i le tino - punching the body

U'u ta, u'u ta...ta i laau - held, struck, held, struck... struck with

wood

fasi ia pe le mata – (expression) beaten till unconscious

taavalevale le tamaititi e le mafia ona tu i luga - child rolls on the

ground unable to stand up

onaona manu'a o le tamaititi, ave i le falemai - grievous injuries to the child requiring hospitalisation
sau le eleele - bleeding
ivi le mata - injury to the eyes/loss of sight
foa le ulu – injury to the head

Participants were very clear about what physical abuse was. No major differences were found between descriptions given by men and women or according to age. Participants from all groups regardless of age stated that physical punishment was more damaging to the child when combined with words aimed to hurt her feelings. Many participants, elderly and young, stated that words sometimes were the more painful punishment. As one mother put it:

E pala le ma'a ae le pala upu (grandmother, 55-65 years)
stones rot but words do not.

A group of young women who were interviewed said that physical discipline was more painful when accompanied by verbal berating (V:5, *aualuma*). These women said that sometimes they wished that their parent just hit them instead of the words they used. Emotional and physical punishment often continued in the form of additional chores (V:2,3,4, *komiti*; V:4,5, *matai*).

Researcher:

Why are children (physically) abused? (*Aisea e sauaina ai tamaiti?*)

There was a prevalent perception amongst participants regardless of gender or age, that a lot of severe physical abuse was committed by step-parents. Participants believed that this was because the abuser did not feel natural love for the child: *aua e le'i fanaua e ia* - because she/he was not born of him/ her (V:2-6, *komiti*; V:3,5, *matai*). The child was a constant reminder of the other partner's previous liaisons; her presence therefore posed an ever present threat that the child's mother may one day return to the child's other parent (V:4, *matai*). Abuse in this case was due to insecurity of the offender and relationship difficulties between him and the child's mother, not necessarily the child (V:2-6,

komiti; V:4,5, *matai*). These views were consistent with retaliatory acts of abuse that were found with the Australian and Fijian studies in Chapter Four, and indicates an area requiring more in depth research.

Participants also explained other causes of physical abuse to be:

le lava le faasoa, so'ona fai tamaiti - financial and family pressures causing parents to be less patient with the children

inu pia, inu faula'au malolosi- alcohol and drug influence on the abuser

a tele tala a le aiga o le tamaloa i le fafine, lavea le tamaitiiti - verbal abuse of the mother by her in laws transferred to abuse of the child

le iloa po o le a le isi mea e fai – did not know what else to do

soona fai le tamaitiiti i le ita – mistreat the child due to anger

Discipline and Abuse

Participants believed that physical discipline was unavoidable during child rearing, even the most perfect parents (V:1-6, all groups), no one expressed any opposition to this belief in the group setting. Because physical discipline was an accepted parenting intervention according to the participants, it was important to explore the point at which discipline became abuse, and what factors precipitated the transition.

Researcher:

What is the difference between physical discipline abuse? *O lea le ese'esega o le sasa faatonu ma le sasa ua sauāina?*

Participants discussed firstly what discipline was. Generally there was a strong belief that physical discipline was the last resort when verbal instruction and other non-violent consequences failed to affect a child's behaviour. The right or duty of caregivers was, however, not a license to abuse (V:2-6, all groups); only one group of *matai* believed unanimously that extreme physical discipline including violence towards women was acceptable as long as the intention was for the betterment of the family. All participants believed that children were gifts from God and quoted the bible accordingly. Parents therefore did not own their

children's lives nor did they have the authority to exploit them as they pleased (V:2-6, all groups). The following quote summarised the general perception of abusive parents by participants:

Ga'o se makua ua lē lava le fa'akerisiago ma lē lava le malosi o le mafaufau e kago so'oga fai saga kama. (matai, 30-40 years).

Only a non-Christian parent or someone whose intellect was not intact would beat his child unreasonably.

At the other extreme, there was a small minority of participants who believed that injuries from acts of discipline were not abuse (V:2,6, *komiti*; V:1,3,5 *matai*). These participants regarded such injuries as incidental but the intention of the hitting was to teach, which was more important. The individuals who held this view were all over 50 years of age, mostly male. These participants proudly stated that they were known for being *sauā* to their children, and that being *sauā* enabled them to exercise authority and control over their children and families, and to teach respect and obedience. These participants did not regard themselves as bad or cruel; instead, being *sauā* was proof of their love for their child. These participants quoted the following section from Proverbs 22:6 – Faataoto 22:6.

Train a child in the way he would go, and when he is old he will not turn from it. (Zoldervan Company Publishers, 1990)

A'oa'o ia i le tama e tusa ma ona ala, a o'o ina toeaina lava o ia, e lē te'a ese ai. (The United Bible Societies, 1884)

This verse was quoted in all the *matai* and *komiti* groups at least twice. Participants firmly believed that this verse and others in Proverbs justified the use of force as an expression of love and necessary guidance for the betterment of their children.

While the majority of participants considered 'serious' injuries to a child from acts of 'discipline' to be unjustified, there was a lot of uncertainty about whether these actions were criminal offences. Certainly none of the participants recalled any punishment in their villages issued to caregivers who inflicted injuries on children, apart from when a child died. A caregiver who injured a child unintentionally was generally assumed to have lost control. However if a child was injured to the point where she required hospital assistance, then state intervention was considered appropriate; for the hard core group such injuries were not a criminal acts (V:6, *komiti*; V:1,5, *matai*). The wide measure of what physical abuse is and beliefs around parental authority and responsibility, directly affected the tolerance of abuse and how it was dealt with in the villages.

While participants accepted that physical abuse occurred in Samoan families, they emphasised that it was only in a small proportion of the population (V:4,5, *matai*). Overall, participants did not believe that abolishing physical discipline because of the actions of a few people was constructive in the longterm. All groups believed in the necessity of physical discipline and reiterated concerns that abolishing it would lead to family breakdown and community chaos.

The line between discipline and abuse was being continuously revised as awareness of abuse, children's rights, and the enforcement of associated legislation continued. One *faletua* said that until our group discussion, she never thought that throwing stones at her children was abusive. This disclosure came after we drew parallels between stoning a dog and stoning a child.

Interestingly, the majority of participants did not readily associate physical abuse with acts committed by other members of the public. Teachers, *faifeau* and their wives (*faletua*) were believed to have authority and a duty to use physical discipline on children.

According to participants, it was common practice for *faifeau* and *faletua* to administer extreme punishment as they were God's servants. One elderly woman explained that even if the child's parents were distressed by the abuse inflicted upon their child, they would not protest, this view was shared by others

(V:2,4, *komiti*), One *faletua* told me of an incident when another *faletua* hit a child with the *amo* (piece of wood used to carry heavy loads on either end, carried on the shoulder) in the presence of onlookers. None of the onlookers intervened because the *faletua* was apparently doing her duty. My informant said that she was horrified by the incident and spoke directly with her colleague afterwards to express her concern. The colleague instead reaffirmed her right as the *faletua* to 'discipline' children as she saw fit. This particular *faletua* was allegedly known for her extreme methods of 'discipline', which implied that the religious institution possibly accepted and tolerated such treatment of children as part of the role.

The *matai* and *komiti* groups said that if there were serious concerns about an abusive *faiifeau*, the matter would be taken up with the institution concerned. Participants believed that it was not the place of the village to issue punishment on a religious leader, only the religious institution. Several participants credited *faiifeau* for 'saving' them from abuse by their parents in their youth, as once the child reached the refuge of the *faiifeau*, the beating stopped. This illustrated the power of religious leaders in the perpetuation and the role modeling of physical abuse disguised as extreme discipline, or alternatively its prevention.

I asked participants how abuse by teachers was dealt with. The question did not appear a surprise to participants. The most frequent response was for the child's parent to speak with the teacher. If the child had been disobedient or did not do a required task, then the hitting would most often be justified. Again parents quoted verses from the Bible to justify this. If a matter was not resolved between the parents and the teacher, the parents would take their complaint to the Police or the Education department. This was mainly because teachers were government employees, and often they were not villagers.

The child who was alleged to be *valea* (dumb, stupid or foolish) or *le usita'i* (disobedient) brought embarrassment to parents in their relation to others in the community as an adult's misconducts are reflected upon their collectives. A child who was considered *valea* or *lē usitai* implied that her parents had been negligent in their parental duties. The ability of teachers and others in authority

to justify extreme actions of 'discipline' by blaming the child, and the ready acceptance of such justifications by parents, sometimes meant the child suffered further abuse at home. Further abuse was a retaliatory measure from a parent to child for the *matagā* (embarrassment, shame) caused by the child's action, and partly to 'teach' her not to repeat the behaviour (V:1-6, *komiti, matai*).

Child labour

Child labour was not an issue that I had classified under traditional definitions of physical abuse, but it was identified by five of the six participant villages as a form of physical abuse.

The majority of groups identified street selling as abusive. Participants viewed street selling as physically, economically and emotionally abusive because the children were coerced by their families to go out to sell goods (V:2-6, all groups). Interestingly, all perpetrators of this abuse were alleged to be family members, who beat the children if they returned home with less money than expected. Participants saw the practice as particularly dangerous for young girls because of sexual predators not only in local communities, but in the urban streets (V:2-6, *komiti*; V:2-6, *matai*; V:2, *taulele'a*) . Participants were concerned that the children were not being educated, and not being fed while out all day trying to sell goods. There was a general view that parents should be prosecuted for committing this 'crime' (V:2-6 *komiti*; V:3,5,6, *matai*). Participants believed that if the government allowed this exploitation to continue, laws should be created to limit the ages of the children who could sell, the times they could be on the street, and penalties under the law for those who abuse children in that way (V:3, *matai*).

I explored the concerns from the village participants with people from NGO's in Apia. These agencies also expressed their concerns about the rampant street seller situation. These informants spoke of children who were sent to them by members of the public after people witnessed the children being beaten by their 'overseer'. One young girl apparently disclosed that she was beaten frequently when she returned home with unsold goods. The parents of this child expected a sum of money which, according to the informant, the child could not have

obtained even if she did sell all her goods, which implied that the child was expected to somehow obtain this money by whatever means possible. The alternative means were not explored by the informant or the police officer who interviewed the child on the day. The child appeared street-wise for her young age. It was unknown what, if any, further intervention was taken by police regarding the incident.

Only a few participants identified plantation labour as abusive. One participant referred to constantly working on the plantation as being detrimental to a child's development:

o le mea fo'i lea e ala ai ga gokia le poko ma le kamai o fagau Samoa, o le olaga a lea a Samoa sa iai ...a ola aku ..(fai mea aoga) "ku'u le me ga ae alu e valu popo fai le faalifu, ia o fea la o o'u iai?... fai maumaga fai maumaga fai maumaga.... kaula ia ke au le aia kakau, e fai o fagau, ao le lumaga'i o aiga (matai, 35-45 years)

this is what hinders knowledge and development of Samoa's children, the life that has always been ... you start to progress (schooling)... "leave that and go prepare the coconuts for the *falifu*", now where am I?...plantation, plantation, plantation.. Child rights is important to me, not only for children but the future of families.

Interestingly very few participants identified plantation labour as detrimental, possibly because it was a way of life in the rural areas. I noted that it was the younger *matai* who saw the detriment of plantation labour at the cost of education, his view was not shared by the older men. Plantation labour remains an area of conflict for the child who is caught between customary obligations, personal aspirations, and legal employment issues.

The CRC recommends the limiting of hours of work and age of children if engaged in such 'employment'.

Suicide

Suicide was linked by participants to physical abuse (V:2-6, *komiti, matai*). The causes of suicide were linked to emotional and physical trauma inflicted by caregivers, which caused intolerable shame and humiliation for the young person (V:4, *komiti*; V:3,6, *matai*).

One elder spoke of the effect of emotional abuse on a pregnant teenager that consisted of verbal put downs, physical abuse, and responsibility for all the chores for the family, (*fa'apologa* - treat like a slave). The teenager felt guilty for bringing shame on her family and further humiliated by her family that she eventually killed herself (V:3, *komiti*). Teenage pregnancy was again mentioned as a contributor to suicide for girls who feared violence from fathers and brothers, so killed themselves (V:5, *auauma*). Another example was of a child or young person who was beaten by a teacher in front of other students, or by a parent in front of other people. The child's humiliation was compounded by the subsequent teasing from other students and other people in the village. The humiliation became overwhelming to the point that suicide provided an option of escape (V:6, *matai*).

A few participants, male and female, voiced a belief that the use of force to silence the views of children in families contributed to suicide, when children are not given the opportunity to verbally express themselves. Many participants believed that better communication between parents and children throughout their upbringing, which did not necessarily mean that one won and another lost, could prevent suicide (V:5, *auauma*; V:3,4, *komiti*; V:3, *matai*). Others struggled to define the difference between being considerate of the views of children and 'giving in' to their wishes, these participants continued to believe that obedience to the wishes of parents was more important.

The information from the participants suggests that the insistence on the enforcement of adult or parental authority over children's fears, anxieties and needs, and the perpetuation of values, beliefs and structures that oppress young people, will continue to drive young people to self harm.

Sexual Abuse

Unlike physical abuse, participants struggled to find words to define sexual abuse. Part of the hesitancy was no doubt due to my gender and age in the discussion with the men, and partly because I was a stranger to all the groups. Many participants found it a struggle just to talk about it.

Researcher:

What does sexual abuse mean? (*O le a le uiga o sauāina mataga?*)

Again, the women, as expected due to historical taboos, were more vocal about these definitions. Participants defined sexually abusive actions as:

fa'aoga tamaiti e fai ai ni uiga fa'aleulugalii - use children in a (sexual) manner as in a partnership/marriage

fa'aoga tamaiti e fai ni uiga feusu'ai - use children for sex

fa'amalosi - force, rape

toso teine - rape of girl

fa'atau tamaiti - selling children (for sex)

toe alu le tamā i lona lava afafine - father have sex with his daughter

alu le toeaina i se tama a sona alo - grandfather having a sexual relationship with a grandchild

solī aiga – incest

solī fanua - adultery

moetolo – creeps while people sleep to sexually assault

Feusua'i was one word that had been used to define sexual abuse although the term implied consensual sexual contact. This term was suggested by a *taule'ale'a* in village 2 to be inappropriate to describe sexual abuse, because it placed negative connotations on a normal act between consenting adults. The sexual abuse of children was not a consenting engagement, so another term was needed.

The main commonality in the definitions is the involvement of intercourse. When I specifically asked participants if any others acts apart from intercourse were

considered abusive, such as fondling or an unwelcomed kiss forced upon a child; many were unclear. This is a concern as it may indicate a tolerance or the lack of recognition, of sexual acts which could be if not more violating as rape. As the question was clearly uncomfortable even for women, I was thankful for the limited definitions that the participants provided.

Researcher:

Why do you think sexual abuse occurs? (*Aiseā e tupu ai nei amioga i lou manatu?*)

Participants explained their thoughts on possible causes of sexual abuse:

mana'o lasi, mana'o so'o, mana'o vave, leai se manao tāofiofi,

mana'o solo, lē motu le mana'o, pei se fa'amai - continuously wanting (sex), want frequently, want immediately, don't want to wait, want everywhere, want all the time, like an illness

auā e mu'amu'a teineiti - because young girls are virgins

lē alofa - no love

pia, fualaaui malolosi, pogisa ai le vaai - beer, heavy drugs clouding judgement

leai se feiloa'iga ma le Atua - no relationship with God

malosi le fili, tiapolo – enemy is strong, the devil

vaivai tamaitiiti, lē fetau le malosi of le 5 tausaga ma le 70 tausaga, pe a fai tauviga – a child is weak, the strength of a 5 year old could not compare with a 70 year old in a struggle

lē mataala tinā - mothers not being alert to the care of their children

tuli tamaiti i tua o le pasi ae le iloa atu se mea o tupu - children being sent to the back (of the bus) but (the parent) cannot see what may be happening

si'i i luga o tagata i le pasi - sitting on the laps of other people on buses,

faata'ita'i – experimenting, copying

ofu faatosina - wearing provocative clothing

fai vali – referring to the use of cosmetics

tifaga, t.v – movies, television

The causes therefore for sexual abuse varied from individual acts of selfishness and cruelty, to external influences such as the media and revealing clothes. Associated with these was the breakdown of traditional rules in local communities that acted to prevent individuals from committing sexual offences.

There was a consistent view from all the groups that television, movies, newspapers and other forms of media exposed people to sexual activity and encouraged sexual offending, in particular for young people who wanted to experiment with the things they saw or heard. Some also suggested that programmes educating the public about AIDS has aroused curiosity, to the point where young people went out to experiment with sex (V:2,3, *komiti*). This contrasted with the view of another *matai* who said that Samoan children were always exposed to their parents making love, because there were no walls in the traditional *fale*.

Komiti in village 3 talked at length about how lucky they were in that their island was very small and families knew each other. Houses did not need to be locked and no female child was ever allowed out on the road from dusk. Even tourists had to abide by the rules on the island, which were posted in places where they could be seen. The ability and willingness of the island inhabitants to uphold traditional rules and respect the authority of the *fono* were, according to the *komiti* and *matai*, the key elements in preventing abuse to children.

Fono Processes

I was informed by the Police department that there were no reporting protocols between themselves and village councils. While I suspected that there may not have been any written processes, I did expect some informal mechanisms because the *fono* has traditionally addressed sexual and physical crimes.

This study found that none of the six participant villages had any set rules or consequences for physical or sexual assault of children. In comparison, there

were set consequences for other matters such as fighting in a public place, adultery, theft and cultivating marijuana (V:2-6, *komiti, matai*). While groups stated that all sexual acts towards children were against village law and contrary to Christian beliefs, none of the *fono* had any mandate to intervene in any known incidents of physical or sexual assault of a child, because of beliefs around family autonomy. The *fono* had to receive a formal complaint before it could intervene (V:2,5, *matai*).

For the majority of participants, the *fono* was the preferable authority because of the following reasons:

- A matter could be attended to immediately by the council or within 24 hours. For victims this was an acknowledgement of their grievance.
- Matters could be resolved more quickly.
- If punished, the offender's name and his crime were made known to the village so that people were made aware and could safeguard other children.
- The process is familiar.

In serious cases, investigations began immediately and a resolution could be found within 24 hours (V:2-6, *matai*). Whatever methods were used to investigate the complaint was the prerogative of the *fono*.

Not all participants were satisfied with the *fono* process. One young female participant said she would rather the offender was jailed than be punished by the *fono*, because to her, jail would represent personal justice (V:5, *aualuma*). This woman said that *fono* outcomes were unpredictable, and her suffering may be punished with a few boxes of tinned fish or some other material fine. Another *matai* said that *fono* members were not immune to bribery due to poverty and greed. As a result, offenders with more resources and status could affect the course of justice at the expense of victims. One female participant said that incidents of sexual abuse occurred 'everywhere' including her village, but the *fono* was afraid that if other villages heard of an act of abuse in their village, it would reflect badly on their rule. In addition, *fono* members were concerned

about their ongoing relationship with offenders, especially if the offender was an elder in the community (V:2, *tamaita'i*). The *fono* therefore was not always trusted to issue 'just' outcomes (V:5, *auauma*; V:1, *matai*; V:2, *tamaita'i*).

Generally, if someone wanted to take a complaint to the *fono*, the family discussed the matter, and the family *matai* would take it to the *fono*. There were obvious hurdles with the process particularly if the alleged offender was also the *matai* or someone who sat in the *fono*. Sometimes a matter could be taken firstly to the lower levels of authority, the *komiti*, *tamaita'i* or *taulele'a* groups. If the committees decided that the matter should proceed to a higher authority, then the committee would support the complaint through to the *fono* (V:2,4,5, *komiti*; V:2,6, *matai*).

Once a complaint was received, the *fono* deliberated on whether or not it would be involved in a resolution. Alternatively or in addition to its own resolution, the *fono* may appoint a *matai* to report the matter to state authorities. The *fono* could summon individuals to be questioned in the *fale fono*. There was no privacy in the process, a situation that any child or woman who needed protection from further exposure or humiliation would find extremely intimidating. The decision of the *fono* was final. The resolution was usually announced for the whole village to hear.

Punishments did not differentiate between a child and an adult victim. Theoretically, consequences centered around the offence, the collectives involved and the interests of the village through the *fono* (V:1-6, *matai*). Any proceeds obtained by the *fono* from the punished collective, be it material goods or money, are then distributed by the *fono* members as they saw fit, which is usually then distributed amongst the families in the village. I had an opportunity to witness this during the research.

How Abuse was Addressed

Neighbourly relations and the availability of traditional structures (*komiti*, *taulele'a*, *tamaita'i*, *fono*) were seen by the majority of participants as sufficient avenues to protect children within local settings.

Neighbours were often extended family members who assisted each other care for the children. Collective responsibility included the practice of *fautua* (advise, counsel) as family, friends or neighbours. Other neighbours may not be related but had lived in the same setting for many generations. One participant spoke of an incident where a child was beaten, and a neighbouring woman ran over and fell (*'faō* – cover with body') on the child to stop the beating. Such an intervention was considered appropriate and respected in the communities.

Participants did not consider it appropriate for the *fono* to monitor or police parenting in families. Families as collectives were responsible for themselves. While there were families in the villages who were known to be very strict or harsh towards their children, the *fono* did not interfere. While villages had set consequences for physical altercations between people of different families, they did not readily apply these for altercations within families. This was also the case for sexual abuse where groups were very clear about consequences for adultery and rape between members of different families. Villages (1,2,4,5) spoke of cases where adulterers were punished by the village, when either one or both of the persons involved were banished. Participants could not say how incest would be dealt with if it occurred, because "*e le'i tupu lava se mea i'inei* - it has never happened here" (V:3,4,5,6, all groups).

I explored with an independent informant who was a high chief, the types of punishments he had known of which had been issued for sexual crimes in villages. This informant had previously been involved in community development projects with rural villages. The informant said that the typical punishment for cases of incest in villages was 10 pigs. While more extreme punishments were always considered, repeat offenders were not always banished. It was the opinion of this participant that there was still an attitude in some villages that sexual offences were misdemeanors, especially when committed by older men. Banishment was not always protective of the offender's children as some offenders took their children with them.

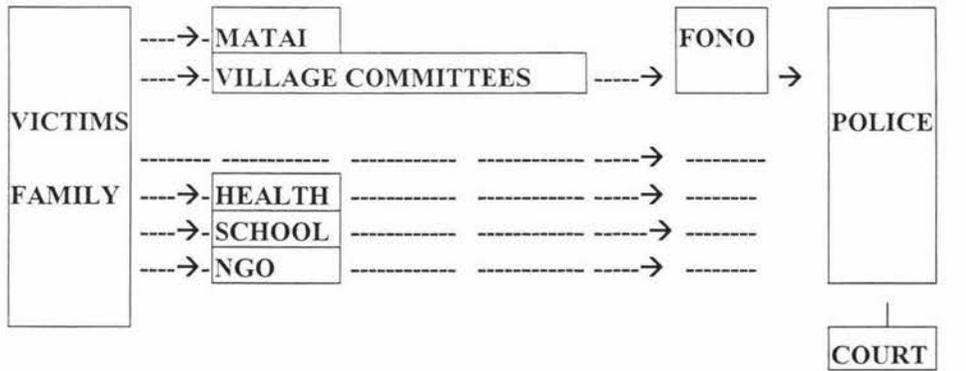
When participants of this study were asked if the *ifoga* was appropriate for incest, there were inconsistencies in the replies. A few *matai* felt that the *ifoga* could be used but they were unable to articulate why it had not been. The situation remained unclear about a parent who sexually abuses his step child, whether the *ifoga* could be applied then by the perpetrators family in relation to the child's birth father or birth mother. The *ifoga* continued to be used between members of the different families, particularly for sexual offences and assault causing bloodshed or death. One female high chief believed that the *ifoga* should only be used for serious offences such as rape or murder; she did not consider the *ifoga* appropriate for incest but was unable to articulate why this would not be a 'serious' offence.

I asked participants why banishment was considered such a serious sentence. It was explained to me, that banishment meant that the offender had to leave his lands, home, plantations, close friends and other family members whom he had known all his life (V:3-6, *komiti, matai*). The psychological, physical, economic and spiritual impact of banishment upon offenders and their families were so significant, that it was considered a significant deterrent to serious offending. (V:5, *aualama*; V:5,6, *matai*). Banishment removed the offender permanently. In comparison, jail provided regular meals, time out from family, church and village responsibilities, and eventually the offender returned home. Some participants suggested that the seasoned prisoner had no fear of the state because he lost nothing.

I asked the *matai* group from village 3 what the *fono* would do if a *fa'asalaga* (punishment) such as banishment was overruled by the court in favour of an offender. The *matai* were uncertain about what they would do, but hypothesised that the village could socially isolate the offender and his family from community activities. This social isolation occurred in another village where the offender's *matai* title and status were basically ignored and diminished in the eyes of the community. As such, the punished *matai* and his family had no involvement in village activities community.

Failing the *fono* or in spite of its involvement, complaints were made to Police. The process for complaints is illustrated in the following table, as explained by participants.

Table 3: Pathways to make a complaint



Participants recognised that for some offenders there was no deterrent, either through the traditional or the state system. Accordingly, the longterm solution to the prevention of child abuse involved changes to people’s beliefs and attitudes and a closer relationship with God, the last factor being the most significant (V:2-6, all groups). As one *matai* stated:

Sasa le pulela’a ia malepe, a talia e le toatasi lelei (matai, 55-65 years)

Beat the pulpit till it falls apart, if one person accepts the message then good.

At the end of each group discussion, I asked participants to recommend strategies to further enhance the protection of children. The following recommendations were those relayed by the groups.

Recommendations

1. School buses put in place to prevent the abuse of children by adults on public transport and by others ‘giving them rides’ (V:5, *matai*).
2. Sexual offenders to have the same sentences as those committed to life imprisonment without parole or probation (V:2-6, *komiti*) including mandatory life sentence for anyone who killed a child (V:5, *komiti*).

4. The death sentence for recidivist sexual offenders (V:4,5,6, *komiti*).
5. Government to fund schools to provide food for children, or financial assistance to families to provide for them (V:2,3, *matai*).
6. Laws to be created limit the ages and times children are allowed on the street as vendors, with clear consequences for caregivers who break the law (V:2-6, *komiti, matai, taulele'a*).
7. Parents to be actively prosecuted for not sending children to school (V:1-6, *komiti, matai*).
8. Government to review the implementation of CRC in Samoa in consideration of the longterm implications upon the family and the culture (V:1-6, *matai*).
9. Government to affirm the authority of the village councils to address child abuse (V:1-6, *komiti, matai*).
10. Educational programmes around sexuality and relationships for young people (V:6, *aualuma*).

Conclusion

The protection of children was clearly an area that participants were passionate about. The passion was rooted in the social, emotional and spiritual values associated with children, and the preservation of cultural identity. Participants recognised that abuse was detrimental to the well being of the child, *aiga* and *fa'asamoa*.

Physical discipline was intertwined with physical abuse. The rights of children to live free of degrading punishment and treatment according to the CRC and the Constitution were not associated by participants with the right to be free from physical punishment or severe public emotional humiliation.

According to participants, physical abuse occurred when the perpetrator harmed the child with cruel intent. Abuse was fuelled by feelings of insecurity and jealousy by offenders, parental relationship problems, stresses due to commitments to the church and extended family, and limited parental skills.

Parents who caused injuries while 'disciplining' were not necessarily seen as abusive as long as the intention was to teach or deter the child from negative behaviour. Hitting was associated with love and parental duty to ensure the wellbeing of children. Participants sympathised readily with parents who 'lost it' and physically injured children, due to associations with the pressures of parenting. These factors impacted directly on people's tolerance and acceptance of violence to children.

There was a rejection of the notion of equal rights for children. Participants, particularly those who had lived in foreign countries, drew comparisons between their situations and that of parents in societies outside Samoa, where there were significant problems with lawlessness by young people and family breakdown. Personal experiences and observations portrayed through the media of youth offending reinforced beliefs by participants that Samoa was better off without child rights. Participants believed that Samoa had been insulated from these degrees of breakdown because of the insistence on traditional family values and the preservation of traditional structures. These comparisons by participants fuelled the opposition to equal rights for children and the CRC.

The factors that contributed to physical abuse within the participant communities were similar to those found in research with Samoans outside Samoa and for parents in other cultures. The dominant use of religious beliefs to justify violence in families and the beliefs in the autonomy of the *aiga* were hindrances to intervention. The measure of abuse as injuries that led to hospitalisation meant that some acts of 'discipline' were only prevented by community members when children were seriously hurt. The *fono* after all was the body of collectives, who derived its influence and power from the willingness of the families within it to comply with its 'rules'.

The lack of intervention by the *fono* and reliance on neighbourly relationships to prevent abuse meant that the *fono* could not be counted on to prevent abuse within families. The *fono* appeared only to apply itself when abuses occurred between different families or when a child died as a result of abuse. These

weaknesses contributed to views by some participants about the inconsistency of *fono* rulings, and vulnerabilities due to self interest.

Sexual abuse was clearly a concern in the villages. While issues around physical abuse were complicated by beliefs around parental authority and family autonomy, there were no such confusions for sexual abuse. The tolerance of sexual abuse was hence lower than for physical abuse. All sexual acts that were considered normal within adult partnerships such as intercourse, genital contact, forms of penetration and so forth, when applied to children were considered sexually abusive. Intercourse however was the one definition that was acceptable to all participants as a criminal act. There was no rating in seriousness between rape of a step daughter and a daughter by birth; both were equally wrong. As the offences were primarily addressed from the point of view of collectives, consequences for sexual offences against a child were no different for those against an adult.

Participants attributed the rarity of sexual offences toward children in their communities to the ability of the *fono* to exercise social control. Local *fono* were also able to act quickly to resolve conflicts in order to restore balance in relationships between collectives. It was also due to the generational acquaintances of families which created an atmosphere of one big family.

Contrary to government processes of justice, the local communities owned, developed, implemented, maintained and participated in the processes, and carried the consequences of their systems of justice. The degradation of these intimate networks within local communities could lead to complete reliance on state agencies for social control. This study found that responsibility and commitment to social rules and standards within the participant communities was directly linked to a sense of ownership of processes.

Overall, the participant communities had their own constitutions that guided their processes and decisions, and clearly family and village autonomy under local constitutions opposed those of individual rights under the state constitution. This was a basic flaw in the whole process. The reasons for the use of traditional

processes appeared to have remained unchanged despite the obvious changes in society and the degradation of traditional authority due to legislation, economic, social and political changes in Samoa.

The emerging pattern of government veto over traditional forms and processes of justice may become increasingly significant in a short time due to the enforcement of the Constitution and the CRC. The ability of the state to overrule the *fono* trivialised the fact that local authorities have maintained and preserved their communities with limited assistance from state bodies. From a macro perspective, the primary accountability of the *fono* to the village meant that public safety was its main responsibility, such as the case of banishment for recidivist offenders. The *ifoga* may be the only remaining traditional method that survives.

Chapter Eight

Non Government Organisations (NGO).

This chapter looks at two specific agencies who deal with child abuse related concerns, and takes a brief look at the impact of media publications on public perceptions, as reported by participants.

Two NGO's that were identified by locals as agencies that dealt with child abuse are ECPAT Samoa and Mapusaga O Aiga (MOA). ECPAT deals with cases where there is suspected child prostitution or child trafficking, while MOA deals with cases of child abuse within the community.

ECPAT Samoa

ECPAT (End Child Prostitution, Pornography and Trafficking) Samoa was established in 1998 and operates under the umbrella of ECPAT International. ECPAT promotes public awareness about child prostitution, the trafficking of children, and the use of children in the production of pornography. I was unfortunate to have been unable to speak directly with ECPACT, so had to make do with material available through the media and their own public releases on the internet.

Child trafficking and child pornography appear to be recent developments in Samoa's awareness of the different types of child abuse.

Village groups in this study raised concerns about child trafficking and the exchange of children for money although their knowledge was largely based on hearsay. Two women in village 4 said that they personally knew parents in a local village who had their children adopted by foreigners, in exchange for a couple of bags of rice, some money and the promise of a prosperous future for their children. The parents were later shown photos of their children obtained from computers. The participants could not identify who showed the photos to the parents but indicated they were from an agency in Apia.

I made enquiries to the Police department if they had received any complaints of child trafficking. I was informed by a senior police officer that there had only been one occasion when there was 'talk' of child trafficking. The 'talk' did not eventuate to charges or prosecution because the children's parents consented to the adoption of their children; hence no law was broken. The consent factor, the legitimate adoption and the lack of testimonies meant little could be done to further the investigation.

In a discussion with a community worker in Apia, I was informed that there were known foreign paedophiles who were living in Samoa. These paedophiles allegedly engaged local families to 'have the children over', in exchange for money on a frequent basis. The families, according to the informant, refused to co-operate with police because they had become reliant on the money. The informant was a foreigner himself who knew the identities and locations of the alleged paedophiles.

The tolerance of street labour exposed vulnerable children to predators both local and foreign. While there were no confirmed cases of child prostitution, Samoa was not immune to such predators. An article in *Le Samoa* in the 1-7 October 2003 issue, reported the case of a tourist who had enticed a boy of 15 years to his boat, where he proceeded to sexually assault him.

The operations of ECPAT Samoa were being reviewed at the time of this research. Despite the sexual exploitation of children by foreigners as it has now begun to be exposed in Samoa, it is important to remember that the frequency of sexual abuse to children within their own families and local communities far outnumber any by foreigners, as will be shown in the following chapter.

Mapusaga O Aiga (MOA)

The involvement of MOA with child abuse developed as a result of their work with adult victims of domestic violence. MOA is now recognised in the community as the primary agency to refer clients for support in cases of abuse. The police are not always the first option because families did not necessarily want state involvement, but information in order to make further decisions.

MOA conducts workshops about domestic violence and child abuse with village groups, agencies, churches and schools around the country. Through these workshops many disclosures of domestic violence and child abuse come to light. The majority of village workshops are arranged with the village *komiti*. MOA also provides counseling for individuals and families regarding child abuse. MOA's philosophy is to support clients to make informed decision that they can realistically live with; the consequences are to the people, not the agency.

People access MOA by phone, door knocking, fax, or by e-mail. Figures for the month of April 2003 showed that 3 of the 30 'walk in' enquiries were for child abuse. In May 2003, 35 of the 202 phone enquiries and 4 of 45 'walk-ins' were regarding child abuse. While the figures appear low, MOA workers spoke of much higher numbers that were not captured due to inconsistencies in recording, as workers spent precious time on delivering the service. MOA is in the process of developing systems to collate better statistics.

At the time of writing, MOA was awaiting funds from an overseas agency so that they may advertise for social workers. Due to the religious and cultural beliefs of the families who engaged with MOA, an academic qualification alone is inadequate in order to provide effective support to Samoan families, particularly those in the rural communities. Samoan diplomacy is not a normal part of conventional social work training. Workers need to be fluent in Samoan and familiar with cultural protocols. The difficulties with finding qualified people in Samoa, with experience in family work, are ongoing challenges.

In an interview with MOA workers Faoliu Wednt and Tevau Palupe on 12 June 2003, I asked their views on the ability of traditional and state processes to deal with cases of child abuse. Both workers were uncertain about the ability of traditional processes to address child abuse because the processes did not attend to individual victims.

Taumamafa le nuu, saoloto le agasala ae nofonofo ai a ma si ona tina ma hurt ai a..” E degrade foi lona tagata

faapea ua ou le aoga. Faamalosi a'u i ai, faalototele iai faapea this is not the end of your world, a ua leaga i i, you can make your future better than it was before. (Faoliu Wendt, personal communication, 12 June 2003).

The village eat and the perpetrator goes free, while she (victim) sits with her mother and her pain. She feels degraded and thinks there is no use for her. I encourage her, and say this is not the end of your world, if it is ruined here... but you can make your future better than it was before.

The state systems are also limited in certain areas. Palupe spoke of occasions when MOA had assisted women to make complaints to the police only to later discover, that the women had been sent away by a police officer and told that that there were no laws against abuse. In cases of domestic violence, visible injuries are still inadequate for some officers to act. Sometimes a woman is simply told to go home and rethink her decision about making a complaint. MOA workers are unsure if the problem is with the individual officer's own attitudes about women and violence, or if it is a lack of knowledge about the law that prevent appropriate responses.

In regards to state agencies, MOA felt that the Police department did not maintain communication regarding complaints that went via the agency, so they never knew if the woman was safe or not. Other victims who were in obvious need of support were also not referred to them. This problem is the same with the courts where victims of sexual abuse were either not referred or sent to local *faifeau* who may not have had the necessary training to appropriately support them. In terms of post sentencing, Palupe could not understand how rapists could be granted weekend leave to spend time with their families, as if imprisonment was part time punishment. This relaxed attitude to punishment by the state is similar to those voiced by the *komiti* group in village 6, who advocated for lengthier sentences for child sexual abusers.

MOA is mindful of the limitations on government departments but does not accept this as an excuse for people to be shifted from pillar to post. According to MOA workers, the ordinary Samoan has limited resources and the return trip to town to make a complaint may have been all they could afford. There are no specialised services for child victims and the location of MOA further hinders families in need.

MOA workers felt that government departments, in particular the MWA, should provide guidance to all NGO's on policy and laws in relation to the protection of children. Meanwhile, the delivery of services and programmes should remain with NGO's. This would consequently require the releasing of funds from government departments to the community to deliver programmes and services, which currently does not happen. Instead, there appears to be a duplication of roles where both NGO's and state agencies are delivering promotional and educational services about the CRC and child abuse, sometimes independent of each other.

MOA is currently reliant on donor aid and fundraising activities as there is no funding available from government. This lack of security for funding creates uncertainties for the agency, as it has to look for funding on an annual basis in order to keep the agency going. It also raises a concern about the position of children in government priorities. Aid funds bring their own measures of accountability that must be met such as statistical requirements, but are not always practical due to resource limitations available to NGOs. While aid assists towards buildings and some resources, volunteers provide counseling and public education in their own time using their own vehicles. The volunteer workers are often mature women with other commitments in the community. Some volunteers are self employed which limits the time they can commit to the agency.

Ongoing training, daily support and supervision for the workers appear ad hoc. These occur within the context of what is possible under limited human and funding resources. The pool of trained counselors is a small one and the lack of practice due to other commitments meant that the learnt skills were forgotten.

The loss of people with the appropriate skills and commitment was another problem. For a service that had become a central point for victims of abuse, MOA was struggling. The staffing and operational situation at MOA was not ideal and clearly unsustainable without adequate or guaranteed assistance.

I asked Palupe, the ex president of MOA how they survived despite the funding restrictions, staffing issues and management changes in the agency. Palupe replied that they continued '*for the love of the people*'.

MOA recognises the need for a longterm, co-operative multi-agency approach to abuse that includes the pooling of resources, and the provision of preventative programmes, as opposed to crisis responses.

Recommendations from MOA.

1. Government departments to work with NGO's in a partnership manner, instead of involving, informing and including NGO's in formulating policies, legislation and so forth at the discretion of government agencies.
2. NGO's to be financially supported by the government in order to continue to provide services.
3. Police and Justice departments, judges, to refer victims and perpetrators to appropriately skilled professionals and agencies for therapeutic intervention.
4. Clear protocols and policies to be established between NGO's, government departments, and other institutions to deal with complaints of child abuse.

Media

The increase in public awareness about children's rights and child abuse has been largely assisted through the use of the media. I spoke to many individuals who believe that the exposure of abuse through the media had contributed to the increase in reports to the police. The public also has become more open about discussing abuse, in particular sexual abuse.

On the negative side, over exposure has resulted in a sense of resignation to the prevalence of abuse, and for some people, de-sensitisation. One *matai* in village

5said that if there were news of a child who had been being sexually abused, he no longer felt dread or disbelief because the reports appeared daily as if it was normal. Some participants suggested that the increase in child sexual abuse was a sign of the last days before the coming of Christ (V:5, *komiti*; V:3, *matai*). Other participants believed that child abuse was an inevitable consequence to the economic, political and social changes in the country. These participants talked about a growing gap between those with money and those without, and increasing lawlessness in society particularly by young people.

Some participants accused the media of depicting sexual images that induced copycat offending (V:2,3,5, *komiti*; V:2,3,5, *matai*). Videos, films, music, magazines, newspapers were so easily accessible that parents could not prevent access by young people. Some local newspapers were criticised for printing sexually explicit short fictional stories in order to boost circulation (V:3, *matai*). When I explored this view with two young women (18 & 22 years), I was told that there had been stories in the local newspapers that contained, in Samoan terms, highly explicit descriptions of sexual activity, eventhough it was in figurative language. Even these two 'liberal' minded young women were surprised to find such material in a local newspaper, and admitted to a consequent interest in the short stories in the particular publication.

Conclusion

The NGO's commenced work in the field of child abuse and established networks with the villages prior to the more recent activities by government departments. This work has resulted in the identification of NGO's as support agencies instead of state services. The NGO's had a significant body of knowledge that they were able to contribute to partnership relationships with government departments.

Despite the NGO experience and established links with the community, the newly established committee on the CRC was dominated by government departments which suggest a top down approach. This finding confirmed a feeling of exploitation from MOA towards government agencies. While MOA

supported government agencies by providing information and attending meetings to which they were invited, MOA had difficulty obtaining appointments and information from government agencies when its agency required them.

The use of the media has had a powerful influence on public awareness and assisted in breaking the taboo of talking about sexual matters across gender and age groups in society. The question of balance needs now to be addressed in the way media agencies themselves use child abuse to promote issues as well as circulation.

The findings in Chapter Seven have already shown that state laws and agencies were ineffective in protecting children, unless the values and beliefs that formed the foundation of such laws were consistent with those of the communities. NGO's have the networks and ability to breach the line between state and customary authorities. This status has potential benefits for the local communities through the provision of services without the coercive element of the state. There need not be competition between NGO's and state agencies.

Samoa is a small country with a strong tradition of community involvement in seeking solutions to its own issues, as demonstrated by the village committees and non-village-affiliated NGO's. Policy development, implementation and evaluation need to involve NGO's as they are mediums through which services and information can be relayed to the community. True partnership between state and NGO's in the development of policy and programmes affirms and respects their knowledge, experience, skills and aspirations for the community.

Chapter Nine

Government Agencies

Information was obtained from the departments of Police, Justice, Education, Health and Statistics. While working as a state social worker in New Zealand, the main sources of notifications for child abuse from state departments are the Police, health and educational facilities. Consequently I chose to include these agencies in the research. Unfortunately I was unable to engage the Attorney General's Office in the study. The analysis of the information from state agencies in this chapter is done by combining the village findings, interviews with independent informants, communication with staff from the relevant departments, and the review of secondary materials.

The statistical data is limited due to the lack of adequate collating systems and to relaxed recording practices as previously explained in Part I. In addition, the researcher reviewed a number of files for the purposes of obtaining a snap shot of the situation, not the full picture. These limitations must be kept in mind when interpreting the information in this chapter.

The chapter discusses the areas in the order of Health, Education, followed by Police and Justice combined. The study explores existing policies and systems within the departments to deal with complaints, and the surrounding factors that impact on their implementation.

The analysis looked at conviction rates for physical and sexual crimes in order to identify the high risk age groups for both victims and offenders. A relationship comparison was also done to identify dynamics in interpersonal relationships between children and offenders, and to explore the location of offences. Location was significant because it highlighted issues about accessibility of authorities and services. The final section of the chapter uses examples of manslaughter, grievous bodily harm, infanticide, and sexual intercourse cases to look more closely at sentencing outcomes from the *fono* and the courts.

Case examples are used throughout this chapter to facilitate discussion and explore issues, not to indicate typicality unless otherwise specified. The information around physical assaults is discussed first, followed by sexual crimes.

Health

There is no existing reporting protocol between Police and Health departments, according to Police. I enquired at the research and planning sections of the Health department if there were a reporting policy for cases of child abuse and all replied no. If there was one, no one had seen it. Health professionals reported at their discretion.

The statistics section of the Ministry of Health (Min. Health) did not have a category for 'child abuse' or non-accidental injuries (NAI), as physical abuse is commonly referred to in western countries (Francis Brebner, personal communication, Min. Health, 2003, October 5). The category of 'Injury, poisoning and certain other consequences of external causes' was too general to provide accurate figures of any incidents of child abuse. Medical staff relied on information provided by patients as to the causes of their injuries. The cause did not determine the category under which the injury was recorded; hence injuries as a result of physical abuse may be categorised as a skeletal fracture, broken arm and so forth. A relaxed attitude to recording on the wards also made it difficult for data to be accurately collated.

Police files indicated that very serious injuries that resulted in hospitalisation of children were reported by hospitals, but it was not a routine practice. A village participant had alluded to this with her statement about health facilities in her district:

E iai a tamaiti ua fufue e o latou aiga ua foa, ia... a uma a, ia ave i le falema'i, aumai fai faalelei le ulu ia, ia.... e leai a se mea e tupu mai... ave i le tulafono?... pe e leai se feau a le tulafono ia i le faiga o la'u fanau.... pe a..?
(V:2, mother in her sixties)

there are children who are hit by their families and suffer head injuries....when it's over, (she) is taken to hospital, then brought home, (the) head is treated properly...nothing comes of it...take to authorities? ..don't think the law has any right over the way I treat my children...or what...?

During the course of the research, I discovered another case of a child who was hospitalised due to abuse. This information came to be by a professional in the education sector. The hospital was informed that the broken arm was caused by a teacher but it did not report the matter to police. The child was discharged and the matter was dealt with between the family and the school involved.

According to Police case files, the cases reported by hospitals had been mostly of children who either died as a result of an assault or had suffered 'serious' injuries to the point near-death. The line between what was reported what was not, was up to the particular staff involved. There also appeared to be inconsistencies in co-operation between health and police in cases of abuse. In an article in the *Samoan Observer* on 13 August 2003, Police were told by judges to summon doctors to court if they did not produce medical reports.

While the Health department has registers for teenage pregnancies and suicide, it does not have a register for child abuse. This is an area that could be developed to aid the identification of vulnerable children and the targeting of any assistance programmes.

The line between what needs to be reported and what does not is to be defined for health professionals, further complicated by personal attitudes to state intervention as reflected by the lack of co-operation with police and the courts.

Education

The Ministry of Education (MOE) has a policy against physical punishment in government schools. The policy is contained in the School Management Manual

that states: "It is a criminal offence for a Principal or teacher to inflict any physical punishment on any student" (L. Taulealo, Ministry of Education, personal communication, 12 October 2003).

The policy implies that 'reasonable punishment' as permitted under section 14 of the Infants Ordinance 1961 does not include physical punishment. Section 14 states that "nothing in this Ordinance shall be construed to take away or affect the right of any parent, teacher, or other persons having the lawful control or charge of a child to administer reasonable punishment to such child" (USP, Infants Ordinance, 1961). It is encouraging that the Ministry had gone beyond the Ordinance in an attempt to prevent physical punishment and therefore abuse to children in schools.

Reminders about the policy were sent out in a newsletter called the *Tala Mai Malifa* that was issued by the Ministry to all government schools. This mail-out did not appear to have included private schools run by religious institutions, or other more specialised learning facilities such as music schools, private kindergartens, day care facilities and so forth. The policy was accompanied by a reporting protocol to MOE.

Taulealo advised that every complaint that was made to the MOE was investigated internally, followed by a report to the Public Service Commission. Families were encouraged by the Ministry to also complain to police. The Public Service Commission, not the MOE, decided on any disciplinary action. A few cases in recent years had resulted in the government paying compensation to the victim's families, but this was not the typical outcome. I did make a request to the ministry for permission to view these files but I did not receive a reply. These cases had apparently been publicised in local media at the time of the sentences.

While the no hitting policy existed there were no systems to monitor compliance. According to information held by Police, the majority of complaints were made by the children's family themselves not the schools.

In an interview with the Honourable Naomi Fiame, Minister of Education on 7 July 2003, I asked if the prevention of physical discipline was a priority for the Ministry. Fiame informed me that the enforcement of the policy against the use of physical discipline had to be seen in the context of all the duties of the Ministry, such as the construction of the schools, getting teachers trained and so forth. The difficulties with enforcing the policy were also due to a significant proportion of parents and teachers who continued to believe in the right of schools to physically punish children. Many teachers continue to struggle with the concept of children's rights.

I asked Fiame if overcrowded classes was a contributor to stresses on teachers, which therefore impacted on the likelihood of physical abuse. Fiame explained that overcrowding was a previous problem particularly in the urban schools, but this had now been partially resolved by zoning so that children had to attend local schools. Fiame did not comment directly on the link between overcrowding, stress and abuse.

An aid worker who was interviewed for this research said that she witnessed on a daily basis, a teacher inflicting physical punishment on students to a degree she that felt was abusive. This worker said that if a teacher did the same thing in her country, she would be imprisoned. When the aid worker confronted the teacher about the harsh punishment, the teacher explained that the child was accustomed to such treatment at home so she had to do the same, otherwise the child never responded to instruction.

During my enquiries, I was informed by a church official who was on the church school's board about a case of physical abuse. A senior teacher in one of the schools had assaulted a child, causing a head injury. Some years prior, the same teacher had assaulted a child, breaking the child's arm. According to the informant, the staff member was allowed to continue teaching after the first incident after matters were resolved with the child's family. Later in the research, I asked the informant what the board had decided about the teacher. The official sheepishly informed me that the board had reinstated the teacher after resolving

the matter with the family. The incident was not reported to Police. The informant indicated to me that this was the typical way complaints were resolved.

The following table illustrates four cases of assault by teachers obtained from Police files. In the review of twenty nine assault files, four were found to involve teachers. As I did not review all convicted cases that involved teachers, these cases are not necessarily representative. The categories were created from the information to facilitate analysis and further discussion.

Table 4: Abuse by Teachers – Case Illustrations

Victim/Offender	Incident	Reported	Informant	Sentence
Case 1 14yrs/27yrs	Child hit on the head with heavy object, hit on the legs with wood. Other students were also hit. Charge: Assault	31/07/2002	mother	18/11/2002 \$200.00 fine or 1 month prison
Case 2 8 yrs/30yrs	Child beaten with a piece of wood. Charge: Assault	21/07/2001	father	12/11/2001 \$300 fine or 1 month prison
Case 3 12yrs/41yrs	Child slapped around the face causing bleeding to the nose and Mouth, and punched in the stomach. Assault continued with a wooden object. Charge: Assault	22/02/2000	hospital	22/05/2000 \$500 fine
Case 4 14yrs/57yrs	Child hit on back and arms with a piece of wood, causing a broken arm. Other students were also hit. Charge: Assault	unclear	brother	18/09/1999 Ordered to appear in 18 months for sentence but only if offender re-offended

(Police Department)

The case files showed some patterns of interest:

- None were reported by the school themselves.
- Where it was mentioned that other students were also assaulted there were no consequent investigation or charges laid in relation to them.
- The teachers believed their actions were justified.
- None of the sentences prevented any of these teachers from practicing as teachers.
- There appeared no escalation in degree of sentences over the years despite government enforcement of CRC.
- The cases took some months to resolve, but there was nothing in the files to indicate that the teachers were ever suspended from their duties within that time.

The case files showed that the teachers felt justified in their actions, and purposely inflicted the injuries on the children. All assaults occurred in the presence of other children. This factor suggested that such punishments served the purpose of role modeling and public humiliation for the victims. The openness of such practices suggested that the schools themselves were tolerant of abuse. By combining the village feedback with these findings, it is clear that the use of fear and force negatively affects the child's educational and emotional development. These cases provided examples of situations that village participants mentioned, which affected a child's sense of self worth and led to suicidal thoughts. These outcomes challenge the idea that such 'disciplinary' methods are beneficial to children's learning. Interestingly, all offenders in these cases were male.

While informal reconciliation between schools and families assisted ongoing relationships in the community, they did not necessarily help a teacher with a volatile temper or a sadistic mentality, nor did they decrease the pressures on teachers with overcrowded classrooms. The files reviewed had no mention of any *fono* involvement which was consistent with the village findings that incidents were often addressed informally or referred to the MOE; a few went to

Police and fewer eventuated in court. The out of court processes masked the prevalence of abuse in schools.

The sentencing outcomes in the table indicate that the courts appeared to tolerate assaults by teachers. Case 4 in 1999 showed an 18 month suspended sentence for the brutal assault of a child, causing a broken arm. What was the deterrent factor intended in such a sentence? One wonders if the age of the perpetrator had any impact on the sentence imposed? In 2002, there was a \$200 fine for the brutal assault of another child. While \$200 may have had some meaning in 1961 when the Ordinance was adopted, one questions the purpose of such amounts today if they are to function as a deterrent or 'consequence' for abuse. The four cases ranged between 1999 and 2002, but there appeared to be no escalation in the fines or lengths of sentences for child assaults.

In many private schools such as religious based institutions, complaints are dealt with according to their own policies. According to Police, there is a tendency, if not a preference, in the community and by these institutions to address complaints within the institutional structure instead of seeking state intervention. When I asked a police officer why he thought schools did not consistently report incidents, he suggested that perhaps the principals were more concerned with the protection of their staff. The number of complaints made against teachers was not decreasing. The officer interviewed said many reported cases were resolved out of court as often the parents withdrew the complaint after negotiations with the teacher, or with the school concerned.

Clearly there is some way to go in developing a cultural and attitudinal change within the education sector, community and the state judiciary itself about physical punishment in schools. Teachers, parents, police and the courts appeared to lack a basic understanding of the impact of abuse on children's ability to learn, self esteem and social esteem for families. There appears to be a need for enforcement of children's constitutional rights to freedom from degrading punishment and protection as citizens under the law in this area. The

fact that these assaults were not reported by the schools themselves indicates an area of extreme vulnerability for children. These incidents suggests that the no hitting and reporting policy set by MOE may not be adhered to as the schools involved were non private.

Police and Justice

The information from the Police and Justice departments is discussed together because the two departments work very closely. The majority of the information obtained from the justice files is also in the police files. A third partner to the process is the Attorney General's Office, but I was unsuccessful in engaging this department in the research.

I begin this section with a discussion of the complaint process. I then look at conviction rates related to physical crimes against children. An analysis of conviction trends is followed by the victim-perpetrator profiles regarding ages and relationship. The same structure is then used to look at convictions for sexual crimes. The final part of this section looks at particular categories of offences to explore the way crimes against children have been addressed under both the traditional and state systems.

Complaints Process

Anyone can make a complaint to any Police station, either as an individual or as a representative of the victim. In the main office in Apia, the complaints are handled by the Criminal Investigation Bureau (CIB). All complaints are recorded in a register. In the rural areas, there is some distrust of local officers in the district bases due to actual or suspected family links to the district in which they are based (V:1,4, *matai*). The research participants believed that complaints were more readily acted upon at the main centres (V:5, *auluma*; V:4, *komiti*; V:1,6, *matai*).

The interviewing room at CIB is about as private as the traditional *fale*. The large room contains several desks, chairs and some typewriters. An officer sits on one side of the desk and the interviewee on the other. Within arms reach is another

similar set up with no walls between the interview settings. The officer takes statements from offenders, victims and other witnesses in this large room. Until recently, children were also interviewed in this room. Children are now interviewed in an attached room, with an entry door that is through the main interviewing space. There is limited anonymity to the public.

There is no specific training on child abuse for staff. Previous trainings on abuse were conducted by MOA and the Australian Police at different times. Child abuse cases are distributed to whichever officer is available according to caseloads. At the time of writing, the CIB had three women in the team.

According to an officer interviewed, children are always interviewed in the company of a mother or a support person. The support person would be removed if their presence were found to be detrimental to the child's statement. According to the officer, this provision has never been challenged in court for suggestibility. Attempts are made at CIB to have a female officer interview the child but it is not a routine practice. On one occasion an outside professional was called in to assist a child to make a statement. A child can be re-interviewed by the state prosecutor at a later stage in preparation for court. The child's statement is recorded in writing by the interviewing officer. The case files reviewed showed these recordings as summarised versions not a word for word transcript of the interview. There is no audio or video recording of the child's statements. These factors in another setting would have significant influence on reliability of evidence and so forth, which significantly influences the success of a prosecution.

File Reviews

The file reviews were conducted in order to explore how the state systems dealt with cases of child abuse, and to look at the relationship between state and traditional justice systems.

I was provided with a list of convicted cases that involved victims up to the age of 19 years for the years 1996 to 2002. The list was compiled by one of the officers at the Criminal Records Office (CRO). The list contained names and

ages of the victims and perpetrators, villages, charges, conviction dates, and a *very* brief description of the main offence. The actual relationship between offender and victims was not identified on the conviction list, such as teacher, father, cousin and so forth, apart from infanticide and incest when it was obvious by the age and charge that the offender was a parent. I chose to review cases that involved victims up to the age of 18 years to remain consistent with my definition of child.

A total of 60 files were reviewed. This was approximately a third of all convicted cases between 1996 and 2002. Approximately half of these files were for sexual assault and half for physical offences. Initially, I did not set a specific number of files to be reviewed but I aimed to formulate a general impression by reviewing a sufficient number; the final figure is incidental. I attempted to review all cases that rarely occurred such as manslaughter, infanticide rape and incest to see if there were any patterns to these offences that could provide insight to causes and prevention. For the more common categories such as indecent assault, sexual intercourse, and physical assault, I selected some based on the ages to see how a case that involved a very young victim was handled, how a case of an older offender was dealt with, a typical victim-offender age group as identified from the conviction list, and any recidivist offenders.

Police files typically contained statements from victims, offenders, and witnesses. Most of the statements for sexual offences were translated into English and the translated version contained in the files, checked and signed by police. I was informed that the purpose of translation was to enable any judge who may sit at an appeal case to peruse the information. The issue of Police translating their own statements was not disputed in any of the files although there were slight discrepancies between some statements and their translations.

Some files indicated that a medical was conducted but there was no medical report accompanying it. In one file, the doctor who assessed the child's case left the country without preparing the report; in another case the doctor simply refused to conduct a medical assessment. All interdepartmental correspondences between Attorney General's Office, Police, Justice and Health

departments were in English. Very few files contained photographs; many contained character references from religious leaders, *pulenu'u* and other support people for the offender.

For every person who was convicted of an offence, a Previous Conviction (PC) number and an index card was created at CRO. There was no record of any previous charges unless they resulted in a conviction. This is significant for cases of child abuse because the failure in the processes did not mean that the offence did not occur, which disadvantages children but screens patterns of offending for recidivist offenders. At the time of writing, Police were seeking the technology and the training to appropriately collate this information.

When I enquired in late August 2003 about a file for a murder case that resulted in the death sentence in April the same year, the file had not yet reached CRO. Officers suspected that the file was with the Attorney General's (AG) Office or the Police Commissioner after it was confirmed that it was not with CIB. I later located the file with a court clerk in the Justice department.

Out of Court Resolutions

The successful conviction of an offence occurred at the end of a long process between laying a complaint and court. As such, conviction rates did not reflect of the extent of abuse that was being reported to Police. Processes prior to the conviction revealed significant elements that impacted on the protection of children through the state systems.

Resolutions outside court were not discouraged by police should the victim and perpetrator parties wish it. According to an officer at CIB this was not unusual as Samoans tended to want to resolve conflict quickly. Police decided which cases could be resolved and which continued to court. In the absence of adequate data, I was unable to estimate the number of out of court resolutions, including dismissed cases. On the positive side, this practice provided an opportunity for primary victims and offender parties to resolve conflict mutually without unwanted intervention from the state. This also assisted the courts by preventing less serious crimes from clogging the system, or lessening the number of cases

going through the system. I was informed by an officer at CIB that previously when there was only one judge for the country, it took up to two years to resolve a case. Now there are three judges and a 'typical' child abuse case would be resolved within six months.

The practice of out of court resolution disguises the extent of abuse as they do not appear in conviction records, and affects the ability to track repeat offenders. If officers do not take child abuse seriously, particularly physical abuse, then this process perpetuates minimization. Such a situation was consistent with those reported by MOA workers in Chapter Eight. I asked a detective at CIB how they decided which cases could be informally resolved and which went to court. I was informed that cases of common assault were often settled out of court while the more serious charges such as ABH and GBH went through the court system. I was informed that all complaints of sexual assault proceeded to court.

A detective at CIB estimated that in 2003, they received at least three reports of sexual abuse a week. At this rate, one would expect at least 156 complaints a year. Complaints of physical assaults on children were estimated to far outnumber sexual assaults. Conviction tables that will follow will show that the number of convictions are relatively low in relation to the estimated reporting frequencies, for both categories of abuse.

The out of court resolution stage, was where some participants claimed that officers were being financially rewarded by parties for terminating state intervention. For some participants, this 'payment' was an unwritten protocol in communicating with public servants. One woman said that some officers had to be bribed to progress a complaint, she said *a le po oa le guku i le luasefulu* (V:4, mother), unless you slap the mouth with a \$20.00 ...". Another participant said that he personally knew of cases when officers were bribed (V:4, *matai*).

The culture of 'payment for service' whether it is displayed through food or money, extended to other relationships between the community and the public service. Local villages often provided food for teachers and examiners in schools, for visiting nurses and other government workers who visited. One

participant group joked that police always responded to their calls because of the good meal that awaited them (V:3, *matai*). While such practices may be cultural, they have the ability to influence outcomes in matters of justice. The practice also depletes resources from vulnerable people with already limited means.

Regional Patterns

Conviction records show that complaints came from all around the country. More complaints appeared to come from Upolu. The majority of reported incidents came from the Apia Urban and North Western Upolu regions. This is not surprisingly since approximately three quarters of the population live in Upolu and concentrated in these areas.

According to an officer from CIB, the higher reporting rates were also influenced by the possibility that people in urban areas were more aware of their rights and the law. Materials already reviewed (Slade, 2002) and information from independent informants who were *matai* in their villages, confirm that some *fono* discourage people from taking complaints to state authorities, which would also affect on reporting statistics and cloud prevalence of abuse in certain areas. Due to limited resources I was unable to explore why people chose to take matters to the police instead of, or in spite of the *fono*, this requires further study.

While participants claimed that child abuse rarely occurred in their villages, the files showed that places of birth and upbringing for perpetrators were not always within the villages where they offended. It may be more constructive to look at the fact that Samoa is geographically so small that any therapeutic programmes might as well target the whole country.

The conviction statistics and case files were provided to me by CRO on 5 June 2003, the information is yet to be publicly released. I have collated the information in ways to help identify high risk groups for victims and offenders, in order to assist the targeting of any awareness, educational and prevention programmes. The discussion begins with the physical (non-sexual offences) followed by sexual offences.

Physical (Non Sexual) Offences

The following is a table of convictions statistics for non-sexual assault on children under the age of 18 years between 1996 and 2002.

Table 5: Physical (non-sexual) Offences - Convictions 1996-2002

Charge	Year						
	1996	1997	1998	1999	2000	2001	2002
Assault	7	9	9	6	5	6	6
GBH	0	0	0	1	0	0	0
ABH	0	0	0	0	0	2	1
Manslaughter	0	0	0	2	0	0	1
Infanticide	0	0	0	0	1	0	1
Other	1	0	0	0	0	2	1
Total	8	9	9	8	6	10	10

(Police Department)

Other = concealing dead body of a child, failure to provided necessities for life, abduction

GBH = Grievous Bodily Harm

ABH = Actual Bodily Harm

Table 5 indicates that the majority of cases of assault were classified under common assault. There is no obviously increasing or decreasing trend. The flattening out of the overall numbers of convictions may indicate the maximum capacity of the courts, as they do not include the vast body of cases that go through the system in any given year. The numbers of convictions do not reflect in any way the high number of physical assaults reported to Police according to CIB. This may be an area of concern considering the out of court resolution practice.

The table shows the appearance of more serious offences such as infanticide and manslaughter in more recent years. It is unknown if these crimes were new or if they were only recently being reported. It is possible that the less serious assaults were given lower priority by authorities in order to process the more

serious offences. Such a practice if it existed, demoted the more common cases of assault from state intervention, yet it should be at this lower level that abuse is addressed in order to prevent the more serious offences.

Perpetrator/Victim Age Profiles.

Table 6: Age Profiles - Physical Convictions

Offender	Freq.	Victim	Freq.
16 - 19	16	< 7	8
20 - 24	22	8 - 10	6
25 - 29	8	11 - 13	10
30 - 34	4	14 - 16	21
35 - 39	6	<18	14
40 - 44	5		
45 - 49	2		
50 - 54	0		
55 - 59	1		

< = under

(Police Department)

Freq. - frequency

Table 6 shows that the majority of perpetrators were in the 16 to 24 age group (59%). The older group of offenders tended to be professionals; the three oldest perpetrators were one *faifeau* and two were teachers. The victim trend is most significant from 14-18 years (59%). The table indicates the prevalence of youth violence as well as violence to teenagers. Assaults on teenagers in the <18 group were often committed by two perpetrators as a retaliatory exchange.

Incidents varied from altercations between young men in public places, to assaults due to disobedience. Incidents occurred in the home, the village and in public places. The victimisation of younger children was less random and by those more intimately connected. I address the younger victims in more depth in the next section on relationships.

Perpetrator/Victim Relationship

A total of 29 assault files were reviewed to explore this element. The limited number of files revealed some useful insights about the relationships and the location of the offences.

Perpetrators of infanticide (2), concealing dead body of child (1), and failure to provide necessities of life (1), were all mothers of the victims. Perpetrators for 'other' offences included local villagers (13), strangers (4), teachers (4), *faifeau* (1), relatives (2), and classmate (1). 'Relatives' included relatives by marriage who lived with the victim. The majority of perpetrators for the 'other' categories were male.

In cases that involved villagers and others in a professional role, the offenders felt justified in their use of violence. The prevalence of abuse by members of the public possibly reflects general attitudes and beliefs about the acceptability of violence to children. One case involved some boys who were merely walking along a public road when a hotel worker ordered them to pick up rubbish outside the hotel. At some stage, the hotel worker hit the victim on the head causing the boy's head to hit a pole, which resulted in a fractured skull. In another case, two boys were assaulted for refusing to hand over alcohol they were accused of possessing (which they did not) by two male offenders.

One case involved a *faifeau* who was reported for sexual as well as physical abuse of a teenage girl, yet he was only charged with the physical assault. There was no explanation in the case file for the omission of charges for the sexual allegations even though they were the primary concerns for the initial complaint. While there was concern from the Attorney General's Office about the handling of the sexual allegations, it did not appeal the charges in court. The handling of this case raises concerns about impartiality within the state justice system when an offender is someone of status and authority in the community. The case file indicated that the offender continued to practice as a *faifeau* and was not confronted in court about the sexual abuse allegations, although I did not have access to the transcript of the court procedures. This lack of action to address the injustice to the child suggests a continuance of practices that advantages adult interests over justice for children.

Of significance were the relatively few convictions for physical assault by a family perpetrator among the files reviewed, apart from crimes against newborn

children. The relatively few cases that involved family members were, however, the more serious assaults with fatal consequences.

Case files showed that assaults that led very serious injuries or death occurred mostly to children under the age of 10 years. Children under 7 years were victims of infanticide, concealing dead body, failure to provide necessities for life, abduction and grievous bodily harm. Two children under 10 years died from beatings by step parents. All perpetrators of abuse that led to the death of a child were parental figures. Apart from infanticide, the other deaths were caused by acts of 'discipline', all of which were witnessed by family members. The data suggests that sadly, the most dangerous place for a child is in the home, and the most brutal offenders are the same people who are in the roles of protector. These findings are similar to those deduced from the Australian and Fijian studies previously discussed.

The presence of family members who allowed the 'disciplinary' acts to continue to the child's detriment, and the relatively small number of reports against family members, confirm the risks to children as a result of these beliefs about parental 'ownership' of children, and family autonomy in the community. These findings are consistent with the views expressed in the village interviews about the right of family members to use extreme 'discipline' on children, with minimum intervention by others (refer to Chapter Seven). Significantly, all cases of manslaughter and crimes against newborns were reported by professionals or villagers, not by family members. This suggests an amount of collusion within abusive families, which may never change without the active, be it coercive intervention, from the wider community.

These findings challenge ideals of family autonomy. Assumptions that natural processes such as love and common sense will protect children, as opposed to laws and regulations are hereby challenged also. The findings place direct responsibility for the abuse and protection of children upon families and local communities.

The government's overall role in the prevention of abuse appears to be flawed, when the interests of those in authority are able to somehow subvert the course of justice. This situation parallels the vulnerabilities of the *fono* to self interests of members, as expressed by one *matai*. The situation justifies to some extent the distrust expressed by some participants of state authorities.

The findings highlight opposite poles of existence between the communities and the law due to the conflicting beliefs and values connected to children. The suggest the futility of enforcing laws without first attending to beliefs and attitudes that influence individual decision making at all levels in society, from the family to the courts.

Sexual Offences

Between 1996 and 2002, there were a total of 110 sexual offenders convicted for sexual offences against children under the age of 18 years. In the following table, each conviction count is for one victim.

Table 7: Sexual Offences - Convictions 1996-2002

YEAR	Rape/A.R	C<12	12<C<16	16<C<18	Incest	Ind. Ass.
1996	2	0	8	0	0	2
1997	0	0	3	0	0	3
1998	0	0	10	0	1	6
1999	0	0	13	0	0	9
2000	0	0	13	0	0	7
2001	0	2	5	0	0	5
2002	2	1	15	0	0	12
Total	4	3	67	0	1	44

(Police Department)

C = Child

C < 12 = Sexual intercourse with a child under 12 years old

12 < C < 16 = sexual intercourse with child between 12 years and 16 years old (also referred to as carnal knowledge).

16 < C < 18 = Sexual intercourse with a child between from the age of 16 years up to 18 years old.

A.R = Attempted Rape

Ind. Ass. – Indecent Assault

I asked CIB why it was that when children allege rape, the charge was often from a sexual intercourse category, according to the files. I was told that charges laid were heavily influenced by evidential requirements. The proof required for sexual intercourse categories was relatively less than it was for rape the latter carried a lengthier sentence. The consequence for failure to prove a rape charge was that the perpetrator would go free. Without sophisticated forensic tools to assist investigations, police relied largely on witnesses as well as physical evidence. I noted in the case files an emphasis on finding out if the offender ejaculated inside the victim, particularly in an admission by the offender himself. I wondered if this was the 'evidence'. Surprisingly, the table shows only four convictions for rape and attempted rape in six years. Case files for convictions for sexual intercourse with children under 12, clearly show that the children were raped regardless of what the courts decided. The prevalence of these two very serious categories of sexual crimes in reality is therefore significantly higher than the convictions figures suggest.

Also, if incestuous relationships were interpreted using cultural definitions of family, some cases which were classified under sexual intercourse categories would have appeared as incest. The categorising of charges to meet evidential requirements and according to definitions within legislation, clearly disguise the prevalence of such crimes.

Table 7 shows an increase in the number of sexual offences over the six year span, as well as the emerging number of 'more serious' offences like rape and sexual intercourse with a child under 12 years. The files showed that the youngest rape offender was a 12 year old boy who violently raped a 13 year old girl in 2001. Despite his age, the offender used a knife to coerce the victim. The offender attributed his offence to the devil, a similar justification used by adult offenders of similar crimes.

The overall numbers of convictions are disturbing considering that they only represent a portion of the total number of reports estimated to be made to police. I will look in detail into Indecent Assault cases in the next sections.

Perpetrator/Victim Age Profiles

The purpose of this analysis is to identify high risk groups for victims and offenders. Such data could assist the targeting of appropriate programmes for both government agencies and the community agencies.

a) *Rape, attempted rape and sexual intercourse categories.*

Table 8: Age Profiles - Rape, Attempted Rape, Sexual Intercourse

Perpetrator	Freq.	Victim	Freq.
12 - 16	6	7-9	1
17 - 20	10	10-12	9
21 - 24	25	13-15	57
25 - 28	14	16-18	5
29 - 32	5	Total	72
33 - 36	2		
37 - 40	1		
41 - 44	1		
45 - 48	1		
49 - 52	0		
53 - 56	1		
57 - 60	2		
61 +	1		
Total	69		

(Police Department)

Table 8 shows that the high risk ages for victims under these categories (79.2%) is between 13 and 15 years. As children got older (16-18 years) their vulnerability lessened dramatically. The dramatic decrease among the older group may be due to increased physical resistance, awareness of personal safety, and maturity of the victims.

It is concerning that 13.9% of victims were under the age of 13 years. The rate is twice that for the 16-18 age group which suggests that younger children may be more at risk or more targeted for sexual assault than older teenagers. If the number of successful convictions is conservative to the number of complaints regarding victims of this age, the percentage could be more alarming.

The offender categories show a pattern of gradual escalation from late teens to late 20's, peaking around 24 years. A large group of offenders (56.5%) were between the ages of 21-28 years. In the village setting, this group would most likely be in the *taulele'a* group. Only 20.3% of offenders were aged 29 years and over. Note the emerging number of offenders who were under 16 years of age.

b) Indecent Assault

Table 9: Age Profiles - Indecent Assault

Perpetrator	Freq.
12 to 16	5
17 to 20	4
21 to 24	5
25 to 28	6
29 to 32	3
33 to 36	5
37 to 40	5
41 to 44	1
45 to 48	0
49 to 52	1
53 to 56	1
57 to 60	0
61+	2
Total	38

Victim	Freq.
3 to 6	10
7 to 10	14
11 to 14	14
15 to 18	4
Total	42

(Police Department)

Indecent assault figures show a higher number of very young victims compared to the intercourse related categories.

When the frequency of a particular age group in the conviction figures is compared to their percentage in total population (%), this finding becomes more significant. There were 14 cases by offenders between 12-20 years. This age group makes up approximately 37.4% of Samoa's total population. This results in an offending ratio of 14:37.4% (37.4%). For those aged 45-59 years, the ratio is 4:15.8% (25%). For offenders between 60-64 years, the ratio is 2:4.1% (48.8%). Population percentages were obtained from the Department of

Statistics. The rate of offending by groups who were traditionally seen as elders and authority figures is concerning, as it is the same group who are expected to safeguard children in families. It is likely that these groups include members of the *taulele'a* and *fono*.

The files indicated that in some cases, indecent assault was committed on young children because of their physical development stage. Some of the files indicated that the victim was indecently assaulted after failed attempts by the perpetrator to have intercourse, an act that one could argue to be attempted rape. The files that contained a child's allegation that the perpetrator attempted penile penetration showed no charges for rape or attempted rape, only indecent assault. The charges pursued appeared to be reliant on what acts an offender admits to have committed.

Unlike physical assaults where family perpetrators were the minority, sexual assault figures showed a dramatic increase in the number of offenders within the family. On the positive side, people were less tolerant of sexual abuse by family members and reported more. These findings reflected the beliefs held by village participants, that while physical abuse could be rationalised and tolerated, sexual abuse was less so.

Overall, indecent assault was a crime that was committed by offenders across the age groups, particularly by older men in relation to their population prevalence; and involved a significant number of victims from pre-school age onwards.

The popular assumptions that sex was not a subject appropriate to be taught to children in schools and that children were too young to talk about sex, are countered by these findings. The reality is that children were being targeted, perhaps specifically because of their vulnerabilities within the family, and in the community. The situation forces the issue of sex education in schools in order for children to protect themselves.

Perpetrator/Victim Relationship

This information used to explore the relationship between victims and offenders were obtained from a sample of 31 sexual assault files.

A comparison between the numbers of perpetrators from family compared to non-family could not be done due to limitations in personal resources and time. This requires further research.

The perpetrators in the files reviewed were: 2 birth fathers, 2 stepfathers, 7 relatives, 1 grandfather, 18 local villagers, and 1 professional. None were siblings. The files showed the composition of relationships between offender and victims to be the following: 38.7% family, 58% local villagers, and the rest were professionals involved with the child. All perpetrators were male.

The majority of offences occurred on the victim's family property of the victim (sometimes the victim and offender were from the same family network), and in other areas within the village boundary such as the bush and plantation. The majority of family offences were committed either in the home or in close proximity to the house. No offences in the files reviewed occurred outside the village grounds. The most likely place of victimisation therefore was within the child's familiar environment.

All family perpetrators lived either in the same house or elsewhere on the family property. All non family perpetrators were known to the child. There were no assaults by strangers.

The location of the offences within the villages placed the *fono* as the most accessible authority to the families concerned. Why some families chose to pursue justice through the state system and not the *fono*, or in addition to the *fono*, was not clear in the files.

The court delays and the prevalence of the location of offences and offenders within the local communities highlight the need for active authorities there. This

raises important considerations regarding social control in rural communities. If people reported to police due to distrust of local authorities, this may be of concern. The prevalence of reports to police, however, may be because village authorities decided to await the court outcome to assist its deliberations, or considered that the matter was for the state authorities. On the positive side, people's use of state agencies indicates a recognition that child abuse is a criminal offence.

Overall, the information points to the need to target both sexes in public awareness and prevention programmes. The current practice by NGO's and MWA to primarily target women's groups with these programmes is inadequate, because men are the main offenders. The targeting of women to keep children safe reinforces the blaming of women when children are abused. This negates the social expectations of men as protectors, and removes the incentive for them to take responsibility for the perpetuation of these abuses. In light of dominant patriarchal beliefs and male dominated authorities in Samoan society, it is may be more appropriate and effective for men to challenge other men about abusive behaviour.

The information about the location of offences within local communities points to the need for enhanced relationships between the police and local authorities. There appears a need to established policies and protocols between the two authorities for more effective law enforcement.

Comment on Processes: Statutory and Traditional

I now reflect on how the two systems of justice dealt with crimes against children, using case examples of manslaughter, GBH, crimes against newborns, and sexual offences. The analysis is based on information contained in the case files as collated by Police and Justice departments, which obviously represents the interests of the state. I have created categories from the information contained in the files to facilitate the analysis of the cases.

Local village intervention was normally recorded in the pre-sentencing reports by the Justice department. According to the files, *fono* outcomes and traditional

processes often occurred much sooner than court outcomes. Unfortunately the dates when these occurred were not recorded. Traditional processes were always taken into consideration by the court judges in their sentencing, and often affected the final sentence imposed by the courts. The absence of *fono* involvement in the pre-sentencing reports did not necessarily mean that none occurred. The descriptions of the incidents were obtained primarily from the victim statements in order to analyse the processes regarding the events, as described by the child. Victim statements were, as previously stated, recorded in writing, typed and translated by police officers.

Manslaughter and Grievous Bodily Harm

Table 10: Manslaughter - Case Illustrations.

Victim/Offender Age	Incident	Reported	Sentence
Case 1 7 years/36 years Child-Stepfather	Child was beaten with a solid implement causing a head injury. The child fell and hit her head on a hard surface. Father prevented mother from taking the child to hospital until several hours later. Child died in hospital the same night. Reason: Child did not respond immediately to instruction. Charge: Manslaughter.	5/4/1999	Court: 5/5/1999 4 years Fono: Banishment of immediate family.
Case 2 8 years/41 years Child-Stepfather	Child summoned then beaten behind closed doors by the perpetrator. The beating stopped when a relative intervened. Child died en route to the hospital. Reason: Child damaged a Step-sibling's property. Charge: Manslaughter.	25/6/1998	Court: 2/11/1998 3.5 years. Appealed – increased to 5 years on 26/8/1999 Fono: Letter recommending a fine and the release of the perpetrator.

(Police Department)

The above are two of the three convictions for manslaughter of a child in the six years studied. Both children died from injuries caused by step parents for what appeared to be trivial causes. The judges attempted to be consistent while the *fono* outcomes were at extreme opposites.

In both cases, the deaths were viewed within the communities as tragic accidents. The file for Case 2 indicated that the *fono* believed that the perpetrator lost control but did not intend to kill the child. The letter from the *fono* recommended a light sentence as they “really needed” his services. However, medical records and witness testimonies indicated that both children suffered ongoing abuse from their perpetrators. The abusive incidents that resulted in the children’s deaths were therefore not random occurrences.

The two cases above are compared with a case of grievous bodily harm (GBH) where the child survived.

Table 11: Grievous Bodily Harm – Case Illustration

Victim/Offender	Incident	Reported	Sentence
Case 3 5 years / 23 years Child-Stepfather	Child beaten severely with <i>salu- lima</i> . Family intervened when saw child lying on the ground while offender continued. Child suffered multiple injuries to the head, stomach, and the rest of his body. Reason: Disobedience Charge: Grievous Bodily Harm	18/06/2001 by hospital	Court: 13/8/2001 18 months Probation Fono: No record

(Police Department)

The extent of the injuries were significant and the age of the child further highlighted his helplessness. The court sentence however suggests that the assault was not significant, as neither a fine nor a prison term was issued. There was no mention of a *fono* intervention.

One asks two questions:

- Does a child have to die for the courts and the *fono* to take the physical abuse of children within their families seriously?
- What does it take to challenge the traditional perceptions of the status of children in local community?

The files showed that in all three cases, the offender appeared to resent the child. The reasons provided by perpetrators for the assaults suggested that the motivation for the beatings were more deeply rooted than the precipitating event. That all three perpetrators were step parents appears to support the views of village participants who suggested that step parents scapegoat step-children over issues to do with personal insecurity and jealousy. The extent of the assaults on the children and subsequent acts by perpetrators to prevent authorities from knowing about their actions by delaying the seeking of medical assistance, suggest that firstly there was an intent to harm the child, and secondly, that the perpetrators were concerned primarily with their own protection.

These findings suggest that in cases of child abuse, the well being of the child was not the determining factor for action, even in the face of death. In Case 2 there was a delay in seeking medical advice for the child. After beating the child, the father instructed the mother to clean the child up; this victim died on the way to hospital. In Case 3, the child was not taken to hospital until the day after the assault when it was obvious that he was in urgent need of medical assistance.

The community responses to the incidents indicated an extreme tolerance of violence towards children, as well as tolerance of abusive male authority in the home. The files indicated that the mothers in all three cases believed that their partners were the authority in the home; this was the same for members of the extended family and the village who witnessed or heard other assaults on the children at different times but allowed the abuse to continue. In Case 3, an extended family member who witnessed the assault intervened only after the child ceased to move, lying on the ground, as his stepfather continued to beat

him. Interestingly, those who intervened to stop the beatings were all female, which suggests that perhaps men see this rescuing role as belonging to women, or that it was not appropriate for a man interfere with the 'private affairs' of another.

In Case 1, relatives and village people were aware of the assault but did not act to overrule the father's refusal to take the child to the hospital. The nearest health facility was several villages away. The mother had to borrow money from a neighbour and find means of transport to take her child some hours later, after her partner finally agreed. The child died in hospital the same night; her parents told hospital staff that she fell out of a tree. The case was reported to police only because the staff nurse suspected that the child had been beaten. This case raises the issue about the lack of resources for local facilities; the availability of an ambulance could possibly have saved this child's life. Another issue is the question of how many other child deaths over the years, have been blamed on accidental causes, while witnesses and families protected the real perpetrators?

These cases illustrate the reality for children when their mothers, families and neighbours are unable or unwilling to intervene due to beliefs about parental authority, family autonomy, and fears of retaliation from the perpetrator. Societal expectations that women protect children appear to be overruled by the fact that this had to occur with the male's permission. 'Mother blaming' through such expectations ignore the reality for women for their own survival, and the 'legitimizing' of male violence through a system of beliefs and values within the community.

During my enquiries, the mother of the victim in Case 1 had returned to the village that banished them, awaiting her partner's release so that they could reunite as a family. There was a general opinion among village participants that the child's death was unintentional, and that the offender was possibly under the influence of drugs at the time of the assault. There was also a general belief that the family had suffered enough. The willingness of the village participants to review the banishment order, reflected a process of justice that acknowledges the value of accountability through punishment, healing and restoration.

Crimes Against the Newborn

Table 12: Crimes Against Newborns - Case Illustrations

Offender	Incident	Reported	Sentence
35 yrs (single)	Child born in the bush and left there. Mother visited the baby once to feed it before locals found the child. Reason: Unclear Charge: Failure to provide necessities for life of a child	28/01/2002 by hospital	Court: 12/3/2002 2 yrs Probation or 2 months jail. Fono: No record
22 yrs (married)	Child born in the bush then buried. Child said to be stillborn. Reason: To hide an affair. Charge: Infanticide	17/04/2001 by locals	Court: 8/3/2001 2 yrs Probation + 50 hrs Community Service Fono: No record
21yrs (single)	Child born and thrown in the river Child said to be stillborn. Reason: Brothers threatened to kill the mother after a previous pregnancy out of wedlock Charge: Infanticide	25/01/2000 by hospital	Court: 23/5/2000 2 yrs Probation, plus referral for counselling Fono: No record
20yrs (single)	Baby born then buried in a plantation. Child said to be stillborn. Reason: Unclear. Charge: Concealing dead body of a child	22/02/1996 by locals	Court: 3/12/1996 \$400 or 2 months jail. Fono: No record

(Police Department)

There were five convictions between 1996 and 2002 of cases that involved crimes against newborn babies; four of these files were reviewed. The four files were infanticide (2), failure to provide necessities for life (1) and concealing a dead body of a child (1).

There were no records of any *fono* involvement though this did not necessarily mean that there was none. The absence of *fono* involvement may suggest that the offence was considered one that did not affect the wider community, so the community did not have a responsibility to address it.

All the babies were born in isolated areas with only the mother present. Due to the timeframe of pregnancy, it is possible that the decision to commit such an act was premeditated. The four files showed that the crimes were committed by the women, due to fears for their safety from physical retaliation by family members, or being pregnant outside marriage, or to hide an affair, combined with shame. It is significant that three of the four women claimed that their babies were stillborn. Perhaps if the children were born alive, the charges may have escalated to murder or manslaughter. There is a parallel here between infanticide and suicide as a form of escape from physical abuse and social humiliation, but instead of killing the self the violence is transferred to the newborn child.

The court sentences made no attempt to address these crimes as public issues. While the women will forever carry the memories and emotional consequences of their actions, the social factors that contributed to their offending were not addressed by the judiciary processes. This reinforces the view that the sole responsibility for both the crimes and the children lay with the women. While the judges appeared to empathise with the women, the victims' right to life and their protection appeared of minimal consideration. None of the women received prison sentences. In comparison, men who abused children causing death in the cases of manslaughter all received prison sentences. Both systems, traditional and statutory, therefore appeared more tolerant of women who killed children, especially when the victims were the less visible newborns.

It is important to remember that a child, whose life was ended through infanticide or neglect, probably died a painful, horrible, and lonely death. The lack of responsibility towards these children by the courts, their fathers, families and communities, and through processes of justice appears to do little to deter continued occurrences of such crimes.

Sexual Crimes.

Table 13: Sexual Crimes – Case Illustrations

Victim/Offender	Incident	Reported	Sentence
Case 1 17 years/45 years Child-Father	Rape on multiple occasions at home, often in bed while a sibling slept next to the victim Charge: Rape, Incest	14/04/2002 by mother	Court: 26/08/2002 8 years Fono: Money, mats boxes of tinned Fish.
Case 2 11years/54 years Child-Uncle	Rape and other indecencies. Charge: Indecent Assault	16/12/2001 by cousin	Court: 25/2/2002 2.5 years reduced to 2 years due to village fine. Fono: \$500
Case 3 14years/62years Child - Grand- father	Rape on multiple occasions. Charge: Indecent Assault	16/02/2000 by uncle	Court: 27/3/2000 9 months Appealed (in 2003) Raised to 3years. Fono: No record
Case 4 12years/32years Child - Step- father	Sucked child's breast and fondled her vagina on multiple occasions. Charge: Indecent Assault	9/06/1999 g/mother	Court: 16/8/1999 18 months Fono: No record

(Police Department)

The time frames for cases appeared reasonable, facilitated greatly by the confessions of the perpetrators, and support for the victims from significant persons in their families. The length of time for processing the complaints from the time of reporting to sentencing varied between two and six months. The outcome for the appeal in Case 3 occurred three years later.

The sentence of 8 years in Case 1 for incest and rape was the lengthiest given in a sexual abuse conviction between 1996 and 2002 according to police records. The sentence was issued by a visiting judge to Samoa. This was a sharp contrast to previous sentences given to many cases of sexual assault including rape. The situation illustrates the urgent need for the judiciary to review their sentencing practices by taking into account the suffering of victims. The apparent reluctance to jail offenders for significant lengths of time, in addition to a lack of rehabilitation programmes neglect the risks these offenders pose to children.

The perpetrator in Case 2 was rewarded by the court by removing six months from his sentence due to a payment of \$500 to the village. What if the perpetrator had paid \$5000? Would the sentence have been reduced completely? Where was the deterrent? Unfortunately, the outcomes from the two systems appeared to have been oblivious of the trauma and violation that the 11 year old victim suffered.

Interestingly in Case 2, when the offender was asked by the an officer of the Justice department if an apology had been made to the child's family, he replied that it had not, as he claimed not to know where the child lived with her grandmother, yet he remained in a relationship with the child's mother. This raised the possibility that the *ifoga* could be practiced in cases of 'incest' (if cultural definitions were applied), between the perpetrator's family and the child's birth family as the victim was the offender's step child.

In Case 3, the victim's statement indicated numerous incidents of alleged rape, yet the charge laid was indecent assault. The initial sentence of 9 months in

2000 was remarkable considering the extent of the offences, and considering the likelihood that the offender would serve only part of the sentence before being eligible for parole. The dramatic increase in the sentence to 3 years on appeal in 2003 suggests a major error in judgment in the earlier outcome, but the sentence was still less than half of the 7 year maximum term for such offences. What does a child have to go through, and what does an offender have to do to get a maximum sentence?

Case 4 is of particular concern due to the handling of a child's disclosure by government agency. The offences were initially exposed by a friend of the victim to a school teacher. The teacher consequently questioned the victim, who confirmed the information. The teacher then instructed the victim not to tell anyone. Somehow the maternal grandmother who lived elsewhere heard about the allegations and removed the child from the care of her parents.

This case raises a concern about the ability of schools to keep children safe if staff were unable or unwilling to deal with abuse. The village where the incident occurred was a rural one and there was no mention in the file of any procedures in the school to help teachers deal with disclosures. This raises a general concern about how many such disclosures are made by children to teachers that are not reported.

These cases suggest that sexual offences against children may not be taken seriously in either system in Samoa. It is hard to see where the interests of children are served in the processes as the interests of offenders and authorities appeared to take precedent. While the sentencing statements by judges suggested that they took abuse seriously, the outcomes did not always reflect that. None of the sentences were maximum sentences despite the seriousness of the violations.

The outcomes from both systems were consistent only in reinforcing the attitude that children were expendable victims in society. Perhaps it is time that both levels of authority review the appropriateness of legislation and punishments, and the goals of justice. According to the increasing number of convictions for

sexual crimes against children, the current consequences do not appear to deter sexual offending.

Male Victims

Between 1996 and 2002, there was only one conviction for a sexual offence that involved a male child. The relative invisibility of male victims for sexual assault is a concern, but this finding must be viewed in light of the gaps in the records.

The file contained statements from the victim and offender as well as support people from their families. The 10 year old victim alleged that the 17 year old offender dragged him into the bushes, held a knife to his throat and forced him to suck his penis. Once the offender ejaculated he forced the child to suck his semen. The victim also alleged that the offender attempted to sodomise him. When questioned why he assaulted the child, the perpetrator said that the boy had teased him the previous day. The perpetrator later added that he was overcome by the devil.

No medical record was found in terms of the child's complaint about the sore bottom or any tests for STIs. The perpetrator made no statement about holding the knife to the child's throat nor did he mention any attempt to sodomise. No charges were filed for attempt to sodomise or sodomy or for the threat to kill as the child had alleged. The charge was indecency between males.

The offender was sentenced to 12 months probation while the *fono* fined the offender's family 5 boxes of tinned fish. There was no rehabilitation for either of the boys. In this case the *fono* imposed punishment upon the offender by publicising the offence and held his family accountable. The court on the other hand minimised the violation and the trauma to the child, and implied that community service would somehow rehabilitate such a violent sexual offender.

I asked a senior detective for his view on the ability of current sentences to deter offenders from re-offending. The officer said that he accepted whatever the judge issued because the judge was the ultimate authority. It appeared to me

that the culture of blind acceptance and obedience of authority continued into adulthood.

Youth Sex Offenders.

Youth offenders are referred to here as those under the voting age of 21 years. The data for the years between 1996 and 2002 show a high prevalence of physical and sexual offences by youth offenders.

The literature reviewed in Chapter Four particularly that regarding sexual offenders, suggests that when offending occurs during the youth years, it must be addressed appropriately to prevent re-offending. The files indicated a tolerance of sexual offences by young men, due to a belief that it was due to youthful experimentation or foolishness.

According to case files, the most commonly stated mitigating circumstances for young sex offenders were:

- first offence
- youth
- poor education
- remorse

There was a view portrayed in the pre-sentencing reports that young offenders could be rehabilitated with more discipline, instruction, love and support from their communities. There were also speculations that perpetrators may have been victims of sexual abuse themselves earlier in their lives, therefore deserving of some lenience, yet none of the files I reviewed documented any pre-victimisation. As a result of assumptions and lay assessments, young offenders were given warnings, probation or community service. A few files documented referrals to local *faifeau* or an agency for counseling.

Returning a young sexual offender back to the context where he developed the attitudes and beliefs that contributed to his offending, in the absence of appropriate rehabilitation, could do more harm than good. Similarly, for offenders

of non-sexual violence who may associate violence and power over others with manhood. Reinforcing verbally to someone values and societal rules that he already knows and has purposely violated has limited use.

Recidivist Offending

Although the majority of files reviewed stated that the offender was a first offender, this was not always the case. Conviction records do not show how many times a person has appeared in court accused of sexual or physical assault. If cases were resolved outside court, they were not recorded in an offender's PC (Previous Conviction) card. Obviously cases addressed in the *fono* independent of court were not registered anywhere. The term 'first offender' could therefore be misleading.

A *matai* who was interviewed in this study said that he could personally name *pulenu'u* who were known child molesters in their districts. Other *pulenu'u* often joked about these recidivist offenders saying things like "*o le matou tama lena na nofo fo'i ma toe 'ai lona ia afafine*" - that's our boy who ate (had sex with) his own daughter.. “.

The informant said that for these offenders, their offences were contained within the *fono*. Punishment was issued in the form of material fines. This was further complicated by police officers who held titles in particular villages, and acted in the role of judge and jury without reporting incidents to the department. This view echoed those expressed by village participants who distrusted local police for suspected or known family links to the community, and chose to take complaints directly to the main centres. The offenders with authority in local communities often maintained their titles, responsibilities over their extended families as well as the role as *pulenu'u*.

This is clearly a concern, but not surprising considering the historical way that men with rank saw themselves as being entitled to sex. There may still be a tolerance for sexual exploitation by men from others with rank, expressed through token punishments that which act to maintain relationships between them. The situation raises issues over the lack of transparency of the *fono* to

outsiders, who may have an interest in the wider public safety but have limited ability to intervene.

Punishment without rehabilitation is ineffective for habitual offenders. The following statement by a perpetrator from a case file gives an example of the way a recidivist offender perceived his child victim. After persistent attempts to groom the child and being 'rejected', the offender said

*sa ou iloa loa e le manao le teineititi I lea ituaiga amio
lega, o lea sa ou alu ese ai*

(54 year old perpetrator about his 11 year old victim)

once I realised the child did not want such bad behaviour
I went away

The perpetrator considered the child old enough to consider a sexual relationship with him. This offender attempted to groom the young girl by exposing his genitals to her whenever no one was looking. One time while the child was dressing for school, the perpetrator called out to her; when she looked he exposed his genitals to her. The perpetrator invested time and energy into grooming the child and probably considered his frequent exposures as flirting, while for the child they were highly disturbing events.

The initial decision by the perpetrator to allow the child a free choice was eventually overcome when he sexually violated her as she lay next to her sleeping grandmother. Neither her resistance nor the presence of a witness prevented the offence from occurring. This case illustrates that a recidivist offender would pursue his victim no matter what. No material consequences or physical barriers would deter him.

During police investigations, another female relative disclosed that this man had raped her when she was a teenager, but she had never told anyone. A pre-sentencing report found no psychiatric concerns for this man, nor was he under the influence of drugs or alcohol during any of the incidents. The report writers

did not specify what 'psychiatric' problems they looked for in their interviews with the offenders.

In 1998 a man of 62 years was charged and convicted for the indecent assault of two girls aged 7 years and 8 years. In 2001 the same offender was again charged and convicted for the indecent assault of one of the girls he violated in 1998. This case and others similar indicate that sexual offending for recidivist offenders is similar to an addiction. Offenders could abstain for only so long. Such perpetrators were likely to not only leave trails of victims over the years, but continued tolerance of their behaviour in the community meant that they would continue to enjoy sex with children throughout their lives, with the direct or indirect support of others. These findings are similar to those associated with paedophiles in New Zealand (Haynes, 1998).

One of the phrases often seen in pre-sentencing reports by the Probation department was the phrase "does not have a sexual problem". The files did not explain what a sexual problem was or how they assessed this. The sexual assault of a child appeared to have been associated with the offender's ability to have an erection or possibly sexual deprivation in his relationships. Such statements signified a lack of awareness of the literature about sexual offenders. The two offenders in the cases discussed, were an uncle and grandfather to the respective victims, men who were likely to have possessed status and rank within their communities. Sexual offending is not necessarily because of the absence of a sexual partner; it often occurs in addition to it.

A point of interest from the files was the prevalence of victim blaming in cases of sexual assault that involved teenage victims. It was not uncommon to find offender statements that reported the victim as the initiator of sex, by verbal invitation, behavioural encouragement, or by creating situations in order to be with the offender, in addition to the typical response by offenders of having been overcome by the devil. Teenage girls were made out to be seducers who asked for sex, their offenders on the other hand were helpless victims, never mind that some were married with children or that they clearly had the advantage of age, gender, rank, maturity and physical dominance. In one case reviewed, the

probation officer agreed with the offender's explanation that it was the teenager who led him on, and recommended a monetary penalty. Thankfully the judge recognised the crime for what it was and ordered a jail sentence. These cases highlight attitudes and beliefs in the community and within state services that continue to blame female victims, even a child, and shield men from responsibility.

In the absence of any rehabilitative programmes for sexual offenders, it is unknown how Samoan authorities, local or state, intend to protect children from recidivist offenders.

Conclusion

There are no established protocols between the departments of Education, Police and Health to assist the reporting of abuse. The processes that exist appeared flawed as indicated by the lapses in co-operation between the departments, perhaps partially due to an insistence on self autonomy.

Education

While policies exist in the Education department to prevent the use of physical discipline, schools appear to operate independently of this policy. There are clear indicators that physical abuse continues to be administered in schools. There is no active monitoring of this policy.

There appears to be no established procedures within schools to help staff identify signs of abuse, or to cope with disclosures from children, particularly in cases of sexual abuse. The establishment of procedures in addition to appropriate training for teachers throughout the education sector could provide a safety network for children in abusive environments.

In urban settings where the wider family networks are absent, teachers could be important mediums to the prevention of abuse. Teachers as outsiders are free of the loyalties and obligations that the children worry about compared to talking to a family member. Teachers are also significant role models for children. These

factors associate teachers with trust if they are willing to accept the responsibility towards children that comes with those expectations. Teachers must be able to cope with disclosures at an individual level and have the courage to protect the child at the risk of their own safety, well being, and perhaps in the face of opposition from management.

To support teachers to 'step out', there need to be policies through the education sector to enforce compliance by school management in reporting abuse, whether committed by another child, a caregiver or a staff member. It is important that teachers understand the implications of abuse to a child's daily survival, educational development and longterm well being. The overall reporting policy that involves the Public Service Commission is a positive step towards holding staff and school accountable.

The current patterns of sentencing for teachers who physically assault children appear to minimise such crimes and the disruptions they cause to victim's development, to a matter of dollars for the state.

Health

While education has some protocols, health does not appear to have one at all. The reliance on staff to use individual judgment to report abuse means that the measurement of abuse is inconsistent. This ad hoc process relies on people's personal judgment about abuse, their ability and willingness to challenge clients about injuries, and consideration of personal risks if they report.

If professionals adopt a firm stand against abuse, they may provide sources of support more readily for isolated victims and families. Local health centers could do more than treat illnesses by providing locations for counselling support and advice, which do not all have to be done by medical staff, but by appropriately trained people who co-work with the village committees and the health professionals.

Police and Justice

The findings showed that existing laws, policies, and their implementation are inadequate to protect children.

There were clear patterns concerning cases of physical assault when it came to families and non-family offenders. Overall, children who suffered serious abuse from family members were less likely to receive intervention by those within their own communities or outside, compared to children who were assaulted by non-family members. The dangers to children due to attitudes about parental authority, family autonomy and minimum intervention by authorities were illustrated in cases of manslaughter and crimes against the newborn. Systems of justice further uphold these beliefs by the punishments imposed on offenders.

The increasing number of cases from the new settlement areas in comparison to traditional villages may simply indicate increased awareness or where customary authorities have little influence over inhabitants. Villages that discouraged people from laying complaints to state authorities, disguised the prevalence of abuse in their own communities by doing so. In one participant village, the *fono* did not feel comfortable punishing the perpetrator and delayed a decision by conveniently leaving the matter for the courts to decide. Meanwhile, the family silenced the victim by not supporting her to further speak with police.

The relatively small number of physical assaults on children that proceed through court over the years suggests that physical assaults are tolerated and therefore demoted more readily to less formal resolutions. The situation appeared to suggest that unless someone killed a child or beat her to the point of unconsciousness, physical assault was tolerable.

Sexual offences appeared to proceed more readily through the court process. The rate of offending by 'older' men was very concerning, particularly in their victimisation of very young children.

Consequences from both systems towards sexual offending were varied and inconsistent. The findings suggest that courts appeared reluctant to apply firm

consequences for offenders of physical and sexual abuse. Maximum sentences are rarely ordered in court despite the horrific affects of the crimes on the victims and the cruel intent of offenders. The existence of maximum terms, fines within legislation, and the administering of these sentences appear somewhat tokenistic.

The findings from the study showed that current institutional and customary practices based on patriarchal beliefs and lower status of children shielded offenders from accountability. Teenage girls were the aggressor in cases of sexual abuse, the mother was blamed for being neglectful if her child was sexually assaulted, 'custom' was blamed for child labour, a woman who committed infanticide received sympathy because people understood her fears for her own life, fathers who killed were possibly affected by drugs, and temptation in the form of a child was the cause for rape.

In the majority of case files that were reviewed, the expenses to the government appeared somewhat wasteful when the majority of offenders admitted to allegations in their first interview with investigating officers. While this did not devalue the vast body of skill and expertise that were involved in the processing of a complaint, the outcome could have been settled much earlier on, limiting expenses, disruption and uncertainty for all concerned.

Hospitals reported at their own discretion, police officers could decide if complaints were accepted and which cases went to court or resolved 'informally', schools continued to administer physical punishment, and police and lawyers 'bargained' on appropriate charges with little if any involvement from the victims. Judges and *fono* members ordered outcomes at their discretion. These processes appear to be ad hoc, based on limited resources, expediency, some self interest, influenced by the preservation of status and the possibility of prosecution success. What about the child?

Perhaps it is time that Samoa review its laws and practices in relation to its own measures, values, beliefs and reality, as opposed to continuing to administer laws from a society from another time, culture, economy and political make up.

Chapter Ten

Case Study

The following case study is used to illustrate the impact of traditional and state processes upon victims and their families. This case, though singular and non representative, identifies issues for those within village *fono*, supporting agencies and state authorities to consider when dealing with child abuse complaints.

The information was obtained from interviews with the mother of a victim, the Police officer who was in charge of the investigation, and three *matai*'s from the victim's village. I was also able to view the case file with the permission of the Justice Department. Unfortunately I was unable to interview the lawyer from the Attorney General's Office who was appointed to the case.

Victim:

8 year old girl; lives with her parents and younger siblings in a rural village.

Alleged Perpetrator:

57 year old male; a father, lives in the neighbouring village, friend of members of the child's extended family, known to the child.

Incident:

The incident occurred during a family gathering at the alleged perpetrator's village. In the evening while the mother was occupied, the children were left to sleep on their own in a house within full view of extended family members. Later in the evening prior to midnight, the victim was abducted from her bed by the perpetrator. The child was taken to an isolated spot through the bushes some distance from the house and sexually assaulted. According to the mother, the victim woke to find herself being carried by the perpetrator. The child attempted to scream but the perpetrator held his hand over her mouth. The child was taken to a nearby grave where the perpetrator laid her down and proceeded to sexually assault her. The child was awake the whole time and attempted to

scream. The child suffered significant tearing to her perineum which caused massive bleeding. According to the mother, a male family member recalled hearing a scream in the night around the time of the incident, but later dismissed it as he was not sure where it came from. After the assault, the perpetrator left and the bleeding child stumbled through the bushes back to where her family was gathered. The child was rushed to the local hospital where it was discovered that the facility did not have the expertise or the equipment to help her. The child was then transported to the main hospital approximately two hours away where she immediately received surgery.

The mother said that when she first saw her daughter she resembled an animal, wild and bleeding. The mother was lost for words to describe her daughter six months after the event.

The incident was reported to Police by hospital staff. A local man who was known to villagers as a convicted paedophile was accused. He denied the allegation.

a) Village response

No disciplinary action was issued by the village *fono* upon the alleged offender. The mother was unsure why this was but thought that it was because the alleged offender did not live in their village. The parents however did not challenge the ruling of the *fono*. Mother believed that their village could have addressed the matter with the alleged offender's village, as has occurred in other matters. The mother could not understand how members of her own family continued to associate with the alleged offender. The *matai* in the village blamed the mother for not supervising the children on the night. This woman will carry guilt and blame for the rest of her life.

Because the alleged offender denied the allegation there has been no closure for the child or her family through either the *fono* or the courts. Consequently, the child's father took matters into his own hands. The accused was assaulted by the victim's father on a village bus as an act of revenge. Family members of the accused did not retaliate but asked the child's father to not assault him again. It

was apparent that while the *fono* and courts did not believe the child, there were people in the local community who did. The mother remained puzzled at how the systems of 'justice' failed her daughter.

b) State Response

Police were uncertain about how to proceed with the charges because there was not enough evidence to proceed with a prosecution. The lack of evidence appeared mainly to be an absence of a confession, the authorities inability to accept the child's identification of her assailant, and lack of witnesses to the incident. The child's description of the alleged perpetrator was considered unacceptable as it was dark. Police suspected that the child's identification, including the accused voice, was influenced by others in the community therefore unreliable. The fact that the accused was known to the child was inadequate. The elements of shock, delayed recall and other post-trauma responses typical of rape victims, especially a child, did not appear to have been considered in the court's deliberation of the evidence. If these factors were considered, there was no indication of it in the file that was made available to me. The case was taken to court for the judge to decide if there were sufficient grounds for a prosecution. Approximately three months after the incident, a court hearing was held that involved re questioning of the child and other significant people. The court decided against a prosecution due to insufficient evidence. The case remains unsolved.

There was some query over the wording of the statement that was taken by the interviewing officer from the accused, as transcribed by police. In particular where the accused admitted to police that child abuse occurred but in hindsight, was not an admission of guilt.

The accused had a criminal history involving sexual assault of a young child, and had been incarcerated on more than one occasion for a variety of crimes. Both these factors are consistent with pre determinants of sexual offending (Finkelhor, 1986). Incarceration was neither a threat nor a deterrent for such an offender.

I wondered what could have been achieved for this child if police, hospitals, lawyers and judges had the technology, training and the support of other disciplines such as psychologists and social workers, as commonly available in more developed countries. There also appeared to be an absence of visible cohesion between the disciplines according to the case file. Alternatively, I wondered if the existence of all this would have made any difference to the outcome because the victim was a child.

c) After effects

According to the mother, her daughter had not been able to sleep through the night since the assault. The mother could not understand why her daughter's behaviour had become so irrational and difficult to manage. The mother spoke of her own pattern of beating the child more often out of desperation.

Several times during our interview the mother said that should her daughter have died on the night of the assault, she (daughter) might have been spared the physical suffering and the ongoing emotional trauma from the memories. The child attends the local primary school where it is well known that she had been sexually assaulted. The mother hoped that no one teased her daughter over the incident or reminded her of it.

I asked this mother how she and her husband were coping with the situation. The mother replied that her faith in God continued to give her hope that justice would one day occur. The husband however, had emotionally closed down, and had not attended church since the incident. The family received two visits from the local priest after the incident and had not seen him since.

The parents remained at a loss as to how to deal with their anger, unresolved grief for their daughter, and their own feelings of helplessness. The mother said she felt as if their child's suffering meant nothing to those in authority. The sense of personal helplessness was compounded by the failure of the so-called justice systems to hold anyone accountable for their child's suffering. This family's grief, helplessness, anger and isolation are reflected in the

following quote from interviews with victims under a similar system in New Zealand.

When the initial effects of the crime have subsided, victims will often be left with feelings of anger, anxiety, confusion, fear, a sense of powerlessness, and a loss of trust in others, which may affect their relationships, work and attitudes to society in the long term. (N.Z Law Commission, 2002, p. 40).

The psychological impact of continued association upon the victim and her parents (who could be described to be on the verge of committing a crime themselves) were immense.

On the day of our interview, I saw the child concerned as she played happily with other children. At the end of our interview, we were unable to locate the child and two other siblings. We drove around the nearest homes of relatives to look for the children but they could not be found. The panic and anxiety on the mother's face as she looked around frantically made it clear that she also had been deeply traumatised by the event, and was herself in need of support.

Comment on Statutory Processes.

Due to the activities on the night and the numerous relatives who had full view of where the children slept, the offender would have needed to carefully plan the abduction so as not to alert attention. Any stranger would have been noticed which again suggests that the offender was likely to be known to the child. The fact that people recognise those who they are familiar with by voice without visual presence, and the uncanny ability of villagers in rural areas to recognise people in the dark in ways that city dwellers would find impossible did not appear to have been considered in this case. According to the mother, the child woke while she was being carried and tried to scream, it is likely that she knew who the offender was.

The child was taken to a specific spot a considerable distance away from the house. If the night was so dark that the child could not have seen the face of the perpetrator, how could the offender have found his way to the chosen spot? The child herself found her way back. The perpetrator did not stop the physical violation of the child until he brutally injured her, causing extreme physical and emotional trauma. The act was clearly premeditated and sadistic.

The description of the child's emotional and behavioural disturbances symptoms could be consistent with post-trauma effects. The expectation on the child to relive the horror and respond to questions on demand not only violated the blanket of safety that she and her family had built around the memories, but further victimised the child by constantly doubting her to the point where she probably no longer knew what was real or not. The child was not assessed psychologically at any time during the process. No counseling support for the victim or her family was provided through the state justice system. While there were private specialists in Apia who may have been able to provide appropriate counseling and ongoing support, the family itself had limited financial resources.

Records of the court hearing showed that the child was clearly intimidated by the whole process and found it difficult to communicate in court. Instead of looking at the reasons why traumatised children find it difficult to recall painful events, state officials subjected her to the same requirements as adult victims who themselves struggle in similar circumstances. The 'failure' of the child to fulfil certain requirements for the court, meant that the system was unable to help her. The failure of state processes to prove the child's statement appears to have freed it of further responsibility.

This case illustrates that no matter what systems are in place, children's voices and experiences continue to be minimised and devalued. When it came to the point of deciding who to believe, the child was not. What message does this single case send about the position of children in society? What guarantees are there that these processes could ever be protective of children in the longterm?

Chapter Eleven

Summary, Conclusion, Recommendations

Summary

This study is not an attack on culture but on what occurs within it. Any notion that child abuse is located in a specific culture or society is false because research reviewed in this thesis, and the findings of this study, state otherwise.

This thesis is about the child who screams in the night while a man violates her; the religious leaders and teachers who assign themselves the right to beat children; the *fono* who will not deliver a consequence because they want to preserve good relations with the perpetrator and protect its reputation; the mother who refuses to support her child because it might put her husband in jail; communities who cast out recidivist offenders with no care of the consequences to the next; step parents who treat children like second class humans in their own homes; state servants who compromise their duties for personal benefit; and laws and processes that people continue or refuse to implement, to the detriment of children. The lack of measures for physical abuse in law and under departmental policies leaves open the extent to which punishment can be inflicted upon children, and wide discretion about when intervention will occur. All these represent and contribute to, child abuse.

Children are inherently disadvantaged to combat their positions of vulnerability due to their developmental limitations, economic, political and social designations. Children rely on adults and processes in society to protect them. The existence of processes under customary law and legislation implies that children are protected, yet the picture that emerges is concerning. The study found that religion, urbanisation, globalization, poverty, international migration, individualistic philosophies, values and beliefs all affect the way in which processes are conducted, or not, in response to child abuse.

Colonisation and later globalisation introduced particular religious beliefs, political systems and human rights philosophies that affected traditional community structures both positively and negatively. A closer look at the Constitution found that it has more in common with United Nations policies such as the CRC and CEDAW than with traditional values of collective existence, accountability and responsibility.

The most dominant of all foreign influences upon family life and child rearing has been religion. In cases of physical abuse, religious beliefs are used to support the offender's own internal justifications for violence and need for control. Religious teachings and patriarchal attitudes that promote male dominance and justify violence to control women and children are in some ways countered by customary beliefs around the *feagaiga*, incest, *taupou* status, collective accountability and responsibility. While patriarchal attitudes demote women and children to the role of appendages to men, customary beliefs preserve women and children as the responsibility of collectives that overrule individual and other leaders in the community who abuse their authority. What has happened to the ability of the collective to strip abusive leaders of their authority and power, or was this illusion?

The façade about male invincibility, sexuality, power and dominance in society hinders male victims of abuse from seeking help, and impacts on people's tolerance of abuse by male offenders. In cases of sexual abuse, statements such as "the devil made me do it" or "I was overcome by Satan" reflect a refusal to accept personal responsibility by blaming religious beliefs. The perception held by some state servants and local authorities that male sexual offending is due to youthful experimentation, or foolishness for older offenders, minimise the violation and trauma for victims to offender experimentation, momentary insanity (temptation), and lapses in judgment by men.

The research findings suggest a need for religious institutions to 'review' what they preach, in particular the promotion of patriarchal values. Churches and their agents have the doctrines to promote gender equality, valuing those with no power and influence like children, and so forth. The dominant use of religious

justifications for acts of violence to children as well as to women, imply that a shift to the promotion of values and attitudes that promote the care and protection of children, through the sharing of authority, power, value and respect between genders, would go far to prevent abuse in the majority of its forms. This study found that clearly, religious institutions have a responsibility politically, socially and economically for the result of generations of destructive social engineering.

This study found many commonalities between victims and offenders for both types of abuses in Samoa and those in foreign societies. The link between domestic violence and relationship difficulties between adults, and child abuse were shown very clearly in cases of physical assault, particularly in cases of infanticide and manslaughter. The majority of offenders for both physical and sexual abuses are male, except in cases of crimes to the newborn. Similar to overseas studies reviewed in Part I, the most likely origins for offenders are the child's own family and immediate circle of acquaintance.

Samoa differs from other societies due to a high prevalence of physical abuse inflicted by non-family members such as professionals and members of the public. This prevalence is probably due to the overall dominance of adult authority over children in society and sanctioned by social values that support such beliefs. The study found that the high risks to children in the communities from serious harm is due to the reluctance of local bodies to intervene in incidents that occurred within a family, because the family is considered private territory, even in a collective society.

The main difference between Samoa and western societies is the way abuse is addressed. Local communities live local laws as they define them, while the government promotes others that sometimes are in opposition to the local laws produced by foreign societies and adopted by the country prior to independence. The administrators of laws in the *fono* and the courts, as well as the general population appear to manipulate the two as they see fit without necessarily being neglectful of justice.

The interests of 'justice' as reflected in local punishments and sentences often appear primarily to serve the interests of collectives and authorities, perhaps in an assumption that doing so would somehow be sufficient to serve the interests of the child victim. According to participants, the gradual breakdown of collective authority and customary power began the process of removing the buffers that were present in the culture to protect women and children. The power of collective authority and influence is closely linked to land ownership, which is currently becoming more individualised.

The inability of authorities to appreciate and utilise the relevant provisions that exist also means that the exploitation of children continues as in child labour. Children are taking on the role of economic provider through child labour and possibly child prostitution, although there is no evidence to support the latter. This places Samoan children at similar risk to those in other countries that permit child labour (UNICEF, 2004). While income and poverty no doubt influence decisions by some caregivers to use children economically, as does tolerance of the practice in the public arena, overall acceptance of the 'problem' asserts a lower status for children in society.

The practice whereby departments operate autonomously in the development of policies paralleled that of local villages who self-govern with primary accountability to themselves. I wonder if this insistence on self-rule and autonomy is cultural because it is consistent at all levels of the community, from the family, to NGO's and government departments. What this highlights, is the need for communities to be involved in any development of laws and policies to prevent child abuse.

For a small country, there is no central body to develop policies against abuse for the departments, no central data base, and no specific legislation developed specifically for children in the area of abuse. The result is inconsistency in processes, territorial gate keeping, lack of transparency, uncertainty for families, and distrust, yet all are passionate and committed to the protection of children. There was clearly a need for better co-operation and a cohesive multi-level approach.

Overall, the study found that the success of processes depends on their compatibility with basic values and beliefs in society, and the acceptance of policies by those who are responsible for their implementation, such as parents, *fono*, teachers, police, lawyers, judges, and so forth. Laws that do not reflect the dominant systems of beliefs and values, or are constructed without the involvement of communities accustomed to a certain degree of self-determination, will not be adhered to. Fundamental attitudes and beliefs about children, family, gender roles and expectations, custom and human rights, all need to be reviewed to address their harmful aspects for children.

The dominant influence of local religious leaders, healers and *fono* signify the importance of their involvement and active input into the formulation and establishment of any protocols within communities, and between communities and government agencies, to address child abuse. The recommendations from the participants enhance relationships between local and state authorities. This is a positive step forward.

The relationship between the customary and state authorities currently appears to be somewhat ad hoc with some reciprocal mistrust. The increasing number of reports of abuse nationwide suggests that consequences issued by either authority, are ineffective in the prevention of child abuse.

Conclusion

Samoan people are very proud; ideals around relative autonomy from the individual family unit to the village formed the roots for this pride; and the ability of each unit to take care of its own is central to its self esteem within the greater community. Child abuse, in particular a child death from abuse, violated the image of unity, harmony and invincibility.

There needs to be one shared constitution that clearly states the rights of children and other members of society, not one per village, or the current situation where the state constitution differs from local authorities. Village participants were divided as to which authority was responsible for addressing

abuse. The majority of the *komiti* and *matai* however, were adamant that it is the local constitution that is to be used primarily as the base for 'justice' practices in local communities. The study found that in order for laws to be adhered to, they need to be consistent with local beliefs and values, which consequently supported their enforcement.

A reliance on common sense and ad hoc processes to uphold the rights of children and protect them is neglectful of the historic placement of children in society. It is therefore critical that processes and laws are developed, implemented and enforced, with the community.

The case of personal risk for reporting concerns for individuals must not compromise the ability of service providers to establish rapport and trust with the communities, or it will lead to a decreased ability to protect children. Fear of repercussion however must not hold professionals including the *fono* hostage to abusers, if the safety and protection of children are to be enhanced. Consequently any reporting processes must be developed jointly with the village committees, service providers including *fofō* and churches, NGO's and government departments so that the communities themselves endorse and support their implementation.

The importance of mending relationships, and restoring esteem and dignity for a collective is no less important for a child, especially when the offender is a provider, protector, and person she cares for. How can a child heal if she is coerced into silence or continually doubted by those who are supposed to protect her? This thesis shows that in order to protect children from the most likely perpetrators and situations of harm, programmes must target firstly the family and the local communities.

The culture of reciprocity and collective responsibility that has preserved *fa'asamoa* is something that other societies strive for. Samoa has no armies that patrol local communities, and police work with local *fono* to locate offenders and investigate crimes. While name suppression exists, criminals and their offences are well known to local communities. Once systems of justice had been

implemented no further harm came to offenders. How could this occur in a country that has been portrayed to be so dependent on violence for control?

While Samoa is independent and does not have to battle with a competing nation within its own soil, from an economic, political, social, spiritual and cultural perspective, it is already in such a battle. It appears that governments over time have continued the process of colonisation by adopting the philosophies of the 'west' as superior to traditional Samoan values and beliefs.

Article 7 of the United Nations Declaration on the Rights of Indigenous Peoples states the following:

Indigenous peoples have the collective and individual right not to be subjected to ethnocide and cultural genocide, including prevention of and redress for:

d) Any form of assimilation or integration by other cultures or ways of life imposed on them by legislation, administrative or other measures. (Trask, 1999, pp. 200-201)

Is it possible that the values and beliefs of Samoans have been minimised as 'foolish' or 'child-like' by state authorities, in the same way the first missionaries considered Polynesians?

Processes of justice must advocate for children because they cannot advocate for themselves. Justice is not only about punishment because punishment does not directly heal the victim. Justice is also about affirming value, dignity, and belonging for children in society. Redefining the goals of justice, restoring balance to the genders, reviewing the connection between sexuality and spirituality, and affirming children as the future of families, may be the way forward.

The continual pursuit of justice using systems that are known to be inadequate means that society partakes in the abuse in a systemic level. Without changes, it is likely that current processes will continue to fail Samoan children. By sharing

the load, no one parent, family, agency, department or gender need feel isolated, blamed or disheartened by the victimisation of children.

Recommendations

The goal of the following recommendations assumes the protection of children as a national goal, to be achieved through collective responsibility and cultural identity.

1. Review of the Constitution, CRC and local village constitutions in relation to consistency about children's rights.

Development and review of legislation should to be done through national consultation because the communities have the ultimate responsibility of utilising processes and enforcing such laws. The involvement of women due to their positions as primary caregivers, and victims as primary stakeholders in such developments would be essential.

These pieces of legislation and unwritten local laws, impact directly on the protection of children and their rights. There is a need for one legislated constitution that specifies the rights of children and families based on values and beliefs of Samoans. The constitution must highlight the political, social and cultural status of children. Systems to monitor compliance and enforcement by authorities of children's entitlements need to be developed and implemented.

2. Review of the Village Fono Act, Crimes Ordinance, Infants Ordinance, and any other laws that impact on the protection of children from abuse, in partnership with the community.

There is a need to review if the Fono Act in relation to how local authorities should address the physical and sexual abuse of children in all its forms, as well as their economic exploitation. This will legitimise the use of customary law in cases of child abuse. The Act must clearly specify the types of offences the *fono* was responsible for and clear lines of appeal against rulings. Such a review may

assist the government towards meeting its obligation under the CRC with regards to establishing protocols, networks, and appropriate legislation to ensure the protection of children in local communities where state police may not be as visible or easily accessible. Alternatively, the legislation should more clearly state what crimes or types of misconduct are covered and punishable by *fono*.

Processes and legislation could be developed to combine the positive elements of traditional and state justice under one legislated system. Laws need to clearly define acts of abuse, mandatory processes and consequences. The sentences should reflect the values, beliefs and aspirations of Samoan society about children.

3. Review processes in state departments to facilitate the identification, reporting, investigation and prosecution of offences.

The establishment of effective and practical reporting systems needs to be developed between villages, healers, police, health, education, private agencies and churches. Processes need to be clear, practical, enforceable, and monitored through appropriate systems.

Processes and laws must then be accompanied by the provision of appropriate tools in the form of appropriately skilled and trained personnel, technology, cars, medical facilities, adequate staff, recording equipment, ongoing training and so forth. Services also need to be more accessible and visible in rural communities.

The protection of the victim from further victimisation should be a priority in these processes. Knowledge about the effects of trauma on children, and the intimidating effects of authority and other intrusive but sometimes necessary processes such as medical assessments and court questioning, need to become more victim-sensitive. Processes need to minimise or remove elements that make them vulnerable to corruption and negligent use of the law by administrators.

4. Rehabilitation and support programmes to be provided to victims, offenders and their families.

Assessments of the psychological impact of crimes on children, offenders and their families could guide methods of intervention for police, probation officers, judges, counselors, health providers and so forth. The establishment of links between community providers such as *fofo*, midwives, churches, voluntary agencies and so forth with state services could enable support for victims to be more readily accessed. This could enable counseling to reach children, men and women with issues including unplanned pregnancies, suicidal thoughts, drug and alcohol use and violence, before situations reach the point of crisis.

5. A central data base to be developed for all complaints, intervention and consequences for cases that go through local authorities, state services and NGO's.

A comprehensive data base could provide information to identify targeted groups, allocate resources, identify issues, needs, trends develop appropriate laws and policies, and provides evidence about developments in the various areas. A central data base reinforces the need to address child abuse as a national problem and children as the responsibility of the whole country.

Local authorities must keep registers for complaints, investigations, punishments and so forth, which must then be linked to the central data base. This could enable the tracking of recidivist offenders and at-risk communities. Victims who use the services of traditional healers and midwives must be linked into the central data possibly through local authorities.

Parties need to discuss what will be recorded, where the data base will be located, how the information will be collated, protected, accessed, monitored, who would have access and so forth. Responsibility, ownership and accountability issues will need to be discussed.

6. Training in the area of abuse, related laws and support mechanisms to be delivered on an ongoing basis to all professionals and disciplines within state services, NGO's, religious institutions and local communities.

Training should target the identified high risk groups in local communities and practitioners. These groups need to be involved them in the development and delivery of programmes. Training needs to be planned according to the longterm benefits of preventing abuse, as compared to the shortterm costs of implementing such programmes.

7. This study to be considered as a pilot for further research on child abuse in Samoa.

Climbing Mt Vaea

After being away from Samoa for a number of years, one of my first goals when I arrived there to conduct the research was to climb Mt Vaea, a mountain that lies directly behind my home in Vailima.

On my first climb up the mountain, I felt exhilarated as I reminisced about my days as a child at the bottom of the mountain. I immediately decided that I would climb the mountain daily until I left the island. Part way up my legs began to give way. I started to get hot and before I knew it I forgot about climbing again and began to doubt if I would ever reach the top. I frequently looked up to see if the end was near. How naïve I was! Eventually I stopped looking up. I decided to be kind to myself and continue walking until I collapsed; then I would have a legitimate excuse to give up. Finally, I reached the top. When I arrived my friend who had climbed the mountain ahead of me was doing press ups. My friend turned and took a photo of me just as I was collapsing into the grass. Writing this thesis has been a similar experience.

I went into the research thinking of Samoa as I knew her as child, but I was quickly awakened to the reality that we had both changed. During the writing of this thesis, I grieved and cheered for victims, families, and to some extent, my culture. There were times when emotions took over diplomacy and I had to re write sections, further frustrated by attempts to discipline the narrative nature of Polynesian communication to the type that would be acceptable for western academic requirements. The photo of the climb was like this thesis; it represented a snapshot of the whole journey if only to evidence that it occurred.

Abuse survivors have shown that conquering the mountain that is abuse is a choice. Let us pursue the future with open eyes.

la Manuia.

Soifua.

References

- Abbott, P. & Wallace, C. (1990). *An introduction to sociology: Feminist perspectives*. London & New York: Routledge.
- Adams, C. J., & Fortune, M. M. (Ed.). (1995). *Violence against women and children: A Christian theological sourcebook*. New York: Continuum.
- Adinkrah, M. (2003). Men who kill their own children: paternal filicide incidents in contemporary Fiji. In *Child Abuse & Neglect*, 27, pp. 557-568.
- Afamasaga Toleafoa. (2003, July 22). Suicide: What's the answer? Misa helps show the way. In *Samoan Observer*. Retrieved November 3, 2003, from <http://www.samoanobserver.ws/news/archives/local/ln0703/22lnar.htm>.
- Ashton, V. (2001). The relationship between attitudes toward corporal punishment and the perception and reporting of child maltreatment. In *Child Abuse & Neglect* 25, pp. 389-399.
- AusAid. (1999, July). Child Abuse Feasibility Study Project Identification Mission in the Pacific. Unpublished.
- Babbie, E. (1998). *The practise of social research: Research design* (8th ed.). Belmont, CA: Wadsworth.
- Bartlett, S. (2001, April). Applying UNCROC in New Zealand. In Department of Child, Youth and Family Services. *Social Work Now*, No. 18, pp. 45-47. Wellington: Department of Child, Youth and Family,

- Beautrais, A. (1997, December). Suicidal behaviour in young New Zealanders. In Department of Child, Youth and Family Services. *Social Work Now*, No. 8, pp. 18-25. Wellington: Department of Child Youth and Family Services.
- Bolenga, J. (2003, August). Pacific Women's Information Network.
- Bouma, G. D. (1989). *The research process*. (4th ed.). Melbourne: Oxford University Press.
- Bourke, T. (2002, April 23-29). Sexually transmitted infections in Samoa. Sourced from World Health Organisation research on 'The Antenatal Clinical STI Survey'. In *Le Samoa*, p. 8.
- Brown, T., Sheehan, R., Frederico, M., Hewitt, L. (2002). Child Abuse in the Context of Parental Separation and Divorce. In *Children Australia*, 27(2), pp. 35-40.
- Burton, J. W. (1912). *The call of the Pacific*. London: Charles H. Kelly.
- Cahill, L. S. (2000). *Family: A Christian social perspective*. Minneapolis: Fortress Press.
- Capps, D. (1995). *The child's song: The religious abuse of children*. Louisville, KY: Westminster John Knox Press.
- Carter, K., & Delamont, S. (Ed.). (1996). *Qualitative research: The emotional dimension*. Aldershot: Avebury.
- Cashman, H. (1993). *Christianity and child sexual abuse*. London: Society for Promoting Christian Knowledge.

- Ceci, S. J., & Bruck, M. (1993, Fall). Child witnesses: Translating research into policy: Social policy report, *Society for Research In Child Development*, 7(3), pp. 1-29.
- Child Poverty Action Group. (2001). *Our children: The priority for policy*. Auckland: Child Poverty Action Group.
- Coddington, D. (2003). *The New Zealand paedophile & sex offender index 2004*. Auckland: Alister Taylor.
- Cribb, J. (1997, November). 'Being bashed is just something I have to accept: Western Samoan women's attitudes towards domestic violence in Christchurch'. In *Social Policy Journal of New Zealand*, No. 9, pp. 164-170.
- Davidson, A. (1993). *Endangered peoples*. San Francisco: Sierra Club Books.
- Davies , E. & Seymour, F. (1998, August). Questioning child complainants in sexual abuse cases: Is justice served? In Department of Child, Youth and Family Services: *Social Work Now*, No.10, pp. 23-27. Wellington: Department of Child, Youth and Family Services
- Deans, L. (2001). *Whistle blower*. Auckland: Tandem Press.
- Denzin, N. K. (1989). *The research act: A theoretical introduction to sociological methods strategies of triangulation*. Englewood Cliffs & London: Prentice Hall.
- Department of Children, Young Persons and Their Families Services. (1998 August). Colmar Brunton *Smacking research: Findings of quantitative benchmark*. Prepared for Children Young Persons and Their Families Service. Unpublished.

- Department of Children, Young Person & Their Families Service.
(1999, July). Consolidated *Children, Young Persons and Their Families Act 1989* (Unofficial). Wellington: The Department of Children, Young Persons & Their Families Service.
- Department of Statistics, Samoa. (2003). *Annual statistical abstract 2001-2002*. Apia: Malua Printing Press.
- Dominelli, L. (1991). *Gender, sex offenders and Probation practise*. Norwich: Novata Press.
- Dorais, M. (2002). *Don't tell: The sexual abuse of boys*. (Trans. I. Denholm Meyer). Montreal & Ithaca: McGills-Queens University Press.
- Fairbairn-Dunlop, P. *Tete'e atu le sasa ma le upu malosi*. Unpublished. Retrieved September 2, 2003, from <http://www.minpac.govt.nz/resources/reference/pvdocs/society/dunlop.php>
- Faletoese, K. T. (1959). *O le tala faasolopito o le Ekalesia Samoa (L.M.S)* A history of the Samoan Church (L.M.S). Apia: Malua Printing Press.
- Finkelhor, D. (1986). *A sourcebook on child sexual abuse*. Beverley Hills: Sage.
- Finkelhor, D., & Ormrod, D. (2001, May). Child abuse reported to Police. In *Juvenile Justice Bulletin* May 2001. Retrieved July 20, 2003, from <http://www.ncjrs.org/html/ojjdp/jjbul2001-5-1/contents.html>
- Freeman, D. (1985). *Margaret Mead and Samoa: The making and unmaking of an anthropological myth*. Ringwood, Victoria: Penguin Books.

- Fruean, M. (1997). *The moral status of children: Essays on the rights of the child*. The Hague, Netherlands: Martinus Nijhoff.
- Gardiner, J. (1991). The Medical Assessment of Sexually Abused Children: Mythology and Reality. In Hetherington, P. (Ed.). *Incest and the Community : Australian perspectives*, (pp. 99-103). Nedlands, WA: Penelope Hetherington under the auspices of the Centre for Western Australia History at the University of Western Australia.
- Goldman, I. (1970). *Ancient Polynesian society*. Chicago: The University of Chicago.
- Government of Samoa/AusAid. (2003). *Puipuiga o tamaiti mai le sauaina*. Printed pamphlet produced jointly by the Government of Samoa and AusAid.
- Green, J. B., McKnight, S., Howard Marshall, I. (Ed.). (1992). *Dictionary of Jesus and the gospels. A compendium of contemporary Biblical scholarship*. Downers Grove, IL: InterVarsity Press.
- Greven, P. (1991). *Spare the child: The religious roots of punishment and the psychological impact of physical abuse*. New York: Alfred A. Knopf.
- Hamer, M. (2002). *Incest: A new perspective*. Malden, MA: Blackwell & Cambridge, United Kingdom: Polity Press.
- Haynes, P. (1998). *Is that you daddy? A book about child abuse from a police officer's perspective*. Hamilton: HCS.
- Henaghan, M., & Atkin. B. (Eds.). (2002). *Family law policy in New Zealand*. Wellington: LexisNexis Butterworths.
- Hille, S. (1985). *The rod of guidance*. FaithTrust Institute (Reprinted

from SCAN Advocate, Spring 1985). Retrieved July 3, 2003, from <http://www.faithtrustinstitute.org/Articles/rod-of-guidance.htm>

Holmes, L. D., & Holmes, E. R. (1992). *Samoa village then and now* (2nd ed.). Spindler, G., & Spindler, L. (Ed.). Toronto, Montreal, London, Sydney & Tokyo: Harcourt Brace College.

Jülich, S.J. (2001). *Breaking the silence: Restorative justice and child sexual abuse*. Unpublished Doctorate: Massey University, Albany, New Zealand.

Kellehar, A. (1993). *Unobtrusive researcher: A guide to methods*. St Leonard, NSW: Allen & Unwin.

Kramer, A. (1994). *The Samoa Islands: An outline of a monograph with particular consideration of German Samoa*. Volume 1. (Trans. T. Verhaaren). Auckland: Polynesian Press.

Kramer, A. (1998). *The Samoa Islands: An outline of a monograph with particular consideration of German Samoa*. Volume 2. (Trans. T. Verhaaren). Auckland: Polynesian Press.

Kruger, M., & Duddridge, D. *The sentencing of parents who kill their children: A Queensland study 1979-1997*. Unpublished

Lafai-Sauoaiga, F. S. A. (2000). *O le mavaega i le tai: The will by the sea*. Salelologa: Methodist Printing Press.

Lafai-Sauoaiga, F. S. A. (1988). *O le mavaega i le tai: The will by the sea*. Apia: Malua Printing Press.

Law Commission. (2002). *Seeking Solutions: Options for the change to the New Zealand court system. Part 2 A: Review of the New Zealand court system*. Wellington: The Law Commission.

- Lee, R. M., & Renzetti, C. M. (1993). *Doing research on sensitive subjects*. Newberry Park, California: Sage.
- Lemesio, M. (2003, July 14). Kids work Apia by night. In *Samoa Observer*. Retrieved November 3, 2003, from <http://www.samoanobserver.ws/news/local/ln0703/1407ln001.htm>.
- Lemesio, M. (2003, August 13). Judge lectures Police. In *Samoa Observer*. Retrieved November 3, 2003, from <http://www.samoanobserver.ws/news/archives/local/ln0803/1308ln003.htm>.
- Lewis, N. (1992). *The missionaries*. London: Vintage.
- Mageo, J. M. (2001). *Theorizing self in Samoa: Emotions, genders and sexualities*. Michigan: The University of Michigan Press.
- Manley, M. (1991). *The poverty of nations: Reflection on underdevelopment and the world economy*. London: Pluto Press.
- Mapusaga O Aiga. (1996). *A study of domestic and sexual violence against women in Western Samoa research report*. Unpublished.
- Mass rubella vaccinations in six weeks. (2003, 1-7 October). In *Le Samoa*. p. 8.
- Maxwell, G. M. (1993). *Physical punishment in the home in New Zealand*. Wellington: Office of the Commissioner for Children.

- McCarthy, M. (1997). Raising a Maori Child Under a New Right State.
In Te Whaiti, P., McCarthy, M., Durie, A. (Eds.). *Mai rangiatea: Maori wellbeing and development* (pp. 25 –38). Auckland: Auckland University Press.
- McManners, J. (Ed.). (1990). *The Oxford history of Christianity*. Oxford: Oxford University Press.
- Mead, M. (1943). *Coming of age in Samoa: A study of adolescence and sex in primitive societies*. Harmondsworth, England: Penguin. (Original work published in 1928).
- Meleisea, M. (1992). *Change and adaptations in Western Samoa*. Christchurch: Macmillan Brown Centre.
- Meleisea, M., & Schoeffel Meleisea, P. (1987). *Lagaga: A short history of Western Samoa*. Suva, Fiji: University of the South Pacific.
- Ministry of Health. (2002). *Child and partner abuse: Family violence intervention guidelines*. Wellington: Ministry of Health.
- Ministry of Social Development. (2003). *Social Report 2003: Health*. Wellington: Ministry of Health.
- Ministry of Women's Affairs. (2001). Report on the status of women in Samoa 2001. Apia: Government of Samoa.
- Ministry of Women's Affairs, Samoa. (2003, February 17-19). Presentation on the 'Family Health and Safety Study in Samoa', Regional Workshop on Strengthening Partnerships to Eliminate Violence Against Women in Suva, Fiji.
- Ministry of Women's Affairs Act 1990 (Samoa). Apia: Government of Samoa.

- Ministry of Youth, Sports and Culture, Samoa. (2001). *Samoa ne'i galo: Talatu'u ma tala o le vavau a Samoa*. Volume Three. Apia: Malua Printing Press.
- Ministry of Youth, Sports and Culture, Samoa. (1997). *Samoa ne'i galo: Talatu'u ma tala o le vavau a Samoa*. Volume Two. Apia: Malua Printing Press.
- Moghadam, V. M. (2003). Engendering citizenship, feminizing civil society: The case of the Middle East and North Africa. In *Women & Politics*, 2003, 25(1), pp. 63-87.
- New kids right debate looms after Apia Launch. (2003, July 1) In *Samoa Observer*. Retrieved November 3, 2003, from <http://www.samoaoobserver.ws/news/archives/local/ln0703/0107ln001.htm>.
- New Millenium Publications. (1999). *The Holy Bible*. Edition of The King James Version. New South Wales: New Millenium.
- New Zealand Children and Young Persons Service. (1998). *Breaking the cycle: Interagency protocols for child abuse management*. Wellington: New Zealand Children and Young Persons Service.
- Ngan-woo, F. (1985). *Faasamoa: The world of Samoans*. Wellington: The Office Of the Race Relations Conciliator.
- Parkinson, P. (1997). *Child sexual abuse and the churches*. London: Hodder & Stoughton.
- Pere, R. R. (1991). *Te Wheke: A celebration of infinite wisdom*. Gisborne, N.Z: Ao Ako Global Learning.
- Perry, B. D. (2000), August 20). *Trauma and terror in childhood*. *The*

neuropsychiatry impact of childhood trauma. Retrieved January 1, 2003, from www.childtrauma.org/ctamaterials/trauma_and_terror.asp.

Russell, B. (1996). *Collaborative research stories*. Palmerston North: The Dunmore Press.

Salzinger, S., Feldman, R.S., Ng-Mak, D.S., Mijica, E., Stockhammer, T., Rosario, M. (2002, March). Effects of partner violence and physical child abuse on child behaviour: A study of abused and comparison children. In *Journal of Family Violence*, 17(1), pp. 23-53.

Samuelu, T. F. (1999). *E mamae le tava'e i lona fulu: A study of the impact of the Congregational Christian Church of Samoa on Vaigaga's social structure*. Unpublished Masters thesis. Massey University, New Zealand.

Saphira, M. (2002, August). Child prostitution in New Zealand. In Department of Child, Youth and Family Services: *Social Work Now*, No.22, pp. 6-11. Wellington: Department of Child, Youth and Family Services

Schoeffel, P., Meleisea, M., David, R., Kalauni, R., Kalolo, K., Kingi, P., Taumoefolau, T., Vuetibau, L., Savai'inaea Pita Williams. (1996, July). Polynesian attitudes to child training and discipline in New Zealand: Some policy implications for social welfare and education. In *Social Policy Journal of New Zealand*. 6, pp.134-147.

Sidran Institute. (1994). *What are traumatic memories?* Retrieved, 1 January 2004 from www.sidran.org/traumabr.html.

Slade, E. (2000, February). *Country reports on human rights practises for 1999: Samoa*. In Bureau of Democracy, Human Right, and Labor, U.S. Department of State. Retrieved January 25, 2003, from <http://www.usis.esemb.se/human/human1999/samoa.html>.

Slade, E. (2002, March 4). *Country reports on human rights practises for 2000: Samoa*. In Bureau of Democracy, Human Right, and Labor, U.S. Department of State. Retrieved January 25, 2003, from <http://www.state.gov/g/drl/rls/hrrpt/2001/eap/8373.htm>.

Smith, L.T. (1986, August). *Te rapunga i te ao marama: The search for the world light: A discussion paper reflecting Maori perspectives on research in New Zealand*. Unpublished.

Social Policy Group 2000. (1997). In *Sustainable development (draft)*. UNDP/ESHDP and Government of Samoa.

Stevenson, P. (2004, February 02). Every five weeks a child is murdered in Godzone. In *N.Z. Herald*. Retrieved on 5 February 2004, from <http://www.nzherald.co.nz/index.cfm?ObjectID=3546972>.

Stuebel, C. (1976). *Tala o le vavau: Myths and legends of Samoa*. (Trans. Brother Herman. Wellington: A. H & A. W. Reed.

Sunia, F. I. F. (1997). *Lupe o le foaga (Vaega Muamua)*. Apia: Malua Printing Press.

Tang, K. (2003). Implementing the United Nations Convention on the Rights of the Child: the Canadian experience. In *International Social Work*, 46(3), pp. 277-288.

Tanielu, L. S. (2004). *O le a'oa'oina o le gagana tusitusi ma le faitautusi i le Aoga a le Faifeau EFKS. Literary Education, reading and writing in the Pastor's School, CCCS*. Unpublished Doctorate Thesis. Auckland Univesity, New Zealand.

- The Bible Society in South Pacific. (1979). *O le Tusi Paia, The Holy Bible*. Reprinted from the edition of 1884. Suva, Fiji: United Bible Societies.
- The Law Commission. (2002). *Seeking solutions: Options for change for the New Zealand court system*, Part 2, A Review of the Court system. Wellington: The Law Commission.
- The Nationalist. (2003, March 21). Retrieved March 21, 2003, from archives.tcm.ie/crlownationalist/2003/03/21/story/6939.asp.
- Tirosh, E., Shechter, S. O., Cohen, A., & Jaffe, M. (2003). Attitudes towards punishment and reporting of abuse. In *Child Abuse & Neglect* 27, pp. 929-937.
- Trask, H. (1999). *From a native daughter: Colonialism and sovereignty in Hawaii* (Revised ed.). Honolulu: University of Hawaii Press.
- Turner, G. (1884). *Samoa hundred years ago and long before*. London: Macmillan.
- UNICEF. (2003). *State of the worlds children 2003*. New York: UNICEF.
- United Nations Convention on the Rights of the Child, 1989. Retrieved 5 October 2003 from <http://www.casi.org.nz/statements/deccrd.html>
- University of the South Pacific, Police vs Paulo, 29 September 2000. Retrieved January 26, 2003, from [http://www.vanuatu.usp.ac.fj/paclawmat/Samoa_cases/N-Z/Police_v_Paulo_\(Sentence\).html](http://www.vanuatu.usp.ac.fj/paclawmat/Samoa_cases/N-Z/Police_v_Paulo_(Sentence).html).

University of the South Pacific: Police Vs Maumasi, 27 August 1999.

Retrieved January 26, 2003, from

[http://www.vanuatu.usp.ac.fj/paclawmat/Samoa_cases/N-Z/Police_v_Maumasi_\(Sentence\).html](http://www.vanuatu.usp.ac.fj/paclawmat/Samoa_cases/N-Z/Police_v_Maumasi_(Sentence).html).

University of the South Pacific Law Materials: Police V Puni, 16 June

2003. Retrieved March 1, 2004, from

<http://www.pacii.org/ws/cases/WSSC/2003/15.html>

University of the South Pacific Law Materials: Infants Ordinance 1961 Retrieved July 28, 2003, from

http://www.vanuatu.usp.ac.fj/paclawmat/Samoa_legislation/1961/Infants_Ordinance_1961.PDF.

University of the South Pacific: Crimes Ordinance 1961

Retrieved July 28, 2003, from

http://www.vanuatu.usp.ac.fj/paclawmat/Samoa_legislation/1961/Crimes.html.

University of the South Pacific: The Constitution of the

Independent state of Samoa. Retrieved July 28, 2003, from

http://www.vanuatu.usp.ac.fj/paclawmat/Samoa_legislation/Samoa_Constitution.html

University of the South Pacific: Village Fono Act. Retrieved

July 28, 2003 from

http://www.vanuatu.usp.ac.fj/paclawmat/Samoa_legislation/1990/Village_Fono.html

World Bible Publishers. (1986). *Holy Bible*. Iowa Falls, United

States: World Bible Publishers.

Zoldervan Corporation. (1990). *Holy Bible*. Women's Devotional Bible, New International Version. Michigan. USA: Zondervan Publishing House.

Glossary

Samoan words *commonly* used in the text (not a full glossary of all Samoan words used in the text).

aiā tatau – refers to the concept of child rights

aiga – immediate family can include siblings, parents, grandparents, aunts, uncles, cousins, and others who live in the home with the child. In many cases the 'immediate family' refers to the household members.

Aiga lautele – extended family includes other relatives who do not live in the home, which can include relatives connected through marriage.

When one talks of *aiga* in Samoa, they usually refer to the extended network. This has changed in areas outside Samoa where it is more common to find only the parents and their children in a household, and the intimate links between the extended networks do not necessarily exist. The term *aiga* for those outside Samoa is more aligned with 'western' definitions of the 'immediate' family which refers mainly to a parent - child household.

aitu – spirit, ghost

ali'i - the head *matai* or chief in the family

aoga a le faifeau – church minister's school/sunday school

aualuma - unmarried or widowed women in the *tama'ita'i* group

aulape - rules, protocols, lore

aumaga - unmarried or widowed men in the *taulele'a* group

autalavou - youth

fa'afāfine – (in the manner of a woman) term used loosely to refer to a male who may appear to have feminine mannerism, homosexual, dresses in female style clothing

fa'asalaga – punishment (sentence)

fa'asamoa - manner according to Samoan lifestyle, or according to the Samoan culture

fa'amalosi -verb: force, coerce, rape; proverb: be strong (encouragement)

fafaga – feed

fale - house

faifeau – preacher, church minister, priest
faipule – village mayor, may represent more than one village in an area
faletua – wife of a faifeau or chief
fanau fai – informally adopted children
fautua (faufautua) – advise, counsel
feagaiga – covenant, used in the thesis to refer to that between brother and sister, and the conventions (CRC, CEDAW)
fofō - healer
fono - meeting, gathering
fono a matai (fono) - gathering of chiefs
ie – mat, cloth (*ie toga* – fine mat)
ifoga – a traditional process of justice, involving the public display of remorse, submission and retribution
komiti a faletua ma tausī (komiti) - committee of the wives of *matai*, sometimes (but often not) include the wife of the *faifeau*.
laumei - turtle
mafutaga a tina – mother’s group
malō – triumph, win; (*su’e malo* – advancement – social, political, economic)
mamalu - prestigious
mao - lose control
mataga – embarrassing, humiliating, shameful
matai - titles leader of a family
moetolo - sleep ‘screeching’, used colloquially to refer to someone who creeps in the night to sexually assault someone
nu’u - village
pologa – slave; (*fa’apologa* – treated as a slave)
pule – authority, ownership, rule
pulega a ali’i ma faipule - the *matai* rule
pulenu’u – village representative to government, mayor
salulima – hand broom made from the middle threat of coconut leaves
sasa – hit (with object)
saofa’iga a matai ma faipule.
saofa’iga a ali’i ma faipule, saofa’iga a matai, fonu a matai (fono) - village council, local authority

sa'oloto – free

sauā - cruel

soāfafine – women who coach, advise and protect the taupou through her upbringing before marriage

soli aiga - incest

soli fanua - adultery

tama - boy, young man, child of

tamā - father

tamaita'i - unmarried woman or widow of an untitled man.

tamaiti - children

tamaitiiti - child

taule'ale'a – an untitled man; (*taulele'a* – group of untitled men)

taupou – virgin

tausi – wife of orator chief

tautua - serve

teine - girl

tinā - mother

toso teine - rape of a female

tulafale - *matai* with an orator title, often the negotiator between on behalf of the village

tulafono - law

usita'i – obedient

valea – foolish, unintelligent

Appendix
Ethics Application



Human Ethics Committee

To: Secretary, Human Ethics Committee
AT Principal's Office
Albany

APPLICATION FOR APPROVAL OF PROPOSED RESEARCH/TEACHING/EVALUATION PROCEDURES INVOLVING HUMAN PARTICIPANTS

SECTION A: GENERAL INFORMATION

1 Full Name of Staff Applicant Not applicable
(for staff research, teaching and evaluations)
Please sign the relevant Staff Applicant's Declaration.

School/Department/
Institute/Section _____

Region *(mark one only)* Albany Palmerston North
Wellington

Telephone _____

Email Address _____

OFFICE USE ONLY

Date Received: _____ Date First Reviewed: _____

Outcome: _____

Date Final Outcome: _____

ALB/PN/WGTN
Protocol No: _____

2 **Full Name of Student Applicant** Karenina Siao Si Sumeo
(for supervised student research)
 Please sign the relevant Student Applicant's Declaration.

Telephone 09 483-7038 hm / 09-913-5216 wk

Email Address kasumeo@hotmail.com

Postal Address 6 Hayman Place,
Beachaven
Auckland

Employer Department of Child, Youth and Family Services
National Call Centre
Auckland

3 **Full Name of Supervisor** Dr Marilyn Waring
(for supervised student research)
 Please sign the relevant Supervisor's Declaration.

School/Department/Institute/Section College of Humanities and Social Science
School of Social and Cultural Studies

Region (mark one only) Albany Palmerston North
Wellington

Telephone 09 443 9765

Email Address M.J.Waring@massey.ac.nz

4 **Full Name of Line Manager** Not applicable
(for evaluations)
 Please sign the relevant Line Manager's Declaration.

Section

Region (mark one only) Albany Palmerston North
Wellington

Telephone

Email Address

5 **Project Title** An exploratory study on processes used to address complaints of child abuse in Samoa.

6 **Projected start date of Project** January 2003

Projected end date of Project November 2003

7 **Type of Project:**

Staff Research	<input type="checkbox"/>	Honours Project	<input type="checkbox"/>
PhD Thesis	<input type="checkbox"/>	Evaluation Programme	<input type="checkbox"/>
Master's Thesis	<input checked="" type="checkbox"/>	Teaching Programme	<input type="checkbox"/>
MBA Project	<input type="checkbox"/>	Other	<input type="checkbox"/>
		If Other, specify	

8 Summary of Project

Child abuse is a subject that some do not feel comfortable talking about, perhaps because it suggests a degree of breakdown within a family, or a crack in the mirror of a society. While laws exist in many societies to address crimes against children, they do not necessarily prevent them. Samoa ratified the United Nations Convention on the Rights of the Child in 1994. As a Samoan employee of the Department of Child, Youth and Family Services in Aotearoa, I am aware that Samoa does not have similar statutory provisions.

This is an exploratory study into existing processes being used to address complaints about child abuse through statutory provisions, and traditional lore in selected villages in Samoa. This will be done using the following methods:

- a) Interviews with key people with political influence, cultural expertise, knowledge in the subject, and who are recognised leaders in the community.
- b) Discussion groups from five villages, from the perspectives of village leaders, women, and youth.
- c) Review of departmental documentation including statistics from the relevant areas to look at procedures, outcomes, and reported incidents.

This project report will document people's experiences of these processes, and their impact on the wellbeing of Samoan children.

Declarations

DECLARATIONS FOR PERSONS PROCEEDING WITHOUT A FULL APPLICATION

DECLARATION FOR THE STAFF APPLICANT

I have read the Code of Ethical Conduct for Research, Teaching and Evaluations involving Human Participants. I understand my obligations and the rights of the participants, particularly in so far as obtaining informed consent is concerned. I agree to undertake the research as set out in the Code of Ethical Conduct for Research, Teaching and Evaluations involving Human Participants.

Staff Applicant's
Signature

Not applicable

Date:

DECLARATION FOR LINE MANAGER (for research/evaluations undertaken in the Divisions)

I declare that to the best of my knowledge, this application complies with the Code of Ethical Conduct for Research, Teaching and Evaluations involving Human Participants and that I have approved its content and agreed that it can be submitted.

Line Manager's
Signature

Not applicable

Date:

DECLARATION FOR THE STUDENT APPLICANT (for supervised student research)

I have read the Code of Ethical Conduct for Research, Teaching and Evaluations involving Human Participants and discussed the ethical analysis with my Supervisor. I understand my obligations and the rights of the participants, particularly in so far as obtaining informed consent is concerned. I agree to undertake the research as set out in the Code of Ethical Conduct for Research, Teaching and Evaluations involving Human Participants.

Student
Applicant's
Signature

Date: 04/1/2003

DECLARATION FOR THE SUPERVISOR (for supervised student research)

I have assisted the student in the ethical analysis of this project. I understand my obligations and the rights of the participants, particularly in so far as obtaining informed consent is concerned. I agree to undertake the research as set out in the Code of Ethical Conduct for Research, Teaching and Evaluations involving Human Participants.

Supervisor's
Signature

Date:

SECTION B: PROJECT INFORMATION

(Note the Committee treats all applications independently)

- 9 I/we wish the protocol to be heard in a closed meeting (Part II). Yes No
I wish to be heard in a closed meeting because of the cultural sensitivity of the subject.

10 State concisely the aims of the project.

The research will look at two systems in Samoa used to address complaints of child physical and sexual abuse. The first is traditional lore developed over time within the context of village life, knowledge and experience, culture, shared values and beliefs. The other is through government legislation, specifically the Crimes Ordinance 1962. The Ordinance originated from New Zealand, formulated from a foreign context, different in culture, political and social make up. The Ordinance was adopted in Samoa under the New Zealand Administration before Samoa became independent, and remained once independence was achieved.

The project will seek people's understanding and perceptions of child abuse, children's rights within the collective setting, experiences of these processes when incidents of child abuse have been 'reported' to the authority body, strengths, weaknesses, how these processes currently work to prevent child abuse, and any recommendations for further development of these processes.

The ultimate aim for this project is to explore and document the direct experiences of Samoan people, with the existing processes. The project report would be an addition to the body of information for those in authority both in villages and statutory bodies, to review and develop effective processes and legislation to address child abuse.

11 Give a brief background to the project so that the significance of the project can be assessed. *(no more than 200 words in lay language)*

Samoa has a dual political system, one at government level accessible generally through the voting process, the other is local government controlled by village councils or fono, which is accessible only to village inhabitants. Under the 1990 Village Fono Act, Councils hold the right to exercise power and authority with respect to affairs of the village. Child abuse and domestic violence are included in such affairs. State authorities are not involved unless a report is made to them. Due to limited resources, Police presence is limited outside the main town centres, the village Councils are then to most accessible and active authority.

A research into the area of physical and sexual violence against women in Samoa showed that both the council and state authorities were active with such complaints. There were inconsistencies in and between, the two processes. (Mapusaga O Aiga (MOA), 1996). A symposium held in Apia to discuss the MOA research recommended that a research into the area of child abuse was needed. In 2001 the first major study on child abuse was conducted, the report is to be approved for public release.

The writer's proposal is a response to the identified need.

12 Where will the project be conducted?

Samoa

13 Who will actually conduct the study?

Karenina Siaso Sumeo with support of cultural advisors and support persons.

14 Who will interact with the participants?

- a) I will be the primary contact when communicating with departmental officials in Samoa
-

- and with agencies.
- b) The researcher will accompany support people with the appropriate cultural ranking and authority to meet initially with village leaders and heads of families. These support people will remain in the course of the group discussions with village leaders.
 - c) Group discussions with the women and youth groups will be facilitated by the researcher accompanied by a support person.
-

15 What experience does the researcher(s) have in this type of project activity?

- a) I was part of a research group that conducted a research on the Auckland branch of the Samoan Advisory Council (SAC) Auckland branch in 1992. The research used face to face individual interviews with community leaders and departmental personnel, and a document review of records both departmental (Social Welfare) and of the SAC.
 - b) I co-ordinated a public campaign on Alternatives to Smacking for the Polynesian community in Auckland for the Department of Child Youth and Family in 1998. I also co-ordinated the campaign for Child Neglect for the same community and the same department in 2000. This involved seeking out community leaders to locate their communities, recruiting, training and supporting facilitators for the public meetings, facilitating public meetings, preparing budgets for the programmes, providing reports to the funding agency on the campaign.
 - c) As a government social worker, investigating allegations of child abuse and maltreatment, I have interviewed many children, young people, parents, community leaders, dealt with professionals from many different professions including police, health, justice, education and community agencies. I have facilitated many discussion groups ranging from families to multidisciplinary groups. I have been cross examined in court, an experience I expect will happen on many occasions during this project, but in people's homes, villages, inside groups discussions, by departmental personnel and agencies.
-

16 What are the benefits of the project to the participants?

- a) To encourage participation in open discussion within communities about the processes adopted, and the effect these have on individual victims, families, the community and the country as a whole. Effectiveness will be defined by the participants.
 - b) To review and question the efficacy of laws for the protection of children. Is the law appropriate to the needs of the community, or does it conflict with those ideals and beliefs that are fundamental to Samoan daily life? Do the laws/lore provide protection for victims of abuse and do they prevent abuse?
 - c) To assist agencies and government departments to set protocols and procedures that are effective to address complaints as well as maintain the integrity of victims and their families.
 - d) To promote the rights of children.
 - e) To assist participants determine if there is a need for support people in the area of abuse for both individuals and families, and for public education programmes within communities.
 - f) To encourage the consistent application of processes and raise issues about appropriate support programmes or 'treatment' for abusers.
 - g) To gain some insight into what elements contribute to cause child abuse and allow it to continue in Samoan society. Such knowledge would be useful for those working with Samoan families outside of Samoa.
-

17 **What are the risks of the project to:**

- i. **Participants:** Fear of individual blame for an action taken or decision made.
- Fear of exposing self or the group represented by the individual to outside scrutiny.
- The researcher acknowledges the possibility that some participants may have suffered abuse directly at some time or times in their lives, or have suffered consequences by association with victims or offenders. Participation in the research may awaken some anxieties, trauma, anger, loss and other emotions associated with abuse.
- ii. **Researcher(s):** Personal risks would be on an emotional level in terms of adverse opinions from the community, threats, emotional exhaustion from dealing with such a sensitive issue, and personal issues that may arise for participants through this research.
- There is also the financial element. The researcher has made personal preparation for this study, and aims to complete it within the estimated timeframe.
- iii. **Groups/Communities/Institutions:** Villages, Agencies and government departments
- The use of resources (time, personnel) that could potentially be used in their own programmes for no guaranteed returns. Risks of seeming inadequate, insensitive or corrupt.
- iv. **Massey University:** The risk of the student acting in an unethical manner through the course of the project, while conducting the project with the support and to some extent the endorsement of Massey University.

18 **How do you propose to manage the risks for each of points i, ii, iii, and iv. above.**

(Note Question 40 will address the management of risks to participants)

i) Individuals - The protection of individuals from any negative consequences due to participation needs to be a negotiated responsibility between all participating agencies and the writer prior to the implementation of the research.

There may be times in this study, when processes may inevitably lead to the actions of an individual. The focus of the researcher will, however, remain on the processes within which that individual operates. In this way, confidentiality regarding the identity of individuals will be respected as much as possible.

The possibility of individual participants recalling what may be painful memories is inevitable with this subject, whether the person was the primary victim, victim by association, offender, or offender by association, or a witness to abuse. Victimization could also have occurred or become worse by going through a 'justice' system that in the end was more abusive to a victim than the actual act committed by the offender.

MOA has trained counsellors. I will approach this agency and any others for information on how to access their services, and find avenues for payment if people need to access them. Currently the MOA service is free. There is an issue of accessibility for participants in rural areas. I am not certain if men would seek assistance from these agencies, as they are seen predominantly as agencies for women. The traditional way of 'talking through issues' in the Samoan context, is seeking the counsel or advice 'fautuaga' of those recognised to be wise and respected. Samoans have survived without 'specialist professionals', there is no reason therefore to assume that those in the villages will be 'abandoned' if they are not able access assistance from the agencies indicated.

Assistance from within the villages would be discussed with key people from say the women's group, to identify suitable support people who will respect the privacy and confidentiality of participants within the village context. Appropriate measures to assist an individual make a report to the relevant authorities will also be discussed with relevant agencies, and with the villages groups themselves.

ii) Researcher – Risk of personal safety will be managed through the support of family, cultural advisors, academic support by supervisors in Samoa and in New Zealand and other support people. The financial preparation is a personal investment in the researcher's personal development, and in the community involved.

iii) Agencies and government departments - The participation of an agency could provide an avenue for further development of processes in order to deal with abuse more effectively.

-
- 19 **Is deception involved at any stage of the project?** Yes No
- If yes, justify its use and describe debriefing procedures.**

-
- 20 **Does the project include the use of participant questionnaire(s)?** Yes No
- (If yes, a copy of the Questionnaire(s) is to be attached to the application form)*

- 21 **Does the project include the use of focus group(s)?** Yes No
- (If yes, a copy of the Confidentiality Agreement for the focus group is to be attached to the application form)*

- 22 **Does the project include the use of participant interview(s)?** Yes No

Semi Structured Interview Framework.
(to be used within the villages)

a) Basic Perceptions

What is your understanding of the term 'children's rights'?
Where do children fit within the Samoan culture?

What do you think constitutes physical abuse?
Why does physical abuse occurs?
Why does it continue?

What is sexual abuse?
Why do you think sexual abuse occurs?
Why does it continue?

Is child abuse a crime? If yes or no, ask why.

b) Processes

Do you have a process to handle child abuse complaints? If Yes, Describe it.
Do you know of an incidence when a complaint was made to the (relative) authority concerning the abuse of a child? What happened?
Did the aiga of the victim as well as the victim him/herself feel that 'justice' had been done, and How do you know?
Did your body of authority believe that a 'just' outcome was achieved?
Yes/No, Why?

Has the offender re-offended within the community or other community?
What processes are there for offenders who re-offend?
What elements of punishment are in the process?
What elements of rehabilitation are in the process?
What elements of restoration are there in the process?

Are you aware of statutory processes available to address such incidents?
If you had a choice about which authority to report an incident to, which one would you choose?
Why?

Do you think the current processes (law and lore) prevent child abuse, why?
What recommendations if any, do you have to improve the current systems?

(If yes, a copy of the Interview Questions/Schedule is to be attached to the application form)

- 23 Does the project involve audio taping? Yes No
Does the project involve video taping? Yes No

(If agreement for taping is optional for participation, ensure there is explicit consent on the Consent Form)

If yes, state what will happen to the tapes at the completion of the project.

The tapes would be kept in the possession of the writer for five years for personal reference and further learning. No one will have access to the material. The tapes will then be destroyed by the researcher.

- If audio taping is used, will the tape be transcribed?** Yes No

If yes, state who will do the transcribing. The writer.

(If not the researcher, a Transcriber's Agreement is required and a copy is to be attached to the application form)

- 24 Does the project involve recruitment through advertising? Yes No

(If yes, a copy of the Advertisement is to be attached to the application form)

- 25 Will consent be given in writing? Yes No

If no, state reason.

Consent may also be given and accepted orally, as is the tradition in Samoan society, to insist on a written documents may be considered disrespectful or distrustful. There may also be participants who cannot read or write, in which case the researcher will ask a person nominated by the participant to read to him/her the consent form and obtain consent verbally.

- 26 Does this project have any links to other approved Massey University Human Ethics Committee application(s)? Yes No

If yes, list HEC protocol number(s) and relationship(s).

A study on physical discipline in Samoan communities in Aotearoa by Faye Hunt-loane 2003, Student Supervisors are Tafa Mulitalo and Mike O'Brien.

- 27 Is approval from other ethics committees being sought for the project? Yes No

If yes, list other ethics committees.

SECTION C: FINANCIAL SUPPORT

28 Is the project to be funded in anyway from sources external to Massey University? Yes No

If yes, state source.

Personal finances. I am also in the process of applying for other financial assistance.

29 Is the project covered by a Massey University Research Services contract? Yes No

If yes, state contract reference number.

30 Is funding already available or is it awaiting decision?
Refer 28..

31 Does the researcher(s) have a financial interest in the outcome of the project? Yes No

If yes, explain how the conflict of interest situation will be dealt with.

As at the time of writing, I am the only financier for the project. I am not in the position to be too flexible with time away from employment beyond that which I have already prepared for. If I am unable to proceed with the whole project proposed due to delays, the final report will be written on the material collected within that time. I am aware of the political implications of such a project as this upon a government body. At the time of writing, the MOA report that this project originated from is still to have government approval for public release. If this is the case, then I will proceed with individual interviews of key people, and work with the villages without the involvement of government departments.

SECTION D: PARTICIPANTS

32 Type of person participating:
(mark one or more)

Massey University Staff	<input type="checkbox"/>	Hospital Patients	<input type="checkbox"/>
Massey University Student	<input type="checkbox"/>	Prisoners	<input type="checkbox"/>
Children under 7	<input type="checkbox"/>	Minors 8-15	<input type="checkbox"/>
		Persons whose capacity is compromised	<input type="checkbox"/>
		Ethnic/cultural group members	<input checked="" type="checkbox"/>
		Other	<input type="checkbox"/>

If Other, specify who.

33 What is the age range of participants?
18 to 60 years

34 Is there any professional or other relationship (e.g. employer/employee, lecturer/student, practitioner/patient, researcher/family member) to the researcher? Yes No

If yes, describe how this conflict of interest situation will be dealt with.

I am of Samoan descent, my extended family still reside in Samoa. It is inevitable that some of the participants will have some connection to me. I chose this population for the project because I am a member of it, and I wish to make a contribution no matter how small to the development of Samoan people. This does not mean that the researcher will attempt to ignore or hide things that may portray negatively on Samoans, but will acknowledge them in order to pursue the future with open eyes.

35 **What selection criteria will be used?**

Participants must reside in the locations of interest to be able to participate in the discussion groups, or work in the relevant areas of interest to participate. All must be Samoan.

The selection of villages will be based on those who have had constructive relationships with statutory bodies, have the ability and willingness to participate, have the ability to understand and appreciate their rights as participants.

36 **Will any potential participants be excluded?**

Yes No

If yes, state the exclusion criteria.

a) Children and those under the age of 18 years will not be included as participants due to their vulnerability. While I am aware that there are adult counsellors in Samoa who could support adults in the event of re-traumatisation, I am not aware of any specialist in counselling for children and young people. I am also aware of the age hierarchy in Samoa, and do not feel that those under the age of 18 years would feel able to express views openly and freely in the presence of older family or community members. I also do not wish to put them on the spot by attempting to pull them into discussion as they may feel pressured to speak therefore influencing the information they share.

b) I will not be talking to all members of the groups presenting due to a need to keep the discussion groups size manageable.

c) Most of the villages in Samoa will not be included in the study due to resource constraints.

d) I will not intentionally be talking to victims or offenders unless they self identify as such within a group. I will talk about personal boundaries before starting each discussion. Should a victim or offender self disclose an experience inside the group, it will be handled sensitively and respectfully. A referral to the proper agency will be discussed with them in private. Participants who may become significantly affected by the discussions to their detriment may cease involvement temporarily or permanently. The researcher also has the right to terminate the involvement of a participant should that person put the safety of other members of the group or research party at risk.

37 **How many participants will be involved?**

Individual interviews

– I intend to gather input from Women's Affairs, Youth Affairs, Education, Health, Justice, Police, National Council of Women and MOA. A total of eight interviews.

Group discussion

– five to seven participants per group, four groups for each of five villages, (council leaders, mother's group, young women, and young men).

What is the reason for selecting this number?

(Where relevant, a copy of the Statistical Justification is to be attached to the application form)

The number of individuals is based on the areas of relevant disciplines likely to encounter child abuse issues in their daily work.

Group numbers are limited as I wish to have a manageable number to allow time for open discussion, get through the areas to be covered, and to manage any conflicts that may arise through group dynamics.

How many participants will be in the control group?

(Where relevant)

There is no control group.

38 How will participants be recruited?

Individuals – by letter of invitation to participate, followed up by a phone call.

Interviews with key individuals from selected agencies will be necessary to gauge interest in the project, for guidance, insight into the political and cultural systems, current legislation and support. Key people will be critical in ensuring co-operation from agencies and access to required information as well as to the appropriate people. As Samoa is a very small country with most of its government departments located within walking distance of each other, these key people will more than likely know each other, and may aid the research by working together on a more personal basis than on a purely bureaucratic interagency basis. On the other hand, because it is such a small place, those in authority could easily communicate their anxieties and decide not to assist for whatever reasons.

Villages - The Ministry of Women's Affairs, MOA, National Council of Women, and Youth Affairs have established networks with the community and may be able to assist in communication with appropriate groups for the research. The assistance of elders independent of the support of government departments provides another avenue for accessing particular groups within villages. This is how villages may be accessed.

Government agencies - Several individuals within these departments have been identified, and will be approached by the writer to elicit participation. The Public Services Commission is the authority that will authorise access to government departments. Support from the Commission will be critical for this part of the project.

i)

(If by public advertising, a copy of the Advertisement to be attached to the application form)

39 What discomfort (physical, psychological, social), incapacity or other harm are participants likely to experience as a result of participation?

Participants may experience some emotional distress when recalling negative events in their childhood, within their family histories. Please refer to 18.

Participants may also have negative experiences from previous researches they have participated in. I will express the meaning of confidentiality, and my goal for this project. Participants will be made aware that they could withdraw from the project at any time and avenues for complaints through the supervisor, government departments who maybe involved, as well and to Massey University. (refer to the Participant Consent Form)

40 What support processes does the researcher have in place to deal with adverse consequences or physical or psychological risks?

Ref to 18.

41 How much time will participants have to give to the project?

Individual interviews are anticipated to be one to one and a half hours. I will make available extra time should the participant request this. I anticipate the group discussion will take two hours on average for the actual discussion.

42 What information on the participants will be obtained from third parties?

Individuals

– experience in the field of interest, community perceptions of them as leaders..

Villages

– history (myths), socio-economic situation, educational history, religious make up, population statistics, political make up, character of the village and it's people, whether the village had dealt with any incidents of child abuse and to identify key people, plus and any other things I need to

be aware of such as local gossip. Local gossip is important so that I could at least relate to the jokes, humour is an important tool to have when engaging with the Samoan community.

Government departments

– key instigators, decision makers, how it has dealt with any reports or complaint relating to child abuse in the past and currently.

-
- 43 Will any identifiable information on the participants be given to third parties? Yes No

If yes, describe how.

I intend to talk openly under the umbrella of confidentiality with my supervisors about the participants, in order to ease supervision on issues that arise. One such issue will be advice on the best way to support an individual who discloses abuse but unwilling to speak to anyone else about it.

-
- 44 Will any compensation/payments be given to participants? Yes No

If yes, describe what and how.

In the form of 'lafo' where appropriate, particularly when working with the villages. The lafo is a process by the receiver of assistance, in this case the researcher, to show appreciation and to acknowledge the participant's support and assistance in the research. The lafo is usually in the form of money, but may also include fine mats and food depending on the circumstances and those who will be receiving it. The appropriate amount and manner in which lafo is to be given will be discussed with cultural advisors.

Formal acknowledgement of the research exchange in a culturally recognised manner is appropriate and necessary. The lafo is not to appear as payment as it would diminish the value of the exchange, and financially will in no way be appropriate to the value of the contribution from the community.

SECTION E: DATA

- 45 What approach/procedures will be used for collecting data?
(e.g. questionnaire, interview, focus group, physiological tests, analysis of blood etc)

Three methods have been chosen:

- a) Individual interviews with key people in the departments of Women's Affairs, Police, Education, Youth, Health, Justice, Public Service Commission, MOA, National Council of Women.
- b) Focus group interviews within villages comprised from the three sections – village council, mother's groups, and youth separated by gender.
- d) Statistical data collection, review of departmental records of procedures and where possible, cases.

All interviews with individuals and focus groups will be audio taped with the consent of the participants. If consent is not obtained, then consent will be sought to have the information transcribed by a support person who will accompany the researcher. (refer to Consent Form)

-
- 46 How will the data be analysed?
Data will be analysed by the researcher, and where appropriate with the assistance of appropriate professionals, as in the case of legislation, cultural issues, statistics.

-
- 47 How and where will the data be stored?
Data will be stored in a locked cupboard in the home of the researcher in Samoa, then later in a secured storage in the home of the researcher in New Zealand.
-

48 **Who will have access to the data?**

The researcher and supervisors only.

Access by others such as support persons who may have recorded information and cultural advisors only by agreement. This will be necessary to clarifying and interpreting information given using mythological images, or explanations given using historical information that would best be interpreted with the assistance of advisors.

49 **How will data be protected from unauthorised access?**

It will be locked away.

50 **How will information resulting from the project be shared with participants?**

The information would be shared through a meeting, where all participants are invited to come to discuss the final draft of the report. Any issues raised by participants in agreement, disagreement, and recommendations will then be documented, and incorporated into the final document. Controversial points in the study from participant perspectives will then be incorporated without necessarily compromising the presentation of the data collected, as interpreted by the researcher. A more complete picture will then be available for anyone who wishes to review the project.

Participants may express a specific avenue in a manner they consider appropriate.

The final report will be documented in both English and Samoan. It will be made available at a designated place in Samoa for public access at no cost.

51 **How long will the data be retained?**

(Note the Massey University Policy on Research Practice recommends that data be retained for at least five (5) years)

I will hold the data for five years as recommended by the university's Policy on Research Practise.

52 **What will happen to the data at the end of the retention period?**

(e.g. returned to participants, disposed or archived)

The data (tapes, paper data) will be archived, as I believe there will still be a lot to learn personally from the information than that used for the purposes of the study. The data will not be used again in another study that will involve documentation without the permission of the original owner. It is expected that a fair amount of the data will be tape recordings of discussions, many of which will be in the Samoan language. Other information may be sensitive to various departments who participated. I am not willing to give these to the University to store.

53 **Who will be responsible for its disposal?**

(An appropriate member of the Massey University staff should normally be responsible for the eventual disposal of data - not a student researcher)

The researcher will store the information in a secured facility in the researcher's home. Should there be a time to destroy the information, I will do it personally. If this is not permissible under the University regulations, I insist on being present during the disposal of the material to ensure no one else has access to or attempts to use this information up till then.

54 **Will participants be given the option of having the data archived?**

Yes No

SECTION F: CONSENT FORMS

55 How and where will the Consent Forms be stored?

Ref to 47 &49

56 Who will have access to the Consent Forms?

Researcher and the supervisors only

57 How will Consent Forms be protected from unauthorised access?

It will be in a secured cupboard.

58 How long will the Consent Forms be retained?

(Note the Committee recommends that Consent Forms be stored separately from the data and retained for at least five (5) years)

5 years as recommended by the University Committee.

SECTION G: HUMAN REMAINS, TISSUES AND BODY FLUIDS

59 Does the project involve human remains, tissue or body fluids?

Yes No

(If yes, complete Section G, otherwise proceed to Section H)

60 How is the material being taken?

(e.g. operation)

61 How and where will the material be stored?

62 How long will the material be stored?

63 Will the material be destroyed?

Yes No

If yes, describe how.

If no, state why.

64 Will the material be disposed of in accordance with the wishes of the relevant cultural group?

Yes No

65 Will blood be collected?

Yes No

If yes, state what volume and frequency at each collection.

66 Will any samples go out of New Zealand?

Yes No

If yes, state where.

SECTION H: COMPLIANCE WITH THE PRIVACY ACT 1993 AND HEALTH INFORMATION PRIVACY CODE 1994

The Privacy Act 1993 and the Health Information Privacy Code 1994 impose strict requirements concerning

the collection, use and disclosure of personal information. These questions allow the Committee to assess compliance.

(Note that personal information is information concerning an identifiable individual)

67 Will personal information be collected directly from the individual concerned? Yes No

The majority of information sought will be about people opinions about and experiences of processes. All of this may be regarded as personal information as it is collected from individual people.
(Please refer to the Information Sheet which will specify the goal of the project, participant rights, treatment of their information in the collecting, recording and final presentation)

.....
If any of the above steps are not taken explain why.

68 Will personal information be collected indirectly from the individual concerned? Yes No

If yes, explain why.

This study hopes to be able to review some case files and seek information of cases from common knowledge. Under the 1990 Village Fono Act, no written records are required of any enquiries by the council about any allegation of village misconduct or punishment imposed.

This form of collection will allow in depth analysis of processes.

69 What storage and security procedures to guard against unauthorised access, use or disclosure of the personal information will be used?

I hope to view case files within their original storing place within relevant departments, I do not intend to remove them. In the event that I have to remove them from their original storage destination, they will be locked in a cupboard at the home of the researcher and returned as soon as possible.

70 How long will the personal information be kept?
*(Note that Information Privacy Principle 9 requires that personal information be kept for no longer than is required for the purposes for which the information may lawfully be used.)
As a general rule, data relating to projects should be kept in appropriate secure storage within Massey University (rather than at the home of the researcher) unless a case based on special circumstances is submitted and approval by the Committee.*

Personal information in terms of case files will be kept only for as long as it is required for the purposes of this study, no more that three days. Information will then be returned to their originating source which will likely be an agency or department.

71 How will it be ensured that the personal information collected is accurate, up to date, complete, relevant and not misleading?

I will not be able to seek out individual victims or offenders to seek their view of the accuracy of information documented in departmental records, unless they personally self identify, nor in people's recollection of events about them. I will accept information in the state they are given to me. If participants raised such an issue it will be communicated to the relevant authorities through the final document.

72 How will the personal information be used?

Case files will be reviewed, with some notes taken on the type of incident, how it was handled, what processes did it go through, what was the outcome, and any follow up intervention or communication between the family and the relevant authorities. The information will then be used to provide some insight to the processes involved in the handling of a typical complaint.

73 **Who will have access to the personal information?**

The researcher and supervisor, no one else.

74 **In what form will the personal information be published?**

(Massey University requires original data of published material to be archived for five (5) years after publication for possible future scrutiny)

In written form, in combination with other general data. No individuals will be identified.

75 **Will a unique identifier be assigned to an individual?**

Yes No

If yes, is the unique identifier one that any other agency uses for that individual?

Yes No

SECTION I: TREATY OF WAITANGI

76 **Does the proposed project impact on Maori people in any way?**

Yes No

If yes, describe how.

77 **Are Maori the primary focus of the project?**

Yes No

If no, proceed to Question 82.

If yes, is the researcher competent in te reo Maori and tikanga Maori?

Yes No

If no, outline the processes in place for the provision of cultural advice.

78 **Identify the group(s) with whom consultation has taken place.**

(Where relevant, a copy of the supporting documentation is to be attached to the application form)

79 **What consultation process has been undertaken prior to this application?**

80 **Describe any ongoing involvement the group consulted has in the project.**

81 **How will information resulting from the project be shared with the group consulted?**

82 **If Maori are not the focus of the project, outline what Maori involvement there may be and how this will be managed.**

None

SECTION J: SOCIAL AND CULTURAL SENSITIVITY

83 **Are there any aspects of the project which might raise specific cultural issues?**

Yes No

If yes, describe how.

The whole project is culturally sensitive as it is about one ethnic group, their systems of justice, belief systems, families, social, economic, political make up, physical environment and history.

84 Is ethnicity data being collected as part of the project? Yes No

If yes, explain why.

The study is of the people within their own context where they are the dominant group, not within a different cultural context, or in comparison to other ethnic groups in the same environment.

85 What ethnic or social group(s) other than Maori does the project involve?

Samoa

86 Do the participants have English as a first-language? Yes No

If no, will Information Sheets and Consent Forms be translated into the participants' first-language? Yes No

(If yes, copies of the Information Sheet and Consent Form are to be attached to the application form)

87 What consultation process has been undertaken with the group(s) prior to this application?

I have consulted informally with a consultant working with MOA, a member of the National Council of Women, a senior officer with Samoa Police, and the manager of the child protection project funded by AusAid. The responses have so far been positive. I have discussed the project with a cultural advisor from the Department of Youth Affairs, who has stated his willingness to participate in the capacity of advisor and spokesperson if and when required.

I am seeking co-operation from the Attorney General's Office, the Minister of Education, Public Service Commission and the Ministry of Women's Affairs. Villages have not been approached and are yet to be selected for the study.

All these contacts have been made, some by face to face contact, and some through e-mail, all on an informal basis. Formalisation of these communications will occur once the proposal receives approval by the University Human Ethics Committee.

88 Identify the group(s) with whom consultation has taken place.

(Where relevant, a copy of the supporting documentation is to be attached to the application form)

See 87

89 Describe any ongoing involvement the group consulted has in the project.

Unknown at this stage what involvement there may be after the project has been completed if any.

90 How will information resulting from the project be shared with the group consulted?

Ideally, a meeting will be held to invite all participants to come to discuss the final draft, and have an input into a feedback document that would be incorporated into the completed document. The final report will be documented in both English and Samoan, then made available at a designated place for free, public access.

Participants may express a specific avenue in a manner they consider appropriate.

SECTION K: RESEARCH UNDERTAKEN OVERSEAS

91 Do the participants have English as a first-language? Yes No

If no, will Information Sheets and Consent Forms be translated into the participants' first-language? Yes No

(If yes, copies of the Information Sheet and Consent Form are to be attached to the application form)

Those identified for the individual interviews are fluent English speakers. I will therefore use the English version of the form. For those in villages, Samoan is the main language. The English and Samoan versions of the Information sheets and Consent forms are attached.

- 92 Describe local committees, groups or persons from whom the researcher has or will obtain permission to undertake the project.

(Where relevant, copies of Approval Letters are to be attached to the application form)

The researcher intends to speak with selected villages after consultation with appropriate cultural advisors, government agencies and voluntary groups who have intimate knowledge of the Samoan community. The Ministry of Women's Affairs, MOA and the National Council of Women all have villages that they work closely with. Further discussion obviously will be held about the best way to approach the villages and the criteria for selection. From my contact with a consultant with the National Council of Women, access to the villages will not be a problem.

Refer to 87

- 93 Does the project comply with the laws and regulations of the country where the project will take place? Yes No

I am awaiting feedback to check on any laws that need to be considered in Samoa, but I am not aware of any privacy laws in existence or other legislation that may prevent the project from being conducted. If laws do exist, then clearly I will abide by them.

- 94 Describe the cultural competence of the researcher for carrying out the project.

I was born in Samoa and raised in an extended family household. The household included people whose family connection was often not understood, but did not seem to matter only that they were considered family.

When I left Samoa at the age of ten after being formally adopted by my grandparents, we came to live in New Zealand in another extended family household. My first language continues to be Samoan. If I was not at school or at church, I was at home looking after family members, occasionally I would be 'let out'. When I started working, my earnings would continue to be used to look after the family, both in New Zealand and in Samoa. This has continued in my married life. In my married life, my children speak both Samoan and English and attend a Samoan preschool.

In my profession as a government social worker, one of the valued skills I possessed was the ability to speak Samoan. I am aware of cultural protocols that precede contact with Samoan families, and while I may not have the right rank or oratory ability to address certain titled people, I intend to work with those who do to enable me to then conduct myself in my role. This is not a weakness, it is within cultural protocols, and responsible and ethical research practise.

I consider myself to be culturally competent to carry out this project alongside the assistance of cultural advisors and support people.

- 95 Does the researcher speak the language of the target population? Yes No

Declarations

DECLARATION FOR THE STAFF APPLICANT

I have read the Code of Ethical Conduct for Research, Teaching and Evaluations involving Human Participants and understand my obligations and the rights of the participants, particularly in so far as obtaining informed consent is concerned. I agree to undertake the research/teaching/evaluation (*cross out those which do not apply*) as set out in this application together with any amendments required by the Massey University Human Ethics Committee.

Staff Applicant's
Signature

Date:

DECLARATION FOR LINE MANAGER (for research/evaluations undertaken in the Divisions)

I declare that to the best of my knowledge, this application complies with the Code of Ethical Conduct for Research, Teaching and Evaluations involving Human Participants and that I have approved its content and agreed that it can be submitted.

Line Manager's
Signature

Date:

DECLARATION FOR THE STUDENT APPLICANT (for supervised student research)

I have read the Code of Ethical Conduct for Research, Teaching and Evaluations involving Human Participants and understand my obligations and the rights of the participants, particularly in so far as obtaining informed consent is concerned. I agree to undertake the research/teaching/evaluation (*cross out those which do not apply*) as set out in this application together with any amendments required by the Massey University Human Ethics Committee.

Student
Applicant's
Signature

Date:

DECLARATION FOR THE SUPERVISOR (for supervised student research)

I declare that I have assisted with the development of this protocol, that to the best of my knowledge it complies with the Code of Ethical Conduct for Research, Teaching and Evaluations involving Human Participants, and that I have approved its content and agreed that it can be submitted.

Supervisor's
Signature

Date: